Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
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Examination of the Future of Media and Information Needs of Communities in a Digital Age	)	GN Dkt 10-25
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JOINT COMMENTS OF
ACCESS HUMBOLDT, AFRO-NETIZEN, APPALSHOP, BERKELEY COMMUNITY MEDIA , CALIFORNIA CENTER FOR RURAL POLICY, CENTER FOR COMMUNICATION AND DEMOCRACY AT THE UNIVERSITY OF WISCONSIN-MADISON, CENTER FOR MEDIA JUSTICE, CHICAGO MEDIA ACTION, CENTER FOR RURAL STRATEGIES, DONALD MCGANNON COMMUNICATION RESEARCH CENTER AT FORDHAM UNIVERSITY , ESPERANZA PEACE AND JUSTICE CENTER, FREE PRESS , INSTITUTE FOR LOCAL SELF-RELIANCE, MAIN STREET PROJECT, MEDIA ACTION GRASSROOTS NETWORK, MEDIA ALLIANCE, MEDIA ACCESS PROJECT, MEDIA MOBILIZING PROJECT, MEDIA JUSTICE LEAGUE, MEDIA LITERACY PROJECT, NATIONAL ALLIANCE FOR MEDIA, ART AND CULTURE (NAMAC), NEW AMERICA FOUNDATION , RURAL BROADBAND POLICY GROUP, RECLAIM THE MEDIA, SOUTHWEST ORGANIZING PROJECT, THOUSAND KITES

AS AMENDED FOR
ERRATA ON
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SUMMARY

New American Foundation, Free Press, and Media Access Project *et al*. respectfully submit these comments in the FCC's inquiry into the Future of Media. This proceeding represents an ambitious, yet critical undertaking to examine the news and information needs of communities in light of economic and technological shifts in the media industry.

These comments encompass four broad areas for the Commission's consideration:

(1) The information needs of communities and whether they are being met
(2) The trends and challenges in the provision of news and information
(3) FCC-specific policy recommendations to increase transparency and accountability of media, as well as to promote access to diverse sources of information
(4) Policy recommendations that fall outside the FCC's regulatory jurisdiction, but that are nonetheless an important component of a holistic approach to the crisis in media

Information Needs of Communities: While it is true that most people now have access to more information than at any previous time in human history, it also unfortunately remains the case that race, gender, income, education, geography, age, disability, and sexual orientation all continue to unjustly shape Americans' opportunities. Many communities, both of identity and geography, have never been well-served by existing media outlets and infrastructure. Communities of color, native and rural areas have often been excluded from access to robust infrastructure and emerging technologies, and the issues affecting them have too often been unexplored by professional journalists. New technologies are creating opportunities to address that, but technological change alone will not create equitable representation or access.

We determine that despite the proliferation of new technologies that have the potential to enhance access to information, by and large the information needs are not being met. In particular, the unevenly distributed nature of the "digital revolution" and the lack of local

information equality have a negative impact on both health and economic well being of communities.

Trends and Challenges in the Provision of News and Information: The digital revolution has upset old business models – particularly those of the advertising-reliant variety. As a consequence, there exists a looming – though not certain – market failure in the production and circulation of publicly relevant news, especially at the local level. Traditional media are scrambling to maintain balance in the new environment, but have been slow to adapt. However, while there is much cause for concern about the ability of the new media environment to meet the needs of a democratic society, there are also innovations currently underway in newsrooms. While many are in their infancy, they hold the promise for enhancing both production of information as well as engaging communities and individuals in creative new media endeavors.

Additionally, new journalistic and civic engagement ecosystems are sprouting up in local news markets across the country, but these systems are emerging in a halting and uneven fashion. As has been widely noted, many of the newest digital media outlets do little or no original reporting. What's worse, practices of "digital redlining" and the consequences of the migration of legacy news organizations to suburban markets have the potential to replicate patterns of clustered "information paucity" that existed in the pre-digital era.

FCC policies can enhance the availability and diversity of information: The FCC has a legitimate interest and important to role to play in promoting a vibrant Fourth Estate. Historically, the FCC has sought to foster, not only a substantial *quantity* of information, but also *quality* of, as well as access to information by promoting competition, diversity, and localism. We suggest a number of FCC actions, many on existing proceedings that would preserve or enhance the production and availability of news and information. Moreover, none of these

policy recommendations involve any foray by the FCC into content regulation. In particular we recommend that the FCC:

- Maintain local media ownership limits, and prevent any contractual circumvention of the FCC's media ownership rules.
- Protect the open nature of the Internet
- Increase transparency and accountability of local media through reformation of the sponsorship identification rules, and implementation of enhanced reporting requirements and online public file requirements for local broadcasters
- Act on a still extant *Petition for Inquiry* into the use of misinformation and hate speech in media
- Conduct additional information collection and analyses on broadband and media ownership data
- Support policies that encourage provision of and access to public and government access channels

The Government's Role in Development of a Healthy Media Ecosystem: FCC policies alone cannot save journalism. In some cases, important potential solutions will fall outside the FCC's regulatory ambit. Thus, we also discuss broader policy shifts that could support a healthy information ecosystem, including:

- The government's role in supporting public and noncommercial media outlets and infrastructure, including new funding models for public media
- Incentives to encourage private sector production of media
- Ways to enhance public engagement with information
- Encouraging anchor institutions, such as schools, universities, and libraries, to support community information flows and provide media training
- The importance of media literacy training in preparing citizens to use media in democratic life.

We appreciate the opportunity to submit these comments. We hope that the Commission finds value in our research and perspective as it undertakes the daunting, yet critical task of its inquiry in to the future of media.

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JOINT COMMENTS OF
NEW AMERICA FOUNDATION,
FREE PRESS,
AND MEDIA ACCESS PROJECT
ET AL.

Introduction

We submit these comments in response to the public notice issued by the FCC entitled *FCC Launches Examination of the Future of Media and Information Needs of Communities in a Digital Age*.[1] We submit them on behalf of twenty-five organizations from across the country.

The New America Foundation, Free Press, The Media Access Project, and and their co-signatories, all non-partisan organizations, represent a diverse set of organizations and individuals all working to develop ideas concerning the media of the 21st century. We all have a strong interest in the future of journalism and the vibrancy of the media marketplace. We are also all currently engaged in a broad effort to solicit ideas from the public, scholars, practitioners and advocates about what the response to the transitional moment in which we find ourselves should be, particularly in terms of government policy. Our interest is in developing creative and critical responses to the challenges facing the media that combine smart strategies across government

[1] Public Notice, DA 10-100, GN Dkt. No. 10-25 (rel. Jan. 21, 2010).

and the nonprofit and for-profit sectors to support media and revive the democratic role of the press in America.

The FCC's Future of Media proceeding represents, in our view, a watershed moment for the Commission. The second decade of the 21st century will be critical to the development of media in the United States. Just as the constitutive choices made in the early years of the republic, the choices immediately ahead for policy makers inside and outside the FCC will plot a course for media and democracy in the 21st century. These proceedings will set the parameters for the marketplace of ideas - and impact the future of media diversity, competition and localism, the three pillars of US media policy.

For that reason, it is important for this proceeding to consider all possible answers to the questions asked, and all possible solutions to the problems that are posed by the Commission– not just those answers or those solutions that fit clearly within the Commission's regulatory authority. This proceeding needs to aggressively seek answers, not only informing the Commission's activities, but also serve as a venue for informing all other stakeholders with an interest in the questions raised in the Future of Media proceeding.

To that end, these comments address the looming crisis in journalism and access to information by:

- Examining how best to measure the information needs of communities and determining whether they are being met;
- Examining trends in media and journalism and evaluating whether they are likely to supply communities with requisite information essential to community and democratic participation;
- Recommending regulatory and policy avenues within the FCC's jurisdiction to enhance the availability of and access to information from diverse and competing sources, and

- Recommending statutory and policy proposals that fall outside the FCC's jurisdiction, but nonetheless provide innovative mechanisms to address the information needs of communities.

The Future of Media inquiry serves as an important reminder of the impact of media in American life, as well as of the need to connect communities to the critical information and communications networks of our time. As Secretary Clinton stated recently in reference to the Universal Declaration of Human Rights, Article 19 stated that people have a right "to seek, receive and impart information and ideas through any media and regardless of frontiers."[2] Article 19 makes it clear that freedom of expression is the basis of individual and societal development. Communication enables the way we find, create and share knowledge. The interactive nature of evolving technology makes it possible for this to be a participatory and collaborative process, open to everyone.

I. Measuring and Assessing the Information Needs of Communities

The FCC's adoption of an "information needs of communities" perspective as an overarching principle will generate better policies than prior approaches, approaches, which have often relied on proprietary or confidential data and centered overwhelmingly around the production of information. A far better approach is to assess not only production of information, but also the quality of and access to information by the public. An "information needs of communities" perspective will better match the 21st century regulatory landscape, and it will produce better policy, as it requires a much greater sensitivity to media consumers as engaged citizens in communities, rather than simply as consumers of content.

[2] Remarks of Secretary of State Hillary Clinton at The Newseum, Washington, DC (January 21st 2010), http://www.state.gov/secretary/rm/2010/01/135519.htm

A recent report the Knight Foundation highlights three important elements to consider in measuring the information needs of communities:[3]

- The availability of relevant and credible information to all Americans and their communities;
- The capacity of individuals to engage with information;
- Individual engagement with information and the public life of the community.

Thus, the information needs frame includes not just information production, but also access to and engagement with the information. Such a frame helps provide additional angles from which to understand the drivers for media policymaking to sustain our democracy in our increasingly digital age.

As the Knight Report states, "[t]he digital age is creating an information and communications renaissance. But it is not serving all Americans and their local communities equally. It is not yet serving democracy fully."[4] The past few years have been a time of rapid and continuing transition in the provision of information needed by communities. We outline these changes in the sections that follow, and discuss them in detail in the two New America Foundation case study working papers on Scranton and Seattle appended to these comments.

A. Information needs and consumption patterns in low income and minority communities are substantially different from the average across all demographics

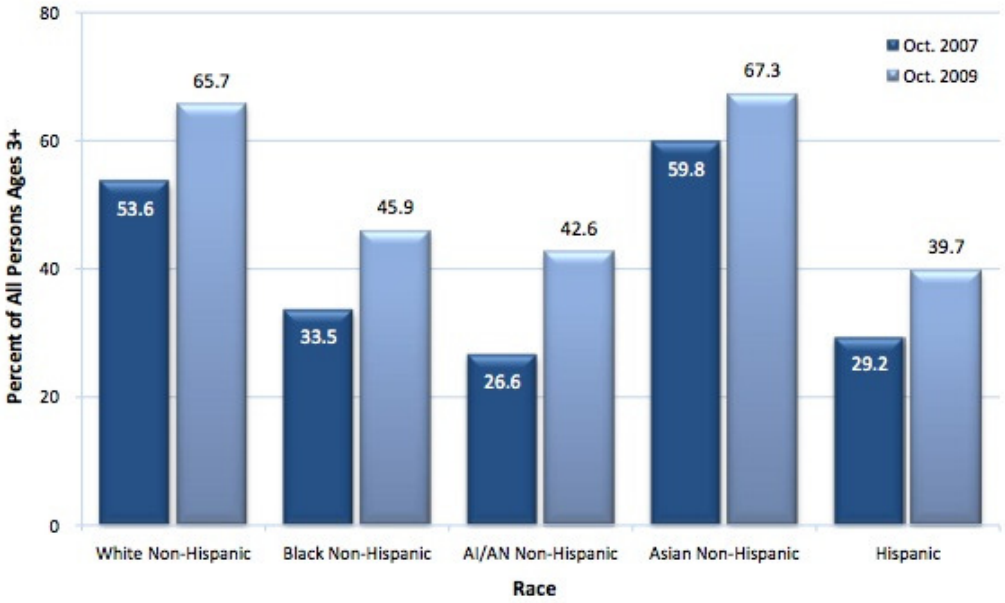
This troubling fact is reinforced by what we know about access to broadband and digital literacies. For example the 2010 National Telecommunications and Information Adminsitration

[3] *See* Knight Foundation, *Informing Communities: Sustaining Democracy in a Digital Age* (2009) ("Knight Report").
[4] *Id.*

(NTIA) data reveals great inequality in broadband access between low income households and wealthy households, and between persons by race:

Persons using Broadband in the Home by Family Income, 2007-2009

Persons using Broadband in the home by Race, 2007-2009



Source: NTIA, 2010[5].

News and information availability is deeply structured by all existing forms of inequality including income, age, geography, educational level, race, and gender. Household income remains the most important predictor of broadband in the home.[6]

Media consumption in minority communities is unique. There are many factors which make this the case, but this is in large part because people of color are dramatically underrepresented in newsrooms. This significantly affects programmatic content, and how it gets told. People of color were just over 13% of newsroom staffs around the country in 2009. In 2008, 15.5% of television news directors were people of color, a figure skewed by their over-representation in Spanish-language stations. Just 11% of staff in radio newsrooms were people of color, in 2008. Consumers of news in communities of color must often rely on multiple news sources – when available – to get a full picture of the events in their area. One news source may be the local broadcast news, or newspaper, and another may be a local paper created by and for their ethnic or racial group. An African-American resident of Harlem may read the *New York Post* and the *Amsterdam News*. A Mexican resident of Washington, DC may read the *Washington Post* and *El Tiempo Latino*. Now more than ever, news organizations serving these under-represented communities need to succeed to ensure that the unique information needs of communities of color and immigrant communities continue to be met.

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[5] National Telecommunications and Information Administration, "Digital Nation: 21st Century America's Progress Toward Universal Broadband Access," (February.2010), http://www.ntia.doc.gov/reports/2010/NTIA_internet_use_report_Feb2010.pdf.

[6] *See Id.*; see also Social Science Research Council, "Broadband Adoption in Low Income Communities Report,"(2010), http://www.ssrc.org/programs/broadband-adoption-in-low-income-communities/

B. Media continue to fail to take into account the needs of minority communities

While it is true that most people now have access to more information than at any previous time in human history, it also unfortunately remains the case that race, gender, income, education, geography, age, disability, and sexual orientation all continue to unjustly shape Americans' opportunities. People of color, women, low income people, new immigrants, rural residents, youth and the elderly, differently abled people, and LBTQ folks are all still under-represented in ownership of, employment within, truthful representation by, and access to information and communication technologies (ICTs) both old and new. Non-Hispanic Whites continue to own 90% of businesses in almost every sector of our economy (see US Economic Census), despite the fact that America will be majority people of color within a single generation (2042, according to 2009 Census projections). This vast disparity holds in the information industries as well. Unfortunately, this has been the case during the entire course of our nation's history, and despite some very slow progress over the last 30 years, it remains the case today.

In fact, in a recent review of 30 years of the best available data on racial inequality in ownership and employment in the information industries (including detailed examination of print, commercial TV and radio, public TV and radio, and online journalism), Wilson & Costanza-Chock demonstrate that the new digital media, while in many ways far more open than print and broadcast media, continue to reflect structural access inequalities and to be marked by systematic exclusion as well as by participation gaps along race, class, and gender lines.[7] For example:

[7] Wilson, Ernest J., and Sasha Costanza-Chock. New Voices on the Net? The Digital Journalism Divide and the Costs of Network Exclusion. In Lisa Nakamura and Peter Chow-White (eds.)

(continued on next page)

Media Ownership and Employment Diversity Across Platforms

Platform	Ownership (% people of color)
online	? (10.2% all firms / 7.1% firms with employees) [1]
public radio	10% [2]
print	8.3% [1]
commercial radio	2.7% [3]
public tv	1.7% [2]
commercial tv	0.96% [3]

Platform	Employment (% people of color)
national public broadcasting	29.8% [2]
commercial tv	23.6% [4]
public radio	19.8% [2]
online	? (19.6% of online newspaper staff) [1]
public tv	19.4% [2]
print	13.4% [5]
commercial radio	11.8% [4]

Sources: 1. U.S. Census Bureau, 2006; 2. CPB, 2009; 3. FCC (In Beresteanu & Ellickson, 2007); 4. RTNDA (In Papper, 2008); 5. ASNE, 2009a.

Table from Wilson & Costanza-Chock (In press)[8]

The only sector of the information industries that approaches parity with the general population in terms of racial diversity is employment within the national public broadcasting organizations (CPB, PBS, NPR). Worse, no other sector is on track to achieve parity with the general population, *ever*, since changes in ownership and employment diversity are not keeping pace with the nation's shifting demographics.[9]

Inequality in ownership of internet media is little different than legacy media. Some have hoped that the open nature of publishing online and the broadband internet would make old inequalities disappear, as every community gained equal access to the ability to produce,

(footnote continued)
Digital Race Anthology. Routledge Press, in press (2010). Draft available at http://diy2.usc.edu/docs/ejw_scc_newvoices.pdf

[8] *Id.*

[9] *Id.*

circulate, and consume its own information. However, the data on internet news tells us that inequality remains entrenched. Ownership of and employment by internet news firms remains as unequal as the rest of the information industries, if not more so.[10] Even in new, presumably more democratic, media spaces such as the blogosphere, the patterns of under-representation of various demographic groups that have long characterized the traditional media have been shown to persist.[11]

C. Disasters and public health emergencies highlight the need for truly local media

Media performance during emergency, disaster, and other public health situations is an important test of the local systems' capacity to meet essential human needs. Here too, the three key goals set out in the Knight Report pose a compelling agenda for the future of media. Media systems must ensure timely availability of relevant and credible information to everyone when

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[10] For example, a 2004 Pew survey noted that 77% of online content creators were white. Lenhart, Horrigan, and Fallows, *Content Creation Online*, Pew Internet & American Life Project (2004) http://www.pewinternet.org/pdfs/PIP_Content_Creation_Report.pdf.. The US Census Bureau found that people of color owned only 1,243 out of 12,158 (about 10.2%) of firms categorized as "Internet publishing and broadcasting." The vast majority of these were single person businesses (reporting no employees); of the 1,770 internet publishing and broadcasting firms reporting employees, Whites owned 1,369 while people of color owned 125, or just 7%. U.S. Census Bureau, *2002 Survey of Business Owners*, http://www2.census.gov/econ/sbo/02/sb0200cscosumt.pdf.). The same report found about 40,000 employees of Internet publishing and broadcasting, with fewer than 660 employed at minority owned firms. *Id*. Whites also owned 39,160 out of 46,859 firms categorized as "Internet service providers, web search portals, and data processing services." More recent data, from the U.S. Economic Census' 2007 Survey of Business Owners, is not yet available but should be released in mid 2010. Also: the 2009 ASNE report, counted online journalists employed by newspapers and found that nearly 19.6% were people of color. By that measure, there is greater employment diversity in full-time online journalism than in print, but less than in broadcast TV. American Society of Newspaper Editors, *Newsroom Employment Census*, (2009). http://asne.org/key_initiatives/diversity/newsroom_census.aspx.

[11] *See* Matthew Hindman, *The Myth of Digital Democracy* (2009).

the need arises with capacity for all individuals to engage with that local information to advance the survival of the community.

Events such as the well documented chemical spill in Minot ND demonstrate the pitfalls of remote control media outlets without local presence in times of urgent need.[12] As it happened, when a poisonous gas cloud approached the town, there was no one present to respond at the "local" radio stations, which were operated remotely by absentee owners.[13] If there is no local media, local response to local events is delayed and dangerously hindered.

Large scale disasters like Hurricane Katrina provide important lessons about the role of local communications in disaster response and recovery. Two key technologies proved very important: Low Power FM radio and unlicensed wireless mesh networks. Due to their small power requirements, LPFM stations are more capable of maintaining transmissions with backup electrical systems. Battery powered radios are very accessible, and local transmissions can reach locations throughout remote communities. Wireless mesh networks have survivable design and each node has small power requirements. As a result, local transport can be maintained or established quickly with distributed interconnections.

Another important focus must be the outdated "Emergency Alert System" which requires redesign to meet local needs in the changing media landscape. The FCC needs to explore the development of a next generation emergency alert system - starting with an honest appraisal of the current system's shortcomings.

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[12] Democracy Now, "911 Calls in North Dakota Town Reveal Dangers of Media Consolidation, " (Jan. 25, 2007) http://www.democracynow.org/2007/1/25/exclusive_911_calls_in_north_dakota

[13] *Id*.

Among the changes that have impacted emergency communications in remote rural communities is the DTV conversion of local TV broadcasts. Some communities (such as Humboldt County California) saw a significant decline in terrestrial TV broadcast coverage when analog signals were terminated in favor of digital transmissions. At the same time, local-to-local requirements for satellite TV operators do not address needs of remote rural communities. So, as a result of the DTV transition there is a reduction in the number of remote isolated households who receive Emergency Alert System notices over broadcast TV.

For the future, comprehensive community media solutions are needed. Among the most important considerations for media policy must be the performance of media to help local communities prepare for, respond to, and recover from emergencies and disasters.

D. The media habits of young people present challenges to monetizing media consumption

Understanding the media consumption patterns of young people is essential to forward-thinking media policymaking, as these patterns provide insights into the directions that the media consumption patterns of the entire citizenry are – or will be – moving. And, as the Commission has increasingly come to realize, developing a deep understanding of the dynamics of consumers' media consumption (and, for that matter, production) is essential for effective policymaking. A substantial amount of research has been conducted on how young people receive news and information. We will not attempt to review all of that literature here, but rather just touch on the policy implications of some of the major findings.

To the extent that young people are consuming news and information content, they are increasingly doing so via newer platforms such as computers and handheld devices.[14] And while most of this news and information consumption still involves accessing content produced by traditional news organizations, the overall effect is still damaging to the underlying economics of journalism because it remains the case today -- and for the immediate future -- that content providers' ability to monetize news audiences via these newer platforms has yet to match their ability to monetize news audiences via more traditional platforms such as television and newspapers.[15] The revenues earned per consumer on the new platforms, in terms of advertising dollars and consumer payments, remain lower than those earned per consumer on the older platforms.

On the advertising front, this pattern is particularly troubling since younger audiences tend to be much more highly valued by advertisers than older audiences.[16] And so the migration of young news audiences to online platforms where they tend to be less valuable to advertisers is particularly damaging to the economics of news organizations.

In terms of consumer payment, the key issue involves the overall trend exhibited by young people of a diminished willingness to pay for most forms of content.[17] This issue has been

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[14] *See*, *e.g.*, T.E. Patterson, Young People and the News: A Report from the Joan Shorenstein Center on the Press, Politics and Public Policy (2007).
[15] *See* generally B. Garfield, The Chaos Scenario (2009).
[16] *See* P.M. Napoli, Audience Economics (2003).
[17] S.R. Epps, *et al*. "Publishers Need Multichannel Subscription Models," Forrester Research Report (2009). An important caveat here is that most historical data on how much Americans spend annually on news are likely to be misleading. This is because it would be very difficult for any such data aggregations to account for the bundling that has traditionally taken place with news and information products. For example, the most recent data from Veronis Suhler Stevenson (VSS) indicate that that consumer spending on newspapers was 10.5 billion dollars in 2008 (10.3 billion on print content and 135 million on digital content (a 3.2 percent decline from

(continued on next page)

discussed and acted upon (in terms of copyright protections, etc.) primarily within the context of entertainment media (music, movies, etc.). However, it is important to consider the implications of this tendency in relation to news and informational content.

Specifically, it is important to recognize that the "shelf life" for most news and breaking informational content is much shorter than the shelf life for most entertainment content. The day's news has less obvious long-term value to a young media consumer than a song or a movie, which can be consumed and enjoyed repeatedly over an extended period of time. This means that whatever levels of resistance exist among young media consumers to pay for entertainment content are best presumed to be even greater within the context of most news and journalism context.

This scenario points to a policymaking environment in which policymakers would most likely be best off assuming a news media environment in which direct consumer support is

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(footnote continued)
the previous year). Veronis Suhler Stevenson, *Communications Industry Forecast 2009-2013* (2009) at 6. Needless to say, Veronis Suhler Stevension forecasts continued declines in consumer spending on newspapers through 2013, when consumer spending on print media is expected to drop to 8.7 billion. Consumer digital spending is expected to rise to 315 million dollars by that point, an increase that still leaves an over 1 billion dollar shortfall relative to current consumer spending on combined print and digital newspaper content. Should all of those dollars be categorized as expenditures on news and information, given the wide range of types of content that are contained in a typical daily newspaper, and the wide range of reasons readers may have purchased a paper? We believe the answer is no, particularly given the important that has already been placed on the various subsidies (discussed above) to the economics of news. This situation needs to be kept in mind as we consider consumer expenditures across other potentially relevant content categories and platforms. VSS estimates total consumer spending on Internet Access to be 28 billion in 2009; up from 27 billion in 2008 and estimated to reach 32 billion by 2013. *Id* at 15-16. Total consumer spending on online content is estimated at 10 billion in 2009 and increasing to 20.5 billion by 2013, with games and music being the two largest expenditures. *Id.* at 17**.** These numbers give us some sense of the consumer dollars being spent in those categories in which the kind of news and information that are essential to a well-functioning democracy would most likely reside. However, extracting news and information expenditures from these figures is not possible.

minimal, in which advertising support is diminished, and in which alternative sources of financial support (e.g., government funding, foundation support) are likely to have to carry an increased burden.

Finally, it is important for policymakers to recognize the extent to which young people are using new media platforms not only to consume content, but also to produce it. In light of the ongoing, and perhaps irreversible, declines in our institutional media, it is essential that policymakers now devote significant attention to how user generated and crowd-sourced content can help fill journalistic gaps left by the decline of our traditional media institutions (see above).[18] Content production therefore now needs to be recognized by policymakers and educators as a central element of contemporary civic participation, and policies need to be put in place to develop these skills amongst young people and to direct them towards civically valuable outputs.[19]

II. Trends and Challenges in Media and Provision of Information

In an age of ever-increasing information, why is it that our communities' information needs are still not being fully met? Therein lies a paradox. First, the digital revolution has upset old business models – particularly those of the advertising-reliant variety. Traditional media are scrambling to maintain balance in the new environment, but have been slow to adapt. Second, while the digital revolution has revolutionized access to and production of media, its benefits have been unevenly distributed, and this information equality has negative consequences for both communities and on journalism.

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[18] *See, e.g.*, Y.Benkler,*The Wealth of Networks*(2007).
[19] *See* M. Ito, *et al. Hanging Out, Messing Around, and Geeking Out* (2009).

Finally, while there is much cause for concern about the ability of the new media environment to meet the needs of a democratic society, we want to acknowledge the innovations currently underway in newsrooms. While many are in their infancy, they hold the promise for enhancing both production of information as well as engaging communities and individuals in creative new media endeavors.

A. The Internet has disrupted the old profit-deriving models that have supported news production for the greater part of the 20th century. However, it has not established itself as a viable alternative to the journalistic functions and resources provided by more traditional media outlets.

The Internet is changing every facet of how news organizations research, produce and distribute the news. In particular, there are three changes we believe are most important to the public interest in the future of journalism. One, the Internet has allowed for new forms of community engagement. Two, the Internet has lowered the bar to entry giving more people a voice. Three, the Internet may foster alternative journalism models, including nonprofit and community-based news sources. However, while the Internet has expanded opportunities for diverse points of view, it has not yet demonstrated that it can substitute for the journalistic functions and resources typically provided by traditional media outlets such as local newspapers and broadcast stations. Thus far, the Internet – for those who have access to it – appears to provide an enhancing and complimentary avenue for news consumption.

A 2009 study by the Chicago Community Trust documents a veritable explosion of local online media and journalistic resources with more being added to the mix every day. The Trust discovered almost 200 local online news sites in Chicago, albeit many with relatively small reach

and limited reporting resources.[20] A similar Philadelphia study completed in 2010 highlighted more than 260 online news outlets in Philadelphia.[21] But although the Internet provides another medium for the dissemination of local news, it has yet to diminish the influence, let alone replace the importance, of the traditional newspaper and broadcast news outlets, especially in their coverage of local government and local issues. An earlier, 2007 study of online news organizations and competition in the Chicago media market conducted by Free Press is instructive here. Close to 60 percent of the stories in our sample of Chicago-specific websites were on "soft" news topics such as sports and entertainment. Only 13.7 percent of the stories in our sample of Chicago-specific websites contained original reporting, but that too was mostly soft news such as concert and restaurant reviews. In total, only 5.5 percent of the stories in our sample of Chicago-specific websites contained original reporting on hard news topics such as crime, local governance, education and local politics. More than half of the hard news stories linked to stories on Web sites owned by traditional media. Finally, the independent Chicago-specific Web sites have very small audiences. The average number of unique visitors in a single month to the independent Chicago-specific Web sites was just over 14,000. The average number of unique monthly visitors to the websites of the two major Chicago newspapers is nearly 80 times as large.[22]

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[20] The New News, *Journalism We Want and Need: A Special Report by the Community Media Workshop*, Chicago Community Trust http://communitymediaworkshop.org/newnews/

[21] Exploring a Networked Journalism Collaborative in Philadelphia: An Analysis of the City's Media Ecosystem with Final Recommendations By Jan Schaffer, J-Lab Executive Director, April 2010 See http://www.j-lab.org/publications/philadelphia_media_project

[22] Adam Lynn & S. Derek Turner*, Independent Local News Sites In Chicago Do Not Significantly Contribute to Source or Viewpoint Diversity*, Free Press (2007) http://www.freepress.net/files/local_chicago_websites_study.pdf.

A 2010 study by the Project For Excellence in Journalism of the Baltimore journalistic ecosystem also pointed to the continued importance of legacy media outlets[23] . The study did make an undeniable point about the central journalistic role of Baltimore newspapers, in particular. "Of the [news] stories that did contain new information," the study noted, "nearly all, 95%, came from traditional media—most of them newspapers. These stories then tended to set the narrative agenda for most other media outlets."

B. The Internet has expanded opportunities for citizens to produce user-generated news content. However the use and utility of these tools is uneven and unclear at this point.

"User-generated," "citizen" or community journalism is one vehicle through which the information needs of communities can be met. Community reporting does not replace the skeptical, accountability-focused, wide-ranging journalism practiced in the best of America's newsrooms. Unfortunately, those critical, skeptical, broadly focused newsrooms are on the ropes, thanks to both technological and economic changes. And even at their best, traditional journalistic institutions have significant failings.

As demonstrated in Section I, many communities -- both, identity and geography-based -- have never been well-served by existing media outlets and infrastructure. Community journalism helps to fill that void. Communities of color and rural areas have often been excluded from access to robust infrastructure and emerging technologies, and the issues affecting them have too often been unexplored by journalists. New technologies have created enormous opportunities for community journalists, and many bring typically unheard voices into the public sphere. But technological change alone will not create equitable representation or access. This

[23] Pew Research Center Project for Excellence in Journalism, *How News Happens* (Jan. 11, 2010)
http://www.journalism.org/analysis_report/how_news_happens

will require new priorities in the regulatory arena, new infrastructure, and new avenues of media funding.

User-driven content, however, can and should be supported as a necessary complement to those existing institutions. Federal policy can support comprehensive community media, citizen journalism, provided via blogging, PEG access, low power FM radio stations, and other volunteer-produced or hybrid-model efforts. Supporting access to computer centers, expanding the network of anchor institutions, and spreading meaningfully affordable, high-speed broadband access will all increase the ability of underserved communities to communicate, both within a community and with the outside world. Both internal and outward-facing communication are vital.

User-generated content lowers newsroom costs and it has become an attractive feature of traditional media outlets, such as cable news channel CNN's iReport "where people take part in the news" by uploading personal videos on news and commentary to the website. Community calendars, events notices, reader comments, and photo galleries are common user-generated features of community access, online news and information portals. YouTube, Wikipedia, Flickr and Craigslist are examples of exclusively user-generated sites online.

News employers and platforms pay little to nothing for user-generated content labor and materials. The employer also saves paid staff time by allowing user-generated ideas to flow toward the business, which could drive budgeted resources to traditionally "expensive" information gathering, such as in-depth reporting, investigative research, or long-form analysis. The money saved with user-generated content could then be used to hire career newsgatherers.

User-generated or other contributed content is critical to fledgling independent, online news organizations because of its low cost/high traffic potential.Through user-generated content, news

systems can draw from a large knowledge and talent base, as each news audience member becomes a potential contributor. Many new, online community news outlets are staffed by a single person who needs a regular flow of content to build an audience and further a news mission. However, community journalism should not be compared, apples to apples, with traditional journalism. Some community journalism is comparable with articles in, say, the New York Times, in that the articles are written with a relatively objective perspective, and adheres to historic journalistic norms. Other community journalism endeavors are experimenting with new forms of storytelling, reporting, and delivery. Those experiments should be encouraged; there can be effective, quality journalism that looks very, very different from current journalistic products. Effective community journalism may be journalism that uses unconventional or innovative forms to communicate information to untapped audiences, or journalism that fosters dialogue within underserved communities.

News and information outlets should set standards and expectations for user-generated content. There should also be a clear understanding of who owns the intellectual property rights between the content generator and the content publisher. There are benefits and unexplored potential to user-generated content, and policy should encourage its development through open access, fair Terms of Service guidelines (that is, safeguarding intellectual property rights for the user/contributor), and maintaining a liberal interpretation of the Fair Use doctrine.

For the most part, as indicated above, discussions of the role to be played by ordinary citizens in the new media ecosystem have evolved from a simplistic "citizen journalists will replace reporters" frame to a more nuanced discussion about how professional reporters, news institutions and engaged amateurs will work together to create the journalism of the future. One notable example of professional-amateur collaboration is efforts at “crowd-sourcing”

information. Crowd-sourcing engages a community of people to undertake massive research efforts that no one reporter could do alone. At its best, this is done as a "pro-am" collaboration with a small paid professional staff and a large number of novice or volunteer reporters and researchers.

On a national level, the 2008 "OffTheBus" project sponsored by *The Huffington Post* and NYU Professor Jay Rosen's NewAssignment.net engaged 12,000 people in a collaborative journalism effort designed to tell the local campaign stories that mainstream media missed. Amanda Michel, the project's organizer, acknowledges that this model is insufficient to provide our communities with all the news and reporting they need, but she argues, "If taken seriously and used properly, this pro-am model has the potential to radically extend the reach and effectiveness of professional journalism."[24] Noting that more than 5 million people read OffTheBus in October 2008 alone, even though the budget for 16 months of nationwide collaborative journalism was just $250,000, Michel sees a an opportunity for these models to forge a "new social contract between the press and the public."[25]

Nevertheless, and for a variety of reasons, the *local* news institutions and newspapers most under threat from the collapse of traditional journalistic business models have been the least likely to embrace many of these pioneering forms of networked, collaborative reporting. While it might be possible to devise public policy interventions to facilitate more of these collaborations, the fact also remains that the potential of the Internet remains to be tapped by local news institutions.

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[24] Amanda Michel, "Get Off The Bus," *Columbia Journalism Review* (March/April 2009).
[25] *Id.*

C. Legacy journalism institutions are having trouble adapting to and embracing new media, while cutting back on important, public-interest news coverage.

The incumbent channels of media distribution such as broadcast, cable, satellite, print, pressed as they are economically, have in many cases chosen to cut back on news production and reduce costs. This has resulted in the sort of bread-and-butter oversight of local issues falling away, as indicated in the recent studies of Los Angeles, Baltimore, Chicago, and Philadelphia.

In Los Angeles, a study by the USC Norman Lear Center concluded that Los Angeles television news stations produce just 22 seconds of local government coverage for every half hour on the air. As one newspaper summed it up, "A study of local television news in Los Angeles finds that reports on local government are nearly nonexistent."[26]

While researchers at the Chicago Community Trust admitted that a detailed content analysis of local media was beyond the scope of their research, they noted that keywords of publicly-relevant terms appeared barely one fourth as much in local newspapers in 2008 as they did in 1992.A Project for Excellence in Journalism study of the Baltimore media ecosystem likewise uncovered a similar decline in original reporting about the city. In Philadelphia, finally, a recent report by J-Lab noted that "coverage was marked by fewer stories and fewer column inches in *The Philadelphia Inquirer* and by fewer stories, albeit more column inches, in the *Daily News*. Public affairs news coverage on Philadelphia's four commercial television stations also decreased, but there was not a significant amount of coverage for either period measured."

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[26] Lear Center, *Sports & Weather, Crime, Fluff Dominate L.A. TV News,* (Mar. 11, 2010)http://ascweb.usc.edu/News%20and%20Events/News/100311LearNews.aspx

Quite obviously this decline has negatively impacted city, state, regional coverage and international coverage. On the positive side of the ledger, quite a lot of hyperlocal coverage is increasingly being provided by new journalistic start-ups using new tools.

D. Journalists are experimenting with new models for the news, but it is unclear whether they can replace traditional news gathering operations

In cities like Seattle and Denver where newspapers have shuttered, only a fraction of the reporters who lost their jobs are working at these new sites.[27] And even many of these initiatives are struggling to find adequate funding or a big audience.[28]

Two of the new models for journalism that are most promising are independent nonprofit news sites and community-based journalism projects. There is a range of experimentation within both categories, but a few models are beginning to get traction, and are worth further exploration. We believe that we are still many years off from finding a sustainable model for nonprofit journalism, but by examining what is working in these initial experiments we hope to identify conditions, qualities, and policies that will help others build strong local journalism efforts in their communities.

1. Nonprofit and community-based journalism projects

Much of the conversation about new models for journalism has focused on new tax or ownership structures that allow news organizations to better focus on their journalistic mission. The nonprofit model has garnered significant attention for its potential to de-emphasize profit-

[27] *See*, for example, the attempt to carry on the reporting of the Rocky Mountain News by a number of ex-employees: http://www.indenvertimes.com/who-is-indenvertimescom/.
[28] Amy Gahran, "In Denver Times Troubles May Signal Difficulty of Replicating Newsrooms," *Poynter Institute* (April 23, 2009) http://www.poynter.org/column.asp?id=31&aid=162416.

making and focus on producing news. By taking the pressure off the bottom line, these nonprofit organizations may be able to invest more fully in the news product.

While this idea has enjoyed renewed attention, nonprofit news outlets have existed for quite some time. The one hundred year-old *Christian Science Monitor* is perhaps the best example. It is owned and partially subsidized by The First Church of Christ, Scientist, however, it plans to wean itself off of support from the church in coming years.[29] A similar nonprofit ownership model has long been in place at *The Guardian* in England, which is owned by the Scott Trust.[30] A slightly different model is at work at the *St. Petersburg Times*, a for-profit newspaper owned and operated by the nonprofit Poynter Institute.[31] Other nonprofit models exist in various forms elsewhere, including the Manchester, N.H., *Union Leader*; *The Day* in New London, Conn.; the Delaware State News; and Alabama's *Anniston Star* as well as at such longstanding outlets as *Harper's Magazine*, *The Washington Monthly*, *Ms. Magazine* and *Mother Jones*.[32,]

Many detractors worry that 501(c)(3) tax status would prevent news organizations from endorsing political candidates; some are concerned that nonprofits would be more susceptible to

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[29] Jim Barnett, "What advocacy nonprofits can learn from eth Christian Science Monitor," *Nieman Journalism Lab* (April 27, 2010) http://www.niemanlab.org/2010/04/what-advocacy-nonprofits-can-learn-from-the-christian-science-monitor/#more-15698.

[30] In Germany, there are a number of nonprofit newspaper models. The foundation-owned Frankfurter Algemeine Zeitung is widely regarded as the best German newspaper. The leftist Die Tageszeitung (TAZ) is run by a cooperative from which people can buy nonprofit shares. The TAZ remains one of Germany's major national newspapers. We thank NYU Professor Rod Benson for bringing many of these international models to our attention.

[31] Douglas McCollam, "Somewhere East of Eden," Columbia Journalism Review, March/April 2008.

[32] Charles Lewis, "The Nonprofit Road," *Columbia Journalism Review* (September/October 2007). *See also*Tim Arango, "Mother Jones Tests Nonprofit Model in Race to Survive the Recession," *New York Times* (March 6, 2009). Other examples of nonprofit owners include Consumer Reports, owned by Consumers Union, a nonprofit advocacy organization founded in 1936. Other big special-interest magazines published by nonprofit organizations include AARP The Magazine (22.6 million subscribers) and National Geographic (5.4 million subscribers)

government pressure or would see their tax status challenged by subjects of their stories. Other concerns focus on the possibility of newsrooms currying favor with their benefactors over the interests of their readers (though one could argue the commercial press could be too willing to accommodate Wall Street's interests). Indeed, these models do not completely insulate newrooms from market and advertising forces. Nonetheless, the history of nonprofit news outlets in America and abroad would suggest that these concerns are either overblown or easily addressed with the right structures and firewalls.

Nonprofits are also emerging at the community level, such as MinnPost, a Web-based model that covers the Minneapolis-St. Paul area, and the Voice of San Diego, a five-year-old, online investigative site dedicated to going "out there and [getting] investigative stories."[33] With a staff of 11, the site updates throughout the day and focuses on key local quality-of-life issues through beat reporting mixed with in-depth analysis. Its revenue depends on a handful of large donors, 800 individual readers who give $35 to $1,000 dollars per year; online advertising; large grants from organizations like the Knight Foundation, as well as smaller grants from local organizations. In a recent profile of the site, the *Christian Science Monitor* lists just a few of the stories uncovered by the Voice of San Diego: "The police chief's rosy crime statistics were a lie, it turned out. The councilman who urged water conservation was discovered to use 80,000 gallons a month at his home, more than five of his colleagues put together. And the school board

[33] For an informative interview with Andrew Donohue, co-executive editor of the Voice of San Diego, *see* "Future of News" (Feb. 9, 2009) http://www.onpointradio.org/shows/2009/02/the-future-of-the-news/.

president, according to an investigation, spent a full third of his time out of town and out of touch."[34]

All in all, these community projects are trying to fill crucial gaps in mainstream coverage and there is much room for optimism. However, as the ecosystem of nonprofit news expands, with new kinds of outlets emerging, new regulatory and policy challenges have emerged. Many are still running on initial start-up grants from major funding institutions and still building their broader membership and revenue base. In addition, some have struggled with securing the press credentials they need from local, state and national credentialing bodies that are at best skeptical and at worst anti-competitive, when it comes to these nonprofit newsrooms. Finally, new online start-ups face daunting legal challenges in terms of access to government data and defending themselves against lawsuits.

Today's new news institutions are quite fragile. As shown in the case study of Seattle, many once-successful local blogs are no longer being updated.[35] And the highly-touted ChiTown Daily News failed in its efforts to create a successful non-profit news venture in the Fall of 2009, laying off most of its staff.[36] These are just examples. "Can these nonprofits be self-sustaining?" asks Charles Lewis, founder of the Center for Public Integrity, and one of the strongest supporters of these projects. "The evidence is of course they can. Is it easily done? No."[37]

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[34] Randy Dotinga, "Nonprofit Journalism on the Rise," *Christian Science Monitor* (Feb. 12, 2008).
[35] "An Information Community Case Study: Seattle, A digital community still in transition," New America Foundation (May 2010) *See* http://mediapolicy.newamerica.net/information_communities
[36] Ann Saphir, "Chi-town Daily News cuts staff, *Chicago Business* (Sept. 11, 2009) http://www.chicagobusiness.com/cgi-bin/news.pl?id=35441.
[37] Ryan Blitstein, "The Bottom Line for Nonprofit News," *Miller-McCune* (March 4, 2008).

E. The Internet opens new avenues for providing and accessing news, but it also poses challenges for monetizing news consumption.

In approaching the changes confronting today's media environment – and the journalistic field in particular – it is important for policymakers to recognize that there has most likely always been a market failure for journalism of the kind that we think of as essential to the effective functioning of a democracy. Any efforts to point to the large newspaper circulations or large newspaper industry revenues of decades past as evidence of once-stronger consumer demand for journalism ignore the fact that the bundling of a variety of forms of content into a typical newspaper (comics, coupons, sports, real estate, entertainment, fashion, classifieds, etc.) allowed the kind of journalism that policymakers are most concerned about (local news, investigative reporting, etc.) to essentially piggyback on these other forms of content.[38] In today's disaggregated media environment, these forms of "core" journalism are no longer propped up by what was in some ways a subsidy model.

While some websites focused on a certain brand of news are thriving in the digital age, it is important to recognize that for the most part they do not represent the complete set of journalistic resources that citizens need in order to effectively participate in the democratic process. This is due in part to economic forces that have encouraged commercial media to prioritize gossip and sensationalism over vital accountability journalism.

For instance, our national 24-hour cable news networks are now woefully mischaracterized. The air time for these networks is devoted less and less to reporting the news with zero day-to-day local news coverage and more and more to the kind of commentary and interpretation that

[38] *See* generally, J. Hamilton, *All the News that's Fit to Sell* (2004); L. Downie & M. Schudson, *The Reconstruction of American Journalism* (2009).

fits much more tightly with the Commission's traditional definition of "public affairs" programming. The Top 10 markets in the country do have the benefit of dedicated 24 hour local cable news such as Newschannel 8 in DC though these provide little in depth reporting themselves. This transition is, of course, a reflection of the extent to which actual reporting is quite expensive, particularly in relation to the costs associated with having a few "talking heads" discuss and interpret the days events as reported by others.

We can think of the ever-growing blogosphere (as distinct from the more robust online news operations discussed earlier) in largely the same way, with the bulk of its contribution being in the realm of interpretation and analysis, as opposed to actual reporting. Again, this is a natural outgrowth of the resource limitations of the typical blog. In both cases, such approaches to journalism can cover their costs much more easily, and can sustain themselves with much smaller audiences, than those approaches that entail substantial original reporting.

This is not to say that vibrant and valuable sources of genuine reporting are not emerging online as alternatives and/or supplements to our declining news media. Such sources certainly exist -- they just represent a limited proportion of the overall level of journalistic activity in the blogosphere.

It is also important to recognize that many news consumers may ultimately value journalism of this type more highly than traditional reporting, particularly when it adopts a more overtly partisan stance than has characterized our news media in previous decades. In this regard, the future of our news media may very well involve a return to the past, to some extent, when news outlets were much more overtly affiliated with particular political orientations.[39]

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[39] *Id.*

The shift of audiences to the Internet has been a doubled-edged sword for traditional media. While it has expanded their overall number of readers and given them new ways to present the news, it has also brought a decline in circulation and advertising revenue. Unfortunately, for traditional news media, there are no obvious business models for monetizing online readers at the same rate of return as print or broadcast audiences. Accurate, reliable, and universally accepted measurement tools have not yet emerged, and until they do, the marketplace for online ads will remain unstable. However, even if better measurements for online traffic emerge, it is not clear that ad value will easily translate from print to the online media.

In light of these difficulties, industry has proffered alternative methods of extracting revenues, including the use of "pay-walls" and "micropayments". We discuss some of the economic and practical implications of these options in more detail below.

1. Micropayments

In place of the pay-wall structure, the idea of micropayments has gained significant traction. Micropayments allow readers to pay a small fee (pennies or dollars) on a per-article basis online. Not all micropayment proposals are based on a bundling, pay-wall, or per-transaction setup. Another approach is an online "tip jar" using technology like Kachingle that would give readers the "option of whether to pay for a Web site's content."[40] This model is similar to blogger Doc Searls' "PayChoice" project, which would allow customers "to pay any amount they please, when they please, with minimum friction."[41] Similarly, Josh Young suggests that organizations should charge their readers for added convenience or increased interaction with content creators.

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[40] Steve Outing, "Forget Micropayments — Here's a Far Better Idea for Monetizing Content," *Editor & Publisher* (Feb. 10, 2009).
[41] Doc Searls, "After the Advertising Bubble Bursts," *Doc Searls Weblog* (Mar. 23, 2009) http://blogs.law.harvard.edu/doc/2009/03/23/after-the-advertising-bubble-bursts/.

This "freemium" model would capitalize on and encourage trust between journalists and their readers.[42]

In a "journalism-for-hire" variation of the micropayment option, stories are either solicited by organizations or pitched by a journalist who proposes a story and asks for donations. Another version, being tested by the innovative news project Spot.us collects pledges to fund worthy reporting projects. If the story is picked up by a news organization, donors are repaid.[43] All of these seem to be worthwhile, if limited, experiments.

2. Pay-walls

Unlike the micropayment options outlined above, pay-walls involve putting large portions of your Web site's content in a protected area, only accessible to those who have a subscription. Supporters of pay-walls argue that they generate revue from online subscriptions and help newspapers protect their print content by not "giving away the farm" online. Pay-walls have only worked in a few cases where the news or information is so specialized it can't be easily reproduced elsewhere, or in cases in which the information has unambiguous and direct economic value.

In many cases, these niche markets are also supported by specific businesses or political interests (many people charge their subscription to the *Wall Street Journal* to their business expense account, and Washington lobbying firms pay high fees to subscribe to *The National Journal* or receive a specialized trade publication such as *Communications Daily*). For these

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[42] Josh Young, "Why I Dislike Micropayments, Don't Mind Charity, but Really Have a Better Idea," *Networked News* (Feb. 11, 2009) http://networkednews.wordpress.com/2009/02/11/no-micropayments-maybe-charity-yes-freemium-news/.

[43] Alexis Madrigal, "Crowdfunded Reporting: Readers Pay for Stories to Be Told," *Nieman Reports* (Spring 2009).

reasons, it is important that we recognize the limitations that these examples have in terms of guiding policy and strategic decision-making in relation to the future of journalism. As a product, news is often under-valued by the market its overall value is not easily observable. In economic terms, news provides "positive externalities" that the market can not effectively capture.[44]

Legal arguments against the installation of pay walls largely fall into two categories: copyright and antitrust concerns. On the former issue, it is vital to recognize that the principle of Fair Use is an important part of our creative and news economy and encouraging increasingly restrictive copyright laws is unwarranted.

On the latter issue of antitrust, the viability of a pay-wall system appears to rest on newspapers' ability to fix prices and set standards as an industry-wide cartel. In May of 2009, the Newspaper Association of America assembled representatives from many major news organizations for a "secret meeting" in Chicago to discuss "models to monetize content."[45] It was noted that "with antitrust counsel present, the group listened to executives from companies representing various new models for obtaining value from newspaper content online."[46] After this meeting, a number of commentators raised questions about the nature of the meeting. For example, Ben Sheffner wrote in *Slate*:

> Antitrust law is complicated, but one principle is very simple: Competitors cannot get together and agree on price or the terms on which they will offer their services to their customers. It doesn't matter if the industry is ailing or if collusion would be "good" for society or necessary to preserve democracy. An agreement regarding pricing is "per se"—

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[44] *See* J.T. Hamilton, *All the News that's Fit to Sell* (2004) (2004).
[45] James Warren, "Shhhh. Newspaper Publishers Are Quietly Holding a Very, Very Important Conclave Today. Will You Soon Be Paying for Online Content?" *The Atlantic* (May 28, 2009).
[46] "Newspaper execs treading carefully on antitrust laws," *Nieman Journalism Lab* (May 28, 2009).

automatically—illegal under Section 1 of the Sherman Act, the main federal antitrust law.[47]

In response to the meeting, news industry commentator Dan Kennedy expressed concern that one part of this business plan is to create an "artificial scarcity through an illegal cartel" in order extract higher returns on news copy.[48] While any organization has a right to charge for their content, we don't endorse any strategy that would require anti-consumer actions or price-fixing. Moreover, we reject calls from the industry for an exemption from antitrust laws. The Department of Justice's antitrust division expressed skepticism about the need for any antitrust waivers for the newspaper industry in testimony before the House Judiciary Committee in April of 2009.[49]

In the end, most pay-walls limit who has access to information; they further inscribe commercial values into the newsgathering processes; and, by extension, they further constrict the scope of voices and viewpoints in the press and in our national discussions. While we welcome

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[47] Ben Sheffner, "Collusion Course,"*Slate* (May 28, 2009).

[48] Dan Kennedy, "Arrogance and anger over newspapers' decline," (Aug. 24, 2009) http://www.dankennedy.net/).

[49] In his testimony before the subcommittee on courts and competition policy, in the judiciary committee of the US House of Representatives, Carl Shapiro, the Deputy Assistant Attorney General for Economics and Antitrust Division argued against relaxing antitrust regulations: "Antitrust is critical to ensure that the public obtains the full benefits of competition. This is especially true in industries experiencing technological change, where competition spurs innovation, including innovative business strategies and business models. In the newspaper industry, major changes are taking place in terms of the creation and distribution of content and in terms of the business models adopted by those who incur the costs necessary to create content, especially content that is relatively costly to provide, such as investigative journalism. [...] Newspapers play a vital role in our society. The Antitrust Division continues to work to protect competition in the newspaper industry. We believe that antitrust analysis is forward-looking and flexible enough to take into consideration the economic and technological pressures facing newspapers as we continue to make market-by-market and case-by-case factual determinations pursuant to the antitrust laws. Vigorous antitrust enforcement will guarantee that this important industry will be as competitive as possible, and that American consumers will have available to them more, rather than fewer, options for getting news and information." Full text of his remarks are availableat : http://judiciary.house.gov/hearings/pdf/Shapiro090421.pdf

experimentation of all kinds, we do not think there should be any regulatory or policy changes to make paywalls more viable, especially where it raises antitrust concerns.

3. Traditional media outlets face economic challenges from the Internet – and from their own bad business decisions

We are sympathetic to the economic constraints faced by media companies. However, while current economic conditions pose difficulties for the media industry (as they do for many businesses), however, many papers, while struggling with decreased profits, remained profitable. Indeed, some smaller, regional, and neighborhood papers have weathered the storm well.

Companies which are struggling most right now are not merely victims of a tough economy, but of financial problems are of their own making. We believe three major factors have contributed to industry's current unraveling: media consolidation, the ownership structure of newspapers, and the failure of newspapers to adapt to the changing media landscape.

Clearly the Internet, paired with the general economic downturn and dwindling trust in the media, has had a profound impact on newspaper circulation. The Audit Bureau of Circulation found that weekday circulation for daily newspapers in 2009 dropped 10.6 percent over a six-month period that ended in September 2009. Weekday circulation dropped by 25.8 percent at the *San Francisco Chronicle;* circulation at the *Star-Ledger* of New Jersey and the *Dallas Morning News* both dropped by more than 22 percent.[50]

Most of the largest newspaper companies in this country are publicly traded. We cannot overstate the negative influence Wall Street and its emphasis on short term profitability and sustained growth has had on the current turmoil facing the industry. A recent systematic study

[50] Richard Perez-Pena, "U.S. Newspaper Circulation Falls 10%," *New York Times* (Oct. 26, 2009) http://www.nytimes.com/2009/10/27/business/media/27audit.html?hp.

from Columbia University of the problems confronting contemporary media companies concluded that the perception that growth is always good is one of the fundamental "media myths" that have led to the decline and collapse of many media companies.[51] The relentless pressure from Wall Street for ever-higher quarterly returns has been entirely unrealistic for these businesses.

A century ago, most daily newspapers faced competition from other dailies in the same city. In 1910, there were more than 2,200 daily papers in 1,207 cities. By 1961, however, 96 percent of all daily papers didn't have a local competitor and most were family-owned.[52] By 1971, only 2 percent of all cities had company newspapers and by 1977, two-thirds of all newspapers were owned by a newspaper group.[53] During the 1960s, newspaper companies started going public in an effort to finance acquisitions, reduce debt and fight off takeovers.[54] During the 1990s, these companies sought to shore up their local dominance by forming regional clusters. As a result, more than 700 transactions took place from 1994 to 2000.[55] Writing in 2001, Thomas Kunkel and Gene Roberts noted that this level of consolidation was "revolutionizing" the industry "to the point of undermining, the traditional nature and role of the press."[56]

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[51] J. Knee, *et al., the Curse of the Mogul* (2009).
[52] Gilbert Cranberg, Randall P. Bezanson, and John Soloski, Taking Stock: Journalism and the Publicly Traded Newspaper Company, *Iowa State University Press* (2001) at 18-19.
[53] Suzanne M. Kirchhoff, *The U.S. Newspaper Industry in Transition: Analyst in Industrial Organization and Business*, Congressional Research Service (July 8, 2009).
[54] Elizabeth Maclver Neiva, *Chain Building: The Consolidation of the American Newspaper Industry, 1953-1980*, Business and Economic History (Fall 1995) at 22-26.
[55] Thomas Kunkel and Gene Roberts, *The Age of Corporate Newspapering: Leaving Readers Behind*, American Journalism Review, (May 2001) at 38.
[56] Elizabeth Maclver Neiva, *Chain Building: The Consolidation of the American newspaper Industry, 1953-1980*, Business and Economic History (Fall 1995) at 34.

But profits soared: The profit margins from newspapers increased overall from 14.8 percent in 1990 to 21.5 percent in 2000.[57] The industry faced intense pressure from Wall Street to increase profits every quarter. As far back as1998, *the Columbia Journalism Review* was warning of the pressures of Wall Street on the quality of journalism:

> More so than at any other moment in journalism's history — the news product that lands on the newsstands, doorsteps, and television screens is indeed hurt by a heightened, unseemly lust at many companies for ever greater profits. In the service of that ambition, many editors are surrendering part of their birthright to marketers and advertising directors, and making news-judgments based on criteria that would have been anathema only a few years ago.[58]

At first, according to *Seattle Times* publisher Frank Blethen, news executives were still committed to quality journalism.[59]

> In the early stages of this transition we knew the first generation of people who began building the public newspaper companies and laying the foundation for today's concentration of ownership. They were experienced newspaper operators, often with news backgrounds. For the most part, they had respect for quality, local journalism, and our public-service stewardship. But as time passed, the market's short-term profit demands continued and ownership concentration increased. We moved into a new generation of chain newspaper leaders. Frequently, today's chains and public company leaders are business-side, corporate people whose priority must be keeping their institutional investors and the stock market happy. My personal epiphany occurred in the early '90s when I realized the industry had replaced important words like "communities" and "newspapers" with new words like "markets" and "properties."

The final phase of this transition seems to be moving media ownership from the hands of consolidated media companies to banks and private investment firms even further removed from the work of journalism. In 2004, institutional investors such as banks owned 93 percent of the

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[57] David Laventhol, *Profit Pressures: A Question of Margins*, Columbia Journalism Review, (May/June 2001) at 18-19.

[58] Neil Hickey, *Money Lust: How Pressure for Profit is Perverting Journalism*, Columbia Journalism Review (July/August 1998) at 28-36

[59] Frank A. Blethen, *It's Going to Get Worse*, Columbia Journalism Review (May/June 2001) at 40.

stock held in 15 publicly traded newspaper companies. The top 10 institutional investors owned 66.7 percent of newspaper stock. In addition, the executives from banks and large investors make up of the majority of outside board directors.[60]

As newspaper and broadcast media companies are bought, sold and traded by financial institutions and private equity firms, their public service mission of newsgathering is superseded the by their stock value. In changing hands and changing owners, our most important sources of information are increasingly seen as mere investments. "The more people disparage 'old media,' the happier I am," said one private equity manager. "These companies don't require a lot of capital investment. They sell subscriptions, so you get the money up front and deliver the product over time. They generate a lot of cash, so they make great buyout candidates, and you can get them at reasonable prices, because everyone else is focused on buying shares of Google."[61]

Perhaps the most vivid example of this in the newspaper industry came in 2006, when institutional investors forced Knight Ridder to put the company and its 32 papers up for sale. At the time, Knight Ridder was the second largest newspaper company in the country. The McClatchy company bought Knight Ridder for $4.5 billion and assumed $2 billion of the company's debt. McClatchy is now drowning in that same debt.[62]

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[60] Jon Soloski, *Taking Stock Redex: Corporate Ownership and Journalism of Publicly Traded Companies, Corporate governance of Media Companies*, (Jonkoping University Business School, Sweden, 2005) at 68-71.

[61] Andrew Ross Sorkin and Peter Edmonston, "Private equity firms attracted to traditional media companies, "*The New York Times* (Nov. 17, 2006). http://www.nytimes.com/2006/11/17/business/worldbusiness/17iht-media.3578586.html?_r=1.

[62] *See* Press Release, "McClatchy Report First Quarter 2010 Results," *MarketWatch* (Apr. 22 2010) http://www.marketwatch.com/story/mcclatchy-reports-first-quarter-2010-results-2010-04-22?reflink=MW_news_stmp which documents the more than $800M of debt recently issued.

F. Advertising trends suggest a devaluation of audience exposure to advertising and it is unclear whether tighter targeting or new technologies will reverse this trend

The Pew Project for Excellence in Journalism's State of the News Media annual report for 2010 on American journalism, found the following regarding the newspaper industry today:

- Advertising losses averaged 26% in 2009, compared to a cumulative 23% loss the previous two years. The ad revenue plunge "left newspapers downsizing everything – the physical dimensions of the paper, the space devoted to news and, most painfully, their roster of news professionals."
- Advertising revenue fell 43% over the three years.
- Roughly 15,000 full-time reporting and editing jobs were eliminated over the last three years, a 27 percent decrease.
- Poynter's Rick Edmonds, journalism business analyst, calculates that since 2000, revenue decline has left a $1.6 billion "news hole," or news gathering gap.

Though anecdotal evidence in hiring and other announcements from media companies in the first half of 2010 may suggest a bottoming out, at least temporarily, in revenues it is far from certain there will be a sustained uptick in economic trends for media companies.[63] The history of the cable television industry tells us that we should be wary of expecting the capacity for demographic or geographic targeting to meaningfully increase advertising rates online. Cable television has for many years provided advertisers with the opportunity to engage in much more granular demographic or geographic targeting of audiences than is possible via traditional broadcast television. Yet, cable CPMs (cost per thousand) still lag behind broadcast CPMs, despite the fact that the total cable audience now significantly exceeds the total broadcast audience.[64] Cable television continues to earn a share of the total television advertising revenues that is significantly less than its share of total television viewers.

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[63] *Id.*

[64] *See* P.M. Napoli, *Audience Evolution* (2010).

One might argue, of course, that this is because the demographics of the cable audience are less appealing to advertisers than the demographics of the broadcast audience. However, the opposite is in fact the case, with broadcast television stations and networks generally having audiences that are significantly older, and therefore significantly less appealing to advertisers than cable audiences.[65]

The process of fragmentation that is a defining characteristics of the online realm has been particularly challenging for advertiser-supported media in large part because the greater presumed efficiencies and the enhanced capacity to target specific audience segments that are natural byproducts of a more fragmented media environment have never translated into the kind of added value in the audience marketplace necessary to support such a system, let alone to allow it to flourish in ways that would truly lead to the development of a wide array of new and original content options targeting a truly diverse array of audience interests.

As media economist David Waterman notes, "Although Internet technology . . . promises more efficient advertising-based business models to support broadband programming, history suggests formidable practical limits. First, although multichannel cable television has brought forth billions in total advertising, including many new advertisers, the 'magazine model' of higher rates for sharper segmentation has not materialized.”[66] As Waterman notes, relatively few cable networks have successfully cultivated true niche audiences (for example, MTV). As he also notes, cable network cost-per-thousand (CPM) advertising rates are, on average, still below those of the major broadcast networks.[67]

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[65] M. Schneider, "TV Viewers' Average Age Hits 50," *Variety* (June 29, 2008).
[66] D. Waterman, *Business Models and Program Content In Internet television* (2004) at 61, 67.
[67] *Id*.

A recent estimate places broadcast network CPMs at an average of $30 compared to an average of $11 for cable networks.[68] This despite the fact that, on a typical night, viewing of basic cable networks accounts for almost 60 percent of household viewing, compared with only 35 percent for the Big Four broadcast networks.[69]

Larger audiences seem to be worth more, per capita, than smaller audiences assuming similar audience demographics. The same pattern has established itself online, where the top Web sites capture a share of online advertising dollars that significantly exceeds their share of online audience attention in a way that some analysts have compared to the pattern that has characterized television.[70] One study estimated that the top 10 Web sites captured roughly 70 percent of net online advertising revenues,[71] while another found that the top 10 Web sites captured 26 percent of Web traffic.[72]

These patterns fly in the face of the common sense notion that the more narrowly defined, homogeneous niche audiences represent the kind of efficient targeting opportunities for which most advertisers would most likely pay a premium. In terms of the "Long Tail" terminology that is common in today's discussions of the media environment,[73] these patterns suggest that the audience attention that is clustered in the head can be more effectively monetized than the

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[68] D. Mermigas, "Do the Math: Broadcast, cable network parity play," *MediaPost* (Sept. 24, 2008).
[69] T. Fitzgerald, "Cable Recap: Another Year and Cable's Bite Deepens" *Media Life Magazine* (April 1, 2009).
[70] A. Klaassen, "The Short Tail: How the Democratized Medium Ended up in the Hands of the Few -- At Least in Terms of Ad Dollars" *Advertising Age* (Nov. 27, 2006).
[71] A. Klaassen, "Economics 101: Web Giants Rule Democratized Medium," *Advertising Age* (April 8, 2009).
[72] M. Hindman, *The Myth of Digital Democracy* (2009).
[73] *See* C. Anderson, *The Long Tail* (2006).

audience attention that is found in the tail. The head of advertising revenues is even more pronounced than the head of audience attention, and the tail is even thinner.

The point here is that, in the realm of ad-supported media, the "hits" typically are capable of attracting a disproportionately high share of the available advertising dollars, leaving the multitude of niche content options to battle out it over the remaining ad dollars. And so, as much as the niche content may, in the aggregate, represent a substantial proportion of total audience attention, this content has not yet been able to translate its share of audience attention into a proportional share of advertising dollars.

The prospects for more targeted content might be different if the exhibition component of ad-supported media were to operate under the same centralized one-stop shopping model that is increasingly characterizing the exhibition component of consumer-supported media – that is, if advertisers' access to virtually all available audiences were possible via a single source, the same way that consumers' access to virtually all available DVDs is possible via Netflix, or virtually all available books is possible via Amazon.

The development of online ad networks in many ways is reflective of this perspective. With online ad networks, groups of content providers essentially aggregate their traffic for sale to advertisers. According to a recent study, the use of such networks grew from accounting from five percent of ad impressions sold in 2006 to 30 percent of ad impressions sold in 2007.[74] As one consulting report noted, online ad networks are "an essential vehicle for monetizing the Long Tail of the Internet. By aggregating traffic that was previously too difficult to buy or

[74] Interactive Advertising Bureau, *Use of Ad Networks Surges Six-Fold as Media Companies Step up Monetization of Unsold Advertising Inventory* (Aug. 11, 2008).

which was otherwise undesirable, ad networks provide small and mid-sized online publishers with significantly more advertising revenues than would otherwise be possible."[75]

This passage points toward the key problem that fragmentation has posed for advertising-supported media. Specifically, it is much more difficult for the traditional exposure-focused approach to audience understanding to provide a satisfactory basis for "currency" in the audience marketplace when audience attention becomes increasingly fragmented. As the above quote illustrates, in many highly fragmented contexts, the purchasing of audience attention has essentially become too difficult, or the audience attention that is available to advertisers and media buyers has become unappealing.

Why does the fragmentation of audience attention seem to diminish its value in this way? What has happened is that audience information systems that traditionally have provided the currency in the audience marketplace are running up against their practical limits in terms of their ability to reliably represent the distribution of audience attention across the full range of available content options. Essentially, measuring the long tail of audience attention is becoming much more difficult in such a highly fragmented media environment.

The fragmentation of media and audiences is straining and undermining the traditional, exposure-based audience information systems that long have served as the core of the audience marketplace. As a result, the "quality" of the available representations of audience exposure diminishes the further one travels down the long tail. We may be approaching a point where it is simply impossible for measurement firms to recruit and maintain representative audience panels that are large enough to capture the true distribution of audience attention across the wealth of

[75] Desilva + Phillips, LLC, *Online Ad Networks: Monetizing the Long Tail* (April 2008) at 2.

available content options and across all of the platforms via which that content can be consumed.

Consider, as an extreme example, that while Internet audience measurement firm comScore has a panel of over two million people, there are over 187 million Web sites. This dynamic limits the utility of panel-based data to the select few Web sites that attract enough panelists to achieve minimum levels of statistical validity and reliability.

Most cable networks and most Web sites have audiences that are too small to even be reported by the established, panel-based audience measurement systems such as those operated by Nielsen Media Research and comScore. Nielsen Media Research is only able to provide audience ratings for about 80 of the over 500 cable networks in operation in the U.S. The over 400 remaining networks have audiences that are, on average, simply too small to be accurately captured by the roughly 13,000 households that currently are included in Nielsen's national television audience measurement sample; yet in the aggregate these unmeasured networks can represent as much as 25 percent of television viewing.[76]

Radio audience measurement firm Arbitron provides audience ratings for only half of the over 13,000 radio stations in operation in the U.S. Magazine audience measurement firm MRI measures the audiences of only 232 of the over five thousand magazines in print. Newspaper audience measurement firm Scarborough, in its effort to quantify newspaper readers across both print and online platforms, reports data only on those readers within the paper's geographic

[76] S. McClellan, "MSOs Look to Capitalize on STB Data*, "Adweek* (May 19, 2008).

market that are consuming the paper either in print or online, leaving all out-of-market readers who access these papers via the web, unreported.[77]

And, at the most extreme end of the continuum, Internet audience measurement firms such as Nielsen NetRatings and comScore provide detailed audience estimates for roughly 15 to 30 thousand of the estimated 187 million available Web sites.[78]

And, as the traditional measurement systems associated with the various media struggle under the weight of fragmentation, the challenges associated with monetizing the audience for any individual piece of media content are compounded.

Perhaps the most visible development in the advertising marketplace that has taken place is the development of various behavioral pricing models. In these models, advertisers pay only for those audience members who exhibit a particular behavioral outcome, such as clicking on an ad or making a purchase.. In the online space, these pricing models have supplanted traditional exposure-based pricing. In the social media space, the largest brands are primarily buying the audience on such behavioral "key performance indicators," rather than on the more traditional basis of "impressions."[79]

Twitter recently announced its plan to charge advertisers based on the "resonance" of their tweets, with resonance being defined in terms of the extent to which audiences respond to the

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[77] *See* P.M. Napoli, *Audience Evolution* (2010).
[78] *Id.*
[79]) *Id.*

tweet in some fashion, whether by clicking on a link, forwarding the tweet to others, or marked as a favorite.[80]

It is important to emphasize again here the damaging effects that a defining characteristic of the new media environment (in this case, the ability to actually measure the effectiveness of advertisements) is having on the economics of content production. Specifically, this environment now limits the revenue potential of content providers to only those individuals who exhibit a tangible behavior response to an advertisement, making the bulk of the audience members that a web site attracts essentially worthless. And, because the enhanced value of those audience members who do exhibit a behavior response has not compensated for the lost value associated with those who were merely exposed to the advertisement, the net effect is damaging to the economics of content production.

The key point here is that the devaluing of audience exposure that is currently taking place represents a monumental negative effect on the established business models of all ad-supported media, and it is unclear (perhaps even doubtful) that the alternative mechanisms that are emerging for the pricing of media audiences are going to overcome these negative effects.

G. It is still an open question whether the Internet represents a media environment of greater efficiency than the media environments that preceded it.

Economically speaking, there were huge efficiencies, in terms of the production, distribution, and consumption of media content, that were associated with the bundling practices of traditional media that are now being dismantled in the new media environment. Similarly, there were many efficiencies from the advertising industry's perspective, in a media environment that was less

[80] M. Learmonth, "Twitter Has a Business Model: Promoted Tweets" *Advertising Age* (April 12, 2010).

fragmented, in which reaching large, diverse audiences required much less time and effort (in terms of the research involved and in terms of the number of transactions with media outlets that were needed), than is the case today.[81] And so, we would argue that whether the Internet represents, on the whole, a more economically efficient media environment than previous media platforms remains an open question.

Certainly, however, the Internet represents a media space of unprecedented specialization. The model that has developed online is one in which content production has become extremely disaggregated, but in which distribution and exhibition of content have become highly aggregated. This is, in many ways, the fundamental limitation of the widely heralded "Long Tail" theory.[82] Specifically, the theory's fundamental premise that the infinite "shelf space" of the Web, combined with the unprecedented functionality of online search and recommendation systems, will prove enormously beneficial to the media sector has applicability only to a very limited category of stakeholders – those involved in the aggregation and exhibition or distribution of content produced elsewhere.

Unfortunately, the content produced elsewhere is suffering from a variety of factors, including the extent to which fragmentation undermines the advertising dollars that can be earned per audience member and the extent to which the variety of cross-subsidies that have traditionally supported the production of most forms of media content – but particularly news and information content – are being eliminated.

It is perhaps worth recalling that a substantial body of research has indicated that the type of advertisements that traditionally have appeared in newspapers apparently were valued by

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[81] *See* P.M. Napoli, *Audience Economics*(2003).
[82] C. Anderson, *The Long Tail* (2006).

readers, rather than seen as a nuisance (as is largely the case with, for example, TV and radio advertising).[83] Thus, increases in the number of ad pages have been shown to lead to increases in newspaper circulation. Decreases in the number of ad pages have led to decreases in circulation. Whether it be classified ads, automotive ads, or supermarket circulars, the kind of advertisements that long have characterized the daily newspaper were sufficiently informative to readers that their presence enhanced, rather than detracted from, the experience of reading the paper. This is of course exactly why some of these types of advertisements have been able to support free-standing web sites such as Monster, Ebay, and Craigslist.

And, as has been noted above, the bundling of different forms of journalism into a single product, the daily newspaper, similarly allowed certain types of journalism to support the production of other types of journalism. Here, too, the specialization/disaggregation of the Web has been damaging to the kind of news reporting and analysis that is essential for a healthy democracy. Those interested in sports news can go to sites such as ESPN for their sports information. Financial news, celebrity news, and entertainment news similarly all have their fair share of free-standing sites devoted to the provision of that type of content. Bundled news products such as the daily newspaper, and even the nightly newscast, are increasingly untenable in a media environment when audiences' narrow, specialized demands can be so easily served.

Given this state of affairs, it seems reasonable for policymakers and media strategists to consider whether there might be other ways in which journalism can be "bundled." That is, what other products or services can “core” journalism be integrated with in order to preserve its needed economic foundation? We might, for instance, consider ways to replicate in the new

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[83] *See* S.P. Anderson and J.J. Gabszewicz, *The Media and Advertising: A Tale of Two-Sided Markets*. In the *Handbook of the Economics of Art and Culture*(2006).

media space the bundling with news that took place via the traditional newspaper. Might search engines, for instance, consider always placing news headlines, stories, or links at the top of any page returning a search query, regardless of the nature of the search query? Might prominent e-commerce and social networking sites such as Ebay, Craigslist, Facebook, and Amazon consider doing the same? Or might such entities consider supporting small news gathering enterprises of their own that they integrate into their existing lines of business? Such possibilities represent a "re-bundling" of news with the type of content that has largely departed from the traditional newspaper (i.e., classified ads, personals), thereby contributing to its decline.

Obviously there is no existing regulatory authority to impose such requirements on such online content providers. Rather, such suggestions should be seen as a starting point for an at this point largely non-existent conversation about if and how online content providers could adopt some component of the public trustee ethos that has historically characterized traditional media outlets such as newspapers, television stations, and radio stations.

H. Local news is an ever less present feature in commercial television

In terms of the current state of local commercial television and radio broadcasters, there are a number of important trends worth considering. The first is the extent to which the economics of local television news are becoming less appealing to local commercial stations, after decades of local news serving as a cash cow and a fundamental branding tool for many local stations.

It is important to recognize that for some local commercial television stations, news is essentially the last remaining form of content that is actually produced locally where it is even carried. Syndication and network programming fill out the remainder of most local television station schedules. Many stations carry no news whatsoever.

Local news, long a profit center for many commercial stations, is beginning to suffer under the same economic pressures that have, at this point, affected the newspaper industry more dramatically, as audience attention migrates to online news sources, and even when this online audience attention is focused on the web sites of local stations, this attention can not be monetized (in terms of advertising revenue) to the same extent that has historically been possible in the traditional television context.

Likewise he future of local television stations' multicast channels is, unfortunately, fairly grim. The Commission's decision not to extend digital must-carry provisions to broadcasters' secondary programming streams dramatically limits the prospects for these channels in terms of audience reach. This essentially assures that broadcasters' financial investment in the content on these secondary programming streams will remain minimal and they will in all likelihood serve primarily as a platform for repurposing content originally produced for the "primary" programming stream. Given the tremendous channel capacity on contemporary digital cable systems (so much so that the Nielsen Company recently announced that it is essentially giving up even trying to measure the number of "channels" that households receive),[84] the Commission may want to consider reversing its decision regarding digital must-carry provisions in an effort to promote these programming streams as a meaningful contributor of news and information to local media ecologies.

I. Staffing at newspapers continues to fall

As the pillars of the traditional journalism business – subscriptions, circulation and advertising revenue – are compromised, newspapers are reducing output to compensate. Most

[84] Joe Mandese, "Nielsen Turns "The Channel" Off Permanently." *Media Daily News* (April 29 2010).

noticeably, newspaper companies have slashed payroll budgets, which has meant industry layoffs by the thousands. Staffing trends at news outlets are troubling for the general quality of journalism. A steady decline of newsroom jobs over the past several years – with profound losses in 2008 and 2009 – has led to weakened reporting capacity, significantly less community coverage, abandoned beats, less attention to detail, and often less ethnic diversity in newsrooms.

Hardly a day goes by without another obituary for the newspaper industry. Hemorrhaging jobs, subscribers and advertising revenue, news organizations are dismantling foreign, Washington and statehouse bureaus.[85] Nearly 16,000 journalists and newspaper employees lost their jobs in 2008, and that number was almost matched again in 2009. Across the industry, diverse voices are disappearing from the airwaves and broadsheets in unprecedented numbers. The American Society of News Editors' 2009 survey showed that journalism job cuts are hitting people of color particularly hard. Of the nearly 6,000 journalists who lost their jobs in 2008, 854 were people of color, leaving the percentage of minorities in newsrooms at just 13.4 percent.[86] Meanwhile, Sally Lehrman writes in the *Boston Globe*, "More than 42 percent of print newsrooms across the country employ no black, Asian American, Latino, or American Indian journalists at all."[87] While ethnic media in major urban areas like Los Angeles and New York may be doing better, in the near future, many groups in rural areas and smaller cities are at risk

[85] Richard Perez-Pena, "Big News in Washington, but Far Fewer Cover It,"*New York Times*, (Dec. 18, 2008).
[86] "U.S. Newsroom Employment Declines," *The American Society of News Editors* (April 16, 2009).
[87] Sally Lehrman, "The Danger of Losing the Ethnic Media,"*Boston Globe* (March 5, 2009).

of losing the only media outlets that cover the issues facing their communities or that report in their language.[88]

The Scranton *Times-Tribune*, a family-owned, 49,500-circulation daily newspaper (*The Sunday Times* circulation is 66,600) in Northeast Pennsylvania, implemented layoffs, buyouts and furloughs in 2009 due to an industrywide downturn and an economic recession.[89] The paper claims a coverage area of Scranton and its surrounding towns in Lackawanna County, plus parts of six other counties in the region. The company reduced its newsroom by 10 staff, to 60 employees. (The newsroom had been steadily losing employees through attrition since 2000, when there were 93 people in the newsroom. In 2007 there were approximately 70 employees, and in 2009 the newsroom had to be reduced to 60 through forced terminations).

The newsroom layoffs at the Scranton paper eliminated the sole Latino reporter. The newspaper also lost its local healthcare reporter just as the national debate on healthcare was becoming a central news story toward a historical Congressional vote. Besides healthcare being an issue in 2009 and 2010, Northeast Pennsylvania is a regional healthcare industry hub: 1 out of 7 people in Lackawanna County are employed in healthcare. Pennsylvania is the third-oldest state in the union and the area is medically needy, with a high percentage of people eligible for medical assistance.[90] Moreover, there are three hospitals in the City of Scranton, a $150 million

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[88] Terence Chea, "Ethnic Press Stung by Recession, Advertising Drop,"*Associated Press* (March 29, 2009).

[89] "An Information Community Case Study: Scranton, An industrial city with a media ecosystem yet to take advantage of digital opportunities," New America Foundation (May 2010) See http://mediapolicy.newamerica.net/information_communities

[90] Lackawanna County, "County Lines" 2008 fact book, "Health Profile & Vital Statistics," p. 43.. http://www.lackawannacounty.org/uploads/COUNTY_LINES_2008.pdf

medical college is being built in the city, and there are two major medical insurers based in the Scranton-Wilkes Barre metro area that dominate the insurance market.

Times Shamrock Communications, which owns the *Times-Tribune* in Scranton and the *Citizen's Voice* newspaper in Wilkes Barre, 20 miles south, inconsistently cover healthcare in the third-largest metro area in the state. Stories are usually assigned to business or general assignment reporters as available, and stories tend to follow industry-led news narratives (i.e., they respond to press releases). That is, there is scant enterprise reporting. The absence of a dedicated reporter on the health beat is an illustration of just how thin the reporting staffing has become.

Due to limited staffing, the *Times-Tribune* has reprioritized its reporters and beats. While there is no longer a reporter dedicated to health care, the paper has created a natural gas beat to aggressively follow the emerging natural gas industry in the region. Most of Northeast Pennsylvania sits on a massive shale that has attracted gas drilling companies to the area, generating issues of land ownership, leasing, royalties, and environmental impact.

Remaining staff are shuffled across beats to accommodate news coverage around tight staff schedules. Many reporters have been asked to split their time between two or more beats. This practice creates an assembly-line approach to news creation, which begets inconsistent coverage and reduces institutional knowledge. The mantra at newspapers has become "Do more with less," but the reality is "less is less."

J. Trends in staffing and coverage at print magazines specializing in news and information show significant staff reductions

Recent evidence suggests both network and local television are facing severe downturns as well, and magazines are downsizing and closing.91 Print magazine operations have shadowed the decline in the newspaper industry in the last two years. According to the Publishers Information Bureau, advertising revenue at 250 magazines declined 18.1 percent in 2009 compared to the year prior. In 2008, advertising revenue decreased 7.8 percent from the year prior.

Advertising revenue at two mass market, weekly news magazines – *Newsweek* and *Time* – fared worse than the industry average in 2008: *Newsweek*'s revenue shrank 27 percent over the year prior, and *Time*'s revenue declined 14 percent, compared to the average industry decline of 7.8 percent.

Newsweek in 2009 again outpaced the industry's average advertising revenue decline with a 30.4 percent decrease in advertising revenue, compared to the 18.1 percent average. *Time* posted a 13.3 percent revenue decline over 2008.

In 2007, before the industry's downturn, average advertising revenue in the PIB index was 6.1 percent above the year prior. However ad revenue at *Time* and *Newsweek* declined 18.3 percent and 1.8 percent respectively. The news magazine industry has responded to the negative advertising climate with job layoffs and bureau closings. Last year, *Time* magazine's staff

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[91] *See* Pew Project for Excellence in Journalism, *The State of the News Media 2009*, http://www.stateofthenewsmedia.com/2009/index.htm. A recent report found that nationwide, local television news stations slashed 4.3 percent – or 1,200 – newsroom jobs in 2008. *See* Radio-Television News Directors Association, *Television News Jobs and Salaries Decline As Amount of News Increases, RTNDA/Hofstra University Survey Shows*, April 19, 2009. *See also*, David Carr, "Portfolio Magazine Shut, a Victim of Recession," *New York Times* (April 27, 2009).

listings declined 20 percent "in overall positions and a geographical retrenchment," according to the Pew Project for Excellence in Journalism 2009 "State of the News Media" report.

At *Newsweek*, according to the Pew report: "Total newsroom staffing fell by 16 to 150, from 164, a drop of 8.5%. Other than Washington and Miami, all seven domestic bureaus were eliminated. The Washington staff was cut to 12 from 16."

"To put this in some perspective, Newsweek staffing of 150 is 15% less than the 176 employed in 2003, and down 56% from the 348 listed as staff in 1983," according to the report.

After years of revenue losses, in 2009 the publishers of *U.S. News and World Report*, the third, mass market weekly news magazine, shifted focus and reduced circulation frequency, according to the Pew report, and newsroom jobs as listed on the magazine's masthead fell 39 percent over 2008.

The dismal advertising revenue trends slowed overall to an averaged 3.9 percent decrease in the first quarter of 2010, compared to a 20.2 percent decline the same quarter a year prior, according to the Publishers Information Bureau, however *Newsweek* continues to seriously underperform its magazine peers. *Newsweek*'s advertising revenue sank 40.6 percent over the same quarter in 2009; *Time* posted a 2.7 percent increase in advertising revenue.

"It's still not clear if this recovery is going to be a sustained recovery. Publishers will have to see a few quarters of improved advertising sales before they can begin hiring again, or adding pages," industry analyst Ken Doctor told Bloomberg News in the April 9, 2010 article "U.S. Magazine Ad Sales Drop Slowed in First Quarter."

K. Foundations are directing considerable assistance towards journalism, but the funds available are not sufficient to fill the gap left by changes in the news industry..

Private foundations are investing in news media research and providing seed funding and training. Where many traditional news outlets around the country have downsized, nonprofit/noncommercial funders, whether through major or micro-grants or other sponsorships, are incentivizing new community media experimentation. This is especially evident in online-only news operations. Unfortunately, even with generous funding, foundation assistance cannot be relied on exclusively to sustain these endeavors in the long term.

The James S. and James L. Knight Foundation in 2008 granted $34 million to its Journalism Initiative. The group is dedicated to media innovation and journalism and has funded projects such as the Knight Commission on the Information Needs of a Democracy with the Aspen Institute, and grants to J-Lab:The Institute for Interactive Journalism's New Voices program for small news start-ups. According to the Foundation's website, Knight has invested more than $100 million in Media Innovation initiatives; has granted more than $400 million worldwide since 1950 to promote journalistic excellence worldwide; has endowed journalism fellowships and chairmanships at major universities; and has assisted journalism nonprofits with more than $50 million in challenge grants. It has also partnered with local community foundations to provide grants totaling $24 million as part of its Community Information Challenge program.[92]

The McCormick Foundation's Journalism Program provides more than $6.2 million annually to nonprofit organizations and educational institutions for enhancing news literacy, audience and content. Recent grantees include Council for the Advancement of Science Writing, Institute for

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[92] *See* Knight Foundation, *Community Information Needs Project*, http://www.informationneeds.org/

Justice and Journalism, Investigative Reporters and Editors, The Harvard Crimson, and the Community Media Workshop in Chicago.

In Philadelphia, where the two major daily newspapers are in bankruptcy, the William Penn Foundation commissioned a study of the metro area's news "ecosystem" to assess the state of public interest journalism there. The report, released in April 2010 and titled "Exploring a Networked Collaborative in Philadelphia," makes several recommendations to revitalize and innovate the news systems in the country's sixth-largest city. The Foundation announced also in April 2010 pursuant to the study that it will fund an independent journalism collaborative and two projects, amounts are to be determined. The Foundation, which is focused on Philadelphia arts and society issues, awarded 246 grants (not necessarily journalism related) in 2009 totaling $47.3 million. A critical mass of nonprofit journalism is changing established news systems in the San Francisco Bay Area, according to an April 10, 2010 story in *The New York Times*, "Bay Area Emerges as Center of Nonprofit Journalism"

In the new model, nonprofit news organizations sell their stories to multiple partners — newspapers, radio and television stations, blogs, and hyperlocal news sites — rather than to just one news organization. In a significant shift, traditional media outlets that once would have been phobic about printing any article that was not produced by their own staff writers are now running pieces executed by these third-party vendors.

San Francisco philanthropist Warren Hellman has underwritten with $5 million the Bay Citizen news outlet, which will launch in May 2010. The nonprofit, nonpartisan news organization will collaborate with *The New York Times* and the University of California Graduate School of Journalism.

Some nonprofit advocacy groups are doing issue-specific journalism. The Center for Rural Strategies funds online news and information site DailyYonder.com, which is a hub of linked content and original reporting on the nation's rural population. The Sam Adams Alliance, a right-leaning public policy group, sponsors the Franklin Center for Government and Accountability, which launched news sites with original reporting on tax and budget issues and promotes open documents training to the general public.

Moreover, online-only, nonprofit news outlet Pro Publica shared this year's Pulitzer Prize for investigative reporting with *The New York Times* for a collaborative article on the choices hospital workers faced after Hurricane Katrina. The Sandler Foundation provides most of Pro Publica's $9 million funding.[93]

Based on successful examples, both historical and recent, of nonprofit news support, policy should be directed at fostering nonprofit business investment to continue journalism innovation and experimentation. Policy solutions to encourage nonprofit journalism can be explored through the prism of business organizational structures, tax code, labor laws, and local zoning (for office space) laws.

Despite the strides in nonprofit journalism, commercial business investment in the media continues to outpace nonprofit journalism funding by as much as 400 to 1 according to the report *Funding Media, Strengthening Democracy: Grantmaking for the 21st Century* commissioned by the Grantmakers in Film and Electronic Media group. In one year, "more commercial money was invested in a single Hollywood blockbuster than was invested in all public service media by three of the largest philanthropic donors combined: the Ford

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[93] *See* Pro Publica, Inc. 2009 Tax Form 990, available at Guidestra, http://www.guidestar.org/FinDocuments//2008/142/007/2008-142007220-0548e048-9.pdf

Foundation, the John D. and Catherine T. MacArthur Foundation and the John S. and James L. Knight Foundation," according to the group. This statistic alone suggests that foundations will only ever fund a relatively small amount of media production. Since many of the grants being made today in journalism are for start-up funding, after which the entities are expected to find alternative sustainable financing, it is clear that much of the innovation today may only exist whilst such seed funding is available to them. For such models to be sustained further innovations in revenue generation will be needed.

III. The FCC's Role in Promoting Diverse, Transparent, Accountable Media

In the preceding sections we examined informational needs of communities. We also determine that in many cases, these information needs are not being met. The crisis in journalism and information is undeniably an economic issue, exacerbated by shifting revenue streams, new forms of content creation, and new methods of distribution. But it is also fundamentally a policy problem with important ramifications for our democracy if we lose the oversight traditionally provided by the Fourth Estate. While we explore new economic models for journalism, we must also examine what role government can play in supporting this indispensable institution. To that end, this section of our comments focuses primarily on areas where FCC rules can have an impact on supporting diverse, transparent, and accountable media sources.

To be clear, the FCC policies alone cannot save journalism or other forms of public media that have evolved in the broadcast environment. In some cases (and as discussed further in Section IV of this comment), important potential solutions will fall outside the FCC's regulatory ambit. Nevertheless, the FCC has a legitimate interest and important to role to play in promoting a vibrant Fourth estate. Historically, the FCC has sought to foster, not only a substantial

quantity of information, but also *quality* of, as well as access to information by promoting competition, diversity, and localism.. In suggesting FCC-specific policy recommendations we are guided by these core media values, as well as the following principles:

- *Protect the First Amendment*. Freedom of speech and freedom of the press are essential to a free society and a functioning democracy. We support the fundamental principle that the "widest .possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public.."[94]

- *Support Quality News Coverage*. To self-govern in a democratic society, the public needs in-depth reporting on local issues as well as national and international affairs that is accurate, credible, and verifiable.

- *Enhance Adversarial Perspectives*. Reporting must hold the powerful accountable by scrutinizing the actions of government and corporations. Journalism should foster genuine debate and discourse.

- *Promote Public Accountability*. Newsrooms must serve the public interest, not private or government aims, and should be treated primarily as a public service, not a commodity. Journalism must be responsive to the needs of diverse and changing communities.

- *Encourage Innovation*. Journalists must utilize new tools and technologies to report and deliver the news. The public needs journalism that crosses traditional boundaries and is accessible to the broadest range of people across platforms.

- *Foster Civic Engagement* Online: Policies should facilitate not just one-to-many, but many-to-many communication. .

Bearing these principles in mind, below we suggest ways that the FCC can maximize the effectiveness of its rules by taking action in proceedings already currently under review. or other factors.

A. The FCC should promote access to diverse sources of information by limiting media consolidation

There is an essential connection between a healthy democracy and a diverse, competitive, and independent local media. An open and robust media serves as a check and balance to

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

government and corporate excess. For decades, the FCC has had in place structural rules to ensure that the public has access to diverse and opposing sources of information. The Commission's media ownership rules are premised on the twin goals of "promot[ing] the maximum diversification of program and service viewpoints and to prevent undue concentration of economic power."[95] Reasonable media ownership promote access to local news and information, and ensure that diverse viewpoints will get heard. Thus, the Commission's media ownership rules are closely linked to the provision of local news and information.

Despite the critical function of the FCC ownership rules, the limits are frequently challenged by industry. Currently, the FCC is litigating challenges to it the media ownership rules it adopted pursuant to its 2006 Quadrennial Media Ownership Review.[96] The FCC has also recently commenced its 2010 Quadrennial Media Ownership Review,[97] and is likely to receive renewed pressure from industry to further relax or eliminate the media ownership rules – particularly the existing limitations on newspaper/broadcast cross-ownership at the local level,[98] and those on common TV broadcast station ownership at the local level.[99]

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[95] *Multiple Ownership of Standard, FM and Television Broadcast Stations*, 45 F.C.C. 1476, 1477 ¶ 3 (1964).

[96] *2006 Quadrennial Regulatory Review*, Report and Order and Order on Reconsideration, 23 FCC Rcd 2010 (2008). The Order was appealed by both industry and public interests groups, and litigation is currently pending in the U.S. Court of Appeals for the Third Circuit. *Prometheus Radio Project et al. v. FCC*, No. 08-3078 *et al*.

[97] *See* Public Notice, *Media Bureau Announces Agenda and Participants for Initial Media Ownership Workshops and Seeks Comment on Structuring of the 2010 Media Ownership Review Proceeding*, DA 09-2209 (Oct. 21, 2009).

[98] The FCC 2006 Quadrennial Review Order relaxed the previous ban on newspaper-broadcast cross ownership by adopting a presumption that a newspaper-broadcast combination is in the public interest if meets the following criteria:
(1) the combination is in a top-20 DMA;
(2) transaction involves the combination of only one major daily newspaper and only one television or radio station;

(continued on next page)

In arguing for the relaxation or repeal of such limits, industry members generally advance one or more of the following arguments: (1) The media ownership limits are outmoded or unnecessary as a result of competition from new media; (2) If the FCC relaxes or eliminates its media ownership limits, owners can take advantage of "efficiencies" and funnel more resources into the provision of local news and information, or alternatively, consolidation is required to preserve local news gathering in light of increased competition. However, such arguments have never born out, and are contradicted by technological and economic realities of media markets.

1. Local media limits are critical to ensuring access to diverse sources of local news both off and on-line

The FCC's media ownership rules guarantee a baseline diversity among those local media sources to which the public consistently turn for local news and information. Study after study demonstrates that traditional news outlets like newspapers and local television stations remain the primary producers and providers of local news content. In a recent Pew survey, 64 percent

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(footnote continued)
(3) if the transaction involves a television station, at least eight independently owned operating major media voices remain in the DMA;
(4) if the transaction involves a television station, that station is not among the top four ranked stations in the DMA.
All other combinations are presumed not in the public interest. However, the negative presumption can be rebutted in two circumstances:
(1) if one of the outlets in the combination is "failed" or "failing;" or
(2) if the proposed transaction results in a new source of local news in a market – specifically, when the combination initiates at least seven hours of new local news programming per week on a broadcast station that previously has not aired local news.
2006 Quadrennial Regulatory Review, Report and Order and Order on Reconsideration, 23 FCC Rcd 2010 (2008). The revised NBCO rule was initially subject to a judicial stay which was recently lifted by the Third Circuit. *See Prometheus Radio Project et al. v. FCC*, No. 08-3078 *et al*. (3d Cir. Mar. 23, 2010).

[99] Under the FCC's Local Television Multiple Ownership rule ("Duopoly Rule"), an entity may own two stations in the same DMA if the stations' Grade B contours do not overlap, or, if at least one of the stations is not among the Top 4 ranked stations and at least eight independently owned and operated stations remain in the DMA after the duopoly is consummated. 47 CFR 73.3555(b).

and 41 percent of respondents reported they rely on television and newspapers, respectively, for local news, compared to only 17 percent who reported rely on the internet for such information.[100]

What is more, even when people turn to the internet for news, by and large, they are reading stories produced by traditional newspaper and television sources that have been repackaged and re-purposed online. For example, another study by Pew reviewed the number of news outlets available in the city of Baltimore. Researchers determine that over 53 different outlets were available in that market, however 95 percent of the content originated from only a handful of sources – the local newspaper, and broadcast TV and radio stations.[101]

Thus, even though the FCC rules were developed to foster diverse media in a time before the internet, the rules have added benefit of promoting diversity among the most popular news sources available online. Because the vast majority of Americans still receive the lions' share of their local news from traditional media outlets – specifically, local newspapers and broadcast television – the FCC's rules remain a critical component of ensuring that these primary news sources do not become consolidated in the hands of a few companies.

2. Consolidation is part of the problem – not part of the solution

Industry has consistently argued that common ownership may improve programming because consolidation will lead to efficiencies, and that cost-savings enabled by those efficiencies will be

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[100] Pew Research Center Survey Report, *Press Accuracy Rating Hits Two Decade Low*, (Sept. 13, 2009) http://people-press.org/report/543/.

[101] Pew Project for Excellence in Journalism, *How News Happens, A Study of the News Ecosystem of One American City* (Jan 11, 2010) http://www.journalism.org/analysis_report/how_news_happens.

reinvested in better local programming. Unfortunately, the "so-called" efficiencies of consolidation have never materialized.

Empirical evidence on whether greater concentration of ownership improves the quantity and/or quality of local television news is mixed - at best.[102] However, much evidence suggests that consolidation adversely affects the provision of local news programming. Research by Free Press, Consumers Union, and Consumer Federation of America shows that television duopolies do not exhibit statistically significant increases in either market share or hours of news,[103] and that markets with TV/newspaper combinations provide less news.[104] Furthermore, a 2009 study by Dr. Danilo Yanich found that independently owned television stations broadcast more local content during their newscasts than those stations that part of a duopoly.[105]

The reason that consolidation does not generally result in reinvestment of profits into local news is two-fold: there is no economic incentive to produce such programming, and there are no cognizable public interest requirements to do so. Given pressures from Wall Street, broadcasters and newspapers are more likely to take cost savings as dividends. Even assuming such savings are reinvested into programming, there is no guarantee that those savings be invested in local news or information programming. Local programming is expensive to produce and may

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[102] For a review, *See* Philip M. Napoli and Michael Z. Yan, *Media Ownership Regulations and Local News Programming on Broadcast Television: An Empirical Analysis*. Jrnl. of Broadcasting & Elec. Media, 51 (2007), 39-57.

[103] *Reply Comments of Consumers Union, Consumer Federation of American and Free Press, filed* MB Docket No. 06-121, at 95 (Jan. 16, 2007)

[104] *Further Comments of Consumers Union, Consumer Federation of American and Free Press, filed* MB Docket No. 06-121, at 98 (Oct. 22, 2007).

[105] Yanich, Danilo. Ownership Matters: Localism, Local Television News, and the FCC, Paper presented at the annual meeting of the International Communication Association, Marriott, Chicago, IL (May 20, 2009).

generate less advertising revenue, so there is little incentive to provide it over cheaper, more-advertiser-friendly fare.

Media companies, like many businesses reliant on ad revenues, have taken a beating in the current economic downturn. Newspapers ad revenues declined by 16.6 percent in 2008.[106] In 2009 local TV ad revenues were estimated to have fallen by 22 percent from the year before.[107] But, because consolidation does not appear to promote increased news production in more bullish times, it is unclear how it would improve circumstances in bear markets. Nevertheless, some industry members now suggest that consolidation is required to preserve existing levels of news production. To the contrary, consolidation appears to have a detrimental effect on journalism and journalists.

As ad revenues decline, media companies have turned to consolidation in an effort to maintain profit margins demanded by Wall St. The short term benefit of mergers is an increase in revenue and market share. The long term consequence is a crushing debt load. For example, Tribune Co., the owner of the *Los Angeles Times*, *Chicago Tribune*, *The Baltimore Sun*, and 23 TV stations, filed for bankruptcy protection in December 2008 because of the $13 billion debt load resulting from 2007 leveraged buy out by real estate mogul Sam Zell.[108] Even so Tribune's papers still managed to eke out a slim 5.4 percent operating profit.[109] The radio

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[106] *Id.*

[107] Project for Excellence In Journalism, *The State of News Media, Local TV*, http://www.stateofthemedia.org/2010/local_tv_summary_essay.php

[108] Michael Liedtke, "Tribune Co.'s bankruptcy reorganization plan still faces opposition from unhappy lenders," *Associated Press* (April 12, 2010) http://blog.taragana.com/business/2010/04/12/tribune-cos-bankruptcy-reorganization-plan-still-faces-opposition-from-unhappy-lenders-49701/.

[109] Nat Ives, "It's Not Newspapers in Peril; It's Their Owners," *Ad Age* (Feb. 23, 2009).

group owner Citadel Broadcasting recently filed for Chapter 11 bankruptcy protection because the debt from its $2.7 billion purchase of ABC Radio from Walt Disney Co. in 2007 is nearly double that of the company's total assets.[110]

Some media companies nearing bankruptcy actually have profitable newsrooms — often with double-digit profit margins. McClatchy's newspapers earned a 21 percent profit margin in 2008. Yet the company still cut its work force by nearly a third, as it struggled to finance the $2 billion it owes from acquiring Knight Ridder in 2006.[111] Gannett's newspapers enjoyed an 18 percent profit margin in 2008, with some papers earning as much as 42.5 percent.[112] Nevertheless, Gannett slashed 3,000 jobs and forced employees to take a weeklong furlough (though Gannett's top executives still received six-figure bonuses).[113]

Ironically, the cost of consolidating has placed a number of companies that might otherwise be modestly profitable in dire straits. Unfortunately, because the merged companies are bent on protecting profit margins, the first casualties of the "urge to merge" tend to be jobs and journalism.

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[110] "Citadel Broadcasting - WGOC, WJCW, WKOS, WQUT and WXSM - files for Chapter 11 bankruptcy protection" *Associated Press* (Dec. 20, 2009), http://www.timesnews.net/article.php?id=9019211.

[111] Nat Ives, "It's Not Newspapers in Peril; It's Their Owners," *Ad Age* (Feb. 23, 2009). *See also*, Craig Aaron and Joseph Torres, "Consolidation won't save the media," *The Guardian* (March 26, 2009) http://www.guardian.co.uk/commentisfree/cifamerica/2009/mar/26/pelosi-media-consolidation.

[112] "Documents reveal double-digit profit margins at scores of papers now on verge of massive layoffs," *Gannett Blog* (Nov. 28, 2008) http://gannettblog.blogspot.com/2008/11/documents-reveal-double-digit-profit.html

[113] Richard Perez-Pena, "Gannett to Cut 10% of Workers as Its Profit Slips," *New York Times* (Oct. 28, 2008); Richard Perez-Pena, "Gannett to Furlough Workers for Week," *New York Times* (Jan. 15, 2009). Randy Turner, "Gannett Executives Receive Nearly $2 Million In Bonuses, Golden Parachute, Amid Layoffs And Foldings," *Huffington Post* (March 18, 2009) http://www.huffingtonpost.com/randy-turner/gannett-executives-receiv_b_176435.html

3. "Virtual" consolidation is also not a solution to the media crisis

Outright media consolidation has taken its toll on journalism and journalists. But media companies are also cutting costs and shedding journalism jobs through "virtual consolidation" via contractual arrangements such as Local Marketing Agreements (LMAs), Shared Service Agreements (SSAs), and certain types of news sharing arrangements. As reliance on these arrangements increases, we are anxious that local news competition will be reduced and the quality and quantity of independently reported and produced local news will decline.[114]

It is important to distinguish virtual-consolidation from other types of journalistic collaborations that have recently emerged. In light of the journalism crisis, journalists and newsrooms are increasingly exploring new ways to collaborate. Some of these efforts are resulting in exciting new kinds of news, pushing stories beyond what could have been done by any one person or outlet, and producing more local news for communities. For example, the Corporation for Public Broadcasting has recently announced that it is funding the creation of seven "Local Journalism Centers" (LJCs). The Centers will form teams of multimedia journalists, who will focus on issues of particular relevance to each region; their reports will be presented regionally and nationally via digital platforms, community engagement programs and radio and television broadcasts. The purpose of the initiative is to "enhance public media's ability to meet the information needs of local communities at a time when access to high quality,

[114] Hilary Atkin, "As Local Sharing Progresses, New Concerns Emerge" T*VWeek* (Aug. 5, 2009) http://www.tvweek.com/news/2009/08/as_local_sharing_progresses_ne.php.

original reporting is declining."[115] As commercial media outlets are cutting back, LJCs are hiring new journalists and producing more news to fill in the gaps in news and information.

While collaborative ventures like the ones discussed above may have a salutary effect on the provision of diverse and independent and news and information, some joint ventures occurring among local television stations appear to result in diminished competition, newsroom layoffs, and a decreased independent and diverse reporting in local communities. It is important to note that local television joint ventures are not uniform. While, some arrangements may be more problematic than others, we believe that all have the potential to negatively impact diverse and independent reporting and, consequently, merit monitoring and supervision by the FCC.[116]

For example, broadcasters engaged in "local news sharing services" tend to pool equipment and video footage of "routine happening" like press conferences, but claim to maintain independent editorial discretion.[117] Although local stations may be able to collaborate efficiently in ways that could increase provision of local information (for example, by sharing a traffic helicopter that no single station could afford on its own), we are nonetheless concerned that decreasing the number of reporters covering so-called "routine happenings" may adversely impact the diversity of news sources. Furthermore, the FCC and the public know very little about how these local news services work. Without standards and oversight, these agreements could open the door to abuse and adversely affect local competition.

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[115] News Release, "Corporation for Public Broadcasting Launches New Local Journalism Initiative," (March 25, 2010) http://cpb.org/pressroom/release.php?prn=814.

[116] For a more comprehensive analysis of the types and dangers of particular joint ventures, we commend the Commission's attention to the comments of the Georgetown Institute for Public Representation filed on behalf of Communications Workers of American and Media Council Hawai'i in this proceeding.

[117] *See, e.g.*, P.J. Bednarski, "Philly Stations Like Share And Share Alike," *TVNewsCheck* (Apr 21 2010) http://www.tvnewscheck.com/articles/2010/04/21/daily.1/?print

Of greater concern are the relatively new "shared services agreements" (SSAs). Broadcasters that enter into SSAs combine advertising sales departments, newsroom staff and operations, and appear to be generating the same (or virtually the same) news coverage for all partner stations. Essentially, these types of agreements pose the same threats as traditional consolidation. But, because they do not technically result in a transfer of license, the agreements appear to circumvent disclosure and attribution requirements triggered under the FCC's multiple ownership rules.

Stations participating in joint ventures suggest that the efficiencies and cost-savings generated by sharing news and operations allows cash-strapped television stations to invest more resources covering other news stories, and increasing the provision of news over all.[118] But it is not clear whether stations participating in these ventures are actually producing more news or whether they are simply airing more of the *same* news.For example, the Radio and Television News Directors Association reports that 200 local broadcasters now run local news programs or segments produced by another television station.[119] This means that while these newscasts may contribute to the overall volume of local news in a market, the increase in quantity is misleading because some of the news product is merely a "re-run" of content produced by competing stations and does not increase product diversity in terms of viewpoints or coverage of different issues.

Additionally, these joint ventures appear to encourage and facilitate layoffs of news production staff. In a number of cases, "extra" employees are being terminated and newsrooms

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[118] Project for Excellence in Journalism, *The State of the News Media* (2008) at "Local TV," *available at* http://www.stateofthemedia.org/2008/narrative_localtv_newsinvestment.php?cat=4&media=8

[119] *Id.*

are being shuttered because broadcasters can instead rely on partner stations to produce and share newscasts. For example TV stations owned by Granite and Barrington Broadcasting in Peoria, Ill., have combined news operations, even though they ostensibly maintain separate ownership status. A parallel joint venture between Granite and Barrington is also in place in Syracuse, NY. In each of these markets, one of the stations has shuttered its newsroom, laid–off employees, and now relies on news produced by the other station to supply its newscasts, rather than producing its own.[120]

Similarly, in Honolulu, the local NBC, CBS, and MyNetwork stations have created a virtual "tri-oply" by entering into a shared services agreement.[121] The agreement merges the news resources of the three stations into one consolidated joint operation which will provide news coverage for all three channels, and has resulted in the layoff of close to 70 employees.[122] This arrangement is also the subject of a pending complaint at the FCC. Critics point out that TV executives have made no pretense that the stations will maintain their editorial independence. Instead the three channels will air the same news, reported on by the same staff, but branded with

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[120] *See, e.g.,* Steve Tarter, "WEEK-TV taking over WHOI operations" *Peoria Journal Star* (Mar. 3, 2009) http://www.pjstar.com/business/x1959832349/Owners-of-WEEK-TV-taking-over-operations-of-WHOI-TV (reporting that Barrington Broadcasting-owned WHOI-TV would shutter its newsroom and lay off as many of 30 of its employees under the new sharing agreement with Granite Broadcasting); John Lammers, "Syracuse's Channel 5 shuts down its newsroom" *Syracuse.Com* (Mar. 2, 2009) http://www.syracuse.com/news/index.ssf/2009/03/the_staff_of_wtvh_la*Id*.html (reporting that Granite Broadcasting-owned channel 5 way closing its newsroom and laying-off employees as a result of its news sharing agreement with Barrington Broadcasting).

[121] *See* "Press release from KGMB-TV, KHNL-TV, KFVE-TV and Raycom Media," (Aug. 18, 2009) http://www.starbulletin.com/business/businessnews/20090818_Press_releases_from_KGMB-TV_KHNL-TV_KFVE-TV_and_Raycom_Media.html

[122] "KHNL/KFVE, KGMB Merger To Cut 68 Jobs," *KITV.Com* (Aug. 19, 2009) http://www.kitv.com/money/20450266/detail.html.

different network affiliations.[123] Because it is cheaper for two of the stations to repeat the newscast of the other, they have no independent incentive to produce additional or competing news. Thus, even though on paper, the stations purport to maintain separate ownership status, in fact, they have ceased to compete on the most fundamental and distinguishing service provided by local broadcasters – the production of local news and information.

We are not insensitive to economic hurdles currently faced by local broadcasters. Nevertheless, we are concerned that certain agreements are designed to circumvent the FCC's rules. Nominally, the stations retain separate ownership status. But, as a practical matter, the arrangements have all the indicia of common ownership that in many cases would be prohibited by the local broadcast television ownership rules. Moreover, it seems as though these agreements may be having a detrimental effect on competition and the provision of local news. In any event, the lack of oversight or governing standards over such arrangements increases the potential that these agreements will be abused to the detriment of the public's access to local news and information provided by diverse and competing sources.[124]

Because the FCC rules provide a criticcal function in supporting the diversity of news sources, it is likewise critical that FCC prevent backdoor circumvention of its rules though use of contractual arrangements that contain all the indicia of ownership. Accordingly, the FCC must

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[123] *Id.* (quoting University of Hawaii journalism professor, Gerald Kato, "You'll have a lot of news, but it'll be the same news put out by the same news operation and I think that does a disservice to the public here."); Erika Engle, "TV Stations' pact draws fire," *Honolulu Star Bulletin* (Aug. 19, 2009). http://www.starbulletin.com/business/20090819_TV_stations_pact_draws_fire.html.

[124] In comparison, the use of similar arrangements in the newspaper industry, called Joint Operating Agreements, is subject to significant government oversight. These agreements only operate via a specific statutory exemption from antitrust laws provided in the Newspaper Preservation Act. 15 U.S.C. § 1801 (1970)..

maintain – and enforce – its media ownership limits. We also encourage the FCC to initiate a proceeding to investigate local news sharing and shared services agreements and develop standards and oversight mechanisms to ensure that agreements are not being used to circumvent federal rules.

B. The FCC should ensure access to diverse and independent online content through network neutrality rules

Another way that the FCC can promote production of, and access to, information is to ensure that the Internet remains an open platform for competition and innovation. Due in large part to its two-way nature and comparatively low barriers to participation, the Internet enables users to engage, create, and participate as speakers – not merely as passive recipients of others' speech.

While traditional media sources still make up the mainstay of peoples' news and information diets, the Internet provides a critical platform for innovation and diverse voices. This is particularly true for new entrants and underrepresented groups, such as women and people of color, who historically have lacked access to the resources that make participation in traditional media (such as broadcasting) possible. The variety and range of speakers and viewpoints available online is self-evident. Moreover, an open Internet provides opportunities to engage in community and political mobilization, to start a new business, to provide competition and innovation in video, and to create community-responsive content.[125]

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[125] *See, e.g.*, Testimony of Ruth Livier, Ruth Livier Productions, WC Dkt 07-52, 09-191 (filed Dec. 22, 2009), *available* at http://fjallfoss.fcc.gov/ecfs/document/view?id=7020354742; Statement of Michelle Combs, Christian Coalition, WC Dkt 07-52, 09-191 (filed Dec. 22, 2009) *available at* http://fjallfoss.fcc.gov/ecfs/document/view?id=7020354747; Statement of Garlin Gilchrist, WC Dkt 07-52, 09-191 (filed Dec. 22, 2009), *available at* http://fjallfoss.fcc.gov/ecfs/document/view?id=7020355478.

A free and open Internet, coupled with meaningful measures to spur the build-out and adoption of broadband Internet infrastructure, represents a new and promising alternative to the high barriers to entry of traditional media. However, if non-discriminatory access to, and provision of, content online is not protected, the Internet will be relegated to the same fate and format as those media from which underrepresented citizens have been shut-out for decades.

To that end, the Commission must establish clear and certain rules to prohibit discrimination and permit reasonable network management. However, the FCC's ability to protect an open internet under its ancillary jurisdiction Title I of the Communications Act has been severely curtailed pursuant to a recent decision by the U.S. Court of Appeals for the District of Columbia.[126] Nevertheless, the FCC has a clear alternative avenue under Title II of Communications Act to promote broadband access and to protect consumers from discriminatory practices by broadband access providers. We urge the FCC to expeditiously classify broadband transmission as a telecommunications service under Title II and reassert its authority to create strong Net Neutrality rules.

C. The FCC should promote transparency and accountability of local media through disclosure rules and information collection

In addition to promoting a diversity of, and access to independent sources and viewpoints, FCC rules and policies can also promote journalistic values and enhance people's access to information about media in their communities. The FCC presently has number of open or pending proceedings looking into how its rules can better provide the public with more and better information about local media. For example, the FCC has open proceeding to review the sufficiency of its current sponsorship identification rules in alerting consumers to the use of paid

[126] *Comcast Corp. v. FCC*, No 08-1291, 2010 WL 1286658 (D.C. Cir, April 6, 2010).

programming.[127] The FCC has also adopted, but failed to implement, rules requiring local television broadcaster to report on how they are serving their communities.[128] Finally, the FCC has also yet to act on a pending request to survey and report on the prevalence of hate speech in media.[129]

For those who may be concerned about any foray by the FCC into content-based mandates for local media, we stress that not one of these proceedings seeks to limit or otherwise dictate what type and how much content a broadcaster may or may not air. Rather, reconciliation of these proceedings would improve the public's access to information by providing more prominent disclosure or by surveying those things broadcasters are already doing. Nevertheless, many of these dockets have remained stagnant for months, or even years. Below we discuss the importance of these proceedings and provide recommendations for how the FCC can promote more transparent and accountable local media.

1. The FCC's sponsorship identification rules should be strengthened to protect the public from commercials and propaganda disguised as news

The FCC promotes the journalistic value of transparency is through its sponsorship identification rules. Premised on the principle that viewers deserve to know when someone is

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[127] *Sponsorship Identification Rules and Embedded Advertising*, MB Docket No. 08-90, Notice of Inquiry and Notice of Proposed Rulemaking, 23 FCC Rcd 10682 at ¶4(2008) (*Embedded Ads NPRM*).

[128] *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations; Extension of the Filing Requirement for Children's Television Programming Report (Form 398)*, Report and Order, 15 FCC Rcd 19816 (Mar. 13, 2008) ("Enhanced Disclosure Order").

[129] *Petition for Inquiry of the National Hispanic Media Coalition* (filed Jan 2009).

paying, or being paid, to persuade them,[130] the sponsorship identification rules are designed to combat covert product placement, payola, and propaganda by requiring broadcasters and cablecasters to disclose when they are paid or otherwise receive consideration in exchange for airing particular content. Specifically, Section 317 of the Communications Act of 1934 requires broadcasters to make sponsorship identification announcements in any programming for which consideration has been received[131] and to "exercise reasonable diligence" to acquire sponsorship information.[132] Sponsorship disclosure is not required if the identity of the sponsor is obvious.[133] Consequently, the rules can play a critical role in ferreting out hidden corporate and government influence, particularly as the lines between content and commercial begin to blend more and more.

One way the sponsorship identification rules protect viewers is by requiring disclosure when broadcasters receive consideration in the form of video news releases (VNRs). VNRs are pre-packaged "news" segments produced by PR firms, or by publicists within corporations and government agencies that are designed to be seamlessly integrated into newscasts, and are freely

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[130] *See In re Applicability of Sponsorship Identification Rules,* Public Notice, 40 F.C.C. 141 (1963) *("Sponsorship Identification")* (emphasizing that "listeners are entitled to know by whom they are being persuaded").

[131] 47 U.S.C. § 317(a)(1). *See also* 47 C.F.R. § 73.121,. 47 C.F.R. § 76.1615. Section 76.1615 of the Commission's rules applies the broadcast provisions of Section 317 of the Communications Act 1:0 "origination cablecasting," which is defined as "programming (exclusive of broadcast signals) carried on a cable television system over one or more channels and subject to the exclusive control of the cable operator." 47 C.F.R. § 76.5(p). *See also Amendment of the Commission's Sponsorship Identification Rules (Sections 73.119,* 73.289, 73.654, 73.789 *and* 76.221), Report and Order, 52 F.C.C.2d 701, 712 (1975) ("We see no reason why the rules for such cablecasting should be different from those for broadcasting, for the consideration of keeping the public informed about those who try to persuade it would appear to be the same in both cases.").

[132] 47 U.S.C. § 317(c). *See also* 47 C.F.R. §§ 73.1212(b), 76.1615(b).

[133] *See* 47 C.F.R. § 73.1212(1).

provided to TV stations. In 2005, in response to a letter from Free Press,[134] the FCC issued a notice seeking comment and reminding broadcasters and cablecasters of their duty to discloseuse of VNRs.[135] In 2006 the Center for Media and Democracy (CMD) issued two reports identifying 140 VNR broadcasts; however, *only two* offered clear disclosure to viewers.[136] The FCC later initiated investigations into the stations cited in CMD's report, and in September 2007, fined for Comcast for airing five separate VNRs on its CN8 channel without identifying the sponsors.[137] The Commission acknowledged that content providers have turned to "more subtle and sophisticated means" of incorporating paid messages into traditional programming, and subsequently opened another proceeding to investigate whether current disclosure regulations were adequate to protect the public.[138]

In spite of continued concerns over undisclosed or inadequately disclosed corporate and government sponsored propaganda, TV stations are increasingly integrating paid material into their programming in a way that blurs the line between content and commercials. Recent statistics suggest that the use of product placement has grown exponentially. Primetime product

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[134] Letter from Josh Silver, Executive Director, Free Press, *et al.*, to Hon. Kevin Martin, Chairman, FCC *et al.* (March 21, 2005).

[135] Public Notice*, Commission Reminds Broadcast Licensees, Cable Operators, and Others of Requirements Applicable to Video news Releases And Seeks Comment on the Use of Video News Releases By Broadcast Licensees and Cable Operators*, FCC 05-84, MB Dkt. 05-171 (April 13, 2005).

[136] *See* Diane Farsetta and Daniel Price, *Fake TV News: Widespread and Undisclosed*, Center for Media and Democracy (April 6, 2006 http://www.prwatch.org/fakenews/execsummary, and Diane Farsetta and Daniel Price, *Still Not the News: Stations Overwhelmingly Fail to Disclose VNRs*, Center for Media and Democracy (Nov. 14, 2006) ttp://www.prwatch.org/fakenews2/execsummary.

[137] *In the Matter of Comcast Corp., Notice of Apparent liability for Forfeiture*, 22 FCC Rcd 17030 (Sept. 21, 2007) and *In the Matter of Comcast Corp., Notice of Apparent liability for Forfeiture*, 22 FCC Rcd 17474 (Sept. 26, 2007).

[138] *Embedded Ads NPRM* at Statement of Chairman Martin.

placement occurrences on broadcast networks increased by 39 percent overall during the first quarter of 2008.[139]

One reason cited for the increased use of embedded commercial content is the rise of technologies, such as DVRs, that allow consumers to more readily skip commercial content. However, research also shows that embedded techniques have become popular with advertisers due to their greater effectiveness and persuasiveness, and because it allows advertisers "to draw on a program's credibility in order to promote a commercial product by weaving the product into the program."[140] As one marketing executive commented, "going forward, proper product placement will be more effective because it won't feel like you're being marketed to.[141]

This trend has adverse implications for the public's ability to trust or ascertain whether information it receives is accurate and unbiased. These problems are heightened when paid promotion in integrated in to news and informational programming because people rely on news

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[139] "*Product Placements Rose 6% in First Quarter, Nielsen Reports*" *Reuters* (May 5, 2008) http://www.reuters.com/article/pressRelease/idUS82123+05-May-2008+PRN20080505.

[140] Embedded Ads NPRM at ¶2, citing Namati Bhatnagar, Lerzon M. Askoy, and Selin A. Malkoc, Efficacy of Brand Placements, the Impact of Consumer Awareness and Message Salience in LJ. Shunn, Special Session Summary, Where Art and Commerce Collide: A Funnel Approach to Embedding Messages in Non-Traditional Media, 30 ADVANCES IN CONSUMER RESEARCH 170, 172 (2003) (noting that "there appears to be a general consensus that consumers are more skeptical of advertised claims (where persuasion is overt and easily perceived) than placed claims (where persuasion is harder to discern)" (citations omitted)); Cristel Antonia Russell, Investigating the Effectiveness of Product Placement in Television Shows: The Role of Modality and Plot Connection Congruence on Brand Memory and Attitude, 29 JOURNAL OF CONSUMER RESEARCH 306, 307 (2002) (noting that "[i]n today's oversaturated and fragmented advertising landscape, such hybrid advertisements ... may prove more powerful than traditional advertisements if they are not perceived as persuasive messages." (citations omitted)).

[141] Nick Lico and Mary Connelly, *Quick to Experiment, GM Seeks to Make New-Media Dialogue Pay*, *Advertising Age* (Sept.15, 2008), at C34.

and informational programming to inform decisions they make about everyday issues, as well as more consequential ones, such as the type of medical treatment to seek, or how to vote on an issue. They deserve to know when programming or news coverage has been influence by commercial consideration. More importantly, they deserve to know when programming which resembles *bona fide* news coverage is in fact a commercial.

For example, a recent column from James Rainey of the *LA Times* cites a local CBS station that allowed one of its news reporters to participate in what appeared to be a news report on cancer treatments at a local hospital.[142] The segment was aired following the local news hour and the CBS "Healthwatch" and CBS logos appeared on the screen during the interview. In fact, the spot was part of a series of paid medical advertisements sponsored by the hospital in question. The reporter alluded to emails he received from confused viewers, stating "the line between editorial and advertising had been obscured again — with the hospital getting a nice chance to showcase a couple of its top people in a format that looked like news but was actually paid advertising."[143] When questioned about the ads, an official at the station stated that "he was sure 'people in the real world saw the segments for what they were.'" Another official from the station claimed that the station "employ[s] policies . . . to present advertising in such a way that is separate and distinct from our newsgathering efforts."[144] However, those policies appear to have been inadequate to alert viewers to that fact that they were watching a commercial. In any event, individual station policy aside, the FCC's sponsorship identification rules require

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[142] James Rainey, "On the Media: KCBS ads masquerade as news TV stations may call it "added value" advertising, but viewers are not the beneficiaries*," LA Times* (April 21, 2010) latimes.com/entertainment/news/la-et-onthemedia-20100421,0,7256245.column.
[143] *Id.*
[144] *Id.*

broadcasters to identify corporate influence and commercial bias in programming in instances such as this. In this case, the station either failed to make such a disclosure, or failed to make it in a way that alerted viewers to the nature of the programming.

The FCC's sponsorship identification rules are supposed to ferret out commercials that masquerade as news programming, but the current rules are insufficient to protect consumers from more advanced and covert embedded advertising practices. Currently, most sponsorship identification disclosures are relegated to a minuscule, fast moving scroll in the program credits. Most viewers would be unable to read the disclosures, assuming they even bother to watch the credits. Moreover, the relationship between a sponsor and the embedded product is often unclear in those credits. The FCC currently has an open docket (08-90) on this very issue, but it has been inactive for nearly two years. In that proceeding a number of parties proposed ways to make disclosure more effective by developing standards for the size and duration of such disclosures.[145] The FCC should revisit this proceeding to require stricter and more prominent disclosure so that viewers know when they are watching *bona fide* news, as opposed to paid propaganda.

2. The FCC should implement enhanced reporting requirements for local television broadcasters

The FCC can also play a critical role in ensuring transparency of local media through broadcast program reporting requirements. In 2007, the FCC adopted enhanced and standardized disclosure rules requiring local broadcast television stations to report on programming the FCC

[145] For example the Writer's Guild of America, West favors simultaneous disclosure whenever an embedded ad appears in a program. However, at minimum the Commission should require clear verbal and visual disclosures at the beginning of segments that an embedded ad appears as well as during the outset and end of the program. *See Comments of Free Press*, filed MB. Dkt. 08-90 (Nov. 21, 2008).

has traditionally identified with public service, including local news, local civic affairs programming, electoral affairs programming, public service announcements, and emergency information.[146] To be clear, the enhanced disclosure rules do not require broadcasters to any amount or types of programming. Rather, they merely require broadcasters to report in a more transparent and systematic way on the programming they are providing for their communities of license.[147] The rules also require broadcasters to make their public files available online to facilitate access tothis information.

The enhanced disclosure requirements perform a critical dual function. First, they encourage the public to play a more active role in the licensing process. The FCC has consistently found that public participation is fundamental to the proper function of the broadcast licensing system.[148] Access to tools and information necessary to assess whether local television station are airing community responsive programming is critical to public participation in decisions about how public spectrum is used. The enhanced disclosure rules ensure that TV broadcasters' program information is gathered in a transparent and systematic way. Moreover, the rules modernize broadcasters' existing practice of maintaining their public files only in hard copy and

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[146] *Enhanced Disclosure Order*, 15 FCC Rcd 19816, at App. B ("Form 355").

[147] Indeed, the Order did not even break new ground in terms of establishing a broadcaster's duty to report on such programming. For the last few decades local television broadcasters have been required to fill out quarterly "Issues/Programs" list as a condition of their license. In the enhanced disclosure proceeding the FCC determined that that the issues/programs lists have in practice proven to be an unreliable and ineffective tool for monitoring broadcaster service and failed to give the public an adequate picture of how broadcasters were serving their communities. *See Enhanced Disclosure Order*15 FCC Rcd 19816, at ¶43.

[148] *Deregulation of Radio*, Second Report and Order, 96 FCC 2d 930, at ¶25 (1984) (noting that complaints from members of the broadcast audience "have long aided our regulatory efforts, and we assume that they will continue to do so.").

only making their files available at the station's physical location during business hours.[149] These practices are anachronistic and outmoded given the technological realities of the 21st Century.

Second, the rules provide the Commission with the information essential to its decision making responsibilities, and provide the public with the information it needs to contribute in rulemaking proceedings. The FCC has myriad open proceedings in which questions regarding the amount and nature of programming available on local television stations are decisive factors in the evaluation of the need for rules, as well as measuring the efficacy of existing rules. This very proceeding, for instance, is one that would have benefited substantially from the existence of standardized and systematic data on how local television stations are serving their communities. Likewise, the FCC is required to review whether ownership limits every four years, and evaluate whether its ownership limits help or hinder the production of local programming. For example, in the 2006 media ownership review, the FCC conducted a number of studies, including one attempting to evaluate how media ownership affected the amount of local television.[150] The Commission does not itself produce such data, nor is it readily available from outside sources. Instead, researchers were forced to rely on TV program schedules to quantify the amount of local news offered by stations. However, because program schedules are not designed to provide information at the level of detail and accuracy required for research, peer

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[149] For examples of the variability in data collected, *see* http://mediapolicy.newamerica.net/public_interest_obligations.

[150] Shiman, Lynch, Stroup, and Almoguera, *Media Ownership Study 4: News Operations*, available at http://fjallfoss.fcc.gov/edocs_public/openAttachment.do?link=DA-07-3470A5.pdf.

reviewers ultimately concluded that the data deficiencies made the "study irrelevant and useless to policy makers."[151]

Enhanced disclosure is critical to promoting public involvement and informed decision making. Even though the enhanced disclosure rules were adopted in 2007, the implementation of the rules is stalled pending FCC action on challenges to the rules at the agency and in court.[152] As a result, both the public and the FCC have been denied access to important information about how broadcasters are serving their communities. At the very least, the FCC should dispose of petitions for reconsideration of the online filing requirement, so that communities can access more conveniently, the public files of their local broadcasters.[153] We encourage the Commission to address the reconsideration issues so that the information collection can be certified, the implementation of the rules may proceed, and litigation may be resolved.

3. The FCC should conduct an inquiry into the use of hate speech in media

As the FCC examines the crisis in journalism and lack of access to information, it should also consider the prevalence of misinformation and its impact on communities. Specifically, the

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[151] Kenneth Goldstein, Matthew Hale, and Martin Kaplan, *Peer Review of FCC Media Ownership Study 4 Section I, The Impact of Ownership Structure on Television Stations' News and Public Affairs Programming,* at 1, available at http://www.fcc.gov/mb/peer_review/prstudy4.1.pdf.

[152] Multiple petitions for reconsideration were filed in MB Dkt. 00-168. Other parties petitioned for review in the federal courts of appeal, and the case is currently pending in the U.S. Court of Appeals for the District of Columbia. *National Association of Broadcasters v. FCC*, No. 08-1135 *et. al*. The case has been held in abeyance until the FCC action on reconsideration.

[153] *See Letter of Public Interest Public Airwaves Coalition*, filed MB Dkt. 00-168 (May, 4th, 2010).

use of misinformation that creates a climate of prejudice or incites violent acts merits close review and study by this agency.

The FCC has an extant *Petition for Inquiry* filed by the National Hispanic Media Coalition (NHMC) on the issue of hate speech in the media.[154] This *Petition* has been pending for over a year. In its *Petition* and in comments filed in this proceeding, NHMC asserts that they "[are]not asking – and will not ask – the Commission to compose any sort of content regulations to address hate speech in media."[155] Instead, NHMC merely requests that the Commission initiate an inquiry into the extent and effects of hate speech in media and to explore non-regulatory means by which to mitigate its negative impacts.

Signatories to this filing support NHMC's *Petition* as well as its Comments filed in this docket. We believe such an inquiry is consistent with the FCC's "long history of examining how licensees use their public interest trust to serve the most vulnerable segments of society."[156] Accordingly, we enourage the FCC to act promtly on NHMC's request to conduct a study on the use of hateful rhetoric in the media.

4. The FCC should conduct additional information collection and analyses to better inform the public and FCC policy

In addition to those discussed above discussed above, there are number of other FCC data collection initiatives that can enhance transparency and policy decisions. A critical function of the FCC lies in its ability to collect and analyze data regarding media information soursces

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[154] National Hispanic Media Coalition, *Petition for Inquiry on Hate Speech in Media* (filed Jan. 28 2009).

[155] *Comments of National Hispanic Media Coalition et al*, filed GN Dkt 10-25 (May 7, 2010) at 2.

[156] *Id.* at 1-2.

available to the public, as well as the means of access in a given community. Not only do such assessments supply outside researchers and the public with important information, but data collection and analysis is also necessary to make reasoned and informed regulatory decisions. Both the courts and federal statutes, such as the Data Quality Act, place rigorous demands on agencies to justify their decisions on the basis of their evidentiary record.[157] The Commission has made recent strides in collecting such information, however it can contribute further to these efforts by gathering precise data and making them maximally accessible to the public.

We recommend four key areas for data collection and distribution on the part of the Commission:

- *Truth in Labeling* – The Open Technology Initiative of the New America Foundation has previously called for Truth-in-Labeling by our nation's broadband operators. Drawn from similar useful disclosure requirements by lenders, these Broadband Truth-in-Labeling disclosure standards will give the marketplace a much-needed tool that clarifies and adds meaning to the terms and conditions of the service being offered. By standardizing terms for broadband service offerings, it will also strengthen the ability of researchers to compare service availability in different areas. The FCC must expeditiously introduce

[157] *See* Philip M. Napoli & Michelle Seaton, *Necessary Knowledge for Communications Policy: Information Asymmetries and Commercial Data Access and Usage in the Policymaking Process*, 59 FED. COMM. L.J. 295, 298-299 (March 2007) ("many observers of the policymaking process have identified a continued trend toward a greater reliance upon empirical research as part of a greater "rationalization" of policy decision making.") ("Necessary Knowledge"). *See also* Administrative Procedure Act, 5 U.S.C. § 553 (2007); *see also* Data Quality Act (uncodified but contained in *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies*, 67 Fed. Reg. 8452 (2002).

disclosure requirements that allow consumers to make informed decisions about broadband service.[158]

- *Broadband measurement* – We applaud the Commission's adoption of the M-Lab broadband test. Among M-Lab's strengths are that research tools on M-Lab must publicly publish their source code and the NDT data collected is being made publicly available on the Measurement Lab Data Repository under a "no rights reserved" Creative Commons license. This level of transparency and accessibility should be a model for other FCC data collection efforts. We recommend the FCC expand this program of making broadband measurement tools – and the resulting data – available to the public.[159]

- *Broadband data* - Collecting accurate, detailed, and comprehensive data on high-speed Internet access is fundamental for the Commission's regulatory role and to assist researchers in determining the vibrancy of local news and information flow. In June 2008, the FCC improved its data collection practices by requiring that providers submit subscribership information at the census tract level and in more granular speeds tiers.[160] The National Broadband Plan recommends collecting a variety of metrics related to

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[158] For more information, *See* Benjamin Lennett et al, "Broadband Truth-in-Labeling," Open Technology Initiative of the New America Foundation. http://oti.newamerica.net/publications/policy/broadband_truth_in_labeling

[159] For more information, *See* Sascha Meinrath, New America Foundation, "Testimony of Sascha D. Meinrath to the FCC regarding Consumers, Transparency, and the Open Internet" (January 19, 2010) http://www.newamerica.net/publications/resources/2010/testimony_of_sascha_d_meinrath_to_the_fcc_regarding_consumers_transparen

[160] *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership*, WC Docket No. 07-38, Report and Order, 23 FCC Rcd. 9691 (2008).

broadband pricing, including analyses to identify switching costs and possible red-lining. The Commission should move forward with these recommendations. Along with consumer-level access, the FCC should also act to collect information on the state of broadband infrastructure in the United States, with a particular focus on the crucial middle-mile transport links.[161]

- *Media Ownership Data* – In order to determine such key factors as the variety, origination, and circulation of information in a community, researchers need to be able to identify the owners of local information assets, including broadcast licenses, spectrum licenses, and telecommunications infrastructure. In its 2006 Quadrennial Review the FCC came under heavy fire from numerous groups for its failure to adequately track broadcast ownership by women and people of color.[162] In response, the FCC recently made changes to the collection of data on minority and female ownership of broadcast stations, including expanding filing requirements to all full power commercial broadcast stations, removing exemptions for sole proprietorships and partnerships of natural born persons, adopting a uniform filing date, and implementing data quality and accessibility procedures.[163] These reforms are crucial (and long awaited) improvements, however, implementation of these changes have been stalled for technical reasons. We are pleased

[161] *See e.g., Comments of Free Press*, A National Broadband Plan for Our Future, filed GN Docket No. 09-51 (2009) at 287-89.
[162] *See, e.g. Comments of Free Press et al*. filed MB Dkt 06-121 (Oct. 22, 2006). *See also* Derek Turner and Mark Cooper, *Out of the Picture 2007: Minority and Female TV Station Ownership in the United States*, Free Press (October 2007) http://www.freepress.net/files/otp2007
[163] *Promoting Diversification of Ownership In The Broadcast Services*, Report and Order and Fourth Further Notice of Proposed Rulemaking, FCC 09-33 (rel. May 5, 2009).

that the FCC has recently announced that these problems have been reconciled and that broadcasters' updated ownership reports will be due in July 2010.[164]

The agency should make the above data widely available, restoring the traditional presumption to share data wherever possible. As recommended in the National Broadband Plan, the FCC "should have a general policy of making the data it collects available to the public."[National Broadband Plan, supra note 1, at at 44.] In circumstances where competitive considerations preclude wide dissemination of the data, the FCC should institute procedures that enable outside researchers to access confidential data. These measures will strengthen various efforts to assess and improve the health of local information ecologies.

In 2009, The European Union recently released its "Independent Study on Indicators for Media Pluralism in the Member States," which offers a "Media Pluralism Monitor...to identify potential risks to media pluralism in Member States." Yet the Commission should be cautious about developing an official standard index to measure local information ecologies. Different communities value information differently based on their own priorities. The Soul of the Community Study, commissioned by the Knight Foundation and conducted by Gallup, has identified a small set of variables that determine people's attachment to their community. For the 26 Knight communities surveyed, the study identified areas where local residents believe each community needs improvement. These goals provide a barometer for how the existing information assets are meeting the needs of the community. They tell us that a blog about surviving natural disasters such as tornadoes and floods is worth more to the residents of Grand

[164] Public Notice, Media Bureau Announces Revised Form 323 Will Be Available Online On April 9,2010, And Set New Filing Deadline Of July 8, 2010, filed MB Dkt, 07-294 (April 9, 2010)

Forks, North Dakota, than to the residents of Detroit who are more interested, relatively, in economic development and job opportunities, according to the study.

An index can also be skewed by focusing on assets rather than information. While the presence of a radio station or newspaper in a community can be an indicator of the status of an information ecology, it is really the richness and circulation of information that matters. This is why diversity in ownership is key and the Commission should remain vigilant against consolidation. .According to a forthcoming analysis of available census data conducted by Ernie Wilson, Dean of the Annenberg School for Communication at the University of Southern California and chair of the New Media Committee of the Corporation for Public Broadcasting, this disparity exists even among small businesses in the information industry.[165]

Precise efforts to map access to technology and information are hindered by the lack of publicly available data. Ali Modarres and Bill Pitkin, in their 2006 study, "Technology and the Geography of Inequality in Los Angeles," determined the correlation between socioeconomic status and access to technology in Los Angeles using factors such as a personal computer in the home, Internet access in the home, phone availability, commute to work characteristics, labor force participation, banks and business data, and check cashing places. Focused on Los Angeles, their research suggests the potential to narrow correlation of technology use and socioeconomic conditions to a few key metrics. However, their research required the purchase of proprietary broadband adoption data. Rather than conducting such analyses itself, the Commission should collect this information and distribute it to the general public.

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[165] Wilson, Ernest J., and Sasha Costanza-Chock. New Voices on the Net? The Digital Journalism Divide and the Costs of Network Exclusion. In Lisa Nakamura and Peter Chow-White (eds.) Digital Race Anthology. Routledge Press, in press (2010). Draft available at http://diy2.usc.edu/docs/ejw_scc_newvoices.pdf

The data that the FCC publishes should be in an accessible, standard format so it can be compared to and merged with data from other agencies, such as the NTIA's broadband mapping, Census, and the Bureau of Labor Statistics. The Commission should consult with these agencies to share expertise as to what information to gather, such as how to classify small businesses as part of the information industry. Releasing this data in a raw and standardized form will strengthen efforts to determine community information needs. The Commission can learn from these efforts, which often use participatory methodologies and combine qualitative and quantitative data. Additionally there are a number of efforts outside of government that may yield important insights such as:

- The Detroit Digital Justice Coalition, a coalition of around two dozen organizations in Detroit that are using media for community organizing and economic development, has developed a hybrid research approach using surveys, interviews, focus groups, and neighborhood “Discovering Technology” fairs ("DiscoTechs") where people interact with new technology and discuss their experiences. The Detroit Digital Justice Coalition's approach overlays assessment with outreach and resource-mapping — a process that produces useful data while increasing civic engagement and addressing digital literacy needs.

- The Metamorphosis Project in Los Angeles, led by Sandra Ball-Rokeach, a professor in the Annenberg School for Communication at the University of Southern California and Director of its Communication Technology and Community Program, provides a thorough yet nontraditional model for assessing local communications infrastructure. The approach has two components: the social "neighborhood storytelling network"

and the "communication action context," which includes the means of communication, such as broadband infrastructure and public spaces.

The Commission can support these efforts by collecting and distributing precise, high quality data. And finally, in terms of the types of analysis that can most effectively guide policymaking and policy analysis in this area, we believe the focus should be on developing thorough and rigorous typologies of *journalistic resources* that can facilitate future data gathering. That is, analyzing the quantity and quality of various forms of content is no longer a practical option in today's highly fragmented media environment. What can be done, however, is for the Commission to gather, at the local market level, detailed information about the number of individuals engaged in various forms of journalism, the percentage of their time devoted to such activities, and, importantly, the amount of financial resources that are being devoted at the local level to these various journalistic activities.

D. PEG channels have played an important role in enabling community voices and enabling civic engagement in the past. Care must be taken to ensure such channels can play a similar role in the future.

PEG television channels have played an important role in the past and have supported media localism, diversity, and First Amendment objectives. They have provided a key vehicle for citizens, and created a true read-write culture before such a term became fashionable.

PEG channels emerged as a result of agreements between municipal governments and cable providers and met a regulatory intent to support diversity, democratic deliberation and an alternative to commercial media. Of late they have suffered in many states which have moved to State wide franchise agreements, cutting out municipal participation in negotiations with cable providers a process that has often weakened or sometimes removed mandates to fund public

access.[166] In facing both this uncertain regulatory landscape, and the realities of digital convergence these channels both of which necessitate organizational transitions and often expanding their portfolio of skills any policy change should be considered carefully and with an eye to providing a more conducive environment for their future success.

For many would-be journalists in low income communities PEG channels, alongside public computer centers and libraries, are all essential to making this a reality. To support community journalism, the FCC can promote access to the means of journalistic production by expanding the network of anchor institutions, and work to spread meaningfully affordable, high-speed broadband access. This infrastructure will facilitate and expand communication by communities underserved by existing media institutions, both within a community and with the outside world.

At the macro level it is important that the FCC work to prevent any discriminatory industry practices that marginalize local content, making it inaccessible or encumbered by inadequate functionality or poor quality and at the same time assure that public interest obligations are strengthened, expanded and fully supported in the future.

We point the FCC towards the Comments of Cambridge Community Television whose submission shows the role such a channel plays in a small but vibrant city ill-served by other city-centric media.[167] Finally, we endorse the comments of the Alliance for Communications Democracy[168] and their calls in the short term to:

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[166] Beyond Television: The Digital Transition of Public Access, Martha Fuentes-Bautista
[167] *Comments of Cambridge Community Television*, filed GN Dkt. 10-25 (May 2010)
[168] *Comments of Alliance for Communications Democracy*, filed GN Dkt. 10-25 (April 23, 2010)

- Grant ACM et al, MB Docket No. 09-13, CSR-8126, filed on (date) by petitioner ACD and other petitioners from around the country addressing AT&T's discriminatory treatment of PEG channels.
- Reverse the FCC's Video Franchising Orders in light of the adverse impact on public, educational and government (PEG) access.
- Require that funding for PEG from video service providers, over and above the 5% cable franchise fee, may be used for any PEG-related purpose, including operating costs.
- Expand gross revenue definition to include revenue derived from data services.
- Mandate that video franchise holders provide PEG channels at equal signal quality and functionality to that provided to local broadcast channels, including HD, surround sound, and other developments that can benefit the public.
- Mandate that PEG channels be located on the lowest cost, most accessible tier of service adjacent to broadcast channels, without the need of additional equipment to view all programming on that tier.
- Assure that a firewall exists between public and government programming, including an equitable funding mechanism that does not favor government speech over the public.
- Determine whether state franchise laws undermine FCC goals of encouraging localism and diversity in media.
- Require meaningful enforcement and monetary penalties for violations of PEG requirements.

IV. Government's Role in Development of a Healthy Media Ecosystem

The FCC's Future of Media project is designed to consider not only policy interventions that are under the jurisdiction of the Commission, but also recommendations for broader policy shifts that could support a healthy information ecosystem. In this section we offer recommendations related to the government's role in supporting public and noncommercial media outlets and infrastructure. In addition, we address the complementary role that media literacy training plays in preparing citizens to use media in democratic life.

We have grouped our policy recommendations under three headings drawing on the recent Knight Report, Informing Communities: Sustaining Democracy in a Digital Age

- availability of relevant and credible information to all Americans and their communities;
- capacity of individuals to engage with information;
- individual engagement with information and the public life of the community.

A. A 21st century public media for the 21st century

The ever-evolving challenge of balancing public policy with entrepreneurship to support a robust marketplace of ideas has been with us throughout America's history. Since the nation's founding, government policy has played a central role in protecting free speech and ensuring a competitive and independent press. Eighteenth and nineteenth-century postal subsidies dramatically reduced the cost of sending newspapers and were essential to the effective dissemination of news and information. "Common carrier" rules helped to build a robust and universal communications infrastructure. In 1967, the Public Broadcasting Act led to the founding of NPR, PBS and other alternatives to commercial media fare. Each policy change was a response to advances in technology and the need to protect the public interest.

In the 21st-century, we are faced with new gaps in the marketplace of ideas. While the costs of production and distribution have diminished online in comparison to broadcast or print,

new costs have arisen. These include the need to support basic reporting activities, universal access to rising online networks, and related civic engagement functions. Perhaps in order to encourage innovation a portion of the funds could be disbursed in an innovation fund dedicated specifically to resourcing technology innovation both inside and outside of the sector.[169]

Today there is a lack of sufficient private capital — in the form of advertising, subscriptions, philanthropy and other sources — to support the depth and breadth of quality local, national and international news reporting that our communities need to participate in a 21st-century democracy, and to make the relevance of such reporting clear to citizens. While it is possible that new business models could emerge that prove themselves sustainable in the coming decades to provide for the current loss of reporting, the interim period may be marked by a severe crisis in meeting the public's information needs.

A major intervention by policymakers is required to avoid such an outcome. And while innovation and experimentation are encouraged, we believe it is unnecessary to reinvent the wheel. Our nation's public broadcasters have already built a network of stations whose broadcasts reach nearly every home in America and are freely accessible. Community radio and Low-Power FM stations are providing access to production tools and training citizens to create their own media. Independent non-profit journalism websites are sprouting up in communities across the country and increasingly providing critical news and information. Each of these systems needs to be assessed, provided with appropriate support for transition to a networked, digital communications system, and then networked together as possible and appropriate.

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[169] This idea builds on a suggestion was made by Eric Newton at the Future of Media Workshop on April 30th2010. *See* http://reboot.fcc.gov/futureofmedia/public-and-other-noncommercial-media-in-the-digital-era for agenda for conference (transcript not yet posted). *See also* http://reboot.fcc.gov/video-archives

The public and noncommercial media sector is diverse in its composition – including public broadcasting stations, PEG channels, LPFM stations, and non-profit news projects – each funded through a range of different policy mechanisms and often serving very different audiences.

However, in many cases, all are currently suffering from:

- Uneven and insufficient funding for existing daily operations;
- Vulnerability to loss of support based on political attacks;
- A lack of both financial and human resources for the transition into a networked, broadband future;
- A lack of sufficient data about the impact of their individual efforts, or the efforts of their sectors;

Immediate steps must be taken to address these problems. We recommend the following:

- Congress should create a public media trust fund to supplement annual Congressional appropriations. We outline several possible ways to fund the trust below, including a spectrum auction, an advertising tax (indirect/direct), an annual spectrum lease fee for broadcasters, and a consumer electronics tax.
- Congress should re-name the Corporation for Public Broadcasting the Corporation for Public Media and extend their mandate to fund not only broadcast stations, but other content creation and infrastructure projects. The CPM should also be empowered to serve as a coordinating body for developing civic engagement platforms and standards.

1. Funding a trust for public media

At the same time that public media outlets are looking to deepen their roots as local community institutions, commercial media outlets are heading for the exits. Local newspapers are filled with more ads and wire-service content. Local broadcasters are eviscerating newsrooms and airing reality TV or reruns instead of public affairs. What's left of local TV and radio news is dominated by sports, weather and traffic. Laissez-faire media policies and lax oversight have enabled and expedited this process. The social contract of commercial broadcasting that traded

stewardship of the public airwaves for public service programming has been crumbling for years. It is now hardly recognizable.

Meanwhile, public broadcasters and other noncommercial outlets are capable of producing in-depth reporting and news programming on radio and television, at least on the national level. The American public puts a premium on their services that rivals any national institution. In 2010, Americans ranked PBS among our most valued institutions, second only to the military, and put NPR third, tied with law enforcement. This year was the sixth consecutive year in which Americans ranked PBS as No. 1 in public trust, ahead of newspapers, commercial broadcasters, the judicial system and the federal government.[170]

In 2010, CPB, NPR and PBS have announced investments of more than $11 million in new projects that will focus specifically on the production of local journalism and collaborative multimedia experiments.[171] Initiatives like the Argo Project, which will expand the reporting capacity of a dozen public radio stations on particular issue-specific areas, such as the environment and immigration, combined with the latest multi-million-dollar investment from the CPB for Local Journalism Centers, show a new commitment to journalism by the system's leadership. The CPB is also funding a six-week census on the exact number of reporters currently employed in public broadcasting, in an effort to build the "journalistic capacity of public radio and television stations."

The CPB should be applauded for funding projects that will expand reporting on the local level, and these small initiatives and experiments will bring valuable perspectives to future

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[170] *See* Roper Poll, "*Today's PBS: Most trusted, highly valued, very important*" available at http://www.pbs.org/roperpoll2010/PBS_Roper_brochure_2.18.10.pdf

[171] This figure is derived from the combined investments announced for the CPB's Project Argo ($2 million) and the Local Journalism Centers ($10.5 million) as of May 6, 2010.

decision-making. But as exciting and valuable as these new initiatives are, they will be mere drops in the bucket. With estimates of nearly 13,500 newspaper jobs lost in just the past three years, it is critical that we begin regaining ground quickly.[172] The CPB's $11 million investment, though needed, will only provide jobs for approximately 50 new journalists – the equivalent of one journalist per state.

Currently, the federal government provides just over $420 million per year to support public media, doled out through annual congressional appropriations and distributed by the Corporation for Public Broadcasting. That figure puts U.S. public media among the lowest-funded systems in the world, at just $1.43 per capita — a paltry figure compared to countries like Canada ($27 per capita) and England ($87 per capita).[173] And if the U.S. spent the same per capita on public media and journalism subsidies as Sweden and Norway, which rank No. 1 and No. 2, we would be spending as much as $30 billion a year on public. Not coincidentally, those same two countries rank at the top of The Economist's annual Democracy Index, which evaluates nations on the basis of the functioning of government, civic participation and civil liberties. The United States ranks 18th.[174]

What's more, much of the $420 million in the 2010 federal appropriation for public media is earmarked to maintain aging, broadcast-focused station-level infrastructure for hundreds of stations across the country. Federal dollars do not stretch to cover even a fifth of a station's

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[172] "Decline in newsroom jobs slows," *American Society of News Editors* (April 11, 2010).
[173] In many countries, public media funding is derived from an annual government-mandated television license fee for television owners. In general, the total amount generated through this license fee for 2008 was divided by the population of the country for the same year. The currency was converted to US Dollars using the relevant exchange rate from April 19, 2010. The United States figure was calculating by relying on the money appropriated in 2006 for the 2008 fiscal year, as well as a much smaller amount appropriated in 2008 for the same year.
[174] *See* "Economist Intelligence Unit's Index of Democracy 2008."

operating costs, never mind resourcing local content production. At a minimum, stations subscribe to national program streams from PBS or NPR, serving as local re-broadcasters of nationally produced programs. This symbiotic relationship—in which national producers are constrained to create content that will attract members to local stations—hampers both local and national innovation. For online or local production, public media makers rely more heavily on revenue from other sources, like listener support, the philanthropic community and corporate underwriting. While public media remains extremely popular with the public, lawmakers have failed to translate this into a mandate for adequate support for the public media system. Without sufficient financial support, we will never have a public media system that produces content that fully serves the public's needs.

Unfortunately, annual appropriations for public media are still essential. However, we cannot rely on the politically charged Congress to provide long-term fiscal viability and independence for public media. What's needed instead is a trust fund seeded with a large endowment and operated by the Corporation for Public Broadcasting (or better yet, a newly mandated Corporation for Public *Media*). If constructed well, a trust would not only supplement both national and station budgets in the near term but eventually enable the public media system to become nearly or completely self-sufficient. Twenty-first-century public media must embrace new and mobile media, but for the foreseeable future, much of the system's output will be the same as it is today — radio and television broadcasting. Since broadcasting depends upon the use of publicly owned airwaves, or "spectrum," it is a natural place to start when examining possible financial support streams.

Though it is rarely discussed, the commercial broadcasting sector is one of the most heavily subsidized industries in our economy. Broadcasters' most important resource — the

airwaves used to transmit their signals — is provided by the government at no cost. This spectrum by itself has a potential value of hundreds of billions of dollars.[175]

Television broadcasters also get another in-kind government subsidy — the government-guaranteed rights to have their channels carried on cable and satellite systems, or, in lieu of that, the right to demand payment from cable companies for carrying those signals.[176] In fact, these "must-carry" regulations are arguably more important to broadcasters than the spectrum itself, as only approximately 10 percent of U.S. households receive their local TV stations via an over-the-air signal.[177]

These publicly owned airwaves are given over to broadcasters to use in monopolistic fashion in exchange for their promise to act in the public's best interest. The National Association of Broadcasters has claimed that the value of this in-kind transfer is nearly $10 billion per year — or about $1 million per commercial full-power station.[178] Public service announcements supposedly account for $7 billion of this total, though this bookkeeping is somewhat suspect. Typically broadcasters arrive at this figure by taking unsold inventory and

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[175] *See, e.g.,* "Remarks of Commissioner Michael J. Copps, Free Press Media Reform Conference, Memphis, Tennessee," (January 12, 2007) http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-269500A1.pdf

[176] Pub. L. No. 102-385, 106 Stat. 1460 (1992) (1992 Cable Act), codified at 47 U.S.C. §§ 325 and 534. Every three years, each local commercial broadcast station must choose to negotiate a compensation agreement with each cable system operating in its service area to carry the broadcast signal; or requiring each cable system operating in its service area to carry its signal, but receiving no compensation for such carriage."

[177] This fact, combined with the fact that the television broadcast spectrum is one of the most valuable portions of the airwaves due to its superior physical propagation characterizes, points to the incredible waste and inefficiency of using this resource to deliver TV to a dwindling number of households. This does not mean that the programming itself does not have value; just that using the spectrum to deliver it is not the most efficient use of this scarce resource, when other methods exist for ensuring every TV household have access to local programming.

[178] *See* http://www.broadcastpublicservice.org/ for a more detailed breakdown of how broadcasters arrive at these figures.

valuing it at the highest price rather than the discounted rate that unsold time would actually fetch. Another $2 billion is claimed in "charitable contributions" and an addition $1.3 billion in "disaster relief." The "disaster relief" portion is the supposed value of airtime during which broadcasters preempt programming for special coverage. As with PSAs, this accounting is also dubious. Broadcasters are supposed to cover emergency events, such as natural disasters. Thus, this is not an altruistic undertaking, but rather a core duty of holding a license.

Even assuming that such figures were accurate, it is not clear that the public emerges on the winning end of the deal. Market disincentives, coupled with a lack of meaningful public interest requirements or reporting mechanisms, mean that broadcasters have virtually no affirmative duties to serve local communities. The programming that is in the best interest of the public is usually not the same programming that serves to maximize broadcasters' profits. As FCC Commissioner Michael Copps remarked during a workshop held in the Future of Media proceeding:

> There never has been a Golden Age of the Public Interest—but there were years when we had meaningful public interest guidelines and when we at least went through the motions of public interest reviews. And broadcasters knew then—and I've had many of the industry's greats tell me this—that the Ed Murrow era of journalism wasn't fueled by just a more public-spirited attitude on the part of the broadcast industry, but equally or more so by the knowledge that this was the deal; this was the expectation; it's what was needed to be produced in return for the license to operate.[179]

Conversely, expectations for how broadcasters will use the public-owned specturm to serve their communities have since been relegated to virtual postcard renewals in the wake of a tide of deregulation in the 1980s.[180] Indeed, the only significant requirement that broadcasters still have

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[179] Statement of Commissioner Copps, Remarks on the Future of Media Workshop, March 4, 2010.

[180] *See The Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations*, Report and Order, 98 FCC 2d 1075 (1984); *Deregulation of Radio*, Report and Order, 84 FCC 2d 968, at

(continued on next page)

to meet is their duty serve the educational needs of children though the provision of educational programming and to limit advertising material aired during such programming.[181]

a. Spectrum use fees

With the recognition that the public is on the losing end of the public trust bargain with commercial broadcasters, it makes sense to consider spectrum use policies that could be more efficient and produce a better outcome for the public. One alternative is to treat broadcasters like any other business that uses public resources and require them to pay rent for the spectrum they use. Levying a spectrum use fee on broadcasters, and directing the revenue generated toward public media, will correct the inefficiencies created by free spectrum giveaways while addressing broadcasters' questionable record of public service.

How should the public collect this "rent"? Some economists would argue that the most efficient solution would be to auction the spectrum to the highest bidder. One problem with that approach is that broadcasters would likely be outbid by the wireless industry, putting the future of local broadcasting in jeopardy.[182] Coupled with some sort of continuing must-carry obligation,

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(footnote continued)
¶105 (1981) (aff'd in part and rev'd in part by *Office of Communication of United Church of Christ v. FCC*, 707 F.2d 1413, 1441 (D.C. Cir. 1983) ("UCC III")).

[181] *See* Children's Television Act of 1990, P.L. 101-437. The Children's Television Act of 1990 ("CTA") was passed to achieve two goals: (1) to increase the amount educational television programming specifically designed for children, 47 USCA § 303b; and (2) to minimize the amount of commercial content accompanying children's television programming in general. 47 U.S.C§ 303b. An FCC processing guideline adopted pursuant to the CTA requires broadcasters to air a minimum of 3 hours of educational or informational children's programming per week in order to receive expedited processing of their license renewals. 47 C.F.R. § 73.671. FCC rules limit commercials in children's programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. 47 C.F.R. § 73.670.

[182] This is the case for most television broadcast spectrum, but less likely for the radio spectrum, which lies in a lower wavelength portion of the radio spectrum and has less favorable physical properties for wireless phones and Internet access.

this or some other reclamation of the broadcast spectrum may turn out to be the appropriate policy path to pursue. (See below for a discussion of revenue projections for such an option.)

So assuming that current license holders retain their spectrum, how should an appropriate use fee be assessed? Historically, spectrum fees have ranged on the order of fractions of 1 percent to a small percentage of revenues. We recommend a spectrum use fee of at least 5%.[183]Given that local broadcast station revenues totaled about $36 billion in 2007,[184] the most recent year for which we have data, a 5 percent spectrum use fee would generate nearly $1.8 billion in annual funding for public media — more than four times the current annual appropriations. Such a fee would amount to an $800,000 annual assessment for the average commercial TV station and $65,000 for the average commercial radio station.

Annual Spectrum Use Fee

Spectrum Use Fee (percent of revenue)	Annual Fee Paid by Average Broadcast TV Station	Annual Fee Paid by Average Broadcast Radio Station	Total Annual Fees paid by Broadcast TV Stations	Total Annual Fees paid by Broadcast Radio Stations	Total Broadcast Spectrum Fees
0.5%	$80,665	$6,495	$110,457,500	$68,237,480	$178,694,980
1%	$161,330	$12,990	$220,915,000	$136,474,960	$357,389,960
2%	$322,660	$25,980	$441,830,000	$272,949,920	$714,779,920
3%	$483,990	$38,970	$662,745,000	$409,424,880	$1,072,169,880
4%	$645,320	$51,960	$883,660,000	$545,899,840	$1,429,559,840
5%	$806,650	$64,950	$1,104,575,000	$682,374,800	$1,786,949,800

Source: Free Press estimations based on revenue data from BIA Media Access Pro

[183] We note that the Commission's implementation of Section 336(e) of the Communications Act offers a useful reference point. The Commission has adopted a five percent fee for TV broadcasters which employ or lease spectrum for "ancillary or supplemental uses." *See* 47 CFR §73.624(g); *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, 12 FCCRcd 12809 (1997). (Now that the Commission has conducted successful auctions in the 700 MHz band, there is strong reason to adjust this fee upward.)

[184] This figure is revenues from local broadcast television and radio stations. It is common in media reports for figures approaching $50 billion to be quoted, but this includes revenues for advertising placed on broadcast networks, and is thus includes revenues that would no be subject to license fees.

To lessen any concerns about "rate shock," the fees could be phased in over a brief time period (e.g., if the fee was 5 percent, it could be phased in over a period of five years). During that time and for another five years hence, ongoing CPB appropriations could be supplemented with 10 percent of the revenues from the fees, with the rest going into the trust. After 10 years, all the remaining fees would be deposited in the trust. After 20 years, the public media system would be solely supported by interest from the trust fund, annual appropriations could be phased out, and the spectrum itself could be repurposed for other uses.[185]

This proposal would result in a steady increase in funding for public media, culminating in a self-sustaining annual budget approaching $2.5 billion by 2030.

Using Annual Spectrum Use Fees to Establish a Public Media Trust Fund

[185] We assume for the purposes of projecting revenues under this plan that broadcast industry revenues would increase 3 percent each year, and that annual congressional appropriations would also increase 3 percent during years one through 10. We also assume that the trust fund would earn an annual interest at a rate of 5 percent.

Year	Spectrum Fee	Expected Industry Revenues	Revenues for Trust Fund	Congressional Appropriations	Annual Public Media Budget	Trust Fund Balance
2010	1%	$35,000,000,000	$350,000,000	$405,000,000	$440,000,000	$315,000,000
2011	2%	$36,050,000,000	$721,000,000	$417,150,000	$489,250,000	$979,650,000
2012	3%	$37,131,500,000	$1,113,945,000	$429,664,500	$541,059,000	$2,031,183,000
2013	4%	$38,245,445,000	$1,529,817,800	$442,554,435	$595,536,215	$3,509,578,170
2014	5%	$39,392,808,350	$1,969,640,418	$455,831,068	$652,795,110	$5,457,733,454
2015	5%	$40,574,592,601	$2,028,729,630	$469,506,000	$672,378,963	$7,556,476,794
2016	5%	$41,791,830,379	$2,089,591,519	$483,591,180	$692,550,332	$9,814,933,001
2017	5%	$43,045,585,290	$2,152,279,264	$498,098,915	$713,326,842	$12,242,730,989
2018	5%	$44,336,952,849	$2,216,847,642	$513,041,883	$734,726,647	$14,850,030,416
2019	5%	$45,667,061,434	$2,283,353,072	$528,433,139	$756,768,447	$17,647,549,702
2020	5%	$47,037,073,277	$2,351,853,664	$0	$832,445,291	$20,049,335,559
2021	5%	$48,448,185,475	$2,422,409,274	$0	$915,689,820	$22,558,521,791
2022	5%	$49,901,631,040	$2,495,081,552	$0	$1,007,258,802	$25,174,270,630
2023	5%	$51,398,679,971	$2,569,933,999	$0	$1,107,984,683	$27,894,933,477
2024	5%	$52,940,640,370	$2,647,032,018	$0	$1,218,783,151	$30,717,929,019
2025	5%	$54,528,859,581	$2,726,442,979	$0	$1,340,661,466	$33,639,606,982
2026	5%	$56,164,725,368	$2,808,236,268	$0	$1,474,727,613	$36,655,095,987
2027	5%	$57,849,667,130	$2,892,483,356	$0	$1,622,200,374	$39,758,133,769
2028	5%	$59,585,157,143	$2,979,257,857	$0	$1,784,420,411	$42,940,877,904
2029	5%	$61,372,711,858	$3,068,635,593	$0	$1,962,862,452	$46,193,694,939
2030 & Beyond	0%	N/A	N/A	$0	$2,425,168,984	$48,503,379,686

Source: Free Press estimates based in part on revenue data from BIA Media Access Pro.

b. Spectrum auction revenues

A variant on the annual spectrum fee assessment is a one-time fee associated with future spectrum auctions. The chief problem with this approach is that most of the currently identified available spectrum has already been auctioned off. Absent repurposing existing government-held spectrum, it is doubtful that any future auctions will be large enough to generate a level of revenue appropriate for seeding a public media trust fund.

However, for the purposes of discussion, we will model a scenario where all current television broadcasting spectrum is auctioned. This exercise can give us a good sense of the value of this spectrum if put to alternative use. The FCC's recently released National Broadband Plan proposes a voluntary giveback scheme for broadcasters, with recommendations that channel auction revenues be used to compensate the license holders, as well as allocated for public media

funding. Thus far, this idea has not received much support from the broadcast industry or Congress.

For the purpose of this modeling, we will assume that the auctioned spectrum will fetch a per-MHz-population value close to that fetched for the 700 MHz spectrum auctions in 2008.[186] We also assume that the auction is for UHF televisions stations (14-51, excluding radio astronomy channel 37). We further assume that 30 percent of the available spectrum will be set aside for unlicensed use, with an additional 20 percent set aside for a spectrum lottery for small wireless Internet service providers, who would then pay a spectrum use fee. These assumptions mean that 111 MHz of spectrum — or slightly less than half the current broadcast spectrum — would be auctioned, generating an expected $41.6 billion in revenues.

But given the near-certain resistance from the broadcast industry to this spectrum reclamation plan, we must also assume that existing license holders must be "bought off" in the form of auction revenues and continued (or even increased) must-carry and retransmission rights. To account for this, we assume that the payment to these displaced license holders would be equal to 10 percent of projected revenues over a five-year period.[187] We also assume that the federal government would receive 20 percent of the auction revenues. Under this scenario, the auction of these remaining UHF channels would net an estimated $41.6 billion in revenues, $21.6 of which would be allocated for a public media trust. Assuming a conservative 5 percent annual yield from the trust fund, and assuming this interest revenue would be devoted entirely to the annual public media system budget, this auction plan would yield nearly $1.1 billion in

[186] In FCC auction 73, 52 MHz of spectrum fetched $19.5 billion, a value determined in part on the geographic scope of the spectrum block. For our analysis, we will simply assume a dollar value per MHz based on this auction, given that any future auctions would likely have varying geographic and other constraints.
[187] In 2007, local TV revenues were approximately $22 billion.

annual funding for public media (see Figure ##). This amount would be in addition to the annual congressional appropriation.

Auctioning UHF Spectrum

Estimated Revenues

Total Amount of UHF Spectrum	Spectrum Set Aside for Unlicensed Use	Spectrum Set Aside for WISP Lottery	Estimated Auction Price ($ per MHz)	Estimated Auction Revenues
222 MHz	67 MHz	44 MHz	$375,000,000	$41,625,000,000

Revenues	Revenues Paid to Broadcast License Holders	Revenues Diverted To Treasury	Net Revenues Available for Trust Fund	Annual Public Media Budget From Trust Fund
$41,625,000,000	$11,728,677,375	$8,325,000,000	$21,571,322,625	$1,078,566,131

Source: Free Press research..

c. Advertising taxes: A direct approach

An advertising tax is another idea often mentioned as a way to provide a dedicated stream of income to public broadcasting. Total spending on advertising in the United States is expected to approach $310 billion in 2010.[188] Taxing just 1 percent of this revenue would generate enough to exceed all the annual public broadcasting funding provided by universities and colleges; federal, state and local governments; as well as all corporate underwriting. Revenue from an advertising tax could provide a reliable annual source of adequate funding for public broadcasting, as well as provide seed capital for a public media trust fund.

There are three variants on this proposal: The first is a gross receipts tax against advertising revenue. Under this plan, each recipient of advertising revenue (i.e., broadcast television stations, internet advertising, local newspapers, national radio networks, billboard

[188] "The U.S. Advertising Spending Report", *eMarketer* (October 2007).

companies, sports stadiums, etc.) would pay a percentage of their revenue generated from advertising sales to the federal government. The second variant is an advertising sales tax. While similar to the gross receipts tax, the sales tax would place the payment "burden" directly on the purchaser of advertising at the time of sale. The third variant, discussed in detail below, is an indirect approach.

Taxing advertising to pay for noncommercial media is very appealing from a "shared burden" standpoint. It is also economically efficient in a market that is oversaturated with branding efforts and other advertisements. For the hundreds of billions of dollars spent each year on advertising to be justified from an economic efficiency perspective, there are two tests. First, consumers' demands for product information should be met by — not exceeded by — this expenditure. Second, it must be argued that there is not a better way of providing product information to consumers. Clearly, the current methods of advertising, especially on TV, fail on both counts. How much could a small ad tax generate for the public media system? The answer depends upon what sectors of the industry would receive exemptions from such taxes. For example, Congress could exempt small businesses from such an assessment. And it is also likely that the struggling newspaper industry, the beneficiary of more than $40 billion of the $310 billion spent on advertising annually, would receive some sort of exemption. In addition, it is likely that Congress would exempt any online advertising, which accounts for about another $40 billion of the total.

Thus, while a precise estimate of the annual value of taxable advertising will be entirely dependent upon such exemptions, we conservatively assume that the taxable base will be $190 billion in 2010. Similar to our projections of a spectrum fee, we assume that the total advertising base will grow at 3 percent per year, but that the exempt portion will increase from 38 percent in

2010 to 49 percent in 2019, as a result of the shift toward more online advertising. We also assume continued congressional appropriations for the CPB, increasing at a rate of 3 percent per year.

We also assume, as we did in the model for the spectrum fee, that the annual public media budget from federal sources will be based on the amount of congressional appropriations plus 10 percent of the amount collected annually from the advertising tax, with the remainder of the revenues generated by the advertising tax deposited in a trust fund.

Under these assumptions, a 2 percent advertising tax could raise more than $45 billion for the public media trust fund after a 10-year period, which would equate to a $2.25 billion annual budget in the 11th year, when both the advertising tax and congressional appropriations could cease This option could get the public media system to fiscal self-sufficiency in half the time proposed under our spectrum fee plan.

Using an Advertising Tax to Establish a Public Media Trust Fund

Total Amount of UHF Spectrum	Spectrum Set Aside for Unlicensed Use	Spectrum Set Aside for WISP Lottery	Estimated Auction Price ($ per MHz)	Estimated Auction Revenues
222 MHz	67 MHz	44 MHz	$375,000,000	$41,625,000,000

Revenues	Revenues Paid to Broadcast License Holders	Revenues Diverted To Treasury	Net Revenues Available for Trust Fund	Annual Public Media Budget From Trust Fund
$41,625,000,000	$11,728,677,375	$8,325,000,000	$21,571,322,625	$1,078,566,131

Source: Free Press research.

d. Advertising taxes: An indirect approach

While a direct tax on advertising, either through a gross receipts or advertising sales tax, is appealing, opposition will be full-throated. Another approach would be to change the current

tax code to generate new revenues for public media. Under existing law, businesses are allowed to deduct 100 percent of the amount spent on advertising in the year in which it was purchased. Revenue could be raised by barring certain businesses from taking the deduction or by moderately reducing the amount of the deduction for all businesses. Better yet, significant revenue could be generated by allowing only a portion of the advertising expense to be deducted in the year it was purchased, "amortizing" the remaining expense over time.

"Amortization" simply spreads the advertising deduction out over a multi-year period. The practical result of this is that each advertiser's taxable base is increased, leading to an increased amount of taxes collected. These additional tax revenues could be earmarked for the public media trust fund. This approach is also appealing from an efficiency and fairness perspective, as it recognizes that many advertisements are, by virtue of their branding, "assets" whose value extends far beyond the time the ad is placed. Under current tax law, businesses are required to spread out the value of their capital assets over a multi-year period, because while these assets have long-term value that value decreases as time goes by. There is no reason to treat advertising any differently, as the cumulative impact of branding has lasting productive effects well beyond the year in which an ad is run.

A 1997 Congressional Budget Office report estimated that a requirement that businesses amortize a portion of advertising costs (80 percent deducted immediately, followed by amortization of the remaining 20 percent over the following four years) would raise $28 billion over the five-year period from 1998 to 2002.[189] We have modeled this amortization approach for the 2010-to-2020 time period.

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[189] Congressional Budget Office, "Reducing the Deficit: Spending and Revenue Options," (March 1997) at 397-398.

Our assumptions are similar to those used in the spectrum fee and advertising tax models discussed above. We assume an annual 3 percent increase in advertising spending, but do not assume that any particular sector will be exempt from the amortization change in the tax law. We assume the change in the tax law will allow businesses to deduct 80 percent of the cost of advertising in the year the ads are placed, with the remaining 20 percent amortized over the following four-year period. We assume an effective tax rate of 25 percent. We also assume a steadily increasing congressional appropriation of 3 percent per year based on the 2010 baseline. The annual public media budget would draw from the congressional appropriation and increasingly from the earmarked revenues generated by the amortization pool of funds. The remaining funds from this earmarked pool would be allocated for the public media trust fund. As shown below, under this plan, the annual budget for public media would steadily increase, and in the 11th year, the system would be completely self-sufficient, with a $61 billion trust fund netting a continued annual operating budget exceeding $3 billion. Congress could then choose to phase out the amortization tax code after this initial 10-year period. If so, this is a path to complete independence for the public media system in just a decade's time.

Using an Advertising Expenditure Amortization to Establish a Public Media Trust Fund

Year	Estimated Total Advertising Spending	Amount Deductable Under Amortization Plan	Amount Subject to Business Tax	Revenues Generated from Tax	Congressional Appropriations	Annual Public Media Budget	Trust Fund Balance
2010	$310,000,000,000	$248,000,000,000	$62,000,000,000	$15,500,000,000	$405,000,000	$560,000,000	$15,345,000,000
2011	$319,300,000,000	$270,940,000,000	$48,360,000,000	$12,090,000,000	$417,150,000	$658,950,000	$27,960,450,000
2012	$328,879,000,000	$294,568,200,000	$34,310,800,000	$8,577,700,000	$429,664,500	$772,772,500	$37,593,064,500
2013	$338,745,370,000	$318,905,246,000	$19,840,124,000	$4,960,031,000	$442,554,435	$839,356,915	$44,035,946,245
2014	$348,907,731,100	$343,972,403,380	$4,935,327,720	$1,233,831,930	$455,831,068	$1,072,747,033	$46,854,659,522
2015	$359,374,963,033	$354,291,575,481	$5,083,387,552	$1,270,846,888	$469,506,000	$1,232,014,133	$49,705,731,254
2016	$370,156,211,924	$364,920,322,746	$5,235,889,178	$1,308,972,295	$483,591,180	$1,399,871,786	$52,583,709,505
2017	$381,260,898,282	$375,867,932,428	$5,392,965,853	$1,348,241,463	$498,098,915	$1,576,692,086	$55,482,543,272
2018	$392,698,725,230	$387,143,970,401	$5,554,754,829	$1,388,688,707	$513,041,883	$1,762,861,720	$58,395,539,307
2019	$404,479,686,987	$398,758,289,513	$5,721,397,474	$1,430,349,368	$528,433,139	$1,958,782,508	$61,315,316,272
2020 & Beyond	N/A	N/A	N/A	N/A	$0	$3,065,765,814	$61,315,316,272

Source: Free Press research.

e. Consumer Electronics Tax

In the ever evolving media landscape, the public is consuming more and more media over increasingly sophisticated devices. Whereas a decade ago, consumers' media interactions were largely centered around analog television, today consumers get news, information and entertainment delivered to them via high-definition digital televisions, smart phones, laptop computers and personal media players such as the iPod. Public media are an increasingly important part of this media system, with applications like NPR's app for the iPhone, or PBS' streaming video archive becoming increasingly popular with consumers. However, this increase in media platforms and distribution channels has not yielded increased funding for public media outlets. Thus, the idea of a modest tax on electronic devices being earmarked for public media funding has gained favor among some looking to identify new revenue streams.

According to the Consumer Electronics Association, the average household spent $1,299 in 2008 on consumer electronics, down from $1,475 in 2007.[190] This amount is expected to rebound somewhat as the recession ends and consumer spending resumes its normal growth pattern. The consumer electronics sector has generated more than $160 billion in sales this year alone. Below, we model the impact of a 1 percent tax on consumer electronic devices, with revenues earmarked for the creation of a public media trust fund. Our assumptions are similar to those in the models presented above. We assume that spending on consumer electronics will increase by 3 percent annually.

Using a 1 Percent Tax on Consumer Electronics to Establish a Public Media Trust Fund[

Year	Estimated Total Spending on Consumer Electronics	Revenues from 1% Tax	Increased Annual Tax Burden for Typical Household	Congressional Appropriations	Annual Public Media Budget	Trust Fund Balance
2010	$166,000,000,000	$1,660,000,000	$14	$405,000,000	$571,000,000	$1,494,000,000
2011	$170,980,000,000	$1,709,800,000	$14	$417,150,000	$605,228,000	$3,090,422,000
2012	$176,109,400,000	$1,761,094,000	$15	$429,664,500	$640,995,780	$4,794,705,820
2013	$181,392,682,000	$1,813,926,820	$15	$442,554,435	$678,364,922	$6,612,557,444
2014	$186,834,462,460	$1,868,344,625	$16	$455,831,068	$717,399,315	$8,549,961,694
2015	$192,439,496,334	$1,924,394,963	$16	$469,506,000	$758,165,245	$10,613,195,497
2016	$198,212,681,224	$1,982,126,812	$17	$483,591,180	$800,731,470	$12,808,841,794
2017	$204,159,061,661	$2,041,590,617	$17	$498,098,915	$845,169,320	$15,143,804,096
2018	$210,283,833,510	$2,102,838,335	$18	$513,041,883	$891,552,783	$17,625,321,736
2019	$216,592,348,516	$2,165,923,485	$18	$528,433,139	$939,958,602	$20,260,985,845
2020 & Beyond	N/A	N/A	N/A	$0	$1,013,049,292.26	$20,260,985,845

Source: Free Press research

As the above Figure shows, a 1 percent assessment on consumer electronic products would generate enough revenue to create a $21 billion trust fund, capable of funding a $1 billion annual budget for the system after a 10-year period. Congress could choose to sunset the tax after this time. That would cost the typical household just an extra $15.

[190] Jeff Clabaugh, "Spending on consumer electronics falls," *Washington Business Journal* (May 21, 2009).

It's important to note that none of these ambitious plans could be implemented by the FCC; all would take an act of Congress. And all would require other changes to prevent undue political influence in public media content and to ensure that public media are well run, more diverse, and worthy of increased support. These include changes in how the CPB board is appointed, strengthening the role of ombudsmen, creating higher benchmarks for station performance, and increasing the diversity of audience and content.

B. Policy recommendations to promote private sector production of media

1. Examine the creation of a special tax status for journalism institutions

Changes in the tax code could have long-lasting positive outcomes for local news and serve to aid struggling news outlets to make more room for new voices and foster competition. The goal of these tax changes should be to remove the profit pressures from news organizations and encourage new models for ownership, not based on shareholders and absentee media conglomerates.

Under either the 501(c)(3) (nonprofit) and L3C (low-profit) models, news organizations could be set up to accept philanthropic donations (which, in the case of tax-exempt newspapers, would be tax-deductible) or investments. And they could be owned, in whole or in part, by a wide range of socially motivated parties, including workers, foundations, community organizations and other civil society groups whose primary mission will be to provide a public good that benefits the collective welfare of the local community. Each of these models offers news organizations a number of benefits and protections not available to their commercial counterparts.

Sen. Ben Cardin's Newspaper Revitalization Act, introduced early in 2009, would offer tax benefits to philanthropic groups and individuals that donate to newspapers, while providing the newspapers themselves with the tax benefits enjoyed by all tax-exempt organizations. The precise wording of the Cardin bill in its current form, however, mandates that a qualifying newspaper contain "local, national, and international news stories of interest to the general public," which seems to preclude smaller community papers and other news organizations. Most important, any bill along these lines should explicitly state that it does not pertain to just newspapers, but also news Web sites and other forms of media dedicated to journalism.

2. Offer government incentives to encourage local ownership and media divestiture

Several major newspapers are already bankrupt or looking to sell off or shutter properties to escape enormous debt. Absent some intervention in the market, there is a strong chance that these papers will find buyers that are less interested in journalism than they are in maximizing asset value in the short term. Instead of watching them fall into the hands of private equity firms or other consolidated conglomerates, we have an opportunity to use small changes in the tax code to build incentives for their transfer to owners more committed to public service and local communities. The idea is to create, via changes to the federal tax and bankruptcy laws, a number of targeted "sweeteners" that could be invoked — alone or in combination — when media properties are being put up for sale that would make new owners or ownership structures more attractive than traditional corporate ownership models. This would also encourage diverse local owners and thus more competition, than current conglomerate media structures allow for.

One option worth pursuing is the utilization of "prepackaged" bankruptcies, which would allow interested parties to work out future ownership of the assets prior to actually going into court, which dramatically cuts down on costs. These cost-savings, combined with the legislative

incentives described below, could make the package more attractive to the bankruptcy judge and ultimately enable public-interest-minded groups to take control of a struggling news outlet. An advantage of this "soft-landing" approach is that it precludes very few of the options discussed earlier. For example, a failing local newspaper could be bought up by a cooperative of its employees through a prepackaged bankruptcy; turned into a 501(c)(3) news organization; accept money from public trusts, foundations and local entrepreneurs; and employ any number of creative online techniques to generate revenue — all while producing journalism and experimenting with new models of sustainability.

Newspaper owners might be more inclined to sell to socially motivated parties if the government offered certain subsidies or other incentives to facilitate the transactions. Perhaps the IRS could guarantee nonprofits a reduced buyout rate. In addition, government-guaranteed loans and bidding credits could be offered to nonprofits to help them purchase failing news organizations with the promise to convert them into locally owned and controlled multimedia newsrooms. Similarly, if the IRS granted tax relief from a long-term capital gains tax, tweaked the net operating loss rules, and offered other tax advantages to the newspaper seller, legacy owners of failing newsrooms may be incentivized to sell to nonprofits during the bankruptcy process. Substantive debt-relief would help placate creditors and investors to some degree.

These "sweeteners" should be combined with a minority media tax credit — much like the Minority Tax Certificate Program that was in place during the 1980s and 1990s — that would encourage the sale of news organizations to minorities, women, and other underrepresented groups. Restoring some version of the minority tax certificate will greatly increase minority and

female ownership of news media outlets, which currently stand at an appallingly low number.[191] This policy has already proven successful in increasing the diversity of media ownership and never should have been dropped from the books.[192]

3. Encouraging the production of information from federal, state and local governments is an important element of reducing the cost of reporting in the future

We endorse the principles outlined by the Sunlight Foundation that:

- Transparency is Government's Responsibility: Transparency must first and foremost be understood as government's responsibility, since public demand and private/non profit responses can reach only so far. Accordingly, both Congress and the branch must make broad changes in our federal information and technology policies to establish on line, on time public access as a priority for virtually all the operations of the federal government.
- Public Means Online: Whatever information the government has or commits to making public, the standard for "public" should include "freely accessible online." Information cannot be considered public if it is available only inside a government building, during limited hours or for a fee. In the 21st century, information is properly described as "public" only if it is available online, 24/7, for free, in some kind of reasonably parse able format. Almost all of our public sphere is now online, and our public information should be there, too.

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[191] For a report on broadcasting numbers, *See* Derek Turner and Mark Cooper, *Out of the Picture 2007: Minority and Female TV Station Ownership in the United States*, Free Press (October 2007) http://www.freepress.net/files/otp2007.pdf.

[192] *See* Kofi Asiedu Ofori and Mark Lloyd, "The Value of the Tax Certificate Policy," *The Civil Rights Forum* (1998) http://www.vii.org/papers/taxcert.htm

- Data Quality and Presentation Matter: The Internet has redefined effective communications and publishing. It is a 24/7 open medium, in which now standard practices include continuous, contemporaneous dissemination, permanent searchability and re usability, among other key features. The government must adopt the principles that all information and data that the government has decided or hereafter decides should be public must be (i) posted online promptly, (ii) complete and accurate, (iii) searchable and manipulable and (iv) permanently preserved and accessible. Among these four, timeliness is particularly vital for information concerning any ongoing decision making process, such as legislation or regulation. Disclosure should move at the same pace as influence over such decisions; thus arbitrary periodic filing requirements (e.g., annual, quarterly or monthly) violate this standard and render postings less useful to facilitate trust and participation. Fortunately, the Internet enables inexpensive real time publishing, such as real time updates we have come to expect for news and stock market transactions. These standards of contemporaneous disclosure are particularly important when it comes to disclosure of lobbying contacts, consideration of legislation, promulgation of regulations or awarding of grants and contracts.

Federal, state, and local governments should all be pushed to follow the example of http://www.data.gov/. Far too many agencies at all levels remain locked in an outdated model of information hoarding, rather than information sharing. Government information and databases at all levels should switch from an 'opt-in' model where only a small proportion of data is shared with the public, to an opt out model where any and all government information is initially assumed to be public and is only removed from public access where justifiable (for valid privacy, security, or safety reasons especially).

As outlined in the New America case study on Seattle the FCC could look to Seattle's portal http://data.seattle.gov/, as an example alongside New York City, http://www.nyc.gov/html/datamine/html/home/home.shtml, and California, http://www.reportingtransparency.ca.gov/.[193] We would also encourage the FCC to look at state and local websites that received high ratings from the Sunshine Review, http://sunshinereview.org/index.php/Main_Page. Their rating rewards the publication in any form, not necessarily in a raw digital format but provide a good pointer to governments which are releasing data on the web. Specifically, http://www.texastribune.org/library/data/texas-prisons/ and http://www.propublica.org/ion/stimulus show what journalists can do with such information..

4. Copyright

Several aspects of current copyright law raise concern for those gathering and disseminating community media: First, restrictive interpretations of copyright fair use combine with misuse of the DMCA's notice-and-takedown process against non-infringing works to threaten both the availability of source material and the persistent availability of citizen journalism and non-profit media content (the problem is less acute, but not absent for commercial media players).

News media are both creators and users of copyrighted works. While some news and media organizations advocate strengthening copyright protection for their own content, others, including journalists at those same organizations, depend on copyright's limitations and

[193] "An Information Community Case Study: Seattle, A digital community still in transition," New America Foundation (May 2010) *See* http://mediapolicy.newamerica.net/information_communities

exceptions, particularly fair use, to produce their works. They benefit from the law's recognition that "the fair use of a copyrighted work… for purposes such as criticism, comment, [and] news reporting... is not an infringement of copyright." 17 U.S.C. § 107.

Innovators in digital news distribution, the builders of feed-readers, aggregators, podcasters and -catchers, and social discovery services also depend on the limits of copyright to bring media to news consumers in novel ways. Many of these tools incidentally "reproduce" works or enable end-users to do so. Like the earlier Betamax, they can rely on fair use rather than seeking permission or pre-approval.[194] Thus EveryBlock has filtered and aggregated news feeds to create truly local news collections, giving visibility to small news outlets and new data sources; Delicious enables users to collect and share social bookmarks, providing new means of media discovery; and Miro's audio-video player offers subscriptions to independent media "channels," a platform for "broadcast" distribution not limited by spectrum scarcity. All this creative remixing of news needs to be maintained.

We anticipate that the Commission will receive recommendations for the expansion of copyright protections. We recommend that you consider those critically, in light of the unintended negative consequences of previous copyright expansions. For our part, we endorse the recommendations in the National Broadband Plan, 15.7-15.9, providing new exemptions for public media to put materials online, encouraging archiving and non-commercial citizen re-use

[194] *See Sony Corp. of Am. v. Universal City Studios, Inc.*, 464 U.S. 417 (1984).

C. Policy recommendations to enhance the capacity of individuals to engage with information;

1. Develop more effective structures for public engagement

Legacy public broadcasting outlets are still largely designed for one-way information flow. But in a networked, participatory communications environment, more profound engagement around content is not only possible, but increasingly expected. What policy changes might support not only the creation and dissemination of content, but the use of media platforms by citizens to define, deliberate and act upon shared issues in our democracy?

2. Dedicate funds specifically to participatory, networked public media

A series of recent examinations by American University's Center for Social Media suggest how public media projects can move beyond merely offering users content, instead creating *contexts* for civic engagement, problem solving, and collaborative deliberation. This exploration began with *Public Media 2.0: Dynamic, Engaged Publics*—a Ford Foundation-funded white paper released in February 2009 and has continued through the September 2009 report, *Scan and Analysis of Best Practices in Digital Journalism In and Outside U.S. Public Broadcasting*; a series of in-depth field reports, and a regular Public Media 2.0 Showcase. The public media 2.0 projects profiled cross traditional boundaries of news and civic engagement, and marry noncommercial outlets to commercial and open source projects in unprecedented collaborative structures. They harness emerging platforms—social networks, gaming formats, interactive databases, Wikis, and more—to facilitate the formation of "publics" that can jointly learn about and address shared issues.

Why is it crucial to establish supports for participatory public media? Because the public is the element that keeps democracies democratic. Publics provide essential accountability in a

healthy society, checking the natural tendency of both politicians and corporations to do what's easiest, cheapest, and in their own private interest. Public media and democratic governance are mutually reinforcing.

Participation in a public media context can take many forms, and need not be positioned as a threat to existing journalistic standards or interpreted as a call for partisan media production. Increasingly, users are becoming habituated to not just more readily creating media content of all kinds, but to regularly remixing and curating existing news and information resources, providing source material and suggestions for media content, taking part in conversations about news and issues of the day across a range of online outlets and social network platforms, digitally sharing news and information with friends, colleagues and networks, and accessing news and information on their own terms. Similarly, recent entrants such as individual experts, nonprofit organizations, university-based news projects, foundations and others are capitalizing on social and participatory media platforms to create influential journalism projects that inform and engage publics. The National Center for Media Engagement, funded by the Corporation for Public Broadcasting, has been documenting emerging projects within the system that demonstrate novel and effective approaches to participatory public media.

But in order to function well, public media projects and platforms designed to engage stakeholders directly in issues must be open and inclusive. The current public broadcasting system has often fallen short in this regard, as has the mainstream news system. Inclusion must therefore be a top priority when creating policies and infrastructures for the new public media; otherwise the system will have failed from the start.

These ideas are not new, they're just easier to implement given social media technology. Community media outlets have been championing this participatory ethos for decades; the

lessons they've learned and the facilities they've fought to build should be valued and incorporated more explicitly into any emerging public media system.

3. Examine new governmental structures devoted explicitly to civic engagement through media and technology

National coordination that builds capacity for participation in public media 2.0 will pose a new challenge—distinct from the work of legacy media organizations and untested as yet in the digital era. Functions of a coordinating to enable this body could include:

- providing an accessible and reliable platform for public interaction with governmental institutions,
- providing a toolset for public participation and civic engagement,
- identifying best practices and metrics to increase the efficacy of public engagement,
- providing staff resources at local and national levels primarily to building public engagement
- tracking emerging technologies and platforms to assess and secure their potential for public media.

Who would do that? It might be possible to create a coordinating body from scratch, but that's a fraught proposition, in terms of both politics and resources. Selected tools and practices currently being developed in the government transparency arena could be brought to bear, but the project of engaging publics via content and communications platforms is much broader than the targeted project of engaging publics around policy. It is also possible to imagine the linked organizations that make up the public broadcasting system—with their federal public-service mandate, local stations, and national programming outlets, the public broadcasting stations reaching almost every community in the nation—playing such a role. The Corporation for Public

Media, as described and resourced above via a public media trust, could be the site for such national coordination, but its mandate would have to be explicitly expanded.

4. Include diverse voices and perspectives in the public conversation

While new online communication spaces offer the promise of broad democratization of the public sphere, the reality is much less sanguine. Current projects designed to provide citizens with media access and training need to be maintained and, where appropriate, supported in transitioning to broadband platforms.

5. Support existing pipelines and assess transition strategies for diversifying news and cultural expression

On the local level, PEG and LPFM stations offer front-line media training and access to the airwaves for low-income, rural, and minority who might otherwise have no public voice, and limited sources for news and information from their geographic or language communities. These fragile services should continue to be supported, despite the efforts of cable companies and both commercial and public radio broadcasters to eliminate them, until which time their effectiveness can be assessed.

Innovators such as Denver Open Media, the Bay Area Video Coalition, and Cambridge Community Television are pioneering new solutions for bringing the values, practices and community ties of PEG into broadband and open source environments. These organizations could serve as demonstration sites for assessing best practices for transitioning PEG functions online. More research into innovative models is needed, as well as research into the ways that community media content has been marginalized by commercial cable and radio operators.

Additionally, the public broadcasting system currently includes a subset of organizations designed to bring diverse, independent and youth perspectives into the mix, and explore the

potential of new platforms for news and civic engagement. These include ITVS, the Minority Consortia, the Public Radio Exchange, and selected initiatives by stations with production capacity, such as WGBH and WBEZ. Currently these organizations operate independently, and are still siloed by their origins in particular production communities. But targeted support for information sharing and strategic collaboration among these innovators could invigorate the prototyping of new models designed to serve the system at large.

Existing noncommercial platforms could also be repurposed in novel ways to build upon the democratic nature of participatory media production. There should be broader and more public input into the way that noncommercial set aside channels are used. They are currently being underutilized. Many, if not most, citizen journalists and nonprofit media entities are not even aware of set aside satellite channels. Some of these channels could be used to more widely distribute the best content that bubbles up from the citizen journalism and nonprofit sectors. For example, a channel should be set aside for nationwide distribution of youth media. At least one channel should be dedicated as an experiment in large scale citizen journalism, curation and sharing, where participating citizen journalism networks feed content into an aggregated space where viewers and editors rate the best content up into satellite broadcast distribution. This type of experiment is currently underway in both commercial and public media settings, such as Current TV, or Vocalo in Chicago.

Mobile platforms also offer new opportunities for both providing underserved communities with information, and, increasingly, offering platforms for citizen media production. There are lessons to be learned here from global movements for democracy and freedom of speech. In mid-April, MIT's Center for Future Civic Media hosted a forum titled "Civics in Difficult Places," which featured speakers describing cutting-edge mobile and online

reporting projects from Iran, Haiti, Pakistan, Liberia, Zimbabwe, and Madagascar. These examples revealed the potential for combining low-cost mobile devices with both commercial and nonprofit reporting platforms to track elections, share breaking news in crisis situations, and connect people to one another in information-scarce environments. Such solutions should be as vital to policy discussions about the future of media as the more infrastructure-intensive demands of legacy print and broadcast organizations.[35]

D. Policy recommendations to promote individual engagement with information and the public life of the community

1. Libraries and schools should play an ever larger role in supporting community information flows

While much of our future media will reflect a distributed network of discrete sources, local community anchor institutions will also play a critical role to ensure localism and diversity in the martketplace of ideas. At their best, local media reflect comprehensive communities. To meet the future, public policy must support the emerging digital media roles for next generation libraries and schools:

1. Community technology hub: demonstration site, lab & showcase for emerging technology
2. Digital content provider: shared e-books, other digital media & online services access - esp. local content
3. Human face of e-government: guide to online search, public services and self-directed (distance) learning
4. Disaster readiness & recovery center: interconnected, hardened communications and information facility

5. Content creator: access for production, archiving and distribution of local media including documents, images & sounds.

Local experiences show that schools and libraries can effectively support the production, archiving and distribution of unique local media content that informs and sustains diverse communities.

Along with community media outlets, libraries and schools are key community anchor sites that need to be supported as broadband media and information hubs by government programs and policies. Funding mechanisms should be explored to transform all libraries and schools into sites of extremely high speed internet access with supportive training and adoption programs for diverse populations.

Non-profit community broadband access at city, state, and nationwide levels should be supported through regulatory mechanisms that will ensure connections for all schools and libraries with the highest possible bandwidth.

We specifically endorse the work of the Schools, Health and Libraries Broadband Coalition (shlbc.org) and its mission, which ”is to improve the broadband capabilities of schools, libraries and health care providers so that they can enhance the quality and availability of the essential services they provide to the public and serve underserved and unserved populations more effectively. The Internet has become a fundamental cornerstone of modern education, learning, health care delivery, economic growth, social interaction, job training, government services, and the dissemination of information and free speech. High-capacity broadband is the key infrastructure that K-12 schools, universities and colleges, libraries, hospitals, clinics and other health care providers need to provide 21st century education, information and health services.

The Coalition is dedicated to ensuring that each and every library, health care provider and school (including K-12 schools, colleges and universities) has robust, affordable, high-capacity, broadband connections....”

Schools and libraries should provide free internet access for their neighborhood, also acting as connectivity points for mesh wireless networks to interconnect non-commercial uses of public rights of way and public spectrum. Community anchor networks providing these essential services must be governed transparently and held locally accountable.

In addition to providing local media support and access to the broadband Internet, schools and libraries must all receive sufficient funding to create and maintain computer labs sufficient to meet community demand. Metrics such as wait times to access public computers, length of sessions allowed, and so on should be developed and this information made publicly available. Schools and libraries scoring low on such metrics should not be penalized, but instead should be further supported with funds and technical support to increase capacity and community connectivity.

Besides broadband connectivity and computer labs, schools and libraries must be extensively supported as places for adoption of new media tools, where community members can gain increased digital literacy and learn how to create, analyze, curate, and share news, information, and media of all kinds. Media literacy and broadband adoption programs can be done through increased funding, training, and support for digital literacy programs and multimedia educators at all schools and libraries.

Existing public and nonprofit initiatives in this direction, such as AmeriCorps’ tech corps, Geek Corps, the National Black Programming Consortium’s Public Media Corps, and the proposed Digital Literacy Corps should all be supported, and dialogue between them should be

encouraged. Best practices and innovative approaches in digital literacy education that are being developed by institutions like the Institute for Multimedia Literacy at USC and by networks like HASTAC's Digital Media and Learning initiative should be included in the formation of the Digital Literacy Corps.

Finally, wherever possible, libraries and schools should deploy open source software solutions at server, web application, desktop, and desktop application layers. Shared development of open source tools avoids vastly wasteful duplicate spending on development and licensing of proprietary software. Public funding should never pay multiple times for software development or licenses where viable open source alternatives exist.

To meet our potential, schools and libraries must be more engaged as public and community media anchors. As Vartan Gregorian has written, "Libraries are not only repositories of past human endeavor, they are instruments of civilization. They provide tools for learning, understanding, and progress. They are the wellspring of action, a laboratory of human aspiration, a window to the future. They are a source of self-renewal, intellectual growth, and hope. In this land and everywhere on earth, they are a medium of progress, autonomy, empowerment, independence, and self-determination."

Education built upon local schools and local libraries must be considered part of the future of media.

2. Journalism schools can and must play a more direct role in media production than the past

Just as journalism institutions must evolve to meet the challenges of our emerging, networked era, so must journalism schools. Neither news organizations or journalism schools will disappear, but both will change. In particular, journalism schools must envision themselves

as key “anchor institutions” in the informational ecosystem of the future. For most of their existence, j-schools maintained a central position between journalism students and the journalism industry; it was they who trained journalists in both practical skills and best practices. However, journalism schools have, for the most part, resided at the periphery of most universities, often looked upon somewhat disdainfully by university adminstrators and other academic units as "professional programs" making only a marginal contribution to the overall university mission

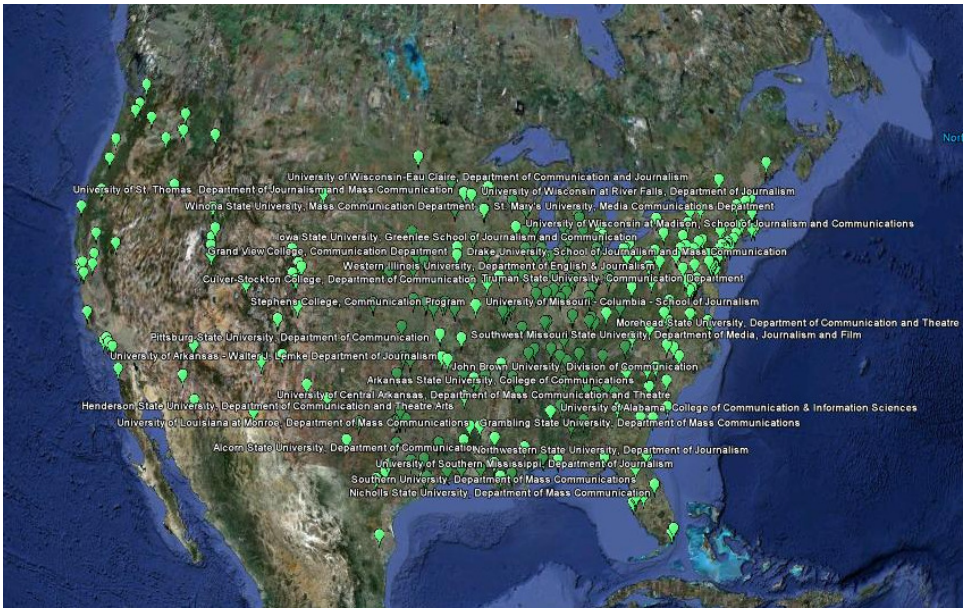
Now, many more people can be journalists, at least occasionally, and many more people can produce media. At the same time, the industry that journalism schools once served is in the midst of a fundamental transformation. These two developments will shape America’s journalism schools of the future.

From this standpoint, the greater the extent to which individual citizens can (and should) practice journalism, the stronger the imperative for universities to train individuals to effectively and responsibly produce journalism, and for journalism education to move from the periphery to the center of the university mission to produce informed graduates engaged in journalism even if they don't major in the subject .

Creating solid reporting requires training, both technical and journalistic. And that training requires funding. To build the effectiveness and quality of community journalism, both youth and adults should have access to journalism training programs, taught in schools, at community centers, and anchor institutions. Such programs would give people an understanding of media systems that will allow them to be critical consumers of media, both entertainment and news. They would give people the tools to create their own media, essential in today’s environment of media industry upheaval: training in writing, research, interviewing, radio and video. And a comprehensive training program would give people an understanding of media infrastructure and

policy, allowing them to meaningfully engage in debates about regulation of and spending on media and telecommunications. A shift in media funding streams would help create diverse, robust journalism, from community-based reporters, non-profit journalists, and traditional newsrooms.

Map showing distribution of programs journalism and communications programs[195]



For the most part, journalism schools will grapple with these issues in their own individual ways and with their own resources. Indeed, there are over 300 schools with some sort of communications or journalism program in the country see map and it is hard to articulate directions and policy solutions for all of them. Nevertheless, we believe there are several areas where collaboration with other stakeholders, including government at all levels, can be beneficial to the goal of a healthy and independent media sector:

[195] From "Journalism and Communications teaching across the United States" New America Foundation. (April 2010) See http://mediapolicy.newamerica.net/us_media_mapping_resources

- When contemplating policy changes or changes to law, regulators and lawmakers should regularly call on journalism schools at hearings and in requests for comments.
- The federal government should make it a priority to fund further research on understanding audiences – especially with respect to the use of the tidal wave of new mobile devices.
- The FCC should look favorably on experimental license applications from journalism and communications schools to explore new forms of distribution/
- Create a special fund through the Department of Education for journalism scholarships, especially for disadvantaged students.
- Support new partnerships with public broadcasting entities like NPR, PBS and the CPB, and also at local stations. Some of our schools have conducted practically-oriented research for public broadcast national entities and there are ample opportunities to do more, from internships, to joint research, to more direct engagement with news collection and distribution.
- More generally: journalism schools should receive the support that they need to be fully engaged as producers of community journalism, not simply as trainers of journalists. In an ideal world, journalism schools with the capacity to do so would become the informational equivalent of university teaching hospitals.[196] As Columbia University Graduate School of Journalism Dean Nicholas Lemann noted in a recent article in the Chronicle Review, "what journalism and the public most need right now is serious,

[196] *See*"J-School Takes On Expanded Role On The Local Web Site With NYTimes.com," CUNY Graduate School of Journalism (Jan. 8, 2010) http://www.journalism.cuny.edu/2010/01/08/cuny-j-school-to-take-over-nytimes-coms-the-local-community-web-site/.

continuing coverage of matters of public importance: city halls, school systems, statehouses. Journalism schools are not fully equipped to provide that now, but the logistical and financial difficulty of equipping them to do so would be far less than the difficulty of creating and sustaining new news organizations built from scratch. Like teaching hospitals, journalism schools can provide essential services to their communities while they are educating their students."[197]

- Journalism schools are already advancing creative partnerships with other university divisions and departments. We should encourage these partnerships, but push for more. In particular, J-Schools may wish to consider partnering with Schools of Public Policy and Departments of Sociology and Social work, and law schools. Computer science is difficult to understand; so is the nature of the community and the public. Collaboration on the legal front is also important as law students could support freedom of information requests or through clinical work contribute to other legal efforts should subjects of reporting respond with suits.
- Beyond simply reporting on their communities, journalism schools should involve them as well. Temple University is beginning a program of journalism training for alumni who want to update their skills, as well as for anyone else in the community interested in learning about journalism. This is an important development. Given the theoretically widespread ability of ordinary people to access media making tools, journalism schools

[197] Nicholas Lemann, "Journalism Schools Can Push Coverage Beyond Breaking News," *The Chronicle* (Nov. 15 2009) http://chronicle.com/article/Journalism-Schools-Can-Push/49115.

have a responsibility to help ensure this access and make sure citizens are media literate.[198]

- Journalism schools should experiment with finding ways to move aspects of journalism education to the center of undergraduate "core curriculums." Once again, journalism schools are becoming increasingly responsible for securing widespread "read-write" media literacy in today's media ecosystem.[199]
- Finally, journalism schools must dramatically increase the scale and scope of their research and development (R&D). Few professional schools have done as little research and have been as disconnected from the broader academy, as journalism schools.

All this said, it has to be recognized that such efforts can only partially fill the need for local accountability journalism. Young students are only temporarily engaged in their studies with long breaks over the summer and do not have the time to learn complex beats such as city hall as a long time reporter is able to do.

3. Support digital literacy training at all levels of society

As we transition to an information society, the skills to produce, manage, and consume information become essential for all parts of our lives, from politics to employment, health to education, from civics to the purely social. The old model of media literacy, in which young people are given tools for critical media consumption, is outdated. Both youth and adults should have access to media literacy programs for the 21st century, taught in schools, at community centers, and anchor institutions. Such programs would give people an understanding of media

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[198] *See* Philadelphia Neighborhoods, Temple University Multimedia urban Reporting Lab http://sct.temple.edu/blogs/murl/

[199] "C. W. Anderson at Media Circus" *Gelf Magazine* (Jul. 2, 2009) http://www.gelfmagazine.com/gelflog/archives/c_w_anderson_at_media_circus.php

systems that will allow them to be critical consumers of media, both entertainment and news. They would give people the tools to create their own media, essential in today's environment of media industry upheaval: training in writing, research, interviewing, radio and video. And a comprehensive media literacy program would give people an understanding of media infrastructure and policy, allowing them to meaningfully engage in debates about regulation of and spending on media and telecommunications.

It is in our national interest to ensure everyone has these skills in order to make a full contribution to society. To that end, we offer the following recommendations and analysis.

- To provide all of the skills necessary to participate in today's society, we recommend digital and media literacy programs teach:
    - Critical thinking skills.
    - Media production skills.
    - How communications technology works and how it is regulated.

- To reach everyone with these essential skills, we recommend:
    - Incorporate digital and media literacy programs into public school education
    - Media literacy education should begin in the 6th grade, with basic skills included earlier.
    - Integrate digital and media literacy programs into public school education across core subjects, with certain precautions.
    - Offer digital and media literacy programs to the general public through community support institutions.
    - Develop training and support to meet the growing demand for media literacy educators.

a. Develop and disseminate media literacy curricula that teach:

i. Critical thinking skills:

In the broadcast era where most people were confined to the role of media consumer, media literacy focused on the critical thinking necessary to shift through advertising and implicit messages in broadcast content. As our lives have become has saturated with media, and with

advertising increasingly targeted at younger and younger age groups, there has been a growing acceptance that media literacy is an important part of adolescent and childhood education.[200]

ii. Media production skills:

The seminal 1992 Aspen Institute "Report of The National Leadership Conference on Media Literacy" begins, "A media literate person—and everyone should have the opportunity to become one—can decode, evaluate, analyze and produce both print and electronic media."[201] Nevertheless, except for basic writing, the skills and tools of production have traditionally been reserved to secondary or post-graduate education. Today, however, anyone with the privilege to attend a graduate program in a media field may have already been publishing their multi-media documentation of the world around them for ten years. Older people who never before could afford a camera now find them embedded in their telephones. Given this expansion in access, the potential for more people to contribute to our society through media is tremendous, but we must adjust our understanding of media literacy to meet this new reality.

iii. Communications structure and policy:

As evidenced by the Future of Media proceeding itself, even if you are an expert at making the media, if you do not understand how the technology and regulatory environment are changing and how you can influence those changes, you can quickly see your media business or your access to the media utterly transformed or even wiped away. Communications policy should be incorporated into media literacy programs, as well as broader civic education.

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[200] Kaiser Family Foundation, *Generation M: Media in the Lives of 8-18 Year-olds* (Mar. 2005) http://www.kff.org/entmedia/upload/Executive-Summary-Generation-M-Media-in-the-Lives-of-8-18-Year-olds.pdf

[201] Patricia Aufderheide, *Media Literacy. A Report of the National Leadership Conference on Media Literacy*, Aspen Institute, Communications and Society Program (1993) .

Examples of programs that currently offer this sort of training are available.[202] For example, for the past ten years, People's Production House has offered its Radio Rootz media literacy program in public schools in New York City and Washington, DC. The multi-week program begins with classes on advertising and commercialism in the media to develop critical thinking and a shared understanding of what is present and what is lacking in the available media. The second half of the course is on radio production, where the students learn how to conduct an interview, write a radio script, voice their own comments and analysis, operate a digital recorder, and use audio editing software. The combination is key to the program's success at training young journalists and advancing student achievement.

Recently, People's Production House has taken media literacy a step further, developing tools to teach about the policies and technology that structure the media, how we consume it, and our access to distribution infrastructure. Their video, "The Internet is Serious Business," produced with the Center for Urban Pedagogy and students from City-As-School in New York, is a model for deepening popular understanding of our system of media, how it works and how we can change it. Currently, People's Production House, the Center for Urban Pedagogy, the Media Literacy Project (based in Albuquerque, New Mexico) and the Institute for Popular Education of Southern California (based in Los Angeles, California), with support from the Instructional Telecommunications Foundation and the Media Democracy Fund, are completing a "Cell Phone Literacy Toolkit" that will include lessons in cell phone advertising, how cell

[202] *See also* programs run by the following community focused media organizations Institute for Media Literacy at USC, http://iml.usc.edu/, Digital Media and Learning Central, http://dmlcentral.net, The Center for Media Justice, http://centerformediajustice.org/, Mag-Net, http://www.mediagrassroots.org, and the VozMob project, http://vozmob.net/,

phones are marketed, how to use mobile phones for citizen journalism, how the technology works, and how cell phones are regulated.

b. Incorporate digital and media literacy programs into public school education.

Children and adolescents are adopting new communication technologies at astounding rates.[203] This may be due in part to their station in life as learners and new adopters. It is also likely due to intensive marketing campaigns focused at young consumers. Whatever the cause, it would be irresponsible to abandon children's digital development to these [arbitrary or pernicious forces. Researchers have identified three main shortcomings in youth digital and media literacy that school-based programs must address. The first is the fundamental inequalities in young people's access to new media technologies and the opportunities for participation they represent (what we call the participation gap). The second is that it assumes that children are actively reflecting on their media experiences and can thus articulate what they learn from their participation (what we call the transparency problem).The third problem with the laissez faire approach is that it assumes children, on their own, can develop the ethical norms needed to cope with a complex and diverse social environment online (the ethics challenge). Any attempt to provide meaningful media education in the age of participatory culture must begin by addressing these three core concerns.[204]

While school-based programs can help address these gaps, they are not a panacea. Imbalances in school funding and the presence of other societal ills, such as poverty and

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[203] http://pewinternet.org/Reports/2010/Teens-and-Mobile-Phones.aspx

[204] Henry Jenkins *et al,*, *Confronting the Challenges of Participatory Culture: Media Education for the 21st Century*, MacArthur Foundation Digital Media and Learning (2006) http://digitallearning.macfound.org/site/c.enJLKQNlFiG/b.2108773/apps/nl/content2.asp?content_id={CD911571-0240-4714-A93B-1D0C07C7B6C1}&notoc=1

environmental injustice, limit young people's opportunities to use digital media collaboratively in the classroom. Any federal aid should target communities of greatest need. Youth digital media programs should be tied to community improvement projects; this enhances the relevance for the participants and puts the resources to most efficient use, meeting local information needs while addressing local problems. Detroit Summer, for example, taught media production skills, then used audio and video production to engage young people citywide in responding to the local dropout crisis.[205] In addition, we need curricular resources that can teach essential concepts for the digital age without relying on expensive technology.

c. Media literacy education should begin in the 6th grade, with basic skills included earlier.

McREL, a private, nonprofit leader in educational standards, suggests educational benchmarks for media literacy beginning in Kindergarten, with aspects of media production addressed from grade 6 onward.[206] In 2009, the New Mexico State Legislature passed HB 342, establishing media literacy as an elective for public school students beginning in the 6th grade.[207]

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[205] *See* Detroit Summer Live Arts Media Project, "Rising Up From the Ashes: Chronicles of a Dropout" http://www.detroitsummer.org/index.php?option=com_content&task=view&id=25&Itemid=27

[206] *See* http://www.mcrel.org/compendium/topicsDetail.asp?topicsID=271&subjectID=7 Their standards for grades 6-8 include "Understands aspects of media production and distribution," "Understands the ways in which image-makers carefully construct meaning" and "Understands influences on the construction of media messages and images." From 9th grade, benchmarks include issues of media policy, i.e., "Understands aspects of media ownership and control" in addition to "production elements that contribute to the effectiveness of a specific medium."

[207] *See An Act Relating to Education; Providing for Media Literacy as an Elective for Public School Students in Grades Six Through Twelve* (2009) http://www.nmlegis.gov/lcs/_session.aspx?Chamber=H&LegType=B&LegNo=342&year=09

d. Integrate digital and media literacy programs into public school education across core subjects, with certain precautions.

There is growing evidence to suggest that the inclusion of media production skills in core subjects, such as history or science, can improve student performance.[208] However, it is important to focus on the creativity, critical thinking and teamwork involved in digital media production, rather than getting caught up in the latest technology; programs that rely on expensive technology labs are neither replicable nor sustainable. The example of Channel One, which abuses the need for accessible current events content to deliver advertising to a captive audience of students, is also cautionary. The Commission should discourage digital and media literacy programs that increase children's exposure to advertising, including corporate logos on donated equipment and software.

e. Offer digital and media literacy programs to the general public through public computer centers, community colleges, local or regional media centers, job training sites, and other community support institutions.

As long-time providers of digital media skills, existing local media centers, such as cable television access centers and low power community radio stations, are ideally positioned to deliver educational services to the general public. Libraries have also already taken on this responsibility. We recommend these institutions find ways to collaborate to meet community needs. The National Telecommunications and Information Administration's Broadband Technology Opportunities Program [BTOP] has received numerous proposals that bring together

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[208] *See* Renee Hobbs and Amy Jensen, *The Past, Present, and Future of Media Literacy Education*,The National Association for Media Literacy Education's Journal of Media Literacy Education 1 (2009) at 1-11 "Collaborations between media literacy advocates and science educators demonstrate that teachers can provide more authentic educational experiences for students when combining the educational objectives of science educators with media literacy experiences." http://jmle.org/index.php/JMLE/article/view/35/0

broad groups of stakeholders to provide digital literacy training that goes beyond basic computer usage, such as that from the California Emerging Technology Fund.[209] We look forward to learning from these exemplars as they are implemented. State and local governments are also seeing the need to support such programs, as evidenced by the Washington State Legislature's recent passage of HB 1701, establishing a Community Technology Opportunity Program that includes support for digital media training. We recommend expanding these federal, state and local programs.

f. Resource programs and training to meet growing demand for media literacy educators.

The universal education goals described above would require a significant increase in the number of trainers with the combination of technical, pedagogical, social and entrepreneurial skills to provide digital media education. We recommend additional workforce development programs to meet this demand. These programs should support multiple strategies, relying on public school teachers, volunteers, and private contractors to meet demand. They should consist of:

- Professional development programs to help school teachers adopt new technologies.
- Development of media literacy curricula and media-based curricula for core subjects.
- Programs to support small businesses and community organizations adopt new technologies.
- Small business programs to support digital literacy and information technology service providers.

The "Digital Literacy Corps" envisioned in the Commission's National Broadband Plan is one possible model for training digital literacy providers. The National Black Programming Consortium is currently piloting a "Public Media Corps" in Washington, DC. According to the

[209] "Broadband Awareness and Adoption" *Application ID 308* http://www.ntia.doc.gov/broadbandgrants/applications/summaries/308.pdf

project's website, "the PMC is a new national service that proposes to promote and extend broadband adoption in underserved communities by placing Fellows skilled in technology, media production, and outreach in residencies at underperforming high schools, public broadcast stations, and non-profit community anchor institutions."[210] In a more market-based approach, Michigan State University, in collaboration with the Detroit Digital Justice Coalition, has proposed to BTOP a program that would stimulate demand for digital media services from local small business and nonprofits, then provide workforce development training to local digital media artists to provide those services as independent contractors.[211]

Conclusion

We appreciate the opportunity to submit these comments. We hope that the Commission finds value in our research and perspective as it undertakes the daunting, yet critical task of its inquiry in to the future of media.

Respectfully Submitted,

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_____/s/_____
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[210] http://publicmediacorps.org

[211] See "Broadband Adoption through Education and E-Entrepreneurship in Michigan's Urban Cores," *BTOP application ID 6548*, http://www.ntia.doc.gov/broadbandgrants/applications/summaries/6548.pdf