DISSERTATION

THE BATTLE OVER BROADCAST REGULATION: CAN THE FREE PRESS SURVIVE A FREE MARKET APPROACH?

Submitted by:

Pamela Taylor Jackson

Department of Economics

In partial fulfillment of the requirements

For the Degree of Doctor of Philosophy

Colorado State University

Fort Collins, Colorado

Summer 2008

UMI Number: 3332729

ProQuest LLC
789 E. Eisenhower Parkway
PO Box 1346
Ann Arbor, MI 48106-1346

COLORADO STATE UNIVERSITY

Date: June 19, 2008

WE HEREBY RECOMMEND THAT THE DISSERTATION PREPARED UNDER OUR SUPERVISION BY PAMELA TAYLOR JACKSON ENTITLED "THE BATTLE OVER BROADCAST REGULATION: CAN THE FREE PRESS SURVIVE A FREE MARKET APPROACH?" BE ACCEPTED AS FULFILLING IN PART REQUIREMENTS FOR THE DEGREE OF DOCTOR OF PHILOSOPHY.

Committee on Graduate Work

Dr. Ronnie J. Phillips

Dr. John Marangos

Dr. Kirk Hallahan

Dr. J. Ron Stanfield, Adviser

Dr. Steven J. Shulman, Department Head

ABSTRACT OF DISSERTATION

THE BATTLE OVER BROADCAST REGULATION:
CAN THE FREE PRESS SURVIVE A FREE MARKET APPROACH?

This dissertation examines the 100-year-old political economic evolution of broadcast regulation in the U.S., primarily focusing on the shift toward a free market approach to FCC policy decisions and the consequences for a free press in democratic society. Deregulation and concentration of media ownership trends have cast doubt on the independence of the press, and raised questions regarding the vitality and viability of American democracy. This research is premised on the belief that an effective democracy cannot exist without an informed public, and voters rely on the news media for the knowledge they need to make accurate social valuations in the political process. Evidence suggests the important mission of a free press to keep the citizenry informed is being derailed by institutional and market failures.

Immediate institutional and regulatory reforms are recommended to insulate the press from the predatory expansion of a free market system that permeates every aspect of social life, including broadcast regulation and policy. The profit values of a market system clash and interfere with the moral agency of a free press, and the two are inherently incompatible. In addition, this study concludes that the growing Internet-based grassroots media reform movement in the U.S. is the last best hope for driving a corrective response to reverse the damage already done to the institution of news and to reinstate the news media's role as public interest advocates in a democracy.

A multi-disciplinary approach is adopted to chart the evolution of broadcast regulation since the early 1900s and the fallout for a free press in democratic society. A broad spectrum survey of economics, political science, and mass communications literature allows for a synthesis of otherwise divergent theoretical perspectives in examining the free press-free market paradox. The theories addressed include institutional change, comparative economic systems as applied to changing budget constraints for network news divisions, commodification theory, regulatory capture, political ideology, democratic thought, market-driven journalism, and the propaganda model of news production. In particular, this research offers an unprecedented application of commodification theory and economic transition theory to the problem of the sustainability of a free press.

Pamela Taylor Jackson
Economics Department
Colorado State University
Fort Collins, CO 80523
Summer 2008

ACKNOWLEDGEMENTS

I am forever grateful to the many people who supported me along this journey and encouraged me to keep going when completing the dissertation seemed overwhelming and insurmountable. First and foremost, I am appreciative of the guidance and patience of my adviser, Dr. Ron Stanfield. I cannot express the impact he has had on me intellectually and spiritually over the past several years in the classroom and in my research. He taught me to think differently about economics, journalism, myself and the world around me. Dr. Stanfield is a brilliant scholar and remarkable individual. I have been fortunate to learn from him, and to learn about him.

I also would like to thank my committee members for their service and dedication. Dr. Ronnie Phillips and Dr. John Marangos of the Economics Department gave critical feedback and advice in the initial and final stages of this work. In addition, Dr. Kirk Hallahan, my outside committee member and colleague in the Department of Journalism and Technical Communication, contributed unique insight from a mass communications perspective and provided me with constant emotional support.

I cannot put into words how much the love and help of my husband, Steve, and daughters, Taylor and Leah, meant to me as I went through the Ph.D. program of study. Steve was my private calculus tutor and I would not have survived the derivatives and other mathematical rigors of macro and microeconomics in my coursework without his help. Fortunately for me, I married the smartest man I ever met. Taylor and Leah were the heart and soul of my existence during this quest, and my greatest motivators. My

daughters were amazing, complaining little and sacrificing much to help me succeed. In addition, they were perhaps the most significant deterrents to failure. I wanted to cross the finish line for them.

Three dear friends joined my family to form an impenetrable bedrock of love and support: Donna Rouner, Jennifer Walton and Mario Caballero. Dr. Donna Rouner became my strongest advocate within the Department of Journalism and Technical Communication, determined to see me succeed. She gave selflessly and generously of her time to advise me and intervene on my behalf on numerous occasions. When I needed her, she was always there without hesitation. She was my friend, role model and hero.

Jennifer Walton was the best copy editor a Ph.D. candidate could have. She spent hours pouring over each chapter of my dissertation with a keen eye for detail. Many pages in this body of work reflect her Midas touch as an editor. Jen was underpaid, but never complained. Her efforts truly were a labor of love for a friend. I could not have done this without her nor would I have wanted to try.

Student Media Associate Director Mario Caballero, friend and colleague, sent numerous articles my way over the years that helped guide my research and sparked great conversations between us on the state and health of the news industry. Our discussions aided me in contemplation regarding the depth of the problem and what feasibly could be done to improve commercial broadcast news in a democracy. This greatly influenced the policy recommendations I proposed in the conclusions chapter of this dissertation.

Although I am grateful to all faculty and staff in the Journalism Department for their kindness, support and encouragement, I offer special thanks to Professors Garrett O'Keefe and Greg Luft. As chairs of the Journalism Department where I was employed as special instructor while pursuing the economics Ph.D., they were instrumental in my success both as a faculty member and graduate student. Each made varying accommodations in my teaching and service workload to make it possible for me to complete my economics coursework and dissertation.

DEDICATION

To the loves of my life: Steve, Taylor and Leah.

For my mother, Francis, a loving parent and fierce advocate for her children.
For my brother, Roger, the coolest guy I know.

TABLE OF CONTENTS

"I do not advocate that we turn television into a 27-inch wailing wall, where longhairs constantly moan about the state of our culture and our defense. But I would just like to see it reflect occasionally the hard, unyielding realities of the world in which we live. This instrument can teach, it can illuminate; yes, it can even inspire. But it can do so only to the extent that humans are determined to use it to those ends. Otherwise, it is merely wires and lights in a box."

-- Edward R. Murrow
October 15, 1958
Speech to the Radio-Television News Directors Association Convention*

*Murrow gave the speech three months after CBS executives canceled *See it Now,* hosted by Murrow and considered at the time the most significant news program in broadcast journalism. He was deeply hurt by the cancellation and his speech reflected both his frustration and anger with the decision. The television network canceled the program primarily out of fear the award-winning show was offending politicians and government regulators (Edwards 2004, 125-130).

PART ONE: *AMERICAN DEMOCRACY AND THE FREE PRESS*

CHAPTER I:

INTRODUCTION

> "The mogul's dream is the citizen's nightmare. With this rewrite of the [Federal Communications Commission ownership] rules, local, state and national democratic processes would be run through the wringer of media monopolies designed to reap massive profits — while comforting the comfortable and afflicting the afflicted in a manner that maintains the political and economic status quo."
>
> -- John Nichols
> *The Nation* Washington Correspondent
> October 18, 2007

The October Surprise

Blogosphere writings like that above by *The Nation's* John Nichols and a similar cacophony of criticism by Internet-based media reform groups like Free Press[1] represented an all-out digital assault on the Federal Communications Commission (FCC) in the fall of 2007. The broad outcry began after word leaked in mid-October of that year that FCC Chairman Kevin Martin was trying to give the bum's rush to one of the few remaining ownership rules facing U.S. media corporations. Martin had quietly circulated a draft of a controversial rewrite of ownership rules to FCC members in early October, and informed commissioners he expected a vote before the year's end. The plan centered on the elimination of the 1970s-era prohibition of a single firm's owning a major newspaper and a broadcast outlet in the same market (McConnell 2007).

[1] Free Press operates a Web site at FreePress.net. The non-profit organization also is part of the Media & Democracy Coalition, a collaboration of 25 organizations which monitors media and telecommunications policy, and informs the public through a multi-level, coordinated campaign (see www.media-democracy.com).

From the time Martin joined the FCC in 2000 as a commissioner under Chairman Michael Powell, Martin had made no secret of his desire to eliminate the cross-ownership ban. But what shocked many media reform advocates in late 2007 when Martin's plan became public was his seemingly stealthful maneuvering to fast-track a vote. At least one Washington political writer observed that Martin's sudden sense of urgency reflected two things: (1) the FCC chairman's awareness that the political climate for further deregulation was perhaps on the eve of change given the upcoming 2008 presidential election, and (2) Martin's desire to tap into the deep pockets of media corporations in the future to launch his own political career (Nichols 2007).

Martin's October surprise called for two public hearings[2] – one in Washington, D.C. scheduled on October 31 and another in Seattle in early November, both with no more than a week's notice – followed by public release of the proposed rules change on or around November 13, and a commission vote on December 18 (Dunbar 2007a). The plan ended up in the hands of Senator Byron Dorgan, Democrat of North Dakota, who revealed its general intent at a Senate Commerce, Science & Transportation Committee hearing on October 17. Just eight months earlier in February 2007, Dorgan and several other key senators began putting pressure on the FCC to slap tighter controls on media ownership and to set new programming requirements for broadcasters (Babington 2007). At that time, Dorgan was quoted as saying the FCC had allowed the public interest standard to become "completely emasculated" (Boliek 2007).

[2] Martin announced the hearing dates with limited advance notice which media reform advocates like Stop Big Media argued was a strategic move to "push the public out of the process" (see http://www.stopbigmedia.com/=dc).

Fast-forward to October's Senate Commerce Committee hearing. The topic of that hearing was supposed to be the transition to digital television. But while questioning FCC commissioner Jonathan Adelstein on the status of stations' digital conversion, Dorgan launched into a diatribe critical of Martin and FCC plans to further dismantle media ownership rules. It became hot news on the Internet, and Dorgan's "big media" rant even ended up on YouTube.[3] However, it was a non-story for much of the nation's leading news media.

On the day Dorgan outed Martin's plan to expedite a vote and for a couple days thereafter when the story was still, by journalistic standards, relevant and timely, not a single word on the topic was broadcast by any of the commercial television network news divisions. National Public Radio was the sole major broadcast news operation to report on Martin's plans to move quickly to eliminate the ban on newspaper-station cross-ownership. An archive search[4] comparing coverage by national broadcasters and major U.S. newspapers revealed the printed press found the story somewhat more newsworthy. Out of the nation's top 25 newspapers by circulation,[5] the following six each printed one or two articles either the day of Dorgan's comments or within the next few days: the *New York Times, USA Today, Wall Street Journal, Chicago Tribune, Los Angeles Times,* and the *Seattle Times.* Unlike the national newspapers, however, the city newspapers couched the story in the context of what the rules changes would mean for a pending Tribune

[3] The Dorgan-Adelstein excerpt from the Senate Commerce Committee hearing can be viewed at http://www.youtube.com/watch?v=1whqOAC6fgk.
[4] The author conducted a search using the database LexisNexis for dates October 17-25, 2007.
[5] The circulation of the top 25 newspapers ranges from 265,111 for the *St. Louis-Post Dispatch* to 2,293,137 for *USA Today,* according to the Audit Bureau of Circulations (Saba 2007).

Company-Sam Zell buyout deal[6] instead of the controversy surrounding the larger socio-political implications and the reverberations for news and localism.

Contrast the coverage of the Martin vote plan to that of another media industry-related issue playing out around the same time: an anticipated strike by the Writers Guild of America. The story on a potential strike by TV and film writers first emerged in the mainstream media on October 29, 2007. The reports explained that thousands of screenwriters would be picketing production companies and studios on the east and west coasts if a contract settlement was not reached soon, and it was doubtful a settlement would be reached. The predictions were right, and the strike began November 5. This time an archive search[7] showed that out of the nation's 25 largest circulation newspapers, 10 ran (multiple) stories about the anticipated strike. Broadcasters also increased their coverage.

The major networks decided that what was happening in their backyard this time was relevant news. All three of the original Big Three networks, who did not find the Martin controversy to be worth air time, covered the strike threat. They were joined by NPR (who had covered the Martin story) and CNN (who had not). Any television news producer[8] would argue that the story of the strike received more coverage because it had the potential to have a more immediate consequence or impact for the public. Depending on the duration of a strike, the public could have to suffer through an early and long rerun season. Also, and in all fairness, striking writers carrying signs and chanting on the picket

---

[6] Real estate magnate Sam Zell struck a deal with Tribune in April 2007 to takeover the media company for $8.2 billion pending cross-ownership waivers from the FCC. The deal includes newspapers and broadcast properties in several cities that would put Zell in violation of the rules. The Tribune had FCC waivers that were either granted or grandfathered in, but these were not transferable to a new owner.

[7] This archive search also was conducted using the LexisNexis database. The dates searched were October 29 – November 5, 2007.

[8] The author pulls from her 10 years' experience as a television news producer and writer in drawing this conclusion.

lines certainly is a more visually appealing and exciting story for television than a boring account of a proposed change in media ownership rules. Of course, it is not all about the pictures in television news, but good pictures often elevate the newsworthiness of an issue or event above and beyond its actual political or social value.

Given all that, covering the writers strike did not preclude news organizations – television or print – from covering the FCC-Martin story. And certainly a potential change in media regulation and policy that could alter the media landscape is more politically significant than the potential inconvenience to viewers of a writers strike. In addition to impact as a news value, both the strike and the FCC-Martin story reflected controversy between opposing interests – one of the most journalistically appealing and powerful news values an issue or event can possess. Thus, both stories had similar news values, but the strike received significantly more attention from the news media, especially the broadcast news media.

The decision by the network news divisions to take a pass on the FCC story seems to fit big media's long-time pattern of abstinence when it comes to informing the public about important changes in ownership rules. For example, corporate media stood up to lobby for a relaxation of ownership rules leading up to the 1996 Telecommunications Act, but stood down when it came to covering the issue:

> The inadequate news coverage of FCC actions that benefit the media industry … suggest the existence of a built-in conflict of interest. The major media companies stood to benefit directly from changes in FCC regulations and were instrumental in lobbying for their passage, even crafting some of the language of the 1996 Telecom Act. Reporting fully on these changes would have run counter to the economic interests of the industry. The result was woefully inadequate coverage (Croteau and Hoynes 2006, 184).

Given the pattern of inadequate coverage on media ownership policy and regulation in the past, the limited coverage on Martin's push to relax the long-standing newspaper-station ownership ban becomes more suspect.

The Battle over Regulation

Although Martin's October Surprise sparked an intense showdown over concentration of media ownership, it was far from uncharted territory in the ongoing battle over regulation.[9] Former FCC Chairman Michael Powell had won a relaxation of the cross-ownership ban in a June 2003 vote, but the rule was challenged in court and sent back to the FCC for further evaluation. The issues of a concentration of ownership and the ramifications for democracy have been the central focus in the policy debate since the mid-1990s preceding the passage of the 1996 Telecommunications Act. The Telecomm Act, signed into law by then-President Bill Clinton, allowed for a significantly greater concentration of ownership, especially with respect to radio, and the broadcast media landscape underwent a complete reformation as a result. Since the late 1990s the majority of our mass media has been dominated by the same handful of large transnational corporations with some occasional financial leapfrogging that reshuffles the order of the core pack.

Media critic Ben Bagdikian long has cautioned about ownership trends and the repercussions for news and democracy. He labeled the largest U.S. media companies the "Intertwined Six"[10] in 2000 in the sixth edition of his highly acclaimed book *The Media Monopoly*. At that time, General Electric (GE) was in the sixth spot based solely on annual media revenues. By the publication of Bagdikian's 2004 revised and updated

---

[9] A detailed account of the evolution of broadcast policy including the political fight that ensued over Martin's plan is given in Chapter V, *The Battle Over the Broadcast Spectrum: 1939-2008.*
[10] The six were: GE, Viacom, Disney, Bertlesmann, Time Warner, and News Corp.

edition of the book, *The New Media Monopoly*, the "Intertwined Six" had become the "Big Five."[11] GE slipped off Bagdikian's list of corporate media malefactors in 2004 because it did not approach "the magnitude and power of the truly giant all-media conglomerates" (2004, 24). However, Bagdikian acknowledged GE as a serious contender in the big media game in its role as the high profile parent of NBC TV network, Universal Pictures, Universal Television, several cable networks and numerous television stations.

The media giants have continued to strategically accumulate massive wealth and power over the past two decades since 1983 when Bagdikian first published *The Media Monopoly*, sounding the alarm about the chilling effects of corporate ownership and mass advertising. Bagdikian warned that for the first time in American journalism, news and public information were becoming formally integrated into the highest levels of non-journalistic corporate control and that trends of self-censorship were emerging as a result. He was dismissed as an alarmist and even was threatened with a lawsuit[12] by one of the large media corporations he offered as an exemplar (Clendinen 1983).

Bagdikian not only sounded the alarm about the structure of media ownership in the early 1980s, he has continued to monitor the issue, leading to the many versions of his book. According to Bagdikian, about 50 media conglomerates controlled more than half of all broadcast media, newspapers, magazines, the film industry and video, music and publishing companies in the early 1980s. By 1986, that number had dipped to 29. Less

---

[11] The five were: Time Warner, Disney, News Corp., Viacom, and Bertlesmann. GE's NBC was a close sixth.

[12] Simon & Schuster threatened to sue Bagdikian's publisher, Beacon Press, if the smaller publisher did not remove reference to Simon & Schuster allegedly killing a deal to publish a book called *Corporate Murders* because it would have made corporations look bad. Bagdikian said he had proof the claim was true. Beacon did not flinch and the story remained in several renditions of Bagdikian's *The Media Monopoly* (2000, 27-30).

than a decade later, by 1993, the number had fallen to about 20 firms. Today about five or six (if GE is included) firms control most of the mass media in the U.S., and the concentration of ownership hardly represents the ideal unrestrained free market structure by any economic definition (Bagdikian 2004).

The largest firms have achieved a monopoly lock on our media through their vast and diverse holdings. The economic feat is the result of deregulation accompanied by a series of calculated acquisitions and mergers enabling them to run their vertically-integrated empires in a feudal manner. Bagdikian claimed that Wall Street acquisition expert Christopher Shaw told potential media investors in the 1980s the two key reasons they should buy media companies was for profit first, and influence second (2000, 11). Furthermore, Bagdikian contended the mega-media corporations have discovered another advantage to acquiring vast and various media outlets. It allows them to work together as a communications cartel, tacitly colluding in order to sustain their market share. One side effect of this empire-building is that it "deepens the dangers of more deterioration of news as a handmaiden of its owners' corporate ambitions, endangering the future of the independent and diverse public information on which democracy depends" (Bagdikian 2000, xi).

The New Robber Barons?

The story of the rise of the media empires is reminiscent of the rise of America's first princes of capitalism. Journalist and historian Matthew Josephson (1962) mixed social, economic and political history to tell the story of the late 19th century "robber barons" and the power they yielded as a result of their accumulated wealth in the railroad, oil and steel industries. He attributed their acquisitive nature in part to a national character of political freedom and idealism. According to Josephson, the two qualities worked together "abetting a sordid and practical materialism which asked nothing of the arts, and of science but their application toward ends of use and profit" (1962, 7). After the turn of the century, President Theodore Roosevelt broke from previous administrations' policies to set out on a mission of dismantling large private concentrations of economic power (Gould 1992).

The debate over the societal ills of an unbridled accumulation of wealth and power today often focuses on the media barons and media corporate giants much in the same way it did the robber barons. But the ability of the political economy environment of the 21st century to foment a similar trust-busting retrenchment of corporate media ownership is questionable, especially given the FCC's enabling, even advocating, the control of much of what we hear, see and read to be concentrated in the hands of a few. Just as uncertain as whether or not it is possible to unring the bell of media conglomeration is the question of whether or not democracy and the free press can survive if substantive media reform is not achieved.

The Problem:
Regulation and Ramifications for a Free Press

This study considers the evolution over the past 100 years of broadcast regulation and policy, the current trajectory, and ramifications for the sustainability of a free press.[13] Of primary concern are the trends of deregulation and a concentration of media ownership, and their impact on news' ability to operate in the public interest. If one undertakes a cursory examination of the history of American broadcasting, the first

[13] The terms free press and independent press are used interchangeably throughout the chapters in this study. Both terms refer to the ability of the press to operate without threat of prior constraint, censorship or reprisal by corporate entities or the government.

impression is that news seems to have held up quite respectfully over time within the context of ownership concentration. The longevity of broadcast news would appear to indicate it has proven to be a relevant product with respect to the interests of corporate owners and the preferences of media consumers. Just look at the record. The longest-running series on U.S. television is a news program. *Meet the Press* debuted in 1947 on NBC and it is still on the air today, profitable[14] in its proficiency at examining American politics. It regularly has been the highest-rated[15] Sunday morning public-affairs program on network television (Johnson 2007; Bauder 2006).

In addition, the single most lucrative program in the history of network television is not *American Idol* or some other entertainment fare that Kennedy-era FCC Chairman Newton Minow would have cast into his "vast wasteland." Again, it is a news program. The newsmagazine *60 Minutes* started on CBS in 1968 and remains a ratings hit.[16] In the past 40 years of broadcasts, *60 Minutes* has been admired for its accomplishments by both news and business leaders. It has secured a reputation as high-road journalism through its quality coverage and investigative reporting style. On the financial side, it is respected as a revenues and ratings Olympian, eclipsing that of any other show in network television history. In an attempt to maintain relevancy in a digital age, *60 Minutes* in 2006 ventured into an exclusive Internet-based content distribution deal with *Yahoo!* as a strategy to cultivate a younger adult audience. So far, the strategy is working by making available interviews, segments and outtakes from one of the most popular

[14] *Meet the Press* makes a reported $60 million annual profit for NBC (Johnson 2007). That figure is up by $10 million from just a few years ago (Carter 2001).

[15] Nielsen Media Research estimates the average weekly audience for *Meet the Press* is between three and four million viewers.

[16] Nielsen Media Research each week lists the *Top 10 Broadcast TV Programs* on its Web site (NielsenMedia.com) and *60 Minutes* consistently makes the list.

programs on television to members of one of the world's most trafficked Internet destinations (PBS Frontline 2007).

ABC also has contributed to the legacy and profitability of the press by airing what was considered for 25 years, until the departure of Ted Koppel in 2005, to be the crown jewel of broadcast journalism: *Nightline.*[17] A few years before Koppel left *Nightline,* the show dodged a bullet when ABC contemplated bumping the program out of its late night time slot in lieu of a talk show that could deliver a more desirable (i.e., younger) demographic. *Nightline* survived and today is holding its own in ratings against the very talk show that nearly supplanted it – *Late Show with David Letterman*. However, it has not come out of the ordeal unscathed. ABC performed a post-Koppel makeover on the show to court a younger audience. The result was an interleaving of *Nightline's* traditional hard news content on political and social issues with lighter features and more celebrity coverage (Ellison 2006).

These shows would not be on the air today, amid the current economic expectations for news and the increasingly competitive media content environment, if they were not able to make money by serving up a desirable audience to advertisers. Their success would seem to bode well for the market survivability of *need to know* journalism that serves democracy and the public interest while also serving corporate bottom lines. However, the ability of this type of news to proliferate in a corporate media environment is uncertain, especially given that news programs now are expected to be competitive with entertainment shows in ratings and revenues.

---

[17]*Nightline* remains on ABC in its original late night spot, but is no longer considered to be at the top of the news chain as it was under Koppel's editorialship.

Many media critics like Ken Auletta, Ben Bagdikian, Noam Chomsky, Elliot D. Cohen, Robert Entman, Edward Herman, Arthur Kent, Robert McChesney, John McManus, Philip Meyer, Bill Moyers, Michael Parenti and others argue that the integrity of the free press has been jeopardized by increased concentration of ownership, corporate conflict of interest leading to self-censorship of the news, the circumvention of the news media by those in power who use it as a propaganda tool, and an increasing trend of a market-driven formula for news production. As the critics lay it out, it would appear that substantive, quality journalism has been weakened by a political economic environment favoring profit over the public interest and a free market over a free press. The argument, so it goes, is that an "assault on democratic journalism" (McChesney 2004, 437) has taken place, and "the only way to save journalism is to develop a new model that finds profit in truth, vigilance, and social responsibility" (Meyer 2004, 226-227).[18]

The portrait of an independent broadcast news media as an institution under siege and the fallout for democracy begins to unfold as we advance beyond a superficial look at the history of broadcasting. Although local stations and the networks once used news more as a way to justify free use of the spectrum as opposed to profit centers, there is growing concern that news now has become just like any other product manufactured in a capitalist society where the dominance of money interests prevail in production decisions. The evidence as examined in this thesis supports the cries that broadcast news as a social good has been transformed by market imperialism. News has fallen victim to universal

[18] Philip Meyer is a Knight Chair and Professor of Journalism at the University of North Carolina. Although Meyer's book was about the tough uphill economic battle faced by newspapers today, the statement can be applied to broadcasters as well. In his book, *The Vanishing Newspaper*, Meyer attempts to show how quality journalism can provide a successful business model for news. He cites nonprofit institutions like National Public Radio and the Center for Public Integrity as examples.

commodification enabled in great part by deregulation and a pro-corporate political environment. The overriding question then becomes: So, what do we do about it?

If Bagdikian and other critics are right about the deteriorating state of commercial news and a free press, a case could be made to classify news as a contested commodity.[19] Social theorists define contested commodities as those goods or services held out of the market for moral reasons or reasons other than market failure. Examples of contested commodities – things that many societies forbid from being bought and sold in the marketplace – are babies, human organs and sex (Radin 1996). Concerns about inappropriate commodification of such items is considered in conjunction with worries about social wrongs, including exploitation, subordination and maldistribution of wealth. The debate surrounding inappropriate commodification and social wrongs can be extended to commercial news production in a democracy. Given the assertion that news is central to advancing democracy,[20] and that a mediated democracy is central to our quality of life, then should news really be bought and sold in the marketplace? Does the market for a commercial news environment lead to an exploitation of the citizenry, enabling those in power to frame or control public discourse, manufacture consent through manipulation of the news media and thus, debase the democratic process? This research questions the sustainability of democratic journalism given an economic and regulatory environment that promotes the dispensing of news by large, profit-seeking organizations. The ultimate concern in this study is whether or not a free press can survive a free market approach to broadcast regulation and policy, and whether a reversal

---

[19] See below, Ch. VIII. Research for this study indicates the concept of a contested commodity previously has not been applied to the production and distribution of news.
[20] See below, Chs. II and III.

of big media fortune is feasible and able to fix any damage already done to a democratic news media.

The debate over broadcast regulation has great significance given the political power of television in our society, as well as the medium's pervasiveness in our culture. That is why when word leaked in September 2006 that the FCC, under the leadership of former chairman Michael Powell, spiked an internal study in 2004 that suggested greater concentration of media ownership would hurt TV news coverage, Senator Barbara Boxer, Democrat of California, and other lawmakers called for an investigation (Dunbar 2006a). A few days later it was revealed that the findings of a second secret FCC study conducted in 2003 had been suppressed because it also revealed a negative impact of media consolidation, prompting the current FCC Chairman, Kevin Martin, to order a formal investigation into the shelving of both reports (Dunbar 2006b).

TV News as the Media Democracy Epicenter

Given the omnipresent nature of television in our daily lives, we must address the question of whether or not a legitimate case can be made for regulating the broadcast media in a way that no other mass medium is regulated. It is important that we continue to debate the issue of how best to regulate *or* deregulate the broadcast media, and take into account the potential impact of either path on the integrity of an independent press. This is necessary even if we concede television as we know it might not maintain its cultural iconicity five, 10 or 20 years down the road in a digital world. However, broadcast consultant Roger Ogden[21] cautions against predicting television's demise in the future even amid an Internet-driven culture. Ogden was named the 2007 Broadcaster of

[21] Ogden's comments were made in a personal conversation with the author at the Colorado State University campus in Fort Collins, Colorado, on October 30, 2007, where Ogden was a guest speaker.

the Year by the industry magazine *Broadcasting & Cable*, and he is a former NBC executive and CEO of Gannett Broadcast. He contends that television, including television news, will adapt to survive the competitive threat from the Internet and wireless technologies, and has the ability to perpetuate itself as a content trendsetter across a multi-media distribution system. The statistics, so far, back him up.

Despite the rapid diffusion of digital technologies in society and the fact that many industry experts predicted new media would erode television viewing habits, television still wins as the highest exposure medium for the average American. It engages us for more time weekly than we allot to any other single activity outside of sleeping or employment. Nielsen Media Research released a report in September 2006 that showed, despite growing competition from the Internet, iPods, cell phones and other new media, Americans are watching more television than ever (Holmes 2006). Not only do Americans allocate more of their media consumption time to television than any other mass medium, it is their number one news source. Nearly 66 percent of adult Americans got most of their news from television in 2006 (Project 2007).

In addition, a study released in May 2008 by the market-research firm Crawford Johnson & Northcott, Inc. (CJ&N) revealed that most Americans were turning to television for campaign news. In a nationwide survey conducted by CJ&N, 87 percent of Americans said they were either actively seeking information about the presidential campaign or paying attention to such coverage and for most of them, television was the medium of choice (*TV News Day* 2008). The top three sources for campaign news among respondents who were at least paying attention to the election were: the national television networks (i.e., ABC, CBS and NBC), local television news, and cable television news (i.e., CNN, MSNBC and Fox News). According to CJ&N president John Altenbern, researchers found that despite the vast number of Internet service provider news sites, political Web sites and other online sources, Americans were relying heavily on traditional broadcast media. Altenbern said, "Rumors of the death of traditional news have been greatly exaggerated. And it's not just older people – younger adults are relying on television news too" (*TV News Day* 2008). The study found that television news was at the top of the list for young adults, 18 to 29-year-olds.

The steadfast popularity of television as our media drug of choice reminds us that there is a strong habitual element in an agent's behavior and consumption habits are often slow to change. In the *State of the News Media 2008* study, written by the Project for Excellence in Journalism and funded by the Pew Charitable Trusts, researchers found that although audiences are moving toward media outlets and platforms that provide information on demand, "this is not translating into an ever-accelerating exodus of audience but rather, a steady, fairly modest yet still inexorable drip, drip, drip" for the legacy or traditional media (Project 2008).

The study also found that the networks' flagship evening newscasts in 2007 were far from near extinction, collectively commanding an average 23 million viewers daily. Cable news saw a growth in its prime-time audiences by an average of 9 percent in 2007 after sharp declines in the previous years, which the researchers attribute to the high interest in the 2008 presidential campaign. And local TV news was "one of the few sources of news that continues to be popular," despite a slight average decline in viewership. Newsrooms were a big factor in the economic success of local stations. As a result, local stations "were vigorously bought and sold in 2007" and many private equity funds viewed them as "good investments." But newspapers were being seen as a less promising investment. The *State of the News Media 2008* study found circulation for newspapers continued to fall about 2.5 percent year-to-year and, despite cost-cutting initiatives, newspaper company stocks in 2007 were "battered for a third consecutive year."[22]

Meanwhile, the universe of online news consumers appeared to stabilize by 2007 with seven out of 10 Americans using the Internet for news consumption, the same as five years before (Project 2008). This would suggest that although Americans' appetites for legacy or traditional news products may be slipping, in general, a portion of consumers' media consumption budgets still is dispensed across the legacy media. Although there is an undeniable sea change afoot with respect to communications technologies and the way Americans consume news and information, television remains relevant. Therefore, the subject of how best to regulate the broadcast media in the interest of a democratic society remains a relevant topic and worthy of debate.

But the degree of the sea change afoot with respect to communications technologies is itself a topic of contention. Josh Silver, executive director of Free Press, argued that despite the popularity of the Internet and other outlets for news, a vast majority of Americans still get their local news from local TV stations and newspapers. In an editorial published online by the *Wall Street Journal* on May 21, 2008, Silver suggested that just because the Internet seems to provide us with infinite amounts of information at our fingertips, a lot of it may not be produced by organizations that care about educating the public to advance democracy. Silver was responding to a claim put

[22] The study found The McClatchy Company, one of the largest newspaper chains in the U.S., lost 70 percent of its value from 2004 to 2007, and the largest chain, Gannett, was down 35 percent.

forth by the *Journal* a week before, in which the newspaper's editorial staff claimed criticism of media consolidation was unwarranted because Americans have more media choices than ever before. As examples, the *Journal* cited "ever-growing cable, satellite and Internet offerings. … YouTube alone uses more bandwidth today that the entire Internet did in 2000" (*Wall Street Journal* 2008). Silver shot back, claiming that those outlets "rarely report on local news. If we let media companies merge under the theory that the Internet will save us, we're relying on a false premise. … [T]his issue isn't just about access to information, it's about defending the public interest" (Silver 2008). Silver's sentiment mimicked that of Senator Dorgan who had submitted his own editorial response to the *Journal* a few days earlier. Dorgan wrote, "Take a look at those who own those same Internet sites and those same television channels, because it turns out that a large portion of that ownership is by the same few major corporations. So while the *Journal* says there are more voices, I say, yes, but these voices are controlled by the same ventriloquist" (2008, A10).

Finally, there is another justification for focusing this study on broadcasting: its historical legacy as the first regulated mass medium. Journalism was the only media practice and only business enterprise specifically given protection by the U.S. Constitution – in the First Amendment – as a means to protect the public because journalism was deemed central to democracy. The First Amendment began the idea of protection of public access to news and information, and the regulation of broadcasting reflected that same concern. It was the potential significance of broadcasting's social utility that prompted Congress to enact the Radio Act of 1927 – the first legislation to create a regulatory body to oversee a mass medium. The underlying premise of the act was that broadcasters, then only radio, had a responsibility to operate in the public interest. The U.S. has taken a derivative approach by appending radio policy to apply it to the regulation of television. Thus, although newspapers carry the legacy as the first foot soldiers of a free press, broadcasting carries the legacy of the domain where the concept of media regulation for the benefit of the public good originated. As a technology, broadcasting started lawmakers thinking in a new way about the need to regulate an industry that provided news and entertainment to the masses. The battle over broadcasting and how to regulate it in the public interest provides a rich history of controversies, questions, challenges, and court rulings above and beyond what has been prompted by any other mass medium, including newspapers and the Internet.

Methodology

> "Ethnographic records are haphazard and even written history must be finely sifted before our knowledge of the presence of any particular institution or culture pattern grows firm."
>
> -- Conrad M. Arsenberg (Polanyi, Arsenberg and Pearson 1957, 101)

This study sifted through 100 years of written history and human activity in an attempt to improve our understanding of the changing behavior and nature of the broadcast news media as an important institution in democratic society. The purpose was not only to assess what is and has been in this historical evolution, but what could and should be. Along that path, this research was directed toward synthesizing the multidisciplinary discourse regarding the appropriate role, social organization, and regulatory environment of the broadcast news media in a democratic society – an important part of the ethnographic record that is worthy of systemic encoding. The author incorporated the tenets of critical ethnographic theory to develop an evolutionary picture of the political economy of the broadcast media, and to critique the pattern of regulatory policies that have shaped the broadcast news media and altered their role as purveyors of democracy.

It is important to clarify the difference between conventional ethnography and critical ethnography, as the difference played a role in this research agenda. According to Thomas, "At its most general, *conventional ethnography* refers to the tradition of cultural description and analysis that displays meaning by interpreting meanings. *Critical ethnography* refers to the reflective process of choosing between conceptual alternatives and making value-laden judgments of meaning and method to challenge research, policy, and other forms of human activity" (1993, 4). Whereas conventional ethnographers study culture for the purpose of describing it, critical ethnographers do so to change it. Thus, in keeping with the spirit of critical ethnography, this research is normative in nature. It was conducted for the purpose of describing and interpreting what has occurred with respect to broadcast regulation, as well as with the intent of invoking a call to action to protect the institution of news. The author presupposes that a potential problem exists in the ability of the news media to advance democracy. One could argue that if the news media are not doing their job to keep us informed about the actions of the powerful, there is risk of an intellectual disenfranchisement of the general public. This could create a constraint that puts those with political and economic power at an advantage to the disadvantage of the general public, excluding the latter from full and equal participation in the political process.

Critical ethnography is premised upon the assumption that culture can produce a false consciousness in which power and oppression become taken-for-granted realities or ideologies. In this way, critical ethnography goes beyond a description of the culture to challenge the false consciousness and ideologies exposed through the research. As Thomas further wrote:

> Critical ethnography is a type of reflection that examines culture, knowledge, and action. It expands our horizons for choice and widens our experiential capacity to see, hear, and feel. It deepens and sharpens ethical commitments by forcing us to develop and act upon value commitments in the context of political agendas. Critical ethnographers describe, analyze, and open to scrutiny otherwise hidden agendas, power centers, and assumptions that inhibit, repress, and constrain (1993, 2-3).

In the application of critical ethnography to the research of regulation of the broadcast media and the impact on news in democratic society, the author has sought to determine if a false consciousness exists regarding the viability or vitality of an independent press to operate in the public's interest within an institution whose leading policy architects have embraced the economics and politics of deregulation. The author also sought to scrutinize the power structure of big media in a culture where a presumption exists that the health of a democracy is dependent on the news media's ability to avoid manipulation and censorship by corporate or government actors.

A three-pronged approach was adopted for this study: (1) a survey of political/democratic theory, political economy and mass communication literature to create an integrated concept of the structure, function and health of an independent press in democratic society, (2) a historic analysis of spectrum rules and management by policy makers since the early 1900s to identify paradigm shifts in an attempt to determine the trajectory of broadcast regulatory economic thought, including a comparative analysis of such shifts to changes in general U.S. political ideology, and (3) a historic assessment of the evolution in the economic rules of the game for broadcast news, specifically network news divisions, given the history of broadcast regulation and the implications for the sustainability of democracy-oriented news in a commercial news media environment.

The approach in this research was based on the premise that an intellectual history is an important aspect of the ethnographic record; put simply, ideas are ethnographic data. Thus, the findings should help clarify the debate over the regulatory environment in which contemporary broadcasters operate, and identify the implications for an independent press operating in a democracy. This study explored the changing institutional characteristics of broadcast news given policy shifts and the fall of modern liberalism and the rise of neoliberalism. Toward that end, a review of government policy documents, regulatory literature, mass communication literature, books, articles and other studies (e.g., on concentration of media ownership) was undertaken to assess the following: the history of broadcast regulation, shifts in broadcast policy especially after 1970 with the growth of neoliberalism, and the influence of general political philosophies on media democracy.

In addition, it was essential to lay out the history of broadcast regulation in order ultimately to determine if or how changes in the regulatory structure of broadcast management may have enabled an increasingly dismissive attitude by powerful broadcasters toward operating in the public interest, and weakened the political-economic independence of the press. Given this potential market system-free press paradox, it was important to determine if regulatory capture and the "miracle of the market" mentality have eroded news, weakened the public purpose of news, led to a rise in the propaganda model of news, and made broadcast deregulation omniscient.

Finally, this study attempted to contribute to mass communications discourse on the media democracy debate in two ways: (1) to fill in the gaps in the literature of the history of economic thought regarding the battle over spectrum regulation and the impact of that battle on the historical role of news as a purveyor of American democracy, and (2) to forge a convergence in the intellectual discourse of two separate scholarly disciplines (i.e., mass communication and economics) which have approached the spectrum management debate from different theoretical perspectives, yet often with the same mission (i.e., to identify what is best for the public interest with respect to broadcast management). Contemporary mass communication literature has, for the most part, addressed the media democracy dilemma by debating the impact of a concentration of media ownership and a bottom line corruption of news (McChesney 2004; Moyers 2003; Gans 2003; Bagdikian 2000; Herman 1999; Barnouw, et al. 1997; McManus 1994) while the economic literature has mostly focused on property rights and a bifurcated debate pitting the public interest standard against a market standard (Moss and Fein 2003; Hazlett 1998; Fowler 1982; Coase 1959; Herzel 1951).

The broadcast regulatory debate has encompassed various disciplines (e.g., regulatory economics, broadcast law, and mass communication) over many decades. The multidisciplinary debate has focused on how best to regulate the broadcast media vis-à-vis a public interest standard often linked to a media democracy concern, and how to measure compliance of such a standard. Scholars have further made the case that television broadcasters, especially the powerful networks, have played a vanishing role as protectors and advancers of democracy over the past 20-30 years as a direct result of deregulation (Bagdikian 2004; Herman and Chomsky 1988). They say this decline of media democracy has occurred as a result of increased deregulation tethered to a market approach to spectrum management. The argument is that news divisions' ability to operate in the public interest in a way that promotes democracy has fallen victim to the primacy of economic goals, and that the growth of neoliberalism has set the stage for a disembedded society where market advocates propose human well-being can best be advanced by liberating corporate freedoms.

In studying the alleged descent of the democratic quality of broadcast news in the U.S., it is necessary to consider the history of policy regulation of the broadcast media and its interaction with the distribution of economic and political power. Regulatory ethos shifts over the past 100 years clearly have contributed to changing economic expectations for news divisions and that has led to varying degrees of fallout for a free press. To understand this connection between broadcast regulation and the health of an independent broadcast news media, it was imperative to take a political economy approach to analyze what has transcended. Guided by such an approach, telling the full story of what has evolved and determining the impact on news and the sustainability of a free press was difficult at best. Without such an approach, any conclusions likely would have been misleading and artificially derived.

Neoclassical economics and its penchant for explaining allocation is painfully void of providing the depth of relationship that has existed between policy decisions and the broadcast news media's ability to operate in the public interest. Since the early 1900s, with the emergence of regulation of the spectrum, there has been an evolving battle over commercial broadcasting, spectrum use, and the public interest standard for licensing. That battle and the repercussions for the role of the broadcast news media in a democracy are better understood within a collective social, political, legal and economic context rather than by way of simple allocation or valuation theory.

To address this problem, it is first necessary to consider the character of democracy in society and the role of the independent press therein. It also is essential to consider to what degree structural changes in regulatory policy have enabled powerful broadcasters to have an increasingly dismissive attitude toward upholding the public interest and the heavy burden of news in the democratic process. That is, has news been harmed by pro-broadcast policy (e.g., broadcasters' regulatory capture of the FCC) and the neoliberal thinking that has made the market-model approach and broadcast deregulation all the rage?

The author would like to acknowledge that although newspapers carry the legacy as the first press in the U.S. and their broad reach[23] is evidence that newspapers should not be marginalized in the press-democracy debate, the role of newspapers in American democracy was not the focus of this study. This study looked at the broadcast news media and their ability to operate as an independent press that promotes democracy precipitated by certain economic and regulatory alternatives. Any discussion of newspapers or other non-broadcast media that arose in this study, thus, was done so in the context of assessing the evolution and health of the broadcast news media in American democratic society.

Organization of Chapters

This study frames the history of the regulatory debate from a perspective of the important role of an independent press in advancing democracy. The resulting chapters are laid out in a manner to reflect that mission and have been cast into three themes:

[23] According to the Newspaper Association of America, the average number of daily newspapers sold on the weekday in the U.S. in 2006 was more than 52 million, and slightly less than half of all adult Americans read a daily newspaper on a regular basis the same year. For more information, see www.naa.org.

American Democracy and the Free Press, The Political Economy of Broadcast Policy, and *The Sustainability of a Free Press.* The first section, *American Democracy and the Free Press,* includes the introduction chapter and the next two chapters which lay the theoretical groundwork on which the rest of the chapters are based. Chapter II, *The Concept of Democracy,* discusses the multiplicity of democratic theories and finds common ground on which to build a theoretical construct of democracy. Chapter III takes that theoretical construct and folds it into a broader examination of *The Character of a Free Press* and what constitutes a truly independent press in democratic society. This chapter first looks at the Constitutional guarantee of a free press and then examines the state of news media and the political and economic roadblocks it faces in keeping the public enlightened. The economic theory of the institution is applied to the news industry, and from there the characteristics of a free press in a democratic society. It is essential to develop a theoretical premise of what a free press should look like in order to understand the seriousness of aberrations in the existing reality. In light of this, and with a conceptualization of democracy in place, Chapter III moves beyond the theory of an ideal independent press in democratic society to examine the gap between concept and reality. The romanticized legacy of the press is contrasted with a more realistic picture of the culture and quality of news today.

The next section of this study, *The Political Economy of Broadcast Policy,* presents three chapters that examine the political, economic, and legal components of the evolution of broadcast regulation. Chapters IV and V provide an overview of broadcast regulation over the past 100 years and identifies six stages of policy shifts in the long-running policy debate. Chapter IV, *The Battle over Broadcast Regulation: 1904-1938,* looks at regulation prior to television's arrival. Chapter V, *The Battle over Broadcast Regulation: 1939-2008,* examines the evolution of regulation in the television-dominated era of broadcasting.

The regulatory debate has been addressed by numerous scholars and policy makers over the past century, but much of the discourse has remained compartmentalized by discipline. Thus, the primary justification for this historical review or policy shifts presented in Chapters IV and V as part of this study was to synthesize the existing economic and mass communication literature in an effort to add a more interdisciplinary approach to the discussion and understanding of regulation. Since the origins of regulation, the foundation of the debate has been how best to regulate the broadcast media and ensure broadcasters operate in the public's interest. However, the seemingly elusive definition of public interest proved a constant challenge under the original trusteeship model. Ultimately, the trusteeship model was put in jeopardy by the trend toward a market approach to policy regulation that intensified in the 1980s and clearly continues today as evidenced by Martin's 2007 October surprise.

Chapter VI, *Political Ideology as a Point of Reference,* is the final chapter in this section and follows up on the regulatory ethos shifts identified in Chapters IV and V to compare them to changes in dominant U.S. political ideology to see what pattern of correlation exists. This chapter offers insight into the degree and nature that dominant political ideology spilled over into broadcast regulation and policy decisions. The question guiding this part of the study was whether or not modern liberalism created an environment less susceptible to regulatory capture, as conventional wisdom would suggest, and more conducive to upholding an independent press. In addition, the author looked at the shift from modern liberalism to neoliberalism in dominant political ideology, and looked for any substantial evidence of an alignment with a rise in a market ethos in regulation.

The next section, *The Sustainability of a Free Press*, presents the final three chapters which collectively address the likelihood that a free press which advances democracy can survive the trend of deregulation. Chapter VII, *The Transition Economy of Network News*, looks at the systemic change in profit expectations and the production process for the network news divisions since the diffusion of television in American homes beginning in the late 1940s and early 1950s. This chapter details the clash of journalistic and business culture as network news divisions were forced to transition from soft to hard budget constraints. Network news divisions, for decades protected from profit expectations, found the new climate of hardening budget constraints that began to emerge in the late 1970s disturbing and unacceptable. At first news executives were defiant and resisted the new economic rules, but ultimately succumbed as a means of survival. A timeline is presented that identifies key developments in this transition economy for news. An analogy also is drawn between the changing economic environment for the network news divisions and the more formal application of transition economic theory as it has been applied, of course, to nations like Russia or Poland. The argument is made that economically network news has undergone more of a shock therapy reform than gradual change.

Chapter VIII, *News as a Contested Commodity,* makes a case for conceptualizing news as a contested commodity – a good or service whose exchange in the marketplace is deemed troubling in the context of a potential lapse in social or moral values as a result of unbounded capitalism (Radin 1996). The argument to conceptualize news as a contested commodity is based on its important role in democratic society and the fallout from a market system-free press paradox. Chapter VIII assesses what is interfering with the *commercial* broadcast news media's ability to enhance and uphold democracy, and the consequence of that failure.

Chapter IX concludes the study with some final comments regarding broadcasters and the public with respect to regulatory policy and the implications for an independent press. This chapter summarizes the impact of deregulation on media democracy, and offers recommendations for how better to ensure an independent press is operating in the U.S., not just the pretense of one. Chapter IX focuses special attention on the role of the rise of neoliberalism in affecting an increasing free market approach to broadcast regulation, the danger such an approach imposes on a free press, and the needed corrective response the evidence compiled in this study seems to indicate. That is, what are the appropriate role, social organization, and regulatory environment of the broadcast media for a democratic society dependent upon an independent press? The chapter concludes with recommendations for regulatory and institutional reforms. The recommendations presented are designed as measures to enhance democracy by way of insulating the free press from the moral perversions created by a free market and the harm to news as a result of market-oriented regulation and policy decisions.

CHAPTER II:

THE CONCEPT OF DEMOCRACY

> "Nothing of any considerable political importance is done or left undone unless such action or inaction can be plausibly defended on democratic grounds; and the only way to secure for the American people the benefit of a comprehensive and consistent political policy will be to derive it from a comprehensive and consistent conception of democracy."
> -- Herbert Croly (1909, 176)

There are two core concepts around which the analysis in this body of work is developed. The first is the concept of democracy and the second is the notion of an independent press. These are considered in tandem to ascertain what type of press is necessary to support a political system based on the theoretical principles of American democracy. Given this research agenda, it is first necessary to present the multiplicity[24] of ideas that embodies the concept of democracy in order to define an independent press and its ideal characteristics in democratic society. The present chapter discusses the meaning of democracy and Chapter III introduces the concept of an independent press and the breaches of such in the real world of corporate journalism.

Theories regarding the nature of governments generally are constructed to explain who wields power and influence within the constraints of political institutions, and the processes by which a land and its people are ruled. In its most basic tenet, democracy is

[24] The term "multiplicity" perhaps should be taken with a grain of salt. Although there are several theories regarding democracy and numerous variations of each, it is possible to identify two or three dominant approaches in contemporary democratic theory. A general examination of those dominant approaches will provide the focus of the discussion here.

conceptualized as a political process of selecting policy makers and of organizing government so that policy reflects citizens' preferences and not the personal interests of those who govern. American democracy today is popularly envisioned as Abraham Lincoln famously cast it more than 140 years ago in his Gettysburg Address as a "government of the people, by the people, for the people." At the essence of what most Americans deem to be democracy is the classic notion that each citizen has an equal voice in the political process, actualized in the right to vote, and when these diverse voices come together a majority rule is formed. However, democracy is a contested concept among theorists, making it a formidable task to unravel a "consistent" meaning as Croly called for in his sensitive and classic essay on the American political experience, *The Promise of American Life* (1909). Croly went on in the book to acknowledge that although a clear, consensus-based understanding of the democratic principle was of the utmost importance to the American people, democracy's common definition of popular government was not without controversy. As Postman more colorfully put it, democracy is a word with a "checkered career" (1999, 136).

Clearly, there is no single theoretical concept of democracy, nor has there ever been. Theorists have differed on many issues regarding democracy, including the ideal conditions necessary for it to exist and flourish, its sustainability, what form of democracy actually exists, and the unique social structures and distribution of power that emerge in the United States from democracy as a political system. Given the complexity of democratic theory and the vast, provocative body of work surrounding the subject, it is necessary for the purpose of this study to place substantial boundaries on its treatment. First of all, it is important to note that the following discussion of democracy is not intended to be an exhaustive literature review placed in context of the history of political thought and governance. It does not embrace an intellectual inquiry into either how democracy came about or its legacy of popular government in ancient city-states. Nor does it attempt to present the pros and cons of every major issue raised in contemporary discourse. Instead, the following discussion is put forth as a review of selected literature that offers insight into American democracy, assays its nature, and helps to account for descension from theory to practice (i.e., the gap between *what should be* and *what is*). The goal here is to understand American democracy in a current world context for the purpose of later assessing the role of an independent press in that political environment. Thus, this chapter reviews the key themes and basic ideas of modern democracy in order to provide a critical understanding of the relationship between democracy and the press. With that clarification as a pretext, the next section begins the examination of the concept of an ideal democracy, a model of *what should be*.

Dahl's Ideal Democracy

Political philosopher Robert Dahl, one of America's leading theorists, has devoted much of his body of work to dissecting the meaning of democracy and interpreting the special problems created for modern democratic practices (Dahl and Lindblom 1953; Dahl and Tufte 1973; Dahl 1956, 1961, 1971, 1982, 1989, 1990, 1997a, 1997b, 1998). Dahl maintains that although there is an "enormous and often impenetrable thicket of ideas about democracy," it is possible to identify some indisputable criteria essential to a democratic process where all members of an association are equally entitled to participate in the association's decisions about its policies (1998, 37). Dahl named five standards for an ideal procedural democracy. These standards should be met for a political process to be deemed a full democracy: (1) effective participation, (2) voting equality, (3) enlightened understanding, (4) control of the agenda, and (5) inclusion of adults (1982, 1998). The following section explains the conditions necessary for each element.

Dahl's concept of effective participation requires that all citizens have adequate and equal opportunities to express their policy preferences throughout the decision-making process. The criterion of voting equality assumes the classic notion of one person, one vote. All proposed procedures for making binding decisions must be evaluated according to the criterion of voting equality. When the time arrives at which the decision about policy will be made, every member has an equal and effective opportunity to express preferences by voting. Enlightened understanding is basic to democracy and would necessitate that each member, within a reasonable time frame, is able to learn about alternative policies and their likely consequences. Therefore, citizens must have access "to alternative sources of information that are not under the control of the government or dominated by any other group or point of view" (1998, 97). If one group monopolizes, distorts, or restricts information, citizens cannot truly understand issues.

Furthermore, this marketplace of ideas would be encapsulated by free speech and free press. Indeed, without freedom of expression, citizens would lose their capacity to influence the agenda of government decisions. Dahl (1998, 96) posed the question, "How can citizens make their views known and persuade their fellow citizens and representatives to adopt them unless they can express themselves freely about all matter bearing conduct of the government?" Free expression requires both the right to be heard by others and the right to hear others' opinions. That is, each member must have equal and effective opportunities to voice their opinions about policy options as well as the opportunity to learn about alternate policies.

For the fourth criterion, control of the agenda, Dahl argued that citizens must have the exclusive opportunity to decide how and what policy matters are to be placed on the agenda for public discourse. Appropriation of agenda setting by wealthy or powerful individuals or self-interest groups must be quelled, since such appropriation would cause corruption of the democratic process and diminish effective participation. Finally, inclusion is critical to the democratic process. If a nation is to call itself democratic, government must be an inclusive system where all or most permanent adult residents are extended the full rights of citizens that are implied by the other four criteria.

If one of these criteria is violated, the political system is not equal for all members. Dahl conceded that violations of the criteria indeed exist and that no country today meets the standards for an ideal democracy. Dahl wrote:

> Because of inequalities in political resources, some citizens gain significantly more influence than others over the government's policies, decisions, and actions. These violations, alas, are not trivial. Consequently, citizens are not political equals – far from it – and thus the moral foundation of democracy, political equality among citizens, is seriously violated (1998, 179).

Dahl was preoccupied with the capacity of contemporary society to closely approximate a democracy with political equality among citizens in light of the confounding characteristics of present-day political societies. Dahl concluded that self-governance, always difficult, has become intractably problematic in a complex, modern society. If democracies are to stay relevant and effective, they have to cope with the realities of enormously populous societies, social pluralism, and a globalizing modern market economy. Democracies like the U.S. must solve their problems as best they can, within an environment of these growing impediments. Dahl suggested one way to help overcome the political pitfalls of complex societies is to establish a more informed citizenry better able to participate in decision-making. We will examine ideas for cultivating a more informed citizenry later in Chapter III in the discussion of the independent press and its role in a democracy.

Modern Democracy and the Promotion of Polyarchy

> "First of all, according to the view we have taken, democracy does not mean and cannot mean that the people actually rule in any obvious sense of the term 'people' and 'rule.' Democracy means only that the people have the opportunity of accepting or refusing the men who are to rule them."
>
> -- Joseph Schumpeter (1950, 284-285)

A 20th century redefinition of democracy began with economist Joseph Schumpeter's 1942 book, *Capitalism, Socialism and Democracy*,[25] in which he argued that citizen participation is not essential to democracy and should be limited to voting for leaders. Schumpeter also rejected the classical theory of democracy as a process where elected officials carry out the will of the people.[26] Instead, he defined democracy as "institutional arrangements for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote" (1942, 269). The theory of competitive leadership provided the explanation of the democratic process. Political scientist Samuel Huntington wrote (1989) that following Schumpeter, the debate between a classical and institutional definition of democracy went on for several decades and concluded with Dahl's 1971 book *Polyarchy: Participation and*

---

[25] The first edition of Schumpeter's book *Capitalism, Socialism and Democracy* was published in 1942 and later reprinted. A copy of the original book could not be retrieved for this study. The third edition from 1950 was obtained, and this is what is referenced in the bibliography. The second and third editions remained unchanged from the 1942 original with the exception of an added chapter.

[26] Schumpeter felt political man was a rational but uniformed rational being interested in advancing his own welfare (Chapters XX-XXIII, 258-259). As a result, some economists have credited Schumpeter with being the first to apply economic methodology to political decision-making, providing the theoretical underpinnings of the public choice conception of democracy (Mitchell 1984).

Opposition. In his 1971 book, Dahl contended that democracy is made up of at least two dimensions: public contestation in elections and the right to participate. It was also during the 1970s that polyarchy successfully became equated with the stability of capitalist social order in great part due to Dahl's leadership in setting the agenda for political science and his influence in defining modern American democracy.

Dahl and economist Charles Lindblom, colleagues at Yale, were first to label the U.S. version of democracy as a polyarchy. They introduced the term in their 1953 co-authored book *Politics, Economics, and Welfare.* The book incorporated an economic view of the distribution of political power and "rational social action" given the structure and influence of certain basic institutions. It was both praised (e.g., Handlin 1954; Oliver 1954; Sutton 1954) and criticized[27] for breaching the accepted boundaries separating economics and political science scholarship at the time. Dahl and Lindblom clearly anticipated criticism and tried to deflect it early on by acknowledging and justifying the book's interdisciplinary nature. They wrote:

> In this book the authors have sought to incorporate certain aspects of politics and economics into a single consistent body of theory. ... We should like to think that the social processes which the economic theorist has appropriated as the domain of his own guild will now be more accessible to our colleagues in the other social sciences – and hence to their criticisms, insights, hypotheses, and methods (1953, xxi-xxii).

The bulk of the book was devoted to a comparison of the possibilities and limitations of four central sociopolitical processes for economic control: the price system (as one control and calculation mechanism), hierarchy (where leaders control non-leaders;

[27] Lindblom would later disclose that the book was given a poor rating by most of his Yale colleagues in economics, and that his department chair even urged him to resign over it. Lindblom said that given the place *Politics, Economics, and Welfare* has now earned in social science, the criticism he endured after the book's release might have been attributed to "disciplinary narrowness." Upon reflection, he also noted that economics as a discipline "cultivates its fenced garden" and is perhaps the most intolerant of the social sciences (1988, 17-18).

bureaucracy is one of the most familiar forms of hierarchy), bargaining (where leaders control each other through negotiation, such as two dominate parties in Congress or unions and employers), and polyarchy (a modern approximation to democracy).

Dahl and Lindblom sketched out their initial theory of polyarchy as a process of citizen control over leaders, a system of control by competition among specialized elites. According to Dahl and Lindblom, and further expounded in later writings by Dahl (1956, 1971, 1989, 1998), a polyarchy is comprised of a complex system with several layers of democratic government, each operating with a somewhat different agenda and characterized by a set of political institutions or practices where minorities, as opposed to majority, rule. Peaceful competition and compromise among elites allow free-market democracy to thrive. Although Dahl acknowledged that polyarchy was far from ideal, he also contended it was the only realistic democracy possible in complex modern societies (1971, 29-31). Lindblom later would come to a different conclusion, writing that because elite groups taint the political process through their significant advantages, any real choices in both the market and politics would be limited for the average citizen (1977, Chapters 13 and 14). According to Lindblom, the problem was that elites collude with one another to protect their property and position and, as a result, polyarchy can spiral downward into a harmful form of corporatism.[28] As mentioned earlier, Dahl did not turn a blind eye to the problems of polyarchal democracy. For his part, Dahl (writing in

[28] Clark (1998) describes *corporatism* as an ideology that proposes to reduce conflict and resentment in society by consolidating individual interests into large groups with decision making left to group leaders, and the government serving as the mediator among groups. Corporatists further propose an alliance between business and government to ease the dislocations created by the market and to reduce uncertainty and risk for business, but some critics of corporatism argue this opens the door for abuse of government power.

collaboration with Tufte in 1973) noted three grand complications for democracy in almost every national state: size, pluralism, and industrial society.

Dahl was credited with focusing in an unprecedented manner on the significance of the size of the state in politics while he voiced concern that the topic remaining overly neglected among theorists (Bailey and Braybrooke 2003). In addition, he gave special attention to the issue of inclusive citizenship (e.g., among other things, money and birth may lead to inclusion on a superior footing). But Dahl held out hope for the progression of polyarchal democracy while conceding that no country had transcended polyarchy to a "higher" stage of democracy (1989, 223). Dahl believed that despite polyarchy's deficits, it provided a broad array of human rights and liberties that no existing real world alternative could match. In part, his glass half-full perspective was based on his repudiation of the ruling-elite model and his belief that those elites who lead represent many discrete associations and actors who were responsive to the interests of the masses (1961, 1982).

Sociologist William I. Robinson challenged Dahl's narrative, and offered a much less flattering picture of modern democracy. Robinson argued that it was a mistake to assume self-serving, entrenched elites would respond to the general interests of majorities through polyarchy's twin dimensions of "political contestation" and "political inclusiveness" (1996, 49). That is, the need of those who govern to win a majority of votes in order to beat a competitor was not enough to ensure the winner operated in the public interest in the long-run. He also was highly critical of the U.S. exportation of polyarchy. According to Robinson, polyarchy, or Western democracy, really is not democracy at all but instead is a "political system corresponding to the capitalist mode of production distinct from authoritarianism insofar as it rests on social control of subordinate groups through consensual mechanisms" (1996, 218). Polyarchy as a concept developed in U.S. academic circles closely tied to the community of policy makers during the post-World War II years, the period where Dahl and Lindblom first introduced the term. Contrary to Dahl, Robinson portrayed polyarchy not as the best one could hope for in a modern complex society, but rather as a political process of (consensual) domination by a few over many for the benefit of the few. Mass participation in decision-making under polyarchy is confined to casting a vote in elections carefully managed by competing elites in a manner that preserves class inequalities.

Robinson, a leading analyst of transnational class formation, conducted a study to examine the changes in the politics of American foreign policy since the 1980s. He concluded that the U.S. began a campaign of persuasion in the 80s to convert dictatorships and populist democracies into "low intensity democracies" in order to undermine authentic democracy. The study, the findings of which are detailed in Robinson's 1996 book *Promoting Polyarchy,* documents the phenomenon of "democracy promotion" and analyzes it as it relates to hegemony and the intersection of politics and economics in the 21st century world order. According to Robinson, the U.S. attempts to persuade its own citizens, along with the rest of the world, that it promotes a system of institutionally-grounded representative democracy (i.e., polyarchy) on a global scale. In reality, U.S. foreign policy works to derail and suppress authentic democracy, and limit any change that may be brought about by mass democratization movements. Thus, "democracy promotion" masquerades as its antithesis; it is a corrosive campaign devised to prevent the emergence of more egalitarian popular democracies that would threaten the elite order, the spread of global capitalism, and global ideological hegemony. This strategy of diversion, according to Robinson, represents a transition in U.S. foreign policy from coercive to consensual mechanisms to expedite the spread of a capitalist world system.

The exportation of polyarchy by way of "democracy promotion" is analogous to a classic game of bait and switch. Robinson wrote that the tactic emerged as a dominant strategy only after it became unpopular in the 1970s for the U.S. to continue a foreign policy of alliance-building with authoritarian and dictatorial regimes. In the post-World War II era, the U.S. had exercised its global domination through these strategic alliances with Third World countries in order to ensure global stability for the growth of international capitalism. When that form of interventionism became unfavorable in the middle of mass popular movements opposing repressive governments and exploitative socioeconomic orders, the U.S. turned to a more palatable form of interventionism: "democracy promotion." As Robinson noted, "'Democracy promotion' has a crucial ideological dimension, given that democracy is a universal aspiration and the claim to promote it has mass appeal. Under the rubric of 'democracy,' new policies set out not to promote, but to *curtail,* democratization" (1996, 16). Thus, the motive behind the policy shift from "straight power concepts" to "persuasion" was to rearrange the political systems in the peripheral and semi-peripheral zones of the world system. The goal was to secure the underlying objective of maintaining essentially undemocratic societies subordinate to the goals of international capitalism.

Furthermore, scholarly discourse since the post-World War II era has aided and abetted in promoting polyarchy through U.S. "democracy promotion." According to

Robinson, "The institutional definition embodied in polyarchy came to substitute, at the level of mainstream Western social science, the classic definition of democracy" (1996, 50). The polyarchal definition of democracy, led by Dahl and championed by other social scientists, linked the concept of democracy to a desirable stability of the capitalist social order. Robinson was asked in an interview with Jonah Gindin of OpenDemocracy.net if academics and policy makers behind the "democracy promotion" strategy truly believe that they are promoting genuine democracy. Robinson responded by suggesting that many of the "first world" intellects who trumpet the modalities of U.S. "democracy promotion" are respectable and well-intentioned, but are misguided by a false consciousness. However, others operate with a colonial mentality, as well as a bias of arrogance and privilege. Robinson commented:

> Some, perhaps many, academics who defend U.S. 'democracy promotion' might be called organic intellectuals of the transnational elite; opportunists and mercenaries who know before whom they need to prostrate themselves in order to secure funding and status in the halls of global power. ... [O]thers deceive themselves (intentionally or otherwise) into believing they can participate intellectually or directly in U.S. policy intervention in order to somehow steer it into an acceptable foreign policy (Gindin 2005).

Irrespective of intent, as Robinson portrayed it, academics and policy makers who advocate polyarchal democracy and its promotion have become unfortunate enablers of a U.S. foreign policy agenda that feigns advocacy of citizens' rights and demonizes opposition. Dahl offered another explanation for what motivates one point of view over another. According to Dahl, lived experience determines perspective:

> While intellectuals in democratic countries where polyarchy has existed without interruption for several generations or more often grow jaded with its institutions and contemptuous of its shortcomings, it is not hard to understand why democrats deprived of these institutions find them highly desirable, warts and all (1989, 223).

The differences between Robinson and Dahl's theories on polyarchy and democratization are relevant to a later discussion of the role of an independent press for the purpose of this study. These competing perspectives potentially pose a bit of a conundrum with respect to trying to define the role of an independent press in democratic society. If we cannot find agreement among leading theorists and conclude in confidence what type of democracy we have, does it matter with respect to developing a concept of an independent press? For example, if we start with Dahl's model of full democracy and bridge to his view of polyarchy, we get a different picture of how closely modern democracy approximates what is an ideal form of democracy. But if we begin with the ideal model of democracy and then bridge to the picture of modern democracy Robinson paints for us, the state of democracy seems graver. Can we still come to the same expectations about the role of an independent press in democratic society, if we start with different assumptions about the nature and realities of our political system? We will delve deeper into the implications of this theoretical soul-searching in Chapter III.

Other Theories of American Democracy

In addition to the previous discussions of the ideal democracy, polyarchy and democracy promotion, this chapter will canvass three other theories regarding American democracy. Two are the most popular theories in political science today: pluralism, and elite and class theory. The third, instrumentalism, is not commonly mentioned in mainstream political science textbooks, but it is as relevant as the other theories as a preface to the discussion of an independent press in political economy. Instrumentalism has its roots in pragmatism[29] and originally was applied to the democracy debate by philosopher and educational theorist John Dewey.[30] Whereas political instrumentalism goes about explaining the political process as a means to an end, the theories of pluralism and elitism tend to focus on the issue of quality (i.e., how well political leaders govern in the public's interest). On this path, pluralism and elitism reach slightly different conclusions regarding who really governs in the American political process.

Pluralism

> "Corporations, unions, and political parties are organized pressure groups. … The economic pressure groups really become an occupational parliament of the American people, more truly representative than the Congress elected by territorial divisions."
>
> -- John R. Commons (1950, 33)

The United States traditionally has been described as a pluralist democracy. Pluralism holds that a multitude of groups, not the people as a whole, govern. It is a theory of American democracy that emphasizes the political process mainly as a competition among diverse interest groups,[31] where all interests are free to compete for influence in the government (Edwards, Wattenberg and Lineberry 2006). These groups or organizations include unions, professional and trade associations, environmentalists, civil rights activists, business and financial lobbies, and formal and informal coalitions of like-minded citizens. Since the participants in this process constitute only a tiny fraction of the populace, the general public acts mainly as bystanders. As Dahl once described it,

---

[29] Pragmatism is a philosophical movement developed in the United States that holds that both the meaning and the truth of any idea is a function of its practical outcome. Pragmatism signifies the insistence on the usefulness or practical consequence as a test of truth.

[30] Dewey argued that inquiry, rather than truth or knowledge, was the essence of logic. There is no static truth or absolute truth, but truths that are constantly being made true.

[31] An interest group is defined as an organized group of people that makes policy-related appeals to government. The National Association of Broadcasters, the Association for the Advancement of Colored People, the American Association of Retired Persons, and the Internet-based group Common Cause are examples of interest groups.

"politics is a sideshow in the great circus of life" (1961, 305). Voting is important and the most common way most people participate in politics, but Americans vote for representatives, not particular policy alternatives. Instead, public policy emerges from competition among groups.

The "group theory" approach to understanding governmental processes began to gain momentum following the publication of David Truman's *The Governmental Process: Political Interests and Public Opinion* (1951). Group theory relied upon the pluralistic assumption that the best outcomes politically would arise from group conflict. Groups attempt to affect change by organizing and pressing for their preferred policies before one or more branches of government (e.g., legislative, judicial or executive) and by lobbying relevant administrative bureaucracies (e.g., the FCC). Power is then dispersed through a diversity of mutual adjustment, a process of compromise and bargaining among a multiplicity of (mostly) small groups where no single group dominates. Pluralists generally are optimistic that the public interest will prevail in the making of public policy, the arena of the distribution of political power. As individuals pursue their own self-interest, fair and democratic policy will result. Interest groups function as aggregators and representatives of key concerns in the republic. Furthermore, according to Truman, there is nothing inherently undemocratic about group participation in politics because of the egalitarian nature of group formation and participation. Thus, pluralists judge society not by its actual equality, but by its equality of opportunity in the political marketplace.

Dahl steadily argued that power in America's polyarchal political system is pluralistic, and that this is an inevitable consequence of democracy on a large scale

(1956, 1961, 1982, 1997a). The American political process represents a system of national bargaining where the government finds itself as simply one of the players who "must engage in horse trading with corporations, trade unions, farm organizations, and other groups with control in the society" (1956, 498). A central guiding thread of American constitutional development has been the evolution of a political system in which all active and legitimate groups in the population can make themselves heard at some crucial stage in the process of policy making, a key characteristic of pluralist theory. However, Lindblom – although still attributing primacy to the competition between interest groups in the policy making process – is more skeptical of pluralism's ability to ensure that various groups can compete equally to influence government in light of the disproportionate political power and influence of business in politics (1979).

Robert Putnam, professor of public policy at Harvard University, pointed to another trend that threatens to sideline American pluralism and its reliance upon group participation. He argued that many of the problems of modern democracy stem from a decline in civic and social life (including involvement in political organizations and interest groups), a pattern that began in the late 1960s in the United States (2000). Putnam cited numerous instances, both local and national, of the decline of group-based participation in political and non-political organizations. For example, he described how membership in the Roanoke, Virginia chapter of the National Association for the Advancement of Colored People has dwindled from about 2,500 in the 1990s to just a few hundred a decade later. However, the most classic illustration he gives is an account of how membership in bowling leagues[32] dropped dramatically across the country even while the number of people bowling was on the rise – another indication that more people were going it alone. Putnam explained that group engagement, what he also called "social capital,"[33] was being eroded by several factors: (1) the increased demands of work, (2) a more mobile society that deters the formation of close community ties, (3) and more time spent watching TV and surfing the Web (2000).

However, the decline in social capital is not a reflection of some endemic trait rooted in economy of effort or apathy. For one, Americans are shifting their preferences to become less tied to institutions and more self-defined in their activities. For another, declining social capital is not just an American phenomenon. In an examination of the state of social capital on a global scale, Putnam and other scholars looked at eight[34] advanced democracies (2002). They found a similar pattern of social change among all the countries with the exception of Sweden.[35] National case studies revealed an almost universal trend of shrinking social capital. Emerging common themes were a drop in electoral turnout, less engagement in political parties, and a mounting discontent with political institutions. In addition, the researchers found more social grouping among the affluent than among working classes, and they found evidence that younger generations were more likely to be uninterested in politics, distrustful of politicians and others,

---

[32] The decline in league bowling has become the most famous exemplar of Putnam's theory, and of course this particular trend is the namesake of his highly acclaimed book, *Bowling Alone: The Collapse and Revival of American Community.*

[33] Putnam defines social capital as connections among individuals – social networks and the norms of reciprocity and trustworthiness that arise from them, "civic virtue" in a sense. Although Putnam has helped popularize the concept of "social capital," he credits first use of the term to Progressive Era reformer L.J. Hanifan.

[34] The countries studied were: the U.S., Japan, Great Britain, France, Germany, Spain, Australia, and Sweden.

[35] Sweden stood out from the pack and its social capital was described as "strong as ever."

cynical about public affairs, and less inclined to participate in enduring social organizations.

The implications here are obvious. If the quality of democracy depends on trust of political institutions and active engagement by citizens in community affairs, deterioration in both implies questionable integrity of the political process. It is even more concerning if placed in a panoramic context of declining social capital and the health of democracy on a global scale. Of course, the bottom line is that if people are participating less in interest groups (including public engagement in political parties), then that makes the pluralist theory suspect in its ability to accurately reflect and define American democracy.

Elite and Class Theory

> "The flaw in pluralist heaven is that the heavenly chorus sings with a strong upper-class accent. ... The system is skewed, loaded and unbalanced in favor of a fraction of a minority."
>
> -- E.E. Schattschneider (1960, 35)

Elite and class theory contends societies are divided along class lines and that an upper-class elite will rule, regardless of the formal niceties of governmental organization (Edwards, Wattenberg and Lineberry 2006). It modifies the theory of pluralism to take into account the persistence of class bias in policy making that stems from an upper-class bias in group participation (Schattschneider 1960). There exists a disparate influence for different interests, rooted in a socio-economic divide, an enduring advantage enjoyed by powerful groups that are able to build victory upon victory by skewing the structure of laws and bureaucracies to their benefit. Some interest groups have a greater ability to influence the political process over other groups because they have more money, better access to leaders, increased opportunities to influence public opinion, and elevated access to valuable information. Most commonly, the powerful groups represent business and corporate interests (Lowi 1969; Schlozman and Tierney 1986). The disproportionate privilege of these elite groups leads to their disproportionate influence in policy making.

Big business is at the center of all theories of elite domination. Although some proponents of elite theory maintain that who holds office in Washington is of marginal consequence (i.e., because the corporate giants always have the power), other theorists point to the Reagan Administration as a period when the problem of corporate rule was exacerbated. As Kevin Phillips wrote in his book *The Politics of Rich and Poor*, "The 1980s were the triumph of upper America – an ostentatious celebration of wealth, the political ascendancy of the richest third of the population and a glorification of capitalism, free markets and finance" (1990, 1). A report on rising inequality issued by the American Political Science Association in 2004 echoed the concern that the richest in society have an inordinate share of political clout. The report concluded that citizens with low to moderate incomes "speak with a whisper that is lost on the ears of inattentive government officials, while the advantaged roar with a clarity and consistency that policy makers readily hear and routinely follow" (1).

The debate regarding the relationship between the democratic state and its elites has undergone several vicissitudes since the late 19th century (Bealey 1996). The debate abated in the first half of the 20th century, but then was resurrected by C. Wright Mills and others in the 1950s. Mills argued that the fate of the United States was largely determined by a trio of elites from corporations, the military, and the Washington administration. He wrote:

> [The power elite] are in command of the major hierarchies and organizations of modern society. They rule the big corporations. They run the machinery of the

> state and claim its prerogatives. They direct the military establishment. They occupy the strategic command posts of the social structure, in which are now centered the effective means of the power and the wealth and the celebrity which they enjoy (1956, 3-4).

The debate over whether or not elites pulled the strings of government ultimately led to some varying degrees of qualifications by pluralism's most notable proponents like Dahl and Truman. Truman eventually conceded that the democratic process depended upon "the consensus of elites" and he described elites as those persons who held "leading positions in the giant corporations, trade unions, churches, political parties and professional and veterans' associations" (1951, 481-497). Dahl acknowledged, though in a less conciliatory tone, that individual organizations have the potential to do harm by exercising unequal influence and aiding in a distorted public agenda (1982). But he further argued that "the defects in democratic pluralism are caused not so much by pluralism or democracy as by the failure of existing polyarchies to achieve a high level of democracy. In a truly democratic country, the defects of pluralism would tend to disappear" (81).

An Instrumentalist Interpretation of Democracy

> "The essential need, in other words, is the improvement of the methods and conditions of debate, discussion and persuasion. That is *the* problem of the public."
>
> -- John Dewey (1927, 208)

Philosopher and educator John Dewey developed an instrumentalist theory of knowledge that conceived of ideas as tools for the solution to the problems of society. Instrumentalism holds that ideas are instruments which function as guides of action; their validity is determined by the success of the action. Various modes and forms of human activity are instruments or tools developed by humans by way of experimentation to solve social problems. Dewey was first to apply the theory of instrumentalism to an assessment of democracy. Central to that assessment was the idea that voting is an instrument used as a means to determine who shall lead in a democracy. Modern democracy has become synonymous with such terms as freedom, liberty, justice, and equality, signified by the right to vote. But the right to vote as a measure of democracy has significance only to the degree that it registers free choices of an informed electorate (Ayres 1978, 283). Voting is simply a tool employed in the technique of self-government and, thus, self-realization. As Ayres passionately argued, "Surely the essence of democracy is to be seen not in succession of electoral accidents but in the process of public information and discussion and resolution by which the accidents of the ballot box are mitigated" (1962, 229). Democracy, therefore, is not just the fact that the majority rules, but rather the process by which such majorities are formed (Ayres 1978). Ayres also asserted (1962) that the true essence of democracy is as Dewey envisioned it: the continuous process of education and enlightenment. It is a process whose success depends upon improved communication, freeing and perfecting the methods of inquiry and of dissemination of conclusions. In other words, there is a difference between an instrumentalist interpretation of democracy and a mechanical notion of voting as an affirmation of preferences. In the instrumentalist concept, democracy is a process of enlightenment where values and views are formed and expressed at the ballot box.

However, Dewey believed that the public was disintegrating under the complex pressure of modern life and was too often dominated by propaganda instead of sound judgment. The only hope of remedying the situation was to find a means of educating the masses. By such enlightenment the public then might be able to make representative democracy a fact instead of a fallacy. In an almost religious timbre, Dewey predicted in his 1927 book *The Public and Its Problems* that communication alone (enhanced by technology) could create a great community with a thriving democracy:

> Democracy will come into its own, for democracy is a name for a life of free and enriching communion. It had its seer in Walt Whitman. It will have its consummation when free social inquiry is indissolubly wedded to the art of full and moving communication (184).

According to Dolbeare (1998), Dewey sought to make the fields of education, social organization, and politics more sensitive to the way people think and how they acquire knowledge. Dewey was looking for a way to accommodate democracy and the human need for community, on the one hand, with the growing scale of organization and impersonality of the American social-economic order, on the other. He argued that political truth is the result of a process rather than a matter of correspondence (1916). Dewey also emphasized the need to educate the citizenry to prepare them for democracy and the participation in democratic institutions, and he had faith in the public's ability in this process.

Dewey wrote *The Public and Its Problems* as a response to the dismal assessment of the public and modern democracy by Walter Lippmann, the "dean of American journalists,"[36] in Lippmann's 1925 book *The Phantom Public*. Dewey countered Lippmann's two main themes: (1) that the public lacks the cognitive capacity to understand government and public affairs, and (2) as a result of the public's ineptness, democracy should be recast to limit severely the participation of citizens in policy making. Lippmann also argued that in a society with so much information, it is difficult

[36] Edward Weeks described Lippmann as such in his introduction to the 1960 book *Conversations with Walter Lippmann*. He also characterized Lippmann as "the most vigorous and most trusted opinion maker in the corps" (vii-viii).

to raise the intellectual level of citizens or translate knowledge into action in a way that adequately advances democracy. The inability of the average citizen to make educated decisions leaves him nothing more than a vacuous bystander or "deaf spectator in the back row" in the political process (1925, 13). Citizens are so far removed from any meaningful influence of governance that the concept of a public is a myth of democracy, a "mere phantom" who can affect an affair "only by supporting or opposing the actors" (77). The Dewey-Lippmann debate focused not just on the competence of citizens and the prognosis of democracy, but also on the special role of the press in a democracy. The latter continues to be important for the critique of contemporary journalism as is addressed in the next chapter.

Conclusion

So, where do these theories of modern democracy – from ideal democracy to instrumentalism - converge to paint a portrait of a concrete concept? An answer may be found by applying general theoretical approaches that emerged in the mid-20th century as a result of political theorists trying to find some consensus in democratic theory. Huntington (1989) noted that the debate over defining democracy was splintered by the mid-18th century and the result was a concept of democracy to suit every appetite. Nearly 100 years later, by World War II, the meanings of democracy had proliferated to the point that hope for any single, cohesive definition of the term seemed to have evaporated. This created major problems for productive discourse on the subject until political theorists in the late 1950s and 1960s, after Schumpeter introduced the establishment concept of democracy, made efforts to alleviate confusion. The result may not have produced a one-size fits all concept of democracy, but it did lead to a redrawing of the boundaries of democratic theory in political thought. According to Huntington, three general approaches emerged as the guiding methodology to defining democracy and evaluating its practices. The approaches assessed democracy in terms of: who rules (sources of authority), for what ends (purpose of rule), and by what means (institutions).

For the contemporary theories that have been examined in this chapter, we can point to a meeting of the minds within the context of these three general approaches. In terms of who rules or sources of authority, pluralist and class theorists seem to be in accord with the belief that interest groups are an important part of the political process and influence policy making. These two theories diverge with respect to the ends or purpose of rule. There is disagreement over how much advantage corporations and other elites have in the political process in pressing their own agenda at the expense of the public good, and the degree to which pluralism of groups offsets the ability of certain groups to dominate in policy making. We find consensus among all theories regarding by what means rulers rule; all agree that institutions matter in the political process. The most notable institution of democracy referenced is the electoral process whereby people become leaders through election by the people they govern. As Huntington put it, "Democracy has a useful meaning only when it is defined in institutional terms. The key institution in democracy is the selection of leaders through competitive elections" (1989, 15).

Finally, there is consensus in the belief that knowledge, information, and the process of inquiry are relevant to the integrity of the democratic process. There is disagreement over whether the public possesses the ability to make informed decisions due to intellectual deficits, absence of desire, or a failure to have adequate access to necessary information. Nevertheless, the most significant common thread among the perspectives of Dewey, Lippmann, Dahl, Lindblom, Robinson and others is the acknowledgment that information is a vital function of democracy. The value of an informed public provides the prelude to the next chapter, and lays the foundation of the concept of a free press in democratic society.

CHAPTER III:

THE CHARACTER OF A FREE PRESS

> "Our liberty cannot be guarded but by the freedom of the press, nor that be limited without danger of losing it."
>
> -- Thomas Jefferson[37]

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.
>
> -- The First Amendment (1791)

Thomas Jefferson believed that the press was so important in keeping the public informed about the actions of those who govern, he once declared that if he had to choose between a government without newspapers or newspapers without a government, he would not hesitate to prefer the latter.[38] He defended a free press as the rightful censors of its government, even when he felt he was the undeserving target of their attacks (Emery and Emery 1992). Jefferson and the other American Founders included the Press Clause, "or of the press," in the First Amendment to distinguish their new government from that of England, which had long censored the press and prosecuted newspaper publishers who criticized the British Crown. The same basic principle of press protection was promoted in the Declaration of Rights written by John Dickinson when the First Continental Congress convened in 1774. In addition, nine of the 13 original states included protection of the press in their state constitutions several years before the First Amendment was

[37] Jefferson in a letter to John Jay, Secretary for Foreign Affairs, in 1786 on the subject of public liberty and the press (Boyd 1954).
[38] Jefferson in a letter to Edward Carrington, a Virginia delegate to the Continental Congress, in 1787 on the subject of public liberty and the press (Boyd 1955).

ratified. For example, the Virginia Bill of Rights, drafted in 1776 with the help of Thomas Jefferson, stated: "[F]reedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotick [sic] governments" (Emery and Emery 1992, 60).

The British government, which allowed little criticism from newspapers in the motherland, was equally intolerant of the colonial press.[39] The first colonial newspaper, *Publick Occurrences Both Foreign and Domestick,* was published in Boston in 1690 by Benjamin Harris. Harris devoted most of the first issue to an investigative report about British allies who allegedly tortured French prisoners. He further offended local British officials by reporting that the king of France was having an affair with his son's wife (Emery and Emery 1992, 21). The paper was promptly shut down, lasting only the one issue. But it was hardly the end of defiance by colonial publishers. The colonial newspapers continued to criticize the British government even as British authorities raised the stakes with the threat of arrest and seditious libel charges.[40] The British saw the free press as a threat because the press meant an organized, expert scrutiny of the government. As former Supreme Court Justice Potter Stewart described it, "The [colonial] press was a conspiracy of the intellect, with the courage of numbers. This formidable check on official power was what the British Crown had feared – and what the American Founders decided to risk" (1975, 634).

The colonial press played a critical role as a vehicle of political and social change. In its own fight to be free and open, the colonial press helped drive a political ideology

[39] For a detailed account of the political battle over press liberty in early America see Robert Martin's *The Free and Open Press: The Founding of American Democratic Press Liberty, 1640-1800* (2001).
[40] Truth was not a defense against charges of seditious libel. Seditious libel charges could be brought for any published criticism of British-appointed officials or of the British government in general.

shift regarding the right of the British government to rule the colonies and it helped manufacture support for what would become the American Revolution (Martin 2001). The United States owes its liberty, in part, to the first foot soldiers of a free press. According to Martin, "Free press doctrine lionized the press as the prime defender of public liberty in its role as a bulwark against governmental tyranny" (2001, 3). The colonial press fought for the freedom to criticize government policy and the elite ruling class. Today the conventional wisdom portrays such press freedom not only as an inalienable right, but a requisite ingredient of democracy. As Walter Lippmann once observed, "A free press is not a privilege but an organic necessity in a great society. Without criticism and reliable and intelligent reporting, the government cannot govern."[41] The Press Clause emerged as a structural seawall of democracy out of the battle for both press freedom and political sovereignty. The belief that individual freedom could not reign outside the sphere of a free press became an accepted, persevering truism in American culture.

Ultimately, the waning ability of the British to censor criticism in colonial newspapers came to reflect the growth in power of a popular press that could challenge authority. The battles fought over press liberty during the colonial period are an important part of American journalism's legacy as a checks and balance on those in power. The news media emerged as a suffusive political institution, a Fourth Estate as influential as any other in the democratic process. The Fourth Estate concept holds that the news media serve the public's interest in a democracy by watching over the actions of the executive, legislative, and judicial branches of government to ensure government operates for the

[41] This quote is from Lippmann's 1965 address to the International Press Institute in London. Of course, it is well known that Lippmann also believed the general public lacked the ability and power to articulate its will, and needed to be controlled by an intellectual specialist class (1925).

public good. Stewart argued that the primary purpose of the Press Clause was "to create a fourth institution outside the Government as an additional check on the three official branches" (1975, 634). He believed the four words "or of the press" in the First Amendment specifically was meant to protect the organized press as a political institution – part of our system of government created by the Constitution – an "adversary to the Executive Branch of the Federal Government" (631). By the 1920s, the Court had extended the First Amendment, including a free press, to all levels of government – federal, state and local.

Abridging Freedom of the Press

> "Members of the Society of Professional Journalists believe that public enlightenment is the forerunner of justice and the foundation of democracy. The duty of the journalist is to further those ends by seeking truth and providing a fair and comprehensive account of events and issues."
>
> -- Society of Professional Journalists
> Preamble to the Code of Ethics[42]

The Society of Professional Journalists (SPJ) adopted a voluntary four-point code of ethics in 1997 as a guide to news workers for maintaining journalistic integrity and credibility as members of an institution charged with educating the public in a democracy. According to the first point in the code, *Seek Truth and Report It,* "Journalists should be honest, fair and courageous in gathering, reporting and interpreting information." The next two points of the code are: *Minimize Harm* and *Act Independently.* The former requires that journalists treat sources, subjects and colleagues as human beings deserving of respect. Journalists should recognize that gathering and reporting information may cause harm, and they should minimize harm when possible. The latter conveys the notion that journalists should act independently and be free of

[42] For more information on the code of ethics including a more in-depth description of each point in the code, see the Society of Professional Journalists Web site at www.spj.org/ethicscode.asp.

obligation to any interest other than the public's right to know. Journalists should avoid conflict of interest, real or perceived. The final point, *Be Accountable*, reminds journalists that they are accountable to their readers, listeners, viewers and each other. Journalists should expose unethical practices of journalists and the news media, and abide by the same high standards to which they hold others. The four-point code of ethics, however, presupposes that journalists are free to seek the truth and report it, free to minimize harm, free to act independently, and free to hold themselves, their news organizations and corporate owners accountable. But the ability of journalists to live by these rules of conduct is not just contingent upon their desire to follow the code. It also is dependent upon their ability to do their job without limitation stemming from corporate and government interests.

There long has been the assumption that "free" in "free press" (or likewise "independent" in "independent press") implies the right of the news media to print or broadcast the truth free from the threat of government intrusion or retaliation. This is what the First Amendment protected against in forbidding Congress from passing any laws abridging freedom of the press. The intent in crafting the Press Clause was to prevent the government from prohibiting the press from seeking the truth and reporting it. The traditional concept of a free press assumes a news media capable of being autonomous, objective and adversaries of the government, politicians, political parties and policy makers. However, the criteria for a free press today must be expanded in light of an economic environment where commercial news organizations are handicapped by deregulation and the creep of consolidation.[43] In an era of highly concentrated media

[43] Chapters IV and V below discuss this environment and detail key developments that brought us to this juncture.

ownership where a handful of large corporations control most of the media, including the news media, we must now define press freedom or independence by two criteria: (1) freedom from economic influence, reprisal or fear thereof and (2) freedom from political influence, reprisal or fear thereof. Freedom from economic reprisal should take into account the press's freedom from suppression in the name of corporate profit and self-interest. First we begin with the issue of corporate conflict of interest and then move on to the propaganda model of news production that addresses the political influence over the news media by way of manipulating the press.

Corporate Conflict of Interest

Corporate conflict of interest has led to varying degrees of self-censorship by the news media, and it threatens to abridge our constitutional right to a free press. "Conflict of interest (the reality as well as the appearance) is rampant in the politico-corporate media web. Like a cancer metastasizing, it has eaten away at the fabric of American democracy" (Cohen 2005a, 20). The suppression of news by corporate owners is part of a dangerous, historical trend reducing the editorial vigor of the news media and thus, threatening to weaken the press's ability to uphold democracy. *Fear and Favor in the Newsroom* was the first documentary to examine how the financial interests of corporate owners of the media sometimes constrict journalists and the free flow of information (Sanders and Baker 1997). The film revealed the hidden wreckage of spiked stories and examined what happened to award-winning journalists at prestigious news organizations when they tried to expose abuse or corruption by people in power in a manner counter to the interests of their organizations' corporate owners.

Fear and Favor in the Newsroom detailed the stories of journalists who were met with a pattern of obstruction by superiors, suppression of stories, and in some cases, firings and damaged careers. One was Emmy award-winning correspondent Jon Alpert who worked for GE-owned NBC. Alpert brought NBC the first uncensored footage smuggled out of Kuwait during the 1991 Persian Gulf War. The footage showed civilian carnage in Iraq, and widespread damage to Iraqi homes and businesses from U.S. bombings – evidence which contradicted the official U.S. government line of "surgical" strikes against Saddam Hussein. After the staff of the *NBC Nightly News* had scheduled the story for broadcast, Michael Gartner, then president of NBC News, personally killed the story and fired Alpert on the spot.

Although GE was one of the largest defense contractors for the U.S. military during the Gulf War, there is no evidence that connection motivated Alpert's firing. Gartner justified the firing by citing an incident involving Alpert two years before. Alpert had staged video, verboten in TV news, when he shot a reenactment of a flag raising in 1989 and then failed to disclose it to the audience. Despite the indiscretion, Alpert was kept on at NBC and the reenactment was never an issue again, until the Iraq story. Media critics argue that such occurrences, like Alpert's firing, are examples of how journalists are threatened with being weeded out of the media system unless they conform to ideological pressures, generally by internalizing the values of their corporate owners and the capitalist state (Chomsky 1989, 1997a; Herman and Chosmky 1988; Herman 1992, 1999).

Larry Grossman, former president of NBC News, was interviewed for *Fear and Favor* regarding the influence of corporate ownership on the network news divisions. He suggested the enculturation of news workers helps large corporate owners discourage reporting that might be perceived as harming the bottom line or jeopardizing, as perhaps the Alpert story might have in GE's case, the financial interests of the corporation:

> "Not that GE, if it has any brains, and it does, is going to call up a correspondent and say, 'You cannot tread on this territory, because we have a particular interest in it.' But there's an atmosphere that is generated of an environment in which rebels, unconventional thinking, those who do not sort-of operate comfortably within a corporate environment [of news] tend to be discouraged, tend not to be hired, tend not to last at companies like that. And I think it interferes with the quality and character of diversity of the news that's being presented" (Sanders and Baker 1997).

Another form of self-censorship of the news stems from the threat of alienating non-governmental entities that media companies rely on for their livelihood or with whom they are in bed, financially. The community of financial interests shared by the owners of America's media companies and other big corporations in some cases are so tight even their board of directors interlock. Executives from large non-media corporations sit on the board of directorates for the networks. Thus, will GE really stand by and give its stamp of approval to a hard-hitting exposé on The Chase Manhattan Bank Company or Procter & Gamble, if executives from those corporations sit on GE's board of directors?[44] How about when an exposé hits even closer to home as it did with an ABC investigation into the threat of pedophiles working at American amusement parks?

The Walt Disney Company became ABC's corporate parent in 1995 when Disney purchased the network. Three years into the business relationship, ABC News investigative reporter Brian Ross and producer Rhonda Schwartz began working on a story about pedophilia and lax security at theme-park resorts, including Disney World

[44] GE's 2007 Annual Report identifies its board of directors which includes executives from Chase Bank, Procter & Gamble, Deere & Company, Avon, Penske Corporation, Johnson & Johnson, and the multinational advertising firm Ogilvy & Mather Worldwide (GE Annual Report 2007, 37).

(Mifflin 1998). Once Ross and Schwartz finished a long investigation, they felt they had a solid piece for the newsmagazine program *20/20.* But the report was killed after Ross submitted a draft of the story to David Westin, then president of ABC News. Ross and Schwartz had worked on the story for months after a tip that Disney theme parks had experienced problems after employing pedophiles and had resisted cooperating with law enforcement agencies. After media attention questioned whether the story was spiked because it could have hurt Disney's theme-park business, Disney issued a statement saying that its executives had nothing to do with the decision.

A few days before the story was killed, Michael Eisner, Disney's chairman at the time, said in a National Public Radio interview that he preferred that ABC News not cover Disney because he thought it would be inappropriate (Lieberman 2000). Meanwhile, ABC News spokesperson Eileen Murphy defended the decision to shelve the story and questioned the fairness of the report. Murphy said, "We generally would not embark on an investigation that focused solely on Disney, and was not part of a broader story that involved other companies" (Mifflin 1998, C8). According to co-workers of Ross and Schwartz, the investigative piece focused on Disney because there was evidence Disney resorts had more problems than other resorts. Unlike NBC's Jon Alpert, Ross did not lose his job in the corporate parent-public interest conflict. However, the decision by Westin to kill the story reportedly led to a shouting match between Ross and Westin, with Ross threatening to resign.

The problem of corporate conflict of interest is not just a network-level phenomenon for broadcast news. Investigative reporters Jane Akre and Steve Wilson were fired from their jobs at a Fox station in Tampa, Florida, after refusing to include knowingly false and misleading information in a series of reports on bovine growth hormone (rBGH) and its contamination in the nation's milk supply (Deggans 1998). The hormone was (and still is) manufactured by Monsanto and used by some farmers to increase a cow's milk production by up to 30 percent. According to Wilson and Akre's research, there was evidence that the hormone posed a potential cancer risk in humans and commonly caused infections in cows. After the station, WTVT-TV, aired commercial spots to promote the upcoming four-part series in 1997, Monsanto threatened to sue and pull its advertising (and that of all its subsidiaries) from all Fox stations. According to Wilson and Akre, after a standoff with station lawyers over rewriting the script and a failed attempt to buy the couple's silence, the station fired the reporters. Akre sued under Florida's whistle-blower law, claiming she was fired by WTVT-TV for refusing to broadcast false reports and for threatening to report the station to the FCC. A jury awarded Akre $425,000, but the award was overturned by an appellate court after Fox, joined by several other major news organizations, appealed. The Florida Second District Court of Appeal ruled that Akre failed to show the station had violated any laws, and that it was not against the law to knowingly falsify or distort the news (Dennis 2003).

The reporters' ordeal was profiled in the documentary *The Corporation* (Achbar, Abbott and Bakan 2004). The film explored the nature and rise of the corporation as the dominant institution of contemporary American culture. It recounted the emergence in the mid-1800s of the legal status of "person" for the corporation. Given the "person" status for the corporation as its central focus, the documentary assessed the personality of pure self-interest that motivates the corporation's actions, and the pathology of its pursuit of commerce. The film concluded that the modern, profit-driven corporation had symptoms or personality traits that fit the clinical diagnosis of a psychopath. *The Corporation* drew the following parallels between the psychopath and the corporation as "person": callous unconcern for the feelings of others, inability to maintain enduring relationships, reckless disregard for the safety of others, deceitfulness for profit and personal gain, incapacity to experience guilt, and failure to conform to social norms. The film portrayed democracy and the public interest as values that the corporation does not embrace or even understand in its psychopathic state. The Wilson-Akre unsettling account of corporate-minded news was a case in point. It also was a bitter lesson that in a corporate media environment, the First Amendment does not always ensure a free and unabridged press.

The Propaganda Model and the Free Press Myth

Some media critics argue the noble notion of a free and responsible press operating outside government control is simply a myth that has been handed down through American history by generations of journalists, educators and politicians (Bennett 1996). This suggestion undermines the historical image of journalists as truth seekers and gatekeepers. Theoretically, journalists use objective values of newsworthiness to determine which stories are communicated to the public (i.e., make it through the gate) and which are not. In addition, they view themselves as watchdogs or protectors of democracy, that fourth branch of government (i.e., Fourth Estate). Their role is an adversarial one that functions to "inform the public about the important events of the day, to report the actions of the powerful, to scrutinize these actions critically, to hold public officials to public account" (Paletz and Entman 1981, 10). The propaganda model of news production disputes this image and defines the press more as lapdogs than watchdogs.

Edward Herman of the Wharton School of Finance and Noam Chomsky of MIT first introduced the propaganda model in 1988 in their co-authored book *Manufacturing Consent*. The model put forth a framework to analyze and understand how the mainstream U.S. media function in a capitalist economic system. The propaganda model is rooted in the concept of "manufacturing consent." Walter Lippman, writing in the early 1920s, coined the term and was first to recognize the special importance of propaganda in the manufacture of public obedience (1922, 5). Chomsky and Herman based the title of their book on Lippmann's catchphrase and used it to explain the process by which public opinions arise and can be manipulated.

Chomsky, Herman and other modern day cultural critics have argued that the American government, in order to carry out the atrocities it commits abroad, needs to manufacture the consent of the American public via the media (Herman 1992; Herman and Chomsky 1988; Parenti 1993). By manufacturing consent, the media help keep the populace in line in a capitalist democracy in much the same way military force or violence might in a totalitarian state. In absence of a totalitarian state where opinion does not matter because force is used, it is necessary to control what people think in a different manner (Chomsky 1989, 1997b). Those in power in a capitalist democracy use the news media to manufacture consent, creating necessary illusions through propaganda by selection of topics, distribution of concerns, emphasis, framing, filtering and bounding of debates (Achbar and Wintonick, 1994). The media serve the needs of those in power by acting as collective, although not necessarily intentional, propagandists.

This model has not been, for the most part, extended to the local media – only the elite media or the agenda-setting media: networks like CBS and large, national newspapers like the *New York Times* (Chomsky 1997a). The model contends that the media comprise an economic institution and their performance is shaped primarily by the market system in which they exist. The U.S. media system is seen as an integral part of the capitalist political economy with troubling implications for democracy. "The mainstream media, as elite institutions, commonly frame news and allow debate only within the parameters of elite interests" (Herman 1999, 262).

The propaganda model "traces the routes by which money and power are able to filter out the news fit to print, marginalize dissent, and allow the government and dominant private interests to get their messages across to the public" (Herman and Chomsky 1988, 2). The dominant elite refers to the government, corporations and capitalists. The propaganda model is based on the premise that a critical political economy will "put front and center the analysis of the locus of media control and the mechanisms by which the powerful are able to dominate the flow of messages and limit dissenting voices" (Herman 1999, 267). It challenges the ideology of the "free press" or the view that the media play an autonomous, objective and adversarial role – promoting democracy and performing a checks and balance on those in power.

The news media, as propaganda vehicles, aid in the destruction of democracy. Dissident ideas are not legally banned; they don't have to be. They are simply unable to reach mass audiences, which are monopolized by profit-seeking large organizations (i.e., media conglomerates) offering advertising-supported programs. Dissent is filtered out quietly and unobtrusively (Herman and Chomsky 1988; Herman 1999). Excluded individuals are free to say what they want, and they may even have access to a marginalized or alternative news media, but they do not have the power to contest the market-dominated mass media's systematic propaganda.

This leads to a media democracy paradox (McChesney 1999). The paradox is that the nature of the corporate, commercial media system has dire implications for democracy. Though the media are supposed to be protectors of democracy, how they are controlled and subsidized is left out of the democratic debate. As McChesney put it, "It has made the prospect of challenging corporate media power, and of democratizing communication, all the more daunting" (7). If the media system works as it is supposed to under the propaganda model, the press should appear to be liberal. They would have an adversarial image and appear to question those in power. However, this is usually a mirage. In reality, the media, itself an elite institution, frame news and allow debate only within the parameters of political and corporate elite interests; where these elite groups are really concerned and unified, and where ordinary citizens are not, the media will serve elite interests uncompromisingly. Thus, the societal purpose of the media is "to inculcate and defend the economic, social, and political agenda of privileged groups that dominate the domestic society and the state" (Herman and Chomsky 1988, 298). As a result, messages from or about dissidents are at a disadvantage in obtaining news coverage. They often do not gel with the ideology or interests of the gatekeepers and other powerful parties that influence the news filtering process.

The propaganda model has five essential ingredients – five successive filters that influence media content and cause the media to play a propaganda role (Herman and Chomsky 1988; Herman 1999). The five filters narrow the range of news and especially limit what becomes big news. The first is size, ownership and profit orientation of the mass media. The media are highly concentrated among fewer than 10 major conglomerates today (Bagdikian 2004), and the concentration of media ownership has led to increasing profit expectations in the newsroom (Barnouw et al. 1997). The need for profits severely influences the news operations and overall content of the news. In addition, the trend toward greater integration of the media into the market system has been accelerated by the loosening of rules limiting media concentration and cross-ownership. Basically, mainstream corporate giants now own the media. Thus, the crucial structural factors of the model "derive from the fact that the dominant media are firmly imbedded in the market system" as profit-seeking businesses (Herman 1996, 116).

The second, third and fourth filters have to do with advertising, sourcing news and negative feedback, respectively. The second filter surrounds the media's advertising license to do business. In short, the major media are corporations selling privileged audiences to other businesses (Chomsky 1989). Herman wrote, "With advertising, the free market does not yield a neutral system in which final buyer choice decides" (1999, 25). In other words, advertisers are considered the final buyers whose choices influence media prosperity and survival. The third filter is sourcing mass-media news or the reliance on government and corporate experts as news sources. The news media are drawn into a symbiotic relationship with powerful sources of information by economic necessity. Input costs for news production are reduced because these experts make themselves available to the media at no fee. Furthermore, corporate and government sources are instantly credible by accepted journalistic practices. The media also rely heavily upon news provided to them by government and corporations, and public relations firms representing government, commercial and non-profit interests. The fourth filter is "flak" or negative feedback from right-wing corporate interests as a way of disciplining the media. An example is the group Accuracy in Media that puts pressure on the media to follow the corporate agenda (Herman 1999). This filter was developed extensively in the 1970s when major corporations and wealthy political right-wingers became increasingly dissatisfied with political developments in the West and with media coverage, and tried to marginalize criticism by the news media by accusing the press of a liberal bias.

The fifth and final filter was originally anticommunism ideology as a control mechanism. However, since the original propaganda model was devised, the fifth filter has been changed to "miracle of the market" ideology (Herman 1999). When the propaganda model was first proposed by Chomsky and Herman in 1988, Cold War tensions still existed and communism was still portrayed by the American government as an ultimate evil that stood in the way of global democracy and the free market system. The original anticommunism filter was weakened by the collapse of the Soviet Union and global socialism. However, Herman argued after the collapse of socialism that this filter easily is offset by the greater ideological force of the "miracle of the market" (1999). There is almost a religious faith in the market, at least among the elite, so that regardless of evidence, markets are assumed good and non-market systems are suspect. When the Soviet economy stagnated in the 1980s, it was attributed to the absence of markets. Thus, when capitalist Russia disintegrated in the 1990s, the U.S. government and news media portrayed it as the result of Russian politicians and workers not letting the market work its magic. Journalism has internalized the market ideology.

Revisiting the Propaganda Model: The Iraq War

There is general agreement that an independent, pluralistic press is a requirement for an effective democracy. There is also general agreement that a crisis exists in the press's ability to be independent and to report the news in a manner that protects and advances democracy (Bagdikian 2004, Gans 2003, Baker 2002, Bagdikian 2000, McChesney 1999, Schudson 1995). Recent deregulation and concentration of ownership of media, and controversies concerning the reporting of the war in Iraq have cast doubt on the independence of the press and the vitality and viability of American democracy. In this light, Edward Herman and Noam Chomsky's propaganda model (1988) deserves further consideration.

Initial news media coverage of the Iraq War provides an opportunity to examine one of the biggest stories in recent years as an example of the propaganda model in action. The media demonstrated extreme patriotism and patronage of the government from the time of the Iraq invasion in March 2003 and for several years thereafter, but with most intensity in the months following the invasion. Former BBC chief Greg Dyke accused U.S. broadcasters at the time of being "unquestionably patriotic" and "so lacking in impartiality that it threatened the credibility of America's electronic media" (Timms 2003). Dyke singled out Fox News for particular criticism over its blatant pro-Bush and pro-war stance, which helped the Rupert Murdoch-owned network to oust CNN from its number one spot as the most popular cable news network. Dyke was correct to point the finger at Fox. The jingoistic style of war coverage that characterized much of the U.S. media coverage of the war was dubbed the Fox Effect, named for the network (Rutenberg 2003). Fox brought prominence to a new sort of TV journalism that cast aside any pretense of traditional notions of objectivity. It also held contempt for any dissent and eschewed any skepticism of government. Fox's formula of opinionated news with an America-first flair proved a ratings hit at home (Rutenberg 2003).

The Flak Filter and the Fox Effect

According to the propaganda model, it could be argued that the overwhelming desire by the U.S. media to root for the home team created a flak effect as well as a Fox effect. As mentioned previously, flak or negative feedback typically comes from right-wing political or corporate interests and is a way of disciplining the news media (Herman and Chomsky 1988). At the start of the war and for the first several months of the occupation, Fox was heavily critical of anti-war demonstrators and other news media that took a less than positive view of the war effort. In one characteristic broadcast during the war, a Fox correspondent in Iraq referred to war protestors as "the great unwashed" (Rutenberg 2003). In an interview with Chomsky by India's national magazine *Frontlin*e, Chomsky called the U.S. coverage of the war "cheerleading for the home team" (Ramachandran 2003). Chomsky further said all the major networks, not just Fox, are guilty. "Look at CNN, which is disgusting – and it is the same everywhere. That is to be expected in wartime; the media are worshipful of power."

In his interview with journalist V.K. Ramachandran, Chomsky also revisited the propaganda model and discussed the disturbing success of government efforts to use the media to manufacture consent for the Iraq War:

> "In the last few months, there has been a spectacular achievement of government-media propaganda, very visible in the polls. ... [A]bout 50 percent of the population now believes that Iraq was responsible for the attack on the World Trade Centre. This has happened since September 2002. In fact, after the September 11 attack, the figure was about 3 per cent. Government-media propaganda has managed to raise that to about 50 per cent. This has happened, as

> I said, after September 2002. September 2002 is when the government-media campaign began and also when the mid-term election campaign began. The Bush Administration would have been smashed in the election if social and economic issues had been in the forefront, but it managed to suppress those issues in favor of security issues – and people huddle under the umbrella of power" (Ramachandran 2003).

The Sourcing Filter and Embedded Reporting

Also during the first few months of the Iraq War another concerning, though less obvious, propaganda model filter – sourcing mass-media news or the reliance on government and corporate experts as news sources – was helping the government to manufacture consent for the war effort. The propaganda model says that the mass media are drawn into a symbiotic relationship with powerful sources of information by economic necessity (Herman and Chomsky 1988). As previously mentioned, the news media rely upon experts because these government and corporate experts make themselves available at no fee. Furthermore, such sources are instantly credible by accepted journalistic practices.

During the Iraq War, the Pentagon controlled reporters' access to troops and military officials forcing the news media to rely heavily on government resources for information. The Pentagon implemented a first-of-its-kind program of embedding journalists with troops which gave journalists protection in the dangerous, unpredictable environment of war. Obviously, journalists who opted to travel alone incurred greater risk so the new system of embedding proposed by the military was attractive to many news organizations. As part of the embed deal, journalists who traveled with troops had to agree to getting military clearance to report certain details of troop movement and other information the military deemed sensitive or a potential security threat. The system worked well for the Pentagon's ability to control journalists' access to information and what details and images were released to the public, but the process raised concerns about how much the public benefited.

The military's system of embedding placed some 600 journalists with American and British troops at the start of the Iraq War. The Project for Excellence in Journalism (PEJ), affiliated with Columbia University and funded by the Pew Charitable Trusts, conducted a content analysis of the embedded reports on television during three of the first six days of the war in March 2003 (Project 2003). The stories evaluated aired on ABC, CBS, NBC, CNN and Fox. PEJ concluded that Americans seemed better served by having the embedded system than they were by the more limited press pools during the 1991 Gulf War. But the Iraq War reports by embeds were for the most part anecdotal and much of it lacked context, according to PEJ.

There were other concerns about embedded reporting. Some critics questioned whether the process of allowing reporters to travel with the troops compromised journalistic integrity, and made remaining objective and independent problematic for reporters (Kim and Ramirez 2003). Lance Bennett, professor of political science and communications at the University of Washington and director of the school's Center for Communication and Civic Engagement, argued that given the controlled movement of embeds, the images Americans saw were likely not the true images of the war. Bennett suggested the depiction of war by embeds was simply propaganda: "Particularly in times of war, communication is a controlled game. So we shouldn't be surprised that there are efforts to control and dramatize the content in favorable ways" (Kim and Ramirez 2003). As BBC Chief Greg Dyke put it at the time, "How do we ensure their reports are placed in the proper context; how can we guard against 'embeds' being seen as 'in bed' with their hosts?" (Timms 2003).

Those questions were raised again in the spring of 2008, after the release of a study by sociologist Andrew M. Lindner in the journal *Contexts*, a publication of the American Sociological Association. Lindner conducted an in-depth content analysis of media coverage during the first six weeks of the Iraq War. Lindner examined disparities in the news coverage of the three primary types of journalists reporting from Iraq: (1) embedded reporters traveling throughout Iraq with troops, (2) reporters stationed in Baghdad, and (3) independent reporters who roamed the country without military escort and at their own risk. Of the reporters covering the war in Iraq, 64 percent of all newspaper reporters were embedded and the number was higher for television reporters. Lindner's findings revealed that embedded reporters most extensively covered the soldiers' experience of the war, and were much less likely than the other two types of reporters to cover incidents involving civilian casualties. In general, the hundreds of journalists embedded with U.S. and coalition troops emphasized military successes more often than they covered the horrors of the civilian war experience. The study further determined that independent reporters produced the most balanced coverage.

Lindner concluded that the embedded program proved to be a Pentagon victory, depicting the invasion as a successful mission with limited costs. Although the system "represented a potential compromise in a long-standing conflict between the press and the military over journalistic freedoms in a war zone" (Lindner 2008, 32), critics argued it had a much bigger payoff for the Pentagon. The embedded media program, at least early in the war, helped to manufacture consent for the war effort. As a result, the embedded system, although giving reporters unprecedented access to troop movements, likely hindered reporters' abilities to provide the American public with a true, complete picture of the consequences of war.

The Sourcing Filter and the Pentagon's Message Machine

Public interest issues stemming from reporters being "in bed" with their military hosts was not the only potential sourcing filter at play during the Iraq War. A much more obscure and deliberate manipulation of public opinion became apparent five years into the war after a *New York Times* in-depth exposé on the Pentagon's use of former military generals to spin the war effort. The story, "Message Machine: Behind TV Analysts, Pentagon's Hidden Hand," detailed how the Pentagon had courted and cultivated several dozen network news military analysts in a campaign to generate favorable coverage of the administration's wartime performance (Barstow 2008). The analysts were former military officers who were being paid by the networks as consultants, and who were often also being paid as consultants, board members and lobbyists for military contractors. Thousands of documents sifted through by the *Times* revealed that the Bush Administration began working in 2002 to transform the analysts into an instrument intended to shape coverage from inside the major networks. The analysts were given hundreds of private Pentagon briefings with senior military leaders, including officials with significant influence over contracting and budget matters. The briefings also sometimes included face time with Vice President Dick Cheney, the State Department and the Justice Department. The analysts also were taken on all-expense paid tours of Iraq and given access to classified intelligence.

The *Times* research found that in turn, the analysts echoed administration talking points, sometimes even when they suspected the information was false or inflated. According to the report, some analysts acknowledged suppressing their doubts because they feared jeopardizing their access. Internal Pentagon documents repeatedly referred to the military analysts as "message force-multipliers" or "surrogates" who could be counted on to deliver the administration's themes and messages to millions of Americans "in the form of their own opinions." According to the *Times:*

> Again and again, records show, the administration has enlisted analysts as a rapid reaction force to rebut what it viewed as critical news coverage, some of it by the networks' own Pentagon correspondents. For example, when news articles revealed that troops in Iraq were dying because of inadequate body armor, a senior Pentagon official wrote to his colleagues: "I think our analysts – properly armed – can push back in that arena" (Barstow 2008, A-1).

The message machine brigade was the ultimate Trojan horse, as the *Times* put it, an instrument intended to shape terrorism coverage from inside the major TV and radio networks. The campaign initially was carefully orchestrated to manufacture consent in favor of U.S. military aggression. By early 2002, detailed planning for a possible Iraq invasion was under way, yet polls showed that most Americans were uneasy about invading a country with no clear connection to the September 11 attacks. Torie Clark, a former public relations executive who was hired by the Pentagon as its assistant secretary of defense of public affairs, came up with a plan to use "key influentials" to generate support for then-Secretary of Defense Donald Rumsfeld and his priorities. The goal was part of a larger campaign to subvert traditional journalism which included making covert payments to Iraqi newspapers to publish coalition propaganda. The "massage force multipliers" covert news media campaign by the Pentagon lasted from 2002 until 2008, when the *New York Times* published its exposé.

Less than a week after Barstow's story was front-paged in the *New York Times*, the Pentagon announced it was suspending its briefings and interactions with retired military officers who appear as analysts in the media pending an internal investigation. Although the *New York Times* piece clearly led the Pentagon to reevaluate its "message force-multipliers" campaign, the campaign had been in action for nearly six years before it was exposed. It remains a disturbing account of how easily the news media can be systematically manipulated and corrupted by those seeking to use it as a propaganda tool. The campaign proved that if those with an agenda understand how the news media work as an institution, the media's rules and culture, they can co-opt the news to advance a political agenda or to manufacture public consent.

News as an Institution

> "Institutions are the rules of the game in a society or, more formally, are the humanly devised constraints that shape human interaction. … In the jargon of the economist, institutions define and limit the set of choices of the individual."
> -- Douglass C. North (1999, 3)

In addition to Chomsky and Herman's discussion of free press constraints linked to the filters of the propaganda model, it is beneficial to clarify the problem of the free press – its ability to operate free of government manipulation and corporate conflict of interest – in the vernacular of institutional economics. To have a benchmark[45] to guide what constitutes an independent press and how best to close the gaps in press freedom, it is necessary to understand news as an institution – its rules of engagement. Like all institutions, the mainstream news media operate under specifications derived from certain

[45] The benchmark criterion is defined by Buchanan and Tullock as "that situation or position which would be achieved when all external costs are absent" (1962, 202). Applying that definition to a free press, we could argue that the benchmark of a free or independent press would be one where decision-making costs (e.g., penalties or reprisals) can be neglected and no restrictions are placed on the business of seeking the truth and reporting it.

formal and informal rules. These rules, theoretically, are as follows: (1) the broadcast news media are protectors of the public interest by their nature and by virtue of the regulatory environment under which they exist, (2) they hold those in power accountable, (3) they report the news in an objective manner, (4) they hold themselves accountable for the truth and integrity of what they report, and (5) they are protected by the Constitution to operate independent of government, independent from any political organization of significant power or organizational interest. Casting the discussion of *what is the character of a free press* in the context of institutional economic theory offers a clearer picture of what the rules of the game are for news as an institution.

According to North, institutions structure incentives in human exchange, whether political, social, or economic. They are the framework or set of constraints within which human interaction takes place. Institutional constraints include both what individuals are prohibited from doing and under what conditions certain activities are permitted or punished. In exploring the nature of institutions, North drew an analogy between the institution and the rules of the game in a competitive team sport. North explained that institutional constraints include formal written rules of engagement as well as unwritten codes of conduct, "such as not deliberately injuring a key player on the opposing team" (1999, 4). The informal rules underlie and supplement the formal rules. "[T]aken together, the formal and informal rules and the type and effectiveness of enforcement shape the whole character of the game" (4).

North continued on with his sports analogy to make a "crucial distinction" between the institution and its organizations (4-5). The organizations are the players, the teams – the political, economic, social and/or educational bodies bound by some common purpose to achieve objectives – created with "purposive intent" (5). The institution is the (formal and informal) rules which guide the game and affect players' behavior through incentives and discipline. The objective of each team is to win the game "by a combination of skills, strategy, and coordination; by fair means and sometimes by foul means" (5).

In applying North's sports analogy to defining the broadcast news media as an institution or a system of human cooperation, news as an industry is the written rules and informal codes of conduct that guide players' behaviors. The players are the news divisions and their workers, the corporate owners and policy makers (e.g., ABC News, reporters and producers, the FCC, Congress and the courts). The formal rules that shape news as an institution include laws such as the Press Clause in the First Amendment, FCC regulations such as ownership limits, and court rulings that restrict or expand the rights of the press and challenge or uphold regulatory rules established by the FCC. The informal rules include the SPJ Code of Ethics[46] and other journalistic values[47] that guide journalists in their daily pursuit of reporting the news.

Newsworthiness is the common criteria upon which news managers, producers and reporters base editorial decisions. These criteria, defined as a list of news values, provide standards for which journalists select and present news (Price and Tewksbury, 1997). Stories that meet these criteria are more likely to be told than not. The criteria are: prominence/celebrity, conflict/controversy, human interest, proximity, timeliness,

[46] Though the Code of Ethics is written, the rules are voluntary and not enforced. They are more codes of conduct – i.e., how journalists should behave on the playing field during the game.

[47] Other journalistic values that are part of the newsroom culture include criteria news workers use to determine the newsworthiness of an event. For example, events or issues that have the attribute of controversy or conflict are perceived by journalists as being more newsworthy those issues or events that reflect harmony.

and unusual/novelty (MacDougall 1938, Shoemaker and Reese 1996, Price and Tewksbury 1997). Other informal rules include the profit pressure on newsrooms by corporate owners, conflict of interest pressures that lead to self-censorship, and political or social pressures to frame certain news events in a certain way (e.g., putting a pro-American spin on war coverage). These values are part of the mental constructs of news workers which shape their interpretations and their actions.

Formal and informal rules exist to reduce the uncertainties involved in human interaction, uncertainties which arise as a consequence of both the complexity of the problems to be solved and the problem-solving mental software possessed by the individual. North also examined what motivates human behavior and choices within the institutional structure, and pointed to deficiencies in the rational choice approach as it relates to institutions (20). North noted that human behavior is more complex than embodied in the wealth-maximizing utility functions portrayed by neoclassical economists. There are cases of altruism and self-imposed constraints with respect to the choices actors make. This point can be applied to news as an institution as well. News workers sometimes make altruistic choices – like the Fox reporters who refused bribes and threats and were courageous in their efforts to protect the public interest. They sacrificed their own wealth-maximizing utility for the greater social good.

North's theory of the institution provides an explanation for this. North pointed out that the behavioral assumptions of rational choice economists rested fundamentally on the assumption that competitive forces will see that those who behave in a rational manner will survive and those who do not will fail. We see this assumption upheld in the case of the Fox journalists, but slightly contradicted in the case of ABC reporter Brian

Ross. In both cases, the journalists broke informal rules about what was acceptable behavior in a contemporary, commercial news media environment. In the Fox case, the punishment was severe while in the ABC situation, the fallout was intense but did not cost anyone his or her job. Still, no doubt Ross and his producer became quick studies when it came to the new rules of the game for a big media news operation owned by an entertainment company.

Institutions like the broadcast news media assure cooperation by forming a communications mechanism that provides the information necessary to know when punishment is required, and by making available the relevant information which allows the policing of defections. For news, punishment – from getting fired to getting your story shelved – is handed down for behavior that jeopardizes the financial interests of the corporate owner. The stakes have been raised and the institution of news has evolved with an increased concentration of media ownership. Like Brian Ross, Jane Akre and Steve Wilson, most news workers have watched and learned where the line is drawn as profit-driven journalism changes the culture of news. As Phillips wrote, "Conglomeration changes traditional media corporate cultures. Values such as freedom of information and belief in the responsibility of keeping the public informed are adjusted to reflect policies created by bottom-line-oriented CEOs" (2004, 41).

These adjustments have been incremental, yet cumulatively dramatic. This, too, is characteristic of the evolution of institutions. According to North, "Incremental change comes from the perceptions of the entrepreneurs in political and economic organizations that they could do better by altering the existing institutional framework at some margin" (1999, 8). The rules of the game have been incrementally changed as a result of the change in corporate ownership of the media, especially with respect to a transitioning from soft to hard budget constraints for the network news divisions.[48] The networks over time have come to realize they can do better by altering the institutional framework regarding profit expectations and boundaries of news coverage. They have moved away from their ethical and political constraints which at one time had them proudly touting news as a means of operating in the public interest. This evolution has altered the economic performance of news. We cannot understand today's choices (and define them in the modeling of economic performance) without tracing the incremental evolution of institutions.[49]

Regulatory capture – the capture of the regulators by the regulated – also has incrementally reshaped the institution of news. Capture theory was developed in 1971 by Stigler and it was counter to the original theory of regulation, public interest theory. Public interest theory holds that regulators regulate for the benefit of the public and where a market imperfection exists (Posner 1974, 336). However, capture theory argues that regulation is supplied in response to the demands of interest groups struggling among themselves to maximize the incomes or benefits of their members. It holds that if the state can benefit an industry by regulating it, an industry will welcome regulation and logically seek to influence and control the rules.

Stigler did not use the exact term "regulatory capture," yet that was the phenomenon he helped to describe in providing a theoretical rationale for capture of regulatory agencies by producer interests. Stigler further was credited with providing an

[48] See Chapter VII, *The Transition Economy of Network News*, for a detailed discussion of the shift in budget constraints for the news divisions.
[49] Again, see Chapter VII below for an account tracing the evolution of news as an institution at the network level.

"integration of the economics of regulation and the economics of politics in which transactions between self-interested suppliers and demanders determine the regulatory outcome" (Peltzman 822, 1993). Stigler explained that an industry often seeks out regulation, and the regulation is designed and operated primarily for the industry's benefit (1971, 3). The most obvious motivation for an industry to court regulation by the state is for a direct subsidy of money, although Stigler concluded that an industry with power to obtain governmental favors usually does not use that power to get money.

Stigler named three other policies of regulation an industry may seek from the state: (1) control over new arrivals, (2) implementation of financial constraints or subsidies for industries that provide goods which are complements or substitutes, respectively, to the regulated industry and (3) price controls to achieve more competitive rates of return (1971, 4-6). Interest groups and other political participants use the regulatory and coercive powers of government to shape laws and regulations in a way beneficial to them through one of the four means named by Stigler. Stigler's capture theory is an important component of public choice theory. In public choice theory, regulatory agents are seen not as bureaucrats concerned with public matters, but rather as private individuals trying to maximize their own utility such as staying in their agency position, allocating more power to themselves, and ensuring lucrative employment opportunities outside government in the broadcast industry after their agency appointment. In effect, regulation and most political action is just another commodity which obeys the laws of the market.

Regulatory capture arises from the fact that vested interests have a concentrated stake in the outcome of political decisions, thus ensuring that they will find means –

direct or indirect – to capture policy makers. With respect to broadcast news as an institution, there has long been debate over whether the FCC has allowed the economic interests of broadcasters to undermine the agency since the 1970s when the deregulation mindset began for media regulation and the 1980s when it took off at warp speed.[50] The FCC was damaged by those perceptions and eventually gave up content and behavioral regulation in favor of indirect control of the market by adjusting ownership caps (Chamoux 1991, 106). The case for deregulation in the 1980s rested on the belief that promoting efficiency was superior to promoting equity as a goal for public policy in the energy and telecommunications industries (Trebing 1986, 613-614). However there is nothing that guarantees the evolution of an institution or its present state reflects economic efficiency. North argued that "rulers devised property rights in their own interests and transaction costs resulted in typically inefficient property rights prevailing" (1999, 7). Transactions costs include search and information costs, bargaining costs, and policing and enforcement costs (Coase 1937).

A Dahlian Model of the Free Press

It seems intuitive that how we conceive modern democracy matters in how we conceive what constitutes a free press in democratic society. As North told us, "Path dependence means that history matters" (1999, 100). History matters with the evolution of our institutions because our origins or initial allotment are determinants of the path we take and how we arrive at our present juncture. Likewise it makes sense that our origin of reference for democratic theory matters in our assessment of the state of our democracy and the role of an independent press therein. Our theoretical starting point for democracy creates a certain trajectory with respect to expectations of an ideal

[50] See pgs. 129-132 in Chapter V below, *The Battle over Broadcast Regulation: 1939-2008.*

independent press, and how close or far we are from the mark, just as the origins of institutions shape the path institutions take.

If we consider the Chapter II discussion on the nature and state of American democracy, we are left to choose among competing theoretical concepts that paint varying portraits of modern democracy, its bounties and deficits. Since we cannot find agreement on which concept most accurately reflects reality, the best path to characterizing an ideal free press would seem to be in beginning with a concept of an ideal democracy. If our democracy were a perfect political system that made everyone equal participants in the process, how would we design a perfect free press that would promote such a system? The logical place to begin seems to be with Dahl's ideal democracy.

Thus, we revisit Dahl's five-point archetype of democracy from our Chapter II discussion to address a question that has relevance for the discussion of an independent press, and it was a question Dahl both anticipated and answered. The question: why consider a model for the perfect democracy if it is probably not realistic to hope, as Dahl conceded, that any nation-state can ever be fully democratic? Dahl presented the criteria for a pure democracy as a useful benchmark for what should be: a deliberative political process where all members have the same, full information, free expression of ideas and equal say in policy adoption. Dahl argued that the five criteria he devised provide standards against which to measure the performance of actual associations that claim to be democratic. As Dahl wrote, "They can serve as guides for shaping and reshaping concrete arrangements, constitutions, practices, and political institutions" (1998, 42). Thus, Dahl provided us with a tool to measure how far away we are from where we should be, and one that could guide us for making decisions about how we might get closer to where we would like to be.

It is a useful exercise to apply that same logic to identify the characteristics of an independent press that operates in democratic society, even if we admit that there is a distinct gap between concept and reality. We begin this venture with Dahl's theoretical utopia for democracy and place it within the context of orthodox economic theory. We find an interesting amalgamation of citizen voter and Economic Man, another theoretical utopia, which proves useful in developing a democracy-based concept of the ideal independent press. In particular, Dahl's principles of enlightened understanding, effective participation and control of the agenda in the marketplace of ideas are analogous to the neoclassical concept of the consumer as a rational character who acts with complete knowledge and in his own self-interest, freely choosing among the goods available to him in the economic marketplace. Neoclassical Economic Man "lurks in the assumptions leading an enlightened existence between input and output, stimulus and response. … We do not know what he wants. But we do know that, whatever it is, he will maximize ruthlessly to get it" (Hollis and Nell 1975, 54-55).

Dahl's five standards for an ideal procedural democracy, recapped from Chapter II, are: (1) effective participation, (2) voting equality, (3) enlightened understanding, (4) control of the agenda, and (5) inclusion of adults (1982, 1998). Effective participation assumes every voter is able to voice his/her policy preferences. Voting equality is the classic idea of one person, one vote. Enlightened understanding would necessitate that each voter is able to learn about alternative policies. This is not achieved if any group distorts or withholds information. Control of the agenda suggests each voter must have an equal chance to affect change by voicing an opinion about policy options. Finally, an ideal democracy would require the inclusion of all voters and the guarantee to the full rights of citizenship. If one or more of these criteria are violated, the political system is not equitable (1998).

In an ideal world, the press would have unrestrained freedom – neither economic nor political constraints would interfere with the media's role as purveyors of democracy. Journalists would have perfect knowledge of the actions of those in power and the policy decisions made on the public's behalf, and they would report on those actions without fear or favor. And such a free press would uphold Dahl's five criteria. The press would cover the important political, economic and social events of the day in a way that would: (1) encourage effective participation in the political process by providing civic lessons to viewers and keeping viewers informed about opportunities for civic involvement at all levels, (2) ensure each person's vote counts by monitoring all local and federal elections, and reporting judiciously on the integrity of the process, (3) keep the public informed about the multiplicity of policy proposals, even those considered outside the mainstream, and not allow the suppression or distortion of information by a dominant group, (4) prevent a deliberate or inadvertent appropriation of the agenda-setting process by the corporate and political elite, including corporate media owners and (5) protect the full rights of citizens by keeping them informed of the state of their civil liberties, threats to those liberties, and any changes in the political process.

A Dahlian model of news production could be realistic and sustainable, if the formal and informal rules of the game changed dramatically for news workers. But broadcast journalists are demeaned by profit-driven codes of conduct and written regulations that favor the market over the public interest. The ideal institutional characteristics of the news media cited earlier in this chapter are too often out of the reach of broadcast journalists in a political environment where the playing field is slanted. It is difficult to be the protectors of the public interest, the police of those in power, vehicles for the delivery of meaningful news and information, and agents of self-accountability when your freedom is constrained by other dominant organizations.

Conclusion

> "Good journalism is bad business, and bad journalism can be very, very good for business. ... It is bad business ... to do hard investigative work on corporations and powerful government agencies that primarily serve elite interests."
>
> -- Robert McChesney (1990, 23)

There seems too much evidence and little doubt that journalism is off its mark in this country in demonstrating the characteristics of an independent press. Given the increased profit expectations for news by its corporate owners and a rise in the propaganda model of news and regulatory capture, news has been weakened and the public purpose of news diminished. Identifying how the press should operate at its best is at the crux of defining the character of a free press. The essential ingredient of a free press that can promote democracy is a press that is free to seek the truth and report it. But as we have seen, the freedom of the press is abridged by several factors, most notably corporate conflict of interest. The national media watchdog group Fairness & Accuracy in Reporting (FAIR) has been tracking news media bias and censorship since 1986. Each year FAIR conducts an annual review of incidents that reflect the range of pressures on reporters to use something other than journalistic judgment in deciding what goes in and what stays out of the news. The survey showed that journalists continue to experience pressure from powerful interests, outside and inside the news business, to push some stories and ignore others, and to shape or slant news content (FAIR 2007). For the past several years, the findings have been consistent and not waned. When journalists cited the influence of powerful interests, they repeatedly have pointed a finger at the same three culprits: the government which pressures the news media to support its agenda and policies, corporate advertisers who demand favorable treatment for their industries and products, and media owners who use their news outlets to support their increasingly various business and political interests.

The issue we must then address is how to fix the problem. How do we fix a press that has (unknowingly or not) become deeply steeped in political and corporate propaganda peddling? And how do we reverse the trend through media reform or re-regulation even amid an imperfect democracy? Changing the rules of the game in order for the broadcast news media to effectively function as the Fourth Estate is addressed later in this study, in Chapter VIII, *News as a Contested Commodity.*

PART TWO: *THE POLITICAL ECONOMY OF BROADCAST POLICY*

CHAPTER IV:

THE BATTLE OVER BROADCAST REGULATION: 1904-1938

> "Interpreting the law on this subject [radio spectrum] is something like trying to interpret the law of the occult. It seems like dealing with something supernatural. I want to put it off as long as possible."
>
> -- William Howard Taft
> Chief Justice, U.S. Supreme Court
> 1921-1930
> (Dill 1938, X)

William Howard Taft managed to keep the battle over the broadcast spectrum[51] out of the hands of the U.S. Supreme Court during his tenure as Chief Justice, forcing Congress to step in and create the critical legislative architecture that established government control of the airwaves. In a conversation with Senator Clarence Dill, Democrat of Washington, Taft compared the spectrum to a supernatural phenomenon akin to the occult, and admitted to a strategy of dodging legal questions regarding radio by refusing to grant writs of certiorari (Dill 1938). Senator Dill, who described himself as being "in active charge of the writing and passage" of both the Radio Act of 1927 and the Communications Act of 1934 (1938, VII), went to the home of Chief Justice Taft

[51] The FCC defines spectrum as the range of electromagnetic radio frequencies used in the transmission of sound, data and television. The spectrum also has been referred to as the ether or airwaves in mass communication and economic literature.

sometime prior to 1927[52] to make a personal plea for the Supreme Court to hear the first radio case that had reached the calendar of the Court. It would prove to be a vain effort.

Dill wanted the Court to pass upon the question of whether or not Congress had the right to regulate broadcasting. In their discussion, Taft expressed concern over whether the Court had jurisdiction over radio cases. Dill pressed the issue, telling Taft the Court "must pass on this law eventually, and it seems to me you should meet the issue now" (IX). Taft acknowledged the inevitability of the Court's involvement, but argued, "I want to put it off as long as possible in the hope that it [radio] may become more understandable before the court passes on the questions involved" (X). According to Dill, the key question for Taft was whether radio constituted a form of commerce and, therefore, could be regulated under the Commerce Clause[53] of the U.S. Constitution. If radio were only a science and an art, it could not be subject to regulatory laws by Congress. At one point in the conversation, Taft pointed to a telephone receiver and said:

> "There is that telephone. Congress said the waves of electricity coming over that wire and being reproduced is commerce; and the courts agreed. That seemed stretching the word 'commerce' to the limit. It may be that this miracle we call radio will be declared to be commerce. I don't know. I suppose it will" (Dill 1938, IX).

Despite Dill's request, Taft would not allow the Supreme Court to take up the matter and he accurately anticipated that radio eventually would be declared a form of commerce subject to regulatory laws. But the kickoff of the fight for control of the airwaves had begun some two decades prior to Dill's private meeting with Taft on the state of radio, the Constitution and the occult. The U.S. Navy made a fervent plea as early

[52] Dill does not say in his book exactly what year the visit took place. However, within the context of other information in the book, it seems clear the meeting took place between 1923 (when Dill became a U.S. senator) and prior to 1927 (the passage of the Radio Act).
[53] Article I, Section 8, Clause 3 of the Constitution reads: "The Congress shall have power … To regulate commerce with foreign nations, and among several states, and with the Indian tribes."

as 1904 for heavy regulation and military rule of the airwaves, but some members of Congress along with powerful business leaders ultimately opposed legislation that would have given the Navy a radio monopoly (Howeth 1963). By the mid-1920s, commercial broadcast radio had secured its place in our culture and economy. Many stations were finding success either by operating as promotional vehicles for their owners[54] or creating a consumer market for radio receivers[55] (Lichty and Topping 1975). Manufacturing of receivers was considered the single most lucrative revenue source for the early broadcast industry until it became clear the consumer market for receivers eventually would become saturated, while advertising and time brokering could sustain high profit margins for broadcasters long after receiver sales failed to do so.[56]

As wireless communication – first radio and later television – rapidly evolved during the 20th century, the debate over how to manage the spectrum grew from a concern for vessels at sea to developing a model for commercial broadcasting with a defense of the free market system and a warning of the repercussions on democracy emerging along the way. In this history, the debate over the broadcast spectrum has been characteristically multifaceted. It has encompassed such issues as the concept of public interest, scarcity, chaos resulting from frequency interference,[57] property rights, auctions,

[54] For example, WLS in Chicago originally was owned by Sears, Roebuck & Co. The station's call letters reflected the company's slogan: "The World's Largest Store." Educational institutions and churches also ran their own stations as a means of marketing themselves.
[55] For example, RCA and Westinghouse initially operated stations as an incentive for consumers to buy their receivers. Sales of receivers grew to a half-billion dollar industry by 1926 (*Literary Digest* 1927).
[56] By the late 1920s a growing source of revenues came from paid programming sponsorships (e.g., WZXY broadcast the Everlast Battery Corporation Symphony Orchestra) and other advertising. By 1930, ninety percent of all stations sold advertising (Lichty and Topping 1975).
[57] A state of confusion and disorder existed during the early years of radio when it was common for more than one station to attempt to broadcast over the same frequency.

foregone economic rents, and the media democracy paradox.[58] Some issues (e.g., the public interest standard) seem to recur with equal prominence and seemingly little resolution every decade of the debate. However, other concerns (e.g., chaos and interference) tend to play an epochal role in the literature in concurrence with technological advancements and other timely influences.

With that clarification in mind and in consideration of the vast amount of literature on the subject of the spectrum, this chapter and the next offer a highly condensed, at times eclipsed history of economic thought that highlights 100 years of contemplation on regulation of the broadcast spectrum. Due to the layered, complicated nature of the debate, it is difficult to separate the economic aspects from the legal, social, and political issues involved. These factors are intricately interleaved and have worked in tandem over the past 100 years to shape contemporary broadcast regulation and policy.

Stages in the Debate

For the purpose of the discussion, the author has divided the history of the debate over allocation and regulation of the broadcast spectrum into six policy stages as shown in Table 4.1 to be divided for discussion across the current and consecutive chapters. The present chapter will look at the pre-television years of broadcast regulation and the following chapter will examine broadcast regulation after television's arrival. The six stages are categorized by key developments that molded and reflected a shift in the economic, legal, and/or political climate. The stages – consisting of varying time periods

[58] The media democracy paradox considers whether large corporate media aid or hinder the democratic process. Media democracy also is a catchphrase often used in mass communication literature to describe a media system that promotes democracy by keeping the public informed about important social and political issues.

– are an attempt to discuss events that collectively represent a distinct trajectory in the development and battle over spectrum management and regulation of broadcasters.

Table 4.1 Six Key Stages in the Evolution of the Spectrum Debate

Stage I: The Roots of Regulation 1904-1927	Stage II: If It's Broken, Fix It 1928-1938
Stage III: TV, Bids and Sacrilege 1939-1979	Stage IV: A New Sheriff in Town 1980-1995
Stage V: The Big Easy 1996-2002	Stage VI: If at First You Succeed, Try, Try Again 2003-2008

Stage I describes "The Roots of Regulation" which date back to 1904 and the so-called Roosevelt Board and culminate with the passage of the Radio Act of 1927, the first significant regulation of commercial radio that clearly established a trusteeship model for spectrum management. Stage II, "If It's Broken, Fix It," looks at the first corrective response to perceived failures in spectrum allocation and oversight, and the passage of the Communications Act of 1934 as an attempt to fix the most pressing problems. Stages III through VI will be addressed in Chapter V but a cursory outline is presented here. Stage III, "TV, Bids and Sacrilege," examines the arrival of television and a regulatory environment that was volatile at times, but continued to be centered on a trusteeship model. Stage IV, "A New Sheriff in Town," looks at the dramatic political shift[59] in favor of deregulation of the broadcast industry that led to the repeal of the Fairness Doctrine and coincided with the newfound support of a pricing system for non-broadcast spectrum allocation. Stage V, "The Big Easy," assesses the impact of the Telecommunications Act of 1996 setting off an increased trend toward a relaxation of ownership limits. The sixth and last stage, "If at First You Succeed, Try, Try Again" looks at the first major attempt

[59] See Chapter VI, *Political Ideology as a Point of Reference,* for a more detailed account of shifts in dominant political ideology and the spillover effect on broadcast regulation and policy.

to relax ownership rules since the 1996 Telecommunications Act and the public backlash that emerged as the result of an Internet-driven grassroots media reform movement.

Stage I: The Roots of Regulation (1904-1927)

Various U.S. government agencies, including the Navy, had all begun setting up their own radio transmitters by 1904 although they did little to coordinate activities or use of resources (Howeth 1963). That same year, in recognition of the potential strategic utility of radio for military use and the rising debate over who should control the spectrum, President Theodore Roosevelt established The Interdepartmental Board of Wireless Telegraphy[60] made up of representatives of the Navy Department, War Department, Department of Agriculture, and Department of Commerce and Labor to prepare recommendations for coordinating government development of radio. Retired Navy Captain Linwood Howeth wrote an extensive account of the *History of Communications-Electronics in the United States Navy* in 1963 which included an assessment of the contributions of the Roosevelt Board in the origins of spectrum regulation. Howeth wrote that the Roosevelt Board arrived at recommendations in unanimity regarding wireless telegraphy[61] and ultimately had a profound influence on the future of radio in the United States despite conducting negotiations with jealousy driving conflict among the departments.

[60] The Interdepartmental Board of Wireless Telegraphy also was referred to as the Roosevelt Board.
[61] In the early 1900s radio transmissions were limited to wireless telegraphy – Morse code messages sent through the airwaves. The triode, the amplification technology enabling the transmission of voice and music, was invented in 1906, but not perfected until after 1912 (Lichty and Topping 1975). Although experimental broadcast stations emerged after 1906, commercial radio as we know it did not take off until the early 1920s after Westinghouse stations WJZ in New Jersey and KDKA in Pittsburgh broadcast the 1921 World Series between the Yankees and the Giants (Jaker, Sulek and Kanze 1998; Krattenmaker and Powe, Jr. 1994).

The Navy's push for a monopoly over radio certainly did not set the stage for a congenial tone for the interdepartmental board. However, when all was said and done, the board proposed assigning most of the oversight of radio to the Navy and advocated significant restrictions on commercial use. It pacified business leaders by suggesting that private development of radio would be encouraged and aided. However, in its report issued on June 24, 1904, the Roosevelt Board called the needs of the Navy "paramount on the account of the problem of national defence [sic]" and the board recommended that those needs take precedence not only over commercial development of the spectrum but also over all other governmental agencies (Howeth 1963, 550).

The board also concluded that the government should take the necessary steps to regulate commercial wireless telegraphy with the Department of Commerce having the duty of supervising and issuing licenses to private stations as long as such regulations would not interfere with national defense. The Roosevelt Board's report, laying the foundation of what would become the trusteeship model of spectrum allocation and with a hint of what later would seem to evolve into a public interest standard, wrote:

> This method of placing private stations under full Government supervision is desirable in order to regulate them for their mutual and public welfare, as well as from considerations of national defence [sic]. Aside from the necessity of providing rules for the practical operation of such stations, it seems desirable that there should be some wholesome supervision of them to prevent the exploitation of speculative schemes based on a public misconception of the art (Howeth 1963, 551).

Despite the Roosevelt Board's appearance to make allowances for a commercial application of the airwaves, the first U.S. spectrum policy equated to a hording of the band by the Navy (Hazlett 1990). There was certainly an allowance for commercial shipping use of the ether, and some marginal toleration of land-based amateur radio and station operators, but no accommodation for private ownership of the spectrum. It would be six years after the board issued its policy recommendations to President Roosevelt before Congress would, for the first time, establish any law to acknowledge radio telegraphy with the passage of the Wireless Ship Act of 1910.

The 1910 act applied to certain ocean steamers of all nationalities visiting U.S. ports and all U.S. seagoing vessels with 50 or more passengers. The legislation required the ships to be equipped with radio equipment and operators as an emergency resource to issue and receive distress calls (Dill 1938). However, in what later would be deemed a grave oversight, the law did not require radios to be manned by the operators at any given time. The Radio Act of 1912, enacted in the wake of the Titanic disaster, was the first domestic law for the general control of radio. It required that ships with 50 or more passengers not only be equipped with radios, but the radios had to be manned around the clock. In addition, frustrated by the Navy's control of the spectrum, private users joined forces and lobbied Congress to include protection of land-based commercial radio interests (Dill 1938).

As a result, the Radio Act of 1912 empowered the Secretary of Commerce and Labor[62] to issue the first licenses for non-governmental radio stations and to specify the frequencies to be used by the stations. The Commerce and Labor Department seemed the logical choice to issue licenses since broadcasts theoretically could cross state lines constituting, as the thinking went, interstate commerce. However, the Radio Act of 1912 gave the Commerce Secretary no authority to reject any station license applications or

[62] After passage of the Radio Act of 1912, the Department of Commerce and Labor would be split into two separate organizations with the Commerce Department maintaining jurisdiction over radio licensing.

take payment for spectrum use. Zero-priced rents associated with non-exclusive, government regulated frequency rights became the first model for spectrum licensing.

The Radio Act of 1912 did not have a provision for limiting licensing because there was no perceived scarcity issue with respect to the spectrum at that time. As Dill put it, "When the 1912 Act was passed there was no thought of congestion. There were no broadcasters. Amateurs were assigned to certain band of frequencies and point to point wireless telegraphy was quite limited. There were plenty of wave lengths" (1938, 69-70). Congress simply had not anticipated the rejection of applications, because it presumed that there was sufficient spectrum for all who would eventually need or want to use it (Krasnow 1997). The game plan for managing the spectrum seemed to work fairly well until the early 1920s when a convergence of occurrences led to cataclysmic growth. Commercial wireless telegraphy had begat an industry technologically based on quality voice and sound broadcasting, some early stations had proven immensely popular with the public, and there was a clear vision of the money to be made in manufacturing radio receivers for home use. The industry experienced rapid change within a short period of time.

There were only 28 licensed stations by the end of 1921,[63] but that number skyrocketed to 576 by the end of the next year, and the airwaves were now congested (Kattenmaker and Powe, Jr. 1994). Congress suddenly got very interested in trying to control radio with various interests, submitting 51 bills for consideration between 1921

---

[63] The first station licensed for broadcasting by Hoover was KDKA in Pittsburgh in September 1921. However, KDKA and some other stations had been licensed as experimental stations prior to receiving their official licenses (Dill 1938).

and 1927.[64] The uncontrolled growth of commercial radio was made possible by the 1912 legislation that allowed zero-priced broadcasting rights, and a lack of a legal property rights structure to allow punishment of interloping. The result was intolerable interference and chaos as stations began bleeding over into each others' bandwidth. The industry magazine *Radio Broadcast* complained in late 1922 about the crowding of the spectrum and the decline in listening quality (Kattenmaker and Powe, Jr. 1994).

Commerce Secretary Hoover responded to the failure of Congress to pass new legislation by convening four national radio conferences beginning in 1922 in which representatives of the radio industry and government met to adopt a system of self-regulation for radio. It would be from these annual conferences that the "public interest, convenience or necessity" standard would emerge and ultimately find its way into the Radio Act of 1927 (Dill 1938; Napoli 1998; May 2001). The words "public interest," "public convenience" and "public necessity" that created the basis for broadcast policy had origins in railroad, interstate commerce, and public utility regulation[65] (Caldwell 1930a; Hall 1930; Goddard 1934).

Just prior to the first radio conference, Hoover began withholding additional licenses on the grounds that interference would otherwise result. In 1921 Hoover had refused to renew the license for Intercity Radio Company, a wireless telegraphy company, arguing any wavelengths it would use would interfere with other stations' signals. In a 1923 federal court ruling on the matter,[66] it was determined that Hoover had

[64] Most of these bills came from the 1922-1925 annual radio conferences held by Herbert Hoover, Secretary of Commerce and Labor. Only one bill would become law (i.e., the Radio Act of 1927), but the legislation was a compromise of many of the proposals (Lichty and Topping 1975).
[65] The public utility connection to the public interest wording in the 1927 Act is discussed in more detail later in this chapter.
[66] *Hoover v. Intercity Radio Co.*, 286 Fed. 1003, App. D.C., (1923).

no legal authority to withhold a license given the current legislation. However, the ruling was worded in a manner that implied Hoover could assign stations times and wavelengths in an effort to minimize interference. As Coase (1959) and Hazlett (1990) noted, Hoover continued, in practice, to ration scarce broadcasting licenses by selecting frequency and wavelength assignment, and even by refusing (in defiance of the Intercity ruling) to process a continuing stream of broadcast license applications.

With the interference problem seemingly contained, the radio industry continued to progress fairly smoothly until the Commerce Department faced an unfavorable court decision. The case involved the Zenith Radio Corporation[67] which had been broadcasting outside the times and wavelength it had been assigned. Zenith faced criminal proceedings under the Radio Act of 1912, but the case would result in Hoover being stripped of almost all authority he had assumed in regulating use of the spectrum. In April 1926 a court found that Hoover's licensing method was without force of law. Although the 1912 act allowed the Commerce and Labor Department to regulate broadcasters "for the purpose of preventing or minimizing interference,"[68] the Zenith case declared the law too "general, ambiguous, and indefinite" to sustain a prosecution to enforce it (Dill 1938, 85). This time the court explicitly denied the department discretion over time and wavelength assignments, and ruled that Hoover was required to issue licenses subject only to the explicit provisions of the 1912 act.

On the heels of that case in November of the same year, a judge with the Circuit Court of Cook County in Chicago issued a ruling that in essence gave a broadcaster

---

[67] *United States v. Zenith Radio Corp.*, 12 F.2d 614, N.D. Ill., (1926).

[68] This part of Sec. 4 of The Radio Act of 1912 reads: *That for the purpose of preventing or minimizing interference with communication between stations in which such apparatus is operated, to facilitate radio communication, and to further the prompt receipt of distress signals, said private and commercial stations shall be subject to the regulations of this section.*

"property by right of user" or "squatter sovereignty."[69] The case involved the Tribune Company and Oak Leaves Broadcasting Station.[70] The Tribune Company went to court to prevent Oak Leaves from using a wavelength that caused interference with one of its stations. The judge argued that as long as Congress had taken no action, he felt it incumbent upon the Court to protect the original user of the wavelength. Newspapers reported that the judge took a similar view to the judge in the Zenith case regarding hours of operation and power. According to Dill, the Oak Leaves case "became known as the doctrine of 'squatter sovereignty' on the air" (1938, 79). The Zenith case kicked off a new wave of chaos and the Oak Leaves case exacerbated the situation.

Hazlett referred to the period that followed the 1926 rulings up until passage of the Radio Act of 1927 as a classic "tragedy of the commons" (1990, 141). The ether had been deemed a public good, but the courts had ruled that the Secretary of Commerce could not deny any license request and could not set guidelines for use of the spectrum. Now licensed stations were free to homestead the frequency of their choice and change their broadcast frequency at their discretion,[71] operate or fail to operate at any hour of the day, and choose their own desired amplification level. Hazlett (1990, 1998) argued that the chaos that emerged was predictable, in theoretical hindsight, and the result of a breakdown of property rights.

Although Hazlett acknowledged that the 1927 act resolved the chaos, he refuted assertions by some economists and other policy analysts who called the decision to assign

[69] "Squatter sovereignty" is a long established principle of law that if a citizen openly and adversely possessed and used property for a long period of time without opposition, or without contest, s/he acquires title by adverse possession (Dill 1938, 78).
[70] The case was unreported by the Court, but was reproduced in Congressional Record 216 in 1926 (Kattenmaker and Powe, Jr. 1994).
[71] Stations changed their frequency even if it intruded on another station's broadcast, which often occurred.

radio broadcast frequencies free of charge a mistaken policy of economically ignorant legislators (1990). Some policy analysts attempting to account for the formation of the trusteeship model of broadcasting argued that drafters of the Radio Act of 1927 opted for government control of spectrum in lieu of an auction process that would have given broadcasters transferable property rights because drafters mistakenly blamed the chaos of radio in the 1920s on market competiveness. Hazlett labeled such a notion "error theory" and wrote that it was wrong to assume policy makers during the 1920s suffered from a wrongheadedness or naivety in their decision to use government frequency assignments absent property rights to correct for the chaos that had emerged during a free-for-all squatter's fight over frequencies. Hazlett contended the following:

> Although the modern interpretation of broadcast regulation has been built upon the view that federal licensing was a faulty allocational policy with unforeseen – and unfortunate – consequences, the construction of public interest licensing distributed property rights to spectrum in a manner in which the important regulatory players were compensated as anticipated. ... That the political marketplace pointedly vetoed a property rights solution that would bypass regulators and legislators while holding entry open into broadcasting was not a reflection of technical incompetence but of self-interested rationality (1990, 175).

Hazlett further stated that, in essence, the key drafters of the 1927 law acted in their own self-interest in avoiding a pricing system for spectrum allocation. Hazlett argued that Hoover, Dill and others homesteaded broadcasting policy nearly as quickly as broadcasters staked out their place on the spectrum. In Hazlett's view, radio regulation was the product not of ignorance or mistaken reasoning, but rather of an implicit deal between policy makers on the one hand and incumbent broadcasters on the other, both of whom had much to gain from a regulatory solution.

In addition, Hazlett (1990) credited Coase (1959) with being first to correct the "chaos theory" in the article that led to the discovery of the Coase Theorem. In that article Coase made an economic argument regarding property rights and why the theory was misfounded that private enterprise and the competitive system in radio in the early 1920s had failed. Coase contended that the chaos in radio prior to 1927 was not a product of the private sector, but a predictable consequence of ill-defined property rights, and any theory stating otherwise was misfounded.

In addition, Coase explained that the scarcity argument did not work in the case of the ether because the spectrum, like land, labor, and capital, was a scarce resource, yet the latter three resources did not call for government allocation and regulation. Coase felt the real problem was the failure to establish property rights based on a pricing system in response to scarce frequencies. He made a brilliant analogy to land allocation:

> We know from our ordinary experience that land can be allocated to land users without the need of government regulation by using the price mechanism. ... If one person could use a piece of land for growing a crop, and then another person could come along and build a house on the land used for the crop, and then another could come along, tear down the house, and use the space as a parking lot, it would no doubt be accurate to describe the resulting situation as chaos. But it would be wrong to blame this on private enterprise and the competitive system. ... A private enterprise system cannot function properly unless property rights are created in resources. ... [A] legal system to define property rights and to arbitrate disputes is, of course, necessary. But there is certainly no need for the kind of regulation which we now find in the American radio and television industry (1959, 14).

The regulation which we now find in the American radio and television industry – the trusteeship, public interest model of spectrum allocation – was baptized by Congress with the Radio Act of 1927. The act, whether better or worse than a pricing system of allocation, solved the most pressing ill of the broadcast industry at the time by replacing chaos with order.[72] But, again, according to Hazlett (1990), the law was an equilibrium

[72] The Radio Act of 1927 was enacted to pre-empt the common law property rights of spectrum use while also facilitating a political equilibrium where broadcasters and regulators shared license rents. The Oak

solution for the most powerful competing interests (i.e., legislators, broadcasters, and public interest advocates) brought together by a rent-sharing arrangement created from the proceeds generated in the spectrum-assignment process. Hazlett, borrowing from Caldwell's discussion (1930a), argued that by imposing a standard whereby new licensees could be excluded on the grounds of "public interest, convenience or necessity," the desired federal imposition of property rights could be achieved constitutionally.

The 1927 act immediately grandfathered rights for major broadcasters, while eliminating marginal competitors. Hazlett believed chaos was strategically introduced into the political economy process of broadcasting. He argued that the 1927 act with its heavy regulatory agenda could not have happened without chaos of the airwaves creating the necessary urgency as an argument for new legislation. The strategy of using chaos for economic and political maneuvering is a similar thesis put forth today by contemporary author Naomi Klein in her book *The Shock Doctrine: The Rise of Disaster Capitalism* (2007).

Klein's research focuses on the influence of Milton Friedman and the Chicago School since the 1970s on U.S. economic thinking, the rise of neoliberalism and the corporate reengineering of society. She argues that it has been common practice for politicians and corporations to capitalize on public disorientation following massive collective shocks (e.g., war, terrorist attacks, natural disasters) to push through reforms the public normally would reject. In essence, it is policy setting by diversion and opportunism. Although Klein does not broach the subject of the early formation of broadcast regulation, her thesis provides a potentially intriguing context for

---

Leaves case in particular, which awarded frequency rights based on the homesteading principle, helped motivate Congress, steering it toward a "public interest" licensing law (Hazlett 1998).

reexamination of Hazlett's contention that policy makers and broadcasters took advantage of the chaos in radio in the 1920s to push through regulation that protected their respective power in the industry. But a more intriguing application of Klein's shock doctrine theory would be to apply it to the evolution of broadcast policy since the mid-1970s, since Klein focuses on economic policy development from 1970s to present day. For this reason, Klein's thesis will be revisited in Chapter VI: *Political Ideology as a Point of Reference* in the discussion of the rise of neoliberalism and its impact on deregulation of the broadcast industry.

On a side note regarding chaos in the early years of broadcasting, there was a bit of a tit-for-tat exchange between Hazlett and Coase regarding "error theory" and Hazlett's interpretation of Coase's view on what led to a regulatory scheme for spectrum allocation. In Hazlett's 1990 and 1998 articles in the *Journal of Law and Economics*, Hazlett applauded Coase's central conclusion that a well-conceived plan to auction the spectrum would have better served the public interest than a regulatory regime. However, Hazlett felt the two interpreted the historical record differently. Hazlett argued Coase's statement that "public interest licensing was instituted owing to an analytical oversight" (538) proved Coase bought into the error theory. Coase fired back in a 1998 article in the same journal:

> Unfortunately he misunderstands some of my remarks and this has the effect of magnifying our disagreements and of obscuring what I was attempting to say… Nowhere do I discuss the political maneuvering that led to the passage of the 1927 act. I had no "error theory."… I see no essential difference between Hazlett's view of what happened before the 1927 act and what I say in my FCC article (578).

In any regard, Moss and Fein (2003) dismissed Hazlett's rejection of the error theory and public interest theories of broadcast regulation, and found some degree of fault with both Hazlett and Coase's reading of the history. Moss and Fein summed up the Coase-Hazlett debate as follows:

> In Coase's version of the story, policymakers seemed to have meant well: they failed to adopt a property-rights solution – and thus failed to serve the public interest, according to Coase – only as a result of bad reasoning, not bad motives. In Hazlett's version, by contrast, lawmakers were fully aware of the property-rights option but rejected it on the basis of "self-interested rationality." Like Hazlett and others who have studied the history of radio regulation in recent years, we find considerable evidence that proponents of the "error theory" (including Coase himself) mischaracterized the historical record. Unlike most other students of the subject, however, we do not believe the available evidence proves that lawmakers were guided mainly by self-interest, as opposed to their own sense of the public interest, in fashioning a regulatory regime for radio (390).

Moss and Fein go on to point out what they perceive as the critical oversight in Coase's assessment of how early regulators failed broadcasting and the public:

> By viewing the radio spectrum as nothing more than a standard economic resource, Coase missed what was for many lawmakers its defining characteristic. The unprecedented power to communicate and to shape public opinion that radio allowed had profound implications for American politics and, indeed, for the democratic process. In a very real sense, radio broadcasting threatened one of the nation's most trusted bulwarks against tyranny. … [O]nce the interference problem was solved through a rational method of spectrum allocation, broadcasting immediately threatened to provide some factions with unparalleled access to the public, based on a technology that collapsed space in the transmission of the human voice. Broadly speaking, this is why policymakers so feared the potential for concentrated control over broadcasting, why so many of them took for granted that spectrum allocation could never be left entirely to the private market (407-408).

Moss and Fein then returned to Hazlett and conceded that although Hazlett was correct in observing that early network radio derived great benefit from a regulatory approach, it was simply too great a leap to interpret this outcome as strong evidence that congressional lawmakers and commercial broadcasters colluded from the outset.

The error theory debate aside, the Radio Act of 1927 and its trusteeship model of broadcasting was the culmination of a 23-year debate over how best to allocate spectrum and what policy regime should be in place. The "public interest" criteria based on a scarcity issue justified government regulation of the airwaves under the newly established Federal Radio Commission (FRC), and the spectrum was conceptualized as a public good for which private ownership was unsuitable. The public interest was a central concern in writing the 1927 act and had been mentioned repeatedly by Commerce Secretary Herbert Hoover in the radio conferences.

The origins of the "public interest" to some degree, as mentioned earlier, had its roots in public utility law and management as evidenced by the 1922 report from the First National Radio Conference (Howeth 1963). The general resolutions adopted at the radio telephony conference included the following statement:

> *Resolved,* That it is the sense of the conference that radio communication is a public utility and as such should be regulated and controlled by the Federal Government in the public interest.

The public interest and public utility themes were repeated in the later annual radio conferences. In a speech at the Third National Radio Conference in 1924, Hoover stated:

> In conclusion, I can only repeat what I have said on these occasions before – that it is our duty as public officials, it is our duty as men engaged in the industry, and it is our duty as a great listening public to assure the future conduct of this industry with the single view to public interest. The voluntary imposition of its own rules and a high sense of service will go far to make further legislation or administrative intervention unnecessary. Indeed, it will contribute enormously to the development of the art if in this stage of its infancy we can annually secure such adjustments by voluntary action as will protect public interest. We shall then have evolved a unique chapter in the development of public utilities.

In the fourth and final national radio conference in 1925, Hoover made clear his rationale for a public interest criterion in spectrum management:

> The ether is a public medium, and its use must be for a public benefit. The dominant elements for consideration in the radio field is, and always will be, the

> great body of the listening public, millions in number, country wide in distribution.

The 1925 conference, at Hoover's urging, endorsed the "public interest" concept and recommended legislation incorporating it. But the delegates gridlocked on the idea, apparently because no one could come up with an acceptable definition (Ford 1961; Krasnow 1997). Congressman Wallace H. White, Jr., one of the co-authors of the Radio Act of 1927, stated that despite the inability of the delegates to agree on a definition, the public interest was a central concern in writing the 1927 act:

> "The recent radio conference [1925] … recognized that in the present state of scientific development there must be a limitation upon the number of broadcasting stations and it recommended that licenses should be issued only to those stations whose operation would render a benefit to the public, are necessary in the public interest, or would contribute to the development of the act. … If enacted into law, the broadcasting privilege will not be a right of selfishness. It will rest upon an assurance of public interest to be served" (Krasnow 1997).

The roots of the public interest standard that came out of the radio conferences dated back to the late 1800s and railroad management. The words "public interest," "public convenience" and "public necessity" appeared in various combinations in a wide variety of legislation and judicial decisions involving interstate commerce and public utilities (Caldwell 1930b). The first statute of this nature was enacted in New York in 1892 for railroads. In the Transportation Act of 1920, amending the Interstate Commerce Act, the device of a certificate of convenience and necessity was first applied to the regulation of interstate commerce (Caldwell 1930b; Hall 1930; Goddard 1934). It should be no surprise, given Roosevelt's role in the Commerce Department and the Commerce Department's role in early radio, that language found in previous interstate commerce legislation and public utility management would influence radio regulation.

With the passage of the Radio Act of 1927 the airwaves officially were designated as being in the public domain. Stations could be authorized to use the valuable public resource if they did so in the public interest, but private ownership of the ether was not allowed. The act also gave the FRC the power to assign frequencies, require stations to operate on that frequency, and to require a financial commitment on behalf of stations to operate in the public interest, convenience and necessity. The government's exclusionary allocation and licensing scheme was justified by requiring that broadcasters act as public fiduciaries – a public trustee model of spectrum use. The FRC would describe the public trustee model as follows:

> [Despite the fact that] the conscience and judgment of a station's management are necessarily personal … the station itself must be operated as if owned by the public. … It is as if people of a community should own a station and turn it over to the best man in sight with this injunction: "Manage this station in our interest." The standing of every station is determined by that conception (Benton Foundation 1999).

Despite the philosophical complications and political tensions regarding the regulatory obligation for broadcasters to serve the public in specific ways, the U.S. Supreme Court repeatedly upheld the public trustee basis of broadcast regulation. Certainly from the radio conferences and throughout the rest of broadcasting history the "public interest" part of the "public interest, convenience and necessity" phrase – with its regulatory roots in public utility law and a public trustee model – has often been put first and espoused vigorously in most broadcast regulation (Lichty and Topping 1975). Its importance was apparent to those in the industry, lawmakers, and policy analysts early on even when the definition of public interest seemed to remain elusive. Former FCC Chairman Newton Minow (1964) commented that, starting with the Radio Act of 1927, the phrase "public interest, convenience and necessity" (sometimes written "or necessity") has provided the battleground for broadcasting's regulatory debate. Clarifying the meaning of "public interest" was one of the first major tasks of the FRC.

The Radio Act of 1927 gave the FRC only one directive in its allocation determinations: to favor those station applicants that best served the "public interest, convenience or necessity" (McChesney 1990). Although the legislation provided a means to bring order to the airwaves,[73] it was a particularly vague statute with its meaning and intent unclear to most members of Congress (McChesney 1993). Even the FRC, the agency charged with administering the public interest standard in broadcasting, quickly concluded that it was "manifestly impossible" to foresee all the various regulatory potentialities relative to the "public interest, convenience or necessity" criteria (May 2001, 448). It was clear that an attempt at further clarification was needed. Therefore, in 1928, the FRC issued its first comprehensive interpretation of the public interest standard in an apparent attempt to fix the inherent vagueness of the 1927 act.

Stage II: If It's Broken, Fix It (1928-1938)

The FRC issued a policy statement in August 1928, the General Order 40, in which it concluded that although "public interest, convenience or necessity" was a test[74] for licensing, it would be a comparative and not an absolute standard when applied to broadcasting operations. The Commission acknowledged that a scarcity of spectrum had created a competitive environment for licenses, and serving the public interest would be of paramount consideration in determining who became a licensee:

[73] The original 1927 legislation created only a temporary FRC whose mission was to clean up all radio problems and then the Commerce Department would once again administer radio. After it was obvious maintaining order in radio might be a never-ending task, legislation was passed in 1929 to make the FRC permanent (Lichty and Topping 1975).
[74] The FRC made clear that the public interest test would be applied to programming content as well as technical matters.

> Since the number of channels is limited and the number of persons desiring to broadcast is far greater than can be accommodated, the commission must determine from among its applicants before it which of them will, if licensed, best serve the public. In a measure, perhaps, all of them give more or less service. Those who give the least, however, must be sacrificed for those who give the most. The emphasis must be first and foremost on the interest, the convenience, and the necessity of the listening public, and not on the interest, convenience, or necessity of the individual broadcaster or the advertiser (Caldwell 1930b, 120).

In 1929, only a year after the release of the General Order 40 policy statement, the FRC expanded upon its new regulatory mandate, providing further explanation on the meaning of "public interest" in the Great Lakes Broadcasting Company decision in 1929. Great Lakes involved a conflict among three Chicago area stations requesting modification of their spectrum allocation. In assessing their competing claims, the FRC argued that where two stations apply for the same frequency, the station with the longest record of continuous service should have priority, but where there is a substantial difference between the programming of the two, the station with superior programming should prevail. The FRC further advanced the following licensing guidelines in addressing the Great Lakes case:

> Is the rule of priority, however, to govern in all controversies between stations of the same power class, located in and serving the same region? The present controversy is of this character; all three stations are located in the Chicago area and have power of 5,000 watts or more. If the service given by such stations were equal under the standard of public interest, convenience, or necessity, then the commission believes the rule of priority should control; if there is a substantial disparity between the respective service, the commission believes that on a proper showing the claim of priority must give way to the superior service (FRC 1929, 32).

The Great Lakes Broadcasting decision has been considered to be the FRC's most important decision because it was perceived as containing the seeds of concepts that would later germinate into significant regulatory policies. The decision, upheld in 1930 by a court of appeals, firmly established programming content as a criterion of the public interest, and included notions which later formed the basis for the FCC's requirements governing ascertainment of community needs and the Fairness Doctrine.[75]

In another issue regarding the General Order 40, the policy statement also effectively ordained the network-dominated, advertising-supported basis of U.S. broadcasting – what media critic Robert McChesney (1993) described as the demise of nonprofit and noncommercial broadcasting. That was a big change in policy thinking from attitudes that fed into the Radio Act of 1927. As McChesney (1990) noted:

> As has been amply documented in the major studies of the period, commercial advertising was very controversial and more than a little unpopular throughout the 1920s. Few contemporary observers foresaw the role that NBC, CBS, and commercial advertising would assume in short order. Indeed, in all public discourse on the matter prior to 1927, there was general agreement that nonprofit broadcasting should play a significant and perhaps even a dominant role in the U.S. system and that commercial advertising's potential to the field should be regarded with great skepticism. … Hence, there is little reason, on the surface, to regard the passage of the Radio Act of 1927 as some sort of mandate for network-dominated, advertising-supported broadcasting (30-31).

Even though the FRC clearly was tolerant of advertising in broadcasting, by 1929 the commission still was far from issuing an open invitation to unrestrained advertising on the airwaves:

> Broadcasting stations are licensed to serve the public and not for the purpose of furthering the private of selfish interest of individuals or groups of individuals. The standard of public interest, convenience, or necessity means nothing if it does not mean this. The only exception that can be made to this rule has to do with advertising; the exception, however, is only apparent because advertising furnishes the economic support for the service and thus makes it possible. … [T]he amount and character of advertising must be rigidly confined within the limits consist with the public service expectations of the station (FRC 1929, 32).

[75] The Fairness Doctrine, implemented by the FCC in 1949, grew out of concern that there existed a limited number of frequencies available for the growing number of broadcast licensing requests (i.e., a scarcity rationale). The FCC held that in a limited spectrum environment, station licensees were obligated to actively seek out issues of importance to their community and air programming that reflected those issues, and present a reasonable opportunity for discussion of contrasting points of view (FCC 1949).

A growing acceptance of advertising was a benefit to all commercial broadcasters, but it was a revamping of the allocation scheme that secured the economic and political power structure of the networks. The FRC issued a reallocation plan as part of the order. In advance of General Order 40, the allocating committee held a number of meetings with radio engineers and representatives of the networks and the commercial broadcasters' trade association, the National Association of Broadcasters (NAB), as they determined their plan. These conferences and sessions were barely publicized, and the nonprofit broadcasters and concerned non-broadcasters did not have an opportunity to present their opinions. Thus, it is no surprise that the order called for 40 of the then-90 channels available to be 50,000-watt clear channels that would have only one occupant nationally. All but three of the 40 clear channel stations were owned by or affiliated with NBC or CBS, the only major radio networks at the time.[76] Hundreds of other commercial and nonprofit stations were left to compete for the other 50 channels at much lower power levels and forced to share frequencies.

Under General Order 40, the two major networks witnessed a windfall – they went from a combined 6.4 percent of all owned or affiliated stations in the U.S. market to 30 percent within four years. As McChesney (1990) noted, NBC and CBS accounted for nearly 70 percent of U.S. broadcasting by 1931, and commercial advertising, which barely existed on a national level prior to 1928, grew by leaps and bounds to an annual total of $72 million by 1934. The NBC and CBS radio networks began to flourish economically under General Order 40 as nonprofit and noncommercial broadcast stations began to dramatically decline. McChesney (1993) also identified the policy shift with the

[76] ABC was not established as a radio network until 1943.

first stirrings of a double movement in response to the growth of commercial network radio:

> As the contours of modern U.S. broadcasting fell into place with astonishing speed, a coherent and unrepentant opposition to the emerging capitalist domination of the airwaves developed for the first time. "The battle was begun in earnest" noted one of the leading groups that arose to oppose the status quo, "in the summer of 1928 soon after the enactment of the Commission's General Order 40" (34).

The movement to reform broadcasting took place between 1928 and 1935 based on concerns regarding the limitations of the media system for the exercise of a democratic political culture. The movement included civic organizations and intellectuals who actively opposed the emerging commercial set-up of broadcasting. They attempted to have a significant portion of the ether set aside for noncommercial and nonprofit use. The reform attempt was hardly a success. By 1935, as McChesney explained, "The system was entrenched economically, politically, and ideologically, and it would provide the basis for the eventual development of television in the 1940s and 1950s" (1993, 260). McChesney further argued that the conventional wisdom was that reformers never stood much of a chance. For one, there was a political incompetence in the broadcast reform movement itself. In addition, much of the reform movement had elitist sympathies which mitigated against organizing the sort of popular base that was so essential. And an apparent degree of apathy along with the Great Depression played a role in the failed reform movement of the 1930s:

> Many of the reformers were content to have existing authorities dictate broadcasting policy; they simply thought the task was better delegated to university presidents and intellectuals rather than capitalist broadcasters and commercial advertisers. ... Second, the economic depression of the 1930s hurt the cause of broadcast reform. Bear in mind that the establishment of the status quo and the creation of the broadcast reform movement began in earnest in 1929, before the onset of the Depression. The Depression sounded the death knell for the budgets of many nonprofit broadcasters, making it impossible for the

> reformers to have an existing group of stations it could hold up to the public as providing a markedly better service than the commercial broadcasters (1993, 260).

No one at the time of passage of the Radio Act of 1927 assumed the act constituted the final say on spectrum allocation and management. It was understood that further reforms would take place. The law was intended only as emergency legislation to bring order to the airwaves by reducing the total number of stations. Legislation to establish a more permanent basis for broadcast regulation was introduced and considered every session of Congress until eventual passage of the Communications Act of 1934.

With the passage of the Communications Act of 1934, replacing the FRC with the FCC, Congress effectively removed itself from substantive broadcast policy issues for the next 30 years. Most of the provisions of the 1927 statute saw little or no modification with the 1934 law. The main change was that the FCC was given greater jurisdiction extending over television and telephony in addition to radio. The newly appointed FCC held hearings in October of 1934, and this seemed the only legitimate opportunity remaining for the opposition movement to present its case. However, the outcome of the hearings was never in doubt, and most elements of the opposition movement regarded them as a set-up for the broadcasters (McChesney 1990).

As a matter of fact, two of the three FCC members who were at the hearings announced at an NAB convention the previous month that there was no way they would alter the status quo, regardless of what conspired at the upcoming hearings. In January of 1935, the FCC formally issued its report to Congress stating the present allocation system was sufficient and efforts should be made to assist disenfranchised nonprofit groups in utilizing commercial broadcasting facilities. McChesney pointed out the reform movement had, at best, delayed the full stabilization of the airwaves from 1929 to 1935.

Meanwhile, broadcasters were forging ahead with their own attempts at reform. The first great wave of deregulation arguments emerged in the middle 1930s after the system was consolidated and beyond challenge, and served mostly as a weapon to eliminate or reduce government regulation that might inhibit profitability for the radio networks. McChesney argued that prior to 1934, the 1930s proponents of deregulation and the commercial broadcasters themselves were mostly silent regarding the free speech implications of licensing because they were most satisfied with the manner by which the FRC was rather arbitrarily clarifying the spectrum for profitable exploitation.

According to McChesney, it was the broadcast reform movement that obsessively attempted, without success, to bring questions of free expression to the forefront of any discussion regarding broadcast policy. The dominant theory regarding the meaning of free speech for radio broadcasting did not emerge until after the private, commercial basis of the industry became sacrosanct. McChesney (1993) wrote, "The First Amendment and free speech barely influenced policy in the formative stages; rather, they were only utilized later and then to protect the commercial broadcasting industry from any public intervention in its affairs once the system was beyond political or ideological challenge" (260). Although the reform movement of the 30s with the free speech debate may have proven a failure as far as any public intervention went, and a mere annoyance rather than a threat to the radio networks, the arrival of television in the late 1930s proved a more ominous adversary.

CHAPTER V:

THE BATTLE OVER BROADCAST REGULATION: 1939-2008

> "It is with a feeling of humbleness that I come to this moment of announcing the birth in this country of a new art so important it has implications that it is bound to affect all society. … This miracle of engineering skill which one day will bring the world to the home also brings a new American industry to serve man's material welfare."
>
> -- David Sarnoff
> RCA President
> Introducing Television at the World's Fair in New York, 1939
> (*New York Times* 1939, 16)

> "Television is just another appliance. It's a toaster with pictures. … We've got to look beyond the conventional wisdom that we must somehow regulate this box, we must single it out."
>
> -- Mark Fowler
> Federal Communications Commission
> Chairman, 1981-1987
> (*Reason* 1981, 52)

In a 1981 interview with *Reason* magazine, newly-appointed FCC Chairman Mark Fowler referred to television as a "toaster with pictures" and argued it should not be imbued with specific social duties requiring regulation any more than newspapers, films, books or magazines. That was a far cry from the regulatory mindset some 40 years earlier when RCA president David Sarnoff introduced television at the 1939 World's Fair in New York with the words, "Now we bring radio sight to sound" (Lewis, 1991, 12). Policy makers at the time, taking into account the powerful cultural force radio had become, envisioned the potential of "radio with pictures" as far beyond just another household appliance. Sarnoff accurately predicted that television profoundly would alter

American life, and he cautioned that television had to be utilized for "the benefit of all mankind" (*New York Times* 1939, 16).

This chapter examines the period of broadcast regulation beginning with the arrival of television in the late 1930s and ending with the contemporary fight to reestablish a public interest accounting for broadcasters that reaches beyond money as a measure of success exacerbated by the unbridled growth of corporate media conglomerates. The table first presented in Chapter IV presenting the six key stages in the evolution of the spectrum debate is reproduced below as Table 5.1. The previous chapter looked at the first two stages that encompassed the early years of broadcast regulation from the roots of regulation in 1904 to the first and failed attempts at media reform in the 1930s. Chapter V begins with Stage III, "TV, Bids and Sacrilege," an especially pivotal period that reflects an elevation of expectations that broadcasters improve their service in the public interest. It examines the stinging "Blue Book" report by the FCC, the Mayflower decision prohibiting editorializing by stations, and the infamous 1961 "vast wasteland" scolding of the National Association of Broadcasters (NAB) by FCC Chairman Newton Minow. This stage also discusses the first high profile and then-perceived sacrilegious proposal for spectrum pricing – the controversial Rand Report co-authored in 1973 by economist Ronald L. Coase.

Table 5.1 Six Key Stages in the Evolution of the Spectrum Debate

Stage I: The Roots of Regulation 1904-1927	Stage II: If It's Broken, Fix It 1928-1938
Stage III: TV, Bids and Sacrilege 1939-1979	Stage IV: A New Sheriff in Town 1980-1995
Stage V: The Big Easy 1996-2002	Stage VI: If at First You Succeed, Try, Try Again 2003-2008

The remaining three stages take us from the 1980s to 2008. Stage IV, "A New Sheriff in Town," looks at the dramatic political shift[77] in favor of deregulation of the broadcast industry that began in earnest with FCC Mark Fowler appointed during the Reagan Administration. The push for deregulation led to the downfall of the Fairness Doctrine and coincided with the newfound support of a pricing system for non-broadcast spectrum allocation, no longer sacrilege to suggest. Stage V, "The Big Easy," assesses the impact of the Telecommunications Act of 1996. The legislation was a major win-win for broadcasters and a seemingly easy coup given the Herculean-strength political clout of the NAB. The 1996 act was the first major overhaul in broadcast regulation since 1934, and it resulted in a substantial relaxation of media ownership rules. This stage also discusses the fight over whether Congress should give away billions of dollars' worth of spectrum space to broadcasters, this time for development of digital television. Finally, Stage VI, "If at First You Succeed, Try, Try Again" looks at the first major attempt to relax ownership rules since the 1996 Telecommunications Act, the ubiquitous corrective response that arose in 2003 thanks in great part to the Internet, and the 2007 political maneuverings generating high-drama as a handful of lawmakers and media reform groups went after the FCC in a battle over relaxing the newspaper-TV cross-ownership ban.

Stage III: TV, Bids and Sacrilege (1939-1979)

As RCA president David Sarnoff unveiled television at the World's Fair in New York in 1939, he boldly proclaimed that television would lead to the demise of radio (Lewis 1991). Although that prediction would not ring true, by the early 1950s television

[77] See Chapter VI, *Political Ideology as a Point of Reference,* for a more detailed account of shifts in dominant political ideology and the spillover effect on broadcast regulation and policy.

posed a clear economic threat to radio, cutting into radio's large national audiences and advertising revenues. Radio reinvented itself to survive as Sarnoff and other broadcast pioneers worked to create television in radio's image. Much about television was modeled after radio including programming content, advertising, a network-affiliate system, and allocation of spectrum. The FCC, as per the Communications Act, allocated the first channels for television and set up a distribution system for spectrum much the same way it had for radio – a licensing based system guided by a public interest standard and rooted in a trusteeship model of broadcasting.

Only two licensed TV stations were in operation by 1941: RCA-owned NBC and CBS. The development of television slowed due to the diversion of World War II, and by the end of the war in 1945 there were fewer than 10 licensed stations in operation. That number had grown to more 100 by 1948 and the FCC was being flooded with licensing applications for television. As a result, the FCC issued a moratorium on TV licenses intended to last only six months until the regulatory agency could get a handle on several issues involving regulation of television. But the problems to be resolved were more difficult than the FCC had anticipated, and the six-month moratorium ended in 1952, four years later. By that time television was a profitable industry, even the most popular radio programs had lost at least half of their national audiences, and TV sets had surpassed sales of radio receivers. The diffusion of this new mass medium was so rapid during the 1950s, more TV sets were sold than children born in that decade.

Throughout the 1940s, however, radio still dominated in American homes and in the regulatory concerns of the FCC. It was during this period that the FCC issued the famous Mayflower decision.[78] The 1941 decision involved a radio station owned by the Yankee Network that had openly editorialized in favor of a political viewpoint. The Yankee Network had submitted a renewal application for the station and Mayflower Broadcasting Corporation also submitted a grant to operate over the same frequency. In considering these competing applications, the FCC considered whether Yankee Network had breached its duty to the public by broadcasting editorials supporting certain political candidates. The FCC renewed Yankee Network's renewal request, but also made the broadcaster promise to cease the practice in question because it was deemed to be inconsistent with the licensee's public interest responsibilities.

In the Mayflower ruling, the FCC stated, "Radio can serve as an instrument of democracy only when devoted to the communication of information and the exchange of ideas fairly and objectively presented. ... In brief, the broadcaster cannot be an advocate" (*Yale Law Journal* 1950, 765). The Mayflower decision was meant to discourage partisan broadcasting, but it was interpreted by broadcasters as a ban on editorializing. Many broadcasters complained the ruling violated their right to free speech. The FCC anticipated the First Amendment argument and addressed it in the its decision as follows:

> "Freedom of speech on the radio must be broad enough to provide full and equal opportunity for the presentation to the public of all sides of public issues. ... The public interest – not the private – is paramount. These requirements are inherent in the conception of public interest set up by the [1934] Communications Act as the criterion of regulation" (*Yale Law Journal* 1950, 765).

The debate surrounding the Mayflower decision lasted several years, prompting the Commission to hold hearings on the issue of station editorials in 1948. As a means of clarifying its intent in the 1941 Mayflower decision, the FCC issued a new ruling in 1949

[78] Mayflower Broadcasting Corp., 8 FCC 333, 340 (1941).

– what would become known as the Fairness Doctrine – confirming the right of broadcasters to editorialize if overall balance of opinion was presented.

In between the Mayflower decision and the adoption of the Fairness Doctrine, another FCC ruling triggered congressional charges that the agency was censoring and controlling programs through its stinging Blue Book report (Emery 1961). In 1946, the FCC released a report entitled "Public Service Responsibility of Licensees" which became popularly known as the Blue Book because of its blue cover (Krasnow 1997; Lichty and Topping 1975). The Blue Book attempted to clarify the Commission's position on the public interest standard by setting forth programming guidelines for consideration of a licensee's performance at renewal time. The Blue Book treated the public interest standard as encompassing four requirements for stations: (1) sustain unsponsored programs, (2) incorporate local live programs, (3) include programming devoted to the discussion of local public issues, and (4) eliminate advertising excesses.

The report created a furor among broadcasters. The *Journal of Broadcasting*, a spokesman for the industry, launched a campaign against Blue Book and its authors. The aggressive campaign continued for weeks followed by sporadic attacks in the journal's editorial pages. In *Broadcasting's* first anti-Blue Book attack, the headline read: "F(ederal) C(ensorship) C(omission)" (Lichty and Topping 1975, 590). The editorial accused the FCC of being "masterful" and "vicious" in its attempt to try to justify its existence through the Blue Book report. It also accused the commission of meddling in "the instruments which enlightened public opinion" and thereby threatening the welfare of democracy.

But while license renewal forms were revised to make them compatible with the Blue Book, the FCC failed to enforce the guidelines in the report. As it turned out, no doubt influenced by the industry's ire, the Blue Book theme of balanced programming as a necessary component of broadcast service in the public interest coupled with its emphasis on a reasonable ratio of unsponsored programs proved too serious a threat to the profitability of commercial broadcasting for Congress or the FCC to want to match regulatory promise with performance (Krasnow 1997).

However, the failure of the FCC to enforce the Blue Book was by no means a reflection that the FCC had relinquished all desire to force more accountability among broadcasters. As a way to resolve the Mayflower debate – and grounded in the concepts of a scarcity rationale and a trusteeship model of broadcast regulation – the FCC imposed the Fairness Doctrine in 1949. The doctrine directed station licensees to provide audiences with "a reasonable opportunity to hear opposing positions on the public issues of interest and importance in the community" and "strive for fairness in airing controversial public issues" (FCC 1949, 33). The rule required broadcast stations to both air and engage in controversial-issue programs that affected their communities and, when offering such programming, to provide competing points of view.

In the 1960s, according to the Benton Foundation (1999), procedures for enforcing the Fairness Doctrine were fortified. Complaints about one-sided coverage were adjudicated, not just at license renewal time as part of a station's overall performance, but also on a case-by-case basis. This change increased the gravity of complaints and encouraged greater FCC involvement with broadcast content. In addition, existing principles of the Fairness Doctrine were enforced more aggressively, particularly with respect to commercial advertising, news coverage, and personal attacks.

Broadcasters, objecting to the "chilling effects" of the Fairness Doctrine on their free speech, eventually challenged its constitutionality. The case that came before the U.S. Supreme Court involved *Red Lion Broadcasting v. FCC.*[79] The 1969 case involved a station in Red Lion, Pennsylvania that had refused to give writer Fred J. Cook an opportunity to reply to a personal attack on him during a paid program. Cook appealed to the FCC, citing the Fairness Doctrine, and the Commission agreed the station was obligated to permit him time to reply. The station refused and the case went through the court system before finally landing before the Supreme Court. The Supreme Court ruled for the FCC, giving sanction to the Fairness Doctrine. Compliance with the Fairness Doctrine remained a major performance criterion at license renewal time. In a 1974 report on the doctrine, the FCC even called it "the single most important requirement of operation in the public interest—the sine qua non for grant of a renewal of license" (Rendall 2005). The Fairness Doctrine eventually was repealed in 1987 amid a deregulatory agenda embraced by the FCC. The next regulatory stage, "A New Sheriff in Town," discusses the dissolution of the doctrine.

The FCC, once again, went to bat over the public interest standard after a series of hearings it conducted in the late 1950s (Krasnow 1997). The FCC concluded that additional clarification of the public interest standard was necessary and in 1960 it issued a programming policy statement, the Report and Statement of Policy, which listed the

[79] *Red Lion Broadcasting v. Federal Communications Commission*, 395 U.S. 367 (1969).

programs, in some reasonable mix, usually necessary to fulfilling the public interest:

1. Opportunity for local self-expression
2. The development and use of local talent
3. Programs for children
4. Religious programs
5. Educational programs
6. Public affairs programs
7. Editorialization by licensees
8. Political broadcasts
9. Agricultural programs
10. News programs
11. Weather and market reports
12. Sports programs
13. Service to minority groups
14. Entertainment programming

The policy statement also concluded that broadcasters should determine the tastes, needs and desires of their communities and design programming to meet those needs. This led to the FCC's adoption of formal ascertainment requirements which compelled applicants for licenses or license renewals to detail the results of interviews with identified community leaders to determine the taste, needs and desires of the public they served.

One year after the FCC issued its programming policy statement to give broadcasters a clearer picture of the commission's expectations for "public interest" content, FCC Chairman Newton Minow took broadcasters to task for squandering their free access to a valuable public resource. Minow, who was appointed by President John F. Kennedy, gave a famous speech to the NAB in 1961. He scolded station managers for turning television into a "vast wasteland" and warned them, "Gentlemen, your trust accounting with your beneficiaries is overdue. Never have so few owed so much to so many" (Minow 2003, 398). For the networks he had a special message: "Remind your stockholders that an investment in broadcasting is buying a share in public responsibility" (Minow 2003, 402).

Minow's reprimand of broadcasters was accompanied by accusations that the broadcast industry was not living up to its public obligations. The "vast wasteland" reference gained the most attention and it has become an iconic phrase. Minow later reflected on the impact of those two words and his 1961 speech:

> The reaction to it was astonishing to me. Particularly astonishing was the importance the press placed upon two words – "vast wasteland" – which I didn't think were that important. But somehow that stuck in the public mind. I had two different words in mind: "public interest" (Minow and Cate 2003, 413).

Minow's hard-line approach in holding broadcasters accountable to operate in the public interest eventually went out of vogue with later FCC leadership.[80]

It was during Stage III in the history of economic thought and the battle over the broadcast spectrum – a time when continued pressure was placed on broadcasters to raise the bar with respect to their content and public interest obligations – that the blasphemous Rand Report was circulated and curtly suppressed. Ronald Coase was invited in the early 1970s by some of the economists at the Rand Corporation to go to Santa Monica and help prepare a report on the problems of radio frequency allocations. He wrote a draft report along with Bill Meckling and Jora Minasian. The 1973 report, advocating a market solution by way of auctions or bids for the allocation of the spectrum problem, was ultimately suppressed but not before it was circulated within Rand.

Rand reviewers hurled some highly critical comments toward the three authors. One reviewer wrote, "I know of no country on the face of the globe – except for a few corrupt Latin American dictatorships – where the sale of the spectrum could even be

[80] For more details see the section titled "Stage IV: A New Sheriff in Town" in this chapter.

seriously proposed" (Coase 1998). The Coase-Meckling-Minasian report and reviewer comments were sent to the higher authorities at Rand. The comments suggested that Rand would suffer less if the organization cut its losses by not producing a report rather than to make a further investment in the project and risk doing public relations damage to Rand in Congress and other "Government quarters." One reviewer wrote:

> But as the [report] is presently designed, I am afraid that to issue it ... is asking for trouble in Washington – Big Business maelstrom because we haven't in the first place measured up to the intellectual requirements of the problem selected for study (Coase 1998, 580).

Coase said the reaction to and suppression of the Rand report were representative of the widespread opposition in the 1970s to using a pricing system to allocate the spectrum. The character of the reaction to the Rand Report was similar in tone to the criticism received by Coase following his famous 1959 journal article – ultimately deemed an influential analysis of property rights to radio spectrum. In 1959, before Coase's article was published, the FCC invited Coase to testify at hearings on the future of broadcasting. When Coase concluded with his pricing model of allocation, FCC Commissioner Philip Cross was ready to attack. Coase would later write (1998, 579) that the commissioner's first question was: "Are you spoofing us? Is this all a big joke?" Coase said he was taken aback but managed to reply: "Is it a joke to believe in the American economic system?"

Coase also has said that, although he was sometimes credited with introducing the idea of a pricing model for spectrum allocation, a student author, Leo Herzel (1951), was first to propose in the idea in print. According to Coase, Herzel had become very interested in the debate over whether a rational, efficient system for allocating resources would be possible under socialism. But it was Coase who would become famous for the idea and for the Coase Theorem that emerged from his analysis.

Stage IV: A New Sheriff in Town (1980-1995)

The FCC climate became somewhat more favorable for broadcasters under the Nixon and Carter Administrations, but the regulatory agency took on a blatant and unapologetic deregulatory ethos in the Reagan era. The FCC of the 1980s marked a further shift to a fundamental and ideologically-driven reappraisal of regulations based on a trusteeship model long held central to national broadcasting policy (Horowitz 1989). For broadcasters, Reagan-era FCC Chairman Mark Fowler[81] must have seemed to be the long-awaited new sheriff in town determined to bring a different type of law and order to spectrum management. Fowler argued that a free market, not governmental dictates over content and ownership, should determine station operations. FCC Chairman Dean Burch,[82] appointed by President Richard Nixon, introduced the concept of broadcast deregulation in the 1970s, and the process was carried forward by succeeding chairmen, including Fowler who took the deregulatory trend to new heights. Fowler renamed it "unregulation" and advocated a relaxation of rules over television "to the maximum extent possible – because only in this way can we ensure maximum consumer choice and diversity" (*Reason* 1981, 33). Fowler even co-authored an article published in the *Texas Law Review* (Fowler and Brenner 1982) arguing that the trusteeship model of broadcast regulation by which the FCC had regulated program content should yield to a deregulated marketplace approach.

[81] Mark Fowler was FCC chairman from 1981-1987.
[82] Dean Burch was FCC chairman from 1969-1974.

Also under Fowler, the FCC began to release the networks from many federal restrictions, freeing broadcasters to conduct their affairs as never before. Fowler argued that multiple channels almost automatically promoted multiple points of view, and the market could be trusted to provide diversity if left alone. In 1984, Fowler defended the first few years of his tenure and the criticism that his deregulation policies had provoked. Fowler said, "It was time to move away from thinking about broadcasters as trustees. It was time to treat them the way almost everyone else in society does – that is, as businesses." And he restated the analogy he had crafted several years before to put television in its proper place: "Television is just another appliance. It's a toaster with pictures" (Nossiter 1985, 402). Fowler's words and actions left no doubt that a new order was in place for the broadcast industry.

The new order for broadcasting came out of the laissez-faire principles that guided conservative economic thought during the Reagan presidency. But the impact was very different for commercial vs. non-commercial broadcasters. Public television became a target of Reagan budget cuts in the 1980s, in part, based on the principle that public television should live or die in the marketplace like any other good or service (Bridge 1998). Network TV became just another free-market business as well, and that translated into a relaxation of ownership rules and less accountability. Prior to the Reagan Administration, a single media company was capped at seven stations it could own nationwide. That cap was increased to 12 stations following ownership rules changes implemented in 1985. Stations also were now permitted to renew their licenses every five years instead of three. Requirements that some broadcast time be devoted to community issues and reported annually to the FCC were dropped completely in favor of a vague provision urging broadcasters to address local matters (MacDonald 1994). News seemed to lose much of its relevance in legitimizing the networks' use of the public trust for free because the public interest criterion for licensing now would be defined more by market forces, and less by government rules and regulations. Deregulation led to an eradication of assorted public service requirements for broadcasters, and that created an even greater destabilizing effect on the public purpose of news.[83]

One of the most disputed actions of the FCC during the Reagan Administration was the revocation of most elements of the Fairness Doctrine in 1987 (MacDonald 1994). The FCC imposed the Fairness Doctrine in 1949, taking the stance that station licensees were public trustees of the airwaves, and as such were obligated to afford "a reasonable opportunity for contrasting viewpoints" on controversial issues of public importance (MacDonald 1994, 30). The rule required broadcast stations to both air and engage in controversial-issue programs that affected their communities and, when offering such programming, to provide balance. But in the theoretical framework of deregulation, the Fairness Doctrine was nothing more than a government intrusion into the business affairs of station owners. It was repealed late in Reagan's second administration followed by a veto after Congress attempted to pass legislation designed to resurrect the policy. The fall of the Fairness Doctrine was a devastating blow to news' ability to operate in the public interest amid increasing pressure to profit. Since its adoption by the FCC, the Fairness Doctrine had been seen as the centerpiece of the public interest standard.

Although the Fairness Doctrine survived a court challenge in the 1969 Red Lion case, the Supreme Court ruled in 1984 that the scarcity rationale underlying the doctrine

[83] See Chapter VII, *The Transition Economy of Network News*, for a detailed account of the transition from soft to hard budget constraints for the network news divisions as a result of deregulation and other factors beginning in the 1970s.

was flawed and that the doctrine was limiting the breadth of public debate (Wisdom Fund.org 1997). In August 1987, the FCC rescinded the Fairness Doctrine after a Circuit Court ruling declared that the FCC had the right to do so (Benton Foundation 1999; Tillinghast 2000). The FCC already had stopped enforcing the doctrine in the mid-1980s arguing they were unable to justify the Fairness Doctrine because there was no longer a perceived scarcity in the number of broadcast outlets available to the public (Berresford 2005).

Stage V: The Big Easy (1996-2002)

The 1990s marked a stage where life just seemed to get better for broadcasters as the ambitious agenda of deregulation that was unleashed in the 1980s continued into the next decade. It was accompanied by a decision to give broadcasters yet more free spectrum access while the debate over auctions and fee-based system for spectrum use heated up (Andrews 1993). The first spectrum auctions also began in the early 1990s for some spectrum users, but broadcasters remained exempt. In addition, the passage of the 1996 Telecommunications Act was an economic and political boon for broadcasters. It advised the FCC to favor existing broadcasters in the process of allocating spectrum space for high-definition television and in converting the U.S. television system from analog to digital.

But many critics argued it was a rip-off of the public, giving away billions of dollars worth of spectrum space free to broadcasters who already have a history of failing to use the public good in the public interest (McChesney 1997). There was speculation that broadcasters, who pledged to broadcast high-definition programming on the new digital television (DTV) spectrum frequencies they were allotted, would instead use its digital channels to broadcast several lower-definition, pay-TV programs instead (Brinkley 1997; *New York Times* 1997). In regard to how the FCC would ensure broadcasters would use the new spectrum to operate in the public interest, the Commission opted for "flexibility, voluntarism and economic self-interest as incentives" (Bowie and Donahue 1999, 3). Former Senator Bob Dole, Republican of Kansas, who estimated the spectrum giveaway at $70 billion, called the handout by Congress "corporate welfare" and instead lobbied fellow lawmakers for auctions of the digital airwaves (Hetter 1996). But the powerful NAB won out, and influenced Congress to vote against charging for the DTV spectrum.

The Telecommunications Act also enabled the already highly concentrated media to become even more concentrated. About five or six major conglomerates own the lion's share of the media today. That's down from 50 in 1983 and 20 in 1992 (Bagdikian 2004). Since Ronald Reagan's FCC began dismantling nearly a century of media regulation in the early 1980s, the media world has endured a leap-frogging series of mergers, each new deal bigger than any before it (Bagdikian 2000). But the leap-frogging turned a corner with the 1996 legislation. The act eliminated the FCC rule that prevented a single company from owning more than 12 TV stations nationwide, and eliminated any restrictions for the number of radio stations a firm could own nationally. After the law passed, there was a complete reformation of the U.S. radio industry. More than half the nation's 10,000 radio stations changed ownership between 1996 and 1998. Clear Channel Corporation became the largest radio chain buying up about 10 percent of the radio station market. Radio in the U.S. is now dominated by two or three large media conglomerates.

Stage VI: If at First You Succeed, Try, Try Again (2003-2008)

The 1990s proved such a fruitful policy era for radio and TV broadcasters, their collective attitude, no doubt, was to forge ahead with more bold expectations. The *Wall Street Journal* remarked in 1998 that the urge to merge had overwhelmed the compulsion to compete as a result of the 1996 Telecommunications Act. Broadcasters continued to lobby for further relaxation of ownership rules and the concentration of media ownership continued, but this time it was met with greater resistance. Media watchdog groups argued the mergers and deregulation, and resulting concentration in ownership endangered democracy. So when the FCC, under the leadership of former chair Michael Powell, voted in June of 2003 to relax ownership rules, there was a public backlash.

Powell had made it no secret he supported deregulation, once saying, "My religion is the market" (FAIR 2003). With that mindset as a backdrop, he argued the new rules set reasonable, contemporary caps on ownership in an era when the public has access to more forms of communications, including the Internet, than when the existing rules were put in place decades earlier (Ahrens 2004). The rules would have relaxed a number of ownership caps. The rules changes included lifting the station-newspaper cross-ownership ban, easing restrictions on how many stations and other media a company could own in a local broadcast market, and expanding from 35 to 45 percent the nationwide audience a television network could reach through its owned and operated stations (Labaton 2004a). The FCC passed the new rules in a contentious three-two split along party lines[84] on June 2, 2003, and the regulations were immediately challenged in court.

---

[84] FCC Chairman Michael Powell and the other two Republican appointees on the committee voted for the rules changes. The two Democratic appointees voted against the new regulations.

Trade associations representing TV network affiliates filed an appeal challenging the FCC's decision allowing the networks to acquire additional television properties. This case became moot after legislation on the subject was signed into law by President George W. Bush in January 2004. The White House and GOP leaders struck a deal to protect the FCC's attempt to relax the network ownership rule. Lawmakers raised the national audience cap to 39 percent,[85] not the full 45 the FCC was seeking, and tacked it on as an amendment to a $330 billion catch-all spending measure covering a third of all federal programs. The legislative maneuvering, although partially rolling back the FCC rule, ensured the cap would be safe from any legal challenge linked to the June 2003 vote (Labaton 2004b).

Also following the June vote the Prometheus Radio Project,[86] on behalf of several citizen groups[87] and aided by legal counsel from the Media Access Project,[88] launched a high profile lawsuit against the FCC. The case went to the Third Circuit Court of Appeals in Philadelphia which temporarily stayed the contested new rules in September 2003, shortly before they were to go into effect. Then in a final decision issued in June 2004, the appeals court panel voted two-to-one to block the new rules and return the regulations to the FCC for revision. The court agreed with many of the FCC's premises for the changes but determined the agency had fallen short of adequately justifying its decision

[85] The compromise figure of 39 percent was not randomly chosen. The number was chosen to protect CBS and Fox, whose group of stations each had a national audience reach at the time of 39 percent.

[86] The Prometheus Radio Project is a non-profit organization which works to facilitate public awareness and participation in the FCC regulatory process and to fight the consolidation of the media. See http://prometheusradio.org.

[87] Other petitioners in the case with Prometheus were the National Council of Churches of Christ and the Media Alliance. Other organizations siding with Prometheus included the Consumer Federation of America, Capital Broadcasting Corp., and the Office of Communication, Inc. of the United Church of Christ.

[88] The Media Access Project is a non-profit advocacy organization dedicated to promoting the public's First Amendment right to access a diverse marketplace of ideas in the arena of the electronic mass media. See http://www.mediaaccess.org.

with reasoned analysis. The court further said regulators had set rules in an "arbitrary and capricious" manner and this was not acceptable (Labaton 2004a). In June 2005 The Supreme Court refused to review the case, and the Third Circuit Court of Appeals decision stood.

The court of appeals ruling handed a victory to several consumer groups that believed the agency had permitted the domination of broadcast outlets by a few media giants for far too long. Opposition to relaxing the 2003 rules changes not only sparked a successful court challenge, it led to a highly productive grassroots movement that brought together strange bedfellows like Common Cause, the National Rifle Association, the National Organization for Women, and the Family Research Council. These groups worked together to encourage their members to contact the FCC and voice their opinion regarding the upcoming June 2003 vote. The FCC received so many public comments on its Web site just days prior to its anticipated vote on media ownership consolidation that the agency had capacity problems with its server (CNN 2003). The agency also had problems with its voice comment phone lines that were swamped as well. But the response did not stop there. The 2003 vote became a catalyst for the first relevant Polanyi-esque double movement regarding broadcast reform since the failed attempt in the 1930s.[89] The double movement played out on two main fronts: a first-of-its kind forum in Wisconsin and the Internet.

Common Cause, a non-profit citizens' lobbying group, launched an Internet-based campaign against media consolidation using its Web site[90] and its 200,000-member base to organize community meet-ups, as well as launch an e-mail campaign to President Bush

---

[89] See "Stage II" discussed in the previous chapter.
[90] See CommonCause.org.

and Congress. Common Cause also launched a campaign to encourage members of Congress to support a bill that would have rolled back the FCC's rules changes. The results were dramatic. The e-mail petitions to President Bush were "signed" by thousands, and nearly three million Americans objected to the rules changes via e-mail messages to the FCC and Congress. In total the FCC had received 750,000 public comments by the date of its vote; 99.9 percent were in opposition to further deregulation of the broadcast media (Ratner 2003). Capitol Hill observers said the issue of media reform was the second most discussed item by constituents in 2003, trailing only the war in Iraq. This grassroots movement arose to derail the FCC's plan despite virtually no or marginalized coverage by news outlets owned by the media conglomerates that sought to gain from a relaxation of the ownership cap (Layton 2003/2004).

The Internet grassroots movement driven by Common Cause was followed by a first-of-its-kind National Conference on Media Reform. The conference was held November 7-9, 2003, at the University of Wisconsin-Madison, and organized by media critic and professor of mass communication Robert McChesney (Schechter 2003; Willoughby 2003). Only a few hundred people were expected, but the conference turned out nearly 1,700 media reform "Congress" attendees. The topic of media reform turned out to be so hot that attendees included senators, congressmen, two FCC commissioners, and big names in journalism like PBS's Bill Moyers, the keynote speaker. In his address, Moyers left no guessing as to the gravity of the issue at hand:

> What I know to be real is that we are in for the fight of our lives. I am not a romantic about democracy or journalism. … But I know journalism and democracy are deeply linked in whatever chance we human beings have to redress our grievances, renew our politics, and reclaim our revolutionary ideals (2003).

The stated goals that came out of the National Conference on Media Reform included: (1) to find ways to engage Americans and encourage public involvement in a media reform movement, (2) to strengthen and unite grassroots and Washington, D.C.-based coalitions for reform, and (3) to generate policies and strategies that will structurally improve the media system. But the reform movement, as strong and impressive as it was, did not have enough impact to reverse any ground gained by broadcasters. Still, it was a classic example of a Polanyi protective response, applied in this case to a perceived media democracy crisis. Polanyi's primary thesis in his 1944 book, *The Great Transformation*, was that a capitalist market economy destabilized society leading to an erosion of social and community life. Polanyi's thesis further contended that this erosion would lead to protective responses or double movements whereby citizens would respond to the destructive side of the market by organizing to counter the dangerous undertow of capitalism. In this case, the dangerous undertow was the threat to democracy at the hands of deregulation of the media. The media reform movement was an attempt to redirect the trajectory of news away from corporate serfdom to a renewed sense of public purpose. As a result of the reform movement, it was now clear to broadcasters that they faced an uphill fight and no longer a complacent public in broadcasters and policy makers' orchestrated efforts to relax ownership rules.

As broadcasters stepped up their lobbying efforts over the next two years, media reform advocates pressed ahead with further attempts to slow the concentration of corporate media. Representative Maurice Hinchey, Democrat of New York, introduced the Media Ownership Reform Act in 2005. The bill was designed to reverse consolidation and restore the Fairness Doctrine, and it was in direct response to the June 2003 vote. On his Congressional Web site[91] Hinchey, a long-time advocate of a reversal of media consolidation, argued that the FCC had allowed large corporations to ignore their public interest obligations. Leading up to the highly anticipated FCC 2003 vote, Hinchey introduced House Resolution 218. That resolution, cosponsored by 135 members of Congress, urged the FCC not to revise its media ownership rules without extensive review and public scrutiny. When the resolution failed to influence the FCC's June 2003 vote, Hinchey began drafting the Media Ownership Reform Act (MORA) which he introduced in 2005. In addition to restoring the Fairness Doctrine, MORA would have required the FCC to review its regulations on media ownership every three years with special accounting to how those rules protect localism, competition, diversity of voices and ownership, children's programming and technological advancements. The bill also would have required broadcasters to publish a report every two years to detail how they were serving the public interest. Finally, the measure would have reinstated a national cap on radio station ownership, lowered the number of radio stations a single company could own in a market, and decreased the national reach of all television stations owned by a single media company to 25 percent. The bill was blocked in committee, but Hinchey has repeatedly threatened to reintroduce the measure.

Just months after Hinchey lost his fight to rein in the FCC, the agency was hit by scandal that once again that inflamed the debate over the impact of deregulation. Word leaked in September of 2006 that the FCC, while under the leadership of Michael Powell in 2004, spiked an internal study by two FCC economists that suggested greater concentration of media ownership would hurt local TV news coverage. Powell denied seeing the study or ordering it destroyed, but Senator Barbara Boxer, Democrat of

[91] See http://www.house.gov/hinchey/issues/media_ownership.shtml.

California, and other lawmakers called for an investigation (Dunbar 2006a). A few days later it was revealed that the findings of a second secret FCC study conducted in 2003 had been suppressed as well because it also revealed a negative impact of media consolidation. Current FCC Chairman Kevin Martin ordered a formal investigation into the shelving of both reports (Dunbar 2006b). The FCC's Office of Inspector General concluded its investigation in October 2007 and determined the evidence did not support allegations that Powell or the FCC suppressed or destroyed drafts of the two media ownership reports in question (Eggerton 2007a).

Ironically, the same month the Inspector General's Office announced its findings clearing the FCC of wrongdoing, the General Accounting Office (GAO) issued a report that revealed the FCC was regularly leaking secret information to media interests before the information was released to the public. It led critics to accuse the FCC of being "an increasingly important cog" in a corrupt machine by enabling well-heeled corporate lobbyists to gather inside government information advantageous to their corporate media clients, cutting gratuitous backroom deals with the lobbyists, and conducting public hearings on ownership issues as a put-on (Sirota 2007). The news came just a few months after several key lawmakers launched a campaign to pressure the FCC to slap tighter controls on media ownership and to set new programming requirements for broadcasters as part of the industry's mandate to operate in the public interest (Babington 2007).

In January 2007, Congressman Dennis Kucinich, Democrat of Ohio, set off a firestorm of debate over media reform after he announced that the Domestic Policy panel of the House Government Reform Committee would hold hearings on media ownership issues. Kucinich said the panel, which he chaired, would look into reviving the Fairness

Doctrine, among other items. Kucinich argued that the media had become a servant of narrow corporate interests and said, "The urgency of media reform has never been more obvious" (Teinowitz 2007). Over the next few months, other lawmakers (mostly Democrats) jumped on the bandwagon and called for the need to reinstitute the Fairness Doctrine, especially after The Center for American Progress, a liberal advocacy group, issued the results of a study that pointed to an overwhelming conservative bias on political talk radio (Chinni 2007). Liberals blamed a lack of editorial balance that would have been mandated under the Fairness Doctrine while Republicans accused liberals of talking about reinstituting the Fairness Doctrine as a way to "hush Rush" and silence free speech (York 2007). In a pre-emptive strike, Senate and House Republicans introduced the Broadcasters Freedom Act of 2007 to prohibit the FCC from reinstating or repromulgating (in whole or part) the Fairness Doctrine. Neither the Republicans' Broadcasters Freedom Act nor the Democrats' threat of reviving the Fairness Doctrine had gone anywhere by 2008.

As the debate over the Fairness Doctrine surged and then sank in 2007, other lawmakers launched their own assaults on media regulation. In February, Democratic Senator of West Virginia John Rockefeller said he was convinced the FCC had abandoned its core responsibility based on the original trusteeship model adopted by early policy makers, and fellow Democratic Senator Byron Dorgan of North Dakota argued the FCC had allowed the public-interest standards to become "completely emasculated"(Boliek 2007). After months of dogging FCC Chairman Kevin Martin over the FCC's seemingly growing corporate largesse, Dorgan turned up the heat on Martin in October 2007, when Dorgan learned Martin was maneuvering to push through a vote relaxing the long-standing cross-ownership ban.[92] A few days after Dorgan publicly revealed Martin's intention to expedite an ownership rules vote by the end of 2007, Dorgan and Republican Senator Trent Lott of Mississippi held a joint news conference on the subject. The conference was neither well-attended nor widely covered by the nation's major news media. Nonetheless, Dorgan reminded journalists in attendance that the last time the FCC tried to relax ownership rules in favor of large media conglomerates, the Senate and the courts got involved and pushed back most of the voted rules changes. Dorgan, in referencing the June 2003 FCC vote, said, "When the Federal Communications Commission on the last occasion issued their rule, I said it was the most complete cave-in to big corporate interests in the shortest amount of time I'd ever seen" (PBS Bill Moyers Journal 2007). Lott added that the FCC was, once again, guilty of a rush to judgment, and that he, Dorgan and others had no intention of standing by while Martin pushed through a vote before the end of 2007.

Dorgan and Lott followed through on their threat. They jointly introduced a bill on November 8, 2007,[93] to overturn any changes that would come from the scheduled December 18th vote, including lifting the cross-ownership ban, and halt what they called the FCC's "fast march" toward easing media ownership rules. The proposal, The Media Ownership Act of 2007, called for a minimum 90-day period to allow public comment on any proposed rules put forward by the FCC. It also required the FCC to complete a separate proceeding to evaluate how media consolidation impacts localism. Both senators made point of the fact that the bill was bi-partisan with Dorgan representing Democrats

[92] See the section titled "The October Surprise" in Chapter I for further details on how knowledge of the Martin plan emerged in the public domain.
[93] See http://dorgan.senate.gov/newsroom/record.cfm?id=287094.

and Lott the Republicans. The Senate Commerce Committee quickly and unanimously passed the bill, but no further action had been taken on the bill as of May 2008.

Republican Representative Cliff Stearns of Florida countered the Dorgan-Lott legislation with the Broadcast Ownership for the 21st Century Act.[94] Stearns' House bill was intended to amend the Communications Act of 1934 to "reduce restrictions on media ownership" and to direct the FCC to eliminate the cross-ownership ban. The Broadcast Ownership for the 21st Century Act was referred to the House Committee on Energy and Commerce for consideration and then passed along to the Subcommittee on Telecommunications and the Internet. Meanwhile, a second House bill on media ownership was introduced by Washington Congressmen Jay Inslee, a Democrat, and Dave Reichert, a Republican, on December 19th, the day after the FCC voted to loosen the cross-ownership ban. The bi-partisan legislation was a companion to Dorgan and Lott's bill. Like the Senate version, the House proposal was intended to overturn the FCC's relaxation of ownership rules and would "apply to any attempt by the [FCC] commission to modify, revise, or amend its regulations related to broadcast and newspaper ownership made after Oct. 1, 2007" (Eggerton 2007b). The Inslee-Reichert bill also was referred to the House Subcommittee on Telecommunications and the Internet. Both the Inslee-Reichert and Stearns House bills were awaiting further action as of May 2008.

Less than a week after Dorgan and Lott introduced the Media Reform Act of 2007 in early November to circumvent any FCC rules change on the cross-ownership ban, Martin went public with his plan for a "minor loosening" of the restriction. He unveiled

[94] For more details see http://thomas.loc.gov/cgi-bin/bdquery/z?d110:HR04167:@@@X.

the first details of his plan on November 13, 2007, in a news release issued through the FCC News Media Division with a corresponding op-ed piece for the *New York Times*. Martin called for a modification of the provision only for the largest markets "where there are many voices and sufficient competition to allow for new entrants" (Martin 2007, 29). A newspaper in one of the 20 largest cities in the country would be permitted to purchase a single TV or radio station in the same market. However, a newspaper would be prohibited from buying one of the top four TV stations in its community to guard against too much control in a news market by a single media company.

Martin pointed out that the cross-ownership ban was the only media ownership rule that never had been modified since its inception in 1975, and he suggested that failing to modify it now ultimately could hurt the quality of news and the commitment of news organizations to their local communities. Martin argued that newspapers facing financial difficulties often have little choice but to scale back newsgathering to cut costs, and allowing cross-ownership "may help to forestall the erosion in local news" through a cost-sharing system with a broadcast station (Martin 2007, 29). He further pitched a partial lifting of the ban as a means of salvation for the financially ailing newspaper industry and for the sake of protecting democracy, not as a move to benefit broadcasters. According to Martin's op-ed piece:

> Newspaper circulation has declined steadily for more than 10 years. … If we don't act to improve the health of the newspaper industry, we will see newspapers wither and die. … I confess that in my public role, I feel that the press is not on my side. But it is for this very reason that I believe this controversial step is worth taking. In their role as watchdog and informer of the citizenry, newspapers are crucial to our democracy (2007, 29).

Critics quickly countered, including the two Democrats on the FCC commission who issued a joint statement[95] the same day *The Times* published Martin's editorial and the FCC released details of Martin's plan. Commissioners Michael Copps and Jonathan Adelstein referred to Martin's proposal as a "wolf in sheep's clothing" that created "a loophole that Big Media will drive a truck through." They argued the plan, although framed by Martin as being a modest proposal, eventually would repeal the cross-ownership ban in every market, not just the top 20. And even if taken at face value, according to Copps and Adelstein, the proposal would have an immediate and far-reaching impact since the top 20 markets reach more than 43 percent of all U.S. households.

Furthermore, the commissioners argued that small, independent broadcasters would be harmed under the plan because these would be the stations for which major newspapers would be competing. They wrote: "If we ever got serious about women and minority ownership, these are also the stations [the non-top four] most available to them. Chairman Martin's rule pretty much reserves these outlets for the big guys. So this proposal actually ***perpetuates*** the shamefully low levels of minority and female media ownership." Copps and Adelstein also labeled the amount of time Martin was allowing for public comment on the proposal as "grossly insufficient."[96]

Also in November of 2007, the Internet-based media reform coalition Stop Big Media issued their own response titled *Devil in the Details: 10 Facts Kevin Martin*

---

[95] The statement is available at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-278142A1.doc.

[96] Martin called for all public comment to be submitted by December 11, giving the public 19 working days to respond from the date of the release of his plan, and a December 18 FCC vote. Martin defended the timetable noting the FCC had begun a review of its media ownership rules 18 months earlier in the spring of 2006, had held six public hearings, received thousands of comments, and commissioned 10 economic studies on the matter.

Doesn't Want You to Know About His New Media Ownership Rules. The activist group called Martin's plan "the first step in a carefully crafted PR campaign," and said claims about the limited intent of his plan simply did not match the facts (Aaron, Ammori, Torres and Turner 2007, 2). Like Copps and Adelstein, Stop Big Media asserted that Martin's proposal had loopholes that would open the door to cross-ownership in any market.[97] The organization also accused Martin of trying to create an economic boon for media conglomerates through corporate welfare tactics:

> The devil, as they say, is in the details. Martin's rhetoric can't hide the reality that his plan is a massive giveaway to the largest media companies. If passed – and Martin seems hell-bent on holding a vote at the FCC by Dec. 18 – these rules would unleash unprecedented consolidation across the country (3).

As for Martin's claim that allowing cross-ownership might help "to forestall the erosion in local news coverage by enabling companies that own both newspapers and broadcast stations to share some costs" (Martin 2007, 29) and ultimately create more local news, Stop Big Media accused Martin of knowingly misleading the public. They argued that studies, some even using the FCC's own data, clearly showed markets with cross-ownership suffered a net loss in the amount of local news produced by other stations as one dominant company crowded out the competition. Stop Big Media argued the idea that a broadcast station – backed by the influx of newsroom resources from a commonly owned newspaper – would produce more news may seem intuitive, but it was a flawed logic not backed up by the FCC's own evidentiary support.

Prior to the Martin showdown, in September 2007, the FCC released 10 official studies of media ownership supporting the agency's intention to relax media ownership

[97] Stop Big Media, Copps and Adelstein argued that a relinquishing a ban in the top 20 markets would set a precedent making it easier, and more likely, for the FCC to grant cross-ownership waivers in hundreds of smaller cities and towns.

rules. In October 2007, Stop Big Media Coalition members Free Press and the Consumers Union teamed up with the Consumer Federation of American to deliver a 327-page report to the FCC assessing the commission's studies on ownership. The report accused the commission of a biased interpretation of data regarding several aspects of a concentration of media ownership. With respect to one of the FCC studies on cross-ownership, consumer organizations took exception to a hypothesis that stated cross-owned broadcast stations would provide quantitatively more local news than non-cross-owned.

In its October 2007 challenge, Stop Big Media wrote that the major flaw the FCC made in that particular study was a one-dimensional focus on the effect of cross-ownership on local news output of a cross-owned station rather than accounting for the change in overall local news output for an entire market where cross-ownership was allowed. The Stop Big Media report stated, "While in some cases there may be an increase in news output at the individual cross-owned station (although much of this is in sports and weather), examining the question at the market level reveals a *decline* in the total output of local news for the market as a whole" (Kimmelman, Scott and Cooper 2007, 13). As previously stated, the assumption that cross-ownership would increase local news output became the analytical basis of Martin's argument in November 2007 to relax the cross-ownership ban in the top 20 markets, and prior to Martin it had been the driving rationale for other critics of the ban for several years.

In continuing to make their case against cross-ownership in *The Devil in the Details* response to Martin's plan, Stop Big Media reiterated their argument that cross-ownership leads to a crowding out effect:

> In markets with cross-ownership, local TV news stations generally take their cues from the local newspaper. Since these newspapers are independently owned, all the local TV news departments have reasonably equal access to the newspaper's reporters and editors. However, this mutually beneficial relationship is destroyed in markets with cross-ownership. Cross-owned TV stations are able to use their exclusive access to the local newspaper to shut out competitors from the stories that they would normally report. This leads these stations to curtail their local news operations (Aaron, Ammori, Torres and Turner 2007, 10).

However, there is a potential problem with Stop Big Media's claim. Exclusive TV-print partnerships between separately owned news entities began as a convergence trend years ago in news markets. A Ball State University study in 2004 revealed that 17 percent of daily newspapers in the U.S. had a partnership with a local television station.[98] The partnerships were a way to circumvent the cross-ownership ban while creating a mutually beneficial, exclusive business relationship. But these exclusive business relationships, also known as "synergy partnerships," are more of a coup for the stations involved since they face more competition in a given market than newspapers. Economic conditions since the 1920s have made competing dailies almost extinct,[99] and most U.S. cities today that have a commercial daily newspaper have only one. That makes the idea of a newspaper partnership an appealing business proposal to TV stations in a local news market. If a station was fortunate enough to lock in an exclusive working relationship with the only newspaper in town, it would stand to gain a competitive advantage over the other stations in the market by shutting out competitors, preventing them from creating a similar deal.

Although sharing stories and the costs of newsgathering is one obvious motive for these strategic alliances, perhaps the main incentive is as a means of cross-promoting

[98] The details of the study can be found at: http://www.bsu.edu/news/article/0,1370,-1019-27363,00.html.
[99] In 1923, 502 U.S. cities had at least two competing dailies. As of 2003, the number had declined to 24 (Hallock 2007).

each other's products. The cross-promotion consists of posting links to each other's Web sites, and running excerpts of a partner's story as a means of advertising to drive viewers/readers to the partner's Web site or traditional product. Most partnerships do not focus on co-producing of stories. For example, the Ball State University study in 2004 found that 51.4 percent of newspapers surveyed said they never shared the cost of investigations or special projects with their partners. In addition, more than half of newspapers did not share a partial lineup of stories with their partners more than once a week.

Given the economic agenda of a print-TV partnership, it should be no surprise that newspapers often team up with the top stations in the market who garner the largest audience share. For example, in Denver, one of the few news markets in the country where there are still two competing dailies, *The Denver Post* has a partnership with KUSA-TV and the *Rocky Mountain News* has a partnership with KCNC-TV. Those two stations are the number one and two, respectively, based on audience share for their flagship 10 p.m. newscasts (Saunders 2007). The deals leave the several other Denver commercial stations out in the cold, and they do not have the same opportunity as KUSA and KCNC to resource share and cross-promote their news products with *The Post* and the *News*. Thus, the loss of a mutually beneficial relationship with newspapers to which the Stop Big Media report refers is a reality already for many TV stations in the U.S. news industry. Furthermore, Denver is one of the top 20 news markets which would fall under Martin's cross-ownership plan.

In order to back up the claims that cross-ownership leads to an overall curtailment in local news production, a longitudinal study is needed comparing changes in news output among the following: stations in markets with cross-ownership, stations in markets where there are exclusive partnerships but no cross-ownership, and stations in markets where neither arrangement exists. If curtailment truly is an artifact of cross-ownership and the result of crowding out effect, it seems intuitive that exclusive TV-print partnerships would create a similar, though not necessarily exact, pattern of reduction in local news production that would be absent in those markets with no print-TV business relationships via partnerships or cross-ownership.

The conclusions by Stop Big Media regarding quantity of news output are based only on studies comparing news production among stations in markets where cross-ownership existed to markets without cross-ownership. The studies did not look at patterns comparing cross-ownership to exclusive partnerships. Although Stop Big Media said it found statistical evidence to support a theory that markets with cross-ownership leads to a crowding out effect on non-cross-owned stations in cross-owned markets, it is not known if an examination of exclusive partnerships would create the same or different findings. If exclusive TV-print partnerships in non-cross-owned markets resulted in no reduction in news output by stations left without a print partner, it would raise some question about the validity of the findings that suggest a decline in news production by non-cross-owned stations in cross-owned markets was the result of the presence of FCC-sanctioned cross-ownership. And the issue of exclusive partnerships is relevant for another reason: if an examination of exclusive print-TV partnerships reveals the same crowding out effect as cross-ownership, the debate over lifting the FCC ban either becomes moot or severely weakened. Either way, the issue of exclusive print-TV partnerships should be addressed and part of the research.

Despite the flurry of criticism and political maneuvering to stop the December 18th vote, Martin ultimately triumphed over his detractors and pushed through the vote the way he wanted it on the cross-ownership ban. However, a spokesman for Representative Hinchey said reversing the new rule would most certainly be a top priority in 2008 (Orol 2007). Hinchey was right. In March 2008, while the other House and Senate media reform bills mentioned previously were pending further action, Senator Dorgan along with Senator Olympia Snowe, Republican of Maine, co-authored and introduced a bipartisan "resolution of disapproval" to nullify the FCC vote on cross-ownership. The resolution, an unusual legislative maneuver, would invalidate the FCC's decision to allow stations and newspapers to be co-owned in the largest broadcast markets. The resolution resolved that Congress disapproved of the lifting of the cross-ownership ban by the FCC and that such rule "shall have no force or effect." The Senate Commerce Committee approved the resolution in April 2008, despite promises of a veto from the White House. About three weeks prior to the committee vote, Commerce Secretary Carlos Gutierrez wrote Senate Commerce Committee Chairman Daniel Inouye, Democrat of Hawaii, and said the Bush Administration strongly opposed any legislative attempt to pushback the FCC rule. Guierrez argued that the loosening of the cross-ownership ban modernized outdated regulations and took into account the plethora of news and information currently accessible to the American public (Dunbar 2008).

Then, in May 2008, the full Senate approved the resolution in a near-unanimous voice vote. The Bush Administration immediately reiterated its support of the FCC's rules change on cross-ownership, and once again threatened a veto the resolution if the House followed the Senate's lead. But FCC commissioner Michael Copps, who had voted against relaxing the ownership-ban in December 2007, applauded lawmakers. Copps said, "The Senate spoke for a huge majority of Americans tonight by voting to overturn the flawed FCC decision gutting our long-standing ban on newspaper-broadcast cross-ownership" (Eggerton 2008). The media reform coalition Stop Big Media saw it as a sign that the political tide was turning in their favor. In an article posted on the organization's Web site on May 15, 2008, the night of the Senate vote, Josh Silver, executive director of the media reform group Free Press and coordinator of the Stop Big Media Coalition, was quoted as saying:

> "Today's historic Senate vote is a resounding victory for the vast majority of Americans who oppose media consolidation. We applaud the bipartisan leadership of Senators Dorgan and Snowe for acting in the public interest. But to stop Big Media from polluting our local airwaves with more junk journalism and propaganda, we need the House to move this legislation forward quickly. At this watershed moment, public outrage against Big Media has reached a breaking point. … The great pendulum of political change is swinging away from corrosive consolidation and toward better media" (Stop Big Media 2008).

But critics of the resolution saw it not as an overdue turning of the political tide, but as turning back the clock to outdated and out-of-touch views on media regulation. John Sturm, president of the Newspaper Association of America (NAA), argued the Senate vote to stop "modest relief" on newspaper deregulation was a drastic mistake for consumers and newspapers. He further suggested that re-imposing the ban on cross-ownership was archaic given the current digital technology environment. In a statement posted on the NAA's Web site, Sturm said:

> "Now, the United States Senate has voted to re-impose a 1975 regulation on newspapers as if the largest explosion of media choice in the history of the world had never happened. It is incomprehensible that Congress would shackle local newspapers – and only newspapers – with a ban that fits the 8-track era, but not the I-Pod world we live in. In addition to apparently missing the dramatic change in the way consumers receive news and information, the vote ignores the well-established benefits that cross-ownership brings to local communities. …

> Providing local news and information is the essence of operating a broadcast station in the public interest – and that's what newspaper-owned stations have demonstrated they do better than anyone else" (2008).

Just three days after the Senate resolution passed, Senator Barack Obama of Illinois, the 2008 Democratic frontrunner for president, made it clear media reform would be a high profile agenda item for his administration. Senator Obama gave a speech in Oregon where he vowed to pursue a vigorous antitrust policy if elected president, and he singled out the media as a likely target for regulators. It was interpreted by Katrina Vanden Heuvel, editor and publisher of *The Nation* magazine, as a key opening for media and democracy reformers. She argued that Obama would find "smart allies" in the established media reform movement and that "working with this movement, an Obama Administration could effectively challenge the destructive and concentrated attack by corporate media consolidation on the integrity of our democracy" (2008). As part of his campaign platform, Obama previously had pledged to encourage greater diversity in media ownership, cultivate the development of new media outlets for expression of diverse viewpoints, and clarify the public interest obligations of broadcasters.[100]

In addition to action taken by lawmakers on the FCC December 2007 vote, the fight over the rules change also headed to court. The Tribune Company and other big media corporations wanted the FCC to repeal the cross-ownership ban in its entirety, not just partially relax the ban. The Tribune Company wanted no restriction or conditions on cross-ownership and argued any degree of ban violated the media's First Amendment right of free speech. The Tribune Company filed a lawsuit against the conditions surrounding the FCC's cross-ownership rules in the U.S. Court of Appeals for the District

[100] See the section "Encourage Diversity in Media Ownership" on the Barack Obama Web site at www.barackobama.com/issues/technology/

of Columbia. The speculation was that Tribune wanted the cross-ownership issue heard in that court instead of the U.S. appeals court in Philadelphia, which struck down much of the 2003 FCC deregulation attempt under Powell. Tribune filed the lawsuit in early December 2007 after the FCC had approved the transfer of broadcast licensees so the media company could sell several stations and newspapers to real estate entrepreneur Sam Zell.[101] The FCC order also granted a permanent exemption from the cross-ownership ban for a station and newspaper owned by Tribune in Chicago, but granted only temporary waivers in Tribune's four other cross-owned markets (Dunbar 2007b).

The December vote also brought Martin intense scrutiny of his character and competence as FCC chair. Martin's unflinching advance to secure a vote on the cross-ownership issue, despite public outcry and a plea from several lawmakers to delay the vote, was perceived as manipulative, arrogant and self-serving. In early December 2007, prior to the FCC rules vote and amid accusations that many FCC agenda meetings had been delayed for hours at a time while Martin conducted closed-door negotiations, House Energy and Commerce Committee Chairman John Dingell asked the Subcommittee on Oversight and Investigations to look into how the FCC was doing business and Martin's leadership (Eggerton 2007c).

Dingell said that the FCC appeared "to be broken" and added that the situation could not be allowed to continue. Dingell said that although the buck stops with Martin, the other four commissioners also had an obligation to fix the relentless sniping that had plagued the agency in recent months. But in what seemed to be a warning singling out Martin, Dingell concluded, "Agency proceedings should not be a forum to pursue personal agendas." In an interview with the *Los Angeles Times*, Martin said he was under

[101] See Chapter I for more information about the Tribune-Zell deal and the FCC involvement.

fire by Dingell and others for trying to force the FCC to deal with controversial topics (Puzzanghera 2007). However, FCC employees said the tensions among Martin and the other commissioners were bogging down the agency. In addition, employees complained that Martin's modus operandi was to keep his plans tightly wrapped, believing there was a tactical advantage in springing them on other commissioners with little notice. One FCC insider who did not want to be publicly identified called Martin "a lone operator." The entire controversy surrounding Martin is likely to evaporate by January 2009, one way or the other, as a new administration takes power and a new FCC chairman is expected to take the hot seat.

Conclusion

The broadcast regulatory debate has encompassed various disciplines (e.g., regulatory economics, broadcast law, and mass communication) over the past 100 years, but it turned a corner in the early 1980s with a shift toward favoring a market approach to policy decisions. The debate traditionally has focused on how best to regulate the broadcast media vis-à-vis a public interest standard and how to measure compliance of such a standard. But there have been competing concepts for what constitutes the public interest. The debate has heated up in recent years as critics increasingly voice concern that deregulation and concentration of media ownership are causing broadcasters to play a vanishing role as advancers of democracy (Bagdikian 2004).

As the FCC has taken on a more blatant deregulatory ethos since the 1990s, making more policy decisions in favor of broadcasters, media companies have seized the mood to step up lobbying efforts for continued relaxation of ownership rules. But the 2003 FCC vote, which started off as an obscure regulatory process about media ownership rules, morphed into a national debate about media regulation given the values of a democratic state. It was the start of an unprecedented double movement gunning for big media and to roll back the concentration of ownership. Internet media reform groups like those that make up the Stop Big Media Coalition have gained strength and momentum in their efforts to hold big media at bay. It has become clear that these reforms groups do not represent the voice of a trifling dissent nor do they have any intentions of relenting. In fact, they are making ground.

This places the U.S. in the middle of an intense political showdown that could prove to be one of the most interesting periods yet in the past 100 years of political and policy battles over the broadcast spectrum. Although the media reform groups are making an impressive show and their activism has made a difference, this is not yet promising to end as a classic David and Goliath tale. Reformists have been successful since 2003 in holding the FCC more accountable and in staving off some attempts at relaxation of ownership rules, but they are far from significantly reversing big media's gains from the decades-long trend of deregulation.

From a political economy perspective, the contemporary fight over the broadcast spectrum repeatedly has focused on a showdown between those who advocate a market-pricing system of free-transferable property rights (e.g., Hazlett and Rosston 2001), and those who argue the trusteeship model must be maintained with legislation and FCC rules reined in toward that goal (e.g., McChesney 2001). The expansion of digital technologies, cable and the second coming of network television (i.e., the arrival of new networks) in the 1980s and 1990s led some market model advocates to argue that technology and a proliferation of media outlets had greatly eased, if not eliminated, any justification of government regulation of the spectrum due to scarcity and made it a relative concept (Fowler and Brenner 1982; Benton Foundation 1999).

The argument is that there has been a threat to media democracy due to spectrum policy tethered to a market approach. Simply put, there is fear that broadcasters no longer have any substantive incentives to operate in a way that promotes democracy. As a result, the public interest standard has fallen victim to deregulation and the primacy of economic goals. Given the implications for deliberative democracy, it is important to take into account the degree to which changes in the regulation of the spectrum have enabled an increasingly dismissive attitude by powerful broadcasters toward operating in the public interest. For example, has a growing "miracle of the market" mentality in spectrum management eroded news, weakened the public purpose of news, and created a market system-free press paradox?[102] Even market proponents acknowledged that the scarcity of access to the airwaves was a creature of government licensure (Benton Foundation 1999). But other critics have continued to argue that the change in the media landscape as a result of deregulation and relaxation of ownership rules represents both adherence to and failure of the marketplace model (Bednarski 2003).

[102] These concerns were brought up in Chapter III and are revisited later in Chapter VII.

CHAPTER VI:

POLITICAL IDEOLOGY AS A POINT OF REFERENCE

> "A dominant [political] ideology may be so pervasive, so all-encompassing, that it is not even perceived by observers and analysts. Or the observers and analysts may be more or less willing parties to the use of that ideology for social control purposes … for the purpose of persuading others that the actions of government were inevitable, desirable, and widely accepted by all strata of population."
>
> -- Kenneth Dolbeare and Patricia Dolbeare (1976, 1)

It would be misleading to suggest that this research was undertaken on the premise that political ideologies *may* or *may not* have persuaded the decisions of broadcast policy makers, and that the author has broken new ground in finding such relationships exist. Inevitably, dominant political ideologies in some manner have affected decisions in broadcast regulation and policy as they have other various U.S. policy choices over time. The impact of deregulation during the Reagan Administration on Federal Communications Commission (FCC) thinking and action is perhaps the most obvious example of the influence of a dominant political ideology on broadcast regulation from the discussion presented in Chapters IV and V. But the intent of the previous two chapters was not to focus on examining the 100 year evolution of broadcast policy solely or mostly within the context of changing dominant ideologies in American politics. Chapters IV and V looked at the general evolution of regulation resulting from actions by early policy makers, the Federal Radio Commission (FRC), the FCC, the courts, Congress and activists that has structured and restructured the regulatory environment for broadcasters.

In addition, the previous chapters in this section provided a synthesis of economic and mass communication literature in an effort to add a more interdisciplinary approach to the discussion and understanding of broadcast regulation. The prominent focus of this chapter is the connection between dominant political ideology and broadcast policy shifts over time. It is apparent from the beginning of broadcast regulation in the early 1900s and through the decades that dominant American political thought strongly influenced, if not set the tone for, spectrum policy decisions. Thus, to compose the complete story of the political economic battle over broadcast regulation, it is essential to compare shifts in the general political environment in the U.S. over the 20th century to shifts in the regulatory ethos of spectrum management. This chapter compares dominant political thought and dominant broadcast regulatory thought to see in what ways and to what degree the former appears to have persuaded the latter. The author could find no previous research looking at the connection between political ideology and broadcast policy across the history of media regulation.

Political thought and associated movements can provide a backdrop that gives a clearer picture of what has motivated broadcast policy makers' actions and attitudes. This chapter provides a record of values and relationships between the dominant thought of the political leaders in power and those agents empowered with administering broadcast regulation. For example, in the era of the FCC from 1934 to present day, it is important to look at the connection between dominant FCC thought and the dominant political ideology of the presidential administration to which FCC members owe their appointment, especially the FCC chairman whose party affiliation typically is aligned with the administration. But it may be important in other periods to look at popular political or cultural movements that may have had a spillover effect on broadcast regulation. For example, the formulative years of broadcast regulation that set forth the trusteeship model of licensing took place in the early 1900s during a period known as the Progressive Era, a time of widespread economic, political and social reforms guided by the belief that government should actively protect its citizens from immorality, political corruption and unsafe or opportunistic business practices.

As this chapter will show, the connection between political ideologies and regulatory practices is more evident in some periods than others. Evaluating the evolution of broadcast policy in the historical context of political ideology reveals a chain of events that digs deeper into the political economy of broadcast regulation to understand the interconnected web of power, ideology and broadcast policy. The point in this research is to discern the center of gravity for the evolution of broadcast regulation as it relates to political thought and to interpret the degree of the impact of political ideology on broadcast regulation. This knowledge can tell us more of the story about what has directed the trajectory of media policy and regulation that has brought us to where we are today.

This chapter begins with a brief review of the concept of political ideology and the politics of regulation as a foundation for further discussion, and then moves on to identify dominant political ideology and/or political movements that correspond to the six key broadcast policy stages identified in Table 4.1 and replicated in Table 5.1 in Chapters IV and V, respectively. The primary selection criteria for the dominant political ideologies presented in this chapter essentially were the relevance of the ideology to the regulatory mindset of the administration in power or any strong countervailing political movements or ideologies that may have directly influenced the regulatory environment. The political ideologies presented are sometimes mixed with dominant economic theory, since both economic and political thought worked in tandem to set the tone for policy decisions. The ideologies presented are not intended to be exhaustive. It is important to note that the categorization of ideologies among political theorists is not a precise science and scholars are not always in complete agreement. The major ideologies used in this chapter were selected somewhat subjectively at the author's discretion and estimation, though there is consensus among political science scholars that certain ideologies and movements represented clear trends in American political thought. What certainly could be a greater source of contention is how the author suggests associations exist between specific political ideologies and developments in broadcast regulatory thought.

Political Ideology and the Politics of Regulation

Although the origin of the concept of ideology is often linked to Karl Marx, the term "ideology" was coined by a group of post-Enlightenment thinkers in France (i.e., the Ideologues) to designate the sensationist philosophy and political theory they were developing (Stern 1956, 164). Studies of political ideology as a distinctive type of human thought then emerged in the late 1930s and early 1940s as a branch of study of philosophy and the sociology of knowledge (Roucek 1944). Sociology of knowledge holds that every social group develops its own conceptual apparatus, certain peculiar methods and a specific style of thinking or patterns of thought (i.e., ideologies) adapted to its social position. With respect to political thinking, ideology has come to be defined as a cohesive set of beliefs that form a general philosophy about the role of government. Ideologies, according to Heilbroner, are "systems of thought and belief by which dominant classes explain *to themselves* how their social system operates and what principles it exemplifies" (1985, 107). In this context, ideological systems exist as both evidential and moral truths.

Political ideologies are based on beliefs about the present nature of the world integrated into a vision of how the social, economic and political order operates, why it operates as it does, and what should be done about it, if anything (Dolbeare and Dolbeare 1976, 2-3). In the U.S. specifically, changing social, cultural, economic and other circumstances will not allow beliefs and values to remain fixed politically; as a result, ideologies evolve. Ideologies involve the use of power and persuasion to achieve goals amid these changing circumstances. Voters require ideology to fill the void created by the absence of in-depth political knowledge and to provide a rationale for the complex political world around them (Farmer 2006). This makes the case for a free press even more relevant. If people are not well-informed, they fall back on ideologies to fill in the gap and are more likely to cast their votes based on blanket party ideologies instead of fact and knowledge.

According to Minar, ideology has constituted a particularly effective tool for dealing with phenomena and relationships at certain levels of political behavior, primarily to explain election voting (1961). Minar argued that ideology also is a useful concept for examining what goes on between elections. Ideologies can be used to explore the consensus on which political institutions rest, the preparation and preconditioning of man for the voting act, and the mood and mode in which governmental services are accepted or claimed and political acts performed. Finally, ideology is "especially useful as a concept in the making of cross-system comparisons where democratic and non-democratic systems are involved, since it does not assume electoral institutions confined to one type of system" (Minar 1961, 318). Certainly, assessing the influence of political ideology on broadcast regulatory ethos would qualify for such a cross-system comparison.

Political ideology in the U.S. typically has been defined in terms of party affiliation and the public's general policy sentiment or mood, but political scientists have done little in the way of rigorous analysis on the subject (Durr 1993). Such discourse often has been grounded in speculation and folklore due in part to the difficulty of empirical study of the subject. Nonetheless, Durr acknowledged that distinctive swings in the national political mood clearly have taken place over time, primarily vacillating from a dominant liberal ideology to a conservative mindset. Economic factors are often behind shifts, as Durr discovered when he conducted a study that revealed a correlation between shifts in domestic policy and the public's changing economic expectations. Durr wrote, "Buoyed by perceptions of high (or increasing) economic security down the road, Americans are more likely to underwrite a liberal policy agenda. Anticipation of doom and gloom, on the other hand, stifles such willingness, pushing the national policy mood to the right" (158).

However, the purpose of this chapter is not to look at competing political ideologies that emerge and gain dominance among the public based on economic incentives or associated party affiliations outside or inside the electoral process. The goal of this chapter is to look at dominant political ideologies from the highest point of political power that most likely would have a trickle-down effect on regulation of the broadcast media. The public casts their votes to put an administration in power but the voters do not have a say in appointments for the FCC chairman or other agency members who set rules and policies for broadcasters. Thus, it is the dominant political mindset of the administration and the FCC members, not the individual voter, that most influences regulatory action and thought. In addition, as pointed out in Chapter I, the public often is left out of the loop regarding broadcast regulatory decisions and debates because those issues often are not covered consistently or thoroughly by the mainstream news media.

In addition to the administration that appoints regulatory boards, Congress also has impacted regulation through the passage of laws by which the FRC and the FCC[103] have been required to abide. These laws sometimes represent beliefs and values countervailing to the regulatory agency and are passed to offset perceived bureaucratic drift. Bureaucratic drift is defined "as the oft-observed phenomenon of bureaucratic implementation that produces policy more to the liking of the bureaucracy than originally legislated" (Lowi, Ginsberg and Shepsle 2006, 293). Bureaucratic drift occurs because agents have different policy preferences from those of their principal – the president who appoints them or of Congress who confirms or denies their appointments.

In the case of the FCC, Congress delegates relatively broad powers over a sector of the economy (i.e., broadcasting) and authorizes the agency to make rules governing the conduct of people and businesses within that jurisdiction. Rules made by the regulatory agency have the force of legislation. When agencies make decisions or orders settling disputes, they are effectively acting like the courts. Due to this power held by agencies,

[103] The FCC was established by the Communications Act of 1934 to replace its predecessor, the FRC, which had been established under previous legislation in 1927. The FCC is charged with regulating interstate and international communications by radio, television, wire, satellite and cable. The FCC is directed by five commissioners appointed by the president and confirmed by the Senate for five-year terms. No more than three commissioners may be members of the same political party, and the president designates one of the commissioners to serve as chairperson.

the actions of the FCC and other powerful regulatory bodies are subject to scrutiny by Congress. Congress has a variety of controls over regulatory agencies including the power to hold congressional hearings regarding an agency or chairperson's actions and to decrease budget appropriations as a way to punish bureaucratic drift.

The political ideology of the administration that has appointed the FCC members likely is the single most important factor in influencing the regulatory mindset of the agency. The appointment process is a way to pre-screen the ideology of potential regulatory agents to gauge how closely they are aligned with the administration in power. This process allows the president and Congress some before-the-fact control over bureaucratic agents (Lowi, Ginsberg and Shepsle 2006, 294). It is the most powerful way an administration can guard itself against bureaucratic drift. According to Lowi, Ginsberg and Shepsle, "The adroit control of the political stance of a given bureau by the president and Congress, through their joint powers of nomination and confirmation (especially if they can arrange for appointees who more nearly share the political consensus on policy) is a self-enforcing mechanism for ensuring reliable agent performance" (293).

Thus, the best way to avoid any principal-agent conflict with respect to broadcast regulation and policy is for the administration to make sure its agents, especially the FCC chairman, are chosen carefully to ensure the administration's policy preferences will be executed. And it is much easier to control for implementation of ideology prior to the agents' appointments in a screening process than after the agents are placed in their positions of power. However, again Congress plays a role here, especially if the House and Senate majorities do not embrace the same dominant political ideologies as the administration in power. Congress can promote its vision of responsible bureaucracy through oversight and incentives. Congress can hold hearings, investigations and implement other techniques (e.g., proposing new legislation) to exercise control over the activities of executive agencies, especially one perceived to be out of control or not operating in the public interest.

One cause of bureaucratic drift is regulatory capture. As discussed in Chapter III,[104] regulatory capture theory was developed by Stigler (1971) and based on the belief that if the state can benefit an industry by regulating it, an industry will welcome regulation and logically seek to influence and control the rules. Thus, interest groups and other political participants use the regulatory and coercive powers of government to shape laws and regulations in a way beneficial to them. Capture theory posits that a regulatory agency, like the FCC, functions to maximize a private, rather than public, utility function (Horowitz 1989, 360-37). The result is state-sanctioned redistributive politics benefiting certain interest groups over others. The counter to regulatory capture theory is public interest theory. The public interest theory of regulation, also discussed in Chapter III, holds that the government will intervene in the market via regulation when it is beneficial to the public, and where market failure exists. Public interest regulation or capture theory interprets different motivations and outcomes from a pattern of government intervention in the market.

Horowitz argued that the essential function of a regulatory agency, what motivates its type and method of government intervention, is generally tied to the historical conditions within which it arises (1989, 65-82). Horowitz described three major waves or phases of regulatory genesis in American history, each period characterized by a particular set of problems and political environment that led to a distinctive type of

[104] See pgs. 83-85 in Chapter III above.

regulatory agency. For example, from 1900-1916 amid the Progressive Era, there was a rise of regulatory agencies designed to deal with the economic and social instability created by the transition to a national, corporate economy. According to Horowitz, those agencies sought to construct general rules for business behavior to safeguard the flow of commerce. The next phase of regulation identified by Horowitz was 1930-1938, which corresponded with the period of Theodore Roosevelt's New Deal. Underlying this second phase of regulatory genesis was the Great Depression and the disintegration of the economy. In this period, Congress created numerous agencies, including the FCC,[105] to rescue industries burdened by some destabilizing condition. One theory behind the origins of a regulatory agency that would set policy based on a trusteeship model of broadcasting was that regulation of broadcasting was needed to end the chaos[106] and interference that existed among competing radio stations in the 1920s.

The third phase of regulatory origin, according to Horowitz, was 1965-1977, which began as a partial outgrowth of the Johnson Administration's Great Society programs. The social regulatory agencies of this period typically reflected the values of non-producer groups like consumers, activists, or public interest groups. The rise of liberal-oriented social movements led to a limited reform effort that grew into an explicit challenge to corporate agendas. With the opening of the political agenda by the Civil Rights movement and later by consumer and environmental activism, increased political pressure drove the demand for greater corporate accountability. Twenty new regulatory agencies were established during this phase of regulation.

---

[105] The FCC replaced the FRC and expanded its responsibilities.

[106] See pgs. 100-108 above in Chapter IV regarding the chaos in the 1920s in early commercial radio.

This is the last chapter in the section *The Political Economy of Broadcast Regulation*, and it follows up on the regulatory policy periods identified in Chapters IV and V to compare them to changes in dominant U.S. political ideology to identify a pattern of correlation. This chapter offers insight into the degree that dominant political ideology spilled over into broadcast regulation and policy formation, and the nature of that effect. The question guiding this part of the study was whether or not modern liberalism created an environment less susceptible to regulatory capture, as conventional wisdom would suggest, and more conducive to upholding an independent press. In addition, the author looked at the shift from modern liberalism to neoliberalism in dominant political ideology, and looked for any substantial evidence of an alignment with a rise in a market ethos in regulation.

The author has identified three dominant political ideology periods as they have shaped and influenced broadcast regulation and policy. The author takes into account Horowitz's three periods of regulatory genesis as described above. And although there is some overlap with respect to motivation for change in regulatory thought in the three periods, there are significance differences as well. This is because the focus of this study and that by Horowitz differs. Horowitz's research identified what political and economic issues led to the birth of new types of regulatory agencies. This study identifies how shifts in political and economic thought have led to shifts in broadcast regulatory ethos. The three periods of dominant political ideology identified by the author for this study look specifically at the influence of certain periods of political thought on the evolution of broadcast regulation. Those periods are categorized as follows: "Progressivism and the Modern Liberal Perspective: 1900-1930s," "Democratic Social Welfarism and Keynesian

Economics: 1930s-1970s," and "Hail to the Market: The Religion of Neoliberalism: 1970s-2008." Table 6.1 reflects these periods and presents the six key policy stages presented in Chapters IV and V as derivatives of certain dominant political thought and/or political movements.

Table 6.1 Periods of Dominant Political Thought and Key Broadcast Policy Stages

Dominant Political Ideology	Broadcast Policy Stages
Progressivism and the Modern Liberal Perspective 1900-1930s	The Roots of Regulation 1904-1927 If It's Broken, Fix It 1928-1938
Democratic Social Welfarism and Keynesian Economics 1930s-1970s	TV, Bids and Sacrilege 1939-1979
Hail to the Market: The Religion of Neoliberalism 1970s-2008	A New Sheriff in Town 1980-1995 The Big Easy 1996-2002 If at First You Succeed, Try, Try Again 2003-2008

Progressivism and the Modern Liberal Perspective: 1900-1930s

> "No matter how loyal the different members of a national body may be one to another, their mutual good faith will bleed to death, unless some among them have the intelligence to trace their national ills to their appropriate causes, and the candid courage to advocate the necessary remedial measures."
> -- Herbert Croly (1909, 286-287)

Herbert Croly was a political theorist and journalist who called for a new nationalism that would ensure a better future, in part, by requiring Americans to emancipate themselves from some aspects of the country's traditions and past thinking including an "easy, generous, and irresponsible optimism" (1909, 7). In his 1909 book, *The Promise of American Life*, Croly challenged Americans not to envision success as an indiscriminate pursuit of individual wealth or power, but in terms of a conscious national purpose and a devotion to intellectual and technical efficiency for disinterested ends. The book did not produce lofty sales, but it had an extensive influence on what historians have come to call the Progressive Era and some political theorists have considered it to be the major work of that period (Dolbeare 1998, 412). Croly wrote *The Promise of American Life* in the middle of the Progressive Era, a period of extensive social, political and economic reforms that lasted approximately 20 years from around the turn of the 20th century until the mid- to late-1910s.[107] Three tendencies drove the Progressive reform movement: the desire to eliminate political corruption, the impulse to make government more efficient and effective, and a belief that government should alleviate social and economic distress (DeWitt 1915). Progressives wanted to apply the techniques of bureaucratic administrative control to problems posed by the city and industry.

Croly's *Promise* became so influential in Progressive ideology of the time that Felix Frankfurter[108] argued that to omit the book from any list of the most influential books on American politics between 1900 and 1930 would be "grotesque" (1930, 247). Croly called on radical reform to fix what he felt was the inadequacy of American institutions in their traditional form. The book reflected Croly's attempt to strive for a synthesis of political thought and human behavior. His book detailed the historical evolution of American political and economic society and marked a shift in liberalism from an emphasis on laissez-faire to one on interventionist government. Although the idea of America as one nation with a common history and destiny was not solely Croly's invention or that of any other of the Progressives, it was central to the Progressive

[107] The reform-driven Progressive Era began to dissipate as the U.S. approached involvement in World War I and did not regenerate to its full strength after the war. Scholars disagree somewhat on how long the period extended, some putting its end at the start of World War I and others as late as 1920.

[108] Felix Frankfurter was appointed to the Supreme Court in 1939 by Franklin Roosevelt, and served as an associate justice until 1962.

doctrine and bound their theories of politics, society and economy transforming beliefs into a program of planned government action (Eisenach 1994, 48).

Perhaps the ultimate significance of Croly's *Promise* for the Progressive Era was that it became the basic rationale of the new positive state: big government that would control big corporations in the name of the people, serving the causes of democracy, equal rights and ultimate social harmony. In brief, the positive state is a shorthand term for the express acceptance by the federal government – and thus, by the American people – of an affirmative responsibility to ensure the economic well-being of all citizens. According to Miller, the positive state involves "a societal shouldering of a duty of constitutional dimensions, a duty to take action to create and maintain within the economy minimal conditions of employment opportunities and of the basic necessities of life. Exemplified in a broad range of programs, it is the American version of the welfare state" (1979, 88). The Progressive Era was instrumental in formulating the institutional infrastructure for much of the modern welfare state, including aid to single parent families and unemployment insurance.

The idea of the positive state represented a basic shift in liberalism from strict laissez-faire (with some exceptions) to government intervention in the economy and society where a new national government would control a potentially runaway private economy. This perception of the role of the state coincided with a new economic ideology: modern liberalism, the promotion of social justice while preserving both private property and democracy (Clark 1998, 90). Modern liberalism had its roots in its predecessor, classical liberalism, which carried the philosophy of "government is best when it governs least" and held that the economy had built-in stabilizing mechanisms which were corrupted by government intervention (Clark 1998, 48). Modern liberalism shared classical liberalism's belief in the free market system, but embraced a greater faith in the economic benefits of government intervention. Modern liberals were the chief proponents of the dramatic expansion of government during the 20th century. Their perspective included a mixed economy, combining capitalism and an active democratic government as a middle path between the disruptive forces of unbridled capitalism and the totalitarianism of fascism or communism (Clark 1998, 122). Modern liberals advocated government intervention to achieve society's goals and to correct for market failure.[109]

Croly was one of the first philosophers to combine classical liberal theory with progressive philosophy, and he was viewed in his day as the father of modern liberalism (Dolbeare 1998). During the Progressive Era, based on the ideals of modern liberalism and the positive state, reformers secured a federal income tax based on the ability to pay, devised a modern national banking system, and developed government regulatory commissions to oversee banking, insurance, railroads, utilities, telephones, transportation and manufacturing (Chambers 2000). Even journalism was reformed by the Progressive movement and a new form of reporting, investigative journalism as activism, emerged. Muckraking reporters, as these journalists were called, most writing for large-circulation magazines, exposed unfair business practices and political corruption, exploitative labor practices, and impure food and drugs among other perceived social ills (Bausum 2007).

Croly's *The Promise of American Life* was a "reservoir for all political writings after its publication" (Frankfurter 1930, 307). In addition, it had profound effects on the

[109] According to Clark, these market failures fall into six broad categories: lack of perfect competition, externalities, public goods, instability, inequity, and socially undesirable outcomes that violate the values of a society (1998, 122-124).

policies of presidential administrations for many decades to follow including Theodore Roosevelt's New Nationalism, Woodrow Wilson's New Freedom and Franklin Roosevelt's New Deal. All three presidents[110] embraced in varying degrees the political philosophy and revision of liberalism advocated by Croly and other Progressives. It was amid the Progressive Era and this revision of liberalism that the origins of broadcast regulation were cultivated and the first legislation regarding commercial land-based radio implemented. "The Roots of Regulation: 1904-1927" policy stage presented in Chapter IV looked at the beginning of the debate regarding spectrum management that began in 1904 and culminated with the passage of the Radio Act of 1927. That period now can be examined within the context of the dominant political and economic ideology that corresponded to these formative years of broadcast regulation and policy.

As noted in Chapter IV,[111] President Theodore Roosevelt established The Interdepartmental Board of Wireless Telegraphy in 1904 to assess and suggest recommendations for government oversight of the radio spectrum even before radio was established as a commercial mass medium. The Roosevelt Board's report laid the initial foundation for what would become the trusteeship model of broadcasting management and spectrum allocation. The report called for government supervision of private stations "in order to regulate them for their mutual and public welfare" and "to prevent the exploitation of speculative schemes" (Howeth 1963, 551). Ultimately, after the recommendations of the Roosevelt Board and following the consensus of the radio conferences in the 1920s as radio grew into the most popular medium of the time, policy makers drafted the Radio Act of 1927 based on a trusteeship model and a public interest

[110] According to Dolbeare, "Woodrow Wilson was as good a Progressive as Theodore Roosevelt, and Franklin Roosevelt was the best of them all" (1998, 366).
[111] See pgs. 96-97.

standard. Policy makers opted for legislation that ensured government control of the spectrum in lieu of a free market system of allocation.

However, Hazlett (1990) argued that the key drafters of the 1927 law acted in their own self-interest in avoiding a pricing system for spectrum allocation as a method to halt interference and chaos that existed in radio broadcasts at the time. He contended that policy makers decided against allowing transferable property rights of the spectrum because it allowed legislators to maintain their power over the broadcast industry through the regulatory process. That theory was challenged by other economists who argued that lawmakers chose the trusteeship model because of the "unprecedented power to communicate and shape public opinion that radio allowed" and they opted for regulation because they feared what would happen to broadcasting if left entirely to the private market (Moss and Fein 2003, 407). But whether chaos or self-interest drove policy makers to adopt the trusteeship model of broadcasting, the foundation of thought that led up to such a decision cemented in the 1927 law was formulated during a time when an interventionist government and positive state was perceived as necessary to keep the free market in check. Given that dominant political and economic ideology, one would expect the prevailing attitude toward broadcasting as a public utility to lead to a regulatory system of spectrum allocation to ensure the public's welfare was protected. So, Hazlett may have been right in his theory about policy makers serving in their own self-interest instead of the public's interest, but it is likely that the dominant ideology at the time played an equal role, at the very least.

In addition, the Progressive Era and modern liberalism fueled a healthy degree of caution of the free market system. This also may have led to skepticism among early policy makers about the radio industry given the chaos in the airwaves in the early 1920s as discussed in Chapter IV.[112] If early policy makers did indeed attribute the chaos to a runaway private economy, regulation would be seen as a natural solution. Thus, Congress's choice of regulation instead of a pricing system for spectrum allocation fits the dominant political ideology of the period, especially since the origins of the public interest standard in the Radio Act of 1927 had its roots in public utility law and management, including railroad regulation and policy. And it was reflected in the ideology of the first regulatory agency of broadcasting, the FRC. The FRC decreed that radio stations should operate "as if owned by the public" and "as if people of a community should own a station and turn it over to the best man in sight" (Benton Foundation 1999). Thus, the roots of regulation leading up to and including the passage of the Radio Act of 1927 reflect a systematic application of the techniques of bureaucratic administrative control to the problems posed by the industry of broadcasting. They very clearly mirror the ideology put forth by the Progressive Era, the positive state, and modern liberalism.

Modern liberalism continued to maintain its prominence over classical liberalism in the political economy even as the activism that characterized the Progressive reform movement faded from the American landscape. The Great Depression, in part, was a contributing factor to the dominance of modern liberalism in the 1930s. The economic downturn that began with the stock market crash of 1929 and lasted until America entered World War II in 1941 dealt a crushing blow to classical liberalism and any hope of its resurgence by persuading large numbers of citizens that the free market could not be trusted to organize economic activities (Clark 1998, 49). The Great Depression was a

---

[112] See pgs. 100-108 in Chapter IV above.

transforming event in American history and it led to a restructuring of the American economy, instituted new relations between government, business, and labor, and strengthened federal involvement in the economy and social welfare.

Franklin Roosevelt took office in 1933 amid the Great Depression, and shortly thereafter he launched the New Deal, a program for domestic reform (Black 2003). Some New Deal policies wavered between accommodation of corporate leaders in the interest of preserving and promoting capitalism through economic regulation and attempts by public officials to restore the market through antitrust activities. At the same time, federal budget deficits funded work projects and relief efforts, and the passage of the Social Security Act of 1935 marked a decisive turning point in the history of social policy by extending federal responsibility for the elderly, poor and disabled. Much of Roosevelt's New Deal legislation, including public utility regulation, collective bargaining, and labor dispute mediation, was built from the regulatory framework pioneered by institutional economists.

Clark wrote that many of the economists advising Roosevelt in fashioning the New Deal were institutionalists, and that a strong case could be made to identify institutionalism as the dominant theoretical approach to economics in the United States in the 1920s and 1930s, and up to World War II (1998, 65). American institutionalism arose out of Thorstein Veblen's scathing criticism of both Marxism and neoclassical economics and his flaming critique of corporate capitalism and the leisure class in his 1899 book *The Theory of the Leisure Class*.[113] Veblen proposed to analyze the economy "as an evolving process embedded in an institutional framework including the legal system, political

[113] The original edition of the book was not retrievable. Thus, the bibliography lists a 1934 publication date for the book.

system, educational system, family life, work, customs, and ethics (64). Institutionalists also criticized the neoclassical assumptions of the rational consumer and perfect competition for disguising the power relations and inefficiency of real-world capitalism. Institutionalism was a form of the radical perspective of political economic theory that "changed the contours of society by pushing liberalism toward acceptance of the welfare state and government regulation of business" (Clark 1998, 55).

The broadcast policy period "If It's Broken, Fix It: 1928-1938" presented in Chapter IV continued to reflect a positive role of the state in regulation of the broadcast industry. The FRC (1927-1934) and the FCC (1934 and after) attempted to define and enforce a public interest standard for managing broadcasters and spectrum allocation from 1928-1938. This goal seems to have embraced the institutionalist value of community and the principle that government serve as the representative of the collective interests of citizens. The FRC in 1928 issued its first comprehensive interpretation of the 1927 Radio Act's public interest standard. The result was the General Order 40 policy statement followed by the FRC's 1929 Great Lakes decision.[114] The two combined policy decisions left no doubt among broadcasters of the FRC's intent to use content metrics as a guideline for issuing licenses. This upheld the ideals of modern liberalism that had carried over from the attitudes toward government intervention and regulatory policy from the Progressive Era.

But General Order 40's distribution of powerful clear channels mostly to stations owned or affiliated with NBC and CBS also blessed the network-dominated model of broadcasting at the expense of nonprofit broadcasters – not exactly upholding the values of the public interest over profits or a social economics approach to applying value and

---

[114] See pgs. 112-113.

ethics in economic reasoning and policy decisions. However, the move in favor of commercial broadcasters did align with the government's desire at the time to help corporations and business in order to promote capitalism. It further made sense, if one considers that a characteristic of modern liberalism was to defend abstract rights while remaining insensitive to the interests of particular individuals or groups (Clark 1998, 102). The policy mission of the FRC (and the FCC) during this period was to uphold the public interest standard of broadcasting, not to endorse rules that would benefit one group of broadcasters over the other.

Democratic Social Welfarism and Keynesian Economics: 1930s-1970s

> "The [economic] system is not self-adjusting, and, without purposive direction, it is incapable of translating our actual poverty into our potential plenty. If the basic system of thought on which the orthodox relies is in its essential unassailable, then there is no escape from their broad conclusions."
>
> -- John M. Keynes (1935, 36)

From the late 1930s until the early 1970s, the doctrine of economist John Maynard Keynes rode high in the corridors of power in Washington. By 1936 when Keynes published his seminal work *General Theory of Employment, Interest and Money*, he already was a leading authority on economic theory and policy (Breit and Ransom 1998, 67). For Keynes, enlightened government intervention in the economy was essential to curbing the inherent inequalities and instabilities of unregulated capitalism. Keynesianism transformed economics from a descriptive and analytical discipline into one that was policy-oriented with a simple concept: recessions are caused by underspending in the economy, inflation is caused by overspending. A correction can be made if the government uses spending as a policy tool: increasing spending and assuming a larger deficit during recessions, and reducing spending during boom periods. It extends the role of the state in the economy to ensure social democracy and welfarism through a redistribution of income from rich to poor to create more jobs and raise output. Keynesianism was based on the belief that greater equality was essential to preserve popular support for both capitalism and democracy.

Prior to Keynes, most classical economists believed recessions were self-correcting, a temporary aberration requiring no government intervention (Clark 1998). Keynes pointed to the Great Depression as evidence that the economy could sink into a long-run downturn. He argued the cure was increased government spending to make up for inadequate spending by consumers and businesses. According to Clark, Keynes tried without much success to get Roosevelt to experiment with the new economics during the Great Depression. However, Keynesianism really was not validated as an economic theory until World War II forced the U.S. to engage in massive deficit spending which finally pulled the nation out of its economic downturn. Keynesianism then became the new gospel for the state's role in guiding the economy through policy.

The fourth stage of broadcast policy as identified in Chapter V, "TV, Bids and Sacrilege: 1939-1979," was unfolding as Keynesianism was taking center stage in political economic thought. And although Keynes' theories on aggregate demand, output, taxes, employment, savings and interest did not have a direct application to broadcast regulation and policy, the underlying views of Keynesianism that challenged the postulates of classical economics likely influenced the perception of the state's role in regulating public trusts, like the spectrum. Keynes described his economics as a "moral science" (1936, vii). Although Keynes acknowledged the value and power of the "orthodox citadel" of mainstream economic doctrine (1935, 36), he also believed that there was a natural transition of capitalism underway in the 1930s "from economic anarchy to a regime which deliberately aims at controlling and directing economic forces in the interests of social justice and social stability" (1932, 335).

The FCC's Mayflower decision to curtail partisan broadcasting[115] made clear regulatory agents' belief that controlling content on the public's airwaves was an issue of social justice and necessary for the preservation of democracy and social stability. Then in 1949, the FCC implemented the Fairness Doctrine, confirming the right of broadcasters to editorialize if they presented a balance of opinion. Two years prior, the FCC had issued its Blue Book report aimed at controlling the economic environment of broadcasters by "eliminating advertising excesses" and requiring programming content devoted to local public issues.[116] Although the Fairness Doctrine stood for nearly 30 years, broadcasters successfully pushed back on the Blue Book restrictions and the FCC backed off, never really enforcing those rules.

Television as a new broadcast medium began to grow and build momentum after World War II, the same time as the Keynesian doctrine. For the next 30 years, a modern liberal perspective fortified both Keynesianism and a broadcast regulatory ethos that promoted government intervention in the market as endorsement of a more equitable society, democratically and economically. Throughout the 1950s and 1960s, the FCC reinforced rules and policies regarding broadcasters' content to ensure radio and television stations operated in the public's interest. In 1961, Kennedy-appointed FCC Chairman Newton Minow gave his "vast wasteland" speech, warning broadcasters to

---

[115] See pgs. 121-122 in Chapter V above.
[116] See pgs. 123-124 in Chapter V above.

start thinking more about the public interest instead of profits.[117] It was a defining moment in this policy stage for broadcasting, and Minow intended it that way. Making his message loud and clear, Minow called on broadcasters to put aside their priorities toward their stockholders in favor of "buying a share in public responsibility" (Minow 2003, 402).

The dominant political ideology during the 1960s remained connected to modern liberalism and made clear the priorities for a positive state that promoted equity and social responsibility. John F. Kennedy's New Frontier and Lyndon Johnson's Great Society from 1960-68 were the most comprehensive social agendas since Roosevelt's New Deal. Kennedy pushed for social reform, taking up such causes as civil rights, tax policy, the minimum wage, pay equity for women, labor and unemployment issues, federal aid for education, Medicare, and the creation of the Peace Corps (Bernstein 1991). Some of the proposals were implemented after Kennedy's death and during Johnson's tenure. One of the main goals of Johnson's Great Society social welfare reforms was the "War on Poverty," including health programs and other policies to aid the poor (Mooney 1977).

New major spending programs for education, medical care, urban issues, and transportation were undertaken in this period. The Great Society resembled Roosevelt's New Deal in scope and modern liberalism tone, but involved different types of programs to address many of the same problems. Both Kennedy's New Frontier and Johnson's Great Society followed the ideals of Keynesianism and modern liberalism. Even in the early 1970s during the Nixon administration, Keynesianism was riding high. A Democratic-controlled Congress legislated a huge wave of regulatory reform dealing with

[117] See pgs. 126-127 in Chapter V above.

occupational safety and health, civil rights, and consumer protection. President Richard Nixon signed the legislation into law commenting that "we are all Keynesians now" (Harvey 2005, 13). But by the mid-1970s the tide had changed. A new body of ideas would move modern liberalism closer to classical liberalism by reducing the role of government in economic affairs and challenging the view of government as an impartial defender of the public interest (Clark 1998, 125-126).

Hail to the Market: The Religion of Neoliberalism: 1970s-2008

> "The Keynesian revolution against laissez-faire was costing the corporate sector dearly. Clearly what was needed to regain lost ground was a counter-revolution against Keynesianism, a return to a form of capitalism even less regulated than before the Depression. … And that's where the Chicago School came in."
> -- Naomi Klein (2007, 56)

Keynesianism began losing steam with the double-digit inflationary recession of 1973-74 followed by the inflationary recessions of 1979-80 and 1981-82. Stagflation violated the fundamental assumptions of Keynesian theory since Keynesian economics is capable of handling either inflation or unemployment, but incapable of handling both simultaneously (Knight 2001). The inflationary recessions hurt Keynesian policies and led to a resurgence of classical liberalism via supply-side economics, monetarism and new classical economics. As a result, the last quarter of the 20th century was marked by the ascension of neoliberalism and dramatic institutional change in macroeconomic policy, labor markets, taxation, banking and healthcare. Neoliberal doctrine dramatically was opposed to the state interventionist theories that rose to prominence in the 1930s and 1940s under Keynesianism. Neoliberalism was based on a political agenda of institutional shifts promoting market deregulation, state decentralization, and reduced political intervention in national economies (Knight 2001, 29-30). It changed the role of government and its regulatory agencies, including the FCC.

By the time of the Carter Administration in the late 1970s, the classical doctrine in the form of neoliberal theory began to exert influence in a variety of policy fields and it emerged as one of the answers to the chronic state of stagflation in the U.S. But neoliberalism as the new economic orthodoxy regulating public policy gained almost unbridled momentum in the early 1980s with the Reagan Administration (Harvey 2005). Neoliberals argued that government had become a tool of special interests, so that policies intended to promote equity often had the opposite effect. Therefore, reducing government intervention by deregulation would likely be beneficial to disadvantaged groups (Clark 1998, 126). Proponents of dismantling onerous regulatory controls in the 1970s and 1980s declared the politics of deregulation a moral obligation.

Although neoliberalism had not risen to a dominant political ideology until the fall from grace of Keynesianism in the 1970s, it dated back to the 1940s and an exclusive group of passionate intellectuals that included economist Milton Friedman of the Chicago School. Friedman attacked the new economics of Keynesianism and was highly skeptical of any type of government intervention in the economy (Breit and Ransom 1998, 227-228). When Keynesian policies faltered in the early 1970s, Friedman and other classical liberals were quick to fill the theoretical void (Clark 1998, 51). Naomi Klein, in her book *Shock Doctrine* (2007), focused on the influence of Friedman and the Chicago School on U.S. economic thinking. As noted in Chapter IV,[118] Klein talked about policy setting by diversion and opportunism, and how corporations and politicians since the 1970s have

[118] See pgs. 105-106 in Chapter IV above.

capitalized on public disorientation following massive collective shocks to push through reforms the public normally would reject.

Klein described the policy strategy as disaster capitalism and she noted that Friedman advocated exploiting large-scale shocks or crises to "facilitate the adjustment" of economic shifts (2007, 7). The recessions and inflationary economic shocks of the 1970s and 1980s allowed for a general policy of deregulation and a return to classical liberalism. The shocks and resulting shift in political ideology also set the tone for a regulatory environment more favorable for large, profit-seeking corporations. The Keynesian revolution against laissez-faire had cost commercial broadcasters dearly, preventing them from unlimited growth and the ability to operate freely in their stockholders' interest. With the adjustment of the economic shift from modern to classical liberalism after chronic stagflation, what was once politically impossible to achieve for broadcasters was now politically inevitable. The regulatory ethos was realigning in their favor as it was for all business, and it continued to get better as neoliberalism spawned neoconservatism.

Neoconservatism traces back to the early Cold War debates of the late 1940s and gained some momentum with opposition to the student counterculture of the 1960s, but did not become a right-wing, Christian-conservative-based electoral force until the 1990s (Ehrman 1995; Harvey 2005). U.S. neocons favor corporate power, private enterprise and the restoration of class power and are in agreement with the neoliberal agenda of elite governance and the maintenance of market systems (Harvey 2005, 82-83). As a political ideology, neoconservatism has long "hovered in the wings as a movement against the moral permissiveness that moral individualism typically promotes" (Harvey 2005, 83).

Neoconservative doctrine is closely associated with neoliberalism in a general belief in the market's efficiency, but it rejects the ethical relativism of classical liberalism, claiming that some values and lifestyles are better than others (Clark 1998, 84). Neocons believe that unbridled capitalism undermines the social bonds of community and they defend a significant role for government in sustaining a social climate conducive to individual moral development and social cohesion. Neocons believe that an "adversary culture" composed of liberal professors, journalists, government bureaucrats and others have captured control of public opinion by virtue of influence over the media, unduly influencing government policies (Clark 1998, 84).

According to Klein, when the Republicans gained control of Congress in 1995, David Frum, a speechwriter for George W. Bush, was among the so-called neoconservatives calling for a shock therapy-style economic revolution in the U.S. to put the final nail in the coffin of the welfare state. But Klein argued that Frum and other neoconservatives were not successful because "there was no domestic crisis to prepare the ground" (2007, 11). The crisis would finally hit in 2001 with the September 11th attacks. The Bush Administration seized upon the fear generated by the attacks to launch the War on Terror and to make sure big business profited, a move best understood as a "disaster capitalism complex" which was much more dangerous than the military-industrial complex Dwight Eisenhower warned against at the end of his presidency (Klein 2007, 12). Since 2001, neocons have enabled the complex to expand its market reach from fighting terrorism to international peacekeeping and disaster relief. The ultimate goal for corporations at the center of the complex, according to Klein, is to bring the model of for-profit government into the ordinary day-to-day functioning of the state (12).

Neoliberalism from the 1970s through today has become a campaign against big government, supporting deregulation and promoting a pro-market system of economic and political policies. It emerged as a theory of political economic practices that proposed that "human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade" (Harvey 2005, 2). The doctrine proved to be the predecessor of a draconian shift in broadcast regulation beginning in the period identified in Chapter V as "A New Sheriff in Town: 1980-1995."[119]

The breakdown of the trusteeship model for broadcasting coincided with the rise of neoliberalism and deregulation of the broadcast industry. It was led by FCC Chairman Mark Fowler, appointed by Ronald Reagan. Although Nixon-era FCC Chairman Dean Burch introduced the concept of deregulation, Fowler picked up the idea and ran with it, coining the policy shift "unregulation" (*Reason* 1981, 33). Fowler and FCC chairs have since chipped away at content and ownership restrictions for broadcasters, and advocated a marketplace approach to spectrum management in lieu of the public trust model. Broadcasting had fallen off its pedestal of importance in democratic society, and had become just another appliance, "a toaster with pictures" according to Fowler (Nossiter 1985, 402). Thus, it made sense that the encroachment of classical liberal values for the role of government would extend to the regulation of the broadcast industry.

As stated in Chapter V, broadcasting became just another free-market business, broadcast news included. This meant that news, long used by broadcasters to justify their use of the public's spectrum, lost its importance in a marketplace driven by the quest for profits over the quest for ideals and the advancement of democracy. The shift in

[119] See pgs. 129-132 in Chapter V above.

broadcast regulation fit perfectly into the dominant political thought of the time. The final disappearance of almost any semblance of a meaningful public interest standard in broadcast regulation occurred when the FCC rescinded the Fairness Doctrine in the late 1980s. By that time modern liberalism as a dominant political ideology was in hibernation, and so was the public trusteeship model of broadcast regulation and policy.

The 1980s marked the beginning of a brave new world of deregulation for broadcasters. And as noted in the policy stage "The Big Easy: 1996-2002" in Chapter V,[120] the 1990s continued their good fortune thanks to the neoliberal doctrine. The gains of deregulation of the 1980s opened the door for an ambitious agenda by broadcasters to lobby for a dramatic relaxation of ownership rules. In a pro-market, pro-business environment of political thought, broadcasters' efforts paid off big with the Telecommunications Act of 1996. The act greatly reduced the cap on station ownership for radio and television. In addition, the legislation guaranteed broadcasters billions of dollar's worth of additional spectrum for free for the transition to high-definition, despite broadcasters' poor track record of using the airwaves to operate in the public interest. Broadcasters were reaping the rewards of a new political ideology that saw them not as public servants or trustees of a valuable public good, but as a free market institution that had been one of many victims of an interventionist state.

As discussed in Chapter V, the policy stage "If at First You Succeed, Try, Try Again: 2003-2008," it was apparent by the turn of the 21st century that broadcasters seemed to have little to fear from the FCC. Broadcasters had captured the regulators who were in charge of monitoring them. Within a five-year period, the FCC voted twice to relax ownership rules. But the votes were challenged in court and by lawmakers who felt

[120] See pgs. 132-133 in Chapter V above.

the FCC had abandoned its core mission to hold broadcasters accountable as trustees of the public airwaves. An Internet-based grassroots media reform movement emerged and became a powerful countervailing movement to the neoliberal, pro-market ideals that have dominated the FCC since the early 1980s.

The showdown over broadcasting that began in 2003 and intensified over the following five years among activists, members of Congress and the FCC over a relaxation in ownership rules and media reform may or may not represent big change on the horizon.[121] With respect to Congress, lawmakers introduced competing legislation designed to either condemn or bless the 2003 and 2007 votes by the FCC that represented the agency's growing pro-market ethos. The showdown was centered around competing ideologies and differing opinions on whether or not the FCC was suffering from a bureaucratic drift. Some lawmakers believed the FCC had lost its way and had become co-opted by the self-interest values of broadcasters, especially market-oriented values. Other lawmakers disagreed, and argued that the rules of the market, not outdated interventionist ideals based on a misguided concept of public interest, should guide FCC policy.

The aggressive campaign by some lawmakers and Internet-based grassroots organizations to roll back a relaxation of media ownership and force the FCC to reinstate policy based on a democracy-oriented public interest standard seems to be driven by a modern liberal view of the role of government. Either way, neoliberal-guided broadcast policy is hardly near death, and a concentration of media ownership will be difficult to turn back no matter who wins the White House in 2008. In addition, it is possible the

[121] The five-year battle was detailed in Chapters I and V. See pgs. 1-6 in Chapter I and pgs. 134-155 in Chapter V above.

strength of the current media reform movement is simply an anomaly of our political culture, a corrective response to the concentration of media ownership and not some bigger picture reflection of any significant shift in dominant political ideology in the U.S. But one thing is certain: the battle over broadcasting has become trapped beneath an undertow of competing political ideologies, and it is impossible to predict the direction regulation will take when both sides surface from the dispute.

Conclusion

A central question guiding this part of the study was whether or not modern liberalism created an environment less susceptible to regulatory capture, as conventional wisdom would suggest, and more conducive to upholding an independent press by way of enforcement of a public interest standard for licensing. All evidence certainly affirms this. In order to understand the nature of regulatory capture with broadcasting, it is necessary to consider the political ideology as a genesis – that is, which ideologies are more likely to produce regulatory capture.

It is clear from looking at the three periods of dominant political ideology as a point of reference in examining the political economy of broadcast regulation, that the period of modern liberalism from 1900 to the 1970s produced the strictest regulatory oversight for broadcasters based on public interest regulatory theory and therefore, it created the greatest expectations that broadcasters operate in the public interest. Neoliberalism from the 1970s to present day produced an environment most favorable to the economic interests of broadcasters and least favorable for the public interest. There has been an increased threat of regulatory capture of the FCC by broadcasters since the 1980s, especially since 2003. And as the next chapter reveals, changes in the regulatory environment since the 1980s have not only contributed to a transition economy for the network news divisions, they have enabled broadcasters to be increasingly dismissive of public interest standards in broadcasting, especially the importance of news as a means to operate in the public interest.

Thus, the shift from modern liberalism to neoliberalism has increased the likelihood of regulatory capture because the FCC has become inherently biased toward the capitalist system. This bias has emerged from a top-down ethos, stemming from the administrations that appoint FCC members. Regulatory agents have increasingly adopted the values of broadcasters to maximize a private rather than public interest utility function because a pro-market, neoliberal ideology has increased in general U.S. economic and political ideology since the 1970s. In turn, the bureaucratic drift of the FCC toward an attitude of obeying the laws of the market has helped breed a decline in broadcasters' incentive to uphold democracy through news that serves the public interest instead of a profit motive.

The market model of broadcast regulation driven by neoliberalism has perverted the public interest model of regulation. The trusteeship model that preceded the market model of broadcast regulation was the direct result of modern liberal values and a positive state. There is little doubt the roots of regulation in the early 1900s would have produced quite different results had neoliberalism been the dominant political ideology instead of modern liberalism, but it is unclear if we would still be at the same point neoliberalism since the 1970s has brought us to today.

PART THREE: *THE SUSTAINABILITY OF A FREE PRESS*

CHAPTER VII:

THE TRANSITION ECONOMY OF NETWORK NEWS

"You guys cover the news. I've got Jack Benny to make money for me."
-- William Paley
CBS Chairman in 1962 to the News Division
(Kalb 1998, 10)

The first regularly scheduled network television newscast, the Camel News Caravan, debuted February 16, 1948, on NBC. Just three months later CBS was on air with its own evening news show, and ABC followed soon after. Over the next 30 years as network news divisions grew, the inherent value of news seemed to be in its usefulness in serving the public by informing the citizenry in a participatory democracy. At least, that was the justification the networks embraced and touted in allowing news to operate outside an economic environment of profit expectations. The bottom line for news was all about serving the public interest requirement for licensing considerations and at generating prestige for the networks (Stossel 2000).

However, several developments occurred starting in the late 1970s and continuing throughout much of the 1980s that worked in concert to diminish the networks' incentive to use their news divisions as a way to operate in the public interest. First, the networks experienced an epiphany in the late 1970s when the news magazine program *60 Minutes* became a surprising source of profit for CBS (Campbell 1993; Hewitt 2002). Second, the FCC took on an accelerated deregulatory mindset in the early 1980s under the Reagan

Administration, relaxing ownership rules and other regulations for broadcasters (MacDonald 1994). Third, merger-mania hit many industries in the 1980s, including television. ABC, CBS, and NBC all changed ownership in 1986 leading to new ground rules regarding financial accountability for news (Auletta 1991). Fourth, the broadcast landscape changed dramatically in the late 1980s with the arrival of Fox and the expansion of cable television (MacDonald 1994). And fifth, the FCC discarded the Fairness Doctrine in 1987, eliminating a major performance criterion for licensing renewal and the networks' primary motivation to use news to operate in the public interest.

These developments, laid out in Table 7.1 below, had a profound effect on network news organizations. News as a business changed and by the late 1980s network newsrooms clearly were expected to make a profit like any other network division – but the economic transformation was nothing less than a culture shock for those in the industry at the time. News executives, long accustomed to trivial, if any, profit expectations and the freedom to cover the news as they saw fit, found they were fighting a new corporate mentality. The result was a clash of ideals, and ultimately a redefined purpose for the news business. This chapter follows that path of change, and discusses the institutional and economic evolution of network news as it went from profit exemption to the expectation of making money, all within the span of a decade. In that regard, what follows is a discussion of network news as a transition economy.

Table 7.1 Key Developments Impacting Network News Divisions' Profit Expectations

1979	1982	1986	1987	1987
60 Minutes starts to make money	Rise of FCC deregulation ethos	Merger-mania envelops networks; Big Three change ownership	Fox arrives; "second coming" of network television	FCC eliminates Fairness Doctrine

Economic Theory as an Antecedent

Problems of economic transition are typically discussed in the classic academic texts as a story of conversion from centrally planned economies to market systems for countries (Angresano 1996; Schnitzer 1996). A key feature of a planned economy is the rejection of market prices as the determinant for allocation of resources and output. It can be argued that the economic model for the early years of network news organizations was a rejection of the market mentality, at least implicitly. Input prices and audience/advertiser demand were not used to determine how network resources were allocated to news production or how much news was produced. Instead, news was, in an economic sense, centrally planned to fulfill a public service function to justify licensing.

For the first 30 years of network television, the Big Three networks operated their news production akin to the socialist state adjudicating economic activity via a centrally planned system. News was part of a centralized plan by each network to maintain licensing, and each network determined how much news was to be produced to meet that agenda. The income from the sale of news programs, advertising revenues, was not the determinant for sustaining news production. But eventually the economy for news changed, and news production began to follow a market system model where costs of production along with consumer demand (i.e., ratings) and advertising prices guided the application of resources. Thus, the economic basis of broadcast news production began as non-price system and then evolved into a system determined by market and profit-driven principles.

The network news divisions' transition economy is characterized in this chapter as a movement from soft to hard budget constraints analogous to that of a state-owned enterprise transitioning from a planned to free market system. In order to examine the transition economy of news in the context of hardening budget constraints, it is first necessary to address the basic tenets of Kornai's theory on budget constraints of the firm. Economist Janos Kornai was first to introduce the concepts of "soft" and "hard budget constraint" in his inquiry into the nature of the firm in socialist systems and the interaction of politics and economics in post-socialist transition (1979, 1980, 1986). Typically, state-owned firms served many social functions and were allowed soft budget constraints to finance these functions. The concept of soft and hard budget constraints – terms which have become part of the economics lexicon – are the focus of this chapter and refer to a category of constraints that can limit efforts by the firm to increase production.[122]

According to Kornai, "A budget constraint is *hard* if it is asserted with iron discipline: the firm can spend only as much money as it has. It has to cover expenses from its incomes from sales" (1979, 806). A hard budget constraint leads to an ex ante behavioral regularity which exerts an influence on the firm's production decisions. The antithesis of the hard budget constraint is the soft budget constraint. Kornai defined the

[122] In addition to budget constraints, Kornai focused on two other potential types of constraints that can affect the firm's ability to increase production: (1) resource constraints or limitations of production based on available physical and technical resources, and (2) demand constraints whereby the sale of a product is limited by the buyer's demand for the product at given prices (1979, 803). Although Kornai's concept of demand constraints might be especially useful in future research on the economy of news, neither demand constraints nor resource constraints are considered in the present discussion.

concept of a soft budget constraint syndrome as a situation where the principles of a hard budget constraint "do not get asserted consistently" (1979, 806). A soft budget constraint refers to a situation where choices of output are not limited by a scenario whereby expenses on production costs do not have to be recovered by revenue from the sale of the products plus the initial stock of money (Kornai and Martos 1981, 169). Thus, a firm that receives state assistance when its expenses exceed its revenues is operating under a soft budget constraint. The traditional socialist firm, to which Kornai applies the concept of soft budget constraint, has its production plan determined by directive, "prescribed by superior authority," and it lives in an atmosphere of growth at a controlled rate (1980, 27).[123] Like the traditional socialist firm, production decisions for news were until the late 1970s determined by directive, prescribed by the "superior authority" or the corporate parent, as it were.

Kornai also assessed the hardness or softness of a firm's budget constraint on two phenomena: survival and growth (1979). A firm is operating under a hard budget constraint if its survival is dependent upon its financial fortitude. Thus, the budget constraint is hard "if grave financial difficulties drive the firm to bankruptcy. It dies of its losses in the strict sense of the word" (1979, 806). The budget constraint is soft if the state helps the firm out of trouble by various possible methods including subsidies or exemption from taxes. In essence, "the state is a universal insurance company" which compensates a firm for the damage or losses it incurs in a manner that guarantees the

[123] As for the classical capitalist firm, the opposite holds. The capitalist firm operates under hard budget constraints and the production plan is autonomous. The capitalist firm also tends to be more susceptible to demand constraints than resource constraints whereas the opposite is true for the state-run enterprise (Kornai 1980, 25-27).

survival of the firm (806). As Kornai put it, the firm's attitude is that "if there is a loss, the state budget will take over" (1979, 807).

The second phenomenon identified by Kornai addressed the idea that a firm operates under a hard budget constraint if its growth is contingent upon its own financial position. That is, the firm's growth is determined by its capacity to save and accumulate from its earlier profit, and its ability and willingness to take out credit for investment, as needed. On the other hand, the budget constraint is soft if the growth of the firm is not tied to its present or future financial situation (1979, 807). Simply put, a hard budget constraint restricts a firm's action and freedom to invest in itself for growth. Soft budget constraints do not limit such action because money only has a passive role for the firm. That is, "Let it cost what it may" (807). The primary determinant for growth in a firm which has a soft budget constraint is the willingness of the state to grow the firm, not in the firm's financial capacity to grow itself.

As this chapter shows, the first three decades of network news fit Kornai's concept of a firm operating under a soft budget constraint: choices of output for network news initially was not limited by a scenario whereby expenses of news programs had to be recouped through the sale of advertising for those programs. In addition, during the period examined, production by the network news divisions met the characteristics of survival and growth that Kornai attributed to a soft budget constraint syndrome. With respect to survival, the network news divisions' existence from the late 1940s until the late-1970s was not dependent upon their own economic success. Whereas in a command-planned economy, the soft-budget-constraint firm received state assistance when its expenses exceeded its revenues, the news divisions received assistance from the parent networks when the expense of news exceeded its revenues. In addition, the growth of the news divisions was not restricted by their financial situation for the first 30 years of the television networks. The primary purpose of news was to show regulators the networks operated in the public interest and, as a result, money played only a passive role in the mission of news.

There have been no previous applications of Kornai's theory of budget constraints in a socialist economy or comparative economic theory to the evolution in profit expectations for network television news. However, it is without question that the shift in profit expectations for the network news divisions embodies a dynamic economic transformation. The transformation established new working rules, formal and informal for news. The change of the formal and informal rules in the news business is consistent with comparative economic theory. As Angresano noted, "New economic philosophies foster attitudes (informal rules), which subsequently influence authorities to alter (formal) working rules, thereby reshaping or establishing institutions" (1996, 10). Furthermore, according to Angresano, an economy may experience a growing disorder over time among institutional components which cease to be in harmony with other components and consequently initiate conflict. Such conflict "can stimulate the dynamic process whereby chaos breeds discontinuity within institutions and new institutions are adopted" (1996, 9). As this chapter details, discontent emerged in the economic system for news after a series of events led to conflict between the news divisions and their parent owners. It can be argued that network news organizations faced a changing economic philosophy as a result of this conflict, subsequently reshaping news as an economic institution.

In examining the history of network news and its changing economic properties as an institution, the author would be remiss not to revisit North's theory of institutional change introduced in Chapter III.[124] The transition economy of network news was brought about by a change in news as an institution, its evolving formal and informal rules. As this chapter points out, the formal rules changed for news as an institution when the FCC and Congress stepped up deregulation of broadcasting, including elimination of the Fairness Doctrine as discussed in Chapter V in the section titled "A New Sheriff in Town: 1980-1995."[125] The underlying informal rules began to change as the networks started to put pressure on the news divisions to profit following the financial success of *60 Minutes* and increased that pressure later when the networks faced additional competition from cable television and new networks. Collectively, these changes meant that behavior which was once the accepted norm for the news divisions (i.e., operating under soft budget constraints) became unacceptable conduct, a violation of the new rules of the game.

The process of transition and change was incremental at first for news, a gradual increase in pressure for news to make money. North contended that institutions typically change incrementally. Their evolution likely was slowed by the "formal constraints embodied in customs, traditions, and codes of conduct [that] are much more impervious to deliberate policies" (North 1999, 6). It took a decade for the rules of the game to change for news – an incremental process for much of the transition leading up to a change in ownership of the networks in the 1980s. There had been a longstanding tradition that news did not exist to turn a profit or even pay for itself because it served a

[124] See specifically pages 78-83 in Chapter III, *The Character of a Free Press*.
[125] See specifically pages 129-132 in Chapter V, *The Battle over Broadcast Regulation: 1939-2008.*

higher purpose, the public purpose. This fueled a resistance by the news divisions to operate under hardening budget constraints. But a shift by the FCC toward a market model of broadcast regulation in lieu of a trusteeship model, and new ownership for the networks in 1986 drastically altered the historic path of news as an institution. For the news executives working at the networks during this stage of the transformation, the new economic rules of the game felt like shock therapy.[126] The idea that news had to make a profit was a foreign and offensive concept to news executives, and unprecedented in the history of commercial broadcasting.

The Birth of Commercial Broadcasting

When the first licensed commercial radio station, KDKA in Pittsburgh, went on air in 1920, radio was in its infancy, and the radio networks had not yet formed (Lewis and Booth 1990). The real perceived profit in early radio was not in advertising, it was in manufacturing and selling radio receivers. Commercial radio stations were established primarily to provide incentive for consumers to buy receivers (Lubar 1993). But the radio industry was set on a dramatically different trajectory in 1922 when WEAF in New Jersey accepted money from a real estate developer in exchange for a few minutes of air time so that the broker could make a sales pitch. The concept of the broadcast commercial was born, but not without a fight.

Stations that had earlier tried to sell ads received "cease and desist" letters from the Department of Commerce because the medium was viewed as a public information

[126] Shock therapy refers to the rapid privatization of a country's economic system, a quick conversion from a command planned economy administered by the Communist party to a system of private property and market mechanism based on free prices. According to Kornai, the "shock-therapy" expression was taken from psychiatry, where the shock itself was thought to have a healing effect. In economic stabilization, however, "the shock is not the actual therapy, because it is an undesirable, but in some cases inescapable side effect" (1995, 67). The alternative to shock therapy is a gradualist approach to economic reform instituted by gradual price liberalization carried out over a period of time instead of overnight.

service. And even two years after WEAF aired what often is credited as the first broadcast commercial, 75 percent of radio stations refused to accept sponsors based on the sentiment that commercialization of radio was morally abhorrent (Billboard 2005). Secretary of Commerce Herbert Hoover even cautioned at the Third National Radio Conference in 1924 that the quickest way to kill broadcasting would be to use it for direct advertising. The warning fell on the deaf ears of radio executives who realized that advertising would ensure profits long after the American market became saturated with radio receivers.

At first, station operators pledged to keep advertising to a minimum, and the National Association of Broadcasters (NAB) even forbade commercials between seven and 11 at night (Billboard 2005). But even with the threat of losing licensing or being placed on probation by government regulators, station managers found it increasingly difficult to ignore the temptation of the big money to be made from advertising. Eventually the social and regulatory barriers to broadcast advertising collapsed. Advertising became the primary source of revenues in radio by the late 1920s, and the sale of time on radio secured it as a commercial, profit-based system (Dempsey 2002). This led to the rise of the radio networks through an affiliate system that could deliver large, national audiences to advertisers.

David Sarnoff founded the first official radio network, NBC, in 1926, though AT&T became the first informal network when it interconnected 22 stations for a shared broadcast in 1924. By the time NBC was established the broadcast industry had become too big for the Commerce Department to manage under existing legislation. The central debate over how to regulate radio had focused on property rights of the broadcast spectrum: Who really owned the airwaves? William Howard Taft was the Chief Justice of the Supreme Court from 1920-1931; during his tenure the Supreme Court refused to consider any radio cases. Taft saw the very idea of trying to rule on the matter of property rights and radio regulation a daunting task where "interpreting the law on this subject is like trying to interpret the law of the occult. It seems like dealing with something supernatural" (Coase 1959, 14). Congress was forced to venture into the very legal territory where the Supreme Court refused to go, and lawmakers responded with the Radio Act of 1927.[127]

The Radio Act of 1927 did primarily three things: (1) it established the forerunner to the FCC, the Federal Radio Commission (FRC), to regulate radio and represent the government in allocating frequencies, (2) it determined that the broadcast spectrum was in the public domain, and could be used by broadcasters but not owned as private property (i.e., formalizing a trusteeship system that still exists), and (3) it set the licensing standard requiring broadcasters to operate in "the public interest, convenience, and necessity" (Ford 1961; Goodman 1998). The same public interest criterion for licensing later was applied to television. As the television networks grew to dominate broadcasting during the 1950s, news was seen as a way to fulfill the public interest requirement where entertainment programming was the real money-maker. Those separate missions for news and entertainment led to an invisible wall.

The Invisible Wall

An invisible wall separated the networks' news divisions from their entertainment divisions when it came to financial accountability. During the first 30 years of television,

[127] See Ch. IV for a detailed account of the formulation of early broadcast regulation including the passage of the Radio Act of 1927.

news was seen as having a higher purpose than just filling air time to lure audiences for advertisers. Stations needed the airwaves to broadcast and the government had deemed the airwaves a public trust. Thus, news was a way to legitimize free use of that public trust, a way to ensure stations operated in the public's interest as required by licensing. As a result, news divisions faced no significant pressure to profit. Sig Mickelson, the first president of CBS News, discussed the informal financial rules that existed for news in his book about CBS in the 1950s:

> It was comfortable for broadcast executives in the 1950s to boast at public forums and before congressional committees that they were investing large sums of money in news and public affairs without hope of significant return. It was at least implied that news and news-related programs were carried as loss leaders in response to an obligation to "serve in the public interest" (1998, 194).

However, Mickelson also made it clear that the news department and the divisions producing news documentary programs hardly enjoyed a free ride. News still had to garner competitive ratings, and news budgets were less than those for entertainment and certainly not open-ended. Expenses had to be justified and commensurate with the quality of the program whether a newscast, news magazine show, or documentary. But as long as costs were at a reasonable level, news-type productions were left alone (Mickelson 1998). As a matter of fact, CBS Chairman William Paley in 1962 described his aggressive plans for expanding news to a small group of correspondents and he reassured the broadcast journalists that money was no object. Paley told the CBS News division, "You guys cover the news. I've got Jack Benny to make money for me" (Kalb 1998, 10). But Don Hewitt of CBS, *60 Minutes* creator and one of the directors of the televised 1960 Great Debates between Kennedy and Nixon, said he saw the writing on the wall early on:

> I had entered the television age in the era of news as a public service and spent my TV adolescence serving that cause. In the '60s I had begun to realize that TV

> news was going to have to pay its own way. Otherwise, it was going to disappear into the sinkhole called The Sunday Afternoon Ghetto, where documentaries and discussion shows could do no harm to the Jackie Gleasons and Lucille Balls who paid the bills and made CBS Television the entertainment conglomerate it had become (Hewitt 2002, 108).

Despite Hewitt's sixth sense about where news was headed, Paley viewed news in the 1960s as CBS's crown jewel. Michael H. Jordan would scoff at that attitude after he became CBS Corporation CEO in 1993, after Paley was out of the picture. Jordan led CBS through one of the most comprehensive transformations in corporate history before his retirement in 1998. He downplayed CBS's "Tiffany network" legacy, suggested it was outdated like Art Deco, and argued that holding onto that image suggested an unwillingness to change (Auletta 1998). Jordan made it clear the real prize, as he saw it, was no longer prestige or public service, but profit. And he made no apologies about the changes implemented for news and entertainment at CBS under his leadership:

> "Yes, we want to hold onto journalistic and other standards. But I don't aspire to that Paleyesque role. This is a business...This is more like running Frito-Lay. You're selling the consumer and deciding whether to spend a hundred million dollars to launch a product and deciding, Will this succeed?" (Auletta 1998, 42).

It was evident by the early 1990s that the invisible wall which once allowed news to operate under a soft budget constraint no longer existed, just like CBS's reputation as the Tiffany network. The wall that buffered news from the same financial expectations as entertainment crumbled as part of an economic transition. Critics have argued the resulting hard budget constraint changed the way news divisions operated, and news coverage evolved into a cheaper-to-produce model of softer news mixed with a rise in political pundit television (Kalb 1998). The first fissure came in the late 1970s with the unexpected financial success of CBS's *60 Minutes.*

The Success of *60 Minutes*

> "*60 Minutes* has single-handedly ruined television. No one can report news today without making money."
>
> -- Don Hewitt
> *60 Minutes* Former Executive Producer
> (Campbell 1993)

The CBS newsmagazine program *60 Minutes* debuted in 1968 at a time when news divisions operated as a loss leader. Although *60 Minutes* is a news magazine program and not part of the daily newscast production of television, nevertheless, it is produced by CBS's news division and its success influenced the profit expectations for all news production. Prior to *60 Minutes,* there was no question that news – including traditional newscasts and news magazine programs – was a way for the networks to meet the public interest requirements of licensing, all the while using news to justify big profits reaped from the networks' entertainment programming (Friend 2001). But then an anomaly transformed the news industry. A decade after *60 Minutes* first aired it became a ratings hit, trumping some of the highest-rated entertainment shows of the time and for many years to come. CBS's *60 Minutes* climbed to the top 10 highest-rated broadcasts, and stayed there for 23 consecutive years – the only network program in U.S. broadcast history to rank number one in three different decades. That set *60 Minutes* on a trajectory to become the gold standard for network news, and it earned the show the title of the most lucrative program – news or entertainment – in network history (Stossel 2000).

In some years, *60 Minutes* reportedly accounted for as much as half of CBS's entire broadcast revenues (Campbell 1993). Founder and former executive producer of *60 Minutes*, Don Hewitt, once estimated the program already had earned CBS as much as $2 billion in profits in its first three decades (McClellan 2003). Hewitt, although proud of *60*

Minutes' success, blamed the show's financial triumph for the demise in the quality of news (Stossel 2000). Hewitt said because *60 Minutes* drew large audiences and made money, it became impossible for network news divisions to operate without profit expectations and news no longer focused on public service (Campbell 1993; Friend 2001; Hewitt 2001). News became a potential profit center, bolstering it to a higher level of prestige among network executives, and simultaneously beginning the downward spiral of its ability to operate behind an invisible wall.

Some critics argue the pressure to profit changed *60 Minutes* to the point that it jeopardized its position as the role model for meaningful investigative journalism. Heated competition from other newsmagazine shows forced *60 Minutes* to increasingly supplant its signature prosecutorial style of investigative journalism with light news and superficial investigative pieces. In the first six months of 1998, when six out of the top 10 shows were newsmagazines, only 13 percent of *60 Minutes* segments were hard news (Kalb 1998). The trend toward less purposeful political coverage and other socially significant stories began in the early 1990s after numerous copycat newsmagazines like *Dateline* and *Prime Time* began emerging on competing networks (Zaller 1999). It is hard to argue that anything other than competitive pressure led *60 Minutes* to air an interview with pop icon Michael Jackson in 2003 where Jackson told correspondent Ed Bradley his views on sharing a bed with children. The exclusive with Jackson was a ratings blockbuster for *60 Minutes*, but also an embarrassment due to accusations that a ratings-starved CBS paid Jackson for the interview (Drew 2004). However, it was clear long before *60 Minutes* started doing more market-driven journalism that a new order was in place for network news.

The Corporate Contagion: Profit or Perish

> "[NBC News President Larry] Grossman is a damn socialist! He doesn't believe in profits."
>
> -- Jack Welch
> General Electric (GE) Chairman
> (Auletta 1991, 22)

As the FCC pushed ahead with deregulation in the 1980s which included the fall of the Fairness Doctrine in 1987, the broadcast industry was swept up by the merger wave that had hit numerous industries. In 1986, for the first time in television's history, the Big Three networks were all taken over by new corporate owners: Capital Cities Communications acquired ABC in January, five months later GE received the government's okay to buy NBC, and three months after that Loews Corporation assumed control of CBS. The takeovers resulted in new economic rules for the networks' news divisions and the phenomenon was the start of an acceleration of media consolidation that would continue throughout the 1990s (Bagdikian 2000).

News in the 1980s became a little fish in a big corporate pond, and news divisions faced budget cuts and profit expectations at a level they had never faced before (Auletta 1991). A corporate contagion[128] had infected news and the economic repercussions were hundreds of eliminated jobs and news operations that were forced to become more corporate-minded to reverse the financial losses they had been permitted in the past. The corporate contagion made the public interest criterion, an embedded notion under which network news had operated for decades, subordinate to the motive of financial gain.

[128] The term contagion was borrowed here from its application by Yergin and Stanislaw to their discussion of the 1997 Asian financial crisis that threatened the health of the world's financial system and world economy (2002, 177-178). In general, contagion refers to the spreading of a harmful or corrupting influence or virus from one person or group to another. For the purpose of the transition economy of network news, the author uses the term "corporate contagion" to refer to the corrupting influence of the corporate profit mentality on news and the risk posed to news as a result.

When the motive of financial gain further displaced the broader social goals of news in the 1980s, it was a culture shock for news workers. News suddenly had to operate in a disembedded economic environment even as news workers resisted the idea their primary goal was to make money.

News executives, at least initially, tried to fight the marketplace mentality encroachment on news. Ken Auletta, in his book *Three Blind Mice: How the TV Networks Lost Their Way* (1991), described a showdown between news and GE corporate executives after GE took over the network in 1986. Chairman Jack Welch found himself up against a mentality that went against the grain of business principles. Welch reportedly was livid over NBC News Chief Larry Grossman's defiance of orders to trim the news budget by 5 percent and Welch called Grossman "a damn socialist" who didn't believe in profits.

But Grossman, who gave up his post as president of the Public Broadcasting Service (PBS) to become president of NBC News,[129] had the same mentality as almost everyone else in network news at the time: requiring news to earn a profit or subsidize itself was sacrilege. In a 1999 interview with PBS' Frontline, Grossman recalled how news was protected by firewalls from the corporate side before GE purchased NBC. Grossman said, "There's no question that we had – were totally free to do whatever we wanted to do as long as we did it responsibly … there was a sense that news was central to the enterprise and they had to protect the news division's integrity." That attitude changed, according to Grossman, in an environment of large corporate media where news was "no longer a centerpiece" of the networks and instead became an economic "fringe operation."

[129] Grossman was president of PBS from 1976-84 and president of NBC News from 1984-88.

But that was not how it was in the beginning for the network news divisions. Since the beginning of the television networks, news had operated behind an invisible wall that shielded it from the profit expectations faced by the networks' entertainment divisions. However, the corporate leaders who were taking over the networks, felt that accepting losses as the normal mode of operation was sacrilege (Auletta 1991). Up until the corporate takeovers of the networks and their news divisions, news still was allowed to operate as a loss leader in exchange for helping to establish name recognition and credibility for the network, and helping to fulfill the "public interest" requirement for licensing. Profit was desirable, but the public interest contribution of news was still important. But the formal rules for news changed with their network ownership.

The corporate contagion that began in the 1980s fostered an environment where the marketplace model usurped journalistic values and created a business bias for news, a bias where getting ratings and maximizing profits topped the agenda. Journalist, media critic and author Ken Auletta talked about the profit pressure and the influence of media conglomeration on journalism in a PBS interview with Bill Moyers in 2004. Auletta suggested to Moyers that the concentration of media ownership was partly to blame for an industry culture that was big on profits and light on political coverage. The result of this rise in market-driven news was a decline in meaningful political reporting where "businesspeople are now in charge of journalistic entities. … And in their view, government is boring" (Auletta 2004b).

That concentration of ownership has compounded the fallout from the corporate contagion, hindering the instinct of workmanship for news workers and their ability to operate in the public interest. News has been pushed further down the corporate food chain as a result of concentration of media ownership, and the public interest motive had lost much of its relevancy in a world where transnational media corporations are diversified in their holdings. News had to compete for resources and budgets against other numerous profitable entities owned by their corporate owners. The bottom line became about ratings and revenues, not about keeping the public informed in a democracy.

A New Era for Network Television

Most historians consider the period from the late 1950s – following the quiz show scandals which forced the networks to take control over programming content instead of acting predominantly as time brokers for advertisers producing their own programs – until the end of the 1970s as the network era. The Big Three dictated virtually every trend in prime-time programming and they dominated the airwaves with their affiliate system. During this period, the networks collectively captured 95 percent of all prime-time audiences. But that market superiority began to weaken in the 1980s with the expansion of cable and other technological developments like the VCR that led to a new era of unprecedented competition for network television.

The VCR created a threat to the networks by diminishing their ability to dictate viewing habits. The VCR saw phenomenal growth throughout the 1980s and the technology essentially turned viewers into programmers. It gave audiences control over what to watch and when to watch it, whether it was rented movies or recorded network programs with the ability to bypass intrusive advertising. In addition, remote controls, an off-shoot of VCR technology, allowed viewers to graze competitors' content when a station went to a commercial break. But cable was the most imposing threat. HBO came on the scene as the first pay-per-view channel in 1975, and cable continued to diffuse in society, building the foundation for the rise of new networks like Fox (i.e., the second coming of network television) by the late 1980s.

Although Fox had a slow start, by the 1989-90 season several of its programs drew higher ratings than shows on the three major networks. Rupert Murdoch's Fox was an example of how opportunities in cable nurtured the growth of new networks and powerful new media corporations challenging the Big Three's empire (MacDonald 1994). Cable (i.e., satellite TV, pay-per-view, and cable networks) and VCRs were part of a multifaceted technological assault on traditional network television that began to dilute audiences for ABC, CBS, and NBC. By the end of the 1980s, the networks saw an average drop of 26.5 percent in prime-time ratings compared to the start of the decade, and they had reached an all-time low for their share of the total TV audience (MacDonald 1994).

This alone had a significant impact on news as the networks put new pressure on news to boost ratings and profits in uncertain economic times, given the increase in competition for advertisers. Entertainment programming continued to get more expensive, also increasing the expectations for news to make a profit and further hardening budget constraints. Entertainment could no longer afford to subsidize news as it had. And to exacerbate the situation for news, a conservative political movement in the country undermined the moderate tradition in TV journalism. Some conservative politicians began to attack the press and label them as the liberal media. The first significant attack came after CBS aired a documentary on Vietnam in 1982 that accused General William C. Westmoreland, one of the few military heroes of the war, of purposefully deceiving President Johnson in the 1960s about enemy troop strength. That led to a fierce attack by conservatives against network news, and a lawsuit by Westmoreland against CBS (MacDonald 1994).

In 1985, Republican Senator Jesse Helms of North Carolina, bolstered by the advocacy group Accuracy in Media (AIM), launched a campaign against network news operations and even urged wealthy supporters to buy enough CBS stock to achieve controlling interest in the corporation. During the Helms campaign and the fallout over the Westmoreland documentary, Ted Turner attempted a hostile bid for CBS. That effort failed, but the public's perception of CBS as having a liberal bias stuck. The legal costs of the Westmoreland lawsuit and the attempted takeover of CBS had huge financial ramifications – especially for news. CBS cut its news budget by $30 million in 1987 and laid off more than 200 news workers (MacDonald 1994). With business prospects slumping in the late 1980s, the new owners of ABC and NBC also slashed staffs to improve profitability, and many of the cuts fell on the networks' news operations just as it had for CBS. The networks now operated in a new era where their hegemony had been severely compromised. The push for profits intensified, and the networks began to identify bigger advertising revenues with a specific demographic group – signified by the bid for "better" if not bigger late night audiences.

The Koppel-Letterman Dilemma

> "The ABC News program *Nightline*, which still does penetrating, intelligent journalism in a commercial television environment littered with trashy magazine shows, is proof that Americans will listen to well-prepared, well-explained foreign news. … [*Nightline*] has long been the industry gold standard for hard news reporting with context."
>
> -- Tom Fenton
> Former CBS News Foreign
> Correspondent
> (2005, 37 and 140)

If Tom Fenton was right in the excerpt above from his book, *Bad News* (2005), why did ABC consider giving the commercially successful and journalistically acclaimed *Nightline* the boot in favor of *The Tonight Show* in 2002? The answer is simple. When it comes to ratings, all audiences are not created equal; the conventional wisdom among advertisers, and thus, network executives, is that younger is better and more profitable. Letterman, at the time, attracted 45 percent more viewers in the age bracket advertisers pay a premium to reach: 18- to 34-year-olds (Kurtz and de Moraes 2002).

When rumors surfaced in 2002 that ABC wanted to lure David Letterman to fill Ted Koppel's late night time slot, the story became big news in the news industry. *Nightline* was the pride of ABC News and even the discussion by network executives to replace the show was perceived as a slap in the face to TV journalists. The story became a center piece in the discourse on the demise of network news. Letterman and Koppel had competed for viewers in the late night time period for years, and they usually had about the same number of viewers, but Letterman's audiences were comprised of a younger demographic – the age group that beer and car companies wanted to reach. The issue wasn't that Letterman's younger audiences would buy more products, but advertisers' desire to lure younger audiences in order to establish brand loyalty and consumption habits as the younger viewers aged (Dowd 2002).

The move by ABC came at a time of momentous change for news divisions – the morning news shows along with newsmagazines were replacing the network evening newscasts as the profit center for news (Frank 2002). With the morning news shows increasing in economic importance, *Nightline* and other late night programming became a key factor in their success. The theory by local and network TV executives was (and remains) that the last station a viewer watches at night is likely to be the first station s/he watches in the morning when s/he turns the set back on. As one ABC representative explained to the *Washington Post*, the Letterman negotiations were not about Nightline, they were about improving the ratings performances during the last half-hour of the show and the half-hour time slot that followed. The strategy was that Letterman in that hour would significantly boost next-day ratings for ABC's *Good Morning America* program because viewers would turn on their sets the next morning to the same station they had turned off from the night before (Kurtz and de Moraes 2002).

But there was no acceptable justification for those who perceived *Nightline* as a representation of the best of network news. The Letterman-Koppel episode was a stinging reality check for the news divisions. It made several corporate ideologies painfully apparent: a further hardening of budget constraints for news was on the horizon, a new trend existed in the dissecting of ratings and audience demographics, the networks exhibited an increased willingness to sell out news for entertainment that brought "better" audiences, and there was an anemic desire for networks to use news to operate in the public interest. The hope for a brighter future for news seemed overshadowed by ABC's attempt to submarine *Nightline* in exchange for Letterman.

Although the deal to lure Letterman never went beyond the discussion stage, it was perhaps the final signal that news was no longer about informing the public in a democracy; first and foremost, news had become about making money and any news program was in imminent danger if it couldn't deliver profits at the desired level. After all, if the prestigious *Nightline,* the "jewel in the crown of ABC News" as longtime ABC correspondent Sam Donaldson described it, would be sacrificed, no part of news was safe (Kurtz and de Moraes 2002). To make matters worse, Wall Street liked the idea of sending Koppel down the river. Disney, the current corporate owner of ABC, saw a jump in its stock by more than a dollar after the Letterman talks became public (Holson 2002).

Conclusion

Network news came into being because broadcasters agreed to deliver public service programming in return for being granted a license to use the public's airwaves. For decades the television networks lost money on news. But then a series of events, starting with the surprising financial success of *60 Minutes* in the late 1970s and ending with the fall of the Fairness Doctrine in 1987, turned around the rules of the game for news operations. The invisible wall separating news from entertainment crumbled, and profit expectations now permeated the business of news.

This chapter discussed five critical developments that occurred within the span of a decade that altered network news as an institution, led to a change in budget constraints, and redefined the expectations for the public purpose in the news business with repercussions that still exist today. Journalists argue the pressure to profit is hurting news and the relevance of their role in society (Project for Excellence in Journalism 2005). News seems broken – tighter budgets, higher profit expectations, and the public perception of a media elite class who are out of touch with mainstream America and who seem only to care about news that garners ratings. As the economics of news has changed since the late 1970s, there has been great concern about the decline in stories that help to inform and educate the citizenry in a democracy (McChesney 1999). This has a domino effect since the networks often set the agenda for the important national and world news stories of the day that the local stations broadcast, and dictate the breadth and depth to which those stories are covered. The transition economy of news has resulted in a diminished, if not vanishing, role for network news as protectors of democracy and purveyors of the public interest. The key question now to consider is: What will the next stage in this evolution bring for news as an institution and for the public?

The Project for Excellence in Journalism (PEJ) has argued that the Big Three networks now face their most important transition in decades with the focus on the future of news (2005). In its "State of the Media 2005" annual report on American Journalism, PEJ concluded:

> A generation of network journalists is retiring. ... One network, CBS, has said it wants to rethink nightly news entirely. Nightline, one of the ornaments of American broadcast journalism, was fighting for its life. After years of programming inertia and audience decline, network news finds itself at a crossroads. If the networks rethink nightly news, will they build on the programs' strengths – carefully written, taped and edited storytelling – or cut costs and make the shows more unscripted, like cable interview programs? Will they try to find network evening news a better time slot, or begin to walk away from producing signature nightly newscasts altogether because of the programs' aging demographics? Will ABC try to save Nightline because it adds to the network's brand, or drop it because the company could make more money with a variety show? The next year will likely signal the degree to which passion, inertia or math drives the future of network news.

Down the road, one or more of the networks may decide that news, at least the network evening newscast, is simply not drawing the right demographics or large enough ratings to justify existence. The collective audience on a given night for the evening newscasts is around 30 million – a decline of 34 percent since 1993 (PEJ 2004). And a study by the Carnegie Corporation, a non-profit philanthropic organization, revealed that the national network newscasts are not likely to see any growth in audiences over the next few years, especially among young viewers (Carnegie Reporter 2004).

Given the decline in audiences and the expectation that the situation is only going to worsen, the threat to network news goes far beyond the kind of clash between corporate and journalistic values that occurred with Welch and Grossman when GE took over NBC. At that time, the battle between news and corporate executives was about a clash of mental models, today the battle is about the ability of news to survive in a corporate, market-driven environment. Network news long ago got the big corporate picture through a series of painful lessons that all pointed to the same message: profit or get out of the way. Network news executives today wish a 5 percent reduction in the budget was their only problem. They are just hoping to see news survive and maybe do a little work in the public's interest along the way.

CHAPTER VIII:

NEWS AS A CONTESTED COMMODITY

> "American mainstream media have become the watchdog and guardian of the corporate bottom line instead of the vanguard of democracy and the public interest. … Driven by profit maximization … Instead of protecting against abuses of government power by keeping the public adequately informed, they have become complicit in destabilizing and undermining American democracy."
> -- Elliot D. Cohen (2005a, 17)

The purpose of this chapter is to make the case for conceptualizing news as a contested commodity in need of institutional reform, given its role in democratic society and the importance of the health of our democracy to our quality of being. In making the case for news as a contested commodity in a market society, it is first necessary to examine general commodification theory, the nature and logic of capitalism and capitalism's inherent tendency to promote the commodification of all aspects of political and social life. Corporate media's present inclination toward complete commodification of news is a by-product of a capitalist economy. It is the nature of a capitalist society to reduce all human interactions to economic transactions where value is created in the exchange process, even if money is not explicitly involved. There are many transactions for which this poses a moral dilemma for society, including news. News is not the typical commodity one has in mind when evaluating the virtues of the economic market for goods and services. But news is an important service produced in the market. The problem of the commodification of news emerges when its market-driven aspects are contentious with its nonmarket obligation; that is, contentious with its moral agency as a protector of the public interest and adversary of those in power. The author proposes that news cannot be completely commodified because, among other reasons, there is market failure.

Commodification Theory

> "The kinds of things that deviate most from laissez-faire are those related to human beings' homes, work, food, environment, education, communication, health, bodily integrity, sexuality, family life, and political life. For these things it is easiest to see that preserving and fostering the nonmarket aspect of their provision and use are related to the human flourishing and social justice."
> -- Margaret Jane Radin (1996, 113)

Leading property theorist and Stanford law professor Margaret Jane Radin has written extensively about commodification and the appropriate scope of markets (1982, 1987, 1993a, 1993b, 1996, 2005; Radin and Sunder 2005). In her 1996 book, *Contested Commodities*, Radin explored the legal and ethical debate surrounding how far society should go in permitting people to buy and sell certain elements of personhood like babies, kidneys and corneas, and sexual acts – referred to as contested commodities. She argued that some aspects of being human should not be bought and sold because they have a dignity that goes beyond price. Yet, economic, political, ethics and legal scholars are not in agreement on the inappropriateness of such transactions. The arena of moral and political debate is full of "painful and puzzling controversies" regarding contested commodities – deliberation over whether or which items related to personhood should be subjected to market exchange (Radin 2005, 81).

On the surface, commodification seems like a straightforward concept within the culture of the modern market society. In market terms, to commodify something is simply to turn it into an object for sale, to place a monetary value on it. But the concept gets more complicated when it is examined on a methodological continuum reflecting degrees of commodification from universal noncommodification to universal commodification (Radin 1996, 104). Universal noncommodification holds that the hegemony of profit-maximizing buying and selling stifles the individual and social potential of human beings. According to Radin, universal nondommodification views capitalist buying and selling as harmful to humanity, stunting humanity "through its organization of production, distribution, and consumption because it creates and maintains persons as objects of trade (workers) and self-aggrandizing profit- and preference-maximizers (owners)" (Radin 1996, 79).

Conversely, universal or complete commodification presents a one-dimensional view of value and conceives of all goods and services, including personhood, as grist for the market mill. In the case of commodification of personhood, the person is conceptualized as both rational seller and legitimate commodity. Universal commodification also casts in market terms all things of value to a person whether a pair of shoes, a hair cut, personal attributes, religious and philosophical commitments, or relationships (Radin 1996, 2-6). Radin cited economist Gary Becker's conceptualization of the family's desire for producing children as an example of universal commodification rhetoric where "nothing is lacking from the indicia of the laissez-faire market except literal exchanges of money for children" (1996, 117-118). She also cited Becker's argument from *A Treatise on the Family* (1991, 108) where he defined an efficient marriage market as one having commensurability: high-quality women are matched with high-quality men and low-quality women with low-quality men. Universal commodification allows for things to be withheld from the market or regulated in cases of market failure due to the free-rider problem, incomplete information, etc. Radin's central critique of universal commodification is that it cannot capture, and may debase, the way humans value things important to personhood.

Despite those concerns, Radin challenged the perspectives of those committed to either extreme – the archetype of universal commodification or that of universal noncommodification. She offered what she considered a more feasible and balanced perspective between the two given the realities of a market society. Radin called this middle ground incomplete commodification – conceptualized as a market environment where some contested items can be exchanged for money under certain conditions:

> An incomplete commodification – a partial market-inalienability – can sometimes reflect the conflicted state of affairs in the way we understand an interaction. And an incomplete commodification can sometimes substitute for a complete noncommodification that might accord with our ideals but cause too much harm in our nonideal world. … I think it concedes too much to commodification to argue that certain specific items (for example, blood) must remain completely noncommodified … The way to a less commodified society is to foster the non-market aspect of much of what we buy and sell, to honor our internally plural understandings, rather than to erect a wall to keep a certain few things off the market and abandon everything else to market rationality (1996, 104-107).

Radin's compromise of incomplete commodification would entail curtailing the free market through a regulatory regime. Ideally, regulation and policy would reflect the importance of nonmarket value to personhood and aspire to ameliorate the underlying conditions of inequality.

A regulated market for contested commodities could protect social justice and restore equity. Although all contested commodities threaten to create a crass commercialization of personhood and bring about an inferior form of human life, not all contested commodities are equally threatening. Transactions involving contested commodities are more morally abhorrent if they are the outcome of inequality and exploitation. Radin draws a dichotomy between coerced and uncoerced commodification of personhood (1996, 50-52). Renting one's womb for surrogacy to a childless couple, for example, may be acceptable if there is no harm to the surrogate, no diminishment of her personhood. But if the seller is coerced by poverty or starvation to commodify her womb, it should be presumed that the seller does not enter into the transaction by her own free choice. Instead, the exchange represents a maldistribution of wealth and subordination to the market.

Similar to Radin's incomplete commodification, Okun advocated the idea of dividing social goods into those where one should and should not rely on the impersonal market mechanism (1975). He expressed concern about conflicts between the domain of human rights versus the domain of the market. He argued that some things are sacred and should not be considered in terms of money or vulgar trade. He proposed the removal of some goods from the market sphere, such as civil rights, where the market created certain injustices. But he also defended capitalism as providing a higher standard of living for most families, and maintained that income inequality, though not desirable, was an expected consequence of capitalism's pursuit of efficiency:

> The contrasts among American families in living standards and in material wealth reflect a system of rewards and penalties that is intended to encourage effort and channel it into socially productive activity. To the extent that the system succeeds, it generates an efficient economy. But the pursuit of efficiency necessarily creates inequalities. And hence society faces a tradeoff between equality and efficiency (1975, 1).

Commodification also can pose a conundrum in a democratic polity, if it restricts or corrupts our liberties or political freedom. According to Radin, many areas of contested commodification reflect a persistent dilemma in liberal society: Americans value freedom of choice and simultaneously believe that choice ought to be restricted to protect the integrity of what it means to be a person. However, the traditional liberal view prevents citizens from seeing fragments of a nonmarket social order, like their political life, embedded in the market society. Radin called this tendency "liberal compartmentalization" and wrote: "[L]iberal compartmentalization has borne within it the seeds of universal commodification. … That there should be a domain of inalienable 'political' rights and a domain of alienable 'property' rights seems fundamental to those who hold a traditional worldview that divides up the social world into politics and markets" (1996, 30).

But Radin pointed out that certain liberal views of democratic politics, and of cultural generally, are couched in the discourse of commodification and reflect the market metaphor of social contract or the relinquishing of some rights by citizens to the government which provides protection and social order. As an example, she cited public choice theory as "commodified political theory" (1996, 214). Public choice theory focuses on the instability of the social contract once the contract is instituted. Radin argued that the problems John Dewey envisioned with political democracy in its nonideal state resonate with the postulates of public choice theory. Dewey believed that democratic method exerted far less force in politics than the interests of individuals and parties in capturing and retaining office. The instability derives from rent-seeking by key actors of democratic institutions – legislatures, administrative bodies, courts – manipulating wealth transfers away from the unorganized public in favor of well-organized interest groups for personal gain (Radin 1996, 207-214). Although Radin believed that Dewey would object to the resolute non-normativity of pure public choice theory, she argued he would advocate using the information provided by public choice theory to improve nonideal democracy. Radin concluded:

> We could use it to make new institutions or to revise old ones, without challenging the premises of economic man. If the findings of public choice theorists represent scientific facts and causal linkages, it may be argued that their findings can be the backdrop of policy choices exactly as Dewey envisioned. For example, we might avoid structuring regulatory commissions in such a way that the members hold tenure at the will of one legislator. That structure tends to result in decisions in favor of whatever applicants give the most money to that legislator's campaign fund (1996, 219-220).

Radin maintained that one of the big pluses of public choice theory, from this point of view, is that it can tell society which forms of institutional design ought to be avoided because they are most vulnerable to corruption. To apply Radin's argument to broadcast regulation, we would want to reexamine the institutional design of the FCC to see if a restructuring is needed to correct for any perceived regulatory capture, and it naturally would raise the question of whether allowing the U.S. president to appoint FCC commissioners to hold tenure at his/her will alone results in policy decisions in favor of the president's political ideology and personal agenda.

The Nature of Capitalism

> "It is part of the nature of capitalism that the circuit of capital has no intrinsic moral dimension, no vision of art or idea aside from the commodity form in which it is embodied."
>
> -- Robert L. Heilbroner (1985, 140)

Economist Robert L. Heilbroner consumed much of his career retracing attempts by the world's most famous scholars to define the economic system of capitalism – from whence it came, where it is headed, what it is and what it is not. It took him on a personal journey culminating in 1985 with his book, *The Nature and Logic of Capitalism.* In the book, Heilbroner attempted to define capitalism by charting the history of its nature and logic. He described the nature of capitalism as the behavior-shaping institutions and relationships it comprises, and its logic as the trajectory to which its nature gives rise. Heilbroner also emphasized the importance of cultural environment and human nature in the study of capitalism, because these two factors can alter the system's relationships and redirect its trajectory.

Heilbroner also discussed how the drive for wealth (i.e., power) in monetary terms determines the boundaries of capitalism's nature and affects its movement. He cited Max Weber and other scholars who describe the underlying rationale of capitalism as "a consideration of means and ends, a supersession of unruly passions by calculating interests" (1985, 55). Ironically, this rationale is based on the seemingly irrational actions of the capitalist. Heilbroner referred to the endless pursuit for aggrandizement by the capitalist as "a quest so patently without rationality, and so perilously liable to bring psychological discontent, that Adam Smith was forced to find its rationalization in a delusion imposed upon us by the Deity" (54). As far as the belief system and principles that allow capitalism to survive, perhaps the most important ideological quality is that of acquisition. In pre-capitalist society, unlimited acquisition of wealth was considered undesirable and even vulgar. In the capitalist society it becomes a virtue and a conspicuous reflection of one's social class.

One result of this insatiable hunger for wealth is the commercialization of life. Heilbroner listed athletic prowess as one example. "[O]ne of the oldest and proudest activities of private individuals, has everywhere become a matter of commercial 'sport'" (1985, 118). Heilbroner also argued that the commodification of our private life for commercial gain is made possible via advertising and the two feed each other. According to Heilbroner, "Commercialization is a consequence of commodification – the continuous search of business for areas of social activity that can be subsumed within the capital-generating circuit. … [T]he images of consumption projected by advertising are a kind of 'capitalist realism' … This is the crucial element of understanding that ideology brings to capitalism" (118).

In addition to capitalism's underlying beliefs and principles, Heilbroner examined the logic of capitalist development. The accumulation of capital is based on the ability of the capitalist to extract profit. This way of thinking becomes the basis of sociopolitical life. The capitalist ideology ultimately takes on a scientific outlook and becomes more powerful than the ideology of any religion or polity. But within capitalism's ideology lies its potential, and widely predicted, demise. However, no one can predict when this might happen because capitalism constantly morphs – adapting its structure and social formation in order to survive and continue the drive for capital expansion. Heilbroner gave examples of modern capitalism morphing or maneuvering around blockages such as multinationalism and technological advancements.

Heilbroner addressed the concerning expansion of capitalism into all aspects of our humanness. He described this expansion as a process by which our "daily life is scanned for possibilities that can be brought within the circuit of accumulation" (1985, 60). Much of what is called growth in capitalist societies consists of commodification of life rather than the augmentation of outputs. "The transformation of activities that bring pleasure- or use-values into activities that also yield a profit to their organizers thus becomes an important interior realm into which capital expands" (1985, 60). Heilbroner performed a delicate yet revealing theoretical dissection of capitalism, exposing its inner motives, underpinnings, and origins. In doing so, he portrayed capitalism as its own being and it becomes painfully apparent that capitalism provides us with much less freedom over our lives than we think. We have only as much freedom of choice as the system of capitalism allows by virtue of its nature and logic. We are both beneficiaries and victims of its life form.

Heilbroner also briefly discussed the sometimes troubling intersection of economic life and democracy in the broad sense of political freedom. He contended that the historical relationship between democracy and capitalism is complex. Heilbroner wrote, "Milton Friedman, a staunch advocate of the view that political freedom can be attained within a framework of capitalist relations, is forthright in acknowledging that capitalism is not in itself a guarantor of freedom" (125). Although Heilbroner conceded that political freedom in modern times has only appeared in capitalist states, he cautioned in the next breath that "capital itself has no inherent dependence on or affinity to political freedom. Capital is a process oriented to the creation of profit, not to the attainment of freedom" (127). And it also is a process void of moral judgment. As Heilbroner noted, "In this setting [of capitalism], ideas thrive but morality languishes, and the regime of capital becomes the breeding ground for an explosion of ideational and esthetic creations that conceal beneath their brilliance the absence of an organizing moral force" (140).

News as a Moral Force

The notion that the culture of capitalism fosters a breeding ground for ideational and esthetic creations void of an organizing moral force poses a conundrum for media corporations whose mission is to produce both profits and informed citizens. In the pure pursuit of profits, news production is market-driven and absent of moral force. There is no vision of art or idea aside from the commodity form in which news is embodied. However, in the pure pursuit to produce informed citizens, news is a moral force and journalists act as moral agents. Moral agency is a person's capacity for making judgments and taking action that comports with the perception of virtue and what is right. Journalists who operate in the public interest enhance citizen autonomy and protect them from being the victims of the venal actions of politicians and others in power who personify the economic actors in public choice theory. In that pursuit, there is a normative dimension and moral agent aspect to what journalists do.

Moral philosophy scholar James Wallace argued that any given community's ways or practices represent its collective wisdom in solving social problems (1991). A society's principles, rules and norms arise from a cumulative experience as people pursue their purposes and struggle with the problems they encounter (1996). Wallace maintained, "We have come to denote these various ways of resolving problems, of living together, or some not very clearly defined subset of these ways 'morality'" (1996, 15). Moral knowledge, he contended, is excerpted from the bodies of information that communities have developed so they will be able to raise their children, govern themselves, heal their ailments, and carry on the many other activities that constitute their daily lives. A society's generally accepted boundaries in those pursuits can be deemed moral, if those boundaries enable and foster community life and are considered to be of great importance.

Journalism is considered to be of great importance to a democracy by keeping citizens informed. In that capacity, it functions alongside of other moral agents in society like the courts, churches, schools, etc. All of these moral compasses share the responsibility of holding community members responsible for their behavior toward other members to encourage virtue and minimize vice so that life flourishes. As Wallace put it, “Such virtues as courage and restraint enable individuals to govern themselves, to pursue plans, to act on principles, and to participate fully in a life structure by intelligence, institutions, and conventions” (1978, 15). Moral agents encourage, explicitly or implicitly, conformity to community values.

Although journalism students are schooled on the concept of objectivity in reporting and further enculturated to that paradigm as working professionals in the newsroom, covering the news also at times involves a degree of moral calculation. The notions of journalistic objectivity and journalists as moral agents may, on the surface, seem to be conflicting ideals, but these two elements of the craft coexist peacefully in the mental models of news workers. For example, objectivity would require that a journalist maintain impartiality in reporting on the abortion debate, because this debate encompasses conflicting moral and political ideologies in society. However, it would be acceptable for the same journalist to portray a CEO convicted of cooking the books for personal gain as corrupt and deserving of punishment, because such moral judgment would align with uncontested social mores opposing the exploitation of power and position.

So, where there is general agreement in society over acceptable conduct, journalists uncompromisingly uphold those moral judgments. Where there is contestation in the community, journalists maintain an objective approach to covering an issue or event. Obviously, this applies to a classic definition of journalist, not the shock-jock, self-proclaimed journalist who deliberately filters or frames news and information with a conservative or liberal bias. Ugland and Henderson tied their definition of a journalist to the notion of moral duty and ethical standards in the profession. They characterized top-level journalists as those who take seriously the idea that journalism is a public trust, and "are not merely concerned with telling the truth but also with honoring the ethical canons of traditional American journalism, such as independence, proportionality, comprehensiveness, and accountability" (2007, 256). However, the ability to honor these ethical canons can be compromised by journalists' other mission: to help maintain profitability for their news organization.

The debate surrounding commodification and the potential harm to personhood or the greater social good is naturally rooted in moral theory, and is concerned with what is ethically right or wrong to sell. This debate can be extended to commercial news production in a democracy. News is central to advancing democracy, and a mediated democracy is central to our personhood, equity and social justice. Given these assertions, should news really be bought and sold in the marketplace? Does the market for a commercial news environment corrupt or debase the moral agency of news workers? And in turn, does that debasement jeopardize the sustainability of democratic journalism given an economic and regulatory environment that promotes the dispensing of news by large, profit-seeking organizations? Based on its moral agency, there is a strong case to be made for conceptualizing news as a contested commodity – a good or service whose exchange in the marketplace is deemed troubling in the context of a potential lapse in social or moral values as a result of unbounded capitalism. Market failure as well as moral failure warrants the delineation of news as a contested commodity.

The Problem: Market and Moral Failure

> "[M]arket-driven journalism is spreading like a sniffle through a day-care center … much of the news industry is moving to replace journalistic judgment with market judgment."
>
> -- John H. McManus (1994, xii-xiii)

The concern with the commodification of news is that news becomes subject to the whim of the market and the opportunistic, predatory nature of capitalism. That poses a dilemma for a democratic society because news produces an informed electorate. But does it matter if information is dispensed by profit-seeking organizations? Only if there is a difference in quality – that is, the public interest orientation value – for the information dispensed. Left to the commercial market, public interest news has been under-supplied. If a media corporation can boost its profit margin by cutting corners on the production of public interest news, it will do so because there is no other incentive (e.g., using news to meet a public interest standard for licensing) as there once was. This is not just a theory to contemplate, as John McManus revealed in his highly acclaimed book, *Market-Driven Journalism: Let the Citizen Beware?* (1994). McManus conducted one of the most intriguing academic studies to date on the economics of television news and its influence on editorial decisions. And he was first to use the market theory of economics to evaluate financial influences on the quality of news in a study of local commercial television stations in several news markets or ADIs (i.e., areas of dominant influence). What he found was disturbing – the increased production of junk journalism as a way to lower production costs, appeal to the lowest common denominator, and reap the highest ratings.

There has been increasing evidence since the 1980s to suggest that market journalism is gaining momentum in the U.S., resulting in a growing trend toward news that can buy larger audiences at the local and network levels – a shift from ideology-driven to market-driven journalism (Bagdikian 1992, 2004; Cohen 2005a, 2005b; Kaniss 1991; McManus 1992a, 1992b, 1994). Media critic Ben Bagdikian argued that the result of such market journalism is editorial content designed "not primarily for the needs and interests of the audience but for the audience-collecting needs of advertisers" (1992, 8). This poses a dilemma for news because news, in theory, is the cornerstone of a democracy by producing an informed electorate. An informed electorate is a public good just like education – it creates an external benefit in society to have an educated citizenry voting on leaders and policy decisions. It creates a better, more equitable society for everyone. Thus, there are consequences of inadequate information in the process of democratic interaction.

The trend toward letting the market decide what is newsworthy, instead of adhering to traditional journalistic standards and ethics, has generated much debate about the economics of news, but little examination couched in economic theory. Most of the research regarding what motivates news production has come from the communication discipline, not economics. However, McManus, one of the most cited communications scholars to date regarding market journalism (1992a, 1992b, 1994, 1995, 1997), expanded the theoretical discussion by using microeconomic theory to conceptualize news as a commodity. McManus applied the concepts of microeconomic theory to construct a theoretical basis for analyzing news, primarily television news, as a commodity. McManus's goal was to examine the increasing economic rationalism in news production, referred to as "market journalism," and its social welfare impact.

McManus defined news as a commodity for which certain marketplace logic guides consumer and producer actions. Market theory is based on the concept of a traditional market system, defined by economists as a structure of exchange relations of buying and selling of goods or services that sustains the economic process of capitalism (Heilbroner and Galbraith 1990). Since the news media compete in a public attention market, the marketing approach to news requires conceptualizing news as a non-durable good: a commodity that a viewer purchases by spending time watching it in an exchange relationship with a news organization. However, a second exchange relationship also exists between news organizations and advertisers who want to purchase viewers' attention. Picard, as cited by McManus, argued these dual exchange relationships stem from the fact that news organizations actually produce two commodities: information and audiences. Figure 8.1 represents Picard's market model for what he called the "double commodity" of news.

Figure 8.1: Picard's model of news as a double commodity.

	Attention		Public attention	
News	→	News	→	
Consumers	←	Providers	←	Advertisers
	Information		$	

The exchange relationships within the double commodity model appear similar to those in the basic market mechanism model. In the market mechanism model, households sell their labor to businesses in exchange for money that the households then use to buy goods and services from businesses. In the double commodity model of news production, consumers "buy" news from TV stations and pay for it with their attention, measured in ratings. Advertisers then buy ratings (i.e., audience attention) from the station and pay for it with money.

The traditional market model of economics also suggests the consumer demand for a good is positively related to its quality. However, with commercially-produced news, the quality of a story is often inversely related to consumer demand. As McManus noted, rational advertisers can be expected to support a news program generating the largest audience likely to purchase the products offered, at the lowest cost per thousand viewers. If a journalistically high-quality, public-interest oriented news program (e.g., *Bill Moyers Journal* on PBS or *60 Minutes* on CBS) draws no more of the "right kind" of viewers than a journalistically weak news program, the commercial news station would not earn as great a profit as it might have with a less expensive production. Rational (commercial) news organizations will offer the least expensive mix of content that garners the largest audiences that advertisers will pay to reach. Therefore, a purely economic theory of news production suggests a cost-benefits analysis where the probability of an event becoming news is inversely related to the cost of covering it, and directly related to the expected appeal of the story to audiences.

In *What Kind of a Commodity is News* (1992b), McManus defined news as a public good; specifically, news is a credence good which must be consumed on faith by news audiences. News also has other characteristics of a public good as defined by economists (e.g., Nicholson and Snyder 2007). News is nonexclusive because no one can be prevented from consuming news, and it is nonrival because the marginal cost of serving another viewer is zero. McManus suggested that news, like all public goods, is an example of a market failure. However, although generally the market failure of a public good is attributed to allocation efficiency and free rider externalities (Nicholson and Snyder 2007), free riders are welcomed by commercial news organizations – the more viewers, the better to sell to advertisers – and the real market failure is blamed on a lack of quality.

McManus suggested that under market-driven journalism, the quality of news suffers and that results in a decline in social welfare. Quality of news in this sense refers not to how well-written or reported a story is, but to its "social-civic" or "orientation" value (i.e., news designed to inform as opposed to entertain). Market-driven news managers seek news that has more of an entertainment value, because these types of stories tend to lure larger audiences, and the result is larger profits. For example, the money spent investigating a sex scandal involving a prominent politician might justify its cost by attracting a larger audience while less arousing or more socially harmful malfeasance might go unreported. According to McManus, since commercial news organizations compete in the market for attention and ultimately advertising dollars, stories cheaper to produce are often valued more than informative ones, often leading to a conflict with journalism's ethical norms of public service.

Thus, the economic logic of maximizing profits conflicts with the journalistic logic of maximizing public understanding. As Champlin and Knoedler pointed out, the desire for profitable ratings has increased sensational stories and led to risk aversion in news production. They wrote, "While the push for ratings pulls journalism toward features that appear to be commercially lucrative, it also drags it toward the lowest cost alternative and away from risky and expensive investigative work. … [In favor of] news that is sensational is easy and cheap to cover" (2002, 463-464).

But a survey of journalists and news executives conducted by the Pew Research Center and the *Columbia Journalism Review* found that lowering costs of production with cheap stories was not the only reason news organizations were doing less investigative reporting. The study revealed that more than a quarter of the journalists surveyed admitted they avoid going after important stories that might affect the financial interests of their news organizations or advertisers. Altogether, 41 percent said they purposely avoid newsworthy stories and/or soften the tone of the stories to benefit their news organization's financial interests. As Project Censor founder Carl Jensen described it, it was the classic case of "don't rock the boat. … [But] the need to play it safe became more and more pervasive as the boats grew in size" (2004, 428).

Market failure results because audiences are unable to act in their own self-interest, they are unable to discern the quality of the news products they consume. Asymmetric information in any market can lead to an adverse selection problem (Nicholson and Snyder 2007). This certainly occurs with market journalism. News organizations generally know the important stories they are failing to cover. However, viewers cannot evaluate the quality of news they are getting and cannot detect when they are receiving a "lemon." That is, viewers don't know when they aren't getting a quality product because they typically don't know what important stories or critical details of important events or issues news organizations are failing to report.

This asymmetric information causes negative externalities adding to the market failure for news. McManus (1992b) further argued that viewers may think they are becoming informed citizens by watching local newscasts, but they are actually left uneducated about many important happenings in the community. Such an illusion harms the public's ability to self-govern. And unlike a public good such as national defense where the government steps in to correct market failures that could harm society, news quality in the U.S. is generally exempt from government regulation by virtue of the First Amendment. In addition, as McManus pointed out that news organizations are typically not subject to professional peer review, as is the case with law, medicine, and other professions. Journalists are not held accountable for the poor quality of their product with the exception of occasional public criticism over perceived sensational coverage (e.g., Princess Diana's death, the O.J. Simpson murder trial, the murder of JonBenet Ramsey, etc.). Even when the backlash results in a loss of credibility for the news media, it seldom results in a permanent loss of viewers or revenues.

McManus used microeconomic principles to make clear the peculiar nature of news as a commodity, its market failure, and the moral threat to social welfare from the increasing trend of letting the market decide what is newsworthy. However, there is vast room for a deeper microeconomic analysis of news. Although mathematical models would be difficult to develop because there is no set of definitive market prices for news, other useful models could be formulated based on game theory from a competitive news production standpoint, consumer preferences, choice under uncertainty, the economics of information, and perhaps even the lemon dilemma. These types of more advanced analyses might help further explain news production and consumption decisions, and the market failure of news.

The Problem: Regulatory Failure

> "Because economic security is a characteristic of many, if not most, regulatory schemes, business interests tend to prefer regulation to the unsettling vicissitudes of competition. Herein lies the larger problem: not that *regulators* have been captured by industry but rather that *regulation* has been captured by industry."
> -- Glen O. Robinson (1978, 192)

Another potential reason to warrant the classification of news as a contested commodity is alleged regulatory failure due to regulatory capture of the FCC. Law professor and former FCC commissioner Glen O. Robinson once said that during his tenure as commissioner, the regulatory agency was solicited to promote many public interests, but few were as advanced with "such heartfelt eloquence as the pleas of businessmen – most notably broadcasters and telephone company representatives" – who were trying to protect their companies from the effects of competition (1978, 192). Nevertheless, Robinson defended the FCC, saying the agency clearly displayed a preference for regulation over competition as a vehicle for social and economic control. And he downplayed as misguided conventional wisdom that the FCC was prone to identify with broadcasters' interests to the extent of becoming captured.

Robinson felt proponents of capture theory took many liberties with the facts, and did not accurately reflect or understand the realities of regulation. He argued that, at best, industry capture was an awkward explanation for policy decisions issued by the FCC in light of competing industry interests (1975, 189-190). Robinson did, however, concede that capture theory was not completely without merit. He felt that although the theory could not always explain how the agency would choose among competing interests within the industry, it had more validity in accounting for how the agency might choose between industry and nonindustry interests. He cited as an example the frustration of public interest groups who were unable to influence the FCC licensing process, and he said those groups correctly perceived the FCC's hostility toward their efforts to affect significantly the peace and profits of broadcasters.

Robinson served on the FCC from 1974 until 1976 under Ford, just before the heavy push toward deregulation by the Reagan Administration's FCC in the early 1980s. Robinson's FCC clearly had changed in a short period of time, and it now seemed more likely that the regulators, not just the regulation, had been captured by the industry. Critics argued that the Reagan Administration junked Congress's 1934 mandate for the FCC to make sure broadcasters served the public welfare and abandoned regulations that benefitted news and public service programs. Former *New York Times* United Nations Bureau Chief and *Washington Post* Economics Correspondent Bernard Nossiter charged the Reagan Administration with "enriching the owners of radio and television stations by scrapping the regulations designed to make broadcasters public trustees" all in the name of a free market (1985, 402). Nossiter specifically accused FCC Chairman Mark Fowler of using "free market" rhetoric as a way to legitimize policies that really were formulated to serve the interests of broadcasters. Nossiter further argued:

> A genuine believer in open markets would remove all barriers to new competitors ... If Fowler was a genuine believer in competitive enterprise, he might have sought the abolition of the commission itself, enabling entrepreneurs to broadcast anywhere anytime. But that would undermine the pecuniary values the F.C.C. has created for its clients, so Fowler retained that part of the law that serves broadcasters – allocation of frequencies – and erased the profit-reducing clause commanding public service (1985, 402).

Another cause for concern about the integrity of the FCC is the problem of corporate conflict of interest that has grown as big media have grown. Chapter III detailed several examples of the increasing trend of corporate conflict of interest leading to censorship of the news. Many media critics consider corporate conflict of interest as the greatest threat to public interest news. Cohen argued corporate conflict of interest is rampant in the politico-corporate media web in the U.S. He cautioned that, "Like a cancer metastasizing, it has eaten away at the fabric of American democracy. This ubiquitous form of media treason has taken refuge behind a brand of corporate theology, the faith that somehow, but letting these corporate monolithic giants pursue their bottom line, the common good will be served in the end" (2005, 20). When the policies of the FCC ignore this serious problem for news while advancing a policy agenda that protects the economic interests of broadcasters, it is necessary to consider whether the FCC as a regulatory agency has failed its own moral agency mission.

As a matter of fact, the FCC mantra that deregulation will set free the free press is not only contentious, but it is counter to public interest theory that treats the creation of regulatory agencies as the victorious result of people's struggle with private corporate interests. According to Horowitz, "[Regulatory] agencies employ the positive power of the state to take advantage of economic efficiencies and serve the general welfare, and in so doing, regulation protects the consumer from corporate abuses. Progressive public interest theory thus marries regulation as political response to corporate power with regulation as welfare economics" (1989, 26). If the FCC is making policy decisions that ultimately enables corporate conflict of interest to suppress a free press, then the FCC is failing to employ the power of the state to serve the general welfare and to protect the news consumer from corporate abuses.

Conclusion

> "[O]ne's participation in the political process suffers hideous caricature when cast as the expression of one's self-interest in a *quid pro quo* process. Voting and other political activities are not economically viable; they are not efficient by market calculus. Nor are they inefficient by that same calculus. They are instead the exercise of citizenship, a part of one's existence as a human being."
>
> -- J. Ron Stanfield (1979, 73)

In his book, *Economic Thought and Social Change*, economist J. Ron Stanfield studied the state of economic thought in relation to the contemporary institutional situation of democratic industrial society. As part of his research, Stanfield examined long-term institutional change in market-capitalist society and characterized it as a history of "persistent crises" (73). He expressed concern over the extensionist tendency of the market imperative to permeate all aspects of our existence: family, church, friendship, and political activity. Stanfield defined the market imperative as the logic of commodity production that extends into all aspects of social life. This is the essence of what Radin was describing in her discussion of contested commodities and the intrusion of market values into our sense of personhood.

Alongside the market imperative, there exists a second and contrary tendency, what Stanfield called the protectionist imperative. Stanfield observed that societal groups throughout the history of capitalist society have banded together to protectively intervene against the threat of market domination of social life. Various organizations including labor unions, trade associations, citizen action groups and even the corporation itself have pushed back against the market for their own protection. The multifarious activities to wrestle control away from the market are the "ensemble of protective responses ... interventionist drift. This drift is the result of interplay between the market imperative and the protectionist imperative" (77). It comes from one of three sources: society's protective response, state intervention via social control of the market process, or the private sector's exhibiting control through a pronounced tendency toward collective action (72-88). However, the myth of the self-regulating market economy prevents widespread understanding of the tension behind the interventionist drift toward social control of the market process (xix-xx). And the belief that reactive intervention and piecemeal protection are sufficient to counter the extensionist tendency of the market is a myth and serves to accelerate Western liberalism's institutional and ideological crisis (85).

In returning to the focus of this chapter, news as a contested commodity, it is apparent that there is a persistent crisis for news as a result of the extensionist tendency of the market. There is concern in a democracy where news is subject by its commodification to the imperatives of the market. The problems linked to the commodification of news as previously mentioned are: (1) the compromising of the moral agency of news, (2) the market failures of news, and (3) the regulatory failure of the FCC. Like voting and other political activities, public interest news should be perceived as not being economically viable. Its efficiency or inefficiency cannot be measured by economic calculus. Alongside the market imperative of news, there has been a countering protectionist imperative, an ensemble of protective responses in the form of a media reform movement led by various organizations and certain lawmakers.[130]

The resulting interventionist drift has been prompted almost solely by society's piecemeal protective response, marginally by state intervention via social control of the market process and not at all by the private sector. It is indicative of what Stanfield called

[130] See Chapter V for a discussion of efforts by media reform groups and lawmakers to counter the trend toward media consolidation and the primacy of the market mentality in broadcast regulation and policy decisions.

a "semi-conscious response to the market myth and the protectionist imperative" (78). But the media reform movement may be beginning to break free of intervention "without special dispensation." The media reform movement's reactive response to the perceived problem of public interest news and concentration of media ownership, to problems already extant, does not embody the notion that the economic organization of broadcasting is fundamentally sound or that problems linked to media conglomeration should be dealt with as they arise. The media reform movement perceives a systemic problem in the media as an economic institution and news as an instrument of democracy. The reform movement, in this regard, embraces no mythical faith in the powers of a self-regulating economy, and is strategically maneuvering to shift ideology toward the noncommodification of news.

That said, although the media reform movement has had some success in its protective intervention of big media, it has done nothing to curtail the market domination of news. There is no doubt that drastic regulatory reform is needed, but not to correct for some type of market failure of news. The problem is that the moral agency of news conflicts with the amorality of capitalism. Capitalism cares of nothing but the "rational" pursuit of money and profit. It rewards gluttony and punishes virtuosity. Nothing comes before the pursuit of profit, and nothing after it. It is its own reason for existence. How can we have a free press governed by an unconscionable economic system? How can we have an institution of news that functions to uphold democracy and the ideals of equity when the news media are slave to the pursuit of profits? The conflict here is that the free market is not conducive to a free press; the two simply are not good bedfellows. There is no moral conscience in making money, but there is in producing journalism that advances democracy. Thus, regulatory reform is needed.

Regulatory reform should involve conceptualizing news as a contested commodity – a service that diminishes our personhood if bought and sold in the market economy – based on the moral agency of news and the regulatory capture of the FCC by broadcasters. Furthermore, it is not realistic to propose that news be removed from commercial production completely to become a noncommodity. But it is realistic to conceive news as an incomplete commodity, and determine regulation based on this classification. Radin described regulation as the social aspect of incomplete commodification (1996, 107). According to Radin, the participant action of incomplete commodification draws attention to the meaning of an interaction for those who engage in it. However, the social aspect addresses the way in which society as a collective whole recognizes that some goods or services have nonmonetizable participant significance. In our legal culture this social recognition takes the form of regulation, or curtailing the free market. But where regulatory failure exists to curtail the free market, and where it fails to protect the public's welfare, regulatory reform is needed. Reform would correct for the sources of the problem: (1) concentration of media power, and (2) a profit emphasis on news that is insufficiently concerned with the democratic responsibility of the media. Proposals for regulation of news and regulatory reform of the broadcast media are put forth in the final chapter.

CHAPTER IX:

CONCLUSIONS

> "The public's interest in knowing about its government is protected by the guarantee of a Free Press, but the protection is indirect. The Constitution itself is neither a Freedom of Information Act nor an Official Secrets Act. The Constitution, in other words, establishes the contest, not its resolution."
> -- Potter Stewart (1975, 636)

Our freedom to speak out, peaceably assemble and petition the government for a redress of grievances are superficial liberties without a free press. That is, if the general public is not educated about the actions of those in power, the public cannot determine when it needs to speak out, assemble or petition the government, and the freedom to do so is invalidated. The democratic system of government then becomes an esoteric allusion that really only works for special interest groups or those who already have the lion's share of society's wealth and power. Therefore, if we agree that the electoral process as the cornerstone of democracy is invalid without an informed citizenry, and that a free press is the main vehicle for informing the citizenry, then we cannot help but concern ourselves with the health and sustainability of such a press. It is not sufficient merely to point to the First Amendment and say the free press is a constitutional matter-of-fact and that because the press can, in theory, print or broadcast whatever they choose, they are free. The press is not free if there are political or economic repercussions to reporting the news. It would be like arguing that free speech is a constitutional matter-of-fact because anyone may stand up and speak his mind. Free speech is only validated if the person does not then suffer harm or retribution for his opinion, or if he is not intimidated into silence out of fear of retribution.

The Free Press Clause "establishes the contest" as former Supreme Court Justice Potter Stewart noted, but it does not ensure the press will expose the ills of our society and be a formidable adversary to those in power. Furthermore, we learned in Chapters III and VII that it is hard for the press to be free and a servant of democracy when they are forced to be slave to a profit-driven mentality that places value not in the greater good of society, but in the greater margin of profit. News has become a big business in the U.S., and its commodification generally does not permit it to be ideologically aligned with its moral and ethical obligations to seek the truth and report it. The research collected and put forth in the chapters of this study has repeatedly pointed to this as well as the conclusion that a free press cannot survive a free market approach to broadcast regulation and policy decisions.

If we are to save democracy by way of insulating the free press from the moral perversions created by a free market, we must take a different approach to evaluation of the problem and the search for its resolution. This study has attempted to contribute to redefining the battle over broadcast regulation and the impact on a free press from a critical ethnographic and social economic perspective. It is a necessary approach to get at the whole story and to seek out alternatives. To understand and interpret the evolution of man and his social problems, including democracy and the free press, it is necessary to immerse one's self into the descriptive, historical and institutional details that give us insight into social maladies and their potential alternative solutions (Stanfield 1979, 118).

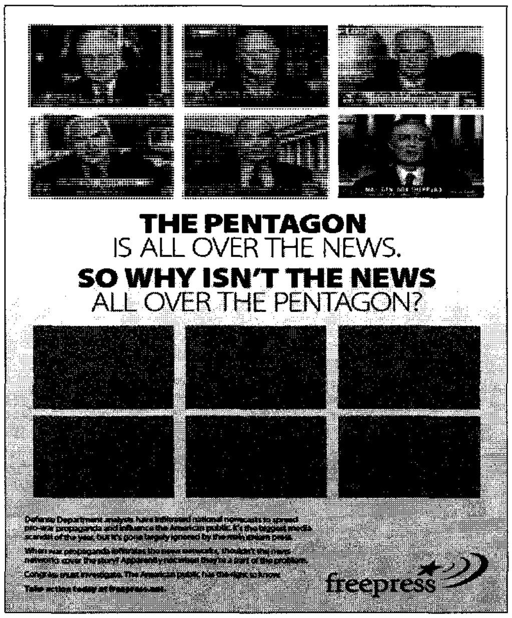
Eye on the Prize

> "American government would never have sustained itself over the centuries without periodic citizen mobilizations that successfully renewed its moral foundations. ... *Democracy needs committed citizens to survive crises.*"
> -- Bruce Ackerman (2004, 215-216)

As we saw in Chapters IV and V, the battle over broadcast regulation and the public interest standard has increasingly focused less on content and more on the debate over a concentration of media ownership, especially since the 1990s. The eclectic media reform movement that first emerged just prior to the passage of the 1996 Telecommunications Act is today led by organizations like Common Cause, the Prometheus Radio Project, the Benton Foundation, Media Access Project and Free Press. These organizations have united under the Stop Big Media Coalition umbrella, and they have been incredibly successful since 2003 at mobilizing the public and building a grassroots Internet movement to advocate for reform. The coalition members, more than 40 organizations, are made up of committed citizens reacting to a media democracy crisis. They have fought to renew the moral foundations of the government regarding the marketplace of ideas, and it is fair to say that big media would be even bigger today had it not been for these groups joining together on a united front and steadfastly keeping their eye on the prize of holding back further media consolidation.

The reform coalition has targeted the FCC and lawmakers, putting pressure on both to institute rules and laws that, in essence, counter regulatory capture and the effects of media consolidation. But it also has taken action to expose and stop manipulation of the news media by those in power, attempting to counter the effects of the propaganda model of news production as detailed in Chapter III. For example, in May 2008, Free Press placed a full-page ad in *The Hill*, an online and print publication covering the inner workings of Congress. The newspaper is considered a "must read" among lawmakers and other influential policy makers in Washington, D.C., and its target audience is senators, House members and their aids, as well as the tens of thousands of lobbyists and others who influence policy.

The Free Press ad called on Congress to investigate the secret Pentagon campaign to infiltrate the media leading up to and during the Iraq War. The campaign was exposed by the *New York Times*, and was discussed in Chapter III. As shown below, the top of the ad included images of six TV screens with retired generals and other former military officials on the major networks, and the bottom of the ad had six more screens, but these were blank. In the middle of the ad was a message that read: THE PENTAGON IS ALL OVER THE NEWS. SO WHY ISN'T THE NEWS ALL OVER THE PENTAGON? In addition to putting pressure on Congress to investigate, the ad likely was intended to shame the major network news organizations who conspicuously failed to report on the Pentagon's effort to manipulate the news to advance the war effort.



Although the desire to protect a free press has been the underlayment of the media reform movement, an aggressive campaign to save a free press has been, for the most part, obfuscated by the myopic focus on the curtailment of media concentration. This point is not meant to be a criticism of the media reform movement. The reform coalition organizations have fought the battle where the battle was most threatening, and that strategy has worked. But now is the time for the media reform coalition to leverage its success on that front and expand its approach. In a statement on its Web site identifying the coalition's principles, Stop Big Media stated the following:

> The StopBigMedia.com Coalition believes that a free and vibrant media full of diverse, local and competing voices is the lifeblood of America's democracy. Massive consolidation of media ownership has dangerously reduced the number of voices in our nation's media. Today, the vast majority of popular news, entertainment and information is controlled by a handful of giant media conglomerates. These corporations seek to minimize competition and maximize profits rather than inform, enlighten, and promote the public interest. The FCC and Congress must ensure that our media system is, in the words of the Supreme Court, "an uninhibited marketplace of ideas in which truth will prevail."[131]

However, the promotion of a fair and just marketplace is not sufficient to ensure a free press, since a free press cannot be sustained by a free market – the two are more incompatible than not due to competing moral values, as we saw in Chapters III, VII and VIII. Thus, the reform movement – our last best hope for a free press – needs to broaden its approach to media reform to include an outreach program to journalism schools in the U.S.

Media Reform: A Proposal for Outreach

Journalism schools (J-schools) teach the ideals and values of public interest journalism. But they also are obligated to make their customers, their students, marketable in the marketplace of commercial news. J-schools supply the labor force for

[131] See Stop Big Media's Web site at http://www.stopbigmedia.com/=principles.

news organizations and schools must respond to what the market wants. This is beneficial to students because it helps them find employment, and is part of their cost-benefits assessment in choosing a school. It is beneficial to schools because their reputation is bolstered by the number of students they place and where they are placed, and it helps to build a network of alumni in the news marketplace who can help new graduates get jobs. This system is critical to the success of the school in recruiting new students, and preparing those students for the real world job market.

For example, the Colorado State University (CSU) Department of Journalism and Technical Communication's TV News and Video Production concentration faculty[132] met in May 2008, to discuss revamping their curriculum to better train students for a relatively new trend in broadcasting called the VJ or video journalist. The VJ used to be referred to in television news as a one-man-band journalist when, for at least two decades, it was solely a small-market (or small ADI – area of dominant influence) phenomenon. Small markets like Cheyenne, Wyoming or Grand Junction, Colorado hired reporters who could do it all: report, shoot and edit. The one-man band journalist was an economic necessity in smaller markets. This was because small-market stations had smaller budgets than bigger city stations like those in Denver or San Francisco, for example. So, a reporter at a Cheyenne station would be expected to shoot and edit his own stories even if the stories were not shot and edited well, because the station could not afford to hire reporter-photographer-editor teams. As a journalist worked his way up to larger markets and bigger salaries, other perks followed. He no longer had to one-man-band-it and would be assigned a photographer and editor. This, in theory, meant that

[132] The author is a member of the journalism faculty at Colorado State University and teaches in the broadcast sequence.

larger markets produced higher quality news since they had bigger budgets and could afford to have several people working on a single story, each polishing and improving the story based on his expertise.

But in recent years, especially with traditional print and TV news organizations now having to offer their products online to remain competitive in a digital world, larger-market newsrooms have started to use the VJ model of news production as a way to curtail production costs. In 2005, KRON-TV in San Francisco became the first major-market TV newsroom in the country to supply nearly everyone in its newsroom with video cameras and laptops with editing software to allow them to produce stories as one-man-bands (Russell 2006). The VJ initiative tripled KRON's reporting capacity, but critics argued it was a retrenchment of quality control and not a good omen for the future of local news. According to Hub Brown of Syracuse University's Newhouse School of Public Communications, "You can call the VJ experiment anything you want but a pig is still a pig. When you shove a camera and editing equipment into everyone's hands and expect them to do it all, you devalue the entire news-gathering process" (Russell 2006).

The next year KUSA-TV in Denver started experimenting with backpack journalism, another name for the VJ model. KUSA news director Patti Dennis defended her station's decision to use backpack journalists, saying collapsing a reporter slot into a reporter-photographer position enabled her to increase her staff capacity without hiring more employees. In addition, Dennis argued that digital news production is requiring journalists to be multimedia trained and more versatile. However, Martha Stone, multimedia news consultant and Poynter Ethics Fellow, remained critical of the growing VJ or backpack journalism trend in large market newsrooms. "I resist the notion of backpack journalists because I believe it is being foisted on us by publishers [and stations] who don't feel that 20 percent profit is good enough. While some multimedia journalists can handle a variety of tasks efficiently and professionally most will only deliver mediocre journalism" (Kreck 2006).

Despite legitimate concerns surrounding the VJ trend and its impact on journalism, it would not be pragmatic for J-schools to ignore it in the classroom. Even media critic Elliot Cohen argued that we cannot overlook the "brute facts" of the current corporate climate of journalistic practice (2004, 165). Cohen maintained that discussing the moral edifice of journalism ethics should be done in acknowledgment of the boundaries of the corporate media environment that journalists must work. The debate should be constructed in a manner that provides the relevant antagonisms between the "is" and the "ought" (Cohen 2004, 165). So, what does this mean for the agenda of the media reform movement?

The media reform movement can play a role in guiding the debate by educating journalism students about the real world antagonisms between the "is" and the "ought" through an outreach program to J-schools around the country. The movement could take its cue from a highly successful strategy used by Senator Barack Obama's 2008 presidential campaign. The Obama campaign tapped into a constituency goldmine by putting a lot of time and effort into recruiting campaigners and voters on college campuses. The campaign smartly catered to young voters by leveraging their desire and hunger to affect the political process through voting and activism. The coalition should use part of its funding to create an outreach campaign to J-schools on college campuses to raise awareness of the media reform movement. The coalition could offer, at its own expense or a nominal stipend, to provide J-schools with prominent guest speakers associated with the movement, like Bill Moyers and Robert McChesney.

The speakers could talk to journalism classes about the benefits of public interest journalism and its struggles, and then give an open lecture to the campus for the general student population on the topic of media consolidation and reform. When CSU Department of Journalism and Technical Communication Chairman Greg Luft arranged for 2007 Broadcaster of the Year Roger Ogden to speak to journalism classes in the fall 2007 semester, he also arranged for a campus-wide forum by Ogden. The event drew hundreds of students from across various disciplines. Such an outreach program by the Stop Big Media Coalition would benefit not only journalism students by helping to educate them about the gap between "is" and "ought," but such a campaign also would benefit the reform movement. What better way to recruit future activists and raise awareness of the media reform movement than among young adults looking for opportunities to enter the political process and affect change.

Regulatory and Institutional Reform

> "Americans must demand the restoration of their constitutional right to a free press, a news media free of managerial constraint and corruption. The nation's finances, its towns and cities and infrastructure, and especially its sons and daughters in the US forces – none of these can be secure as long as the electronic marketplace of ideas and information is short-circuited by soulless conglomerates."
>
> -- Arthur Kent (2005, 12)

Journalism graduates today looking for their first jobs in the industry are facing a very different newsroom than their peers did just a few years ago. The push to sustain profit levels for both television and print journalism has intensified and led to record-setting staff cuts. The American Society of Newspaper Editors (ASNE) reported that fulltime professional news staffs fell by 2,400 in 2007, the biggest single year drop in the 30 years the organization has been tracking newspaper trends through an annual census (ASNE 2008). Like their newspaper counterparts, television newsrooms have felt their budgets tighten and their newsrooms slim down. CBS announced major layoffs in news in April 2008 after the network suffered a 14.6 percent decline in revenues in the fourth quarter of 2007. CBS ordered up to five percent job cuts at several of its local stations and also moved ahead with plans for layoffs at the network news level while not cutting back on the amount of news produced. ABC announced comparable cuts in 2008 with news division president David Westin stating he planned to eliminate more jobs by 2009.

ABC and CBS's cuts, although still big news in the news business, were pale in comparison to the NBC 2.0 initiative. NBC's companywide initiative to cut 700 news positions began in 2006 and was to be completed by the end of 2008 (Carter 2008). The cuts are bottom-line driven, the mark of a market-driven system of news production. In an e-mail exchange with the author on April 17, 2008, MSNBC associate producer Bryan Weakland expressed his concerns that budget cuts were increasing the workload in the newsroom and changing news practices:

> "As far as layoffs are concerned in the news business, it seems to me that the executives on top are under intense pressure to make profits at any cost. Therefore, they look at headcounts on paper and try to cut as much as possible, not realizing what it takes to put on a newscast. Often times when people have been let go in my newsroom, that means the rest of us have to pick up the slack. As a producer, that means I now have had to take on editing responsibilities. The position I hold is now informally called a "predator," basically a producer AND editor."

But the cuts do not just squeeze more work out of each news worker; the cuts also threaten the democratic process dependent upon news workers' ability to do quality work and inform the public. The cuts further reveal the vulnerability of news when news is viewed as just another commercial commodity. This is why we must reevaluate as a society if the health of the news media really should be subjected to the health of the bottom line. As discussed in Chapter VIII, we must expand the debate over a free press to include whether or not news should be a contested commodity or one of Radin's incomplete commodities. The sustainability of news should not be completely or perhaps even partially contingent upon its ability to survive and compete with other media or non-media goods and services. At the very least, we need to do something to reverse the trend in news of hardening of budget constraints – the problem of the shift from soft to hard budget constraints for news since the 1970s at the network level was discussed in Chapter VII.

This can be done through regulatory reform by instituting a type of news tax. Stations should be required to spend a graduated percentage of their annual profits, based on market size, on news production in order to justify free use of the spectrum. This would be relatively easy for the FCC to oversee and verify. Obviously, this would not be a perfect solution, but it would be a worthy experiment. We may just end up with more market-driven type of journalism designed to enhance ratings to make the required increased investment in news production reap the same profit margin. Softer budget constraints for news would not guarantee we would have more public interest news, but it would help to reverse budget cuts and layoffs in newsrooms that most critics agree harm journalism.

Another recommendation for regulatory reform is to pass legislation to prohibit a station from knowingly falsifying or maliciously suppressing news, and hold the FCC accountable for oversight and enforcement. The penalty for such violations would be pecuniary as well as the threat of loss of licensing. This could help protect journalists like Jane Akre and Steve Wilson – the two investigative journalists fired for refusing to falsify a story on hormones in the nation's milk supply. Their case was discussed in Chapter III. Legislation also should be passed to specifically protect journalists from being fired or facing other forms of retribution for investigating events or issues that might threaten the corporate parent's image or bottom line. The Brian Ross-Disney case discussed in Chapter III comes to mind here. Finally, legislation should be enacted that makes it a crime to knowingly feed false or misleading information to a news organization for the purpose of manipulating public opinion. The Pentagon "message force-multipliers" campaign exposed by the *New York Times* and also detailed in Chapter III would be the poster child for such a law. Ideally, the Stop Big Media Coalition would lead the campaign for these regulatory reforms.

A final policy recommendation involves creating special legislation to protect the last bastion of an independent press – the student press. CSU came close in January 2008 to becoming the first university in the country to allow a big media corporate takeover of its student-run newspaper, *The Rocky Mountain Collegian*. The *Collegian* received a tip on January 22 that CSU president Larry Penley was conducting closed-door negotiations with the Gannett Company, the nation's largest commercial newspaper chain, to sell the campus newspaper. After the *Collegian* reported the story, Penley's office immediately denied the talks were about a corporate acquisition, and instead said the negotiations were focused on a potential "strategic partnership" between the media giant and the *Collegian* (Myers 2008). Gannett representatives at first publicly backed up Penley's claim. The *Collegian* intensely covered the story, keeping the heat on the president's office, and the controversy received national coverage. Weeks later, after the first and only meeting between Gannett and Penley, a Gannett spokesperson admitted to the *Collegian* that the company's initial interest was entirely focused on buying the paper, not a strategic partnership (Myers 2008).

So, what prompted the university to even entertain a business deal that would give control of its 116-year-old, student-run newspaper to a corporate media giant? Four months earlier on Friday, September 21, 2007, the *Collegian* embarrassed and angered the university's president (and many others) when the paper became the focus of national scrutiny after the student staff ran an editorial stating: "Taser This … F*** Bush." The editorial was in response to an incident earlier in the week at the University of Florida where a student was Tasered by police while trying to ask Senator John Kerry, Democrat of Massachusetts, questions at a campus forum. The Taser incident sparked a nationwide debate over free speech and allegations of increasing intolerance toward political criticism with many placing the blame on the Bush Administration's War on Terror. The *Collegian*, like most other news organizations in the country, reported the story (Myers and Stafford 2007).

In addition to covering the Kerry speech Tasering, *Collegian* editor-in-chief Dave McSwane and his editorial staff decided to weigh in on the debate with the Bush editorial. They put the *Collegian* to bed as usual the night of September 20, and awakened the next morning to a firestorm of controversy over the editorial. It was not what the student editorial staff anticipated or bargained for. They wanted to stimulate debate and discussion over civil rights amid what they perceived to be an oppressive political environment. What they got was a public condemnation that culminated in attempts by the university's president to sell off the paper to corporate media. McSwane, as editor-in-chief, took full responsibility for the editorial, and most of the heat. The university's Student Board of Communications held public and private meetings on controversy, and ultimately determined that the most they could do was to censure McSwane because of the First Amendment protection of free speech and a free press.

Although the Gannett talks went nowhere, the president's office still maneuvered to distance itself from the *Collegian*. The president's office set up a committee of faculty, students, administrators and others to take recommendations for the future of the *Collegian* and the rest of CSU Student Media, including its student-run radio and television productions, and its monthly magazine. The committee recommended in May 2008 that a not-for-profit 501(c)3 educational media corporation be established. Anne Hudgens, CSU executive director of Campus Life and vice chairperson for the committee, said she believed the proposal for the 501(c)3 would address many of the issues that had the potential to cause problems between the university and Student Media. Hudgens was quoted as saying, "It's a tricky thing to be a publisher and governing body. This proposal disentangles the university from conflicts and protects Student Media" (Gibson 2008). It is uncertain, however, if student journalists will have the same degree of editorial and press freedom working for an independent corporation as they had as a university-sanctioned publication.

One thing is for certain, the *Collegian* case emphasizes the need to protect student-run news organizations on college campuses. Media companies would find college newspapers like the *Collegian* attractive properties for several reasons. For one, operating costs for student newspapers are low because student labor is inexpensive, sometimes even free. Advertising at student-run newspapers is on the rise. And perhaps most important, campus newspapers are read by a young audience with relatively deep pockets. In 2006, MTV acquired the Youth Media and Marketing Network (Y2M) whose subsidiary, College Publisher, is the host of Web sites for 450 campus newspapers. According to Alloy Media and Marketing, which places advertisements in college publications, advertisers spent $30 million on ads in college papers in 2006. Alloy also estimated that advertising in college newspapers increased 15 percent in 2007, from 2006 (*Grand Rapid Press* 2008). And Gannett by 2008 had purchased its first college campus newspapers in Florida. However, unlike the *Collegian*, both those papers had already been for-profit ventures.

It is apparent that with readership and advertising declining for many commercial newspapers while readership and advertising are solid for many college papers, student-run newspapers pose a potential target for corporate media. Thus, Congress should pass legislation to protect student-run newspapers and broadcast outlets. Although there needs to be debate to determine exactly what such legislation should entail, it should include a requirement that all public universities above a certain enrollment be required to fund a student press as a public service to students. In a guest column in the *Collegian* days after the Gannett controversy, CSU Journalism Professor Donna Rouner emphasized the importance of a university-supported, viable scholastic press in training future journalists. She wrote, "Working at student media may be [college journalists'] only opportunity to exercise press freedom truly, unfettered by corporate constraints. Press freedom is vulnerable in a context of media consolidation, commercial influence of editorial content, lowering of journalistic standards and increasing focus on celebrity and entertainment as news" (2008).

Such legislative and regulatory reforms as mentioned above would be revolutionary and well outside the pattern of incrementalism that occurred with broadcast regulation in the first few decades of its existence up until the early 1980s. It is a lesson in what Lindblom would have called "muddling through." According to Lindblom, making policy is at best a very rough process, and it is difficult, even for veteran policy makers, to avoid repeated errors in predicting the consequences of policy moves. Thus, as Lindblom noted, "A wise policy-maker … will produce unanticipated consequences he would have preferred to avoid. If he proceeds through a *succession* of incremental changes, he avoids serious lasting mistakes in several ways" (1959, 86). Incrementalism also is likely to occur with a succession of like-minded government administrators with common values and agreed organizational objectives. This is exactly what we had in the succession of FCC members until the Reagan Administration where policy doctrine changed dramatically and went from instrumentalism to a system overhaul.

Chapters IV and V, in examining the evolution of broadcast regulation and policy over time, reveal an oscillating dichotomy in the policy formulation process. A teeter-totter pattern of policy-making emerges where decades of decisions representing a disjointed incrementalism are tempered with sporadic surges of a systemic overhaul approach. The trajectory indicates an end point with the Reagan era where the market mentality superseded the public interest standard with little hope of reversal unless a new systemic overhaul as suggested here pushes the deregulation trend down a different path.

In addition to a revolution in regulatory reform, the informal rules of the game need to change for commercial news. The quality of news needs to be defined differently in the newsroom and we need a revolution of newsroom values to counter the market corruption of news. The current commercial pressure on news is getting worse as we have discussed previously in this chapter and Chapters III, VII and VIII. Increased trends in budget cuts, layoffs, backpack journalism, corporate conflict of interest, hardening budget constraints and the commodification of news have made it more difficult for journalists to provide the public with news and information the public needs to know. Also, the Society of Professional Journalists (SPJ) Code of Ethics was discussed in Chapter III and the author recommends this code be amended. The preamble to the code reads:

> Members of the Society of Professional Journalists believe that public enlightenment is the forerunner of justice and the foundation of democracy. The duty of the journalist is to further those ends by seeking truth and providing a fair and comprehensive account of events and issues.

This is the only mention of the word "democracy" in the SPJ code. The four points in the code are: seek truth and report it, minimize harm, act independently, and be accountable. The author recommends SPJ add a fifth code constructed to specifically reference the moral agency of journalism and the journalist's ethical obligation to report news that educates the citizenry for the purpose of advancing democracy.

Closing Comments

> "The present era is *the* economic epoch of human history, and contemporary culture is uniquely motivated by the economic system: the economic system in the capitalist era achieves a semiautonomous stature vis-à-vis the cultural web of legal, social, personal, and political relations, and it tends to dominate other dimensions of human culture. It is to be expected that an econocentric culture in crisis would be so placed by the logic of its economic institutions."
>
> -- J. Ron Stanfield (1979, xiv)

The state of a free press has declined since 1979 when economist J. Ron Stanfield made the case for an economic theory of social change in his book *Economic Thought and Social Change*. Institutional economists like Stanfield have kept the pressure on the economics community to hold itself accountable for the policy decisions it affects and the cultural web of "legal, social, personal, and political relations" it helps to weave. Among other important contributions, institutionalists have helped to shine the spotlight on the deficits and oversights of orthodox economic theory, and get us to think differently about *the* economic epoch of human history in which we live.

The purpose of this research has been to contribute, if only modestly, to a better understanding of the evolution of broadcast regulation and its role in our quality of democratic life, part of our cultural web. It has focused on the impact policy changes have had on news as an institution, and thus on our political culture and identity, on our democracy. This problem is the epitome of an econocentric culture in crisis placed in crisis by the logic of its economic institutions. The insistence on viewing news as another market transaction is a grave oversight for the greater good and it perpetuates a social ill. We must take a different view of the economic production of news in democratic society – a social economic view, a critical ethnographic view.

As Stanfield has stressed to us, social economics accommodates profit and loss while stressing the maintenance of reproduction of society itself. It draws upon a mixture of specialties: sociology, history, anthropology, ethics and philosophy. All of these perspectives have been addressed in this research on broadcast regulation, and the state of the free press in a free market economy. The battle over broadcasting has brought us to a crossroads where it seems we are left to choose between a free press and a free market. The two are morally incompatible, and we must find some middle ground. The ability of our democracy to survive is dependent upon the path we choose.

BIBLIOGRAPHY

Aaron, Craig, Marvin Ammori, Josephy Torres and S. Derek Turner. *The Devil is in the Details: 10 Facts Kevin Martin Doesn't Want You to Know About His New Media Ownership Rules*. Open response to the public. StopBigMedia.com, November 2007. http://www.stopbigmedia.com/files/devil_in_the_details.pdf (accessed December 18, 2007).

Achbar, Mark, Jennifer Abbott and Joel Bakan. *The Corporation*, Documentary, 2004.

Achbar, Mark and Peter Wintonick. *Manufacturing Consent – Noam Chomsky and the Media*, Documentary, 1994.

Ackerman, Bruce. "And Now for the Bad News?" In *Building a Trustworthy State in Post-Socialist Transition*, edited by Janos Kornai and Susan Rose-Ackerman, 214-222. New York: Palgrave Macmillan, 2004.

Ahrens, Frank. "Court Rejects Rules on Media Ownership." *The Washington Post,* June 25, 2004, sec. E.

Andrews, Edmund L. "A Move to Auction Licenses that Sell." *New York Times*, March 21, 1993, sec. 4.

Angresano, James. *Comparative Economics*. Upper Saddle River, NJ: Prentice-Hall, 1991.

ASNE. "Newsrooms Shrink; Minority Percentage Increases Slightly." American Society of Newspaper Editors (April 13, 2008). http://www.asne.org/files/08Census.pdf (accessed April 14, 2008).

Auletta, Ken. *Three Blind Mice: How the TV Networks Lost Their Way.* New York: Random House, 1991.

---. "The Invisible Manager." *The New Yorker* (July 27, 1998).

---. "Interview on PBS' *Now* with Bill Moyers." *Now* (Jan. 16, 2004b). http://www.pbs.org/now/transcript/transcript303_full.html (accessed March 11, 2006).

Ayres, Clarence E. *The Theory of Economic Progress.* New York: Schocken Books, 1962.

---. *Toward a Reasonable Society*. Austin: University of Texas Press, 1978.

Babington, Charles. "Democrats Urge Tighter FCC Rules." *Washington Post*, February 2, 2007, sec. D.

Bagdikian, Ben H. *The Media Monopoly*. Boston: Beacon Press, 1992.

---. *The Media Monopoly*. Boston: Beacon Press, 2000.

---. *The New Media Monopoly*. Boston: Beacon Press, 2004.

Bailey, Michael and David Braybrooke. "Robert A. Dahl's Philosophy of Democracy, Exhibited in His Essays." *Annual Review of Political Science* 6 (2003): 99-118.

Barnouw, Erik, Richard M. Cohen, Gene Roberts, Thomas Schatz, Mark C. Miller, David Liberman, Patricia Aufderheide and Thomas Frank. *Conglomerates and the Media*. New York: The New Press, 1997.

Barstow, David. "Message Machine: Behind TV Analysts, Pentagon's Hidden Hand." *New York Times*, April 20, 2008, sec. A, 1.

Bauder, David. "Tim Russert Hits Ratings Milestone." *USA Today,* April 24, 2006. http://www.usatoday.com/life/television/news/2006-04-24-russert_x.htm. (accessed October 28, 2007).

Bausum, Ann. *Muckrakers: How Ida Tarbell, Upton Sinclair, and Lincoln Steffens Helped Expose Scandal, Inspire Reform, and Invent Investigative Journalism.* Washington, D.C.: National Geograhic, 2007.

Bealey, Frank. "Democratic Elitism and the Autonomy of Elites." *International Political Science Review* 17, no. 3 (July 1996): 319-331.

Becker, Gary S. *A Treatise on the Family*. Cambridge, MA: Harvard University Press, 1993.

Bednarski, Anastasia. "From Diversity to Duplication: Mega-Mergers and the Failure of the Marketplace Model Under the Telecommunications Act of 1996." *Federal Communications Law Journal* 55, no. 2 (March 2003): 273-295.

Benton Foundation. "The Public Interest Standard in Television Broadcasting." Advisory Committee on Public Interest Obligations of Digital Television Broadcasters, 1999. http://www.benton.org/publibrary/piac/sec2.html. (accessed March 3, 2006).

Bennett, W. Lance. *News: The Politics of Illusion*. White Plains, NY: Longman, 1996.

Bernstein, Irving. *Promises Kept: John F. Kennedy's New Frontier.* New York: Oxford University Press, 1991.

Billboard Radio Monitor. "Adverts: How'd We Get Here?" February 11, 2005. http://www.billboardradiomonitor.com/radiomonitor/search/article_display.jsp?schema=&vnu_content_id=1000797181 (accessed September 14, 2007).

Black, Conrad. *Franklin Delano Roosevelt: Champion of Freedom.* New York: Public Affairs, 2003.

Boliek, Brooks. "Senate Democrats Urge Tighter Broadcast Guidelines." *Washington Post,* February 1, 2007. www.washingtonpost.com/wpdyn/content/article/2007/02/01/AR2007020102413.html (accessed February 27, 2007).

Bowie, Nolan A. and Hugh C. Donahue. "Doing Well by Doing Good: The Gore Commission's Hope for Digital Broadcasting in the Public Interest." *Journal of Policy Regulation and Strategy for Telecommunications* 1, no. 2 (1999): 127-131.

Boyd, Julian P., ed., *The Papers of Thomas Jefferson, Volume 10: June 1786 to December 1786.* Princeton: Princeton University Press, 1954.

---, ed. *The Papers of Thomas Jefferson, Volume 11: January 1787 to August 1787.* Princeton: Princeton University Press, 1955.

Breit, William and Roger L. Ransom. *The Academic Scribblers.* Princeton, NY: Princeton University Press, 1998.

Bridge, Susan. *Monitoring the News: The Brilliant Launch and Sudden Collapse of the Monitor Channel.* Armonk, NY: M.E. Sharpe, 1998.

Brinkley, Joel. "A Gulf Develops Among Broadcasters on Programming Pledge." *New York Times*, August 18, 1997, sec. D.

Buchanan, James M. and Gordon Tullock. *The Calculus of Consent: Logical Foundations of Constitutional Democracy.* Ann Arbor: The University of Michigan Press, 1962.

Caldwell, Louis G. "The Standard of Public Interest, Convenience or Necessity, as Used in the Radio Act of 1927." *Air Law Review* 1 (July 1930a): 295-330.

---. "Principles Governing the Licensing of Broadcasting Stations." *University of Pennsylvania Law Review and American Law Register* 79, no. 2 (December 1930b): 113-157.

Campbell, Richard. "Don Hewitt's Durable Hour: A Pioneering Newsmagazine Hits 25." *Columbia Journalism Review* (September/October 1993). http://backissues.cjrarchives.org/year/93/5/hewitt.asp (accessed April 4, 2006).

Carnegie Reporter. "Abandoning the News." Fall 2004. http://www.carnegie.org/reporter/10/news/index5/html (accessed May 12, 2006).

Carter, Bill. "'Meet the Press' Moderator Agrees to Long Extension," *New York Times*, December 12, 2001, sec. C, 6.

---. "TV Stations Join CBS in Cutting News Jobs." *New York Times*, April 2, 2008, sec. C, 3.

Chambers II, John W. *The Tyranny of Change: America in the Progressive Era, 1890-1920.* New Brunswick, NJ: Rutgers University Press, 2000.

Chamoux, Jean-Pierre. *Deregulating Regulators? Communication Policies for the 90's*. Amsterdam: IOS Press, 1991.

Champlin, Dell P. and Janet T. Knoedler. "Operating in the Public Interest or in Pursuit of Private Profits? News in the Age of Media Consolidation." *Journal of Economic Issues* 36, no. 2 (June 2002): 459-468.

Chinni, Dante. "Is the Fairness Doctrine Fair Game?" Project for Excellence in Journalism. July 19, 2007. http://pewresearch.org/pubs/546/fairness-doctrine (accessed April 7, 2008).

Chomsky, Noam. *Media Control: The Spectacular Achievements of Propaganda*. New York: Seven Stories Press, 1997a.

---. "What Makes Mainstream Media Mainstream." *Third World Traveler*, June 1997b. www.thirdworldtraveler.com/Media/MainstreamMedia_Chom.html (accessed October 2, 2003).

Clark, Barry. *Political Economy: A Comparative Approach.* Westport, CT: Praeger Publishers, 1998.

Clendinen, Dudley. "Book Rouses Publisher." *New York Times*, April 6, 1983, sec. C, 22.

CNN. "Too Much Communication for FCC." CNN, May 30, 2003. http://money.cnn.com/2003/05/30/news/companies/fcc_calls/index.htm (accessed March 18, 2006).

Coase, Ronald H. "The Nature of the Firm." *Economica* 4, no. 16 (November 1937): 386-405.

---. "The Federal Communications Commission." *Journal of Law and Economics 2* (1959): 1-40.

---. "Comment on Thomas W. Hazlett: Assigning Property Rights to Radio Spectrum Users: Why did FCC License Auctions Take 67 Years?" *Journal of Law and Economics* 41, no. 2 (October 1998): 577-580.

Cohen, Elliot D. "Exploring Questions of Media Morality: Report Cards: Elliot Cohen." *Journal of Mass Media Ethics* 19, no. 3 (September 2004): 161-165.

---. "Corporate Media's Betrayal of America." In *News Incorporated: Corporate Media Ownership and Its Threat to Democracy,* edited by Elliot D. Cohen, 17-32. Amherst, NY: Prometheus Books, 2005a.

---. "What Would Cronkite Do? Journalistic Virtue, Corporate News, and the Demise of the Fourth Estate." In *News Incorporated: Corporate Media Ownership and Its Threat to Democracy,* edited by Elliot D. Cohen, 141-154. Amherst, NY: Prometheus Books, 2005b.

Commons, John R. *The Economics of Collective Action.* New York: Macmillan, 1950.

Croly, Herbert. *The Promise of American Life.* New York: Macmillan, 1909.

Croteau, David R. and William Hoynes. *The Business of Media: Corporate Media and the Public Interest.* Thousand Oaks, CA: Sage Publications, 2006.

Dahl, Robert A. *A Preface to Democratic Theory.* Chicago: University of Chicago Press, 1956.

---. *Who Governs? Democracy and Power in an American City.* New Haven, Conn.: Yale University Press, 1961.

---. *Polyarchy: Participation and Opposition.* New Haven: Yale University Press, 1971.

---. *Dilemmas of Pluralist Democracy.* New Haven: Yale University Press, 1982.

---. *Democracy and Its Critics.* New Haven: Yale University Press, 1989.

---. *After the Revolution? Authority in a Good Society.* New Haven: Yale University Press, 1990.

---. *Toward Democracy: A Journey, Reflections: 1940-1997.* Vol. 1. Berkeley: Institute of Governmental Studies Press, 1997a.

---. *Toward Democracy: A Journey, Reflections: 1940-1997.* Vol. 2. Berkeley: Institute of Governmental Studies Press, 1997b.

---. *On Democracy.* New Haven: Yale University Press, 1998.

Dahl, Robert A., and Charles E. Lindblom. *Politics, Economics, and Welfare: Planning and Politico-Economic Systems Resolved into Basic Social Process.* Chicago: University of Chicago Press, 1953.

Dahl, Robert A., and Edward R. Tufte. *Size and Democracy.* Stanford: Stanford University Press, 1973.

Deggans, Eric. "Reporters Sue WTVT, Say Story Suppressed." *St. Petersburg Times*, April 3, 1998, sec. B, 1.

Dempsey, John M. "The American System: Herbert Hoover and the Development of Broadcast Advertising." Presented at the Annual Meetings of the Broadcast Education Association, Las Vegas, NV, 2002.

Dennis, Brady. "Reporter's Jury Award Tossed Out." *St.Petersburg Times,* February 15, 2003, sec. B, 7.

Dewey, John. *Democracy and Education: An Introduction to the Philosophy of Education.* New York: Macmillan, 1916.

---. *The Public and its Problems.* Chicago: The Swallow Press, Inc., 1927.

DeWitt, Benjamin P. *The Progressive Movement: A Non-Partisan , Comprehensive Discussion of Current Tendencies in American Politics.* New York: Macmillan, 1915.

Dill, Clarence C. *Radio Law: Practice and Procedure.* Washington, DC: National Law Book Co., 1938.

Dolbeare, Kenneth M. *American Political Thought.* Chatham, NJ: Chatham House Publishers, Inc., 1998.

Dolbeare, Kenneth M. and Patricia Dolbeare. *American Ideologies.* Chicago: Rand McNally College Publishing Company, 1976.

Dorgan, Byron L. "Media Concentration Still an Issue." *Wall Street Journal*, May 17, 2008, sec. A, 10.

Dowd, Maureen. "The Dude in the Python." *New York Times*, March 6, 2002, sec. A, 21.

Drew, Mike. "TV's 'Tiffany Network' Loses Some of Its Old Sparkle." *Milwaukee Journal Sentinel* (January 8, 2004), sec. E, 2.

Dunbar, John. "Former FCC Chair Denies Seeing Media Ownership Study." *Pittsburgh-Post Gazette*, September 16, 2006a, sec. C, 5.

---. "Senator says Media Ownership Study was Suppressed; FCC Orders Investigation." Associated Press, September 18, 2006b. http://hosted.ap.org/dynamic/stories/M/MEDIA_OWNERSHIP?SITE=TXELP&SECTION=HOME&TEMPLATE=DEFAULT (accessed December 2, 2006).

---. "FCC Chairman Offers Ownership Plan." Associated Press, October 18, 2007a. http://apexchange.typepad.com/industry_news/2007/10/fcc-chairman-la.html (accessed October 30, 2007).

---. "Tribune Litigation Endangers Media Ownership Rule, Says Regulator." *The Examiner,* December 17, 2007b. http://wwww.dcexaminer.com/a1122580~FCC_Chief_Defends_Media_Ownership_Plan.html (accessed December 20, 2007).

---. "Senate Panel Rejects FCC Ownership Rule." *TV Newsday*, April 24, 2008. http://www.tvnewsday.com/articles/2008/04/24/daily.6/?promo (accessed April 24, 2008).

Durr, Robert H. "What Moves Policy Sentiment?" *The American Political Science Review* (87), no. 1 (March 1993): 158-170.

Edwards, Bob. *Edward R. Murrow and the Birth of Broadcast Journalism.* Hoboken, NJ: John Wiley & Sons, Inc., 2004.

Edwards, George C., III, Martin P. Wattenberg, and Robert L. Lineberry. *Government in America: People, Politics, and Policy.* New York: Pearson Longman, 2006.

Eggerton, John. "FCC Didn't Quash Studies, Says Inspector General." *Broadcasting & Cable* (October 5, 2007a). http://www.broadcastingcable.com/article/CA6487597.html (accessed November 10, 2007).

---. "Bill to Block FCC's Cross-Ownership Changes Hits House." *Broadcasting & Cable* (December 19, 2007b). http://www.broadcastingcable.com/article/CA6514199.html (accessed January 5, 2008).

---. “Dingell: ‘The FCC Appears to Be Broke.’”
Broadcasting & Cable (December 19, 2007c).
http://www.broadcastingcable.com/article/CA6509853.html?rssid=193 (accessed January 5, 2008).

---. “Senate Votes to Block FCC’s Cross-Ownership Rule Change.”
Broadcasting & Cable (May 15, 2008).
http://www.broadcastingcable.com/article/CA6561506.html?rssid=193 (accessed May 18, 2008).

Ehrman, John. *The Rise of Neoconservatism: Intellectuals and Foreign Affair, 1945-1994.* New Haven: Yale University Press, 1995.

Eisenach, Eldon J. *The Lost Promise of Progressivism.* Lawrence, KS: University Press of Kansas, 1994.

Ellison, Sarah. “‘Letterman’ in Sights, Revived ‘Nightline’ May Get Last Laugh.” *Wall Street Journal*, September 11, 2006, sec. B, 1.

Emery, Walter B. *Broadcasting and Government.* Lansing: Michigan Sate University Press, 1961.

Emery, Michael and Edwin Emery. *The Press and America: An Interpretive History the Mass Media.* Englewood Cliffs, NJ: Simon & Schuster, 1992.

Fairness and Accuracy in Reporting. “Speak out for Media Democracy.” FAIR, 2003. http://www.fair.org/activism/fcc-factsheet.html. (accessed November 8, 2006).

---. “Fear & Favor 2007.” FAIR, 2007. http://www.fair.org/index.php?page=3323 (accessed April 17, 2008).

Farmer, Brian R. *American Political Ideologies: An Introduction to the Major Systems of Thought in the 21st Century.* Jefferson, NC: McFarland & Company, Inc., 2006.

FCC. *Fifteenth Annual Report Federal Communications Commission, 1949.* http://www.fcc.gov/ftp/Bureaus/Mass_Media/Databases/documents_collection/annual_reports/1949.pdf (accessed October 8, 2006).

Fenton, Tom. *Bad News: The Decline of Reporting, the Business of News, and the Danger to Us All.* New York: Harper Collins Publishers, Inc., 2005.

Frank, Reuven. “Will Next to Go be the Evening Network News?” *USA Today*, March 7, 2002, sec. A, 13.

Frankfurter, Felix. “Herbert Croly and American Political Opinion.” *The New Republic* (July 16, 1930): 247-250.

Friend, Tad. "Dead Air." *The New Yorker* 90 (May 7, 2001).

Ford, Frederick W. "The Meaning of the Public Interest, Convenience or Necessity." *Journal of Broadcasting* 5 (Summer 1961): 205-218.

Fowler, Mark S. and Daniel L. Brenner. "A Marketplace Approach to Broadcast Regulation." *Texas Law Review* 60 (1982): 207-257.

FRC. *Third Annual Report of the Federal Radio Commission,1929. http://www.fcc.gov/fcc-bin/assemble?docno=291101* (accessed October 8, 2006).

Gans, Herbert J. *Democracy and the News*. New York: Oxford University Press, 2003.

GE. *GE 2007 Annual Report*, 2007. http://www.ge.com/ar2007/pdf/ge_ar2007_full_book.pdf (accessed April 17, 2008).

Gibson, Bijah. "Committee Advises Non-Profit Status." *Rocky Mountain Collegian* (May 7, 2008). http://media.www.collegian.com/media/storage/paper864/news/2008/05/07/News/Committee.Advises.NonProfit.Status-3366397.shtml (accessed May 25, 2008).

Gindin, Jonah. "The United States, Venezuela, and 'Democracy Promotion'" (includes an interview with William I. Robinson). *Open Democracy* (April 8, 2005). http://www.opendemocracy.net/democracy-protest/venezuala_2730.jsp (accessed September 23, 2007).

Goddard, Edwin C. "The Evolution and Devolution of Public Utility Law." *Michigan Law Review* 32, no. 5 (March 1934): 577-623.

Goodman, Mark. "The Radio Act of 1927 as a Product of Progressivism." *Media History Monographs* (1998). http://www.scripps.ohiou.edu/mediahistory/mhmjour2-2.htm (accessed October 21, 2006).

Gould, Lewis. *The Presidency of Theodore Roosevelt*. Lawrence: University Press of Kansas, 1992.

Grand Rapid Press. "Is Gannett Eyeing Takeover of College Newspaper?" February 24, 2008, sec. A, 12.

Hall, Ford P. "Certificates of Convenience and Necessity." *Michigan Law Review* 28, no. 3 (January 1930): 276-314.

Hallock, Steve. "Fewer Two-Newspaper Cities." *St. Louis Journalism Review* 37, no. 299 (September 2007): 24-25.

Handlin, Oscar. Review of *Politics, Economics and Welfare*, by Robert A. Dahl and Charles E. Lindblom. *Harvard Law Review* 67, no. 6 (April 1954): 1095-1097.

Harvey, David. *A Brief History of Neoliberalism.* Oxford: Oxford University Press, 2005.

Hazlett, Thomas W. "The Rationality of U.S. Regulation of the Broadcast Spectrum." *The Journal of Law and Economics* 18, no. 1 (April 1990): 133-175.

---. "Oak Leaves and the Origins of the 1927 Radio Act: Comment." *Public Choice* 95, no. 3/4 (June 1998): 277-285.

Hazlett, Thomas.W. and Greg L. Rosston. "Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets: Comments of 37 Concerned Economists." Paper submitted to the Federal Communications Commission, February 7, 2001.

Heilbroner, Robert L. *The Nature and Logic of Capitalism.* New York: W.W. Norton & Company, Inc., 1985.

Heilbroner, Robert L. and John K. Galbraith. *Understanding Microeconomics.* Englewood Cliffs, NJ: Prentice-Hall, Inc., 1990.

Hellman, Joel S. and Daniel Kaufmann. "The Inequality of Influence." In *Building a Trustworthy State in Post-Socialist Transition*, edited by Janos Kornai and Susan Rose-Ackerman, 100-118. New York: Palgrave Macmillan, 2004.

Herman, Edward S. *Beyond Hypocrisy: Decoding the News in an Age of Propaganda.* Boston: South End Press, 1992.

---. "The Propaganda Model Revisited." *Monthly Review* 48, no. 3 (July 1996): 115-129.

---. *The Myth of the Liberal Media.* New York: Peter Lang Publishing, Inc., 1999.

Herman, Edward S. and Noam Chomsky. *Manufacturing Consent: The Political Economy of the Mass Media*. New York: Pantheon Books, 1988.

Herzel, Leo. "'Public Interest' and the Market in Color Television Regulation." *University of Chicago Law Review* 18 (1951): 802-816.

Hetter, Katia. "Bob Dole Breathes Fire on Broadcasters." *U.S. News & World Report* 120, 5 (February 5, 1996): 51.

Heuvel, Katrina Vanden. "Obama – Let's Challenge the Murdochization of Our Media." *The Nation* (May 19, 2008). http://www.thenation.com/blogs/campaignmatters/322037/obama_let_s_challenge_the_murdochization_of_our_media (accessed May 20, 2008).

Hewitt, Don. "Fifty Years and 60 Minutes in Television: Interview with Don Hewitt" *Talk* (April 2001): 173-192.

---. *Tell Me a Story: Fifty Years and 60 Minutes in Television.* New York: Public Affairs, 2002.

Holmes, Gary. "Nielsen Media Research Reports Television's Popularity is Still Growing." Nielsen Media Research, Sept. 21, 2006. http://www.nielsenmedia.com/nc/portal/site/Public/menuitem.55dc65b4a7d5adff3f65936147a062a0/?vgnextoid=4156527aacccd010VgnVCM100000ac0a260aRCRD (accessed January 11, 2007).

Holson, Laura. "Disney Woes Force Leader to Confront Hard Questions." *New York Times*, March 6, 2002, sec. C, 1.

Horowitz, Robert B. *The Irony of Regulatory Reform: The Deregulation of American Telecommunications.* New York: Oxford University Press, 1989.

Howeth, Linwood. S. *History of Communications Electronics in the United States Navy.* Washington, DC: Government Printing Office, 1963.

Huntington, Samuel, P. "The Modest Meaning of Democracy." In *Democracy in the Americas: Stopping the Pendulum* ed. Robert A. Pastor. New York: Holmes and Meier, 1989.

Jaker, Bill, Frank Sulek and Peter Kanze. *The Airwaves of New York: Illustrated Histories of 156 AM Stations in the Metropolitan Area, 1921-1996.* New York: McFarland & Company, 1998.

Johnson, Peter. "'Meet the Press' at 60: Aging gracefully, or past its prime?" *USA Today,* November 11, 2007, sec. D, 3.

Josephson, Matthew. *The Robber Barons: The Great American Capitalists.* New York: Harcourt Books, 1962.

Kalb, Marvin. "The Rise of the 'New News': A Case Study of Two Root Causes of the Modern Scandal Coverage." Discussion Paper D-34. Cambridge, MA: The Joan Shorenstein Center on the Press, Politics and Public Policy, John F. Kennedy School of Government, Harvard University, October 1998.

Kaniss, Phyllis. *Making Local News.* Chicago: University of Chicago Press, 1991.

Keynes, John M. *Essays in Persuasion.* New York: Harcourt Books, 1932.

---. "A Self-Adjusting Economic System." *The New Republic*, (February 20, 1935): 35-37.

---. *The General Theory of Employment, Interest and Money.* New York: Harcourt Books, 1936.

Kent, Arthur. "Preface." In *News Incorporated:Corporate Media Ownership and Its Threat to Democracy,* edited by Elliot D. Cohen, 9-13. Amherst, NY: Prometheus Books, 2005.

Kim, Gina and Mark Ramirez. "Judging Embedded Reporting." *The Seattle Times*, March 26, 2003, sec. A, 9.

Kimmelman, Gene, Ben Scott and Mark Cooper. *Further Comments of the Consumers Union, Consumer Federation of America and Free Press.* Comments to the FCC on the Analysis of FCC Studies. StopBigMedia.com, October 22, 2007. http://stopbigmedia.com/=coalition_analysis (accessed December 18, 2007).

Klein, Naomi. *The Shock Doctrine: The Rise of Disaster Capitalism.* New York: Metropolitan Books, 2007.

Knight, Jack. "Explaining the Rise of Neoliberalism: The Mechanisms of Institutional Change." In *The Rise of Neoliberalism and Institutional Analysis,* edited by John L. Campbell and Ove K. Pedersen, 27-50. Princeton, NJ: Princeton University Press, 2001.

Kornai, Janos. "Resource-Constrained Versus Demand-Constrained Systems." *Econometrica* 47, no. 4 (July 1979): 801-819.

---. *Economics of Shortage.* Amsterdam: Elsevier North-Holland, 1980.

---. "The Soft Budget Constraint." *Kyklos* 39, no. 1 (February 1986): 3-30.

---. *Highway and Byways.* Cambridge: MIT Press, 1995.

Kornai, Janos, Eric Maskin and Gerard Roland. "Understanding the Soft Budget Constraint." *Journal of Economic Literature* XLI, (December 2003): 1095-1136.

Krasnow, Erwin G. "The Public Interest Standard: The Elusive Search for the Holy Grail." Briefing Paper Prepared for the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters, October 1997.

Krattenmaker, Thomas G. and Lucas A. Powe, Jr. *Regulating Broadcast Programming.* Washington, DC: The AEI Press, 1994.

Kreck, Dick. "KUSA's Backpack Journalists Signal Shift in TV News." *Denver Post*, February 21, 2006, sec. F, 9.

Kurtz, Howard and Lisa de Moraes. "ABC News Rallies Behind 'Nightline:' Stunned Staff Rips Network's Plan to Replace Prestigious Show with CBS's Letterman." *The Washington Post*, March 2, 2002, sec. C, 1.

Labaton, Stephen. "Court Orders F.C.C. to Rethink New Rules on Growth of Media." *New York Times,* June 25, 2004a, sec. A, 1.

---. "Senate Votes to Restore Media Limits." *New York Times,* June 23, 2004b, sec. A, 1.

Layton, Charles. "News Blackout." *American Journalism Review* (December/January, 2003/2004): 18-31.

Lewis, Tom. *Empire of the Air: The Men Who Made Radio.* New York: Harper Collins, 1991.

Lewis, Peter and Jerry Booth. *The Invisible Medium: Public, Commercial, and Community Radio*. Washington, DC: University Press, 1990.

Lichty, Lawrence W., and Malachi C. Topping. *American Broadcasting: A Source Book on the History of Radio and Television.* New York: Hastings House, 1975.

Lieberman, Trudy. "You Can't Report What You Don't Pursue." *Columbia Journalism Review* (May/June 2000). http://backissues.cjrarchives.org/year/00/2/lieberman.asp (accessed April 17, 2008).

Lindblom, Charles E. "The Science of Muddling Through." *Public Administration Review* 19, no. 2 (Spring 1959): 78-88.

---. *Politics and Markets: The World's Political-Economic Systems.* New York: Basic Books, 1977.

---. "Still Muddling, Not Yet Through." *Public Administration Review* 39, no. 6 (November/December, 1979): 517-526.

---. *Democracy and Market System*. Denmark: Norwegian University Press, 1988.

Lindner, Andrew M. "Controlling the Media in Iraq." *Contexts* 7, no. 2 (Spring 2008): 32-38.

Lippmann,Walter. *Public Opinion.* New York: Hartcourt, Brace and Company, 1922.

---. *The Phantom Public.* New York: Macmillan, 1925.

Literary Digest. "Unscrambling the Ether." March 5, 1927: 5-7.

Lowi, Theodore J. *The End of Liberalism: Ideology, Policy, and the Crisis of Public Authority.* New York: Norton, 1969.

Lowi, Theodore J., Benjamin Ginsberg and Kenneth A. Shepsle. *American Government: Power and Purpose.* New York: W.W. Norton & Company, 2006.

Lubar, Steven. *Infoculture: The Smithsonian Book of Information Age Inventions.* Boston: Houghton Mifflin Company, 1993.

MacDonald, J. Fred. *One Nation Under Television: The Rise and Decline of Network TV.* Chicago: Nelson-Hall Publishers, 1994.

MacDougall, Curtis D. *Interpretative reporting.* New York: Macmillan, 1938.

Martin, Robert W. T. *The Free and Open Press: The Founding of American Democratic Press Liberty, 1640-1800.* New York: New York University Press, 2001.

Martin, Kevin J. "The Daily Show." *New York Times*, November 13, 2007, sec. A, 29.

May, Randolph J. "The Public Interest Standard: Is it Too Indeterminate to be Constitutional?" *The Federal Communications Law Journal* 53 (2001): 427-467.

McChesney, Robert W. "The Battle for the U.S. Airwaves, 1928-1935." *Journal of Communication* 40, no. 4 (Autumn 1990): 29-57.

---. *Telecommunications, Mass Media, & Democracy: The Battle for Control of U.S. Broadcasting, 1928-1935.* New York: Oxford University Press, 1993.

---. "Digital Highway Robbery: Where is the 'Competition' the Telecommunications Act was Supposed to Provide?" *The Nation* (April 21, 1997). http://past.thenation.com/issue /970421/0421mcch.htm (accessed December 13, 2006).

---. *Rich Media, Poor Democracy: Communication Politics in Dubious Times.* Champaign-Urbana: University of Illinois Press, 1999.

---. "Oligopoly: The Big Media Game has Fewer and Fewer Players." *The Progressive* (November 1999): 1, 20-24.

---. *The Problem of the Media: U.S. Communication Politics in the Twenty-First Century.* New York: Monthly Review Press, 2004.

McClellan Steve. "For 60 Minutes' Hewitt, The Clock Stops in 2004." *Broadcasting & Cable* 18 (February 3, 2003).

McConnell, Bill. "Martin Pushes TV-Radio Owner Change." *The Daily Deal,* October 19, 2007. http://www.TheDeal.com (accessed October 30, 2007).

McManus, John H. "Serving the Public and Serving the Market: A Conflict of Interest?" *Journal of Mass Media Ethics* 7, no. 4 (1992a): 196-208.

---. "What Kind of Commodity is News." *Communication Research* 19, 6 (1992b): 787-805.

---. *Market-Driven Journalism: Let the Citizen Beware?* Thousand Oaks, CA: Sage, 1994.

---. "A Market-Based Model of News Production." *Communication Theory* 5, (November 1995): 301-338.

---. "Who's Responsible for Journalism?" *Journal of Mass Media Ethics* 12, no. 1 (1997): 5-17.

Meyer, Philip. *The Vanishing Newspaper: Saving Journalism in the Information Age.* Columbia: University of Missouri Press, 2004.

Myers, Erik. "Gannett: CSU Turned Down Sale of *Collegian,* Partnership Dismissed." *Rocky Mountain Collegian* (March 7, 2008). http://media.www.collegian.com/media/storage/paper864/news/2008/03/07/News/Gannett.Csu.Turned.Down.Sale.Of.Collegian.Partnership.Dismissed-3258500.shtml (accessed May 25, 2008).

Myers, Erik and Jessi Stafford. "Taser Incident Ignites Debate." *Rocky Mountain Collegian* (September 21, 2007). http://media.www.collegian.com/media/storage/paper864/news/2007/09/21/News/Taser.Incident.Ignites.Debate-2983312.shtml (accessed May 25, 2008).

Mickelson, Sid. *The Decade That Shaped Television News: CBS in the 1950s.* Westport, CT: Praeger, 1998.

Mifflin, Lawrie. "An ABC News Reporter Tests the Boundaries of Investigating Disney and Finds Them." *New York Times,* October 19, 1998, Sec. C, 8.

Miller, Arthur S. "Legal Foundations of the Corporate State." In *State, Society, and Corporate Power,* edited by Marc R. Tool and Warren J. Samuels, 79-100. New Brunswick, NJ: Transaction Publishers, 1989.

Mills, C. Wright. *The Power Elite.* New York: Oxford University Press, 1956.

Minar, David M. "Ideology and Political Behavior." *Midwest Journal of Political Science* 5, no. 4 (November 1961): 317-331.

Minow, Newton. *Equal Time: The Private Broadcaster and the Public Interest.* New York: Athenaeum, 1964.

---. "Television and the Public Interest." *Federal Communications Law Journal* 55, no. 3 (May 2003): 395-406.

Minow, Newton and Fred Cate. "Revisiting the Vast Wasteland." *Federal Communications Law Journal* 55, no. 3 (May 2003): 407-434.

Mitchell, William C. "Schumpeter and Public Choice, Part II, Democracy and the Demise of Capitalism: The Missing Chapter in Schumpeter." *Public Choice* 42, no. 2 (January 1984): 161-174.

Mooney, Anne. "The Great Society and Health: Policies for Narrowing the Gaps in Health Status between the Poor and Nonpoor." *Medical Care* XV, no. 8 (1977): 611-619.

Moss, David A. and Michael R. Fein. "Radio Regulation Revisited: Coase, the FCC, and the Public Interest." *The Journal of Policy History* 15, no. 4 (2003): 389-416.

Moyers, Bill. Keynote Address to the National Conference on Media Reform. University of Madison-Wisconsin (November 8, 2003 http://www.commondreams.org/views03/1112-10.htm (accessed March 18, 2006).

Napoli, Philip M. "The Unique Nature of Communications Regulation: Evidence and Implications for the Analysis of FCC Behavior and Policies." Presentation at the Association for Education in Journalism & Mass Communication Annual Conference, December 1998.

New York Times. "Dedication of RCA Seen on Television: How Fair Ceremony Appeared on Television Screen." April 21, 1939, p. 16.

---. "Welfare for Broadcasters: Sinclair Broadcast Group and ABC Indicate They Will Not Use Additional Space on the Broadcast Spectrum to Offer Viewers a Single Channel of HDTV." Aug. 17, 1997, sec. 4, 14.

Nichols, John. "The Assault on Media Diversity and Democracy." *The Nation* (October 18, 2007). http://www.thenation.com/blogs/thebeat?bid=1&pid=2441388 (accessed October 30, 2007).

Nicholson, Walter and Christopher M. Snyder. *Microeconomic Theory: Basic Principles and Extensions.* Mason, OH: South-Western College Pub., 2007.

North, Douglass C. *Institutions, Institutional Change and Economic Performance.* Cambridge, MA: Cambridge University Press, 1999.

Nossiter, Bernard D. "The F.C.C.'s Big Giveaway Show." *The Nation,* October 26, 1985, 402-404.

Okun, Arthur M. *Equality and Efficiency: The Big Tradeoff.* Washington, D.C.: Brookings Institute, 1975.

Oliver, Henry M., Jr. Review of *Politics, Economics and Welfare*, by Robert A. Dahl and Charles E. Lindblom. *The Journal of Political Economy* 62, no. 1 (February 1954): 71.

Orol, Ron. "Courts, Congress Tackle FCC Changes." *The Daily Deal,* December 20, 2007. http://0-www.lexisnexis.com.catalog.library.colostate/edu/us/lnacademic/search/newssubmitForm.do (accessed January 10, 2008).

Paletz, David L. and Robert M. Entman. *Media, Power, Politics*, Thousand Oaks, CA: Sage, 1981.

PBS Bill Moyers Journal. *Minority Media*, Documentary, November 2, 2007.

PBS Frontline. "Interview: Lawrence Grossman." 1999. http://www.pbs.org/wgbh/pages/frontline/smoke/interviews/grossman.html (accessed April 6, 2008).

---. *News War: What's Happening to the News,* Documentary, 2007.

Peltzman, Sam. "George Stigler's Contribution to the Economic Analysis of Regulation." *The Journal of Political Economy* 101, no. 5 (October 1993): 818-832.

Phillips, Kevin P. *The Politics of Rich and Poor: Wealth and the American Electorate in the Reagan Aftermath.* New York: Random House, 1990.

Polanyi, Karl. *The Great Transformation: The Political and Economic Origins of our Time.* Boston: Beacon Press, 1957.

Polanyi, Karl, Conrad A. Arensberg and Harry W. Peterson, eds. *Trade & Market in the Early Empires.* Chicago: Henry Regnery Co., 1957.

Posner, Richard. "Theories of Economic Regulation." *The Bell Journal of Economics and Management Science* 5, no. 2 (Autumn 1974): 335-338.

Postman, Neil. *Building a Bridge to the Eighteenth Century: How the Past Can Improve Our Future.* New York: Knopf, 1999.

Price, Vincent and David Tewksbury. "News Values and Public Opinion: A Theoretical Account of Media Priming and Framing." In *Progress in the Communication Sciences*, edited by G. Barnett and F.J. Boster, 173-212. Greenwich, CT: Ablex, 1997.

Project for Excellence in Journalism. "Embedded Reporters: What are Americans Getting?" March 28, 2003. http://www.journalism.org/resources/research/reports/war/embed/default.asp (accessed August 4, 2004).

---. "The State of the News Media 2004: An Annual Report on American Journalism." 2004. http://www.stateofthemedia.org/2004/index.asp (accessed November 10, 2006).

---. "The State of the News Media 2005: An Annual Report on American Journalism." 2005. http://www.stateofthemedia.org/2005/index.asp (accessed November 10, 2006).

---. "The State of the News Media 2007: An Annual Report on American Journalism." 2007. http://www.stateofthemedia.org/2007/index.asp (accessed February 10, 2007).

---. "The State of the News Media 2007: An Annual Report on American Journalism." 2007. http://www.stateofthemedia.org/2007/index.asp (accessed February 10, 2007).

---. "The State of the News Media 2008: An Annual Report on American Journalism." 2008. http://www.stateofthemedia.org/2007/index.asp (accessed March 28, 2008).

Puzzanghera, Jim. "Criticism of the FCC's Chairman is Widely Aired; 'Lone Operator' is Said to Keep Plans from Colleagues and Manage the Agency Ineffectively." *Los Angeles Times,* December 10, 2007, sec. C, 1.

Putnam, Robert D. *Bowling Alone: The Collapse and Revival of American Community.* New York: Simon & Schuster, 2000.

---. *Democracies in Flux: The Evolution of Social Capital in Contemporary Society* ed. Robert D. Putnam. New York: Oxford University Press, 2002.

Radin, Margaret Jane. "Property and Personhood." *Stanford Law Review* 34, no. 5 (May 1982): 957-1015.

---. "Market-Inalienability." *Harvard Law Review* 100, no. 8 (June 1987): 1849-1937.

---. "Compensation and Commensurability." *Duke Law Journal* 43, no. 1 (October 1993a): 56-86.

---. *Reinterpreting Property*. Chicago: University of Chicago Press, 1993b.

---. *Contested Commodities.* Cambridge: Harvard University Press, 1996.

---. "Defaulting to Freedom or to Equality: Treating Some Things as Inalienable: Contested Commodities." In *Rethinking Commodification*, edited by Martha M. Ertman and Joan C. Williams, 81-95. New York: New York University Press, 2005.

Radin, Margaret Jane and Madhavi Sunder. "The Subject and Object of Commodification." In *Rethinking Commodification*, edited by Martha M. Ertman and Joan C. Williams, 8-29. New York: New York University Press, 2005.

Ratner, Andrew. "Amid Protests, FCC Votes 3-2 to Relax Media Ownership Rules." *The Baltimore Sun,* June 3, 2003, sec. A.

Reason. "*Reason* Interview: Mark S. Fowler." *Reason* 13, no. 6 (November 1, 1998): 32-35, 52.

Ramachandran, V.K. "Iraq as Trial Run." *Frontline*, March 29, 2003. http://www.frontlineonnet.com/fl2007/stories/20030411005701000.htm (accessed August 4, 2004).

Robinson, Glen O. "The Federal Communications Commission: An Essay on Regulatory Watchdogs." *Virginia Law Review* 64, no. 2 (March 1978): 169-262.

Robinson, William I. *Promoting Polyarchy: Globalization, U.S. Intervention, and Hegemony*. New York: Cambridge University Press, 1996.

Roucek, Joseph S. "A History of the Concept of Ideology." *Journal of the History of Ideas* 5, no. 4 (October 1944): 479-488.

Rouner, Donna. "Guest Column: Gannett Partnership a Bad Idea." *Rocky Mountain Collegian* (February 1, 2008). http://media.www.collegian.com/media/storage/paper864/news/2008/02/01/Opinion/Guest.Column.Gannett.Partnership.A.Bad.Idea-3182516.shtml (accessed May 25, 2008).

Russell, Ron. "KRON's Last Gasp; How a Once-Proud San Francisco Television Station Became Ground Zero in the Nation's Most Controversial Experiment in Local TV News." *SF Weekly*, April 12, 2006. http://search.sfweekly.com/2006-04-12/news/kron-s-last-gasp/ (accessed May 25, 2008).

Rutenberg, James. "A Nation at War: The News Media." *New York Times*, April 16, 2003, sec. B, 9.

Sanders, Beth and Randy Baker. *Fear and Favor in the Newsroom*, Documentary, 1997.

Saunders, Dusty. "CBS4 Ranks First in November Ratings Period." *Rocky Mountain News*, November 28, 2007. http://www.rockymountainnews.com/news/2007/nov/28/cbs-4-ranks-first-in-november-ratings-period/ (accessed December 20, 2007).

Schattschneider, Elmer E. *The Semisovereign People: A Realist's View of Democracy in America.* New York: Holt, Rinehart and Winston, 1960.

Schechter, Danny. "The Media Moment." TomPaine.com, November 7, 2003. http://www.tompaine.com/feature2.cfm/ID/9349 (accessed January 5, 2006).

Schlozman, Kay Lehman and John T. Tierney. *Organized Interests and American Democracy.* New York: Harper & Row, 1986.

Schnitzer, Martin. *Comparative Economic Systems*. Cincinnati: South-Western College Publishing, 1997.

Schumpeter, Joseph A. *Capitalism, Socialism, and Democracy.* New York: Harper and Row, 1950.

Shoemaker, Pamela J. and Stephen D. Reese. *Mediating the message: Theories of influences on mass media content*. White Plains, NY: Longman, 1996.

Silver, Josh. "More Media Than Ever, but Are There Enough Voices?" *Wall Street Journal*, May 21, 2008. http://online.wsj.com/public/page/2_0048.html (accessed May 21, 2008).

Sirota, David. "Fear, Loathing and the Crisis of Confidence." Creators.com, December 21, 2007. http://www.creators.com/opinion/david-sirota/fear-loathing-and-the-crisis-of-confidence.html (accessed January 5, 2008).

Stanfield, J. Ron. *Economic Thought and Social Change*. Carbondale: Southern Illinois University Press, 1979.

Stern, Jay W. "Beginnings of Ideology." *The South Atlantic Quarterly*, (1956): 163-170.

Stewart, Potter. "Or of the Press." *Hastings Law Journal* 26, (August 1975): 631-643.

Stigler, George J. "The Theory of Economic Regulation." *The Bell Journal of Economics and Management Science* 2, no. 1 (Spring 1971): 3-21.

Stop Big Media. "Historic Senate Vote Rejects FCC's Rules." StopBigMedia.com (May 15, 2008). http://freepress.net/node/39877 (accessed May 18, 2008).

Stossel, Scott. "Echo Chamber of Horrors." *The American Prospect,* December 18, 2000. http://www.prospect.org/print/V11/26/stossel-s.html (accessed May 18, 2006).

Sturm, John F. "NAA President and CEO John F. Sturm Comments on Passage of Senate Resolution to Stop Modest Newspaper Deregulation," Newspaper Association of America (May 16, 2008). http://www.naa.org/PressCenter/SearchPressReleases/2008/NAA-STURM-COMMENTS-PASSAGE-SENATE-RESOLUTION-NEWPAPER-DEREGULATION.aspx (accessed May 19, 2008).

Sutton, Francis X. Review of *Politics, Economics and Welfare*, by Robert A. Dahl and Charles E. Lindblom. *The Review of Economics and Statistics* 36, no. 1 (February 1954): 115-117.

Teinowitz, Ira. "Kucinich Could Revive Fairness Doctrine." *TV Week.* January 18, 2007. http://www.tvweek.com/news/2007/01/ (accessed April 7, 2008).

Thomas, Jim. *Doing Critical Ethnography.* Newbury Park, Calif.: Sage Publications, Inc., (1993).

Tillinghast, Charles H. *American Broadcast Regulation and the First Amendment: Another Look.* Ames: Iowa State University Press, 2000.

Timms, Dominic. "Dyke Attacks Unquestioning U.S. Media." *Media Guardian.* April 24, 2003. http://media.guardian.co.uk/broadcast/story/0,7493,942640,00.html (accessed August 4, 2004).

Trebing, Harry M. "Apologetics of Deregulation in Energy and Telecommunications: An Institutionalist Assessment." *Journal of Economic Issues* XX, no. 3 (September 1986): 613-632.

Truman, David B. *The Governmental Process: Political Interests and Public Opinion.* New York: Knopf, 1951.

TV News Day. "Survey: U.S. Prefers TV for Campaign News." *TVNewsDay*.com, May 19, 2008. http://www.tvnewsday.com/articles/2008/05/19/daily.5/ (accessed May 21, 2008).

Ugland, Erik and Jennifer Henderson. "What is a Journalist and Why Does it Matter? Disentangling the Legal and Ethical Arguments." *Journal of Mass Media Ethics* 22, no. 4 (October 2007): 241-261.

Veblen, Thorstein. *The Theory of the Leisure Class: An Economic Study of Institutions.* New York: The Modern Library, 1934.

Wall Street Journal. "Dorgan's Content Play." May 13, 2008, sec. A, 16.

Wallace, James D. *Virtues & Vices.* Ithaca, NY: Cornell University Press, 1978.

---. *Moral Relevance and Moral Conflict.* Ithaca, NY: Cornell University Press, 1988.

---. *Ethical Norms, Particular Cases.* Ithaca, NY: Cornell University Press, 1996.

Weeks, Edward. Introd. to *Conversations with Walter Lippmann,* by Walter Lippmann. Boston: Little, Brown and Company, 1960.

Willoughby, Brian. "Mad as Hell for Media Reform." Tolerance.org, November 11, 2003. http://www.tolerance.org/news/article_tol.jsp?id=896 (accessed September 17, 2006).

Wisdom Fund. "Broadcasting Fairness Doctrine Promised Balanced Coverage." The Wisdom Fund, 1997. http://www.twf.org/News/Y1997/Fairness.html (accessed September 14, 2006).

Yale Law Journal. "The Mayflower Doctrine Scuttled." *The Yale Law Journal* 59, no. 4 (March 1950): 759-770.

Yergin, Daniel A. and Joseph Stanislaw. *The Commanding Heights: The Battle for the World Economy.* New York: Simon & Schuster.

York, Byron. "An Unfair Doctrine: Democrats Try Once Again to 'Hush Rush' and Many Others." *National Review.* July 30, 2007.

Zaller, John. "Market Competition and News Quality." Presentation to the Annual Meetings of the American Political Science Association, Atlanta, GA, 1999.