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Media Diversity, Data, and Decisionmaking

Government Interest in Media Diversity

The representation of diverse points of view and diverse ownership of businesses within the television industry has long been of interest to Congress. Section 257 of the Telecommunications Act of 1996 directs the Federal Communications Commission (FCC) to promote policies that promote diverse viewpoints in the media, economic competition, and technological advancement. In addition, Section 308(j)(3)(B) of the Communications Act of 1934 specifies that when the FCC is awarding new licenses (including broadcast licenses) by competitive bidding, the agency must promote opportunities for "businesses owned by members of minority groups and women."

Given this statutory direction, the FCC has sought to encourage diversity of viewpoints, as reflected in the availability of media content offering a variety of perspectives, and diversity of programming, as indicated by a variety of formats and content. To accomplish this, the FCC has relied on its authority over broadcasters, as well as and cable and satellite services that distribute television programming to consumers. For example, the FCC's Equal Employment Opportunity (EEO) rules and policies govern the job recruitment by broadcast stations, as well as cable and satellite video programming distributors.

On April 24, 2017, FCC Chairman Ajit Pai announced the formation of the FCC's Advisory Committee on Diversity and Digital Empowerment (ACDDE). The ACDDE's purpose is to issue recommendations to the FCC on "how to empower disadvantaged communities and accelerate the entry of small businesses, including those owned by women and minorities, into the media, digital news and information, and audio and video programming industries, including as owners, suppliers, and employees." However, structural and technological changes in the television industry, including the growing importance of entities not subject to FCC regulation, are complicating its efforts to achieve these policy goals.

Recent Developments

For the last 60 years, broadcast networks, and then cable networks, were the gatekeepers of television programs. While FCC has never had direct authority over television programming, it has been able to use its oversight of broadcasting and satellite and cable distribution to encourage diversity in programming. For example, when the FCC approved Comcast Corporation's purchase of NBC Universal's broadcast television stations, networks, and studios in 2011, the agency required Comcast to distribute 10 new independently owned and operated cable networks. Furthermore, the FCC cited Comcast's commitment to expand its offering of programming targeting racial and ethnic minority audiences as evidence of Comcast's commitment to diversity.

Over the last five years, however, subscription online video distributors (OVDs), such as Netflix, Amazon Prime Video, and Hulu, have attracted an increasing number of subscribers while subscriptions to cable and satellite services have declined. Combined, broadcast networks, cable networks, and OVDs generate about $100 billion in annual revenues. The OVDs have provided new opportunities for program creators by competing with networks to commission new programs.

Traditional television networks have responded to this competition by launching their own OVDs with exclusive programs. This may create new opportunities for production companies, including those owned by minorities and women.

In addition to increasing competition in the commissioning of original television programs, OVDs are changing the way the success of television shows is measured, which in turn affects whether television networks and other aggregators are willing to renew them.

Role of Showrunners in TV Production

The emergence of OVDs offers both opportunities and challenges for diversity in employment and the creation of programs that reflect the experiences of a variety of demographic groups. Showrunners are central to the changes that are possible.

Showrunners, the people who head production companies, are a creative force behind television programs. In addition to having creative authority, they have overall managerial responsibility, hiring and overseeing the cast, producers, directors, and crew. In addition, showrunners must ensure that the team they oversee meets the expectations of the television studios that finance programs' production and then license the programming to television networks and OVDs.

Choosing Programs and Showrunners

Because television programs are creative products, their financial success is unpredictable. When pitching new programs to television networks, production companies create a sample filmed episode, called a "pilot." Of all pilots, networks order only a small fraction, and fewer than half of those are renewed for a second season. For studios, which typically provide financing to production companies and license their products to networks and OVDs, financing such a large number of unsuccessful pilots is risky.

In the past, in an effort to alleviate financial risks, studios generally would hire people they knew, who may have shared similar demographic characteristics. According to a 2007 report published by the Writers Guild of America, West (WGA), in 1999, 7% of television writers were minority and 18% were women. Comparable statistics for showrunners and directors from this period are not readily available. However, many showrunners begin their television careers as writers, and the WGA data imply that comparatively few minority and female writers may have had the opportunity to become showrunners.

Traditionally, television networks have relied on the research firm The Nielsen Company to measure viewership of particular shows, and have used this information to guide decisions about commissioning of new programs. These data, which also determine the prices networks charge for television advertising, are widely available within the industry. Nielsen's measurement services are accredited by the Media Ratings Council, an organization composed of representatives of television and advertising member companies, among others.

Rise of Analytics and Consumer Data

OVDs are changing the paradigm of choosing programs, and subsequently the hiring of showrunners. Today, these decisions are more likely to be based on data they collect internally. Netflix, for example, analyzes viewing data from its subscribers to determine which shows to commission. Since 2013, Amazon has relied on subscriber votes to determine which of a sample of pilots to order for a full season, but sometimes bypasses pilots and orders full seasons of programs.

Neither Netflix nor Amazon releases internal data to the public or to program suppliers. Some showrunners claim that the lack of publicly available audience data provides them with creative freedom in developing their programs. In a 2015 "Ask Me Anything" interview sponsored by the online discussion website Reddit, first-time showrunners Aziz Ansari and Alan Yang, who created *Master of None*, about an Indian American actor's romantic, professional, and cultural experiences, cited this as a reason their production companies (Oh Brudder Productions and Alan Yang Pictures, respectively), in conjunction with the Universal Television studio, chose to contract with Netflix rather than cable networks.

Others, however, complain about the lack of transparency. In October 2016, within five weeks of the program's debut, Amazon canceled *Good Girls Revolt*, about women fighting sex discrimination in 1969. In an interview with the *Philadelphia Inquirer*, the show's creator, Dana Calvo, contended that the canceled show was popular with viewers, based on non-Amazon data. In addition, according to the publication *Deadline Hollywood*, Amazon has reportedly shifted its programming strategy to focus on attracting wide audiences.

Today, networks are supplementing Nielsen's measurements with data collected by cable and satellite video programming distributors via set-top boxes and other viewing devices. In an October 2016 conference call about AT&T's proposed acquisition of Time Warner Inc., AT&T Chairman and CEO Randall Stephenson stated that the combined company's data would enable Time Warner to develop content more efficiently. Nielsen itself has reached agreements with satellite television distributors DISH and AT&T to incorporate their set-top box data into its audience measurements. In October 2017, Nielsen announced that it would begin to measure the viewing of programs by OVDs, beginning with Netflix.

Diversity Statistics

Research indicates that the proportion of female or minority showrunners remains relatively low. In a study of television programs that originally aired during the 2014-2015 television season (September 1, 2014, through August 31, 2015), the *2017 Hollywood Diversity Report* documented the extent to which minorities and women are present in front of and behind the television camera, including showrunners. The report did not define how minorities were categorized (i.e., ethnic, racial, or both). As **Table 1** illustrates, the report found the proportion of programs created by showrunners who were minorities or women to be much lower than the share of these groups in the general population.

Table 1. Programs Created by Minority and Female Showrunners by Type of Television Programming Packager

2014-2015 Television Season

	Minority	Female
Broadcast Network Programs	8.0%	22.4%
Cable Network Programs	7.5%	20.9%
Online Subscription Video Service Programs	5.6%	20.4%
Total U.S. Population	38.4%	50.8%

Sources: Ralph J. Bunche Center for African American Studies at UCLA, *2017 Hollywood Diversity Report,* p. 28; CRS analysis of data from the U.S. Census Bureau.

Notes: Total programs sampled for programs created by race and gender: broadcast = 125; online = 54. For cable networks, the total number of programs sampled was 200 for shows created by race, and 201 for programs created by gender. Individual showrunners may create multiple programs.

Issues for Consideration

The analysis of internal audience data may make networks and OVDs more open to commissioning programs from showrunners with diverse backgrounds, when the data indicate that their programs have won significant numbers of viewers. Former Equal Employment Opportunity Commission Chair Jenny R. Yang noted at an October 2016 public meeting that newly available analytical tools have the potential to both reduce hiring bias and create barriers to opportunity, depending on their design. The effect of these new analytical tools on media diversity may be an issue of interest to Congress.

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