Fifty Years in 50 Minutes
The Good, The Bad, and The Stupid
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Ziffren Institute
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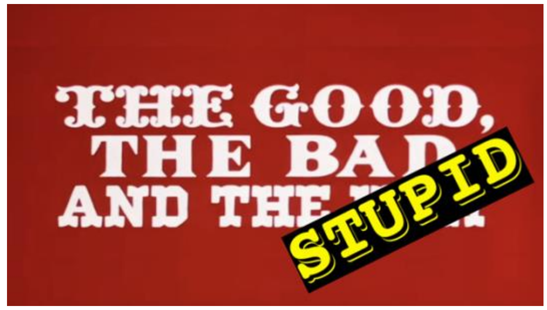


Thank you…

When I opened these sessions for something like 17 years, I used to say its nice to be back as your token non-lawyer…but now I guess its nice to be back as your token antique. I was born in 1947, the second year of the baby boom, so I'm definitely an antique.

Seriously, it is an honor to be asked to help acknowledge the 50th year of these sessions. These Symposia have had an important place in my research life, allowing me free reign to explore ideas and numbers.

As an example, in my first visit as a presenter on February 4, 2005, I asked if the industry was keeping up with technology,

introduced the idea that I then called the Internet Bypass to get around traditional distributors to deliver regular tv shows via the web, now called streaming,

and wondered if that would be an opening for new aggregators to stream those shows and take share from traditional distributors.

Today we'll see how that happened as I try to put the last 50 years of media in some sort of context, or, more accurately, try to put today's industry into a context formed by the last 50 years. I'll try to do it in two ways…

With a status report, as I always started the presentation. Today's status reports go back a whole half century.

And this time through ten vignettes, little stories, of the broad industry, split themselves into these three groups: The Good, The Bad, and The Stupid.

To be clear, my good, bad, and stupid categories are not moral judgments, but rather things that worked… didn't or were messed up. And then there's #10-- what I think was the stupidest deal of all time. And no, it didn't have anything to do with Warner Bros.

As in the past, I have a couple of disclosures so you know where I'm coming from.

First, I own no stocks and have no financial interest in any media companies anymore,

but I am receiving royalties indirectly from several major media companies through patent licenses to a third party.

And Valerie is receiving surprising royalties every time somebody opens an ebook page from one of her two dozen late century series of female suburban oriented mystery novels.

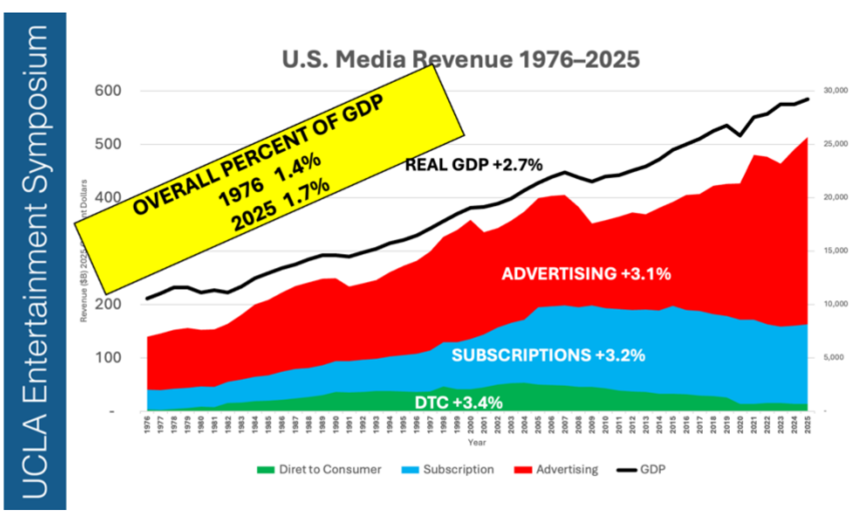
Second, I've used AI services Claude, ChatGPT, and Google to augment my own 40 years of industry research and data collection. My standard practice is to require sourcing and challenge the AI's knowledge with my own and with that of the other bots. The words and observations are my own…as are any errors.

Third, I recognize that every one of you is more expert in specifics of the field while I can only see the industry as a generalist taking a 50,000 foot view based on public information. Mostly, but I may have a personal Ted Turner story or two.

So please strap yourself in.

Here's the Status Report for 50 years. And to make it fair, I'll use Real or Constant 2025 dollars to allow us to see true growth and compare this industry to the economy as a whole.

With 3.2% inflation, the half century annual growth rate was 5.9%, but real GDP growth was 2.7% . We'll compare that 2.7% to the CAGR for the whole industry—all video, print, internet, broadcast, cable, streaming, subscriptions, advertising, sales, rentals—everything. Broken first into three groups:



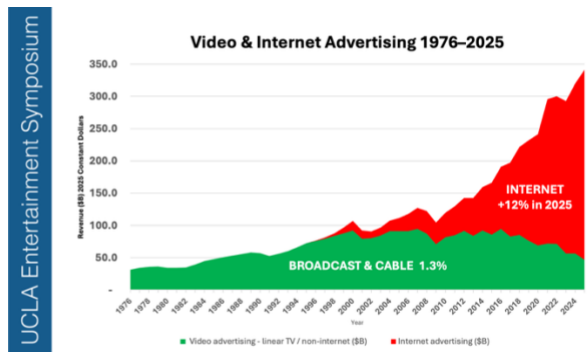
direct to consumer sales including box office and home video sales and rentals and currently driven by online video on demand and electronic sell through delivering 3.4% annual growth. More on that in a minute.

Subscriptions had a similar 3.2% annual growth as its mix changed from primarily newspapers to cable to streaming.

All advertising had huge volume, and a growth rate almoar a half percentage point more than the economy as a whole.

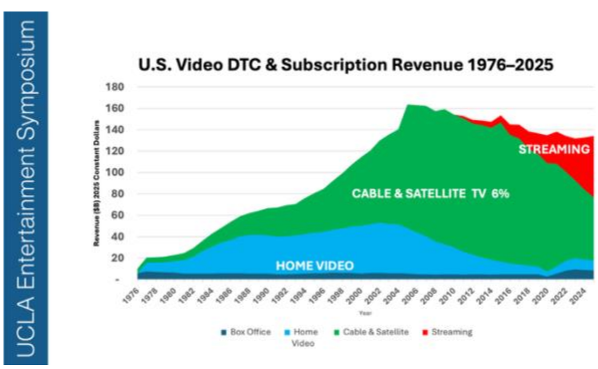
Overall, again in constant dollars, the media industry grew from $112 to $514 billions across the half century, and increased its share of the overall economy from 1.4 to 1.7 percent of GDP. That's almost back to its peak importance at the millennium bubble of 1.8.

Lets break down the numbers.



Video advertising is a story of growth overcoming technological displacement as the internet has replaced much of the broadcast and cable audience.   In 2025 dollars broadcast and cable advertising has grown just over one percent annually over 50 years. It peaked a decade ago, and has been headed downward ever since.

Those declines have been way more than offset by internet advertising. Now certainly some of this growth comes from a reallocation of marketing dollars to the web, but the targeting and efficiency of online advertising hasn't just made each ad dollar go farther, it has increased a willingness of businesses to buy advertising overall. Last year's record of almost 300 billion was up another 12% and analysts like Brien Wieser at Madison&Wall expect it to grow even faster this year.



Now looking at Direct to Consumer and Subscription video areas, Box office just slightly lagged the economy over the half century.

We spent years at these Symposia marveling first at the dynamic growth of home video sales and rentals…and then at their decline. Here you can see the VCR run up in the late 1980s and then the DVD pop in the early 2000s.

Subscriptions to cable and streaming services are a surprisingly different story. Here we're talking about a reallocation of the cash going into the content pool via distributors.

In 1976 cable and satellite subscription revenues were all of $3 billion. Today they are $59 billion, growth of 6% from a low base…. but look at the crash over the past two decades. Cable alone is down $44 billion from its peak.

And of course Streaming is primarily to blame. But streaming has filled only some of the hole left in cable…this is a transfer due to technology, not growth. Last year streaming revenue was $57 billion, just $2 billion less than traditional cable and satellite service.

We're in the midst of a massive reallocation of consumer dollars not only from cable to streaming, but more broadly from content to the transport of content.

And this does not bode well for those providing content to any outlet. The golden days of production funded by capital investment in content to drive penetration are clearly over.

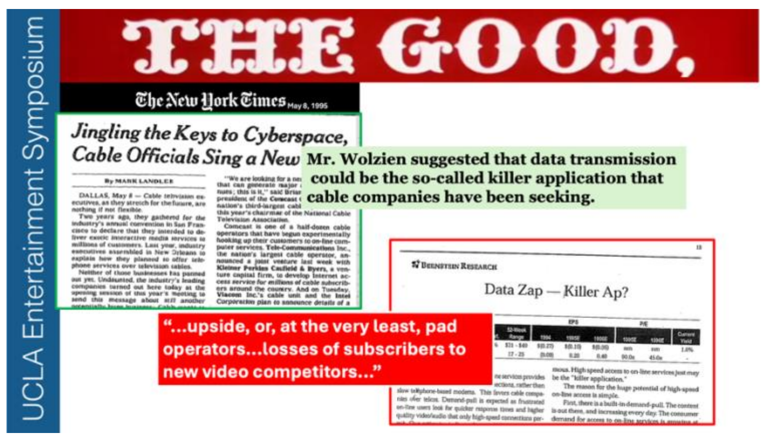
And now we move into our first vignette.

What has increased, and hugely, is the consumer's willingness to pay for digital transport of content separate from the content itself.

First satellites and then cable broadband modems broke the transport lock on content distribution previously held by the broadcast networks. Broadband first.

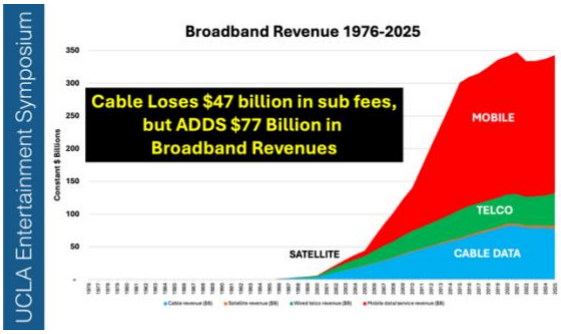
Cable modems worked as a business because the industry created a common standard to make installation easy, everywhere.

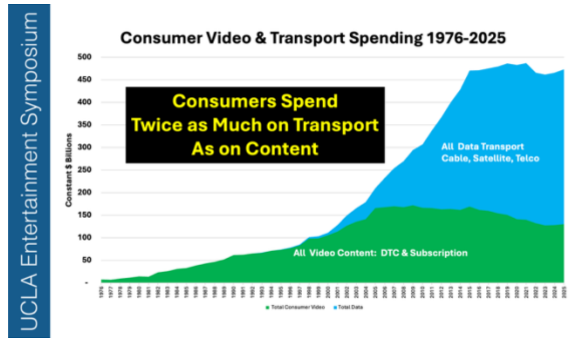
Two years before the standard was set I wrote a Wall Street research piece identifying the potential financial upside to the cable industry… New York Times reported from that piece, "… data transmission could be the so-called killer application that cable companies have been seeking…" but more importantly the Bernstein report said there could be "…upside, or, at the very least, pad operator's…losses of subscribers to new video competitors…."



In retrospect that part about mitigating the downside from subscriber losses was prescient.

Remember the $47 billion annual drop in traditional cable subscription revenues in constant dollars… well, last year the cable industry pulled in $77 billion in broadband revenues. Pretty successful mitigation.

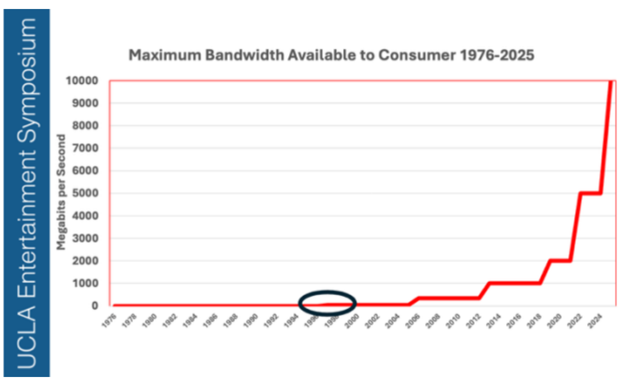




Broadband satellites are delivering around $5 billion in revenue, driven by Elon Musk's Starlink.

The telcos are the real beneficiaries, with some wired data, and huge mobile broadband revenues.
A half trillion dollars is what consumers spend each year on all video content and data transport. And they are spending twice as much for the data as they are for the stuff the data delivers.

Here's the 50 year digital transport chart, from literally zero digital transmission capacity for consumers 50 years ago until massive capacity today from fiber…which is probably plenty until we move to real time holography or

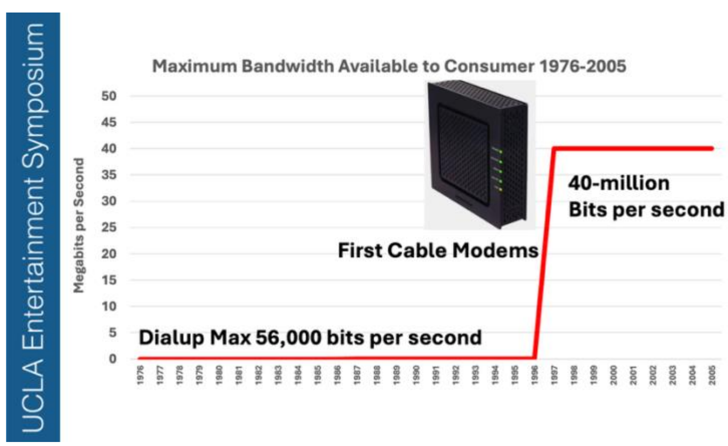


something that needs a lot more bandwidth. (Video Startrek—"Beame me up Scotty")

Now human transport is going to be a real bandwidth hog.

This chart shows our 10 gigabit max speed today, but the place to concentrate is back on this tiny increase around 1997, two years after I wrote that Bernstein piece.

Before that, during the late 1980s and early '90s, all data was transmitted by modems hooked into your phone line, generally called "dial up" because your device actually had to make a phone call and then the modem would connect for a very slow data signal. So slow that you would watch letters type across the screen one by one. Video and even photos were out of the question.



By 1996 the speed had reached 56 thousand with postage stamp video, but then in 1997 the first cable modem standard appeared with speed jump 700 times—to 40 million bits per second, and then ten times even that by 2005.

This was the dawn of the streaming age. It was ugly and choppy at the beginning, and the moving pictures were tiny.

There were massive failures, like when over 1.5 million people tried to log on to a Victoria's Secret fashion show…and saw nothing because of insufficient server capacity. The wrinkles got unwrinkled and soon there were basketball and baseball games and concerts—the ground was being set for today.

Each successful deal or development we'll talk about today had four things going for it, and the development of cable modems was no exception.

--Vision to see the need and the opportunity

--Timing for the technology and financing to be in place

--Execution to make the whole thing work

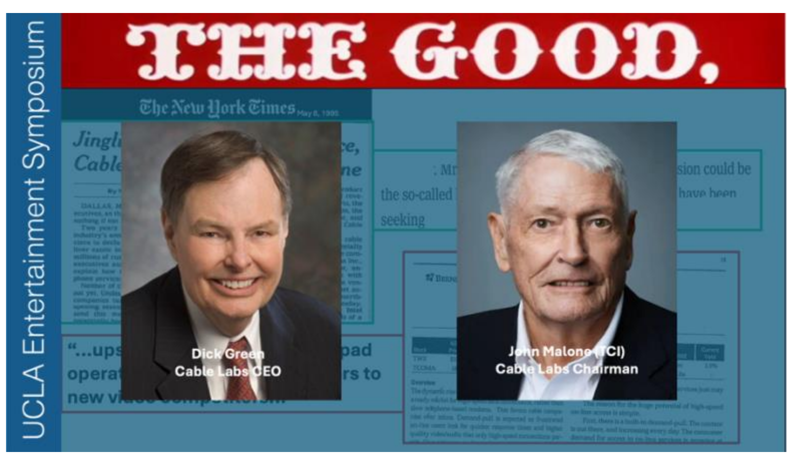
--Regulations to finesse and comply.

That Bernstein piece was actually used encourage the cable industry to develop the cable modem standards.

The Cable Television Laboratories were located at the time in Boulder, Colorado, which is where I grew up. It was run by a guy named was Dick Green. I'd visit the labs every once in a while when I was in Boulder to see my parents. One day Dick called me and said I should drop by because he had something he wanted me to think about.

What he had was the basic plan for Cable Labs to develop cable modems as an industry standard and he was curious if I might want to try to put some numbers to the idea for my Wall Street clients. It wasn't until years later that he told me his ulterior motive.

Dick was trying to get the Lab's chairman, cable magnate John Malone, to support the effort and he figured a Wall Street report with numbers might provide a helpful push, and maybe it did.



Malone and Comcast's Brian Roberts got behind the cable modem effort.

And then Bill Gates and Microsoft validated cable's broadband potential by putting a billion dollars into Comcast…and that's a very tiny piece of why we have streaming today.

Data Zap. Killer App.

There was earlier capacity jump, 20 years before the cable modems, and first exploited by a wild and crazy genius named Ted Turner. Ted died last month.

RCA's Satcom 1 television satellite went fully operational around the beginning of 1976 with double the capacity of prior satellites and significantly lower transponder costs. Turner realized this new bird could be used to deliver his tiny local, independent TV station then called WTCG to every cable system across America. Nobody had tried this for a basic cable service.

Turner took advantage of the 1976 Copyright Act's new compulsory license provision, which let any cable operator carry a distant broadcast station without the station's permission, and he used an independent common carrier for the satellite to deliver his signal nationally. The common carrier collected distribution fees from cable operators, cable operators began to pay the compulsory license as it kicked in, and Turner kept such advertising revenue as there was from his new national audience. But persuading advertisers was tough. He once told me that they'd ask viewers on the air to send in letters…and he'd take the letters from across the country to potential advertisers just to prove people were actually watching the tiny Atlanta independent station.

Other super stations followed, and then the basic cable nets like his CNN four years later.

Vision, Timing, Execution and the copyright and common carrier regs.

Now please give me just a moment, if you will, to remember what it was like to encounter Ted, at least as an analyst. Not a lot of people on Wall Street took him seriously, and I was one of few analysts covering Turner Broadcasting. Ted loved the coverage, but didn't take criticism well, and appropriate criticism was part of my job.

Actually, not taking criticism well may be an understatement. You decide.

One time I was sitting across Ted's desk as he explained how incredibly wrong I'd been in one of my reports. But he didn't just point a finger at you. Instead he grabbed a long pole that was leaning beside his desk…maybe a sharp boat hook from one of his yachts… swung it across the desk and started poking me in the chest…poke, poke, poke…a poke for each wrong thing he claimed I'd written. It was sharp. Nice guy.

One evening he was after me <again> at one of those black tie things in a New York ballroom with 2000 of your closest cable industry friends. We were in the vip room and called me over to the center table with its tower of shrimp or whatever. Jane Fonda was with him. And he started yelling at me about my latest report so that the whole room could hear. Once he had everyone's attaention he turned, walked away, turned back around and yelled again…"And Tom I know that I'm right and you're wrong…because I'm worth $8 billion and you're not."   Yep. The whole room was watching…except Ms Fonda who was looking away with an "I don't know this guy" sort of look.

Well, Ted was certainly right about his number. Two days later the purchase of Turner Broadcasting by Time Warner was announced…for…$8 billion.

Vignette number three deals with "good" cases where the vision was to recognize someone else's accomplishments, have the financial resources, and then move quickly.

Should you have found yourself in the massive Victoria and Albert museum warehouse in East London, as Valerie and I did last month, among centuries of artifacts you'd find something only 21 years old…the story of the very first video that ran on YouTube in 2005.

(Voice over to clip)

That's it, only 19 seconds. Here it is again in case you missed it.

18 months later Google bought YouTube from its three founders and Sequoia Capital for $1.65 billion in Google's fast rising stock, out bidding Microsoft, Yahoo, and News Corp. Over the next two years Google integrated YouTube into its advertising systems, and worked its way through the copyright mess. Vision, Timing—this time for funding, execution, and finessing laws and the copyright regs.

This next one is one of those classic American Immigrant story. Come to US and do good. Except in this case it's come to America and finesse the regs.

And in that Rupert Murdoch has been the master.

When he came to the US Murdoch wanted to own a Studio and TV stations and then build the fourth television network. Like Turner, saw that the cheaper satellite time would allow backhaul of a national signal to local stations. So technically the timing was right.

The Metromedia TV stations were perfect to anchor his network.

He wanted to buy six of them in six of the then top 10 markets.

But there was one hitch…the law said he couldn't buy the stations because he wasn't a US Citizen. But Murdoch being Murdoch had a simple way to finesse this significant regulatory problem.

He became a naturalized citizen of the United States of America.

This is the Chicago Tribune headline the day Murdoch took the oath.

American Dream.

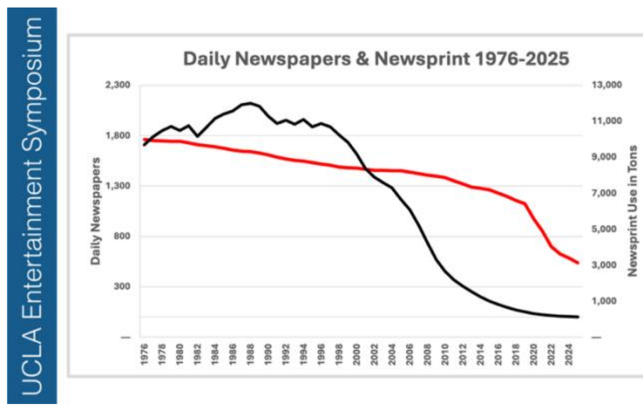
Of course there lots of other success—fabulous developments and important business deals that I'm sorry we can't get to.

But there was also a lot of bad or things that didn't work. I think the bad can be split in three ways—premature tech, bad or missed deals, and perhaps most impactfully, laws, regulations, and the judicial system that have been unable to keep up with the industrial changes because of either, lack of foresight or a catatonic judicial process. Its worth thinking about where laws and regs worked and didn't as we think about regulating AI and social media today.

Lets start with the death of the local newspaper business and consider concentrations of station and newspaper ownership in market, nationally across markets, and across distribution technologies.

Here's the newspaper setup. Almost 1800 local daily newspapers in 1976 down to fewer than half that today.

And an even better tell on the industry is newsprint consumption. There was an advertising pop in the late 1980s, but downward forever after as not only the number of newspapers shrank, so did the number of pages, and, in many cases, the page size itself.



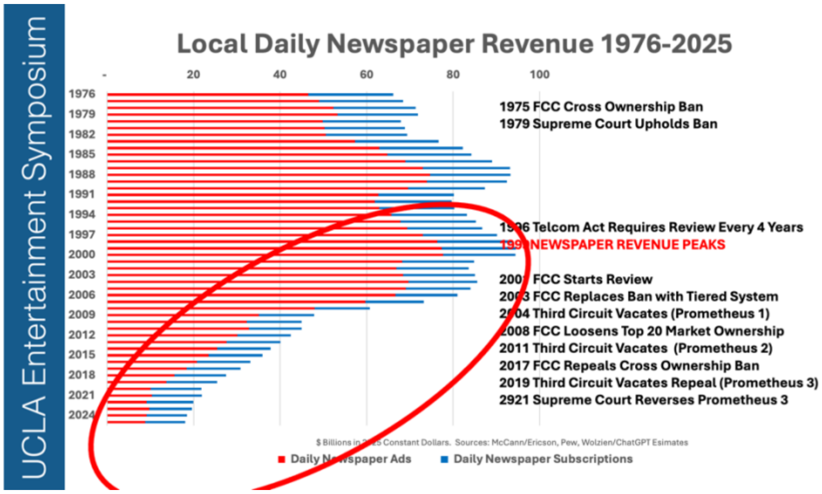
And here's what happened to newspaper revenues…1976 at the top of chart, 2025 at the bottom, Ad sales in red on the left, subscription revenue in blue on the right. Stunningly bad.

Now I'm going to leave up the timeline of events as I talk about the destruction of the newspaper business.

The 1975 FCC Cross Ownership ban allowed newspaper companies to keep TV stations they already had, but said neither could buy the other in the future in any individual local market. There were three groups playing in this bit of regulatory and judicial history.

At the beginning there was the Nixon/Ford Justice Department that didn't want any cross ownership of newspapers and TV. Some of these Feds hated the idea that the Washington Post newspaper could also own WTOP the CBS affiliate in Washington…scars of the Post's breaking the Watergate story.

The industry was another player…all the big newspaper and broadcasting companies who it seems never saw a vertical or horizontal integration idea they didn't like.



Finally there was the Prometheus Radio Project, a group of independent radio people emphasizing diversity of media ownership and ultimately backed by the deep pockets of The Ford Foundation, Common Cause, some pro-bono brains of Georgetown Law, and a lot of others.

Newspaper revenues had not yet peaked when the FCC issued the ban on expansion of cross ownership in 1975…or when the Supreme Court upheld the FCC’s right to do so three years later.

Revenues had pretty much stalled by the time Congress passed the Telecommunications Act of 1996 that told the FCC to conduct an ownership policy review every four years…and revenues had turned downward by the time the FCC finally got around to doing its review five years later.

In 2003 the FCC tried to modify many of its policies including cross ownership and the number of stations owned by one company in one market using a “Diversity Index” based on a calculation of the total number of all "voices" in a market—broadcast, print, and web.

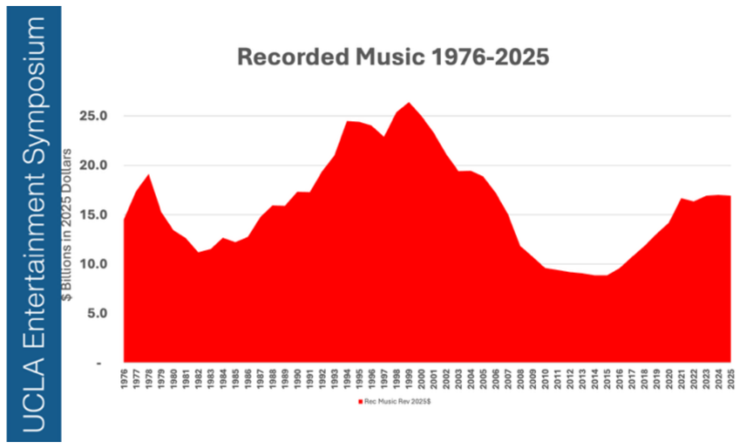
Enter the Prometheus Radio Project, focusing on broadcast station ownership and claiming the Index was flawed. Newspaper revenues were crashing. Prometheus sued repeatedly. And as newspaper revenues crashed even more, Prometheus won three times in the Third Circuit in Philadelphia where it had taken the case instead of the DC venue more normal for FCC challenges.

By 2021 local newspaper revenues—which had peaked at $90 billion in constant dollars—had dropped to under 20 billion. With half of the local newspapers pretty much dead and buried, the Supreme Court acted, throwing out Prometheus and allowing the cross ownership ban go away 46 years after it was enacted and 22 years after newspaper revenues peaked.

Now those of you who worked these cases probably have a more sophisticated view, but in retrospect it seems to me that an attempt at an all-encompassing regulatory framework, like the FCC Diversity Index and tying cross ownership of two media to multi-ownership of outlets of a single media, is an invitation to litigation and blocks dealing with a single industrial crisis like the decimation of local newspapers.

Lets enter the Neverland of “would-of, could-of, should-of” for a moment and consider if the TV and newspaper industries had been fully combined. The revenue pool in the declining years would have increased at least 60%.

There were a lot of forces at play, including predatory capital sensing newspapers’ weakness…but a good part of that weakness came from the inability to cross subsidize, combine newsrooms and ad sales, and consolidate overhead. Would that have saved the industry…probably not. But would it have saved a number of individual newspapers serving their communities…probably so.



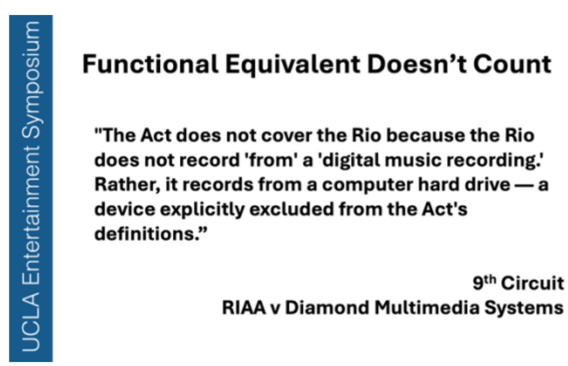
This is about the death and resurrection of recorded music.

As you see, the graph is the inverse of newspapers..the business recovers.

In this case the advent of .mp3 digital recording, Diamond Rio, Pirate Bay, Bit Torrent, Napster and a batch of others finessed the 1992 Audio Home Recording Act that required technology to be embedded in digital recording devices to block copying without compensation.

There was legislation, but unlike the all-encompassing approach to regulation we just saw in the death of newspapers, this legislative compromise was narrow and precise…precise to the point that it specifically wrote out copying from a computer. It was silent on where the original material came from.

So there was no language saying you couldn’t rip a CD into your computer and then transfer that copied song into your digital player.



It did ban copying and playing between digital audio devices

The court ruled in Diamond Rio that the player wasn’t an audio recording device under the act because it copied from a computer not another specific digital audio recording devices. The result… copy away!

And in 1998 the Digital Millennium Copyright Act instituted take down measures. Good and important, but the 1996 Communications Decency Act gave ISPs broad protections so there was little motivation to police the pirates beyond responding to specific copyright complaints. To the contrary, it was in the interests of the ISPs to allow piracy in order to increase their own penetration and usage numbers.

Unlike newspapers, the recorded music industry declines began to flatten ten years after the revenue peak and then began recovering in 15 years. That recovery over this past decade came because of a combination of legal enforcement, bandwidth increase, application of streaming tech, and smartphone penetration all of which made it easier to subscribe to services like Spotify rather than try to pirate individual tracks.

The lessons here for me are first, that a legislative compromise allowing a functional equivalent is worthless. Second, when it is easy, convenient, and not costly to comply with a law, consumers will.

So in our good, the bad, and the stupid…this one goes in the bad…but with some good in the end.

Ultimately video piracy went the way of music piracy thanks to streaming, but it was rocky in the 1990s and into the 2000s. The industry claimed that it was losing huge amounts to piracy.

This is the story of two men in a face off. One saw the coming piracy problem and tried to fix it. The other saw the huge potential business despite piracy.

I think most people here knew Skip Brittenham as a talent deal maker extraordinaire. But I got to know Skip during a short lived fight over the future of DVDs. Once again Wall Street reports could be useful to make a case to both investors and managements, and both Skip and Warren Lieberfarb at Warner Home Video wanted me to publish their respective pitches.

Warren was looking toward mass distribution with a simple product with minimal copy protection. Skip said not so fast. He knew a lot about the technology then available, and he knew how people would bypass the limited copy protection built into DVDs. He feared his clients would be hurt by mass piracy. And he set out to do something about it with a positive authorization system to enable playing a disc.

Skip's product was called Divx, and it was a DVD that needed a special player that phoned a central computer to authorize playing the movie on that disc. The object was to compete in the rental market. The product failed because people didn't want to buy the more

expensive special DVD players. Electronics retailer Circuit City got involved, and ultimately both Divx and Circuit City went away.

But Skip was right. He did see the threat of video piracy. But Warren was right, too. He saw the demand for movies on discs, and piracy may have cut into the sales…but the sales, none the less, were huge.

When we talk about the criteria for successful deals and developments, Divx had the timing, the product to execute, and the laws and regs on its side. And it had a vision of what was needed to protect the industry, but not the consumer. And what the consumer wanted was the something easier and cheaper that basic DVDs provided. So Divx goes in the lofty failure group.

While we're talking about video failures, lets consider the failures of many before success of one… like the bodies on the road leading to the extraordinary success of the iPad introduced in 2010.

That road probably started with the Apple Newton in 1993. Newton required a stylus to write on that little pad.

And then came the Palm Pilot in '96 which also needed a stylus.

By 2002 Microsoft was in the game with the idea that every body wanted Windows on a tablet, and that everybody also wanted a stylus. So very, very wrong.

BUT why a stylus…because only a few tiny pixels on the screen could be tapped for an input command, and on small screens the pixels were really tiny so you needed a really sharp pointed stylus.

In 2005 Sony had a different idea for the same screen technology…that people wanted a portable device that used a touch screen and could be used to scan the web and even watch TV. By making the screen—and therefore pixels-- larger, Sony figured it could make the target spot big enough to use a finger, instead of a stylus.   Clever observation AND work around.

Sony…the people who invented and came up with the snappy name for the Walkman…came up with a not so clever name…The Location Free TV.

And this box it was freakin awesome…awesomely bulky and heavy. Here it is..without its heavy battery and separate cable box sized base. station. Sony got the finger thing right, but this device failed for any number of reasons…bad vision, bad timing versus available tech, horrible execution.

Apple acquired something called FingerWorks in 2005. FingerWorks had figured out gesture recognition, and Apple engineers spent another five years working to get all ten fingers to be recognized by the iPad…interacting with a new type of touch screen—and with no stylus.

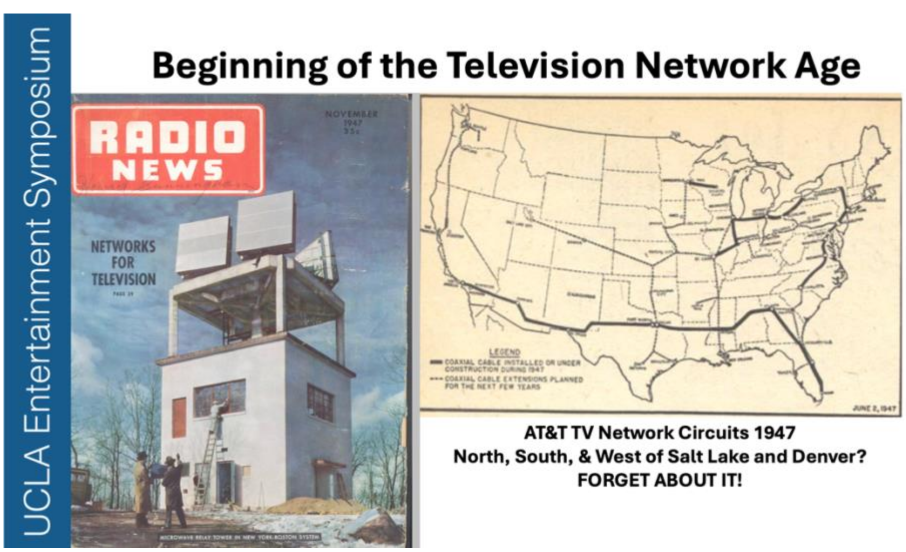
Lots of technical and business failures…bad…before the good..

By the way, you may wonder why I even have this thing. Sony's broadcast electronics unit was one of my first clients when I started the consulting business in 2005, and they would only pay me in trade. I took one of Sony's first LED TVs in trade, good,…and this Location Free TV seemed like a great idea in the catalog…until it arrived.

Actually, Valerie is down there asking the greater question….why did I ever keep it.

Before moving to the Stupid, I need to deal with the mixed bag that was…and whose legacy remains…called FinSyn, the financial interest and syndication rules put in place in 1970 and revoked a quarter century later. They continue to be referenced today, even though today' world is one of market power rather than technical limitations.

I was otherwise distracted when the rules were enacted, somewhere in Vietnam directing an Army combat camera unit, so this has been a fascinating research project.



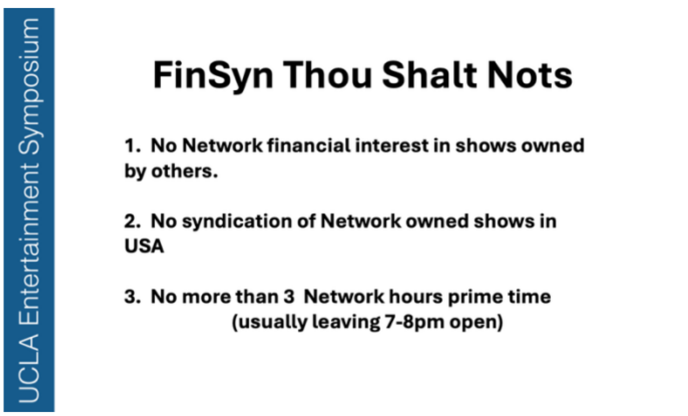
But I do this section with much trepidation because the Global Expert is sitting down front. Not only did Ken Ziffren live the full arc of Finsyn, his arguments, business designs, and deals defined how it played out.

Why FinSyn? The fear…and the pre-satellite reality of the 1950s and 60s was vertical integration encouraged by severe technical limitations. This map shows a few of the cost intensive circuits of AT&T in the pre satellite days, with a relay tower and cable amplifiers every 30 miles across the the country.

The three networks leveraged those three national circuits and their affiliate system to force ownership positions in programs.

Every deal was different, but Dragnet is a good example, Producer Jack Webb's company owned the property, but as a condition of carriage on the network, NBC required a financial interest and syndication rights.

Broadly there were three FCC rules making up the Finsyn era: First, A network couldn't have a financial interest in a show owned by others,



Second, it could own shows, but couldn't syndicate them in the US after they aired on the network, and

a network could only program three of the four prime time 7-ll pm hours six days a week. That separate Prime Time Access Rule or PTAR assured the local stations had to produce or acquire shows from somebody other than the networks.

Once the rules hit, the three nets were forced to spin out their syndication businesses into separate companies. Viacom has been best known. It was split from CBS.

The Cosby show at NBC is a dramatic example of the impact of FynSyn. With domestic syndication sales gone, networks claimed they couldn't fund entire productions and so the deficit funding model evolved.

The independent production company Carsey-Werner and Cosby owned the show and covered all development and production costs which were more than NBC paid Carsey-Werner. NBC kept all the ad sales for its two runs, maybe close to a billion dollars across the eight years. Viacom handled syndication for a then record half billion dollars or so in sales to local stations, almost all of which went to Carsey-Werner and Cosby—covering the deficit and way more.

NBC was in the ratings cellar at the time. I remember affiliates and managers alike cheering when they saw the Cosby pilot at the affiliates meeting down at the Century Plaza in May 1984. It was their hope for the future…and that show became the key to rebuilding the network into a late '80s powerhouse.

And for the record, I don't remember anybody at NBC complaining about losing out when it didn't get a piece of the syndication sales.

That prime time hour when local affiliates were not allowed to run network shows was filled with a mix of game shows, syndicated reruns, and local news. And as a reference, you can thank the prime time access rule for the daily editions of Jeopardy, which King World then Sony sold into the 7-8pm slot starting 42 years ago and it remains in that slot today.

By the way, you might ask how Rupert Murdoch was able to start the Fox network while he owned Fox studios AND owned prime-time shows like Fox's The Simpsons which started during FinSyn. Simple answer, the FCC defined a network as programming 15 hours a week or more in prime, and, as usual, Murdoch played the loophole. Fox never programmed the 15 hours during FinSyn, so the Fox Network wasn't actually a network.

After years of arguing, cable growing, and network audiences declining, the last piece of FinSyn went away in 1995, and vertical integration resumed.

Disney bought ABC.

NBC merged with Universal then both into Comcast,

and in a goes around comes around story, Viacom brought in CBS..spun it out and brought it back, became Paramount…and was bought by Skydance. And we know what comes next.

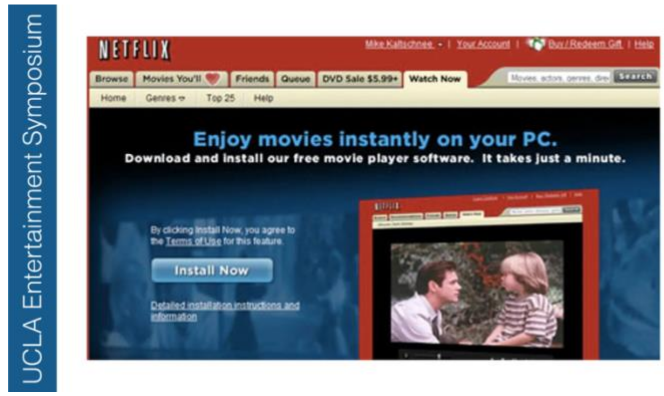
The complaints about vertical integration are back. Platforms want full ownership of content.

But even without the back end, producers are finding new models and points of leverage. And some seem to be doing quite well owning just about everything else. Just ask Taylor Sheridan.

You may be able to think of a more stupid deal than the one I'm going to tell you about…but for me this one was key to changing the industry as an incumbent allowed a newcomer to get an important foothold.

Remember this page I showed you when I started today. I warned back in 2005 that a new aggregator could use broadband to bypass conventional distribution. I suggested Amazon, Google and others, but I didn't think of the small disk-by-mail renter, Netflix. Stupid me.

In 2007 Netflix called their new service "Watch Now" and its 7 million DVD subscribers could watch a few hours of streaming movies each month, but there wasn't much to watch. Netflix only had rights to something like a thousand or so old movies and it really needed rights to the good stuff...the good family stuff...and the good family stuff meant Disney movies.



But the atmosphere 19 years ago was as charged about the *potential* value of the internet as it is charged today about Artificial Intelligence. Back then it was unlikely that anybody...and particularly Disney.. was going to do a deal with Netflix at anything but a license fee that matched the charged atmosphere. A fee that Netflix couldn't afford.

So Netflix found another way through somebody else's deal done with Disney years before.

Jump way back to around 1994. Here's how it happened,. Telecommunications Inc, was then the country's biggest cable operator. It was run by John Malone—you remember him, Cable Labs, and the cable modem. TCI's programming company was Liberty Media. And Liberty had created a pay service called Encore...later Starz Entertainment.

Encore was conceived by a guy named John Sie

and in the mid 1990s Encore did an output deal for only live action films with the various Disney-owned Studios.

In 1999 that deal was expanded for 10 years and close to a billion dollars. It was a pretty normal output deal for linear cable. Animated films were similarly licensed in 2002.

The 1999 deal also added video on demand. Standard. But as part of TCI and an engineer himself, Sie was watching the progress of cable modems, so the 1999 deal was further expanded to include video on demand by *broadband streaming*. Still good.

Now here's the dumb part.

Sie and his team added one tiny additional provision. Over coffee one day Sie quietly, but very proudly told me

"you know, we got the right to sublicense all the Disney animated movies for streaming." Wow, I thought, but I didn't think Netflix.

So, in 2008 with its Watch Now streaming service stalled for lack of content, Netflix embedded Starz using the Disney sublicense—this screen shows Ratatouille. Netflix paid Starz a reported $30 million a y

ear. Lawsuits ensued, but with access to Disney and other movies on Starz, Netflix streaming subscribers climbed up and up, with 21 million by 2011.

Ultimately Disney and Starz reached a deal with large increases, but the damage to the industry was done back then. Netflix was established as a solid streaming company, and things haven't been the same since.

Why did Disney do it? Clearly the operating people didn't tell the legal people it was an issue. Maybe Disney felt burned by a billion dollar loss on its attempt to build an internet portal… Disney.go.com…so it didn't think anything would come of streaming rights, or maybe the negotiators just missed the significance of the phrase Sie was slipping in.

In either event, I found a few negotiating take aways here. If you're buying, ask for it even if you don't need it right away.

And as the seller, if they're asking for it and you don't understand why, you really need to stop and figure it out.

And you always need:

Schmuck insurance.

So that's it… a taste of 50 years in 50 minutes. If I missed your favorite deal or development, I'm sorry, but we did cover a lot. And every bit of it has set the stage that will keep you, your firms, and this organization very, very, very busy for the *next* half century. AI panel is next. Thank you.