THE FINANCIAL INTEREST AND SYNDICATION RULES

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U.S. Broadcasting Regulations

The Financial Interest and Syndication Rules (Fin-Syn Rules), or more precisely their elimination, may ultimately alter the television and film entertainment landscape as much as any event in the 1990s. The Federal Communications Commission (FCC) implemented the rules in 1970, attempting to increase programming diversity and limit the market control of the three broadcast television networks. The rules prohibited network participation in two related arenas: the financial interest of the television programs they aired beyond first-run exhibition, and the creation of in-house syndication arms, especially in the domestic market. Consent decrees executed by the Justice Department in 1977 solidified the rules, and limited the amount of prime-time programming the networks could produce themselves.

The rationales for Fin-Syn are numerous. The FCC was concerned that vertical integration (control of production, distribution and exhibition) unfairly increased the power of the networks. By taking away the long-term monetary rights to programs created by the networks, and severely restricting their participation in syndication, the FCC eliminated incentives for the networks to produce programs, thus separating production from distribution. Those in favor of Fin-Syn hoped that the rules would benefit independent television producers by giving them more autonomy from the networks (because financial interest would be solely in the hands of the production company), and allowing the producers to benefit from the lucrative syndication market. Proponents believed that by privileging independent producers in this way, the rules would cultivate more diverse and innovative television content. Another potential advantage of the rules was that independent television stations would benefit from the separation of the networks from syndication. If the networks owned the syndication rights to off-network programs, they might "warehouse" their programs, or steer popular reruns to network owned and operated stations and network affiliates to make those stations stronger in a particular market.

From the very beginning, however, the Fin-Syn rules

Finally, other critics note the dangers to programming diversity and advertising interference that may result from the deregulation. Now that the networks may benefit from syndication, for example, will they have an incentive to put on programs with high syndication potential, like situation comedies? Also, during the Fin-Syn era, prime-time network producers were at least superficially insulated from advertiser influence because of the separation of production from distribution. Advertisers paid the networks rather than the producers of TV content. Because the categories of production and distribution have collapsed together after Fin-Syn, advertisers may have more direct access to network production because they now write checks directly to organizations that produce as well as distribute.

Changes in the Financial Interest and Syndication rules illustrate the significance of communication policy in affecting the daily menu of television choices available to the public. As much as alterations in technologies, techniques, and personalities, changes in the Fin-Syn rules, and their possible disappearance, have an immediate, significant effect on the television industry and television audiences.

- Matthew McAllister

<u>FURTHER READING</u>

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were controversial and contested. The networks felt that Fin-Syn was unfair and did not solve the intended problems. One anti-Fin-Syn argument noted that the expense of starting a national broadcast network--the financial barriers to entry--much more significantly explained the networks' control of television than their vertical integration. Others argued that the Fin-Syn rules undermined the role of independent producers rather than enhanced them. Small independent producers, for example, often cannot afford to engage in the "deficit financing" required by the networks. Deficit financing involves receiving a below-cost payment from the networks during the first-run of a program. Large production organizations--like the Hollywood-tied Warner Television--are much more financially able than smaller companies to cope with the necessary short-term losses in revenue, hoping to strike it rich in syndication. Critics of Fin-Syn therefore noted that Hollywood studios, rather than independents, grew stronger because of Fin-Syn, and that the smaller independents tended to produce conventional, but inexpensive, programs like talk shows and game shows rather than innovative programs.

In 1983, the FCC, swayed by these anti-Fin-Syn arguments and the general political climate favoring deregulation in many arenas, proposed eliminating most of the rules. However, a massive lobbying effort by Hollywood production organizations--efforts helped by a former Hollywood-actor President, Ronald Reagan--kept the rules in place.

In the early 1990s, however, other arguments were levied against Fin-Syn. When the rules were first implemented in the pre-cable, pre-FOX days of the 1970s, the networks' combined share of the television audience was around 90%. By the early 1990s, this share had dropped to roughly 65% because of the new forms of competition. Fin-Syn opponents also argued that the presence of vertical integration among other media companies--including organizations with television production arms like Time Warner-- was unfair.

In 1991, then, the FCC relaxed the Fin-Syn rules after an intense lobbying war pitting the major television producers (for Fin-Syn) against the major television distributors (against Fin-Syn). Appeals courts later relaxed the rules even further, in essence eliminating all traces of Fin-Syn by November 1995.

The elimination of the Fin-Syn rules could ultimately have several long-term consequences for television.

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See also Deregulation; FCC; FOX Broadcasting Network; Programming; Reruns; Syndication

The first consequence is the merging of production organizations with distribution organizations. One example of this is increased in-house production by the big three networks. By 1992, for example, NBC was the single largest supplier of its own prime-time programming. Besides the distribution firms of television becoming more involved in production, production firms have gotten more involved in distribution. The creation of three new broadcast networks from 1986-1995 illustrates this. FOX Broadcasting, supported by its direct relationship with a Hollywood studio, is an early innovator here. In fact, the spark that led to the Fin-Syn elimination was FOX Broadcasts' 1990 request for Fin-Syn revisions. FOX, both a major producer and a mini network, wanted the transition to full network status to be unimpeded by Fin-Syn. Once the rules against the production-distribution merge were on their deathbed, Paramount and Warner Brothers soon joined FOX in forming studio-based television networks. The mid-1990s were likewise filled with rumors that a major studio, like Disney, might purchase one of the big three networks instead of starting one from scratch. And indeed, the rumors became fact when Disney purchased Cap Cities/ABC in 1995.

The future of independents--both independent producers and independent stations--may also be significantly affected by the demise of Fin-Syn. Independent producers worry that, at worst, the networks will no longer require their services and, at best, the nets will demand a share of syndication rights to programs and will privilege in-house productions with the best time slots. Independent stations worry that the networks will warehouse their best off-network programs, now that they will own the syndication rights. Some charged that the 1994 syndication of *The Simpsons*--sold to around 70 FOX affiliates--is a sign of the favoritism to come.