



# A Letter to Journalists from a Former FCC Commissioner

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# A Letter to Journalists from a Former FCC Commissioner

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## A LETTER TO JOURNALISTS

Dear Journalist:

You may wonder why a long-time regulator like me is writing to you. The answer is that for more than a decade I occupied a front-row seat watching government policy undermine your profession and our democracy. I want to do something about it. I want *you* to do something about it, too. I worked at the intersection of policy and journalism as a Member of the Federal Communications Commission (FCC) and saw first-hand how my agency's decisions limited your ability to accomplish good things. Let me tell you what I saw.

I was sworn in as a Commissioner in 2001. "What a totally awesome job this is going to be," I thought as I sat down at my desk. "I'll be dealing with edge-of-the-envelope issues that are transforming the planet; I'll meet the visionaries and innovators who are making it happen; and I'll have a formative hand in crafting policies to bring the incredible power of communications to every American." It was a heady time when even normally sensible people believed that technology had put an end to the business cycle's ups and downs. And broadband, the savants told us, would bring the revolutionary wonders of the Internet to every home and hamlet. The new media of the Internet would complement the traditional media of newspapers, radio, TV and cable, ushering in a golden age of communications. News and information journalism would flourish, and America's civic dialogue—the essential small "d" democratic conversation that self-governing citizens need to have with one another—would be nourished as never before. I was on fire to serve, confident that I occupied a position that would contribute measurably to making good things happen.

My expectations were short-lived. It turned out that the FCC I was joining had an altogether different agenda. One of the first requests that I received from my new Chairman was to support a merger between two media companies.<sup>1</sup> (I dissented, but it was approved by the GOP majority.) Little did I realize that, from then on, a huge slice of my waking hours would be spent listening to big media types tell me how their latest proposal to gobble up more properties would translate into enormous "efficiencies" and "economies of scale" to produce more and better news—something they knew was near and dear to my heart. Imagine listening day after day to these soothing assurances while at the same time, everywhere I looked, I saw newsrooms being shuttered or drastically

downsized, reporters getting the axe, and investigative journalism clinging to the slenderest of threads.

In order to maximize profits and to finance their costly media transactions, the merged companies were under the financial gun to cut costs. The first place they looked to cut was, and is, the newsroom. Instead of expanding news and creating opportunities for journalists like you, they cut the muscle out of deep-dive reporting and disinvested in you and your future. It took only a few weeks for me to understand that my new job would be less about expanding citizen-friendly media and more about trying to staunch the hemorrhage.

Then another light bulb went on: The public policy the FCC was making was a *major* force refashioning our media ecosystem. It wasn't just the excesses of a Wall Street bazaar run wild. It wasn't just private sector business plans wreaking all this havoc. It was proactive government policy-making. Government—my own agency—was the willing, indeed eager, accomplice in diminishing our news and disfiguring our journalism. The regulatory agency where I worked was actually making things worse. You need to know this story.

The FCC that I joined had fallen as madly in love with industry consolidation as had any of the swashbuckling captains of communications. Indeed, the agency seldom met an industry transaction that it didn't embrace. The Commission's blessing not only conferred legitimacy on a particular transaction; it encouraged the next deal and the hundreds of deals after that. So Clear Channel radio grew to 1200 stations, the broadcast networks and their affiliates gobbled up hundreds of independent community outlets, and a few powerful groups like Sinclair and Tribune amassed near total control in dozens of media markets across the country.<sup>2</sup> Gone are literally scores of once-independent broadcast stations. In their stead we find a truncated list of nation-wide, homogenized, and de-journalized empires that respond more to the bottom line of the quarterly report than to the news and information needs of citizens.

While the FCC's oversight focuses more heavily on broadcast, its decisions affect newspapers, too. Numerous merger approvals have involved newspaper-broadcast cross-ownership, which almost invariably translates into combined, downsized or eliminated newsrooms. Estimates vary depending upon the metrics used, but newsroom employment is down anywhere from 30-50 percent since 2000—and 6 percent in the last year alone.<sup>3</sup> Of course, other factors also contributed to the decline of newsroom

employment. These include the earth-shaking movement of advertising to the Internet and the deep recession that began in 2007. There is an extensive literature on the subject so we need not retell the story here. My point is that both the private sector consolidation and the public policy shortfalls that I discuss in this letter have had a direct, material and damaging impact on newspaper journalism, analogous to their effect on other media platforms.

Frankly, I was expecting change for the better after the 2008 presidential election and the coming of a Democratic majority to the FCC. After all, Senator Barack Obama had expressed his opposition to the pace of media industry consolidation and had affirmed his intention that public interest considerations should drive FCC decision-making. His letters to the FCC are an eye-opening matter of public record. To this day I pull copies out of my file drawer and shake my head because of what might have been if only performance had lived up to promise.<sup>4 5</sup>

So it happened that in the very first year of the new administration, cable giant Comcast came knocking at the Commission door seeking approval to purchase majority control of the already huge and powerful NBC-Universal media complex. The proposal was daunting in both its breadth and depth. The merged entity would include media and telecom; broadcast and broadband; distribution and content (the medium and the message); horizontal as well as vertical integration; traditional and new media. Stating that this heretofore unimaginable combination was “too much, too big, too powerful, too lacking in benefits for American consumers and citizens,” I cast the lone dissenting vote. Allowing one mega-corporation to wield gateway and content power over TV, cable and broadband in markets around the country, I said, dooms consumer-friendly competition, curbs the diversity of voices that a diverse nation must hear, and confers power that no one company should wield.<sup>6</sup>

Comcast’s power grab was not the end of it—not even close. Not even for Comcast, which just recently announced its intention to purchase Time Warner Cable, the nation’s second largest cable company. And TV stations are hotter-than-ever commodities in the wake of the Supreme Court’s infamous *Citizens United* decision that freed up billions of super PAC and dark money dollars to purchase TV advertising and fattened the coffers of TV outlets. So the bazaar never closes, with nearly 300 TV station sales, valued at over \$8 billion, announced in 2013.<sup>7</sup> A top TV industry executive recently remarked, “This wave of consolidation has been the biggest wave in my view in the history of television.”<sup>8</sup> Such

an amalgamation of power represents a staggering loss of local, community-controlled media. To make matters worse, companies have devised clever strategies to skirt the FCC's ownership rules through Shared Services and Joint Sales Agreements whereby they are able to "manage" (read "control") stations they do not technically own.<sup>9</sup>

## II.

"But wait," you may be thinking. "Won't the new media of the Internet cure the downsides of consolidation? Too bad about the shrinkage of news and journalism in newspapers, radio and TV, but they were headed into the ash-can of history anyways." I love the Internet as much as anybody. I use it every day, sometimes all day—just like you. And the record shows that I have been among the most committed advocates of bringing high-speed, low-cost broadband and its accompanying Internet blessings to every American. We see wonderful innovation and entrepreneurship online. Barriers to entry are low, everyone can speak, and events never before coverable are now sent around the globe in a flash. All wonderful, all true.

Yet we are hardly living in a golden age of news and information. Only a precious few have managed to find an online model to support the resource-intensive journalism that has been so drastically diminished in traditional media. Ironically, the primary source of the news and information that we read, even online, continues to originate in newspaper and TV newsrooms.<sup>10 11</sup> The Shorenstein Center's Alex Jones estimates that "85 percent of professionally reported accountability news comes from newspapers, but I have heard guesses from credible sources that go as high as 95 percent."<sup>12</sup> The problem is that these traditional sources are providing much less output than they once did.

It is worth spending a few moments focusing on our expectations for the Internet. Your expectations are probably very high. Mine are, too. Each of us has already lived the Internet's incredible transformative power, but just as amazing are the innovation and services yet to come. The Internet is still in its adolescence. Yes, it will take us to new and exciting places no matter what, but the Internet is at a vulnerable juncture right now. It is clear to me that decisions made in the public realm will have as much to do with its success as will technology and entrepreneurship themselves. As journalists who will spend a good bit of your time working online, this is bottom-line for you.

In 2002 the FCC decided that there would be almost no oversight of the broadband highways that deliver the Internet to us. Indeed, the agency actually determined that broadband would not even be called telecommunications. It would instead be an

“information service,” which meant that consumer protections (like ubiquitous service, reasonable prices, privacy, public safety and competitive choice) that applied to previous generations’ telephone service would not be required as our communications went digital.<sup>13</sup> If consumers wished to enjoy such protections for broadband, they would have to start all over—in a decidedly hostile political and regulatory climate. No other nation permitted such a ludicrous exercise in semantics to shackle the deployment and adoption of consumer-friendly broadband.<sup>14</sup> Just us. It worked well for the industry giants, of course: what more could they ask—market power, gateway control, the elimination of obligations to protect consumers—and all without troublesome public oversight.

Equally threatening to our online future has been policymakers’ reluctance to guarantee a truly open Internet. The key to a thriving Internet is that users, not gatekeepers, control their online experiences. (Note that I have not invoked the meaningless term “network neutrality,” because it so singularly uninformative; we will talk about “Internet Freedom” instead.) The core idea of Internet Freedom is that consumers should be free to access the lawful content of their choice, run the applications and attach the devices they prefer, and enjoy the benefits of transparency and non-discrimination. Internet Service Providers (ISPs) should not be allowed to favor their own businesses over others. This is not just to encourage competition; it is also to maintain a free flow of information so citizens are able to access a diversity of providers. Permitting Verizon, AT&T or Comcast to control access to information is a direct and unacceptable threat to our democracy—and to you as journalists.

Some have claimed that Internet Freedom is a solution in search of a problem. Yet there has been no lack of interference and attempted gatekeeping. We have seen it at work in cases involving mobile providers blocking FaceTime and Vonage’s VoIP traffic.<sup>15</sup> <sup>16</sup> And, of course, there is the well-known instance of Comcast throttling BitTorrent which struck me as purposefully slowing certain applications on its networks and discriminating in a way that threatened the freedom end-users expect.<sup>17</sup> More recently, Comcast announced new “improved data management approaches,” otherwise known as data caps,<sup>18</sup> which are another infringement on Internet Freedom. Now the company is rolling out metered billing trials in select markets like Atlanta, Georgia, where it does not face uncapped competition from other ISPs.<sup>19</sup> One might reasonably expect that while industry lobbies for regulation-free government, it would be on good

behavior until it pushed public policymakers out of the way once and for all. If this is what they do while government is watching, imagine what they will do once government oversight is swept away.

The FCC that took shape when Barack Obama became president went quickly on-record in favor of Internet Freedom.<sup>20</sup> While this was a welcome pledge remembered, the devil was, of course, in the details. The new administration was reluctant to get into a bare-knuckle fight with powerful industries, so the incoming Commission opted instead for what it thought would be the best of two worlds—very mild, even milquetoast, network protections that would show it was doing *something*, even as it avoided a bloody fight to the finish with the corporate titans. Industry was invited in to help craft the guidelines, but then, going for the bleachers, it took even the watered-down rules that resulted to court.

In January 2014, the DC Circuit Court of Appeals overturned the rules. If the FCC fails to respond, ISPs will be able to block access to sites they may not like and to speed up traffic for websites able to pay a hefty premium for carriage.

But the court also showed a way out for the FCC. It opined that if the Commission had classified broadband as “telecommunications” rather than an “information service,” the new rules would likely have passed muster. Now it is up to the agency to act. The surest way out of the imbroglio is reclassification and then writing meaningful new rules. This is the major test facing the new FCC Chairman, Tom Wheeler, and his four colleagues.

I have thus far focused heavily on Internet Service Providers—the telephone, cable and fiber firms that provide access to broadband. This is just the first chapter of the story. Now we see attempts at gatekeeping on the Internet itself, such as Apple blocking the Google voice app on idevices—until consumer reaction and a rare threat of regulatory intervention caused Apple to retreat. To me, this raises the stakes of Internet Freedom exponentially.

Because proponents of Internet Freedom have been so worried about ISP discrimination, reformers assiduously courted the Internet companies as allies in the early years of the fight to maintain Internet Freedom. Truth be told, I was originally happy to see the high-tech newcomers begin to do battle with the telecom giants. But we may rue the day when they began to beef up their Washington lobbies. Now that Internet companies themselves understand the rewards of gatekeeping, we would do



well to reformulate Lord Palmerston's sage maxim—Internet Freedom has no permanent friends; it has only permanent interests.

So the ability of the Internet to work its wonders and fulfill its potential is not on auto-pilot. We know that the Internet *can* be democracy's potent ally. It should be. But Internet practice can fall short of democratic theory. Scholars and practitioners are edging toward this realization. In his seminal *The Myth of Digital Democracy*, Professor Matthew Hindman demonstrates that many of the assumptions we initially made about the web turn out not to be true. In a recent conversation, Hindman cited his continuing, indeed growing, concern (soon to appear in a new book) over the small number of news websites that occupy more-or-less stable positions atop the pile. He sees some shifts up and down annually, but a rate of churn that is consistently and depressingly low. The emergence of new bloggers has actually slowed. Amanda Terkel, Senior Political Reporter for the *Huffington Post*, told me that it was easier to start a successful blog four or five years ago: "Now, you don't see that as much."<sup>21</sup>

Many blogs have disappeared into the ether. Some who succeed are purchased by Internet giants. Even these successes come with a price. The buy-out of the more successful Internet entrepreneurs reinforces a trend toward consolidation in new media that is eerily reminiscent of what befell traditional media. Again we should not be surprised. What is surprising is that so many "experts" assumed that the Internet would somehow be exempt from the trends toward consolidation and market power that have characterized the evolution of every other communications system.

Hindman finds that the top 10 websites have seen their traffic increase from 26 percent of all visits in 2007 to 36 percent today. This is a dramatic increase in concentration over a very brief period. In his view, "the Internet is doing a poorer job of serving democratic values than it was even five years ago."<sup>22</sup> Think about that: The most opportunity-creating technology in history, and we are short-circuiting its potential before it reaches maturity.

### III.

From what I have written thus far, you can see that I am not the country's only concerned citizen. I have benefited from the research and insights of many thoughtful experts, advocates and just-plain-worried citizens. Nor is this letter the first place I have told my story. I began talking about it as soon as I saw what was happening. You might ask, paraphrasing Sarah Palin: "How's that telling-the-story stuff working for me?"

During my 10 years at the FCC, I took part in scores of town hall meetings and community forums all across America to tell people what I saw happening and to learn more about their personal experiences with our communications ecosystem.

In some places these meetings would attract attention; in others they would go unnoticed. It didn't take me long to figure out why there were such disparities in coverage. If a city or town's media was under consolidated control—with a large, far-away company owning the major broadcast and, often, newspaper outlets—I quickly came to understand that the coverage would be somewhere between slim and none. If perception is reality, I had never been there. Most of these town hall meetings went on for hours. Hundreds of citizens would sometimes come; there would be an open-microphone, so everyone could speak; a U.S. senator, congressperson or local dignitary would often be on the program, sometimes even hosting it.

Following the hearings, I would rush back to the hotel and flip on the TV looking for coverage. Occasionally there would be a mention; more often it was silence in Big Media Land. But if I was visiting a town where independent media still existed and locally employed journalists were on the beat, there would be advance notice that a meeting was going to happen; there was often live TV coverage; and the event would be reported in detail, very often on the front page of the local paper.

I am not a conspiracy theorist by nature. I don't see these issues as good guys vs. bad guys. I see them as fairly predictable results of a system where the demands of Wall Street for ever-growing quarterly profits have become the dominant driver in running a business. The Wall Street mantra is clear: Play the game or be voted off the island. The dismal options for the independent owner too often reduce to selling out to someone who understands the facts of life or watching the business fail. My point here is that there is more than sheer coincidence involved in the differentiated coverage that I, and many like-minded reformers and advocates, received in these differently modeled media marketplaces.

While still a Commissioner, I went one day to visit the editorial page editor of a major newspaper. I had noticed an editorial chastising the excesses of big oil companies, and I told the editor I was there to urge the paper to run a similar critique about the excesses of big media. The response I got was a negative shake of the head and an explanation that the editor had complete freedom to cover any issue—except one. That issue was media ownership. I nearly fell through the floor at this stark admission, but then I

realized that the explicit statement I had just heard only validated the practical experiences I was encountering in my travels around the nation.

I can understand, although I disagree with, those who say the future of our media ecosystem is not a sufficiently compelling popular issue to justify its coverage. Yet I also remember when, following our grassroots gatherings, three million citizens wrote in to oppose the FCC's loosened media ownership rules that were approved in 2003 over my dissent.<sup>23</sup> This outpouring of public sentiment happened in spite of big media's anemic coverage of the issue, proving there was indeed grassroots interest in the issue.<sup>24</sup> The three million figure is all the more impressive considering that this happened before online activism had really taken off.

Reacting to the grassroots pressure, the Senate voted its disapproval of the loosened Commission rules and the House went on record against them, too.<sup>25</sup> (Soon a federal court, equally unimpressed with the FCC's handiwork, sent them back to the agency for a re-do.)<sup>26</sup> I recall a member of Congress telling me that he had recently held a town hall meeting in his district where he had been asked about these rules. He had never heard this issue raised back home, he said. He voted to overturn the rules.

The Commission tried to loosen the rules again in 2007. Again I dissented, and again the Commission's majority was turned back by the Senate and the court. It's not over yet: believe it or not, the agency spent much of 2012 trying to loosen the rules again. But it's a beat not covered, so most of the country doesn't have a clue that these rule changes are still in play at the FCC.

There are many other beats not receiving the attention they merit. One of them is statehouse coverage. Who ever heard, until recently, of the American Legislative Exchange Council (ALEC)? Funded by big business, ALEC entertains state legislators at posh resorts and then presents them with already-drafted bills to drop into the legislative hopper back home. Many of these bills actually pass—restricting open elections and making life tougher for labor, education, environmental protection and government oversight generally.<sup>27</sup> ALEC also fronts for the communications conglomerates. Due in large measure to ALEC's backing, 19 states have passed legislation making it almost impossible for local communities and municipalities to build their own broadband networks, even when the big companies have no immediate intention of building in those places.<sup>28</sup> How's that for slamming the brakes on the deployment of the 21st century's most important infrastructure build-out? Even if the country should get a

Congress willing to step up to the plate on such issues, legislators will find the doors to corrective national legislation already barred by many states—or, more accurately, barred by ALEC.

ALEC recently celebrated its 40th birthday. Here's the shocker: I never heard of ALEC until The Center for Media and Democracy, Bill Moyers and Common Cause uncovered its operations a couple of years ago. I consider myself reasonably well informed, and I've worked in Washington for more than 40 years, yet this was news to me. Now that some sunlight has been cast on ALEC, several of its prime corporate members have either withdrawn or decided against renewing their memberships.<sup>29</sup> But the lobbying continues; new avenues for influence are being paved even as I write; and the money keeps flowing.

The beat I most want media to cover (as you may have already guessed) is media themselves. It is no secret that big media companies are not famous for self-reporting. But when private-sector business plans diminish the infrastructure upon which we rely for our news and information, it is a story that needs to be told. When infotainment supplants hard news, shouted opinion displaces fact, and whole swathes of this land of diversity go uncovered, it is a story that needs to be told. When government policy, no matter how pure or impure its motivation, aids and abets the transformation, it is a story that needs to be told.

#### IV.

You will not be surprised to learn that I believe there is much more the Federal Communications Commission should be doing to revitalize America's media. The FCC's job, by statute, is to protect "the public interest." The agency's public interest mandate is not some recent regulatory add-on. The term "public interest" appears over 100 times in the Telecommunications Act, and its origins trace back farther than that.<sup>30</sup> The idea behind it is that spectrum is a public resource, belonging to all the people. No business, no individual, actually owns even one hertz of spectrum. Broadcasters are granted licenses to use the people's airwaves in return for serving the common good. In terms of media, the public interest has long been defined as enhancing local community broadcasting (and yes, there are good local broadcasters still standing, although they are under enormous pressure to succumb to the financial expectations of "the Street"); encouraging diversity of viewpoint and content; and stimulating competition within media markets. Localism, diversity and competition are the triad of the public interest.

The FCC could usher in a new “Era of the Public Interest” by learning to say “No!” to merger proposals that will wreak further havoc on journalism. This is the essential first step, because continuing down the present road of approving almost every transaction that comes before the Commission means inflicting unacceptable harm on a system that can ill afford additional injury.

Next, the FCC needs to implement a credible licensing system. An automatic eight-year extension of a broadcaster’s privilege to utilize the public airwaves, no questions asked, is nothing more than conferring monopoly power without public oversight. For many years, the FCC maintained a list of licensing guidelines—a list of performance measures the agency would look to when a station’s license was up for renewal. They numbered 14, emphasizing opportunities for local self-expression, public affairs programs, news, service to minority groups, and limitations on advertising. Stations were also expected to consult with local audiences about what issues merited coverage. The Commission never did a credible job of implementing these guidelines and, as the power of big media grew, the agency abandoned them (with the one exception of requiring higher standards for children’s programming).<sup>31</sup> Updated guidelines would provide an enormous boost to the public interest. At the same time, the licensing period should be shortened to three years to permit more regular performance evaluations.

If the FCC denied a license or two on grounds of non-performance, or even put a few stations on probation for not delivering, I expect the public interest would quickly gain credibility where it most needs credibility—in the broadcasting industry’s executive suites.

The FCC could also serve the public interest by addressing the shocking lack of minority and female ownership of stations utilizing the public airwaves. The FCC’s lack of progress in opening the doors of opportunity to minorities and women was the greatest disappointment I experienced during my years at the agency. We are a nation over one-third minority—35% according to the latest 2010 Census figures.<sup>32</sup> Demographers tell us that by mid-century, minorities will constitute the majority.<sup>33</sup> Yet racial minorities own just 3.15 percent of full-power commercial television stations.<sup>34</sup> Women own 6 percent of radio stations.<sup>35</sup>

Why would anyone be surprised, then, that minorities are so often caricatured, stereotyped and woefully under-represented in our media, or that issues of concern to them receive such short-shrift? What is more surprising is that so much of present-day

media—indeed, so much of journalism—encourages this caricatured representation. Stories about African-Americans are disproportionately about crime, sports or entertainment; the focus of reporting on Latinos is mostly illegal immigration; Asian-Americans are rarely featured; and Native Americans almost never. If one of our national purposes is to reflect the brilliant tapestry and cultural diversity of this rainbow nation, then our media has plainly flunked the course. I do not believe that many journalists will contest this assertion, yet the coverage seems never to improve. Journalism itself must shoulder much of the blame. As Dori Maynard of the Maynard Institute explained to me recently, journalism’s failure is tantamount to an active role in sustaining this distorted coverage.<sup>36</sup>

The FCC could also act on dozens of proposals it has received in recent years—ideas for policies such as minority financing incentives and spectrum set-asides. But most of these recommendations never even make it to a Commission vote. When I was there, I recommended that the full Commission vote up or down on one such proposal every month. That’s didn’t strike me as particularly zealous, but the suggestion sank into the same deep hole as the proposals themselves.

One other suggestion involves both the FCC and you as journalists. How about generating a national discussion about the future of the Internet? I have already talked about the need for action on immediate challenges, like guaranteeing Internet Freedom. Here I am suggesting a longer-term look at the future of the 21st century’s most important communications infrastructure. Several years ago, I began talking about disturbing online trends and warning that the Internet was in clear-and-present danger of not delivering its awesome potential. The reaction from talking heads and government nay-sayers was that I only wanted to “regulate” the Internet.<sup>37 38</sup> More recently, however, credible literature has appeared to argue that a 100 percent pure, commercially driven Internet may not only fail to solve all problems; it may, as we have seen in previous pages, actually exacerbate them. Perhaps the current controversies over Internet privacy and Internet Freedom will stimulate a broader discussion, but we have waited too long to talk about this.

The FCC clearly has more than enough authority to launch a national dialogue about the future of the Internet. The Commission would fulfill an important public interest responsibility by doing so. Journalists could be doing the same. Given their expertise and immediate interest in how the Internet evolves, who better to help generate this

dialogue? If, indeed, much of our civic conversation will over time transition online, then the Internet becomes hugely invested with the public interest. At some point, probably sooner rather than later given the velocity of technology change, the country will have to make important decisions about this. Regulators and journalists alike should be helping us develop sound policy options now.

## V.

I have heard all the arguments about the need to keep reporters from becoming part of the story they are covering and how journalists of the Fourth Estate must never be tainted by involvement in public policy formation. These are old and honorable contentions, with a lineage tracing back many years.

Neither journalism nor public policy-making is, however, a purist's redoubt. The compromises and ambiguities of policymaking require no elaboration here, but in journalism, too, there are exceptions. The issue of government surveillance is instructive.

Widespread journalist advocacy on behalf of protecting news sources was front-page news during the dramatic revelations of National Security Agency (NSA) surveillance activities. Journalists are obviously part of that story—in some ways they *are* the story—and some have advocated for stronger legislative safeguards to protect themselves and their profession when they disclose controversial national security information.<sup>39 40 41</sup>

Perhaps, then, the lines of separation between journalism and public policy are less than brightly drawn. Perhaps talking about issues going beyond national security source protection is a discussion worth having. Take the larger issue of citizen privacy. National security source protection is one component of a wider range of privacy challenges growing out of an environment where advertisers, content producers and politicians want to know everything about us. The national security complex may or may not be scaling back its surveillance in the wake of recent revelations, but as Somini Sengupta wrote recently in the *New York Times*, "...the Internet industry has only sharpened its efforts to track users online, which it considers essential to profitability."<sup>42</sup> Sengupta cites examples such as Google's announced intention to employ personal information about users in commercial advertisements, and he references a September 2013 Pew Survey, "Anonymity, Privacy, and Security Online" that found Americans more concerned about shielding themselves from advertising than from government agencies.<sup>43</sup> This widening net of commercial surveillance is every bit as threatening to citizens as NSA surveillance.

It is difficult for me to detect a bright line between these two privacy issues, yet one seems to elicit more journalist advocacy than the other.

Let's take it a couple of steps further. Suppose you as a journalist fear that your livelihood and your profession are jeopardized by the policies I am writing about in this letter. Are you justified in seeking policy redress? Or, suppose you think the nation's civic dialogue has been "dumbed-down" to the point where citizens' ability to make informed decisions about their future is seriously impaired. Are these sufficient causes for action on your part? Personally, I think they are. I don't purport to be a journalist, but Columbia University School of Journalism's widely respected Nicholas Lemann is one of many who agree. In a recent conversation, he emphasized to me the importance he attaches to journalists expanding their involvement in media policy issues.<sup>44</sup> It's a charged question, I know, but I am convinced it is one you need to reflect upon as you practice your profession.

## VI.

What, then, is a journalist to do? It will come as no revelation to anyone reading this letter that I believe in activism. Not only do I think it is important for a regulator; I think it is essential for a journalist.

We have all heard about internal constraints from employers to discourage or even preclude journalists from the expression of personal opinion, both inside and outside the workplace, not to mention involvement in direct public policy advocacy.<sup>45</sup>

The extent of such limitations is a subject worthy of its own story. My understanding is that such obstacles are often implied rather than explicit, designed perhaps to generate self-imposed restraint.<sup>46</sup> But, like most of you, I have been told of instances wherein journalists are forbidden to express their personal opinions, even in forums not connected to their jobs, such as a blog. At some point, constraints upon a journalist's freedom of expression collide with a citizen's right to free expression.

One way to respond to such constraints is to work collectively with like-minded peers who share your experiences and your views. Organizations dedicated to the well-being of journalism can provide strengths that an individual lacks—and also some anonymity. It is your right as both journalist and citizen to be a part of them. The Writers Guilds, the National Writers Union and the Committee to Protect Journalism are only three among many.<sup>47</sup> Additionally, schools of journalism and mass communications across the nation should be more proactively engaged in safeguarding the rights of the journalists they



have trained. My hope is that everyone reading this letter will seriously consider the option of organized action.

At some point in any discussion about the role of journalists in public policy, someone is bound to invoke the First Amendment, as if some bright Constitutional line proscribed journalists from being citizens. In a previous life I was an historian, and I have never understood how freedom of the press could be interpreted as a limitation on journalists' speech. Nor do I find credence in the assertion that the First Amendment prohibits any role for government in supporting—or even being involved with—journalism. History informs us otherwise. One of the early acts of the Founding Fathers—the same generation that wrote the First Amendment—was legislation to build roads and provide large subsidies for the widest possible dissemination of newspapers throughout the land, permitting citizens to make informed decisions and thereby to vindicate the Founders' new and untested experiment in self-government.<sup>48</sup> This material support for the news and information infrastructure came with sterling Constitutional foundations. Closer to our own day, government stepped in to ensure that the public airwaves (radio and then TV) served the public interest.

It is here, in the responsibilities of citizenship, that I rest my case. While there will always be some who try to erect “Keep Out” signs whenever journalists approach the realm of public policy, I do not believe that the daunting condition of our country, the proud traditions of the press, or the obligations of citizenship permit exclusion from every person's right to participate, as vigorously as she or he chooses, in the public policy domain. This applies as surely to journalists as to anyone else. Critical decisions that will determine the development of our news and information ecosystem wait upon us. There is an old axiom that a former employer of mine, U.S. Senator Fritz Hollings, often cited: “Decisions without you are decisions against you.” Translated into practical terms, journalists can refuse to be part of the story, but that means they won't be part of the solution, either.

Our present media system is the result of conscious political choices—we are in the current moment of a very long story, as Lear Center Director Martin Kaplan described it to me. The media system of the future will likewise be determined by conscious political choices.<sup>49</sup> How could a concerned journalist not be part of this? It is an issue of public moment because journalism is itself a public good.

James Madison said it best: “A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps both. Knowledge will forever govern ignorance. And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives.”<sup>50</sup>

That sounds like a job for all of us.

Best wishes,

Michael J. Copps

Fellow

Shorenstein Center on Media, Politics and Public Policy

Fall 2013

Senior Adviser on Media & Democracy Reform, Common Cause

P.S. I welcome your thoughts at [mediaanddemocracyreform@commoncause.org](mailto:mediaanddemocracyreform@commoncause.org).

Appendix 1: List of Interviewees Informing this Paper (See endnotes for references to specific citations)

Eric Alterman	Eric Bates
Nolan Bowie	Tom Fiedler
Daniel Fletcher	Daniel Froomkin
Bradley Hamm	Jeffrey Hermes
Matthew Hindman	Alex Jones
Martin Kaplan	Susan King
Eric Klinenberg	Nicholas Lemann
Lawrence Lessig	Dori Maynard
Robert McChesney	John Nichols
Geneva Overholser	Thomas Patterson
Victor Pickard	Wick Rowland
Bobby Samuels	Andrew Sellars
Hedrick Smith	Amanda Terkel
Ernie Wilson	

Appendix 2: Young Journalists Roundtable

On October 24, 2013 Michael Copps sat down with a collection of young, aspiring journalists to hear their thoughts on the current state of the media and the future of their profession. Participants were:

Brendan Brady, Harvard Kennedy School  
Chris Lisinski, Boston University  
Sofiya Mahdi, Boston University  
Rohan Mascarenhas, Harvard Kennedy School  
Alexandra Raphel, Harvard Kennedy School  
Matthew Shuham, Harvard College  
Carrie Tian, Harvard College  
Yuxi Tian, Harvard Law School

### Appendix 3: Acknowledgements

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