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New Directions in Mass Media Policy: Can We Do With Less Regulation in the Digital Age?

National Press Club
529 14th Street, N.W.
Washington, D.C. 20045
February 26, 2009

Transcript of the Proceedings

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

MR. MAY: The last panel of the day is the one on media regulation. That's certainly a lively topic these days with issues ranging from the fairness doctrine to localism, and so forth.

I said this morning that I was really pleased that we had two former FCC chairs moderating these panels. Michael Powell was here this morning and I'm very pleased that moderating this panel is another former FCC chairman -- not only chairman, but commissioner and general counsel. I don't think anyone else has ever held those three titles and I don't think they ever will again.

So, join me in welcoming Dick Wiley as moderator of this panel.

MR. WILEY: Thank you, Randy. Ladies and

* This transcript has been edited for purposes of correcting obvious syntax, grammar, and punctuation errors, and eliminating redundancy. None of the meaning was changed in doing so. The editing assistance of FSF Research Assistant Tristan Hardy is gratefully acknowledged.

gentlemen, welcome. It's good to see all of you. This is our final panel of the day dealing with mass media policy and the possibility of lessened regulation in the digital age.

And to deal with that issue -- and it's a daunting subject -- we have a very impressive group of academics, industry experts, and former government officials. As you're going to see, we're going to present a veritable kaleidoscope of different views, philosophies, and approaches to our topic, and you will have to see whether you agree or not agree with all the things we're going to hear today.

In the process, however, I hope we're going to examine whether our current industry structure, our distribution systems, and our regulatory policies still make sense in a new digital era, which of course is being increasingly impacted by the continuing development of the Internet, and all that it represents in terms of diversity of content and services.

I would like to briefly introduce our celebrated cast and then I am going to ask each one of them to provide some opening remarks. Then we will get to some questions from me, as the moderator, and hopefully from you in the audience.

On my immediate right is Diane Disney, who is chancellor and professor of management at Penn State's School of Graduate Professional Studies. She formerly served as deputy assistant secretary of defense, where she oversaw the development and implementation of policies for managing the Department's workforce. But don't worry, she is also very interested in media issues.

Next is James Gattuso, well known to many in the audience as a senior research fellow of regulatory policy at the Heritage Foundation. He formerly served as deputy chief of the FCC's Office of Plans and Policy and as director of the Presidential Council on Competitiveness.

Next is Ellen Goodman, who is a professor of law at Rutgers University School of Law in Camden, where she specializes in information technology, including telecommunications, media, and IP. She formerly, of course, was a partner at Covington and Burling, here in Washington, D.C. Welcome back.

Next is Kyle McSlarrow, who is president and CEO of the National Cable and Telecommunications Association. And, as such, he is the primary public policy advocate in Washington, D.C. for the cable industry. He is a former deputy secretary of the Department of Energy, and also deputy chief of staff and chief counsel to former Senate majority leaders Dole and Lott.

Our next speaker is Glen Robinson, who is professor of law emeritus at the University of Virginia. He has taught and written extensively in a number of different fields, but, in particular, administrative law, and communications. Glen is a former FCC commissioner and, I am proud to say, was one of my colleagues during what we obviously regard as the Commission's golden age.

And, finally, Steve Wildman is James M. Quello chair of telecommunications study and co-director of the Quello Center for Telecommunications Management and Law at Michigan State. He formerly was an associate professor of telecommunications science at my alma mater, Northwestern. As a board member of the Quello Center myself, I particularly welcome Steve here.

Steve is going to go a little out of order when we get to him, because some of the remarks I am told that he is going to say may be helpful to several of the other speakers.

But let's start with Diane Disney for her opening remarks.

MS. DISNEY: Well, our question is, "Can we do with less regulation in the digital age?" Clearly, the answer is, "It depends."

Almost anything could be regulated. The extent to which anything should be regulated, though, is a matter of debate. And there is also the question this afternoon of whether the mass media should be treated differently from any other economic sector, regardless of the changes being wrought by the digital age.

I am going to deal with two areas that differ from each other a bit. One, where I don't think there should be special regulation, and the other where there probably should.

First, let's deal with employment. Technological change has driven telecom employment. It has affected job content, skill requirements, location, compensation, and benefits. Take "webmaster," for instance. It's a very commonly accepted term now. But 20 years ago, "webmaster" would have referred to a spider or a spy, not a telecommunications specialist. A lot of consumers now can buy a telephone and plug it in themselves. They don't have to wait for an installer to come.

Over the past two decades, telecom employment has fallen, bloomed, then fallen again. Old jobs were vanishing, and newly created ones did not take up the slack. While the telecommunications act opened the way for companies to enter new markets, what was less obvious was the effect on the ordinary employee.

First of all, job security has been noticeably diminished in a lot of ways. Labor relations, overall, have deteriorated, and unions have lost strength.

Workplace discrimination complaints started rising. While salaries for some positions rose, typical compensation levels were static or fell, as positions were redefined, made contingent, or outsourced. And the availability of pension plans declined, as did medical benefits for retirees.

Now, of course, the rise of a contingent workforce, increased outsourcing, the upgrading of skill requirements, and a reduction in job-related benefits are not confined to the telecommunications industry. Therefore, industry-focused regulation is unlikely to be of much value. What policy makers have to recognize, though, is that everything they do with regard to regulating or de-regulating mass media will have consequences, and care needs to be taken to ensure that those are not unnecessarily painful.

Now, the second issue has to do with local matters entirely. Looking at that, we do have to recognize that our world is very different from the one that existed a dozen years ago. This stems not just from the 1996 Act, but also from the interaction of its effect with activities stimulated by the repeal of the fairness doctrine.

Now, this is not a history of the Fairness Doctrine, and I'm glad I'm standing behind something, because some people would attack me if I tried to give one. My concern is with the unfortunate, unintended consequence of [the Fairness Doctrine's] repeal, combined with the telecom deregulation of the 1990s, that led to the local non-profit sector's effective loss of access to the public airways.

This is most obvious in the decline of public service announcements. As you all know these are free spots that promote programs, activities, and services of governments or non-profits, as well as other things that service community interests.

Research has found that PSAs now constitute less than one-half of one percent of broadcast and cable TV time. Further, they tend to have a national focus, rather than a local one, and they're disproportionately placed between midnight and 6:00 a.m.

In addition, they feature personalities

specifically associated with a station in which they're aired. The problem is particularly acute for non-profit organizations. These are the ones that fulfill more of the tasks that society values, but that entrepreneurs do not find profitable, things such as social services, health care, arts and culture, housing, and environmental protection.

Where a lot of non-profits now have websites to explore operations and seek essential financial support, they still need other mechanisms for the public to know that those websites exist. Most of us don't just sit around and surf the web, hoping to find a non-profit we can send money to. It is the reach of the broadcast media that alerts the public to the existence of organizations and causes that they might find of benefit or interest.

Sometimes markets fail. Sometimes regulation is necessary. I think this is such a situation. Therefore, I believe we should require radio, broadcast television, and cable to provide a certain minimum of locally-focused public service announcements to give the sector some free access to the public airways.

Now, because the term "fairness doctrine" generates such strong and stereotyped reactions, the approach will need greater focus and another name. "Non-profit access mechanism" would be more precise and less inflammatory, even though it isn't particularly sexy. We have to find a way to bring local interest in and enable problem-solving organizations back to visibility in their communities.

Digital broadcasters could also use their multi-channel capacity to offer air time to local groups. Stations could be required to make their public service logs accessible to the community.

Taken together, these recommendations could be what Representative Blackburn called "light touch" regulation. Further, they would help combat the national homogenization and local subordination of broadcast programming, regardless of how the competitive entities continue to reconfigure themselves. And I think I will get some push-back a little later in the panel. Thank you.

MR. WILEY: Thank you very much. Now we will go to Jim Gattuso.

MR. GATTUSO: Let me start by just mentioning that when Diane said that most of us don't spend the time searching the web for non-profits we can give money to, I will save you the trouble. You can just go to www.heritage.org and you will find a non-profit you can give money to.

(Laughter.)

MR. GATTUSO: The good news in mass media today, compared to a lot of other industries, say, the banking industry, is that mass media is not responsible for a global economic collapse. That's the bright spot. And also, unlike the automobile industry, mass media is not a dying industry. A few broadcasters out there read that as a "quickly dying industry."

This is an industry that has really been against a trend. We get so much bad news in the economy today and mass media is really a success story. To go to the title of this panel, "Can we do with less regulation in a digital age?" The answer is yes.

Now, I happen to think that we could have done with less regulation in the analog age. But in the digital age, that argument against regulation is even stronger.

Now, that's an unpopular thing to say in today's environment. No one defends less regulation any more. From the new administration to the new congress on down, regulation is considered to be a positive good almost exclusively. Less regulation is tied to all sorts of horrors. But particularly in this area, that clearly does not hold true.

Frankly, if the field of mass media needs regulation, it would be hard to find any field, any industry in the economy that does not need regulation. And I won't go over the numbers - they're well known. But competition is not just exploding. It has exploded. It is here.

You know, in our own household there is a lively debate among myself, my wife, my seven-year-old son, and our three-year-old daughter as to what mass media service to get.

We can have, thanks to Dick Wiley, digital television, which we finally got in our house over the non-digital television. We could expand our Cox service to digital service and have over 200 channels. We can go the way Tom Tauke wants us to go and get, I think, 600 stations on FiOS. We have choices. The problem is, if anything, too many options.

If there is any question as to diversity and choice of types of programming, the question should really be, “Is there over-fragmentation?” and not whether there is too much homogenization.

We have a system in place with so many choices, so many types of programming, that it would have been just impossible to conceive of, not just a generation ago, but 10 years ago.

Another way to put this is that, in many respects, the mass media industry -- and I will use the word industry -- is simply not special any more. And I say, "in many respects." I am not going to say, as perhaps another FCC chairman said once, that the television is just a toaster with pictures.

But, structurally, the industry is really not qualitatively or even, in many respects, quantitatively different than most industries. There is the active competition of providers trying to get business: the prices change and the products change and improve.

The industry is not structurally different than most industries. It's not structurally different than the print media. If anything, the print media shows less choice and less competition. So the argument that this is a special industry deserving of different treatment than the rest of the economy is weaker now than ever.

Now, many people see this as a bad thing, but you know, frankly, if you are in an industry being regulated, I think many of you know that you don't want to be special.

Perhaps in your personal life you don't want to be seen like everyone else. You want to be special. If you're in business, you don't want to be seen as special by the government. So this is actually a positive thing, and the goal, in many ways, of public policy.

Now, having said that, there certainly is something that is different about mass media than making toasters and that is the undeniable fact that there is an impact on the public interest, an impact on democracy, and an impact on society as a whole that you don't get in other industries.

Now, of course, any industry can make the argument that it contributes in some special way to the public interest. But broadcasting and mass media, as a whole, does have that unique dimension.

But this also does not argue for more regulation. In fact, it makes me even more skeptical of intervention. If mass media has a special role, you should apply the rules that work the best, the rules that have led to success in other areas, and be even more skeptical of varying those rules that you know work.

But I won't leave it at that. I won't leave it at an economic argument. In terms of results, and the way that we treat speech and public debate in the

United States, it is important that we use regulation, let the government intervene, as sparingly as possible.

You know, we hear a lot of talk about how the government can improve programming. I got an e-mail from the group Free Press, actually during the panel, with the title along the lines of, "The Solution to Bad Radio." It turns out their solution didn't seem so bad: it was low-power radio stations and such.

But it struck me as a particularly, not only difficult, but dangerous quest for policy makers to be determining what is bad radio and what is good radio. That's an inherently subjective judgment, and one that is subject to political abuse.

This is not a theoretical concept. One of my favorite quotes comes from a 1996 debate over the communications act, where they're addressing ownership limits on television stations. Congressman Sonny Montgomery had a rare bit of candor on the floor where he actually said what he believed.

He said, "Let us face it, Mr. Chairman. Companies like ABC, they have no respect for Members of

Congress. Now, if you want the big networks in New York City to beat up on Members of Congress, then you ought to vote against us. But if you want TV stations to stay in private ownership, then we ask for an aye vote on the Markey, Klink, Montgomery amendment."

This is what happens in reality with a lot of the rules that may be intended to be in the public interest but ultimately have political effects. This is a clear case of what happens when the government controls the media and has a hand in the media.

Now, it's not just a case of political abuse, though, because abuse implies that there is some variant from the way the rule is usually applied. There is also a case where the rule itself has political aims. That is much rarer.

Give the proponents of intervention the benefit of the doubt that they have good intentions. But in recent years -- and the fairness doctrine is one example -- there has been a disturbing trend to be more explicit and to aim rules at changing the content of political debate.

And without getting into all the back-and-forth of the fairness doctrine, which I'm sure everyone is familiar with, let me put out one difference between the debate today and the debate 20 years ago. The debate 20 years ago was, frankly, more even-handed. There were folks on the conservative side in favor of it and against it, folks on the liberal side in favor of and against it. It could be applied against a liberal broadcaster or a conservative broadcaster.

No one really knew what the end effect would be. That didn't make it a good rule. It was still the correct move for the FCC to repeal it. They should be applauded for that and all the Constitutional infirmities ended by its repeal. But, one could argue that the intent was not a partisan or an overly political one.

The debate today is very different. Frankly, it's a scary one, that you have a specific intent to reduce, chill, diminish, a particular point of view. I am trying very hard to use non-inflammatory terms because I won't say it's stifling - I think a lot of proponents don't see themselves as stifling. But the intent is to re-balance, to change the structure and content of mass media so that particular points of view are heard more and other particular points of view are heard less.

I was in a debate last year where one proponent was asked specifically, "What would be the effect of putting in the fairness doctrine?" He answered that, "No, it wouldn't affect all broadcasters, just the few who have abused the process," and the interviewer asked, "Who are the few? What are their names?" And that's the problem. You have the government getting involved in identifying particular points of view, particular people that are to be frowned upon, in the regulatory sense.

And again, I know that that's not the case with every intervention in mass media, but it's the case in the debate going on with the fairness doctrine and associated rules that are tied to it. It is a danger in any sort of intervention in mass media. That's a reason to avoid regulation where it's absolutely necessary and this is the last industry where it is necessary. Thank you.

MR. WILEY: Thank you very much. We are going to skip over now to Professor Wildman, because it’s been suggested that his comments will be a useful lead in for some of the other speakers to follow.

So, Steve, you want to take this next?

MR. WILDMAN: I will be happy to do that. For once, you know, being a Wildman, I’m not quite at the end of the line although I am at the end of the table.

I want to talk about the implications for what I think is a fundamental change in the technology underlying mass media distribution. My argument will be that the regulations we have right now that deal with television, in particular, are based on the assumptions of an older technology. We are transitioning now to server-based distribution of video content and we can see this in a lot of trends. It's happening quite rapidly.

If you have cable television or IPT service from the phone company, then you will have video on demand available, even if you don't pay for an extra service. But beyond that, there is hardly a television program, whether it's syndicated, network, broadcast cable, whatever, that you can't find old episodes -- and, really, the most recent episodes -- sitting there on the web, available for you, if you didn't see it at the time that it actually was initially broadcast.

We have services like Hulu and Veoh that are online and they are there to facilitate your access to television programming that has been produced originally for other channels.

We have web coverage of live events. A number of services would have allowed you to watch the Obama inauguration online, if you couldn't make it to a TV set. I think everyone but me was at the Mall, but if you couldn't make it to the Mall, you could have watched it on CNN Online.

The first generation of enabled TVs have just now come out, where you put a jack in the back and you can plug in your Internet. What it's lacking is good browser, but that will come. More movie services, like what Netflix is offering with the Microsoft on the X-Box, will allow you, on demand, to stream or download new movies to your television set.

And so, what we're seeing, then, is a fairly rapid move towards server-based distribution of video content. We have already seen the consequences of this for newspapers. And, actually, following on the decline of newspapers, magazines are going the same way with the demise of print editions. In Detroit, two major papers are going to three days a week and the rest of the time the content is available on the web.

If we look at television regulation, what's been built up over the decades since television really started, and actually going back to radio before that, it's based upon a technology, or a set of technologies, all of which relied on sending video content in a linear sequence down a well-defined channel.

And so, it was the channel providers that became gatekeepers. And the number of gatekeepers were limited by two factors: one, there was a limited amount of spectrum that was given out by the FCC, or by the government, for over-the-air broadcasting. Cable satellite came along as sort of a bypass technology for broadcasting, but there are certainly economies of scope and administration that make it really most feasible and most efficient to package all these channels together.

So, even though there have been a lot of proposals in the past, they have never gone anywhere for forcing cable companies to become common carriers, for example.

And because channels are either limited by spectrum limitations or by the cost of just increasing capacity, there is a limited number of channels. The amount of content that is out there that could be brought to you vastly exceeds the carrying capacity of the channels available.

Therefore, by necessity, the people that own and operate these channels are put in the position of being gatekeepers. And the fact that it's a one-way channel means they pick what comes to you.

There are issues of competition. And I'm not talking about that so much now, but questions in terms of to what extent do broadcasters or cable companies or satellites serve the public interest have always been, "Are these people acting as reasonable agents on behalf of a public interest?" Although how we define a public interest has always been vague and different people define it differently.

It's a legitimate concern. Do these people serve a public good? And how you come down on that, it doesn't matter. But the regulations we have had, then, over the decades have all reflected this belief that there are limited channels and we have to be concerned with the way that people that program those channels program them.

So, I just wrote down on the plane the other day just a few of these regulations. For broadcasters we've had the now lapsed prime time access rule and the finance and syndication rules. We still have public service obligations, which were just talked about a little bit before, in terms of public service announcements, restrictions on the violence, language, and sexual content. What you get for broadcasting doesn't apply in the same way to cable. And then, the fairness doctrine, which lapsed about 20 years ago, but now we're talking about bringing it back.

For cable companies, we have must-carry requirements: must-carry, must-pay, and the negotiation option now. Leased access channels is sort of an artifact that has been preserved, even though I think it's kind of hard to demonstrate that there has been a contribution to the public interest for maintaining that obligation on cable companies.

We have the PEG channels. We had price regulation for basic service, and it's still potentially there, depending on whether you have effective competition, by FCC standards. We have mandated competitor access to vertically integrated cable networks, and then recent attempts to impose a la carte pricing of cable channels.

And all of these regulations, both the ones that still exist and the ones that existed in the past and have now lapsed but may come back, are based on this belief that we have these limited channels and a certain small number of people to program them.

The economics with server-based distribution are entirely different. And I really do think that the trend, in the long term, we will be a situation where virtually everything comes from a video server.

And so we ask, "How does that look different?" Well, for one thing, channel capacity doesn't matter anymore as an amount of bandwidth, because each of us that go surfing the Internet or looking to the video server maintained by the local cable or IPTV service, basically has a virtual channel. And we retarget that to the source we want. So you don't have to add more channel capacity to make more content available.

The real constraint on making content available is the cost of server capacity, and server capacity, compared to channel capacity, is incredibly cheap. You know, the last figure I saw -- and it's probably a couple of hundred million videos out of date by now -- was that YouTube had 300 million videos. And they were adding every week the total annual output, in terms of bits, of the U.S. movie industry, in just uploads.

All right, so capacity really isn't a constraint, in that sense. The incentive, when you're doing server-based distribution, is to add more content. It's cheap at the margin, it makes it more attractive to viewers, and what we can see is that at least the Internet-based services that get the most traffic are the ones that have the most content.

Unless we want to be really intrusive, these kinds of time-based regulations where you can't have this kind of content at certain times of the day doesn't make any sense in a server-based world, because you download it when you want it. It's on demand. And in an on-demand world, time restrictions are irrelevant.

And with so many choices available, even when you force the presentation of regulator-preferred type content, people are likely not to watch it. The justification in the current environment is that, with a limited number of choices, if you force some people to carry it, by necessity people will be exposed at least occasionally. That becomes less And less likely as more and more choices become available.

And finally, the real gatekeepers now, if we look at the online world, don't reside on any physical apparatus that the FCC has legal jurisdiction over. We can't mandate what YouTube does, in terms of programming. And so, the legal foundations for regulation are disappearing as well.

So, I think we are forced to totally rethink the fundamental basis of regulation as we look forward. And, unless we want to have sort of a Chinese-type intrusiveness, we really have to think about literally subsidizing the kind of stuff we want.

If we think that there is a market failure and there are certain kinds of desired content that that is under-provided, we can no longer force somebody who has access to a license to provide it by threatening them with the loss of that license. You don’t have the legal foundation for doing that.

Plus, we're losing the financial leverage anyway, because profits for the traditional media are going down anyway. The opportunity cost of giving up a license is getting less.

So, we have to bite the bullet and subsidize what we want. And if people aren't paying attention, do what has always been done to try to get attention to something: promote it. That's what I really think we need to go towards in the future.

MR. WILEY: All right, thank you very much. Let's go back to our regular order here, and Professor Goodman.

MS. GOODMAN: Well, that's a perfect segue, as I knew it would be, because I want to talk about public media subsidies and promotion. I should say my bottom line is that I am a strong supporter of public media, what we used to call public broadcasting. But I think it needs to be completely rethought, in light of the insights that Steven gave us, and redefined.

And let me just start by trying to connect this a little bit with the previous panels of today. So, one of the things that was said in the USF panel was that three good rules for policymaking are: to examine our policy priorities in light of technological change;

to define those policies clearly; and to implement them in a targeted way. I think that's what we need to do for public media, what some of us are calling public media 2.0.

And in the first panel, there was a lot of agreement that one of the things a stimulus package does well is requiring broadband mapping. In other words, let's get the facts and see where we need government intervention. And I think this is exactly what we need to do with public media.

So, the Public Broadcasting Act will be forty-two years old in November. It was passed in a period of television channel scarcity and it’s hard to know what its goals were, because they're not clearly stated.

But I think that it's fair to identify two of its goals. One was to correct for market failures, in terms of media content, especially for under-served audiences, niche programming, innovative programming, and fostering democratic engagement, however that's defined. The second one was universal service, although we don't usually use that term in connection with public broadcasting.

Focusing on public television, there are 350 stations in all 210 markets. The idea was that every community should have a public television outlet.

So, in today's world, I believe that there are still market failures, although I don't think that they're what they were in 1967. Many of us would agree, especially as we see the newspapers failing, that investigative journalism is one area where the market is not performing well, in terms of supporting certain kinds of content.

Ironically, that's not an area where public broadcasting is particularly stellar, at least with the exception of long-form documentaries. So that could be one area where we might agree that there was a market failure and justification for government intervention.

When we talk about the "universal service" transmission piece, we're really talking about broadband and not about broadcasting. To the extent that our public media system still functions, it really is focused on the transmission medium of broadcasting as a medium. I don't think that's justified any more and it needs to shift to a platform-neutral funding mechanism and orientation.

I think there is a third justification or priority for public media that was not in the minds of the drafters in 1967, which is more of an application services piece. And this goes to Steven's point about promotion.

So, there is probably lots of content that we could all agree is important for democratic engagement. Think about a documentary on Afghanistan. And say it's on YouTube, but it's not really in the top ranks of what's being viewed on YouTube. There may be reasons why it would be good for the public to view some of this stuff.

Well, one thing that is not part of public media, really is not built into it, is a promotion function. And that becomes increasingly important in a world of fractured audiences. So something like a non-commercial recommendation engine or search engine might be something we would think about, as being part of what we would want public media to do.

I want to cover two other things - where public broadcasting stands today in terms of its transition to the digital world, and, then, some recommendations for the future.

There really have not been major changes in the legal structure underpinnings for public broadcasting since 1967. Of course, stations in the system are taking their content to new platforms: online, cable, et cetera. But the structure of the funding, as it goes through CPB, goes to broadcast stations, still operating primarily as broadcasters.

It is hard to know the value of the amount of spectrum that public television is sitting on. But a sort of a back-of-the-envelope calculation is about $20 billion. And a significant portion of the annual appropriations, and much more so of the sort of special capital appropriations for public broadcasting, go into transmission infrastructure. So, a lot of the system is really tied up in this broadcasting transmission system.

The battles over public television, public broadcasting in general, seem to have been the same forever. It's sort of a battle between whether we zero out funding or whether we maintain or increase funding without a lot of new ideas about how might the system be revamped so that that funding is tailored more appropriately.

So, a couple of ideas for tailoring funding. First of all, let's figure out where the market failures are and direct and re-orient the system, so that it deals with them, both on the supply side, which is where we've traditionally looked, what kind of content isn't being produced, but also, as we've learned from the broadband side, is there a demand side component to this, too? How do we get consumers -- both as contributors, media contributors and as media consumers -- to engage more with certain kinds of content?

There have been efforts to create alternative public media tools and platforms that operate alongside or on top of the commercial platform, which is highly dominated by advertising. But, so far, those efforts have been uncoordinated and not particularly successful.

So that is one piece. A second piece is to redefine who the grantees are of public media funding. I think many of these 350 stations have to go.

And whether they go through the sort of creative destruction of the market, as is happening now -- I think the funding for public television stations is down 13 percent in the last year -- or whether they go through a more concerted kind of top-down base closure system, where we really analyze what stations we can do without, I'm not sure which is the better mechanism. But some of them do need to go.

I still think there is a role for local public television stations, although I think their role is more as sort of media entities, capacity builders, content generators, local news gatherers, and less as a transmission mechanism in the local community.

Alongside the ones that remain, I think we need to think about other kinds of grantees, other kinds of content providers, application developers, and service providers that meet various sort of non-commercial funding criteria.

There is a copyright piece to this, which I won't get into. I will just bracket that as another piece that needs reform, because there are special copyright laws that apply to public broadcasters and not to anybody else, and they're outdated.

Finally, I would say we need to recreate the CPB, the Corporation for Public Broadcasting, to give it a broader agenda and a grant-making function that it doesn't have.

And, throughout all of this, we need to increase transparency and to improve our metrics. Right now, we have no good way to judge whether or not our spending on public media is effective or not. The only metric that we really use are Nielsen ratings, which are obviously inappropriate, given the fact that that's a market measure. If something is getting high ratings, presumably it's something that the market can or will produce.

There are a lot of interesting ideas about metrics coming from the BBC and other public media systems that I think the U.S. could benefit from.

MR. WILEY: Thank you. Let's go to Kyle McSlarrow, NCTA.

MR. MCSLARROW: Thank you, Mr. Chairman. Well, it's tempting to reprise my usual role as industry shill and just answer the question on the table, "No," and sit down, and be done with it. But since I am surrounded by scholars here, I will try to be a little more thoughtful.

I guess I would just try to see if I can tie some of the threads together of what we have been discussing. First, I think we have some broad agreement that we have approached this set of issues with a premise of scarcity, in some sense, over decades, whether it was the original spectrum allocated at the Commission or how people developed different programming packages.

I won't say that we have completed the journey and that we're an age of bounty. But even compared to five years ago, let alone ten or fifteen, we're certainly approaching that. In another five to ten years, we're going to be in an age where the "gating factor," as you were talking about, is going to be server capacity.

I know there are a lot of debates about this, but the trend lines are actually pretty clear, right? If you go back 10 or 15 years, is there more competition now? Absolutely. Nobody can really argue that fact.

It's interesting. In the broadband context, frequently people will say about cable and television companies, "It's a duopoly." And you can't say "duopoly" without a sort of disdain when you say it. And I always tease my friends who make that claim, "It's a duopoly, and therefore, it's a..." -- "Wait a minute. Ten years ago, you were saying you needed one more pipe in the home to compete. Now you have the 'duopoly,' and I'm sure when we have the third pipe in the house you're going to say it's like the 'terrible triumvirate.'"

It's never enough. But be that as it may, the trend line is more competition. Is there more choice for consumers? Who can possibly say there isn't vastly more choice. People can argue about the value proposition, and that's a much longer conversation than we have here.

But if you look at things, even just in the context of my industry, in terms of vertical integration, there was a time when the great concern was vertical integration, programming owned by cable operators. It wasn't that long ago that most of the cable programming -- which, of course, is no longer cable, because it's on satellite and telephone company networks and everywhere else -- was 50 percent owned by cable operators.

The 13th Annual Video Competition Report, which just came out in January and, due to reasons you discussed at lunch, should have come out two years ago, says that we're at 15 percent vertical integration. That was before what happened this month, when Time Warner just split.

So now, vertical integration in a month has dropped from 15 percent to below 10 percent. So the trend line is clearly less integration and more deconsolidation, at least in that space within my industry.

The way I look at this, and what I want to put forward as a proposition, is to think about the oddity that we're so focused on video. And I can just tell you from my industry we don't even think about it that way. We think of ourselves as a broadband pipe: video, phone, high-speed Internet, all those new two-way interactive services that will be a business model -- we hope.

But the rules that apply today are mainly in the video side. One can argue about whether or not they should all go away. But it does strike me that if there has been that much change over a period of time, something should be different about the rules. There should be some recognition that the world has changed in some way. And it's not like they don't have consequences on the broadband side.

I will give you one example. Steven went through this recipe of must-carry, leased access, and PEG channels. When I talk to folks who are younger than me, who are just all about broadband and the Internet, and, frankly, don't even subscribe to cable -- which is a different problem -- and I say something like PEG channel or must-carry, they're like, "What is that?"

I say, "Well, here is how you think about it. You know, if you were looking at cable, and you looked at those first four channels, really good stuff, those would be called the broadcast networks, and by law they have to be put there. And then you whip through, like, the next 25 channels to get to the cable program. All that stuff in between that you just skipped over, those are the government mandates."

So, the thought experiment is that there is no reason why someone couldn't come up with -- once you figure out the streaming issues -- a "multi-channel video distributor on the Internet" model. And if someone did and actually had a traditional cable service providing a line-up of channels and it was Internet-based, would anybody stand for one second for saying that on the Internet they have to have must-carry obligations, PEG obligations, and leased access obligations? It almost answers itself.

I'm not suggesting we do that just to achieve parity. I would say let's go the other direction and recognize what all those channels could be used for. They could be used for faster broadband. What happens if you have faster broadband? You're likely to enable a lot more video applications on the web. We're very interested in trying to get broadband video to the TV set. Others are interested in getting programming on the TV set to the PC. And there is a lot more that can happen.

So, the point here is that I just think we have to sort of broaden our perspective and understand that it's not a question of whether or not we need less regulation. I think my argument would be we do. It's more that we actually have opportunities in front of us that are being limited by regulation.

Final point going to Ellen's comments, which I thought were very interesting. It's not well known, but in the public television space, about four or five years ago we reached a deal with PBS and the public television stations which were interested in multi-casting many new programming streams, that, as of the digital transition, we would start carrying up to four streams.

Now, we did that in the private marketplace. No one made us do it. There were lots of disagreements about whether or not it was the right thing to do, because I have cable programmers that I represent that didn't like it too much. But the argument was that there was really compelling public interest programming that people -- some part of our audience -- wanted to see and the operators, as a group, decided that it was worthwhile.

In this room, ironically enough, a year ago I did a press conference with a representative from Comcast with a group called One Economy. And many of you may know One Economy, a non-profit, focused mainly on connecting low-income Americans. But one of the things that we announced was something called P.I.C. TV, which was a public access Internet channel.

So, I think there are a lot of creative things that can be done. I don't particularly like the idea of the government deciding what's good programming or what somebody should be doing, whether it's on radio broadcasts or cable. But I do think that there is a demand out there that can be met with some creativity like a P.I.C. TV or the deal we did with PBS and APS that allowed different kinds of "public interest" programming.

I think that it's the kind of thing that will be generated by the marketplace.

MR. WILEY: All right. And last, but not least, let's go to Professor Robinson.

MR. ROBINSON: I thought we were going to have a little bit more controversy on this panel. So far it's kind of been a love-fest of agreement. I'm not going to try to change that, although that's my normal bent.

MR. WILEY: I will try to change it.

(Laughter.)

MR. ROBINSON: We will leave it to you. I think if you simply ask, "Can we do with less regulation?" the answer is pretty obvious. To anyone looking for things to deregulate, this is a target-rich environment. Such a target-rich environment, indeed, that it's a little difficult to know where to focus all of one's bullets.

I thought rather than simply going through a laundry list of my favorite targets, I would raise a somewhat different point, which cuts across several different kinds of regulations.

If you want to do away with regulation, you've got to get at the underlying ideas on which they're premised. And one, in particular, that has only been alluded to a couple of times and is responsible for a great deal of the regulation across the board, is the idea of localism.

Localism has been, since the very beginning, one of the central premises of media regulation. Indeed, to call it a central premise is almost an understatement. This is the most sacred cow of all cows in the business. Over the years, I think it's fair to say we have sacrificed more in the name of localism than almost any other icon.

I am just going to mention a couple of targets. These are the biggies: the first sacrifice, the enormous swath of valuable spectrum allocated in the original 1952 television allotment plan.

You will recall that the FCC at that time thought of the allotment according to two competing and alternating priorities. One was a first service. The second was a second local service. And so it went through four or five iterations.

The simple consequence -- and this was known at the time -- was to allot multiple channels, many of them to communities that could never financially support them.

Over time, some of this was filled in by additional local stations, but it wasn't until the digital transition that we found out just what an inventory of warehoused unused frequencies we had. We had enough to give every existing broadcast station another one. What was all this spectrum doing all the while? Well, it wasn't doing any good to anybody.

Finally, of course, we're going to give some of it back. But there is still the question, in my view, as to why we're using all this spectrum. The answer is localism. The expectation was that local stations were going to give us something special. I will come back to what that something is in a moment.

Closely related to the sacrifice of the spectrum is the entire corpus of what we now call MVPD regulation, beginning with cable regulation and ending with satellite broadcast regulation. Not all, but most of the basic rules - must-carry, retransmission consent, non-duplication, syndicated exclusivity -- are all grounded, ultimately, on preserving local broadcast stations and preserving local broadcast service.

So, stop and think about the inefficiencies here. We have 86 percent of the television households in America receive their television from either cable or satellite broadcasters, right? For them, the local broadcast station is simply a conduit to feed the front end of a pipe or a transponder. That's it.

Wouldn't it be more efficient just to take the programming and put it right in the pipe, and save all that spectrum? Ah, but the answer is what about the other 14 percent? They would have to pay for their television.

Well, I'm sorry. Boo hoo. They already pay for their electricity bills. They pay for their heating bills. They pay for their groceries. We don't give them those things. Wouldn't it at least behoove us to ask whether it is worth the billions of dollars in spectrum -- and we have some idea that it is in the multi-billions -- to take some of that spectrum and give it to something else?

We heard this morning, for example, that broadband is being squeezed because of lack of spectrum. Guess what? We've got lots of spectrum but it's simply locked up into an inefficient distribution scheme. I entirely agree with Steve about this and about where we're going. But the fact of the matter is that the policy has not been going with the technology.

And, in fact, we have known this for years. We don't have ask, "Should we deregulate in the digital age?" We have known about this waste since long before the digital age. I got in to this business in 1961, and if you ask me, there were a lot of regulations we could do without. I was such a shavetail then but I probably would have come up with pretty much the same answer I do today. We weren't in a digital age back then, but the answer was still the same.

At this point, somebody will say, "Well, wait a minute, there is local service." Ellen rightly addressed this problem. She raised a question about the local service, suggesting at least that we ought to look to the local stations for content and not simply as a delivery mechanism.

Quite right. But then that begs the question, "What content are we getting from them, beyond an hour of news and weather, and maybe there is an occasional local basketball game, or something like that?" How much of this are we getting, and how much of this could we not get from, say, cable or satellite?

Why is it necessary to prop up an entire structure of local broadcasting? And by an entire structure, I don't mean to say that we ought to wipe out all the broadcast stations tomorrow. I'm somewhat indifferent to that, by the way, but it isn't necessary, in any case.

The question is not whether we could justify having two or three local broadcast stations to present the local programming, but whether we have to have fifteen. There are some markets that have ten or fifteen. Can there be ten or fifteen versions of the local weather? That seems very implausible. Besides, you can get it on the Internet if you are really desperate.

In any case, you would think that the FCC would raise the question, "Well, okay, we're spending all this money, implicit money, in the form of spectrum, and this edifice of cable regulations and other regulations designed to preserve the local broadcast station. Shouldn't we take a look and see what we're getting for all this?"

Well, at one time in history, the FCC actually did that. They actually monitored local stations for the amount of local programming content, et cetera. They got out of that business when I was on the FCC and decided to shift toward something called the "ascertainment process," a sort of procedural mechanism.

After a few years, that turned out to be a kind of a formalism, if not a sham, and the FCC decided to withdraw from that. Nominally, the obligation is still there, but it is, A, not monitored, and B, not enforced.

So, at some point, this seems passing strange. We don't have a very good idea of what we're getting, in the way of local programming. There is still this mythology, however, that the local stations are screening non-local content, to make sure it's attuned to the needs of the local community. But guess what? We don't really know that either.

What we have got is a bunch of largely self-serving anecdotes reported by broadcasters about when they preempt network programs, and things like that. But what we don't really know is how much effective monitoring there is of distinctive local needs.

To ask the question, "What's to be done" -- I must confess, I am sort of out of bullets. It's hard to destroy sacred cows. That's a fact. You know, when

Moses came down from Mount Sinai and realized his people had erected a golden calf to worship, he burned it. I'm not sure what the modern analog is. Burning the Portals Building seems a little radical.

(Laughter.)

MR. ROBINSON: In any case, it's sort of beside the point. You really don't destroy sacred cows by simply tearing down the tangible icons that represent them.

Somehow, as kind of a truth-telling squad, we just have to work away at this. And keep asking the question, "Okay, I'm from Missouri. Show me." I don't know whether it will have any impact on the Commission.

MR. WILEY: Thank you.

MR. ROBINSON: I introduced some controversy, Dick.

MR. WILEY: Well, yes. Tell us what you really were trying to say, Glen.

(Laughter.)

MR. WILEY: I want to take just a few questions, and then let you in the audience get into it.

But I've got on my right here, Professor Disney.

You have heard all these talks about the profusion of programming, the number of sources, and the great new world that we have got in the digital era. And you still would like to regulate the broadcast PSAs, for goodness sakes. Doesn't that seem like fighting the last war, or do all these people down on my right here have it all wrong?

MS. DISNEY: I would, indeed, like to regulate -- if that's the proper term -- to add more local focus to PSAs. And it is for goodness's sake. I think it is exactly for goodness.

When we look at the broadcast media, we see that of the public service announcements that appear now on cable, 94 percent have a national focus. When we look at the non-cable ones, we see that 85 or so percent have a national focus. It's not enough to say, "Prevent forest fires." It is more important to say to people that it's important that they break the code of silence and begin to report arsonists that have been setting fires in Coatesville, Pennsylvania.

I mean, the local issue is of great importance and it's getting washed away. It bothers me very much.

Also, there has been research recently that has indicated that commercial entities recognize the value of public affairs programming in a backward sort of way.

When there is one station in a community, there might not be much public affairs programming. But the minute there are two stations, or three stations, the stations themselves begin to recognize that, to get to their local markets, they need to add public affairs programming, and therefore, the numbers go up. So there is a competitive advantage to public affairs programming. One can do well by doing good.

MR. WILEY: All right. Glen Robinson, who is going to do all this local programming, the local news and public affairs in this great new world you talk about? Is cable going to do that?

Is the telephone industry going to do that? Is the Internet going to have some local focus that's going to tell me what the weather is going to be tomorrow, what has happened in my local community, and cover all the issues that Diane is talking about? Who is going to do it, Glen?

MR. ROBINSON: The Internet already does it. I get updates from the Washington Post, the Wall Street Journal, the New York Times, and the local newspaper. I get the weather report by the minute and I don't turn on the television set at all to do that. I get it all on the Internet.

MR. WILEY: Yes, but lots of people do watch broadcasting. Isn't that kind of an elitist attitude? You asked, "Where do we get all those channels?" The truth is that digital television was more efficient. That's why we're able to fine-tune channels out there. When you talk about only 13 percent, the truth is one-third of all sets are still tuned to broadcasting. And the fact is that the most popular programming still is local broadcasting programming. You may not watch it, but what about the rest of the people who do?

MR. ROBINSON: The popular programming is all network programming, it's not local programming.

MR. WILEY: Well, but it's coming over broadcast.

MR. ROBINSON: The only reason they turn on those local channels is because they're affiliated with ABC, CBS, NBC, and Fox.

MS. GOODMAN: Actually, local news is very profitable and very popular but I think the local television news, like newspapers, has been supported by a system of cross-subsidies. And so, what you've had is very popular weather and sports subsidizing things that are less popular, and maybe have sort of positive externalities like news reporting.

Just as we're seeing with the newspapers, we had classified ads and sports and the more popular subject matters cross-subsidizing investigative reporting. I think what's happening now in every medium -- it's not just broadcasting -- is this unbundling and disaggregation.

The question is who is going to do it. There is going to be no problem with local sports. If all the broadcasters go away tomorrow, we will have local sports reporting and we will have local weather. Whether we will have local investigative reporting, someone has to come up with the business model to make it pay, or we have to subsidize it.

MR. WILEY: Well, Ellen, if local public broadcasting stations are no longer relevant, in our view, then why in the world do we even think about government subsidies? You've got this profusion of programming over cable and over satellite. Why would we even think about doing that?

MS. GOODMAN: We shouldn't for most kinds of programming. So, for British dramas, I'm not sure that we need to do that anymore.

But you know, I think what many of us feel is that you can look through all this profusion of content and there are still some kinds of content that's hard to find.

MR. WILEY: So the programming you like should be subsidized, right? I'm being provocative here, folks.

(Laughter.)

MS. GOODMAN: Yes. What I'm saying could be assailed as being paternalistic, elitist, Big Brother, right, all the things that public media can be assailed for.

At the same time, I think that one can have sort of a hard-nosed look at the market failures, and really identify places where there are public goods that the marketplace won't provide.

MR. WILEY: Jim, let me ask you something, if I could. Are you really saying in your point that scarcity is really a thing of the past now? And, if so, I would ask you, "Why are people still paying -- not maybe in 2009, but last year -- very high prices for broadcast stations today?"

MR. GATTUSO: Well, scarcity has gone in the sense of being a unique, special situation in the broadcast world. Scarcity meant artificial limits on the available slots for broadcasters or inherent limits on the number of licenses. There is always economic scarcity. If you are selling anything, there is economic scarcity. If you are selling chairs, tables, microphones, or Coca Cola, there are not an infinite number of them. There is a cost to producing them. And, therefore, there is an economic limit. Companies bought and sold all the time when there was on cap, artificial cap, on the supplies.

Broadcast stations have value because they are providing, presumably, a good that people want, and that value goes up and down, based upon the value of that good. There are also other components to it, must carry rules and access rules, things like that, that increase the value. But it doesn't imply an artificial scarcity.

MR. WILEY: Steve, what's your view of that question?

MR. WILDMAN: Well, actually, I was going to go back and talk a little bit about the localism.

Just a bit of an advertisement. Localism is a less empirically studied topic than you might think. You have somebody who has a small database that was accidentally collected on a local news programming on TV, and you analyze that - for example, your recent controversial FCC study. But in terms of really doing a systematic study of what happens, community by community, throughout the U.S. for television, radio, newspaper coverage and so on, that really hasn't been done. And, fortunately, we have a two-year grant from NSF to do that.

But what we're finding is that localism varies by locality. And I used to work in Washington, D.C., and I lived in Vienna. The local TV stations are not going to cover the small community of Vienna politics. If I live in a small community that has a TV station, they will.

And, as you move from smaller to larger communities, what you find is that, because there are a small number of local channels, they tend to target the kinds of content that will attract the largest audience throughout the region, even though they all live in different localities, in terms of local governments and school systems.

So, as you go to larger cities, the content that tends to dominate is the drive-by shootings, the auto crashes, and things like that. And there is not really as much coverage of local affairs as you think there is. Only if you're in the core center city do you really get coverage of what Mayor Daley does or Marion Barry used to do -- of course he made national news, and that's a little bit unfair.

(Laughter.)

MR. WILDMAN: And so, I think when we're talking about localism, we have to be careful in terms of what we think we're really getting.

I agree with Diane that when there is competition, stations want to differentiate themselves and to be local. But that only goes so far. At best, you will maybe find four, possibly five stations in a major urban market that really has a newscast. The rest of them are putting on syndicated programming.

In terms of something that might even have local content -- other than, as Glen was talking about, trying to pick up stuff from syndicators that might be targeted to a local audience -- you're looking at four or five stations, at the very best.

MR. WILEY: All right. Let's get away from broadcasting for just one moment. This is my last question, and then we go to the audience.

I think cable is a wonder. A tremendous amount of programming that one can get. You see that in satellite, as well. But suppose I just want to pay for the programming that I want to look at? Why do I have to pay more for programming I don't want? What's wrong with the a la carte concept that was so heavily pushed in the last FCC administration?

MR. MCSLARROW: Thank you for asking me that question for the 18th time.

MR. WILEY: I didn't want you to forget that one, you know.

MR. MCSLARROW: The a la carte thing is such a great bumper sticker, and I wish I could come up with a bumper sticker response.

The simple answer is those channels that you want won't exist unless you're in a bundled environment. Part of the problem we've been skirting around here throughout this entire conversation is that it isn't a question of choice and diversity in video. YouTube has already proved all you need is a camera. It's very simple.

The problem is production costs for anything that is of some higher "value content" programming that we typically think about. And for most of these programs -- even for what we often refer to as niche networks -- it's still pretty high. There has got to be an economic model that supports it.

In the case of cable and the cable networks, the model that developed was a dual stream: advertising and support from subscription fees. But people have to discover the new content. They have to be able to go up and down the dial and sample it and then that's what draws an audience. And you can grow over time.

And the way the bundle works -- and it's not atypical from the way a bundle works throughout our economy -- is that, in essence, the channels that you don't watch are subsidizing the channels you do watch. It's exactly the opposite of the a la carte argument.

And I remember about a year ago, maybe two years ago, Craig Moffett, an industry analyst on Wall

Street, did an analysis of what ESPN -- which, admittedly, would be the most expensive network -- would look like, and what it would cost if it went a la carte, and it was $27 on average. Obviously, it differs, and these are all confidential business numbers, so we don't know exactly. But currently, on average, ESPN comprises probably a couple of bucks, as a part of your cable bill.

I'm not saying that the model that exists today is perfect. I fully expect it to evolve. I think we're getting a la carte choices in the way that is most meaningful on the Internet today, which is not networks, but shows, which is the way most of us think about how we access content.

So, I think there are lots of other ways to come at the consumer choice angle without just affirmatively destroying a model that actually works.

MR. WILEY: Well, ladies and gentlemen, as you can see, I have totally failed to stump the panel here, despite my rhetorical flourishes. I want to give you a chance to do it. So, do we have a question for any of our panelists? Yes, Randy? You get the first question.

MR. MAY: Well, thank you. I guess it was Reagan in 1980 in that famous debate up in New Hampshire that said, "By God, I paid for this microphone, and therefore, I'm going to use it."

MR. WILEY: Right, it's all yours.

MR. MAY: I have this question for Kyle. Diane has focused a lot on localism and its value in terms of the important function it plays in the community, particularly with the focus on the PSAs.

When we talk about localism there can be some of these subareas -- we talked about local news or local weather. I think I heard you particularly put a lot of focus on the public service announcements. When Diane referred to cable, she talked about how you might see a lot of Smokey the Bear, the national promotions.

But I have Comcast at home, and it's not infrequent that when I'm watching that they come on and do this local five-minute PSA where they will bring in someone to talk about a local arts thing, or whatever. That seems to happen a lot. A lot of times, I confess -

- I'm sorry, Diane -- I will switch and channel-surf.

But how much of that goes on where there is that local type of thing that Diane might be talking about?

MR. MCSLARROW: Honestly, I don't know. I will say that I'm a Cox customer in Northern Virginia and they do exactly the same thing. It's the local art society or other non-profits. I see it a lot and I don't think it's just that I happen to tune in at the right time.

So, I know they're doing it, but I can't say how widespread that is. And I have no doubt, though, that Diane is correct, because, in full disclosure, I'm on the board of directors at the Ad Council. We do try to partner with the Ad Council. And these are going to be, by definition, largely national campaigns.

I'm getting into an arena that's a much longer conversation but one I think we actually have to think about. We all pay lip service to localism and community, but our country has changed. Every one of us -- at least those of us our age -- grew up in neighborhoods. We grew up in communities. We actually did read a local paper, and had an interest in it. And I have a big question in my mind whether or not that's where the audience is any more.

I think we think nationally or regionally in ways that we didn't 20 years ago. And, to some extent, we're having a conversation that just may be out of step with the way people think and what they care about. That's not to diminish in any way the importance of these issues. It's just a caution that we may be trying to impose on a new age and a new culture things that were true when we grew up.

MR. WILEY: James, did you want to comment on that?

MR. GATTUSO: Yes, when we were talking about both the PSAs and localism more generally, two questions kept going through my mind.

Diane said that 84 percent of PSAs are national, or 90 percent? And the question I keep thinking of, "Well, what is the proper percentage? What is the percentage that it should be?" And I think that

that is perhaps an unanswerable question, and certainly one that regulators can't get right.

I'm looking at your Smokey the Bear example. I can see a value in a national Smokey the Bear campaign that you don't get with one more specific. And, as Kyle said, there are communities that are not geographic in scope. You might want a particular sub-population that is spread throughout the country and not in one particular community. So, there are a lot of variables. I don't see how it's possible to say that X percent is good and Y percent is bad.

The second point that we keep dancing around is a question of whether we are going to be mandating something that people want. The words "market failure" were used. And market failure, as I understand it, is when a market fails to provide something that is demanded by consumers. A market failure is typically not a situation where the market fails or does not provide something that is not wanted by consumers.

Now, we can say that these are good things, that localism is good, that more avenues of information are good. We could say that British drama is good. We can pick out all sorts of things.

But I think it's important at the outset to know whether we are helping the market provide something that people actually want and that the market is not providing to them, or whether we are deciding to override consumer preferences, and give them something that we think is good for them. Give them their spinach, even though they don't want it.

MR. WILEY: Other questions from the floor. Ms. Tate?

MS. TATE: I think that you all have touched on something really important, and we talked about that a little bit in the USF panel -- that is that the future is right here. It's not a television and it's not a screen. It is our kids are totally wireless and mobile all the time. They want the content they want, wherever they are, whenever they want it.

And so, while we can debate broadcast and transmission and cable, they don't have any concept of what that is. They want it in their device.

The other thing that I find very interesting, as I have college age and older kids, is that they're watching each other’s videos or each other at an event. And so we are all -- not me -- but that whole age group is going to become the producer. I think there is an entirely total cataclysmic paradigm shift going on that none of us understand, because we don't utilize it that way.

I would be interested to hear what you all think. As you know, I am worried about childhood obesity and I am worried about having positive impacts on kids and how the media does that, versus negative impacts. What do you all think as all this moves to the wireless devices?

MS. GOODMAN: So when I think about public media for the future that is what I mean about platform neutral. It has got to be content for any device on any platform.

The point about consumer-generated or peer-generated content is really interesting because it challenges all our notions about what media policy ought to be doing.

And the thing that occurs to me is the need there is about media literacy because I increasingly find this when I look at my kids. They have no way to judge what is truthful or authoritative -- that their friend on a video is just as authoritative as something that's well researched and neutral, et cetera.

I do think there is a policy role here, but I don't think it's within the FCC's ambit. It's maybe more of an educational piece. I think public media is interesting there, too, because it is morphing much more. It gets a significant amount of money from the Department of Education, and it really is a sort of bridge between these different regulatory domains.

MR. WILEY: We've got time for one more question. Yes, hey, Jerry?

MR. BROCK: I just want to push that localism issue one more time. One of the concerns that has been raised in the Internet age is really a version of too much localism, but not sliced geographically. That is, people tend to watch blogs and communicate with people that think like-minded and sort of stick closely to one set of types of people.

That, in some ways, is very similar to a traditional isolated small community. I guess the question that I would raise for the panel is “Can that be considered a version of localism?”

You can think of it whether it's cable channels, or Internet channels, or whatever. Clearly, that does not give you any information on local politicians. If I happen to have some specialized interest, I am more interested in communicating with other people that have that interest, than perhaps with my neighbors who perhaps I don't even know.

So, the question is really the definition of localism, and does it have to be geographic?

MR. ROBINSON: Let me just comment. I don't know whether this is responsive, Jerry, but Cass Sunstein wrote a whole book on that called "Republic.com,” borrowing an idea from Nicholas Negroponte, as I recall, who labeled it, "The Republic of Me."

And Cass's solution, which is radically interventionist, was to set up all kinds of structures to contest that, and provide content that people weren't looking for. The argument for doing that was diversity, okay? Give them something that they weren't looking for.

I must say the problem might exist, but the regulatory solution struck me as being just bizarre. I don't think there is a regulatory answer to it. I don't think it has any regulatory implications, in other words, no matter what you call it -- whether you call it localism or parochialism, it really just lies outside of regulatory control. It's a cultural problem.

MR. WILDMAN: Yes, that's a really interesting question. I hadn't heard it posed that way, to look at the analog. We think of localism as appealing to people that have a set of common interests because they are all geographically near each other. And what you're saying is they have other interests that make them "near" in some sort of another dimension. They're near to each other as well, so you could consider that to be a cyber locality.

And I think the important difference here, though, is that there are all sorts of governance issues that are necessarily locally-based. And I don't think you can say that for people that are necessarily into video games. That's sort of self-regulated. But we do have to make choices about the school board, who picks up the garbage, who the mayor is going to be. All those things are important, and there is a community of interest that is locally defined.

And, in terms of justifying local broadcasting, if it is something that compels people to see something in common and creates a community that otherwise wouldn't be there, then that would be one of those justifications. I am really fascinated by the question.

MR. WILEY: I think that has to be the last word. I hope you will join me in thanking a wonderful panel here.

(Applause.)

MR. MAY: And I thank Dick Wiley. Join me in thanking him for his moderation, as well.

(Applause.)

MR. MAY: Okay. Well, we are going to officially adjourn. I thank all of you for attending. And I appreciate it. And thank you to the panelists. Thanks.

(Whereupon, at 4:06 p.m., the meeting was adjourned.)