Sinclair and the Public Airwaves

A History of Abuse

October 11, 2004

A report prepared as a part of the Sinclair Watch project (www.sinclairwatch.org), an effort of Free Press.

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Introduction

On Saturday, October 9, 2004, the *Los Angeles Times* reported that Sinclair Broadcast Group, the largest owner of local television stations in the United States, would be ordering its nationwide affiliates to preempt regular prime-time programming between October 21-24 to air "Stolen Honor: Wounds that Never Heal." The film features "former POWs accusing [presidential candidate John] Kerry...of worsening their ordeal by prolonging the war." This highly unusual move is an obvious, brazen attempt to sway the opinions of voters in favor of George W. Bush at the time most likely to affect the vote.

To those who have been watching Sinclair, this move comes as no surprise. It is simply the latest in a long line of maneuvers undertaken by a company that has used its privileged, free access to the public airwaves to further its own agenda.

Sinclair owns, operates, and programs (as of this writing) 62 TV stations in 39 markets, including 14 in key political swing states. These stations include affiliates of all of the major broadcast networks (ABC, NBC, CBS, Fox, WB and UPN). By the company's estimates, Sinclair's TV stations reach 24% of U.S. television households—although the true number may in fact be much higher.

Broadcast licenses do not represent permission for a company to do whatever it pleases with our airwaves. Broadcasters who use our public airwaves, free of charge, are obligated by law to serve the public interest. Evidence cited in this document shows the Sinclair Broadcast Group to be single-minded in their pursuit of commercial and political gain, with very little apparent intention to serve the public good.

Every eight years, television and radio broadcasters must have their licenses to use the public airwaves renewed. This is the one opportunity citizens have to hold their broadcasters accountable for their actions. The objective of this report is to provide citizens with information on the operating practices of Sinclair Broadcast Group in anticipation of upcoming license renewals.

Key Findings

This report presents a compendium of Sinclair Broadcast Group's worst excesses, including:

• *Replacement of local news coverage with prerecorded, 'centralized' programming.* Entire segments of 'local' news are actually produced at Sinclair's "News Central" in suburban Maryland and then rebroadcast at local affiliates across the country. The practice, designed as a cost-cutting measure, has resulted in the loss of local voices across the country, less resources for genuine local reporting, and staff cuts.

• *Use of privileged access to the public airwaves to promote its own agenda.* Sinclair has a record of using its access to scarce public airwaves to support Republican viewpoints at the cost of serving the public interest. Sinclair's near-exclusive support for the GOP has coincided with consistent Republican leadership support for media regulatory policies that would bolster Sinclair's bottom line, largely by allowing the purchase of additional local television stations in markets which Sinclair has approached (or surpassed) present ownership limits.

• *Engaging in ethically and legally questionable practices in order to expand market holdings.* Sinclair's drive to expand its media empire is enabled by the maintenance of an outdated regulatory loophole, the "UHF Discount", which is no longer sound policy. Additionally, Sinclair maintains a suspicious relationship with another company, Cunningham Broadcast, which enables Sinclair to control the programming of more stations than is presently permissible in several markets.

‘Central-Casting’: Putting profit over quality

At a time when more Americans get their news from television than any other source, Sinclair has pioneered the disturbing practice of television news ‘central casting.’ Entire segments of ‘local’ news broadcasts are recorded at Sinclair’s centralized news operation, “News Central,” near their corporate headquarters in suburban Maryland. These segments are then piped to Sinclair-owned stations across the country, where they are presented as “local news.”

“News Central” productions include national and international news, sports, and weather. Tuning in to their ‘live’ and ‘local’ news, viewers nationwide have no indication that the sports reporter providing highlights of the game, the anchor reporting the national news, and the weatherman reading the forecast for their city were all pre-recorded in a studio thousands of miles away.

The practice, designed as a cost-cutting measure, has resulted in the loss of local voices across the country:

- ABC affiliate KDNL in St. Louis fired its entire news staff in 2002.
- Fox affiliate KOKH-25, in Oklahoma City, fired the entire sports department, the entire weather department, one photojournalist, one reporter and 6 other full and part-time staff.
- Fox affiliate in Rochester, WUHF, fired the entire news, weather and sports anchor team, and half of the remaining staff.
- About a third of the Raleigh WLFL-22-WB news staff was fired.
- 25% of the staff at Pittsburgh's Fox affiliate, WPGH-53, was fired in 2003, including a veteran weathercaster and several key reporters.
- The entire staff (a total of 35 people) at WXLV-TV, the ABC affiliate in Greensboro, NC, was fired in 2002.

This process of ‘news centralization’ has dire implications. Less resources are made available for genuine investigative reporting; less stories are produced that enable citizens to make decisions in local elections; broader local trends cease to be covered; and, tragically, local communities that find themselves already underrepresented and misrepresented find themselves even more so.

‘Central–casting’ is not only detrimental to the quality of news journalism; it has the potential to be dangerous. In 2003, as tornados swept through parts of the country and up-to-the-minute warnings were necessary, Sinclair's ‘Weather Central’, the weather department of ‘News Central’, ran a pre-taped forecast that was days old.

Playing politics for favorable regulatory policy

Sinclair has a record of using its privileged access to the airwaves to support Republican viewpoints, with both its programming choices and its monetary resources. While these activities are entirely legal, Sinclair's exclusive support for the GOP has coincided with consistent Republican leadership support for media regulatory policies that would bolster Sinclair's bottom line, largely by allowing the purchase of additional local television stations in markets in which Sinclair has approached (or surpassed) present ownership limits.

Strong monetary support for consolidation-friendly legislators
According to the Center for Responsive Politics, in the 2004 election cycle, Sinclair Broadcast gave over $67,000 in political donations, making it the #12 contributor among all broadcasting groups;[1] 97% of its contributions went to GOP candidates. In both the 2000 and 2002 election cycles, 98% of Sinclair's contributions went to the GOP. According to campaign finance records, four of Sinclair's top executives have each given the maximum campaign contribution to the Bush-Cheney re-election campaign in 2004, while making no donations to John Kerry's campaign.[2]

A megaphone for the Republican party: 'Nightline' Censorship of US Troop Fatalities
Sinclair's most widely publicized foray into partisan politics occurred when the company opted to 'black out' the April 30, 2004 edition of *Nightline with Ted Koppel* on the ABC affiliates owned by the company. The program, a tribute to the American troops who had lost their lives in the war in Iraq, consisted of Koppel reading the names of those killed, accompanied on screen by a photo of each soldier.

Recognizing that such an acknowledgement of the human costs of war had the potential to undermine public support for the Bush administration, Sinclair forbade its ABC-owned stations from airing the show, ironically accusing *Nightline* of playing politics. The censorship of *Nightline* meant that citizens in St. Louis, Asheville NC, Greensboro NC, Columbus OH, Springfield MA, Charleston WV, and Mobile AL could not see the program. Sinclair's action was met with near universal derision by Republicans and Democrats alike, as well as veterans, military families, and the general public. The broadcast industry publication *Broadcast & Cable* commented in an editorial, "Sinclair has simply replaced *Nightline*'s worthy tribute with its own political agenda."[3]

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Stations forced to offer 'full support for the President'
Soon after the 9/11 attacks, Sinclair demanded that their station affiliates express allegiance to the Bush administration on the air. All Sinclair stations across the country ran spots expressing support for the President. At WBFF in Baltimore, weathermen and even sports reporters were forced to read statements expressing their full support of George W. Bush.

'The Point': Local stations must broadcast one-sided political commentary as part of 'local' news
Stations owned and operated by Sinclair across the country are required to play a pre-recorded editorial message, called *The Point,* read by Sinclair Broadcast's Vice President for Corporate Relations, Mark Hyman. *The Point* is produced at "News Central" in suburban Maryland, sent to local affiliates, and presented as if it originated locally as part of the 'local' news.

The Point consistently espouses ultra-conservative viewpoints, often peppered with the talking points of the Bush administration. A sampling of just one week's archives of *The Point* (July 20-26, 2004) included the following:

- On July 20, in a commentary about Iraq, Hyman drastically understated the number of Iraqi civilian casualties in the Iraq war, plainly stating, "In the first 12 months following the toppling of Saddam, approximately 1,000 Iraqis were killed." (This figure falls several thousand short of even the most conservative estimates.)
- On July 21, Hyman referred to the controversy over the blackout of *Nightline* by saying the tribute "trivialized the deaths of fallen servicemen" and suggested that disrespect of U.S. Servicemen "undoubtedly pleases anti-military reporters" such as Koppel.
- On July 22, Hyman stated, "The angry left's media partners continue to demonize the U.S. military while they soften the image of Saddam Hussein."
- On July 26, Hyman's coverage of the Democratic National Convention consisted of a re-hash of the Ted Kennedy-Chappaquiddick story, concluding, "Thirty-five years later Mary Jo Kopechne is forgotten as John Kerry delegates gush over the primetime appearance of Ted Kennedy."

More recently, on the September 8, 2004 edition of *The Point*, Hyman suggested that terrorists were rooting for a Kerry victory in the upcoming Presidential election, stating: "The terrorist leaders would dearly love to see President Bush replaced with Senator Kerry who has a weak Senatorial record when it comes to national defense and fighting terrorism."

Aside from hosting *The Point,* Mark Hyman heads the company's government lobbying operations. He also serves as Vice President of the Annapolis Center for Science-Based Public Policy, a corporate-funded think-tank that has recently produced press releases and reports concluding that "the mercury levels found in fish have no adverse effects on human health"[4], air pollution "cannot be a major cause of asthma"[5], and global climate change is a "hypothetical hazard that pose[s] no health risk"[6].

A continuous push to expand market holdings

Sinclair's political agenda makes good business sense. Republican leadership has consistently championed deregulatory policies favoring large media corporations, with companies such as Sinclair standing to profit.

Most notably, in 2003, after 71 closed-door meetings with big media lobbyists, executives, and industry groups, the Republican-controlled FCC pushed through new media ownership rules that would have allowed broadcasting companies such as Sinclair to vastly expand their media empires. Among the FCC rule changes included a weakening of the television "Duopoly Rule," which restricts companies from controlling more than one major network-affiliated television station in a community unless there are at least eight other independently-owned stations in the same area. This rule was originally enacted to ensure a diversity of voices within a community. The FCC sought to reduce this number to five, opening the door for a significant market expansion for Sinclair Broadcast and other large media companies.

This FCC policy revision would have represented a major victory for Sinclair: In 2002, the company attempted a legal challenge of the Duopoly Rule, offering an argument that the rule was an infringement of their 1st Amendment rights. The court rejected this argument, finding that Sinclair had "no First Amendment right to hold a broadcast license where it would not satisfy the [FCC's] public interest standards."[7] In short: the FCC mandate to ensure the public airwaves serve the public interest came before any claim Sinclair had to its "First Amendment rights."

In the end, much to the displeasure of Sinclair and other broadcasting heavyweights who had invested heavily in the lobbying effort to loosen the media ownership limits, the U.S. Third Circuit Court of Appeals rejected the FCC rule changes in 2004, remanding them to the agency for further revision. Sinclair Broadcast has announced that it will appeal the ruling.

The Outdated "UHF Discount": Audience reach exceeds national cap due to outmoded regulation
Sinclair is the beneficiary of an obscure FCC regulation that dates back almost twenty years. Called the "UHF Discount," the rule has long lost its relevance but remains in place allowing companies like Sinclair to expand their market reach beyond current FCC limits.

In 1985, the FCC adopted the "National Audience Reach" method of measuring and limiting television ownership, holding UHF stations (channels 14-69) to less stringent standards than VHF stations (channels 1-13) whose signals were much stronger and therefore capable of reaching a wider audience. To accommodate for this difference, the FCC created a system of audience measurement whereby UHF stations were attributed with only 50% of a market's theoretical audience reach—thus, the "discount." (At present, no entity is allowed to reach greater than 39% of a national audience, as calculated when taking into account this discount.)

The UHF discount made sense in 1985, when only 30% of American homes were connected to cable[8] and Direct Broadcast Satellite (DBS) did not exist. But today, 86% of households are connected to either cable or DBS[9], rendering moot the difference between UHF and VHF signals in 86% of American homes. (In fact, when the transition to Digital TV takes place, 94% of all digital television stations will be UHF.)

Oddly, the UHF discount remains in place to the significant benefit of companies like Sinclair. The Media Access Project has calculated that should the FCC continue to adhere to the 50% UHF discount, in a national market in which most stations are UHF and in which the reach of these stations is the same as VHF, the 'national cap' effectively doubles[10]; thus, a nationally-set audience reach cap of 39% is, in fact, potentially a 78% cap.

The vast majority of stations owned and controlled by Sinclair – 54 out of 62, or 87 % – are, in fact, UHF stations. When the national audience reach is calculated for Sinclair Broadcast for regulatory purposes, all 54 of the UHF stations owned by the company have their audience share counted at only 50% of their actual reach due to the UHF discount. Calculated thusly, Sinclair offers a figure estimating a 24% national audience reach. Without the discount, the actual number is likely to actually *exceed* the 39% national cap. As reported in Broadcast & Cable, the UHF discount has, quite simply, "allowed companies like…Sinclair to assemble groups with more than 60 stations without violating the national limit."[11]

Circumventing the law with pass-through corporations
In order to bypass regulatory market reach limits, Sinclair has repeatedly acquired stations through the apparent use of a 'shell' company called Cunningham Broadcast (formerly known as Glencairn Ltd.).

The relationship between the two companies began in 1991 when Sinclair bought a TV station in Pittsburgh (WPGH), a city in which the company already owned one station (WCWB).[12] At that time, ownership of more than one station in any single market was prohibited, forcing Sinclair to sell WCWB to that station's manager – and Sinclair employee – Eddie Edwards "on extremely favorable terms"[13]. Sinclair continued running this station through a Local Marketing Agreement (LMA), in addition to its new acquisition.

In 1997, Sinclair had the opportunity to purchase four other stations from the Heritage Media Group.[14] Sinclair was precluded from purchasing two of these stations due to the fact that it already owned stations in those cities, requiring the company to enlist Edwards to make the purchase once again.[15] Carolyn Smith, mother of the four owners of Sinclair Broadcast, supplied the capital for these transactions and, together with Edwards, the two established Glencairn Ltd., with Carolyn Smith owning 70% of the non-voting stock. Glencairn — a company portrayed to regulators as independent of Sinclair Broadcast — proceeded to purchase all four stations. Soon after the purchase, control over these stations was transferred directly to Sinclair, which operated them through a LMA.

Also in 1997, Sinclair acquired KABB in San Antonio, TX and WLOS in Asheville, NC.[16] Glencairn joined Sinclair in making purchases of its own in these markets, buying KRRT in San Antonio and WBSC in Greenville, SC (Greenville is considered to be in the same market as Asheville, NC). Once again, Sinclair began operating these new Glencairn acquisitions under LMAs in addition to its own new broadcast stations. Meanwhile, Carolyn Smith, who at this point controlled 90% of the equity in Glencairn, transferred her ownership interest to her grandchildren — the children of the principal owners of Sinclair itself.

A year later, Sinclair and Glencairn sought to acquire ten new stations (five stations each)[17] that were owned by another company, Sullivan Broadcast.[18] While these stations were in completely separate markets, Glencairn's new additions would be in markets in which Sinclair already had a presence and was therefore restricted from purchasing any more stations. This time, however, seemingly emboldened by their past transactions, Sinclair and Glencairn did not conduct the transactions separately. Instead, Sinclair simply acquired the non-license assets of the stations Glencairn was to purchase; Glencairn would own only the broadcasting licenses themselves. Sinclair then leased its non-license assets *back* to Glencairn and controlled the programming on these stations through LMAs!

In 1999, the FCC changed its ownership rules which increased the number of stations that one company could own in a particular market. Responding to this rule change, an application Glencairn was preparing to acquire KOKH in Oklahoma City was revised — Sinclair, who already owned a station in the city and had previously been prohibited from acquiring another, was to replace Glencairn as the buyer.[19] Glencairn then filed applications with the FCC to sell five more stations to Sinclair[20] — all in markets in which Sinclair already held stations and had previously been restricted from buying more.

"…this raises questions of whether these stations were merely owned by Glencairn but controlled by Sinclair until such time as Sinclair could own them under our revised multiple ownership rules." —Michael Copps

Public interest groups filed an immediate challenge to the Glencairn and Sinclair transaction with the FCC. In the course of the proceedings, it emerged that Eddie Edwards, the President of Glencairn, did not know the amount of debt that the company would assume with the station purchases in question, prompting FCC Commissioner Michael Copps to question the integrity of the transaction and "Glencairn's independent decision-making ability."[21] Copps was suspect of all but two of Glencairn's sales to Sinclair following the relaxation of the duopoly rule, stating, "this raises questions of whether these stations were merely owned by Glencairn but controlled by Sinclair until such time as Sinclair could own them under our revised multiple ownership rules."[22] Copps also revealed that Glencairn was to be paid in Sinclair stock for the transactions.

Despite the findings in the case, Sinclair was fined only $40,000 by the FCC and was not required to divest any of the stations in question. In his dissenting statement, Commissioner Copps lamented that the FCC's decision "merely point[ed] out that lines have been crossed, while allowing Sinclair to run over those lines and to continue its multiple ownership strategy."[23]

Even after being fined by the FCC for bending ownership rules, Sinclair has continued trying to acquire stations in markets in which it already owns an existing station. Following the FCC's sweeping regulatory changes in 2003, when media ownership rules were in a state of uncertainty, Sinclair announced it would attempt to take advantage of this ambiguity by acquiring five stations held by Glencairn that it had been previously barred from purchasing.[24] Sinclair continues to control programming of Glencairn-owned stations through LMAs in several markets. (Glencairn has since changed its name to Cunningham Broadcast.) Cunningham/Glencairn stations exist only in markets in which Sinclair stations also operate and in which Sinclair cannot own another station under FCC ownership rules.

A word about Sinclair and Local Marketing Agreements.
It is considered the norm for stations that are operated under 'Local Marketing Agreements' (like the Cunningham/Glencairn stations noted above) to receive programming from another company (such as Sinclair) — but these stations are nonetheless responsible for their own public affairs content. While Sinclair may mandate a policy within the company, such as a demand that all owned and operated stations air a certain program, this does not mitigate the individual stations' obligations to their viewers.

Should Sinclair force all of its stations operated under Local Marketing Agreements to air "Stolen Honor," this would be considered a very questionable legal breach of operating procedure. It would reveal that these stations, while possessing their own broadcast licenses, truly have no control over their own content, which will raise any number of questions relating to media ownership rules and their enforcement.

Of Sinclair's 62 station holdings, 11 stations are operated under Local Marketing Agreements (with two others operated through what Sinclair calls "outsourcing agreements"). Among these, at least six stations have a broadcast license owned by Cunningham Broadcast.

Conclusion

Sinclair Broadcast Group is in the business of informing the American electorate, and makes its profits using public property—the public airwaves. These airwaves are granted, free of charge, with the understanding that the caretaker of these airwaves will serve the public interest. Yet despite an unbridled appetite for corporate expansion, and a single-minded pursuit of a profit-driven agenda, Sinclair has demonstrated little to no regard for the public interest and even less concern for the information needs of the citizenry. Meanwhile, the company's practices have raised both legal and ethical questions with regulators as well as public interest groups.

The American public has the opportunity to challenge local Sinclair broadcaster's use of the public airwaves only once every eight years. (Visit www.sinclairwatch.org to find out when specific state's television licenses are up for renewal.) It is hoped that this report will aid citizens in taking back the airwaves that are rightfully theirs.

[1] Elizabeth Jensen, "Conservative TV Group to Air Anti-Kerry Film," *Los Angeles Times*, Oct. 9, 2004, http://www.latimes.com/business/la-na-sinclair9oct09,1,4817545.story?coll=la-home-headlines
[2] "'Nightline' airs war dead amid controversy", CNN.com, May 1, 2004, http://www.cnn.com/2004/SHOWBIZ/TV/05/01/abc.nightline/index.html (accessed Sep. 15, 2004)
[3] "Sinclair's Shame", *Broadcast & Cable*, May 3, 2004
[4] Tom Roskelly, "Alarmist Claims About Mercury Are A Health Hazard", , March 26, 2004, http://www.annapoliscenter.org/skins/default/display.aspx?CategoryID=dbbe9df0-8d97-48ec-8180-9c643ff274b4&ObjectID=c89c288b-ae34-43f2-8de2-dbfeac8c8706&Action=display_user_object&Mode=user&ModuleID=7c9ceb83-996f-4fef-a25b-2d7e26de59dd (accessed Sep. 15, 2004)
[5] Harold M. Koenig, "Asthma: Separating Facts from Fiction", 2001, http://www.annapoliscenter.org/skins/default/display.aspx?moduleid=586e8b03-5ef2-4e6b-b3f6-1ebbb8c75647&mode=User&action=search&ObjectID=79eae106-6e70-4384-8fc1-1a99e8fac1f0&SearchAll=asthma&SearchAny=&SearchWithout=&SearchModuleIDs= (accessed Sep. 15, 2004)
[6] Harold M. Koenig , "Study Finds No Support for Global Warming Fears", March,2000, http://www.annapoliscenter.org/skins/default/display.aspx?moduleid=586e8b03-5ef2-4e6b-b3f6-1ebbb8c75647&mode=User&action=search&ObjectID=79eae106-6e70-4384-8fc1-1a99e8fac1f0&SearchAll=study+global+warming+fears (accessed Sep. 15, 2004)
[7] Wiley, Rein & Fielding, "Mass Media Update", May 2002, http://www.wrf.com/db30/cgi-bin/pubs/MMU_0205.pdf (accessed Sep. 15, 2004)
[8] Jerome M. Marcus, Opening Brief of Intervenor Capitol Broadcast Company, Inc. in docket number 03-127, Prometheus Radio Project vs. FCC et al., October 21, 2003 , p. 8
[9] Ibid.
[10] Ibid, p. 35.
[11] Bill McConnell, "FCC Rules at Stake in Philly", *Broadcast & Cable*, February 9, 2004
[12] Barbara Vancheri, "Edwards forms group to buy radio, TV stations," *Pittsburgh Post-Gazette*
[13] Statement of FCC Cmsr. Michael Copps, In the Matter of: Various Applications for Assignment of License and Transfer of Control of Certain Television Licenses to Sinclair Broadcast Group, Inc., and Glencairn Ltd., 2001, at http://www.fcc.gov/Speeches/Copps/Statements/2001/stmjc133.html
[14] KOKH Oklahoma City; WCHS Charleston, WV; WEAR Mobile, AL-Pensacola, FL, and WPTZ Burlington, VT-Plattsburgh, NY. See "Sinclair to Acquire Heritage Media Stations; Deal to Add 6 TV Stations and 24 Radio Stations," July 16, 1997, at http://www.prnewswire.com/cgi-bin/stories.pl?ACCT=105&STORY=/www/story/7-16-97/278008
[15] Statement of FCC Cmsr. Michael Copps, In the Matter of: Various Applications for Assignment of License and Transfer of Control of Certain Television Licenses to Sinclair Broadcast Group, Inc., and Glencairn Ltd., 2001, at http://www.fcc.gov/Speeches/Copps/Statements/2001/stmjc133.html
[16] Ibid.
[17] Sinclair acquired WUTV Buffalo; WMSN Madison; WRLH Richmond; WXLV Winston-Salem; and WZTV Nashville while Glencairn acquired WRGT Dayton; WTAT Charleston, SC; WVAH Charleston, WV;KOKH Oklahoma City; and W34BX Bluefield, WV.
[18] Supra note 12
[19] Christopher Stern, "Rainbow Files FCC Complaint," *Variety*, Aug. 4, 1998, http://www.variety.com/index.asp?layout=upsell_article&articleID=VR1117479105&cs=1
[20] KKRT San Antonio; WVTV Milwaukee; WRDC Raleigh-Durham; WABC Birmingham; and WFBC Anderson, SC
[21] Statement of FCC Cmsr. Michael Copps, In the Matter of: Various Applications for Assignment of License and Transfer of Control of Certain Television Licenses to Sinclair Broadcast Group, Inc., and Glencairn Ltd., 2001, at http://www.fcc.gov/Speeches/Copps/Statements/2001/stmjc133.html
[22] Ibid
[23] Ibid

[24] WGRT Dayton, Ohio; WTAT Charleston, S.C; WVAH Charleston, W.Va.; WTTE, Columbus, Ohio; and WNUV, Baltimore.