Media Convergence, Diversity, and Democracy

A Report of the Aspen Institute Forum
on Communications and Society

by Neil Shister

THE ASPEN INSTITUTE

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Forum on Communications and Society

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Communications and Society Program
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Washington, DC
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Foreword

A recent study of American attitudes toward democracy revealed that most of the population of the United States does not want to make the hard decisions involved in running the country; they would prefer that the experts decide. Although they want the right, and the mechanisms, to decide, they are content to have others make significant decisions for them.[1]

This survey touches on an age-old debate about democracy—one that Tracy Westen describes within the ensuing report. In managing our society, should we defer to the "philosopher-kings" of Plato's contemplation, or to a democratic decision among the citizenry, as Aristotle would suggest? Should we develop the Hamiltonian vision of America, in which an enlightened elite leads the country to greatness, or the Jeffersonian vision that the decisions of a democracy are too important to be left to the experts, that the broad citizenry must make the significant choices.

This theme was debated in the early 20th Century by Walter Lippmann and John Dewey in the context of the role of the press. Lippmann suggested that the issues of the time were so complex that only the experts realistically could decide them. The press, then, can shine a light on the activities of the decision-makers, but cannot be expected to prepare the populace for the requirements of citizenship. Dewey, on the other hand, championed democracy as a process that requires widespread public involvement in its decision-making. The press, in his view, is an instrument to inform the public about the issues on which they can base their votes and civic actions.

With each generation the stakes of statecraft seem to be larger, the risk of mistake more dire, and the temptation to avoid the hard decisions even greater. We need wise decisions, whether by the experts or by the populace, or most realistically, in combination. Today, even if we rely on the experts, we also still rely on the populace to elect representatives, who in turn will appoint, fund, question, and hold accountable

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1   Richard Morin, "Leave Us Alone Democracy," *The Washington Post*, February 2, 2003, B5, commentary on research by University of Nebraska political scientists John R. Hibbing and Elizabeth A. Theiss-Morse, *Stealth Democracy: America's Beliefs About How Government Should Work* (Cambridge, U.K.: Cambridge University Press, 2002).

those experts. If we move, as many U.S. States have, to more direct decision-making such as ballot initiatives, then voters will need to be even more informed about the issues. In either scenario, the conduct of a sound democracy requires broad public understanding of the important issues of the day—an informed electorate and citizenry, at the least. In short, the strength of a democracy depends on the ability of the citizenry to make informed and wise decisions. To do that, they need access to a wide variety of information, opinions and voices.

How does the public get its information on which to make its decisions (whether those decisions are monumental ones or simply the election of those who will decide for them)? Obviously the mass media have been a primary means in the latter part of the 20th Century; perhaps the new media will emerge for the 21st Century.

When the Aspen Institute convened its 2002 Forum on Communications and Society (FOCAS)—a group of leaders at the chief executive level who address the impact of the communications and information technologies on our societal institutions—we chose to look at the very important issues underlying the role of the media in a democratic society. In particular, how does the structure of the media affect democracy, and what governmental policies are appropriate in light of this reality?

This is a complex bundle of issues. There are many aspects of which we could touch on only a few. Among the issues discussed at the FOCAS meeting, and reported in the following pages, are:

- the role of the media in a modern democracy;
- the need for the media to establish a trust with readers/viewers;
- concern over the shrinking electorate in American elections and the possible role the mass media play in that trend;
- the debate over whether consolidation in old and new media raises "democratic" as opposed to antitrust concerns;
- opportunities for new media to enable the citizenry to communicate (both in terms of gaining new information and exchanging their own opinions with others);
- concern that new media will become bottlenecked rather than continue the open architecture of the Internet;
- the apparent choices available to government at this time; and in the end

- what architecture of technology, industrial structure, and government (non-) involvement will best meet the needs of the citizen/consumer for electorate-enhancing information.

That landscape is large and rough, and there is controversy at almost every turn. We want to keep the media free of governmental control, yet the media is a crucial element of our democracy. Moreover, something seems to be amiss in these early years of of the 21st Century, at least in terms of direct participation in the essential tasks of governing ourselves, the vote.

The following is a report of the FOCAS dialogue that took place in Aspen in August 2002 on this topic. Our rapporteur, journalist Neil Shister, had the mandate to interpret the discussions to make the issues accessible to the lay reader. He was also free to bring in other sources, which he has done in the form of opinions from leading commentators on the topic, such as law professors Lawrence Lessig and Cass Sunstein, and author David Bollier. Thus, the report is not intended as a set of minutes, and we did not try to achieve a consensus document among the participants. Instead, we hope that the report will raise a new awareness of the need for measures to increase our ability as a people to be informed about important issues, aware of contrasting opinions, and open to wise choices.

I am aware that this discussion centers on the United States. We acknowledge that it should be broader, both in input and in perspective. We were pleased to have a high level British official as a participant, which added a great deal to our perspective. Nevertheless, the issues are not confined to America's borders, and our discussion on the last day of the meeting, which addressed how Americans are understood abroad, brought home the acute need to understand those from abroad as well.

Shister concludes with an uneasiness about the future of American democracy. Yes, there are new media with an abundance of information that one can potentially access. Yet the media that most citizens utilize today appear to have less news and public affairs (particularly in radio), more consolidation of media ownership, and less news coverage of electorate enlightening information. Moreover, the policies of the U.S. government are moving toward allowing greater concentration of the traditional media. These conclusions are Shister's, and do not necessarily reflect the views of each member of the FOCAS or their organizations.

Acknowledgments

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MEDIA CONVERGENCE, DIVERSITY, AND DEMOCRACY

Media Convergence, Diversity, and Democracy

by Neil Shister

Introduction

The complexity of democracy is both its defect and its virtue. As an idealized conception, democracy promotes equitable social order through the counterplay of interests while the rule of law protects individual citizens from the arbitrariness of the state. In practice, matters are considerably more ambiguous. Contradictions exist between theory and action; the power and privileges of some people invariably make them "more equal" than others—social equity being a relative term. Even so, belief that democracy renders "the greatest good for the greatest number" constitutes the orthodox faith of contemporary civil religion. "No one pretends that democracy is perfect or all wise," noted Winston Churchill in his oft-quoted observation. "Indeed, it has been said that democracy is the worst form of government, except for all the others that have been tried from time to time."

What happens to this delicately poised mechanism, however, if public channels of communication cease to provide the free flow of substantive information deemed critical to keeping democracy's inner workings lubricated? The elegance of the system resides in the ultimate authority of a rational citizenry to restrain unwise action. For this "fail-safe" check to work—whether the political model is of a plebiscite of individuals or coalitions of pluralistic interest groups—the voters need to know the facts. As we enter the first years of the twenty-first century, however, this underlying fundamental upon which the system is poised—access to information—has become too uncertain to take for granted.

In the intervening centuries since Locke, Montisquieu, and Jefferson posited the intellectual foundations for modern democracy, history has shown how thin is the social membrane that separates civil rule from tyranny. Securing the vitality of democratic processes is an ongoing challenge; each generation faces unexpected developments that put at risk the orderly processes of the preceding era. In our day, unprece-

dented advances in communication technology are rewiring (literally and metaphorically) the social landscape. Formats, transmission modes, and even media that we no longer consider novel were largely unheard-of as recently as a decade ago. In the wake of instantaneous, ubiquitous transmission of voice and data, new issues arise. Some are economic, some legal, and some moral. The way the political system—itself being affected by the new technology—responds will have profound implications on how democracy evolves.

Although we are in only the earliest stages of this communications transformation, prophets foresee it unleashing revolutionary change. "The Internet isn't just another media delivery system, like television and radio before it," writes Katherine Fulton in the *Columbia Journalism Review.* "It's the catalyst for a historic transition from one era to another. In the same way that the steam engine produced the train, which accelerated the shift to an industrial age, so will the Internet—or what we now call the Internet—slowly absorb every other communications medium over the next few decades, and abolish old notions of time and space."[1] At the same time, as technology converges the structure of the communication industry is in the throes of consolidation. Both dynamics affect how the media function. The issue is whether these changes bode ill or well for democracy.

The question is open-ended. Business imperatives will play an important role in determining the outcome. The hypothetical powers of the new media risk head-on collision with the harsh calculus of financial viability. The dot-com implosion provides an example of how new technology-driven communication sectors explode on the scene with the brilliance of a supernova only to collapse into themselves like a black hole. While the life cycle of the technology itself remains ascendant, specific applications along the arc may prove less lasting than originally predicted, particularly if they are forced to rely on commerce to survive. As a consequence, political entities—communities, agencies, and nations—will play a considerable role in influencing how the new technologies fare. A host of issues lend themselves to possible state intervention: Should the market for services be wholly unfettered or regulated? Do paradigms of competition need to be revised? Should content be privatized or communal? Are the interests of the media aligned or discordant with the interests of the public? Needless to say, there are no simple answers.

To address these issues and related questions, the Aspen Institute Communications and Society Program convened a group of chief executive officers (CEOs) and other top-level executives from leading communications and technology companies, the investment community, government, foundations, academia, and the nonprofit sector for its annual Forum on Communications and Society (FOCAS), August 4–7, 2002 in Aspen, Colorado. The three-day conference, "Media Convergence, Diversity, and Democracy: Survival in the New Media Environment," explored media convergence and its impact on the survival of media companies, the diversity of voices, and the health of democracies in the post–September 11th world. Moderated by Charles M. Firestone, executive director of the Aspen Institute Communications and Society Program, the discussions centered around formulating policy recommendations to government, business, and other leaders that will leverage the tools and powers of the media, old and new. This report is a synthesis and interpretation of those discussions. The report is written from the perspective of an informed observer at the conference. Unless attributed to a particular person, the comments contained in this report should not be taken as embodying the views or carrying the endorsement of any specific participant at the conference.

Democracy and the Communication Imperative

Democracy as we have come to understand it today is as much a cultural construct as a system of governance. As such, it eludes rigorous definition. On one hand it can be described in terms of formal aspects: distribution of authority, electoral rights, statutes, courts and the like. As important as these arrangements, however, is an archetypal idea in the popular mind of democracy as a promise of possibility. The promise means different things to different people. To some it is freedom of individual autonomy, to others the notion of communal responsibility. ("You have the Republican and Democratic definitions of opportunity," Nicholas Lehman observed about the United States. "The Republican is 'right to choose' and the Democrat is 'everyone gets a chance.'")[2] To focus exclusively on the institutional characteristics of democracy is to ignore its appeal to the emotions—particularly telling in an era characterized by fewer people going to the polls each year and more people expressing disaffection from their own government. In appraising the impact of the new communications technology on the prospects of

democracy, both aspects—the "hard" and the "soft"—must be considered.

The hard side of democracy addresses the way institutions function and whether they will become more efficient, more equitable, and more responsive. This aspect has to do with concrete results and access to information. Is it probable, for example, that as an elected representative and his or her constituents become more interactively linked, they will be more attentive to each other's responses at each stage of the legislative process? Will the criteria of administrative and executive decision making become more transparent? Will broadband make accessible to concerned parties in a timelier manner the ongoing governmental proceedings that affect them? Will the courts be able to speed the flow of cases and rendering of justice through innovative communications?

The second category is subjective—difficult to measure but ultimately, perhaps, even more significant. This aspect has to do with the "promise" of democracy as interpreted by various factions and whether the new media enhance confidence among these factions that their vision of the good society is being realized meaningfully. In addition to being conduits of content, the new communications increasingly are being understood to constitute the embodiment of community itself.[3] Networks of linked users are replacing what social scientists used to call interpersonal primary groups. John Dewey, the classic American social philosopher, spoke to this version of democracy when he celebrated the fusion of separate interests into a communal will ("a society in which the ever-expanding and intricately ramifying consequences of associated activities shall be known in the full sense of that word, so that an organized, articulate Public comes into being.")[4] Dewey wrote this description when radio was cutting-edge. In examining a landscape in which the town square has been replaced by the chat room, we must transpose the language Dewey used to ask whether the commonwealth ideal lends itself to embodiment in digital form.

Democracy's interactive nature, the interplay between the governed and their governors, is one of its salient characteristics. Media serve as the open circuit loop that facilitates this communication in various applications that further this end. Arguments for freedom of the media have been etched into the fabric of the Constitution to protect these channels. An important rationale for First Amendment sanctions is to give the media the latitude to translate the rush of events into compre-

hensible, informed points of view. The presumption is that competitive media will provide competitive perspectives and that democracy is best served in this marketplace of ideas. Will this premise remain true in the wake of media convergence and industry concentration?

What Is Democracy?

Tracy Westen, vice chair and CEO of the Center for Governmental Studies, offered a salient overview of democracy as a context within which to examine the political impact of the media. Sketching out a rudimentary typography, Westen noted two essential types of democracy: "citizen democracy," in which individuals decide things directly (e.g., when individuals assemble in deliberative sessions akin to the New England town meeting or when they vote on a ballot measure) and; "representative democracy," in which individuals vote for representatives who then derive authority as members of groups that exercise power for them.

Since the Greeks originated democracy, a fundamental debate has waged about who is qualified to govern. The poles of the argument pit "the people" against what is offered as a more qualified elite. "Over the last 3500 years," noted Westen, "there has been a division that dates back to when Plato contended that governing was too difficult for ordinary people—and thus the ideal ruler was a 'philosopher king'—and Aristotle countered with the proposition that ordinary citizens could be trained to participate in democracy. In the formative days of the United States, Alexander Hamilton argued that it was necessary to put power in the hands of truly capable individuals, leaders and business figures who have proven themselves in the market. Thomas Jefferson said, no, you have to trust the people and thus educate them so they are capable of exercising power themselves."

The dialogue continues into the present. "We have in a sense a 'two-part democracy,'" observed Westen, calling the current American system a hybrid. "One part is a representative democracy, in which we elect delegates to do the work for us—presidents, congressmen, senators, city council members, and so forth. We also have a growing system of direct democracy in which we vote directly on matters; half the states have initiative ballot measures."[5]

In both modes public opinion constitutes a strong influence of direct democracy, whether it is expressed in the midst of elections or during

the intervals between them. "Some citizens feel that once you participate in an election, that's all you need to do," Westen continued. "You vote every two, four, or six years, then go about your business, and two, four, or six years later you decide how well your elected officials did, up-or-down. But most people feel that government policies are too important to be left only to elections and thus try to participate in various ways throughout the year." This participation can take such forms as membership in activist groups, contributions, organized lobbying, or writing letters to the editor—all of which contribute to the expression of public opinion. It is in this area—preparing citizens for an election and preparing them to participate in ongoing politics—that Westen suggests the media plays its most prominent democratic role.

"Media" itself is something of a cumbersome term, suggesting a singular entity—which in fact is not the case. "Very simplistically, I find it useful to divide media into two types," noted Westen. The first is journalistically mediated media: newscasts and entertainment pieces and so forth. In this respect, media is a tightly controlled form that tells the audience what is important, according to the viewpoint and priorities of each specific organization. The second type of media serves as a platform that allows one individual to speak directly to another individual. Telephone is this kind of medium, as are e-mail, websites, or over-the-air talk shows.

"In a sense," Westen said, "the media is an intermediary between the specific and the general. The public will never have the time or inclination or perhaps even the ability to understand the details of issues at a deep level. But they do understand at a broader level: Will my taxes go up? Am I making a choice between pollution and national defense? Is this policy good or bad for my child's education?"

Why, then, do we have democracy?" asked Westen in summary, "and how do media serve those ends?" He suggested four reasons:

- We have democracy so people can participate in the affairs around them. The role of the media in this respect is to portray people who are doing just that—to show how the process is taking place.

- We have democracy because it constitutes a better fit than any other system between public opinion and actual implemented policies. Media in this case provides a link between citizens and representatives; it communicates public opinion to decision makers.

- Democratic societies arrive at truth more effectively than other systems. The marketplace of ideas is sloppy and messy, but it works so that democratic societies tend to come up with better policies than those that rest on arbitrary rules. The goal of media here is to offer education, ideas, and opinions.

- Finally, the role of media is to protect democracy against alternative forms, against tearing apart or deteriorating into authoritarianism. In this sense, the media acts as a watchdog; it provides warnings that your civil liberties are in jeopardy or there are scandals in the operations of the government.

Westen cited several conditions in the present environment that prevent the media from fully performing these functions. One issue, ironically, is the abundance of media. "We have vast sources of information, extraordinary access to facts, everything you might want in a democracy. The problem is that people are using these sources of media less and less." As an example, he cited the suspension by the Federal Communications Commission (FCC) in the 1980s of the rule that every broadcast radio station had to do at least five minutes of news an hour. A second problem has to do with inadequate local coverage. "When we get down to city council and supervisor elections, the voters don't have a clue who these people are. There's been a systemic failure of media at the local level." Finally, alluding to media's "platform" role, Westen cited the problem of "year-round participation" in the political process. "We clearly have the desire of citizens to participate between elections in the day-to-day process, but we do not have media mechanisms that allow them to do that effectively."

As Westen observed, "Media is almost the guardian of the quality of the integrity in our democratic system. The role of the old media— print, television, and radio—has evolved over time so that it is generally understood what is expected of them. There is serious debate whether they adequately discharge their obligation, but there is not much disagreement amongst media leaders about what they are *supposed* to do. In the best traditions of their trade, the media serve 'the culture of public duty.' The essence of this culture is a shared trust on the parts of both the public and the profession that journalism exercises a responsibility to inform and educate and occasionally even bear witness to things that matter."[6] As would be expected owing to its youth, the new media have

been considerably less tested than the old media with respect to the laws under which it operates—particularly those pertaining to the applicability of the First Amendment. Nor have the rights of the public to access the new media been addressed.

Public Trust in the Media

As the idea of democracy spreads and the proportion of the world's population that is exercising democratic forms grows, governance of media becomes increasingly important. Various elements that sustain democracy—most notably respect for the rule of law—depend on a vigilant, informed public. New technologies span old borders. CNN, for example, beams its message worldwide; the Internet is global. By virtue of its dominance in communications, events in the United States have far flung consequences.

The issue of trust figured prominently in the FOCAS conversations as conferees worried that growing public cynicism toward media bodes ill for democracy. This line of discussion addressed several themes; one thread dealt with news content and another with industry concentration. Woven together, the argument suggests a vicious cycle in which the quality of public information accessible through the old media declines as media ownership consolidates. If news—in a telling metaphor suggested by Westen—constitutes the "vitamins that keep a democracy healthy," the American corpus is badly undernourished. "Building trust is a vital part of the job the media has to do," explained John Oliver, publisher and CEO of the Afro-American Newspapers—that is, winning over the confidence of the estranged and disengaged. Of particular concern to Oliver are the youth in his Afro-American audience, enamored of the antisocial elements of hip-hop, who must be convinced that there is a role for them in the political system. "We have a lot of work to do," said Oliver, "and I don't know if we can win."

The ability of the media to help reestablish faith in the democratic possibility is constrained when the information being disseminated tends not to address substantive issues but instead is trivial and diverting. "In this country we're operating under a huge 'trust deficiency,'" noted Pat Mitchell, president and CEO of the Public Broadcasting Service. "News is becoming entertainment, and the young population doesn't know the difference. The audience only wants heroes and villains, not context or analysis. It's all about third-act screamfests, which don't help me function as a citizen."

Others pursued this theme, suggesting that the media was guilty of
"dumbing down" issues, of not covering complicated stories in suffi-
cient depth. "I used to think reporters were lazy," noted Utah Governor
Michael Leavitt, "that they were twenty-five-year-olds not prepared to
deal with serious subjects." Increasingly, however, he has come to rec-
ognize the problem as one of the values of the industry rather than its
personnel. "News is interested only in features, crime, 'feel-good' or
'feel-bad' stories, not policy," noted Leavitt in explaining why journal-
ists are reluctant to report on the substantive issues. Moreover, the con-
solidation of media is driving attention to national issues at the
expense of local coverage that often has more immediate public
impact.

Indeed, what has happened in the radio industry vividly illustrates
how consolidation has drastically reduced the diversity of information.
"Is media convergence good for democracy?" asked Marc Nathanson,
vice chair of Charter Communications and chairman of the
Broadcasting Board of Governors. "In fact, it has been very bad.
Democracy was more robust in local media markets when there was
diverse ownership of newspapers and radio." In the acquisition frenzy
unleashed by the 1996 Telecommunications Act—which lifted all own-
ership limits for radio broadcasters nationwide and allowed them to
operate as many as eight signals in the country's largest markets—the
industry has come to be dominated by a scant few megabroadcasters
that saturate the country with standardized formats and announcers
disguised to sound as if they originate locally. With 1,200 stations, Clear
Channel Communications is the dominant player, and, as Nathanson
noted, "When Clear Channel takes over a station, it often ephasizes
more regional and national news." Is there an effective way to change
this dynamic—to prompt leaders of conglomerates to take the democ-
ratic responsibilities of their media properties more seriously? "I'm not
very optimistic," said Nathanson, "unless there is legislation or changes
in the tax law to encourage it."

Patricia Hodgson, chief executive of Britain's Independent Television
Commission, seconded the notion that the moment may have come to
start thinking about intervening in media operations for the sake of the
democratic imperative. "We have created these powerful media compa-
nies motivated by profit and popularity," Hodgson said. "We must
ensure they give back that which supports our democracy."

Sentiment during the discussions was disinclined to view the electronic media with much hope. What has occurred with radio seems only too likely to occur similarly with television as pressure to relax ownership restrictions mounts. Even if present ownership arrangements endure, television is regarded with scant hope. "At the beginning of television, it was taken for granted that it would actively promote democracy," noted Reed Hundt, former chairman of the FCC and senior advisor of McKinsey and Company. "That is no longer the case." He went even further, concluding that "it's not at all clear that electronic media in the aggregate is a force that promotes democracy." Rather than offer diverse viewpoints, "what it does is promote widely spread opinions held simultaneously by large numbers of people." These kinds of "wholesale" attitudes aren't the same thing as informed, reasoned beliefs individually arrived at that were understood to provide ballast to democracy.

Little in this argument is novel. The commercial media are organized to attract mass audiences that they sell, in turn, to advertisers. This model transforms the notion of "citizen" into that of "customer"—a dynamic that bears scant resemblance to any public purpose beyond commerce. "When you're running a TV network," observed Tracy Lawrence, president of Urban Television (UTV), "you're very clear that your goal is to get people to buy things." Drawing from personal experience as senior vice president and general manager of the Fox Family Channel, Lawrence said, "Your mission is to entertain. Judging from television, Americans are more concerned with acquiring a Jeep Wrangler than exercising their rights and responsibilities as citizens. Consumerism has replaced democratic citizenship."

The ongoing transformation of news into another form of mass media entertainment poses the threat of a "secular" change in the intellectual climate of the society. Idit Harel, chairman and CEO of MaMaMedia, questioned the fundamental values that are being invoked as the information climate becomes increasingly driven by commercial imperatives. "I believe that the main problem with current mass TV media is that it is in a bad loop of packaging and selling (to consumers and advertisers) news in journalistic formats loaded with negatives. Violent, trauma-generating content gets transmitted at the expense of content that suggests more positive, socially responsible experiences that could have uplifting and healing effects."

Invoking "values" raises the debate about information standards to another level of inquiry. The conventional complaint about commercial media is that it "dumbs down" the news, rendering the public less qualified to exercise political responsibilities. As Harel's remarks suggest, the essential fabric of social bonds themselves may be jeopardized by the media's excessive attention to the public as "consumers" (defined by private interests) rather than "citizens" (possessed of a common purpose). "The values expressed in much of the programming and packaging of both news and entertainment is not positive nor productive for democracy," said Harel.

The Disappearing Electorate and the Media

The lynchpin of democracy is elections. Although few people would suggest that the media singularly determines voter turnout, the media play a critical role in energizing the electorate. The measure of so much of the media critique voiced during the conference sessions is the growing number of people who do not exercise their franchise to vote—a condition that is particularly acute with youth. As shown in a study conducted jointly by *The Washington Post*, the Henry J. Kaiser Family Foundation, and Harvard University, the majority of voters under age thirty do not vote; a mere 23 percent of all twenty-five-year-olds go to the polls.[7]

In light of these trends, there is reason to indict media performance. The 2002 election cycle provided a stark example of how the industry's priorities affected coverage. Television newscasts in the largest 50 media markets ran four times as many political commercials as campaign stories. ("Many station managers feel that putting political news on their airwaves would be ratings poison," noted one of the directors of the *Washington Post* study.)[8] This imbalance—with paid commercials so dramatically overshadowing objective reporting—effectively "monetizes" what democratic theory idealizes as the media's considerably more disinterested role in the process of shaping public opinion. Several conferees even wondered aloud whether by acting in this fashion the media as currently configured is, in effect, an "enemy of democracy." "I've been a finance chairman and a candidate," observed Gaston Caperton, president and CEO of the College Board and former governor of West Virginia, "and I can tell you there's a whole lot more value by a candidate being in conversation with real people in communities than in being in cocktail parties collecting checks." The underlying problem is the orien-

tation of the industry. "Around election time conversations in the boardrooms of media companies don't routinely discuss how to improve the news coverage," noted Caperton. "Rather, they talk about sales and the big influx of advertising revenues that can be expected with tight races."

When television journalists do a story, the kind of issues they choose to address also figures prominently in the criticism of the media. At a subtle level of manipulation, content is captive to the will of the political parties, with reporters taking the cue for their agenda through prompts from the professional politicians. "The news media is complicit in focusing on the issues that the parties choose to focus on," argues William Kennard, former FCC chairman and managing director of telecommunications and media at the Carlyle Group. "Many issues that ordinary people care about don't figure in the discourse, and the media ends up disenfranchising those people from the debate. Issues that the parties don't want to discuss, or that aren't in the broadcast industry's interest, get swept aside."

The Democratic Opportunity of New Media

If the old media is suspect with respect to its ability to promote democracy, the new media remain untested and largely a blank slate. Several advocates have heralded the Internet and other new media as harbingers of a new age of democratic flowering. Before celebrating this potential, it is instructive to recall Reed Hundt's cautionary tale of the hope with which television originally was viewed and its ultimate failure to deliver on that promise. Nevertheless, there is reason to hope that the Internet—as an extended metaphor for high-density, individually addressed, packet-switched digital information—may well energize the political process.

Later in this discussion we consider some specific technological and economic issues pertaining to the new media's political impact. For the moment, however, the general argument made by John Clippinger, chairman of Parity, Inc., frames the parameters of possibility. Drawing an analogy from system architecture, Clippinger likened the problem of "trust" in the political system to "robustness" in a network. "Trust comes out of transparency," Clippinger pointed out, likening democracy to peer-to-peer computing. The more transparent a network is, the less its operations are hidden and inaccessible, the more it is robust, responsive, and likely to maximize the fullest potential of its users. He

cited the enormous success of eBay as a prime example of the potential that resides in transparent new media. "When notions of accountability and transparency are absent, on the other hand, when a system seems rigidly structured and controlled by 'unseen forces' in which disproportionate power is vested, people withdraw from the network."

In predicting whether the new media will support or undermine democracy, whether they will be more or less capable of inspiring in their users a trust in the integrity of the political system, Clippinger suggests that one look at how they function. One model could turn out to be authoritarian rather than liberating in nature, dominated by "dedicated point-to-point circuit architecture." The other—more comforting from a democratic perspective—would be networks operating under "distributed control where there is no single party in control." (This is how the Internet currently functions, although subject to future change through technical design, regulatory action, or commercial forces).[9] Clippinger's argument suggests that new media, regardless of content, are not politically neutral but are more or less disposed to democracy depending on their system architecture. Distributed control, observed Clippinger, is analogous to what the Greeks discovered when they invented democracy: "You take your identity from being in a group; that's who you are. When you lose that sense of who you are, you become disaffected."

Old media or new, the stakes are high. The tenets of democracy are predicated on the fundamental presumption that the citizenry cares about how it is governed, that they desire information about public affairs, that they have access to such information, that they feel allegiance to the commonwealth, and that they vote. Although institutional checks-and-balances can rein in the threat of tyranny from the state, there is also the danger that the legitimacy of the government can be eroded from below by a passive population. When the conditions of citizen engagement are not being met—when they neither want nor receive relevant information, when they are indifferent to voting—the likelihood of this "hollowing out" of democracy grows.

Unlike earlier ages, ours is an era in which the challenge facing social engineers is not too little communication capability but perhaps too much. An abundance of information is a mixed blessing. With a multitude of voices screaming to be recognized—some louder than others because they are better financed—it becomes harder to distinguish

messages with value from those that are extraneous or blatantly self-serving. Mental switchboards are overloaded. Rather than render meaning, hyperactive media ecology evokes confusion, and one must wonder how long democracy can prosper in such an environment. "Attention," Charles Firestone, executive director of the Aspen Institute's Communications and Society Program, observed, "has become the scarce commodity." The challenge facing policymakers is to devise appropriate responses to recalibrate the balance between the potential to make information available and its capacity to enhance the exercise of democratic citizenship so that the media, in terms consistent with Tracy Westen's model, can again undergird and not undercut democracy.

The Evolving Media Context and the Prospects for Change

The future impact of cyberspace on politics remains to be seen; for the moment the influence of commercial media remains unrivaled. Throughout the conversations in Aspen there were references to the power the media possesses to dominate discourse and to define agendas. Although the media may claim to be merely messengers delivering somebody else's messages, the issues they choose to address significantly shape public opinion. Tracy Westen cited some reasons why the media occupy such a singular status: "They are independently powerful, they sit astride the information that comes into the home, and they are particularly important in influencing what happens in their local communities."

Concerns about the disproportionate power exercised by the media in a democracy become more compelling as the industry itself becomes more concentrated. If there are fewer independent media organizations, is it not logical to expect a corresponding decrease in the diversity of different points of view? Moreover, will this situation not become more aggravated as communication technology converges, enabling single companies to control the distribution of information along a variety of channels? These "macro" questions constituted the subtext for consideration of whether there is reasonable basis for believing that the tilt of the media can be shifted to give more impetus to dynamics that promote democracy.

Media Concentration

The map of the media landscape was redrawn during the 1990s through consolidation (as discussed above in reference to radio). Anecdotally one can cite waves of mergers that resulted in the disappearance of established companies and conflated management within new conglomerates. With regard to concentration, however, Eli Noam, director of the Columbia University Institute for Tele-Information, has observed that "views are strong but numbers are scarce. Most people actually do believe strongly that the media is more concentrated than it used to be, but I would suggest that the question is much more open than that."

In testimony before the Senate Commerce Committee, Noam cited trends in the classic media industries for the period from 1986 to 1998 that paint a mixed picture of concentration. The weighted average of four-firm market share for the mass media industries rose from 33 percent in 1986 to 40 percent in 1998. For the three major television networks, it declined from 70 percent to 53 percent. For local television stations, the top four firms' share rose nationally from 15 percent to 26 percent. For cable television distribution, it rose from 37 percent to 60 percent. Concentration more than doubled in radio station ownership and book publishing. The national movie theater, newspaper, and magazine markets remained relatively unconcentrated, with the top four firms accounting for one-quarter of sales. Where Noam did see unmistakable evidence of concentration was at the local level with respect to newspapers, cable television, and telecommunication.

"It cannot be said that U.S. media have become, in general, more concentrated," Noam concluded. "Some segments have, others have become less concentrated." In sum, there is no problem as measured by Justice Department antitrust standards.[10]

Noam's picture of the media landscape offers relative comfort for those who fear the contraction of diversity. "Media today is more concentrated than four or five years ago but less so than twenty years ago," he observed at the FOCAS session. "We don't see a huge danger in concentration or convergence in 'wall-to-wall' companies that control everything. If you think about it, the telecom companies are not really mass media. The mass media companies are not doing IT [information technology] stuff. IT companies don't do much of mass media."

Without disputing Noam's research, however, there is an intuitive sense among many observers that the current organization of the media

industry, even if not formally concentrated in antitrust terms, operates with fewer diverse outlets than in the past. In a recent broadcast, Bill Moyers staked out this position, describing how powerful the reigning media corporations have become and, by implication, the grip they have on the public's access to information: "Twenty-five years ago there were fifty owners of America's major media outlets. Now there are six. Two-thirds of today's newspaper markets are monopolies. Over half the radio audience is controlled by four corporations."[11]

Failure to Realize "Synergy"

The business rationale for much of the merger initiative was "synergy": the notion that digital technology would render the content of different media so compatible that they are destined to converge so that a company can profit from "cross-purposing"—say, its own movie production and book publishing for Internet distribution via its own cable system. In retrospect, synergy may have been more a Wall Street mantra than a sound operational tactic. As the likes of Viacom, Bertelsmann, and Vivendi announced acquisition after acquisition, however, the strategy gained credibility.

In the intervening years, the anticipated benefits from these mega-conglomerates have been slow to appear. This fact doesn't surprise Noam, who observed that the broadband explosion, long anticipated as the route to synergy, consistently fails to occur. "I've been kind of looking at this area for easily twenty years, and broadband is always going to happen two years from now—and it's been like that for twenty years."

That there is little evidence that synergy works as a business principle doesn't surprise those who worked in media companies charged with implementing the strategy. Pat Mitchell, in her former role as president of CNN Production and Time, Inc. Television, was charged with finding synergistic collaborations with Time, Inc. properties—magazines and books. She recalled arriving at the first meeting of the heads of the different business units "quite excited about the enormous, rich, deep content which was now possible to aggregate with some sort of impact on citizens." Instead, she reported, the conversation turned entirely to the question of contact with consumers and how to market to each other's customers as a kind of captive audience. "It didn't turn out to be an approach that worked," Mitchell said, "but it was the strategy that drove the thinking."

Randy Blotky, chairman and CEO of Technology Convergence Partners, also had been at AOL Time Warner and saw first-hand how "synergy" operated. Much of his focus within AOL Time Warner was "to create constructs for businesses that were consumer centric." The model that informed his approach seemed a natural outgrowth of the traditional role that media plays as a "trusted agent" of the public. "The Internet acts as the enabling 'grid' on which someone or something becomes the trusted agent for a broad segment of its constituency," Blotky said. "At AOL Time Warner we were trying to figure out what that constituency wanted from this medium, when they wanted it, and the price they were willing to pay for it in order to achieve that 'accepted agent' status. In some cases, by the way, the payment turns out to be zero, but not always—and the real point was that once 'trusted agent' status was achieved, your brand can live in the hearts and minds of that constituency virtually in perpetuity." Drawing from this experience, Blotky came to realize that "convergence is like the blind man and the elephant: It can mean a lot of different things to different people, depending on their perspective."

William Kennard, as FCC chairman, was charged with regulatory responsibility for these companies during the acquisition fervor; in this role, he heard media executives making the case for convergence. "It was like listening to teenagers talk about sex. Everybody thinks everybody else is doing it, when in fact very few people are actually doing it. And those who are doing it are not doing it very well. But nevertheless, everybody thinks that when they finally do it, it will be really great." Looking back on the mergers he approved, he now admits that "the benefits were oversold to regulators and the market. People were anticipating efficiencies of merging content and delivery that haven't been realized."

To be fair, these benefits may still come. Technologists point to a near-future when every laptop will be a network communicator, with integration at the chip level for wireless local area network (LAN) capability. The "coming" of broadband may become an established fact, bringing in its wake new varieties of content—including some devoted to advancing the democratic agenda. Zoë Baird, president of the Markle Foundation, spoke about this possibility: "I think it is incumbent on us who care very deeply about the continuation of innovation in the development of information to help throw out possible business models that

might lead to success that also preserves the values we care about." Baird recalled a conversation with Gerald Levin, when he was chairman of AOL Time Warner, in which he said, "If you can just focus on the economics of the media as it develops going forward and help us figure out a way that we can make money and still serve all the public interests you care about, that would be the single most important thing you could do."

On the other hand are those who are less sanguine about the implications of consolidation. "Technological convergence leads to financial convergence," observes Reed Hundt, who presided at the FCC during the passage of the landmark 1996 Telecommunications Act. "We've thought for over 100 years that it was good to have different media compete with each other and have technologies compete with each other. From a democratic perspective, multiple media in a community build different sources of support." Indeed, Bill Clinton would have vetoed the Telecommunications Act if it had included an amendment allowing newspapers and television stations to merge in a single city. (He told people that "he could not have been elected governor if the media in Little Rock had spoken with only one voice.")[12] The principle of having different media have different voices of communication appears to be very much in jeopardy, however. The regulatory environment is not favorably disposed to erecting firewalls between existing media. Meanwhile, the collapse of the stock market and private equity sources means that there is scant funding for those who would build new modes of information delivery.

Gatekeepers and Bottlenecks

What is left in the aftermath of the 1990s media megamergers is an emerging communication "network of networks" in which, critics point out, there are fewer and fewer gatekeepers deciding who gains entry. "The problem with diversity is where bottlenecks come up," notes Peter Price, president of the National Academy of Television Arts and Sciences, citing cable television. "There is immense consolidation in the cable industry, which is the lead pipe for broadband. How do you structure a situation where you avoid monopolies doing the things that monopolies do naturally? You want to be cautious about policies that appear to produce good results but are really a way for monopolists to deflect government control."

One of the things the cable bottleneck constricts is programming. Cable promotes itself with images of technological abundance, suggesting a limitless array of options targeted to specialized audiences. In fact, however, space on the tuner is precious real estate (particularly on the basic, nonpremium tier), parceled out by the operating companies as a scarce commodity from which they seek to derive maximum advantage. In the early days of cable, when there were multiple operators with expansive demand for product, programmers were in a reasonably fair competitive position. The wave of consolidation, however, has significantly restricted their universe of buyers, to the detriment of content diversity.

In seeking to launch an independent programming service aimed at the multicultural urban population, Tracy Lawrence of UTV has encountered problems that were not a factor earlier in her career, when she participated in the launch of cable channels. "It would seem like it should be a 'no brainer' for operators to look for a channel that would capture what's happening in urban culture," she assumed, "but it's a very different process now." To get venture capital, it is necessary to have advance commitment that the service will be carried by enough local cable systems to reach a suitable national audience. The way the industry is now configured, there are only two companies in a position to make such an assurance. "Launching a new channel means conversations effectively with two people," Lawrence observed. "It's not about the idea anymore. It's about who you know, where you've been, what big names you can associate with your channel."

Similar bottlenecks exist in other information industries in which a handful of major players dominate the production and distribution of content. Even the Internet—which one might intuitively expect to be the most competitive of media—is experiencing consolidation. Indeed, according to Eli Noam, the notion that it remains "wide open" is false. "The industry that is increasing its concentration most rapidly is Internet service provision. If the trend line continues on the backbone level and ISP level, it will be more concentrated than any other."

William Kennard also pointed out the dampening effect bottlenecks can have on programming options. New business models, regardless of their commercial potential, can be prematurely extinguished if only a few companies control access to the market. "I am absolutely convinced that we will come up with better business models if we create an environment where more people get access to the end user, and you break

down the gatekeeper situation. Those models are not going to come necessarily from the strategic corporate planners in the big companies when it's not in their interest to do so."

Why Classic Antitrust Doesn't Apply To Media

A conventional response to trade restraints in the past has been governmental regulation, but in the case of the media and information businesses, even advocates of diversity are reluctant to recommend this option. Antitrust law as a tool was not designed to promote the democratic value of diverse discourse, and it would be difficult to develop appropriate standards to gauge desirable levels of competition in a business that is unlike virtually any other in terms of the unique importance it plays in the political life of the society. Classic criteria of competition employ economic measures, not subjective considerations such as "the people's need to know." In an analysis prepared for this discussion, Reed Hundt summarized the inapplicability of antitrust law in this context:

> Antitrust law is concerned solely with the goal of efficiency. Its purpose is to make sure that markets are competitive, so that they maximize output from productive capability. There are at least two reasons why antitrust law alone is an inadequate paradigm for determining how many broadcasters or newspapers or any media outlet we might wish in order to perpetuate our democracy, entertain ourselves, grow our economy, or provide outlets for creative energy.

> First, the antitrust law necessarily focuses on the buying or selling of product or services; that is what a market comprises. But the dissemination, for example, of political news for free does not necessarily come from nor should it be gated by the profit motive, or the pricing of media content. We might simply want political news to be broadly and freely given away, and under those circumstances it is difficult to see how a competitive or a noncompetitive market for media content or advertising time will further that goal. Indeed, the more competitive the media market, it is possible, even plausible, that the more likely it will be that the media outlets would be disinclined to afford free time for political news.

> Second, antitrust law can conclude that a market is reasonably competitive even if it has only one or two or three competitors.

That is because other considerations are relevant, such as ease of entry or the efficiency of a natural monopoly. In particular, Chicago-school antitrust thinkers over the last thirty years have espoused a certain degree of government tolerance for such highly concentrated markets. Yet while the antitrust law might tolerate such concentrated markets, it seems plain that the risk to democracy of having only a few, or indeed just one, speaker or outlet for speech in a media market would be quite substantial. The parallel with totalitarian societies should be resisted, yet it is noteworthy that we reject in many other circumstances any sympathy with societies that limited or monopolized media.

Moreover, antitrust law will almost always conclude that markets with five competitors are competitive, provided that no one has price-setting market share. Yet from the perspective of forming an inclusive, diverse democracy, we might well conclude that we need at least six, or seven, or some such higher number of outlets. An example is the persistent if intermittent effort by government to create outlets for different language, or for media owned by women or minorities or small businesses. Such outlets might be sixth, or seventh, or eighth entrants in media markets; antitrust law might not regard them as necessary to create competition, but for other reasons we might value them very highly.[13]

Despite the consensus about the limitations of regulatory theory, support remains for maintaining at least a semblance of the competitive framework that has evolved over the past decades. The decision by the FCC to initiate a reconsideration of longstanding ownership rules is certain to produce political cross-currents. On one hand are those who advocate wiping the slate clean and taking the government out of the business of monitoring the communications industry, on the other those who are unwilling to abandon the principle that diversity is best served by more rather than fewer owners of media.

Kevin Martin, a sitting FCC commissioner, suggested alternative ways that criteria could be framed to address the need for diversity while only minimally interfering with the free operations of the market. The traditional approach to assure competition in each specific medium may be obsolete, Martin opined, in an era when the same services can be obtained from a variety of sources. "If content is not exclusive to

any particular content provider, then when you say there need to be multiple intermediaries, one of the questions I would have is, do you really need multiple intermediaries within each distribution platform? Or is it just that there need to be multiple distributors of that information? That gets to the point of open access to service providers. If you have several satellite providers, cable providers, and telephone providers all providing broadband internet access service, do you actually need access to each multiple facility, or is it enough to have 'across-the-board' access? That's one of the crucial issues the Commission is facing: how much of access has to do with platform competition."

"We have to be careful not to confuse open access to information with open access to service providers," Martin cautioned. "Maybe we need to have a certain number of access providers to make sure service is being offered at a competitive price and in a competitive manner, but it doesn't have to be infinite to be in the consumer's best interest."

Given the bias toward relaxing rules, regulation does not appear to be the most likely way to unclog media bottlenecks. A more viable solution would appear to lie with Zoë Baird's enthusiasm for the development of new business models that are capable of serving the public interest and sustaining themselves commercially. It may well prove to be in this arena—helping such emerging enterprises by protecting their viability during a critical incubation period—that the FCC and other governmental agencies may operate in the future under the auspices of a new formulation of competition along the lines that Martin suggests. This subject is discussed later, but for the moment it is worth remembering that in the zeal to liberate communication initiatives that have been held back by archaic rules we not lose sight of the positive consequences that can result from enlightened regulation formulated under a different paradigm than classic antitrust.

Nurturing New Market Niches

A cause for optimism in the prospects of new content business models is the growing likelihood that the returns on investment of the concentrated media companies will prove less than promised, and they are too unwieldy to stay intact. Anecdotally we already have seen signs of trouble. Vivendi and Bertelsmann have dismissed the CEO architects of their acquisition strategies; AOL trades at a fraction of its value when it acquired Time Warner; AT&T's costly entry into cable now appears

misguided. "If the question is 'are these companies inherently unstable?' the answer is 'yes,'" concluded Eli Noam. "The present downturn related to consolidation shows the inherent instability of the media/telecom companies."

For the media giants, the "old way" to make money through market concentration may have reached a point of diminishing returns. If these companies are forced to divest pieces of themselves to improve their balance sheets, niches of opportunity will arise. "We're still in a period where we don't know what the business models are that will be successful," noted Zoë Baird.

Providing offerings that better integrate people living in the same local market also was considered worthy of exploration. "The media have been leading a movement away from localism and much more toward nationalism and globalism," noted Marc Nathanson of Charter Communications. "After we brought cable into Kingsport, Tennessee, for example, kids started dressing the same way in Kingsport as in New York City." To some observers, this muting of local culture and regional distinctiveness is a factor in the decline of community and impedes democratic discourse.

Another category of opportunity lies on the content side, with interactive offerings that engage audiences in a participatory way that builds democratic attitudes and behaviors among users and contributes to the growth of democratic communities.

Kids' relationships with media have changed with successive generations, creating new openings for innovative business models. Idit Harel of MaMaMedia offers a compelling taxonomy to describe these generational divides, based on their experiences with media as they were growing up: Baby Boomers as kids learned how to "consume" media passively; Generation X learned to be a bit more active and "choose" their media experiences—initially by way of the remote control, then through television programming such as *Sesame Street* and Nickelodeon that inculcate an attitude within the targeted audience that "you have to be mindful when you view this TV show (*Sesame Street*), and you have the power to select this channel rather then a channel for parents (Nickelodeon), it's us versus them"; Clickerati, the current generation that is coming of age, growing up with television, cable, and the Internet, learn from a very young age how to "consume, choose, and create" (they want not just to receive media but to make

their own; they seek "tools and not answers"). "The medium," Harel says, playing off Marshall McLuhan's famous axiom, "is no longer the message. It's what you do with it, the activity, that matters. Content is better if it can be consumed as well as constructed, received as well as personalized. It's not about high tech for this computer-skilled generation, it's about 'my tech.'"

In Harel's view, this active participation in media experiences can contribute to growing more active people in general. The new content product agenda, again to quote one of her pithy aphorisms, focuses on "the Three X's: eXploration, eXpression, eXchange"—not just on show and instruct or entertain. In addition to making the media experience more democratic in this sense, a democratic political content site or online channel for kids, for example, would be about providing a conduit to other people's content: articles, games, information, news, polls and surveys and enabling users to create and circulate their own.

As a means to encourage children to expand their universes and thus become more receptive to being socialized to democracy, the Internet appears to be a powerful tool. Although it might be expected that Internet usage would encourage social isolation among children, in fact just the opposite is the case. Referring to research done at the UCLA Communications Policy Center, Marc Nathanson pointed out that "the children who spend more time on the internet are more social, less isolated, and this is throughout the world, not just in the United States."[14]

Policy Approaches to Incubating New Media Models

The swirl of shifting commercial and political forces buffeting media as it steadily digitizes poses serious quandaries to those charged with overseeing communications policy. Whereas the essence of the traditional regulatory approach is removing barriers to entry and maintaining competition, that may no longer suffice as a *raison d'etre* in the present context. If the media industries, as Eli Noam believes, are destined to be increasingly cyclical, policy also must adjust to quickly changing circumstances and itself adapt a more cyclical approach. Permanent solutions cease to be feasible in such a fluid context. Instead, as Noam describes, the government will have to "mix and match" among three general policy options:

- "Laissez-faire, let it rip";

- Accommodations with convergence through "side deals" such as those long maintained with AT&T and the three major television networks ("we'll give you an oligopoly, but you'll have to serve the public interest"); and

- Prohibition of oligopoly by special concessions and collaboration formulas designed to keep competitors alive, with the Newspaper Preservation Act serving as one model.

Aligning new business development and implementation with regulatory policy constitutes a preeminent challenge to those who would seek to reform the media for the sake of the democratic commonwealth. Beyond the historic ways this goal has been approached, social thinkers are beginning to propose a new concept that is especially applicable to the digital age—the commons. One way to do align the public and private sectors is to create communication business initiatives supported by government rules that act, in the words of one advocate, to "reclaim the commons," which he powerfully defines as that "vast range of resources that the American people collectively own, but which are rapidly being enclosed: privatized, traded in the market, and abused."[15]

Redefining the Ground Rules

To restate the argument thus far, consolidation of media entities over the past decade has produced a more restricted flow in the variety and sources of information, particularly public-spirited information of the kind that is critical to the exercise of citizenship in a democracy. Gary Knell, president and CEO of the Sesame Workshop that produces *Sesame Street*, summed up the constraints imposed by bottlenecks when he observed, at a previous FOCAS gathering, that "distribution is king": "You've got to have great content, but if you don't have distribution—if you're not partnered up with a Viacom or an AOL Time Warner—it is very tough to get your content out there."[16] Although there are countless similar anecdotal observations, it is problematic whether current media concentration contravenes current antitrust standards of restraint of trade. Moreover, the spirit of regulation since the 1996 Telecommunications Act has been, effectively, to give more rather than less freedom to markets, so the climate is ill-disposed to a

wave of assertive rulemaking. Yet as PBS's Pat Mitchell pointedly asks, "What happened to the concept of the public's entitlement or ownership of these distribution pipes or spectrum?"

The Internet constitutes a wild card in the mix, a medium virtually unknown only a decade ago that now is transforming various forms of communications. If the Internet is left undefended from market forces, advocates for the free flow of information fear that ISPs, portal companies, and information aggregators such as Google.com will erect proprietary "walled gardens" around content, imposing *de facto* tariffs on the traffic of ideas. By embedding these gatekeeping functions in hidden code, making it impossible hypothetically to access, say, *The New York Times* with a Microsoft browser or websites that are not specially tagged, the public may not even be aware that its universe of information is circumscribed. On the other hand, if the Internet is protected as a neutral terrain with universal access to content, it could prove to be a forceful instrument of the public interest.

Statutes and rules will figure prominently in determining which way the Internet goes. A rationale for activism that is different from current standards of antitrust would make the case more compelling for administrative oversight of the Internet. As distinguished legal scholar Cass Sunstein points out, few issues are more important to democracy than an informed electorate, yet scant concern is directed to how the requisite information is to be made available. "The informed citizen plays an important role in democracy theory," Sunstein wrote in *Republic.com*; "the communication systems supposed to supply the citizens with political information have received little attention."[17] A more robust theory that addresses the public mandate to nurture these communication systems is needed—one that shifts critical tests away from economic consequences on consumers and to the democratic impact on citizens.

Preserving the "Innovative Commons" on the Internet

A fruitful vein that is worth exploring in this context is the concept of the "social commons." Lawrence Lessig writes probingly on this subject in *The Future of Ideas*. Simply put, Lessig challenges the "taken-for-granted" premise that "progress always comes from dividing resources among private owners." He argues, without being "anti-property," that there are instances in which maximum innovation and social benefit result from an asset that is, in effect, "nonowned." Lessig is not pitting

state against market but "free" against "controlled." "That war is over. For most resources, most of the time, the market trumps the state." The roads are free in this sense when drivers can use them at will, parks are free, "equations developed by Kepler and Newton and modified by Einstein are free to scientists plotting an orbit of a spacecraft."

Where there is a benefit from leaving a resource free, and where it is not diluted by overconsumption or underdeveloped because of inadequate incentives, Lessig argues that the public interest falls under neither private nor state control. ("It is an iron law of modern democracy that when you create a regulator, you create a target for influence, and when you create a target for influence, those in the best position to influence will train their efforts upon that target.") For most of its life to date, the Internet has been just such an "innovation commons" in Lessig's terms. True, the wires and computers it runs on are owned, and much of the content is owned, but the "code" that moves digital bits freely through the system from end to end—the essence of what makes the Internet such an awesome communication medium—is free. That code is open and accessible to all, neutral and nondiscriminatory in its operation, the possession of everybody and nobody. Lessig's fear, shared by many of the conferees at the FOCAS session, is that this freedom is likely to be short-lived. [18]

The agenda of the media conglomerates is to grow revenue by "monetizing" their capabilities into profitable commercial products. As they enter into the Internet space, it is natural for them to look for ways to monetize their leverage over the system itself. The reason much of the content and community on the Internet currently bodes well for democracy is, as William Kennard points out, "the public access through open platforms." It is not necessarily in the perceived interest of the network providers, however, to continue to provide these open platforms. The leverage Microsoft exerts on software developers to accommodate their products to the "closed" platform of Windows operating systems suggests what could happen if the Internet platform were to become similarly proprietary. If such a world comes to pass, predicted Kennard, the Internet environment would resemble the situation in the software development environment: "Business models become binary—either find a niche where Microsoft can't come after you or sell to Microsoft and that's your exit."

Patricia Hodgson, of Britain's Independent Television Commission, recounted how the United Kingdom faced an analogous situation: The

entire satellite broadcast platform was controlled by one company, which was understandably reluctant to open its set-top box to other services. It was eventually persuaded to do so. "Now the most interesting thing about that is that as a result we see on TV all sorts of competitors were up there. It makes the satellite company money because their packages are richer than they would otherwise be. They are so pleased with what has happened that they now boast that they introduced open broadcasting to the UK. Now the same challenge is to obtain the same thing for the broadband bottleneck into the home, to provide capability to interconnect any-to-any as in plain old telephony."

Pat Mitchell cited another dimension to open-access concerns, prompted not by commercial considerations but by concern for protecting children. "There is a bill under consideration by Congress that would create a new internal portal or gateway called USKIDS.com. It's an attempt to aggregate children's content on the web through a single portal that would be administered by a board of public overseers. As PBS has a huge investment in children's content on the web, as well as on television, we were consulted about the legislation and agree with its intent, which is to provide additional restraints on access to inappropriate material for children. On PBS.org, which attracts twelve to eighteen million kids and parents a month, we make sure that it's clear when a child is leaving our space, and we have link pages on media literacy to help parents understand how links to sites work. And we are concerned that adding new portals, new gatekeepers, will not enhance media literacy but does raise important issues of access and gatekeepers again."

The Threat to Open Access

The possibility that browsers will cease to be neutral navigators of the web but instead will be subtly coded to favor or ignore sites struck the conferees as particularly ominous. As a medium that is "pull" rather than "push," the Internet enables the user to seek information from a virtually limitless reservoir (unlike broadcast, where finite content is pumped out, or pushed, to an essentially passive user)—but this limitlessness is contingent on the effectiveness of searching capability. Kevin Hess, vice president for federal affairs of TDS Telecom, noted, for example, that the wiring of schools and libraries has significantly added to the ability of children to get answers to

specific inquiries. "My daughter did not realize that everyone does not vote in elections," Hess said.

If a pull medium is to function effectively, the capacity to search its knowledge base becomes critical. "The value proposition," foresees John Clippinger of Parity, Inc., "is not going to be in selling content but in creating the context by which people get access. There is a revenue model in the ability to tag things and find them." On the other hand, monetizing this aggregator function could create an Internet dominated by webmasters deploying sophisticated user information embedded in profiles to tag sites. If this became the standard, it would contradict the principles of the open commons. Such practices could easily transform "pull" into "entrapment."

If market forces are given free rein, it is reasonable to worry that the Internet might follow a course that jeopardizes the commons. "The business model of the new media companies is to throw millions of dollars on marketing their solution and bringing customers to their product through whatever technology they're pushing," cautioned Peter Price of the National Academy of Television Arts and Sciences. "This first wave of Internet technology makes for a proliferation of voices. The second wave of technology, broadband, suddenly works against proliferation because there are fewer gatekeepers." One can only surmise what will happen in a third and fourth generation of technology as gates keep narrowing, increasingly moving into the realm of search engines.

An architecture whereby each application must "register" itself with the network could undermine open networks. The network could be designed in advance so that only certain kinds of applications could run on it. A pricing system could be built into the system to control how the network is used. All such acts of concentration "direct the future," in Lessig's scheme, giving the concentrators the power to steer evolution as it benefits them.[19]

The future, Lessig fears, may already be cast. In his opinion, two companies, AOL Time Warner and Microsoft—neither of which has committed itself to a neutral and open platform—will effectively define the next phase of the Internet's life. "Additions that benefit either company will be encouraged; additions that don't, won't. Content and access will once again be controlled; the innovation commons will have been carved up and sold."[20]

Needless to say, "carving up and selling" of the Internet innovation commons would strike a harsh blow to its capacity to contribute to democratic discourse. As broadcasters have aptly demonstrated, in the absence of rigorous requirements there is little reason to expect commercial media entities to devote much of their resources to substantive non-entertainment programming.

To surrender the Internet—and its potential to extend the democratic process—without a fight is unworthy of those who would contend for its promise. Advocates of "public goods philosophy"—a variation on the theme of the commons—propose remedies. On the other side of the Atlantic, the agenda seems clear. "The unrestrained market will not produce either the range or quality of broadcasting or the full range of Internet sites that is desirable and which the new technology makes possible," concludes Andrew Graham, an English economist, in his study *Public Policy Issues for UK Broadcasting.* "For this we need a thoughtfully designed broadcasting policy in which the public and the private and the global and the local sectors complement one another." [21]

Although more skeptical about the eventual outcome, Lessig frames the issue with equal clarity. "If the original Internet architected an innovation space that was free, if it built that space by creating an environment where innovations would not be checked, if it was defined by a code layer that was open, then as the Internet moves onto fat pipes, will the same principle govern the code layer of the Net? Will broadband respect the principle of end-to-end as narrowband has? And if it doesn't, will the government do anything to resist the change?" [22]

Therein lies the critical question: Will the government do anything? What is required is reasonably simple to define: The government should encourage adherence to open code and prohibit any of the major players from architecting the Internet space to serve their own strategic purposes at the expense of the commons. Enacting this stance as national policy would go a long way toward securing the democratic foundations of this most comprehensive communication medium.

Conclusion

For democracy to flourish, its citizens require information, ideas, and opinions about matters of public import. A system wherein sovereignty resides with the people cannot long be sustained by an uninformed public. The classic source of such information, ideas, and opin-

ions has been the media. Indeed, it is to serve as a trustworthy source free of fear or favor that the First Amendment protects them. FOCAS participants expressed concern, however, that the quality of public affairs reporting by the media routinely fails to further the democratic cause. The concentration of the industry into a handful of multimedia conglomerates for which news is something of an ancillary mission does not help the situation. Nor does the FCC's recent abandonment of behavioral rules requiring a standard of public service from broadcasters.

At the same time—perhaps the cause of media neglect or perhaps the result—fewer and fewer people consider themselves politically engaged or even vote in elections. The growing indifference of the electorate, most notably among those under thirty years old, would seem to undermine long-term democratic prospects.

Lynda Resnick, co-owner and vice chairman of Roll International, expressed the underlying concern that animated much of the conversation. Discussing why a growing portion of the population (especially youth) seems not to care about exercising civic responsibilities, she discounted the idea that traditional media fare could change their behavior. Drawing on her marketing background, Resnick was skeptical about trying to "force-feed democracy." Instead, she recommended "finding out what people are open to" and embedding democratic messages within. "What we need is a better idea about how to stimulate them."

An example of a "big media idea" currently being tested by the Voice of America (VOA) to ignite democratic sentiment among Middle Eastern youth was described by Marc Nathanson and a colleague on the Broadcasting Board of Governors, Tom Korologos. Instead of all-talk cerebral fare, the VOA is experimenting with a pop music format modeled on the American Top-100 FM style. Broadcast in Arabic, interspersing American songs with songs in Arabic, the goal of Radio Sawa (which means "together") is to attract listeners for the news segments sandwiched into the music. In a matter of months the service has acquired a sizeable audience, and though it is too early to predict the results, the least that can be said is that its listeners are hearing balanced regional news regularly and receiving a less biased portrait of the United States than they receive on state-sponsored media. Indeed, as Eli Noam noted, "American popular culture may not be the hook but rather the 'meaning' itself. The way it portrays the American lifestyle—how women are portrayed, the legal system, the police—is advertisement for democracy."

Although none of the conferees suggested that such an approach be tried here (for one reason, federal law prohibits the VOA from broadcasting domestically), Radio Sawa is a provocative example of how media can be deployed to stimulate exposure to public affairs. When the FCC employed behavior solutions, stations had to provide news. Now other methods must be tried. Tax breaks for stations that offer public affairs material were recommended as a possibility. Many of the group were positively disposed to the idea that commercial users of the broadcast spectrum should be taxed or charged a license fee that would be used to sustain public service media. Another recommendation was that commercial stations be encouraged to air specially produced public interest insert spots. The specific recommendations are less important at this point than the need to stimulate thinking about new possibilities to expand the capacity of the media to promote democracy.

Meanwhile, the Internet—the "medium of media"—looms over the landscape of the future. Arguably the single most important communications issue to be decided in the near future is whether conditions of freedom or control will prevail. If the answer is freedom—if the Internet is to function with open code and end-to-end intelligence—the opportunities to devise ways to stimulate democracy will be limited only by our imagination and desire. If, on the other hand, the answer is control—if the companies that own the pipes get to own the code—commercial values are likely to prevail over democratic ones.

Notes

1   Katherine Fulton, "News Isn't Always Journalism," *Columbia Journalism Review* (July/August 2000). Available online at *http://www.cjr.org/year/00/2/fulton.asp*. [Last accessed February 24, 2003].

2   Nicholas Lehman, "The Word Lab," *New Yorker*, (October 16, 2000).

3   One of the first public offerings to launch the Internet stock bubble, Globe.Com (whose initial public offering in 1998 set a record for first-day appreciation, going from $9 to $97) was promoted on the basis of its capacity to bundle together like-minded people into an electronic version of community. When the stock later plummeted, it was regarded as an ordinary, garden-variety portal—only one of a dozen "me-too" community sites from which to choose. See Peter D. Henig, "Theglobe.com falls off the edge of the world," *Red Herring* (June 9, 1999). Available online at *www.redherring.com/insider/1999/0609/inv-theglobe.html*. [Last accessed February 24, 2003].

4   John Dewey, *The Public and Its Problems* (1927); reprint (Athens, OH: Ohio University Press, 1991): 179-184.

5   Westen observed, "In California most public policies are set through the initiative process, and the legislature's job is to try and clean up the damage."

6   This idea is more fully discussed in Neil Shister, *Journalism and Commercial Success: Expanding the Business Case for Quality News and Information* (Washington, DC: The Aspen Institute, 2002).

7   "If this trend continues, it is projected that in twenty years people older than 65 are likely to outvote people under 30 by a margin of 4–1. Among the explanations for the failure to vote by youth, along with such factors as frequent moves, later marriages, and later purchases of first homes, is an attitude of political cynicism and disdain toward government." Amy Goldstein and Richard Morin, "Young Voters' Disengagement Skews Politics," *The Washington Post*, October 20, 2002.

8   Howard Kurtz, "Local TV News and the Elections: Ads Infinitum, but Few Stories," *The Washington Post*, November 2, 2002.

9   "A seemingly simple set of ideas makes it possible for computers and networks all over the world to share information and messages on the Internet: Break up every piece of information and message into pieces called *packets*, deliver those packets to the proper destinations, and then reassemble the packets into their original form after they've been delivered so the receiving computer can view and use them…. The Internet is what's known as a *packet-switched network*. In a packet-switched network, there is no single, unbroken connection between sender and receiver. Instead, when information is sent, it is broken into small packets, sent over many different routes at the same time, and then reassembled at the receiving end. By contrast, the telephone system is a *circuit-switched network*. In a circuit-switched network, after a connection is made that part of the network is dedicated only to that single connection." Preston Gralla, *How the Internet Work*s (Indianapolis, IN: QUE, 1999), 13.

10 Testimony of Eli Noam to U.S. Senate Commerce Committee. Available online at *http://commerce.senate.gov/hearings/071701Noam.pdf*. [Last accessed February 24, 2003].

11 Moyers, op. cit.

12   Reed Hundt, *You Say You Want a Revolution: A Story of Information Age Politics* (New Haven, CT: Yale University Press, 2000), 147.

13 Personal communication from Reed E. Hundt, October 17, 2002.

14 See the UCLA Internet Report 2001, "Surveying the Digital Future," from the UCLA Center for Communications Policy. Available online at *http://ccp.ucla.edu/pdf/ucla-internet-report-2001.pdf.* [Last accessed March 4, 2003].

15 David Bollier, "Reclaiming the Commons," *Boston Review* (Summer 2002), 4.

16 David Bollier, *In Search of the Public Interest in the New Media Environment* (Washington, DC: The Aspen Institute, 2002), 13.

17 Cass Sunstein, *Republic.com* (Princeton, NJ: Princeton University Press, 2002).

18 Lawrence Lessig, *The Future of Ideas: The Fate of the Commons in a Connected World* (New York, NY: Random House, 2001), 3–25.

19 Ibid, 150.

20 Ibid, 262–68.

21 Andrew Graham, "Public Policy Issues for UK Broadcasting," in *E-Britannia: The Communications Revolution* (Luton, UK: University of Luton Press, 2000).

22 Lessig, *The Future of Ideas*, 147–53.

APPENDIX

Forum on Communications and Society (FOCAS)
Annual CEO Meeting

August 4-7, 2002 • Aspen, Colorado

List of Conference Participants

Zoë Baird
President
The John and Mary R. Markle
  Foundation

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  Officer
Technology Convergence
  Partners, LLC

Gaston Caperton
President and Chief Executive
  Officer
The College Board

John Clippinger
Chairman
Parity, Inc.

Charles M. Firestone
Executive Director
Communications and Society
  Program
The Aspen Institute

Idit Harel
Chairman and Chief Executive
  Officer
MaMaMedia, Inc.

Kevin Hess
Vice President
Federal Affairs
TDS Telecom

Patricia Hodgson
Chief Executive
Independent Television
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Reed E. Hundt
Senior Advisor
McKinsey & Company

Tom C. Korologos
President
Timmons and Company,
  Incorporated

William E. Kennard
Managing Director
Telecommunications and Media
The Carlyle Group

Tracy Lawrence
President
UTV: Urban Television

Note: Titles and affiliations are as of the date of the conference.

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State of Utah

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 Commission

Pat Mitchell
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 Officer
Public Broadcasting Service

Marc Nathanson
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Charter Communications
    and
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Broadcasting Board of Governors

Eli Noam
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Peter Price
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National Academy of Television
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Lynda Resnick
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Author and Conference
 Rapporteur

Tracy Westen
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Neil Shister, a Washington-based writer and former publisher/editor of *Insight* magazine, is the author of *The Ten Minute Guide to Negotiation* (Macmillan). Shister's previous positions include correspondent with Time magazine, television writer for *The Miami Herald*, editor/publisher of *Atlanta* magazine (Atlanta, Georgia), senior vice president at Hill and Knowlton Public Relations and vice president for marketing at *Inc.* Magazine Business Resources. He has also taught secondary school as a Peace Corps volunteer in the Ivory Coast. Shister graduated Phi Beta Kappa from the University of Michigan and holds a master's degree in philosophy (M.Phil.) from Yale University.

The Aspen Institute
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The Communications and Society Program is a global forum for leveraging the power of leaders and experts from business, government and the non-profit sector in the communications and information fields for the benefit of society. Its roundtable forums and other projects aim to improve democratic societies and diverse organizations through innovative, multi-disciplinary, values-based policy-making. They promote constructive inquiry and dialogue, and the development and dissemination of new models and options for informed and wise policy decisions.

In particular, the Program provides an active venue for global leaders and experts from a variety of disciplines and backgrounds to exchange and gain new knowledge and insights on the societal impact of advances in digital technology and network communications. The Program also creates a multi-disciplinary space in the communications policy-making world where veteran and emerging decision-makers can explore new concepts, find personal growth and insight, and develop new networks for the betterment of the policy-making process and society.

The Program's projects fall into one or more of three categories: communications and media policy, communications technology and the democratic process, and information technology and social change. Ongoing activities of the Communications and Society Program include annual roundtables on journalism and society, international journalism, telecommunications policy, Internet policy, information technology, and diversity and the media. The Program also convenes the Aspen Institute Forum on Communications and Society, in which CEOs of business, government and the non-profit sector examine issues relating to the society impact of new communications technologies.

Conference reports and other materials are distributed to key policymakers and opinion leaders within the United States and around the world. They are also available to the public at large through the World Wide Web.

Charles M. Firestone is executive director of the Aspen Institute Communications and Society Program. For three years he was also the Institute's executive vice president for policy programs and international activities. Prior to his arrival at the Aspen Institute, Mr. Firestone was director of the Communications Law Program at the University of California at Los Angeles and an adjunct professor of law at the UCLA Law School. His career includes positions as an attorney at the Federal Communications Commission, as director of litigation for a Washington, DC public interest law firm, and as a communications and entertainment attorney in Los Angeles. He has argued several landmark communications law cases before the United States Supreme Court and other federal appellate courts. Mr. Firestone holds degrees from Amherst College and Duke University Law School, and is the editor or co-author of seven books, including *Digital Broadcasting and the Public Interest* (The Aspen Institute, 1998) and *Television and Elections* (The Aspen Institute, 1992), and has written numerous articles on communications law and policy.

Previous Publications
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In Search of the Public Interest in the New Media Environment (2001)

David Bollier, rapporteur. This report examines the changing concept of the public interest in media. It suggests options for funding educational and cultural content when all media are moving toward digital transmission. The publication also includes afterthoughts from an international perspective by British historian Asa Briggs. 61 pages, ISBN Paper: 0-89843-333-9. $12.00.

Information Literacy: Advancing Opportunities for Learning in the Digital Age (1999)

Richard P. Adler, rapporteur. The report explores the barriers that impede acquisition of the knowledge and skills needed to manage information effectively in its myriad forms, especially digital. It explores six concrete initiatives that individuals and institutions might develop to remedy this problem. The report includes a background paper on information literacy by Patricia Senn Breivik, dean of Library at San Jose State University and chair of the National Forum on Information Literacy. 45 pages, ISBN Paper: 0-89843-262-6, $12.00.

Jobs, Technology, and Employability: Redefining the Social Contract(1998)

Richard P. Adler, rapporteur. This report examines the changing nature of the employee-employer relationship and whether the economic, technological, demographic, and social trends driving the global economy will lead to the development of a new "social contract" between employer and employee. 62 pages, ISBN Paper: 0-89843-241-3, $12.00.

Creating a Learning Society: Initiatives for Education and Technology
    Amy Korzick Garmer and Charles M. Firestone, rapporteurs. The first report of the Aspen Institute Forum on Communications and Society, offers a range of initiatives for overcoming barriers to funding technology in schools and training teachers how to integrate technology into the classroom, and addresses broader issues of lifelong learning outside the classroom. 1996, 81 pages, ISBN Paper: 0-89843-197-2 $10.00.