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**Scientific Abstract – Ownership of Media Outlets as an Antitrust Concern**

Big business’s influence over the political arena is a major contemporary concern. The issue is chiefly a constitutional law matter, but constitutional law and administrative law doctrines are, as we show, inherently inadequate to address the problem. The result is that a key manifestation of the problem, namely the interconnection between big business, media outlets, and politicians, is currently beyond the reach of the law. We tackle the problem from a new angle – through the lens of antitrust law. We develop a new theoretical framework for analyzing the nexus of business, politics, and media. Equally importantly, we propose a remedy that neutralizes the problem.

The proposed research focuses on a specific channel of big business’s influence over the political domain. In our proposal, we explain how big businesses may obtain “soft power” vis-à-vis politicians by acquiring control over media outlets. We provide several examples that illustrate the problem and demonstrate that the phenomenon is real. We aim to expand our dataset of examples, to facilitate a systematic analysis of the phenomenon.

The proposal explains why big businesses’ influence on the political sphere is most troubling when it is achieved through media outlets and not through alternative channels, such as lobbying, political contributions, bribery, and prohibited gifts. Media coverage is at least as, if not more, effective than other channels of influence, given its deep impact on public opinion and its resultant importance for politicians. At the same time, it is much more difficult to regulate than other channels of influence. The difficulty in regulating media coverage stems from two sources: The first is ideological considerations, the most important of which is the reluctance to encroach on the freedom of the press. The second is practical considerations, such as the difficulty in detecting implicit and unspoken *quid pro quo* arrangements of political favors in return for coverage. Finally, we explain why the influence of media outlets on political processes raises more concern when it serves the external commercial interests of a business entity than when it serves the ideological inclination or interests of the publisher.

We suggest a novel approach. Rather than dealing with the troubling symptom–skewed coverage–when it surfaces, our proposal, inspired by antitrust law’s merger control, will interdict the problem in its incipiency. This will be done by limiting businesses’ control over media outlets in cases when the likelihood of abuse of the outlet by its controller is high. To facilitate this regime, we will develop an index that objectively assesses the likelihood of ‘contamination’ of a media outlet by external commercial interests. Our index, tentatively dubbed BMII (Business-Media Influence Index), is modelled after the famous Herfindahl-Hirschman Index (HHI) used by antitrust authorities. The limitation on control of media outlets by businesses when BMII thresholds are high may take the form of an *ex ante* prohibition on specific acquisitions or of an *ex post* divestiture order.Regardless of the specifics of the appropriate regulatory regime, which we intend to explore in the course of the research, the proposed approach is structural. It will require no interference with specific publications or detection of implicit deals with politicians. It will shield media outlets from interests that should remain foreign to such outlets in a democracy without unduly infringing on the freedom of the press.