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BUSINESS

Why 'Tokyo Rose' Statutes Appear Outdated

By NIKHIL DEOGUN
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Iva Toguri D'Aquino, the woman pegged as Tokyo Rose, who was convicted by the U.S. of committing treason for broadcasting propaganda during World War II, and later pardoned, died recently. Unfortunately, the Tokyo Rose statutes, the nickname given to the laws restricting foreign ownership of U.S. broadcasters, live on.

Last week, shareholders of **Univision Communications**, the leading Spanish-language broadcaster in the U.S., voted to sell the company to a group of private-equity firms for \$12.3 billion. Univision could have fetched a richer price had it been sold to Grupo Televisa, the Mexican TV giant that provides steamy telenovelas and other popular programming to Univision.

Thanks to the Tokyo Rose statutes, the U.S. prohibits a foreigner from owning more than 25% of a broadcaster. So Televisa chief Emilio Azcarraga Jean, who is married to an American, teamed up with U.S. buyout firms to make a bid. These investors weren't willing to pay too rich a price and what was supposed to have been a heated auction ended with a whimper. Mr. Azcarraga, the one bidder who would have happily paid more and whose family helped found the network, was foiled by laws that had their roots in an era when radio was considered high-tech.


These days, the Internet -- and a rash of digital channels -- gives American consumers unfiltered access to television from overseas. U.S. investors are clamoring to buy foreign-media entities. American Haim Saban, whose consortium was the winning bidder for Univision, has bought a group of German broadcasters, giving him and his partners control of about one-third of the German television market.

Such profound media changes make it "hard to understand why" the foreign-ownership limits remain in place in the U.S., says Thomas Middelhoff, the former chief executive of Germany's Bertelsmann.

Mr. Middelhoff says that during his tenure Bertelsmann considered buying ITV, one of Britain's commercial broadcasters -- it already owned a stake in another one -- and would have faced no foreign-ownership restrictions. However, he would have faced plenty had he tried to buy NBC, Univision or, had it existed, a U.S. German-language broadcaster. Too bad for a CEO who once famously referred to himself as an "American with a German passport."

Foreign ownership of broadcasters is a kissing cousin to the media-ownership debate, and they collectively form the third rail of communications policy.

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While few complain about ownership of cable channels, advocacy groups routinely argue -- and did so again yesterday at a Federal Communications Commission hearing in Los Angeles -- that there should be a cap on the ownership of broadcast media or that owning newspapers and TV stations in the same town amounts to undue media concentration. .

At a time when TV shows, radio and newspapers are widely available on the Internet, often free of charge, this argument rings hollow to some, particularly when **Tribune** -- the bogeyman of media concentration because of its holdings of newspapers and TV stations in major markets -- is breaking itself up. Some of the same groups postulate that foreign owners can't be trusted with owning American broadcasters. Under this theory, foreigners could use the outlets to propagate the interests of foreign governments.

"Wealthy people overseas often have tight connections with government" and can be "more comfortable with a system where bribery is common," says Andrew Schwartzman, president of the Media Access Project, a public-interest law firm that has been one of the biggest opponents of relaxing media-ownership rules.

Given Televisa's dominance in Mexico, "I'm sure there are people in the Southwest who don't want a company with as tight a connection to the Mexican government serving Spanish-language citizens here," Mr. Schwartzman adds.

Maybe. There are legitimate reasons to worry about Televisa owning Univision, since it would give one company huge control over the content and distribution of Spanish-language TV programming in the U.S. But fretting about a foreign government controlling U.S. airwaves seems unfounded. It sounds awfully similar to the arguments used by foreign governments to restrict American ownership of their media.

Growing up in India, I routinely heard about the "foreign hand" of the Central Intelligence Agency at work in some nefarious way that now seems laughable. Even today, India caps foreign ownership of newspapers at 26%.

Had Mr. Azcarraga gotten around the U.S. foreign-ownership restrictions by becoming an American citizen -- à la Rupert Murdoch -- he would have run afoul of Mexican law that doesn't allow foreigners to own Mexican broadcasters.

Bruce Fein, a former general counsel at the FCC, thinks the U.S. should toss aside its foreign-ownership restrictions "as leverage to pry open other countries." Besides, given that Americans can already watch everything from al-Jazeera to India's Zee TV via satellite or digital cable, who is being protected by the restrictions?

Let's say the government of Iran bought a U.S. broadcaster. The U.S. government could still regulate some of the content, just as it does with indecent programming, and impose the same national-security obligations on a foreign-owned broadcaster as it does on a U.S.-owned broadcaster.

Even if the Iranians used U.S. airwaves to broadcast vile lies, Americans, says Mr. Fein, would "recognize the propaganda for what it is, just as people abhor Osama more after they see him than they did before."

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