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Time running out on Bush's FCC

Media policy continues to be ignored

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"Presidential election could alter shape of Tribune-Times Mirror Deal," read a New York Times headline in early 2000, which anticipated that a George W. Bush victory would lead to the repeal or relaxation of media cross-ownership rules.

Fast-forward 7 ½ years, and although those Times Mirror assets are set to change hands again -- with Sam Zell's agreement to take control of beleaguered Tribune Co. -- in terms of efforts to amend or clarify the regulatory thicket, the accomplishments under now-President Bush stand at a big fat zero as his second term winds down.

Indeed, taking inventory of the Bush administration's failings, among the less ostentatious but nonetheless noteworthy is the lack of progress in defining media policy -- an especially glaring oversight during a period that has witnessed the most rapid and significant technological change in telecommunications' history.

"If you had asked me a couple of years ago ... I would have thought we would have gotten a lot further," acknowledged Andrew Jay Schwartzman, president of the nonprofit Media Access Project, which successfully used the courts to scuttle the Federal Communications Commission's last stab at revising the ownership guidelines -- under the imperious reign of then-chairman Michael Powell -- in 2004.

The realization time is running out apparently hasn't been lost on the FCC's current chair, the ambitious Kevin Martin, who sources say is eager to expedite another attempt to update the rules, perhaps by year's end. After a series of public hearings, the deadline for a final volley of comments has been set for Nov. 1. An FCC spokeswoman said there is nothing new to announce about the commission's timetable.

Yet with just over a year to go before the next presidential election, there's good cause for skepticism whether such an undertaking can bear fruit, fueling the likelihood that debate will only grow more shrill and unproductive amid campaign-year rhetoric.

In Martin's defense, he replaced Powell in March 2005, and the five-member commission was deadlocked along party lines, 2-2, for more than a year until Republican Robert M. McDowell filled the vacant seat.

If there has been any urgency about addressing the sweeping issues facing the media industry, however, it's hard to discern; instead, the Bush-era FCC has frittered with trifles, pressing for a la carte cable and joining with Democrats to assail the TV industry over indecency, neglecting rule-making to fret about boobs and F-bombs.

Indeed, Martin threw a tantrum in June after a federal appeals court tossed out an idiotic FCC policy that punishes fleeting, even inadvertent use of expletives, releasing a statement that said, "I find it hard to believe that the New York court would tell American families that 'shit' and 'fuck' are fine to say on broadcast television during the hours when children are most likely to be in the audience," concluding that minus such restrictions, "Hollywood will be able to say anything they want, whenever they want."

Those references to New York and Hollywood are code for "godless liberals," ignoring the court's underlying point -- that the commission's approach was so inconsistently applied as to be full of "S," not to put too fine a legal point on it.

At this stage, it's possible the Democrats and like-minded interest groups might simply run out the clock on Bush's tenure, gambling on reclaiming the White House in January 2009 and tilting the FCC majority back in their favor. Schwartzman wouldn't go that far, saying, "We are not engaging in obstructive tactics."

The bottom line is that wherever one stands along the ideological spectrum, leaving broadcasting tangled in regulatory uncertainty for so long serves nobody. Take my one-time employer Tribune, which has been out of compliance with the FCC's ban on a single entity owning a newspaper and TV station in the same market since before the Sept. 11 attacks through its control of the Los Angeles Times and KTLA-TV, and New York's Newsday and WPIX-TV.

Assembling multiple mega-media assets in the nation's top markets was a big part of Tribune's rationale back in 2000 for its $8.3 billion acquisition of Times Mirror -- not that it has a lot to show for it now. Although the acquisition flew in the face of the FCC's long-standing rule, Tribune at the time said it was confident the ban would soon be rescinded, either legislatively or through legal challenges pressed by Tribune and others.

When Roger Ailes, CEO of Fox News and Fox Television Stations, was asked about his management style in this week's Wall Street Journal, he expressed a preference for decisive action, suggesting, "The worst decision is usually no decision."

Ailes once toiled in GOP political circles, but with that attitude, it's no wonder he retreated to the private sector.

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