

Lost in Multi-Media Hyperspace

By Thomas W. Hazlett

The fate of the big, bad monopolist and the big, bad cable-TV law.

WE'VE ALL BEEN READING ABOUT the excitement in telecommunications markets, with mammoth mega-mergers, sprawling joint ventures, incredibly advanced high-tech products, and massive new regulatory laws (such as the Cable Act of 1992) dotting the front page and dominating the business section. Allow me to take you on a brief, two-stop tour of the public-policy landscape. Please keep your limbs on the bus and do not feed the regulators—the dazed and confused animals trying desperately to break into the main exhibits.

Landmark One: Bell Atlantic buys Tele-Communications Inc. for \$33 billion.

There was this big, nasty cable company, TCI. It made obscene profits, bought every cable system in sight, ignored the regulations, and pushed around customers, competitors—even city councilmen. When it tried to buy Paramount, a Hollywood studio that Viacom (a smaller cable firm) wanted, it was sued. Vicious allegations were made about TCI's flagrant attempt to monopolize the video business. Its chairman, John Malone, was personally charged with being ruthless in his campaign to control everything in the industry—creation of programs, satellite delivery to cable systems, multi-channel video distribution to consumers.

And then the gargantuan TCI was swallowed whole by Bell Atlantic. Now, picture this event on trial day in *Viacom v. TCI*: The evil John Malone walks into court and pleads *nolo contendere*...but begs for the court's understanding. "You see, Your Honor, we at TCI were once an evil monopolist, it is true. We were well on our way to buying up almost every-

thing in cable and controlling what we didn't own through threats and intimidation, just as Viacom alleges. But, Your Honor, we have now been purchased by a competitive telephone company, and the problem is entirely solved." His lawyers rushed the bench with voluminous supporting briefs and documentation.

Mr. Malone's story would be a pure, fat-free slice of regulatory logic. By many standards (including my own), TCI was a monopolist. But by every antitrust standard of the federal government, Bell Atlantic is either competitive or regulated: Its market structure, still under court discretion, is entirely a creature of the 1984 AT&T divestiture, from which it and its six Baby Bell sisters were conceived and born. The idea that the huge, evil monopolist TCI (with over 10 million cable subscribers and pieces of CNN, TNT, BET, WTBS, Discovery, Lifetime, and maybe one of your family members who's been watching the tube a little too long) could be gobbled up in one bite by a company that the government has done its best to make competitive (either by market forces or by law) stands the entire antitrust framework on its ear. Don't you think, Your Honor?

Landmark Two: The Cable Consumer Protection and Competition Act of 1992.

In 1990, in articles in both *The New York Times* and *The Wall Street Journal*, I argued that cable re-regulation was a fraud, that rates could not be effectively controlled, except by competition, because any price limits would be circumvented. I pointed out the ease with which companies would "retier" in the short run, shifting channels from regulated to unregulated status. Over the long run, I said, the systems could simply respond to any price control by skimping on the program quality featured in basic cable packages. I was attacked by guardians of the public interest in the *New York*

Times letter section as an "ivory-tower, free-market ideologue."

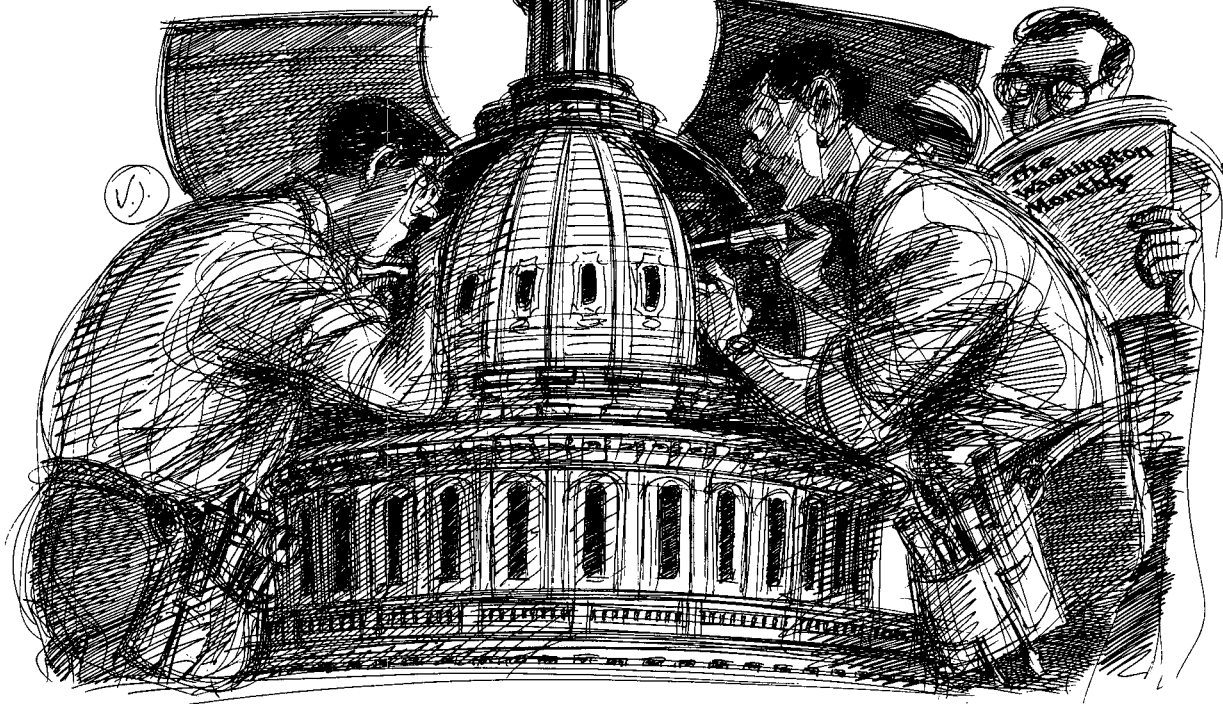
UNREPENTANT, I REPEATED THESE "IVORY-tower" predictions in many places, including an essay in the *Journal* in October 1992, right before Congress passed the 1992 re-regulation bill over Bush's veto. The promise: "A vote for the cable bill has the effect of giving a \$6-billion tax cut to Americans," Rep. Edward J. Markey (D-Mass.) argued on September 17, 1992. This would have produced a 30-percent reduction in your cable bill.

Since re-regulation kicked in on September 1, 1993, the argument in Congress and at the FCC has been over whether the average cable bill has gone up or down. Not whether the rate cut was 23.5 percent vs. 30 percent, but whether there was *any cut at all*. And no one in Washington is even paying attention to the quality-depreciation problem. My cable system dumped signals I value highly, C-SPAN2 and Sports Channel America, replacing them with a vast array of new home-shopping channels.

In response to the tectonic-plate shifts wrought by the new technologies, regulators are increasingly unable to do much more than kick up a little dust. Shocked by the Bell Atlantic-TCI merger, one congressional leader alertly pontificated, "We had better create a new paradigm." Create a new paradigm? When you can't even figure out the entirely predictable gimmickry of cable rate "regulation"? Leave the paradigms to the visionaries, boys, and tell me how I can get my C-SPAN2 back, and it better not involve an 800-number, a credit card, or any cubic zirconia. ♦

Contributing Editor Thomas W. Hazlett teaches economics and public policy at the University of California, Davis. He is a former chief economist at the Federal Communications Commission.

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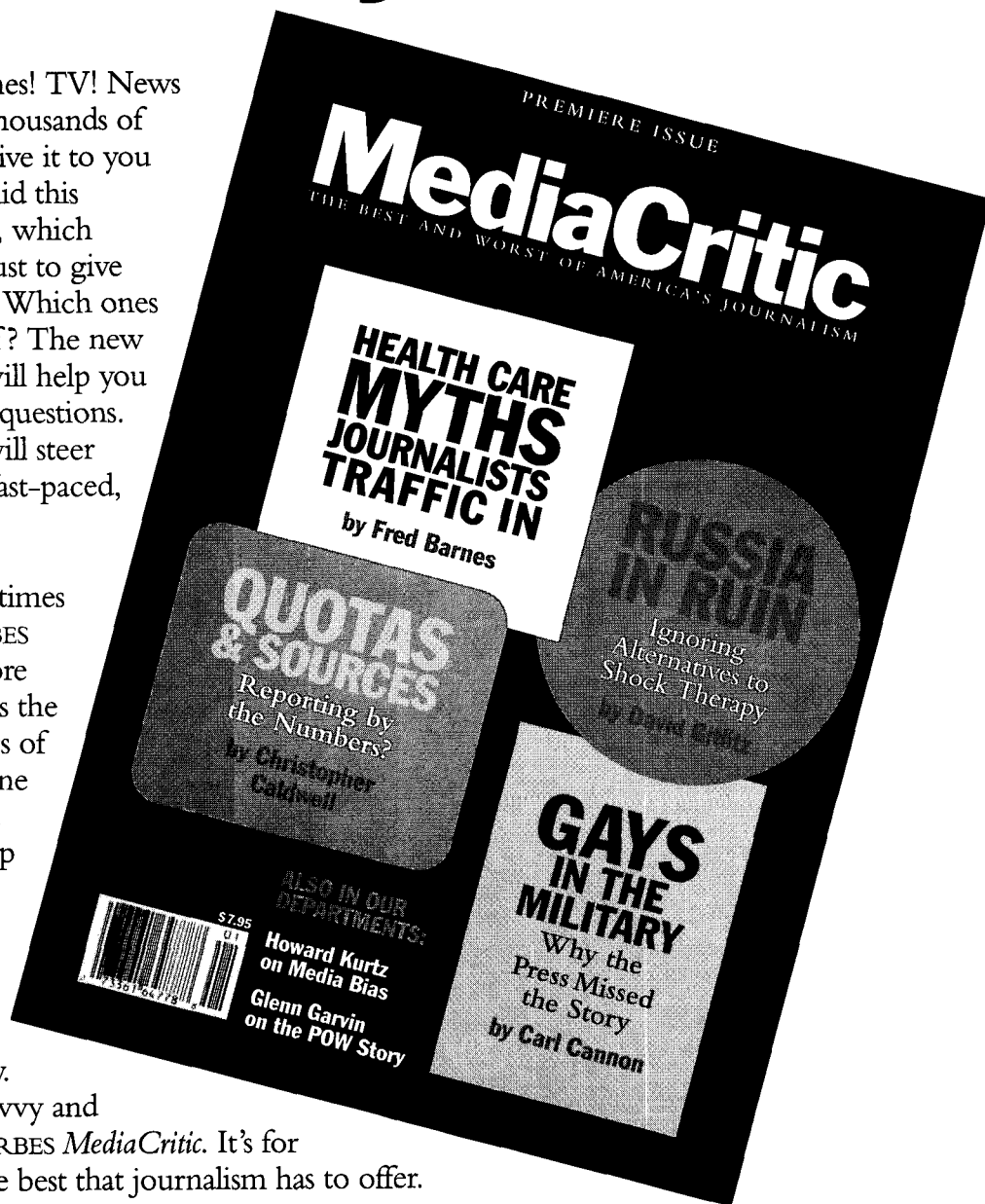


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