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THE MARKET DYNAMICS OF THE U. S. TELEVISION SYNDICATION INDUSTRY: AN EXAMINATION OF ITS REGULATORY ENVIRONMENT AND MARKET COMPETITION, 1980-1990

presented by

Sylvia Menghua Chan-Olmsted

has been accepted towards fulfillment
of the requirements for

Ph.D. degree in Mass Media

Barry Litman
Major professor

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By

Sylvia Menghua Chan-Olmsted

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DOCTOR OF PHILOSOPHY

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ABSTRACT

THE MARKET DYNAMICS OF THE U. S. TELEVISION SYNDICATION INDUSTRY: AN EXAMINATION OF ITS REGULATORY ENVIRONMENT AND MARKET COMPETITION, 1980-1990

By

Sylvia Menghua Chan-Olmsted

The significant role the syndicators have played in our television environment, the industry's tremendous development during the past decade, and the limited research in this field form the basis and rationale for conducting a new comprehensive study of the market dynamics of the U. S. television syndication industry.

Four research phases were designed to answer the research questions about the regulatory development, market competition, and major factors that have influenced the trend of market competition in the syndication industry. The review of the syndicated programming economics and regulation rationale in phase one first laid the groundwork for research. The succeeding discussion of market operational patterns and expansions further demonstrated the essential competitive market practices during the period. The third phase of the study, the investigation of the related government policy and its market impacts, disclosed the condition of the crucial regulatory environment that has embraced syndicators' competitive practices. The analysis

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of industry competition in phase four illustrated the specific structural, behavioral, and performance development of the syndication market. Finally, seven factors were assessed to be the major forces that have influenced the market competition in the last decade.

The Prime Time Access Rules were found to nurture a favorable market environment for the development of television syndication, while the Financial Interest and Syndication Rules and the networks' consent decrees enacted a shift of "risk" from the networks to the syndicators, thereby, enhancing the trend of consolidation and encouraging the concentration of market power of the major studios. The structural analysis of competition revealed that the industry has grown from a moderately concentrated market to the threshold of becoming a highly concentrated programming market during the last decade. The conduct analysis further detected the exercise of market power in the area of price setting and cross-subsidization in the development and marketing of new first-run product. The performance analysis discovered that except the syndicators that are the originators of some record-setting first-run product, those syndicators who are affiliated with the major studios or are part of a diversified conglomerate are among the best performers in the market.

To my best friend, Thomas Olmsted.

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ACKNOWLEDGMENTS

I would like to gratefully acknowledge the guidance of my committee chairperson, Dr. Barry Litman, whose extensive support, trust, and friendship has been invaluable not only in this research but also throughout the Ph.D. program. He is the best teacher a eager student can long for. Special thanks also goes to Dr. Thomas Baldwin, Dr. Bonnie Reece, and Dr. Joseph Straubhaar for being members on my guidance committee and whose valuable suggestions helped to shape this research.

I extend warm appreciation to my parents, Chi-Show and Minna Chan, for giving me a precious family and teaching me a sense of responsibility, which became the source of my strength.

Finally, there is a person who has befriended me and shared my ups and downs throughout my entire doctoral program. Without his encouragement, unending patience, love, and support, this work would not have been possible. To my husband, Thomas R. Olmsted, with thanks and affection.

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Chapter I

INTRODUCTION

The U. S. television syndication industry has developed tremendously during the past decade as a primary alternative to network program distribution. It is estimated that by 1995, the overall industry revenue will exceed $10 billion, comparable to the market for network broadcasting and radio today. Coupled with its role as an important television program distributor to various television markets, including network affiliates, independent stations, and even cable programming networks, as well as being a major alternative avenue for national advertising spots, the television syndication industry has become a very significant player in the American television media environment. Nevertheless, at the same time, the business of producing and distributing syndicated television is perhaps the most complicated and least understood segment of the television industry.

During the last ten years, the U. S. television syndication industry has taken a roller coaster ride, starting with a huge revenue surge during the early 1980s and then proceeding at a much slower pace after 1986 as a consequence of the decrease of demand in the domestic broadcast market. Not only is the industry currently facing a critical transformation, the market environment, namely, the regulatory forces that determine the rules of the game in

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the market, is also under change and revision. Just as the early regulatory development, such as the implementation of Prime Time Access Rules, the Financial Interest and Syndication Rules, and the Department of Justice Consent Decrees, has nurtured the growth of the syndication industry and shaped the structure of the market, equally as important will be the recent changes in the industry's regulatory environment in such areas as the reimposition of syndication exclusivity rules and the reexamination of the Financial Interest and Syndication Rules.

The significant role the syndicators have played in our television environment, the industry's tremendous development during the past decade, and the limited research that has been conducted in this field form the basis and rationale for conducting a new comprehensive study of the market dynamics of the U. S. television syndication industry. The emphasis of the dissertation is placed on the analysis of the market operation characteristics, the industry's regulatory environment, and the trend of market competition during the 1980s.

Before any further discussions over the organization of the study, a historical review of the origins of the U. S. television syndication industry is instructive. By understanding the historical development and reviewing the forces that circumscribed today's syndication industry, a more accurate market analysis design that accounts for the industry's historical strengths and weaknesses can be proposed.

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Historical Review of the Syndication Industry

The broadcast syndication industry started roughly in the 1920s when radio became a popular national mass medium. As more stations went on the air without a network affiliation for accessing big-budget live programs from the networks, there was a growing need for the distribution of audio shows on records to fill the non-network affiliates' airtime.[1]

The Radio Days. Though providing a viable alternative to the networks, the radio syndication industry encountered numerous obstacles in its early days of development. The difficulties came from three main sources--programming preferences, poor technical quality, and network pressures. Since radio became a popular medium under the networks' big-budget "live" production programming approach, most of the stations, advertisers, and audiences had a common perception that recorded syndicated programs were inferior to live radio in the critical areas of immediacy and spontaneity.[2] The reluctance to accept recorded syndicated programs was further intensified as the recording and playback facility then was still in its primitive stage and offered very poor quality. Though the recording of the syndicated shows had improved tremendously through the later introduction of electrical transcription and

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transcription and editing technology, the early perception of "live" programs to be better in both sound quality and program content than "recorded" programs virtually slowed down the growth of the syndication market at its introductory stage.

Besides the technical and programming problems, the industry also encountered obstacles instituted by the networks. In facing the possible competition from the syndicators, the radio networks manipulated compensation rates in such a way that affiliate use of recordings and the acceptance of national spot advertising were discouraged (Moore, 1979). In addition, the networks practiced the so-called "option" time agreement in which they were allowed to preempt the affiliates' option hours for airing network programs with little notice.[3] Affiliates were placed in the precarious position of either surrendering their valuable airtime to networks or else facing the unsettling prospects of disaffiliation. The practice not only created difficulties for scheduling syndicated programs as the networks could readily demand to replace the prescheduled syndicated shows with their programs, but also caused many advertisers interested in syndication purchases to shy away rather than settle for the time periods with fewer listeners and unpredictable schedule changes. The early syndicators could only find a home on nonaffiliated stations which were usually less prestigious and had smaller audiences at the time.

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The radio syndicators finally found the road to prosperity after the mid-1930s as radio stations gradually realized the monetary advantage generated from their syndicated shows. With the improved technical quality, the recorded syndicated product provided not only geographic and time flexibility to the radio stations, but also greater programming independence without the obligation to share advertising revenues with the product suppliers (i.e., the networks). Advertisers also recognized the cost-saving advantages of the syndicated programs in forming a station lineup tailored to their regional or seasonal needs and reaching the "white areas."[4] Even the networks realized the usefulness of recorded shows and entered the syndication market by setting up services to syndicate the programs produced by their own studios (Moore, 1979).

The Television Age. Television was firmly established as a viable medium in 1948 with the advent of the first network season, and syndication was to remain a part of that medium from the beginning. Because of the major studios' explicit hostility and initial boycott strategies, television had no access to any major film product. Once again economics foretold the emergence of strong centralized networks as the new television networks turned to the established radio networks for immediate programming support. "Live" broadcasting resurfaced as the dominant format of television programming. Nevertheless, the networks could not immediately supply

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immediately supply a full day's menu of programming and local programming was not of sufficient quality to attract similar audiences. As a result, some independent filmmakers began to produce made-for-television films, which became the first form of the television syndicated product (Erickson, 1989).

The shows produced by these pioneers normally had low budgets and were used as cheap fillers for the hours between network and local broadcasts.[5] As more syndicated programs were circulated, more companies were intrigued by the potential of investment in television programming. Major companies like United Artists and Paramount started to produce made-for-television films and edit feature-length westerns for syndicated distribution. Even the networks recognized the flexibility of syndication and decided to syndicate their programs to the stations which were not conveniently interconnected.[6] The business of television syndication became firmly established in the late 1940s.

As newcomers gradually crowded the syndication field, the industry was given a major boost in 1952 when the FCC lifted its four year "freeze" on granting new television station licenses. The arrival of brand-new stations created steadier programming demand and the subsequent demise of the DuMont Network left large holes in many existing local stations' airtime. The industry was then full of optimism. It is during this "golden era of syndication" many veteran syndicators, such as MCA, CBS, and Ziv, built up their dominant position in the industry.

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By the mid-1950s, syndication was a $150 million a year business (Erickson, 1989). It was even a standard operating procedure for network affiliates to bump the weaker network programs in favor of syndicated fare. While it may be true that prosperity was on the way; not every syndicator shared the fortune equally. As the costs for production, distribution, and even promotion continued to rise faster than the prices that could be obtained from stations or advertisers, and many more newcomers entered the market and fractionalized shares of the revenue pie, small underfinanced companies were quickly squeezed out. With their demise, the industry stabilized and subsequently gained a better reputation for reliability and quality. The banking community took a more active financing role in the industry and national advertisers, finding access to the networks more difficult and expensive, increased their sponsorship in syndicated programs.

The golden days did not last past the 1960s. Starting in 1960, the networks increased their broadcast time, biting into those valuable access slots with late night shows and packages of new-to-television Hollywood "A" pictures. Furthermore, with the FCC's pressure for local stations to run network public service programs, the emergence of ABC as a full-time major network, and the new found popularity of local news programs, the problems of getting clearance for syndicated programs worsened. Adding to the crisis for first-run syndicators was a change in the mix of available programming. With

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programming. With the abundant supply of off-network reruns and the availability of many popular theatrical movies in the market, the first-run syndication industry nearly vanished.

To survive in this difficult time, more mergers occurred,[7] the new syndicators changed their product approach as well as distribution methods. In addition to distributing reruns and feature films, they began producing talk shows, which can be made on cost-efficient basis.[8] The syndicators also decided to pick up some long-running game shows cancelled by the networks which provided format familiarity to the audience and allowed low production budgets. By the mid-1960s, the luck of the syndicators began to change. The FCC not only passed the law to prevent the networks from optioning a station's time but also initiated a regulation that required new television sets to include the UHF band on their channel selectors,[9] eventually resulting in the births of hundreds of new television stations eager and willing to purchase programming. The climate of programming was also shifting, the amount of off-network programs available to stations declined as did feature films since the major movies were going to the networks. Coupled with the "color" television boom in 1965-66 which led to the revival of a popular syndication format-travelogues, the syndicators' financial horizon brightened.

Nevertheless, encountering this new demand for programming, the television syndicators did not return to the big-budget extravaganza types of programs to compete with the

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etworks; instead, they decided to stick with their nexpensive first-run formats of game shows, talk shows, and ravelogues, plus reruns and films. By 1969, television yndication had undergone a small revival. Though the etworks continued to dominate the broadcast programming ources and placed limitation on the potential growth of the ndustry, it was not until the implementation of Prime Time ccess Rules that the legal environment was finally switched o the syndicators' favor. And the industry was developing eyond the shadow cast by the big three.

Living through various ups and downs, from its early ays with disorganized company structures, varying company izes, and unprofessional price cutting practices that lemished the industry's reputation, television syndication as come a long way. The review of its early historical evelopment clearly shows that the key to survival of the ndustry is its continuing "flexibility" in adapting itself o changing market conditions. The industry reacted quickly o the change of programming demand, considering its economic trengths and weaknesses, and adjusted its market operations o satisfy its customers. In addition, the legal environment lso played an important role in fostering the growth of the ndustry. Many early governmental interventions in the roadcast industry have significantly increased the chance of rvivability for the syndicators.

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nvironment, the historical review also revealed some market henomena which seemed to have considerably affected the peration and competition of the early syndication industry. irst, since broadcast syndication was originally developed s an alternative to network programming, network programming ractices were critically linked to the growth of the yndication industry. Second, as sufficient financing was ore important than turning out quality programming to the urvival of a syndicator, the securing of adequate financing as imperative to the prosperity of the syndicators. Third, he formation (and solution) of networks which created as ell as appropriated airtime for syndicated products, was ritical to the development of the syndicators. DuMont and BC had substantial impacts on the degree of demand for the roduct of television syndication. Finally, the UHF elevision stations also played an essential role in the istory of television syndication. From the beginning demand or alternative programming which helped the establishment of he syndication market to the latter increase of demand in he 1960s, which helped the revival of the industry, the evelopment of the UHF stations was closely interwoven with he expansion of the syndication market. In essence, these istorical findings have suggested certain important market spects that should be carefully investigated throughout the esearch process.

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Organization of the Study

This study has been organized in nine chapters. The eight chapters following the introductory chapter each addresses one fundamental issue in the study of the U. S. television syndication industry. They are arranged as follows. Chapter 2 develops and discusses the research questions and the approaches to these questions; Chapter 3 reviews the economic and regulatory foundations of television syndication; Chapter 4 provides an analysis of the market operation patterns of the industry; Chapter 5 examines the two syndication markets that have been growing substantially during the last decade; Chapter 6 investigates the regulatory environment of the U. S. television syndication industry; Chapter 7 presents a structural analysis of the industry competition during the last ten years; Chapter 8 continues to study the behavioral and performance aspects of industry competition and assess the major factors influencing the status of competition; finally, Chapter 9 concludes the study with a summary and discussion of the research findings. Also, this dissertation's contributions to the media economic research and industry practice, limitations, and questions for future research are outlined.

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Chapter II

RESEARCH QUESTIONS AND METHODOLOGY

As mentioned earlier, this dissertation is designed to examine the regulatory environment and investigate the trend of market competition in the U. S. television syndication industry during its most active ten years from 1980 to 1990. Three research questions are addressed accordingly in the study. The first research question aims to trace the major regulatory policies that have played a significant role in the development of the television syndication industry and their impacts on the market structure and competition. The second research question reviews the trend of market competition in the industry during the 1980s. The third research question deals with the assessment of the major factors that influence the degree of market competition among the syndicators. In more specific terms:

Research Question I: How has the regulatory environment of the U. S. television syndication industry influenced its market structure and competition conduct?

Research Question II: Has the U. S. television syndication industry become more or less competitive from 1980 to 1990?

Research Question III: What are the major factors that influence the competition status of the U. S. television syndication industry?

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Study Domain and Approach

Since the syndication industry has traditionally developed as part of the advertiser-supported commercial broadcast television industry, the dissertation focuses on such a market domain. A general historical-descriptive approach is used to conduct this research. While Chapter 6, 7 and 8 directly address the research questions, an attempt is also made to present the economic and regulatory foundations that are relevant to television syndication in Chapter 3. Thus, fundamental issues such as the nature of basic market elements and the rationale of regulation in the programming industry can be taken into consideration in answering the research questions. In addition, the general market operational patterns of the syndicators are investigated in Chapter 4 before the regulatory and competitive analyses. It is believed, because so little is documented about the market of television syndication, an examination of its operational characteristics would not only contribute to the general understanding of the market, but also provide critical information about the strengths and weaknesses of various syndicators. Furthermore, because little research has been devoted to the study of television syndication, this dissertation does not present a literature review section, but relies on the economic and regulatory foundations chapter to introduce studies pertaining to the field of television programming and the market functions of television syndica

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Given the scarcity of scholarly work in the area and the difficulty in obtaining detailed financial data, this study is necessarily based on records of professional associations and conventions and review of commercial audience research reports as well as trade journals. In general, the major information sources about the market operation of the U. S. television syndicators include: a dissertation on the topic of first-run television syndication completed ten years ago, a FCC background report on network practices published in 1980, a business report complied by Channels magazine, issues of Nielsen Report On Television, and mostly, articles and news reports on the syndication subject from trade journals such as Television/Radio Age, Channels, Broadcasting, Variety, Cablevision, Electronic News, Multichannel News, Advertising Age, and some other related trade publications. Information about the public policies and economics related to the industry are collected from sources such as the FCC and Congressional reports, various academic publications reviewing the television regulatory policies (Long, 1979; Botein, 1980; Noll, Peck, and McGowan, 1973; Stern, 1979; Back, 1979; Barrett, 1990), and news reports of the recent federal communication policies from trade journals mentioned previously.

This dissertation is basically conducted under the industrial organization research parameters. The study of industrial organization presents a more empirical approach to the use of economi

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the use of economics in understanding business institutions and industry competition, while, at the same time, offers a mechanism in assisting public policy formation through a normative evaluation of market performance. Such concepts and analytical framework seem to provide a perfect meeting ground for regulatory/public policy studies and industry competition analyses, which are the major focuses of this research.

In trying to answer the specific research questions, both a qualitative regulatory analysis and an industry study following an industrial economic analytical framework are administered. The research approach of these analyses are presented next.

Regulatory Analysis

The regulatory analysis of the syndication industry starts with a review of the rationales for television programming regulation in this country. In order to establish a sufficient foundation for the following analysis of the regulatory environment, the related legislative parties, their responsibilities pertaining to television programming, and their historical involvement with the industry are carefully examined.

The regulatory environment of the syndication industry is shaped by the government intervention that has either direct or indirect impact over the operation of the

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syndicators. Thus, in the attempt to explore the relationship between the regulatory environment and the development of the industry, individual legislation as well as government deregulation decisions in the overall field of television media are scrutinized to derive any public policies that have, in some way, affected the syndication market. And in order to present a more comprehensive picture of these regulatory/deregulatory actions for the following impact assessment, their original justifications, background of developments, the involving parties, and the industry reactions are also reviewed. The focus of this analysis is on the evaluation of government policies and their influences to the syndication market structure and competitive conduct.

Industry Analysis

The industry analysis starts with a discussion of the economics of television syndication. Since there is little theoretical discussion specifically dealing with this subject, an attempt is made to borrow from the general economic literature of television programming, such as "product," "demand," "supply," and "pricing" of the industry. And to complement these more abstract descriptions of the industry, the most significant operational patterns that characterize the industry are also presented. Since the television syndication market has certain unique methods of operation which substantially affect the patterns of competition among t

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competition among the firms contesting for market shares as well as the degree of competitiveness in that industry, such a market review not only provides a comprehensive survey of the distinguishing characteristics of the industry, but also serves as an important reference in assisting the behavioral analysis of the industry's competition status and assessing the factors that affect the competition.

Though this industry study focuses mainly on the traditional domestic syndication market (i. e. the broadcast station buyers market), the expansion of the cable television and international syndication markets during the late-1980s has somewhat changed the way the industry operates and competes. Thus, the development of syndicated product in the cable and international marketplace and the growing importance of these ancillary purchasers are also explored for the analysis of a new, emerging syndication industry.

The competitive analysis of the syndication industry subscribes to the structure-conduct-performance analytical framework. Hence, while investigating the market competition, the author begins with a structural analysis of the industry. Basically, the analysis examines the degree of market concentration during the past ten years through the applications of two quantitative market concentration measurements--concentration ratios and Hirfindahl Hirschman Index. Furthermore, in order to investigate the volatility hidden behind the cumulative concentration numbers. The Market Share Instability (MSI) index which traces the trend of market shares

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of market shares in the industry is also utilized. The unit of market share measurement, the calculation procedures, and the justifications for all the indices will be discussed in detail in Chapter 7. In addition to this quantitative approach of the market structure analysis, some qualitative market transaction observations are also conducted. Finally, since "concentration" is only one element of market structure, some other structural factors, such as "levels of buyer concentration," "product differentiation," and "barriers to entry and exit," that are expected to be critically linked to the competitive behavior of firms in the industry are further investigated.

Following the structural study, a market conduct analysis is presented. As market conduct consists of a firm's business policies toward its product market and its competitors' market behavior, the major business policies and competitive actions employed in the syndication industry, such as product research and development, pricing, product marketing and promotion, are analyzed.

For evaluating the market performance of the syndicators during the past decade, business performance criteria such as "revenues" and "return on equity ratios" rather than normative welfare performance standards such as efficiency and equity are utilized. Finally, the major factors that have essentially affected the status of market competition in the industry during the ten-year period are assessed based on the analysis of the interrelationship between the market structure, conduc

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In essence, this study applies both descriptive and analytical research techniques to study the market concentration issue, determine the important competition factors, and scrutinize the public policies' influence on the market development of the industry. By documenting the general market operation patterns of the syndicators and researching the regulatory and competitive aspects of the industry, the dissertation shall map a territory largely unexplored by others.

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Chapter III

REVIEW OF ECONOMIC AND REGULATORY FOUNDATIONS

The economic and regulatory models employed in the study will be introduced in this section. Such a review is designed to establish an integrated conceptual framework for the subsequent analysis on the regulatory and market competition aspects of the industry.

Since the U. S. television syndication industry has traditionally developed as part of the advertiser-supported commercial broadcast television industry (recently extended into the cable television industry), the discussion of the economics of television programming will be limited to such a commercial domain.

Economics of Television Programming

The advertiser-supported nature of the commercial television industry acts as a constraint which determines how the market for programming operates. The direct buyers in the market for programming are television stations, including independent stations and network affiliates, and, of course, the networks themselves. Since the ultimate consumer of television programs--the audience, does not participate in the market where the prices of programming are determined, the factor of audience satisfaction, or in an economic term,

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"utility," is largely external to the operation of the television programming market. On the other hand, as programming is purchased as a vehicle for advertisers to place their commercial messages to their potential product/service buyers, the advertisers' perceived satisfaction, is critical to the nature of demand for television programming.

According to one economic theory (Long, 1979), the advertiser-supported commercial television system which ties television stations' demand for programming to advertisers' demand for audience size, combined with the economies of scale in programming that station interconnection provides, <u>create the tendency toward program networking</u>. This "networking" comes from national, full-service, interconnected networks or syndicated programming services. In addition, based on some programming economic models (Steiner, 1952; Spence and Owen, 1977), such a commercial television market would be "biased" against programs with small audiences, programs with steep inverse demand functions (high preference intensities), and costly programs (Wildman and Owen, 1985). In other words, program buyers' demand would <u>exhibit a strong tendency toward mass-appeal programming</u> since their revenue is primarily a function of audience size (because advertisers are paying for exposure to the audience). In essence, television program buyers are postulated to prefer a sharing/networking program purchasing system and mass-appeal programming types with accompanying large audiences.

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As in other mass media industries, the members of television programming industry can be classified into three production stages based on the functions they perform in the industry. These three stages are production, distribution, and exhibition, with producers responsible for the creation of programs and distributors responsible for the delivery of programs to the local television exhibitors, who in turn present the programming to consumers (Compaine, 1982).

In a national market, the producers of television programming include the networks themselves, independent producers, movie studios, and even sometimes, cooperative production teams between independent broadcast stations. Both networks and syndicators perform the distribution activities. While the networks only deal with their affiliates, the syndicators distribute programs to network affiliates as well as independent television stations. In addition, since this is a commercial television industry, advertisers, as another type of media consumers besides the television audience, also play a significant role in the system. Note that the flow of the product-television programming and the interaction between the stage members are all governed by the industry's regulatory environment as they all have to operate according to the regulation pertained to the industry. The flow of the industry product--television programming, its production stages, and the market participants are depicted in Figure 1.

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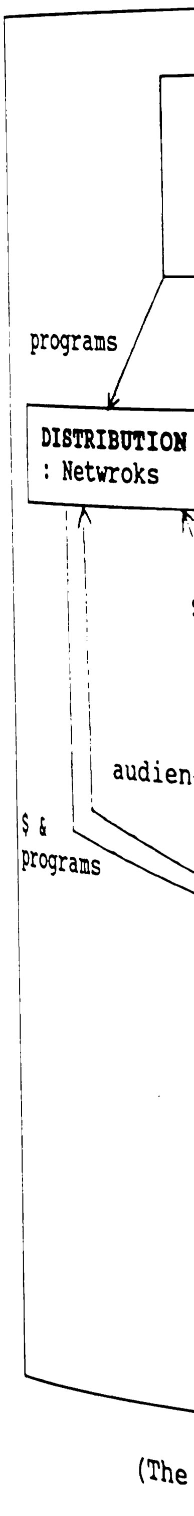

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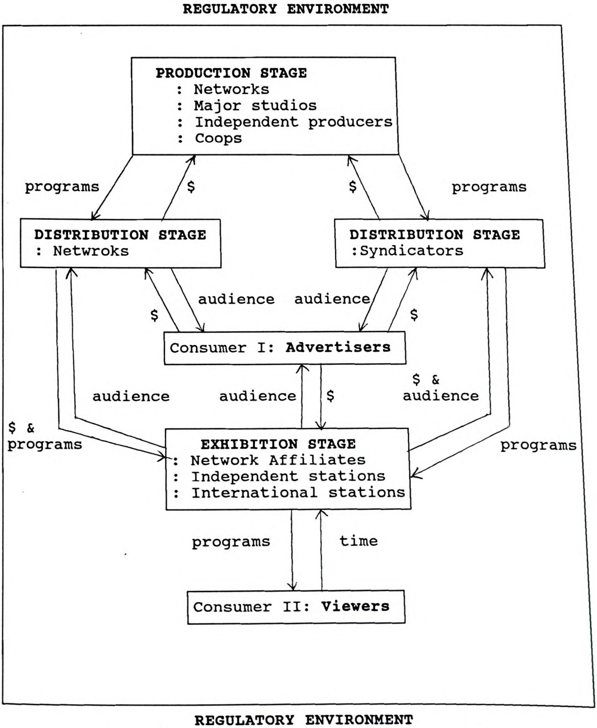
FIGURE 1: THE TELEVISION PROGRAMMING INDUSTRY STRUCTURE



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After the discussion over the production stages and the flow of the product, it is necessary to review the various forms of the television programming product before any specific sub-market can be further analyzed. There are three basic television program types: locally produced programs, broadcast network programs, and syndicated programs. Locally produced programs are produced and broadcast by local television stations for their local audiences. For the most part, these are programs about public affairs, local sports, religion, and local news. Though produced locally, sometimes they may be developed into hybrid blends of local production and syndication by inserting syndicated material. Network programs are developed and produced for the major commercial networks (ABC, CBS, and NBC), either by the networks' own production divisions or outside production firms, often referred to as independent packagers, and simultaneously transmitted to a number of interconnected affiliated stations across the nation. Since some popular network programs are eventually recycled and developed into a type of syndicated product--off-network reruns, and network affiliates also participate in the syndication industry as an important buyer, the operation of the network programming market is critically related to all aspects of the syndicated programming market. The last type--syndicated programs--which is the primary nationally-distributed programming alternative to the broadcast networks, is the focus of this research.

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Economics of Television Syndication

Television syndication involves the licensing of television programs to independent broadcast stations as well as network affiliates by the owners (or the owners' agents) of the television copyrights. The syndicated program buyers acquire the rights to broadcast the programs by paying a license fee and recouping their program investment by selling commercial spots within the programs. Alternatively, the program buyers may acquire a program with some commercial messages already inserted and sell the unfilled commercial spots in the programs in exchange for exhibiting the inserted commercials. Such an arrangement is called "bartering." The syndicated programs may be offered under the term of license fee only, barter only, or a barter-license fee combination, often known as "barter-plus." In general, television syndicators are in a market that consists of two kinds of products: a primary product of television programs for syndication and a secondary product of bartered commercial spots, whose available supply depends on the transaction terms of the primary product. Note that this section will only review the general market characteristics of television syndication since its establishment, the particular market operation patterns associated with the trend of the industry development during the recent years will be examined in next chapter.

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The Primary Syndication Market--Television Programming

Since the characteristics of a product determine the nature of demand and supply of that product, further discussion on the product itself is warranted.

The Product

The content of syndicated television programs is considered to be a "public good" as its use by one consumer does not diminish its availability to others. As a public good, the amount of consumption becomes critically important to the degree of profitability or even viability of the good. In other words, in order to survive or even prosper, the syndicators have to distribute their programs as widely as possible, with a minimum threshold of roughly 70 percent of the potential national audience, roughly 65 million television households in 1990.

Depending on its original target market, the programming product of television syndication falls into three categories: first-run, off-network, and movie packages.

First-run television syndication. The first-run syndicated programs are originally produced for the syndication market in comparison to the off-network reruns and movie packages which are basically the recycled products from different video markets. First-run syndicated programs have become increasingly avai

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increasingly available since the mid-1970s, largely because demand expanded with the growth of independent stations. During its years of development, the syndicated programming has focused on various content and form approaches.[10] Among all, low-budget game shows and talk shows with ability to attract a relatively large share of audience seem to be the dominant format for the first-run production. The reasons for this result rest in large part on the economics of television syndication as the operation expenses for distributing syndicated programs is much more costly compared with network distribution and since the access hour occurs during the first hour of prime time,[11] the programs presented generally attempt to appeal to a wide cross-section of the audience. Furthermore, because the audience tends to form automatic tuning habits for programs scheduled with strict predictability (Eastman, Head, Klein, 1985), television stations normally prefer to strip (run across-the-board at the same time Monday through Friday) their first-run products to capitalize on such a viewing habit. And in order to sell the product for stripping scheduling, a syndicator would have to first build up a backlog of original episodes, which requires a substantial amount of capital investment. In sum, with the pressure from the expensive operation expenses, the essentiality to attract the largest number of audience, and the inability to inventory expensive first-run product, historically, first-run syndicators have chosen to distribute the programs that are economically produced and generally appealing, such as

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Though the networks no longer directly participate in the syndication business, their program market still plays an indirect role in the development of the first-run programming. For instance, many prime-time television programs created for and later dropped by the networks have now resumed production in the syndication industry.[12] Also, for those top 50 market network affiliates, since the FCC restricts them from showing off-network rerun programs during the access time period, the demand for first-run syndicated programs from these important markets is artificially secured.

Off-network Reruns. These are the programs which were originally developed for one of the networks for exhibition on its affiliated stations and controlled by their copyright owners after the network has used up its contracted number of runs. The most important characteristic common to these off-network programs is a successful run in network prime-time, since national prime-time popularity serves as a surrogate measure of a program's likely success in television syndication. To this end, a longer-than-average network run provides sufficient episodes to be saleable in the syndication market (FCC, 1980). In general, off-network syndicated reruns are series programs. They consist primarily of situation comedies, action-adventure/drama, and animated (cartoon) programs, which debut not during prime-time but the Satur

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time but the Saturday morning network hours and later are sold in the syndication market. Among these, half-hour shows normally gain bigger audiences as hour-long programs have proven incompatible with the key early fringe and late afternoon hours for broadcast stations and often fail to attract many new viewers during their second 30 minutes. Historically, the most popular half-hour series is the situation comedy format programs.

Movie Packages. These are the feature films produced originally for theatrical exhibition and later distributed as a group to local broadcast stations. Since made-for-television movies are distributed in much the same way as prime-time series, they are treated as the off-network product.

This type of television syndication is also considered a very cost-efficient form of programming which allows its buyers considerable flexibility at a relatively low cost. In addition, such programming fills many hours and provide targeting advantage on the basis of sex and age (Eastman, Head, and Klein, 1985). However, the syndication market normally represents the last step of a multiple year in a distribution sequence after theaters, videocassette or pay cable (or other pay services), and broadcast networks for popular feature films. Only theatricals that are relatively unpopular in their initial releases and thus do not interest the pay service or network buyers pass quickly into the syndication marke

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Economists frequently examine the relationship between the markets that offer closely related products by assessing the way in which price changes in one product affect the quantity demanded of the other product. This is called the "cross-elasticity" measure. According to the economic theory, two products are complements when the price of one product increases, the quantity demanded of the other falls. On the other hand, two products are substitutes when the price of one increases, the quantity demanded of the other increases. It is believed that, while with different degrees of substitutability, the three syndicated products are, in general, substitute of each other. Nevertheless, since a syndicator prices its products separately, every program has its own price tag with popular programs priced much higher than the less popular ones. An increase of price of a certain rerun program does not constitute an increase of price of the rerun syndicated product across-the-board. Thus, one cannot measure or justify the cross-elasticity between two kinds of syndicated products by simply looking at individual price changes of one product and the consequent quantity fluctuation of the other. Instead of assessing the substitutability among the three kinds of syndicated products by examining the normal price cross-elasticity economic function, I will analyze the products' cross-substitution nature by investigating their general formats and content.

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longer exhibition time periods, is harder to schedule, needs to be edited before showing, and often requires heavier on-air promotions comparing to the other syndicated products. Thus, considering the format substitutability, it is a very weak substitute for either the first-run or off-network rerun programs. On the other hand, first-runs and off-network reruns are more substitutable products since the two have similar programming lengths and inventory of episodes for stripped scheduling. Nevertheless, when we consider the general content of the two products, they are no longer as good a substitute for each other. Since networks develop and budget their programs differently from first-run syndicators, inexpensively produced game shows/talk shows are the dominant content of first-run syndication, while costly produced sit-coms and dramas are the main off-network products. The general content of products, however, can be changed as syndicators become more financially capable to develop programs with network qualities. Thus, in general, off-network rerun and first-run syndicated products are good format substitutes but less interchangeable products considering the current general programming content of the two.

Since the programming buyers often have a fixed budget for the syndicated products during a certain period of time, and the programming can be treated as an input of a station's final product--television services, it is possible to demonstrate the dynamic relationship between the network rerun and first-r

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rerun and first-run syndicated products by using an economic concept called Indifference Curve. An Indifference Curve (a Production Isoquant here) is a contour map showing all possible combinations of inputs capable of producing a certain quantity of output (Nicholson, 1983). There is an isoquant pertaining to each level of production and all combinations of inputs on each isoquant produce a constant level of output. In this case, a Production Isoquant represents the amount of syndicated programming needed during a certain programming period. For every isoquant curve, there is an "isocost" line that represents the corresponding cost for that level of output (i.e., the programming cost for the amount of programming needed) (see Figure 2).

Since there is a fixed amount of budget that can be appropriated for every programming output level during a certain period of time, if a buyer decides to spend more money on network reruns (moving K_A to K_B and L_A to L_B), it would have less budget available for the first-run syndicated product (i. e. moving from point A to point B on Isoquant 1 in Figure 2). On the other hand, if an Isoquant moves up, that is, a buyer increases its budget for the syndicated product, more investments can be made for both of the products or either one of them (i. e. moving from Isoquant 1 to Isoquant 2 in Figure 2).

Note that there is a budget as well as time limit in the dynamics of this relationship. Every programming buyer has a certain maximum budget that can be appropriated for such

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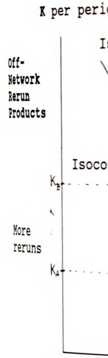
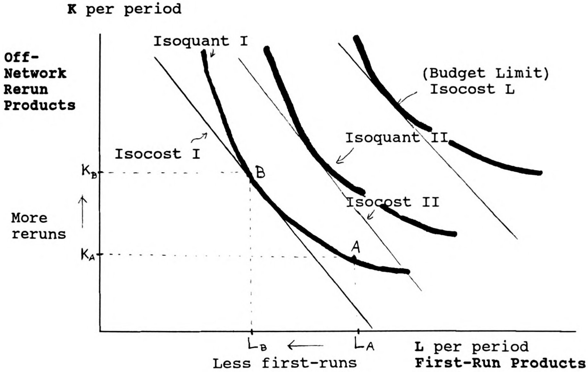


FIGURE 2: RELATIONSHIP BETWEEN OFF-NETWORK RERUN AND FIRST-RUN SYNDICATED PRODUCTS



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The Demand

The nature of demand for television syndication depends on the characteristics of their buyers. Five different types of programming customers are currently participating in the market for television syndication. With the independent broadcast stations leading the demand for such syndicated programming, the buyers of the product include network affiliates, the Fox Broadcasting Co., and the new cable television programming purchasers, which include both the cable television programming networks and cable television system operators, and finally, the foreign television market buyers. Note that the specific programming preference of these buyers and its relationship to particular broadcast time slots, such as early fringe and access hour, will not be discussed here but later in Chapter 4.

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Independent Broadcast Stations. These are the broadcast stations that have no network affiliation. Since they do not receive any big-budgeted national programming materials from the networks and local programming does not normally attract enough viewers, they are heavily dependent on syndicated programs which offer an alternative to networking.

Being unaffiliated with any network, an independent station has a primary advantage of scheduling flexibility, which provides the station an opportunity to develop a program niche often by "counterprogramming" the traditional network fare, though such flexibility also creates the unwanted byproduct of the high cost of programming for the station. Normally, an independent station concentrates on purchasing the syndicated product which can be effectively used for counterprogramming and targeting at the audience group that is left out by the networks.

Network Affiliates. These are the broadcast stations which become part of a national interconnected network by entering a contractual agreement with a network to carry its programs in exchange for monetary compensation. Since roughly 60-65 percent of these stations' schedules are filled by network programming (Head and Sterling, 1987) and the locally originated news, public affairs, and sports programs do not always generate enough audience to attract advertisers, network affiliates also need a pool of syndicated programs to survive.

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Since the money and programs the affiliates receive from the networks strongly affect their economics and programming strategy (Eastman, Head, and Klein, 1985), the nature of the programming demand of these buyers is largely influenced by the affiliate-network relationship. In general, besides the primary factor of "budget," an affiliated station will consider buying the syndicated programs that will blend well with its network programs and best accomplish its targeting, audience flow, lead-in, and whatever other programming strategies needed to win the rating games.

Fox Program Service. Fox Broadcasting Company was established in 1986 when Rupert Murdoch purchased the 20th Century-Fox studio and later the Metromedia station group (Erickson, 1989), which provided him sufficient resources to enter the national broadcast market. With a current lineup of 133 independent stations covering 91 percent of the country (Multichannel News, September 10, 1990, p.1), Fox now broadcasts five nights per week in prime time and provides a so-called Fox Children's Network, which offers three hours of kidvid on Saturday mornings to its affiliated stations. Being an innovative company, Fox has also signed a landmark deal with Telecommunications Inc. (TCI), a major cable multiple system owner (MSO), that gives certain TCI systems Fox affiliate status and provides Fox with access to the 9 percent it can't reach over-the-air (Multichannel News, September 10, 1990, p.1). From being listed on the "Top 20" syndicated progra

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syndicated programs in the beginning to participating in regular network ratings today, should Fox be considered as a network that buys programs from the syndicators? an ad hoc network? or just a syndication service with its production facilities? While there are still controversies surrounding the issue, this study will simply treat Fox as a "part time network program service" rather than a full-fledged broadcast network. Thus, Fox and its Metromedia station group, also being a syndication programming customer, will be discussed further under the group buyers section in Chapter 4.

Cable Television Industry. Some major basic cable networks such as the USA Network and Lifetime started to participate in the market of television syndication in the mid-1980s. These cable television buyers normally are more interested in hour-long dramas rather than 30-minute syndicated programs which are more expensive and often have more bidders from the broadcast market. Besides acquiring hour-long off-network dramas, movies, and repeats of first-run syndicated series, the basic cable networks also followed the trail of the syndicators by reviving some original network series, such as "Fame" and "The Days and Nights of Molly Dodd," which had been dropped by the networks. In addition to the cable programming networks, some large cable multiple system operators also enter the market by buying up syndicated series for local and regional interconnect. Nevertheless, until 1990, the cable industry is still an ancillary buyer, with relatively s

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Foreign Television Markets. The international sale of television syndication has always been a long established business for major syndicators. As more and more foreign television systems are commercialized and privatized, demand for American syndicated programming has increased considerably. Coupled with the availability of transmission and duplication technology and the spread of new satellite and cable television services, the foreign syndication segment is a new booming revenue source with growing important in the syndication business.

Both the cable industry and the international sale of syndicated programming will be discussed in detail in Chapter 5 under the market expansion subject.

The Supply

Next, the supply aspect of the market, such as production, distribution, pricing, and actual sales of the syndicated product will be presented.

Production of the Product. Since the off-network and theatrical programs were originally created for other video markets, the production of these syndicated product follows the typical patterns for developing network series/specials and theatrical fi

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and theatrical films. However, the story is different for the first-run syndication. Generally, a producer with a concept for a syndicated program will approach one or even more syndicators to discuss the potential of the program. Sometimes a pilot episode may be produced for presentation, but no substantial investment would be made by either the producer or syndicator until a sufficient number of stations have shown interest or even agreed to purchase the product (FCC, 1980; Moore, 1979; Head and Sterling, 1987).[13] The major studios' own syndication divisions are also involved with the development of new syndication products. Nevertheless, the commitment from the clients basically determines whether a programming idea will be concretized. The common phenomenon of "deficit financing" in first-run syndication will be discussed in Chapter 4.

Sales and Distribution of the Product. Program buyers acquire the exhibition right of a syndicated program by entering a contractual agreement with the program's syndicator. If the copyright owner of a program is a film studio, as most of them are, very often the film company would have its own television syndication division to carry out the distribution responsibility, while if an independent program supplier is the licensor, a specialized syndication company would normally be contracted to act as an agent in dealing with the programming buyers, for which it receives a percentage of the programming sales.

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The exhibition contract focuses basically on five major clauses: terms of payment, duration of exhibition right, number of runs authorized, actual delivery of program, and geographical exclusivity terms. The exhibition licenses are conventionally issued for six consecutive runs in a period of not more than five years. On average, the time frame of the first-run television syndication contract is shorter than those of the other syndicated products due to the first-run's uncertainty in programming popularity. If a first-run takes off, a shorter contract gives the syndicator the opportunity to quickly raise the price; if the program flops, the buyer will not lose too much of his or her programming investment. Also, a typical contract will indicate that, from the gross revenues collected, the syndicator of the program will first deduct syndication fees, out-of-pocket expenses such as advertising, tape printing, and shipping, and advances made to producers. The syndication fees are normally based on a certain proportion of a program's gross income, for example, syndicators often charge 15-20 percent for stripping product sales, 30-35 percent for the domestic distribution of non-stripping programs, and 40-50 percent for foreign market syndication.

In general, the television syndicators approach prospective stations (or groups of stations) through their sales people directly, or else participate in the annual convention of the National Association of Television Program Executives (NATPE), which has successfully provided a central

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meeting ground for the programming buyers and sellers over the last ten years. Table 1 briefly lists the growth of NATPE convention during this period.

The syndicated product is normally distributed either through "bicycling," which means the tape of each program episode is forwarded from station to station, or more commonly today via satellite transmission, which can deliver the programs simultaneously for stations across the country as long as they are equipped with satellite signal receiving equipment. Generally, satellite delivery is often used for topical syndicated shows such as news-oriented, magazine format programs that need timely distribution to the exhibitors. Nevertheless, for those off-network strip shows, where timeliness is not a factor, the traditional tape "bicycling" distribution method is still considered to be more appropriate and cost effective than satellite delivery.

The Market Structure and Pricing

Some economists (Noll, Peck, and McGowan, 1973) postulated that the market structure of the television syndication industry would affect neither the total amount of programs demanded nor its composition, although it would influence the price structure and division of rents.

Consider first the pricing function, since the industry covers many geographical markets which are characterized by different numbers of television homes and stations with

TABLE 1: THE HIST

Year	Place
1964	New York
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:	:
:	:
1980	San Fran
1981	New York
1982	Las Vega
1983	Las Vega
1984	San Fran
1985	San Fran
1986	New Orle
1987	New Orle
1988	Houston
1989	Houston
1990	New Orle

Source: Televisio
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TABLE 1: THE HISTORY OF NATPE

Year	Place	Attendance	President
1964 (first meeting of NATPE)	New York	71	Stan Cohen; WDSU-TV
:	:	:	:
:	:	:	:
1980	San Francisco	3,939	Chuck Gingold; WABC-TV
1981	New York	5,440	Lucille Salhany; Taft Broadcasting
1982	Las Vegas	5,551	Steve Currie; KOIN-TV
1983	Las Vegas	5,927	Chuck Larsen; Almi Program Production
1984	San Francisco	6,387	Stan Marinoff; WISN-TV
1985	San Francisco	6,882	John von Soosten; Katz TV
1986	New Orleans	7,125	Bob Jones; KYW-TV
1987	New Orleans	7,836	David Simon; Fox TV
1988	Houston	7,500	Deb McDermott; WKRN-TV
1989	Houston	7,874	Joe Weber; MMT Sales
1990	New Orleans	8,574	Pat Patton

Source: Television/Radio Age, Feb. 22, 1988, and NATPE registration files

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different degree of market competition, the potential broadcast income of a syndicated program varies from market to market. Under the "public good" notion and other scale economies factors, a syndicator would try to sell its program as long as the price would cover the incremental costs directly attributable to providing it in a given market (Noll, Peck, and McGowan, 1973). In general, the price of a syndicated program would vary from market to market to reflect their demand factors such as size and relative audience attractiveness. Basically, the larger the market the greater the price that will prevail. A further examination of the pricing factor based on the types of syndicated programs will be presented next.

The unavailability of programming ratings information for first-run syndications makes it difficult to determine their license fees. Generally, besides the factors that are related to the size and wealth of the market, such as the number and strength of the stations, the percentage of total television households represented by the market, station rates, other subjective observations, such as quality, desirability of a specific program format, the intended time slot, tying arrangements, what competitors are getting for similar shows, the reputation of the syndicator, and the importance to the syndicator of getting its program into a certain market, are all important pricing considerations. However, even with all these considerations, projecting or estimating ratings success for a first-run program is an

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evolving process that comes down to nothing more than an educated guess. And the final price is still tempered by the negotiating skill, the bilateral power struggle between the buyer and seller (Owen, Beebe, Manning, 1978; Little Report, 1969).

For network reruns, there is more readily available pricing information since the past performance of a program is known. Nevertheless, the potential of an off-network rerun is not guaranteed by its network success as local competition, lead-in programs, and many other factors largely influence its potential acceptance at the local level. The final price of a network rerun usually reflects its national popularity, modified by the local conditions and the bargaining acumen of the buyer and the seller. In general, the price for off-network product is about 15 percent above first-run programs (Vitale, 1987).

When considering a programming investment either on network reruns or first-run syndications, the program buyers not only consult their balance sheet but also research reports on available syndicated programming. For example, Arbitron's Syndicated Program Analysis and Nielsen's Cassandra Report provide useful statistical information for analyzing potential local programming performance. In addition, just recently, some computer programs have become available to assist the broadcast station managers in their syndicated programming buying process. Such computer systems build in the programming evaluation functions, such as statistical eval

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statistical evaluations, run scheduling, revenue projections, profit-and-loss projections and depreciation, to help the decision-making of programming acquisition.[14] Finally, national spot advertising representative firms also provide consultant programming advice to the stations they represent. Their role will be discussed later in Chapter 4.

The Secondary Syndication Market--Barter Advertising

Since the availability of barter product depends on the term of sales of the programming product, the nature of the supply and demand for the programming product largely influences the market characteristics of this product.

A syndicated program needs at least a 70-percent clearance on broadcast stations across the country to attract national advertisers since stations are usually reluctant to give up their precious commercial airtime unless a syndicated program costs so much that a total cash licensing is impossible under their programming budget. The syndicated programs which contain bartered advertising are mostly those expensive reruns and popular talk shows and game shows. There are different bartered advertising lengths for different kinds of syndicated shows. Again, the amount of syndication advertising spots available for a particular program depends on the terms of its sale.

The barter advertising in television syndication offers regional and national advertisers alternatives to network advertising. It

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advertising. It is a hybrid advertising form, providing a close substitute to network advertising with universal exposure as well as greater program identification for sponsors. As the trend of bartering is becoming more common in the business, the recent practices of barter syndication and the syndicator's relationship with the barter advertiser will be examined further in Chapter 4.

Following the economics of television programming, the economic model--Industrial Organization (IO) Structure-Conduct-Performance (S-C-P) paradigm employed as a framework for analyzing the trend of market competition from 1980 to 1990 will be reviewed next.

Structure-Conduct-Performance (S-C-P) Industrial Organization (IO) Paradigm

Industrial Organization is the subfield in economics that studies competitiveness of firms within an industry and the consequences of observed competitiveness for the industry's performance. Historically, the principal concern of IO economics has been with respect to public policy making and the assessment of market performance of an industry in correspondence to the effective demand a society places on that industry's output. As a major approach in the study of IO economics, the so-called Structure-Conduct-Performance (SCP) paradigm will first be reviewed.

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Traditional Structure-Conduct-Performance Paradigm of Competition

The general methodological approach often used by IO theorists and researchers focuses on three concepts: 1) industry structure; 2) industry conduct or behavior; 3) industry performance. The three concepts are traditionally rationalized to interrelate in a causal manner such that industry structure determines the behavior or conduct of firms, whose joint conduct then determines the collective performance of the firms in the marketplace. Looking at it from a business viewpoint, basically, it indicates that a firm's performance in the marketplace depends critically on the characteristics of the industry environment in which it competes. The S-C-P analytical framework can be expressed as follows:

Industry Structure ——— **Industry Conduct** ——— **Industry Performance**

Before more elaboration on these causal dynamics, some further explanation is needed of just what is meant by each concept in the SCP paradigm:

--Market structure refers to the relatively stable features of the industry environment that influence the nature of competition among buyers and sellers operating therein. Dimensions of market structure generally include seller concentration, product differentiation, barriers to entry, buyer concentrat

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--Market conduct refers to the patterns of behavior that firms follow in adapting or adjusting to the market in which they participate. Dimensions of market conduct articulated as being important include: pricing behavior, product strategy and advertising, research and development, and coercion and entry deterrence (Scherer and Ross, 1990).

--Market performance refers to the composite end results or standards of evaluation of firms pursuing competitive behavior within an industry, the appraisal of how far the results of an industry's behavior deviate from the best possible contribution it could make to achieve society's performance goal (Caves, 1982). The major performance goals are said to be efficiency, technological progressiveness, full employment, and equitable distribution of output.

IO economists differ in their degree of emphasis on each of the three concepts of the paradigm. Historically, as a prevailing approach, Mason (1939) and Bain (1956) argued that the analysis of "market conduct" is not instrumental in assessing industry performance since conduct is virtually determined by structure. As Bain (1968) concluded:

> "The actual patterns of market conduct cannot be fully measured to permit us to establish empirically a meaningful association either between market conduct and performance, or between market structure and conduct. It thus becomes expedient to test directly for the net associations of market structure to market performance, leaving the detailed character of the implied linkage of conduct unascertained." (p.329)

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The earlier IO economists led by Bain and Mason generally regarded the measurement of conduct dimensions of firms as difficult, unsystematic, and virtually nonessential to the final goal of performance study. Such a structural view has become the subject of much criticism as the causal assumption ignores the dynamic of feedback influences that firms' strategic actions may have on the industry structure (Chan-Olmsted, 1990; Porter, 1980). Nevertheless, the overview of the traditional IO framework here should provide a better context for understanding the relationship between firms and their industry environment. Furthermore, it offers a systematic model for assessing the nature of competition within an industry.

Modified IO Behavioral Approach

As indicated before, the traditional Industrial Organization S-C-P paradigm has generated some criticism, notably on the structure-performance causal relationship that indirectly ignores the power of competitive conduct.

The so-called "behaviorists" claim that firm conduct is not merely a superfluous intermediate concept. The importance of market structure lies in the way it induces firms to behave, and with the possibility of reverse causalities, conduct links an industry's structure to the quality of its performance. In fact, market performance can be interpreted as an evaluation or the logical extension of the results of f

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IO works subscribing to the behaviorist notion came from Hunt (1972), Newman (1973), and Porter (1973). Such a view has also been particularly articulated by Scherer (1990). Figure 3 reproduced from Scherer and Ross should give a good overview of the flow analysis suggested by the revisionists.

Since this research also includes an examination of the operational patterns in the syndication industry, it will be beneficial to further incorporate such patterns into the Industrial Organization model while formulating a more complete research framework for the economic analysis of the industry.

The market operational patterns of the syndicators do not exist only under one single behavioral or structural dimension. Since these patterns are simply the general observations of the most significant market characteristics, they can be situated as a basic condition, a structural force, or a business conduct in the syndication industry. Note that "market performance" is not included in the discussion as the operations are merely a process or status for accomplishing the desirable performance results.

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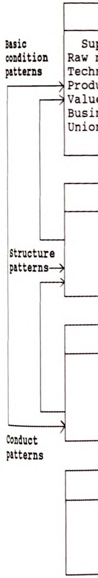

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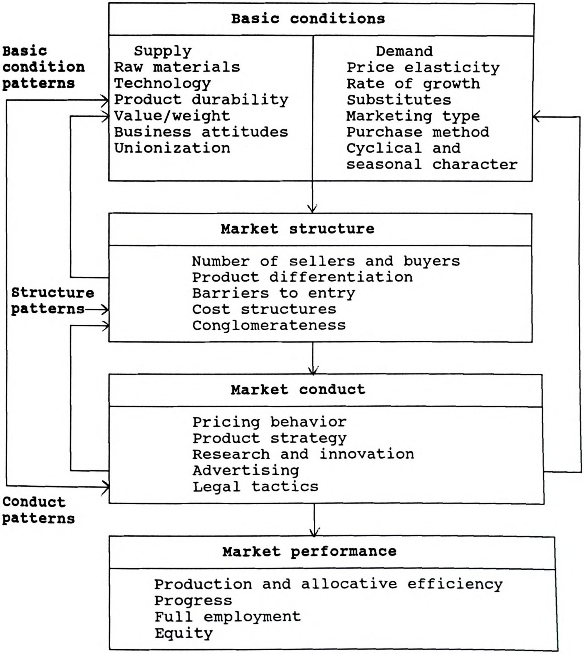
FIGURE 3: A MODEL OF INDUSTRIAL ORGANIZATION (WITH THE OPERATIONAL PATTERN FACTOR)



Source: Modified from Scherer and Ross, Industrial Market Structure and Economic Performance, Chicago: Rand McNally, 1990.

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In addition, it is proposed that these patterns are interrelated in a way that there are frequent feedback impacts on one another. In essence, by incorporating the operational patterns in the syndication industry into the IO research model, we are able to obtain a more realistic market analysis for this specific business. A modified Industrial Organization model with the operational pattern factor is also presented in Figure 3.

As indicated earlier, the regulatory environment of the television syndication industry is essential in shaping the direction of the development, market structure, as well as the market operation patterns of the industry. To understand the foundation of the regulatory component of the market, the rationale of television programming regulation will be reviewed next.

Rationales of Television Programing Regulation

The structure of the broadcasting industry is basically a result of a rapidly changing technology, economic forces, and regulatory actions. A close examination of regulatory policies should provide a better picture of the constrained environment in which the market competition takes place.

In general, the rationale for regulation of television programming is the concern over "inappropriate programming content" as it relates to diversity and quality and "excessive market power" resulting from inadequate

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In terms of the concern over "undue concentration" or "economic power," the television industry is simply another "industry." As public control of excessive market power has always been a characteristic of American public policy based on the presumed benefits of competition, a close governing of the market is perceived to be even more crucial for this mass medium industry, considering its social and political importance.

As the governing of undue economic power is the central rationale for regulating the market of television programming, the agencies that carry out the regulatory responsibilities and their traditional approaches in performing such economic control will be further scrutinized.

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former deals mostly with the ownership issue and the latter firms' market competition <u>behavior</u>. In general, concentration of ownership in the mass media takes three general forms: consolidation of local media companies of the same type, cross-ownership of two or more different media in the same market, and national or regional multiple ownership of media companies, a central focus of this study. When considering media ownership policies, the public authority often follows three basic assumptions: Bigness is bad, Diversity is good, and localism is desirable (Compaine, 1983). Under such principles, two federal agencies, the FCC and the Antitrust Division of the Department of Justice are jointly responsible for examining the concentration and diversity issues in mass media industries. The legislative origins of the agencies' regulatory authority and the links to television programming content will be reviewed next.

The Antitrust Division, charged with the enforcement of Section 7 of the Clayton Act, proceeds in situations where there is evidence of "undue economic concentration." The Communications Act of 1934, section 313 and 314 also expressly declare antitrust laws to be applicable to electronic communications. Traditionally, the division's intervention had been exercised mostly in the motion picture industry. The market of television programming had only been involved when the department challenged the broadcast networks' anti-competitive behavior in dealing with their program suppliers. For example, in both 1972 and 1974, the

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Antitrust Division filed complaints against all three networks in violation of the Sherman Antitrust Act in their programming acquisition practices.[15]

The other public agency, the FCC, is charged with the administrative responsibility for licensing and supervising telecommunications facilities under the mandate of serving the "public interest, convenience, or necessity."[16] Although Congress gave the FCC no specific direction for dealing with multiple ownership matters, the legislative body did empower the Commission with adequate tools to regulate the mass media industry according to its judgement in the interest of the public. Over the years, the FCC has developed a number of cross-ownership and multiple ownership rules to prevent excessive concentration of control over the broadcast media. Though initiating no specific rules considering the market for television programming, the Commission has recognized the fact that as networks are playing the most critical bottleneck role in the development of broadcast television programming, some degree of control over their operations is essential if government-fostered "improvements" in the level of programming are to have any effect.

Thus, historically, the FCC's national arbiter power over television programming has been mostly exercised in conjunction with the regulation of the television networks. In dealing with the problem of network dominance, the FCC has repeatedly focused its legislative actions on the structure of the television industry (structural regulation) as well as on the financial

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on the financial relationships among the industry's component parts (behavioral regulation), including programming. In essence, beginning with the Chain Broadcasting Rules, and continuing with the Prime Time Access Rules, to the later Financial Interest and Syndication Rules, the FCC has indirectly dealt with the market for television programming through its efforts to restructure the oligopolistic broadcasting marketplace and place specific curbs on networks' obnoxious behavior. Particularly important have been the breakdown of entry barriers, including the programming supply barrier, faced by new potential networks.

In the past, the FCC and Antitrust Division have acted in tandem, sometimes at cross-purposes, and sometimes independently (Compaine, 1983). The court pointed out that the Communications Act does not provide a pervasive scheme of regulation of broadcasting and does not give the FCC the power to decide antitrust issues or to grant immunity from subsequent prosecution.[17] The FCC, however, in acting under its broad public interest mandate, should consider anticompetitive matters and may deny a license application solely on the ground that a grant would be inconsistent with antitrust policy. In essence, the relationship between the FCC regulation and the antitrust law is necessarily a complementary one in which "the basic goal of direct governmental regulation through administrative bodies and the goal of indirect governmental regulation in the form of the antitrust law is the same."[18]

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Besides the Justice Department and the FCC, the traditional participants in laying the regulatory ground of the broadcasting industry often include the U. S. Congress, whose constitutional grants of power in regulating interstate commerce and whose interests in investigating major social problems put it in the forefront in governing the broadcasting industry. And just as the other agencies, Congress had only indirectly dealt with the market for television programming through its concerns with the network structure and competitive conduct. For example, when Congress required television set manufacturers to build both UHF and VHF channels on all new receivers, it indirectly stimulated the demand for syndicated programming.[19] Note that not only certain laws and rules of Congress or the FCC have affected the programming industry, but the raised eyebrow approach of the FCC and Congress has also frequently obviated the need for actual new laws or rules that might, directly or indirectly, influence the operation of the syndication market.

Since all three regulatory bodies have not specifically dealt with the television syndication industry, there is no explicit regulatory rationale particularly established for the market. Nevertheless, as a major segment of the television programming industry, the general rationale of promoting competition and preventing undue economic power applied during the historical regulation of the networks should provide significant insight on the issue. Also, as

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mentioned earlier, historically, there are two basic regulatory approaches when dealing with the broadcasting industry: structural and behavioral market intervention. It is believed that the public authority's behavioral intervention approach had created more direct and greater impacts to the development of the television syndication industry than the structural approach since the limitation of broadcast property ownership does not directly stimulate the increase of demand for television syndication, while the promotion of competitive conduct encourages the development of alternative programming sources, which, in turn, aids to the growth of television syndication.

Finally, as more and more non-broadcasting media (e.g., cable and direct broadcast satellite services) become available to the general public, the watchdog role of these agencies has gradually being relaxed. In other words, due to the change in the media environment, the favorable legal climate of television syndication may be shifting. Yet, precisely because of this availability of various non-broadcast media, the syndication industry was also given more opportunities in expanding its market.

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Chapter IV

EXAMINATION OF MARKET OPERATION PATTERNS

The television syndication industry has certain unique methods of operation that substantially affect the patterns of competition among the firms contesting for market shares as well as the degree of competitiveness in that industry. In this chapter, I observe the general market conduct of television syndicators and subsequently develop six operational patterns that characterize the industry. Among these patterns are: (a) scarcity of syndication time periods, (b) first-run deficit financing, (c) syndicated product advisors-rep programmers, (d) group buyers and station cooperatives, (e) multistage vertical integration, and (f) barter advertising. Such information will be used extensively for the behavioral analysis of the industry's competition status (research question II) and assessing the factors that influence the market competition (research question III) in Chapter 8.

Scarcity of Syndication Time Periods

As a product distributor/manufacturer needs to negotiate with retailers for the shelf space of its product(s), a television syndicator needs to work out time slots for the exhibition of its program(s) with the client stations. And even more constr

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even more constrained by the fixed shelf space than most of the retailers, which still have the option to expand the physical capacity of their stores, syndicators are faced with an unexpandable maximum of 24 broadcast hours per day, excluding commercials, for television exhibition of their product. Furthermore, as television viewing levels vary throughout the day, different programming shelf space--time slots exhibit different degree of revenue generating potentials to commercial broadcasters.

Because at least 70 percent of the homes in the United States watch television during the prime-time hours, the time period and all the immediately preceding and following slots become very valuable shelf space for broadcast stations. Naturally, when a broadcaster is in the market to purchase a syndicated product, it would examine the formats and content of the prospective programs and try to acquire the one that is most suitable for the time period needed to be filled. Thus, while pricing and marketing their programs, syndicators often assign them "labels of time slots," suggesting the most appropriate exhibition shelf space for reaching the programs' best potential ratings levels. The concept of programming shelf space has become a promotional tool as well as an operational mechanism in the industry. In this section, I will discuss the terminology of "shelf space" for syndicated product, its implication for the business, and the growing scarcity problem.

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actual hours, but by segments of time periods (dayparts) such as "daytime" and "early fringe." (see Table 2). Most of the segments are descriptive terms of the hours they represent, except the half-hour before "prime time" has become "access" time since it was created under the Prime Time Access Rule (PTAR), with the intention to provide affiliated stations with access to new independently produced programming. Because of audience availability and the absence of network programming, "access" time often represents a significant profit center for the affiliated stations and most of the popular syndicated shows are aired in this period.

Network affiliated stations normally purchase syndicated programs to fill their "all night," "early evening," "early fringe," "access," and "late night" time slots with the latter three slots providing higher audience potentials and thus are programed with great deliberations. Among the syndicated programming types, network sit-com reruns seem to be a staple in the "early fringe" time period for the affiliates as research has shown that sit-coms can capture the "early fringe" audience and hold their attention through the "access" time slot (Eastman, Head, and Klein, 1985). After the mid-1980s, some syndicated first-run shows, such as "The Oprah Winfrey Show" and "Geraldo," started to attract large audiences for the time period by reviving the 1970s' "talk show" format; and soon became the favorite programming type of this period. As for the "access" time slot, first-run game shows such as "Wheel of the Fortune" and tabloid

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7:00 AM – 9:00 AM	EARL MORN
9:00 AM – 3:00 PM – 4:00 PM	DAYT
4:00 PM – 5:00 PM – 6:00 PM	EARL FRIN
6:00 PM – 7:30 PM	EARL EVEN
7:30 PM – 8:00 PM	ACCE
8:00 PM – 11:00 PM	PRIM TIME
11:00 PM – 11:30 PM	LATE FRIN
11:30 PM – 1:00 AM	LATE NIGH
1:00 AM – 7:00 AM	ALL NIGH

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TABLE 2: SYNDICATED PRODUCT SHELF-SPACE

Time	Daypart	Network Affiliates	Independent Stations
7:00 AM – 9:00 AM	EARLY MORNING	Network Program	Syndie Shelf Space
9:00 AM – 3:00 PM	DAYTIME	Network Program	Syndie Shelf Space
3:00 PM – 4:00 PM	DAYTIME	Network Program	(KID FRINGE) 3-5 PM Shelf Space
4:00 PM – 5:00 PM	EARLY FRINGE	Syndie Shelf Space	(KID FRINGE) 3-5 PM Shelf Space
5:00 PM – 6:00 PM	EARLY FRINGE	Syndie Shelf Space	Syndie Shelf Space
6:00 PM – 7:30 PM	EARLY EVENING	Local & Network News	Syndie Shelf Space
7:30 PM – 8:00 PM	ACCESS	Syndie Shelf Space	Syndie Shelf Space
8:00 PM – 11:00 PM	PRIME TIME	Network Program	Syndie Shelf Space
11:00 PM – 11:30 PM	LATE FRINGE	Local News	Syndie Shelf Space
11:30 PM – 1:00 AM	LATE NIGHT	Network Program or Syndie Shelf Space*	Syndie Shelf Space
1:00 AM – 7:00 AM	ALL NIGHT	Syndie Shelf Space	Syndie Shelf Space

*This is a hybrid period that can swing either way depending on programming quality. The period presents a high preemptability/low clearance for network programs.

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programs such as "A Current Affair," often appeal to the affiliates in the major markets, while for smaller markets where the PTAR limitation on reruns does not apply, both sit-com reruns and first-run game and tabloid shows are equally welcomed. Network reruns and talk shows that are not top-rated are often acquired for the early "late night" slot between 11:30 and 12:00, and usually followed by syndicated movie product.

Unlike network affiliates, independent stations have all the periods open for the exhibition of syndicated product, with the time periods from "kid fringe," a daypart normally filled with animated shows, to "late night" offering better viewing levels. As for the affiliates, off-network reruns are also the livelihood for independent stations. They are an especially important vehicle for counterprogramming to the affiliates, who are more constrained by their inflexible network schedules. Since the mid-1980s, because of the successful ratings record demonstrated by many first-run series, independent stations have bought more original syndicated programs than before. With a blend of popular first-run game, tabloid, and talk shows as well as popular network reruns, independent stations are able to fill up their time slots just like the affiliates and have become a more competitive entity in the industry.

An unprecedented number of successful syndicated product, both network prime-time hit shows and original first-run programs, continues to lock up stations' license

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fee budgets as well as their key time periods. A scarcity of programming shelf space has become one of the biggest issues for syndicators in the 1980s. The situation is even more evident for the time slots that are often filled with first-run products. A general survey of the 1990 programming plans in the nation's top 10 television markets has shown a general scarcity of available "early fringe" and "access" time periods for new game shows and magazine strips (Broadcasting, Aug 27, 1990, p.36).

In addition to the scarcity concern over programming time slots caused by an increase of successful syndicated product is the problem of lessened exhibition space created by a decreased number of station exhibitors. In the period of 1987-1988, many independent stations, squeezed by high programming costs and a soft advertising market, have overextended themselves and been forced into Chapter 11 bankruptcy proceedings, which had left even less room for syndicated programs. As indicated in Table 3, the growth rate for independent stations has fallen tremendously after 1986. Furthermore, more than 10 independent stations were purchased by the Home Shopping Network, thereby removing them from the syndication marketplace. And more stations, faced with the financial difficulty, either switched to less expensive formats such as home shopping or went back to their existing programming inventories, leaving few slots in their schedules for syndicated shows.

The continuing roll-out of Fox Broadcasting Company's

TABLE 3: GROWT

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TABLE 3: GROWTH OF INDEPENDENT STATIONS

Year	Number of Indies	Growth Rate
1980	114	--
1981	138	21.0%
1982	166	20.3
1983	190	14.5
1984	220	15.8
1985	259	17.7
1986	296	14.3
1987	309	4.4
1988	328	6.1
1989	339	3.4
1990	339*	--

*Estimated figure for 1990.

Source: The Association of Independent Television Stations, Inc. Census 1990.

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schedules also added to the tightened market. Because of the additional hours of programming that Fox affiliates are entitled to receive, many stations have hastened the ongoing process of cutting back on their movie libraries and the purchase of syndicated programs in those hours that directly compete with the big three networks. Fox's network programming service for independent stations simply removed a significant number of hours from the syndication marketplace.

The need for station time slots is further complicated by the need for major market clearance. For instance, an "access" time program must be sold to stations in New York, Los Angeles, and Chicago, to have a serious chance of even getting on the air. When these markets are full, a syndicated show has little chance to make it. In fact, the high prices of some hit off-network series have commanded record prices in syndication, which forced stations to schedule these shows in the most lucrative time periods to recoup costs, leaving a new first-run show or modest off-network rerun in an inferior slot with fewer viewers available. In addition, many syndicators of successful shows, such as King World, are demanding two-year or three-year commitments from their client stations, a practice that further inhibits the flow of new products on to the air in key time periods.

The scarcity of programming shelf space, especially of the most lucrative time periods--"access" and "early fringe" slots, has increased the intensity of competition in the

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market. Syndicators, particularly first-run syndicators, frequently have to reduce their license fees and give incentives during the negotiation for capturing the best possible time periods from their product exhibitors. A common inducement now includes increased co-op promotional budgets such as cooperative advertising campaign and on-air promotion for client stations. Some sources even reported that some syndicators have been offering "consideration" payments for major market stations who guarantee quality time periods to their programs or "replacement compensation" for stations that replace an existing show with their program.[20] Many syndicators have ended up taking less valuable slots such as "late night" and "morning" that generate much less license fee revenue and/or advertising dollars just to get their feet into the door. Still, in many cases, stations have picked up the rights to more shows than they have time for.

It is believed that the number of successfully launched first-run programs has been declining since 1988. The failure rate for these new shows was said to reach almost 100 percent in 1990 (Broadcasting, October 8, 1990, p. 36). While viewers are aware of the existence of new shows, they seem to have formed a viewing habit and simply prefer watching a returning popular first-run than a similar new program. This phenomenon may be viewed as a natural product differentiation or "branding" barrier which may, to some extent, also forestall successful entry of new syndicated programs.

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As the trend continues, there are fewer and fewer opportunities for newcomers to enter the syndication industry. The scarcity problem has also decreased the survivability of the smaller syndicators as they often don't have the leverage and financial resources to gain good time periods in enough markets to launch their new shows. It is believed that, with the barrier of entry and the competitive disadvantage caused by the limited programming shelf space, the level of market concentration has increased and some large syndicators have gained substantial market power in the industry. Note that the scarcity problem is built upon the paradigm of broadcast model with spectrum technological constraint. The increasing participation of the exhibitors from the multichannel environment should gradually ease such an exhibition space difficulty.

First-Run Deficit Financing

Since the mid-1980s, no longer overshadowed by the network rerun product, first-run series have become the main supply of popular product in the syndication market. The original syndicated product has grown from 58 percent of the top-ranked syndicated programs in 1983 to 72 percent of those in 1987 (Barrett, 1989). Unfortunately, accompanying the rising quality and popularity of this product is the problem of deficit financing among the first-run syndicators.

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Comparing to the deficit financing for network programs, the companies producing/distributing first-run syndicated products carry much higher risk for their investment, since most of the first-runs don't contain residual value like their network counterparts. In addition, because of the substantial amount of uncertainty involved with first-run syndication, traditionally, investors have shied away from pumping money into this market. Syndicators have long charged that Wall Street has difficulty understanding how the business operates and often underestimate the value of the industry product. The stock-market crash of October 1987 further compounded the deficit financing problem. It became even more difficult for medium and small syndicators to raise any substantial amount of money in the public markets, which forced them to turn to private investors or the banks, where restrictions are heavily attached.

Though capitalization financing has always been an obstacle for original programming syndicators, during the last decade, the cost of production, distribution (satellite transmission), marketing, and promotion of a first-run syndicated product has escalated so much that the syndicators often have to devote a substantial financial commitment to be able to survive in the market. For instance, the cost of producing a pilot and marketing it to stations can easily top $1 million, and that is just the beginning of start-up costs (Haley, 1989). Deficit financing is now a must for launching most new first-run shows, which typically don't turn a profit until their se

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until their second or third year on the air. Many in the industry believe that first-run syndication now has a multi-year investment horizon. This is especially detrimental to the small and medium-sized syndicators whose chances of breaking even are very remote.

While many first-run syndicators are accepting losses, hoping they can recoup the deficit and yield a profit later, television economics have made it a more difficult task for smaller syndicators. In addition to the inability of taking advantage of the scale economies over distributing, marketing, and promoting a product, smaller syndicators normally don't have the leverage to secure good time periods and high clearance for their new shows. Furthermore, the leverage here can mean more than the marketing clout to clear shows in the key time slots of many stations. For syndicators with deep pockets, they are able to practice a "predatory pricing" strategy, selling a new first-run show at much lower license fees in year one and making up for shortfalls during the next two or three seasons. "A Current Affair" is a good example. The program was sold at a very low price in its initial year and once its "access" time slot was secured and ratings proved it a strong contender, Fox began renewing the show at much higher license fees.

The changing media environment during the last decade has also worked to the major syndicators' advantage. The television market is now crowded with cable television, VCRs, and many more broadcast stations, fighting for shares from a

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very fragmented audience. The competition has encouraged the production of some high budget first-run syndication like "Star Trek: The Next Generation," which has as much as a $1.3 million production budget per episode (Neal, 1989). In addition to the high-profile drama, many syndicators also started offering original sit-coms, which could cost ten times as much to produce than simple first-run game shows. In general, the deficit financing required to produce a sit-com or hour-long drama is more readily available to those larger syndicators that are associated with major studios.

Fearful of large deficits, some syndicators have tried to require stations to commit to some 24 or more episodes (nearly twice the industry norm) before launching production. Nevertheless, it is again difficult for smaller companies to negotiate for such an initial commitment while their limited available resources appear not to guarantee the successful production of many future episodes in the eyes of stations. Furthermore, the greater reliance on barter advertising during the 1980s has transferred more risk from stations to the syndicators,[21] thereby making first-run syndication an even riskier proposition. While the first-run syndication divisions at the major studios have on the whole prospered, the majority of smaller independent syndicators, burdened by the financial difficulty, have either floundered, been forced to merge with competitors, or have entered into co-ventures and other risk-spreading combinations, despite a continued growth in the overall industry revenues.

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The practice of deficit financing in the production of network prime-time programming has also impacted the rerun syndication market during the late-1980s. The cost of producing prime-time programming has more than doubled since 1980 to over $1 million per hour at the end of the decade. Since only about 75 percent of the production cost is covered by network licensing fees (Behar, 1988), many producers of the shows are forced to offer them into syndication market as early as possible to recoup their out-of-pocket costs and take advantage of initial network success to promote series at high prices. More and more prime-time programs begin airing in syndication within four years of starting in network, and very often the syndication deals are negotiated sooner than that. For example, ABC's "Growing Pains" was sold into syndication by Warner Brothers after only its first season on the air. And with only two years of "Dear John" episodes, Paramount Domestic Television launched the pre-sale of the show, guaranteeing a full complement of 90 episodes of the program either by taking four complete seasons to market or, if the show is dropped from the network before that, producing more episodes for first-run syndication itself.

Thus, the soaring production cost of network programming seems to have intensified the problem of deficit financing for the syndicators that are financially associated with the production of both first-run syndicated and network product. As a result, more rerun products are entering the syndicated market faster and more syndicators are paying for the continued prod

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Product Purchasing Advisors--Rep Programmers

Rep programmers, as commonly known in the industry, are programming specialists employed by national sales representative firms (reps), which provide local stations access to national spot advertising sales. Since a rep firm's market success is critically linked to its station clients' programming performance, reps long ago decided it is in their best interest to ensure that the stations they represent air the strongest, most cost-efficient programming available by assisting in their programming decision-making process. As the programming functions provided by these rep programmers have been crucial in many local stations' purchasing of syndicated products during the last ten years (Haley, 1990), the emergence of the rep programmers and their programming assistance to the station buyers of syndicated programs have become one of the unique market operation patterns of the syndication industry.

The programming service of national sales representatives emerged in the 1960s. When spot advertising became an important source of station revenues, the major reps were eager to establish a good relationship with local stations and help them to build a solid programming base, which, eventua

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which, eventually, would help reps in selling their airtime. As the Prime Time Access Rule opened up more prime time access slots for local television programming in the early 1970s, many network affiliates suddenly had to deal with unfamiliar programming decisions and were definitely in need of information and professional advice. Thus, the programming service provided by the rep firms was greatly appreciated by many local stations.

The role of rep programmers was further augmented in the 1980s, when the number of independent stations and the popularity of cable television services were rising. Local stations, faced with increased market competition, were anxiously seeking professional advice in making competitive programming decisions. The skyrocketing program prices at this time made such decisions even more critical and difficult; hence, most station managers turned to reps or other consulting firms to gather information before committing themselves. Though the slow national spot advertising sales had caused some cutbacks at several rep firms and the competition among rep firms became more intense in the mid-1980s, rep firms did not reduce their programming research budget but fought to retain their loyal clients by providing more extensive programming services (Haley, 1990).

All of these forces contributed to the emergence and the growth of rep programmers as well as the need for their services. Nevertheless, it was the technological development of overnight ratings for major broadcast markets and the sophisticated

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Most of the programming services continue to be offered by major rep firms. With the ability to invest in audience research and ratings data, maintain contact with stations in various markets, and keep in constant communication with networks, syndicators, producers, and trade organizations, rep programmers often have sources of information unavailable to their local station clients. For example, rep programmers have access to a large amount of ratings information on network and syndicated programs as well as specialized ratings analyses such as audience flow, audience duplication, and county-by-county studies (Eastman, Head, and Klein, 1985). Based on such a network of programming information and given their industry experience, rep firms are well positioned to not only passively give station clients advice on programming purchasing, scheduling, and even promotion upon request but also actively provide stations programming information and recommendations. Their common goal is to maximize ratings so that both station and rep can earn the highest possible revenue from selling advertising time in the programs.

When giving advice on an off-network rerun, rep programmers evaluate the demographics and audience flow of the strip on their client stations in addition to the review of the program

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of the program's rating history in all markets measured by Nielsen and Arbitron. Besides giving programming advice, rep programmers also provide stations information about the nature and schedule of network programs, and report to client stations on the availability of off-network programs, new or potential syndicated products, barter programs, specials, sports series, and cooperative programming ventures (Kaley, 1990). Furthermore, the rep programmers often recommend individual programs and appropriate time periods for showing them to client stations based on examination of the represented stations' programming lineups and those of the stations with which they compete locally. In addition to the quantitative research data and the study of local market competition, historical information such as the successful and failed shows of the past few years during similar time periods is frequently utilized for evaluating and estimating audience levels.

In the past ten years, rep programmers' opinions, and the huge volume of research they have generated have had a substantial impact on which syndicated programs receive airtime and how long they last. Especially for first-run syndication with no ratings track record, a positive recommendation from a rep programmer is significant to the launch of the program, and vice versa for negative opinions. The reps' programming advice has grown so important in recent years that tensions between the reps and syndicators are running high. Some syndicators have altered their marketing strategies in

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strategies in trying to lessen reps' influence. For example, it is common for a syndicator to present its product to rep programmers before it is shown to the station buyers, since the reps inform a large number of prospective station buyers and thus make the process a more cost-efficient way of doing business. Recently, as a strategy of reducing the growing influence of the reps, some large syndicators, such as MCA, have stopped bringing new first-run projects to the reps before unveiling them to stations. Instead, they first contact the key, big-market stations. Some syndicators even argued that reps should never evaluate original programs, but should instead simply supply their stations with program availability and acquisition information.

For local broadcast stations, rep programmers complement their programming function by providing a valuable contribution to station programming with tremendous research data and a national perspective on what's happening with syndicated programming. This helps local stations make the best internal and external programming decisions under their resource limitations. To the syndication industry, rep programmers offer syndicators a cost-efficient way of doing business by acting as a middleman for disseminating product information to local stations, big or small, across the country. It is believed that the middleman's supposedly objective opinion would only affect its client stations' programming purchasing decision to a certain extent, since the syndication industry would modify its business practices accordingly t

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accordingly to offset any unacceptable impact from the reps. Nevertheless, as there are fewer time periods for stations to fill with syndicated programs, local station managers are getting more cautious in their product purchases and have more time to get outside advice. Thus, even with the pressure from syndicators, rep programmers are expected to continue to play a significant role in their stations' programming functions.

Group Buyers and Station Cooperations

Most commercial broadcast stations are held by group owners, firms or individuals who own more than one station. As of 1990, within the top 100 markets, 535 of the 699 television stations, or 76.5 percent, were group owned. Just like other businesses, station group owners can benefit from "economies of scale" by sharing resources in supply, equipment, and personnel. In this way, broadcast group owners are similar to other chains of media or non-media firms. This is particular true for the purchase of expensive programming. With shared resources, group buyers often have more leverage to buy desirable new programs that otherwise might be snapped up by their competition. On the other hand, it is also more cost-efficient, promising, and profitable for syndicators to negotiate programming sales with group owners than making market-by-market offerings which requires higher overhead expenses and offers less guaranteed programming lineups.

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As a general rule, it is very hard for a syndicated program to survive without a run in the top markets--especially New York, Los Angeles, and Chicago (which reach approximately 17 percent of the nation's television households), and lay the proper foundation for the 70 to 75 percent coverage commercial sponsors look for. And programming decisions in these major markets rest primarily with a few large station groups. Thus, as an incentive, syndicators often give group buyers first pick of products and lower per episode fee for group purchasing deals. As a matter of fact, first-run syndicators and producers generally try to obtain commitment from at least one of the station group owners before a program production is even started. Nevertheless, since different group owners exercise different degree of centralized programming control, the transaction savings realized by both sides is still limited by a group-owned local station's autonomy in making its own product purchase decision to accommodate the specific programming needs of its audience.

Among all station group owners, networks' owned and operated station (O & Os) groups have always been the top-ranked group buyers and whose patronage is crucial to the success of any syndicated product. In essence, networks' O & Os in the top broadcast markets present a tremendous collective influence to syndicators because of their extensive coverage of the total U. S. television households.

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Since the networks also compete headon with syndicators in generating audience and advertising dollars, their O & Os, to some extent, have to function accordingly. Although the programming purchase function of the O & Os is not generally controlled by their parent networks, these stations undoubtedly operate under corporate guidelines intended to maximize their overall profits. Thus, the programming buying patterns of the O & Os are slightly different from other group owners. For example, when considering purchasing a syndicated product, O & Os are very cautious whether the program would fit their group image and present an excellent match to their network schedules.

Fox Broadcasting Company is another unique group buyer which consists of six major television stations originally owned by Metromedia station group. With its own studio facilities and television stations, as well as a lineup of some 133 independent stations, Fox broadcasts a total of 18 1/2 hours per week (Broadcasting, May 8, 1990, p. 28), reaching 91 percent of the U. S. television households in 1990. Is Fox a network, an ad hoc network, or just a syndication service? While there are still controversies surrounding this issue, this study does not treat Fox as a full-fledged broadcast network since it is not competing equally with other networks under the regulatory protection of the FCC. In general, since Fox has yet to emerge into one of the "big four," its stations' purchasing patterns for syndicated product are more similar to those of other major group owners,

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group owners, such as Tribune Broadcasting, and are not as constrained by network scheduling and image building as the network O & Os.

As discussed previously, before 1986, television syndication was in a seller's market with an excessive demand of product caused by the rapid growth of independent stations. While the demand has quieted down after the trend of station bankruptcies and consolidations during the 1987-1988 period, station group owners are continually challenged by the mounting cost of syndicated programming, especially, the escalating production cost of first-run series. Such changing dynamics in the television industry during the 1980s have fostered a market environment in which station group owners were forced to explore certain operation patterns that would bring out the advantage of resource leverage and scale economies from their ownership.

During the last decade, many major group owners have started two unique operation patterns in dealing with the syndication industry: first, some group owners have entered joint ventures to buy original syndicated product; second, certain group owners have, either alone or in partnership with others, assumed the role of producer-syndicators and produced their own first-run programming for exhibition on their stations as well as regional and even national syndication. This kind of in-house production venture is actually not a new experiment for the group owners. As early as the late-1950s, when the production of first-run syndicated p

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Through consortium programming buying power, station groups are trying to increase their negotiation leverage through cooperative buying and also to exhibit clout and control in the development of their own programs. For example, the Program Consortium, a co-venture created in 1987 by Group W Stations, Gaylord Broadcasting, and Chris-Craft/United Television, has concentrated on purchasing original prime-time specials needed for their independent stations. And the consortium's 35 percent total clearance has successfully provided an effective inducement for syndicators to respond to their needs. Another major consortium is the R & D Network. Formed in 1988 and assembled by King World, it includes stations owned by Gillett, Scripps-Howard, Group W, Post-Newsweek, King Broadcasting, and Midwest Communications, which together reach about 30 percent of the U. S. television households (Broadcasting, July 23, 1990, p.58). The consortium, taking advantage of its affiliation with one of the largest syndicators, obtains first-run syndicated products at a considerably lower price by acting as a testing ground for King World's new shows that could eventually air in national syndication.

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a step forward from the co-purchasing of original programming to the collaboration in its production. It is believed that, through such co-production ventures, their stations would be able to obtain an alternative to expensive off-network programs, pay less for first-run broadcast right and later on, eliminate syndicators' profits when they have enough episodes to "strip" the series. Such cooperatives reflect the increasing aggressiveness of independent stations in programming their airtime during the 1980-1990 period.

One early co-production venture was Operation Prime Time (OPT), a consortium of stations which was drawn together for the purpose of developing expensive, original, dramatic programs comparable to network prime-time programs. Though the OPT venture goes back to the mid 1970s, it was especially active in the early and mid 1980s. Not only independent stations but some network affiliates also participated in the plan, which has resulted in high national clearance for their programs. The New Program Group (NPG) and Program Development Group (PDG) are other examples. Working with 20th Century/Fox, NPG, a consortium of independent stations, made a hit of "Small Wonder," a half-hour comedy about a little girl robot, which was among the ten highest-rated programs in first-run syndication in 1986. PDG broadcast group comprise of station groups like Golden West, Cox and Gaylord, which co-finance programming ventures ranging from game shows to dramas.

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basis, Group W stations' "PM Magazine" offers a good example. The magazine-format series was initiated by Group W's San Francisco station for its access time slot and later shared by all five Group W stations, each contributed its own local segment to make up the composite magazine program. The show was ultimately distributed to over 100 stations and the station group got to keep the syndicated revenue.

More broadcasters are now involved in co-venturing first-run programming. In fact, major market independent groups now routinely demand a stake in original programs they clear on their outlets. It is believed that, as the production cost continues to escalate, in order to make first-run programming economically feasible on a long-term basis, there will be more alliances among station groups in the broadcast industry. Furthermore, while group owners continue to build their horizontal relationship in cooperative programming, an increased vertical association with some major production entities (studios) is inevitably becoming another major operation pattern of the industry.

Vertical Integration

Vertical integration occurs when a firm, through either internal expansion or external merger, enters two or more sequential production stages of a particular business. In the market for television syndication, producers of network reruns and first-run syndicated programming are classified as the "product

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the "production" stage, while syndicators are in the "distribution" stage and both broadcast stations and cable systems are in the "exhibition" stage (see Figure 4). The practice of vertical integration has great advantages as it may generate economies in the sharing of technical, managerial, marketing, and information resources, and reduce risks of investment of a firm through diversification. Furthermore, vertical integration creates greater stability through internalization of decision making and greater self sufficiency. However, some economists also believe that vertical integration can increase the prospects of monopoly power in both markets by "foreclosing" competing firms from access to suppliers or to customers. For example, in the syndication market, a syndicator's acquisition of a number of broadcast stations could possibly disadvantage other rival syndicators by precluding them from supplying programming to its stations, or on the other hand, disadvantage the competitors of its stations by foreclosing access to or increasing the costs of its programming to these buyers. In addition to the foreclosure theory, it is said that potential competition may also be injured by vertical integration as it may raise barriers to entry by requiring new competitors in either market to enter both stages simultaneously rather than only one. Entry barriers that may result from vertical integration in the syndication market will be discussed later in Chapter 7.

In essence, syndication firms may use vertical

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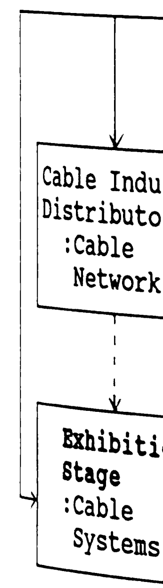

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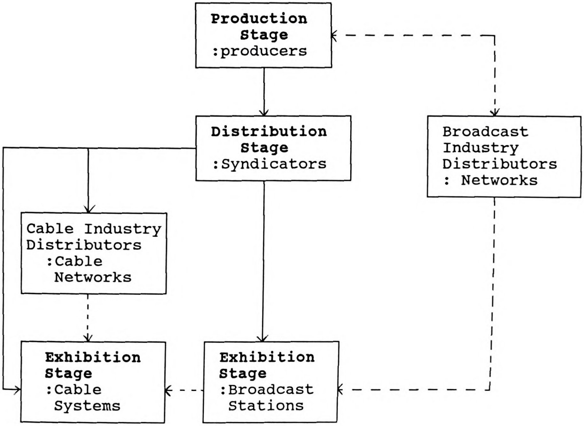
FIGURE 4: SYNDICATION INDUSTRY PRODUCTION STAGES



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integration as a strategy to obtain competitive advantage over their rivals. And because of the growing importance of such practices in the market's competition process, it has become one of the unique operation patterns of the industry that also deserves scrutinization.

In the mid-1980s, the broadcast industry underwent a dramatic restructuring due to a frantic buying and selling of media properties concomitant with liberalization of group ownership rules. After the bankruptcies and the debt-amassing ownership changes quieted down, the market has fewer, larger and more powerful companies and many broadcasters have significantly enhanced their station holdings with a larger broadcast base and new stations in desirable markets. Coupled with the consolidation of rep firms and the mergers between syndicators in the 1985-1988 period, more media conglomerates were formed with a syndication business interest. In other words, the trend of mergers and expansions in the last decade has created many vertically integrated syndicators through financial affiliation with firms in either upstream or downstream production stages. As the cost of programming continues to rise and the shelf space of the products becomes even more limited, it is believed, if a syndicator is studio-based, well capitalized, and/or associated with a broadcast group or other exhibitors, it will posses substantial competitive advantage over those independent firms operating only as distributors in the market.

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The financial association between production and distribution stages of the syndication industry has existed since the early days of the Financial Interest and Syndication Rules regulation, which prohibits the traditional television networks from launching similar vertical integration. Because of the ruling, the well heeled Hollywood studios were offered the opportunities of establishing a closer relationship with independent producers through the financing of their programming productions, and later acting as dealer (syndicator) of their products. In general, by vertically integrating with a major studio through long term contracts, a syndicator is able to gain better access to network rerun products and movie packages as well as production and financial resources for first-run syndication. In 1989, eight out of the top 10 syndicators are associated with a major movie studio (see Table 4). Only King World and LBS, the veterans of first-run syndication who distribute successful shows like "Wheel of Fortune" and "Tales from the Darkside," respectively, are immune from such a vertical affiliation.

In terms of the integration between syndicators and exhibitors, considering the importance of clearance and viable time slot to the success of a syndicated product, it is believed that the downstream integration would benefit a syndicator by providing a greater degree of self sufficiency through guaranteed lineups and better access to key time periods for its original first-run products, especially, if

TABLE 4: VER

1989 Rank	Syndi
1	Time-
2	MCA
3	King
4	Param
4	Viaco
6	Colum
7	Fox
8	Turne
9	LBS
10	Buena
11	Orion
11	Reeve
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TABLE 4: VERTICAL INTEGRATION OF MAJOR SYNDICATORS

1989 Rank	Syndicator	Movie Studio	TV Station	Cable Network	Cable System
1	**Time-Warner**	Yes	No[22]	Yes	Yes
2	**MCA**	Yes	Yes	Yes	No
3	**King World**	No	Yes	No	No
4	**Paramount**	Yes	Yes	Yes	No
4	**Viacom**	Yes*	Yes	Yes	Yes
6	**Columbia**	Yes	No	No	No
7	**Fox**	Yes	Yes	No	No
8	**Turner**	Yes*	Yes	Yes	No
9	**LBS**	No	No	No	No
10	**Buena Vista**	Yes	Yes	Yes	No
11	**Orion**	Yes	No	No	No
11	**Reeves**	Yes	No	No	No
13	**Tribune**	No	Yes	No	No
14	**Group W** (Westinghouse)	No	Yes	Yes	No
15	**Multimedia**	No	Yes	No	Yes
16	**Worldvision**	Yes**	Yes	No	No
17	**MGM/UA**	Yes	No	No	No

Sources: 1989 Channels/Programmer's Handbook and 1990 Channels Field Guide

All rankings are based on 1989 company revenues; companies such as Teletrib, IAS, and Camelot that operate only as barter reps for other producers or/and syndicators are not included on the list.

*Turner is regarded as vertically integrated with movie studios due to its MGM and RKO film collection and its Turner Home Entertainment Production division. Viacom is also treated the same way with its shares in MGM and Orion production facilities.
**Worldvision owns an animation studio.

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the vertically integrated station is in a major broadcast market. Furthermore, station ownership can offer a syndicator more direct information about their audience programming preferences and even furnish a market for pretesting its products. Nevertheless, syndicators are not expected to just run their own programming on their stations because they have to maximize their revenues or profits by programming their stations with the best product available and affordable. Internal programming supply is likely to be preferred only if all other market factors are considered to be equal. In 1989, only three out of the top 10 syndicators are not vertically integrated with at least one television station. Even the greatest exception to this rule, King World, bought a broadcast station in 1989 and expects to buy more. In fact, the largest independent station group with outlets in six major markets, Tribune Broadcasting, is one of the biggest players in first-run syndication and Paramount, the veteran and major studio-syndicator, now owns TVX Broadcast Group which operates five important UHF stations.

In addition to the integration with broadcast exhibitors, many syndicators are vertically affiliated with another exhibition window--cable distributors and exhibitors. As a matter of fact, four out of the top five syndicators in 1989 are integrated with at least one cable network and both Time-Warner and Viacom, the number one and number four syndicator, have ownership of cable networks as well as cable systems. Furthermore, some syndicators such as Viacom, the distributor

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distributor of the megahit, "The Cosby Show," are not only active players in the cable industry by owning cable systems and/or popular cable program networks, they also own broadcast stations. The increasing integration between syndicators and their cable exhibition window seems to suggest a healthy, continued extension of syndicated product market into the cable television industry.

Vertical integration between two production stages is actually no news to the industry anymore. Many syndicators are now financially associated with both upstream as well as downstream firms in the market. Among the top 10 syndicators in 1989, only King World, LBS, and Columbia are not vertically integrated with both producers and exhibitors. Most of the syndicators that are associated with major movie studios are also integrated with broadcast stations. Interesting is that major studios, kept from owning the theaters in the past, seem to have learned to turn to the television market for exhibition outlets. It is observed that even the mid-level players in the business are looking to combine strengths in broadcasting and programming distribution.

Some in the business believe that vertical integration is "the most important thing going on in syndication today" (<u>Channels</u>, 1989). It is true that many syndicators have derived substantial competitive advantage through their vertical relationship with firms in other stages. Though no significant foreclosure of access either to broadcast

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stations or syndicators has yet emerged, as the trend of conservative station buying and the scarcity of time slots continue, the vertical integration phenomenon has evidently been working to the advantage of bigger syndicators, leaving smaller independent syndicators fighting hard just to stay in the business.

Barter Advertising

Traditionally, program license fees collected on a market by market basis were the only major revenue source for television syndicators. Though existing since the early days of television syndication, barter advertising practices never gained respectability and did not become an important revenue source for syndicators until the 1980s. During the last ten years, barter syndication has generated thirty times as much gross revenues (see Table 5 & 6). It was estimated that, with a compound annual growth rate of 19.8 percent, barter syndication will comprise 25 percent of syndication net revenues by 1995 (Channels, 1989). The tremendous growth of barter practices during the last decade has characterized today's syndication market and made barter one of the unique business operation patterns of the industry.

In general, barter advertising takes the forms of straight barter, cash-barter combination, and time-banking barter arrangement. Since a station can generate revenues from the sale of its advertising inventory adjacent and

TABLE 5: ADV

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TABLE 5: ADVERTISING REVENUES COMPARISON (in billions $)#

	Network ads	Spot TV ads	Barter ads
1980	$5.13	3.27	.05
1981	5.54	3.75	.08
1982	6.14	4.36	.15
1983	6.96	4.83	.30
1984	8.32	5.49	.42
1985	8.06	6.00	.52
1986	8.34	6.57	.60
1987	8.50	6.85	.76
1988	9.17	7.15	.90
1989	9.30	7.40	1.22
1990	9.75	7.87	1.56*

#Figures based on calendar year instead of broadcast seasons

*Estimated figures, also includes Fox.

Sources: Complied from reports from Wilkofsky Gruen Associates in Channels' 1995 Syndication, Channels February 1990, p. 82, Broadcasting, July 23, 1990, p. 68, and Television Bureau of Advertising Trends in GNP, Ad Volume, TV ad Volume 1960-1995

TABLE 6: GR
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TABLE 6: GROWTH RATES OF NETWORK, SPOT, AND BARTER ADVERTISING*

Year	Network Ad Growth Rate	Spot Ad Growth Rate	Barter Ad Growth Rate
1980-1981	8.0%	14.6	50.0
1981-1982	10.9	16.5	100.0
1982-1983	13.2	10.6	100.0
1983-1984	19.6	13.7	40.0
1984-1985	-3.1	9.4	23.8
1985-1986	3.5	9.4	15.4
1986-1987	1.9	4.2	27.0
1987-1988	7.9	4.4	18.2
1988-1989	1.4	3.5	35.4
1989-1990	4.8	6.4	56.0

*Figures based on the calendar year revenue calculations

Sources: Compiled from Broadcasting, July 23, 1990, p. 68, and Television Bureau of Advertising Trends in GNP, Ad Volume, TV ad Volume 1960-1995

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within a syndicated program, when a station barters for a syndicated show, it is giving up its revenue generating opportunities to the syndicator of the program. Under a straight barter arrangement, a syndicator or its agent distributes a program with already inserted commercials (generally three minutes per half hour of advertising time) and receives no cash payment from stations. Thus, only stations' advertising time is exchanged for syndicated programs and their unfilled commercial spots.

Cash-barter combination offers a hybrid form of barter syndication, wherein the syndicator receives cash for the program but also retains some commercial time within the program for sale to national advertisers (generally 1 to 1 1/2 minutes of advertising time per half hour). Since only a small portion of the advertising slots are presold under such an arrangement, stations are still able to produce considerable revenues from the remaining spots. Finally, not used as often by advertisers, time-banking syndications are barter deals in which no commercials are inserted in the syndicated program but syndicators exchange their programs for commercial spots scheduled in other programs. Under such a "tradeout" scheme, stations do not make any cash payment to syndicators and are able to retain all the advertising inventory in the syndicated programs, however, in return, they have to trade in advertising time in other programs specified by the syndicators.

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retained by the syndicators, barter syndicators generally presell them in the national market at 15 to 30 percent less than network spot advertising on a cost-per-thousand (CPM) basis, which makes barter a fairly good bargain for national advertisers. Nevertheless, while shopping for barter advertising, price is not the only consideration. National advertisers often look for a minimum coverage of 70 percent of the nation's television households from a syndicated program. In addition to the clearance rate, the advertisers also evaluate the value of a barter opportunity by the quality of the program lineup, that is, the general time slot cleared for a specific syndicated program.

Before the 1980s, barter syndication was perceived to be a less desirable vehicle for advertisers because it did not generate a large number of national audience and was applied mainly on a straight barter basis for cheap filler programs. After the implementation of Prime Time Access Rule, as the syndication industry began to catch a larger national audience and have access to important broadcast time slots, advertisers' attention became redirected to this national advertising alternative.

While syndicators have long discovered the revenue benefit of withholding one or more advertising minutes per show and the advantage of cost reduction through increased sales of barter advertising, broadcast stations did not jump into the barter bandwagon until the mid-1980s. Due to the expansion of UHF stations and the growing threat posed by cable telev

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cable television during the period before 1987, broadcast stations, especially independent stations, in their efforts to compete for audience, made extensive investments in syndicated programming. Coupled with the frenzy of buyouts and mergers in many large broadcast markets, many weak independent stations went bankrupt, others entered the late-1980s with serious debt burdens and restricted cashflows.

Though stations still consider barter versus cash purchase by comparing their cost-to-return ratios, as programming prices continue to escalate and stations still fight for rating generated syndicated programs with limited budgets, barter advertising provides a favorable arrangement of program purchasing that answers to many stations' budgetary exigencies. In reality, as high price shows like "The Cosby Show," "Who's the Boss," and "Wheel of Fortune" soak up their program-acquisition budgets, stations are more than willing to accept barter terms when signing programming contracts. This situation is particularly obvious for independent stations. As indicated in Table 7, the share of station revenue spent on syndicated programs for independent stations has decreased considerably after the 1986 broadcast year. Added to the financial condition were the success stories of many first-run syndicated shows such as "The Oprah Winfrey Show," which provided a great advertising vehicle and pulled barter further away from the sluggish growth in 1986. The role of barter advertising has also changed in recent years. While it has become a standard for popular first-run

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Source: Syn

TABLE 7: COST OF TELEVISION SYNDICATION TO STATIONS

Broadcast Year	**Share of Station Revenue Spent on Syndicated Programs**		**Expenditure Growth on syndicated programs**	
	Independent	Affiliate	Independent	Affiliate
1981-1982	27.6%	6.5%	N/A	N/A
1982-1983	27.1	6.2	17.1%	5.7%
1983-1984	27.1	5.9	16.7	8.1
1984-1985	28.7	5.9	21.4	12.5
1985-1986	29.5	6.0	17.6	11.1
1986-1987	28.3	6.9	5.0	22.0
1987-1988	26.4	7.9	1.2	23.0

Source: Syndication 1995, Channels, 1989.

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syndicators to use barter or barter-cash combination terms, successful off-network reruns are increasingly required to contain presold commercial announcements to ease the burden of high license fees charged by many hit sit-coms such as "The Cosby Show" and "Who's the Boss." For these expensive rerun products, syndicators often make specific arrangements in delivering their programs as well as the accompanying commercials. For example, Viacom feeds episodes of "The Cosby Show" by satellite so the program and the one minute presold commercials can be aired on the exact day and date agreed to in the contract (Channels Field Guide, 1987). Even off-network hour shows, which were formerly sold on cash-only terms, have started to be offered on a cash-barter combination terms. For example, LBS Communications has provided some hard-to-market hour shows such as "Crazy Like a Fox" under a barter spilt of five minutes for LBS, seven for the station (Hall, 1989).

While barter advertising is becoming a popular form of transaction between the programming buyers and the seller, it is sometimes used as a negotiation point to get station managers in desirable markets to clear a program. However, since barter advertising is very time-consuming and only becomes cost-efficient with larger volumes of transactions, most of the smaller syndicators do not participate in such sales. In essence, though barter practices have spread the risk associated with programming development from syndicators to more parties by providing access to advertising sponsors, the trend m

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the trend may have benefited the large syndicators more than the small ones in the industry.

As barter syndication is gradually gaining ground in competing with network and spot advertising for national advertisers' business, it is necessary to further examine this operation pattern by studying the positive as well as negative market conditions surrounding the barter advertising clients.

Barter syndication, as a special form of spot advertising, gives advertisers control over the environment in which their commercials appear. Being able to reach a group of loyal viewers of certain programs, barter advertisers have the opportunity to tailor their advertising to those viewers who are more likely to purchase their products, thereby making the advertising more cost effective. In addition, instead of negotiating with many stations, advertisers can cut down transaction costs by making a single deal with the syndicator. Barter advertising also provides an entitlement opportunity for advertisers, that is, provides the opportunities to become sponsors of shows, which is rarely approved by the networks. For example, Pizza Hut just entered a $25 million promotional deal with King World which makes the restaurant a major sponsor of a new production of "Candid Camera" (Advertising Age, Oct. 29, 1990, p. 61).

In terms of the disadvantages of barter syndication, advertisers often complain about the excessive amount of commercial clutter in syndicated programs. For example, while an AB

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while an ABC prime-time half hour contains 4 1/2 minutes total commercial minutes (3 1/2 network + 1 local), "Wheel of Fortune" has about 6-7 commercial minutes in its half hour show. And while the hour long "Oprah Winfrey Show" contains a total of 14 minutes of commercials, an ABC prime-time hour program broadcasts only nine minutes of them (Mandese, 1989). Advertisers are concerned about the commercial environment in syndicated shows, worrying that the frequent clutter of commercials may either make their messages less effective or have the audience engage in channel hopping with their remote control devices.

Adding to the clutter complaint is the discrepancy of numbers between projected and actual audience delivery of syndicated programs. Advertisers have repeatedly argued that many syndicators have unrealistic audience estimates and overly optimistic guarantees for new and returning programs (Mandese, 1989). Even though syndicators provide compensation spots or cash rebates for the audience underdelivery, advertisers regard such ratings discrepancies as unprofessional and damage the integrity of their advertising plans. It is believed that the use of bonus spots in the event of underdelivery may have further lessened barter syndicators' credibility.

Similar to the previous problem, barter syndication is often criticized for the lack of timely, accurate ratings information. As ratings data for syndicated shows are harder to compile due to their flexible time periods for broadcast, they are no

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they are not published as fast and as often as network programs. Thus, it is hard for advertising agencies to purchase commercial spots and negotiate audience deficiency (i.e. audience underdelivery discrepancy) units when they are needed. Also, as ratings for syndicated programs fluctuate dramatically by market, it is harder to buy them as network shows which deliver more stable ratings.

Recently, advertisers also started to complain about the unsatisfactory line-up of many syndicated programs. Due to the scarcity of time slots discussed previously, many new syndicated shows are now cleared in poor time periods, which undercuts the size of the viewing public even with high station clearance rates. In terms of the program content, advertisers often comment that the overall quality of syndicated programming is too low. Furthermore, many first-run syndicated programs are of similar types, lack innovative thinking, and appeal to limited demographic groups (Mandese, 1989). Nonetheless, they do provide a good advertising vehicle for certain types of products that can live with these problems.

It is believed that barter syndication is yet to reach its maturity. As the national audience and the programming cost for syndicated programs continue to grow, and more cost-conscious risk averse broadcasters learn to alleviate the high capital investment, while still providing popular programming, barter sales are expected to remain an important growth area of the industry.

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In essence, the television syndication industry has been operating under an increasingly tighter marketplace (in terms of domestic broadcast market), while sufficient financial backing has become a crucial market factor of survivability. With the growth of rep programmers, cooperative programming production and purchasing among station groups, and vertical integration between firms in various production stages, many new forces have also evolved and entered into the supply and demand equilibrium of the market. Furthermore, as barter advertising became an important vehicle in generating industry revenues, the syndication industry has grown from a simple programming market into a much more complex media business.

The operational patterns generalized in this chapter have suggested the essential competitive market practices of the syndication industry during the 1980-1990 period. In general, the author believes that these patterns provide a starting point as well as research focuses for the conduct analysis of the industry. In addition, with such industry information, one can estimate syndicators' competitive positions by evaluating their status in terms of these operational patterns.

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Chapter V

SYNDICATION MARKET EXPANSION

Traditionally, the primary buyers of the American syndicated programs are the local independent and network affiliated television stations. During the last 10 years, the total syndication revenues generated from these domestic buyers have grown more than 200 percent. After the fast-paced development in the past decade, the syndication market is anticipated to mature while stepping into the 1990s. However, the industry's growth rate is not expected to slow down considerably, thanks to the market expansion that has brought syndicators new revenue sources from sales to cable and international programming buyers.

This chapter will explore the development of syndicated product in the cable and international marketplace and discuss the growing importance of these ancillary purchasers to demonstrate the emergence of a new, transformed syndication industry.

Syndicators and the Cable Television Industry

Cable television and the syndication industry are 'strange bedfellows" since they are not directly related historically. However, the development of cable television has had a significant impact on the nature of supply and demand for

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demand for television programming through its contribution to the rise of the independent stations. Cable television systems, with their multichannel capacity, are able to include commercial UHF signals, most of them independent stations, in their services and even assign the stations to unused VHF frequencies, thereby, making powerful VHF network stations operate directly alongside previously second-class UHF independent stations. The carriage has not only eliminated UHF stations' reception handicap but also created a better public relations image and generated a larger audience for the independent stations. After 20 years (1965-1985) of full enforcement of the federal must-carry rules which required cable systems to carry all signals, both VHF and UHF stations, in their coverage area,[23] cable television, along with other regulatory and economic forces, has successfully fostered a healthy marketplace for independent stations.

In essence, cable television has not only injected new competition for network programming simply by its presence in the television arena, but it has also stimulated more competition from inside of the broadcast market by increasing the value of UHF stations, elevating their competitive position, and encouraging many new participants into the broadcast market. And cable's contribution to the proliferation of independent broadcast stations, in turn, stimulated substantial increase in demand for syndicated product as independent stations, without the programming assistance

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While cable television has indirectly nourished the demand for syndicated product, it also has directly impacted the syndication industry by becoming an ancillary market of its product during the last decade.

Cable Programming Networks and Syndicators

Traditional broadcast syndication is no longer the only outlet for classic movies, off-network series and first-run syndicated programs. Basic cable networks are rapidly becoming important customers to the syndicators. In 1988, basic cable networks spent $100 million on syndicated programming, much of it off-network hours and movies. It is estimated that in 1995, the cable network clients will spend more than seven times that, reaching $750 million with an average annual growth rate of 33.4 percent (Channels, 1989).

The trend of cable buying started approximately in 1986 when many off-network hour-long dramas failed to achieve satisfactory ratings during early fringe hours for their broadcast stations. While the ratings failure turned away most of the station buyers, the long form dramas started to attract many basic cable networks that cater to general-appeal programming approach. Lifetime's acquisition of high-profile programs like "Cagney and Lacey" and "Moonlighting" as well as MCA's sale of "Miami Vice" and "Murder She Wrote" to the USA

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to the USA Network further directed syndicators' attention to cable's appetite for big name off-network syndicated product. Some aggressive cable programming networks even cooperated with syndicators, moving up from simply buying off-network reruns to co-venturing in the continued production of some off-network shows. Programs like "The Days and Nights of Molly Dodd" and "Airwolf," abandoned by the networks because of the low ratings, were revived by cable networks when they agreed to combine purchase of off-network episodes with newly produced original episodes. Among all the cable networks, the biggest off-network hour product buyers are such mainstream networks as USA Network, Lifetime, and Family Channel (formerly CBN). Even per-episode license fees for cable have grown from the low six figures to nearly $500,000 per episode (Channels, 1989). With the proven successful ratings record for hour-long dramas on cable prime-time schedules and the lack of demand from broadcast stations for such a product, the off-network product's migration to cable is expected to continue.

As broadcasters became accustomed to the idea of off-network hour-long dramas on cable, cable networks like USA Network and Lifetime have become even bigger clients of syndicated product through a series of transactions for theatrical movie packages. Such movie studios as 20th Century Fox, Warner Brothers, Oribis, Orion, and Buena Vista Television (Walt Disney) have bypassed broadcast syndication in favor of one-stop basic cable sales. For example, Buena

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Vista Television recently sold super hits Three Men and a Baby and Dead Poets Society to USA Network after their runs on pay cable and broadcast networks, thereby, bypassing independent stations. Furthermore, in 1990, MCA and Paramount, two of the top syndicators, made an unprecedented sale of their most recent premium movie packages to their jointly owned subsidiary, USA Network, for an estimated amount of nearly $86 million, bypassing the whole broadcast syndication market. As a result, maga-hit films like Fatal Attraction and Born on the Fourth of July went to the cable viewers instead of the broadcast audience. It was estimated in 1989 alone, USA Network spent nearly $150 million for three feature film packages in pre-TV syndication deals (Multichannel News, Oct. 1, p.1). Meanwhile, Viacom also sold film packages to a superstation consortium led by TBS, Tribune, Gaylord, and Koplar Communications, formed to better compete for programming with cable networks. In fact, because of the diminishing number of movies available in the broadcast market, many non-Fox independents are being forced to band together as programming purchasing consortiums, striving to gain an edge in the negotiation with syndicators.

Furthermore, while several cable networks are grabbing up programming properties of off-network hours and movie packages; some of them are also accepting smaller package sales of discontinued sit-coms. Columbia Pictures Television has successfully sold its off-network sit-com, "My Two Dads," with only three seasons of production (60 episodes), to USA

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Network. Off-network programs bypassing broadcast syndication for cable exhibition is nothing new, but now cable networks are more willing to pick up half-hour sit-coms with only limited episodes in the can for their preferred stripping program scheduling.

Cable programming networks are even looking into original first-run syndicated product. King World, the leader of first-run syndication, is co-producing a show with a cable network, Arts and Entertainment, and is very interested in acquiring either a start-up or an established cable network (Paskowski, 1990). Worldvision, another major first-run syndicator, also decided to produce original shows for cable as part of its expansion into the cable market.

Why have cable programming networks became such aggressive buyers of syndicated product? It is believed that cable's clout in the programming arena is a direct result of the industry's major increases in advertising revenue and per-subscriber fees during the 1980s. Since the elimination of rate regulation for basic cable services, basic cable service has become the revenue growth center for the cable industry while pay service average annual growth rates have steadily diminished in the face of increased competition from VCRs (U.S. Department of Commerce, NTIA, 1988). As the basic cable service became more essential for the industry's financial health, both the system operators and cable networks realized the importance of cable programming for the continuous success of the industry. Thus, with the money in hand, basi

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hand, basic cable networks began making more investments than ever in the syndication market. Cable networks agree they also need their own cable-originated programming, but pointed out that the exhibition of popular off-network shows attracts audiences, which, in turn, stimulates viewer interest of cable services and thus generates revenues for the production of their original programming. In addition, big name off-network hour-long dramas have provided cable services with both an identity and the opportunity to pitch viewers via aggressive on-air promotion. As for advertising, while the growth of cable television penetration and ratings has generated more advertising revenue for the cable networks, off-network shows offer instant recognition to advertisers and advertising agencies, which further promote the advertising sales in their networks.

In response to the growth of the cable marketplace, many syndicators are adding either a programming branch or simply a sales staff that deals with the clients from this industry. For example, Fox launched a new unit called Fox Cable Programming to explore the development and implementation of satellite-delivered programming services for the cable television industry. Why are syndicators increasingly turning to cable network buyers, bypassing their old broadcasting friends? In addition to the recent soft market for off-network hour-long and movie products discussed previously, one-stop cable sales offer syndicators a more cost-efficient way of selling programming by eliminating the huge expe

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huge expense of station-to-station negotiations. Also, since off-network hour-long shows are normally much more expensive to produce than half-hour sit-coms, as broadcast stations are no longer willing to pay for the hefty prices of hour shows, cable offers an immediate solution to their deficit-financing pressures. Besides these reasons, the emergence of the cable buyers simply gave syndicators a bargaining chip with their broadcast clients.

Some syndicators are concerned about the continued sales of their big name products to the cable buyers, worrying that after many series are double-run on cable, the over-exposure may have a negative effect on potential future syndication sales. But some also argue that cable exposure really does not affect very much the value of a show, considering the cable universe constitutes around 60 percent of the television universe and strong cable performance of key off-network programming actually provides a sales tool for syndicators much as strong network performance does.

The relationship between cable programming networks and syndicators cannot be complete without the discussion of another type of syndicated product flowing not from syndicators to cable networks, but the other way around. The off-cable programming syndication has become more popular as the cable industry gradually has developed into a video service with its own programming identity. In the last decade, both pay cable and basic cable networks have syndicated programs which were created for cablecasting. For

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example, Viacom, as the most active syndicator of cable-related programming, has distributed shows from their popular MTV and Nickelodeon networks to broadcasters. CNN Headline News, syndicated by Turner Program Services, is also a visible syndicated news program coming out of the cable industry. In addition, pay cable giant, HBO, trying to diversify beyond its core cable network business, even formed a new production subsidiary to produce television programs and specials for cable, syndication, and broadcast networks. The Family Channel, one of the high-profile basic cable networks, is also exploring entry into the syndication business through active co-production of original cable series and pick-ups of domestic syndication rights to some of the shows (Broadcasting, May 14, p.10).

While some industry observers believe that cable networks have reached their limit on the syndicated programming investment, others embrace that as cable's revenue base continues to grow and syndicated product keeps delivering ratings that make them profitable, there will be more programming budgets for syndicated shows. The author posits that basic cable purchases of syndicated product is more a supplement than competitor to the traditional broadcast sales. Basic cable networks' purchase of syndicated product can be substantially attributed to the sluggish demand of certain product in the broadcast market and the vertical integration relationship many big cable network buyers have with some major syndicators.

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The fact that Paramount and MCA, which sold many off-ıetwork hour-long big hits and major movie packages to USA Ietwork, co-own the network, and top syndicators like Time-Iarner and Viacom also hold some of the most popular cable .etworks, strongly suggests that many of the sales of yndicated product in the cable market may be a long term corporate" decision made under the best interest for the verall growth of a diversified media conglomerate rather han a "business" deal determined under a short term economic onsideration alone. In fact, smaller syndicators make elatively few sales to cable.

In the foreseeable future, the mass distribution over roadcast stations is still the preferred market for yndicators. However, as cable penetration continues and dvertiser's acceptance of basic cable proceeds, will cable rogrammers outgrow broadcasters, making the broadcast market secondary exhibitor to cable for syndicated products? The ıswer to this depends not solely on the growth prospect of e two industries. Since as "free TV," commercial oadcasters generate their revenues exclusively from vertising sales, the financial well-being and the nsequent programming budgets of the local television ations are extremely vulnerable to the strength of the vertising market, which is very directly related to the erall economic health of the country. In principle, oadcasters present a better programming exhibition vironment for syndicated product with wider audience reach and, norma

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and, normally, higher total revenues; however, during rainy days, a sale to partially subscriber-supported cable networks, rather than commercial broadcasters, may make the best economic sense to syndicators. Also, as discussed earlier, the growing participation of the multichannel players into the syndication business is expected to ease the programming time scarcity problem by providing a relief to the broadcast time constraint with multichannel's abundant exhibition opportunities.

Cable System Operators and Syndicators

The relationship between syndicators and cable system operators is a fairly new phenomenon. Traditionally, cable system operators play a passive common-carrier-like role in programming their multichannel systems. Yet cable system operators gradually realize the need to fully utilize their channel capacity and capitalize on the use of the channels, they are becoming more aggressive in programming their local origination channels with more editorial programming control, hoping to attract more audience, and thus generate more advertising revenue. Logically, in searching for better programming to supplement locally produced low-budget shows, some cable system operators have turned to syndicators.

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op Multiple System Owners (MSOs), American Television ommunications. WGRC is programming itself in the image of n independent television station with a local newscast and ome syndicated programming. In late 1990, the relationship etween syndicators and cable system operators took an even igger step forward. King World, one of the major yndicators, entered a licensing agreement to provide four of he top 10 rated syndicated programs such as "Wheel of ortune," "Jeopardy," "The Oprah Winfrey Show," and "Inside dition," to a local cable channel, KCBL, owned by Cox cable n Eureka, California. According to the arrangement, King orld would receive a percentage of the advertising revenues rom the channel in return for providing the programming at educed cash licensing rates. The profit sharing deal marks he first time that the King World shows, a first-run staple f broadcast television, have been sold to cable.

In addition to the programming sales for local cable hannels, a special agreement between TCI, the number one SO, and Fox, an important player in the syndication ndustry, has also indirectly tightened the two parties' elationship. In trying to increase its signal reach to be omparable to the existing networks, Fox and TCI negotiated a eal that allows the MSO to create channels on their systems or carrying Fox's programming in white areas, that is, TCI ould program some of their cable channels as Fox affiliates areas currently without such affiliates. Besides the TCI ntract, Fox hopes to strike similar agreement with other

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SOs. A deal like this not only represents a major step in he cooperation between a cable MSO and syndicator, it also pens up more opportunities for syndicated product on cable, ince a Fox cable channel cablecasts 24 hours a day and urrently Fox supples less than 20 hours of programming per eek on its network, there is abundant program shelf space vailable for syndicated product on these network-cable hannels.

Again, the experimental relationship between syndicators nd cable system operators seems to be undertaken only by ajor players in both markets. It is believed that cable ystem operators will continue to play the traditional role f multichannel managing rather than programming their local hannels; thus, the cable system buyer is not expected to ecome an important revenue source for syndicators as the ble network programming market.

International Syndication Market

Along with the growth from the cable buyers, syndicators e also enjoying healthy gains from another revenue source, ternational syndication sales, which have an annual growth te of almost 20 percent in the period of 1985-1990. In 82, American syndicators generated a total of $400 million foreign programming sales and by 1988, the revenue had mped to $1.2 billion. It was estimated that in 1995, ternational syndication revenues will total $4 billion, comprisin

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comprising 40 percent of the total syndication revenues from all sources (Channels, 1989). Even the National Association of Television Program Executives (NATPE), a trade group which holds annual meetings for American syndicators to showcase their new products, has internationalized its services, and changed the organization's name to NATPE International. How has the international programming market become such an important revenue source of the U. S. syndicators? I will now analyze the phenomenon by tracing the combined impact of certain industry developments that occurred at home and abroad in the last ten years. Note that as the motion picture industry and the television syndication industry are easily confused in the international programming business, the international television syndication market is thus defined by its final product end users (i.e. the television exhibitors rather than theaters) in this study.

Privatization and Commercialization of Television Systems

American syndicators have exported their product in the international programming market since the early overseas television distribution of the U. S. feature films by major Hollywood studios. While the number of television households abroad has grown tremendously during the last 40 years, the American syndication industry has also developed as an important source of programming to many overseas television markets. In fact, American producers, reputed as the most experienc

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experienced and proficient industry at producing commercially available entertainment-oriented television programs, have historically dominated the international trade in television programming. Nevertheless, it was not until the worldwide privatization and commercialization of television systems during the past decade that the sales of the American syndicated product in the foreign marketplace skyrocketed.

In the international programming marketplace, each country pays a different price for syndicated product based on the number of television sets, population, general income level, and other economic factors of the country (Renaud and Litman, 1985; Wildman and Siwek, 1988). Thus, in general, the more developed a country is, and/or a more advanced television system it has, the more expensive programming fees it would be charged. Table 8 clearly demonstrates this pricing phenomenon with the range of prices per hour paid for imported television programs by broadcasters in different countries.

Among all the overseas television markets, the European and Canadian programming clients are the most important to the U. S. syndicators--together accounting for about 60 percent of total foreign sales revenues. While the volume of programming purchase from Canada has always been the largest with a steady growth rate, the 1980s have witnessed new highlights to the international sales of the American syndicated product because of the exciting and dramatic transformation of the western European television industries.

TABLE 8:

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Source: T
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ABLE 8: RANGE OF PRICES PER HOUR PAID FOR IMPORTED TELEVISION PROGRAMS*

Country	Prices
U.S. (Commercial Networks)	$100,000-1,200,000
U.S (Public TV)	$50,000-200,000
United Kingdom (BBC or ITV)	$30,000-60,000
Australia (Commercial TV)	$20,000-70,000
West Germany	$20,000-40,000
Japan (Commercial TV)	$15,000-25,000
United Kingdom (Channel 4)	$15,000-18,000
Canada (CBC English-language)	$12,000-60,000
Italy	$10,000-60,000
France	$10,000-55,000
Austria	$4,500-5,500
Sweden	$3,500-6,000
East Germany	$3,000-4,000
Belgium	$2,500-3,500
Nigeria	$2,500-3,000
South Africa	$2,000-4,000
Brazil	$1,500-12,000
Mexico	$1,500-8,000
Saudi Arabia	$1,500-2,000
China	$1,000-2,000
Philippines	$1,000-1,700
India	$1,000-1,500
USSR	$1,000-4,000
Egypt	$1,000-1,600
Poland	$750-1,500
Iran	$750-1,500
Israel	$300-1,000
Cuba	$250-750
Kenya	$200-750
Jamaica	$100-200
Nicaragua	$80-450

his table doesn't take into account movie prices; foreign roadcasters often pay much higher prices for the biggest mported hit movies.

urce: Television Business International, 1988 hannels Field Guide, 1989).

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Nations in which the government traditionally exercised tight control over the electronic media have begun to permit the development of private broadcasting ownership. For example, after the introduction of commercial television systems in Italy and United Kingdom, Spain and France have followed suit and established private commercial television systems in the mid-1980s. It is asserted that within the last 10 years, Italy, Germany, France, and United Kingdom have increased roughly 50 percent of television time through the relaxation of programming control and state-controlled ownership

In general, the majority of U. S. exports consists of entertainment programs in the form of feature films and drama, with crime or conflict formats exporting particularly well (Hoskins, Mirus, and Rozeboom, 1989). The ratio between entertainment and information programs was estimated to be 90 percent to 10 percent (Renaud, 1985). Since the commercialization of these foreign television systems places a greater importance on entertainment programs, many start-up channels quickly turned to the U. S. for its popular entertainment programming product, which triggered exponential sales increases for the American syndicators, especially for the major ones with a complete collection of old and new television programming and movie libraries.

For example, in 1987, after opening up private television ownership, France became the leading buyer of the American syndicated product, spending an estimate of $182 million for the programming. In essence, the development of

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new commercial television systems around the world, especially in Europe, has created new demand for American syndicated product. Furthermore, the establishment of program-hungry start-up commercial channels actually triggered a buying frenzy and sellers market, which substantially boosted the price of American syndicated product.

Development of Multichannel Industries

In addition to the commercialization and privatization of broadcasting abroad, the fast-growing overseas multichannel industries such as cable and satellite programming services have also contributed to the creation of a vast demand for American programming. For example, in the late 1980s, British Satellite Broadcasting (BSB), the owner of a newly established three-channel DBS service, was buying American popular product aggressively in trying to compete against Rupert Murdoch's Sky Channel, which finally merged with the BSB service in 1990. In essence, the substantial growth of demand for the American programming product was created by the increased broadcast hours from the existing television stations as well as the additional terrestrial and satellite channels permitted under a more commercialized world media environment. Since state-controlled broadcasters in Europe have traditionally produced much of their programming in-house, the private terrestrial broadcasters, cable te

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cable television, and Direct Broadcast Satellite (DBS) services' dependence on commercial programming sources presents a significant increase in competition among program buyers. The result is a significant escalation in the prices of series and films for television. And the biggest beneficiaries of the demand for programming and heightened buyer competition are the established program syndicators, especially those in the United States.

Deficit Financing and International Co-ventures

The commercialization and privatization of television systems in many foreign markets during the past decade came at just the right time for the American syndicators, who are plagued by the deficit financing difficulty, escalating production costs, and recently, a slower domestic market growth rate with increasingly limited exhibition time slots. In fact, international sales have become an important part of the syndicators' financial equations, especially for action-adventure or children's programming product. It is believed that estimates of foreign sales are now critical for the decision of whether to go forward with a domestic syndication project because of its contribution in reducing growing production deficits. Nevertheless, international sales do not always solve production-deficit problems on their own, since only big hits are able to generate substantial revenues from overseas product sales to help wiping out the deficit hole (Cha

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ıole (Channels Field Guide, 1990). It is anticipated that :he deficit problem has to be solved with cost controlling ›lans rather than depending on the unpredictable foreign ıarket revenues.

With the growth of overseas programming demand, American yndicators are offered more opportunities to apply risk-haring strategies in the markets outside of their domestic ase. One of the most commonly used risk-sharing strategies s the forming of partnership with the programmers in the oreign markets. The co-venture partnership can take forms f co-financing, in which the syndicators acquire partnership ırough a payment of fees in exchange for a share in the roceeds of exploitation and possibly in the copyright of a yndicated product, or co-production, which is a joint evelopment of a production project between the syndicated rogram producers and their foreign partners. In a typical ›-production deal, the foreign partner arranges production ersonnel and facilities, hotels and domestic travel and the S. company puts up the money and star talent. It was timated that first-run foreign production could save at ast 25 percent compared to what it would cost to make lefilms domestically.

Recently, there is a growing trend toward more U.S.-ropean and U.S.-Canada co-productions. However, most of e co-ventures are initiated by such major studio-ndicators as MCA (Universal) and Viacom, who already have a ng time track record in the international programming market a

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market and possess substantial investment capital. Since many U. S. broadcast stations are still not ready to buy off-shore productions, smaller syndicators are hesitating to invest in the co-ventured projects that are, at this moment, not generally reciprocal (e.g., accepted) in both domestic and foreign markets, and thus a riskier business practice for them. Besides these major syndicators, co-productions are also common between cable networks and foreign distributors. Cable networks like USA Network, The Discovery Channel, Arts and Entertainment Networks, Bravo, HBO, Showtime, and The Disney Channel have become a regular part of the international program community. In addition, MSOs' growing interest in and ownership of cable programming networks has also increased their sensitivity to programming. Interest in international participation is now stirring among both the system operators and cable networks. The American cable industry's co-venture efforts overseas actually cast it closer to the syndication industry and may eventually elevate it as an important player in the international syndication market.

Co-production is also the most effective way to circumvent the host country's legal obstacles. The legal barriers the American programming importers often face are quotas and other import restrictions, local work and investment requirements, discriminatory taxes, and product tariffs (Wildman and Siwek, 1988), all of which can be reduced through the participation of the industry members in the host

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The restriction of imported programming quotas is perhaps the oldest and the most carefully sanctioned barrier presently recognized in the international programming market. Many countries have imposed quotas on imported programming with the intention to preserve their cultural identities as well as protect their indigenous programming industries. For example, the British public broadcasting system, BBC, has to meet a 12 percent quota restraint on imports from a single foreign country. The Canadian government requires that privately owned broadcast stations must show Canadian programming at least 50 percent of the time from 6:00 P.M. to 12:00 P.M., and in France, the most regulated television territory in Europe, the government orders that 50 percent of its television programming be of French origin and 50 percent of films have to be French. While Europe, the largest and most concentrated market in the world outside the U.S. for American television syndication, is going through a radical change in its trade policies, getting ready for the 1992 Common Market unity plan which will make Europe a single trade zone without interior barriers, the quota barrier is not going away for the American programming exporters. In fact, the unified European Community has proposed to ensure that after 1992, a total of 60 percent of hours be programs originated in the European countries, excluding news, sports, advertisements, and teletext. Nevertheless, as mentioned above, there are still more stations demanding product even if limite

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if limited to certain percentage. Also, many people believe the European Community quotas will be weak or unenforceable.

In general, the international partnership not only answers the problem of soaring domestic product cost by bringing the U. S. syndicators/producers another entity to share risk on production deficits and lowering production costs through the use of non-union labors and less expensive filming locations, it also presents a solution to the host country's protectionalism policies, such as the quota system. Furthermore, by entering a co-venture project, American programming distributors (including syndicators) can often benefit from certain foreign tax breaks, tariff exemption, and even generate higher foreign license fees because of the employ of foreign stars who are familiar to the locales. The trend of co-ventured syndication is expected to continue as the existence of production risks and legal barriers of programming importation stay intact.

Market Nature of International Syndication

It was postulated that the international operations of many American syndicators follow an oligopolistic pattern as more than 80 percent of television programs are syndicated internationally by the nine production companies belonging to the Motion Picture Export Association of America (MPEAA), a programming export group registered under the Webb-Pomerene Export Trade Act of 1918 (Hoskins, Mirus, and Rozeboom, 1989).

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1989). Basically, under the Webb-Pomerene Act, international programming exporters' cooperative operations that included price-fixing agreements and customer allocation were exempted from the Sherman and Clayton antitrust enforcement. Though the exemptions were lifted in 1977, many larger syndicators had already established themselves in the international programming market because of the historical cartel-like practices and continued these practices even without formal approval. This is particular true for the syndicators that are affiliated with the major Hollywood films distributors, who have dominated the overseas theatrical distribution of American feature films since the 1930s. Table 9 compares the international sales of films by the major film distributing countries to demonstrate the dominant position the American distributors have enjoyed. The distribution of television syndicated product was simply an expansion of sales market as they have already built up their distribution channels in the international programming arena. The American Film producers'/distributors' international programming expertise has also been increasingly utilized in the other direction. As the growth of demand for programming overseas continues, more foreign companies are acquiring or merging with Hollywood studios to capitalize on the famous American programming product. The issue of foreign ownership of Hollywood studios will be examined in Chapter 7.

Traditionally, international buyers prefer off-network reruns and movies to first-run syndicated product, which

TABLE 9:

Source:
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TABLE 9: INTERNATIONAL FILM SALES OF NINE MAJOR FILM-EXPORTING NATIONS

Country	# of Countries in which Sales are #1
U.S.	56
Italy	2
U.K.	1
France	5
W. German	0
USSR	10
Hong Kong	4
Japan	0
India	6

Source: Wildman and Siwek, International Trade in Films and Television Programs, 1988, p. 16.

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consequently is an underrepresented category of programming in the existing international markets. However, recently, first-run syndicators have also been turning to foreign lands for growth. For example, in 1990, King World International, a major first-run syndicator, completed an unprecedented agreement to air "The Oprah Winfrey Show" on Japan's NHK television network as well as Polish Television Channel 2.

In terms of barter syndication, such an advertising arrangement is not widespread in the international syndication market. Only a few large multinational companies have recently started trying barter advertising in Europe. For example, Procter & Gamble Company is rolling out a bartered bingo-style television game show across Europe after its earlier barter experience in some U.S. soap operas in Europe. P&G's rival, Unilever, has also participated in barter game shows "Wheel of Fortune" and "Jeopardy" in Europe via EC Television, Interpublic Group of Cos.' barter syndication arm (Cote and Wentz, 1991). In general, since many countries are still adjusting to the concept of advertiser-supported programming and the process of international media billing and scheduling are too complicated to handle, barter is still an almost unknown practice and continues to be a tough sell abroad. American syndicated products are often offered only on a cash license basis.

The growth of international sales of the American syndicated product is expected to continue, however, a

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premium growth rate as high as 25 percent during the late-1980s period may no longer be possible. While the syndicators are entering the 1990s, the upbeat sales projections are anticipated to gradually slow down as the overseas exhibitors have acquired enough product to get established and thus are buying more selectively. In addition, similar to the U. S. development of independent stations in the mid-1980s, some overseas television stations are experiencing financial difficulties due to their overexpansion after the relaxation of government control. For example, two Australian networks, which used to be some of the major clients of the American syndicators, are in severe financial trouble and no longer in a position to bid for the expensive American programs. Furthermore, once the west European start-up channels are up and running, it is inevitable for them to increase their domestic programming production and thus reduce the demand for the American product, taking advantage of the ratings popularity of locally produced programming.

In essence, the international programming market for the American syndicators is slowing down from its fast-paced growth in the 1980s; however, the industry is still expanding internationally at a healthy pace. In spite of the reduced demand from the start-up channels and the eventual competition from home-grown programming, the international television market is still full of opportunities for the American syndicators. There are many more competing channels than eve

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than ever in its past, and with favorable political development in Eastern Europe, East Bloc broadcasters, freed from the government restrictions, are expected to again make strong demand for American syndicated product in the coming years.

It is obvious that the ancillary cable and international syndication markets have significantly contributed to the growth of the industry in the 1980s. The market expansions have actually fostered the emergence of a new, integrated programming industry that constitutes new rules as well as new opportunities for firms searching for prosperity. In essence, the growing importance of the cable and international markets are increasingly influencing the way syndicators operate and compete. Thus, the general business activities conducted in these markets may eventually be treated as another operational pattern, thereby providing more complete information for the prediction or evaluation of syndicators' competitive positions.

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Chapter VI

THE REGULATORY ENVIRONMENT OF THE U. S. TELEVISION SYNDICATION INDUSTRY: GOVERNMENT POLICY AND ITS MARKET IMPACTS

The ownership of American media has increasingly become a concern and interest to the government as well as the public. In the summer of 1989, concerned about the issues of diversity and concentration in the media market, the Subcommittee on Communications of the Committee on Commerce, Science, and Transportation held various hearings on the topic of media ownership. The fundamental perception that a diversified ownership can serve as a surrogate for ensuring free flow of information seems to generate an immediate public interest whenever there is a trend of changes in media outlets. Government policies and their impacts on the syndication market structure and competitive conduct will be evaluated in this chapter to demonstrate the significant role the regulatory environment has played in the development of the industry.

Regulatory Development of the Industry

Government intervention in media markets occurs regularly under conditions when the regulator considers the natural laissez-faire market mechanism does not sufficiently promote

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promote social goals and direct the market conduct of media firms toward desirable outcomes. During the last twenty years, there were five such interventions related to the market of television syndication which have created profound influence in the industry's evolving process. These are Prime Time Access Rules (PTAR), Financial Interest and Syndication Rules (FISR), the Consent Decrees signed by the networks to limit certain business practices, the re-imposition of syndication exclusivity (syndex) rules, and the Copyright Act of 1976 and its accompanying syndex surcharge. All these public policies will be reviewed with an emphasis on their relationship with the syndication industry and how they might impact the structure of the market and the way syndicators have competed with each other during the last ten years.

Prime Time Access Rules

The PTAR was a gathering of climaxes begun in the 1960s when the Westinghouse station group started a strong lobby against the networks' dominance in the prime time slots. Beginning with a 50-50 network-affiliate profits split proposal, the Federal Communications Commission grew to realize that some intervention into this market was inevitable for rectifying the controlling power of the networks in television programming. Also, in considering the limited viewing alternatives available to the public as the

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three networks filled nearly all the best evening hours of their affiliates' schedules, the FCC envisioned that a rule that fosters the development of syndicated programming would seem to serve the purposes of enhancing the programming diversity to the public.

After years of discussion, hearings, and reviewing of staff reports, the FCC finally promulgated the Prime Time Access Rules in 1970 which regulate what can and cannot be shown on broadcast television during a given hour of prime time. The regulation was said to be the most direct governmental intervention in television programming practices at that time (Back, 1979). Prior to the rule, producers normally had only three customers for programming--CBS, ABC, and NBC; it was hoped that the implementation of PTAR would encourage a greater diversity of programming sources and create a favorable environment to encourage new program producers to enter the marketplace. The commission posited that the concentration of power over the nation's TV programs appeared contrary to the public interest. It stated that the concentrated market decreased the competitive opportunities for independent program suppliers who must deal with the networks on heir own terms or give up hope of obtaining network access. And the difficulty faced by these program suppliers further hampered the possibility of additional television stations, particularly UHF stations, which require a vigorous independent syndication industry to survive (FCC, 1974). In essence, the FCC justified the need for PTAR on the grou

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the grounds that the networks were too dominant and that syndicators and independent producers needed help to remain in business.

Thus, the FCC stated in its Rule No. 73658 that:

1. After October 1, 1971, no television stations assigned to any of the top 50 markets in which there are three or more operating commercial television stations shall broadcast network programs for a total of more than three hours per day between the hours of 7 p.m. and 11 p.m.; in the Central Time Zone, the relevant time period shall be between the hours of 6 p.m. and 10 p.m.

2. For the purpose of subparagraph #1 of this paragraph, network programs shall be defined to exclude on-the-spot coverage of news events, fast-breaking news events, and political broadcasts by legally qualified candidates for public office.

3. The portion of the time from which network programming is excluded by subparagraph #1 of this paragraph may not after October 1, 1972, be filled with off-network programs or feature films which within two years prior to the date of broadcast have been previously broadcast by a station in this market.

4. The top 50 markets shall be determined on an annual basis as of September 1, according to the most recent American Research Bureau prime time market rankings (all home stations combined) through the United States.

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5. Nothing in this paragraph shall be construed to apply to educational, non-commercial or public broadcasting television stations.

In practice, PTAR confines network entertainment programming to a maximum of three of the four prime-time hours (i.e. 7:00 P.M to 11:00 P.M. Eastern time). Since the networks had already abandoned the 7:00 P.M. to 7:30 P.M. slot by the 1970s, PTAR in effect gave the affiliates the additional half-hour between 7:30 P.M. and 8:00 P.M Monday through Saturday. Because the PTAR exemptions of nonentertainment programs, networks still tend to schedule their public affairs and documentary programs during the Sunday access time. For example, CBS moved "60 Minutes," its news/documentary series, to the Sunday access time slot in 1975.

Except the syndication companies, most of the other industry members were unfavorable towards the rule. While the networks weren't happy about losing six half-hours of prime time each week to their local affiliates (the rule also prohibits network affiliates in the top 50 markets from using off-network programs), these stations, at the beginning, had doubts about filling the new "access" time with the "inferior" first-run syndication. Furthermore, as the PTAR's language was followed by various additional modifications, waivers, exemptions and revisions,[24] the regulatory environment was both confusing and volatile at the time.

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By means of the access rule, the FCC sought to restore the marketplace of ideas principle; however, there were numerous challenges and objections to the institution of the PTAR. One of these cases was that of Mt. Manfield TV, Inc., v. the FCC. The court, backing up the commission's policy in its decision, ruled that:

"The unique structure of the broadcast media requires determination as to whom will have priority in the exercise of First Amendment rights when there is a potential conflict. The Supreme Court has ruled that the public's right to access must prevail over all other claims. The First Amendment stems from the premise that the widest possible dissemination of information from diverse sources is essential to the welfare of the public. The Prime Time Access Rule, far from violating the First Amendment, appears to be a reasonable step towards fulfillment of its fundamental precepts" (Mt. Mansfield TV Company, Inc. v. FCC, 1971).

Though the FCC had emphasized that the legislation was only an experiment which "can readily be changed or rescinded" if needed (FCC, 1970), in 1975, despite the early unfavorable industry reactions, the commission voted to keep the rule in order to give it a full and fair test in actual operation.[25] Twenty years have passed since the implementation of PTAR. The networks are eagerly seeking the revision of the FISR and other regulations that were instituted to govern their historical domination in the industry (based on the changing competitive environment), the PTAR is again a controversial issue to both the broadcast industry and its regulators.

In May 1990, Fox Broadcasting Company obtained a waiver

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of PTAR from the FCC. Since the access rules only apply to any network that distributes more than 15 hours of programming to at least 25 affiliates in 10 states (15-25-10 FCC network definition), Fox's networking schedule was not limited by the rules originally (Broadcasting, May 7, 1990, p. 28). However, as Fox proceeded to increase its weekly schedule beyond 15 hours, the FCC approved Fox's request for a waiver of the PTAR at the grounds of encouraging the formation of an alternative network. This meant Fox affiliates can continue airing off-network programming during the access period, under the condition that Fox will not supply network programming in the access hour. Given this regulatory advantage, the big-three have vigorously requested the FCC to repeal PTAR for all of them in the marketplace.

As part of the access rules, the FCC also adopted the Financial Interest and Syndication Rules which prohibit the networks from engaging in domestic syndication of programs and prevents them from holding a financial interest in programming not produced by themselves. This part of the PTAR will be examined next.

Financial Interest and Syndication Rules

In a continuous effort to rectify the network dominance over the overall programming available to the general public, the FCC, in addition to the PTAR regulation, sought to adopt ownership rules that would stimulate the development of the

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syndicated product as a source of programs competitive with the networks. Under the justifications that network ownership of syndication rights encourages them to coerce independent producers,[26] reduces competition in the syndication market, and develops a conflict of interest,[27] the FCC finally passed the Financial Interests and Syndication Rules, which went into effect in 1972 (Financial Interests Rule) and 1973 (Syndication Rule).

The rules prohibit the networks from acquiring any financial interest or proprietary right in independently produced television programs, except the exclusive license for network exhibition within the United States, and also forbid the networks from participating in the domestic syndication of any programming and performing any foreign syndication of non-network produced programs (see Table 10). After the promulgation of the FISR, CBS first divested its syndication arm, under protest, into a new company called Viacom (Moore, 1979). NBC and ABC, which failed to challenge the rule in circuit court, finally complied with the rule and spun off their syndication divisions. By 1975, ABC Films had been purchased by some of its executives who later formed a new company called Worldvision and NBC's film properties were sold to NTA (Moore, 1979).

In 1980, the FCC published a Network Inquiry Report which investigated the market competitiveness of the programming industry and the relationship between networks and program suppliers. It was concluded that the programming

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TABLE 10: THE FINANCIAL INTEREST AND SYNDICATION RULES

<table>
<tr><th>Under the rules</th><th>Domestic Syndication Mkt</th><th>Foreign Syndication Mkt</th><th>Financial Interests</th></tr>
<tr><td rowspan="2">Network produced programs</td><td>NO</td><td>YES</td><td>YES</td></tr>
<tr><td colspan="3">(various hour limits based on the decrees)</td></tr>
<tr><td>Non-network produced program</td><td>NO</td><td>NO</td><td>NO</td></tr>
</table>

TABLE 11: THE MODIFIED FINANCIAL INTEREST AND SYNDICATION RULES*

<table>
<tr><th>Under the rules</th><th>Domestic Syndication Mkt</th><th>Foreign Syndication Mkt</th><th>Financial Interests</th></tr>
<tr><td rowspan="2">Network produced programs**</td><td>YES</td><td>YES</td><td>YES</td></tr>
<tr><td colspan="3">(limit to 40% of the prime-time schedule)</td></tr>
<tr><td>Non-network produced program</td><td>YES through third-party distributors</td><td>YES</td><td>YES with safeguard clause</td></tr>
</table>

*The rules only apply to prime-time hours, since all restrictions on the networks' ability to acquire financial interest and syndicate programs for programming aired during non-prime time hours are eliminated.

**The rules also permit networks to produce programs for first-run syndication, but require them to syndicate such programs through third parties.

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industry was then competitively structured. And it was unlikely that the existing dominant three commercial networks would be able to adopt contractual arrangements with program suppliers to limit the ability of additional networks for obtaining programming (FCC, 1980). At the time, the regulatory environment seemed to be shifting in favor of the networks. In 1983, movement toward deregulation further encouraged the networks to challenge the FISR provisions. In response to the lobbying, Congress conducted a series of Hearings on H.R. 2250, a bill to provide a five-year moratorium on changes to the FISR (Vogal, 1986). However, no modification of the rule was made. The old FISR remains intact. Meanwhile, Congress has repeatedly directed the affiliated parties, the networks and the Hollywood film distributors/producers, to continue private negotiation in settling their differences.

A couple of decades have passed since the FCC instituted the FISR. During this period, the economics of the television industry have changed dramatically, and the networks have lost certain financial clout, as audience have switched increasingly to alternatives such as cable television, video cassettes and independent broadcast stations. There is a consensus that a rewrite of the FISR has become necessary. In 1990, triggered by Fox Broadcasting Company's petition for a temporary waiver and a rulemaking to consider relaxing the rule and giving a long-term exemption for Fox and other new networks, the FCC voted to launch a rulemak

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rulemaking to revamp the FISR (Broadcasting, June 4, 1990, p.34). However, they deferred the start of the proceeding to give the parties involved one last chance to come up with a mutually acceptable private agreement to be used as the basis for the commission's rulemaking and rewrite of the rule. Hollywood and the representatives of the networks did not reach any compromise in private negotiations. And the FCC started the process of re-evaluation without their input.

Two federal agencies, the Justice Department and the Federal Trade Commission, filed comments in support of repealing of the FISR. The Justice Department commented that network ownership of programming rights would no longer be anticompetitive due to the change of television economics during the last twenty years (Broadcasting, September 10, 1990, p.30), and the FTC also stressed that a compelling economic case no longer exists for continuation of the *per se* ban on the networks' acquisition of program rights. Competition would be better served by removing the restrictions and addressing instances of alleged monopolization through application of conventional antitrust enforcement powers. The increasing foreign ownership of Hollywood studios further suggested to the FCC that the removal of the FISR may benefit the overall American programming industry by allowing networks to compete in global program production and distribution with domestic restrictions. FCC Chairman Alfred Sikes has indicated that he does not want a "global market that consolidates away from the U.S.

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the U.S.," and the impact of foreign ownership of the studios has become "a very legitimate question" in the current FCC FISR proceeding (Broadcasting, Oct. 1, 1990, p.31).[28]

After a lengthy rulemaking process, on April 9, 1991, the FCC finally voted 3-2 to relax the rules with some safeguard clauses (see Table 11). Proposed to go into effect on June 15, 1991, and applied to all networks that deliver more than 15 hours of prime-time programming to affiliates reaching 75% of the nation's TV households, the new rules would a) eliminate all financial interest and syndication restrictions on the networks for non-prime time programming; b) grant them foreign syndication rights of outside-produced programs but require them to syndicate such programs domestically through "independent third-party distributors;" c) permit the networks to acquire financial interest and domestic and foreign syndication rights in outside-produced prime-time programming subject to a two-step "anti-extraction" safeguard that requires the networks to wait 30 days after negotiating for back-end rights; d) allow the foreign and domestic syndication rights for in-house programming, but limit the amount of in-house programming to 40% of the prime-time schedule (in-house production is defined to include co-productions with foreign and domestic producers and must be initiated by the producers with a 30-day option period to back out); e) permit networks to produce first-run syndicated programs, but require them to be distributed through third parties (Broadcasting, April 15, 1991, p

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1991, p.37). Since both the networks and producers had condemned the new rules and vowed to file for reconsideration to the FCC or even challenge them in federal court, the rules are expected to be further modified before they are fully adopted.

While revising the FISR, the FCC granted Fox a one-year waiver of the rule by permitting the so-called "fourth network" to sell 18 & 1/2 hours of advertising time during the fall 1990 schedule. Though less than what Fox requested (Broadcasting, May 7, p.28), without the waiver, it would have had to limit its schedule to 15 hours to avoid becoming subject to the FISR according to the 15-25-10 FCC network definition. Since Fox's Twentieth Television is a major syndicator whose library includes such staples as "M.A.S.H.," and such first-run hits as "A Current Affair," Fox has made clear that it has no intention of spinning off the lucrative syndication arm for the sake of the network. In balancing the tradeoff of making exceptions and the benefit of encouraging the formation of a new network, the FCC finally permitted regulatory privilege to give Fox an affirmative action advantage in the broadcast marketplace. And under the new modified FISR, Fox will be able to continue this waiver status until the new rules become effective.

In addition to the FISR, the networks also signed some Consent Decrees which limited the hours of in-house programming each network could produce and controlled the terms as well as the timing of negotiations between the network

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networks and independent producers. This regulatory development will be reviewed next.

Networks' Consent Decrees

In principle, the antitrust laws are designed to control the exercise of private economic power by preventing monopoly, punishing cartels, and otherwise protecting competition. Thus, the primary goal of antitrust in increasing consumer welfare by assuring open markets can be reached (Gellhorn, 1986). Nevertheless, the interpretation of economic power and the need of control varies throughout the years. For instance, before the 1980s, the government antitrust authority rarely considered the factors of efficiency or international competition in its evaluation of possible violations. It is under this more rigid approach, in 1974, the Antitrust Division of the U. S. Justice Department entered the fray with antitrust suits against all three networks, alleging that the networks engaged in anti-competitive behavior and violated the Sherman Antitrust Act in their practices of acquiring entertainment programs. Specifically, the complaints charged each of the network with violations of Sections 1 and 2 of the Sherman Act by 1) excluding from network exhibition prime-time television, entertainment programs in which the network did not possess an ownership interest; 2) "compelling" independent program suppliers to surrender proprietary interests in prime-time progra

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programs they produced; 3) refusing to sell air time to advertisers and other program suppliers; 4) controlling the prices paid for network television exhibition rights to feature motion pictures distributed by theatrical distributors which were not controlled by the network; 5) obtaining a competitive advantage over the producers and distributors of both television programs and feature films (FCC, 1980).[29]

Each of the networks eventually entered a consent decree in return for the Justice Department's dropping of the complaints. In general, the decrees, incorporated the FISR regulation, enjoined the networks from obtaining financial interest in independently produced programs, limited the number of hours of network in house programming,[30] and regulated both the timing of negotiations between the networks and independent program suppliers and the terms of agreements between them, including a limit on the number of option years of licensing contracts the networks could enter into with the producers, which expires in 1995. Under the decrees, ABC and NBC could each produce up to five hours of prime time programming a week, while CBS, under its consent decree, could only produce two-and-a-half hours. The provision of the maximum network in-house production in the Consent Decrees has a limited duration of ten years and was terminated in November, 1990.

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Syndication Exclusivity Rules

In 1972, under pressure from broadcasters, the FCC issued the syndication exclusivity rules to avoid excessive fractionalization of the broadcast audience and protect syndicated television programming from being freely imported by cable television systems (FCC, 1972). As the commission gradually realized the inevitable development of this new medium, it abolished the "syndex" rules in 1980, arguing that the rules had a negative effect on the growth of the cable industry and had disadvantaged cable subscribers by denying them access to additional sources of programming.

After an eight-year moratorium, the syndex rules were reinstated. The FCC asserted that, as the cable industry is no longer a disadvantaged competitor in the video marketplace, the re-imposition of the rules will create incentives for the production and distribution of video programming and will promote full and effective competition among the electronic media. Effective January 1, 1990, the syndex rules enable a local broadcaster to demand protection of programs for which it has exclusive rights in the market against duplicate programs contained on distant signals imported by the cable operator. In an operational sense, syndex requires local cable systems to black out programs on distant-signal stations if a local broadcaster's existing program contract calls for exclusive rights. Some cable operators decided to challenge the rules on constitutional ground

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grounds to the U. S. Court of Appeals in Washington but failed the appeal in mid-November, 1989. The three-judge panel unanimously concluded that the FCC has the authority to resolve questions of protecting exclusivity that broadcasters bargain for in securing programming and agreed with the FCC's reasoning to impose syndex, namely, that the rules will increase program diversity by eliminated duplicate shows.

The current syndex regulations are actually harsher than those put into effect in 1972, because cable operators are now required to black out redundant programs regardless of whether they appear simultaneously on the second channel or at some other time during the day or week. While cable system operators have protested against the increased paperwork and further technical investment on blacking out devices, the impact of syndex is somewhat minimized since some superstations and their satellite carriers have made substantial efforts to eliminate programming that often demands exclusivity to the local broadcast stations. The top three cable superstations, WWOR, WTBS, and WGN, have promised cable operators that their programming will be "blackout-proof" by purchasing vintage and comedy programming, along with movie packages to replace the programs that are required to be blacked out under the syndex rules.

While cable system operators are not happy about the rules, most of the broadcasters support the re-imposition of syndex. Some independent stations even claimed that duplicated signals brought in by cable regularly siphoned their a

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their advertising revenues away by capturing anywhere from one to four rating points per program and the return of syndex would enable them to maximize their programming investment again (Lallande, 1988).[31]

Copyright Act of 1976 and the Syndex Surcharge

When cable television started in the late 1940s, it was seen as a vehicle to increase the audience of local broadcast signals and thus was perceived to be an advantage rather than a threat to the copyright owners of broadcast programs. As the medium developed into a service that offers its subscribers distant signals brought in from outside of the local markets, the copyright owners became very concerned about the possible impact of such signal importations to the value of their programming.

The copyright owners went to court to challenge the cable industry's "free loading" on the retransmission of their programs. The Supreme Court, however, based on the copyright liability definition prescribed in the 1909 Copyright Act, ruled that cable's secondary transmissions could not be classified as a "performance" since the broadcast signals were transmitted without any alteration, and thus did not constitute a copyright infringement (Fortnightly Corp. v. United Artists Television, Inc., 1968). In general, the Copyright Law of 1909,[32] which was established at the beginning of the century to deal primarily with p

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with printed works and live performances, could not anticipate all the dissemination technologies that later emerged, and was generally considered as fundamentally out of date.

When Congress finally decided to redraft a new copyright act, having failed to establish copyright liability for cable television under the then existing law, copyright holders were vigorously lobbying for Congress to include a provision that would make cable television liable for the retransmitting of distant broadcast signals. Congress eventually passed the Copyright Act of 1976,[33] which is administered by the Copyright Office under the Library of Congress. In section 111(d) of the Act, a compulsory license was established for copyright owners to collect royalty payments from cable television industry (Department of Commerce, NTIA, 1988). Under the licensing system, copyright owners are compelled to license their works on a blanket fixed-royalty basis. That is, owners of copyrighted materials who license television stations to use their programs must grant retransmission rights to cable systems that lawfully include such programs in their cable services. In return, cable system owners have to pay for the use of these signals. Since cable systems' retransmissions of local and/or network signals do not constitute any infringement to the copyright holders, only distant, non-network programs are included in the licensing system.[34]

A federal agency, Copyright Royalty Tribunal (CRT) was empowe

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empowered to determine the royalty rates and adjust them in accordance with inflation/deflation and changes in subscriber rates every five years. The Act also give CRT the responsibility to divide the pooled royalties and oversee the distribution of the monies collected after deducting necessary administrative costs. In general, the largest claimant is the motion picture industry with about 75 percent of the royalty payment going to the copyright holders in that industry alone (Department of Commerce, NTIA, 1988).

Under the Act, for each six month accounting period, cable system operators must file a "statement of account," providing CRT information about the name and location of each broadcast station whose signals were carried by the system and the system's gross subscriber receipts from the "secondary transmission" of both local and distant broadcast signals.[35] The CRT calculates the royalty payment based on each cable system's size as measured by its semi-annual gross receipts for secondary transmission, the number of "distant signal equivalent" (DSE) it has carried, and whether signals of those stations were carried prior to the changes in the FCC's distant signal and syndex rules, as the CRT adjusted the royalty rate for each DSE added to the cable system after June 24, 1981, to 3.75% of gross revenues from basic service (Malrite TV of New York, Inc. v. FCC, 1981).

There are many criticisms over the compulsory license system from broadcasters, cable industry, copyright owners, and even the courts and Congress. While copyright owners are unsati

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unsatisfied with the license, claiming it deprives their right to negotiate for compensation for their own work, others have complained about the CRT's inefficiency and inexperience in copyrights matters (Department of Commerce, NTIA, 1988). In response to all these negative comments, the FCC voted in October 1988 to recommend Congress to abolish the 12-year-old compulsory copyright license, arguing that the move would benefit consumers, broadcasters, and cable programming services (Broadcasting, April 1989, p.11). At the same time, both House Telecommunications Subcommittee and Senate Copyright Subcommittee have introduced bills to condition compulsory license dependent on whether cable operators are carrying local broadcast signals. As till now, the Act and its compulsory licensing system stay intact.

When the FCC repealed the syndex rules in 1981, copyright holders argued that because they were no longer able to legally guarantee exclusivity to local stations, they needed an increase of the royalty fees from cable system owners to compensate for the anticipated loss of revenues resulted from such inability. The CRT agreed on the reasoning and introduced a syndex surcharge in 1982. While the FCC again decided to re-impose the syndex rules in January, 1990, the surcharge became a contentious issue. Finally, triggered by the petitions from both National Cable Television Association (NCTA) and Community Antenna Television Association (CATA), the CRT voted to eliminate part of the syndex surcharge for the importation of most statio

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stations in mid-1990, despite the opposition from major copyright holders such as the Motion Picture Association of America (MPAA). Justifying that certain stations should be exempted because they were subject to the original syndex rules, but not the new ones, CRT ruled that cable system owners have to continue to pay a surcharge for the importation of distant VHF stations that are more than 35 miles away from a cable system, place "Grade B" contour over the systems, and are not significantly viewed. Nevertheless, according to NCTA, the exemption surcharge is very limited as only about 140 of the 2,900 distant signals imported by cable systems fall within the new rule (Broadcasting, July 23, 1990, p. 80). The change of the rule is estimated to decrease the cable industry's copyright payments by 20 percent, saving it roughly $40 million a year (Aversa, 1990).

Impacts of the Regulatory Policies on the Market Structure and Competition

The regulatory developments of PTAR, FISR, network consent decrees, syndex, and Copyright Act of 1976 and syndex surcharge have considerably influenced the competitive rules of the game as well as the strategies potentially available to the firms competing in the syndication industry. After learning about the nature of these policies, their impact on the market structure and operation of television syndication will be evaluated next.

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Impacts of the Prime Time Access Rule

The original goals of the PTAR intended by the FCC can be summarized as follows: 1) to increase diversity of programs, 2) to increase sources of programs, 3) to economically decrease network dominance by increasing non-network participation in access time, 4) to service the public interest (Back, 1979). After twenty years of implementation, have the objectives been met? And particularly, have the goals of decreasing network dominance and increasing sources of programming positively fostered the growth of the syndication market?

It is difficult to judge if the rule has achieved its intended effect in furthering the public interest in terms of content diversity and quality. As the abstract concepts of diversity and quality of television programming are difficult to objectively define and thus hard to measure, researchers have disagreed on this issue in various studies surveying the prime-time program variety after the institution of the PTAR (Dominick and Pearce, 1976; Wakshlag and Adams, 1985; Litman, 1979). While Dominick and Pearce concluded that there was a general decline of diversity in prime-time entertainment programming from the mid-1950s through 1974, Litman found an increase of programming diversity between 1974-1979. And Wakshlag and Adams provided no support for the contention that variety in network prime-time fare has gradually declined. However, one study (Back, 1979), which

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investigated exclusively the program variety of the access time period, revealed that the diversity of "program types" has increased substantially among the network affiliated stations five years after the institution of PTAR.

While a judgment of the PTAR's influence on the overall television programming diversity still can not be reached, it is certain that the stations' demand for more program types in the access hour may have nurtured a favorable market environment for the development of television syndication in the 1980s. In addition, the access rule effectively mandated a reduction in the prime-time hours of the networks and placed the burden of obtaining programs on the affiliates, which led to a diversification of sources of creative controls. This, also contributed to the building of a new programming industry. Note that although the rule may have enhanced the opportunities for non-network programmers by foreclosing the networks as a source, it has not brought viewers many local interest programs. Instead, stations for the most part decided to offer the syndicated programs which are most likely to attract the widest audience and thereby maximize their profits.

In terms of sources of programming, Back (1979) also evaluated the number of program suppliers (program sources) before and after the PTAR and concluded that the effect of the PTAR on program sources was significant as the average number of program sources changed from 11 in the 1966-1971 period to 33 in the 1971-1976 period.[36] The tremendous

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increase of programming suppliers for access hour programming demonstrated the positive impact of PTAR on the early growth of the syndication industry.

The promulgation of PTAR did not necessarily increase competition in the syndication market since the industry was then still in its primitive stage of formation; the rule simply pushed forward a demand for non-network programming, which stimulated the growth of the whole television syndication market. It is believed that, during this period, the size of the industry was overall increasing, however, the market shares of the firms were roughly constant. The PTAR did not significantly increase the competitiveness among the syndicators, but by transferring the programming responsibility of a valuable prime period from the networks to local stations, the purchasing of the "right" syndicated products became a very important competitive strategy. The close relationship between local television stations and syndicators grew to be critical to the success of these stations. Furthermore, the rule also established certain syndicators' market base in the more profitable top 50 broadcast markets by lending stability to the demand of the first-run syndicated products. As a result of such regulatory "market advantage," any syndicator that can create a "hit" first-run syndicated program is guaranteed significant market power.

In general, PTAR transformed the early television syndication industry into a full-fledged programming market.

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As the demand for the syndicated programs increased, the supply of such programs was also expanded, which, in turn, stimulated an increase in the number of viewing alternatives as more independents became viable. In other words, the increased supply of non-network programming for network affiliates may have also indirectly nourished the growth of non-network stations--the independent stations, by providing them with more product options to compete in the broadcast market. And such a growth may have contributed to a healthier demand for the syndicated products later.

Impacts of the Financial Interest and Syndication Rule

The Financial Interest and Syndication Rule (FISR), an extension of the PTAR, was implemented to control the network market power and encourage competitive sources of television programming. How well has the 20-year-old rule accomplished these tasks? And particularly, how has it impacted the syndication market?

In terms of governing network market power, the FISR regulation may have eliminated competition from networks for the domestic syndication business and insured that independent producers would not be coerced into giving up some lucrative domestic and foreign syndication rights in order to get their programs on the networks. However, the rule only deals with one aspect (syndication rights) of the network-producer relationship, considering the complicated contr

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contractual association between the two parties, it is hard to assess the extent of the FISR influence on the network's overall programming buying conduct.[37]

On the other hand, has the legislative constraint on the network programming practices increased competition in television syndication? It is postulated that the rule has impacted the syndication market in two aspects: 1) it created a competitive environment favorable to large syndicators; 2) it affected the nature of supply for network rerun programs.

One empirical economic study has demonstrated that, prior to the FISR ruling, the networks paid for the right to share in syndication profits and the right to syndicate programs in the form of a higher license fee (Crandall, 1972). Thus, by prohibiting the networks from acquiring syndication rights, the license fee paid to the program supplier would be reduced by an amount equal to the increment the networks otherwise would have paid (Noll, Peck, and McGowan, 1973). As a result, the program supplier earns larger profits if the program is successful, however, it also carries larger losses if its product is a flop. The rule basically enacted a change of allocation of "risk" from the networks to the program supplier, while the most intractable difficulty of the independent producers, the obtaining of sufficient financing, remained intact. Without the assistance of the networks, since the banking community usually considered the programming ventures too risky, the producers traditionally turned to the major studios for

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financial help, which has worked to the advantage of these major program suppliers. As one study indicated (Noll, Peck, and McGowan, 1973), all FISR has done is shift syndication income away from the networks to large program suppliers without affecting the resources allocated to program supply. It is believed that the rule did not increase competition in television syndication, but actually fostered the trend of concentration in the market since the profits from the programs that turn out to be highly successful will offset the losses incurred on the less successful program; so the more programs a supplier has, the less risk he or she has to carry.

In essence, the FCC misjudged the nature of entry barriers in that market. Under the FISR regulation, the major program suppliers which have the financial capability to bear the risk of television programming, that is, the major studios in Hollywood, have obtained substantial competition advantages in the syndication market by financially participating in the business. One study demonstrated the trend (Barrett, 1990), showing that the amount of prime-time programming supplied by smaller independent producers has decreased significantly in the 1980s, while that of the major studios, either on their own or in association with others, have increased considerably. The FISR regulation may have moved the syndication industry away from being a natural supplementary market of the broadcast television industry to a close ancillary market of the H

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the Hollywood movie industry. Furthermore, by switching the "risk-bearing" responsibility from the networks to the syndication market, the FISR has nurtured a market environment that is favorable to mergers and other consolidation activities. Nevertheless, while the rule has benefited large syndicators like the major studios, it has also, to some extent, increased the vitality of some independent producers/syndicators and set up an additional decision-making authority--separate from the television networks.

Considering the impact of FISR on the supply of network reruns, important network decisions that affect the value of the program in syndication must be made after the contract is signed, during the re-negotiation at renewal times. Since a network does not have a financial interest in a program's syndication business, its renewal decision would not be based on both the program's value on the network and in syndication. In other words, under the FISR, while making program cancellation decisions, the networks would only review a program's rating performance, advertising success, and other network-related factors, without accounting its potential "back-end" revenue in syndication. Thus, it would be riskier for the networks to stick with an audience building program that is slow-starting. It is believed that the rule may have lessened the supply of off-network programming available for syndication, since a marginal program might be cancelled easily before it has the chance to accumu

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accumulate enough episodes for syndication.[38] In addition, the FISR may have affected the types of programming the networks produced. For example, the networks would not hesitate to invest on the shows that have little domestic syndication potential, such as news or feature programs.

As government intervention in economic markets includes both "regulation" and "advantages" (Picard, 1989), the impact of the preferred treatment the FCC granted to Fox--the PTAR and FISR waiver, also deserves scrutinization.

Some 133 independent stations have become Fox affiliates, accepting weekday prime-time and weekend children programs from the "fourth network." The line-up has significantly lessened the key time slots in many major independent stations. The granting of Fox waiver allows the independent stations to receive additional programming during the access hour, which further reduced the important time periods available for syndicated shows. As more programming responsibility has been removed from the stations to Fox Broadcasting Co., the independent stations have hastened the ongoing process of cutting back on their movie libraries and purchasing less syndicated series programming. It is believed that the trend has contributed to the softening of the domestic syndication market.

Some observers suggested that the increase of Fox programming has exacerbated the situation in the marketplace that has half-hour comedies backlogs in some markets, hour dramas continuing to be met with low demand and some movie packa

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packages being rejected in favor of smaller packages (Broadcasting, May 21, 1990, p.56). As a matter of fact, as the independent stations continue cutting back their feature purchases, more and more movies are going to the cable market, which is becoming a major place for movie packages, in addition to off-network hour dramas. Not all the expansion of Fox is bad news to the syndication industry; the supply of programming has actually increased as Fox's own shows now qualify for off-network rerun status. In essence, Fox's roll-out and its favorable waiver status have definitely changed the face of the syndication industry.

Impact of the Network Consent Decrees

Since the provisions in the network consent decrees that are related to the acquisition of financial interest or syndication rights to independent program suppliers are more or less duplication of the FISR and the limitations on the terms of agreements between the networks and program suppliers do not directly affect the syndication industry, the focus here is on the impact of the cap of the networks' in-house production.

By controlling the degree of the network participation in their own prime-time programming market, the consent decrees, in combination with the FISR provisions that bar the networks from sharing the domestic syndication revenues, have provided more opportunities for non-network program suppliers

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to exhibit their products on the most valuable broadcast air time and subsequently generate the "real" programming revenues from off-network syndication sales. More succinctly, the in-house production limit imposed by the consent decrees created more access opportunities to prime time audience for new entrants in the production market. However, due to the same financial problem, these producers had to again search for reliable financial partners, namely, the major studio-syndicators. Thus, the decrees further enhanced the trend of consolidation in the syndication industry and encouraged the concentration of market power of the major studios.

Since the mid-1980s, the "big three" have gradually expanded the amount of their in-house production. The networks produced about seven percent of prime-time programming in 1984; the number jumped to 20 percent five years later (Barrett, 1990). It is believed that the networks were anticipating the sunsetting of their Consent Decrees. After 1990, free from the cap of in-house production, the networks are expected to continue their pace of internal programming expansion, while waiting for the FISR revision which would probably grant them the right to share the back-end syndication profits of their own shows.

Impacts of the Syndication Exclusivity Rules

The syndex rules which require cable systems to black out syndicated programs from out-of-market stations if a local

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local station has purchased exclusive rights have been reinstated for approximately one year (1990-1991). The impact of the rules to the overall syndication market is still in its initial stage, however, the business practice of "exclusivity" has somewhat affected the way the market operates.

After the imposition of syndex, "program exclusivity" appears to be a common negotiating point between stations and syndicators. According to a survey on the usefulness of syndicated exclusivity for television programs, more than 85 percent of the responding stations said syndex came into play as a negotiable contract element with syndicators and almost 40 percent of those independent stations surveyed in the top 100 markets would "never or rarely consider buying a program from a syndicator not offering syndex." However, it was also expressed that syndex is not the major dealing point during the negotiation (Broadcasting, August 6, 1990, p.42). While the issue of exclusivity is visible during the negotiation of syndicated shows, station buyers seem to be using it as a strategic discussion point rather than insisting on the provision. For example, Group W instructed its stations to only "selectively" invoke syndex in markets where there is a large, natural overlap of signals, as in the Boston and Providence markets (Bollier, 1990).

Since the objective of syndex was to provide protection for stations' programming investment and thus improve the broadcast use of syndicated programs, syndex's effectiveness is b

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is best reflected by its actual impact on the ratings performance of the programs that are offered with an exclusivity clause. Presently, no research has been conducted in assessing the rating impact of syndex. And as many stations' existing programming contracts (without syndex clause) are still in effect and most of the new contracts that demanded exclusivity right have only been implemented for a short period, no stations have reported any significant rating increase for the programs under the exclusivity protection (Hedlund, 1991).

From a business perspective, the clear losers in syndex are regional independent stations. Cable carriage has boosted many regional independents' coverage of first-run shows, enhanced the national-rating delivery, and subsequently increased the value of their barter time.[39] The barter revenue from extra cable coverage has actually helped the economics of first-run shows (Lallande, 1988). After syndex, some borderline first-run syndicated products may have been affected as these barter syndicators would now miss the national clearances that the regional independent stations once provided.

On the other hand, the re-imposition of syndex may have further increased the demand for television syndication from the cable market. While syndex has somewhat constrained the programming practices of some regional independent broadcast stations (not including superstations), it has opened doors for the general cable networks like USA Network, Lifetime, TNT,

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TNT, which provide similar programming formats to those stations.[40] The cable networks are now faced with less programming competition from their broadcast counterparts and have the freedom of programming as well as the ability to deliver the market clearance the barter syndicators desire. In addition, as cable system operators are able to sell their local advertising time during the blackout period if they purchase syndicated shows to fill the blackout period, syndex may actually add to the demand of the syndicated products. For example, ATC's local cable stations, WGRC, in Rochester, N.Y., has bought its own syndicated shows (Bollier, 1990). In essence, syndex may further push a shift of the revenue sources of the syndication industry toward the cable television buyers.

Impacts of the Copyright Act of 1976 and the Syndex Surcharge

Since the amount of the copyright fees charged to cable system operators, including the surcharge before 1990, is virtually determined by the cable companies' basic subscription revenues under the 1976 Act, the royalty payment has grown tremendously along with the operators' subscription revenues during the last ten years (see Table 12). Especially, after the implementation of the Cable Communications Policy Act of 1984 which eliminated basic rate regulation, basic cable services have become the revenue growth center for the industry, which, in turn, created more

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TABLE 12: ANNUAL ROYALTY FEES UNDER THE CABLE COMPULSORY LICENCE 1980-1989 (in millions $)

Year	Amount Paid
1980	20.1
1981	30.8
1982	40.9
1983	69.6
1984	86.8
1985	102.0
1986	121.0
1987	140.0
1988	209.0
1989	235.1 (est.)

Sources: Department of Commerce, NTIA Telecom 2000, 1988, and Broadcasting, July 23, 1990, p. 80.

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royalty monies for the copyright holders. As the majority of the royalty payments is fed back to the motion picture industry, and the royalty charge is applied to only non-network distant broadcast signals, the immediate impact of the Act is the generation of a significant additional revenue source for many creators (or copyright holders) of the non-network syndicated programs in the movie industry. In essence, the regulatory development inevitably added to the financial strength of the motion picture industry, which, to some extent, might have further contributed to some major program suppliers' financial control over syndicated programs.

Because of the high royalty rate charged to the cable systems that carry DSE signals, cable systems owners are now reluctant to bring in too many DSE channels. It is believed that the lack of such popular regional broadcast signals might have encouraged the carriage of general-appealed basic cable networks as well as stimulated the development of cable exclusive programming. While the cable industry is striking to develop its own programming identity, the Act seemed to inaugurate a connection between the program copyright owners and the cable industry and thus open a door for new programming relationship between the two parties. In addition, under the compulsory license system, copyright holders are able to receive only a fixed percentage of royalty payment, which is estimated to be much lower than the copyright compensation that might be derived from individual

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negotiations of every program. Thus, selling program directly to cable networks or system operators before its syndication terms can actually provide more revenues for the program copyright owners. In general, the current Copyright royalty collection system might have invited the sale of syndicated programs to start with the cable industry rather than the traditional syndicated broadcast market.

In terms of the surcharge rule, while the actual financial impact for losing guaranteed programming exclusivity due to the repeal of syndex rules was unassessed, the increase of total royalty payments generated from the compensating surcharge was significant. Some cable companies estimated that the amount of surcharge was up to 20 percent of the total royalty payment to the CRT (Aversa, 1990). Because most of the surcharge royalties went to MPAA-represented interest, the copyright owners in the movie industry have generated substantially more revenues during the eight-year surcharge period. Such a positive regulatory development again contributed to the building of the risk-bearing financial ability of the motion picture industry, which enabled the industry's investment in the risky syndicated programming market.

Trend of Deregulation in the Reagan Era

Also of special significance to the regulatory environment of television syndication in the last decade was the tr

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the trend of deregulation under the Reagan administration. It is believed that the relaxation of several old FCC regulations during the 1980s has stimulated the growth of certain syndication products as well as affected the relationship between the syndicators and their broadcast station customers.

The first important deregulation was the FCC's decision to relax the suggested maximum amount of advertising allowed on children's programs. It had set up "guidelines" that allowed staff processing of applications unless those ceilings were exceeded, in which case the application had to go before the full commission. In practice, the guidelines became virtual quotas as applicants sought to avoid the close scrutiny and bureaucratic delay that would result if the staff decided to present a violation decision to the commissioners (Head and Sterling, 1987). Starting in 1974, the FCC, under these guidelines, suggested that nonprogram material in children's non-prime-time programs be limited to 9 & 1/2 minutes per hour on weekends and to 12 minutes on weekdays.

After a decade of implementation, arguing that the public interest can best be served by curbing government regulations and unleashing competitive forces, the FCC, under leadership of its chairman, Mark Fowler, liberalized its 1974 policy statement. All commercial time guidelines, including those applicable to children's programs, were eliminated (FCC, 1984).[41]

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A survey conducted by the National Association of Broadcasters (NAB) revealed that on average, broadcast stations carry about nine minutes and fifty seconds of commercials per hour in children's programs (Broadcasting, Oct. 15, 1990, p. 70). And in the top 20 markets, only 17 percent of all children's programs contain 12 or more minutes of commercials per hour. The deregulation seemed to foster little increase over the total amount of commercials in children's programs. However, encouraged by the hands-off regulatory atmosphere, the syndication industry started to realize the revenue potential of its barter practices for first-run cartoon shows, and responded with a multitude of new cartoon shows, which contained explicit commercials created primarily for merchandising their cartoon characters.

The success of "He-Man" and "G.I. Joe" spawned many more superhero shows, driven by new toy lines, which pumped many new dollars into syndication. In 1983, there was only a handful of first-run children's syndications. By 1987, there were over 40 animated shows in the market (Erickson, 1989). The development of advertising deregulation in children's programs has contributed to the growth of an important syndication segment--the first-run animated shows that subsequently established the signification of barter advertising in the syndication industry.[42]

As the syndicators enter another new decade, the advertising in children's programming on both cable and broadcast television is again under scrutiny by Congress. In

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1990, Senate passed a bill to limit the amount of advertising during children's programs on both cable and over-the-air television to 10 & 1/2 minutes on weekends and 12 minutes on weekdays (Broadcasting, July 30, 1990, p. 74). Since the growth of syndicated children's shows has slowed down and the barter practices in these programs have been established, the economics of children's programming syndication is not expected to be affected significantly by the new legislation. Especially, only a limited number of stations are currently exceeding the commercial limits. It is believed that if a commercial cutback is needed for a bartered animated program, a solution with proportionally reduced commercial minutes on both sides (stations and barter syndicators) is more likely to be adopted. Nevertheless, the new legislation may still, to some extent, influence the growth of certain syndicators. While the production costs and ratings for weekday and weekend children's programming are similar, the new limit of commercials in weekends is much lower than in weekdays. As a result, if a first-run barter syndicator heavily relies on weekend time slots for its shows, it would have a lower level of potential revenues (with less barter advertising minutes available) than those which distribute the weekday's kids programs.

The second deregulation that has substantially impacted the market of syndication is the liberalization of the FCC's 31-year old multiple-ownership rules. Effective April 2, 1985, the FCC instituted a 12-12-12 structural regulation,

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thereby raising the number of television stations a single legal entity could own from seven to 12. The Commission, based this action on the vast increase in stations during the preceding three decades; it initially had wanted to abolish the cap entirely by 1990, but pressure from Congress and the motion picture industry led to the 12-12-12 compromise. According to this rule, an entity may own 12 television stations (of any kind), as long as the total audience does not exceed 25 percent of the total national television audience. UHF stations, which carry a weaker signal than VHFs, are allowed to count only one-half of the market's television audience when determining audience reach percentages. In addition, group owners with interests in stations that are more than 50 percent owned by minorities are able to own up to 14 stations reaching 30 percent of the national television audience (as long as two of those stations are controlled by minorities).

Since during the period, banks have been very willing to finance station purchases and with low interest rates, this new rule virtually sparked a mania of acquisitions, mergers, leveraged buyouts, and takeover attempts in the broadcasting industry (Standard & Poor's Industry Survey, August 29, 1985, p.19). Table 13 lists the number of station transactions in the last ten years. It is evident that the volume of transactions increased significantly after the liberalization of the rules.

While television stations were changing control at a

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TABLE 13: NUMBER OF STATION TRANSACTIONS 1980-1990

Year	TV Stations Only	Groups*
1980	35	3
1981	24	6
1982	30	0
1983	61	10
1984	82	2
1985	99	218
1986	128	192
1987	59	132
1988	70	106
1989	84	40
1990	75	60

*Figures represent group deals involving combinations of radio and TV stations, multiple TV stations or multiple radio stations.

Source: Broadcasting, Feb. 11, 1991, p. 41.

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phenomenal pace and at staggering prices, more station group owners were formed and many veteran group owners obtained additional station holdings. For example, besides the much-publicized ABC/Capital Cities Communications merger, Taft purchased Gulf Broadcasting's radio and television stations, Tribune Company gained the KTLA-TV Los Angeles powerful station, and Metromedia sold its seven television stations to Murdoch of 20th Century-Fox Film Corporation (Standard & Poor's Industry Survey, August 29, 1985, p.21).

The deregulation of the FCC multiple ownership rule stimulated the frantic merger mania, which in turn, impacted the syndication industry in two aspects. First, after the flurry of activities subsided, there were fewer, larger and more powerful station group owners. The formation of these stations groups, both network O & Os (owned and operated stations) and independent stations, significantly enhanced the negotiation power of the product buyers. And as many of the group owners exercise centralized control of station programming and budgeting, a new syndicated series' success became highly dependent on the group headquarters' willingness to carry the show on their local stations. Second, during this mergers and acquisitions mania, many of the television properties were over-priced based on multiples of 1984 cash flow or estimates of 1985 cash flow, which were unusually high because 1984 was an excellent year for broadcasters (Standard & Poor's Industry Surveys, August 29, 1985, p.21). Because of the record high selling price and the c

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the complicated transaction terms, a large amount of the stations and group owners entered the 1986 seasons with tremendous debt burdens and other financial difficulties. The changing station economics resulted in a tightened up budget for television programming. Stations became more price-sensitive, more cautious in selecting new series, and the demand for syndicated product has shrunk.

In essence, the deregulation climate in the 1980s has impacted the syndication industry not only through its reshaping of the economic condition of the major exhibitors--the broadcast stations in the market, but also by changing the business relationship between the syndicators and their product buyers.

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Chapter VII

STRUCTURAL ANALYSIS OF THE INDUSTRY COMPETITION

As discussed earlier, the ownership of American media has increasingly become a concern and interest to the government as well as the public. The fundamental belief that a diversified ownership is beneficial to the public since it ensures a free flow of information places a great significance on the state of competition in a media industry. As the development of new media technology, the trend toward consolidation in achieving efficiency, and the increasing foreign ownership in this country continue to catch the headlines, it is essential for a researcher to examine the ownership and competition aspects of a media market in order to present a complete analysis of a mass media industry.

In this chapter, the television syndication industry is analyzed from structural market perspectives in attempting to answer the second research question about the market competition during the past decade.

First, levels of market concentration for the last ten years are evaluated by applying the economic indices of concentration ratios and the Herfindahl-Hirschman Index (HHI). A Market Share Instability index is further utilized to give greater robustness to the concentration study. Since market concentration is only one element of "market structure," other main elements that have generated the most

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attention in economic theory are also included. For example, levels of buyer concentration which may yield bargaining power over the television syndicators, product differentiation which may influence the buyer's demand for the product, and barriers to entry and exit which may affect the market profitability and competitiveness are all included in the study.

The final analysis of the major factors affecting the market competition status will be presented in next chapter after the behavioral and performance analyses of the industry are completed.

Structural Analysis of the Industry

When an industry assessment is to be made concerning the degree of competition, we have to be able to describe and measure the degree of competitiveness, and to do so, the criteria for measuring competition must be determined. Since this study subscribes to the industrial economics research framework, we will start with a structural examination of market concentration, that is, using concentration criteria to measure the degree of competitiveness among syndicators.

The first step in this process is defining the appropriate "market," since all the elements of structure, conduct, and performance relate to market-level variables. In definition, a "market" consists of sellers that offer the same or substitutable goods or services to the same group of

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consumers within certain geographic boundaries. Thus, defining a market involves specifying the good/service markets involved and combining that description with a specific geographic market description (Picard, 1989).

Accordingly, the syndication industry is defined as a national programming market that sells, licenses, and distributes non-network programming product to television stations in more than one broadcast market. Though one way to analyze a market is through the examination of well defined submarkets (i.e. Brown Shoe v. United States, 370 U.S. 294), note that this market will not be analyzed under the distinct sub-markets of first-run and off-network programming, since the two products are interchangeable from both advertisers' and exhibitors' perspectives (see Chapter 3 for discussion on product substitutability). The scrappage product notion that separates new product from used (scrapped) product sub-markets (e.g. used vs. new automobile markets) is not applicable here either (Weber, 1981), since the underlying assumption that "used product" is less desirable than "new product" is not present in this market. Also, as first-run product is becoming more sophisticated and expensive to produce, the distinction between recycled and original products is growingly blurred. Nevertheless, because the Prime Time Access Rules are still intact and the first-run product has become an important segment of the syndication market, its relative market development will be highlighted when appropriate.

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Concentration Measurements

In industrial organization, we often see the terms "market concentration," "business concentration," and "economic concentration." The term or concept "concentration" appears to be one of the most important descriptions of the size distribution of market power within industries. There are a number of ways to measure industry concentration. The most popular is the percentage of total market shares accounted for by the top four (CR4) or top eight firms (CR8). Thus, a four-firm concentration ratio, as it is called, of 80 percent implies more monopoly power by this measure than a four-firm concentration ratio of 50 percent. By their very nature, higher concentration ratios tell us that more economic activity is centralized under the control of only a small handful of firms. This relationship in turn has been linked to the notion that both the incentive and the opportunity exist to collude or otherwise engage in cartel policies that increase revenues to the industry (Clarkson, 1982).

Adopted by the Justice Department for evaluating the degree of concentration during antitrust proceedings, the Herfindahl-Hirschman Index (HHI) is another popular economic index for measuring market concentration. The HHI is calculated by summing the squares of the individual market shares of all the firms. Unlike the traditional concentration ratio, the HHI reflects both the distribution of

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of the market shares of the top firms and the composition of the market outside the top firms. It also gives proportionately greater weight to the market shares of the larger firms. Researchers have found a high correlation between CR4 ratios and the HHI (Scherer and Ross, 1990).

Since it is possible to have high turnover of competitive leading firms while concentration ratios remain stable, it is essential to analyze the trends in market share instability to further investigate the volatility hidden behind the cumulative market share numbers. The Market Share Instability (MSI) index will be used to accomplish such tasks. MSI for each period is calculated by summing the absolute values of the market share changes between the beginning and the end of the period. The larger the MSI index, the more changes in the market shares, which means, the more competitive the market is during the period (Marfels, 1975).

In essence, three indices are used to measure the levels and the stability of concentration among syndicators during the last ten years. Further specificity must now be given to the concept of which are the building blocks for constructing these various concentration indices.

There is some latitude in measuring the concentration of control for an industry. It can be measured with respect to business assets, business sales, value added, and others. Often the concentration ratio used is determined by which statistics are most available. Thus, the choice of the base to

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to be used to calculate concentration may be different depending on the focus of the research. Nevertheless, given the high correlation between such measures, most of them yield concentration rates which are qualitatively similar.

For this study, the market share measurement that reflects the overall programming performance of a syndicator is used to calculate the level of concentration in the industry. Because the price of a syndicated product or its barter commercial spot is virtually dependent on its performance measured by national ratings services, the market power of a syndicator is best reflected by the collective programming strength of its product. Hence, this study uses the ratings records of syndicators to represent their market shares during the last ten years.

A.C. Nielsen's syndication report, "Cassandra," which ranks individual syndicated shows according to their average household ratings was used to derive the overall ratings performance for every syndicator. Basically, the syndicated programs were first rearranged under their syndicators; then, every syndicator's average ratings were added up and divided by the total rating points of all syndicators; so percentages representing the programming market shares of individual syndicators are formulated. Note that only the syndicated programs which were aired in five or more television markets were contained in the Cassandra report. Also, the author only included the programs that have 3.0 or higher rating points, as the 3.0 rating threshold has been widely rec

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recognized as an industry benchmark for advertisers' time purchasing of syndicated programming (Television/Radio Age, Oct. 1, 1984).

Levels of Concentration

The concentration ratios for the top four firms (CR4) and top eight firms (CR8), as well as the HHI are tabulated in Table 14. A more detailed description of the top 10 firms and their market shares during the last decade can be found in Appendix A. The MSI that traces the market share changes during the past ten years is presented in Table 15. The results of these measurements are interpreted next.

Concentration Ratios

Both the top-four and top-eight ratios demonstrate an increasing trend toward concentration during the past ten years. The industry has steadily grown from a CR4 of 29 in 1981 to 50 percent by 1990 and a CR8 of 48 to 75 percent between 1981 and 1990. At the beginning of the decade, according to the concentration ratios, the industry appeared to be in a moderately competitive market structure. Such a concentration level is approaching the threshold which would be considered to represent a borderline concentrated or oligopolistic market, (i.e., without any firm possessing substantial market power). The concentration level, however, TAB

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TABLE 14: CONCENTRATION RATIOS IN THE SYNDICATION MARKET 1981-1990

Year	CR4	CR8	HHI
1981	28.98 %	48.21 %	370,87
1982	28.93	46.98	372.45
1983	30.32	50.49	423.24
1984	30.17	51.01	485.66
1985	(42.49)*	(67.68)*	(734.87)*
1986	30.87	55.29	476.09
1987	36.50	56.07	512.22
1988	45.06	65.52	800.63
1989	52.33	68.73	974.08**
1990	49.21	74.21	863.99

*Because of the unavailability of the ratings record, the 1985 ratios and HHI are based on the list of programs that had at least 5.0 ratings. Thus, these numbers are inflated.

**The high HHI measure is the result of a very successful year for two major syndicators, King World and Paramount, since the index often gives more weight to larger firms.

Sources: A.C. Nielsen Cassandra Reports 1980-1990; Erickson, Syndicated Television; Television/Radio Age, NATPE programming reports 1980-1990; Variety, NATPE Special 1980-1987; Channels, Syndication 1995.

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started to rise after 1986. By 1990, the ratios have increased more than 20 percent and the industry appears to be approaching a highly concentrated market structure. In general, based on the analysis of market concentration ratios, the syndication industry has grown from a moderately concentrated market to the threshold of becoming a highly concentrated programming market during the past ten years.

Herfindahl-Hirschman Index

The HHI measures reveal a more conservative picture of the industry. The Justice Department has often considered industries with HHIs below 1,000 to be unconcentrated, between 1,000 and 1,800 to be moderately concentrated, and over 1,800 to be highly concentrated (U.S. Justice Department, 1982). Over the past ten years, the HHIs of the syndication industry have never been greater than the 1,000 threshold. Thus, according to the Justice Department Guidelines, the industry has been unconcentrated during the past decade. Note that while only the syndicators that have programs with 3.0 or more ratings are counted, the rest of the syndicators have such small shares that their influence (after the "squaring" process) on the HHI would be imperceptible, and they certainly do not wield enough market power to elevate it to a stage of even moderate concentration. Nevertheless, by reviewing the year to year HHI measures, one can discover that the concentration level of t

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of the syndication industry has steadily increased, especially, after the year of 1986. In essence, from an HHI of 370 in 1981 to 864 by 1990, the industry has become much more concentrated and is on the threshold of approaching a moderately concentrated market structure under the HHI concentration definition.

Market Share Instability Index

The MSI index evaluates firms' ability to maintain their market share positions by tracing the market share changes during a certain period. The overall market shares of syndicators appear to be relatively unstable during the last ten years according to the MSI measures (see Table 15). At the beginning of the decade, the MSI index shows a modest amount of market share change which indicates a fairly stable, less competitive market condition. However, as the industry entered 1984, the instability of market shares increased. The period of 1984-1986 was most volatile during the past ten years. The instability was expected, since it was during this period, the heavy-weight syndicator, King World, started to dominate the industry with its unprecedented successful first-run programs, and it was in 1985, that such major mergers as Telepictures-Lorimar and Columbia-Embassy took place.

The market shares of syndicators appear to be more stable between 1986-1987. After 1987, the MSIs have

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TABLE 15: MARKET SHARE INSTABILITY IN THE SYNDICATION MARKET 1981-1990*

Year	Market Share Instability Index
1981-1982	27.50
1982-1983	24.22
1983-1984	43.52
1984-1986	75.91
1986-1987	35.57
1987-1988	52.86
1988-1989	47.34
1989-1990	51.59

*Since the market shares for 1985 are inflated, the 1985 instability calculation is excluded in this index. 1984 data are compared with the 1986 data in assessing the changes of market shares.

Sources: A.C. Nielsen Cassandra Reports 1980-1990; Erickson, Syndicated Television; Television/Radio Age, NATPE programming reports 1980-1990; Variety, NATPE Special 1980-1987; Channels, Syndication 1995.

increased somewhat, but stayed relatively stable through out the end of the decade. In general, the industry (in terms of market shares) was very stable in the early 1980s; however, as it entered the period of 1984-1986, it became very volatile, the high turnover of market shares settled down in the late 1980s, but the industry has become relatively more unstable than the early 1980s. This should not be surprising for an industry that depends so heavily on audience perceptions of program quality.

The economic indices utilized in this study reveal that the concentration level of the syndication industry has steadily increased in the past ten years. Though the market is not yet highly concentrated, it has become much more concentrated than ten years ago. In general, during the last decade, the syndication industry has grown from an unconcentrated market structure to a moderately concentrated one, and the trend of concentration is expected to continue. Paradoxically, while more concentrated, the industry has also become relatively more unstable in terms of market share fluctuations. Such market instability suggests that competitive behavior is still present in the industry even when the structural measures of concentration levels have indicated a decrease of competition.

If one were to examine the first-run syndicated product in isolation, the same steady increase in concentration levels is even more evident. According to Table 16, the

TABLE 16: TOP 10 SYNDICATORS AND CONCENTRATION RATIOS IN FIRST-RUN SYNDICATED PROGRAMMING 1984 AND 1990*

	1984		1990	
Rank	**Firm**	**Share**	**Firm**	**Share**
1	Television Program Enterprises	11.77%	King World	22.93%
2	Telepictures	10.11	Paramount	20.11
3	Group W	8.98	MCA	6.75
4	Media & Marketing Affiliates, Inc.	7.69	Fox Syndication	6.32
		CR4=38.55%		**CR4=56.11%**
5	Contempo	6.34	Buena Vista	6.08
6	Colbert/Orion	6.18	Multimedia	5.51
7	King World	5.32	Warner Bros.	4.40
8	Lexington	4.95	Teletrib	4.40
		CR8=61.34		**CR8=76.50**
9	Advanswers Media	4.46	Tribune	4.12
10	Greene & Dewar /American TV Syndication	3.49	Group W	3.88

*All the first-run programs that have at least three rating points were first separated from other products and rearranged under their syndicators. Then, these syndicators' market shares were calculated and ranked. Thus, while this table only deals with first-run product, these syndicators may be involved in both first-run and off-network programming.

Sources: A.C. Nielsen Cassandra Reports 1984 and 1990; Erickson, Syndicated Television; Television/Radio Age, NATPE programming reports 1984 and 1990; Variety, NATPE Special 1984 and 1990.

first-run syndication market has grown from a CR4 of 38 to 61 percent and a CR8 of 56 to 76 percent between 1984 and 1990. The year of 1984 was chosen for comparison, because around the mid-1980s, first-run syndicated product was again in popular demand.

In 1984, according to the ratios, the first-run product market was only moderately concentrated. By 1990, its market structure has became highly concentrated. Furthermore, the level of concentration in this market has gone up faster than the general syndication product market, especially in terms of the leading firms. King World and Paramount, the top two first-run syndicators commanded over 40 percent of the market share in 1990, twice as much compared to the leading two firms in 1984. It is also interesting to see that most of the top first-run players in 1984 were no longer the leading contestants in the product market six years after.

In summary, the degree of concentration for first-run product market has gone from moderately concentrated to very concentrated. Also, there appears to be a switch of market power during the period, which created not only a new group of top first-run contestants, but also two heavy-weight leaders that possess substantial market power in this sub-product market.

Merger Activity

In addition to the quantitative evaluation over the degree of concentration in the syndication market, a brief overview of the major mergers that had impacted the market volatility and competitiveness in the industry is warranted. During the last ten years, there have been three significant transactions in the syndication industry. Among these are the mergers between Lorimar and Telepictures, Columbia and Embassy, and Warner and Lorimar-Telepictures.

Lorimar and Telepictures

Lorimar Inc. was founded in 1969 and made its mark early in network television programming with such popular shows as "The Waltons," "Eight is Enough," and later the prime-time soap operas, "Dallas" and "Knots Landing," which are still running on the networks. Besides the network programs, Lorimar also owned some advertising agencies and a home video company, and produced mini-series, made-for-television movies, as well as feature films (Television/Radio Age, Oct. 14, 1985, p.40). On the other hand, Telepictures Corp. was founded in 1978 with emphasis on the production and syndication of original programming for television stations. Among the company's notable successes were an animated show, "Thundercats," and first-runs such as "The People's Court" and "Love Connection." Telepictures also owned a publishing

company and five television stations prior to the merger (Broadcasting, May 26, 1986, p.36).

In 1985, these two major suppliers of television programming, reached a stock exchange agreement valued at approximately $306 million, in which Lorimar shareholders received 2.2 shares of Telepictures common stock for each share of Lorimar stock. According to the programming market share measurement indicated earlier, in 1984, Telepictures was ranked number eight with a market share of 4.65 percent, while Lorimar's programming performance was less successful with a market share close to 1 percent and ranked number 24 among the syndicators. One year after the merger, the new Lorimar-Telepictures acquired a market share of 7.9 percent and was ranked number two, only slightly behind its strong competitor, King World. The merger successfully elevated the two syndicators to the ranks of the major Hollywood studio-syndicators such as Columbia and Paramount. It also created a broadly based media company with interests ranging from network programming to syndicated shows, theatrical productions, home video distribution, advertising agencies, magazine publishing and ownership of television stations.[43] But most importantly, the alliance created another major contestant that could compete vigorously in both the reruns and original syndication programming markets by combining Lorimar's large stake in network series and theatrical product with Telepictures' strength in first-run syndicated series.

Embassy, Columbia, and Merv Griffin Enterprises (MGE)

Embassy Communications was the management arm of the Lear/Perenchio-owned Embassy Television and Tandem Productions, which together were among the largest independent suppliers and distributors of half-hour comedies in the business. Embassy Television was established by Lear and Perenchio in 1982 as a successor to T.A.T. Communications Co., which they set up in 1974 to produce and distribute television programming, including those produced by Tandem Productions. Embassy Television and Tandem Productions created early hit shows like "Maude" and "The Jeffersons," and later such popular sit-coms as "Different Strokes," "The Facts of Life," and "Who's the Boss."

In its efforts to increase its entertainment holdings, Coca-Cola Company, which acquired Columbia Pictures in 1982 for $752 million, agreed to buy Embassy Communications from Norman Lear and Jerry Perenchio in 1985. The privately owned company was acquired in a cash and stock transaction valued at $485 million minus the companies' debt. Before the acquisition, in 1984, Columbia was ranked number three with a programming market share of 6.75 percent, while Embassy was ranked number five with a market share of 5.75 among the syndicators. Though the two companies were then operated separately, the transaction was added to an empire that already included, among other properties, 42 percent of Tri-Star Pictures and two smaller syndicators--Colex Enterprises (a joint venture with LBS Communications) and Television Program Source (Broadcasting, June 24, 1985, p. 68). Coke, the world's largest purveyor of sweetened, colored water, had also become one of the largest suppliers of programming in the country (Channels, September 1986, p. 32).

Less than a year after the Columbia-Embassy merger, Coke acquired Merv Griffin Enterprises, which created such hit shows as "Wheel of Fortune," "Jeopardy," and "The Merv Griffin Show,"[44] for a $200-million-plus price tag. In 1987, Coke decided to consolidate its entertainment business and created an umbrella television division called Columbia Pictures Television (CPT). CPT encompassed Columbia/Embassy Television as well as its Tri-Star pictures, and all its theater holdings, while leaving MGE and TeleVentures, a distribution company for Tri-Star Productions, separate operating units. Coke's interest in the syndication business seems to persist into the late-1980s. In 1988, though unsuccessful, Coke offered to buy King World, the leading first-run syndicator, at approximately $550 million to add to its programming collection (Channels, March 1988, p. 80). In general, until its recent divestiture to Sony, Coke has been an active player in the programming industry with an acquisition route focused on horizontal expansion rather than vertical integration. It is evident that being a part of a deep pocket company like Coke had provided CPT a great sense of financial security. The mergers between Columbia, Embassy, and MGE have created a heavy-weight syndicator, backing by a parent company that can provide great "leverage" for it in its contesting for market shares.

Warner and Lorimar-Telepictures

Warner Communications Inc. had two television production/distribution units before the merger with Lorimar-Telepictures. Warner Brothers Television was very active in network production, while Warner Brothers Domestic Television Distribution was one of the top distributors of first-run programming.

Warner Communications and Lorimar-Telepicture started to discuss merger possibilities in early 1988. However, the deal was blocked by Chris-Craft Industries and its broadcasting subsidiary, which became Warner's major shareholder in 1984 as part of Warner's defense against a possible takeover by Rupert Murdoch (Broadcasting, May 15, 1989, p. 59). Chris-Craft filed a complaint in court, asserting that Warner's acquisition of Lorimar-Telepictures would breach a provision of the shareholder agreement between Warner and Chris-Craft. The provision prevented Warner from having any direct or indirect ownership of any television broadcasting station while Warner owned more than 25 percent common stock in BHC Inc., Chris-Craft's broadcasting subsidiary (Broadcasting, May 15, 1989, p. 59). The acquisition was delayed until Lorimar-Telepictures completed the sale of its television stations in early 1989.

Nonetheless, the holdup actually helped to bring the price down for Warner.

Before the merger, in 1989, Warner was ranked number five with a programming market share of 4.38, while Lorimar-Telepictures was ranked number eight with a market share of 3.72 among the syndicators. In essence, Lorimar-Telepictures had been the top provider of network programming and the leading supplier of first-run and off-network syndicated programs. Combined with Warner's television production/distribution units, the new merged company is well positioned in the industry, especially, in the areas of off-network syndicated product. For example, Lorimar's program inventory includes such popular shows as "ALF" and "Perfect Strangers" and Warner Brothers supplies such hit series as "Night Court," "Murphy Brown," and "Growing Pains."

The mega merger between Time Inc. and Warner Communications further enhanced the financial strength of the Warner-Lorimar-Telepictures television programming unit. Besides the deep pocket advantage, because of Time's association with HBO and other cable businesses, Warner-Lorimar-Telepictures, through its film and television programming capacity, became a key supplier of product to the cable industry. The programming pipeline actually goes both ways, as made-for-cable programming also becomes available for syndication to the broadcast television market; the merged television syndication giant is well positioned to take advantage of both flows.

On top of these major mergers, there were also some transactions and merger attempts that somewhat impacted the stability of the industry. In 1988, LBS Communications, one of the top first-run players, was bought out by the company's management team in a $38 million deal with Grey Advertising and later made public (Channels Programmer's Handbook, 1989). Also, in response to the Time-Warner merger, Viacom and Gulf & Western, the parent company of another major syndicator--Paramount, had tried to negotiate a possible stock swap or buyout deal in 1989.[45] More merger speculation was circulated by the end of the decade. For example, Turner Broadcasting and Tele-Communication Inc (TCI) were said to be interested in acquiring MGM,[46] while Paramount and MCA, as well as Turner and Viacom, have also fueled merger discussions. However, for the time being, none of these speculations has materialized.[47]

Vertical Integration

So far we have focused on examining one form of merger--horizontal (or horizontal integration that also involves the merger of subsidiaries in upstream or downstream stages). Vertical integration, which refers to the mergers of firms that are involved in various stages of the production of a single product/service, represents another form of merger that should also be reviewed while studying the stability of the syndication market. The topic of vertical integration has been discussed extensively in Chapter 4; the emphasis here is on the examination of the specific, major integration activities occurring during the last decade that might have substantially impacted the syndication market structure.

As indicated previously, there was a trend of vertical integration among production companies and distributors as well as distributors and television stations in the 1980s. While the major Hollywood studios have historically enjoyed the efficiency and other benefits resulting from their production-syndication integration, many production companies have gradually found it advantageous to be acquired or merged in order to attain economies of scale or new capital for programming investment. Especially for smaller producers, a merger with a highly leveraged distributor seems to provide an answer in coping with a marketplace that is expanding but at the same time becoming more hostile to survival.

In 1988, MTM Entertainment, a small independent production studio that had been very active in providing network programming, was purchased by Britain's Television South (TVS) for $320 million. The purchase was not only a trans-Atlantic merger, but also a marriage of producer and distributor since TVS already owned Gilson International, the international distributor of such shows as "Hill Street Blues" and "Newhart." The trend toward producer-distributor consolidation continued, with producer Aaron Spelling agreeing to merge his production house with Great American Communications' Worldvision Enterprises to form Spelling Inc.

Spelling Inc. later acquired Laurel Entertainment, another small production company that puts out the popular show, "Tales from the Darkside."

In short, it is observed that smaller production companies have been put into a bind as a greater number of companies compete in a limited market for network and syndication revenues. While the slower growth of the American syndication market is encouraging production companies to integrate with their distributors, the faster growth of programming demand abroad might have also contributed to the trend of consolidation as production companies wish a closer alliance with prominent distributors to not only acquire economies of scale and capital but also help them achieving better international distribution.

In terms of the vertical integration between syndicators and their product exhibitors, syndicators have also gradually realized the advantage of having a financial alliance with the exhibition window of their product. After the Lorimar-Telepictures merger in 1985, the new syndication company soon bought seven major-market television stations for $1.85 billion from the Kohlberg Kravis Roberts & Co. broadcast group. The purchase included six network affiliates and one independent station, which comprised 9.08 percent of the U.S. television homes. The ownership structure not only brought Lorimar-Telepictures security on station carriage of its syndicated product but also allowed the syndicator to take advantage of whatever operational "synergies" and "efficiencies" were possible with such integration.[48]

In 1989, Paramount Pictures purchased five UHF stations from TVX broadcast Group, the independent television station group owner that suffered financial setbacks following its 1987 purchase of five Taft Broadcasting stations. Paramount's control of TVX independent stations demonstrates syndicators' growing interest in television station ownership. Besides Paramount, both MCA and Disney acquired a powerful VHS station, WWOR-TV (MCA) and KHJ-TV (Disney). Even secure, top first-run syndicator, King World, turned its attention to station ownership and recently purchased a VHF station.

Foreign Ownership

Another significant development in the syndication market structure during the 1980-1990 period is the growing foreign ownership among the leading syndicators in the country. This trend of international conglomerate consolidation, though not expected to immediately affect the operation and competition patterns of the American syndicators, has certainly moved some syndicators into a superior competitive position in terms of financial backing and global industry expertise. Table 17 lists the foreign ownership in syndication-related business up through 1990.

The growing international demand for programming is one of the major reasons that Hollywood programming companies

TABLE 17: FOREIGN OWNERSHIP IN SYNDICATION-RELATED BUSINESS

American Company	**Programming Business**	**Foreign Owner**	**Percent of Ownership**	**Cost**
MCA	TV, film production & distribution	Matsushita	100 %	$6.6 billion
Columbia	TV, film production & distribution	Sony	100	$3.4 billion
MGM/UA	TV, film production & distribution	Pathé Comm.	100	$3.3 billion
20th Century Fox	TV, film production & distribution	News Corp.	100	$575 million
MTM Enterprises	TV production	TV South	100	$320 million
Reeves Comm.	TV production	Thames Television	100	$89 million
Carolco	Film production	Pioneer	10	$60 million
Barris Industries	TV, film production	Australian Investment	24.4	$35 million
Carolco	Orbis comm.	Canal Plus	5	$30 million
Fox/Lorber	TV, video distribution	GaGa Comm.	58	$2.7 million

Sources: Broadcasting, Oct. 22, 1990, p. 63, and
Broadcasting, Dec. 3, 1990, p. 35.

appeal to foreign investors. And since the top eight Hollywood studios control up to 8 percent of the foreign syndication revenue (Broadcasting, Oct. 22, 1990, p. 63), the prospect of owning one of these American programming production/distribution power houses is very attractive to many international media/entertainment conglomerates, which are eagerly searching for more leverage as well as synergies through integrations of relevant businesses worldwide.

In essence, these foreign cash-rich corporations have found not only the existing programming libraries but also the unique American know-how of producing and marketing programming extremely appealing in their search for international success. During the 1980-1990 period, four major syndicator-studios, 20th Century Fox, MGM/UA, Columbia, and Universal (MCA) have merged with foreign companies. As Hollywood enters the 1990s, half of its major studios are foreign-owned. The four syndicator-studios produced 24 shows, or 26.6 percent of prime time television, and collectively reached a syndication programming market share of roughly 24 percent in 1990 (Broadcasting, Oct. 22, 1990, p. 63).[49]

The recent acquisitions of the two leading syndicators, Columbia and MCA, by the Japanese electronic conglomerates, Sony and Matsushita, are the largest and most controversial investments by foreign companies in syndication history. In September 1989, Sony Corporation, a Japanese electronic manufacturing giant, announced its $3.4 billion acquisition

of Columbia Pictures Entertainment. Only a year after, Matsushita, the world's largest purveyor of consumer electronics that includes the brand names of Panasonic, Technics, and Quasar, successfully acquired MCA with a price tag of $6.6 billion. MCA, as a major player in the syndication industry, owns major programming assets such as Universal Pictures, Universal Television, and a valuable film library with 500 titles. The MCA-Matsushita deal is so far the largest U.S. acquisition by a Japanese company. These mergers are theorized, by both sides, to build a synergy between Columbia/MCA's programming software and Sony/Matsushita's electronic hardware, respectively.[50] As for MCA's and Columbia's syndication business, the deep-pocket global parent companies will definitely help them achieving a better reach in the international programming market.

The media/technology conglomerates like Sony-Columbia and MCA-Matsushita constitute a new model of global vertical integration. Its potential effect to the television programming industry can be substantial. If hybrid technologies such as "multimedia" take off, demand for programming could go into overdrive. By managing both the medium and message sides of the business, the Japanese will definitely have the competitive edge. For example, Sony can now put Columbia Pictures' film library onto 8 mm video, videodisk, and high-definition media, and possibly tie usage of its product to its own hardware.

Though the medium-message combination's possible effect over the operation and competitiveness of syndicators is not yet fully comprehensible, these mega mergers involving foreign companies have reportedly impacted the regulatory climate of the industry by increasing the chances for the removal of the Financial Interest and Syndication Rules. Regulators are fearful that the great American entertainment business is systematically being spirited away from American ownership. The 20-year ban against network participation in the syndication market may be abolished or substantially altered to allow the networks to enter the business. In essence, while the direct impact of foreign ownership over top American syndicators is yet to evolve, the ownership development has changed the regulatory climate, which, in turn, affects the stability as well as the names of the players in the industry.

Other Structural Factors

The quantitative measurement of market concentration, vertical integration, and the qualitative observation of market volatility presented so far are merely one aspect of the syndication market structure. While doing structural analysis, industrial economists often study other elements of market structure such as "nature and elasticity of market demand," "product differentiation," "buyer concentration," and "barriers to entry and exit" (Caves, 1982; Clarkson,

1982). Based on the operation patterns observed in the industry, three structural characteristics have affected the degree of competitiveness and the pattern of competition in the syndication market and thus need to be explored further. These structural factors are levels of buyer concentration, product differentiation, and barriers to entry and exit.

Levels of Buyer Concentration

Studies have found that the more concentrated the buyer market, the lower are the profits of a producer-goods industry (Caves, 1982). Product/service buyers, to a certain extent, have the power, individually or collectively, to force down prices, bargain for higher quality or more services, and play competing sellers off against each other. These actions thereby impact on the bottom line for sellers. Thus, the degree of bargaining power of the syndicated product buyers, that is, the television stations, should have substantial effect over the competitiveness of the program syndicators.[51] Normally, the degree of countervailing power of a buyer is determined by the importance of the buyer's purchase. If a large portion of sales is purchased by a given buyer, the buyer's business becomes very important. In addition, large-volume buyers are particularly potent forces if heavy costs characterize the industry--as is the case for television programming product.

Table 18 presents the top 12 commercial television station group owners and the percentage of the U.S.

TABLE 18: COMMERCIAL TELEVISION STATION GROUP OWNERS AND THE PERCENTAGES OF THE U.S. HOUSEHOLDS SERVED BY THEM*

Rank	Owner	# of Stations Owned	Households Served
1980			
1	CBS	5	22 %
1	ABC	5	22
3	NBC	5	21
4	Metromedia	7	20
5	RKO-General	4	17
6	Field	6	14
7	WGN/Continental	3	13
8	Westinghouse	7	11
9	Storer	5	10
10	Taft	6	9
10	Gaylord	7	9
12	Capital Cities	7	7
1985			
1	Capital Cities/ABC	8	24.4
2	CBS	5	20.6
3	NBC	5	19.8
4	Tribune	6	18.6
5	News Corp. (Fox Inc.)	6	18.1
6	KKR (Storer)	10	13.7
7	RKO	3	13.5
8	Taft	12	11.1
9	Chris-Craft Industries	7	10.4
10	Westinghouse	5	10.1
11	Gannett	6	9.2
12	Cox Enterprises	7	8.1
1990			
1	Capital Cities/ABC	8	24.4
2	NBC	9	22.2
3	CBS	5	20.8
4	Tribune	6	18.7
5	Fox	7	17.3
6	Gillett Group	11	11.7
7	Chris Craft Industries	7	10.7
8	Gannett	10	10.1
9	Westinghouse	5	9.9
10	Cox	7	8.4
11	Scripps-Howard	9	7.7
12	Hearst	6	6.8

*Group owners are ranked by the percentage of households served.

Sources: Standard & Poor's Industry Survey, August, 1985, p.21 and January 1990, p.28; Channels, 1986 Field Guide; Broadcasting, Feb. 11, 1991, p. 69; Who Owns the Media, 1982, p. 329.

television households served by them in 1980, 1985, and 1990. These multiple station groups are ranked by the degree of their "reach" in terms of television households.

It is easy to see that the network O & O's (owned and operated stations), have generally been the leading station groups during the past ten years. After the merger between Capital Cities and ABC, and the birth of Fox resulting from News Corporation's purchase of the Metromedia station group, the dominant position of the O & O's is even more evident. With the networks' financial clout and programming expertise as well as having major stations that are located in the nation's largest television markets and reach a substantial percentage (approximately 20 percent) of the U.S. television households, these programming buyers are well positioned to bargain with the syndicators. However, because many of these O & O's are in the same major television markets, they are, at the same time, rivals who would compete fiercely for "good" syndicated product. It is postulated that the bargaining power of the leading buyers, network O & O's station groups, is more substantial for new first-run programs that have no track performance record and off-network reruns with average network ratings performance. In other words, for those network reruns and returning first-runs, such as "The Cosby Show" and "Wheel of Fortune," that have had established ratings records, the syndicators have the bargaining edge.

In general, the overall countervailing power of the programming buyer has been fairly constant since changes in the distribution of market reach are minimal among the station groups. Though there have been some fluctuations resulting from company name changes as well as ownership shifts, the average coverage of the top station groups has increased only slightly from 1980 to 1990. Also, the non-network station groups are expected to have less clout than the O & O's in the negotiation with syndicators because of the latter's traditionally dominant position.[52] However, because a syndicated product's success is riding so much on its degree of clearance and the attractiveness of its time slots, any collective entity of programming exhibition is important to syndicators. Chapter 4 has a more extensive discussion on the dynamic buyer-seller relationship between syndicators and station group owners.

Product Differentiation

Chamberlin once defined product differentiation as distinguishing goods or services of one seller from those of another on any basis that is important to the buyer and leads to a preference (Chamberlin 1962). The basis of differentiation could be real or artificial (imagined), arising from distinct product, packaging, distribution differences, or the prestige value of a trademark or trade name. As for syndicated product, since it is neither a physical product nor identified by brand names,[53] the basic way to differentiate the product is by its programming content and quality. In addition to this product-related differentiation, there are also some sales-related differentiation such as payment practices, barter arrangement, and promotion expenses. Nevertheless, these are more of a secondary consideration for the product buyers. Generally, only when two syndicated product are considered to be equivalent in their content and quality will these sales conditions become part of the purchase factors.

The concept of product differentiation is less applicable to off-network and movie syndicated product. The purpose of the differentiation strategy is to create viewing preferences, which generally lead to higher viewing levels. Since the production of the off-network and movie product is already completed, and the programs have had established performance records, the content/quality differentiation process is no longer a selling strategy for the syndicators. But if two off-network or movie syndicated products are regarded as comparable, other sales-related condition differentiation may be of importance.

As for the first-run programming, considering the goal of audience/revenue maximization, it is unlikely that a syndicator would try to differentiate its product by providing very specialized programming "content" which attracts only a limited number of viewers. It is more likely for a syndicator to offer a program that adopts an established popular content such as game or talk shows, and try to differentiate its programs by providing special

"format elements," such as the style of presentation or the host of a program. Table 19 lists the top programming content offered by syndicators during the last ten years. It is evident that first-run game shows and magazine/tabloid programs have been the dominant content areas in the past ten years. In addition, while talk shows have gained more popularity during the second half of the decade, music/variety programs have steadily declined.

Syndicators have always worked on establishing buyer preferences for their product, but according to the evidence of the 1980s, their way of accomplishing this task does not appear to have been "content differentiation" but "content imitation." This may explain why station buyers have constantly complained that syndicators generally offer programs lacking in creativity and offer similar product every year. The structural factor of product differentiation in terms of "programming content" does not appear to play a significant role in the competition between syndicators in the last ten years.

The degree of product differentiation of a programming product can also be evaluated by the differentiation of the product's "quality." Even though programming quality judgment is often subjective and "high programming quality" does not necessarily convey "high ratings," programs that are perceived to be of higher quality are generally more appealing to their potential buyers.[54] Since the "quality" feature normally takes the form of high quality

TABLE 19: TOP 20 SYNDICATED PRODUCT CONTENT AND THEIR PERCENTAGE BREAKDOWN 1981-1990*

	'81	'82	'83	'84	'85	'86	'87	'88	'89	'90
First-run										
Game Shows	15%	15	15	20	20	30	25	20	20	15
Magazine /Tabloid	15	15	10	15	15	10	10	20	25	20
Talk Shows	10	5	5	0	0	10	10	20	15	15
Music Variety	20	15	20	10	20	5	5	5	5	5
Kids /Cartoons	5	0	0	5	0	0	0	0	0	0
Sports	0	0	0	10	5	10	10	0	0	0
Court-room	0	5	5	5	5	5	5	5	5	5
Documen-tary	0	0	0	5	0	10	0	0	0	0
Reruns										
Sitcoms	20	35	35	30	35	15	25	20	25	35
Dramas	15	10	10	0	0	5	10	10	5	5

*According to the Cassandra Reports' rankings, the top 20 syndicated programs were classified into the ten content categories. The number of programs in each category was then divided by 20 to obtain a percentage for each product content.

Sources: A.C. Nielsen Cassandra Reports 1980-1990 and Erickson's Syndicated Television: The First Forty Years, 1947-1987.

producers/directors, famous cast/host, big production budget, or a syndicator's sound reputation, when a syndicator wants to differentiate its product by way of quality preferences, it can either offer programs that have the recognizable stars or/and successful producers, or distribute programs that are produced with higher budgets.

Nevertheless, all of these differentiable quality features seem to associate with the size and the financial stability of a syndicator. A bigger syndicator with better financial backing has more leverage and cash flow to bankroll a famous cast and big production expenses. It takes a syndicator like Paramount to produce and distribute an expensive first-run series like "Star Trek: The Next Generation." It is postulated that the nature of this structural factor might have worked to the advantage of the major syndicators and encouraged the trend of consolidation in the industry. As for the product differentiation in forms of product selling conditions, the major syndicators are again in a better financial position to offer their potential clients favorable, differentiated sales terms.

Barriers to Entry and Exit

Barriers to entry and exit are the other important structural elements that also denote a firm's relationship with its economic environment. Barriers to entry are somewhat similar to market concentration as the former represents the "potential" or long-run competitive condition, while the latter reflects the "actual" competitive situation in a market. A simpler way to evaluate barriers to entry of a specific industry is to ascertain potential entrants' disadvantages while competing with the firms already in the industry. In general, economists propose that the potential sources of entry barriers, that is, advantages for the on-going firms include: 1) economies of scale; 2) capital requirements; 3) product differentiation; 4) cost disadvantages independent of scale; 5) switching costs; and 6) government policy (Clarkson, 1982; Porter, 1980). The entry barriers of the syndication industry that have arisen from "product differentiation" and "government policies" have been reviewed previously and thus will not be readdressed.

Economies of scale refer to declines in unit costs of a product as the volume increases. Scale-economies deter entry by creating undesirable conditions in which a new firm either has to come in at large scale and risk strong reaction from existing firms or come in at a small scale and accept a cost disadvantage. Since the distribution costs for syndicated programming largely come from the sales-office overhead, personnel, and traveling expenses, it is evident that scale-economies can arise in the sales, marketing, promotion, and distribution of this programming product. And as the syndication market grew from an infant industry to a maturing market in the past ten years, it is believed that such a barrier to entry has been present and has grown to be an important structural feature of the industry.

To demonstrate such possible "size" advantages that a syndicator may acquire, a profitability-size distribution chart comparing the total number of programs distributed by a syndicator and its return on assets (ROA) for the pretax operating income, a profitability measure, is presented in Table 20. In principle, if the "size" of a syndicator does provide it the advantage of scale economies, we should be able to observe a positive association between syndicators' profitability and size, as measured by the number of the programs they distribute.

Though the distribution chart does not reveal a size-profitability association that is fully consistent with the proposition, some conclusions can be drawn in relation to the issue of size and performance. According to the table, the medium and big syndicators that distributed a minimum of eight programs seemed to reach a pretax operating income ROA at least equal or higher than the average industry ROA (6.3%). On the other hand, the smaller syndicators that distributed two or three programs seemed to be unable to command very high profitability. However, medium syndicators that distributed four to seven programs can swing both ways depending on the popularity of the few programs they distributed. Note that only the leading syndicators and a single year data are included in this analysis, there are many small syndicators with only one or two programs in inventory that enter and leave the market every year as a

TABLE 20: DISTRIBUTION OF THE TOP 15 SYNDICATORS' PROFITABILITY BY THEIR RELATIVE SIZE OF PROGRAM OUTPUT*

Size Class	Pretax Income Return On Assets (%)**							
	< 3	3.1-6	6.1-9	9.1-12	12.1-15	15.1-18	18.1-21	> 21
2-3	1	1		1				
4-5	1							2
6-7	1		1					1
8-15			1		1			
15-20								
>20			1	2			1	

*ROA and numbers of programs are based on the 1988 data. In 1988, the average pretax operating income ROA for the overall filmed entertainment industry was 6.3%, while major studios' averaged 11% and others -1.7%.

**Pretax operating income is the amount remaining after operating expenses are deducted from gross income but before tax; return on assets is the ratio of net profit to the assets used to make the net profit, multiplied by 100.

Source: Channels, Syndication 1995, 1989, p.83, and Veronis, Suhler & Associates Inc., Communications Industry Report, Nov. 1989, p. 78.

result of red ink balance sheet. In 1988, while the average pretax operating income ROA for the overall filmed entertainment industry was 6.3%, the major studios' ROA averaged 11% and the other smaller ones -1.7% (Veronis, Suhler & Associates Inc., 1989).

Since the Profitability-size distribution analysis only dealt with the major syndicators, the demise of a small syndicator, Access Syndication, will now be discussed to further illustrate the importance of scale economies in this industry. Access was first established in 1984 with only one program to distribute. In 1986, as an answer to its problem of small revenues, it decided to expend. With more sales force and larger marketing expenses, Access was able to obtain two promising programs and sell one, "Beverly Hills Teens," nationally. However, the distribution fee Access received barely covered its office overhead and sales/marketing investment. In 1988, the producer of "Beverly Hills Teens" decided to terminate its contract with Access, and Access exited from the market. It was pointed out that, in a competitive market, by financially relying on very few shows, Access simply could not survive on its profit margins.[55]

Vertical integration discussed previously can also occur as a type of entry barrier, as in the case of the syndication industry. Since most of the major syndicators have been vertically integrated, a new syndication firm would have to enter integrated or face a cost disadvantage, as well as

foreclosure possibilities for its product. Such vertical scale-economy has also acted as an entry deterrence during the period.

The need to invest large initial capital in order to compete creates another barrier to entry. It is believed that, in general, syndicators do not require a substantial working capital to start a programming distribution business, since they are not required to build any fixed facilities, maintain physical distribution channels, or stock up sizable inventories. Thus, the factor of capital requirement has not been a significant barrier to the newcomer of the syndication industry. However, the amount of capital required to produce a syndicated product is, very often, phenomenal. While many syndicators are financially associated with firms in the production stage, the need for up-front capital investment is still an important issue. In essence, it is postulated that capital requirements have not been an extensive barrier for all potential syndication entrants, but the need to invest large financial resources in the production stage might have deterred the entry of some production firms, which in turn, prevented the entry of the syndication arm of those firms.

It is observed that a multi-stage entry has not become the normal condition of entry for new syndicators to avoid possible product/price squeezes. New entrants do not have to be producers themselves to survive in the industry. There are enough existing independent producers to supply programming product to new independent syndicators.

Nevertheless, because an existing, bigger syndicator is often perceived to be more experienced to distribute a syndicated program, a producer may prefer an existing syndicator over a new entrant to represent his important product.

Furthermore, existing firms may have cost advantages not replicable by the newcomers no matter what their size and attained economies of scale. For example, some established firms may have the learning or cumulative experience that sometimes contributes to the decline of unit cost of the firms' product (Porter, 1980). The notion of learning/experience curve entry barriers is not really applicable to the syndication industry according to its traditional meaning of the advantage of skilled labor and production. However, the exclusive ownership of certain popular syndicated programming can actually be considered as a proprietary advantage of many existing syndicators. During the last ten years, the occurrence of many hit shows has made many syndicators the leading firms of the industry. These syndicators have acquired a kind of reputation advantage which gives them first choice of top writers, directors, and other creative personnel. Basically, it's difficult to compete with existing companies who are well established through the ownership of popular syndicated programs. With good reputations, they have "advantage of being there first" and such reputation advantages take time to overcome.

Barriers to exit are economic factors that keep firms competing in businesses even though they may be earning low or even negative returns on investment. In general, the sources of exit can come from "specialized assets," "fixed costs," and "strategic importance" (Porter, 1980). Syndicators do not normally have any highly specialized assets or carry high fixed cost from fixed plant/equipment. The factor of strategic importance is more applicable to the industry. Strategic importance refers to the need for a firm to stay in the business because of its strategic position in a diversified corporation. It is similar to the idea of a "committed presence." Strategic importance can take forms of image, marketing ability, access to financial markets, shared facilities, and so on (Porter, 1980). Though many syndicators are part of a diversified media conglomerate, these syndicators are also the most successful divisions of the industry and have no intention to leave the market. Thus, the exit barriers have not been evident in the industry, at least, not to the extent to prevent a departure of a syndicator.

Chapter VIII

BEHAVIORAL AND PERFORMANCE ANALYSIS OF THE INDUSTRY COMPETITION

In this chapter, the television syndication industry is analyzed from behavioral market perspectives in attempting to answer the second research question about the degree of market competition during the past decade. As "conduct" links an industry's structure to the quality of its performance and is regarded as an essential feedback influence to market "structure" in this study, market conduct such as pricing behavior, product research and development, and product promotion strategies are reviewed to provide a behavioral perspective of market competition. Also, a brief review of market performance is presented to demonstrate general financial conditions of the competitive, successful syndicators. Finally, the major factors affecting the competition status of the industry are evaluated at the end of this chapter. The proposed factors are derived from the general examination of the industry's history, regulatory development, market operation patterns, and the industrial organization structure-behavior-performance analysis in the preceding and present chapter.

Behavioral Analysis of the Industry

As previously indicated in the review of structure-conduct-performance paradigm, market structure forms the basis for market conduct, which in turn, affects firms' performance. And since this study subscribes to the behavioral approach of industrial economics, the collective force of firms' conduct is also expected to have feedback effects over market structure. Thus, even if there is no objective means of measuring market conduct, an industry study based simply on a structural analysis would be incomplete without a general examination of the competitive behavior of the firms in the industry. For example, monopoly power is only a functional term, possession of market power does not constitute the <u>exercise</u> of market power. A structural analysis with a conclusion of excessive market power possessed by some leading firms may be misleading when there is no further behavioral discussion on the "practice" of that market power.

In general, behavioral analysis refers to the study of the policies and activities of a firm or firms regarding market decisions in dealing with competitors. Three major issues are normally addressed in a market conduct/behavior research: 1) pricing policies, which involve setting price levels and discounts for product; 2) product policies, which involve the strategies employed by firms in determining how to position their product in the market; and 3) responses to competitors, which involve decisions to discourage entrants or coerce rivals (Caves, 1982). The author will study the market conduct of syndicators through an examination of their pricing behavior, product research and development efforts, and programming sales and marketing practices.

Pricing Conduct

Firms that are not under a perfectly competitive market structure, as syndicators are, generally price their product based on the nature of the market demand, the desirable return rate, or the condition of price competition in the market (Picard, 1989). Since syndicated product is produced individually with different production ingredients (i.e. cast, budget, crew, etc.) for every program, no two products are identical. As a result, instead of one measure of price elasticity for the market product, every syndicated program has its own individual demand curve and associated elasticity. It is postulated that syndicators, while applying one or more of the mentioned pricing rationales, price their program individually according to the perceived value of their product, after considering the perceived degree of close substitutes available.

During the last ten years, from the gradual growth in the early-1980s to the boom years in the mid-1980s, and then the slower pace after 1986, the general price of syndicated product has taken a roller coaster ride, mirroring the health

of the syndication business--except for popular and new/unknown shows.[56] This is an industry in which the hit programs command significantly higher license fees than the average product and brand new, unknown programs often sell for a minimum "give-away" price just to get on the air. Figure 5 illustrates the differences in price elasticity of demand between hit shows and new, unknown product. The pricing practices of the syndicators that distribute hits and new product will be discussed further.

It is observed that the syndicators of successful syndicated product often operate under two pricing stages. While the pricing level of the initial stage is moderate for off-network reruns and much lower for first-run shows, as soon as the ratings prove that the programs are popular, the second stage pricing level that reflects the inelasticity of these hits takes over. A mega-hit like "The Oprah Winfrey Show" has in some cases commanded 300 percent increases. For example, Kansas City's WDAF paid an estimated $1,000 per episode for the show during its premiere-year run, but lost the show the following year when it balked at the new $4,000-plus price tag. Competitor KMBC then picked up the show (Channels, Feb. 1988, p.44). Twentieth Century-Fox's increase of license fees for it popular "M*A*S*H" was even taken to the courts in four different television markets when these stations claimed that the syndicator breached the contract by raising the price that was guaranteed in the old license agreement.[57] In essence, because of the inelastic

FIGURE 5: PRICE ELASTICITY COMPARISON OF HITS AND NEW PROGRAMS

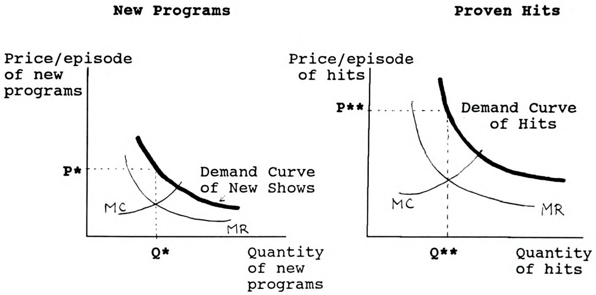
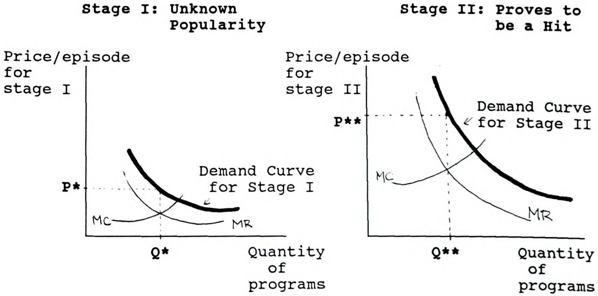


FIGURE 6: PRICE ELASTICITY COMPARISON OF THE PERIODS BEFORE AND AFTER PROGRAMS PROVEN TO BE POPULAR



nature of successful shows, the distributors of the proven hits have the market power to manipulate price levels to earn a substantial "excessive" profit. Figure 6 illustrates the change in price elasticity of demand before and after a program proves to be a hit. The demand curve for the same product becomes more inelastic after it is warmly accepted by the audience, as measured by the program's ratings performance. This means its syndicator is able to charge higher license fees in stage 2. However, note that there are only a very few "programming elite" among hundreds of programs that make it to that stage every year. Table 21 presents a list of top syndicated shows and their record-high license fees during the periods of distribution.

The most visible syndicated program on the list, "The Cosby Show," has not only generated a record high license fee per episode ($4.8 million!), but also pioneered some creative pricing practices in the market. In addition to the high license fee, Viacom set up an unprecedented bidding procedure for the off-network show's barter time. The reruns' barter minutes, which are awarded to the highest bidders--including other syndicators, advertisers, or agencies, were said to have "minimum" bidding prices of $45,000 per 30-second unit for a three-and-a-half-year commitment or $55,000 per unit in the block of 10 for one year contract. While the deal has made Viacom a "richer" company through a distribution fee of 32.5 percent of the license fees and commercial time proceeds and recoupment of the out-of-pocket distribution expenses,

TABLE 21: LANDMARKS IN SYNDICATION PRODUCT PRICES 1979-1990

Year	Program	Syndicator	Ratings*	Price per episode**
1979	Happy Days	Paramount	9.8	$400,000
	M*A*S*H	Fox	10.1	$250,000
1981	Laverne & Shirley	Paramount	8.4	$650,000
1983	Three's Company	D.L. Taffner	10.3	$850,000
1984	M*A*S*H (renewal)	Fox	10.0	$900,000
1986	Magnum, P.I.	MCA	6.4	$1,750,000
	Gimme a Break	MCA	6.2	$1,000,000
1987	Cheers	Paramount	6.8	$1,650,000
	Family Ties	Paramount	8.0	$1,400,000
1988	The Cosby Show	Viacom	11.5	$4,800,000
	Kate & Allie	MCA	4.9	$1,200,000
	Night Court	Warner Bros.	6.7	$1,100,000
1989	Who's the Boss?	Columbia/Embassy	6.8	$2,500,000
	Growing Pains	Warner Bros.	5.3	$910,000
1990	Head of the Class	Warner Bros.	NA	$950,000

*These numbers are based on the ratings records of the years when the listed license fees were charged.

**These are estimated total license revenues per episode across all markets. Barter revenues are not included in the calculation. Because of the unavailability of the accounting information for the programs that also generated barter advertising revenues, it is not possible to standardize the units of analysis for comparing programs with different barter terms and pure license fee arrangement.

Sources: Paul Kagan Associates Inc.'s <u>TV Program Investor</u>.

the bidding arrangement also demonstrated the degree of market power a successful show can accrue to its syndicator (Television/Radio Age, May 2, 1988, p.70).

It is believed that the high prices of proven programs have actually affected the price level of the new and unknown shows by gobbling up a big piece of the program-acquisition budgets of television stations, making these program buyers very price-sensitive to the new product with unpredictable performance. Syndicators that distribute new first-run programming have to not only price their product on a below-market price level, but also put extensive efforts into the marketing of the product. The practices have worked to the advantage of the syndicators that have financial clout generated from the distribution of successful shows. To be more specific, the leverage brought in by the proven hits has permitted their syndicators to take risk in the selling of new first-run shows by enduring lower license fees in year one and making up for shortfalls during the next two or three seasons. For example, Fox sold its "A Current Affair" at giveaway price the first year; once ratings proved it a strong contender, the show was renewed at license fees 10 times higher than the old price (Haley, 1989). With successful reruns like "M*A*S*H" and "The Fall Guy," Fox evidently had the financial clout to employ such pricing practices.

There is also some evidence of "block booking" or "tiered deal" practices. For example, Paramount tried to establish a new musical talk strip, "The Party Machine with Nia Peeples," by pairing it together with the sale of "The Arsenio Hall Show." The new show was packaged as a companion piece in the renewal contract Paramount offered to the stations that were already carrying the successful late night talk show. Stations could either renew the show under Paramount's terms or Paramount would take "The Arsenio Hall Show" to other competitors in the markets. Such tiered deals do not necessarily work to the advantage of the syndicators'. Since a tiered sale normally permits a station to buy the secondary show and decide later when to air it, these syndicators are uncertain about the time periods their tiered programs will end up, and consequently, they are unable to either project the license fee revenues or arrange accurate barter time sales for these shows. Thus, the tiered selling practices make it harder and more complicated for smaller syndicators to launch their new first-run shows.

On the other hand, if a syndicator has the clout to pressure its station buyers to stick to a certain time period through some contract terms, the arrangement would certainly give the syndicators a useful selling tool and extra leverage vis a vis other new shows. In fact, with the selling clout generated from their successful programs, those major syndicators are in fairly good position to make demands and are very likely to benefit from such tiered sales. For instance, Paramount's contract for "The Arsenio Hall Show" and its companion piece called for such measures as payment of "liquidated damages" if stations fail to broadcast "The Party Machine with Nia Peeples" in promised time periods and retention of four barter minutes per night (Broadcasting, June 4, 1990, p. 32).

Product Research and Development

It is clear that the right to distribute hit shows elevates a syndicator to a superior competitive position in the market. And what better way to exploit that right than participating in the research and development of the first-run syndicated programming? In fact, as the available time slots for syndicated product have become more limited and the station buyers have tightened their budget string, very few syndicators can afford to make any instinctive decision in the distribution of risky first-run product without doing a certain amount of research or testing on the product. However, not every syndicator has the financial ability to produce pilot shows for market testing. It is more common for syndicators to analyze the elements of proven first-run performers and try to distribute the shows that possess similar attributes.

In 1990, a new development surfaced; an innovative company came out with a plan for raising money for programming through public financing. King World, a major first-run series distributor, created a publicly traded company to share with outside investors the risk of developing new programs. While the production, development, advertising, promotion and other third party distribution expenses of new programs are divided evenly between King World and this new company, they also equally split the net receipts from distribution fees (Broadcasting, July 23, 1990, p. 66). The interesting point of this arrangement is that the new company does not share any distribution responsibility nor does it have any independent management or employees, it is simply a risk as well as profit sharing entity. Such a move is expected to minimize the risk of programming R&D for King World.

King World has also entered a joint venture for developing and researching first-run programming with another major syndicator, MCA, at the end of the decade. With a start-up investment of $10 million from each company, the two put together a "Research and Development Network," which is comprised of 21 television stations owned by seven major station groups, for testing their first-run new shows. As for the participating station groups, their top managers sit on the executive board of the R&D network, sharing the responsibility of determining the blueprint for pilot shows. In addition, the stations receive a discounted price from the normal cash licensing fee as well as a proportion of the program's syndication revenues. In 1990, a pilot talk show, "Tim and Daphne," started a 20-week market testing on the R&D network. It seems that only larger syndicators have the resources and leverage to carry out such R&D projects.

In essence, the research and development for first-run syndicated product, though important, has not been widespread in the market. Only a few major syndicators with financial clout or innovative arrangements have tried to invest in such practices. In fact, the research on the success formula of established shows has been a more common R&D approach among syndicators. As for off-network reruns, since the product has already been developed, syndicators have again concentrated their efforts on deriving the key elements of a successful rerun. For example, both Paramount and Warner Brothers have developed "syndicator indicators" that track the commonality of demographic composition among hit and flop off-network shows.[58] Nevertheless, such success formula development actually has more to do with product marketing and promotion than product research and development.

Product Sales and Marketing

The sales and marketing of syndicated product have been the main focus of the business activity in the industry. Since the success of a product is critically linked to the initial lineup and time scheduling of its television buyers, a well-planned and attractive marketing package can make a big difference in establishing the license fees as well as advertising revenues for a syndicator. Even for a proven performer such as "The Cosby Show," its distributor, Viacom, made a $10 million premiere promotion investment when the series entered the off-network syndication in 1988.

It is observed that during the last decade, some major syndicators have utilized the leverage generated from their successful product in getting the new programs off the ground through the practice of tiered deals. As alluded to above, Paramount tried to promote a musical talk strip, "The Party Machine with Nia Peeples," by pairing the two together in the sale of "The Arsenio Hall Show," hoping that riding the coattails of syndication's highest-rated hour late night strip would make the show a success. For small to medium syndicators that often lack sufficient financial backing in the marketing of new shows, some innovative marketing schemes have also been invented in response to their needs. One famous arrangement is called the "Revenue Sharing Alliance" popularized by Harmony Gold. The plan binds the stations and syndicators together as partners by arranging mutually agreeable air schedules for revenue shared programs and spliting the net revenues of the ad sales in the programs on a 50-50 basis between the syndicators and the stations. This marketing concept is seen as helping independent stations on the one hand in buying product they cannot afford, while on the other giving syndicators the needed clearance edge to make a product viable.

As innovative marketing strategies continue to be a visible aspect of the syndication industry, the sales and marketing efforts of many syndicators have gradually moved away from the mid-1980s' cooperative scheme to the more

competitive approach in the late-1980s. During the rapid growth period in the mid-1980s, many syndicators cooperated in the distribution of each other's product. For example, Tribune handled the advertising sales of some ad-hoc "film networks" for Embassy. And Tribune had relied on Paramount for selling its two talk show strips, "Geraldo" and "The Joan Rivers Show" (Broadcasting, Oct. 1, 1990, p. 36). The popularity of movie syndicated product produced a flurry of ad-hoc film networks in 1985 and created some more alliances between the syndicators who had no direct affiliation with major Hollywood studios (Television/Radio Age, Dec. 24, 1984, p. 96, and Aug. 18, 1986, p. 74). For instance, Viacom and Tribune once established an ad-hoc network, TV NET, which offered movies to television stations on a monthly basis. Alliances in which syndicators form co-ventures to collectively sell their barter time to advertisers have also been a common practice in the industry. Columbia and first-run veteran, LBS, once formed a co-venture called Colex Enterprise to distribute on a barter basis some of the older off-network series from Columbia's library.

As the growth of the syndication industry slows down, there is paradoxically more competitive conduct even in face of greater observed concentration. Some syndicators have gone to great lengths to position their programs above the rest. Those efforts vary in their degree of aggressiveness, ranging from the assault of the negative research piece, to customized pitches to individual stations, to trade ads described as misleading at best, to casual telephone conversations.

The most visible shift from cooperative to competitive spirit can be illustrated in the development of the Tribune-Paramount relationship. Tribune took the distribution rights of "Geraldo" and "The Joan Rivers Show" back in 1990, claiming that it is expanding its program development and sales activity. However, it was speculated that the Tribune-Paramount relationship was spoiled when Paramount decided to produce and distribute a competitive talk show hosted by Maury Povich, the former anchor of "A Current Affair." Furthermore, a nasty negative promotion campaign was initiated. Some anonymous research pieces attempting to trash Povish and his past track record on "A Current Affair" were circulated among broadcast stations. It was speculated that Paramount's strong competitors, Buena Vista and King World were the originator of the negative campaigns (Broadcasting, Nov. 5, 1990, p. 44). The atmosphere of the industry was definitely changing as syndicators entered the new decade.

Besides the use of negative campaigns, during this period, many syndicators have increasingly presented biased or misleading ratings information through comparative trade ads to boost the sales of their programs. LBS has taken out ads attacking the poor performance of most of the new strips, and Columbia has also placed ads that indicated the decline of ratings of its competitors' shows. Some comparative ads attacks were even misleading as they were based on premature ratings information. For example, ITC created some controversy when it claimed that its "Tic Tac Dough" was "the best new game in Los Angeles" simply based on three nights of overnight ratings for the market.

As the television programming market has become more sophisticated and the audience more fragmented, the cost of marketing and promoting syndicated programs, especially for first-run product, has increased substantially. Furthermore, because of syndicators' increasing reliance on barter programming, the responsibility of program promotion has also expanded for syndicators. In today's multichannel environment, a simple marketing package with a couple of clip promotion kits is no longer welcomed by the station clients. Most syndicators have been producing full-blown commercials, which may cost 10 times as much as the old clip promos. The situation is more evident for major syndicators who have several strips on the air at the same time. Buena Vista has established a creative-services department that employs over 20 people just to do the promotion work with station clients. And at Warner Brothers, the promotion and advertising department employs a full-sized staff of 15 (Television/Radio Age, June 12, 1989, p. 39).

The promotion of children's programming is another area where syndicators have pumped in a substantial investment. With almost all syndicated children programming relying on barter advertising dollars, Warner Brothers and Buena Vista

have spent up to $100 million each to promote their new programs and characters.

In essence, budgets for promotion continue to rise or are at least the same, despite the softer syndication economy. Market-by-market customized promotional approaches that fit a particular station's environment have become commonplace in promotion. Also, the work of promotion has become a serious partnership between syndicators and stations. For example, besides regular contacts between both parties, the Broadcast Promotion and Marketing Executives and Broadcast Designers (BPME) conferences have grown to be another important convention in which broadcasters and syndicators, with the same motivation of increasing viewership, team up to develop marketing campaign strategies for their programs.

Performance Analysis of the Industry

The ultimate purpose of industrial organization research is generally presented in normative terms, that is, to assess an industry's market performance in relation to the well being of the society (Busterna, 1988). Performance factors such as efficiency and equity are often used for analyzing industries under this normative approach. Nevertheless, the goal of this dissertation is to provide an extensive industry survey and analysis rather than an investigation of the causal linkage between market structure, conduct, and

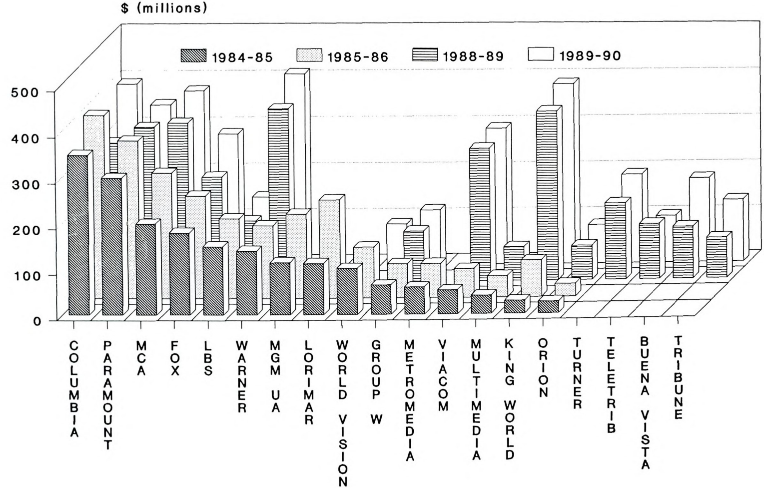
performance for the making of public policies. A practitioner approach that examines firms' economic well-being is adopted for the analysis.

Economists often recognize that as the performance of firms is a complex and multidimensional phenomenon, multiple economic variables may be needed for a more complete performance ascertainment. Thus, in addition to the programming market shares discussed earlier (see Appendix A), the author also uses two other common economic performance indicators, firm revenues and Return on Equity (ROE), to analyze the performance of syndicators.

In general, the programming performance of a syndicator is very closely aligned with its revenues. Such an observation was anticipated since a program's ratings record is the critical factor in pricing, and thus, the total revenue generated for the product.[59] Figure 7 illustrates the revenue trends for the top 15 syndicators in the mid-1980s and at the end of this decade, a more detail revenue list of these syndicators is presented in Appendix B.

It is seen that during the mid-1980s, the major studio-syndicators that were active in producing network programs and later distributing many off-network reruns seemed to be dominating the revenues chart of the industry, while the syndicators that dealt primarily with first-run product generally generating less revenues. As first-run syndication became more prominent in the second half of the decade, first-run syndicators began seeing more programming revenues.

FIGURE 7. THE TOP 15 SYNDICATORS AND THEIR REVENUE PERFORMANCE



Among these companies, King World appears to be the jewel of the crown with more than $350 million annual revenues and was ranked among the top three revenue leaders at the end of the 1980s.

An overview of both the programming market shares in Appendix A and the revenues trends in Figure 7 reveals that those syndicators who are closely affiliated with the major Hollywood studios are consistently among the best performers in the market. Syndicators such as Paramount, Columbia, 20th Century Fox, and MCA (Universal) who have been the leading studios in the theatrical film industry have also dominated the syndication market during the last ten years. The vertical integration between producers and syndicators appears to have played a significant role in obtaining attractive programming product and generating substantial programming revenues for syndicators. Nevertheless, the rise of King World also demonstrates that the Hollywood affiliation, though important, is not the only way for a syndicator to achieve successful market performance. There is always room for innovators, forward-thinking companies to command above average performance.

The horizontal mergers between some syndicators seems to have also elevated certain firms into very good performance positions. Consolidated firms such as Columbia/Embassy have consistently led the industry in revenue performance. And the merger between Lorimar-Telepictures and Warner has significantly improved the performance record for both

companies. The financial combination of these major firms appears to have further magnified their dominant role in the industry.

Besides the vertical and horizontal high performance phenomena, two other groups of syndicators are observed to generate above average revenues and distribute fairly successful syndicated product. The first group comprises syndicators that are a part of a media conglomerate with business interests in many media industries. Firms like Viacom and Group W (Westinghouse) are very important players in the industries such as cable television, broadcast, and even satellite services. Being part of a diversified, financially secured conglomerate seems to help syndicators in achieving better market performance. Note that Viacom's revenues performance has improved tremendously since 1988, largely due to its sales of the most expensive syndicated program in history, "The Cosby Show."

The other high performance group includes those syndicators that are not affiliated with any powerful media corporations but are the originators of some record-setting first-run product during the last decade. Examples are King World and Lexington Broadcast Services (LBS). These first-run pioneers have generated substantial revenues through the distribution of popular shows like "Wheel of the Fortune" and "Family Feud." As mentioned previously, it is clear that affiliation with another major player, production stage members, or media conglomerates is not the only way to achieve better performance in the syndication market. If a syndicator can initiate a hit first-run show that requires only moderate investment (e.g., game and talk show format), the syndicator would be able to lessen the deficit-financing burden, and thus generate substantial revenue income through the distribution of its strong shows. Such a success formula is still the hope of many smaller syndicators for becoming one of the top performers.

Though sales (revenues) and profits are often shown to be highly correlated in business research, an examination of a firm's profitability can reveal more information about the firm's operational efficiency that sales figures cannot. Thus, besides using "revenues" as an index of market performance, an important indicator of profitability that measures the net income a firm makes per dollar of shareholders' investment, "Return on Equity" (ROE), is also used to evaluate syndicators' performance. Note that the ROE ratios for the syndicators that are part of a diversified media firm are based on the overall net income and owner's equity of the corporation, since all of the accounting information available to the public does not specifically separate a firm's syndication net income from the rest of its business'. Thus, it is suggested that this profitability evaluation should be reviewed in combination with other performance indices. For example, while Tribune and Gannett appear to have performed very well in terms of ROE ratios, they have never been among one of the top ten revenues syndicators because of their small corporate interest in the syndication business. A single ROE analysis would then be misleading for these companies. The ROE ratios and graph illustration for the major publicly traded syndicators are presented in Table 22 and Figure 8.

One of the revenues leaders, King World, has evidently demonstrated a superior profitability performance during the last ten years, with an average ROE of 73 percent that no one in the industry could match. Besides this heavy-weight first-run syndicator, other syndicators that distribute primarily first-run product seem to also perform fairly well. In fact, they seemed to reach generally higher ROE ratios than those studio-syndicators.

It is observed that syndicators who have been closely associated with Hollywood studios are no longer the leading performers. The vertical affiliation, that brought in more off-network reruns and thus more revenues for these syndicators, did not seem to have created any superior operational efficiency as illustrated by the ROE ratios. In essence, while constantly among the leading firms in terms of revenues performance, studio-syndicators appear to become less dominant when other factors such as expenses and efficiency are considered.[60] This pattern, however, is not applicable to Disney (Buena Vista). While it has not been one of the top revenues leaders, Disney has successfully grown into a healthy, efficient company and was among the leading syndicators in profitability performance.

TABLE 22: RETURN ON EQUITY RATIOS FOR MAJOR SYNDICATORS*

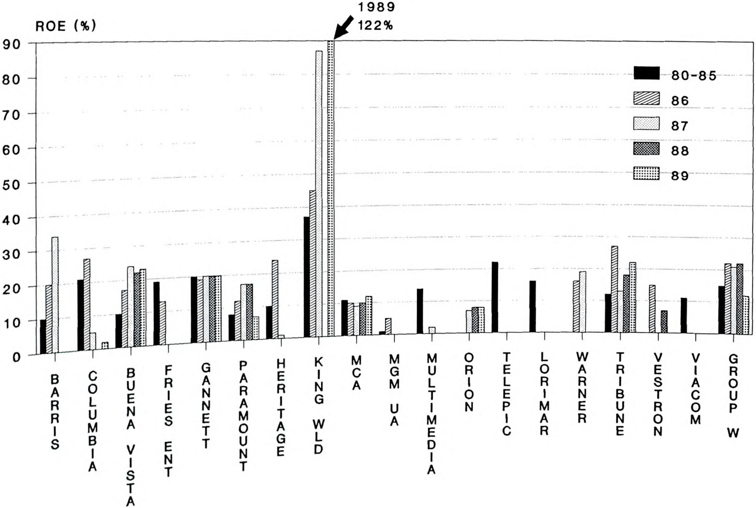
Syndicator**	**'80-'85 ROE**	**'86 ROE**	**'87 ROE**	**'88 ROE**	**'89 ROE**
King World	37%	45	87	N/A	122
Disney (Buena Vista)	10	17	24	22	23
Tribune	12	27	13	18	22
Gannett	20	19	20	20	20
MCA	11	10	9	10	12
Westinghouse (Group W)	15	22	21	22	12
Orion	N/A	-28	7	8	8
Gulf & Western (Paramount)	8	12	17	17	7
Columbia	21	27	5	-10	2
Telepictures	22				
Lorimar	16	-11^	-15		
Warner	-21	16	19	-42	-6
MGM/UA	1	5	-33	-23	-23
Fries Ent.	19	13	-1	00	-23
Heritage	10	24	1	00	-30
Viacom	11	-2	-23	-40	-40
Multimedia	14	-1	2	N/A	N/A
Barris	10	20	34	N/A	N/A
Vestron	N/A	15	-63	7	N/A

*All ratios are based on the overall companies' net income and equity. Thus, for diversified media firms, the ratios do not reflect only the ROEs for syndication business. **All syndicators are listed under the rankings of their ROEs in 1989.

^in Channels 1987 report, the figure is .01 instead of -.11.

Sources: The Channels Achievers, Channels, June 1986; The Channels Achievers, Channels, June 1987; The Channels Achievers, Channels, June 1988; and The Channels Achievers, Channels, June 1990.

FIGURE 8. RETURN ON EQUITY RATIOS (ROE) FOR THE MAJOR SYNDICATORS*



*For diversified companies, the ratios reflect the ROEs for all operations.

With a growing level of concentration, a fairly constant bargaining power from the buyer, and limited exit barriers, the structural analysis in the previous chapter has clearly demonstrated the trend toward concentration in the industry. Since there have only been a few major consolidation activities occurring during this period, it is concluded that the increase in levels of concentration was due to the internal expansion of individual syndicators rather than the combination of different top syndicators. Though the examination of syndicators' market conduct detected no significant collusion behavior, it did reveal certain exercise of market power, especially in the area of price setting and subsidization over the development and marketing of new first-run product. In addition, the conduct analysis has suggested that the residual degree of competition in the industry has been focused at the sales and marketing end of the business rather than the research and development of new, differentiated product. In summary, this structure-conduct-performance analysis has provided an answer to the second research question of the dissertation--<u>the syndication industry has become less competitive during the past ten years</u>.

Major Factors Influencing the Market Competition

So far four phases of study have been completed that provide the foundation for the exploration of the major

factors that have been crucial in the competition process among syndicators in this period. The review of syndicated programming economics has first laid the groundwork of research by explicating the basic economic elements and dynamics of the industry. The preceding discussion of market operation patterns and expansion has further demonstrated the essential competitive market practices during the period. And the third phase of the study, the investigation of the related government policy and its market impacts, has disclosed the condition of the critical regulatory environment that has embraced syndicators' competitive practices for the last ten years. Finally, the analysis of the industry competition in the last two chapter has thoroughly illustrated the specific structural, behavioral, and performance development of the syndication market. Based on all these economic, regulatory, market practices, and industry competition information, seven factors are concluded to be the major forces that have been influencing the competition status of syndicators in the last decade.

Internal Factors

These major forces are discussed under the labels of internal and external factors. While the internal factors deal with the specific economic conditions of the syndication industry, the external factors involve the general economic conditions of the media industries as well as the economy as

a whole. Note that both the internal and external forces are arranged under the order of perceived importance in the process of competition in the syndication industry.

Scarcity of Time Slots/Number of Successful Shows

The problem of time scarcity has obviously influenced the way syndicators conducted their business. Because of an unprecedented number of successful shows in the market, while the industry is becoming more concentrated, it is, at the same time, becoming more limited in the domestic market. It is postulated that as the exhibition window tightened up, syndicators have had to pay more attention on the sales and marketing of their new product. And as a result, the <u>financial leverage</u> of large companies has become indispensable. The scarcity condition has also put existing firms with successful shows in very secured and competitive positions as new programs must settle for less desirable time spots, and thus have difficulty to realize their full potential. Such access problems are ubiquitous throughout the many mass media industries; the ability to secure access usually separates the winners from losers in these markets.

Trend of Vertical Integration

Vertical integration has been an important factor in all phases of the analysis. The financial affiliation appears to place certain syndicators in more competitive positions by bringing these firms advantages in the supply, exhibition,

and sales/marketing of their product. It is also observed that while the vertical association between the companies in the production stage and the syndicators in the distribution stage are more of a historical evolution occurring before the 1980s, the partnership between syndicators and exhibitors is a more recent development and more of a strategic plan taking place during the last decade. In summary, the trend of vertical integration has critically affected the market competition of syndicators by granting those larger, integrated companies a competitive edge over smaller, stand-alone syndicators.

Fox Network and Home Shopping Channels

The development of the Fox network service and the home shopping channels during the last decade have also changed many aspects of the syndication business. The roll-out of the Fox network programming schedule has taken more time slots away from independent stations that used to be filled with syndicated product. It also means that there has been a redistribution of programming demand as more syndicated programs have been bought by even smaller non-Fox independent stations that pay less license fees. Home shopping channels have further contributed to the problem of time scarcity. By acquiring television stations and converting them into shopping channels as well as providing home shopping programs that include profit-sharing incentives to fill many stations' air time, home shopping channels have somewhat lessened the

demand for syndicated product.

Barter Practices

The trend of barter practices has played a significant role in the development of the syndication market in this period. While barter syndication has become more widespread, it has also worked to the advantage of certain syndicators. It is postulated that barter advertising has benefited larger syndicators that have more bartered programs or those that have barter advertising subsidiaries (e.g., Teletrib for Tribune and Premiere for Paramount and MCA). The economies of scale generated from the distribution of many barter programs have presented these syndicators a cost advantage.[61] Furthermore, when a barter term is arranged for the sale of a product, its syndicator also becomes the major risk bearer. And smaller syndicators have only limited financial backing for upholding such risks.

External Factors

The following external factors have impacted the market competition of syndicators in a more indirect fashion. Nevertheless, they have been as significant as the other factors.

Soft Economy and the Price-sensitive Station Buyers

The financial difficulty many television stations have been facing after the frenzy of license transfers in the mid-1980s has transformed these stations into very prudent, price-sensitive programming product buyers. They have spent more time in collecting product information; they are more deliberative in programming purchasing and making scheduling decisions. In summary, they have become tougher customers to sell to because of their financial debt. The softer advertising market beginning in the late 1980s has further intensified the situation. With the buyers' tighter purse strings, the sellers have to try even harder in the sales and marketing of their product.

Fragmented Television Market and the need of Promotion

Finally, during the past ten years, our media environment has become much more complicated with many different delivery systems available for providing television programming services. Facing the choice of broadcast television, cable television, direct broadcast satellite services, VCRs, and others, the audience for the last decade has become more and more fragmented. To encounter such a viewing environment, syndicators, with the help from their product exhibitors, have been investing heavily in the promotion of their product. As the ratings performance of their product is the livelihood of the whole business, the need for product promotion and the scale of the promotion has again worked to the advantage of the syndicators that have the financial clout to conduct the task and the size to

benefit from the economies of scale while accomplishing it.

Growing International and Cable Markets

The privatization and commercialization of the media systems worldwide has worked to the advantage of the American programming market. While the domestic market has been maturing, the international sales of syndicated product has started to rejuvenate the growth of the syndication industry. It is postulated that the international demand for American programming has benefited the larger syndicators that have established international business connections more than the smaller domestic syndicators without international sales expertise. The demand of syndicated programming from the cable industry has also contributed to the expansion of the tradition syndication market. In fact, this group of buyers has replaced independent stations to become the major purchasers of certain syndicated programs (e.g., hour-long dramas and movies). It is believed that syndicators who are part of a media conglomerate, with ties in the cable business, have had greater strategic leverage as well as opportunities in the selling of their product.

Chapter IX

SUMMARY AND CONCLUSIONS

In this final chapter, a summary of the research approach and results will be presented. Discussions on the economic and regulatory implications of the study, contributions to the field of media economics, and the limitations and suggestions for future research will also be addressed.

Summary of the Study

In general, the significant role syndicators have played in our television environment, the industry's tremendous development during the past decade, and the limited research that has been documented in this field form the basis and rationale for conducting a new comprehensive study of the market dynamics of the U. S. television syndication industry. Accordingly, the emphasis of this dissertation was placed on the research of the industry's operational characteristics, regulatory environment, and the trend of competition during its most active years, 1980 to 1990.

Four research phases were designed to answer the research questions about the regulatory development, market competition, and major factors that have influenced the trend of market competition in the syndication industry. The

review of the syndicated programming economics and regulation rationale in phase one first laid the groundwork for research by explicating the basic economic elements and dynamics of the industry and explaining the foundation of regulation in this industry. The succeeding discussion of market operation patterns and expansion in phase two further demonstrated the essential competitive market practices during the period. The third phase of the study, the investigation of the related government policy and its market impacts, disclosed the condition of the crucial regulatory environment that has embraced syndicators' competitive practices for the last ten years. The analysis of industry competition in phase four illustrated the specific structural, behavioral, and performance development of the syndication market. Finally, based on all these economic, regulatory, market operation patterns, and industry competition information, seven factors were concluded to be the major forces that have influenced the competition status of syndicators in the last decade.

In an effort to generate market conduct information for the competition analysis as well as provide a comprehensive industry survey, some major operational patterns that characterize the syndication market were identified. The discovery of these patterns has furnished a new approach to examine the industry and led to the revealing of a new steady state equilibrium portion.

The first pattern was the <u>scarcity of time periods</u> for

syndicated program exhibition. While successful syndicated product has locked up many stations' licence fee budgets and key time periods, there has also been lessened exhibition space created by a decreased number of station exhibitors. A scarcity of programming shelf space has become one of the biggest issues for syndicators in the 1980s. The second operational pattern is the first-run deficit financing phenomenon. Because of the rising production and distribution expenses and the lack of financial backing, many first-run syndicators have been forced to accept initial losses to stay in the market. While the television economics have made it a difficult task for those smaller syndicators to endure the financial burden, the greater reliance on barter advertising during the 1980s has also transferred more risk from stations to the syndicators, making first-run syndication an even riskier business.

The third pattern discussed was the role of rep programmers. In the past ten years, rep programmers' extensive research data and national programming perspective have helped local stations make programming decisions under their resource limitations. At the same time, rep programmers have also offered syndicators a cost-efficient way of doing business by acting as a middleman for disseminating product information to stations across the country. Another operational pattern reviewed was the group buying and cooperative production phenomenon. During the last decade, many major broadcast station group owners have entered joint ventures to buy original syndicated product; certain group owners have even assumed syndicators' role and produced their own first-run programming for the exhibition on their stations as well as regional and even national syndication.

Vertical integration through financial ties of syndicators and their upstream as well as down-stream firms in the market is also a major operational pattern in the industry. Many syndicators are affiliated with either movie studios or integrated with broadcast stations, or even both. As the trend of conservative station buying and the scarcity of time slots continue, the vertical integration phenomenon has evidently been working to the advantage of bigger syndicators, leaving smaller independent syndicators fighting hard just to stay in the business.

The last operational pattern is the practice of barter advertising. As the national audience and the programming cost for syndicated programs continue to grow, more and more cost-conscious broadcasters have learned to alleviate the high capital investment in programming by participating in barter advertising. The practice has not only lessened many stations' financial burden but also transferred some of the risk of selling commercials in a soft advertising market to the barter syndicators. In essence, all of these patterns have individually and collectively characterized the operation of television syndicators during the last ten years.

Though the focus of this study is on the traditional domestic broadcast syndication market, an attempt was made to explore the development of syndicated product in the cable and international marketplace and discuss the growing importance of these ancillary purchasers to demonstrate the emergence of a new, transformed syndication industry (this might logically be termed the seventh operational pattern). It was concluded that basic cable purchases of syndicated product is more a supplement than competitor to the traditional broadcast sales. And basic cable networks' purchase of syndicated product can substantially be attributed to the sluggish demand of certain product in the broadcast market and the vertical integration relationship many big cable network buyers have with some major syndicators. In the foreseeable future, the mass distribution over broadcast stations is still the preferred financial market for syndicators.

In trying to assess the impact of the industry's regulatory environment on the nature of its market competition, the major regulatory development during the last twenty years was carefully examined. The specific regulations studied were the Prime Time Access Rules (PTAR), Financial Interest and Syndication Rules (FISR), the Consent Decrees signed by the networks to limit certain business practices, the syndication exclusivity (syndex) rules, and the Copyright Act of 1976 and its accompanying syndex surcharge.

It was concluded that the PTAR nurtured a favorable market environment for the development of television syndication in the 1980s by transferring the programming responsibility of a valuable prime period from the networks to local stations and lending stability to the demand for first-run syndicated product in the more profitable top broadcast markets. In general, PTAR transformed the early television syndication industry into a full-fledged programming market. Furthermore, the increased supply of non-network programming for network affiliates may have indirectly nourished the growth of non-network stations, the independent stations, by providing them with more product options to compete in the broadcast market. And such a growth may have contributed to a healthier demand for the syndicated products later.

In terms of the FISR rule, the regulation basically enacted a shift of "risk" from the networks to the program supplier, while the most intractable difficulty of the independent producers, the acquisition of sufficient financing, remained intact. Without the assistance of the networks and given the reluctance of programming financing from the banking community, the producers have turned to the major studios for financial help, which has worked to the advantage of these major program suppliers. More succinctly, the rule may have transferred the syndication income from the networks to the major Hollywood studios and moved the syndication industry away from being a natural supplementary market of the broadcast television industry to a close ancillary market of the movie industry. In essence, the FISR did not increase competition in television syndication, but actually created a market environment that was favorable to large syndicators, thereby, fostering the trend of concentration in the market.

As for the networks' consent decrees, it was concluded that the decrees provided more opportunities for non-network program suppliers to exhibit their products on the most valuable broadcast air time and subsequently generate the "real" programming revenues from off-network syndication sales. However, due to the risk-bearing and other factors as explained for the FISR, the decrees also enhanced the trend of consolidation in the syndication industry and encouraged the concentration of market power of the major studios.

In terms of "syndex," since the rule has somewhat constrained the programming practices of some regional independent broadcast stations, it has opened doors for general cable networks like USA Network, Lifetime, TNT, to provide similar programming formats to those stations. The re-imposition of syndex may have increased the demand for television syndication from the cable market.

Since the majority of the royalty payments is fed back to the motion picture industry, it was concluded that the immediate impact of the 1976 Copyright Act is the establishment of a significant additional revenue source for many creators (or copyright holders) of the non-network

syndicated programs in the movie industry. In essence, this regulatory development inevitably added to the financial strength of the motion picture industry, and may have further enhanced some major program suppliers' financial control over syndicated programs.

Also of special significance to the regulatory environment of television syndication in the last decade was the trend of deregulation under the Reagan administration. It is believed that the deregulation of commercials in children's programs contributed to the growth of an important syndication segment, the first-run animated shows, that subsequently established the importance of barter advertising in the syndication industry. The deregulation of the FCC multiple ownership rules which stimulated the frantic merger mania in the mid-1980s has also impacted the syndication industry. Because of the inflated selling price and the complicated transaction terms, many stations ended up with tremendous debt burdens and other financial difficulties, which resulted in a tighter budget for television programming. In terms of the trend of market competition,

the structural analysis revealed that, according to the concentration ratio indices, the syndication industry has grown from a moderately concentrated market to the threshold of becoming a highly concentrated programming market during the past ten years. Though the other concentration measurement, HHI, has painted a less concentrated picture of the industry according to the Justice Department Guidelines,

both indices have clearly demonstrated a steady increase of concentration level in the syndication industry during the last decade. And the trend of concentration is expected to continue. However, while growing more concentrated, the industry has also become relatively more unstable in terms of market shares. Such market instability suggests that competitive behavior is still present in the industry even when the structural measures of concentration levels have indicated a decrease of competition.

The further examination of the merger activities also disclosed that there have only been a few major consolidation activities occurring during this period. It is concluded that the increase in levels of concentration was due to the internal expansion of individual syndicators rather than the combination of different top syndicators. In addition, while structural factors such as buyer concentration, barriers to exit, and product differentiation seemed to have played a relatively minor role in the syndicators' competition, the advantage of scale economies and vertical integration that certain existing syndicators enjoy may have erected some entry barriers in the syndication industry.

Though the following behavioral analysis detected no significant collusive activities, it did reveal certain exercise of market power, especially in the area of price setting and cross-subsidization in the development and marketing of new first-run product. In addition, the conduct analysis has suggested that the residual degree of

competition in the industry has been focused on the sales and marketing end of the syndicated programs rather than the research and development of new, differentiated product.

The performance analysis of market competition further connoted some attributes that have been associated with the most financially successful firms during this period. First, those syndicators who are closely affiliated with the major Hollywood studios are consistently among the best performers in the market. Also, being part of a diversified, financially secure conglomerate seems to have helped syndicators in achieving better financial performance. However, while constantly among the leading firms in terms of revenues performance, studio-syndicators appear to become less dominant when other factors such as expenses and efficiency are considered.

Finally, those syndicators not affiliated with any powerful media corporations but the originators of some record-setting hit first-run product during the last decade have also demonstrated an excellent performance. It seems that there is always room for innovative, forward-thinking programmers. If a syndicator can initiate a successful first-run show that requires only moderate investment, the syndicator would be able to lessen the deficit-financing burden, and thus generate substantial revenue through the distribution of its strong shows. In summary, this structure-conduct-performance analysis has provided an answer to the second research question of the dissertation--the

syndication industry has become less competitive during the past ten years.

Finally, based on the research conducted so far, some market factors were concluded to have influenced the status of competition among syndicators during the past decade. While the internal factors, such as the trend of vertical integration, barter practices, the development of the Fox network and home shopping channels, have impacted the market competition in a more direct fashion, certain external factors, such as soft economy and the price-sensitive buyers, growing international and cable markets, and the fragmented television market and the need of promotion, have also indirectly affected the competition among syndicators.

Economic and Regulatory Implications

Based on the information gathered and the analysis conducted in this research, further discussion on the outlook of the syndication industry in the 1990s is presented next.

Syndicated Programs in the Broadcast Market

Since cable penetration is gradually stabilizing and the "must carry" rules which guaranteed the UHF stations access to cable carriage, eliminated their signal handicap and increased their viewership, are no longer in place, the growth of station population in the 1980s is not expected to

reoccur in the 1990s. With a slower growth rate for new television stations and a softer economy, the increase of demand for syndicated product is anticipated to largely come from the expanded cable and international syndication markets. In essence, the syndication industry will no longer be fueled by the growth in the number of stations.

As viewing levels for network programming continue to decline and there is more competition from other alternative video services, the quality of programming will become even more critical for the survival of local television stations. Both network affiliates and independent stations will still have to try their best to obtain popular syndicated programs while competing for advertising dollars. It is expected that, even with a slowdown in station population, the demand for popular syndicated programs will remain strong from the station community because of the increased importance of syndicated product for the surviving stations. And as more programming investment is made for original syndicated product from both the broadcasters and cable networks, the first-run syndicated programming should improve in quality and continue to replace marginal network reruns in the market.[62]

Barter Advertising

In terms of barter advertising, this advertising vehicle is expected to become one of the top choices in media planners' minds as the syndication audience continues to grow and syndicated programs improve in quality. Net barter revenues are estimated to grow to $2.55 billion by 1995 with a compound annual growth rate of 19.8 percent after 1988 (Channels, 1989). However, if the soft economy and the advertising outlook improve, more stations may prefer to retain more commercial minutes in their barter arrangement. In general, barter advertising will continue to grow, but the degree of its growth will largely depend on the nation's economic strength and barter syndicators' ability to improve both the buying process and evaluation reporting (e.g., ratings information), and thus make barter a more competitive alternative to spot and network advertising.

Syndicated Programs in the Cable Market

It was estimated that by 1995, syndication will be a significant segment of cable programming and earn a net revenue of $750 million from this market, seven times its current figure (Channel, 1989). With a healthy growth rate in basic service revenues, basic cable networks are expected to continue their purchase of off-network hour dramas and movie packages. In addition, since basic cable networks have played an increasing role in resuming the production of new episodes of cancelled network and first-run syndicated programs, the boundary of broadcast syndicated product (programs originally produced for broadcast stations) and

cable syndicated product (programs originally produced for cable networks) will become blurred. On the other hand, the trend for local cable systems to buy syndicated programs for their local entertainment channels is not anticipated to be widespread, since the "size" of a cable system is an important factor in justifying the cost of such an investment even when the programming is priced accordingly based on the size of its potential audience. A local market has to be large and efficient enough to support this kind of local origination channel.

As cable penetration continues and advertiser's acceptance of basic cable proceeds, there are some speculations that cable programmers may supersede broadcasters and make the broadcast market a secondary exhibitor to cable for syndicated products. It is postulated that the outcome of the product flow would not only be affected by the economic conditions of the two industries but also critically depend on the health of the economy, since commercial broadcasters generate their revenues exclusively from advertising sales. In principle, broadcasters present a better programming exhibition environment for syndicated product with wider audience reach and, normally, higher total revenues; however, during "rainy days," a sale to partially subscriber-supported cable networks, rather than to commercial broadcasters, may make the best economic sense to syndicators. In essence, as the television syndication industry continues to supply programming to local television

stations, cable networks, foreign terrestrial and satellite television services, and even cable systems, the boundaries between different video markets will become even more blurred. In the near future, with all these multiple video exhibition outlets, the syndication industry will probably become simply a "television programming" industry.

Syndicated Programs in the Foreign Market

It was estimated that the syndication revenues from the foreign markets will reach $4.0 billion by 1995 (Channel, 1989). The growth of international sales of the American syndicated product is expected to continue as more media systems in the regions like Europe and the Pacific Rim become commercialized and privatized, and more channels are available from the development of cable and direct broadcast satellite systems. However, a more modest pace may replace the golden growth rates as high as 25 percent during the late-1980s, since many European exhibitors have acquired enough product to get established and may eventually face competition from their home-grown programming industries.

Financial Interest and Syndication Rules

This study has clearly demonstrated the integral role the regulatory environment has played in the development of the syndication industry. As the industry is now at the

heart of another political revision--the modification of FISR, the new FCC decision is expected to create a profound influence over the direction of the industry in the years to come.

If the current FCC FISR ruling stays intact after the reconsideration process and court challenges, Fox Broadcasting Company will come out as the biggest winner as the new rule's "network" definition was especially designed to accommodate Fox's network schedule and encourage it to continue its growth into an established "fourth network." With the support from the FCC, Fox only has to limit its prime-time programming to no more than 15 hours to keep its syndicator-network status. Such a regulatory protection is indeed needed to foster the development of a disadvantaged media entity in a tight oligopolistic network environment.

In terms of the provisions pertaining to networks' participation in the syndication business, a continued preclusion of the networks on first-run and outside produced domestic syndication rights and a 40% cap on the network in-house prime-time schedule may have been based on an outdated perception of the television industry. The economics of the television industry have changed dramatically during the last ten years. Faced with many more video viewing alternatives and a more fragmented audience, the networks are no longer in a dominant position. Furthermore, television syndication is not an industry that is still in its introductory or fast growing stage but a maturing industry with a steady but less

speedy growth rate (except in the cable and international markets). The entry of the networks will actually inject more competition to the market by allowing more strong contestants into the market to share the revenue pie. The networks can actually balance the current dominant status of the major Hollywood studios by offering alternative financing sources for independent producers.

There is little fear that the networks may coerce independent producers to relinquish program ownership in exchange for access to the prime time audience since the networks are currently fighting a declining audience. Besides, as "new kids on the block" in prime time supply or first-run syndication of an established industry filled with tough Hollywood competitors, it is more logical that the networks would try to maximize their profit by focusing on the selection of the best possible product (even if they cannot participate financially in the development of the product) rather than the acquisition of financial interests in some marginal programs. The same notion can be applied to the concern over the conflict of interest and warehousing threat.[63] In order for networks to get established in this already concentrated industry, they cannot afford to play such strategic games, at least in the short run. Instead, it is more likely that the networks would sell their programming product to the station (or cable) buyers that can offer the best price. And it is also more logical that the network affiliates, considering the importance of good programming

and the scale of such an investment, would make their buying decision based on the potential of the programming rather than their affiliation with the program sellers.

Of course, there will still be a risk of inappropriate conduct from the networks as they are the gatekeeper of the most viewed prime time delivery system. Especially when they are dealing with hit prime time reruns that are critical to affiliates in the access and other important time slots. The new FISR anti-extraction clause that requires the networks to wait 30 days after negotiating a basic licensing agreement before joining negotiations for back-end rights and the 30-day "back out" period for co-production deals should provide sufficient safeguard for such anti-competitive conduct. Also, in other alleged instances, an application of the conventional antitrust enforcement should be able to provide a sufficient solution with more flexibility.

Foreign Ownership

The increasing foreign ownership is another immediate concern of the industry. The impact of foreign ownership can be analyzed under two perspectives. First is the aspect of its economic impact. The ownership of studio-syndicators is just like the ownership of any other industry properties. As the demand for American programming is growing strong in the international market, it is unfortunate that the profit of a very unique American product will end up in the overseas owners' pocket. In terms of the aspect of programming content, it is very unlikely that the new foreign owners will interfere with the creative process of the programming product. However, the format of programming, that is, the storage of the programming product may somewhat be changed to maximize the hardware advantage of the foreign conglomerates. For example, Sony may restrict its Columbia films to be stored in its 8mm video product and capitalize on the software-hardware combination. Such message-medium strategies may put these owners in very competitive position when the age of "multimedia" does arrive.

In general, with the increasing sales to the cable and international buyers, possible entrance of the networks, and the growing number of cash-rich foreign conglomerates, the U. S. syndication industry is expected to become even more active in the years to come. When there is a change in the market, there is at the same time a presence of new opportunities. Though the degree of concentration in the industry is fairly high, the need to invest in promotion and selling is prominent, and there are more powerful players entering the market, it is still an industry of "programming"--an unpredictable product. As long as there is still an open market to some extent, there will still be room for another "Wheel of the Fortune" and another "King World."

Television Syndication and Consumer Welfare

Throughout this study, the market competition and regulatory environment are evaluated in terms of their effect on the industry sector of our society. But as an essential tool to disseminate sensitive commodities of ideas, information, and opinion, television programming is more than a private enterprise system in our daily life. If the performance of the television syndication industry is to be assessed definitively, a normative judgement on its impact to the consumer welfare would have to be made.

For the general viewing public, television programs can be evaluated in terms of their "number" and "diversity" (Noll, Peck, and McGowan, 1973). While "number" denotes the number of programs that are simultaneously available (whether or not these are of different programming types), diversity means the variety in programming types as increased content variety implies a closer matching of video products with consumer tastes, which usually improves consumer welfare. Looking back the development of the television syndication industry since its establishment in the early 1940s, one can easily conclude that this alternative source to network programming has increased the "number" of programs available to the American public.

Since the syndication industry is operated under a commercial television system, its degree of diversity is often constrained by the sales of advertising because the most popular programming type that derives the maximum number of viewers is always preferred by the advertisers. Though syndicated programming buyers have constantly complained about the lack of programming variety in the market, the growth of the syndication industry has in general presented the American viewing public more genres of programming developed as an alternative to big-budget network programming.

Nevertheless, within the market of syndicated programming, has the public been able to enjoy more programming variety as the syndicators grow into a lucrative industry with an annual revenue reaching $4 billion? The diversification of programming sources is often perceived to be the source of programming diversity in our free market society. Thus, without an actual historical content analysis of the syndicated programming, the best way to evaluate the industry's progress in diversity is to examine its degree of competition, more succinctly, the speed that the new type or form of programming can enter the market and the degree of ownership concentration. As indicated in the competition analysis, the syndication industry has become more concentrated during the past ten years. There is a smaller number of sources supplying syndicated programming to the general viewing public. If the presumed linkage of programming sources and variety holds true, the industry has gradually contributed less than its share in improving consumer welfare.

However, the degree of concentration in this industry has not reached a point that all competitive activities are eliminated. Rarely in an oligopolistic industry would the leading firms have complete control over other competitors, there is always some areas that cannot be totally suppressed. In other words, innovation and creativity are still the important ingredients of success in this industry.

In essence, though the American television viewers have faced a decreasing number of programming sources from the syndication industry during the past decade, they have also been offered more viewing alternatives from different video delivery systems. And as these alternative programming exhibition windows continue to develop, while the first-run original programming remains the dominant product in the market, there will be more opportunities for the innovative, forward-thinking programmers to enter the industry and inject more content variety to this system of free expression.

Contributions and Limitations of the Study

By investigating the U. S. policies that have critically shaped the development of the syndication industry, examining the trend of market competition during the industry's most active period, and documenting the general business operation patterns in the market, this dissertation has extensively explored a media industry that has received very limited research attention. More succinctly, the review of the economic foundations of this programming product should present a more detailed and accurate picture of the market elements and dynamics of the syndication industry. Also, by demonstrating the importance of regulatory factors in the development of the industry and illustrating the current economic conditions of syndicators, this study has directed attention to some areas that need further inquiry and formed the foundation for such research.

The main limitation of this study was the difficulty in obtaining precise accounting information from syndicators' for measuring their market performance. Since many syndicators are part of an integrated media conglomerate, which often reports its earnings and other ratio data in a consolidated form, it is hard to isolate the performance of a corporation's syndication business from its other holdings. Also, while measuring the market share of syndicators, only programming market shares--ratings were considered. It is suspected that a composite market share indicator that combines a syndicator's ratings and revenues from both license fees and barter advertising may more accurately reflect its degree of market power than ratings alone. Finally, because there has been very little research conducted in this field, during the course of the research, the author had to rely heavily on the trade association reports/interviews and trade journal articles rather than a history of scholarly research.

As the FCC is reexamining the FISR, the industry is

again at a crossroad of major change in its regulatory environment. It is suggested that more research attention should be placed on the investigation of the economic impact of FISR. And after the revision of the FISR regulation, a comparative study that scrutinizes the before and after market competition in the industry would provide a good demonstration of the virtue or vice of government intervention in market structure. It is also important for researchers to further examine the foreign ownership issue. A study of the market competitive behavior or performance between the foreign media conglomerates and American media firms can be one such research approach. Since the cable and international syndication markets are anticipated to be the growth area of the industry in the 1990s, more research is needed in the field of syndicated programming in these two markets. And finally, an empirical economic analysis that investigates the factor of scale economies or vertical integration in this programming industry would make a substantial contribution to the understanding of market competition in this industry.

NOTES

1. The first radio syndicated program, Amos'n' Andy, was produced in 1928 as its actors, Freeman Gossden and Charles Correll, and the original station that broadcast the radio show, WMAQ-Chicago, decided to record the live performance for distribution to stations outside the Chicago area. The syndicated radio program was mailed to some thirty independent stations across the country and received tremendous popularity. Ironically, this very first example of the syndicated show became a network program a year later when NBC offered a long-term contract to Gosden and Correll. See Erickson's Syndicated Television 1947-1987.

2. For more information on the early radio programming formats, see Dunning's Tune in Yesterday: The Ultimate Encyclopedia of Old-Time Radio 1925-1976.

3. For more information on networks' practices of radio "Option Time," see Barnouw's A Tower in Babel.

4. "White" areas are the markets that are not served by the networks.

5. Moving gradually away from the short 15-minute fillers to 30- and 60-minute series, some of the industry pioneers, such as Frederick Ziv and William Boyd, finally discovered the programming format of the western-film to be the staple ingredient of success for syndicated television programs. Though the popular prototype western, "Hopalong Cassidy," which started the trend was later picked up by NBC.

6. As a matter of fact, the difference between a program produced for the network and for syndication was not always clear at this time. Sponsors as well as networks could telecast a program to network affiliates and simultaneously syndicate it to stations not interconnected. Oftentimes, the syndicated market was a kind of farm system or off-broadway showcase for testing audience popularity for a subsequent move to a more desirable network slot.

7. For example, United Television Programs consolidated with MCA. Associated Artists Productions came under United Artists, which later combined with Ziv and became United

Artists Television Inc. Also, Unity Television combined with Jygo and they were later taken over by the syndication division of Columbia Picture. For some, leaving the industry was the choice, RKO Television went out of the syndication business, CBS dropped its first-run syndication arm and NBC cut back. See Moore's dissertation.

8. For more detail about the "cost-efficiency" factor, see Chapter 3 about the economics of first-run syndicated product.

9. See 34 FCC 1103 (1963) for the elimination of TV option time and Webbink's article about the impact of the All-Channel Receiver Act of 1962.

10. For complete survey on the development of the content and form of the first-run television syndication between 1947 and 1987, see Erickson's Syndicated Television: the first forty years, 1947-1987.

11. See Chapter 6 for more information on the Prime Time Access Rules.

12. This is strengthened by basic cable demand from The USA Network, WTBS, Lifetime, and The Family Channel. See Chapter 5 for more information.

13. Almost all the academic publications about the syndication industry are over 10 years old. In fact, during the last twenty years, only three research pieces, Erickson's book about the content of first-run syndication, Moore's dissertation, and the FCC's background report on the television program production, acquisition and distribution, specifically investigated the programming industry. The author further gathered information about the market from various trade journals to update its recent operation status.

14. One of these computer systems, New Buy Analysis (NBA), however, does not track past network ratings for off-network program, rather, it bases ratings projection on the rating guarantees syndicators claim for the individual market. Station managers are said to use the system mainly for figuring out the costs and revenues of ongoing properties rather than for new programming acquisitions. For more information see Broadcasting, August 6, p.61.

15. For more information on the subject, see Chapter 6.

16. For more information on the FCC's legislative responsibilities, see Communications Act of 1934, section 307(a), 309(a), 47 U.S.C. section 307(a), 309(a)(1976).

17. For FCC's authority conflict with the Antitrust Division, see the case, Northern Natural Gas Co. v. F.P.C., 399 F. 2d 953 at 959.

18. Ibid.

19. For more information on the subject, see All-Channel Television Receivers and Deintermixture, Hearings before the House Committee on Interstate and Foreign Commerce, 87 Cong. 2 sess. (1962).

20. Broadcasting reported that WNBC-TV was once given "replacement compensation" from King World to clear "Inside Edition" to make up for any early ratings losses caused by the departure of LBS Communications' game show, "Family Feud," from access time slot. For more information see Broadcasting, July 9, 1990, p. 35-38.

21. See the section of barter advertising for more information on the risk transferring rationale.

22. Warner's 40 percent in BHC Inc. was spun off to shareholders as a public company when the Time-Warner merger was completed. Thus, the new conglomerate is no longer associated with any broadcast station.

23. The U.S. Court of Appeals declared the must-carry rule unconstitutional by violating the cable system's First Amendment Rights in 1985. The FCC adopted new rules in 1987 with specification of the stations that qualify for cable carriage. See the 1987 FCC Docket 85-349. As in 1990, Congress is still working on revising the must-carry regulations.

24. For example, the FCC extended the deadline for networks' divestiture of their syndication arms and gave both NBC and ABC waivers of certain broadcast schedules for a limited period of time. The PTAR was actually modified twice in 1974 and 1975 to what it stands today, for all the modifications of the rule, see Moore's Syndication of First-Run Television Programming: Its Development and Current Status.

25. For more information on the FCC position, see Second Report and Order, Docket No. 19622, 50 F.C.C. 2d 837, 847.

26. Networks may force producers to relinquish program ownership in exchange for access to the prime time audience.

27. A conflict of interest may be developed when a network sells properties to independent stations in competition with their own affiliates and when networks compete

against independent syndicators in the markets of their own affiliates

28. For more about the Hollywood foreign ownership, see Chapter 7.

29. Section 1 of the Sherman Act (15 U.S.C.#1) indicated that:
"Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade of commerce among the several states, or with foreign nations is declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony..."

    Section 2 of the Sherman Act (15 U.S.C. #2) provides that:
    "Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several states, or with foreign nations, shall be deemed quilty of a felony..."

30. Yet the decrees did not specifically limit the networks from producing theatrical movies in house.

31. For example, TVX Broadcast Group, Inc., which operates 12 independent television stations, pleaded that the duplication of seven programs shown by its Philadelphia station WTAF cost it nearly $580,000 a year in advertising revenues

32. Congress adopted a copyright statute in 1790 and, since that time, has substantially revised or rewritten the copyright law four time in 1831, 1870, 1909, and 1976.

33. Under the 1976 Act, an autor is protected as soon as a work is recorded in some concrete way, since the Act protest all expressions upon fixation in a tangible medium.

34. Network signals are broadcasted to a national audience. Thus, the local and network signals on cable are only duplications of what are already available over the air. Also, exempt from the compulsory license are original or "primary" transmissions (original productions, films, videotapes, records, photographs, or other materials fed from the cable head end) and secondary transmissions targeted to controlled or special audiences, such as pay cable services.

35. In 1986, after challenged by a District Court, the Copyright Office redefined gross receipts of basic

services to include only the revenues attributable to broadcast signals when they are offered to subscribers with other cable networks. See Wolfe's article in Cablevision.

36. No market concentration measurement was used in Back's study.

37. In fact, the FCC has indicated that it cannot regulate the networks effectively if only portions of the contract are governed. See the FCC's Network Inquiry Report, 1980.

38. Yet possibility remains for first-run syndicators to produce more episodes as they have done.

39. Not only stations like WGN and WPIX have regional coverage, there are regional independent stations such as WSBK in Boston, KUTV in San Francisco, KTLA in Los Angeles, KTVT in Dallas, and KWGN in Denver which have been carried on cable throughout adjacent states.

40. The cable networks are actually in a better position since syndicators of average quality shows can reduced transaction costs by dealing with 1 cable network rather than 200 broadcast markets. See Chapter V for more information on the subject.

41. The time standards accepted by the FCC were the voluntary advertising time limits originally adopted by the National Association of Broadcasters (NAB). As the Justice Department charged that the NAB guidelines violated antitrust laws, the advertising codes were abandoned. And the FCC consequently removed the regulation. Also, in general, the FCC does not regulate the content of broadcast advertising, which is left to the Federal Trade Commission (FTC). The FTC can take action against ads it finds to be false or deceptive.

42. Currently, almost all syndicated kids programming are still relying on barter advertising dollars. In general, the distributors retain three advertising minutes and the stations 3 & 1/2 minutes.

43. However, because of the merger arrangement with Warner, the stations were later spun off. For more information on the Lorimar-Telepictures stations purchase, see Broadcasting, May 26, 1986, p. 35.

44. "Wheel of Fortune" and "Jeopardy" have been distributed by King World. After the merger, King World retains the distribution right of the shows.

45. Though the transaction did not go through, Viacom's

common stock actually climbed 20 percent in a week because of the takeover speculation. Viacom also filed a suit against Time Inc. and its subsidiaries, charging that the Time-Warner merger would be anti-competitive or monopolistic through the alliance of Warner's film production and Time's HBO pay service.

46. MGM was briefly owned by TBS when it purchased MGM/UA from Kirk Kerkorian, but it then sold the studio and other assets back to Kerkorian while retaining the film library.

47. Paramount and MCA have extensive cooperative relationship in programming production and distribution and co-own a popular cable channel, USA Network. For more information about these speculations, see Cablevision, November 20, 1989, p. 12, and Channels, Feb. 1990, p. 82.

48. Though Lorimar-Telepictures later sold its television stations, publishing, and advertising agencies to repurchase its own stock in the merger with Warner. For more information see Broadcasting, June 29, 1987.

49. The market share calculation is based on the programming market share measurement discussed earlier.

50. The testing ground for the synergy is High Definition television, programming for the HDTV market along could be a $9 billion business by the year 2000. Aggressive investments in Hollywood by Japan's electronics companies are designed to supply that need. See Gross's article, 1990.

51. Again, only conventional syndicated product purchasers, broadcast stations, are examined here.

52. Tribune broadcasting group may be considered as an exception since it has ownership of many popular independent television stations with a reach comparative to those of the networks. Thus, it also has more leverage while bargaining with syndicators.

53. Though a syndicated program can be regarded as a kind of brand itself because of it audience recognition, a "brand" here is defined by its traditional narrower meaning as the use of a name, term, symbol, or design (or a combination of these) in identifying a product.

54. Other quality opinions from rep programmers may also be taken into consideration. See Chapter 4.

55. Comments of Mr. Ritch Colber, Television Program Enterprises (TPE).

56. For example, in 1987, some stations reported a 10 to 30 percent decrease in syndicated program prices below what they paid in 1985. See 1987 Channels Field Guide. The changes of syndicated product price is also reflected in Table 7 in Chapter 4, which lists the syndication expenditures from the broadcast stations.

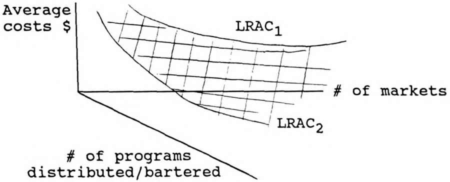
57. WTNH in New Haven, Conn., WSB in Atlanta, WIFR in Rockford, Ill., and KMTV in Omaha all filed suits against Fox's price increase for "M*A*S*H." See Broadcasting, Oct 31, 1983.

58. For more information on the development of syndication success formula, see Lowry's article in Variety.

59. However, they are not perfectly correlated as one can see by looking at rank ordering in Appendix A and B. Based on the 1989 data, Spearmen's Rho-rank order correlation coefficient for these two performance indices was .21.

60. Since ROE ratios are the calculations based on the accounting information from the balance sheet and the income statement, knowing the confusing accounting practices of Hollywood studios and their common red ink total on balance sheet, this is actually expected.

61. As in other mass media, the scale economies will result in lower long-run average cost for these companies as illustrated by the following graph.



62. Less reruns, however, does not mean less rerun programs. It may simply represent less repeats for a certain rerun program.

63. A conflict of interest may be developed when a network sells properties to independent stations in competition with its own affiliates and when networks compete against independent syndicators in the markets of its own affiliates. Also, to "warehouse" a product means that a firm anti-competitively withholds a product from the market so to avoid its competitor to obtain that product.

APPENDICES

APPENDIX A: TOP 10 SYNDICATORS AND THEIR PROGRAMMING MARKET SHARE 1981-1990

1981

Rank	Firm	Programming Share
1	Paramount	9.02 %
2	Viacom	7.46
3	Columbia	6.40
4	20th Century/Fox	6.10
5	Warner Brothers	5.89
6	MCA	5.60
7	Embassy	4.00
8	Group W	3.74
9	Showbiz	3.22
10	Colbert	2.75

APPENDIX A: (continued)

1982

Rank	**Firm**	**Programming Share**
1	Paramount	8.83 %
2	Viacom	7.07
3	MCA	6.86
4	Warner Brothers	6.17
5	Columbia	5.77
6	20th Century/Fox	4.40
7	Embassy	4.13
8	Colbert/King World	3.75
9	Group W	2.86
10	Telepictures	2.48

APPENDIX A: (continued)

1983		
Rank	**Firm**	**Programming Share**
1	Paramount	9.70 %
2	MCA	8.33
3	Viacom	6.26
4	Columbia	6.04
5	Warner Brothers	5.62
6	Group W	5.51
7	Embassy	4.65
8	20th Century/Fox	4.38
9	MGM/UA	4.06
9	Telepictures	4.06

APPENDIX A: (continued)

1984

Rank	**Firm**	**Programming Share**
1	MCA	9.83 %
2	Paramount	7.38
3	Columbia	6.75
4	Viacom	6.21
5	Embassy	5.75
6	Warner Brothers	5.66
7	Television Program Enterprises	4.78
8	Telepictures	4.11
9	MGM/UA	4.00
10	Worldvision	3.93

APPENDIX A: (continued)

1985*

Rank	**Firm**	**Programming Share**
1	King World	13.09 %
2	Embassy	10.44
3	Paramount	9.82
4	Columbia	9.14
5	20th Century/Fox	7.89
6	D.L. Taffner	7.66
7	Warner Brothers	5.56
8	Group W	4.08
9	Gaylord	3.85
10	Telepictures	3.81

*Calculations based on the programs with 5 or more rating points

APPENDIX A: (continued)

1986

Rank	**Firm**	**Programming Share**
1	King World	8.04 %
2	Lorimar/Telepictures	7.90
3	20th Century/Fox	7.71
4	MCA	7.22
5	Columbia*	7.12
6	Paramount	7.02
7	Embassy*	5.36
8	D.L. Taffner	4.93
9	Worldvision	4.17
10	Viacom	3.29

*Since Columbia and Embassy were then operated independently, they were treated as separate firms.

APPENDIX A: (continued)

1987

Rank	**Firm**	**Programming Share**
1	Paramount	11.73 %
2	MCA	8.93
3	King World	8.89
4	Columbia*	6.96
5	Lorimar/Telepictures	6.28
6	Embassy*	4.96
7	20th Century/Fox	4.93
8	Group W	3.40
9	D.L. Taffner	3.33
10	Buena Vista	3.29

*Since Columbia and Embassy were then operated independently, they were treated as separate firms.

APPENDIX A: (continued)

1988

Rank	Firm	Programming Share
1	King World	16.89 %
2	Paramount	16.11
3	Viacom	6.15
4	MCA	5.91
5	20th Century/Fox	5.67
6	Columbia/Embassy	5.64
7	Buena Vista	5.23
8	Multimedia	3.92
9	Lorimar/Telepictures	3.85
10	Group W	3.71

APPENDIX A: (continued)

1989

Rank	**Firm**	**Programming Share**
1	Paramount	20.26 %
2	King World	18.24
3	20th Century/Fox	8.06
4	MCA	5.77
5	Warner*	4.38
6	Multimedia	4.17
7	Buena Vista	4.13
8	Lorimar/Telepictures*	3.72
9	Viacom	3.61
10	Group W	3.34

*Since Warner and Lorimar/Telepictures were operating independently, they were treated as separate firms.

APPENDIX A: (continued)

1990		
Rank	**Firm**	**Programming Share**
1	Paramount	16.38 %
2	King World	14.64
3	MCA	9.84
4	Warner Brothers*	8.34
5	Fox Syndication	7.21
6	Viacom	6.39
7	Columbia	6.30
8	Buena Vista	5.10
9	Multimedia	3.51
10	Teletrib (Tribune)	2.81

*Since Warner and Lorimar/Telepictures were operating independently, they were treated as separate firms.

Sources: A.C. Nielsen Cassandra Reports 1981-1990; Erickson, Syndicated Television; Television/Radio Age, NATPE programming reports 1980-1990; Variety, NATPE Special 1981-1987; Channels, Syndication 1995.

APPENDIX B: TOP 15 SYNDICATORS AND THEIR REVENUES PERFORMANCE 1984-85, 1985-86, 1988-89, 1989-90*

1984-85

Rank	**Firm**	**Revenues (millions)**
1	Columbia/Embassy (Coca-Cola)	350
2	Paramount	300
3	MCA (Universal)	200
4	20th Century/Fox	180
5	LBS	150
6	Warner Brothers	140
7	MGM/UA	115
8	Lorimar/Telepictures	113
9	Worldvision	102
10	Group W	65
11	Metromedia	60
12	Viacom	53
13	Multimedia	41
14	King World	29
15	Orion Pictures	26

*Barter syndicators that generate their revenues solely from the sale of barter spots are not included.

APPENDEX B: (continued)

1985-86		
Rank	**Firm**	**Revenues (millions)**
1	Columbia/Embassy (Coca-Cola)	400
2	Paramount	345
3	MCA (Universal)	275
4	20th Century/Fox	225
5	Lorimar/Telepictures	216
6	MGM/UA	185
7	LBS	175
8	Warner Brother	160
9	Worldvision	112
10	King World	81
11	Metromedia	75
11	Group W	75
13	Viacom	63
14	Multimedia	47
15	Orion Pictures	28

APPENDIX B: (continued)

1988-89

Rank	**Firm**	**Revenues (millions)**
1	Warner**	377
2	King World	370
3	MCA (Universal)	347
4	Paramount	338
5	Columbia/Embassy	304
6	Viacom	290
7	Fox	230
8	Turner	168
9	LBS	134
10	Teletrib/TPE	122
11	Buena Vista	115
12	Group W	110
13	Tribune	90
14	Orion	76
15	Multimedia	74

**Including Lorimar-Telepictures revenues

APPENDIX B: (continued)

1989-90

Rank	**Firm**	**Revenues (millions)**
1	Warner**	416
2	Columbia/Embassy	395
3	King World	392
4	MCA	380
5	Paramount	350
6	Viacom	297
7	Fox	287
8	Turner	195
9	Buena Vista	185
10	LBS	150
11	Tribune	137
12	Group W	120
13	Teletrib/TPE	103
14	Worldvision	90
15	Orion Pictures	85

**Including Lorimar-Telepictures revenues

Sources: Channels, April 1986, p. 72 and February 1990, p. 78.

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