Antitrust Laws.—Resort to the antitrust laws to break up restraints on competition in the newsgathering and publishing field was found not only to present no First Amendment problem, but to comport with the government's obligation under that Amendment. Justice Black wrote: "It would be strange indeed, however, if the grave concern for freedom of the press which prompted adoption of the First Amendment should be read as a command that the government was without power to protect that freedom. The First Amendment, far from providing an argument against application of the Sherman Act, here provides powerful reasons to the contrary. That Amendment rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public, that a free press is a condition of a free society. Surely a command that the government itself shall not impede the free flow of ideas does not afford nongovernmental combinations a refuge if they impose restraints upon that constitutionally guaranteed freedom. Freedom to publish means freedom for all and not for some. Freedom to publish is guaranteed by the Constitution, but freedom to combine to keep others from publishing is not." [1106]

Thus, both newspapers and broadcasters, as well as other such industries, may not engage in monopolistic and other anticompetitive activities free of possibility of antitrust law attack,[1107] even if such activities might promote speech.[1108]

Broadcast Radio and Television.—Because there are a limited number of broadcast frequencies for radio and non-cable television use, the Federal Government licenses access to these frequencies, permitting some applicants to use them and denying the greater number of applicants such permission. Even though this licensing system is in form a variety of prior restraint, the Court has held that it does not present a First Amendment issue because of the

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[1106] Associated Press v. United States, 326 U.S. 1, 20 (1945).

[1107] Lorain Journal Co. v. United States, 342 U.S. 143 (1951) (refusal of newspaper publisher who enjoyed a substantial monopoly to sell advertising to persons also advertising over a competing radio station violates antitrust laws); United States v. Radio Corp. of America, 358 U.S. 334 (1959) (FCC approval no bar to antitrust suit); United States v. Greater Buffalo Press, 402 U.S. 549 (1971) (monopolization of color comic supplements). *See also* FCC v. National Citizens Comm. for Broadcasting, 436 U.S. 775 (1978) (upholding FCC rules prospectively barring, and in some instances requiring divesting to prevent, the common ownership of a radio or television broadcast station and a daily newspaper located in the same community).

[1108] Citizen Publishing Co. v. United States, 394 U.S. 131 (1969) (pooling arrangement between two newspapers violates antitrust laws; First Amendment argument that one paper will fail if arrangement is outlawed rejected). In response to this decision, Congress enacted the Newspaper Preservation Act to sanction certain joint arrangements where one paper is in danger of failing. 84 Stat. 466 (1970), 15 U.S.C. §§ 1801–1804.