

## The media octopus loses a tentacle

Congress has dealt Bush a stinging defeat on the FCC's relaxed new ownership rules—and is threatening to strike a fatal blow.

By Eric Boehlert

Ten weeks ago, News Corp. CEO Rupert Murdoch told analysts the odds were 60-40 that President Bush would veto any attempt by Congress to undo the controversial media ownership rules the Federal Communications Commission passed this summer.

In retrospect, that might have just been Murdoch spin. Or it was simply the latest example of how major media companies continue to misread the mood on Capitol Hill when it comes to the controversial issue of relaxing ownership rules. Because following closed-door negotiations, and over White House objections, the Republican-controlled Congress included in a huge, end-of-year spending bill a provision that forbids the FCC from easing TV ownership rules. That issue is a key, although relatively narrow, plank of the overall FCC rule changes.

The setback for the White House may just be the beginning of additional congressional attempts to dismantle the FCC's ruling. "This is the end of the first chapter," Rep. Maurice D. Hinchey, D-N.Y., told Salon.

The FCC's new media rules, passed 3 to 2 on June 2 by the five FCC commissioners along party lines, would allow one corporation to own both the top newspaper and the top television station, along with scores of radio stations, in the same city in most U.S. markets—a situation known as "cross-ownership." It would also allow broadcast networks such as Fox and NBC to buy more local television stations, enabling them to reach 45 percent of the national audience, up from the current national cap of 35 percent. Unless Bush issues a veto, that attempt to move the TV cap up to 45 percent will be rolled back. Cross-ownership would not be affected by the provision.

What are the odds of Bush now following through on a threatened administration veto? Most Beltway observers today think the 60 percent chance Murdoch gave has dwindled to 1 or 2 percent, that there's virtually no chance Bush will veto the \$280 billion spending bill in order to make a stand on behalf of media behemoths like the networks, Viacom and Fox that would be allowed to expand their TV empires under the new rules.

Adding the provision to the year-end omnibus spending bill, which is a grab bag of often-important items stuffed in at the last minute by Congress, makes it politically difficult to veto. "The omnibus bill is so potent and powerful and so full of things that are required for the government to operate, he can't veto it," says Hinchey.

That, plus the fact that Bush has never issued a veto before, and would be unlikely to use his first on an issue that does nothing to energize his political base. In fact, active conservative Christian groups, along with NRA members, have been among the 2 million Americans who contacted the FCC complaining about further media consolidation. The conservative groups are opposed to expanding the power of Big Media because they regard it as too liberal; they regard TV in particular as drenched in immoral sex and violence.

The right-wing Christian and pro-gun groups make up a strange-bedfellows alliance with other opponents of the FCC rules: anti-corporatist liberals, anti-monopolist conservatives, music-loving opponents of the radio behemoth Clear Channel, free-speech advocates, defenders of local media. The issue has split the right: While some conservatives take the White House line and support deregulation as a pro-free-market dogma, others see unchecked big-media control as dangerous.

The tactical defeat is a setback for the White House, which vigorously backed the new rules, and even more so for FCC chairman Michael Powell, who championed them.

The legislative loss does not come as a complete shock. After all, powerful FCC critic Sen. Ted Stevens, R-Ala., chairman of the Senate Appropriations Committee, had a seat at the closed-door negotiating table and was determined to buck the White House. The notion just 12 months ago that this kind of potent, bipartisan opposition to media consolidation would emerge was almost unthinkable. But intense pressure from local constituencies, and many lawmakers' own growing concerns about media consolidation, turned the political landscape on its head.

Despite the legislative win on the television issue, anti-consolidation activists say the cross-ownership issue is even more critical. "The TV caps is a sign of progress, but it does not get at the structural problems of the June 2 vote, which is cross-ownership," says Michael Bracy, director of government relations for the Future of Music Coalition, an influential grass-roots lobbying organization.

"It's progress but by no means can Congress say we've addressed this issue [of media consolidation] and we can move on to other things."

"The Republican leadership will continue to be adamant in its opposition to this," adds Hinchey. "It's driven by ideology, by the White House and the Republican National Committee."

When Congress returns for its next session in January, two prominent Republicans, Sen. Trent Lott, R-Miss., and Sen. John McCain, R-Ariz., will be leading to fight to overturn the media ownership rules. Some have speculated that Lott's opposition stems in part from his anger at the media's role in the scandal over a speech apparently praising segregation that forced him to step down as Senate GOP leader. (The fact that he is no longer leader, and thus not under as much pressure to follow White House orders, also probably played a role.)

Lott is championing a congressional veto, or resolution of disapproval, which would essentially overturn the FCC rules in their entirety. The legislative maneuver has been used successfully only once before, in 2001, when the new Republican Congress voted to overturn ergonomic rules adopted in the waning days of the Clinton administration. In September, the initiative passed the Senate by a vote of 55-40, with 12 Republicans joining the majority of Democrats. It was then sent to the desk of speaker of the House, Rep. Dennis Hastert, where it now sits.

Hinchey says the resolution would "absolutely" pass an up-or-down vote, with 300-plus members in favor, which is why House leaders, at the urging of the White House, have refused to bring the resolution to a floor vote. "It can be held at the speaker's desk collecting dust and cobwebs for the rest of recorded time," one Republican spokesman told the Washington Post.

In January, Hinchey and others will circulate a discharge petition, demanding that the item be brought up for a vote. To succeed, the petition needs 218 House signatures. Already committed are 205 members, include 11 Republicans who have defied their leadership. It's a close call as to whether supporters of the petition will be able to gather the needed signatures.

Meanwhile, McCain, along with Stevens, is pushing a bill that not only rejects the new FCC ruling but affirms some of the old restrictions and makes others tougher. Senate Bill 1046, the "Preservation of Localism, Program Diversity, and Competition in Television Broadcast Service Act of 2003," keeps the 35 percent cap in place and reinstitutes the cross-ownership ban. Additionally, it requires the FCC to hold more public hearings the next time it addresses media ownership issues, and would force some large radio broadcasters to sell off some of their stations.

The McCain-Stevens bill could be introduced even if the resolution of disapproval passes. The outcome of a vote on it is also unclear.

For their part, activists vow to continue their fight. "People are just getting started," says Bracy. "We'll be back in January pushing the issue again."