Americas QUARTERLY
PUBLISHED BY AMERICAS SOCIETY AND COUNCIL OF THE AMERICAS

ARCHIVE

From issue: **Media in the Americas: Threats to Free Speech** (Fall 2013)

AQ FEATURE

Breaking Up is Hard to Do

BY Silvio Waisbord

Tackling Latin America's media empires is critical for the health of democracies.

Media concentration remains a crucial challenge for democracy in Latin America. There are no media monopolies, strictly speaking, in the sense of a single corporation owning all media offerings, but media market concentration remains high. Legacy media properties, as well as the majority of advertising expenditures, are controlled by a small number of companies. Some television markets are “imperfect duopolies,” such as in Mexico, where Grupo Televisa and TV Azteca reap the lion’s share of ownership, advertising and audiences. In Colombia, *Caracol TV* and *RCN TV* attract over 60 percent of television advertising.

Some newspaper markets are similarly dominated by two companies. In Chile, for example, El Mercurio S.A.P. and Grupo Copesa control the largest number of dailies, and the largest percentage of advertising and readers. Radio ownership, unlike the television and newspaper industries, is fragmented in hundreds of licenses, although a small number of media companies generally own the most popular stations and national networks.

Should We Worry?

Media concentration is antithetical to democracy for one basic reason: it reduces the range of news, information and perspectives that citizens require to be aware and knowledgeable about issues that are relevant to public life. A diversified “marketplace of ideas”—a cornerstone of democratic societies—demands a diversity of information that responds to different interests. As long as a few companies wield unmatched power to determine which issues and ideas gain broad visibility, citizens receive a narrow menu of options.

In such a concentrated media environment, consumer preferences may influence content as long as they do not question the political preferences of media proprietors, the business objectives of media companies, or demand content considered too controversial for the powers that be.

But more than just reducing the options and ranges of information available to citizens, in the Americas the history of media concentration is particularly problematic.

The leading media corporations in Latin America—historically owned by powerful families and industrial corporations with staunchly right-wing sympathies—have traditionally adopted conservative positions vis-à-vis a range of critical issues. Also, beyond political orientation, the fact that large media companies are owned by corporations with business interests in key economic sectors, such as banking, agriculture, and extractive industries, compromises the editorial independence of news divisions.

It is hard to believe that those companies remain neutral or offer evenhanded coverage of critical public issues, such as financial reform, taxation, environmental concerns, food safety and many others that directly affect their interests—especially when the border between owners and the editorial management remains so fuzzy.

When a drywall (rather than a firewall) separates the editorial and reporting sides, news decisions are unduly influenced by non-journalistic pressures rather than the public interest. Sadly, in the region, the business and political interests of parent corporations weigh particularly heavily on news content and coverage. Professional associations of journalists, such as the *Foro Argentino de Periodismo* (Argentine

Forum for Journalism), Ecuador's CIESPAL and Peru's *Instituto de Prensa y Sociedad* (Institute of Press and Society—IPYS), have warned about the problems of self-censorship among reporters wary that publishing content deemed inconvenient by corporations may lead to reprimands or fi ring.

Why Digital Technology Hasn't Changed the Game

Business groups that represent newspapers and privately owned broadcasting stations have argued that media concentration is less important in the brave new world of fragmented media shaped by the recent wave of technological innovations.

According to this view, the remarkable multiplication of radio stations and television signals in Latin America and the expansion of Internet access deliver plenty of content options. As a result, power has devolved to the sovereign consumer, who selects news options á la carte from a never-ending menu; and media companies can no longer force-feed content to audiences that have an endless supply of choices at their fingertips. Thus, the argument goes, the question of diversity is no longer mainly about ownership or content, but about whether citizens deliberately expose themselves to a plurality of sources and information available in the digital world.

The problem is, it's wrong.

Illustrator: Ellen Weinstein

Digital technologies have turned the media into a multilayered landscape. Growing Internet access has increased opportunities for consuming and producing content. It is too soon, however, to conclude that old broadcasting and print media are unimportant, or that digital networks have leveled the playing field.

Despite the gradual reduction of the "digital divide" across the region, Internet access remains highly uneven. While access is close to 70 percent in Argentina, it is less than 20 percent in Guatemala. Social disparities in digital access are particularly noticeable outside metropolitan areas, where Internet penetration is substantially lower, and in countries with large rural and poor populations.

Even in areas where there is greater Internet penetration, traditional media remain influential platforms that bring together fragmented audiences and influence public opinion and policy agendas. Data from web traffic tracking sites show that traditional or legacy media typically rank among the most-visited sites. Aside from the dominant global companies (such as Google, Facebook, YouTube, and Twitter), traditional media (particularly news) companies maintain a leading online position. This is the result of various factors that play in their favor: first-mover advantage, economies of scale, and successful strategies to capitalize on brand recognition and deep pockets.

Those factors are difficult to overcome for the scrappy bloggers and new media sources that have been able to cross the low barriers to entry in the information world.

The ever-expanding media landscape definitely offers more options than in the past. Netizens have access to every imaginable perspective on virtually any subject. Yet countless bloggers and do-it-yourself websites can hardly compete with established brands and the deep pockets of major corporations. They have neither the resources to provide well-rounded, comprehensive and critical coverage of vital public issues nor the political influence to shape public opinion and legislative agendas.

Some may occasionally “make big news” (echoed by the mainstream media or gain traction in social media), or consistently reach specific segments of the population; but they are far from being on equal footing. In the offline world, too, prospects remain grim for newcomers to attract sizable advertisers and audiences away from well-established publications and stations.

The Politics of Media Regulation

Neither technological innovations nor market dynamics resolve the problems of concentrated ownership, advertising and audiences. The hope for technological fix-its or the market to work its magic ignores the importance of politics and policies in shaping media agendas. Smart public policies are necessary to promote a more diverse media order.

Media diversity is not an easy concept to pin down. Policy experts continue to debate what this means amid constant changes in legacy and digital media industries. As a rule of thumb, it refers to the existence of relatively dispersed ownership, funding and content that reflect the heterogeneity and richness of Latin American societies. Pluralistic media systems are organized in ways that make available a wide range of news and information reflecting the voices, concerns and actions of citizens and groups and that reach the majority of the population.

Attempts to implement policies to shake up media concentration have often confronted corporate opposition and political disinterest. Too often, they reflect partisan efforts to punish opposition media. Interested in protecting their power, media corporations have reacted predictably to government efforts to break up empires by either ignoring demands for change or vehemently opposing media reform policies. The Inter-American Press Association has often dusted off the canard that any type of property regulations interfere with press freedom and market dynamics. This argument conveniently forgets that media markets are not the outcome of natural evolution or divine providence. Market structures are the product of political decisions. We can only understand the evolution of media concentration by examining the history of strategic alliances between companies and public officials during the past century. For example, just as

Globo endorsed the 1964 military coup in Brazil, a decision that it has publicly repudiated in recent months, *El Mercurio* was critical in drumming up support for the dictatorship that overthrew President Salvador Allende in 1973 in Chile.

Many of the media owners today owe their position to more than just sharp business acumen or the natural laws of market competition. Instead, all too often, the visible hand of the state has aided the invisible hand of the market. While companies have jumped to criticize state intervention when policies or the decisions of officials work to the advantage of competitors or encourage modest diversity, they have been silent when they directly benefited from government advertising, legislation, contracts, tax breaks, and other actions.

In the face of this highly concentrated market, politicians have adopted one of three positions: they promoted concentration by sponsoring deregulation and showering allied companies with favorable decisions; they tried to benefit personally by acquiring broadcasting licenses and cutting deals for economic gain; or they remained wary about stepping on the toes of media corporations out of fear of compromising their visibility and political ambitions.

In recent years, however, some officials have been receptive to long-standing demands for reform by unions, professional associations, alternative media, and freedom of expression organizations. New media laws, as well as ongoing parliamentary debates, suggest, ever so slightly, new political winds. Current congressional debates in Brazil, Honduras, Mexico, and Uruguay and recent legislation passed in Argentina and Ecuador have focused on limiting cross-media ownership and banning industrial businesses from owning media properties.

Despite these signs, there has been no clear regional shift to address the root of the problem. Situations considerably vary across countries, as does the hope for success of these new initiatives.

Political elites have not been interested in turning public demands for regulations into legislative priorities. Politicians rarely run on a platform of curbing media concentration or put the issue front and center in their careers. Instead, partisan calculations often steer the prospects of anti-concentration demands.

Political circumstances, such as changing alliances and electoral results, open up or close opportunities for legislative action.

In Argentina, for example, the Cristina Fernández de Kirchner administration suddenly showed interest in media concentration after its falling-out with media giant Clarin Group in 2008. Only then did it throw its weight behind long-standing civic demands for media reforms. The government introduced a bill drafted after a process of public consultation which, after several amendments, was approved in 2009 **[SEE BECERRA AND MASTRINI]**. The law includes several anti-concentration provisions, such as the distribution of broadcasting licenses in three thirds (private, public and community), and restrictions on cross-media ownership and industrial corporations owning media properties.

In Ecuador, the Rafael Correa administration succeeded in obtaining majority congressional approval for a media law following his party's decisive victory in the February 2013 elections. Although the law approved last June contemplates limits on private media ownership and recognizes public and community licenses, it also has several articles that set the basis for government control of content. Among other troubling articles, it introduces the figure of "audience defender" appointed by a government body and imposes ethical norms and forms of prior censorship that are contrary to the American Convention on Human Rights. To its critics, the law represents Correa's attempt to further tighten control of the press in its ongoing conflict with several media companies and freedom of expression organizations.

Laws and initiatives should not be applauded simply because they aim to break up media conglomerates. The Argentine experience demonstrates that the policy devil is not in the technical details but in the application of the law. The government's primary concern in launching the effort was ensuring that the Clarín Group complied with specific articles in the legislation rather than the full implementation of the law. The government adopted a combative position and selective law enforcement after Clarín's divestiture was stalled by judicial decisions in response to the Group's injunction. Judges have concluded that anti-trust articles violate the constitution.

Blinded by its obsession with Clarín, the Kirchner administration disregarded the broad application of the law and lost the momentum provided by the legislative victory. Since the law was passed, the government has entered a political *terra incognita*. It had no experience in terms of the implementation of ambitious and complex legislation that would affect the powers that be in the Argentine media. Inexperience coupled with single-minded interest in forcing Clarín to sell off properties hobbled the process.

Unquestionably, the government has put more energy into wielding rhetorical broadswords and waging legal battles with the country's most powerful media corporation than in ensuring the effective implementation of the law. At the same time, it has been far more lenient with companies sympathetic with its politics. It has not cracked down on friendly media corporations that violate the law because they own more licenses than they are allowed, or on industrial conglomerates banned from owning media companies.

In addition, the Kirchner administration has not shown interest in expediting the sale of their assets to conform to the new legislation. It has also condoned media acquisitions prohibited by the law that involve corporations sympathetic to the executive. Also, it has delayed the process of assigning new licenses to private owners and community organizations, a critical component of the law for bolstering media diversity.

The Importance of Governance

Untangling media concentration remains a critical task for the democracies in the region. The lack of consensus on best solutions and the firm opposition of incumbent corporations is one barrier. But there's also a longer term and more difficult issue of impartial and effective governance of the reforms and policies intended to ensure broader participation in the media.

Recent arguments in the global debate on media concentration suggest that a basket of interventions in legacy media industries is still necessary. Here are a few of the basic principles that should guide such efforts.

Regulations that prohibit mergers, curb cross-media ownership, force divestitures, and ban industry from owning media properties are still essential mechanisms to avoid mega media corporations. While these are important, they are still insufficient. Dispersed ownership is necessary to avoid concentration, but it doesn't automatically let a thousand media outlets bloom (and survive).

Policies to fund the media through different means are fundamental. As important as reforms to break up media concentration are—lowering barriers to property access with policies that make licenses available for different types of owners (private, public and nonprofit)—these only partially address the problems of concentration. If media advertising remains concentrated in a few public or private hands or remains overwhelmingly supportive of content targeted to better-off, urban audiences, media diversity is compromised. A diverse pool of funding is also necessary for promoting sustainable and effective media options.

This can include the policies of some European countries, such as using taxes to finance public broadcasting and granting subsidies to selected news companies to support their economic viability. Public broadcasting remains a necessary asset for informational democracy at a time of rampant commercialism and corporate gutting of newsrooms. But these efforts should not just be limited to audiovisual media. A mosaic of newspapers, informed by different editorial positions and reporting traditions, remains equally important to anchor media diversity.

Unfortunately, such efforts in Latin America have fallen victim to politics, partisanship and corruption. Regulations and policies to redress media market imbalances must be overseen and governed by an independent, effective government agency. All too often, technically smart regulatory policies have fallen to abusive practices. Governments have used funding mechanisms with great discretion and little transparency to reward loyalists instead of bolstering media diversity. Decisions not just over public funding of media but also government advertising, licensing, subsidies, and taxation must be vested in nonpartisan bodies free from political meddling.

Finally, policies supporting the diversification of content production and distribution are critical to ensure that myriad issues and perspectives reach the public. As with ownership and funding, however, it is important that policies supporting content diversity are implemented with utmost transparency and public control. They may be designed to pursue noble objectives but, as has happened too often, they can be implemented to lubricate networks of cronyism and clientelism if accountability mechanisms are nonexistent.

This is where basic practices of good governance come in. The menu of policy instruments necessary to curb media concentration and foster media diversity will be ineffectual if those instruments are trapped in chronic problems of governance. It is hard to envision that media concentration can be successfully resolved as long as poor governance remains a problem of Latin American democracies. Strengthening accountability mechanisms and public participation is critical for media regulation to serve public interests.

The challenge is not simply passing legislation that untangles media concentration and fosters diversity of ownership, funding and content. That in itself is a critical and complex task amid rabid corporate opposition and politicians' disinterest or caution. But any legislation aimed at fostering media diversity is bound to fall short of its objectives if its advocates in the government are not equally committed to real political pluralism and accountability.

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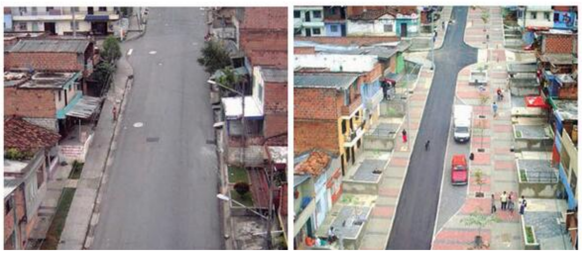

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  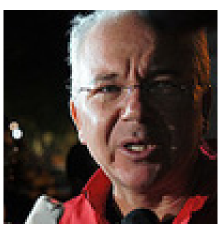

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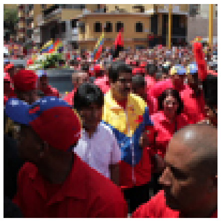

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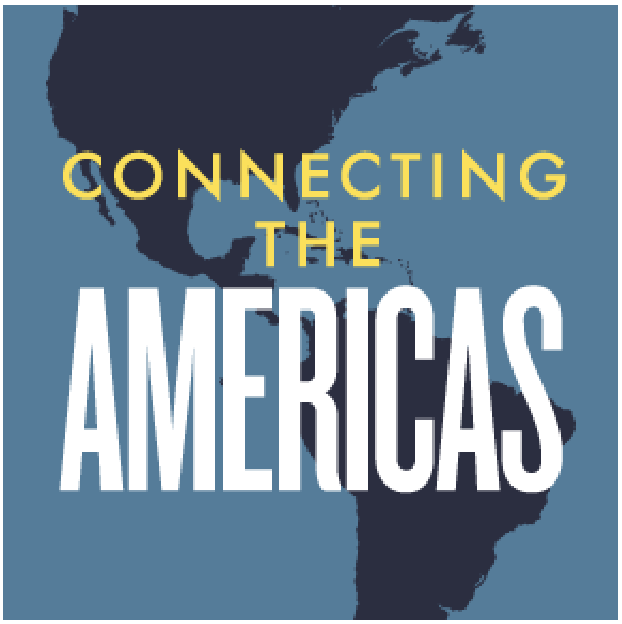

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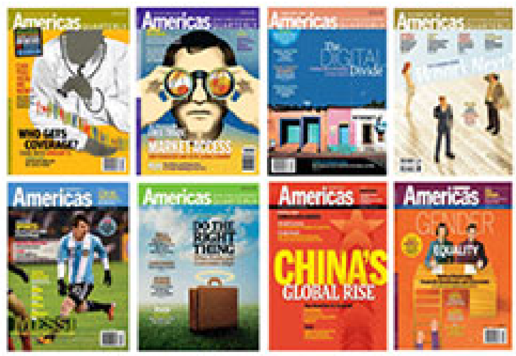

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