

UNITED STATES OF AMERICA  
FEDERAL COMMUNICATIONS COMMISSION

WORKSHOP ON THE FUTURE OF MEDIA & INFORMATION  
NEEDS OF COMMUNITIES: SERVING THE PUBLIC INTEREST  
IN THE DIGITAL ERA

Washington, D.C.  
Thursday, March 4, 2010

## 1 PARTICIPANTS:

2 STEVEN WALDMAN, Moderator  
3 Senior Advisor to the Chairman

4 MIGNON CLYBURN  
5 Commissioner, Federal Communications Commission

6 MICHAEL J. COPPS  
7 Commissioner, Federal Communications Commission

8 Panel 1: A Brief History and Overview of  
9 the "Public Interest" in Media Policymaking

10 PAUL STARR  
11 Professor of Communication and Public Affairs  
12 Princeton University

13 HENRY GELLER  
14 U.S. Telecommunications Legal Expert  
15 Former FCC General Counsel

16 ROBERT RATCLIFFE  
17 Deputy Chief, Media Bureau Federal Communications  
18 Commission

19 Panel 2: Traditional Media - Local  
20 Television and Radio Public Interest Obligations

21 TOM ROSENSTIEL  
22 Director Pew Research Center's Project for  
Excellence in Journalism

JANE MAGO  
Executive Vice President and General Counsel  
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ANDREW J. SCHWARTZMAN  
President and Chief Executive Officer Media Access  
Project

BARBARA COCHRAN  
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1 PARTICIPANTS (CONT'D):

2 ERIC KLINENBERG  
3 Professor of Sociology New York University

4 JERALD N. FRITZ  
5 Senior Vice President Allbritton Communications

6 ANGELA CAMPBELL  
7 Professor of Law  
8 Director of the Institute for Public  
9 Representation Georgetown University

10 Panel 3: Policy Implications of  
11 Convergence and the Digital Transformation

12 ADAM THIERER  
13 President and Director Center for Media and  
14 Digital Freedom The Progress & Freedom Foundation

15 BEN SCOTT  
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17 JEFF JARVIS  
18 Associate Professor Director of the Interactive  
19 Program CUNY Graduate School of Journalism

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1 P R O C E E D I N G S

2 (10:03 a.m.)

3 MR. WALDMAN: Welcome to the FCC's  
4 Workshop on Serving the Public Interest in the  
5 Digital Era. This is the first workshop conducted  
6 as part of the project on The Future of Media and  
7 the Communication Needs of Communities.

8 My name is Steven Waldman. I'm senior  
9 advisor to the chairman of the FCC, Julius  
10 Genachowski.

11 The mission of this project is to ensure  
12 that all Americans have access to vibrant diverse  
13 sources of news and information that will enable  
14 them to enrich their lives, their communities, and  
15 their democracy. The project will be producing a  
16 report this year analyzing the state of the media  
17 landscape and making recommendations on public  
18 policy. The website, [fcc.gov/futureofmedia](http://fcc.gov/futureofmedia),  
19 includes detailed information about the project  
20 and provides members of the public an opportunity  
21 to comment both on policy matters and also on  
22 what's going on in their communities as it relates

1 to media.

2           Now, in this workshop, we are not  
3 attempting to cover every issue related to the  
4 future of media. For instance there have been  
5 several separate workshops already on media  
6 ownership, and there are others planned, nor will  
7 this panel cover noncommercial or public media and  
8 several other topics. So, if there is a  
9 particular topic that doesn't get covered today,  
10 it's not necessarily because we don't think it's  
11 important; it is probably coming soon.

12           Suffice it to say that our goal at this  
13 point is to gather information and improve our  
14 understanding, and there is one other goal which  
15 is to stimulate creative thinking about public  
16 policy. The time is now to generate new ideas  
17 that might help ensure that our communities and  
18 our citizens are being served well by the news and  
19 information they need. We expect some of the  
20 panelists will challenge us and provoke us, and  
21 that's exactly what we are hoping for at this  
22 stage.

1           I'm new here, and so it has been a  
2           revelation to me the incredible amount of work  
3           that goes into polling one of these workshops  
4           together, so we wanted to thank the team at the  
5           FCC that has worked very hard to pull this  
6           together, including Elizabeth Andrion, Chris  
7           Clark, Renee Crittendon, Bill Freedman, Joel  
8           Guran, Jamilla-Bess Johnson, Andrew Caplan,  
9           Jonathan Levy, Mark Nadel, Dana Scherer, Peter  
10          Shane, Joel Taubenblatt, Krista Witanowski, and  
11          Irene Wu.

12                 We eagerly encourage members of the home  
13          viewing audience to participate in the workshop.  
14          For each of the three panels there will be a Q&A  
15          period we'll be taking questions. You can submit  
16          your questions by either e-mailing  
17          futureofmedia@fcc.gov -- futureofmedia@fcc.gov --  
18          or on Twitter/fomwksp.

19                 Now, I want to begin this workshop. I'm  
20          very honored and pleased that we will be kicking  
21          off with some comments from Commissioner Copps,  
22          who has been a champion of this issue and of the

1 importance of journalism news and media in  
2 communities for as long as he's been on the  
3 Commission, and has been a strong advocate for  
4 this project as well.

5 Thank you. Commissioner Copps?

6 MR. COPPS: Thank you, Steve, and good  
7 morning. And welcome to everybody here to what I  
8 think is potentially the most important dialogue  
9 taking place at this Commission this week, this  
10 month, maybe this year, because what we're here to  
11 talk about today goes to the heart of one of the  
12 most pressing challenges confronting our nation  
13 today, and it goes to the heart of what this  
14 agency should be all about. And I'm talking about  
15 helping to ensure that our citizens have a media  
16 that truly serves the public interest.

17 Since I walked through the doors of this  
18 building nearly nine years ago, I have been  
19 working to revitalize the public interest,  
20 especially in our broadcast media, as required by  
21 our enabling statute. And, frankly, when I got  
22 here, I couldn't understand why this should be

1       such a steep lift. How can it be too much to ask?  
2       Wasn't this the deal in the first place?  
3       Broadcasters would get to use the people's  
4       spectrum for free in exchange for serving the  
5       people in their diverse and local communities.  
6       But then I found out that for most of the past 30  
7       years we had really dropped the ball, and I use  
8       the term "we" to include both the private and the  
9       public sectors.

10                I'll spare you the details because I  
11       think you'll hear them from the real experts  
12       today, but those three decades of absolutely  
13       horrendous decisions set in motion a media  
14       freefall that has inflicted serious consequences  
15       on the body politic.

16                The private sector harm was a tsunami of  
17       media consolidation fueled by the same  
18       hyperspeculation that was fueling so many bubbles  
19       in so many other industries. Stations were  
20       boggled up en masse, and totally unrealistic  
21       expectations were visited upon "them," and even  
22       upon the ones who managed to stay unconsolidated.

1 A lot of broadcasters, I think, weren't thrilled,  
2 and many wanted to keep their emphasis on serving  
3 their local communities. But it becomes harder  
4 and harder, sometimes impossible for them to do  
5 so. "Play the game or get voted off the island,"  
6 became the mantra of this dangerous game of media  
7 survival.

8 At about the same time the sins of  
9 commission were issuing from the private sector,  
10 sins of both commission and omission emanated from  
11 the FCC. We fell under the spell of an  
12 ideological deregulatory mindset, fueled the  
13 evisceration or outright elimination of just about  
14 every interest, public interest, obligation or  
15 public interest guideline we ever had.

16 Much of media began to resemble the vast  
17 wasteland that Newton Minow had predicted as early  
18 as 1961. Some say there are more outlets now than  
19 ever, but in terms of real localism and diversity,  
20 that localism and diversity that more outlets  
21 should have produced, we ended up with a wasted  
22 vastland, as someone has called it.

1           Now, I'm not here to argue that the FCC  
2           ever did a stellar job of enforcing this licensing  
3           contracts with the stations. There never has been  
4           a golden age of public interest, but there were  
5           years when we had meaningful public interest  
6           guidelines, and one we at least went through the  
7           motions of public interest reviews. And  
8           broadcasters knew then -- and I had many of the  
9           "industries' greats" tell me this -- that the Ed  
10          Murrow era of journalism wasn't fueled by just a  
11          more public-spirited attitude on the part of the  
12          broadcast industry but, equally or more so, by the  
13          knowledge that this was the deal, this was the  
14          expectation, it was what was needed to be produced  
15          in order to get the license to operate.

16                 Yes, stations were supposed to make a  
17          profit, but back then the newsroom was not seen as  
18          a primary driver of the station's profit nor  
19          should it be seen that way now. So it's no great  
20          wonder that things went sour. The market kept  
21          saying more profit, more profit. So if you're  
22          making 15 percent this year, you have to do 20

1     percent next year; and if you make 20 percent next  
2     year, you'll need 25 or 35 percent the following  
3     year or you're bought off your island and put out  
4     to Big Media's consolidated mainland.

5             The result? Newsrooms decimated, those  
6     more than 30 percent ABC News jobs cut last week  
7     being only the most recent installment. Beat  
8     reporters fired, bureaus closed.

9             Did you know that over half of our  
10    states do not have a single reporter accredited to  
11    Capitol Hill? How's that for holding the powerful  
12    accountable? Watchdog journalism is an endangered  
13    species and far too often infotainment subs for  
14    the news that people really need. Some companies  
15    did this with relish, others with reluctance, but  
16    the result is the same: Less news and  
17    information, a seriously dumbed-down democratic  
18    dialogue, diminished civic engagement, and an  
19    absence of meaningful public interest oversight.

20            There's some good news, though, and the  
21    good news is we have a chance now better than in  
22    many, many years to bring the public interest

1 back. Change is in the air, and my belief is  
2 that, if we all do our work, the days of  
3 dismantling public interest protections and  
4 walking away from our statutory mandates, the days  
5 of treating TV as just a toaster with pictures and  
6 nothing more, the days of writing blank checks for  
7 every sort of hyperspeculative deal that some  
8 budding financial genius can devise, the days of  
9 wondering if such a thing as public interest  
10 actually exists and waiting skeptically in the  
11 night for an angel of the public interest to  
12 appear to prove it, I believe those days are  
13 passing away.

14           This Commission and another helping hand  
15 from the American people can, and I believe it  
16 will, bring the public interest back to life. The  
17 change won't be easy, but nothing worthwhile ever  
18 is. The question now is not whether there is a  
19 public interest, but how to make it survive and  
20 thrive.

21           And that's why we're here today, to  
22 solicit and elicit your thoughts on how public

1 interest oversight applies to the world we're in  
2 and to the world we're heading toward. How should  
3 it apply to the new digital media, but also how do  
4 we reinstall some of what has been lost in  
5 traditional media? And this latter part is really  
6 important, just as important as the former,  
7 because it's newspapers and broadcast media that  
8 still originate the overwhelming amount of the  
9 news we get, on the order of three-quarters or  
10 more, and that number is going to go down only  
11 slowly.

12           So traditional media will be playing the  
13 major news role for some years to come. And five  
14 more years of watching it slide as it has been  
15 sliding is not something that American democracy  
16 can afford, so address this problem with the  
17 urgency it deserves, please.

18           As for the new media to which much of  
19 our media will one day migrate, how do we ensure  
20 that it served the public interest and it  
21 nourishes the civic dialogue and citizen  
22 engagement that democracy depends upon? On the

1       technology platform, that has thus far not been  
2       much subject to public interest consideration.  
3       Not an easy question, but that's why we have the  
4       experts here today.

5                   And there are a lot of other questions.  
6       There's budding and insightful scholarship in  
7       this, one example being Matthew Hindman's new  
8       book, *The Myth of Digital Democracy*. How do  
9       people really get heard on the Internet? It's  
10      easy to type something in and send it off into the  
11      ether, but where are guarantees that anybody reads  
12      it or guarantees that it doesn't just evaporate in  
13      the ether? Anyone who has access can log on and  
14      say what they want, but do minorities and women  
15      and the disabled and the poor and the non-affluent  
16      and the non-elite? Do they really have an equal  
17      chance of being heard on the Internet?

18                   And how much does the hidden  
19      architecture of network design tilt the field in  
20      favor of the kind of big company control and  
21      consolidation in the new media that we saw so  
22      harmfully visited upon the old? The future Town

1 Square will likely be paved with broadband bricks,  
2 and we need to make sure that every community,  
3 every group, and every individual in this country  
4 has access to that Town Square. And it's no slam  
5 dunk that it will happen that way. It will happen  
6 that way only if we make it happen that way.

7 Technology is public interest neutral.  
8 It can accomplish good things, and it can  
9 accomplish bad things, and what decides the  
10 outcome is you and me.

11 Here's a final piece of good news.  
12 Chairman Genachowski has teed up for the  
13 Commission the public interest with the public  
14 notice that Steve mentioned and asked many of  
15 these questions. The notice is entitled "The  
16 Future of Media and Information Needs of  
17 Communities in a Digital Age." And he has brought  
18 on board my new friend, Steve Waldman, to  
19 spearhead this work and to work with all of us in  
20 finding answers and identifying solutions. And I  
21 hope each of you will work closely with Steve and  
22 respond as fully and creatively to the public

1 notice as you possibly can.

2 I do not pretend that there are a lot of  
3 easy answers to these tough questions, but at  
4 their core, these are not new and unprecedented  
5 questions either. The challenge to guarantee the  
6 flow of news and information all across this land  
7 long predates broadband. It's actually a very old  
8 challenge. Paul Starr elucidates it in many of  
9 the works that he has written.

10 George Washington, Thomas Jefferson, and  
11 James Madison quoted front and center as first  
12 things for their young country to ensure, and they  
13 figured out ways to get the job done to make sure  
14 that the information infrastructure of their day,  
15 which was newspapers, was widely available as a  
16 matter of public interest policy 200 years ago  
17 because they knew their fragile young democracy  
18 depended upon it. So today our technology is new,  
19 but our democratic challenge is exactly the same.

20 So again, thank you for being here.  
21 Thank you for the work you are doing today and for  
22 the work I hope we will accomplish together in the

1 weeks and months immediately ahead with stress on  
2 words "immediately ahead." Good luck.

3 MR. WALDMAN: Thank you very much,  
4 Commissioner Copps.

5 We are very pleased, also, to have with  
6 us Commissioner Clyburn to say a few remarks.  
7 Commissioner Clyburn has had an illustrious career  
8 fighting for the public interest, but, of course,  
9 most dear to my heart, personally, is that she's  
10 also a former "ink-stained wretch" of 14 years as  
11 the publisher of The Coastal Times, a  
12 Charleston-based weekly newspaper.

13 MS. CLYBURN: Mr. Waldman, Mr. Lake, and  
14 everyone, good morning. One of the most  
15 challenging parts of my job is not getting up to  
16 speed on jurisdictional separations or even  
17 figuring out the seemingly unending number of  
18 acronyms we use here at the Commission but,  
19 rather, having to follow my dear friend and  
20 colleague, Mr. Copps. That responsibility is  
21 particularly difficult when it comes to discussing  
22 the future of the media.

1           Commissioner Copps has been a fierce  
2     advocate for the public interest and has worked  
3     tirelessly to ensure that the Commission is  
4     fulfilling its duty in this regard. He correctly  
5     recognizes that the media whether via television,  
6     radio, print, or the Internet has an essential  
7     role to play in how our communities and our nation  
8     functions.

9           The issue of the media's place in our  
10    society is near and dear to my heart. That is why  
11    I got into this base directly out of college and  
12    why I've stuck with it through thick and, believe  
13    me, thin for just over 14 years. There is nothing  
14    more rewarding than weaving yourself into the  
15    fabric of the community. Reporting on news and  
16    supplying information that your readers count on,  
17    until you've actually done it, it is very  
18    difficult to understand exactly how important that  
19    function is in our society.

20           My family founded a weekly newspaper,  
21    The Coastal Times, in Charleston, South Carolina,  
22    as you heard, because it was clear to us that the

1 major media outlets were not sufficiently covering  
2 the news and information most relevant to the  
3 lives of African Americans in our area. They did  
4 a fine job of serving the general population and  
5 often did a superb job of highlighting the  
6 deficiencies of certain communities, but they  
7 quite often either refused to or, I quote, "didn't  
8 have the resources" to cover the many successes of  
9 certain communities. So small, struggling  
10 newspapers like mine worked hard to provide  
11 African Americans news and information that they  
12 would not find elsewhere.

13           So as we think about the future of the  
14 media, especially as it relates to our collective  
15 goal here at the FCC, I have front and center in  
16 my mind The Coastal Times of the world. If our  
17 newspapers and broadcast stations migrate to the  
18 Internet, or even disappear altogether, how will  
19 Americans, especially underserved populations, find  
20 the news and information they need? How would  
21 they be able to identify reliable sources of news?  
22 There is no question that when it comes to

1 national and international news, the Internet is a  
2 tremendous source. At least as of now, as long as  
3 we have the current line of national newspapers  
4 and magazines in existence, we know where to find  
5 reliable reporting on national stories.

6 In addition, new sites covering national  
7 news have emerged to provide investigative  
8 journalism and other general news-gathering  
9 functions. In some cases, these new entrants have  
10 pushed more traditional media to be better. And  
11 others? Well, let's just say the results have not  
12 necessarily been as positive.

13 But for me one of the most important  
14 questions we must ask in this proceeding is, how  
15 will we know where to find reliable local news and  
16 information on the Internet? This question will  
17 become increasingly relevant as the Commission  
18 looks to reclaim spectrum in order to meet our  
19 impending commercial mobile needs. I think it is  
20 incumbent upon us to keep this issue top of mind  
21 to ensure that all Americans continue to have a  
22 meaningful opportunity to be engaged in their

1 local communities through the media.

2 Localism and diversity have perennially  
3 been among the Commission's most important goals,  
4 and this proceeding can help us on this course.

5 So I am pleased, so very pleased, that  
6 the FCC has undertaken this inquiry. This is a  
7 very important project for this agency, especially  
8 at this point in time. It is my hope that we look  
9 not only at the health of the media from the top  
10 down, but how these media systems look from the  
11 bottom up. What kinds of information are citizens  
12 getting? Will communities that are sometimes  
13 neglected by the media, including minorities, end  
14 up being well served in a new media environment?  
15 These are just some of the few small questions our  
16 panelists will have to grapple today.

17 I look forward to being educated, and I  
18 thank everyone for taking time out of their busy  
19 schedules to join us. Thank you again, and good  
20 morning.

21 MR. WALDMAN: Thank you very much,  
22 Commissioner Clyburn, for this important context

1 setting remarks.

2 We will now turn to our first panel, and  
3 the goal of the first panel is to further create a  
4 context for the current public policy discussions  
5 by giving us a better understanding of the history  
6 of the concept of the public interest in  
7 policymaking as well as an understanding of how,  
8 currently, the FCC is approaching this.

9 We are very fortunate to start off with  
10 Professor Paul Starr, who's professor of  
11 Communications at the Woodrow Wilson School at  
12 Princeton University. The co-founder and  
13 co-editor of The American Prospect and,  
14 significantly, the author of the very important  
15 book The Creation of the Media: Political Origins  
16 of Modern Communications.

17 Thank you very much. Professor Starr?

18 MR. STARR: Okay. Commissioner Copps,  
19 Commissioner Clyburn, and, Mr. Waldman, thank you  
20 for the opportunity to bring an historical  
21 perspective to bear on the choices that we now  
22 face about the future of the media.

1                   Changes in politics and technology  
2 throughout our history have opened new  
3 possibilities for the media confronting us with  
4 constitutive choices, core decisions about the  
5 framework of our institutions, the communications  
6 that work technology for organizations. At those  
7 times, both government and private citizens have  
8 to ask themselves, have asked themselves, what  
9 values of those institutions, technologies and  
10 networks should reflect. And now is a moment like  
11 that as we're in the midst of one of the greatest  
12 upheavals ever in the history of communications.  
13 And so I think it makes sense to look back at the  
14 past and see how our predecessors dealt with  
15 decisions of similar magnitude.

16                   Now, this country was especially  
17 fortunate in the choices that were made at the  
18 nation's founding, not just as were reflected in  
19 the First Amendment and other provisions of the  
20 Constitution and Bill of Rights, but also in the  
21 design of the first communications network that  
22 our country had, the Post Office. And from the

1 beginning, the United States set out on a  
2 distinctive path of development in communications  
3 that reflected two twin concerns: One,  
4 maintaining a republican form of government; and,  
5 secondly, building a prosperous nation on a  
6 continental scale.

7           And the contrast between European and  
8 American policy could not have been more clear.  
9 Britain and other European states typically  
10 operated postal networks that just connected their  
11 capitals and major commercial centers, and they  
12 used the Post Office as an instrument of  
13 surveillance and censorship and espionage.  
14 Newspapers were heavily taxed, and they could only  
15 gain access to the mail at the discretion of  
16 public officials.

17           In contrast, the United States created a  
18 comprehensive postal network that reached into  
19 towns and villages and out to the frontier, and  
20 guaranteed freedom of postal communication to all  
21 without any central surveillance. And perhaps  
22 most relevant to our discussions today, instead of

1       taxing the press Congress built into the structure  
2       of postal rates two kinds of subsidies to  
3       newspapers: Cheap rates for sending copies to  
4       subscribers, and the right for newspaper editors  
5       to exchange copies of their own paper with one  
6       another at no postal charge whatsoever. And the  
7       result of that policy in the early republic was to  
8       create a national news network through the postal  
9       system, but without any government control over  
10      the content of those newspapers.

11                So postal subsidies were really vital to  
12      the foundation of a free press in the United  
13      States. They later extended those subsidies, were  
14      later sent to magazines, and have long served as a  
15      very important basis of government support of the  
16      press and public discussion.

17                And the point is this: Congress deemed  
18      it a public interest to provide positive aid to  
19      the press, not just to desist from censorship but  
20      actually promote the active development of  
21      newspapers throughout the country.

22                Now, those postal subsidies weren't

1 really entirely content-neutral: Congress refused  
2 to extend the advertising circulars of the low  
3 rates that it gave newspapers and magazines. But  
4 postal subsidies were viewpoint neutral. We  
5 didn't savor one party over another, and, by the  
6 way, they weren't conditional on the press being  
7 nonpartisan either. Those were in fact mostly  
8 partisan newspapers. The policies reflected a  
9 belief that government support of the press served  
10 a vital interest because the circulation of news  
11 and frequent discussion could help sustain a  
12 republic on a scale that had no historic  
13 precedent, and those newspapers did, in fact,  
14 through all their limitations, help to create a  
15 vibrant democracy of public debate that was  
16 uninhibited, robust, and (inaudible). And with  
17 the advent of new technologies -- the telegraph in  
18 the 1840s, the telephone in the 1870s, radio of  
19 the 20th century -- this country will face a  
20 series of new constituent choices in  
21 communications. And again, America's choice and  
22 path of development took part in the pattern in

1 Europe. Now, it's hard to say that all these  
2 decisions were governed by a consistent and  
3 deliberate philosophy of the public interest, and  
4 I don't want to suggest that it all worked out as  
5 well as the founding decision about a postal  
6 system.

7           In particular, the decision to leave the  
8 telegraph to private development at a time when  
9 there were neither antitrust laws nor common  
10 carrier regulations allowed one company, Western  
11 Union, to gain a national monopoly over that  
12 medium and then to enter into an exclusive  
13 arrangement with one wire service, the Associated  
14 Press, greatly restricting the free circulation of  
15 the news in the country.

16           But the saving grace of American  
17 communication policy from the mid-19th to the  
18 early-20th century was a pattern of intermodal  
19 competition. In European countries the same state  
20 agency that controlled the postal system was also  
21 typically given control of the telegraph and later  
22 the telephone. And then still later most European

1 governments also set up broadcasting as a national  
2 monopoly.

3 Now, in contrast, though monopolies also  
4 developed here, the United States did not give  
5 control of any newly emerging medium to the  
6 organization, the incumbent that dominated what  
7 was at that point the country's dominant  
8 communication network.

9 In the 1840s, Congress decided not to  
10 put the telegraph under the control of the Post  
11 Office, even though Samuel Morris wanted to sell  
12 out his interest in the patent. And although  
13 Western Union gained control of the telegraph, it  
14 didn't succeed in controlling the next network,  
15 the telephone, partly as a result of its own  
16 mistakes.

17 And, similarly, although AT&T came to  
18 dominate the telephone industry, it also did not  
19 succeed in gaining control of the next great  
20 innovation, radio broadcasting, though it came  
21 very close to doing so in the early 1920s. So  
22 even as control of particular industries became

1 highly concentrated, the United States maintained  
2 what was, in effect if not by design, a policy of  
3 intermodal competition. And from the 19th to the  
4 early 20th century, that competition contributed  
5 to higher levels of technological innovation and  
6 more rapid rollout and ubiquitous penetration of  
7 communication networks in the United States than  
8 in other industrializing countries.

9           Now, others this morning are going to  
10 address the definition, the public interest and  
11 communication policy since the establishment of  
12 the FCC. I want to turn, therefore, to a more  
13 focused question highlighted in the title of  
14 today's workshop, the information needs of  
15 communities, and, specifically the public interest  
16 in the provision of news at the state and local  
17 level.

18           Comparative research on political  
19 corruption indicates that where the circulation of  
20 news diminishes, corruption flourishes. Another  
21 research suggests that where regular news coverage  
22 diminishes, it is more difficult for challengers

1 to unseat political incumbents in elections. Now,  
2 that isn't necessarily the result of the decline,  
3 specifically, in investigative journalism; it's  
4 without the ordinary flow of news to the public  
5 that the political system is just more likely to  
6 become entrenched, sclerotic, and unresponsive.

7 In the United States, the federal  
8 system, it's not just a feature of government;  
9 it's also been a feature of the media. While the  
10 press in many other countries became concentrated  
11 at the center of power, newspapers developed on a  
12 more decentralized basis in the United States.  
13 And similarly, while national broadcasting  
14 authorities dominated radio and television  
15 elsewhere through the 20th century, the United  
16 States gave a more prominent central role to local  
17 stations whose local news programs have  
18 complimented the national news produced by the  
19 networks. For a long time that system was so  
20 profitable for the news media that, except for a  
21 few rules such as limits on media, ownership, and  
22 a relatively modest resources devoted to radio and

1 television, it seemed -- at least it seemed to  
2 many people -- that the market could be left to  
3 meet the information needs of communities.

4           That is no longer so viewed. As the  
5 digital revolution unfolds, three distinct  
6 problems are emerging in the provision of news.  
7 The first, the problem that gets the most  
8 attention, is the financing of journalism.  
9 Advertising has traditionally represented about 80  
10 percent of newspaper revenue, but in the age of  
11 the Internet, many advertisers no longer need to  
12 piggyback on the news to reach their markets.

13           Paid circulation is also in long-term  
14 decline, yet newspapers have financed most of the  
15 original reporting at the state and local level,  
16 and as both their advertising revenues and  
17 circulation dropped, they are cutting back  
18 resources for original reporting more rapidly than  
19 new resources are developing on line. Their  
20 traditional ability to cross-subsidize public  
21 service accountability journalism out of their  
22 profits from classifieds and other ads is

1 disappearing.

2           At the national level, taking all  
3 platforms into account, the potential market for  
4 news is probably large enough to sustain diverse  
5 and competing news media on a primarily commercial  
6 basis, but at the state and local level the market  
7 may not sustain anything like the level of  
8 reporting that our federal system requires.  
9 According to a survey by the American Journalism  
10 Review, state house coverage has dropped by about  
11 a third in the past five years, and it's likely to  
12 drop even further.

13           In an intensive study of the news in one  
14 city, Baltimore, the Pew Research Center's Project  
15 for Excellence in Journalism, we found that 95  
16 percent of the news stories that contained new  
17 information came from traditional media, namely  
18 newspapers. But those papers publish less than  
19 they once did. In 2009, according to the Pew  
20 Study, The Baltimore Sun produced 23 -- 32 percent  
21 fewer stories on any subject than it did in 1999  
22 and 73 percent fewer stories than in 1991. New

1 online media are not making up for this decline.

2           And this shrinkage in original reporting  
3 is not our only challenge. A second problem has  
4 to do with the exposure of the public to news.  
5 Many people bought and read their local paper  
6 primarily because of their interest in sports,  
7 stocks, the comics, the job opportunities, but did  
8 nonetheless still scan the front pages and learned  
9 something about their community.

10           Online, however, anyone interested in  
11 sports, stocks, jobs, and so on can go to a  
12 specialized free site, usually one that's better  
13 than what their local paper offers, except that  
14 those sites don't expose them even minimally to  
15 news about their community. The incidental  
16 learning of a bundled metropolitan newspaper  
17 disappears. Just as much of the incidental  
18 learning from exposure to local radio and  
19 television news is disappearing with a  
20 fragmentation of television and audio audiences.

21           The third problem that grows out of the  
22 present upheaval is the loss of effective means of

1 political accountability. Newspapers and  
2 broadcasters have had the resources to stand up to  
3 government and business and to serve as a powerful  
4 check on them, but the capacities of those  
5 newspapers are being weakened, and online news  
6 sites may not have the deep pockets that the  
7 traditional news media have had -- for example, to  
8 fight lawsuits -- there are many promising  
9 innovations in online news. But the dominant  
10 trends are disturbing. The decline in both  
11 advertising and circulation for newspapers is  
12 unlikely to be reversed once the recession is  
13 over.

14           Newspapers, let's face it, the  
15 newspapers are surviving on an aging readership  
16 that buys a paper out of habit, and they're facing  
17 a catastrophic loss of readers among young adults;  
18 nor is that decline in news consumption limited to  
19 newspapers. Between 1998 and 2008, according to  
20 surveys by the Pew Research Center, the number of  
21 Americans who say they don't get any news in any  
22 medium on an average day rose from 14 to 19

1 percent; and among 18- to 24-year-olds during that  
2 same period, the share who get no news on an  
3 average day rose from 25 to 34 percent.

4           Now, as these data highlight, a more  
5 fragmented media environment is developing where  
6 an increasing number of Americans get no news, in  
7 part because they don't incidentally encounter it  
8 in a newspaper or in the radio and television. So  
9 the challenge isn't just to strengthen the  
10 resources for journalism to generate new  
11 financing, but to shape the media environment in a  
12 way that leads more people to bump into the news  
13 even if they don't search it out.

14           And the remedy for these problems isn't  
15 going to just come from government policy.  
16 Private nonprofit organizations and new commercial  
17 ventures are going to be critical. But what our  
18 history shows is that it is possible to have  
19 government subsidy in support of the press without  
20 government control as long as those subsidies are  
21 viewpoint- neutral and provide -- and are provided  
22 in a way that leaves little discretion to public

1 officials.

2           What our history also suggests is that  
3 we should be wary of designing policies that  
4 benefit the incumbents that dominate all their  
5 media. The aim should be to strengthen news and  
6 journalism, not necessarily the organizations that  
7 happen to have produced them in the past.

8           The digital revolution threatens the  
9 very existence of incumbents in one communication  
10 industry after another. With universal broadband,  
11 the basic rationale for some media such as  
12 television broadcasting will be thrown into  
13 question, and new constitutive questions will  
14 arise, for example, about the reuse of spectrum.  
15 The growing use of cell phones and other mobile  
16 devices for a multitude of purposes may provide an  
17 opportunity to build in some priority for local  
18 news. As the digital revolution opens up new  
19 choices, we should be thinking of ways to create a  
20 public policy that supports the press, that has  
21 requirements or incentives to encourage the widest  
22 possible exposure to news and public discussion.

1           That is what the nation's Founders did  
2           in another era when they designed the postal  
3           system, and we need to find the digital  
4           equivalent.

5           MR. WALDMAN: Thank you very much,  
6           Professor Starr. We will next turn to Henry  
7           Geller, who is a long-

8           Time expert on telecommunications and  
9           media policy, was the general counsel to the FCC  
10          under President Kennedy, and from 1964 to 1970 as  
11          well as being assistant secretary of commerce for  
12          communication and information, and a long-time  
13          scholar and advocate on behalf of the public  
14          interest in communications.

15          MR. GELLER: Steve asked me to go back  
16          over the history of the public interest standard  
17          at the FCC. I think he thinks I was there in  
18          1927. I didn't come until the late '40s. That's  
19          not my (inaudible).

20          It came in, in 1927, when Congress had  
21          to act. There was a lot of interference. Some  
22          people were arguing for a common carrier approach.

1 Congress rejected that, decided upon the public  
2 interest that the broadcaster would be a  
3 short-term licensee, that he would be a fiduciary  
4 for his community, and that he had public interest  
5 obligations to be an effective local outlet, to  
6 put on children's programming, and to contribute  
7 to an informed electorate so -- that's so  
8 important to our democracy.

9           The critical question that I'll try to  
10 go over is, well, how effective was that system as  
11 implemented by the FCC over the decade? In the  
12 pollution area, the government doesn't say don't  
13 pollute, do right. Industries are under a lot of  
14 competitive pressure, and so you have to have  
15 clear and quantitative standards.

16           When you look at the area we're in now  
17 broadcasting, it's very similar. There is  
18 enormous competition out there, very fierce. If  
19 you just say to the broadcaster, "Serve the public  
20 interest," that pressure will take apart the  
21 regime that, with one exception that I'll go into,  
22 there has never been since 1927 to the present day

1       minimum adopted clear that said you must do the  
2       following.

3               In 1940 or '50 -- I'm trying to figure  
4       exactly when -- in 1946, the Blue Book came out.  
5       In 1960, the programming statement came out. At  
6       the same time the Commission decided upon an  
7       ascertainment, you go out, you interview the  
8       people in the community, the officials, the  
9       minorities, and then you draft programs to meet  
10      the issues, the problems that they bring up.

11              Dean Burch, in 1973, when he was  
12      chairman, said all these efforts were mush, that  
13      he was talking to a group of broadcasters, and he  
14      said, "If I asked you what are the standards for  
15      renewal, you wouldn't know, I couldn't tell you,  
16      and the renewal staff wouldn't know either." And  
17      what he said, therefore, is we must turn to  
18      quantity. I was involved in that. I thought we  
19      finally would be getting somewhere, but,  
20      unfortunately, Burch left, and when he left, the  
21      entire project floundered.

22              The next step was you can go to the

1       1980s. In 1980s, were the nadir because Mark  
2       Fowler and Dennis Patrick believed in the print  
3       model, a very fine model, but the statute called  
4       for public interest. They eliminated all the  
5       categories of programming. They eliminated  
6       ascertainment. They said that the only thing that  
7       counts is community issue- oriented programming.  
8       The licensee was to take sample or illustrative  
9       programs and put them on file at the station and  
10      send a postcard to the FCC saying that we have  
11      done this. So the whole thing was dependent upon  
12      the public going in, analyzing and filing  
13      petitions or complaints. And they knew that  
14      wouldn't happen. It was -- the label on it was  
15      deregulation of television, and that's what it  
16      was.

17                   The Gore Committee in 1999 -- it was  
18      actually December of '98 -- criticized this and  
19      argued for a standard form, an enhanced  
20      disclosure, and minimums, minimums in public  
21      service announcements and public affairs, other  
22      areas. The Commission in October of 2008 did

1       adopt the enhanced disclosure and the standard  
2       form. It's been hung up on reconsideration, and  
3       there are courts appeal. But the point I want to  
4       make again is that the Commission did not oppose  
5       or adopt any minimum. It was still vague. You  
6       could get all this material, but the public  
7       wouldn't know, the licensee wouldn't know, and the  
8       Commission wouldn't know was it enough? Was this  
9       sufficient to meet the public interest obligation?

10                You could, by this time, deduce that  
11       that's what I think ought to be done, the minimum.  
12       When I got in to advise Newt Minow, this was 1961,  
13       and he went down to the Commission with a  
14       memorandum, a proposed minimum. He came back  
15       laughing saying, "We lost six to one." There were  
16       seven commissioners then.

17                But the point now you have to look at  
18       is, would it work? Suppose you did adopt minimums  
19       in all these program categories that you think are  
20       in? The reason now I turn to children's  
21       television because it's very interesting what  
22       happened there. When it was adopted, nothing

1       happened for two years, then Reed Hundt came on,  
2       and he did a very fine job of adopting what I call  
3       the minimum. It was three hours, it was a safe  
4       haven, but if you didn't have it, you weren't  
5       going to get renewal. He defined every aspect of  
6       it. You can see it in the rule now, very  
7       thorough, and it did do one thing: The  
8       broadcasters instead of doing a half-hour the way  
9       Disney and others were doing, it went up to three  
10      hours.

11                But if when Annenberg Washington looked  
12      at how it worked, they found that a quarter of the  
13      programs were non-educational at all, and that  
14      almost all of them were social purpose. And  
15      example, that NBC came out with a program NBA  
16      Inside Stuff. Hundt said that's not educational,  
17      and NBC came back saying we have two psychologists  
18      say it is. And Hundt backed off because if you  
19      wanted to go to hearing on this, you're in the  
20      First Amendment area and it gets very sticky.

21                When there was a study made three years  
22      later, and they studied Los Angeles because that

1 was going to be representative of other cities,  
2 and they found what Annenberg had found: A lot of  
3 entertainment masquerading as educational, all of  
4 it social purpose, none of it on weekdays, only on  
5 the weekend, and subject to preemption. I think  
6 you have to say that despite Hundt's very valiant  
7 effort, the implementation was a failure.

8           Now you have to ask why, and in my  
9 opinion the reason why is you're trying to get the  
10 commercial broadcasters who face this fierce  
11 competition to act against their driving economic  
12 interest, and you're trying to do it in a First  
13 Amendment area. And I don't think you can do it.  
14 I think you'd be much better off if you adopted a  
15 structure that worked for the accomplishment of  
16 your goal. And, by that, I mean that I would give  
17 up on the public interest obligation of commercial  
18 broadcasters; I would require 5 percent spectrum  
19 fee -- that's what cable pays -- and I would give  
20 that in the fund to public broadcast television,  
21 because they want to do high-quality children's  
22 programming, you know, the cultural programming,

1 in-depth informational programming.

2 For the first time, you would have a  
3 structure that works for the accomplishment of the  
4 goal. You would make cable and broadcasting stand  
5 on this in the same -- I'm sorry -- in the same  
6 way you would relieve, therefore, First Amendments  
7 strain, and I think you would be doing better,  
8 much better for the public interest.

9 Do I still have some time?

10 MR. WALDMAN: Two minutes.

11 MR. GELLER: I went over cable slightly  
12 in my statement. It is not a public interest  
13 application; it is more the Associated Press that  
14 the American people should get information from  
15 diverse and antagonistic sources. The way this  
16 was going to come was through commercial-leased  
17 access and PEG channels -- public, educational,  
18 and governmental. I am sorry to say that they  
19 also have failed.

20 Commercial-leased access is not used at  
21 all. It had constraining provisions put in by  
22 Congress. Congress tried to patch it again. I

1 think it would have been much better if they'd  
2 used last offer arbitration, but that was never  
3 adopted.

4 The PEG was another example of Congress  
5 doing something that was all wrong. The PEG  
6 channels are great for localists, but they need  
7 money. The FCC, we had adopted a rule that said  
8 that the 5 percent -- it limited it to 5 percent;  
9 it used to be a bidding war -- that 5 percent has  
10 to be used for cable-related purposes such as PEG.

11 What happened was called by the cable  
12 industry the \$800 million bribe. But they got the  
13 support of the cities, the franchise units, by  
14 saying we'll take that out. The money will go to  
15 you and the FCC cannot dictate where it goes. And  
16 so PEG is not -- which does very well on some  
17 areas, some areas it's not there at all, and in  
18 most areas it is dark. I think we should stop  
19 starving PEG and, above all, we should stop  
20 starving public television. I will stop.

21 MR. WALDMAN: Thank you very much. We  
22 will now turn to presentation from Bob Radcliffe,

1       who is the deputy chief of the Media Bureau. You  
2       might wonder why we would have someone from our  
3       own group up on the platform, since we can just  
4       grab him in the hallway and ask all these same  
5       questions. I suppose as a bit of a newcomer to  
6       the agency, I just found it so helpful to be  
7       briefed by Bob and others as to the basic  
8       mechanics of what happens now. I thought it would  
9       be useful for everyone else to have the benefit of  
10      that, that I had, and to make sure, as we go  
11      forward into the discussions for the rest of the  
12      day, that we're all operating a common  
13      understanding of what actually happens right now.

14               MR. RADCLIFFE: Thank you, Steve. Thank  
15      you, fellow panelists here. One of the things I  
16      have to say, I guess, is that Henry has provided  
17      such a comprehensive review of the history of  
18      these rules, the public interest obligations of  
19      broadcasters over the years that a lot of the  
20      first part of my statement I can just get rid of.

21               But it is important to remember, I  
22      think, his statement definitely illustrates that

1 the Commission has struggled with defining both  
2 what it is and how to measure it, and how to  
3 evaluate compliance with it. The public interest  
4 obligations of broadcasters for every year of the  
5 76 years of its existence, the 1946 programming  
6 Blue Book that Henry mentioned, as well as the  
7 1960 programming statement, all included attempts  
8 to look at what kind of programming was important  
9 in discharging your public interest obligation and  
10 whether there was.

11 In the '70s, I guess there were specific  
12 measures adopted as to quantitative amounts of  
13 programming that would at least be -- would  
14 convince the Commission under the guidelines that  
15 it adopted in that era that the staff could rule  
16 on the renewal application. This was seen as just  
17 a guideline, not a rule, as Henry said, and we  
18 never had a specific standard that you absolutely  
19 have to meet. And I think he's quite right in  
20 pointing out that this obviously reflects the  
21 tension between the Commission's attempt to see  
22 whether you're performing well in a programming

1 area and the First Amendment's restraint on the  
2 government looking into the programming choices of  
3 broadcasters.

4 In any event, to get us up to where we  
5 are now, we went through all of those  
6 machinations, and we ended up in the 1980s with  
7 the deregulation orders. Those orders basically  
8 adopted as the -- and I think it's worth listening  
9 to what the Commission said it was, it actually  
10 wasn't a rule that said you do the programming.  
11 It was a rule that said you had to list the  
12 programs and put the list of those programs in  
13 your public file. The obvious implication in the  
14 order, of course, was that you had to do the  
15 programming in order to have something to list.

16 But the rule says that you have to  
17 provide this list on a quarterly basis, place it  
18 in your public inspection file, a list of programs  
19 that have provided the station's most significant  
20 treatment of community issues during the preceding  
21 three-month period. You're supposed to keep that  
22 list the entire renewal term. That's eight years

1       today, which means you've got a lot of quarterly  
2       program lists in your files.

3               The list was required to describe the  
4       program and the issue that it addressed, and the  
5       date, time, and duration of the program that was  
6       presented, and it had to be placed in the public  
7       file within 10 days of the end of the quarter  
8       which it was reporting.

9               But it absolutely had no standards as to  
10       what kind of programming this was that, i.e.,  
11       program category: News, public affairs,  
12       religious, cultural, agricultural, all the other  
13       kinds of program types that the Commission had in  
14       the past looked to, in one form or another, as  
15       this test for performing your public interest  
16       obligation in the programming area.

17               It was primarily intended to inform  
18       people in the community who came to the station,  
19       who the Commission presumed would evaluate the  
20       performance of their local broadcasters and  
21       participate in the renewal process. Because at  
22       the same time that the Commission adopted this

1 rule, the Commission also eliminated, as Henry  
2 said, the ascertainment obligations, and it does  
3 not require that this list be filed with the  
4 Commission. It adopted, subsequent to all of  
5 this, rules that eliminated much of what you  
6 report in a renewal application and replace them  
7 with certifications.

8 Those certifications were: I did, in  
9 fact, place my public -- in my public interest  
10 file and public inspection file, rather, the lists  
11 of programs that I aired during the preceding  
12 quarter, each quarter for the time over the past  
13 renewal period; that I did, in fact, meet my  
14 programming obligations.

15 But there was no review by the  
16 Commission of what the substance of that  
17 compliance was. And the Commission, when it  
18 adopted this approach of going, I think you can  
19 fairly say, from a proactive to a reactive method  
20 of reviewing your performance of renewal, of a  
21 broadcasters' performance of renewal.

22 It said that it would rely on these

1 petitions to deny and these certifications. In  
2 the absence of a petition to deny or an informal  
3 objection, and the proper certification and the  
4 renewal form, the Commission would grant your  
5 renewal at least with respect to the programming  
6 performance component of that renewal application.

7 I won't go over the -- Henry did mention  
8 as well the enhanced disclosure proceeding, which  
9 was an attempt to improve upon the documentation  
10 at least that broadcasters provided -- television  
11 broadcasters only, by the way. And I think it was  
12 prompted by the digital transition part of  
13 relooking at what the public interest obligation  
14 was as we approached the digital age. And there  
15 were, as Henry said, many petitions for  
16 reconsideration and court cases filed with respect  
17 to that. So, in point of fact, the rule that  
18 applies today to television broadcasters is  
19 exactly the same rule that applies to radio, the  
20 issues-responsive program list.

21 And it's probably important to say as  
22 well that the last component that the Commission

1 used to look at program performance, and other  
2 aspects of the broadcasters' performance that  
3 ruled the comparative renewal process, was  
4 eliminated both in that Bechtel decisions which  
5 found them to be arbitrary and capricious in the  
6 way they implemented that review, and by Congress  
7 in the 1996 Telecom Act where it prohibited the  
8 Commission from considering comparative renewals.

9 I was also asked to touch, I think, on a  
10 couple of the other, as opposed to the programming  
11 components of the public interest obligations to  
12 broadcasters, but a bunch of other things that the  
13 Commission -- that kind of contained in the  
14 Commission's rules, I think it's useful to sort of  
15 divide them into, admittedly imperfect, categories  
16 of proactive or active affirmative requirements  
17 that broadcasters have, things they have to do in  
18 order to demonstrate compliance, and prohibitions,  
19 things that they need to refrain from doing to  
20 ensure that their service is in the public  
21 interest.

22 Children's television, as Henry

1 mentioned as well, is one of the primary  
2 affirmative obligations. The 3 hours of core  
3 programming are required to be specifically  
4 designed to serve children 16 years and under,  
5 must be regularly scheduled, 30 minutes in length,  
6 and identified as core programming when it's  
7 aired. So, as he pointed out, in this area at  
8 least of programming, the Commission has been a  
9 lot more specific with respect to the obligation  
10 than it has been with respect to your general  
11 public interest obligations in programming.

12 Core programs, also, must be identified  
13 as core in guide, as you provide information to  
14 guide publishers. They have to be listed on a  
15 quarterly report which filed in your public  
16 inspection file and with the Commission of the  
17 programming that you believe met your obligations.

18 Licensees can make an alternative  
19 showing if they don't meet it. For instance, if  
20 some of their children's programming might be less  
21 than 30 minutes in length, but nonetheless good  
22 programming, they can certainly use that

1 programming to make an argument to the Commission  
2 that it should be given credit for its performance  
3 in the children's area.

4 There is a digital requirement as well  
5 that was added by the Commission to make sure that  
6 children's programming is proportionally provided  
7 on additional broadcast streams that are provided  
8 for free as broadcasters gain the ability to  
9 multicast in the digital era.

10 Licensees certify compliance at renewal  
11 or document their failure at renewal, and most of  
12 the failures that are documented at renewal are  
13 ones of over-commercialization, which I'll talk  
14 about just shortly. There's one case, the  
15 Univision Consent case, where the Commission dealt  
16 with a challenge to the type of program that was  
17 being aired and claimed to be cordial in its  
18 programming. Telenovellas were being used by  
19 Univision to satisfy that obligation. The  
20 Commission entered a Consent Decree for \$24  
21 million with them to settle that matter along with  
22 imposing, by their consent, of course, in a

1 Consent Decree, additional practices that were  
2 intended to ensure practices in the future.

3 Political programming, reasonable  
4 access, for example, equal opportunities, lowest  
5 unit charge, political file obligations, these are  
6 affirmative duties of broadcasters as well, and  
7 clearly quite important ones. It's mostly  
8 self-enforcing. Candidates are quite rigorous  
9 about calling up the staff and saying, gee, you  
10 know, that guy got time and they won't sell me the  
11 right amount of time. I'd like to get some. The  
12 staff is designed to be exceptionally responsive  
13 because telling them after the election is over  
14 who won that debate is not very helpful. So it's  
15 an area which in general is well enforced.

16 Just a list of some additional  
17 affirmative obligations: EEO, for example, you  
18 have a broad recruitment obligation as a  
19 broadcaster, you must have a program to ensure  
20 that your broad recruitment is working. There's  
21 sponsorship of identification obligations. These  
22 are, of course, the famous payola cases where

1       broadcasters, at least some broadcasters, seemed  
2       to have failed to have understood the idea that  
3       consideration for programming requires  
4       notification of who the sponsor was.

5                   Main studio and local origination  
6       obligations that reflect the Commission's long  
7       interest in local populations being able to access  
8       their broadcaster and use its facilities to  
9       communicate with their community meant the  
10      Commission, as has long had it, that an obligation  
11      to your main studio be located in your community  
12      or at least currently somewhere in your -- near  
13      your community, and that it have local origination  
14      capabilities.

15                   Closed captioning is another of the  
16      affirmative obligations as is, and I think central  
17      to the Commission's scheme today, a public  
18      inspection file obligation. And this is a  
19      principal issue that arises with the Commission in  
20      terms of enforcement of broadcasters' obligations,  
21      as is proper maintenance and making available the  
22      public inspection file.

1                   And then quickly, the prohibitions:  
2       Children's television ad limits, 10-1/2 minutes on  
3       the weekend; 12 minutes on the weekday. There are  
4       certain rules about placement of programming  
5       appropriately, you know, if you place a product  
6       advertisement close to a program itself, if it  
7       contains that product, it will make the entire  
8       program into a Program 1 commercial. There are  
9       also website restrictions so that you don't send  
10      children to commercial websites directly from  
11      within children's programming.

12                  There is no censorship of political ads;  
13      not permitted. If somebody buys political time,  
14      you can't change it as a broadcaster.  
15      Nondiscrimination in employment is required.  
16      Indecency, obscenity, and profanity, I think have  
17      been talked about enough to now, that you can't  
18      have obscenity, and indecent and profane  
19      programming can't be aired between 6:00 a.m. and  
20      10:00 p.m. And this is clearly motivated by the  
21      government's interest in protecting children.

22                  News distortion, staging, they are

1 Commission policies that preclude a broadcaster  
2 from engaging in staging or distortion of news  
3 programming, but because of the First Amendment  
4 issues that are clearly raised by this kind of a  
5 policy, the Commission is strenuous in its  
6 requirements with respect the evidence of such a  
7 thing. It has to be not only extrinsic, but it  
8 has to demonstrate involvement by a management.

9           And, finally, hoaxes which we constantly  
10 ran into on April Fool's Day, the Commission  
11 finally adopted a rule that said if you put on a  
12 broadcast about a crime or a catastrophe that you  
13 know is false, if you have a reasonable ability to  
14 foresee it will cause public harm and that does,  
15 in fact, result in public harm, this would violate  
16 the Commission's rules.

17           MR. WALDMAN: Thank you very much. Two  
18 housekeeping notes. I got the Twitter name wrong.  
19 The proper Twitter phrase is hash mark  
20 f-o-m-w-k-s-h-o-p, hash mark fomwkshop.

21           And even worse, I'm such a creature of  
22 the new media that I forgot to say that the actual

1 human beings present here in the room are allowed  
2 to ask questions also, and if you have some other  
3 index cards that will be available for you to  
4 write them down and come to us.

5 Let me ask first just a few more  
6 questions to Bob so I can make sure I understand  
7 the basic ground there. In the last 40 years, how  
8 many times has the Commission declined to renew a  
9 license on the basis of the station not fulfilling  
10 their public interest obligation?

11 MR. RADCLIFFE: Well, at least in the  
12 programming context, I think the answer is a one.  
13 At least that's what everybody tells me. I  
14 haven't, certainly, had the ability to go through  
15 all the Commission's records and verify that. I  
16 think it's the Mississippi case. But the  
17 Commission, obviously, considers, you know, when  
18 it does revoke licenses, it revokes more than one  
19 license in the last 40 years. What component of  
20 your public interest obligations is the cause of  
21 that revocation is not easy to find out without  
22 going and reading each of the orders.

1           So it's a lot more than one. I think  
2           there are 45 hearing designations orders that the  
3           Commission has issued in the period between 1988  
4           and '98. I think we did that looking through the  
5           Commission's reports to Congress. But a lot of  
6           those are probably for misrepresentation, which  
7           was the usual basis for Commission HDO.

8           In the old days when there were  
9           standards, or at least guidelines for processing  
10          your renewal application, I think the staff would  
11          generally attempt to figure out a way to improve  
12          your performance the next time around if you  
13          missed one of those standards rather than just  
14          simply revoking your license or designate it for  
15          hearing for revocation as a consequence, because  
16          it certainly considers revocation to be a very  
17          draconian remedy and reserves it for the most  
18          egregious cases.

19          MR. WALDMAN: And what -- there was a  
20          quote that Henry Geller mentioned, and I forgot  
21          who it was from, that basically said the  
22          broadcasters don't know what the standard is. We

1       couldn't really tell you what the standard is  
2       besides a certain general, a level of generality  
3       or what a broadcasters would have to do in order  
4       to trip over the rule.

5                 Is that an accurate description of the  
6       current status, or how would you describe the  
7       level of clarity that you think broadcasters have  
8       today and what it means to fulfill the public  
9       interest obligation?

10                MR. RADCLIFFE: I think there are two  
11       things you have to say about that. The  
12       Commission's rule about it certainly doesn't  
13       contain specific standards. It doesn't, as the  
14       past guidelines used to contain, have a list of  
15       the kinds of programming, like news, public  
16       affairs, election affairs, things of that sort, it  
17       doesn't have a list like that anymore. It  
18       specifically eliminated that list.

19                But at the same time, I guess we hearken  
20       back to the chief -- I mean the Supreme Court  
21       Justices' theory about pornography. You know,  
22       that a lot of broadcasters know what -- and the

1 Commission knows that there's an area of  
2 performance, there's an area of broadcasting of  
3 the kinds of programming that you supply that  
4 clearly fall within the scope of programming that  
5 would satisfy the public interest obligation. But  
6 the Commission hasn't said how much of each of  
7 them you have to do, what the mix has to be, nor  
8 has it said, you know, exactly how much there has  
9 to be.

10           So I'd have to say it's certainly  
11 specific in terms of the rules, in terms of the  
12 experience and practice of broadcasters. I think  
13 they have -- most of them could tell you things  
14 that they think are definitely inside that  
15 category. There's going to be an area where  
16 people are going to disagree at the edges, I'm  
17 sure.

18           MR. WALDMAN: What -- just what do you  
19 think, then, in general is the reason or reasons  
20 for why there's only been one renewal not granted  
21 over 40 years on the basis of failure to fulfill  
22 public interest obligations?

1                   MR. RADCLIFFE: I suppose the obvious  
2 answer would be that they're doing a good job. I  
3 don't think we can explain all broadcasters'  
4 performance that way, but I think a lot of them  
5 you can explain that way.

6                   I do think that the Commission does have  
7 -- there is a question, at least, in the way the  
8 Commission approaches this since the 1980s in a  
9 way as to whether or not relying on the private  
10 attorney general, if you will, to vindicate this  
11 rule is an adequate mechanism to bring failure to  
12 the Commission's attention. It now relies on that  
13 process and a process of affirmative certification  
14 by broadcasters about performance in an area where,  
15 admittedly, the standards are not particularly  
16 specific.

17                   MR. WALDMAN: Commissioner Copps, you  
18 had a question?

19                   MR. COPPS: Yeah, I wanted to ask a  
20 question about (inaudible).

21                   REPORTER: I'm sorry, sir, your mic  
22 isn't on.

1           MR. COPPS: Excellent presentations. Is  
2 this working?

3           REPORTER: Now, thank you.

4           MR. COPPS: Now, it's working. I want  
5 to thank you for three excellent presentations. I  
6 wanted to ask Professor Starr a question. I'm  
7 fascinated by this idea of bumping into the news,  
8 and I wanted to ask you if we were to go down the  
9 route of relieving broadcasters of their public  
10 service obligations and assessing a 5 percent fee,  
11 which is a perfectly legitimate idea -- it always  
12 kind of reminded me of buying your way out of the  
13 draft in the Civil War -- but as we don't make  
14 progress it becomes more and more attractive. I  
15 would have to admit that.

16           But if we really do that and kind of  
17 segregate the news on public media, while you  
18 might have better news there, that's going to make  
19 it harder for people to bump into that  
20 high-rolling news on the radio, or whatever else  
21 you have. And I might just note also that the  
22 public TV for its many glories -- and I think it

1 is the jewel of our broadcasting industry -- has  
2 not focused a lot on local news. So, if we're  
3 talking about a 5 percent fee going there, or  
4 realize -- or let's realize up front that it's  
5 going to be starting from scratch pretty much.

6 But I'd be interested in just any  
7 comment you might care to make on bumping into the  
8 news.

9 MR. STARR: Thank you. I think Henry  
10 Geller's suggestion works very well from the point  
11 of view of financing children's television, if  
12 that's what you're primarily concerned with. But  
13 I think if you are concerned with having the  
14 broadest possible exposure to news, and  
15 particularly to news about the community, then  
16 this other approach makes more sense that there  
17 should be requirements that apply to commercial  
18 broadcasters as well.

19 And here really what I have in mind is a  
20 practice followed by some other countries where  
21 there are requirements for private broadcasters to  
22 have some regular hourly news. And I believe that

1       although that may just really be headline news, it  
2       can make a very important contribution to the  
3       baseline knowledge that people have about what's  
4       going on in their community.  And I don't think  
5       it's an onerous requirement.

6               MR. GELLER:  I think your criticism is  
7       valid that public television and public radio have  
8       not been attentive to local ones; they're much  
9       more national issues.  I think, though, if you  
10      gave them this trust fund, you could give it to  
11      them with a charge, and the charge would be there  
12      are 300 of you out there.  If you're not going to  
13      do local service, why do we need 300?  You could  
14      serve -- be served by a satellite.  You could  
15      charge them with developing the people, the  
16      personnel, and the focus to really do the local  
17      service.

18             I also think that this fund could be  
19      used to fund the outfits that are coming in to  
20      replace newspapers that are diminishing and going  
21      down.  They're using the Internet.  There's funds  
22      in various places -- San Francisco, all that --

1 for local news, and what -- I do agree that that's  
2 where the fault lies. You have to have more focus  
3 on local. If we did this, you would have to  
4 reorganize public television and public radio,  
5 also. They need a new government, but -- if  
6 you're going to give them all this money.

7 But what I'm saying is this system we  
8 have now has not worked. I thought it could work  
9 with minimums. I think you should move on to  
10 minimums. I like your disclosure, enhanced  
11 disclosure on the Internet, and I think you should  
12 adopt minimum because other than that it's futile.  
13 It's also not even fair to the broadcaster. He  
14 should -- and the Greater Boston, he should be  
15 told what he has to do to get renewal.

16 But I think you would be fine,  
17 nationally, on national issues, other things. I  
18 think there has to be reorganization to take care  
19 of the local.

20 MR. WALDMAN: And, Henry -- Paul, you  
21 said that one of the principles to why subsidies  
22 work in the founding era was that they were

1 viewpoint neutral, and there were not government  
2 officials making decisions about who got what,  
3 particularly the setup basic subsidy rules.

4           Wouldn't having a system, whether  
5 through a trust fund or something else, in which  
6 the government was offering grants to a particular  
7 media violate the principles that the founders set  
8 out about the correct way to provide subsidies to  
9 media?

10           MR. STARR: Yes, I would be worried if  
11 it was a matter of discretionary grants. I think  
12 then you do introduce the potential for favor, and  
13 also you might induce greater caution. You might  
14 have a chilling effect on those organs that would  
15 be afraid that if they undertook certain kinds of  
16 investigation, they would alienate the  
17 authorities.

18           So I think, you know, we need to have  
19 ways to provide support, but without any kind of  
20 discretionary authority that permits control and  
21 that invites a kind of a subservient attitude from  
22 the press.

1 MR. WALDMAN: Bill?

2 MR. LAKE: Yes, just to follow up on  
3 that, and I can see that there might be ways of  
4 protecting against viewpoint discrimination by the  
5 government in subsidies. But unlike the founding  
6 era in which there was one logical media in the  
7 newspapers, and there are so many different media  
8 now, is there a way to subsidize the media without  
9 favoring the traditional media over the new media?  
10 Or, you know, how would you choose which media are  
11 worthy of subsidies?

12 MR. STARR: Well, I'm not -- I don't  
13 have a specific proposal here. It may be better  
14 to do this through tax laws that would apply  
15 across the board and would also involve very  
16 little discretion. So I'm not advancing a  
17 specific proposal about how to do this, and I  
18 realize there are tremendous complications.

19 I'm hoping, however, that someone will  
20 come forward with an idea that fits this, these  
21 criteria.

22 MR. LAKE: If I could ask a -- I think

1       it was sort of a fundamental question to pick up  
2       on what you said, Henry, about the disappointing  
3       experience with commercial-leased access and PEG  
4       channels which were intended to introduce more  
5       diversity in localism into cable. There are some  
6       very good PEG channels out there that have  
7       attracted disappointing levels of viewership,  
8       which does tend to suggest that the part of the  
9       problem may be just lack of demand for that  
10      quality of local programming, and this ties into  
11      the notion that people may pick up the newspaper  
12      to read the sports and just incidentally see that  
13      war was declared in Iraq or whatever.

14                 What is the role for the government and  
15      the Commission, in particular, to try to ensure  
16      that people see news and public affairs  
17      programming that they may not demand, that they  
18      may not actually be interested in, and how do we  
19      achieve that?

20                 MR. GELLER: Well, if we're going back  
21      to the PEG channels, we can talk about that. But  
22      I think they should be available, and if they're

1 taking money from cable, part of it should go back  
2 to enhancing public interest in the cable area.

3           On that issue, on making the program you  
4 put it out there. You publicize it because if you  
5 don't do the publicizing, the people don't now.  
6 After that, there's not much you can do. If  
7 people don't want to be informed, if the parent  
8 doesn't want the child to see an educational or  
9 informational program, then you've done what you  
10 can. But you want the availability of it.

11           One of the things that Paul Taylor and I  
12 and others was to try was the "Five-Minute Fix."  
13 You could catch people between programs, and  
14 before they run to the bathroom or the  
15 refrigerator they may actually learn something.  
16 But that never went too far. They didn't really  
17 want to do it.

18           But I really think it comes down -- you  
19 remember -- I don't know which one said that if  
20 you have an electorate that isn't informed, it's a  
21 prelude to a tragedy or a farce. You really have  
22 to put the information out. And what it all comes

1 back to again is education, which is beyond the  
2 scope of this one, but you have to focus on  
3 getting the educated, a very good educational  
4 system so you get an electorate that is  
5 interested.

6 It's amazing when they do polls on how  
7 misinformed or uninformed an electorate is.

8 MR. WALDMAN: Professor Starr, the idea  
9 of a public subsidy for media in this day is very  
10 controversial, very real sharp partisan split.  
11 Was there a sharp partisan split in the founding  
12 era on that issue as well?

13 MR. STARR: Well, not in terms of the  
14 postal subsidies that I described. I mean, those  
15 were instituted at the beginning. I think those  
16 were -- they served both of the parties that first  
17 emerged in the 1790s. Both the Federalists and  
18 the Republicans enjoyed the benefits of that, and  
19 so did the Democrats and the Whigs, and later the  
20 Republicans through the 19th century. So it was  
21 -- there were other subsidies which I don't think  
22 are a model for us today.

1           There were from the early republic, at  
2           the both federal level and the state level,  
3           exceedingly generous printing contracts that were  
4           given to favored printers and so forth. I'm not  
5           holding up that as something worth imitating.  
6           Those were very much partisan in their  
7           inspiration.

8           But the postal subsidies which have  
9           continued through our history have, I think, been  
10          a very successful example of the way government  
11          can support the press on a viewpoint neutral  
12          basis. But we're coming to the end of that. It  
13          no longer works and we need to think about other  
14          mechanisms.

15          I do want to say, however, that we have  
16          a successful recent history with public  
17          broadcasting and, even though some aspects of it  
18          may not command a large audience, a public radio  
19          has become the major source of journalism on  
20          radio. And it really is an example, I think, of a  
21          very successful way in which government policy has  
22          stimulated the provision of journalism.

1           MR. GELLER: I think that's a very  
2           important point and one I'd like to emphasize,  
3           that if you fund the organizations which want to  
4           do high-quality informational programming or  
5           children's programming, you now have the structure  
6           working for you. When you try to do behavioral  
7           content regulation to make somebody who's not  
8           interested in that, he's got an awful lot on his  
9           plate because of all this fierce competition.  
10          You're not going to get very far, and I think  
11          those are the people who we are used to finding,  
12          but we are starving them now.

13                 If you looked, the BBC just got \$5.2  
14          billion. Per capita we do public television at a  
15          -- public broadcasting at a \$1.25. The Brits do  
16          it at \$39, the Canadians \$32, the Japanese \$19.

17                 MR. WALDMAN: By the way, we'll be  
18          having a workshop on the public media question,  
19          specifically.

20                 Bob?

21                 MR. RADCLIFFE: I just wanted to raise  
22          the question about diverse sources. You know, you

1 talk about AP as the case is saying you need  
2 diverse and antagonistic sources. How do we deal  
3 with the diversity issue if we were to just  
4 support public broadcasting as the source of  
5 business? Aren't we sort of reducing ourselves to  
6 one source, and won't we get into those kinds of  
7 debates that, you know, well, they're too left or  
8 too right, or whatever they're going to be where  
9 the inevitable pressure is to try and make it  
10 controlled in terms of content.

11 MR. STARR: Well, I agree with you  
12 entirely. There shouldn't just be one mechanism  
13 here that we're talking about. I think we should  
14 be thinking about a variety of policies.

15 I do think that there should be some  
16 minimum requirement for the commercial  
17 broadcasters to have evidence, and I think that  
18 would actually help to create a market for the  
19 providers of news who could then provide it to  
20 more of the commercial stations, if they were  
21 required to broadcast it.

22 So the public broadcasting mechanism is

1 one mechanism, but there could be other ways to  
2 stimulate the provision of local news. And, also,  
3 on the terms of public broadcasting, I think it's  
4 done a good job with national news, but there's a  
5 lot to be developed at the local level. And  
6 that's really where new investment, I think, could  
7 help make up for the decline that's taking place  
8 in newspapers.

9 MR. WALDMAN: This may seem like an  
10 obvious question, but you mentioned that there's  
11 been research that showed a correlation between  
12 lack of accountability journalism and an increase  
13 in corruption. Is there any reason to think that  
14 watchdog journalism focuses on one political party  
15 or benefits one political party or another? What  
16 is your experience of that?

17 MR. STARR: I don't know of evidence  
18 about that, but there are, obviously now, on both  
19 the right and the left, very active investigative  
20 activities. I don't think it should inherently  
21 benefit one side or the other.

22 MR. WALDMAN: One last question -- and

1 maybe second last. Much of the rationale for  
2 there being a public interest obligation stems  
3 from the fact that because broadcast licenses were  
4 issued at no charge, and they allowed use of the  
5 public airwaves by private companies and others,  
6 that something needed to be gotten back in  
7 exchange, the public trustee concept.

8           How does the idea of a public interest  
9 obligation change when spectrum rights are  
10 auctioned and companies are paying money for the  
11 right to use those licenses?

12           MR. GELLER: If the broadcasters all say  
13 that this was a social compact, we put profits  
14 second, public service first, and that's why we  
15 get the free spectrum, if you make them pay, I  
16 would give up that you have to do the public  
17 interest. That's my quid pro quo. You don't have  
18 to put profits second. You can be as rotten and  
19 mean as you want. All we want is money, and we'll  
20 use that money to give it to somebody who wants to  
21 do this and that.

22           But I would let them go. They are now

1     paying, and they are, by paying, they are enabling  
2     public broadcasting to do the job for them. There  
3     is a provision right now in the children's area  
4     that says that if you enable another station to do  
5     this worthwhile children's program, that counts  
6     for renewal. I'm taking that and expanding it for  
7     the polls. You don't have to do anything, just  
8     give us the dollar.

9             MR. STARR: Just one modification of  
10    this. I mean, you could have those spectrum sales  
11    and then free them up of their public service  
12    obligations, but then you could lease back space  
13    for public broadcasting on commercial stations.  
14    You know, you could actually still distribute news  
15    and journalism onto those stations through some  
16    kind of mechanism like that. So sell them the  
17    frequencies and then maybe lease back part of the  
18    time.

19            MR. GELLER: The only thing I want to be  
20    sure about is that having been deep in the  
21    trenches for too many decades, if you're counting  
22    on people doing this, they have to have a motive

1 to do it. And when the motive is not to do it,  
2 the motive is to -- then you have a structure that  
3 doesn't work for you and you have First Amendment  
4 strains that are very difficult. That's all I'm  
5 saying.

6 But I agree, you could work things out.

7 MR. WALDMAN: We are going to break now  
8 and come back at 1:00 for our second panel, which  
9 will focus on local TV, radio, and news.

10 Thank you very much to this excellent  
11 panel.

12 (Recess)

13 MR. WALDMAN: Welcome back. We are now  
14 going to turn to our second panel which is  
15 focusing on local television and radio and the  
16 state of local television and radio and the  
17 concepts of the public interest obligations in  
18 that realm.

19 We are going to start off with Tom  
20 Rosenstiel, who is the director of the Pew Project  
21 on Excellence in Journalism. I think not an  
22 article goes by on this topic that doesn't have a

1 citation from one study or another from either  
2 Tom's group or the Pew Internet Center, both of  
3 which are invaluable players in understanding the  
4 media. Before creating the Project for Excellence  
5 in Journalism, Tom was a journalist for 20 years,  
6 former media critic of the LA Times, chief  
7 congressional correspondent of Newsweek Magazine,  
8 author of "The Elements of Journalism" book, and  
9 we're very pleased to have Tom kick off this  
10 panel.

11 MR. ROSENSTIEL: Thank you, Steve. Good  
12 afternoon and thank you to the Commission for the  
13 opportunity to speak today. The clock is running.

14 I've been asked to offer a description  
15 of the landscape of local TV and radio news. And  
16 as Steve mentioned, over the last 13 years at the  
17 Pew Research Center's Project for Excellence in  
18 Journalism, we've done a lot of research: Content  
19 analysis of local TV, we've conducted hundreds of  
20 training sessions in TV newsrooms, we've produced  
21 a book on local television, we've also tracked  
22 both local radio news and local TV news and all

1 other kinds of news in our annual State of the  
2 News Media reports, the next one of which comes  
3 out March 15th, small advertisement.

4 We call the Pew Research Center a fact  
5 tank. We do no advocacy, no lobbying, we don't  
6 propose policy solutions. Instead we try to offer  
7 dispassionate empirical and factual assessment of  
8 the fields that we study, information for its own  
9 sake, if you will.

10 Our data suggests differing landscapes  
11 for radio versus local television. I'll start  
12 with radio.

13 Local radio has been substantially  
14 transformed over the last 25 years and to a  
15 significant degree, locally based radio reporting,  
16 street reporting on local concerns in radio has  
17 dramatically shriveled. This has coincided with,  
18 and some argue, driven by, changes at the FCC  
19 starting with deregulation in the 1980s,  
20 elimination of the Fairness Doctrine and other  
21 things, others say that that's not the case. We  
22 have not studied causes and I don't have a point

1 of view on that, but I can describe what is  
2 occurring in radio news.

3           While news talk and information as a  
4 general radio format category remains among the  
5 most popular of all formats, our content studies  
6 suggest that this involves only very limited local  
7 reporting by radio. Most stations today are  
8 offering talk, either nationally syndicated or  
9 local, plus national and local headlines. How  
10 many cities actually have local reporters on the  
11 street doing local reporting with actualities is  
12 hard to quantify, but we do have some clues. In  
13 2009, there were 27 stations in the United States  
14 that listed themselves with Allbritton as all-news  
15 stations. That number was down from 31 in 2008.  
16 By contrast, there are 1,583 that list themselves  
17 as news talk and information. What's more, the  
18 evidence that is available suggests that most  
19 radio newsrooms are extremely small. In 2008,  
20 according to data from Robert Papper of Hofstra  
21 University, who conducts surveys of local radio  
22 and TV stations annually for the Radio,

1 Television, Digital News Association, the typical  
2 radio station or the median has one employee  
3 working in news.

4           We've done studies in which we've found  
5 no local street reporting on radio in cities at  
6 all, in certain cities. Another trend in radio is  
7 one newsroom servicing multiple stations. In the  
8 winter of 2008, according to Papper's data, fully  
9 75 percent of these small radio news operations  
10 serviced more than 1 station, 31 percent produced  
11 news for 4 or more stations.

12           In most American cities, radio news is  
13 now a national medium, not a local one, dominated  
14 by public broadcasting whose audience has grown  
15 over the last 20 years as local radio news has  
16 shrunk.

17           The situation in local television, as we  
18 see it, is quite different. First, one of the  
19 interesting things in listening to the last panel  
20 was the idea that you had to somehow create a  
21 public service obligation for people to do news.  
22 In local television, news is important to the

1 bottom line. On average local TV stations make 44  
2 percent of their revenue from news broadcasts  
3 according to Papper's data. And what we've been  
4 told by many people in local TV is this is really  
5 the only thing -- the content that they create, by  
6 in large, rather than what they purchase, is news  
7 and so it's revenue that they can control.

8           But that revenue, just as in all  
9 broadcasting, is being challenged by an audience  
10 trend. There are some distinction by market size  
11 and geographic breakdown, but our analysis at PEJ,  
12 using Nielsen Media research data, finds that  
13 across 200 markets or roughly 800 stations, there  
14 is a clear pattern of audience decline now and it  
15 appears to be accelerating. In 2009, we'll report  
16 later this month in that report again, the  
17 audience for local news declined across all day  
18 parts, across all network affiliates, in  
19 viewership, ratings, and in share. That's been  
20 true for late news after primetime and early news  
21 around the dinner hour, for some years. But in  
22 2009, after years of some stability, and that came

1 after years of growth, the declines are now  
2 occurring in early morning timeslots as well;  
3 that's the time before 7:00 a.m. when the networks  
4 come on.

5 Some in local news industry will contend  
6 that their combined audience at their stations has  
7 held up, it's just now spread across more programs  
8 during the day. And that may well be true for  
9 certain stations, but our analysis finds that that  
10 is not true in aggregate.

11 Some point to more unaffiliated stations  
12 doing news, those that are not connected to ABC,  
13 CBS, NBC, or FOX, but the data we have from  
14 Nielsen suggests that the audiences there do not  
15 come close -- do not come anywhere close -- to the  
16 loss of audience that's occurred at the larger  
17 stations.

18 Now, TV stations have multiple ways of  
19 responding to these pressures on audience and  
20 revenue. They can cut costs, they can add revenue  
21 opportunities within programs, things like  
22 sponsored segments, more adds per newscasts,

1 embedding logos, they can also add more  
2 programming through the day, and all those things  
3 have been happening. Budgets overall are down.  
4 Papper estimates that local TV news industry lost  
5 1,600 jobs in the last 2 years. That's a decline  
6 of about 6 percent from a high in 2007. In his  
7 latest survey, 70 percent of stations estimate  
8 their budgets will be cut or static in the next  
9 year, but these budget numbers are misleading by  
10 themselves. The number of hours of news  
11 programming on the average station has been  
12 growing for years. In 2008, the latest year for  
13 which Papper has data, the average station  
14 produced 4.6 hours of news a day up from 3.7 in  
15 2003, a jump of 24 percent, and news directors  
16 tell us that the trend began in the '90s well  
17 before 2003.

18 We conducted an annual survey of news  
19 directors from '98 to 2002 and they told us  
20 generally that these increases in programming  
21 hours were not matched by commensurate increases  
22 in budgets and on top of that, the move to digital

1 transmission often came from the news budget as  
2 did building out the web as well since this is  
3 where much of the equipment and programming  
4 materials that these stations had was located.

5           Some people in local news will argue  
6 that these expanding hours amount to more public  
7 service, and it does, but that statement alone is  
8 an oversimplification. A close look at the  
9 contents suggests that adding hours of programming  
10 without adding commensurate resources, while also  
11 building out digital and other things, has a  
12 distinct effect on what the public receives. Many  
13 local news directors told us it has thinned out  
14 the product that they've created.

15           From '98 through 2002, we saw measurable  
16 decreases in the level of enterprise in stories.  
17 Overall the percentage of stories with a reporter  
18 at a scene, as opposed to just a camera, fell by  
19 30 percent in those 5 years. The percentage of  
20 stories that include syndicated material rather  
21 than locally produced rose by 62 percent. The  
22 number of spot news stories, that's live, local,

1 and late breaking, the stuff that stations  
2 promote, dropped by 31 percent.

3           Importantly, the highest level of  
4 enterprise, investigations, special series or long  
5 interview segments, held steady over these 5 years  
6 at roughly 9 percent of all stories excluding  
7 weather and sports. In other words, stations know  
8 that that's important to their brand and they've  
9 protected it.

10           There's a lot of outsourcing now.  
11 Twenty-two percent of stations that do local news  
12 in the United States have it produced for them by  
13 a different station other than their own.

14           There have been many debates over what  
15 gets covered in local TV news -- and my time is  
16 running out so I'll shorten this -- but we've  
17 found that while 37 percent of the content on  
18 local TV news over the years we've studied it was  
19 fires, crimes, and accidents and disasters, when  
20 you look at lead stories, the stories that get the  
21 most time and resources, it's actually 61 percent.  
22 So, it's not true that local TV news is all, you

1 know, having to bleed to lead, but there is a  
2 sensibility in local TV that stories that are  
3 visually stimulating, these kinds of stories, will  
4 hook and hold an audience and keep them watching  
5 through the newscast.

6 I'm over time, but I'll just say this,  
7 we did very sophisticated analyses that cost far  
8 more than local TV stations could do with their  
9 own research, hundreds and hundreds of thousands  
10 of dollars looking at this data, and we found that  
11 that mythology about local TV, about what will  
12 attract an audience, actually isn't true. If you  
13 do more sophisticated research you find that the  
14 topic of the stories is irrelevant to audience  
15 trends. It's the treatment -- are these  
16 informative, well-produced stories? If you do  
17 good journalism on any subject, you can build an  
18 audience. The idea that only certain subjects are  
19 appealing to local TV news audiences is  
20 demonstrably not true.

21 There are some significant challenges in  
22 addition to the audience declines one of which is

1       that the profit expectations in local television  
2       news particularly have been historically very,  
3       very high, so that even though these stations rely  
4       on news as important to their bottom line. If the  
5       expectations are operating profits of 40 and 50  
6       percent, which they were early in this decade, it  
7       means you still have limited resources in your  
8       newsroom to produce that content.

9                   MR. WALDMAN: Thank you very much, Tom.  
10       Next we'll hear from Jane Mago, who is the  
11       executive vice president and general counsel at  
12       the National Association of Broadcasters. Thank  
13       you.

14                   MS. MAGO: Thank you very much and thank  
15       you for the opportunity to be here today to  
16       represent NAB and its radio and television  
17       members.

18                   I have a longer testimony that is  
19       somewhere around here and that I don't intend to  
20       go through all of it mostly because it would take  
21       far longer than the 10 minutes and I want to sort  
22       of distill it a little bit here. I'd also like to

1 make an observation to begin with that was based  
2 on some of the things that we heard this morning.  
3 As I watched the panel this morning I was somewhat  
4 interested in Professor Star's comments about  
5 using what I considered to be the tax code, tax  
6 breaks as ways of helping to stimulate, you know,  
7 new trends or whatever in the broadcast industry.  
8 And one thing that occurred to me, and I thought  
9 it would be remiss if I didn't bring it up this  
10 afternoon, is that one of those types of tax  
11 arrangements is the tax certificate that was one  
12 that underlined much of the diversity and new  
13 entry into the broadcast industry from, you know,  
14 early on that was ultimately done away with. But  
15 that's something that NAB has always supported and  
16 believes should be brought back as a means of  
17 trying to get additional diversity into the  
18 broadcast arena. So, I just wanted to make that  
19 observation here.

20 Let me turn to the thoughts that you  
21 asked me to address today. You wanted to talk a  
22 little bit about the public interest and

1 specifically the broader broadcaster's perspective  
2 on the public interest and, you know, where do we  
3 stand on that. And to be very clear, the position  
4 of the NAB and our broadcast members is that  
5 broadcasters do have an obligation to serve the  
6 public interest and while the regulatory specifics  
7 of what the FCC has looked at over the years has  
8 changed and evolved the different specific  
9 elements of what they did, it really does come  
10 down to a core obligation to provide programming  
11 that serves the needs of your audience.

12           It's not all about news. Tom just  
13 talked a lot about the news side of this, but it  
14 is not only news. There is public affairs  
15 programming, and it's our position that you really  
16 can't have a one-size-fits-all. Not everybody can  
17 provide news. Some stations do it extensively and  
18 they do a very good job on it. Others, it may be  
19 by the nature of their audience, where they're  
20 doing it, they'd be better served by focusing on  
21 different public affairs programming, so I don't  
22 think that you can have a one-size-fits-all type

1 of standard.

2 Nor do we think that you can have a  
3 requirement of quantitative, specific quantitative  
4 programming quite apart from some of the First  
5 Amendment aspects that were alluded to this  
6 morning. Having that tends to have a -- it's not  
7 a positive effect on the industry. I think that  
8 the stations should be allowed to be in a position  
9 where they can adapt to their communities, where  
10 they can, in fact, decide how best to serve the  
11 needs of their audience. It would produce  
12 homogenous programming at homogenous stations to  
13 try to have some specific requirements like that  
14 and we don't think that that's the right way to  
15 go. And especially in the current competitive  
16 environment which everybody's been alluding to,  
17 there's costs. There are a lot of costs that get  
18 built in here and for stations to produce the  
19 quality programming material that has to serve  
20 their audiences, they've got to be able to cover  
21 those costs and it's got to come from somewhere.

22 Now, some have focused on the transition

1 to digital technology and asked what should that  
2 mean, and how should that change the way that the  
3 FCC looks at the public interest. And to be  
4 honest, I think that's once again a question  
5 that's oriented towards the quantitative mindset.  
6 If you think of the digital transition as one that  
7 creates more streams of programming, then you  
8 think quantitatively and you say this should be.  
9 It's really something that can offer a great deal  
10 of opportunity for the broadcast industry,  
11 opportunity to provide programming that can be  
12 oriented towards communities, and I think that  
13 broadcasters will be in a position where they can  
14 use that opportunity to try to provide programming  
15 that serves the needs of the audience. The  
16 obligation stays with the broadcaster at all times  
17 to serve the needs of the audience.

18 I think that what's important to  
19 recognize in the digital world is that there is a  
20 lot more competition and a greater need to allow  
21 broadcasters to have the flexibility to find ways  
22 to finance the important services that they

1 provide. Providing quality news and entertainment  
2 programming, as we've said over and over again, is  
3 expensive and it's much harder to do when your  
4 audience, your advertising base, is diminishing.  
5 You have to find different ways of being able to  
6 get the programming out there. So the FCC really  
7 must recognize that its rules have to allow the  
8 broadcasters to have ownership structures that can  
9 allow them to compete and to have fair  
10 regulations, that allow them to deal with the  
11 other media that are in fact their competitors,  
12 and it allows them to provide what they need.

13           So, just let me sum up and I'll not take  
14 very much time because I think we're going to want  
15 to go for a lot of questions and I know my fellow  
16 panelists, and I know most of you, this is going  
17 to be a lively discussion somewhere along the way  
18 here.

19           I think that the future of broadcasting  
20 and the future of media is still rooted in this  
21 public interest obligation. I think it's  
22 something that broadcasters have built up for the

1 last hundred years that we've been doing it. I  
2 just want to emphasize that broadcasting is, in  
3 fact, a highly efficient point-to-multipoint  
4 service, that it is free and universal and that's  
5 a very important part to keep in mind here. It is  
6 available to all and we don't create network  
7 congestion. It unites -- why did she say that? --  
8 it unites communities in times of emergency,  
9 whether it's the type of emergency that, you know,  
10 a tsunami in Hawaii from last weekend or it is the  
11 snowstorms that we all experienced here. I don't  
12 know if you all saw this morning's paper which  
13 gave a sort of a rundown of what the local radio  
14 station, WTOP, did during the snowstorm, and among  
15 other pieces of it. They forwent, I guess would  
16 be the right word, about \$140,000 worth of  
17 commercial time in order to try to provide the  
18 programming, and that's the kind of service that  
19 they could go in and do.

20           They are a trusted source --  
21 broadcasters across the board are a trusted source  
22 in news and information. There are challenges and

1 those challenges are to keep in competition with  
2 the other platforms and the providers, but I will  
3 predict to you that broadcasters are going to  
4 continue to adapt whether they do it on other  
5 digital platforms, whether they try to integrate  
6 their businesses in different ways, they will  
7 adapt and they will continue to provide service.

8 Thank you very much.

9 MR. WALDMAN: Next we turn to Andrew  
10 Schwartzman, who's the president and CEO of the  
11 Media Access Project.

12 MR. SCHWARTZMAN: Thank you. I  
13 appreciate the invitation.

14 I want to start as I have often started  
15 in testimony at Commission and congressional  
16 hearings by saying that the best broadcasters in  
17 the United States do a superb job of meeting the  
18 needs of their communities and those are the ones  
19 who come forward to serve as witnesses at events  
20 such as this. Today is no different. Allbritton  
21 Communications -- and I must apologize to Gerry  
22 Fritz, who pointed out that I have misspelled

1 Allbritton in my testimony -- Allbritton  
2 Communications does a terrific job serving the  
3 Washington, D.C., area and in particular has led  
4 the way in integrating cable, and soon, with its  
5 new local website, the Internet, into its public  
6 service mix. And if every broadcaster did as good  
7 a job as Allbritton, this country would be much  
8 better off.

9 Another thing that typifies public  
10 events such as this is that broadcasters brag  
11 about their public service during emergencies.  
12 Here, too, the very best broadcasters do  
13 magnificent work, but responding to public  
14 emergencies is the minimum we should expect from  
15 all broadcasters, and as Eric Klinenberg has  
16 documented in his terrific book, a disturbingly  
17 large number of broadcasters have little or no  
18 capacity to originate local programming much less  
19 to respond to public emergencies.

20 Every broadcaster does not do as good a  
21 job as Allbritton does. In assessing how to  
22 address the public interest obligations of

1 broadcasting in the future, the commission must  
2 focus on the worst broadcasters, the ones who do  
3 little or nothing to recompense the public for  
4 their free use of ever more valuable spectrum.

5 In the face of escalating demands for  
6 spectrum to fuel broadband deployment and  
7 technological innovation, Congressional and FCC  
8 policy has failed to hold TV and radio  
9 broadcasters accountable for addressing the  
10 problems of their communities. The best stations  
11 have used changing technology to improve their  
12 responsiveness, the quantity, quality, and  
13 diversity of service, but from an overall market  
14 perspective, it has declined.

15 The FCC gave broadcasters the freedom to  
16 ignore their public service obligations in the  
17 early 1980s. The centerpiece of Commission's  
18 deregulation decisions was the notion that  
19 marketplace forces would ensure that community  
20 needs would be met. On this basis, the Commission  
21 eliminated guidelines which prompted every  
22 broadcaster to carry minimum amounts of news and

1 public affairs programming. It also changed its  
2 renewal process so that renewal was automatic and  
3 it requires commission to examine applications  
4 only when citizens file a license renewal  
5 challenge. There's no audit or other review of  
6 the truthfulness of the statements in the renewal  
7 applications.

8           And I would add that Bob Ratcliffe gave  
9 an unintentionally misleading impression this  
10 morning by going over what the current  
11 requirements for broadcasters are because if one  
12 didn't know, one would assume that that meant the  
13 Commission actually examined broadcasters to see  
14 whether they were doing what they're supposed to  
15 be doing, but the Commission does not do that.  
16 The license renewal process is broken. It sets  
17 insuperable burdens for citizens. It rejects  
18 quantitative showings of the kind that the  
19 Commission historically said it would utilize in  
20 examining broadcasters performance.

21           The delay is the most significant thing  
22 I would point to. I have pending license renewal

1 cases going back to 2003, I have two from 2004, I  
2 have one from 2005, Angela has her own long list,  
3 I'm sure. And the thing to stress here is that  
4 the message that the broadcast industry gets is if  
5 you have a multimillion-dollar transaction and you  
6 want to sell or transfer a station, the Commission  
7 will do it in a couple months. But if somebody  
8 challenges your license in a renewal, it's such a  
9 low priority that the Commission will take years  
10 to get around to it.

11 The marketplace has not worked. Like  
12 other human beings, broadcasters do not always  
13 make rational choices and they're constrained by  
14 the biases of the culture in which they live. As  
15 the Commission learned in its examination of "no  
16 urban dictates" in advertisement policies, some  
17 advertisers ignore important markets because of  
18 innate bias, cultural insensitivity, and downright  
19 ignorance. The problem is especially severe for  
20 racial and ethnic minorities as well as for other  
21 segments of the audience which consist of people  
22 who are too old, too young, or too poor to be

1 demographically attractive. The failure of the  
2 Commission's efforts to diversify ownership and  
3 employment in broadcasting means that broadcasters  
4 are as yet unrepresentative of the nation as a  
5 whole.

6           The centerpiece of Title III of the  
7 Communications Act is service in the public  
8 interest based on localism, competition, and  
9 diversity. Having chosen not to follow the model  
10 of other countries which approach broadcasting  
11 from a national perspective, the Communications  
12 Act specifies that a core duty of each broadcaster  
13 is to serve its own community of license. We seek  
14 to have as many licensees as possible because  
15 competition among them improves the quality of  
16 service and perhaps most importantly, helps assure  
17 the public access to diversity of social,  
18 political, and cultural perspectives. But there  
19 is no point in having a system which prizes  
20 localism and diversity if many of the licensees do  
21 nothing, literally nothing, which is locally  
22 oriented or which duplicates the program of other

1 stations, or which consists entirely of home  
2 shopping programming, yet that is what the current  
3 system tolerates.

4 Now, although I agree with Jane that  
5 there is much more than news that we need to be  
6 looking at and broadcaster performance, I'm going  
7 to focus on local news coverage because it's the  
8 most important element of service in the public  
9 interest. It's hard to overstate the importance  
10 of local TV news and the traditional newscast  
11 format. As Tom Rosenstiel has pointed out, the  
12 reliance on TV and radio continues to be extremely  
13 large. Local TV news is important for another  
14 reason, which is that along with daily newspapers,  
15 it sits atop the daily news food chain. And as  
16 Tom Rosenstiel's recent study of news coverage in  
17 Baltimore showed, local TV and newspapers are the  
18 primary sources of news. Virtually all radio,  
19 Internet, and social media news originates from TV  
20 and newspapers.

21 New media platforms do not, as yet,  
22 serve as a source of local news. Rather, as the

1 Baltimore study shows, they are more devoted to  
2 repeatage than reportage.

3 Under the current regime, hundreds of  
4 television stations carry no news and many of them  
5 do not even have functional local origination  
6 capacity. The shortcomings are especially great  
7 when it comes to coverage of local elections.  
8 Methodologically solid studies of TV coverage in  
9 major markets shows that many stations provide no  
10 coverage of elections except for commercials and  
11 that those stations which do cover elections  
12 typically emphasize federal and statewide  
13 elections.

14 Commercial radio is even worse. As  
15 we've heard, it's largely abdicated its  
16 responsibility to generate local news to public  
17 radio. In all but the very largest markets there  
18 are only one or two commercial radio stations with  
19 the capacity to report or cover news. Most other  
20 stations if they carry news at all outsource it to  
21 news bureaus which are not licensed and which use  
22 the same reporters to deliver essentially the same

1 reportage to a dozen or more stations. There is,  
2 in sort, little localism, no competition, and  
3 minimal diversity.

4           Looking to the future I've heard no one  
5 call for any change in the basic legal framework,  
6 rather we need to adapt rules to social and  
7 technological change based on the same core  
8 principles. If broadcasters prove unwilling to  
9 employ digital, radio, and television technologies  
10 to improve their performance, they should be  
11 required to return their spectrum for reuse in a  
12 more socially productive manner.

13           As I said, I'm not wedded to traditional  
14 regulatory approaches and traditional formats.  
15 News doesn't have to be delivered in newscasts as  
16 we understand them today. As NPR has  
17 demonstrated, websites and social media can be  
18 integrated into news delivery mechanisms. With  
19 that in mind, here's an outline of what I would  
20 suggest.

21           First, put teeth in the license renewal  
22 process. Shorten license terms to three years.

1 Implement the enhanced disclosure requirements  
2 that were discussed this morning for both radio  
3 and television. Require every radio and  
4 television station to demonstrate they have  
5 addressed the needs of their community of license  
6 specifically including use of locally produced  
7 programming addressing local issues. And review  
8 each broadcaster's renewal application and audit  
9 10 percent of licenses every year, a promise that  
10 was made in 1984 TV deregulation that was broken  
11 by the Commission.

12 Second, require broadcasters to  
13 demonstrate that every channel in a radio or TV  
14 multicast service is advancing the public  
15 interest. In the renewal process, discount  
16 programming which is not produced by the licensee  
17 or which has or will appear on more than one  
18 station. Disincent TV broadcasters from diverting  
19 their spectrum for ancillary and supplemental uses  
20 by raising the fee to 20 percent of gross revenue.  
21 Develop incentives for broadcasters to integrate  
22 online content with their on-air content. The

1 Commission should rule that TV stations primarily  
2 devoted to carriage of home shopping services are  
3 not operating in the public interest.

4 I will close with yet another point I've  
5 made on numerous occasions. We developed the best  
6 broadcasting system in the world because of, not  
7 in spite of, regulations which examine  
8 broadcaster's public service and make the worst of  
9 them accountable for their misuse of public trust.  
10 We need a modern version of those requirements to  
11 fully realize the potential of broadcasting in a  
12 digital age.

13 Thank you.

14 MR. WALDMAN: Thank you very much. Next  
15 we'll hear from Barbara Cochran, a long-time  
16 journalist and currently the president emeritus of  
17 the Radio, Television, Digital News Association.

18 MS. COCHRAN: Thank you, and thanks very  
19 much for the invitation to be here. I'm  
20 representing RTDNA. It's hard for me to say  
21 because for many years it was RTNDA. RTDNA is a  
22 reflection of what's happening in the industry.

1 It stands for Radio, Television, Digital News  
2 Association because that's what our members are  
3 involved in. Radio and television are not the  
4 only means by which they're serving their  
5 communities.

6 Since Tom Rosenstiel was kind enough to  
7 cite many of the statistics from our survey, I'd  
8 like to cite one from a report that he put out  
9 this morning which showed exactly how important  
10 television news is, local television news is in  
11 our society. His study shows that 78 percent of  
12 Americans say that local television news is their  
13 top source of news and that made local television  
14 news the top ranking source of news of all sources  
15 of news in this country.

16 And I think the reason for that success  
17 is because of localism. Local television and  
18 radio stations give viewers and listeners the  
19 important information they need to live their  
20 daily lives in the communities they call home.  
21 It's a commitment to going on the air and staying  
22 on the air in emergencies. The people who present

1 the news are seen as approachable neighbors and  
2 friends. And as I will explain in a few minutes,  
3 the digital revolution is allowing these popular  
4 purveyors of local news to drill down deeper and  
5 extend coverage wider to create hyper local news  
6 centers that will serve their communities even  
7 better.

8 Tom has mentioned the statistics from  
9 our surveys and I just want to highlight and  
10 underscore a couple of points that he made. One  
11 is that in this period, and we've heard some  
12 things about the harms that may have been caused  
13 by reducing some of the regulation that governed  
14 radio ad television, but, in fact, in this period,  
15 we now see television stations expanding their  
16 coverage throughout the day so that last year it  
17 reached an all-time high of 4.6 hours a day of  
18 news that's being produced by television stations.  
19 And we will report that that number has gone even  
20 higher in the most recent survey.

21 The number of stations that do news has  
22 grown, particularly during the 1990s when the FOX

1 network began asking all of its affiliates to do  
2 news and when Spanish language television exploded  
3 in local newscasts on Univision, Telemundo, and  
4 Telefutera stations. Today there are 750 stations  
5 originating news and an additional 207 stations  
6 carrying news from another local source, far more  
7 than were producing news 30 years ago.

8           With that, the news product is changing  
9 dramatically. Radio and television newsrooms,  
10 until recently, focused on their hourly newscasts  
11 or the nightly news programs that were delivered  
12 over the air. Now they are also providing news  
13 online, on digital subchannels, and on mobile  
14 platforms. Radio stations are producing video as  
15 well as streaming audio that can be accessed  
16 through the Internet and television stations are  
17 providing video updates for consumers on their  
18 iPhones and BlackBerrys when and where they want  
19 them.

20           But the landscape for local radio and  
21 television is also challenging. The declines in  
22 advertising revenue and increasing competition for

1 the attention of viewers and listeners are putting  
2 financial pressures on commercial stations. Last  
3 years' recession affected broadcast stations just  
4 as it affected so many other parts of the economy.  
5 So while stations are producing more news than  
6 ever, they are doing it with less.

7           RTDNA surveys show that the newsroom  
8 staffing has declined in the past two years and  
9 the average salary is dropping. The average  
10 newsroom staff was 35.9 people in 2008 and '09  
11 compared with 37 8 years ago. Nonetheless,  
12 stations continue to serve their communities with  
13 news that informs and enlightens, promotes civic  
14 engagement, rallies support for the unfortunate,  
15 and safeguards lives in times of disaster. A  
16 familiar example here in Washington is last  
17 month's news coverage of two major snowstorms.  
18 Local stations kept viewers and listeners apprised  
19 of weather and road conditions, closing and safety  
20 tips, and conveyed information on behalf of fire  
21 departments and hospitals to get the community  
22 engaged in helping their neighbors. And if you

1       were one of the thousands who were without  
2       electric power for several hours or days, you  
3       could still keep informed with your  
4       battery-operated radio thanks to all-news station  
5       WTOP. Jim Farley, WTOP's vice president for news,  
6       said, "We felt as if our job was to hold the hands  
7       of people sitting there in the cold and the dark."

8                 This public service is not limited to  
9       times of disaster. Stations serve as watchdogs on  
10      behalf of their communities providing enterprise  
11      and investigative reporting that helps citizens  
12      keep tabs on local government and other  
13      institutions. While some fear that investigative  
14      reporting is dying out at local stations, the  
15      evidence suggests otherwise. RTDNA finds plenty  
16      of competition each year for its Edward R. Murrow  
17      awards that it presents at the local and network  
18      level and just this year local stations received  
19      twice as many of the prestigious Dupont-Columbia  
20      awards as in the previous year and nearly tied the  
21      all-time high from four years earlier.

22                 To continue to provide high quality news

1 for their communities at a time when revenues are  
2 falling, station newsrooms are restructuring and  
3 retooling to work more efficiently. By taking  
4 advantage of digital technology, newsrooms are  
5 increasing their editorial capacity. Hearst  
6 Broadcasting is calling its journalists APJs for  
7 "all platform journalists." Digital tools are  
8 democratizing the newsroom. Everyone in the  
9 newsroom can have a beat. By changing two-person  
10 crews to one person with digital equipment,  
11 Scripps TV stations have doubled the number of  
12 people on the street and inaugurated more intense  
13 coverage in targeted areas. Stations can now  
14 provide the kind of granular coverage that used to  
15 be available only from suburban newspapers.

16 I've included specific examples of these  
17 innovations in my written testimony and we've  
18 posted the links to some of these websites on the  
19 RTDNA website, RTDNA.org.

20 All I've said this afternoon leads to  
21 the inevitable conclusion that the vast majority  
22 of America's radio and television stations are

1 meeting their public interest obligations. In  
2 fact, I think it's fair to say that broadcasters  
3 embrace the charge to serve their local  
4 communities and have done so in spectacular  
5 fashion even in the wake of deregulation. Locally  
6 targeted programming, particularly news and  
7 information programming, is the primary means  
8 through which radio and television stations  
9 distinguish themselves in an increasingly  
10 competitive marketplace. Those radio and  
11 television licensees who prosper, not only serve  
12 their communities, but also are an integral part  
13 of them.

14           The Commission's future of media  
15 proceedings said its purpose is to assess whether  
16 all Americans have access to vibrant, diverse  
17 sources of news and information that will enable  
18 them to enrich their lives, their communities, and  
19 our democracy.

20           I am confident that the project will  
21 culminate in a report that will find that local  
22 broadcasters do remain an integral part of that

1 news and information fiber. But at the same time  
2 I would caution the Commission as it embarks upon  
3 this initiative to be true to its commitment not  
4 to run afoul of its obligation under the First  
5 Amendment to protect free speech in an independent  
6 press.

7           As a practical matter, additional  
8 regulation will not further the goals the  
9 Commission seeks to achieve, but will turn its  
10 efforts upside down by draining station resources  
11 and forcing broadcasters to base editorial  
12 decisions on the government's private notions of  
13 what the public ought to hear rather than the  
14 desires of the audiences broadcasters are licensed  
15 to serve.

16           Moreover, radio and television stations  
17 compete with a plethora of traditional and new  
18 media information platforms unencumbered by  
19 regulation. Government policy should be designed  
20 to foster competition, not to unfairly handicap  
21 certain marketplace participants.

22           Television and radio stations are

1       succeeding because they are maintaining their  
2       commitment to public service and innovating to  
3       keep the public service relevant. Now is not the  
4       time to impose new burdens and regulatory regimes  
5       that could stifle competition, inhibit innovation,  
6       and damage the public service mission broadcasters  
7       have embraced for more than three quarters of a  
8       century.

9                 Thank you.

10                MR. WALDMAN: Thank you very much. Next  
11       we'll hear from Professor Eric Klinenberg,  
12       professor of sociology at NYU and author of the  
13       aforementioned book, *Fighting for Air: The Battle*  
14       to Control America's Media.

15                MR. KLINENBERG: Thank you, and I'm  
16       going to spare you the PowerPoint since it seems  
17       out of place in today's meeting. But I'll also  
18       say I'm going to provide a slightly different  
19       interpretation of the last 25 years of media  
20       policy history, in the spirit of having an engaged  
21       conversation and debate about it.

22                Since its creation, this Commission has

1       made a principled commitment to treat the airwaves  
2       as natural resources that like the air itself or  
3       national parks, belong to the people. In our  
4       distinctive American media system, licensed  
5       corporations can use these public resources for  
6       private gain, and they've done so, but only on the  
7       condition that they deliver content that is  
8       responsive to the needs and the problems of the  
9       communities that they serve. This obligation is  
10      not arbitrary. It's based on the fact that  
11      broadcasters are uniquely positioned to inform the  
12      public about important matters of all kinds from  
13      complex policy issues to school closings,  
14      campaigns and elections, to crises and  
15      emergencies. And to this day, I would argue,  
16      radio stations have an unmatched capacity to  
17      disseminate news and information when people need  
18      it the most. This is not only because during  
19      crises radio signals have proven to be far more  
20      reliable than electricity, Internet servers, and  
21      cell telephone systems; it's also because the  
22      public remains tuned in all of the time.

1 According to Nielsen's 2009 figures, nearly four  
2 in five Americans listen to broadcast radio daily,  
3 which means that the digital revolution has  
4 happened, but radio has survived. Now, that means  
5 that so must our public interest standards. And,  
6 in fact, I believe they need to be made more  
7 serious, more substantive, more robust, so that  
8 they're effective no matter what technology we  
9 develop.

10 In recent years, some FCC commissioners  
11 have expressed some skepticism about the public  
12 interest requirements for broadcasters. Some have  
13 insisted that the public interest is best served  
14 when the Commission gets out of the way and lets  
15 the market work its magic. This is the case for  
16 deregulation. But I would argue, based on the  
17 record, that our recent experiment in media  
18 deregulation did about as much to promote the  
19 public good for citizens as our experiment with  
20 banking deregulation.

21 Others have relied on the argument that  
22 the public interest is what the public is

1 interested in. But that doesn't address the fact  
2 that while on most days the residents of Minot,  
3 North Dakota, or New Orleans, Louisiana, are  
4 interested in country and pop music or syndicated  
5 talk radio, their interests change dramatically  
6 when there's a chemical spill or a hurricane at  
7 their door.

8 Now, still others say that the FCC  
9 should not promote the public interest if it  
10 cannot define it. So what I'd like to do today,  
11 because I think this is a serious issue, is just  
12 to suggest three areas in which I believe the  
13 meaning of the public interest should be pretty  
14 clear and these are, first, emergency  
15 communications, which is something I take  
16 seriously in my scholarly work; second, local news  
17 and information; and third, this point about  
18 diversity which has come up a little bit in the  
19 discussions today.

20 Let's start with emergency  
21 communications and I hope -- I see that most of  
22 you believe -- agree with me that this is

1 something broadcasters should not just continue  
2 doing, but also do better and better with time.  
3 Now, historically, the need for reliable emergency  
4 communications systems was responsible for the  
5 nation's first broadcaster policy, the Radio Act  
6 of 1912. That year, it turns out, problems with  
7 the wireless communication during the Titanic  
8 disaster moved Congress to pass radio regulations  
9 that protected public health and safety on the  
10 seas and that involved ensuring that ships  
11 maintained a wireless system that was staffed by a  
12 live human being at all times, a radical proposal  
13 at the time; an auxiliary power source in case the  
14 engine malfunctioned, the technology broke down;  
15 and a formal procedure for reporting trouble.

16 Moreover, for the first time, the  
17 federal government in 1912 took responsibility to  
18 ensure to the people of the United States an  
19 uninterrupted wireless service 24 hours a day for  
20 every day of the year because at the time it was  
21 viewed that the public sector had proved incapable  
22 of policing itself on the airwaves, lots of

1 interference. We know that story.

2           Now, during the Cold War, President  
3 Harry Truman expanded the national security and  
4 public health responsibilities of broadcasters.  
5 In 1951, he established the CONELRAD system, a  
6 federal program when activated required all of the  
7 nation's television channels and FM radio outlets  
8 to immediately broadcast warnings before shutting  
9 down their signals thereby preventing foreign  
10 enemies from taking over the spectrum as part of a  
11 military attack.

12           After the Cuban Missile Crisis, disaster  
13 planners recommended improving the technology so  
14 that local officials could activate the system  
15 during a range of public safety threats. And in  
16 1963, they introduced the Emergency Broadcast  
17 System, or EBS, for warnings during natural  
18 disasters, civil emergencies, or military attacks.

19           American law required radio and  
20 television broadcasters to conduct weekly tests of  
21 their EBS systems and probably most of us who  
22 watched television between 1963 and 1997 can

1 remember hearing that bracing two-toned signal  
2 along with the flat and reassuring voice  
3 announcing, "This is a test of the Emergency  
4 Broadcast System. It's only a test."

5 Now, in 1997, the federal government  
6 updated that technology with a new one, the  
7 Emergency Alert System. And in theory, the  
8 Emergency Alert System improves crisis  
9 communications because, as the FCC has stated, its  
10 digital system architecture allows broadcast  
11 stations, cable systems, satellite companies, and  
12 other services to send and receive emergency  
13 information quickly and automatically, even if  
14 those facilities are unattended.

15 The President, the state and local  
16 governments, and the National Weather Service can  
17 also use EAS to override local broadcasts, which  
18 is an important innovation. In practice, however,  
19 we know that EAS has had serious problems. The  
20 Government Accountability Office has reported that  
21 in about 10 to 15 percent of the national tests,  
22 problems with the technology caused major system

1 malfunctions, which in a real emergency could have  
2 prevented the public from receiving critical  
3 information. And I would argue that this should  
4 not be surprising. After all, new technologies  
5 often malfunction, particularly during crises when  
6 all systems are taxed.

7           So the question is how to make  
8 broadcasters more resilient so that they can  
9 fulfill their public interest responsibilities  
10 when the automated systems fail. And the answer,  
11 I believe, is to look back to 1912. It's to make  
12 sure that there are live human beings in the  
13 studios of designated emergency broadcasters and  
14 other local broadcasters, live human beings who  
15 are ready to help if and when disaster strikes,  
16 and so that they can take care of their listeners'  
17 interest in getting vital news and information.

18           Fifteen years ago, maybe 20 years ago,  
19 this would not have been a problem, but today,  
20 after the rise of digital voice tracking, the loss  
21 of locally-owned stations with a vested interest  
22 in their community, and the massive downsizing of

1 radio employees that we heard about from Tom,  
2 covering catastrophes has become a serious  
3 challenge. So I would ask the Commission to take  
4 this challenge seriously in its proceedings.

5 The second area where the public  
6 interest should be apparent concerns the supply of  
7 everyday local news and information that's  
8 available over the airwaves. Radio, after all, is  
9 good for much more than simply entertainment.  
10 Now, historically, broadcasters have played  
11 critical roles in informing the public about a  
12 wide range of local issues that citizens need to  
13 understand if they are to participate meaningfully  
14 and thoughtfully in a democratic process. But  
15 today radio stations do a much better job of  
16 reporting on the day's traffic and weather than  
17 covering the state of our transportation  
18 infrastructure and the condition of our  
19 environment. The latest Pew study, as we heard,  
20 told us with RTNDA data, that the typical radio  
21 station broadcasts about 40 minutes of news  
22 content per day, which is less than 2 minutes per

1 hour. And it's no wonder since the average  
2 station employs just one or maybe two people in  
3 the newsroom.

4           Moreover, we know about 40 percent of  
5 those employees who work in radio newsrooms have  
6 other responsibilities which include marketing and  
7 programming and hosting, so it's a very difficult  
8 job to do. In fact, I would argue that under  
9 these conditions, it's no surprise that syndicated  
10 stories and cookie-cutter national content  
11 dominate local broadcasts. And those of us who  
12 want local news and information on the radio  
13 system can only get it if we're lucky enough to  
14 live in a place where there's a robust public or  
15 non-commercial broadcaster providing that, and,  
16 unfortunately, that's too small of a population.

17           In some radio markets today, the mere  
18 presence of a living person in the studio is a  
19 luxury. So when I reported in my book about the  
20 state of local media, I interviewed listeners in  
21 all parts of the country who complained that their  
22 once favorite radio stations had replaced local

1 programs and local hosts with piped-in content,  
2 personalities that came to them from other states.  
3 There was this grating experience of people  
4 listening to the names of towns or prominent  
5 people in their communities mispronounced because  
6 the people didn't really know them. Local news  
7 programs disappeared, and instead we got the same  
8 programs that are available no matter where we go.  
9 These programs certainly serve our public interest  
10 in outrage and indignation, but they also promote  
11 divisiveness and they directly undermine the  
12 diversity and the localism of our radio system,  
13 and this places them at odds with our historical  
14 broadcast policy.

15 Let me conclude briefly by discussing  
16 diversity, the third area of public interest where  
17 FCC policies could make a difference. The  
18 Commission's longstanding principles have stated  
19 that diversity of ownership, perspective, and  
20 programming boosts the quality of our cultural and  
21 civic life. But since 1996 at least, your  
22 policies have either helped reduce diversity or at

1 best done little to bolster it. So consider just  
2 a few findings from Free Press' report on who owns  
3 and who does not own America's full-power  
4 commercial radio stations. Women are 51 percent  
5 of the population and own 6 percent of the  
6 nation's commercial radio stations. Racial and  
7 ethnic minorities are 33 percent of the population  
8 and own 8 percent of those stations. The numbers  
9 are even worse in many of our biggest markets.  
10 Chicago is my home town, my native city, and there  
11 African-Americans and Latinos constitute at least  
12 63 percent of the population, but only 5 percent  
13 of all station owners.

14 Now, in theory, let's be clear, a radio  
15 station can serve the needs and interests of its  
16 listeners regardless of who owns it. A giant  
17 conglomerate with stations in dozens of cities can  
18 demand that its program directors and its deejays  
19 and talk show hosts offer diverse viewpoints and  
20 report on issues that are not widely available in  
21 the media market. In theory, a multinational  
22 corporation can invest in unprofitable public

1 interest programming if it values a community's  
2 health and well being as much as it does its own  
3 bottom line. But the record of the last 25 years  
4 shows that in our world, the real world we live  
5 in, owners and managers with strong connections to  
6 their listeners and communities are far more  
7 likely to make meaningful contributions to those  
8 communities and that's true during ordinary times  
9 as well as in crisis.

10 So, thank you.

11 MR. WALDMAN: Thank you very much. Next  
12 we'll hear from Jerry Fritz, who is the senior  
13 vice president of Allbritton Communications.

14 MR. FRITZ: Thank you, Steve, Jennifer,  
15 and thank you. I appreciate the opportunity to  
16 discuss these important issues. It's always good  
17 to be back here at the FCC. I also want to point  
18 out that we have not violated the sponsorship  
19 identification rule or the payola rule. We did  
20 not pay Andy to be Allbritton's promotion  
21 director. Thank you, Andy.

22 I am fortunate to have observed and

1 participated in the over-the-air television  
2 industry for over half of its 80+ years, and I've  
3 been watching and helping to move the public  
4 interest pendulum for a good part of that time.  
5 That pendulum appears to swing in a 20-year  
6 generational arc and it has been a -- has had a  
7 wobbly effect on what Americans see and hear.  
8 Some of us on this panel have lived through the  
9 1960s kabuki-like regulatory ritual of the  
10 government attempting to guide programming  
11 indirectly by mandating formal issue ascertainment  
12 efforts, including both detailed community leader  
13 surveys and random market surveys every three  
14 years, or adhering to license renewal processing  
15 guidelines for specified program categories, or  
16 directing content oversight through the Fairness  
17 Doctrine regime.

18           We witnessed the feckless and  
19 essentially ineffective attempts to increase  
20 program diversity through structural limits like  
21 that monument to unintended consequences: The  
22 newspaper-broadcast cross-ownership rule. This

1 failed experiment forced the sale of the only  
2 competitive newspaper in Washington, D.C., so that  
3 in the shadow of Congress and the backyard of the  
4 FCC, we were left with a monopoly newspaper town.  
5 That sure did a lot for diversity.

6 I was part of the team in the 1980s that  
7 reevaluated the regulatory model and saw that it  
8 had collapsed under its own weight. The result  
9 was a restatement of the public interest defined  
10 by the public's interest, a marketplace rationale  
11 for regulation. Broadcasters were charged with  
12 and indeed accepted the responsibility of  
13 determining the interests of their audience rather  
14 than paying lawyers to cross-examine a witness  
15 concerning a community leader survey asking  
16 whether an interview of the meter maid was done to  
17 support the government leader or the law  
18 enforcement category, as if that had anything to  
19 do with programming.

20 Now the pendulum swings back again and  
21 we seem to be experiencing an ominous revival of  
22 sorts with the government reasserting its view of

1       what constitutes the public interest by imposing  
2       new requirements from children's programming to  
3       incomprehensible indecency limits. We look around  
4       at the sea change in how our citizens receive news  
5       and information and suddenly there's angst over  
6       the viability of traditional platforms. So the  
7       question becomes, should the Commission resort to  
8       attempts at fixing the broadcast silo by imposing  
9       its programming ideas or letting the market meet  
10      the needs of the audience across all distribution  
11      platforms?

12                 Notwithstanding historical attempts to  
13      impose someone else's idea of necessary  
14      programming, broadcasters, as content creators,  
15      monitor what the public wants on a daily basis.  
16      We evaluate who they are, what they watch, where  
17      they watch, when they watch, and how they watch.  
18      We even speculate on why they watch. The trick is  
19      to amalgamate large enough audiences that  
20      advertisers will pay to reach and offset the  
21      expenses necessary to provide that programming,  
22      and we follow those viewers relentlessly.

1           When the Commission, for example, told  
2       Joe Allbritton that he could no longer keep the  
3       locally owned Washington Star newspaper and radio  
4       stations in Washington, he looked to enhance his  
5       news programming and operation at WJLA to keep  
6       that audience. So we tracked down viewers as  
7       early as 4:30 in the morning and began our  
8       newscasts then. You couldn't find that 30 years  
9       ago; now it's taken for granted. And when  
10      Allbritton saw the broadcast audience leading  
11      cable, he built out of whole cloth the first,  
12      independent, local, all-news cable channel in the  
13      nation, NewsChannel 8, and zoned it with different  
14      content to meet the local interests of different  
15      parts of the market.

16           When he saw the opportunity to reach  
17      some TV viewers who weren't in front of TVs, he  
18      struck deals with local radio stations to program  
19      what the government wouldn't let him own. So now,  
20      for example, all-news WTOP radio here in  
21      Washington has the sophisticated weathercasters  
22      and resources of WJLA-TV, 24 hours a day.

1           When newer technologies began to siphon  
2           away those TV viewers, Robert Allbritton explored  
3           alternatives like EON, Datastream, Streamvision,  
4           Terastream, Streampipe, Zatso, Cell Now, and  
5           Geocast. That drive to innovate has led to the  
6           soon-to-be-launched hyper local website here in  
7           Washington that will move to the next generation  
8           of news coverage and reverse the information flow.  
9           Instead of TV stories populating the websites, the  
10          web stories will program the TV stations.

11           As technology allowed for digital  
12          broadcasting, the Allbritton stations are  
13          providing other programming options, including  
14          24-hour all-local weather channels and  
15          experimental forays into all-local entertainment  
16          content. As mobile capabilities become further  
17          commercialized, that platform will be added to our  
18          growing list of Allbritton apps on the mobile  
19          devices.

20           And since the Commission won't let the  
21          Allbrittons own a daily newspaper in Washington,  
22          they followed the audience again and created,

1       again out of whole cloth, a niche,  
2       newspaper-website operation that has captured the  
3       attention of the world interested in the product  
4       of this market, Politico. It's become, in three  
5       short years, the ESPN of politics.

6                   What's stunning about all of these  
7       efforts is that none, not one, emanated from the  
8       government's mandate to serve the public interest.  
9       We constantly seek to serve the public interest in  
10      exactly the way the Commission endorsed in the  
11      1980s. Our audience is a moving target and is not  
12      shackled to one distribution system. Our efforts  
13      to track that audience are propelled inexorably by  
14      technology. If we master it, we can adapt. The  
15      trends are illustrative. News has always embraced  
16      technology. The past three decades, however, were  
17      historic. With access to computer servers, shared  
18      area networks, nonlinear editing, stable microwave  
19      and electronic news gathering, hundreds of  
20      prepositioned, static cameras, lightweight digital  
21      gear, and cell phone technology, our staff can be  
22      used more efficiently. News gathering by

1 one-man-bands permits multiple stories that could  
2 be edited on the fly and repurposed on several  
3 platforms. The technology is adapted by the  
4 journalists to write for broadcast, for cable, for  
5 radio and the web, meeting the needs of the  
6 audience wherever it is. We have fewer reporters  
7 now who produce much more content.

8           These adaptations are essential to  
9 relieve the pressure of rising costs and shrinking  
10 revenues. As you well know, there has been a  
11 dramatic fractionalization of audiences. There  
12 are hundreds of options, and Nielsen slices minute  
13 demographic data for advertisers so finely that  
14 the margin of error approaches 25 percent. We  
15 worry about retaining those advertisers and their  
16 life blood revenue. The networks have become  
17 super-syndicators demanding payment and network  
18 compensation to us has virtually ended further  
19 stressing the revenue line. Add a volatile base  
20 of advertisers dominated by a single product,  
21 automobiles, and we see a fluctuating income  
22 stream, but the costs for news and programming

1 have increased far more than the revenue to pay  
2 for them, so the trend is to do much more with  
3 less.

4           Programming for multiple platforms is an  
5 economic necessity to support the infrastructure.  
6 Broadcasters are abandoning their single silos of  
7 distribution and their content seeks to find the  
8 audience on a TV station, it's website,  
9 subchannels, or mobile devices. This is a trend  
10 which will assuredly continue.

11           Again, note that our operating plan is  
12 to meet the public's interest in news and  
13 information, not the government's. We don't need  
14 the government to tell us what that is. We don't  
15 need the government to tell us to add three hours  
16 of children's fare, for example, to a 24-hour all  
17 local politics, Politico program, DTV subchannel,  
18 presumably that would meet even the FCC's idea of  
19 good public interest programming. I don't  
20 understand how, in a First Amendment shielded  
21 environment, that hierarchy makes any sense.  
22 Kidvid has been elevated to a super-favored status

1 trumping all other public interest programming.  
2 How is that statutorily or constitutionally  
3 possible? I don't know.

4 I do understand that viewers sometimes  
5 don't like our programming choices. It does not  
6 logically follow, however, that the government  
7 should force broadcasters to program their  
8 stations in neat and tidy defined categories. The  
9 FCC's infamous 1960 programming report had 14  
10 specific categories, including religious,  
11 agriculture, educational, and minority  
12 programming. If Rip Van Winkle were to wake up  
13 today and read the proposed enhanced disclosure  
14 reporting categories, he would be astonished to  
15 see that they are virtually identical -- 50 years  
16 later -- blinking away cable, satellite, telco,  
17 Internet platforms. And every broadcaster in the  
18 country will be forced to hire a person to do  
19 nothing all day long but construct a daily report  
20 of programming on a segment-by-segment basis of  
21 how much is national, local, civic affairs,  
22 religious, or geared to some underserved

1 community, whatever they are, with zero statutory  
2 authority, and to what end? Will the Commission  
3 now tell us that a teen pregnancy segment on Oprah  
4 doesn't meet the local needs because it was  
5 produced in far-off Chicago and not in the local  
6 city of license?

7 A broadcaster's version of the public  
8 interest may be different than the government's,  
9 but the public is constantly moving and isn't tied  
10 to neat boxes of only those platforms that the  
11 government oversees. I comment the Commission for  
12 looking at the program distribution environment  
13 holistically. I'm hopeful that it will resist the  
14 temptation to fix the individual broadcast silo.  
15 Broadcasters are following the public and  
16 attempting to serve it. Our sincere hope is that  
17 the Commission will have the considered good sense  
18 to keep out of our way as we do.

19 Thank you.

20 MR. WALDMAN: Thank you very much. We  
21 will finally hear from Angela Campbell, professor  
22 of law and director of the Institution for Public

1 Representation at Georgetown University.

2 MS. CAMPBELL: Thank you for inviting  
3 me. I will be a little bit different and I will  
4 use my PowerPoint.

5 In December the FCC issued the National  
6 Broadband Plan Public Notice No. 26, which asked,  
7 among other things, how television broadcasters  
8 are using the capabilities of digital television  
9 today. One would have thought that the FCC, the  
10 agency charged with awarding digital broadcast  
11 licenses and ensuring that the licensees who serve  
12 the public interest, would know the answer to that  
13 question, but, in fact, the FCC collects no data  
14 on how broadcasters are using the digital  
15 spectrum.

16 Providing local news -- everyone here  
17 agrees that providing local news and informational  
18 programming has historically and still is a key  
19 part of a broadcaster's public interest  
20 obligations and has been since the beginning. The  
21 FCC could have awarded national licenses, but they  
22 didn't; Congress made the decision. This is the

1 spectrum chart, and I know you can't possibly read  
2 it from where you are, but the point is the blue,  
3 the biggest category on that chart, is for  
4 broadcasting. The top -- or the second level is  
5 the AM, and the TV is on the, like, third and  
6 fourth. But a lot of spectrum was allocated  
7 specifically for television, both UHF and VHF, so  
8 that specific communities would have their own  
9 television stations and those television stations  
10 would be responsible for serving the needs of  
11 those communities.

12           We've talked a bit about the processing  
13 guidelines that were repealed as part of  
14 deregulation in 1984, but even then the Commission  
15 reaffirmed that licensees retained a core public  
16 interest obligation to provide programming  
17 responsive to community needs.

18           The FCC began planning for the  
19 transition to digital television in -- or what  
20 they called at the time, advanced television -- in  
21 1987. In the following year, the Commission  
22 tentatively concluded that allowing existing

1 licensees to utilize the advanced television was  
2 necessary to preserve these public interest  
3 benefits of the existing system of a "privately  
4 owned and operated broadcast stations that  
5 transmit local and regional news, information, and  
6 entertainment, as well as national and  
7 international programs."

8           In the 1996 Telecommunications Act,  
9 Congress authorized the FCC to award digital  
10 licenses to all of the existing television  
11 licensees and only those existing licensees  
12 foregoing the opportunity at that point to  
13 diversity broadcast ownership. Although the  
14 exiting licensees would initially receive  
15 additional spectrum to permit them to broadcast in  
16 digital as well as analogue, at the end of the  
17 transition period, each licensee would have the  
18 same amount of spectrum as before, 6 megahertz in  
19 the television band. This plan replicated the  
20 existing spectrum allocation in favor of local  
21 service.

22           Congress reaffirmed that the transition

1 to digital did not relieve television stations  
2 from their obligations to broadcast in the public  
3 interest, indeed it conditioned the renewal of  
4 digital licenses upon a showing that all program  
5 services were in the public interest and also  
6 directed the Commission to adopt regulations that  
7 any ancillary or supplementary services, that is  
8 non-free broadcast services, would also be in the  
9 public interest.

10 The following year the FCC reminded  
11 licensees that their existing public interest  
12 requirements continued to apply and it also put  
13 them on notice that it would be considering new  
14 public interest rules for digital television in  
15 the future. To assist the Commission, President  
16 Clinton established an advisory committee on the  
17 public interest obligations of digital television  
18 broadcasters which consisted of 22 representatives  
19 of both the industry and the public. And after  
20 holding numerous meetings, the advisory committee  
21 released a lengthy report in December 1998.

22 The report reviewed the meaning of the

1 public interest standard, finding that in essence  
2 its purpose was to invigorate the political life  
3 and democratic culture of this nation. The  
4 advisory committee found that the increased  
5 capacity of digital television provided  
6 opportunities for improving political discourse,  
7 increasing program diversity, fostering localism,  
8 and serving underserved communities. And if you  
9 don't know who they are, we can help you with  
10 that.

11 To this end, they made ten different  
12 recommendations to the FCC, Congress and the  
13 industry. The FCC has sought comment on these  
14 recommendations, but has taken little action to  
15 enforce them. Quickly I'll just go through some  
16 of them.

17 Enhanced public disclosures come up  
18 quite a bit and I will talk about that a bit more  
19 in a minute. As to the third one, minimum public  
20 interest standards, the Commission has a proposal,  
21 it has never been adopted. The fifth one, which  
22 has to do with how broadcasters use their ability

1 to multicast to provide additional public service  
2 programming, has only been implemented to the  
3 extent that broadcasters who do multicast, do have  
4 a requirement to provide some additional  
5 educational programming for children.

6 The FCC has done nothing to improve the  
7 quality of political discourse and as recent  
8 studies have shown, broadcasters provide -- many  
9 broadcasters, not all -- provide very little  
10 coverage of state and local political races. And  
11 instead of implementing the ninth recommendation  
12 to increase diversity and service to minority  
13 audiences, diversity is diminished along with the  
14 increased ownership consolidation.

15 So, let me go back to the first one, the  
16 enhanced disclosure. An enhanced disclosure rule  
17 was, in fact, after being proposed in the year  
18 2000, adopted in November 2007, and it requires  
19 that television stations prepare a quarterly  
20 report known as a Form 355, to file this report  
21 with the FCC and to post it on their websites.

22 Now, here's one of the questions from

1 the form, and what it does is it asks each  
2 broadcaster to report the average number of hours  
3 per week broadcast on each program stream, of  
4 various types of programming that are  
5 traditionally considered to be in the public  
6 interest, including national news, local news  
7 produced by the station, local news produced by  
8 another entity, local electoral affairs, and  
9 public service announcements. Other questions  
10 asked about programming, service for people with  
11 disabilities, the existence of local marketing  
12 agreements or other sharing arrangements.

13 The data in the Form 355 is not only  
14 necessary to ensure that licensees are serving the  
15 public interest, but it's also highly relevant to  
16 proceedings such as this future of media  
17 proceeding as well as many others, such as the  
18 quadrennial ownership reviews and the National  
19 Broadband Plan. Yet, incredibly, even though it's  
20 been more than two years since the FCC adopted  
21 these rules, the FCC has never taken the steps  
22 necessary for the reporting requirement to take

1 effect. As a result, the FCC has depended upon  
2 comments from the broadcasters themselves to find  
3 out what they are doing with the digital spectrum,  
4 and in the broadband proceeding, many broadcasters  
5 did file comments and generally made pretty vague  
6 and unsupported claims about how they served the  
7 public interest by airing local news, emergency  
8 information and other community responsive  
9 programming. It's difficult, if not impossible,  
10 to confirm or disprove these claims in the absence  
11 of comprehensive data, but there are some  
12 indications that the level of public interest  
13 programming is declining. We do know, and it's  
14 been confirmed now, I guess, here by the Pew  
15 studies, that many stations do not provide any  
16 local news at all and those that do offer local  
17 news, it's becoming less diverse and covering  
18 fewer issues with the increasing number of actual  
19 and virtual duopolies and triopolies, shared  
20 services agreements, local news services, layoffs,  
21 and cutbacks.

22 For example, even in New York, the

1 largest television market, five of the six  
2 stations with regularly scheduled news have joined  
3 forces to cover news events jointly. The  
4 Commission and the public also need to know  
5 whether and how digital television stations are  
6 using their multicast capabilities. A recent  
7 comment filed by the NAB say that the digital  
8 broadcasters can now transmit 10 or more high  
9 quality video streams. This is several more than  
10 was originally projected by the advisory  
11 committee. But are these program streams being  
12 used to enhance political discourse, serve  
13 minority audiences, or provide educational  
14 programming for children? Again, the FCC lacks  
15 any comprehensive data.

16 NAB did include a survey of the stations  
17 in Washington, D.C., and it shows that the NBC  
18 affiliate, the ABC affiliate, and the CBS  
19 affiliate are all transmitting a second program  
20 stream, all with 24-hour weather services. Some  
21 stations are not multicasting at all and none  
22 appear to be using the multicast channels to

1 provide additional local news or community-based  
2 programming. These comments also cite the BIA's  
3 media-access pro for the claim that the  
4 broadcasters are airing over 1,400 multicast  
5 services. I don't have access to this private  
6 database because it's very expensive, so I don't  
7 know whether the number's true and I don't know  
8 anything more about it except that we do know  
9 there are over -- there's 1,782 commercial and  
10 non-commercial television stations. And so this  
11 means even if each one only had one additional  
12 channel, that would mean there's still at least  
13 382 that aren't providing any multicast services  
14 at all.

15           So, in conclusion, I cannot answer the  
16 question that I think Steve wanted me to answer,  
17 is whether commercial television broadcasters are  
18 meeting the informational needs of communities in  
19 the digital era, although the FCC has insisted  
20 that the transition to digital should not result  
21 in any loss of service and indeed offer the  
22 potential for much greater public service. The

1 FCC has failed to adopt relevant public interest  
2 criteria for the digital age and has also failed  
3 to collect the data necessary to analyze whether  
4 the community informational needs are being met.

5 Thank you.

6 MR. WALDMAN: Thank you very much for  
7 all your presentations.

8 Before we go to questions I just want to  
9 remind the audience that if you're out there  
10 watching the web stream of this that you can send  
11 in question either through email,  
12 futureofmedia@fcc.gov, or twitter/fomwkshop.

13 I'm tempted just to just to kind of ring  
14 a bell and let you guys go at it, but I did have a  
15 few questions that I wanted to ask first.

16 Andy made the point at the beginning of  
17 his remarks that many broadcasts -- he believes  
18 that many broadcasting stations are doing an  
19 excellent job serving the public interest. So, I  
20 want to ask Jane Mago, would you agree,  
21 conversely, that there are some local broadcasters  
22 that are not serving the public interest?

1                   MS. MAGO: I would agree that there's  
2                   varying degrees of how broadcasters serve the  
3                   public interest. And I think I tried to make that  
4                   point in what I was saying before, that if you try  
5                   to look only at one thing, for example, if you're  
6                   only looking at news, you're going to find, as  
7                   others have noted here, that there are some  
8                   stations that aren't doing news. Those stations  
9                   may be providing different types of programming  
10                  that might go to a different source, they may be  
11                  providing some sort of a public affairs program of  
12                  some sort. I think what Andy was saying, if I  
13                  heard you right, and I know Andy will correct me  
14                  if I don't say it right, is that he doesn't feel  
15                  that all of the stations are doing all of the  
16                  public interest programming that he would like  
17                  them to do. And I think that one of the things  
18                  that the Commission has done over time is to look  
19                  at this. They have to look at everything on a  
20                  full market basis. And you have to kind of look  
21                  at where -- how the public interest is being  
22                  served in the community as a whole, and I think

1 you do have to do that. You can't say that every  
2 station has to do every single thing. And that's  
3 why you can serve different audiences. Someone  
4 serving a particularly small portion of the  
5 audience and not serving some of the rest of it.

6 MR. WALDMAN: So, do you just -- I'm  
7 sorry, I know that was Andy's point. I had a  
8 slightly different point to my question though  
9 which was, do you think there are any stations in  
10 the United States that are not serving the public  
11 interest?

12 MS. MAGO: I'm not in a position to say  
13 that.

14 MR. WALDMAN: The testimony we heard  
15 earlier this morning was that in the last 40 years  
16 only one license has not been renewed on the  
17 grounds that they were not meeting the public  
18 interest obligation. Do you think that the FCC  
19 has pretty much gotten that right in terms of the  
20 percentage of stations that were meeting the  
21 public obligation?

22 MS. MAGO: First, I'm not quite sure

1 that that was right. You know, Bob and I have  
2 known each other for a long time and have gone  
3 through some of these debates for a while. There  
4 was -- in the -- the last 40 years covers an awful  
5 long timeframe. And among the things that  
6 happened in that timeframe was up until 1996, you  
7 had comparative renewals and at various times  
8 people filed for a -- when a station's license was  
9 up for renewal there was someone who filed a  
10 comparative application that was on top of that  
11 and I know -- I don't have the numbers. I tried  
12 to get them while we were in the break and I  
13 didn't have the numbers, but there were a number  
14 of times during that time that the incumbent  
15 licensee was not awarded the license and it went  
16 to a different entity. Those were very messy  
17 proceedings. They were very difficult, which is  
18 why Congress in 1996 -- and it wasn't the FCC that  
19 did it, it was Congress that said let's get rid of  
20 the comparative renewal process, but let's look at  
21 whether the stations serve the public interest.

22 And so the answer to your question is

1       that I think the Commission has looked at how  
2       stations have served their communities over time.  
3       In various instances I know they also had  
4       short-term renewals where they would say we need  
5       to look at this, we need to look at whether your  
6       promises match your performance in terms of where  
7       you were going with your license over that time  
8       period, and I think that's the appropriate way of  
9       dealing with looking at the station renewals and,  
10      in fact, they still are looking at them.

11               MR. WALDMAN:  Jerry, do you have a view  
12      on that?  Are there any stations in the country  
13      that are not fulfilling their public interest  
14      obligations?

15               MR. FRITZ:  The problem with your  
16      question, Steve, is that I argue with the premise.  
17      The premise of your question is, whose public  
18      interest?  Your public interest?  Andy's public  
19      interest?  Angela's public interest?  Professor  
20      Klinenberg's public interest?  That's the problem.  
21      The problem that the Commission faced and what the  
22      government faces, has faced since Herbert Hoover

1 was the secretary of commerce and came up with  
2 this plan of allocation of FCC licenses is, whose  
3 public interest are we talking about?

4           Everybody here has a different sense of  
5 how they would program their station. The  
6 broadcaster is charged with that analysis. Some  
7 broadcasters make one choice, some broadcasters  
8 make another choice. So, the premise of your  
9 question is, "the public interest," there isn't  
10 anything called "the public interest." There's  
11 Steve Waldman's public interest. It's not mine.

12           MR. WALDMAN: Follow up with a question  
13 then, Jerry. Henry Geller, the general counsel at  
14 the FCC in President Kennedy's administration, and  
15 a strong advocate of the public interest, declared  
16 earlier today that as far as he was concerned, the  
17 entire regime dealing with the public interest is  
18 broken. And the reason that he said it was broken  
19 was because there's a disconnect between the  
20 commercial interests of companies that run  
21 broadcast stations, and the public interest in  
22 serving the public's interest as opposed to their

1 shareholder's interest. Do you believe that? Do  
2 you agree?

3 MR. FRITZ: I don't accept Henry's  
4 premise either and Henry and I have known each  
5 other for a long time. We were co-amici on a  
6 brief to the Supreme Court just three months ago,  
7 but Henry's position is, again, that there is a  
8 public interest.

9 Commercialization and serving the public  
10 are not mutually exclusive. We do it every day.  
11 We make money on our television stations and we  
12 serve the public interest. And I think -- and  
13 this is a point that I neglected to make earlier  
14 -- that I'm somewhat distressed to see that the  
15 focus of this session and even the one this  
16 morning is on a particular platform, the broadcast  
17 platform. As I read your mandate for this entire  
18 project that you're working on, Steve, is that  
19 you're taking a look at it holistically, all  
20 media, is the public being served? And to focus  
21 in just on that platform that the government  
22 regulates really does a disservice to that main

1 mission.

2 MR. WALDMAN: So, you can have the  
3 delight of staying around a couple more hours.  
4 The third panel is not about broadcasters, it's  
5 about the concept of the public interest in the  
6 new media and other platforms.

7 MR. FRITZ: I'll listen carefully then.

8 MR. WALDMAN: I'd be curious, Angela,  
9 could you comment on that, about Henry Geller's  
10 statement this morning?

11 MS. CAMPBELL: Yes. Well, I guess I'm  
12 more in Henry's camp in that I do believe it's  
13 possible to make money and serve the public  
14 interest, but I don't think that there is no such  
15 thing as the public interest, that the market  
16 place is the public interest. I think there are  
17 lots of interests that the public has that are not  
18 necessarily met by the market and it's not my  
19 personal public interest or Andy's personal public  
20 interest or the chairman's personal public  
21 interest. The government is supposed to respond  
22 to the public and meet -- and there are needs that

1 are not met in the marketplace. We don't turn  
2 everything over to the marketplace, we don't turn  
3 our schools over to the marketplace, for example.

4           And the other thing I would say about  
5 making money is I do think that there's a problem  
6 that -- in the past, there was a very clear  
7 understanding that the broadcasters, and this is  
8 the reason why we're focusing on broadcasters, I  
9 think, is because they're the only ones that get  
10 to use the airwaves for free. In return for that  
11 -- and it's the public airwaves -- they are  
12 supposed to provide service to the public that  
13 wouldn't necessarily be the biggest money maker  
14 and they clearly resent doing that. Their  
15 expectations of profits are very high. And, you  
16 know, three hours a week for kids' programming,  
17 that's really burdensome for you? I just -- I  
18 find this really troubling that they want to be  
19 treated like everybody else, but they don't want  
20 to have to pay for the spectrum.

21           So I think I agree with Henry that they  
22 either have to serve the public, whether or not

1       that makes the most amount of money, or they  
2       should turn back -- if they don't have the money  
3       to do it, if their prices -- they pay too much and  
4       they can't afford to do public service, then fine,  
5       turn in your license. You can still offer your  
6       programming on other platforms. So, I'll stop.

7               MS. MAGO: I need to say something.  
8       They'd fire me otherwise. Couple things. One, I  
9       want to make a clear observation that I think it's  
10      important to recognize that at least in the  
11      commercial broadcast space, we have to make money  
12      to serve the public interest. The broadcasters,  
13      in order to fund -- news is expensive. I think we  
14      heard that earlier today, and the information  
15      programming is expensive. If the broadcasters  
16      can't make money, they can't provide that  
17      programming and this all goes down. But quite  
18      apart from that, the one thing that always causes  
19      my members to bristle and, me, as a follow on to  
20      that, is when I hear this thing that says that the  
21      broadcasters get their spectrum for free. First  
22      of all, the system right now has changed. Any new

1 license that's awarded to a broadcaster is done  
2 through auction, just like it is in all of the  
3 other services, and so there's payment to the  
4 government.

5           Even beyond that, those folks that are  
6 licensees now bought their licenses in the regular  
7 private market. There are maybe about five folks  
8 across the country whose families may have been  
9 able to get a license in the initial round of  
10 licenses and even those that are there are paying  
11 a substantial fee that they pay to the FCC every  
12 year and they pay for all of the other things.  
13 So, it's really a misconception to start off with  
14 the notion that this is somehow for free.

15           And I would also note that those who use  
16 the airwaves in other ways, whether it's through a  
17 microwave frequency or any other item, are also  
18 using those airwaves and not necessarily, you  
19 know, paying something directly for that.

20           Now, having said all of that, I go back  
21 to my basic premise which is that the broadcasters  
22 do accept that we have an obligation to serve the

1 public --

2 MR. WALDMAN: Why?

3 MS. MAGO: -- and provide that service  
4 -- because we think that we are public trustees;  
5 that we, in fact, are providing a service and it  
6 becomes our life blood. The local service -- and  
7 again, it frequently gets lost in the  
8 conversations, but I think we've heard themes of  
9 it throughout here, which is, you have to be  
10 serving your local community. You're selling  
11 local advertising. You better know what's going  
12 on in your local community on some level, and you  
13 need to be able to be a part of that community.  
14 And that's the service that our members accept and  
15 embrace. And I don't want to make it sound like  
16 it's all about the money, but you know what? You  
17 have to have the money to be able to provide the  
18 service.

19 MR. WALDMAN: Just to clarify something.  
20 If -- why do broadcasters believe that there is a  
21 trustee obligation in the case, given what you  
22 just said? I'm not talking about the five

1 stations that got their licenses for free, but you  
2 made the argument that most stations have paid for  
3 their license and that new stations are getting  
4 their spectrum through auctions. Why should those  
5 stations have a public interest obligation if  
6 they're paying for it?

7 MS. MAGO: I think that's just the  
8 nature of most broadcasters, is that they believe  
9 that they are, in fact, providing a community  
10 service, they're part of their community. Andy  
11 will give you another reason, too, which is that  
12 it's the expectation of the public, and I think  
13 we've accepted that over time.

14 MR. WALDMAN: So, you're saying an  
15 obligation in the sense that the individuals have  
16 a sense of obligation, not necessarily that there  
17 should be a legal public interest obligation?

18 MS. MAGO: I think that there is an  
19 obligation that's part of the statutory framework  
20 to serve the public interests and broadcasters are  
21 expected to fulfill that obligation and they do.  
22 But it is also -- I think it's a more generic

1 obligation than the very specific pieces, some of  
2 the things that we've been hearing about.

3 MR. WALDMAN: Okay, thank you. Now, a  
4 few people wanted to jump in. Tom, did you?

5 MR. ROSENSTIEL: Yeah. I mean, I'm not  
6 -- I wouldn't know how you'd define public  
7 interest; I'm not a lawyer and I'm not a  
8 regulator. But I think that empirically and  
9 objectively it's fair to say that the definition  
10 of what is news and what is significant is  
11 different in local television news than it is in  
12 print -- the resources -- the way that resources  
13 are allocated, the size of newsrooms in local  
14 television. The average newsroom is about 36  
15 people. If you -- you know, television stations  
16 are not just in the news business the way that  
17 newspapers are. But the percentage of people in a  
18 television newsroom per capita of their audience,  
19 you know, is a fraction of what you find in  
20 newspapers, and the definition of what's news and  
21 the time and resources that are allocated to  
22 certain subjects are very, very different.

1                   Now, I don't know whether that's a  
2                   function of the nature of the medium, that  
3                   television is, as some people believe, an  
4                   inherently emotional medium and, you know, certain  
5                   kinds of storytelling don't work, but it is --  
6                   it's simply a fact that if newspapers went away a  
7                   lot of things that are covered there would not be  
8                   covered on local television.

9                   MR. WALDMAN: By the way, we're joined  
10                  here to help with questions by Bill Friedman,  
11                  who's the associate chief of the media bureau, and  
12                  Jennifer Tatel, who's the chief of the industry  
13                  analysis division at the FCC.

14                 MR. SCHWARTZMAN: I have two points that  
15                 I would make. One briefly, I hate to get  
16                 technical here, but I just think for the people in  
17                 the room and out on the Internet who may not  
18                 understand the law as well as Bill Friedman may  
19                 and as well as Jane Mago should -- licenses are  
20                 not sold. You may not buy a license. When  
21                 somebody buys a radio or television station,  
22                 they're buying the goodwill and they're buying the

1 hardware and the transmitter, and they most  
2 emphatically are not buying the license. In fact,  
3 when broadcasters apply for a license, they have  
4 to sign a waiver of any property interest in the  
5 spectrum as a condition of getting the license.  
6 So, the license is free and that license is very  
7 valuable, and they're still getting the license  
8 for free. Everything else that they pay in the  
9 private sector may be a windfall for the seller,  
10 but it's not a windfall for the public. The  
11 public is what is entitled to be served and that's  
12 what the legal requirement is.

13 Second, we're supposed to be talking  
14 about the future and, unfortunately, I think we  
15 got mired a little bit in current and past  
16 regulations. Broadcasters asked for and received  
17 a tremendous benefit in the transition to digital  
18 television. Radio stations have received a  
19 tremendous benefit in the Commission authorizing  
20 their transition or their ability to do digital  
21 radio. We've also changed the radio rules to  
22 allow stations to move closer to larger

1 communities, all of these based on promises that  
2 these changes would increase the amount of public  
3 service that's being provided, and, I repeat, some  
4 stations are doing more, but many are doing less  
5 or nothing, and that's what this is about.

6 MR. KLINENBERG: I'd like to make a  
7 historical point on this very theme. Thank you  
8 for referencing my book because I kind of tell  
9 this history there. But, you know, essentially  
10 this is the story of how FM radio was revived from  
11 a lifeless media into something that served an  
12 enormous -- served to be an enormous source of  
13 vitality. When radio operators were initially  
14 granted FM licenses, a great many, though not all  
15 of them, simply used the FM dial to rebroadcast or  
16 refocus what they were putting on the AM dial, and  
17 so the FCC came through with a policy change which  
18 said that you cannot simply do that. You had to  
19 have different, original content or a certain  
20 amount of original content, or you would lose your  
21 license and someone else would be able to use it.

22 A very similar circumstance has happened

1 recently when we made this digital transition.  
2 And I would urge the FCC to consider very  
3 seriously an updated variation on this historic  
4 policy that proved so tremendously successful,  
5 that literally gave life to the FM dial, and that  
6 is to say, if broadcasters that now have capacity  
7 to do more broadcasting on these new frequencies  
8 through the digital transition, are not using the  
9 new stations to do original or local broadcasting  
10 that serves the public interest, that someone else  
11 should be able to use the frequency to do  
12 precisely that. It's just an interesting avenue  
13 to explore since we should be making some use of  
14 what we all agree on, after all, our public  
15 resources.

16 MR. WALDMAN: I want to stay for a  
17 second on radio. I frustrated Eric by telling him  
18 I didn't want him to talk about TV in his remarks.  
19 I wanted someone on the panel to focus just on  
20 radio so that it didn't fall through the cracks of  
21 our discussion. So, staying on radio for a couple  
22 more minutes, Tom, in your presentation, you said

1       there was really quite a stark difference in the  
2       way things have evolved between TV and radio.  And  
3       since you're a fact-based system and not allowed  
4       to use adjectives, it --

5                   MR. ROSENSTIEL:  Adjectives, but no  
6       adverbs.

7                   MR. WALDMAN:  It sounded like you were  
8       -- that the facts you were putting out were  
9       pointing in the direction of saying that from the  
10      perspective of provision of news, things had  
11      gotten worse in radio in a dramatic way, but not  
12      necessarily in TV.  Am I misrepresenting your  
13      views?

14                   MR. ROSENSTIEL:  I think they've  
15      probably gotten worse in TV, too, but -- because  
16      of profit demands and audience declines, but,  
17      yeah.  And I think that may have something to do  
18      with the fact that radio stations are -- you know,  
19      there are so many radio stations on the dial that  
20      people basically program themselves.  They say,  
21      okay, I want to hear classical music for 10  
22      minutes and now I want some news, I'll switch

1 channels. So the channels themselves are very  
2 niched and the only places that have all-news  
3 channels are markets that apparently are large  
4 enough to support that. And a lot of places  
5 people just said, well, it's news and information,  
6 but we'll just do news and information that's  
7 essentially talk.

8 By and large, radio news, except in  
9 these handful of markets -- radio journalism  
10 that's local doesn't exist anymore. It's just  
11 vanished. I mean, I don't think it's gotten  
12 worse, I think it's disappeared. It's a  
13 transformation of that medium, radio journalism,  
14 to a national medium. Even on NPR, they struggle  
15 to have their local stations produce local  
16 content, as Paul Starr was saying this morning.  
17 So, most of the journalism that you're going to  
18 get on radio in most markets is national in nature  
19 and there's nobody producing that, producing audio  
20 content that's local that's going to migrate to  
21 any of these other platforms because this stuff  
22 just isn't being created anywhere.

1                   MR. WALDMAN:  What did it use to be  
2     like?  And I know what the pre-point to look at  
3     would be, but 20 years, 30 years ago, how did the  
4     landscape look that was different?

5                   MR. ROSENSTIEL:  Well, I can only  
6     describe this anecdotally.  There are people who  
7     are -- who have been in this business longer than  
8     I have, but what -- you know, most stations had  
9     some -- had a news operation, in part to meet  
10    regulatory demands.  And it might have been small,  
11    but they had people going out and covering stuff a  
12    little bit.  The bigger the market -- you know,  
13    I'm from California and I spend a lot of my time  
14    in a place called Mendocino.  And there's a little  
15    town there called Ft. Bragg, which was the county  
16    seat.  This is lumber country, very small, but the  
17    Ft. Bragg station did local news and they had a  
18    local newscast and they had local reporters  
19    covering, you know, local stuff like the fishing,  
20    catch of the day and stuff like that.  All that  
21    stuff's gone.

22                  MR. WALDMAN:  Barbara, did you have a

1 perspective on that?

2 MS. COCHRAN: I do. And, you know,  
3 Tom's painting one picture, I think you could  
4 paint a very different picture if you looked at  
5 different markets. And there's no question that  
6 radio has been an evolving medium that has changed  
7 its structure. And what you're a lot more likely  
8 to find now is a city, Denver, for example, where  
9 I was talking to the person who runs the newsroom  
10 there for the major news and talk station in  
11 Denver, you know, years ago she would have been  
12 doing that for one station. Now she runs a  
13 newsroom that provides news for the other stations  
14 in that cluster in that city and that provides  
15 news for stations throughout the state that's  
16 locally tailored. And she says that now because  
17 of technology, she is able to send reporters out  
18 and they can file from the field. They aren't  
19 chained to the station as they used to be, and so,  
20 in fact, she has more people out gathering news.  
21 And she is providing news to stations that  
22 previously, you know, they didn't have people

1 going out and gathering news themselves, they had  
2 people who were disc jockeys who got the news off  
3 the wires and read it.

4           So, I think it's very difficult to say,  
5 you know, absolutely, that there's less radio news  
6 to be had if you're living in a particular market.  
7 And since Tom talked about his hometown I'll talk  
8 about my hometown, which is Akron, Ohio. And  
9 Akron is a city that for years and years and years  
10 had one newspaper. In fact, it was the newspaper  
11 that was founded by the Knight family which built  
12 the Knight-Ridder empire and I think everybody in  
13 Akron was sad to see when Knight-Ridder was sold  
14 and the newspaper was split off from the  
15 Knight-Ridder Group. And the newspaper is  
16 struggling, there's no question about it.

17           Akron is in the shadow of the Cleveland  
18 media market even though it's a city of about  
19 250,000 people and it has not had its own  
20 television station, so the source of news in Akron  
21 has been a news station called WAKR. Well, WAKR  
22 now, in addition to the news that it still

1 provides, with a large newsroom for that market,  
2 also has a very robust website. And that station,  
3 that newsroom, is now going out and shooting video  
4 stories, they're posting video stories of local  
5 news, which was something that wasn't available  
6 otherwise because there was no TV station license  
7 there. They're doing all kinds of hyper-local  
8 coverage and they're actually now competing with  
9 the local newspaper.

10 So, to me, this is something that the  
11 people in Akron are benefitting from. So I think  
12 to just do a broad brush, you know, radio news is  
13 dead, nobody's getting radio news anymore, is  
14 really a disservice to the public.

15 MR. WALDMAN: Would you say the arrow is  
16 up or down compared to 30 years ago?

17 MS. COCHRAN: I think it's different. I  
18 think it's -- you know, I'd a lot rather hear a  
19 newscast that's prepared by a professional  
20 newsperson than hear a wire report that's read by  
21 somebody who's now going to spin a few tunes.

22 MR. WALDMAN: Let me change topics for a

1 second. A question I think for Angela. Isn't it  
2 a fair argument to say that broadcasters now have  
3 competitive pressures from all sorts of different  
4 other types of media and that it's unfair to  
5 require public interest obligations on  
6 broadcasters that are not applied against their  
7 competitors?

8 MS. CAMPBELL: Well, certainly  
9 broadcasters are facing competition from a lot of  
10 different areas, but when you are, again, looking  
11 at local news, the only real competition there is  
12 the local newspapers. So -- and if anything,  
13 they're having more problems than the broadcast  
14 stations are. But I guess I just go back to a  
15 point that Andy made, that even if you've paid for  
16 your license, the public didn't get that benefit.  
17 It is our spectrum and we should be getting that  
18 benefit and if we're not getting our benefit, then  
19 I just think that the public is being cheated.  
20 And this information, this local news, is  
21 important. It's a very important part of our  
22 democracy and also having -- to be an informed

1       electorate, you know, there needs to be some sort  
2       of mass medium so that the public can learn about  
3       the issues that they're going to be asked to vote  
4       on.

5                   MR. WALDMAN: Bill or Jennifer?

6                   MS. TATEL: I have a question about  
7       diversity. One of the Commission's overarching  
8       goals as we consider the public interest has been  
9       ensuring a diverse media landscape. And when  
10      we've looked at that, we looked at source  
11      diversity and viewpoint diversity, we heard some  
12      not so great statistics about ownership diversity.  
13      But I was wondering if the panelists think that  
14      minority communities are being served by their  
15      local broadcasters? And if they're not, if there  
16      are gaps in that service, if you think some of the  
17      new media that's out there is taking up some of  
18      that slack and filling in the gaps in serving  
19      minority communities?

20                  MR. SCHWARTZMAN: I guess the answer is  
21      that as long as there's been broadcasting, many  
22      minority interests have been underserved and that

1 continues to be the case today. The situation has  
2 been made worse by the deregulatory policies that  
3 we've discussed today. The capacity to improve  
4 coverage of minority communities is there. As I  
5 tried to indicate in my written testimony,  
6 diversifying the workforce and diversifying the  
7 ownership will materially assist in that.

8 I want to touch, with respect to  
9 diversity, on one related thing that's been sort  
10 of alluded to here in a couple different ways,  
11 which is the increasing phenomenon, whether it's  
12 shared services television agreements or these  
13 radio news bureaus, the increased reliance on a  
14 single central source for news. It's one thing to  
15 have a bureau that services a whole lot of  
16 stations in a community, it's another thing to say  
17 that that's bringing viewpoint diversity to a  
18 community, because it isn't. And this especially  
19 impacts minority communities when the news is  
20 outsourced, and that's what's happening on more  
21 and more stations, including stations that are  
22 targeted to minorities.

1           MR. KLINENBERG: I'd just like to marry  
2 these concerns about viewpoint diversity to the  
3 last question which was about is it fair to hold  
4 broadcasters up to public interest standards given  
5 the range of other producers of information who  
6 might not be held accountable in the same way.

7           So, I agree with Mr. Fritz here, this  
8 needs to be a forward-thinking panel that  
9 integrates concerns about many different media,  
10 not just about broadcasting. And so I think one  
11 central area for the future of your work on the  
12 Commission concerns the regulatory environment for  
13 the providers of Internet service since it seems  
14 to me like one of the major concerns, as we move  
15 into this arena, involves establishing what kinds  
16 of public interest obligations to place on  
17 companies who use not only the airwaves, the  
18 spectrum for broadband service, but also the  
19 public rights of way through cable systems. And  
20 here it seems to me that the potential merger of,  
21 you know, news producers, content producers,  
22 broadcast companies, and their service providers,

1 generates some real concerns, I think, legitimate  
2 policy concerns about whether consumers will  
3 continue to have clear and equal access to a  
4 diversity of perspectives and of news sources.

5           And so it just seems to me like many of  
6 these kinds of -- we could easily see the  
7 potential of not a responsible organization, but  
8 one of the organizations that we'd be concerned  
9 about not living up to its expectations,  
10 delivering content in such a way that it favors  
11 the content it owns and puts the content that it  
12 doesn't own and control into some second tier  
13 delivery system.

14           And so it seems to me like if we're  
15 concerned about a diversity of sources, a  
16 diversity of information, and we're also thinking  
17 in a forward-thinking way about how to deal with  
18 this evolving media ecology, we want to be really  
19 clear about establishing standards for something  
20 like net neutrality. And I don't think you can  
21 address these kinds of questions outside of that  
22 in the world of broadband.

1                   MS. CAMPBELL: I just wanted to address  
2                   -- I think there's a vast literature of studies  
3                   showing that many minorities and many minority  
4                   communities feel that they are underserved and  
5                   that they are underrepresented or invisible on the  
6                   air, and when they are portrayed, they're often  
7                   portrayed in very stereotypical manner and women  
8                   have the same problem. So, I think, not only is  
9                   it harmful to the minorities and to women who are  
10                  portrayed in that way or not seen on the air, but  
11                  it's harmful to our society as a whole because  
12                  it's not really -- it's not reflecting our  
13                  culture, our society, and it perpetuates  
14                  stereotypes.

15                  MS. MAGO: I have a couple of  
16                  observations, particularly on the diversity point.  
17                  I think Commissioner Clyburn started us off this  
18                  morning talking about the importance of diversity  
19                  and how, as part of her experience, having  
20                  additional voices is something that is very  
21                  important to the communities and having different  
22                  outlets for it and I can say that, again, NAB

1 supports that goal. And one of the objectives  
2 that we have through our programs is to try to  
3 find different ways of helping to have advancement  
4 within the broadcast industry for various -- for  
5 women and minorities through our broadcast  
6 leadership program, through the mentoring  
7 programs, trying to build and bring people --  
8 women and people of color into the management  
9 structures of the existing broadcasters to bring  
10 them into ownership for stations in order to bring  
11 that kind of a diversity of viewpoints out into  
12 the marketplace, and I think that that's an  
13 important place.

14 I think it's also wrong to suggest that  
15 some of the platforms that are already out there  
16 are not doing this. In the Washington area -- I  
17 think this is largely happening to some extent on  
18 the AM dial, that you're finding people that are  
19 providing on AM radio, particularly, language  
20 services that are aimed at particular communities.  
21 In the Los Angeles market, the television stations  
22 in the Los Angeles market are targeting some of

1 their multicast programming. There's stations  
2 that are serving the Hmong community, they're  
3 serving all of the different language interests  
4 there. And I think those are also very important  
5 pieces of how the broadcast service is being used.  
6 So the suggestion that somehow there's just  
7 abandonment of this, I think, is something that's  
8 very wrong and needs to have some real data in  
9 order to be able to understand.

10 MR. FREEDMAN: I'd like to introduce a  
11 note of harmony with regard to this panel.  
12 Believe it or not, you've all agreed on two major  
13 points. One is that the provision of news and  
14 information and other public service by  
15 broadcasters is very important to society. The  
16 other thing that you've all agreed upon is that  
17 broadcasting, because of its ability to reach many  
18 people, is uniquely situated to provide that  
19 service to the public.

20 The key point in the Commission's  
21 processes with regard to whether or not stations  
22 have met those obligations is the renewal process.

1 A number of people have criticized the Commission  
2 saying that licensed terms are too long, that our  
3 review of licensing performance is too infrequent  
4 and it's too superficial to really take a good  
5 look at the service that stations have provided to  
6 their communities during the preceding license  
7 term.

8 Other people say that such in-depth  
9 review is really unnecessary and would violate the  
10 First Amendment. Is there a happy medium here  
11 where the Commission can satisfy itself on behalf  
12 of the public, whose frequencies stations use,  
13 that the stations before us have met their public  
14 service obligation and should be removed for  
15 another term?

16 I guess I'll start with Eric.

17 MR. KLINENBERG: I mean, there was this  
18 kind of humorous moment where we had, on the one  
19 hand, this Kafkaesque, you know, charts and, on  
20 the other hand, a criticism about how ludicrous it  
21 must be from the inside of a broadcast company to  
22 devote precious human resources to the task. But

1 I think we could all agree that the challenge of  
2 establishing a record that gives us empirical  
3 evidence that we can use to evaluate whether or  
4 not the public interest is being served, depends  
5 on some production of reports that gives us this  
6 information. Now, there are things in the world  
7 that are much more complicated than what goes into  
8 a radio or television broadcast that we find nice  
9 ways of recording and measuring quite easily, so I  
10 am fully confident that a room full of reasonable  
11 people could come up with a measurement system  
12 that would work. It need not be either one of the  
13 extremes that were presented today.

14 At the same time, it seems to me like  
15 there have been fundamental questions about  
16 whether this system of evaluating a station's  
17 contributions to the public interest has really  
18 provided citizens with -- or the FCC -- with a  
19 meaningful way to evaluate what stations are  
20 putting out. And it seems to me like the concerns  
21 that this system, placing obligations on stations  
22 to put this out in the public and putting the

1       burden on citizens to challenge and carry that  
2       challenge through, has proven to be toothless. It  
3       doesn't give the FCC what the FCC originally hoped  
4       to do and it doesn't give citizens a meaningful  
5       way of making sure that the public interest is  
6       served.

7                    So, I would urge you to think creatively  
8       about a way to make the system more meaningful.

9                    MR. WALDMAN: How burdensome is the  
10       current system in terms of -- have you quantified  
11       how much it costs the current regulatory system in  
12       terms of the public interest obligation, how much  
13       it costs broadcasters to fulfill it? Or at this  
14       point is it general enough that it's not a big  
15       financial burden?

16                   MS. MAGO: In terms -- I'm trying to  
17       clarify what you're asking about. Are you talking  
18       about the renewal application form itself now or  
19       --

20                   MR. WALDMAN: No, just --

21                   MS. MAGO: Because there's the quarterly  
22       programs issues list. On a quarterly basis

1 stations are required to place in their public  
2 file -- to create and place in their public file,  
3 the issues programs list that describes how  
4 they've served the community.

5           Going forward, the chart that Angela  
6 showed on the screen, when we did an estimate of  
7 how long it would take to fill that form out, we  
8 tried to do a test and this is in data that we  
9 submitted into the record before, had a few  
10 stations try to do that and it was taking 34 hours  
11 a week for someone to try to analyze and figure  
12 out and understand and put that data in there.  
13 And that's where our contrast is of where the  
14 burdens are significantly more than some might  
15 suggest.

16           In terms of the average renewal  
17 application that comes in, there's the costs --  
18 and I'm going to defer to Jerry on this to be able  
19 to talk a little bit more from the practical  
20 station perspective of just what's involved -- you  
21 have the attorney costs that are involved, you  
22 have the processing that's involved here. And

1 contrary to some of the suggestions that we've  
2 had, it's -- I think the average was it took about  
3 six months to work on a renewal application if  
4 that's -- that was the processing time. So, it's  
5 not something that was immediately done and it's  
6 certainly not a postcard that goes in that was  
7 part of the certification. It's a 38-page form  
8 that you start out with and then you have  
9 attachments that go with it.

10 And I'll maybe kick it over to Jerry --

11 MR. WALDMAN: Just to broaden it  
12 slightly, I guess I would say, any -- when you put  
13 the factors that you just mentioned, the actual  
14 labor that goes into the filling out the issues  
15 forms and renewal process, plus whatever the  
16 station is doing in broadcasting or public service  
17 announcements or anything like that that they're  
18 doing as a result of government regulation, when  
19 you add all that up, what is the financial burden  
20 on the local broadcaster of the current regime?

21 MR. FRITZ: The premise of your question  
22 is that this is a burden that broadcasters operate

1 their station only to meet FCC requirements. What  
2 we spend to meet FCC requirements is integrated in  
3 our operation of the station. We don't -- there's  
4 not a separate line item on our budget, how much  
5 is it going to cost today or this month or this  
6 quarter to meet FCC requirements? That's not how  
7 a business operates. A business operates -- I  
8 mean, there are FCC kidvid rules, there are FCC  
9 issues programming reports, there are FCC EEO  
10 reports, and there are prophylactic things that we  
11 do on a constant basis, not just to meet FCC  
12 regulations, but FTC regulations and antitrust.  
13 There's constant involvement. So, it's integrated  
14 into the operation.

15           When we do a contest at one of our  
16 television stations, somebody will send me the  
17 contest rules and we'll review the contest rules.  
18 Why? We want to make sure it's fair, but we want  
19 to make sure that it's not violating some FCC rule  
20 that -- with respect to contests.

21           So, the premise of your question is that  
22 there is some cost associated with regulation that

1 we can just pull out and obviously there are  
2 attorney costs if we do a renewal and the notion  
3 that, oh, this is just a certification, it doesn't  
4 cost anything. When you certify something you do  
5 it under penalty of perjury and you will hear --  
6 or have heard this morning that broadcasters lose  
7 their license not for content missteps, but  
8 because they lie. And that's why RKO lost all of  
9 its stations.

10 So, the point is that, as Jane said,  
11 it's not a postcard, it's a very detailed analysis  
12 that we have to get right.

13 Let me make one other point that these  
14 content- based suggestions are not new. We  
15 started this in 1946 with the Blue Book, the 1960  
16 programming report, the ascertainment. The  
17 Commission has struggled with this time over time  
18 from Chairman Fly to all the way to Chairman  
19 Genachowski. We have no confidence, and the  
20 history demonstrates no confidence, that the  
21 Commission can judge a particular content in a  
22 statutorily acceptable or a constitutionally

1 acceptable way. When you try to impose your view  
2 of what the right programming is, and the right  
3 content is, you cross that line and that's a very  
4 dangerous tact to take.

5 MR. WALDMAN: I'm tempted to keep us  
6 here until I can come up with a question whose  
7 premise you don't disagree with. I thought for  
8 sure I had come up with the ultimate softball when  
9 I asked you how burdensome are we?

10 MR. FRITZ: Way too burdensome.

11 MR. WALDMAN: You're going to regret not  
12 taking a whack at that one.

13 Any final comments? Thank you very  
14 much, everyone. This has been a very lively and  
15 helpful panel. Ten-minute break, so at 3:10 we  
16 will begin the third panel. Members of the third  
17 panel, come on up.

18 (Recess)

19 MR. WALDMAN: It is about policy  
20 implications of convergence and the digital  
21 transformation about some other technology and  
22 platforms and looking forward at how the various

1 changes in the media landscape should affect  
2 public policy.

3 So we are going to begin with Adam  
4 Thierer. Did you know that? Adam is the  
5 president and director of the Center for Media and  
6 Digital Freedom at the Progress and Freedom  
7 Foundation.

8 Thank you, Adam.

9 MR. THIERER: Well, thank you Steve.  
10 And I want to thank you and the FCC for inviting  
11 me here today to talk about these issues. In my  
12 remarks what I'm going to do is I'm going to try  
13 to make a case for the case against the expansion  
14 of public interest notions and regulations and  
15 corresponding regulatory requirements to new  
16 media, the Internet, and so on and so forth. And  
17 I'll make the case based both on sort of normative  
18 grounds and then on practical grounds.

19 So the normative case against expansion  
20 of public interest regulation really begins with  
21 an acknowledgement of the fact that this notion  
22 has as sort of inherent ambiguity that has always

1       haunted this notion of the public interest. And  
2       indeed, while public interest regulation has been  
3       considered the cornerstone of communications and  
4       media policy since the 1930s, at no time during  
5       those seven decades has the term really been  
6       adequately defined in my opinion. Simply put, and  
7       as I've argued in my work, the public interest  
8       standard is really not a standard at all since it  
9       has no fixed meaning. The definition of the  
10      phrase has shifted with the political winds to  
11      suit those in power at any given time.

12                 Now, some policymakers have continued to  
13      prop up this notion on the grounds that they  
14      believe they're directing the character of the  
15      media toward some nobler end. The fundamental  
16      problem here, in my opinion, is that public  
17      interest proponents assume that their values and  
18      objectives should ultimately triumph within the  
19      public policy arena. Simply stated, what motives  
20      the public interest is simply a desire, in my  
21      opinion, by some in Washington to tell the rest of  
22      Americans what they think is best for them. Few

1       have dared to call this elitism, but I will. What  
2       else should we call it when five unelected people  
3       here at the FCC sit in judgment of what is  
4       acceptable media content for Americans?

5               The good news, however, is that viewers  
6       and listeners have more and better programming and  
7       content options available to them today than ever  
8       before. For example, I've shown in my work that  
9       we are blessed to live in what I consider the  
10      golden age of children's video programming. And  
11      think about the stunning diversity of content  
12      available thanks to the 500-plus channel universe  
13      of multichannel video that we now have at our  
14      disposal. Every conceivable human interest and  
15      hobby is somehow covered by a video network today.

16             And is there really any shortage of  
17      political programming or civic minded content from  
18      which to choose? C- SPAN's existence alone seems  
19      to call that into question since you can probably  
20      see more politically-minded or civic-minded  
21      activity or content in the course of a week than  
22      most of us probably came in contact with in our

1 whole lives 30 years ago. And let's not forget  
2 what the Internet has made available to us given  
3 the unprecedented access it has given us to public  
4 affairs information, whether it be local, state,  
5 international, or so on.

6 But at the end of the day you can't  
7 force people to watch, listen, or read that which  
8 they do not want to. Absent truly repressive  
9 measures to limit choice or alter consumer media  
10 consumption patterns, it's impossible for  
11 policymakers to force people to pay attention to  
12 that which we think is best for them. I believe  
13 it's really only Ellen Goodman of Rutgers School  
14 of Law who had been willing to point this out in  
15 her work on public interest regulation. And she  
16 has pointed out that "regulation cannot in a  
17 liberal democracy force viewers to consume media  
18 products that they do not think they want in the  
19 name of the public interest."

20 So I think it's best that we return to  
21 first principles and ask, you know, looking  
22 forward, what should we do in light of this

1     problem? I think we should recall -- begin by  
2     recalling that since the time of our public  
3     founding, public interest regulation has never  
4     been applied to the print world of newspapers,  
5     magazines, pamphlets, books, and so on. Instead,  
6     the First Amendment has reigned supreme. And when  
7     policymakers have attempted recently to apply  
8     public interest regulatory obligations or notions  
9     in the Internet or video game context or whatever  
10    else, those efforts have been ruled flatly  
11    unconstitutional.

12                 So the bottom line is something has got  
13    to give. And I would argue something certainly  
14    has to give in light of the practical problems  
15    associated with expanding public interest  
16    regulation, to which I will now turn.

17                 We begin with a scale and a volume model  
18    because the title of this particular panel here  
19    today suggests we do indeed now live in a world of  
20    media and technological convergence. And thus, a  
21    regulatory attack on one type of media outlet,  
22    technology, or form of content, would necessitate

1       in many ways, an attack on many other types of  
2       media platforms if it has any hope of being  
3       effective. But how will this work? If we were to  
4       achieve regulatory parody in an age of  
5       convergence, we have to come to grips with the  
6       sheer scale of what's out there and the volume.  
7       In my written remarks I've documented this  
8       thoroughly about just how much stuff we're talking  
9       about and how the public interest should apply if  
10      the FCC plans on wrapping its tentacles around all  
11      that content and activity.

12                 Then we turn to the definitional  
13      problem. Who and what counts as a media entity or  
14      a journalist in today's wide open media world?  
15      And this is a problem for us, whether we're  
16      talking about regulating media entities or if  
17      we're talking about subsidizing. Will bloggers be  
18      regulated? Or conversely, will they be eligible  
19      for public support? Will foreign-owned news  
20      entities be regulated or eligible? What's the  
21      public interest for MySpace or Facebook? Are  
22      YouTube, Hulu, and Vimeo just like TV stations,

1 and, therefore, regulated like them? There may  
2 well be rational ways to try to draw some  
3 distinctions here, but I would again caution that  
4 there are going to be constitutional issues raised  
5 at every juncture because in some cases you're  
6 going to be playing favorites, and that's going to  
7 run afoul of the First Amendment.

8           Meanwhile, let's not forget this inquiry  
9 comes at a time when many traditional media  
10 providers are fighting for their very existence.  
11 Why then are we toying with the idea of expanding  
12 regulatory burdens when the marketplace is  
13 experiencing unprecedented upheaval and gut  
14 wrenching creative destruction? If the FCC  
15 intends to simply continue to impose public  
16 interest regulations on the narrow set of media  
17 operators it now covers, namely broadcast radio  
18 and television, then unfortunately, that's  
19 tantamount to the FCC signing a death warrant for  
20 those media operators.

21           And perhaps the most destructive set of  
22 ideas floating around right now are those which I

1 would classify as burning the village in order to  
2 save it. For example, some regulatory advocates  
3 have toyed with the idea of public interest  
4 vouchers, broadcast spectrum taxes, forced media  
5 divestiture plans, and even taxes on commercial  
6 advertising or consumer electronics to fund other  
7 forms of media. In each of these cases, the cure  
8 would be worse than the disease that ails the  
9 body. We're not going to get a more diverse media  
10 marketplace by forcing private media providers to  
11 fund their noncommercial or publicly subsidized  
12 competitors. There are better ways for  
13 policymakers to achieve their goals.

14 And that brings me to my final point,  
15 which is to the extent we really need to have  
16 something be done out of this Future of Media  
17 proceeding and the FCC to act here, I think  
18 there's a couple of easy options actually that are  
19 still on the table. One is obviously the FCC  
20 could recommend greater support for the  
21 corporation for public broadcasting. I would  
22 argue, however, that that should be achieved

1 without skimming off funds from commercial  
2 advertising or commercial private competitors  
3 through fees or other types of ideas like public  
4 interest vouchers. If the FCC believes something  
5 more than that needs to be done to drive citizens  
6 to the sort of programming that it hopes more  
7 people will consume or civic- minded content, I  
8 believe the best approach would be for the Agency  
9 to work with other federal agencies, as well as  
10 state agencies and entities, to leverage existing  
11 government platforms and resources to accomplish  
12 the task.

13 For example, the FCC could work with  
14 these other agencies and entities to create a  
15 public interest portal, if you will, that  
16 aggregates and promotes the best sort of public  
17 interest programming they want the masses to see  
18 and that they hope will gain more widespread  
19 distribution. The collaborating agencies might  
20 even be able to create a downloadable widget or  
21 toolbar for a new web browser that could enable  
22 citizens to instantaneously access a wide variety

1 of public access content. I would hasten to argue  
2 that you can already do things like this by going  
3 to the C-SPAN website or you can go to PBS and a  
4 lot of other great places and find this. But the  
5 government has a unique platform that it can  
6 leverage to provide greater visibility for this  
7 sort of content if they would like to do so. And  
8 I would just add that this approach has the  
9 important added advantage of not raising serious  
10 constitutional objections or burdening commercial  
11 media providers with onerous new regulatory  
12 requirements or fees.

13 So, in conclusion, in light of the  
14 considerations I've addressed here today I would  
15 argue that to achieve regulatory parity we  
16 shouldn't be regulating up to create a new public  
17 interest standard, but instead deregulating down  
18 to put everybody on the same First Amendment  
19 footing. There are better ways, in my opinion,  
20 for the Commission and Congress to accomplish  
21 their public interest goals, other than by  
22 regulating as if it's still 1934.

1 Thank you.

2 MR. WALDMAN: Thank you very much. The  
3 main disadvantage of having Adam up on this  
4 platform is that half of the people tweeting on  
5 this event are now gone.

6 We turn now to Ben Scott, who is the  
7 policy director of Free Press, where he oversees  
8 the governmental legislative affairs for a large,  
9 public interest organization focusing on  
10 communications policy.

11 MR. SCOTT: Thanks, Steve. And thanks  
12 to everyone with at the FCC for the initiation. I  
13 want to flag -- we should come back and talk about  
14 Adam's public interest portal. I think it's a  
15 really good idea, which is something I don't often  
16 say when I'm sitting next to him. So I think it's  
17 worth starting there.

18 I think as we make the transition from a  
19 broadcasting to a broadcast world, we need to  
20 think carefully about how public service  
21 principles that informed public interest  
22 obligations in 20th century media translate into

1 the Internet age -- or if they do. The first  
2 thing to note is that this idea of public service  
3 principles and communications policy is not a new  
4 idea. And while public interest obligations as  
5 they've been fashioned in the broadcast regime may  
6 seem singular to this technology, if you step back  
7 and look broadly, this idea is centuries old.  
8 Every communications media over the last century  
9 has had a policy framework designed to achieve  
10 some kind of a public interest outcome. It's been  
11 true for radio, broadcast television, cable. It's  
12 true for the Internet. It's an idea that's rooted  
13 all the way back in the founders when they went  
14 out of their way to create a national postal  
15 system and the media system was guys on horseback  
16 and then wagons with sacks full of newspapers.  
17 They spent an extraordinary amount of money to  
18 make that happen. Today, really, the idea remains  
19 the same of creating public interest policies to  
20 promote information in our society. Only the  
21 technology has changed.

22 The idea is rooted in the concept that

1 the news media are not simply another market of  
2 product services in the economy tied to the  
3 outputs of media markets is the health of our  
4 democracy. The news, information, and viewpoints  
5 we are relying upon as citizens for competent  
6 self-government come from the media. One of my  
7 favorite expressions of this is from Supreme Court  
8 Justice Felix Frankfurter's majority opinion in  
9 the seminal 1945 case *Associated Press v. the U.S.*  
10 And he said, "In addition to being a commercial  
11 enterprise, the press has a relation to the public  
12 interest unlike that of any other enterprise  
13 pursued for profit. A free press is indispensable  
14 to the workings of our democratic society. The  
15 business of the press is the promotion of truth  
16 regarding public matters by furnishing the basis  
17 for an understanding of them. Truth and  
18 understanding are not wares like peanuts or  
19 potatoes." In other words, there is an inherent  
20 tension in the marketplace for news and  
21 information because the civic benefits of the  
22 media are often in conflict with the imperatives

1 of commerce. What the citizen needs is not the  
2 same thing as what the consumer desires.

3 In the era of mass media this tension  
4 has taken another form. The modern media  
5 marketplace rewards the consolidation of  
6 commercial power. Even a casual glimpse at our  
7 current media environment will remind us of this.  
8 The poverty of journalism in many ways is  
9 pervasive in all of our current political debates.  
10 It's a common problem across the board no matter  
11 what ideological perspective you come from.

12 Industrial consolidation and market  
13 pressures necessarily decrease the diversity of  
14 independent viewpoint and typically reduce  
15 investment in public service journalism and ideas  
16 of universal access and participation in politics.  
17 This is not because these companies are evil or  
18 have some anti-public agenda; it is simply actors  
19 pursuing the greatest commercial gain for their  
20 enterprise. Now, conversely, the health of the  
21 marketplace of ideas in a democracy relies upon,  
22 in the famous words of Justice Hugo Black in the

1 same case, "the widest possible dissemination of  
2 information from diverse and antagonistic sources  
3 is essential to the welfare of the public."

4 Put differently, commerce benefits from  
5 centralized control over information; democracy  
6 benefits from decentralized control over  
7 information. Communications policy has always  
8 been about balancing commercial and civic goals in  
9 the media marketplace. This is the social  
10 contract of mass media. And since 1934, the FCC  
11 has been its steward.

12 So now we see about how to evolve these  
13 principles into a new media marketplace, which is  
14 undeniably different than that which has come  
15 before it. I would argue that as we think about  
16 evolving technologies, we need to think about  
17 evolving our public service principles right  
18 alongside them. Let's set aside for a moment the  
19 dogma of regulation versus market fundamentalism  
20 that so often dominates the debates in the SEC's  
21 dockets. Those arguments are simply inapt here.  
22 The social contracts of mass media policy are not

1       about whether public service principles should be  
2       applied upon the market; they are about how they  
3       will be applied and in what way.

4               These structural policies generally take  
5       three forms or some combination of them. And they  
6       are all premised on the notion that media  
7       companies use public assets or benefits, like  
8       spectrum or access to the public rights of way, or  
9       direct subsidies or copyright protection, or all  
10      of the above. And they use these benefits to  
11      deliver information products for their own  
12      commercial gain. But in exchange they bear a  
13      singular burden of public service in the  
14      marketplace of ideas that is unique to the media  
15      and the economic sector.

16             Different media technologies and systems  
17      have fallen into different categories over the  
18      years. Some media companies pay a fee for the use  
19      of public assets that facilitates their business.  
20      They may be used for other civic purposes. Here  
21      we can think of fees paid to government for access  
22      to the public rights-of-way, such as for cable

1 operators, franchise fees, spectrum auctions, and  
2 the like. Another category is media companies  
3 exchange public service in return for public  
4 asset. Here is our traditional broadcast  
5 television and radio model. And the third  
6 category, media companies may ensure  
7 nondiscriminatory access to a network,  
8 interconnection between networks in exchange for  
9 access to public rights-of-way, direct subsidies,  
10 et cetera, which has been true of our  
11 telecommunications networks. And there have been  
12 different combinations of these applied over the  
13 years to different kinds of technologies.

14 So, for the sake of argument, let's  
15 hypothesize that the Commission's recent  
16 deliberations about the future of broadcasting are  
17 correct and that broadcasters are indeed  
18 transitioning into a broadband world. For the  
19 record, I think the epitaphs of over-the-year  
20 broadcasting are being written prematurely. I  
21 think many broadcasters continue to provide  
22 valuable local public services. And it's

1       undeniable that local broadcasters continue to be  
2       one of two primary sources of local news alongside  
3       newspapers in most communities. However, it is  
4       likely that the wheels of technologies will turn  
5       and broadcasters will eventually become broadband  
6       providers of one type or another, either by  
7       changing their business models themselves or  
8       turning in their licenses for reallocation to  
9       others.

10               So what should become of public interest  
11       obligations and the traditional social contract of  
12       the broadcast industry? Well, these traditional  
13       obligations, like children's programming,  
14       localism, and lower prices for political  
15       advertisements. These were the cornerstone of  
16       broadcast policy, but I would argue they have  
17       never worked particularly well. And I do not mean  
18       to uniformly indict the broadcast industry -- some  
19       have been exemplary in their public service -- but  
20       that is simply not the case generally. And now  
21       that the broadcast industry is in flux, it raises  
22       the question about how to apply these principles

1 in a transitional period.

2 History indicates that it is harder to  
3 discipline commercial behavior with affirmative  
4 public interest commitments than it is to do so by  
5 exacting fees or with prohibitive obligations that  
6 prevent companies from doing something we don't  
7 want them to do. Abandoning public service  
8 principles in the face of technological change  
9 should not be considered a reasonable pact. That  
10 flies in the face of all past technological  
11 transitions that have seen public service policies  
12 carried through to the new technology. My  
13 suggestion is to go back to basics, but to create  
14 realistic options for media companies. If there  
15 are broadcasters that would like to remain in the  
16 current system, more power to them. But they  
17 should be obliged to abide by enhanced public  
18 interest obligations that take their cues from the  
19 leadership of Commissioner Michael Cox in calling  
20 for stronger public service provisions in exchange  
21 for special treatment under the law. If there are  
22 broadcasters that would like to become broadband

1 providers or transfer their licenses to those who  
2 would provide broadband networks, we should apply  
3 the model of common carriage principles and  
4 license fees. And note that I did not use the  
5 term common carriage regulations, but rather  
6 principles.

7           And if there are broadcasters that are  
8 in between, there may be a combination that is  
9 applicable using spectrum fees in lieu of public  
10 service commitments. But the FCC should be clear  
11 that the social contract of media companies  
12 remains alive and well, as it has from the days of  
13 our founders. The same logic of balancing the  
14 commercial priorities of media markets with public  
15 service principles applies today exactly as it  
16 always has. In the same spirit, in this  
17 proceeding the FCC should explore recommendations  
18 for how license fees might be used to further  
19 other public interest benefits as has been in  
20 other sectors of telecommunications. Free Press  
21 has long supported the idea advocated by many over  
22 the years that fees paid by spectrum licensees

1       should be applied to fill gaps in public service  
2       media that are not being filled by commercial  
3       media. This is simply another form of upholding  
4       the same ideas that have been around for a long  
5       time. It's especially applicable today given the  
6       crisis in the business of local journalism. While  
7       there is a plethora of information on the Internet  
8       and other sources of information, local news and  
9       information continues to be a relatively small  
10      market in terms of production. Broadcasters and  
11      newspapers do the lion's share of that.

12                 Finally, the FCC should look at how the  
13      spirit of the public interest obligations long  
14      imposed on broadcasters should be realized in the  
15      broadband age for wired and wireless networks.  
16      This should be a part of the National Broadband  
17      Plan. In my view, the principles of the Internet  
18      age lie in policies like network neutrality, which  
19      guarantee an open platform for online marketplace  
20      of ideas. They should inform policies that  
21      subsidized broadband for low income households and  
22      promote universal access in rural America. They

1       should inform consumer protection issues that  
2       facilitate access to networks, both wired and  
3       wireless. We should look at how spectrum holders  
4       have not utilized their full allocations and full  
5       public benefit. We should look at build-out  
6       requirements, opportunistic spectrum sharing  
7       requirements. All of these may seem far afield  
8       from the traditional public interest obligations,  
9       but I would argue they are rooted in exactly the  
10      same idea. In other words, to understand what we  
11      should do with broadcast public interest  
12      obligations, we have to understand how we ought to  
13      implement the same principles in the broadband  
14      era.

15                     Thanks a lot.

16                     MR. WALDMAN: Thank you very much. Next  
17      we'll hear from Jeff Jarvis, who is associate  
18      professor and the director of the Interactive  
19      Program at the CUNY Graduate School of Journalism.

20                     MR. JARVIS: Thank you, Steve. I hope  
21      you'll indulge me for a moment, but having sparred  
22      with the FCC in the past through FOIAs over

1 freedom of speech, I would like to begin with one  
2 word: Baba Boeey.

3 That felt good. But it actually also  
4 brings up an important point, which is that I  
5 agree with what Adam said and what Jerry said  
6 earlier, is that there is no definition of public  
7 service just as there is no mass. Raymond  
8 Williams says that there are no masses; only ways  
9 to see people's masses. So your public interest  
10 is not the same as mine. It was in my public  
11 interest to keep Howard Stern on the air saying  
12 what he said and not to be hounded off the air by  
13 the FCC, which enforced a very, very narrow,  
14 allegedly public interest. There's the danger.

15 I also see a danger here in that we're  
16 talking about trying to both preserve and regulate  
17 the past, even though the name of today is the  
18 future. With all respect, I think you're  
19 polishing the portals on the Titanic. And I think  
20 that what we have to talk about instead is what  
21 media is going to become. The past -- I'll say it  
22 -- TV local news is crap. It has people standing

1 up at a microphone someplace where nothing  
2 happened in the last 12 hours saying, well,  
3 something happened here last night and I'm going  
4 to stand here and repeat what you already know  
5 that someone else reported on. And that's a  
6 journalistic resource that's going out of the  
7 market to do something. And we're worried about  
8 that? I'm not.

9 TV news is commoditized. It's  
10 repetitive. It's one-size-fits-all and one-way.  
11 What we're talking about here really is the end of  
12 mass media. Mass media lasted for 30 years,  
13 between the fifties and the eighties when we got,  
14 thank goodness, the remote control, the VCR, the  
15 cable box, and we got choice, which gave us  
16 control of the consumption of media. And today,  
17 thanks to the Internet, we have control of the  
18 creation of media. So the idea that someone has  
19 to watch out for some media thing for us is  
20 outmoded beyond belief. Medium is us. The  
21 Internet is us. We have the future. We should  
22 talk about that.

1           So, I'm here, believe it or not after  
2       having just said all that, because Steve and I  
3       talked sometime ago about a notion that I had  
4       about what would public interest mean as long as  
5       you still have it. So let me leave a few  
6       breadcrumbs on the way there. At City University  
7       of New York we did a study on new business models  
8       for nudes. And we asked the question to go off of  
9       the medium of the day of what would happen if a  
10      large newspaper -- ala let's say Boston -- died.  
11      I don't want to kill newspapers; I love them. My  
12      basement is filled with my clips from them, but  
13      let's ask the worst case analysis.

14           And a few things became evident to us  
15      very quickly. The first is that the future is not  
16      the big, old, dumb company being replaced by the  
17      big, new, smart company. It is -- the future is  
18      an ecosystem that is already building out of  
19      entrepreneurial effort. See Politico and  
20      Allbritton. See blogs all around town. See Josh  
21      Marshall. See all kinds of examples. We are  
22      seeing our entrepreneurial future.

1                   We then talked to some of those  
2 entrepreneurs. We talked to hyper (inaudible)  
3 bloggers covering towns of less than 50,000  
4 people, who are bringing in more than \$200,000  
5 revenue a year. Not all of them, but the point is  
6 it's possible. They were creating sustainable  
7 businesses. And we asked how to optimize their  
8 businesses, and we saw that by creating networks  
9 that enabled them to sell ads across other blogs  
10 and others into them to get a piece of a quality  
11 network of metro-wide advertising, to get into  
12 other revenue streams like commerce and education,  
13 we projected that we could increase that revenue  
14 from \$200,000 to \$350,000, hire three full-time  
15 journalists, afford to pay citizen sales people to  
16 sell that, and concentrate on journalism.  
17 Optimistic? Yes. But I'm a cockeyed optimist.

18                   You can find, by the way, our models in  
19 full at [newsinnovation.com](http://newsinnovation.com). And you can play with  
20 them to your heart's content. And I would love it  
21 if you would do so and give us feedback.

22                   We look for the ecosystem from a few

1 perspectives -- that hyper-local perspective, the  
2 entrepreneur, the small company that's starting  
3 off. But there's also obviously big companies who  
4 see the potential here, witness AOL buying patch,  
5 witness Ginnett going into hyperlocal blogs,  
6 witness the New York Times starting local  
7 (inaudible) have just taken over their Brooklyn  
8 branch of that. So there's a lot of potential we  
9 see in the local market as a building block. We  
10 then see, as the next perspective, a new news  
11 organization still exists. And that could be  
12 broadcast operators. We may. We'll get to that  
13 in a second.

14 We also see the need for frameworks --  
15 abilities to put together networks of value.  
16 Networks across advertising promotion and content.  
17 We'll get back to that in a second. We also  
18 looked at not-for-profit or publicly supported  
19 journalism. And notice I didn't say  
20 government-supported journalism. I'm allergic to  
21 the concept. I break out in a rash. See earlier  
22 reference to Baba Boeey. If this doesn't get on

1 tomorrow's show I'm shooting somebody.

2 But we did look at that. And let me  
3 think. There are areas the market will not  
4 support most likely. Broccoli journalism. I  
5 would say my example of the past was statehouse  
6 coverage, but look at New York. It's the sexiest  
7 story alive right now.

8 There are other factors we didn't  
9 include in our modeling, including the value of  
10 volunteerism. Wikipedia's Sue Gardner, the head  
11 of the Wikipedia Foundation says they calculated  
12 the value of just the edits of Wikipedia. Just  
13 the edits. They ascribed a low per hour labor  
14 cost to that. They found to their own shock that  
15 it added up to hundreds of millions of dollars of  
16 value a year. When we talk about membership in  
17 media, we talk about the NPR terms of here, give  
18 me your money. I'll give you a tote bag. Thanks.  
19 Goodbye.

20 Well, membership in the collaborative  
21 future means that we create things together. We  
22 don't just allow you to comment on it or hit a

1 button. We create things collaboratively. That's  
2 the future of membership and it's a way to capture  
3 huge value. We didn't look at the value of  
4 government transparency. That's what we should be  
5 fighting for here because that will create  
6 millions of watchdogs who can report to the  
7 reporters, who can then spend their effort  
8 efficiently and find out what's wrong. Ethnic  
9 media and other things.

10 Now, at the end of the day you can go to  
11 the site and look at it, but we found that to our  
12 own surprise, our own delight, for an amount of  
13 revenue -- \$45 million, which is equivalent to  
14 what a large newspaper of this size is getting in  
15 digitally today -- we projected that much revenue  
16 -- we found an equivalent journalistic resource --  
17 250 journalists versus, what, 300 in such a  
18 newsroom today. But those journalists, mind you,  
19 are working not for one organization under one  
20 roof; they're working for hundreds of  
21 organizations, many of which they own. And  
22 they're benefitting assets that have value.

1 They're closer to the community. They're more  
2 answerable and accountable to the community.  
3 They're giving better coverage to the community.  
4 They're wasting less resource on standing there  
5 with the microphone saying, well, 12 hours ago  
6 there was a fire here, as if it affected your  
7 life. It didn't. Like we have today.

8           So I am actually optimistic that this  
9 ecosystem can improve the lot we have in news.  
10 Well, what does it take to get there? Now to the  
11 point. The idea that I talked about with Steve  
12 was that if you have this obligation, then perhaps  
13 one thing to do is to give credit for, just as you  
14 suggested, there's many ways to skin this cat.  
15 Maybe one way to fulfill your obligation is to  
16 help enable the future of the ecosystem. That  
17 could mean that you create ad networks that  
18 support quality local news-based bloggers. It  
19 could mean that you hold training camps in the  
20 fundamentals of journalism and in equipment. You  
21 might even equip the community because foot  
22 cameras cost next to nothing.

1           Quick story. I met Kai Diekmann, the  
2 editor of Bild, the largest paper in Europe -- a  
3 very tabloidy paper; it's a big size -- at Davos  
4 three years ago. And Kai had turned all of  
5 Germany into paparazzi because he gave them an MMS  
6 number of 1414. No celebrity or cat in Germany is  
7 safe. And I said to Kai, you know, "You should be  
8 doing video."

9           He said, "Ah, yes. We are. We're  
10 trying to work with Nokia."

11           I said, "It's a little expensive in our  
12 view." He said, "Yes, you're right. It is." I  
13 said, "Have you seen this?" And I pulled out my  
14 flip camera. Pardon me. I should have had the  
15 prop. And he lunged for it.

16           He said, "I must have thousands of  
17 them." Now, I know many editors who love these  
18 flips and they give them to their staffs. But  
19 that's not the way Kai thought. Kai turned around  
20 -- I saw him a year later. I said, "Kai, what did  
21 you do with video?"

22           He said, "Oh, we were so embarrassed.

1 We didn't notice. We went and tried to do a deal  
2 with Flip. We couldn't. So we went and did a  
3 deal with Creative and created Dovado." He showed  
4 me. It was a Bild-branded camera. Flip it out  
5 and it sends video by default to Bild. And he  
6 sold 25,000 of them in four weeks, and he's been  
7 selling them since. So his instinct was to equip  
8 the people.

9           So what if we turn around the notion  
10 here of what public service is in a networked  
11 ecosystem of news in which we all collaborate.  
12 What if we encourage and reward -- in this case by  
13 taking away forum 332 or whatever it is. What was  
14 that forum? Anybody know?

15           SPEAKER: (inaudible)

16           MR. JARVIS: Thank you. I knew somebody  
17 would know here. So if you encourage the  
18 ecosystem we'll burn the forum. Yay.

19           What could come out of that? Well, they  
20 could train. They could create ad networks again.  
21 They have an ad sales force. But importantly,  
22 this is also in the enlightened self-interest of

1 the media company. They want to develop and  
2 understand a new relationship with their  
3 marketplace. They want to encourage this. They  
4 want to get news at lower cost and lower risk. It  
5 makes sense for them. The only caution I have  
6 about this I think is if the FCC and government  
7 did this, it is unfair against newspapers who  
8 won't get any benefit from doing this. Not an  
9 even playing field. That's why I still think you  
10 should -- pardon my Howard Stern language -- butt  
11 out of the whole thing.

12 One last point. I'm talking with  
13 somebody else about the future of postals, since  
14 they've got some problems in this new medium  
15 world. And the head of the Postal Rate Commission  
16 said -- and pardon me, I'm going to plug something  
17 here. I don't mean to, but I have to -- was asked  
18 what would Google do if it owned the Postal  
19 Service. I happened to write a book with a  
20 similar title. And my friend reported that she  
21 had not, in fact, read my book, but she had an  
22 answer. Then I gave her my book. And she said,

1       you know, I wonder whether we wouldn't give  
2       everyone in America a computer and a printer.  
3       Imagine if we turned this whole debate around and  
4       looked at the opportunities and the possibilities.  
5       What if the FCC, in its other agenda, in its  
6       broadband agenda, set a goal of every American  
7       having a right to and in fact having a broadband  
8       connection and the means and device to get to it.

9                 Where are we then? Do we need a postal  
10       service? Do we need an FCC? Do we need  
11       broadcast? Do we need regulation of all of the  
12       above? What are we trying to encourage? Are we  
13       still trying to worry about whether -- I'm sorry,  
14       335?

15                SPEAKER: Fifty-five.

16                MR. JARVIS: Fifty-five. See, I'm a bad  
17       bureaucrat. Form 355, four rows down and three  
18       rows over has enough hours in it. That's just  
19       mind-blowingly absurd. I think what we've got to  
20       get to in the future is a way that we see that  
21       when we all have access to the Internet and the  
22       tools necessary to use there where we have the

1 training and ability through education to use  
2 them, then we, the masses, are now the media.

3 MR. WALDMAN: Thank you very much. We  
4 next go to Christopher Guttman-McCabe, who is the  
5 vice president of regulatory affairs at CTIA, the  
6 Wireless Association.

7 MR. GUTTMAN-MCCABE: Thank you, Steve.  
8 And thanks to Bill and Renee for having me on the  
9 panel.

10 Before I get started I wanted to ask a  
11 question, and we're talking about public interest  
12 in sort of the broadcast space. Is there going to  
13 be a seven second delay for Jeff's speech?  
14 Because my daughters may actually watch this later  
15 today. So if you could factor that in.

16 I also wanted to confirm that when we  
17 think back to this panel that the person who  
18 suggested that we won't need an FCC if everyone  
19 has a broadband connection was not me, but the  
20 person to my right.

21 I have a PowerPoint. I wanted to just  
22 go through it to show you a little. Ben had

1       talked about implementing public obligations in a  
2       broadband world. And I wanted to go through and  
3       show you a little bit about the fact that public  
4       interest obligations do not exist solely in the  
5       broadcast space. So just quickly go through and  
6       put a little context around it.

7                 The wireless industry -- 280 million  
8       subscribers, 2.2 trillion minutes of use last year  
9       in the United States alone, 1.1 trillion text  
10      messages. So with that as a background I put this  
11      statement up here. The wireless industry has  
12      consistently embraced reasonable and meaningful  
13      public interest obligations, whether they be  
14      statutory or voluntary.

15                And I put up the next list to give you a  
16      sense of what I mean by statutory or regulatory or  
17      voluntary. There are six of sort of the core  
18      public interest obligations that exist in my  
19      world. The first two are statutory -- E-911 and  
20      CALEA. Arguably, two of the more difficult to  
21      implement. I've been doing this for about 14  
22      years. I don't think there's been a year during

1 those 14 years where there hasn't been some open  
2 FCC proceeding or active litigation on those two  
3 issues.

4 SPEAKER: Can you explain what CALEA is?

5 MR. GUTTMAN-MCCABE: Sure. CALEA is the  
6 Communications Assistance for Law Enforcement Act.  
7 It's basically the capability to trap and trace  
8 different communications across wireless devices.  
9 So if Public Safety wants to listen in to a  
10 conversation, the requirements under CALEA and  
11 that statute are what allow that capability.

12 So both of those are out there. Then  
13 you look at the next four. And the next four have  
14 been a public-private partnership. They're not  
15 necessarily mandated, although you do see some  
16 mandates in the disability access space. But we  
17 have wireless priority service, which is the  
18 ability for key communications government  
19 officials to get access to wireless channels  
20 during times of congestion in a network. And the  
21 White House asked for that capability shortly  
22 after September 11th and within a year it was in

1 place. They asked for it in three cities. Within  
2 about 18 months it was nationwide. There's never  
3 been an appeal. There's never been a petition for  
4 recon. There's not been any litigation. It's  
5 something that was done in coordination and the  
6 industry that carriers and manufacturers and  
7 vendors got together and helped to come up with  
8 it.

9 Emergency alerts. There's a statute,  
10 the WARN Act, which outlines it. But the  
11 requirement is voluntary in nature. We're very  
12 close. We're waiting for some action by FEMA, but  
13 we're very close to rolling this out. Again,  
14 voluntary consumers -- carriers who represent over  
15 95 percent of consumers have already signed on to  
16 provide this in a voluntary nature.

17 Disability access. I don't think a week  
18 goes by that we don't have some interaction with  
19 the disability community trying to work and better  
20 their access to mobile communications. And  
21 wireless Amber Alerts. When my CEO Steve Largent  
22 came onboard at CTIA he just asked a simple

1 question -- why can't you get Amber Alerts through  
2 wireless devices? Aren't those the devices that  
3 people have with them when they're behind a car?  
4 You know, when a license plate number pops up. So  
5 within a year we had that program up and running.

6           And what I wanted to do was just show  
7 you some of the things that have taken place in  
8 the last year that again voluntary, but we argue  
9 would fit fully within sort of a public interest  
10 effort or outreach by our industry. And I've put  
11 a number of papers on some of the seats, but also  
12 over in the corner to show you some of the things  
13 that we do and some of the partnerships that we  
14 have put together.

15           But Text for Baby we just launched. We  
16 worked hard with the Administration, with the  
17 Commission, and others. It's basically designed  
18 to bring folks who are below the poverty line, who  
19 are in areas where they might not get access to  
20 care -- to prenatal care -- to simply send SMS  
21 text messages and get them access to things like  
22 you need to take a prenatal vitamin now. You need

1 to do -- visit your doctor now. You look at  
2 something like this, again, voluntary, but  
3 completely sensible and taking advantage of where  
4 we are with our technology.

5 On the Road, Off the Phone. This is our  
6 safe driving campaign where we argue that text  
7 messaging while you are driving is not a  
8 reasonable -- it's not a sensible use of a  
9 wireless device. And so if you want to see --  
10 actually, the ad that we put together is up for an  
11 award right now. It's pretty hard-hitting. The  
12 link to it is at the bottom. But if you have any  
13 kids who are teenagers, get them to watch the  
14 video. It's pretty stark and it sends a good  
15 message.

16 Again, you could look at this -- I'm  
17 sure no one can really read this. I can barely  
18 read it and it's in front of me, but it just shows  
19 you the list of different -- the range of public  
20 interest obligations that we have taken on.  
21 Again, some of them are voluntary; some of them  
22 are statutory in nature. A perfect example that

1 we just saw -- close to \$40 million was raised  
2 through the Red Cross and some other organizations  
3 through text message donations. That is the  
4 second largest set of donations after the United  
5 States Government that went to Haiti.

6           So we look at these things -- not  
7 mandated, not mandatory. It was something that  
8 seemed to sort of simply make sense. I've already  
9 talked about Amber Alerts. Emergency alerts.  
10 We've talked about it, and hopefully we will have  
11 that up and running again once FEMA comes onboard.

12           And then the last one is as we've worked  
13 to make sure our networks are up and running in  
14 times of disaster, we put together a Business  
15 Continuity Disaster Recovery Program. Nothing  
16 mandated, just something that simply made sense  
17 that our carriers have signed on to. So I wanted  
18 to provide all that as background and talk a  
19 little bit about this panel, which is sort of the  
20 implications of the convergence of digital media.

21           And I just want to give you three  
22 examples to show you. We talked a little bit

1       about broadcasters. We talked a little bit about  
2       newspapers. But I think all of you know where the  
3       delivery of information is coming from and  
4       ultimately going. Three examples. While we're on  
5       this panel -- and I apologize to Bill, and Steve,  
6       and Renee -- but while we were on this panel --  
7       while Ben and Jeff were speaking, I went online  
8       and I got some information.

9                 Some local news. I went to DCist.com.  
10       I learned three things that are relatively  
11       important. One is that we have -- the cherry  
12       blossoms are coming up in April. So usually  
13       family members come in. The top time is going to  
14       be the first week of April. I learned that 27  
15       folks were arrested at the University of Maryland  
16       after they beat -- I'm happy to say they beat the  
17       Doogies in basketball yesterday -- but 27 were  
18       arrested. And I also learned that absolutely no  
19       one in this room should follow me when it comes to  
20       picking stocks. My wife's stock, which we just  
21       sold, has gone up \$27 in the last 15 days since we  
22       actually exercised her options. So, you know,

1 three obviously very important, very data, very  
2 news-related pieces of information.

3 I also think if you want to get a sense  
4 of where the delivery of information is coming  
5 from, get on YouTube, look up Sports Illustrated  
6 for the iPad. It is one of the most stunning  
7 pieces of advertising I've ever seen. And the way  
8 you can manipulate the Sports Illustrated Magazine  
9 -- they touch the cover and all of a sudden the  
10 cover comes to life and begins showing a video  
11 clip. You scroll through the pages. You can pick  
12 pictures, you can blow them up, you can shrink  
13 them down, you can pick corners of the pictures.  
14 If there's something on the page that you like,  
15 you circle it with your hand and it gives you a  
16 dozen options. Do you want to e-mail this? Do  
17 you want to save this to a PDF? Do you want to  
18 save this to a Word file? Do you want to archive  
19 this? Do you want to go find some additional  
20 information on this? On Google or other? You  
21 know, it is just -- it's just staggering.

22 And then Jeff had talked about folks

1 giving our cameras in the provision of sort of  
2 newspapers or others to drive information. During  
3 President Obama's inauguration, if our carriers  
4 weren't aware, you would have thought that they  
5 were under an intense cyber attack because the  
6 spike was so unbelievably significant that  
7 initially some of the folks thought that there  
8 must be a cyber attack. We must be under attack  
9 by some foreign power. And what they realized  
10 very quickly is that it was moving from cell site  
11 to cell site and it turns out it happened to  
12 follow the exact path of the President's  
13 motorcade. And what it was was the tens and  
14 hundreds of thousands of people holding up their  
15 wireless devices, videotaping, and sending those  
16 videotapes. And then simultaneously around the  
17 country, people downloading those videotapes or  
18 getting notifications that, you know, so-and-so  
19 has updated their Facebook page with a new video.

20 And so to me that's where we're seeing  
21 news gathering and the provision of news going. I  
22 think I would suggest that from, you know, from

1       our prospective at CTIA, we obviously clearly  
2       recognize the need to have public interest  
3       obligations. We do embrace them. We do think  
4       there's a sensible way of going about implementing  
5       them as evidenced by CALEA and E-911 versus the  
6       others. But I also think that you shouldn't reach  
7       back into old public interest media obligations  
8       and try to apply them to, you know, the new --  
9       whether it's information service providers or  
10      broadband providers in general. I think there  
11      needs to be some thought. I think we are seeing  
12      unbelievable diversification in the provision of  
13      media and programming. And I think as Adam had  
14      suggested that, you know, I don't know if the FCC  
15      or anyone sort of knows best when it comes to  
16      these, you know, this evolution. I think it might  
17      make sense to sit back and watch the evolution.

18                 Perfect example, 18 months ago on our  
19      space the hot-selling handset was the Motorola  
20      Razor. Okay. Eighteen months ago you could count  
21      the number of applications in the wireless space  
22      on two hands and two feet. One hundred seventy

1 thousand applications later and about 30 just  
2 mind- blowing devices and you can see what is  
3 happening in this space.

4 Thank you.

5 MR. WALDMAN: Thank you very much. Next  
6 we'll hear from Navarrow Wright, who is the  
7 president of Maximum Leverage Solutions, which is  
8 a consulting firm that delivers Internet and  
9 social media strategy. He is the founder of  
10 Globalgrind.com, a social media site. And before  
11 that was the CTO of BET Interactive. Thank you.

12 MR. WRIGHT: Thanks. Good afternoon and  
13 thank you for the opportunity to speak about the  
14 policy implications of convergence in the digital  
15 transformation.

16 I don't know if it's harder to go after  
17 Jeff Jarvis, who people may not realize has a  
18 laptop and a notebook and didn't reference either  
19 one of them in his 10 minute presentation, or the  
20 guy who has a PowerPoint presentation also did  
21 real-time data capture in his. So, you know,  
22 we'll see what happens.

1                   So my perspective is perhaps different  
2                   than many on this distinguished panel. I speak to  
3                   you today as a minority entrepreneur and  
4                   technology executive who has spent the last 15  
5                   years of my career immersed in an effort to  
6                   attract new users to online content. Today I will  
7                   try to shed light on a few questions surrounding  
8                   this space. Namely, how does content drive  
9                   minority broadband adoption? Will low cost of  
10                  entry for digital entrepreneurs stimulate news and  
11                  information flow to minorities online? How do  
12                  search engine protocols impact minority  
13                  entrepreneurs online? And lastly, in the Internet  
14                  age, what is the meaning of the FCC's statutory  
15                  mandate to promote the "public interest  
16                  convenience and necessity?"

17                  Last week, the Joint Senate for  
18                  Political and Economic Studies released the  
19                  National Minority Broadband Adoption Report, which  
20                  found that "lack of relevance continues to be a  
21                  primary reason why non-adopters are not actively  
22                  using the Internet." And further, what minorities

1 want most to see online is more minority-focused  
2 news and information. The Root and the Griot are  
3 promising examples of minority sites developed by  
4 mainstream media, but nonetheless, the perception  
5 that mainstream sites generally do not speak to  
6 issues relevant to minorities directly correlates  
7 to the low consumption rates of online content.  
8 Among minorities who are not online there is a  
9 perception that the content out there is not for  
10 them or about them.

11           Likewise, minority-controlled print and  
12 broadcast news and information outlets seldom, if  
13 ever, cross over into the digital space. Take,  
14 for example, last month's list of Technorati's top  
15 100 bloggers, which only had two minority sites  
16 listed among the most trafficked sites on the web.  
17 Despite the lack of highly trafficked minority  
18 blogs, however, broadband low cost of entry  
19 provides a new window of opportunity for emerging  
20 news and information sources who can gain access  
21 to an online following and build the digital  
22 communities of their choosing.

1           Indeed, this reduced barrier to entry is  
2 complimented by an ever-expanding pool of minority  
3 talent online, marked in part by an overabundance  
4 of journalist and media staffers who have been let  
5 go by traditional print and news outlets.  
6 Ironically, racial discrimination in traditional  
7 media has expanded the minority online talent pool  
8 for online media. As mainstream media outlets  
9 shed reporting and editing staffs, the last hired  
10 are the last fired -- or the first fired, excuse  
11 me. Disproportionately, minorities lack seniority  
12 and are the first fired. Since traditional media  
13 continues to be consolidate in local markets,  
14 minority print or broadcast journalists who are  
15 fired often have nowhere to go but online. Thus,  
16 there is a wealth of minority journalistic talent  
17 available to work online, if they only can make a  
18 living there.

19           Broadband's lower cost of entry would  
20 enable entrepreneurs to better deploy scarce  
21 initial capital to hire and compensate minority  
22 journalists, develop cutting edge and interactive

1 sites, and employ social media marketing  
2 strategies that will attract traffic and increase  
3 online viewership and participation.

4 But the benefits of online  
5 entrepreneurship can only be borne by those who  
6 have access to capital -- a dilemma that still  
7 perplexes many who want to engage in the online  
8 world. Of necessity, most online entrepreneurial  
9 ventures are initially seeded with money from  
10 "friends and family." Institutional investors,  
11 lenders, advertisers, and strategic partners won't  
12 embrace an entrepreneur's business plan unless he  
13 or she is seen as being at risk personally,  
14 essentially having skin in the game. This seed  
15 money doesn't come from income; it comes from  
16 wealth. And the racial wealth gap is enormous.  
17 According to a 2004 Pew Hispanic Center Study, the  
18 racial wealth gap facing Hispanic households  
19 relative to White households is 11 to 1. And the  
20 gap facing African-Americans is more than 14 to 1.

21 The latest Pew Research Center report on  
22 Black progress one year after President Obama's

1 election reveals that despite an upbeat outlook on  
2 their future relative to Whites, Blacks lost  
3 ground over the course of the decade on three key  
4 indicators of economic well-being -- median  
5 household income, employment rates, and home  
6 ownership rates. The Pew Research Analysts'  
7 announcements of census data show that in the  
8 depth of the recession that began at the end of  
9 2007, Blacks have been especially hard hit by job  
10 losses.

11 Providing good information for and about  
12 minorities cannot be done on the cheap. The lack  
13 of attention on minority issues by some mainstream  
14 media outlets reinforces the importance of having  
15 minority news and information available online.  
16 Minority community issues often require  
17 research-driven investigative journalism to dig  
18 out why immigrants are racially profiled and  
19 families broken up in the name of "border  
20 security." Why the police stop and search so many  
21 innocent Black and Latino men. Why banks hesitate  
22 to locate in minority communities, but check

1       cashing and payday loan outfits can be found on  
2       every corner. And why minorities sometimes feel  
3       that there is no opportunity for them in the  
4       "straight world," and, therefore, too often turn  
5       to gangs and drug dealing as a means of finding  
6       community and acceptance.

7               As we look to what impacts the success  
8       of a small minority online news and information  
9       business, we cannot discount the importance of  
10      search engines. Their influence on the online  
11      market has had a profound effect on the success or  
12      failure of a website by determining whether anyone  
13      unfamiliar with a site can find it online.  
14      Anecdotal evidence has emerged suggesting that  
15      large search engines sometimes choose affiliated,  
16      co-owned, or friendly content and afford it high  
17      page placement while dismissing other sites to the  
18      second or third page where they will be buried  
19      deep in the pile of results. This is a death  
20      sentence for a small, online business.

21              The Commission, with its laudable  
22      recognition of the value of transparency, should

1 be deeply concerned that search engine algorithms  
2 and rules are anything but transparent. We do not  
3 know whether search algorithm designs have the  
4 effect of creating winners and losers on some  
5 basis other than quality, diversity, and  
6 integrity. And when investors lack critical  
7 information about whether an online business will  
8 succeed or fail, they withhold critical dollars.

9           Thus, the online world is just as full  
10 of barriers to entry as print and broadcasting,  
11 but the barriers are different and sometimes more  
12 subtle. So in this environment the question is  
13 what does the Commission's public interest mandate  
14 mean? To answer that we need to understand the  
15 history of public interest obligations and put  
16 them in context. In communications policy, the  
17 term public interest originally sprang from the  
18 FCC's role in ensuring that a scarce resource --  
19 the radiofrequency spectrum -- was deployed in a  
20 manner that would ensure all demographically and  
21 geographically defined communities received  
22 diverse information over the public airwaves.

1           At the moment, broadband capacity is not  
2 a barrier for entry for online entrepreneurs, but  
3 they face other barriers, particularly lack of  
4 universal adoption, access to capital, and search  
5 engine protocols. Of these, adoption is most  
6 critical. Achieving universal adoption should  
7 take the highest priority in advancing the public  
8 interest. According to last month's FCC Broadband  
9 Adoption Report, African- American adoption at  
10 home is only 59 percent and Hispanic adoption at  
11 home is only 49 percent. With more than 40  
12 percent of African-Americans and more than half of  
13 Hispanics still not online, minority populations  
14 cannot be aggregated and marketed effectively to  
15 advertisers.

16           The online minority audience today is as  
17 incomplete as the minority television audience was  
18 in 1955 and as incomplete as the minority radio  
19 audience was in 1935. In radio and television,  
20 non-minorities universally adopted technologies  
21 years earlier than their minority counterparts and  
22 their needs and interests on the air got

1 preferential treatment. With such a long head  
2 start, minorities still haven't caught up.

3           It follows then that to help promote  
4 robust and well capitalized minority voices  
5 online, the Commission's number one public  
6 interest priority should be rapidly achieving  
7 universal adoption. The FCC can also do its part  
8 to build a pool of minority owners in traditional  
9 media who can cross over into online media.  
10 Initially, the FCC should act on the 84 pending  
11 principles to advance minority ownership and civil  
12 rights compliance that have been put forward by  
13 the Commission's own advisory committee on  
14 diversity, the MMTC, and other national civil  
15 rights organizations. Some of these proposals  
16 have been sitting on the FCC's shelf for more than  
17 10 years and it's high time that someone takes  
18 notice. Further, the FCC should begin enforcing  
19 its EEO rules and stop the resurgence of  
20 discrimination that's driving talented women and  
21 people of color away from careers in media and  
22 telecommunications.

1           Finally, to encourage provision of news  
2           and valuable civic information to minority  
3           communities, the FCC should encourage the  
4           Administration to do much more to provide youth  
5           and education in technology. A recent poll on  
6           Blackweb20.com highlighted the absence of  
7           minorities employed in Silicon Valley, one of the  
8           most diverse regions on the country. Last month,  
9           the San Jose Mercury News found that Hispanics and  
10          Blacks made up a tiny and declining share of the  
11          Valley's computer workers. Minorities are not in  
12          these jobs not only because of the failures in EEO  
13          rules, but also because of the failure in EEE,  
14          which is equal employment education.

15                 The nation is doing far too little to  
16          prepare minority youth for the digital economy.  
17          It is not that minority youth do not want  
18          broadband jobs; it is that they simply have not  
19          been prepared to take these jobs. And even if  
20          they get these jobs, they don't know how to  
21          leverage their skills to become entrepreneurs  
22          capable of raising capital, building online

1 businesses, and managing their brands. And above  
2 all, sustaining the businesses they create.

3 I speak from experience. As our society  
4 led the way in a technological revolution, I was  
5 often the only African-American in any technology  
6 class. And only one of the very few  
7 African-American technology professionals in any  
8 workplace. The only way to change this status quo  
9 is for government to make education and technology  
10 a top priority for all citizens, especially those  
11 in minority and underserved communities.

12 And I close by saying that in the time  
13 that it took for me to give this speech, I contend  
14 to you that new companies have been started that  
15 will change your lives online in the coming months  
16 -- that other companies have been funded by  
17 venture capitalists and institutional investors.  
18 And the question I ask you all to ask yourselves  
19 is how many Black and Hispanics were involved in  
20 that equation.

21 Thank you.

22 MR. WALDMAN: Thank you very much. Next

1 we will hear from Srinandan Kasi, who is the  
2 general counsel of the Associated Press.

3 MR. KASI: Thank you, Steven. I thank  
4 the Commission for the opportunity to present our  
5 views.

6 I'll start by just, you know, sort of  
7 sharing this perspective. Christopher talked  
8 about three stories he pulled up online. And I  
9 was delighted to see that two of them were AP  
10 stories. So we're relevant in this converged  
11 media environment.

12 And I'll begin also by agreeing with  
13 Jeff Jarvis, which is always an interesting thing.  
14 But I see this and AP sees the opportunities in  
15 convergence as opportunity, not necessarily as  
16 problems alone.

17 For the Commission's purpose I thought  
18 it would be useful to just start by placing AP's  
19 role in the broadcast news spectrum -- spectrum is  
20 a bad choice of word there, but AP is a membership  
21 organization and we, from the 1940s, have included  
22 U.S. radio and television stations as our members.

1 We've seen them come and go, and in the present  
2 time we see a lot of distress in the marketplace  
3 where it concerns local broadcasters. We serve  
4 almost 5,000 entities in that industry, so it's a  
5 fairly dense engagement we have in the broadcast  
6 journalism business.

7           But not too many people know about our  
8 ENPS product. It is a system that is actually  
9 used in over 700 newsrooms in 57 countries, and  
10 over 60,000 people in broadcast newsrooms use this  
11 product. It is the product that actually places  
12 the news over the air. And it's also increasingly  
13 pushing it to the web.

14           In talking about public interest, one  
15 little feature of this is useful to point out. It  
16 is something that ENPS did voluntarily several  
17 years ago -- over five years ago, I believe -- and  
18 that is to give local law enforcement, school, and  
19 other such authorities the ability to call by  
20 telephone or by using a web portal -- send  
21 information that is of importance to the local  
22 community direct into the broadcast newsroom,

1 right into the workflow. So we innovate. We  
2 innovate on levels that the public may not notice,  
3 but informs the local dialogue.

4           And video that is captured by the AP  
5 television news division based in London reaches  
6 over half the world's population daily through  
7 broadcast affiliations worldwide. So when we talk  
8 about broadcast journalism and broadcast news, I  
9 think we have some perspective. And the  
10 perspective is this -- the struggle to be  
11 economically viable in the broadcast space is  
12 forcing a lot of them to look at them in a digital  
13 space. But the news is not necessarily a very  
14 encouraging one.

15           What I've presented on this slide is --  
16 and I've got a series of slides with which I hope  
17 to essentially point out what I'm calling a  
18 digital disconnect -- and that is that the  
19 audience for news -- and I think it was Ben who  
20 used a very useful way to phrase the consumer  
21 versus the civic participant. The consumer  
22 engagement on news is shrinking while -- on news

1 sites is shrinking while the number of people who  
2 actually go to news sites increased. And what I'm  
3 showing you are actually -- on the left side, page  
4 views and unique visitors comparing January 2010  
5 -- arbitrarily picked dates -- but months.  
6 January 2010 against January 2009. And while the  
7 number of page views and unique visitors went up,  
8 the average time that is spent on these sites,  
9 news sites, actually went down.

10 Contrast that -- and why is that the  
11 case? One big reason and two different data  
12 points -- one is a survey that Outsell published  
13 that came out in January that 44 percent of the  
14 survey population basically said that they, you  
15 know, graze on Google news, but don't click  
16 through. And that is supported by the data. When  
17 you compare January 2010, time spent on Google  
18 News versus time spent in January 2009 on Google  
19 News, that's up almost 160 percent. And the  
20 absolute numbers we're talking about are close to,  
21 you know, we're talking on the left side in the  
22 billions of minutes and the right side is half a

1 billion minutes. So highly, highly relevant  
2 numbers.

3           What is the source of the problem  
4 potentially? Well, I've framed this as two  
5 disconnects. One is a demand side disconnect and  
6 the other is a supply side. First the demand  
7 side. And I think this is something that -- Jeff  
8 may have come at this point differently, but I  
9 think we're on the same page on this point. And  
10 that is there is a disconnect between those who  
11 actually are in control of the monetization of  
12 news and those who are actually incurring the cost  
13 of news gathering. And when you have a disconnect  
14 you don't have economic rationalization of the  
15 monetization. And so effectively what we see  
16 happening -- and I'll follow up with a couple of  
17 examples in the next couple of slides -- is that  
18 those who are in a position to fulfill demand --  
19 consumer demand online for news are, therefore,  
20 controlling modernization -- have literally no  
21 cost of news gathering. And you can't simply have  
22 an efficient system that can operate that way for

1 very long.

2           And so here's the first example. This  
3 is to use Ben's taxonomy -- the consumer in this  
4 case and the next one will be a civic participant.  
5 So this is news of Michael Jackson's death. This  
6 is picking off of June 25th when he was reported  
7 dead. I don't know when exactly he died, but he  
8 was reported dead on June 25th. And when you look  
9 at the traffic emanating -- and I think it's  
10 accepted and I think the point that Navarrow just  
11 made -- just stipulated that that is the case.  
12 Search engines are the start for all traffic and  
13 all engagement. By far that's the dominant. And  
14 I see Jeff shaking his head.

15           But when you look at the traffic flow  
16 you'll find that the top beneficiaries of the  
17 search traffic are sites that actually have no  
18 direct engagement in gathering news. And if you  
19 followed the amount of effort that went into  
20 validating -- again, you can argue whether there's  
21 any social utility to this, but the next slide  
22 you'll see will be a different example and the

1 results will look the same. You'll find that  
2 those engaged in the original gathering of news --  
3 the validating and so on -- actually don't get to  
4 enjoy much of the traffic.

5 Here's a different example. And I'm  
6 going to use the example of the search on  
7 mammogram. And I picked a time that actually  
8 followed the October Breast Cancer Awareness  
9 Month. And then I call it before the news because  
10 in November there was a federal agency, you know,  
11 a group, a task force that came out and basically  
12 said longstanding view about mammogram, you know,  
13 testing was something that actually had more  
14 radiation hazard and actually the utility of the  
15 test was put into question. You may recall that.  
16 So these are the top five beneficiaries of search  
17 traffic from the top five search engines up until  
18 November 14th. And you'll see the numbers are  
19 percentages of the total number of searches that  
20 happened. And you'll see there are a couple of  
21 them that are actually paid search, organic search  
22 results.

1           After the news came out, this is the top  
2           five beneficiaries. And if you saw the rest of  
3           the sites, they fall off fairly dramatically in  
4           terms of the percentage of traffic they get to  
5           enjoy. And so what you see is -- and this is  
6           simply to point out that this is the way it works.  
7           This is no more than simply pointing out that if  
8           you as a news gatherer -- and in our case we're in  
9           a unique position. We don't have a website of our  
10          own; we're a wholesaler. We rely on our paying  
11          clients to effectively be able to win these sort  
12          of, you know, search outcomes so that we get  
13          compensation in the end. And so this is the  
14          situation we analyze it from. And what you'll see  
15          is that the aggregation sites actually enjoy the  
16          benefit of the traffic flow.

17                 So there is clearly a challenge when you  
18          have licensed the content and you're trying to put  
19          a local perspective on it and you don't get to  
20          actually enjoy the flow from the top.

21                 Let's switch to the other side, which is  
22          economic disconnect of a different kind. There is

1 real cost, and we've heard this throughout the  
2 day, but there's a real cost in news gathering and  
3 that goes to what I call the cost of the first  
4 copy. But the technology allows you to have  
5 secondary copies at no cost. So what happens when  
6 a number of these secondary copies get into the  
7 same ecosystem and effectively compete for  
8 opportunity -- modernization opportunity -- with  
9 the first copy?

10 Well, let's see an actual example. I  
11 picked one where this is an exclusive to AP. And  
12 so, you know, the chances of the information being  
13 in multiple places is minimal. This is the  
14 current governor -- I think still the current  
15 governor of South Carolina and his hike up the  
16 Appalachian Trail. And there was a lot of  
17 information because it went into whether or not he  
18 violated state law and so on and so forth. So the  
19 story is published and it was late morning on a  
20 Sunday. And this is actually on a site -- a  
21 member site -- so it's licensed. I'll call it the  
22 first copy for this conveniently. And within an

1 hour a second copy proliferates on the web. It's  
2 the entire story and it's surrounded by ads. And  
3 within a couple of hours a blog search would show  
4 you that this is now on over 23,000 sites in  
5 various forms. And the site that I just showed  
6 you with the full story, which is not a licensee,  
7 but had all the ads on it, was second-ranked on  
8 the search results ranking.

9           So it's kind of difficult -- and I could  
10 just give you example upon example. I can show  
11 you how in a given month AP content would fare on  
12 a licensee site and unlicensed site and you'd find  
13 basically no difference. So you boil it all down  
14 and I think it's sort of -- and then you combine  
15 it with consumer behavior and you'll find that  
16 this is the Pew data of just a few days ago. I  
17 just tallied up what they said in the report --  
18 where do people get their news? And they had 14  
19 sources if you'll recall, and they had different  
20 pieces of data. But line them up and this is how  
21 it looks.

22           You've got a vast majority of the folks

1 getting their news from a very limited set of  
2 sources as they call it -- a source being a site.  
3 And they also had this text on the right, which is  
4 over half the surveyed audience get the news from  
5 the aggregation sites. So while the web may be a  
6 phenomenally wide pool of content, and I actually  
7 support -- I call it opportunity for news and I  
8 actually strongly encourage Jeff's view that, you  
9 know, the audience be able to contribute and we  
10 actually get other sources into the equation, but  
11 the challenge will be how do you get consumer  
12 choice to work in this area.

13 So finally, what are we doing at the AP  
14 about this? We continue to work on what we think  
15 is essential to serve the public's right to know.  
16 And there are three things we are hoping to do.  
17 What I call information connection -- and that is  
18 to connect with the audience in new ways -- new  
19 products and services; engage with the kind of  
20 ecosystem that Jeff is talking about. We're  
21 building the kinds of tools that will allow us to  
22 do that on a systematic basis. Economic

1 connection. We've got to find a way to  
2 rationalize the modernization. And finally, what  
3 we call the legal connection. We've got to get  
4 the supply of content into the ecosystem in a  
5 manner that people who actually incur cost can  
6 actually enjoy some return.

7 And the policy implications are fairly  
8 straightforward it seems to me, which is -- and I  
9 think Navarrow's point about, you know, how do  
10 these engines work that direct audience to where  
11 the content is? We need to know that there is a  
12 transparent, nondiscriminatory way in which  
13 audience demand for content is fulfilled. And the  
14 supply is licensed and that consumer choice is  
15 truly a true choice not, you know, one that is  
16 virtual.

17 MR. WALDMAN: Thank you very much.  
18 Finally, we'll hear from Daniel Brenner, who is  
19 partner at Hogan and Hartson and a professor at  
20 Georgetown University Law School, and formerly a  
21 senior legal advisor to Chairman Mark Fowler at  
22 the FCC in the '80s.

1                   MR. BRENNER: Thank you, Steve. And  
2 thank you all for sticking around.

3                   I had two reactions before I get to my  
4 sort of formal presentation. The first is that,  
5 you know, AP is making news even as we speak.  
6 Apparently, AP is questioning the Michael Jackson  
7 death. Date uncertain. Could he still be alive?  
8 So I think that's a very --

9                   SPEAKER: That was my view.

10                  MR. BRENNER: I won't attribute it to  
11 the AP. Anyway, the other one is a more serious  
12 point and it's one that I e-mailed Steve, which  
13 is, you know, in the end we can talk about means  
14 and what the government can do, but, you know,  
15 sometimes you look at results and in preparing for  
16 this panel I was reflecting on two points. One  
17 was the Gulf of Tonkin Resolution and the other  
18 was our invasion in Iraq. And for students of  
19 journalism, these were two enormous failures of  
20 the journalism system. So in 1964 there were very  
21 few newspapers -- there were many newspapers, but  
22 there wasn't the news sources that we see on the

1 web. And the country didn't get that story  
2 straight and we wound up going to war. And you  
3 flash forward to something we all lived through,  
4 which was the decision to invade Iraq. And again,  
5 with the exception of Knight Ridder and a few  
6 other papers that weren't getting large public  
7 attention, the mainstream media missed that story  
8 on weapons of mass destruction. And the New York  
9 Times, perhaps our most distinguished newspaper,  
10 leading us into that.

11           So in the end I'm concerned, not so much  
12 about the process, but if the multiplicity of  
13 sources -- if news freedom, if diverse entry  
14 employment news sources, capital formation -- if  
15 we can't really improve on when news really  
16 matters -- that is on decisions to go to war or  
17 not to go to war, then no matter what we do here  
18 or what the business of journalism does, I think  
19 those are sort of the bottom line results as I see  
20 it as a former student of journalism and as a  
21 journalist myself.

22           But let me turn to at least one major

1 source of journalism, which is cable and  
2 multichannel vide -- distribution as it's known in  
3 this building. The history -- cable obviously  
4 changed television news for the better. It  
5 started in the '60s actually with what were  
6 cameras that focused -- the first earliest news  
7 was cameras that focused on giving you weather,  
8 temperature, and barometric pressure. The camera  
9 would move all day long just looking at these  
10 three indications. Look at a business card to  
11 sell time on it and that was the earliest form of  
12 news beyond broadcasting.

13 Operators experimented with different  
14 forms of television -- local origination which was  
15 doing local news shows or entertainment or sports,  
16 which continues to this day, and public access  
17 which will be the subject of another panel. But  
18 it's a fun fact to know that Dale City here in  
19 Northern Virginia was the site of the very first  
20 public access channel, probably started by people  
21 stuck on 95 and figuring they should do a TV show.  
22 And they did.

1           The FCC, with the generation that  
2 precedes Chief Lake and Steve Waldman, had to  
3 decide if there were some rules that could apply.  
4 And they did and came up first with local  
5 origination rules and then came up with access  
6 rules. And the Supreme Court said that was going  
7 one step too far in terms of what the FCC's  
8 authority was under its ancillary authority. And  
9 in the Midwest Video case, now very popular as a  
10 case in the Title I/Title II debate, held the  
11 Commission went too far and told them to go take a  
12 bus ride to Congress.

13           Anyway, they did and in 1984 the Cable  
14 Act did, in fact, endorse the right of franchising  
15 authorities to develop public access educational  
16 and governmental channels. It required leased  
17 access, which was a whole new form of journalism  
18 and one which I think a lot of people who would  
19 have been attending this panel back in the '80s  
20 thought was going to change television by creating  
21 access in a way that you didn't have to have large  
22 capital. All you had to do was know how to

1 operate the least access rules of your community.

2 And there was no program origination requirement.

3           But instead of that the marketplace  
4 developed a whole series of national news  
5 channels. And this was really the result of a  
6 decision. I often say that the history of cable  
7 was very much tied to the Thriller in Manila  
8 because it was that boxing event that caused some  
9 cable systems to get earth stations. And the  
10 earth stations then meant that not only could they  
11 bring down the live transmission of the Ali-  
12 Frazier fight in Manila, but they could then take  
13 anything else down from satellites that were  
14 delivered. And that, of course, led Ted Turner to  
15 his innovation, Jerry Lavin to his innovation with  
16 HBO, and news and other entertainment channels  
17 followed -- CNN being the first. But it's quite  
18 interesting to see how many news channels have  
19 developed. This is not a complete list, but you  
20 can see there's diversity in ways that maybe  
21 people didn't expect. Al Jazeera. Logo carried a  
22 CBS News program for a while. BET Nightly News

1       existed for four years as a minority-oriented news  
2       service that discontinued in, I think, 2009. And  
3       BBC World News, which is perhaps the world's best  
4       known news brand is not widely distributed in this  
5       country.

6                A very important development was  
7       obviously C-SPAN, which created in 1979, it's  
8       funded by cable operators directly. It reaches 97  
9       million households and they estimate -- C-SPAN  
10      estimates that nearly 40 million people watch it  
11      at least once a week. And that's not just  
12      flipping through channels, but actually stopping  
13      and watching it. And obviously, for all of us who  
14      have experienced something wonderful, or strange,  
15      or crazy, or just plain interesting as citizens,  
16      C-SPAN is a pretty terrific service. It's not  
17      something you can watch all day, I don't think,  
18      but you could watch things that are of interest  
19      and clearly some of the recent health care debates  
20      have been covered like they couldn't be covered  
21      otherwise. If you wanted to know what the Tea Bag  
22      protests were about, you could see them in their

1 entirety without editorial comment by watching  
2 C-SPAN. States have developed -- state cable  
3 associates have developed that as well, such as  
4 California.

5 In addition, there has been a  
6 proliferation of regional news channels -- 24-hour  
7 news channels that compete with broadcasting and  
8 do so in very innovative ways. There are about --  
9 there are at least 40 of these channels. We know  
10 it here in Washington as NewsChannel 8, which is  
11 not owned by the cable operator, but in many cases  
12 they are owned by cable entities. Take 40 of the  
13 channels are owned by operators, and several of  
14 them have both an English and a Spanish language  
15 version. So this is an enormous innovation for  
16 the Spanish-speaking communities in the United  
17 States that have 24-hour local news channel in the  
18 Spanish language. And there are a variety of  
19 ownership models.

20 And I think one of the significant  
21 developments has been that it created a lot of the  
22 innovations that we're seeing both on web

1 journalism, blog journalism, and even commercial  
2 television journalism -- that is the report is  
3 also the camera person and the producer of the  
4 event and uses the news wheel so that people can  
5 watch at certain times and know that they're going  
6 to get weather on the eights or some other  
7 service.

8           There are other local original channels.  
9 Early Efforts at Pay TV local -- it's hard to  
10 believe, but there was a local pay channel called  
11 ZTV -- Z Channel in Los Angeles that was very well  
12 regarded. And as we're approaching Oscar Week,  
13 this was a channel that had a lot of attention  
14 because it played on the west side where a lot of  
15 the voters were located. It went out of business.  
16 But there are other local origination channels.  
17 The Fairfax system, as some of you know, in  
18 Northern Virginia had a local original channel for  
19 a long time that was not -- it wasn't public  
20 affairs; it was programmed by the cable operator.

21           And, of course, the most important  
22 development has been the migration of video to web

1 portals. Several speakers -- Ben and Adam and  
2 Jeff -- have all talked about that. It's true for  
3 national providers and also for local providers.  
4 So CNN.com is something that is now in our high  
5 level of consciousness. And those people who  
6 study where people go on the Internet -- going to  
7 Navarrow's point -- oftentimes these brands that  
8 are in physical space wind up as the leading  
9 brands in cyberspace. But not always.

10 Cable obviously helped to develop  
11 residential broadband service. The phone  
12 companies followed suit with products that were  
13 not as strong, such as DSL, are now as strong in  
14 the case of FiOS. And one of the interesting  
15 developments certainly is the way in which this  
16 world of news developed -- where was the center of  
17 the journalistic universe? People thought  
18 originally it would be through walled gardens,  
19 like Prodigy and CompuServe. They gave way to At  
20 Home, which everyone in the cable industry thought  
21 was the way that cable would organize its  
22 residential broadband service. That blew up.

1                   Then AOL was the center of the universe,  
2                   and Dr. Koop paid some millions of dollars to be  
3                   the medical advisor on AOL. Money not well spent  
4                   as it turned out due to the long-term contract.  
5                   And then search engines became the centerpiece of  
6                   the universe. And many of us remember that Alta  
7                   Vista was the place that everybody went to until  
8                   Alta Vista's results seemed to be tied in a way  
9                   that -- reminded you of the words Alta Vista. So,  
10                  and Google became the neutral search engine that  
11                  people trusted more, and of course, some of the  
12                  issues that were raised on this panel raised anew  
13                  the question of objectivity of the algorithm of  
14                  search engines.

15                  Let me just say finally that in this  
16                  light, the fact that the Commission determined  
17                  that cable model service was an information  
18                  service as opposed to bringing back the almost  
19                  century-old view of common carrier, I think  
20                  actually helped develop broadband. The people who  
21                  developed or the people who thought about it, I  
22                  know there's a divergence of viewpoint on this

1 panel about that, but the cable operator thought  
2 of themselves as something other than a  
3 transmission pipe. And so tried to develop  
4 content. In some ways it was successful; in other  
5 ways maybe not so much. But the development of  
6 FanCast, for example, I think is a direct result  
7 of Comcast seeing itself as more than just a  
8 transmission pipe, but also a content provider.

9 DBS does have some obligations. I  
10 didn't want to leave out the other MVPD under  
11 Section 335A, but obviously is a national  
12 footprint service. It does not focus on local  
13 news except primarily to retransmit local into  
14 local broadcasting.

15 So, finally, satellite network news  
16 channels can be very profitable in some cases, but  
17 I think it's important to note that local news  
18 channels are not necessarily profitable on their  
19 own. They do provide a way for cable operators  
20 and competitors to the incumbent cable operators  
21 to establish a brand identity. For example, FiOS  
22 has watched its own news channels to compete with

1 the news channels of the incumbents in markets in  
2 which it competes. And I think that one of the  
3 long-term debates about cable's First Amendment  
4 rights, or its right as a First Amendment speaker  
5 are going to evolve. We're just at the beginning  
6 of perhaps another lawsuit about must carry the  
7 obligation to carry broadcast stations on cable.  
8 And I think the debate about Title I versus Title  
9 II also reflects the tension, in the view of some,  
10 of the role of cable. But I think in the long run  
11 cable has provided this enormous cornucopia, if  
12 you will, of information that didn't exist in the  
13 broadcast-only world.

14 MR. WALDMAN: Thank you very much.

15 We'll now go to some questions from us and from  
16 the audience.

17 First, I just want to thank everyone on  
18 the panel for doing exactly what we were hoping  
19 for, which was to break out a little bit of the  
20 traditional ways of thinking about this and really  
21 trying to provoke some new ways of thinking about  
22 this. And also in several of your cases actually

1 proposing ideas. It's always easy to shoot down  
2 ideas. I appreciate you having the courage to put  
3 them out there for everyone else to shoot down.

4 I want to talk -- turn first to mobile.  
5 According to one of the Pew studies that just came  
6 out, already a quarter of Americans get some of  
7 their news over their mobile phones. So  
8 presumably we'll reach a point in the not-too-  
9 distant-future where a majority of Americans are  
10 getting news from their phones.

11 And my question is an open-ended one,  
12 which is what are the implications of that in  
13 terms of what kinds of news they're likely to get.  
14 Are there differences in the nature of news  
15 products? Each technology has kind of some  
16 inherent things they're good at compared to other  
17 technologies. Is there anything that we should be  
18 thinking about for what the implications of news  
19 over phones? And secondly, what implications does  
20 that have for business models as news- oriented  
21 entities are trying to create business models that  
22 produce news? The fact that so much of it is

1 going to go over phones, what does that mean?

2 And I don't know who would be interested  
3 in --

4 MR. BRENNER: Sure. Why not. Everyone  
5 else stepped back and I was left at the front.

6 Do you mind if I take it backwards and  
7 we'll talk about the business models first?

8 That's a very timely question. There was an  
9 article in a nontraditional news outlet today that  
10 talked about the Washington Post. Actually, there  
11 were two articles. One is that they launched a  
12 paid iPhone app and two, that they are now -- then  
13 they were called on charging for their iPhone app  
14 when they don't charge for their Internet service.  
15 So they were sort of questioned about that. And  
16 that was the center of the second article.

17 And basically what came out of the  
18 second article was that this is the year for them  
19 to experiment. Let me read the quote: "That's  
20 why we really think -- we do think of this initial  
21 year as a year of experimentation because at some  
22 point we do have to have a consistent approach

1       when it comes to pricing and bundling. Right now  
2       we have the benefit of being able to use the  
3       iTunes backend for that frictionless payment  
4       system which is beautiful. But if we're serious  
5       about this we have to really start thinking about  
6       how we are going to bring that into our internal  
7       backend system so we can be much more  
8       sophisticated about the way we manage." This is  
9       the GM and vice president of digital operations.

10               And what she was referencing was the  
11       fact that if you download the Washington Post to  
12       your e-reader, which I have a Nook and I do, it's  
13       \$12 a month versus if you buy a full year  
14       subscription for \$70 a year to be delivered to  
15       your home versus \$1.99 for a year on your iPhone.  
16       And how do they justify \$1.99 versus \$240 versus  
17       \$70? And they basically said you got us. You  
18       know, you caught us. We're sort of experimenting  
19       with that. She made this statement about --  
20       shortly before Rob Pegoraro, the technology folk  
21       guy at the Post, panned their online \$1.99  
22       program.



1 gathering organizations -- and we've talked a  
2 little bit about the disconnect between those that  
3 gather the news and those that bring in the  
4 revenue. I think we're going to see a lot of  
5 different models that really illustrate or  
6 highlight that. And when you talk about a quarter  
7 of Americans getting some form of news from their  
8 wireless phone, I think if you look at some of the  
9 younger folks that number is going to go through  
10 the roof. And Pew is at the lead in sort of  
11 investigating that. But when you think of how  
12 rich mobile content is becoming and the fact that  
13 it's real time and it's with you at all times --  
14 it's not delivered at 7:00 in the morning or it's  
15 not given to you at, you know, 8:00 in the  
16 morning, 6:00 at night, and 11:00 at night.  
17 You're seeing a real -- you get a real  
18 understanding of why there's such a strong  
19 evolution to the mobile world. And, you know,  
20 you're going to see, I think, an expansion of  
21 those that put together that content.

22 MR. WALDMAN: I would love to, unless

1       there's another comment on mobile, I wanted to go  
2       back to a few of you who floated the germs of kind  
3       of new policy ideas and teas them out a little  
4       bit.

5                   MR. KASI:  Steve, actually, I do have  
6       one comment I want to make on that.  It would be  
7       interesting for Christopher to -- perhaps if he  
8       has this information -- but our sense is that  
9       consumers like the apps more than they access news  
10      wirelessly from the website, let's say.  There's a  
11      pretty big preference for the apps.  And there is  
12      also a very quick -- I mean, these things change  
13      very quickly.  Consumers express their opinion  
14      very quickly so I think that is going to influence  
15      how people price and how they meter and so on.  
16      Very complex problem because it's highly  
17      customized.

18                   MR. BRENNER:  Yes.  So a lot of times  
19      what you see in the web space is you're reverse  
20      engineering a product that's been made for either  
21      a newspaper or a website and you're trying to make  
22      it fit on a mobile phone.  And it doesn't always

1       translate. The content has become more rich over  
2       the last, I would say, year. But if you look at  
3       it from the apps perspective, the app itself at  
4       the outset is designed for the mobile environment.  
5       And that's why you're seeing such a dramatic, I  
6       mean, staggering uptake. The amount of time it  
7       took Apple to get from zero to a billion  
8       downloads, it was then halved to get from one to  
9       two, and halved again to get from two to three.  
10      And when you look at some of the staggering  
11      numbers in our space in terms of applications  
12      development and/or download, I think that pace is  
13      only going to pick up.

14                 And the reality is because the process  
15      is getting easier and easier to develop apps, you  
16      know, you're seeing a lot of different and richer  
17      content in that space. Particularly in the news  
18      gathering area. You could, you know, and it's not  
19      just Apple. Each of the seven different operating  
20      systems have some form of an application store.  
21      And so all of them are racing to facilitate apps  
22      development.

1           MR. WALDMAN: Is there anything that can  
2 be said at this point about the popularity or  
3 viability of news apps that are geared toward  
4 local news versus news apps that are geared toward  
5 anything else?

6           MR. BRENNER: I think it's a wholesale  
7 look at this space -- a relook. I mean, again,  
8 DCist. It came out of nowhere. And there are --  
9 if you talk to people who are under age 25, the  
10 overwhelming majority would go to that first over,  
11 you know, a CNN.com.

12           MR. WALDMAN: Sri, you mentioned --

13           MR. JARVIS: Can I (inaudible)?

14           MR. WALDMAN: Sure. Sure.

15           MR. JARVIS: And in the process I do  
16 want to address some of the Google libel that I  
17 think we've heard today. There are spheres of  
18 discovery of content. Remember the young woman  
19 who said to a researcher quoted in the New York  
20 Times by young Brian Stalter a year and a half  
21 ago. If the news is that important it will find  
22 me. We keep trying to recreate old business

1 models in an entirely new business reality. The  
2 sphere that was started before was brands. I got  
3 the news; you don't. Come to me. I'll see it to  
4 you. Thank you very much. You're welcome.  
5 That's the way the world worked for 570 years.  
6 Thank you, Heir Gutenberg.

7 Then along came search, which  
8 (inaudible) the world up enough, but it's not the  
9 only game in town now. Then along came  
10 algorithms. Like them or hate them, they're  
11 there. People use them. I would argue that they  
12 don't -- that they are a means of discovery of  
13 your content if you're smart enough to display it  
14 well, like a newsstand. Then there are the  
15 people. And this is important to mobile when you  
16 go to youth.

17 Google News causes 1 billion clicks a  
18 month to news sites. Eric Schmidt says Google has  
19 a total that causes four billion clicks and he  
20 points out to publishers it's up to you to decide  
21 whether you can create a relationship and value  
22 out of that. Sorry, the Associated Press is not

1 allowed to have a website by its members;  
2 otherwise it could (inaudible) advantage, but  
3 we'll leave that to the side. Remember that  
4 figure -- 1 billion clicks a month from Google  
5 News caused two publishers. Bittenly, the URL  
6 shortener used most popularly in Twitter now  
7 causes two billion clicks a month.

8 Well, Mr. Murdoch and the Associated  
9 Press, are you going to sniff at people  
10 recommending your stories? Because the same thing  
11 is happening. It's the same 140 characters about  
12 the same stuff happening. Then we have other  
13 things -- other spheres coming, like what Clay  
14 Shirky calls algorithmic authority. With so many  
15 people tweeting there are now startups trying to  
16 find out, well, who are the good ones? Who are  
17 sending people to the good stuff?

18 There's also predictive efforts. Demand  
19 media tries to watch the demand. What are the  
20 queries out there? And then they write what  
21 people are asking. There are all kinds of news  
22 spheres of discovery. We are taking one old

1 sphere, the media brand, which has low engagement  
2 for a reason because we still just lecture to  
3 people; we don't collaborate with them. It's our  
4 frigging fault. And then we try to shove that  
5 into this new world.

6 Well, as we get to mobile, mobile isn't  
7 about a device. It isn't about being mobile.  
8 It's about being in your hand and being constant.  
9 I saw a news screen at another event, at Four  
10 Square recently, that is very low power, high,  
11 full motion, full color, and can be on all the  
12 time. So you'll have a constant, constant flow.  
13 I think that will start to address issues of  
14 access because you'll have a less expensive  
15 device. In any of those communities you  
16 mentioned, people are carrying a great deal and we  
17 need to figure out how to serve them better  
18 through those devices because it is their primary  
19 access to the Internet. It's not just a mobile  
20 add-on. So we have to look upon this I think not  
21 device by device by device. We have to look at a  
22 new generation that deals utterly differently with

1       how they get news. And if we don't want to take  
2       advantage of that, then that's your own damn  
3       fault.

4               MR. BRENNER: Can I jump in? I'll put  
5       my Georgetown hat on for a second. I think  
6       everybody would appreciate what Google News does  
7       for people and it's a fair point to say if Google  
8       News helps bring people to news content, as you  
9       suggest, then it's up to the content owner to make  
10      the best opportunity they can.

11             MR. JARVIS: (inaudible) economy, yes.

12             MR. BRENNER: On the other hand, I am  
13      sympathetic -- speaking to somebody I used to read  
14      in the TV Guide, you know, who actually does the  
15      writing, does the thinking, does the analysis that  
16      I enjoy -- and I also enjoy the caricature so it's  
17      good to see the real face.

18             MR. JARVIS: My wife didn't.

19             MR. BRENNER: Oh, okay. Anyway, he's  
20      very famous if you don't know who he is. But I'm  
21      thinking, well, okay, it's a sharing. Doesn't  
22      Google --

1           MR. JARVIS: Or some creations of value.  
2 Google gives you value. There are two creations  
3 of value today -- the creation of the content and  
4 the creation of the audience for that content.  
5 Each bring value.

6           Imagine a world in which a Washington  
7 Post story appears (inaudible) The Plain Dealer.  
8 And The Plain Dealer sends audience to it, the  
9 Post sends the content in, and they can both share  
10 in the value of the advertising based on the value  
11 they create. I call that reverse syndication.  
12 There is a creation of value --

13          MR. BRENNER: But you created more of  
14 the value and Google simply --

15          MR. JARVIS: Well, believe me, Murdoch  
16 didn't pay me much.

17          MR. BRENNER: Fair enough. But what I'm  
18 saying is that Sri's writers create the bulk of  
19 the value. Google does a very good indexing  
20 service, but yet it seems that Google has a value  
21 in our economy very high.

22          MR. JARVIS: Google gets its value --

1 listen, I had this discussion at the DLV  
2 Conference --

3 MR. KASI: Jeff, let me interrupt here,  
4 all right, because I think we're going to be  
5 running to the end here.

6 MR. JARVIS: And I think Google's not  
7 really the topic of the day, by the way.

8 MR. KASI: Yeah, exactly. It's  
9 yesterday's news to some degree. But you are  
10 conflating the search with the news aggregation.

11 MR. JARVIS: (inaudible)

12 MR. KASI: No, it is because the card  
13 catalogue, absolutely there is value. But when  
14 the card catalogue becomes the abstract -- and you  
15 saw the Pew research and you saw the Outsell --  
16 study upon study shows the consumer doesn't click  
17 through. The billion clicks --

18 MR. JARVIS: It doesn't mean they ever  
19 would have. They may be discovering a new story.  
20 The assumption you're making -- you're conflating  
21 -- is that they would have clicked through every  
22 one of those stories. It's just not valid.

1                   MR. KASI: But I again would say that  
2 Google is not --

3                   SPEAKER: Well, the news aggregation has  
4 taken over the consumptive pattern. Mobile will  
5 change that.

6                   MR. JARVIS: Promotional pattern. It's  
7 taken over the newsstand. And this is the problem  
8 with discussions like this and trying to get  
9 (inaudible) regulating because it's so unclear how  
10 the market operates.

11                   Take this as an illustration. The  
12 market is so unsure -- we disagree so much -- that  
13 to try to step in at this point and regulate this  
14 is insanity.

15                   MR. KASI: Well, I didn't say the need  
16 to be regulation.

17                   SPEAKER: That's all I'm saying.

18                   MR. KASI: Exactly. We're innovating.  
19 We're creating the news registry for exactly this  
20 reason.

21                   MR. JARVIS: A closed registry of your  
22 members.

1 MR. KASI: No. It's open to anybody.

2 MR. WALDMAN: I'm not sure that anyone  
3 else knows what you're talking about so let's --  
4 No, I don't mean that insulting. I just want to  
5 keep it to some topics that are broad --

6 SPEAKER: You don't have jurisdiction  
7 over that anyway.

8 MR. WALDMAN: I'm not sure I --

9 SPEAKER: You don't have jurisdiction?

10 SPEAKER: Is that what he said?

11 SPEAKER: Over search engines?

12 MR. THIERER: Since when have you been  
13 worried about jurisdiction?

14 SPEAKER: I always worry about  
15 jurisdiction.

16 MR. WALDMAN: At the risk of opening up  
17 another Google can of worms, Sri, in your  
18 presentation you said one of the policy  
19 implications was "transparent nondiscriminatory  
20 demand fulfillment." What do you mean by that in  
21 public policy terms?

22 MR. KASI: So there's news content --

1 original news content comes at a cost. The  
2 ability to be able to identify that so that as  
3 engines come across as content on the web or any  
4 other digital platform you can actually associate  
5 that web -- an original, you know, an originator  
6 and find a way. Because digitally this is all  
7 possible. Reverse indication. Great concept.  
8 Those are the kinds of things. Modernization  
9 engines should be able to say that 23,000  
10 secondary copies at zero cost should not have an  
11 opportunity to enjoy the modernization. The first  
12 copy should have an opportunity.

13 SPEAKER: (inaudible)

14 MR. KASI: These are the kinds of things  
15 you can actually facilitate. And so my point, you  
16 know, if Google comes up it's not by any, you  
17 know, it's not because of AP having -- you know,  
18 they're a licensee. It's the fact that that's 80  
19 percent of the search market. That is showing 100  
20 percent growth in terms of Google news traffic.  
21 It actually makes a difference to the ecosystem.  
22 In constructing any new ecosystem you have to

1 understand where you're starting from. That's  
2 where my points come from.

3 MR. WALDMAN: And what's the potential  
4 public policy implication there in terms of -- is  
5 that something that can just happen?

6 MR. KASI: Well, private market  
7 solutions can create -- you know, there's a site  
8 valueaddednews, I believe,.org. It's a U.K.-based  
9 effort to actually identify original news content  
10 and attribute, you know, some labeling to it so  
11 that it can be discovered better. They have, you  
12 know, a 90- second video. They articulate  
13 beautifully the current problem. And so all we're  
14 trying to do is to find ways to -- in Jeff's new  
15 world of everybody carrying a foot camera, I'm  
16 sure he would like to be, you know, acknowledge  
17 when he comes up with a story and the ideas to be  
18 able to facilitate that. And then find some way  
19 to connect the dollars back.

20 The other thing you can do once you know  
21 what the news content is about and who created it  
22 and so on, you actually can actually create an

1 improvement of the ad modernization because right  
2 now it's based on key words that have no context.

3 MR. WALDMAN: So is that something that  
4 should be able to be done as a private  
5 transaction? Or are there legal obstacles to  
6 that? Or are there ways of facilitating that?  
7 What's the --

8 MR. KASI: Well, we're obviously  
9 building. We're going to obviously try to do this  
10 with private ideas. There are obviously other  
11 good ideas and better ideas will come around. But  
12 at the end of the day if the consumers don't  
13 exercise change, then, you know, and search  
14 continues to be dominant, you have to look at this  
15 and say, you know, how do you operate in the  
16 system. Because you will find newsrooms go out of  
17 business and you'll find journalism begin to  
18 suffer very shortly, if not already.

19 MR. WALDMAN: Okay. Thank you. Ben,  
20 when you were talking about potential sort of new  
21 way of thinking about the public policy and you  
22 had three buckets, as I recall. There was the if

1       you're a broadcaster and you want to keep  
2       broadcasting in the traditional way, have certain  
3       public interest obligations, stronger public  
4       interest obligations. And then you had two other  
5       buckets. Could you walk through those two other  
6       buckets again and what specifically you're  
7       proposing?

8                 MR. SCOTT: Sure. I mean, they're not  
9       my buckets; they're your buckets.

10                Essentially, it's if you're a media  
11       company and you're getting a public asset, there  
12       are typically three ways in which that public  
13       asset is compensated through public policy, either  
14       through a public service, i.e., public interest  
15       obligations on broadcasters. Two is we take your  
16       money; you use the public rights-of-way, cable  
17       operator. We take 5 percent gross revenues for a  
18       cable franchise fee. Just one example. Or you  
19       pay for license at an auction to use a spectrum.  
20       And the third is often paired with one or the  
21       other of the first two, which is there are certain  
22       prohibitive obligations that you are under to not

1 do certain things in order to promote the public  
2 interests. And those in the telecommunications  
3 sector have been nondiscrimination in  
4 interconnection-type requirements.

5 MR. WALDMAN: I want to also introduce  
6 Renee Crittenden from the Wireless Bureau and Bill  
7 Lake from the Chief of the Media Bureau to see if  
8 you all have any questions.

9 MR. LAKE: Yes. A question for Mr.  
10 Wright. As we have this world described in which  
11 citizen journalism is becoming a more and more  
12 common and even some of the main stream media are  
13 reaching out to include citizen-generated content.  
14 Have you found that the mainstream media have  
15 reached out to the minority community to enlist  
16 its members as citizen journalists?

17 MR. WRIGHT: Not really. I mean, I  
18 would say that the minority community has taken it  
19 upon themselves to become more citizen  
20 journalists. I think, you know, but I don't think  
21 the mainstream media outlets have gone to those  
22 people. I mean, whether it was various things

1 that deeply affected African-Americans, whether it  
2 was Jenna 6 or things of that nature, there  
3 wasn't any kind of stake where they said, okay,  
4 let's find citizen journalists that it's directly  
5 connected to and get their perspective. Right?

6 Now, the beauty of the Internet is that  
7 that capability for all of us to give our unique  
8 perspectives is there. I think mainstream media  
9 hasn't yet adopted to open that up and give it to  
10 that value. The whole thing we talk about media  
11 being personalized, and the fact of it being  
12 social is the communication aspect. So when you  
13 talk about a story, whether it's written by AP or  
14 whether it's written by a blogger in the street,  
15 there has personal context to it. So what hasn't  
16 happened is the ability for people of color and  
17 minorities to share that viewpoint at an equal  
18 level.

19 MS. CRITTENDON: I have a follow-up  
20 question for Ben. Adam, in his written remarks,  
21 talks about the scarcity argument as being sort of  
22 the regulatory lynchpin for broadcasters' public

1 interest obligations. And I wanted to talk to you  
2 a little bit about whether you think that same  
3 scarcity argument should be used in terms of  
4 wireless carriers' public interest obligations.  
5 Chris just talked about both non-mandated types of  
6 obligations or initiatives that the wireless  
7 carriers have been working on, as well as the  
8 mandated in terms of public safety and some  
9 disability access types of obligations that they  
10 have. Is it your thinking that the non-mandated  
11 are adequate? Are they sufficient? And whether  
12 the wireless industry should be doing more than  
13 these two types of obligations in terms of  
14 bringing public interest to consumers.

15 MR. SCOTT: I think that you're talking  
16 about two different kinds of networks. So with  
17 broadcasting you have a single purpose network,  
18 either radio or television. And with wireless  
19 you're talking about a multipurpose network, in  
20 particular with access to the Internet and data.  
21 And those have traditionally been treated very  
22 differently.

1           And I would argue, and did in my opening  
2           statement, that the core concept of compensation  
3           for a public asset is the basic idea. And so in  
4           the case of the wireless networks, they're  
5           compensating for the license in terms of either  
6           buying that license at auction or a spectrum fee.  
7           And then they have prohibitive obligations not to  
8           discriminate and not to disconnect from other  
9           networks. Whether other public service  
10          obligations should be layered on top of wireless  
11          networks, I think they have not been on a part of  
12          traditional common carriage other than the ones  
13          that Chris mentioned in terms of public safety,  
14          law enforcement, et cetera.

15                 MR. THIERER: Can I say one brief thing?  
16           Just simply, scarcity is probably the last word on  
17           anybody's lips in the public when you talk about  
18           the media these days. It's abundance and overload  
19           that people usually talk about and lament. I  
20           mean, we live in a world of radical audience  
21           fragmentation and disaggregated media power in the  
22           broader sense. You know, you think back to the

1 age of Uncle Milton -- Uncle Milty and, you know,  
2 at Texaco Star Theater when he was pulling in a 60  
3 share. You know, and now you look at the  
4 top-rated show on broadcast TV is, what, American  
5 Idol, pulling in a 13 if they're lucky. You know,  
6 that's just television. We live in a world of  
7 atomistic media.

8           The fundamental problem we have not  
9 addressed here today is how to drive people to all  
10 the good stuff we've been talking about. That is  
11 a huge challenge. And what I suggested in my  
12 remarks is that what the government can do is it  
13 has the ability with its unique platform that it  
14 can leverage to reaggregate attention and eyeballs  
15 and find ways to essentially drive people to the  
16 good stuff that they want everybody to see and  
17 hear and consume. It's not going to be easy. You  
18 can't force everybody to watch or consume it, but  
19 why not work together. I highlight my testimony  
20 -- the wonderful resource our government has  
21 created -- 12 agencies work with private sector to  
22 create onguardonline.gov, a wonderful public

1 resource to help alert people to some potential  
2 security and safety dangers on the Internet and  
3 what they can do about them. Serious threats,  
4 like identity theft, online child safety concerns,  
5 online fraud, so on and so forth.

6 Wonderful resource. Videos, content,  
7 recommended reading, redirecting (inaudible) with  
8 all sorts of links to other institutions and  
9 resources that can get you help. This is a way to  
10 reaggregate attention and promote the public  
11 interest, however you want to define it. I think  
12 we can do that on this front. I mean, again, you  
13 can help -- start by just reagggregating a lot of  
14 good stuff that's already out there. The FCC does  
15 this right now on the child safety front. And you  
16 look at the v-chip site that the FCC runs. It  
17 pushes people out to other child safety resources  
18 or information about TV ratings and things like  
19 that. Why not do that for all these services?

20 MR. LAKE: Related question for  
21 Professor Jarvis, I think. You described a  
22 Wikimedia world in which each of us is a cell in

1       this great organism that now is the media. I  
2       wonder how does the editorial or ratification  
3       function get performed in that environment? When  
4       Walter Cronkite said something we assumed it was  
5       true and now there's probably no proposition for  
6       which you can't find some blogger who asserts it's  
7       true.

8                   MR. JARVIS: I think we in the media  
9       convinced ourselves that all believed that was  
10      true, but that's another question.

11                   I want to go back to Adam's point  
12      because it answers this in part. In a world of  
13      overabundant content creation, value flows to the  
14      curator. We can all create stuff now. So the  
15      problem as Clay Shirky says is not that we have  
16      too much stuff; we've always had too much stuff  
17      since the Library in Alexandria. The problem is  
18      what he calls Fisher Failure. So there's value in  
19      doing that.

20                   I've argued to the Associated Press for  
21      many years that they should curate not just the  
22      Associated Press, but the whole world. The New

1       York Times starts to do that. I think we start to  
2       see that value coming in and people might actually  
3       even pay for that value. But it's not one size  
4       fits all. Because there's not one definition of  
5       good stuff anymore than there is one definition of  
6       public interest.

7                   I think one thing we can start to get to  
8       is -- this is where Sri and I will agree -- mark  
9       this in the history books -- is that original  
10      matters -- that original reporting in a link  
11      economy, if I argue that when you get that link  
12      it's up to you to do something about it, that also  
13      says that it is an ethical matter to link to  
14      original stuff. Now, I've given the AP some  
15      measure of crap, no surprise, that their history  
16      was by the need of the medium rewriting stories  
17      and breaking those links. Well, we all did that.  
18      Newspapers rewrote stories. Broadcasters repeat  
19      stories. Rip and read. That breaks the link to  
20      the original.

21                   And so I think what we have to do is to  
22      work on new definitions of media literacy here

1 with the people and also with ourselves and our  
2 models that support reporting and content at its  
3 source. Indeed, one of the executives at Google  
4 said on a podcast that I do last week that Google  
5 was now working very hard because they see places  
6 like demand media are affecting them too much.  
7 They're a victim of their own algorithm in that  
8 sense. And so they want more signals, and they're  
9 working on more signals, and they're using more  
10 signals to find original content and quality  
11 content. So I think we'll find this happening  
12 through individual editors curating -- aggregating  
13 and curating and adding that value. I think we'll  
14 find more signals to try to gather in algorithmic  
15 authority. And this will be a never-ending quest  
16 to find the good stuff.

17 MR. BRENNER: You know, the one thing I  
18 would add is I think we need to redefine success.  
19 So Adam talking about driving people towards the  
20 right content; Bill, you were talking about Walter  
21 Cronkite and we all believed him. I think we're  
22 missing the fact that the environment has changed

1       just -- I mean, there has been a biblical change  
2       around us in the last two years. And I think the  
3       AP does a great job and I love it. I think if you  
4       talk to anyone -- there was a great panel about  
5       six months ago or so here in this room, and there  
6       was a very young person who sat in the middle of  
7       the panel. And every time she spoke, the room got  
8       dead silent and everyone's jaws dropped because it  
9       was just such a new look at how people view  
10      issues.

11                   And so when we talk about AP content or  
12      we talk about Walter Cronkite or CNN or MSN, well,  
13      that's not at all where the overwhelming majority  
14      of the people who have mobile devices or Internet  
15      access are getting their content. They're getting  
16      it through Facebook. They're getting it through  
17      Twitter. They're getting it in real-time. And  
18      they're not having a difficulty finding it. No  
19      matter what Google does with their search engine,  
20      that isn't what drives what the youth today are  
21      looking at. What drives is word of mouth and the  
22      fact that there are 1.1 trillion text messages

1       zipping back and forth between and among us that,  
2       you know, this group -- this audience here,  
3       including myself -- is probably responsible for 10  
4       percent of those texts.

5               MR. WRIGHT: Yeah. I'd argue a point of  
6       that though. I think you're right in certain  
7       areas. I do believe the whole notion of, you  
8       know, we talked about what's good content, what's  
9       original content. Right? And I think those are  
10      now defined by the social circles. People use  
11      their social references to find whether I should  
12      read one story versus another, which creates  
13      challenges for companies like AP because the  
14      validation cue is different.

15              But the point I would content with is  
16      because social drives it so much that having the  
17      audience not be disproportionately equal online,  
18      it puts it at this value for the underserved.  
19      Right? So if social defines what's good content  
20      and what's content worth readable, if there's a  
21      certain piece of the demographic who doesn't have  
22      that same kind of stacked favor, then they're not

1 in the game. Right? They're not -- they're not  
2 influencing what's real content, which goes back  
3 to your question about getting socially- relevant  
4 commentary on issues that happen. If an audience  
5 is not there then they can't give that  
6 socially-relevant content. And then whether it's  
7 Google search algorithm, whether it's Diggs  
8 ranking metric, whether anything -- whether it's  
9 Twitter's (inaudible) topics, anything we use  
10 they're at a loss. Right?

11 And, you know, why have the mic --  
12 because it's really hard to get the mic on this  
13 panel. I would content for the FCC in terms of  
14 policies, you know, when you really look at your  
15 National Broadband Plan, to look at what I talked  
16 about before about digital education. Right? And  
17 when you hear people talk about digital education,  
18 they really focus on digital literacy. Right?  
19 And I think that's one piece of it. Because I  
20 contend that there's a large portion of this  
21 demographic that I know because I speak to them a  
22 great deal that don't know you can watch TV shows

1       for free on Hulu and Fancast; who don't know that  
2       there are services out there that will run a  
3       business; to have e-mail; to talk to their parents  
4       who are across the country using videoconference  
5       calls for free. They don't know any of these  
6       broadband tools exist. Right? So they're  
7       naturally at a disadvantage. We need to educate  
8       them on that.

9                   And even then at the base level -- I'll  
10       give you a scenario I heard at another conference  
11       that Target, Wal-Mart, and all these stories put  
12       their applications online now. So I'm going to  
13       put you in the perspective of someone who doesn't  
14       have broadband access, who doesn't have a car, and  
15       who's looking for a job in this tough economy.  
16       Right? They hear that Wal-Mart's hiring. It  
17       takes them two or three buses to get there. They  
18       walk in the door full of potential and opportunity  
19       and they're told that, hey, we only accept  
20       applications online. You have to go find  
21       someplace to submit it. Those things are really  
22       happening. Right? So the more that we can

1 educate people in the digital literacy side, then  
2 we can affect change there.

3           And then the other piece that I think is  
4 really crucial is on the entrepreneurial side. We  
5 have a value proposition problem in urban youth.  
6 And what I mean by that is all they see in terms  
7 of potential careers are in entertainment and  
8 sports in the urban culture. They don't see the  
9 Facebooks; they don't see the Twitters in terms of  
10 opportunities for them to create companies  
11 similar. They see them as things they can  
12 consume. And I contend that if we create policies  
13 to give them a better understanding of that, you  
14 will have a new generation of entrepreneurs. You  
15 take a busload of children from an urban  
16 environment, let them walk through Facebook and  
17 see that they can have free meals and ride their  
18 skateboard and play videogames. And all they have  
19 to do is learn how to write code. The libraries  
20 will be empty from coding books. I guarantee.

21           MR. WALDMAN: It seems like there's a  
22 little bit of a confliction of outlet diversity

1 and outlet abundance and input abundance. By  
2 which I mean, like, as an example, the Baltimore  
3 study by Pew that just came out. We should give a  
4 royalty -- they should get a royalty every time we  
5 mention Pew -- found an incredible abundance of  
6 news outlets. I think 50 different outlets when  
7 you added in blogs and websites and TV stations  
8 and newspapers. But when they traced the content  
9 that were on those sites, it all went back to one  
10 or two sources. So you have more choices than  
11 ever before in terms of where you find news, how  
12 you find news, what kind of interpretation you  
13 have of the news. And yet the input to it in the  
14 case of the Baltimore study was basically the  
15 Baltimore Sun and, you know, one or two, in terms  
16 of the original reporting, that's what they came  
17 up with.

18 So the question is do you agree with  
19 that premise? For those of you here at the second  
20 panel that's an inside joke. Do you agree with  
21 that premise? And is that something to be  
22 concerned about?

1                   MR. JARVIS: I don't agree with the  
2                   premise because I think there's a definition of  
3                   news. There's a top-down definition of news.  
4                   When I ran community sites and we had a site for  
5                   ballerinas under the news tab it said the leotards  
6                   are in. Well, to them that's news. There's many  
7                   different definitions of news. And I think that  
8                   the flaw in the Pew study was its definition of  
9                   news and media and distribution were very limited.

10                  MR. WALDMAN: You said that -- sorry.

11                  MR. JARVIS: But I also think there's  
12                  good news in there in that the original reporting  
13                  does get a lot of attention from human links. And  
14                  that's a wonderful thing.

15                  MR. WALDMAN: You had said earlier that,  
16                  you know, percent of the way -- the new system is  
17                  doing as well or really often improving upon the  
18                  way --

19                  MR. JARVIS: You mis-tweeted, but go  
20                  ahead.

21                  MR. WALDMAN: Okay. But that you were  
22                  concerned. I think the term you used was broccoli

1 journalism.

2 MR. JARVIS: Concern about broccoli  
3 journalism that --

4 MR. WALDMAN: What does that mean?

5 MR. JARVIS: That there's the boring  
6 stuff. I think investigative journalism will get  
7 done because it has brand value. I think it's the  
8 -- beat journalism will get done because it's the  
9 essence of journalists' value. I think it's  
10 covering the boring, important things, like, I  
11 don't know, government commissions, that matters.

12 I'm also concerned in this world about  
13 redlining, which is what you brought up, too, is  
14 that I see hyper-local sites starting up from all  
15 these companies. They're starting in towns with  
16 good, you know, Ann Taylor stores that'll buy ads  
17 or whatever. Right? And I think that's really  
18 important. So I really agree that the huge issue  
19 is entrepreneurship here.

20 I teach a course in entrepreneurial  
21 journalism because journalists, just like  
22 minorities, have never been entrepreneurial. Even

1 less so, actually. And so it's a skill we have to  
2 encourage and teach. So I think we have to find  
3 ways -- I think you raised two really important  
4 educational points, which is not a regulatory  
5 opportunity, but it goes to Adams point of  
6 curation of good stuff opportunity to drive people  
7 to resources that help teach them all these  
8 opportunities that are out there to start  
9 businesses, to find great stuff, and so on. I  
10 think that's where this really goes.

11 MR. KASI: I think that all this is  
12 fine, but fundamentally I think it's about the  
13 modernization problem because, you know, you can  
14 do all these things and there will be tremendous  
15 entrepreneurship. I think it's about  
16 opportunities to news. I think the citizen having  
17 a voice. People being able to report things and  
18 curate things. This is all wonderful stuff.

19 But when you look at the data, it's  
20 still, you know, the old model was the newspaper  
21 or 6:30 evening news and it was about a packaged  
22 product. But on the web it's about the

1 disaggregation of that into individual components,  
2 some of which have value, some which has no value.  
3 But to the aggregate producer, that opportunity  
4 has been disaggregated by the engines. And so  
5 what you have is now the challenges to be able to  
6 get the modernization to work on a level -- on the  
7 individual pieces that the audience cares about.

8           And I think there was a little bit of  
9 conflation about the medium and the content.  
10 Twitter and Facebook and so on are the medium.  
11 They don't generate the content. I mean, can you  
12 remember an era where we said, you know, I got the  
13 news from AT&T or the telegraph? No, we didn't.

14           MR. JARVIS: How did you get the news of  
15 Michael Jackson? You may have gotten it from AP;  
16 most people got it from Twitter. Or someone who  
17 read Twitter or some piece of -- the editor of the  
18 Wall Street Journal Online said that we don't --

19           MR. WALDMAN: We're almost out of time.

20           MR. KASI: So the last point is I think  
21 we need to focus on ultimately how do these  
22 things, you know, ultimately return value back to

1 those who are willing to invest in gathering that  
2 original content. And I think that's the  
3 fundamental question.

4 MR. WALDMAN: Now, we are over. I want  
5 to, in the spirit of Navarrow's comment, to make  
6 sure that there's -- is there anything that you  
7 all are dying to say that you felt like you did  
8 not get a chance to say? Or you're just tired?

9 MR. BRENNER: I'll just take 30 seconds,  
10 Steve.

11 MR. WALDMAN: Go for it.

12 MR. BRENNER: Listening to this I'm  
13 reminded -- I keep thinking about the discussions  
14 I've had and teach about what's the purpose of the  
15 first memo. Why does this -- why does the work  
16 we're talking about here deserve special  
17 protection by the courts and the law? And I think  
18 there's obviously an important self-expression  
19 viewpoint. What the web has done is created the  
20 ability for people to be self-publishing, even if  
21 the content is not important to our civic  
22 dialogue. It's just a further expression, further

1 development of the goal of self-expression,  
2 independent of its value to society.

3           But I think a lot of what I think Sri  
4 and I and others have talked about here is the  
5 information that we get through this process,  
6 whether it's the public interest element that  
7 Renee talked about or any of the other things. In  
8 the end, you know, as a civil society, if we don't  
9 get the information we need to make intelligent  
10 decisions as voters and as citizens -- as parents  
11 and children and teachers and students -- you  
12 know, we go down as a country. And that's why I  
13 think I have always felt it was very important to  
14 protect the medium -- the media to enhance the  
15 civil discourse. The other values are important,  
16 too, in terms of self-expression and so forth.  
17 But in the end, if it doesn't serve that, if we  
18 can't improve on that, then maybe this system of  
19 freedom of expression here isn't quite working the  
20 way it should.

21           MR. WALDMAN: Thank you very much.  
22 That's a great note to end on. Before we end

1 completely, a few things. First of all, as they  
2 say on one of the shows, I can't say we're going  
3 to continue this in the Green Room, but we are  
4 going to continue this in the  
5 FCC.gov/futureofmedia where there are forums and  
6 message boards to continue the conversation. And  
7 also, we encourage people to submit comments that  
8 fill out any of the points that they made or from  
9 the home audience.

10 I also wanted to not leave before  
11 thanking the people who pulled this together.  
12 Vanessa Lah-May, Erica Porter, Antoine Green,  
13 Shayna Perkins, Yvette Williams, Maria Barber,  
14 Carolyn Walker, Donald Harvey, Natividad Valentin,  
15 Brenda Lewis and our AV staff, College, Dan,  
16 Steve, and Jeff, the Security and Help Desk and  
17 all the other people who actually go into making  
18 one of these things. It's actually quite a big  
19 production to pull one of these things off. So  
20 thank you very much.

21 (Whereupon, at 5:15 p.m. the  
22 PROCEEDINGS were adjourned.)

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