

# **DOES MEDIA OWNERSHIP AFFECT MEDIA STANDS?**

## **THE CASE OF THE TELECOMMUNICATIONS ACT OF 1996**

### **Executive Summary**

We are posting J.H. Snider and Benjamin I. Page's 1997 study on the media ownership debate because it has become relevant. At a hearing on media ownership on May 13, 2003, Senate Commerce Committee Chair John McCain waved the study at a media mogul on the panel and said: "Do you think this is an anomaly?" McCain's comment and the study to which it referred were subsequently featured on the front page of the business section in *The Washington Post* (Frank Ahrens, "FCC Sees Local Gain to Age of Max Media," May 16, 2003, p. E1). During the late 1990s, the two papers that constitute the study were widely cited in academic books and articles. But this was the first time they had become relevant to the policy-making community.

#### **Paper #1**

When the FCC and Congress were debating whether to give away or sell \$70 billion worth of digital broadcast spectrum in 1996, local TV broadcasters embarked on a furious lobbying campaign to ensure that they got the spectrum for free. The study looked at two different ways that ownership interests may have influenced media coverage. The first paper studied "Overt Bias," media coverage of the telecommunications issue that was under debate. The paper found that newspaper editorial coverage was indeed influenced by broadcast ownership interests.

#### **Paper #2**

The second paper studied "Covert Bias," actual or threatened media coverage of other issues that could apply pressure on a political candidate to take the position favored by local TV broadcasters on the telecommunications issue. The paper found that a prominent and powerful local broadcaster threatened media retribution on the key opponent of the spectrum giveaway, Senator Bob Dole, at a time and place where this threat would likely have maximum effect. The broadcaster, a member of the NAB board, made the threat soon after an NAB board meeting, which was consumed by the danger Senator Dole posed to the future of their industry.

#### **Paper #3**

Finally, we are posting J.H. Snider's 1999 paper on "The Paradox of News Bias," which was published as a chapter in *Politics, Discourse, and American Society: New Agendas*, edited by Roderick P. Hart and Bartholomew H. Sparrow, Rowman & Littlefield: New York, 2001. The paradox of news bias is that broadcasters have a strong incentive to exercise bias in ways that are not verifiable or even detectable by either the public or scholarly community. Moreover, on issues of information policy, they have ample means to exercise bias this way. An analogy to the paradox of news bias is the paradox of

interest group bias. Interest groups and politicians have strong incentives to jointly engage in opportunistic behavior in ways that aren't verifiable.

The paradox of news bias calls for new methods to study the probability of broadcaster bias. The FCC's and federal courts' recent demands for hard evidence of bias to justify current media ownership rules make this paper especially relevant. These demands reflect a fundamental misunderstanding of the nature of evidence available to prove bias. There needs to be a shift from a "smoking gun" standard of evidence to an "appearance" standard of evidence.

## **Appendices**

The Telecommunications Act of 1996 may have been a partial exemption from the paradox of news bias because of the huge stakes for the broadcasters and the very tight deadline on which they had to act. Nick Evans, for example, was unable to see Bob Dole personally (an unverifiable interaction), so was forced to write a letter (a verifiable interaction) in order to get his message to Dole before the upcoming vote on the Telecommunications Act of 1996.

Finally, we are including three relevant appendices. Appendix A is the "threat" letter written on January 22, 1996 by Nick W. Evans to then-presidential candidate Senator Robert Dole. Evans was President of Spartan Communications, Inc., Board Member of the National Association of Broadcasters, and a dominant local broadcaster in Dole's home state of Kansas. The letter urges Senator Dole to reconsider his position regarding spectrum auctions, while reminding Senator Dole of the influence of Mr. Evans' ten network affiliated TV stations in five different states. The letter was handed to Senator Dole just before the crucially important Iowa presidential caucuses by a general manager in an Iowa TV station owned by Spartan Communications.

Appendix B provides two political cartoons from *The Washington Post* (July 27, 1997 and August 1, 1997) that illustrate the hypothesis tested in this study. Appendix C is a compilation of NAB lobbying activities for 1996.

## **Relevance (in hindsight) to the Current Debate**

The FCC and courts have demonstrated substantial theoretical and methodological confusion about both the causes and consequences of media consolidation. The current debate over media consolidation would benefit from two contributions: 1) A well developed theory of media bias that provides a guide to potential adverse consequences of media consolidation, and 2) A well developed theory as to what type of evidence of bias it is reasonable to expect.

**An example of the need for a theory of media bias.** Let's suppose there are two types of economic interests that could lead to bias: individual company bias and corporate bias. An example of potential individual company bias is Disney purchasing ABC News. It might be feared that ABC would give Disney undue favorable coverage. An example of potential industry bias is the broadcasting and newspaper industries acquiring each other. It might be feared that that the broadcasting industry would not cover a huge

government giveaway of spectrum to broadcasters and that this lack of coverage would be exacerbated if the interests of the broadcasting and newspaper industry were commingled. The policy prescription to address individual company bias (diverse ownership at the company level) is different than the policy prescription to address industry level bias (diverse broadcaster and newspaper ownership). In other words, any attempt to come up with a single diversity index is fundamentally flawed.

**An example of the need for a flexible standard of evidence.** Let's suppose a media entity wants to use the news to pursue a corporate interest. What incentive and means does the entity have to pursue a type of bias that is unobservable and unverifiable? It may be that the incentive and means are substantial. As an analogy, think of the incentive and means interest groups have to exercise influence over politicians without leaving an observable and verifiable trail. The difficulty of proving interest group bias is so great and so widely recognized that legislative bodies have developed ethics guidelines based on an "appearance" rather than a "smoking gun" standard of evidence. The same standard of evidence may be appropriate to questions of media consolidation. If so, the demand by the FCC and courts for "hard" evidence is fundamentally misplaced.

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**Does Media Ownership Affect Media Stands?**  
**The Case of the Telecommunications Act of 1996**

**Paper #1: Overt Bias**

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## **Abstract**

Democratic theory suggests that media should act in the interests of ordinary citizens. If a highly influential segment of the media presents information in a way that systematically favors its interests over other interests, democracy may be weakened. Media organizations, reacting to concern about such “bias,” often insist that they follow a “norm of objectivity,” separating their business interests from their news operations. Media scholars tend to confirm that such a norm of objectivity pervades newsrooms.

On February 1, 1996, Congress passed the Telecommunications Act of 1996, one provision of which gave existing TV broadcasters free usage of spectrum valued at between \$11 and \$70 billion. Opponents called this a “giveaway” and one of the largest “corporate welfare” programs in United States history. In the months preceding and following passage of the Act, TV broadcasters actively lobbied against their opponents. The research here suggests that the separation of “church and state” was crossed; media owners’ economic interests affected their news coverage.

Generalizations from this case should be made with caution because of the extraordinarily high stakes involved for media owners.

On February 1, 1996 Congress passed the Telecommunications Act of 1996, a major overhaul of U.S. telecommunications policy. One provision of the Act gave existing TV broadcasters free usage of spectrum valued by the FCC at between \$11 billion and \$70 billion. In the months preceding and following passage of the Act the TV broadcasters engaged in a major lobbying campaign to ensure their access to the spectrum on the most favorable terms possible. This paper explores the possibility that the economic interests of TV broadcast owners affected the policy stands that appeared in their media.

Democratic theory implies or asserts that the media should act in the interests of ordinary citizens. If a highly influential segment of the media presents information in a way that systematically favors some interests (including its own) over others, democracy is weakened (Dahl 1989; Page 1996). Many cases of such possible “bias” have been examined by political communication scholars, including bias stemming from ideology and dependence on official sources. Few if any such cases, however, have involved matters of economic life and death for media enterprises. The future of the broadcast spectrum, as evidenced by the broadcasters’ frequent and much-publicized testimony, is one such case.

Perhaps only once in a generation are the news media presented with such a strong economic temptation to not only influence public policy but to use all the resources at their disposal, including control of media, to do so. If this temptation were not acted upon, it would lend strong evidence to the prevailing scholarly assessment (and media self-assessment) that the business and journalistic sides of media corporations are largely autonomous (e.g., Gans, 1980). On the other hand, a positive finding of self-interested media stands would not necessarily imply that this is a unique case; it might simply be easiest to detect where self-interest is so clear.

## **Sources of Data**

In research for this paper, Snider interviewed three U.S. representatives, more than two dozen congressional telecom aides, several senior members of the Clinton Administration, and policy experts at non-profit groups such as the Benton Foundation, the Media Access Project, the Progress & Freedom Foundation, the Heritage Foundation, Citizens for HDTV, and the National Association of Broadcasters. He conducted face-to-face interviews during a two week visit to Washington DC. Many other interviews were done over the telephone.

Documents reviewed included: 1) Many hundreds of articles from U.S. newspapers, mostly downloaded from NEXIS, that mentioned granting broadcasters additional spectrum for advanced TV. 2) Television transcripts from news programs at ABC, CBS, and NBC—accessed via NEXIS, Dow Jones News Retrieval, and Burrelle’s—that mentioned the spectrum debate or related issues. 3) Thousands of pages of internal National Association of Broadcasters (NAB) documents sent to local TV station managers, most notably 10 years of TV Today and various grassroots lobbying kits. 4) Trade publications such as Broadcasting and Cable, Communications Daily, and Television Digest. 5) Thousands of pages of Congressional testimony and FCC notices

and reply comments going back to 1987, the beginning of U.S. government involvement in HDTV.

Our investigation of broadcaster bias focuses on the first half of 1996, the peak of the broadcasters' political activity on the spectrum issue. On December 29, 1995, Senate Majority Leader Bob Dole, a leading presidential contender, publicly attacked a key but inconspicuous clause in the proposed Telecommunications Act of 1996. The clause gave broadcasters free use of spectrum valued, in his estimate, at up to \$70 billion. He called the clause a "giveaway" and "corporate welfare," and for more than a month held up passage of the Act to voice his opposition. Dole's attack raised no new issues; for many months think tanks, interest groups, and commentators had attacked the "giveaway." But Dole represented the first serious Congressional opposition to the broadcasters. Ultimately, Dole let the Act pass, but only after securing signed letters from all the FCC commissioners stating that they would not award the new spectrum to broadcasters until Congress had held additional public hearings on the issue. TV broadcasters responded to Dole's actions with a massive lobbying and media campaign to ensure that Congress did not modify the Act's spectrum provisions. By the end of April 1996 the broadcasters called off much of their campaign as it became clear that the 104th Congress would take no action to reverse the Act's spectrum provisions.

## **TV Broadcasters' Financial Incentives**

The federal government controls the use of the airwaves in the United States. This "spectrum" of frequencies has become extremely valuable. For example, in 1994 and 1995 a small sliver of higher frequency (and therefore less valuable) spectrum was auctioned for personal communication services, the next generation of wireless telephone technology. The auctions brought in \$19 billion.<sup>1</sup>

The government currently allocates to TV broadcasters 402 MHz of the most valuable spectrum for use as channels 2 to 69. Each analog TV channel uses 6MHz and creates complex interference patterns which bar the use of neighboring channels. In addition, the broadcasters are given access to several hundred megahertz of less desirable spectrum for electronic news gathering (ENG). ENG spectrum, for example, allows broadcasters to transmit video footage from the news site to the station for editing and later broadcast.

In the Telecommunications Act of 1996 each existing TV broadcaster was tentatively licensed to use double its existing spectrum for digital information services, including digital TV. The FCC estimated that the value of this additional spectrum, if sold by auction, would be between \$11 and \$70 billion. The specific numbers used to value the spectrum have been the subject of controversy, but few dispute that the TV broadcasters are being granted use of a very valuable resource. For example, in the fall of 1995 the

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<sup>1</sup>In the Omnibus Budget Reconciliation Act of 1993 (PL. 103-66), Congress authorized the FCC to use auctions to award licenses for certain services. The law specifically prohibits the FCC from auctioning broadcast (television and radio) licenses or licenses already issued. The FCC ran its first spectrum auction in July, 1994. Previously, spectrum had been awarded based on merit and lotteries. Between July 1994 and January 1997, spectrum auctions raised a total of \$24 billion for the U.S. government.



Dow Jones Company and ITT jointly purchased for \$207 million an unprofitable UHF station with a license to broadcast in New York City. The FCC estimated that the value of the station's other assets were less than \$10 million, so the value of the license to use the spectrum, the station's "stick value," was \$197 million, more than 90% of the purchase price (Pepper, 1995). The senior editor of Television Digest, one of the major trade journals covering the TV broadcast industry, estimated that the cost of new spectrum at auction would be larger than the value of the average U.S. television station (Feazel, 1996). A key assumption here is that the new digital spectrum can be used much more efficiently than the current analog spectrum. For example, a half dozen higher quality digital TV signals can fit in the same amount of spectrum as one of today's analog TV signals.

Leading broadcasters repeatedly asserted the financial importance of new spectrum, arguing that forcing broadcasters to pay for the spectrum would lead to the death of free, over-the-air broadcasting, a bulwark of our democracy. The bald assertion that "spectrum auctions will kill free TV" was made thousands of times in trade journals, newspaper stories, op-eds, speeches, and letters to Congress. Broadcasters could cite the growth of "pay TV," most notably cable TV and direct broadcast satellite, as evidence that "free TV" could not survive without additional government support. In a world with 500 digital cable TV channels, 500 digital direct broadcast satellite channels, and even video-on-demand, broadcasters could become bit players. Responding to a Congressional plan to use auctions to allocate spectrum for new digital advanced TV, NAB President Edward Fritts said it "would be tantamount to signing a death warrant on... free TV" (Communications Daily, August 2, 1995, p. 10).

## **Owners As Political Actors**

In their political activity, broadcasters have employed many of the same techniques as other interest groups, including Washington lobbying, grassroots lobbying, and advertising campaigns.

Washington Lobbying: Major TV broadcasters such as ABC, CBS, NBC, FOX, and Tribune Broadcasting have for many years employed full-time lobbyists in Washington DC. Most of the congressional lobbyists formerly held senior positions on Capitol Hill. The National Association of Broadcasters (NAB), the largest broadcaster trade organization, is widely recognized as one of the most effective lobbies in Washington DC. During the first six months of 1996 the NAB alone disclosed \$2.62 million in lobbying expenses. This included the work of 44 lobbyists, 20 from NAB's own staff and 24 from outside contractors.<sup>2</sup> Leading broadcast lobbyists were in weekly contact with top congressional aides in the House and Senate Commerce Committees. The NAB also made \$265,161 in PAC contributions and contributed unreported amounts for social activities such as sponsoring the annual Capitol Hill Press Secretaries Association get-

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<sup>2</sup>Disclosures filed with the Secretary of the U.S. Senate and the Clerk of the U.S. House of Representatives under the Lobbying Disclosure Act of 1995.

together. Numerous Congressional aides confirmed that the bulk of broadcaster lobbying during the first six months of 1996 had to do with preventing spectrum auctions.

**Grassroots Lobbying:** The NAB has a formidable system in place to provide timely policy and political information to the 1000+ general managers who run local TV stations in the United States. Twice a year the NAB sends local broadcasters Legislative Update, a publication describing NAB's position on legislative issues, including talking points to convey to local representatives. Every week the NAB sends local TV broadcasters TV Today, a two-page newsletter which often focuses on public policy issues affecting broadcasters. Every month the NAB invites local TV station managers to participate in Telejournal, an exclusive satellite-delivered videoconference on public policy issues and lobbying strategies. Each state in the nation has a legislative liaison committee made up of local broadcasters. Every month committee members receive a newsletter, Congressional Contact, which summarizes contacts between local station managers and members of Congress and offers tips for more effective lobbying tactics. In January, 1996, local TV general managers received a 65-page Spectrum Auction Action Tool Kit providing detailed instructions for applying political pressure on local members of Congress concerning the spectrum issue.

Every year members of the 50 state legislative liaison committees meet in Washington DC and visit the office of every member of the U.S. Congress. On major issues, local station managers express their positions to their Congressional representatives through written letters, often of a highly personal sort, and through face-to-face meetings, often at the local TV station. The NAB has an 800 number manned by a full-time employee whose job it is to track the results of every contact between a local station member and member of Congress. The NAB has a file cabinet filled with thousands of letters sent by local TV broadcasters to their local representatives. Members of Congress are carefully identified as friend or foe. During the first six months of 1996 most representatives received letters disparaging spectrum auctions from all the network-affiliated TV stations within their district. Senator John McCain, a senior member of the Senate Commerce Committee, reportedly met with 13 to 14 general managers from Arizona TV stations. As a matter of NAB policy, all 535 members of Congress were invited to local TV stations to learn why spectrum auctions allegedly threatened the future of free, over-the-air TV.

**Advertising Campaigns:** Between February 21, 1996 and the end of April, 1996 broadcasters ran a multimillion dollar ad campaign to preserve "Free TV." At least \$2 million was spent by the NAB and another estimated \$2 million was spent by local broadcast stations in public service announcements. The campaign started on February 21 with full-page ads in the Washington Post and Washington Times. The headline ran "Doesn't a free society deserve free TV?" and the body of the ad started:

It's been there as long as you can remember. Free television. From The Honeyymooners to Nightline, it's entertained and informed you. During times of national celebration or national crisis, it's united you with viewers across the country. Even in an age of Cable, Pay-Per-View and Satellite,

it can still be depended upon for everything—from local sports to news and weather. For hundreds of millions of Americans, free television represents such a unique, irreplaceable service that it's almost impossible to imagine life without it. But that's exactly what we could be looking at if some members of Congress get their way. They want billions of dollars from your local TV stations to make a budget deal possible.

In subsequent weeks newspaper ads were taken out in many urban areas throughout the United States. The NAB sent local stations three model print ads for this purpose. In addition, thousands of TV ads advocating Free TV were run on hundreds of different TV stations across the United States. Viewers were encouraged to call 800/No-TV-Tax for more information. The campaign was called off in late April 1996. By then the NAB had received 160,000 calls to 800/No-TV-Tax. As part of the campaign, local TV station managers wrote op-eds carried in dozens of local newspapers across the U.S.

One interesting feature of the TV ad campaign was that the American public may not have been its chief audience. The period of greatest advertising intensity occurred when Congress was in recess and legislators were presumably in the home district. Legislators were invited to local TV stations to preview the ads *before* they ran. The ads in the Washington Post and Washington Times also ran in Roll Call.

## **The Chinese Wall Between Owners and Media**

According to one prominent media observer, “A sacred principle in journalism has been the wall of separation between ‘church and state,’ that the reporting, writing, and selection of news shall never be influenced by the business side of the news organization. It is considered unethical for any money interest to influence the selection of news.” (Bagdikian 1992, 231). In October 1996, the American Society of Magazine Editors adopted a policy statement in the hopes of countering media owners’ intrusive actions. The policy declared that “editors need the maximum possible protection from untoward commercial or other extra-journalistic pressures. It seems appropriate now to make that standard explicit and precise” (cited in Hickey 1997, 28).

Mass media, including TV broadcasters, have a strong economic incentive to *appear* impartial. The public seeks to acquire news from sources it trusts. In our media system, this trust comes from being perceived as an impartial, balanced news source (Tuchman 1978; Gans 1980; Hackett 1984). The appearance of bias therefore presumably leads to reduced audiences and profits. As the New York Times Craig Whitney explains, if you force an opinion on the public, “you risk losing the trust of people who hold differing views. We sell a million copies of this paper every day. You want people on both sides of the question to keep reading you and not feel that you’re shading information one way or another” (Hertsgaard, 1988, 340-41).

Those who work at media organizations, both owners and journalists, tend to insist that impartiality is a practice, not just a principle. To ask media people if they report news

impartially is like asking politicians if they act in the public interest. In both cases, the professional's livelihood and self-esteem depend on an affirmative answer. Journalists' claim that they act autonomously, free from any political agendas their boss's might have, has been widely observed (e.g., Gans, 1980; Bagdikian, 1992).

In addition to enhancing their influence over audiences and their employees' professional self-esteem, owners of TV stations have another reason for asserting the separation of the business and news sides of their business: it enhances their ability to resist outside pressure to shape the news. For example, on November 30, 1995 Dole met with the chief executives of ABC, CBS, NBC, Fox, and the NAB. Dole reportedly said: "Why should I give you a \$40 billion giveaway when you're driving my [approval ratings] numbers through the floor on Medicare?" One executive, interpreting Dole's statement as an offer to link spectrum policy to Medicare news coverage, "pointed out to Dole that the networks deem their news divisions and corporate operations to be separate" (Farhi, January 12, 1996, p. F1).

Until the late 1980s, TV broadcasters could also lose their license if they violated the "Fairness Doctrine" and used the news to pursue their own economic interests. Maintaining at least the appearance of a Chinese Wall was a legal requirement as well as an economic imperative.

However, to the extent that appearances can diverge from reality without the difference being widely detected, broadcasters have an incentive to use the media for their own political advantage. News is a powerful force in shaping public opinion and policy in the United States. For media owners not to use this weapon to pursue their own interests—providing they could do so without being detected—would be an act of extreme altruism. For this reason one should be both surprised and suspicious if bias—to the extent it does exist—were easy to detect and prove; one should also be willing to devote considerable effort to finding it.

In this article we will explore two types of possible bias in the TV broadcasters' presentation of the spectrum issue: bias by action and bias by omission. Bias by action refers to information about an issue actually presented in media. Bias by omission refers to a selective blackout of an issue that media would otherwise be expected to cover. Still, another sort of bias—indeed, possibly the most effective kind—involves exercising bias on issues apparently wholly unrelated. This is the subject of a forthcoming article and will not be discussed here.

## **Bias by Action**

We have found evidence of three types of active media efforts to support the broadcasters' views on spectrum allocation, involving 1) TV ads/editorials/public service announcements, 2) newspaper editorials, and 3) newspaper op-eds.

**TV Ads:** Broadcasters ran thousands of ads/editorials/public service announcements on hundreds of different TV stations in support of free TV. Since broadcasters placed ads on

their own channels, the ads did not involve an out-of-pocket expense. Many of the ads could be categorized as editorials or public service announcements.

The NAB encouraged its 1163 member TV stations to run what it called “editorials” in favor of free TV. NAB provided a sample of three basic scripts, but local stations were encouraged to use a local personality to present the message (Spectrum Auction Action Toolkit). The frequency and way the ads were presented differed substantially.

Ads lasted from 30 to 60 seconds. They usually ran shortly after the early and late evening news, but often also ran during prime-time shows such as *The Simpsons*. The spokesperson in the ads was usually affiliated with the business, not the news, side of the local station. The Charleston Daily Mail reported:

In an unprecedented move, four local stations combined to air messages alerting viewers to HDTV proposals now pending in Congress.... The four stations aired the same message to viewers. At 6:27 p.m. and 11:32 p.m. each station aired a brief message explaining what may be in the future for free over-the-air TV and asking viewers to contact their congressman to oppose parts of the HDTV plan (Hutchison 1996).

Some of the spots were presented by evening news anchors. The NAB urged its members stations to “run the spots as often as possible,” and encouraged them to use local TV personalities to “educate viewers” about the issue (Farhi March 20, 1996). The Portland Press Herald reported:

Doug Rafferty, news anchor at WGME-TV, has been warning viewers that free television as we know it could disappear. Channel 13’s Rafferty has been urging viewers to join a campaign against a plan threatening the free airwaves by contacting legislators or by calling 1-800-No-TV-Tax to voice their opposition.... Rafferty’s appeal, aired most days, comes from a script developed by the National Association of Broadcasters. WGME shows the appeal at the end of the local newscast, after a commercial (Smith 1996).

Based on a NEXIS search of local newspapers that reported on the station ads, we found *no cases* in which broadcasters presented opposing points of view. Nor did opponents take ads to counter the broadcasters’ ads. Given the one-sided nature of the owners’ messages, owner bias in this type of information presented to the public is hard to dispute. On April 12, 1996, the Media Access Project, based on the Fairness Doctrine, filed a suit against a California TV station, KNBC-TV, alleging that it aired “no TV tax” spots but failed to provide opposing views on the issue of assigning licenses for advanced television (McConnell 1996).

The case of prominent local journalists acting as spokespersons for the owners’ spectrum stand is particularly interesting because it is a vivid illustration that journalists can sometimes be requested to serve as mouthpieces for the interests of owners.

Nevertheless, the broadcasters made no claim that the ads were intended to present balanced public policy viewpoints. Moreover, the public may not expect such announcements to be impartial. They are outside the realm of normal news routine. So the TV broadcasters' capacity to run ads in their own media is a valuable political resource, but may not generally violate the norm of impartiality in news coverage.

**Newspaper Editorials and Op-eds:** To measure possible economics-motivated bias in op-ed and editorial coverage of the spectrum issue, we used variation across newspapers rather than TV. We did this for two reasons: First, most TV news in the U.S. comes from TV broadcasters (with the notable exception of CNN, which is an all-cable service with comparatively minimal concern for spectrum<sup>3</sup>—and which indeed stood out for its airing of criticism of the “giveaway”), so there is little variation across cases based on TV broadcast ownership. Newspapers, by contrast, are owned by a wide diversity of owners who also have different degrees of TV broadcast ownership. By using newspaper articles, we could check to see if the extent of newspapers' TV interests was a good predictor of their news coverage. Second, TV broadcasters ran very few stories on the spectrum issue, but newspapers ran hundreds. TV broadcasters alone simply couldn't provide the data for a hypothesis of bias based on action rather than omission.

We believe the forces leading to bias should be weaker among newspaper reporters and editors than their broadcasting counterparts, thus strengthening the significance of any finding of TV ownership bias in newspapers. This is because of the mechanism by which information about the spectrum issue and ownership interests would be likely to reach the different types of news personnel. The various TV broadcaster lobbying groups including the NAB, MSTV, INTV, ABC, CBS, NBC, and Fox sent local TV station general managers and engineers a torrent of information about the spectrum issue. In addition, broadcasting industry trade periodicals for management, engineers, and programmers covered the issue week in and week out over many years. Major broadcasting industry trade conferences such as NAB's huge annual convention (1997 attendance: 100,000+) featured HDTV almost every year since the late 1980s. Prominent TV journalists at NAB's April 1997 convention included Barbara Walters (ABC), David Brinkley (ABC), Jeff Greenfield (ABC), Larry King (CNN), Katie Couric (NBC), and Matt Lauer (NBC). Senior news personnel could also be expected to read the frequent and detailed discussions of the matter in elite media such as the New York Times, Wall Street Journal, and Washington Post. If for some reason they were unaware of the intensity of their boss's lobbying on this issue, they could often read op-eds in their local newspapers written by their station's general manager. Many personnel affiliated with the news divisions, including anchor persons, were also given detailed talking points when the local member of Congress visited the station for an explanation of the impact of TV spectrum auctions. According to one NAB script<sup>4</sup>, the member of Congress was

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<sup>3</sup>CNN's parent company, Time-Warner, is one of the largest cable companies in the U.S. Cable companies, like broadcasters, are given free use of ENG spectrum.

<sup>4</sup>Excerpt from “Conducting a Television Station Tour,” sent to local TV managers in early 1996:

[P]lan your station visit from top to bottom. Make sure that your visiting Senators and Representatives receive a listing of the new digital equipment and a spreadsheet of the costs [\$8 to \$10 million total] that will be incurred in the transition to digital.

walked around the station and told by the various employees why both building a digital TV station and paying for spectrum would be economically impossible for broadcasters and destroy the future of Free, over-the-air TV (Spectrum Auction Action Tool Kit).<sup>5</sup> By contrast, it is unlikely that local newspapers, editors, and reporters—even when the parent company had large TV broadcast interests—would be bombarded with as much information about the issue and its importance to their bosses.

Currently, we have newspaper data testing for bias in op-ed and editorial coverage of the spectrum issue. News bias is an important issue we are continuing to pursue.<sup>6</sup> Bias in

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Be sure that each employee knows how the new digital functions will affect their particular job in a digital [TV] station.... Members of Congress like to ask questions to employees....

The tour should take no more than an hour. If possible, start off in the control room and follow the functions through the guts of the station—perhaps your chief engineer should conduct the tour—a picture to transmission tour, if you will. Try to have a station personality (news, sports, weather anchor, etc.) stop by and say hello. At each stop along the way, show each piece of equipment that will need to be replaced or duplicated with digital technology. These are enormous expenditures that must be spent in order to maintain free, over-the-air television. Your tour will make it abundantly clear that spectrum auctions must not be dumped on top of the huge costs already incurred by each station.

<sup>5</sup>Economists tend to favor auctions as a better way to allocate spectrum than FCC hearings or lotteries. Although they did not play an important role in the spectrum debate, some economists argued that the broadcasters' argument lacked economic rigor. On February 13, 1996, Joseph Stiglitz, chairman of the President's Council of Economic Advisers, said it should be possible to make TV broadcasters pay for the extra channels they will need for digital TV without damaging the industry. He said an auction "would not affect the viability of the industry. If it did, the price of the auction would be zero" (Television Digest, "TV Girds for Spectrum Fight," February 19, 1996, p. 4). Stiglitz's position was at odds with the Administration's, and he has not since publicly spoken about the issue.

As we have seen, during their tour, members of Congress were given budgets showing that upgrading to digital TV would cost each station \$8-10 million dollars, more than the value of many small market stations. This estimate of \$8-10 million was one of the two or three key talking points used by broadcasters' in their lobbying campaign. The top telecom aide for Representative Bliley, the House Commerce Committee Chair, said this was the crucial piece of information that turned members of the House against auctions (comments at NAB '96, April 1996). However, many engineers ridiculed the NAB's numbers. For example, in a January 17, 1996 letter to the FCC, Rupert Stow, principal of Rupert Stow Associates, estimated that a broadcaster could transmit a 6MHz digital TV channel (e.g., for passing through signals from the national TV networks) for \$275,000. Digital station equipment could cost an additional \$825,000, less if only standard definition digital TV signals were sent. However, as part of their ordinary capital expenditures, most stations are already in the process of converting to digital technology, because it offers greatly superior functionality at comparable cost to analog. Thus, actual incremental cost for station equipment would likely be far less than \$825,000. The broadcasters' figure of \$8-10 million might make sense for a big city TV station (e.g., if it had to buy land for a new tower in the middle of Manhattan), but it hardly represents either a reasonable range or a likely average. In a confidential status report to its members, the NAB itself estimated that some stations could upgrade to digital TV for less than \$1 million (NAB Science & Technology, "Digital Television Broadcasting: A Status Report." January 29, 1997). Moreover, since the new digital "channel" will be able to transmit 6 digital channels in the space previously allocated to one analog channel, the incremental cost for a new digital channel could in some cases be as low as \$50,000 (approximately 1/6th of \$275,000). Indeed, one of NAB's top consultants recommended that small stations share transmitters to reduce the cost of the transition. Up to 6 stations could share one digital transmitter.

<sup>6</sup>The research design employs using a clipping service to track two AP stories, one that ran on April 3, 1997 and another that ran on April 4, 1997.

editorials and op-eds was measured by correlating the extent of broadcast TV ownership by newspapers with the direction of editorial and op-ed stands in those papers.

Most data here were derived from a search in NEXIS's news file for dates covering the first four months of 1996, the period of peak newspaper coverage of the issue. NEXIS includes more than 100 U.S. newspapers in its news collection. The authors would have liked to conduct more searches in Dow Jones News Retrieval and Data Times, two services with exclusive information not available through NEXIS, but we did not have inexpensive access to those services. Nevertheless, NEXIS coverage was supplemented by information gathered from congressional aides with access to other online databases. For example, NEXIS does not have access to the full text of the Wall Street Journal, but Dow Jones News Retrieval does, and several congressional aides gave us access to their collection of Wall Street Journal articles on this subject.

What is most striking about newspaper editorials on this issue is that almost all of them opposed the broadcasters' position. We were able to find very few editorials favoring it. Similarly, no nationally syndicated columnist favored the broadcasters' position. However, the bulk of local op-eds and letters-to-the editor (mostly from broadcasters and former FCC officials) favored the broadcasters.

We hypothesized a significant difference in incentive between media companies such as Dow Jones, publisher of the Wall Street Journal, with less than 1% of its revenue coming from TV broadcast stations, and A.H. Belo, publisher of the Dallas Morning News, with over 50% of its revenue coming from TV broadcast stations.<sup>7</sup> Thus, we gathered data on the extent of newspaper owners' TV interests, as measured by the percentage of their total revenue coming from TV broadcasting. For the cutoff point for high TV ownership, we used 20% for both op-eds and editorials.<sup>8</sup>

Our findings in tables 1 and 2 show that TV broadcast ownership predicts both editorial and op-ed stands on the spectrum issue. The results on editorials are very strong and highly significant; in fact, among newspapers that editorialized on the subject, every one whose owners got little TV revenue editorialized against the spectrum "giveaway," whereas every one with high TV revenues editorialized in favor of giving broadcasters free use of spectrum. Although the results on op-eds did not achieve statistical

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<sup>7</sup>In 1995, 44% of A.H. Belo's revenue and 64% of its profits came from TV broadcasting. In September 1996 A.H. Belo acquired the Providence Journal Company, including 10 TV stations, for \$1.5 billion, bringing its percentage of TV revenue from broadcasting to well over 50%.

<sup>8</sup>The major choice was whether to use a cutoff point of 10% or 20% as constituting substantial TV ownership. The 20% figure neatly divided the editorials leading to the strong results in Table 1. However, the same 20% figure greatly weakened the op-ed results (at a 10% cutoff, difference significant at  $p < .01$  by Chi-Square, at  $p < .05$  by Fisher's Exact Test;  $\gamma = -.882$ ). This is because there was no clear pattern of op-eds for newspapers in the range of 10% to 20% TV ownership. If we chose the 10% figure, the op-ed results would be strengthened, but the editorial results weakened. If we ignored newspapers with TV ownership in the gray area of 10% to 20%, we would have had very strong results for both editorials and op-eds, but we would have had to lose two data points for the editorials and seven data points for the op-eds.



significance, there was again a substantial tendency ( $\gamma = -.434$ ) for media contents to reflect owners' economic interests.

Still, the findings are not entirely conclusive.<sup>9</sup> Reverse causation can reasonably be ruled out: it makes little sense to conceive of newspapers buying TV broadcast properties in anticipation of taking stands favorable to their interests. But omitted variables may be more of a problem. Notably, editors and journalists at elite newspapers such as the New York Times, Wall Street Journal, and Washington Post may be more sensitive to journalistic norms of autonomy than their local, less scrutinized colleagues. All the elite media in our sample fit in the category of less than 20% TV ownership.<sup>10</sup> The one exception, the Chicago Tribune (with 37% TV ownership), ran no editorials on the spectrum issue and had op-eds that canceled each other out. Being a member of the elite, heavily scrutinized print media could be a better predictor of stands on the spectrum issue than TV ownership. Since our low TV ownership cases were made up disproportionately of elite media, we may have been measuring a spurious relationship.

A potentially serious weakness in this study is the quality of NEXIS data. In many cases NEXIS does not have electronic rights to any news material not produced in-house by newspapers. Thus, articles from national newswires and syndicated columnists are often missing from NEXIS searches. For example, more than 400 U.S. newspapers subscribe to the New York Times News Service, but only a few of them are granted electronic rights to the material they purchase. Thus, a column by William Safire (the most visible op-ed opponent of the giveaway) may show up in NEXIS records generated from the New York Times (which owns Safire's electronic rights), but won't show up in most of

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<sup>9</sup>Only publications that took a stand were included in the sample. The percentage of TV ownership can be hard to determine when ownership is scattered among different corporate entities. For example, some wealthy individuals such as Mort Zuckerman, owner of the New York Daily News and U.S. News & World Report, hold multiple media properties but incorporate each of them separately. They are run as single companies, but the common ownership does not show up in the corporate books. Similarly, some media corporations either own or are partially owned by other media corporations. Ownership can also change. For example, Gannett bought 6 TV stations during 1995 and 1996, A.H. Belo bought 10 TV stations, and Capital Cities/ABC was bought by Disney (thus significantly diluting the % of TV ownership figure for Cap/ABC newspapers such as the Kansas City Star). These complexities were not incorporated into the figures for percentage of TV ownership. Figures were gathered from a diverse array of sources including Standard & Poor's, Compact Disclosures, Dun & Bradstreet's America's Corporate Families, and Hoover's Guide to Private Companies. All figures were for 1995 or, if 1995 figures were not yet available, for 1994. In one case, the Columbus Dispatch, exact figures were not possible to get, yet it seemed reasonable to infer that the owners of the Columbus Dispatch, the Wolfe family, received more than 20% of their revenue from TV stations. In addition to their single newspaper, the Wolfe family owned two TV station and two radio stations. A telephone call to the assistant treasurer of the Columbus Dispatch, E.D. Goodyear, was not returned.

The unit of analysis was the publication. Publications which ran multiple editorials or op-eds on the spectrum issue were treated as a single case. If the opinion pieces in a single publication conflicted, publication position was determined by which side had the preponderance of the pieces. If there was a draw, which only happened for a single publication, the publication was dropped from the analysis.

<sup>10</sup>The Washington Post, with 18% of its parent company's 1995 revenue from TV stations, was close. The Washington Post was noteworthy because during the first four months of 1996 it ran no editorials on the subject. In contrast, the New York Times ran two editorials (both opposed) and the Wall Street Journal three editorials (all opposed).

the newspapers across the U.S. that might carry it. This necessitated a research design based on articles picked up by NEXIS. The authors are working to collect data based on a comprehensive analysis of articles (such as Safire columns) carried across all U.S. newspapers. This entails supplementing NEXIS data with additional data from other sources.

## **Bias by Omission**

Many commentators noted that TV broadcasters appeared to be unusually quiet in covering the spectrum issue. On April 17, 1996 Senator Dole delivered a speech on the Senate floor with the title “Broadcast Blackout.” In it he argued that “You never hear about it on television” and explained why he thought it a significant issue. Nationally syndicated columnists William Safire and Molly Ivins made similar points (each mentioned the spectrum issue more than 5 times in their columns). The Wall Street Journal ran a news story entitled “Television News Tunes Out Airwaves-Auction Battle” (Karr 1996). The Columbia Journalism Review ran a long article on the spectrum issue, a major theme of which was an alleged broadcasters’ blackout (Hickey 1996). The Associated Press ran a story, carried in dozens of newspapers across the United States, which quoted a 43 page report by Common Cause: “This \$70 billion giveaway to broadcasters has avoided virtually all detection on the radar screens of TV’s watchful reporters” (Aversa 1997; Common Cause 1997, p. 27).

Between mid-1994, when broadcasters got their desired “giveaway” clause inserted into the proposed telecommunications bill,<sup>11</sup> and February 1, 1996, when the bill actually passed, as best we can tell,<sup>12</sup> no national TV network covered the issue of the giveaway versus spectrum auctions. Even when Dole held up the telecommunications bill—after it had already passed the House and Senate—solely on the basis of what he described as a spectrum “giveaway,” the TV broadcasters remained silent. By contrast, the Wall Street Journal, the New York Times, and the Washington Post, gave the story extensive coverage. On February 1, 1996, ABC and CBS briefly mentioned the issue of the giveaway vs. spectrum auctions. On March 20, 1996 CBS Evening News aired a three-minute report that touched on the controversy.<sup>13</sup> On April 12, 1996 the NBC affiliate in

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<sup>11</sup>Mid-1994 is also an important date because the first spectrum auctions took place in July 1994.

<sup>12</sup>From NEXIS search on ABC news transcripts, Dow Jones News Retrieval and Burrelle’s searches on CBS and NBC transcripts, conversations with senior congressional telecom aides, and various articles including Karr, Albert A. “Television News Tunes Out Airwaves-Auction Battle ” Wall Street Journal. May 1, 1996, p. B1. and Hickey, Neil. “What’s at Stake in the Spectrum War?” CJR. July/August 1996.

<sup>13</sup>The March 20, 1996 CBS report was the only substantial TV network report on the spectrum debate until the spectrum licenses were granted by the FCC on April 3, 1997. The report is of special interest because of the circumstances surrounding it. By mid-March many opponents of the broadcasters had begun commenting on the lack of TV coverage of the spectrum debate. On March 20, 1996 the Washington Post ran a story by Paul Farhi entitled “TV Claims Congress Could Steal the Show: Digital-Auction Advocates Dispute Ads’ Scare Tactics’.” Farhi said that Senator John McCain, a senior member of the Senate Commerce Committee, “chided broadcasters for using the airwaves to advance their own political agenda. Saying that the auction issue has received little attention on network or local station news shows, he suggested that broadcasters haven’t covered the story because ‘exposure would be detrimental to their arguments.’” Farhi went on to say that the NAB’s vice president for government affairs, Jim May, “said

Washington DC ran a five minute segment on the issue on its Sunday, local public affairs program. By April 1996, when Broadcasting and Cable declared victory for the broadcasters, not a single national network TV newsmagazine or public affairs program had covered the issue. On its face, this suggests evidence of a blackout, but we will examine the matter more closely in order to be confident of this conclusion.

### **Theoretical Grounds to Suspect a Blackout**

A large literature on interest group behavior suggests why broadcasters might have been motivated to black out coverage of this issue. Lobbyists acting against the perceived public interest thrive when their issues have low visibility and opponents have no forum to present their views. E.E. Schattschneider argued that “the most powerful special interests want private settlements because they are able to dictate the outcome as long as the conflict remains private” (Schattschneider 1960, xxiii). A number of studies have found that “PAC contributions are most likely to have large effects on roll call votes that have low public visibility” (Wright 1996, 144).

The vast majority of public interest groups on both the left and the right opposed the spectrum giveaway. The interest groups actively allied with the broadcasters all had a direct financial stake in the outcome. In its grassroots lobbying kit, the NAB warned its members that “corporate welfare” was an issue which would resonate with legislators’ constituents (Spectrum Auction Action Toolkit). After Dole’s attack on the broadcasters, Electronic Media, a trade journal read by broadcasters, commented that “media barons have been lucky to keep the Telecommunications Act far from the consciousness of most Americans.” It concluded that “broadcasters better prepare to make an emphatic statement about what they can do with digital spectrum that competing bidders cannot” (Halonen 1996).

Incentives for a blackout are also suggested by current media effects research. According to current research, the media are especially effective in influencing what people think about, not what they think (Iyengar and Kinder 1987). A major power of the media is the power to set the agenda. A blackout thus plays to the media’s greatest strength. If the broadcasters covered the issue and followed the canons of objective journalism, they would have had to give their opponents a platform to sow seeds of doubt in the public.

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that one network is preparing a news report and that a number of local stations have reported on the issue.” We were not able to confirm May’s comment about local station news, but it is interesting that the NAB would know of network intentions at least a day before the CBS story was run. The CBS broadcast also came the evening before the crucial March 21, 1996 hearing of the House Commerce subcommittee. At that meeting the broadcasters’ ad campaign came under attack by Representatives Fields, a strong broadcaster supporter, and Representative Oxley, also a broadcaster supporter. Oxley made the following comment: “I want to also comment on the ads from the broadcasters.... There is nothing necessarily wrong with the broadcasters protecting their particular turf and their interest, but there is something wrong, however, if, indeed, certain segments of the broadcasting industry don’t present an objective, a view of this very complicated subject. And they have every right to run these types of ads, but I think also the obligation is very clear from the news portion of the broadcasting industry to present an objective analysis of this very complicated issue. So far, I have seen little, if any effort by the news departments to present this position.... [I]t seems to me that we ought to have more objective analysis in the news. I await that objective analysis, but so far we haven’t seen much.”

Once the spectrum issue was on the agenda, the genie would be out of the bottle and no longer within the broadcasters' control.

Several political communication scholars have observed that blackouts are a standard strategy of media owners to avoid undesirable news. In his classic study of elite media, Gans observed that "no program or magazine will carry uncomplimentary news about itself or about its firm, except to publicize the firm's defense" (1980, 257). Bagdikian provides many vivid examples of such blackouts and concludes that "[e]ven if the media subsidiary does nothing positive to help its corporate siblings at least it will publicize as little as possible anything that hurts them" (1992, 31). Pratt and Whiting studied newspapers' coverage of broadcast deregulation during the early 1980s. They found that broadcast ownership of newspapers did affect editorial stands. But their main finding was that broadcast ownership affected amount of coverage. Newspapers with broadcast interests were more likely to cover the issue, a finding consistent with that contained here because of the widespread popular support for broadcaster-friendly deregulation during the early presidency of Ronald Reagan.

An omission strategy may vary according to the strategic needs of the moment. In this case, the broadcasters appear to have used two different omission strategies: 1) blanket omission, and 2) omission of opposing points of views. Broadcasters appear to have followed the first strategy from early 1994, when they first got a "flexible spectrum" provision included in the proposed telecommunications bill, until the beginning of their ad campaign in February 1996. Thereafter, they chose an information format, ads and op-eds rather than news, that allowed them to present their own but not the opposing point of view. The change in strategy seems to have been dictated by a need to counter the forces set in motion by Dole's public attacks in early January 1996. A critical qualification is that the broadcasters framed the issue in such a way as to be almost totally unrecognizable in terms of the debate that had gone on in Congress and among the policy think tanks.<sup>14</sup>

## **The Question of Newsworthiness**

The TV networks' response to the charge of a blackout, however, is that the spectrum story was not newsworthy (e.g., Farhi March 20, 1996; Karr May 1, 1996; Aversa April 2, 1997). The way to evaluate this response is to determine whether the networks'

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<sup>14</sup>The TV broadcasters described the spectrum debate in terms of a tax and as a threat to the public's existing TV service. The phrases "spectrum auctions," "corporate welfare," and "public interest obligations" were rarely if ever used. In contrast, the public policy debate framed the issue differently. Moderate Democrats and Republicans tended to argue for more public interest obligations from broadcasters in return for giving them an additional public subsidy in the form of airwaves. Those on the left and right tended to argue for spectrum auctions as a way to allocate the unused airwaves as opposed to giving them away to incumbent broadcasters. Where they differed is in how they wanted to use the auction proceeds. Those on the left often wanted the money to do what the broadcasters always promised—provide universal service and educational programming—but, in their opinion, failed to do. Those on the right focused on the efficiency of markets as opposed to government regulation as a way to allocate spectrum. Both the left and right talked in terms of "corporate welfare" and a "spectrum giveaway." No proposal in Congress considered taking away the broadcasters' right to their existing channels. The debate entirely focused on the terms of granting broadcasters a second channel.

actions were internally consistent. Did the networks follow standard journalistic methods or did they allow the likely consequence of a spectrum story (i.e., hurting their own economic interests) to influence story selection? This question cannot be answered definitively, but evidence points strongly in the direction of a blackout.

First, network executives themselves made frequent comments that this was an extraordinarily important issue for the future of America. In his keynote address to the broadcasters' 1996 annual national convention, Robert Wright, President of NBC, described the broadcasters as "in the fight of our lives" (Wright 1996). A spectrum auction would destroy the wondrous public service benefits broadcasters bring to the American public. The entire American way of life would be changed, including the way people connect to their local communities, the way they watch sports, the way poor people can participate in democracy, and the way people spend their leisure time watching TV entertainment. The wrong outcome of the fight would also render "tens of millions of TV sets useless overnight" and require "consumers to spend billions for converter boxes or new sets." Clearly, this would suggest that the spectrum issue (a.k.a. "the future of TV") is not only extraordinarily important, but one likely to be of interest to Americans.

Second, journalists are often dependent on official sources for their news. According to Gans and others, the incumbent president is considered the most newsworthy individual in the country. Almost everything the president says or does is considered newsworthy just because of who the president is. "News about leading presidential candidates ranks next; in presidential election years it often outnumbers stories about the president" (Graber 1993, 129). As a major presidential contender, Dole's repeated speeches about the issue on the Senate floor would seem to qualify for a high level of newsworthiness.

Third, the TV networks provided ample coverage of the high definition TV issue when it favored their interests to do so. Between 1987 and mid-1994, the three TV networks repeatedly covered the developing HDTV story.<sup>15</sup> Throughout, the broadcasters main

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<sup>15</sup>NEXIS search on ABC transcripts beginning in January 1990, and Brinkley, Joel. 1997. Defining Vision: The Battle for the Future of Television. New York: Harcourt Brace. Note that older television scripts are currently hard to come by. Nexis carries ABC TV transcripts back to January 1990. Dow Jones News Retrieval carries CBS back to January 1994 and NBC back to June 29, 1994. Burrelle's, which has NBC Nightly News transcripts back to November 1989, and CBS Evening News transcripts back to February 1990, is currently verifying this information for us. Between November 1989 and mid-1994, NBC mentioned HDTV in 18 stories; between February 1990 and mid-1994 CBS mentioned HDTV in 11 stories; between January 1990 and June 1994 ABC mentioned HDTV in 8 stories. <sup>16</sup>The transcript of the CBS report: "Vice President Gore called tonight to say there has been a bipartisan breakthrough in the telecommunications bill which will rewrite the rules on telephones, broadcasting, and other new forms of communication. It will also include the V-chip on television sets so parents can more easily control what their children watch. This breakthrough comes as a surprise. A vote could come before the weekend." CBS News immediately followed with this segment: "When we come back, NBC NEWS IN DEPTH tonight: THE FLEEING OF AMERICA. Ethanol, miracle fuel or taxpayer rip-off?" After the commercial: "Do subsidies for ethanol go against the grain of good sense? Some tough questions tonight." This sequence is ironic because opponents of the so-called "spectrum giveaway" in the Telecommunications Act considered it one of the largest "corporate welfare" subsidies in U.S. history. The story is also interesting because Bob Dole, soon to be the most visible opponent of the "spectrum

goal was almost certainly preserving and increasing their share of spectrum. But the issue was framed to the public as largely one of a Japanese threat to U.S. competitiveness. Later, the story was largely framed as the triumph of U.S. ingenuity. But when the dollar magnitude of what was being given to the broadcasters came into clear focus (helped by the multi-billion dollar spectrum auctions beginning in mid-1994), the TV networks lost interest in the story.

Fourth, on December 20, 1995 the House and Senate conferees came to an agreement on the Telecommunications Act. That night CBS and NBC ran a story on the event, including the historic importance of the Telecommunications Act.<sup>16</sup> However, when Dole torpedoed the agreement several weeks later, all on the grounds of a “spectrum giveaway,” the networks ignored the story.

Fifth, TV newsmagazines such as 60 Minutes, Dateline NBC, and PrimeTime Live routinely do stories on what many consider to be lesser examples of corporate welfare and lobbying excess.<sup>17</sup> On September 6, 1995, the Campaign for Broadcast Competition (CBC) was announced. CBC opposed the broadcast giveaway and received a significant portion of its funding from the Cellular Telecommunications Industry Association (CTIA). In early October 1995 ABC’s PrimeTime Live ran an expose on CTIA’s congressional junkets. The CTIA accused ABC of retaliation for the group’s effort to oppose “the \$37 billion spectrum rip-off of America’s taxpayers by CapCities/ABC and other broadcasters.” In a letter to ABC News President Roone Arledge, the CTIA stated: “Your use of PrimeTime Live to attack CTIA for hosting an education forum and working session—which people had to give up their weekend to attend—can only be explained as reprisal for CTIA’s willingness to stand up and blow the whistle on the broadcast giveaway” (Stern 1995). Some might argue that the broadcasters’ star- and lobbyist-studded parties at national conventions, inaugurals, Christmas events, and get-togethers for congressional press aides, are at least comparable to the CTIA’s “congressional junkets.”

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giveaway,” received large contributions from the ethanol industry and was one of their strongest supporters in Congress.

<sup>17</sup>In its April 1997 report Channeling Influence: The Broadcast Lobby & the \$70-Billion Free Ride, Common Cause noted a similar discrepancy in the network’s nightly news: “The network nightly news programs are in love with stories on government boondoggles, and two of them even have regularly scheduled features to highlight the worst examples of government waste and corporate welfare like ABC’s ‘It’s Your Money’ and NBC’s ‘Fleecing of America.’ But this \$70-billion giveaway to broadcasters has avoided virtually all detection on the radar screens of TV’s watchful reporters” (p. 27).

Sixth, the broadcasters argued that the spectrum debate was not newsworthy because it “is too complicated and boring for the viewing public” (Karr 1996). “But if that is the case,” Dole argued, “why did the National Association of Broadcasters vote to go on the offensive and launch a multi-million-dollar ad campaign to preserve, as they spin it, free, over-the-air broadcasting?” (Congressional Record, April 17, 1996). The huge number of 30-second spots underscores that the broadcasters thought the spectrum debate (albeit framed as a tax on an existing service rather than a subsidy for a new service) could be framed in sound bites when it suited their interests to do so. Also noteworthy is that, thanks in part to years of broadcaster efforts, public awareness of HDTV was already very high. The spectrum debate could have been viewed simply as a new twist in the old and familiar story of HDTV.

Seventh, the spectrum debate was widely recognized to be part of a larger debate involving the broadcasters’ public interest obligations in exchange for receiving the additional spectrum. This point could have been noted in the frequent TV reports on the v-chip, the most widely reported provision affecting broadcasters in the Telecommunications Act of 1996. Between December 20, 1995 and April 1, 1996 NBC, CBS, and ABC mentioned the v-chip on 37 different news programs. A thorough discussion of the rationale for the v-chip would have had to include the spectrum debate and the broadcasters’ role as public trustees of the spectrum. The connection was at least occasionally made in the print media, but not on TV. It is also interesting that the provision of the Telecommunications Act that received virtually all the TV coverage (namely the v-chip) was considered a minor issue by the broadcasters. Although the broadcasters had long opposed v-chip-like devices, they devoted an overwhelming share of their attention and lobbying resources to fighting spectrum auctions, not the v-chip.

Eighth, there seems to be a discrepancy between prominent TV journalists criteria of newsworthiness and their reporting. Consider David Brinkley, host of ABC’s top-rated Sunday morning public affairs show, *This Week With David Brinkley*. From 1993 to 1996 David Brinkley’s son, Pulitzer prize winning New York Times journalist Joel Brinkley, researched a book (Brinkley 1997) which included damning accounts of the broadcasters’ lobbying tactics regarding the spectrum giveaway. On April 9, 1997, at a luncheon in front of several thousand broadcasters, David Brinkley said that the advent of digital TV was “the most interesting and important development in communications in my lifetime.” He went on to praise his son’s work. But, if so, why didn’t he cover the issue on his TV program? On December 30, 1990, his show discussed the HDTV issue in the context of the Japanese industrial threat. And on August 6, 1995 and February 4, 1996 his show covered the Telecommunications Act. The digital TV and spectrum provisions of that Act clearly must have been at the forefront of his mind, but he chose not to mention them. Another interesting case is Barbara Walters, host of *20/20* and an intermittent show called “Barbara Walter Specials.”

On March 19, 1997 she won an award at Harvard’s Center for Press, Politics, and Public Policy for outstanding contributions to journalism. During question and answer she was asked about the spectrum issue and she replied that she knew absolutely nothing about it. On April 7, 1996, less than three weeks later, she received NAB’s Distinguished Service

Award and gave a major speech in front of several thousand broadcasters, mostly senior management at local stations. She started her speech by thanking them for airing and running promotions supporting her programs over the years. She also told the story of how she got her first great break as a national interviewer. The person she replaced was great at giving interviews but made a fatal mistake one day when being interviewed. As Walter noted, some people are great at interviewing, but are not good at being interviewed themselves. Although there is no direct evidence, this anecdote suggests a plausible reason—more plausible than her professed ignorance—why Ms. Walter may have been reluctant to express any knowledge of the spectrum issue at the Harvard ceremony. Was Walters really ignorant of the spectrum issue? Is that why she ran what many would consider lesser investigative reports on 20/20? Or was she simply playing good politics with the people who choose day-in and day-out whether to run and promote her programs?

Ninth, it may be argued that broadcasters were appropriately reluctant to cover their own industry. But broadcasters have shown little reticence in covering their own industry when it has served their interests to do so. For example, ABC featured the kick-off of Walt Disney's 25th anniversary celebration, a story ignored by NBC and CBS. Walt Disney is ABC's parent company.

## **Conclusion**

Although our research is ongoing and these findings are only preliminary, they suggest that media owners' economic interests in TV broadcasting did affect coverage of the spectrum issue, both by action and by omission. TV stations themselves ran many ads and editorials in favor of free spectrum for broadcasters. Most newspapers that addressed the issue editorially opposed this "giveaway," but newspapers owned by those with substantial TV broadcasting interests were less monolithically opposed. TV news programs appear to have blacked out the issue, despite abundant indications that it met normal criteria of newsworthiness.

Thus this case seems to demonstrate at least one instance in which the "wall of separation" between business interests and editorial policy was seriously breached. Is it a unique case, driven by the unusually high financial stakes involved? Or is such a connection more widespread, but simply more easily detectable when the economic interests were so clear-cut and easy to measure? Only further research can indicate the answer.

This case also indicates that media organizations are sometimes political actors in a broader sense, engaging in a wide range of activities designed to influence policy. We have described some of the extensive Washington lobbying and grassroots lobbying they did on the Telecommunications Act of 1996. A full account of media as political actors would also have to include the following additional resources that they can bring to bear on politics.



- 1) TV broadcasters can easily televise public hearings that concern their interests. They can later use videotapes of those meetings to hold their opponents accountable. Other interest groups lack this resource.
- 2) Broadcasters hand out many valuable public service announcements as part of their public interest obligations. In return, they can expect favorable lobbying by the beneficiaries. They can also use PSA's to reward friends. For example, Nancy Reagan, wife of one of the broadcasters' greatest advocates, Ronald Reagan, was featured in many PSAs.
- 3) Broadcasters can leverage their control of local media into influential positions at local community institutions such as the Rotary Club and chamber of commerce. Support by these institutions is frequently sought by members of Congress.
- 4) Broadcasters have significant control of the amount of publicity members of Congress and other politicians receive. This is perhaps the most powerful resource the broadcasters have to reward friends and punish their political enemies.
- 5) Broadcasters cannot only provide negative news coverage about their legislative opponents; they can do so on issues wholly unrelated to their economic interests. From the standpoint of the legislator, it makes little difference whether a local broadcaster provides negative coverage on a legislator's spectrum vote or on his vote favoring some other special interest group; both types of negative coverage harm a legislators' reputation and chances for re-election.

Thus, other types of ownership-based media action may have even more policy impact than the simple type of issue bias studied here. Some of these will be the subject of further work by Snider on the Telecommunications Act of 1996.

## Table 1: Editorials

### Crosstabulation

			% of Revenue from TV Broadcasting		Total
			Low	High	
Favor granting broadcasters free spectrum?	Yes	Count		3	3
		%		100.0%	16.7%
	No	Count	15		15
		%	100.0%		83.3%
Total		Count	15	3	18
		%	100.0%	100.0%	100.0%

Difference significant at  $P < .001$  by Chi-Square and by Fisher's Exact Test. Gamma = -1.00.

## Table 2: Op-eds

### Crosstabulation

			% of Revenue from TV Broadcasting		Total
			Low	High	
Favor granting broadcasters free spectrum?	Yes	Count	5	2	7
		%	20.8%	40.0%	24.1%
	No	Count	19	3	22
		%	79.2%	60.0%	75.9%
Total		Count	24	5	29
		%	100.0%	100.0%	100.0%

Gamma = -.434. Not significant at  $P < .05$  by Chi-Square or Fisher's Exact Test.

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**Does Media Ownership Affect Media Stands?**  
**The Case of the Telecommunications Act of 1996**

**Paper #2: Covert Bias**

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## **Abstract**

Democratic theory suggests that media should act in the interests of ordinary citizens. If a highly influential segment of the media presents information in a way that systematically favors its interests over other interests, democracy may be weakened. Media organizations, reacting to concern about such “bias,” often insist that they follow a “norm of objectivity,” separating their business interests from their news operations. Media scholars tend to confirm that such a norm of objectivity pervades newsrooms.

On February 1, 1996, Congress passed the Telecommunications Act of 1996, one provision of which gave existing TV broadcasters free usage of spectrum valued at between \$11 billion and \$70 billion. Opponents called this a “giveaway” and one of the largest “corporate welfare” programs in United States history. In the months preceding and following passage of the Act, TV broadcasters actively lobbied against their opponents. The research here suggests that the separation of “church and state” was crossed; media owners used their control of the airwaves to enhance their efforts at lobbying elected officials. The research also suggests that media scholars may have tended to conceptualize the mechanisms of media bias too narrowly. More emphasis should be placed on “covert bias” and “anticipated reactions,” which may exercise more influence than “overt bias” and “immediate reactions.”

Generalizations from this case should be made with caution because of the extraordinarily high stakes involved for media owners.

On February 1, 1996 Congress passed the Telecommunications Act of 1996, a major overhaul of U.S. telecommunications policy. One provision of the Act gave existing TV broadcasters free use of additional spectrum valued by the Federal Communications Commission (FCC) at between \$11 billion and \$70 billion. In the months preceding and following passage of the Act, the TV broadcasters engaged in a major lobbying campaign to ensure their access to the spectrum on the most favorable terms possible.

This paper is the second in a series that uses the Telecom case to explore various ways in which the mass media may exert political power. The first paper investigated how the economic interests of TV broadcast owners affected policy stands concerning the Telecom Act that appeared in their own media. This type of media bias, which we call “overt bias,” is direct and obvious and has previously been a center of investigation in the political communication literature. The present paper focuses on the exertion of political power through a more subtle and perhaps more influential type of bias—what we call “covert bias.” The distinction hinges on the recognition that media owners may pressure public officials indirectly, using issues in which the owner has no direct and obvious conflict of interest. In such situations, it may be impossible for a reader or viewer to infer self-interested political action by the media without knowledge of a media owner’s behind-the-scenes lobbying activities. And much of the impact may occur through politicians’ anticipation of what the media will do, rather than through actual media action.

Democratic theory implies that the media should act in the interests of ordinary citizens. If a highly influential segment of the media presents information in a way that systematically favors some interests (e.g., its own) over others, democracy is weakened (Dahl 1989; Page 1996). Many cases of such possible “bias” have been examined by political communication scholars, including bias stemming from ideology and dependence on official sources. Few if any such cases, however, have involved matters of economic life and death for media enterprises. The future of the broadcast spectrum, as evidenced by the broadcasters’ frequent and much-publicized testimony, provides such a case.

Perhaps only once in a generation are the media presented with such a strong economic temptation to not only influence public policy but to use all the resources at their disposal, including control of what they print and broadcast, to do so. If this temptation were not acted upon, it would lend strong support to the prevailing scholarly assessment—and media self-assessment—that the business and journalistic sides of media corporations are largely autonomous (e.g., Gans 1980). Of course, a positive finding of self-interested media stands would not necessarily imply that this is a widespread phenomenon. Nor, however, need this be a unique case. It might simply be easiest to detect media biases where self-interest is so strong and clear.

## Sources of Data

In researching this paper, Snider interviewed more than 40 congressional, FCC, and National Telecommunications and Information Administration (NTIA) aides responsible for telecommunications policy. Face-to-face interviews were conducted during visits to Washington DC in September 1996 and April 1997. Telephone interviews were conducted from November 1996 through August 1997.

Documents reviewed included: 1) More than 1,000 articles from U.S. newspapers, trade publications, and magazines that mentioned granting broadcasters additional spectrum for digital TV—mostly downloaded from NEXIS.<sup>18</sup> 2) Television transcripts from news programs on ABC, CBS, and NBC that mentioned the spectrum debate or related issues—accessed via NEXIS, Dow Jones News Retrieval, and Burrelle's.<sup>19</sup> 3) Thousands of pages of internal National Association of Broadcasters (NAB) documents sent to local TV station managers, most notably 10 years of *TV Today* and various grassroots lobbying kits. 4) Thousands of pages of congressional testimony and FCC notices and reply comments going back to 1987, the beginning of U.S. government involvement in HDTV.

The investigation focused on January 1996, when the broadcasters were forced to lobby vigorously on behalf of the spectrum grant contained in the telecommunications bill that would become known as the Telecommunications Act of 1996. Broadcaster efforts to win additional spectrum from the government on optimal terms go back to 1987 and will no doubt continue for many years. But a crucial battle was fought and won during early 1996.

## TV Broadcasters' Financial Incentives

The federal government controls the use of the airwaves in the United States. This "spectrum" of frequencies is used for such purposes as cellular telephones, terrestrial TV, satellite TV, radio, garage door openers, and baby monitors. Spectrum is scarce and becoming increasingly valuable. For example, in 1994 and 1995 a small sliver of higher frequency (and therefore less valuable) spectrum was auctioned for personal

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<sup>18</sup>The core search string, worked out after much trial and error, was "(spectrum or airwaves) and broadcaster and (free television or free TV or auctions or spectrum giveaway) and (hdtv or high-definition TV or high-definition television or digital TV or digital Television or advanced TV or advanced television)." The key grouped files in Nexis were US (for United States newspapers), Mags (for magazines), and Script (for transcripts of TV news programs, mostly ABC). Dow Jones News Retrieval added publications missing in Nexis. Major trade publications covering the broadcasting industry included Broadcasting and Cable, Variety, Television Digest, Communications Daily, and Hollywood Week.

<sup>19</sup>More than 100 transcripts going back to the late 1980s mentioned related issues such as hdtv/digital TV or the Telecom Act. The v-chip was the most frequently cited issue relating to broadcasting and the Telecom Act. The spectrum issue was only mentioned a handful of times.



communication services, the next generation of wireless telephone technology. The auctions brought in \$19 billion.<sup>20</sup>

The government currently allocates to TV broadcasters 402 MHz of the most valuable spectrum for use as channels 2 to 69. Each analog TV channel uses 6MHz and interferes with contiguous neighboring channels, thus barring their use. In addition, the broadcasters are given access to several hundred megahertz of less desirable spectrum for electronic news gathering (ENG). ENG spectrum, for example, allows broadcasters to transmit video footage from the news site to the station for editing and later broadcast.

In the Telecommunications Act of 1996 each existing TV broadcaster was tentatively licensed to use double its existing spectrum for digital information services, including digital TV. With digital technology, spectrum can be used 5 to 10 times more efficiently than with analog technology.<sup>21</sup> It can also be used for new types of moneymaking services.

The FCC estimated that the value of the broadcasters' additional spectrum, if sold by auction, would be between \$11 and \$70 billion. The specific numbers used to value the spectrum have been the subject of controversy, but few dispute that the TV broadcasters are being granted use of a very valuable resource. For example, in the fall of 1995 the Dow Jones Company and ITT jointly purchased for \$207 million an unprofitable UHF station with a license to broadcast in New York City. The FCC estimated that the value of the station's other assets were less than \$10 million, so the value of the license to use the spectrum, the station's "stick value," was \$197 million, more than 90% of the purchase price (Pepper 1995). The senior editor of Television Digest, one of the major trade journals covering the TV broadcast industry, estimated that the cost of new spectrum at auction would be larger than the value of the average U.S. television station (Feazel 1996).

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<sup>20</sup>In the Omnibus Budget Reconciliation Act of 1993 (PL. 103-66), Congress authorized the FCC to use auctions to award licenses for certain services. The law specifically prohibits the FCC from auctioning broadcast (television and radio) licenses or licenses already issued. The FCC ran its first spectrum auction in July, 1994. Previously, spectrum had been awarded by lottery or through hearings assessing "merit." Between July 1994 and January 1997, spectrum auctions raised a total of \$24 billion for the U.S. government.

<sup>21</sup>The amount of information per TV program depends on a number of factors including: the resolution (number of pixels) of each picture frame, the pixel changes per second (amount of motion) between picture frames, and the intelligence of the TV receiver. Today's standard definition TV employs 307,000 pixels (picture cells) per picture. At its highest resolution (known as 1080i), high definition TV (HDTV) employs 2,073,000 pixels per picture, nearly 7 times as much. Standard definition public affairs programming, where motion consists mostly of talking heads, can be conveyed at about 2 megabytes per second. A standard 6 Mhz TV channel can convey close to 20 megabytes per second, allowing for approximately 10 standard definition channels in the space previously taken by 1. A smart receiver (like a computer receiving e-mail) can reconstruct text and graphics from simple commands. A dumb receiver (like a fax machine or today's TV) must reconstruct images pixel by pixel, sometimes requiring millions of times more information than a smart receiver.

Leading broadcasters repeatedly asserted the financial importance of new spectrum, arguing that forcing broadcasters to pay for the spectrum would lead to the death of free, over-the-air broadcasting, a bulwark of our democracy. The bald assertion that “spectrum auctions will kill free TV” was made thousands of times in trade journals, newspaper stories, op-eds, speeches, and letters to Congress.<sup>22</sup> Broadcasters could cite the growth of “pay TV,” most notably cable TV and direct broadcast satellite, as evidence that “free TV” could not survive without additional government support. In a world with 500 digital cable TV channels, 500 digital direct broadcast satellite channels, and even video-on-demand, broadcasters could become bit players. Responding to a congressional plan to use auctions to allocate spectrum for new digital advanced TV, NAB President Edward Fritts said it “would be tantamount to signing a death warrant on... free TV” (Communications Daily, August 2, 1995, p. 10).

## **Broadcasters As Political Actors**

In their political activity, broadcasters have employed many of the same techniques that other interest groups use, including Washington lobbying, lobbying in congressional districts, and advertising campaigns.

Washington Lobbying: Major TV broadcasters such as ABC, CBS, NBC, FOX, and Tribune Broadcasting have for many years employed full-time lobbyists in Washington, DC. Many of the congressional lobbyists formerly held senior positions on Capitol Hill. The National Association of Broadcasters (NAB), the largest broadcaster trade organization, is widely recognized as one of the most effective lobbies in Washington DC. During the first six months of 1996, the NAB alone disclosed \$2.62 million in lobbying expenses. This included the work of 44 lobbyists, 20 from NAB’s own staff and 24 from outside contractors.<sup>23</sup>

Leading broadcast lobbyists were in weekly contact with top congressional aides to the House and Senate Commerce Committees. A spouse and child of senior members of the

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<sup>22</sup>The claim was widely ridiculed. On February 13, 1996, Joseph Stiglitz, President Clinton’s top economic adviser, said it should be possible to make TV broadcasters pay for the extra channels they will need for digital TV without damaging the industry. He said an auction “would not affect the viability of the industry. If it did, the price of the auction would be zero” (Television Digest, “TV Girds for Spectrum Fight,” February 19, 1996, p. 4). Stiglitz’s position was at odds with the administration’s, and he did not subsequently speak about the issue.

Operating profit in broadcasting is among the highest in any United States industry, over 40% during 1995 for TV stations in large markets. In February 1996 Disney completed its acquisition of Capital Cities/ABC in a cash-and-stock transaction valued by Standard & Poor’s at roughly \$20 billion. The primary asset of Capital Cities/ABC was its over-the-air TV broadcasting network. Many cited this transaction as evidence of the vitality of the broadcasting industry. According to Broadcasting & Cable, radio-TV transactions totaled \$25.4 billion in 1996, excluding the Capital Cities/ABC transaction.

<sup>23</sup>Disclosures filed with the Secretary of the U.S. Senate and the Clerk of the U.S. House of Representatives under the Lobbying Disclosure Act of 1995.

House Commerce Committee had close ties to the NAB.<sup>24</sup> The NAB also made \$68,765 in PAC contributions and contributed unreported amounts for social activities such as sponsoring the annual Capitol Hill Press Secretaries Association get-together.<sup>25</sup> Numerous congressional aides confirmed that the bulk of broadcaster lobbying during the first six months of 1996 involved preventing spectrum auctions.

District Lobbying: The NAB has a formidable system in place to provide timely policy and political information to the more than 1000 general managers who run local TV stations in the United States.<sup>26</sup> Twice a year the NAB sends local broadcasters Legislative Update, a publication describing NAB's position on legislative issues, including talking points to convey to local representatives.

Every week the NAB sends local TV broadcasters TV Today, a two-page newsletter that often focuses on public policy issues affecting broadcasters. Every month the NAB invites local TV station managers to watch Telejournal, an exclusive satellite-delivered program on public policy issues, anchored by NAB government affairs executive vice president, Jim May. Each state in the nation has a legislative liaison committee made up of local broadcasters. Every month committee members receive a newsletter, Congressional Contact, which summarizes contacts between local station managers and members of Congress and offers tips for more effective lobbying tactics. Local TV broadcasters, especially in districts with members of the House and Senate commerce committees, also receive frequent "broadcaster alerts" with specially tailored information. In January, 1996, local TV general managers received a 65-page Spectrum Auction Action Tool Kit providing detailed instructions for applying political pressure on local members of Congress concerning the spectrum issue.

Several times a year, members of the NAB TV Board, made up of representatives of the major broadcasting groups in the United States, get together to discuss lobbying strategies and identify friends and enemies.

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<sup>24</sup>The wife of the president of the NAB, Eddie Fritts, was reputed to be an intimate friend of the wife of the chair of the House Commerce Committee, Thomas Bliley. The daughter of Billy Tauzin, a senior member of the House Telecommunications Subcommittee, worked in government affairs at the NAB. When Rep. Fields retired at the end of the 104th Congress, Rep. Tauzin became chair of the Telecommunications Subcommittee. His daughter was not listed as working for government affairs at the NAB or on NAB's lobbyist disclosure form, but in fact was actively involved in NAB's government affairs department.

<sup>25</sup>Until the new gift disclosure act came into force beginning on January 1, 1996, the broadcasters, along with other telecommunications firms, spent large amounts of money on social and educational events including Christmas parties, presidential inaugural parties, national convention parties, sporting events (broadcasters have excellent access to premier sporting events), and how-to/social events for press secretaries. With the new gift disclosure requirement, congressional aides said such gifts would diminish. The major loophole appears to be that expenditures on widely attended events, such as press secretary association get-togethers, need not be reported.

<sup>26</sup>Not all TV stations belong to the NAB, but the great majority of the elite stations, the large market and network-affiliated stations, are members.

Every year, members of the 50 state legislative liaison committees meet in Washington DC and visit the office of every member of the U.S. Congress. On major issues, local station managers express their positions to their congressional representatives through written letters, often of a highly personal sort, and through face-to-face meetings, often at the local TV station. The NAB has an 800 telephone number manned by a full-time employee whose job it is to track the results of every contact between a local station member and member of Congress. The NAB has a file cabinet filled with thousands of letters sent by local TV broadcasters to their local representatives. Members of Congress are carefully identified as ally or problem. During the first six months of 1996, most representatives received letters or personal communications disparaging spectrum auctions from all the network-affiliated TV stations within their districts.

Senator John McCain, a senior member of the Senate Commerce Committee and one of the few members of Congress to defy the broadcasters' wishes, met with more than a dozen general managers from Arizona TV stations, according to one of his senior aides. As a matter of NAB policy, all 535 members of Congress were invited to local TV stations to learn why spectrum auctions allegedly threatened the future of free, over-the-air TV. Members of Congress were encouraged to preview NAB's ad campaign before it was run in their districts.<sup>27</sup>

**Advertising Campaigns:** Between February 21, 1996 and the end of April, 1996 broadcasters ran a multimillion dollar ad campaign to preserve "Free TV." At least \$2 million was spent by the NAB and another estimated \$2 million was spent by local broadcast stations in public service announcements.

The campaign started on February 21 with full-page ads in the Washington Post and Washington Times. The headline ran "Doesn't a free society deserve free TV?" and the body of the ad started:

It's been there as long as you can remember. Free television. From The Honeymooners to Nightline, it's entertained and informed you. During times of national celebration or national crisis, it's united you with viewers across the country. Even in an age of Cable, Pay-Per-View and Satellite, it can still be depended upon for everything—from local sports to news and weather. For hundreds of millions of Americans, free television represents such a unique, irreplaceable service that it's almost impossible to imagine life without it. But that's exactly what we could be looking at if some members of Congress get their way. They want billions of dollars from your local TV stations to make a budget deal possible.

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<sup>27</sup>From Spectrum Auction Tool Kit and other correspondence the NAB sent to TV station general managers. Whether local TV station general managers or their representatives on the state legislative liaison committees executed NAB lobbying strategy is a different question. Most of the telecom aides Snider spoke to said they knew nothing about such meetings at a local station. But they also indicated that if such meetings took place, they probably wouldn't be told. Telecom aides are involved in policy formulation, not member dealings with local press.

In subsequent weeks, newspaper ads were taken out in many urban areas throughout the United States. The NAB sent local stations three model print ads for this purpose. In addition, thousands of TV ads advocating Free TV were run on hundreds of different TV stations across the United States. Viewers were encouraged to “Call 800/No-TV-Tax” for more information. The campaign was called off in late April, 1996. By then the NAB had received 160,000 calls to 800/No-TV-Tax. As part of the campaign, local TV station managers wrote op-eds carried in dozens of local newspapers across the United States.

## **The “Chinese Wall” Between Owners and Journalists**

A basic tenet of good journalism is that journalists should not have a financial conflict of interest in the stories they cover. This includes not accepting gifts from sources, not owning stock in companies reported on, and not accepting speaking fees or any type of employment compensation from trade associations or companies within one’s beat. But a major financial conflict of interest can arise between journalists and their bosses. This type of conflict of interest cannot be rooted out at its *source*. Only its *effects* can be mitigated. Journalists, after all, must work like everyone else—it is impractical to design a media system around voluntary labor—and their employers are bound to have financial interests related to some stories they write.

To deal with the seemingly intractable problem of how to maintain objectivity in the face of such conflicts of interest, the media have invented an honor code that includes what is often called the “separation of church and state,” the separation of media’s business and journalistic entities. Here we refer to a “Chinese Wall” separating the two sides of the media business.

In the words of one prominent media scholar, “A sacred principle in journalism has been the wall of separation between ‘church and state,’ that the reporting, writing, and selection of news shall never be influenced by the business side of the news organization. It is considered unethical for any money interest to influence the selection of news” (Bagdikian 1992, 231). In October 1996, the American Society of Magazine Editors adopted a policy statement in the hopes of countering media owners’ intrusive actions. The policy declared that “editors need the maximum possible protection from untoward commercial or other extra-journalistic pressures. It seems appropriate now to make that standard explicit and precise” (cited in Hickey 1997, 28).

Mass media, including TV broadcasters, have a strong economic incentive to *appear* impartial. The public seeks to acquire news from sources it trusts. In our media system, this trust comes from being perceived as an impartial, balanced news source (Tuchman 1978; Schudson 1979; Gans 1980; Hackett 1984). The appearance of bias would presumably lead to reduced audiences and profits. As the New York Times’ Craig Whitney explains, if you force an opinion on the public, “you risk losing the trust of people who hold differing views. We sell a million copies of this paper every day. You want people on both sides of the question to keep reading you and not feel that you’re shading information one way or another” (Hertsgaard, 1988, 340-41).

Those who work in media organizations, both owners and journalists, tend to insist that impartiality is a practice, not just a principle. To ask media people if they report news impartially is like asking politicians if they act in the public interest. In both cases, the professional's livelihood and self-esteem depend on an affirmative answer. Journalists' claim that they act autonomously, free from any political agendas their bosses might have, has been widely observed (e.g., Gans 1980; Bagdikian 1992).

In addition to enhancing their influence over audiences and their employees' professional self-esteem, owners of TV stations have another reason for asserting the separation of the business and news sides of their business: it enhances their ability to resist outside pressure to shape the news. For example, on November 30, 1995, Senate Majority Leader Robert Dole met with the chief executives of ABC, CBS, NBC, Fox, and the NAB. Dole reportedly said: "Why should I give you a \$40 billion giveaway when you're driving my [approval ratings] numbers through the floor on Medicare?" One executive, interpreting Dole's statement as an offer to link spectrum policy to Medicare news coverage, "pointed out to Dole that the networks deem their news divisions and corporate operations to be separate" (Farhi, Paul, "Broadcast Executives Say Dole Vented Anger at Them; Senator Denies Linking Licenses to Coverage," Washington Post, January 12, 1996, p. F1).

Until the late 1980s, TV broadcasters could also lose their licenses if they violated the "Fairness Doctrine" and used the news to pursue their own economic interests. Maintaining at least the appearance of a Chinese Wall was a legal requirement as well as an economic imperative. Unlike print media, which were protected by the First Amendment, broadcasters were viewed as "public trustees." In the words of one FCC chairman, "[the broadcaster] is not free to maximize profits at the expense of the public interest," and "the essence of the Communications Act's public interest mandate is that broadcasting must be more than a business" (cited in Baughman 1985, p. 125). In 1969 the Supreme Court upheld the FCC's Fairness Doctrine in *Red Lion Broadcasting v. FCC* (395 U.S. 367). In August 1997 the FCC considered eliminating the last remaining vestiges of the Fairness Doctrine, the rules restricting personal attacks and political editorials. After it deadlocked on a 2-2 vote, which failed to overturn the status quo, the NAB threatened legal action to end what it called "these relics from the Fairness Doctrine era."

However, to the extent that they can depart from this "fairness" standard without being widely detected, broadcasters have an incentive to use the media for their own political advantage. (This can be especially tempting, as we shall see, if the perceptions and risk tolerance of elected officials differ from those of the public.) News is a powerful force in shaping public opinion and policy in the United States (Iyengar and Kinder 1987; Protess et al. 1991; Page and Shapiro 1992). For media owners not to use this weapon to pursue their own interests—providing they can do so without being detected by their audience—would be an act of extreme altruism. For this reason it would be surprising if bias—to

the extent it does exist—were easy to detect and prove; one should be willing to devote considerable effort to finding it.<sup>28</sup>

## Breaches in the Wall

We may distinguish two different dimensions on which the Chinese Wall may be breached (see figure 1). The first dimension, and the one that will primarily concern us here, distinguishes between issues in which media owners have an overt or covert economic conflict of interest. Overt bias refers to issues where media owners have a clear and direct self-interest. An example would be the granting of spectrum to broadcasters. Broadcasters have a clear and direct self-interest in getting spectrum on optimal terms. Covert bias, on the other hand, refers to issues in which an owner's policy stand cannot be inferred from knowing the issue. An example would be covering a sex scandal concerning an elected official who has voted for legislation that a media owner lobbied against.

Media norms reflect this distinction. Reputable media generally acknowledge conflicts-of-interests that are obvious and direct. For example, a newspaper that owned TV stations would be expected to acknowledge this fact in any editorial on the spectrum issue. But it would not be expected for it to acknowledge this fact when reporting on the sex scandal of an officeholder who had voted against its interests.

**Figure 1: Examples of Media Ownership Bias by Type**

	Commission (bias by coverage)	Omission (bias by lack of coverage)
Overt (bias on the lobbied issue)	Broadcaster gives favorable coverage of the government's spectrum grant to broadcasters	Broadcaster ignores coverage of the debate over the spectrum grant to broadcasters
Covert (bias on an indirect issue)	Broadcaster reports on allegations of immoral behavior by an opponent of the spectrum giveaway	Broadcaster declines to give an opponent of the spectrum giveaway free publicity on a wholly unrelated issue.

Covert bias is ordinarily candidate-focused as opposed to idea-focused. With covert bias, issues are not thought of as ends in themselves but simply as means to help or hurt candidates. For this purpose, issues are interchangeable; an issue in which a media owner has an obvious self-interest is not necessarily any more useful (perhaps less so) than an issue in which he does not. In this way, the mechanism of media bias achieves an extraordinary fungibility and ambiguity.

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<sup>28</sup>One area where the wall of separation seems to be in excellent repair is in the disclosure of media owners' confidential information to their news divisions. For example, if journalists want documents about the NAB's lobbying activities, they should not expect to get them from their bosses, even if those bosses serve on NAB's TV Board. Nor should news directors expect their well-informed employers to correct them, let alone upbraid them, for distributing to the public misleading or false information when such information is in their owners' self-interest.

If the presentation of almost any issue can serve to exercise power over a particular policy of concern, then the study of ownership bias may require knowledge of the full range of owners' political activities and objectives. The study of lobbying becomes as important to the field of political communications as the study of media content.

Covert bias has two principal advantages over overt bias. First, because it is covert, it is harder for both journalists and audience members to detect or prove. This helps preserve journalists' professional self-esteem and audience members' faith in the media outlet's objectivity. As we mentioned in our discussion of the Chinese Wall, such illusions are profitable for a media entity. Given that overt issues have no intrinsic advantage over covert issues in hurting a candidate, all other things being equal, media owners should always choose to express bias through covert issues.

Second, covert bias, because it is candidate-focused, is much easier to implement. Broadcaster trade associations are skilled at and dedicated to identifying elected officials who are for and against their interests. Issues are important, but there are typically hundreds of them and the public policy details are intricate. In correspondence with their rank-and-file members, therefore, trade associations typically aggregate issue positions into a simple support or oppose recommendation. Similarly, this aggregation process makes the control mechanism between the media owner and his news director much more efficient. Reporters and editors do not need to be educated about a thousand policy details on a thousand issues. The news director simply has to be told to toughen his journalistic standards and stop giving so much free airtime to (unfriendly) local members of Congress. Members of Congress, after all, are notoriously thought of as showboats who rarely create real news and bore local audiences.

In one respect, overt bias may be easier to implement than covert bias. On certain issues, such as the spectrum grant, the owner's conflict of interest may be so strong and obvious that the editor and reporter need absolutely no information to infer the media owner's position and intensity of preference. If reporters assume that their bosses care about profit maximization, not just the public interest, they will in many cases find it easy to censor themselves. This may be especially true of the non-elite media.

Another important distinction is that an issue may be framed in such a way that it is overt to elected officials but not to the public at large.<sup>29</sup> In such cases, the media can send a strong signal to the official without losing audience credibility. An example might be the public service announcements (PSAs) in support of free TV run by local TV stations. Without outside knowledge, the PSAs in-and-of-themselves could not be inferred to have anything to do with the spectrum debate taking place in Congress and the public policy community. The PSAs were mainly symbolic flag waving for the American way of broadcasting. But elected officials who saw those PSAs would understand the political context of the symbolic posturing. The PSAs would provide them valuable political

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<sup>29</sup>In this paper we have emphasized the candidate as the basic linkage mechanism between overt and covert issues. But any type of asymmetric information about issues—such as if officials are better informed than viewers or some readers are better informed than others—can be a vehicle for exercising covert bias.



information about the intensity of media owners' preferences on the spectrum issue and the owners' ability and willingness to employ covert issues to achieve their ends.

The second dimension of media bias distinguishes between action by commission or omission. Bias by commission refers to coverage of an issue in a way that corresponds to the media owner's self-interest. An example would be news stories favoring the free spectrum grant to broadcasters. Bias by omission refers to an issue that would normally be considered newsworthy but is not covered because it is not in the media owner's self-interest to do so. An example might be a network TV blackout of news concerning the spectrum issue during the period of time when the issue should have been most newsworthy, the month of January 1996.

For issues that are hard to give a positive spin, bias by omission may be the better strategy. Special interest groups, including broadcast interest groups, are most effective when there is little or no public awareness (e.g., Schattschneider 1960; Miller and Stokes 1963). Bias by omission can thus give their lobbying organizations a great strategic advantage. Bias by omission also tends to be harder to detect and demonstrate, thus helping to preserve the illusion of objectivity and the Chinese Wall.

This is our second paper exploring the way broadcasters may enhance their power by breaching the wall between their business and journalistic operations. It is also part of a more comprehensive investigation of the ways broadcasters may operate as political actors.

Following in the mainstream of political communication research, the first paper explored overt bias (Snider and Page 1997). It found that media owners' economic interests in TV broadcasting affected coverage of the spectrum issue. This finding was contrary to the mainstream political communication literature, which emphasizes the media's propensity for biases flowing from newsgathering routines, not ideology or economic self-interest (e.g., Bennett 1988; Cook 1989; Entman 1989; Page 1996).

This paper explores the possibility of covert bias. The print media (especially those with minimal or no broadcasting properties) in fact reported many allegations that the broadcasters' political influence rested on their ability to exercise covert bias.

A New York Times front page article by Pulitzer prize-winning reporter Joel Brinkley asserted that "many members of Congress have shown themselves to be vulnerable to lobbying from broadcasters because politicians need to be on television to be re-elected." ("Lobbyists for TV Angle to Elude Rules to Return Free Channels," June 25, 1997, p. 1) Brinkley's highly regarded book, Defining Vision: The Battle for the Future of Television (1997), also made such allegations.

In a front page article in the business section of the New York Times, Leslie Wayne alleged that covert bias was the major source of the broadcasters' political strength: "The broadcast industry has power in Washington for two reasons: It spends millions in campaign donations and on high-powered lobbyists.... More important, however, the

industry has the power of television: Its stations nationwide determine how politicians are portrayed to their voters back home” (“Broadcast Lobby Excels at the Washington Power Game,” May 5, 1997, p. D1).

On January 24, 1996 the Wall Street Journal editorialized: “most politicians, especially House Republicans, aren’t in the habit of annoying folks who control broadcast news...” (“Off the Dole,” p. A14). Three months later, after the broadcasters’ victory coming out of important spectrum hearings, it editorialized again: “GOP Senators yesterday abandoned the idea of auctioning off TV spectrum: broadcasters will get the space free. No doubt the Republicans didn’t want to risk political retribution from local TV coverage during the campaign.” (“Asides,” April 26, 1996, p. A20)

The top telecommunications reporters for the Washington Post, Mike Miles and Paul Farhi, repeatedly mentioned the possibility of covert bias: “Traditionally, politicians have been wary about taking on broadcasters during election years, when exposure on local and national TV news is crucial.... ‘If I were a candidate for president, I surely would not want to... alienate broadcasters at this stage of my campaign,’ one lobbyist said” (“Dole Statement Snags Phone, Cable TV Bill,” January 11, 1996, p. D8).

To be sure, the major media sometimes cited statements casting doubt on allegations of covert bias. Bryan Gruley of the Wall Street Journal reported: “As a congressional leader who might run for president in 2000, [Senator John McCain] has no trouble getting on the air, but he worries that less-senior lawmakers can be intimidated. Broadcasters reject that notion. ‘Nobody that had any conscience about running a good news operation would ever embargo a senator or congressman,’ Mr. Ruby [a station manager in McCain’s home state of Arizona] says” (“Senator McCain Puts Spotlight on Broadcasters,” March 17, 1996, p. A20).

Paul Farhi of the Washington Post paraphrased an interview with Adam Thierer, an economic policy fellow at the Heritage Foundation: “NAB lobbyists carry with them an ‘implied threat’ whenever they go to Capitol Hill—the threat that a lawmaker won’t get his face on the 6 o’clock news unless he goes along with the NAB’s agenda.” The passage concludes: “Thierer can’t come up with any examples of this kind of hardball lobbying, and the NAB denies that it has ever used such tactics” (“Their Reception’s Great,” February 16, 1997, p. H5).

Despite such comments, however, the overwhelming sense in reading the elite media is that covert bias lies at the heart of broadcaster power.

Leading journals were full of similar allegations:

Warren Cohen in the Washington Monthly: “Few Congressmen are willing to take on the broadcasters’ lobby, whose power extends far beyond its ability to hand out campaign contributions.” Cohen quotes Andrew Schwartzman of the Media Access Project: “their

power comes from controlling the content of what goes into every voting home” (“Halting the Air Raid,” June 1995, p. H30).<sup>30</sup>

Neil Hickey in the Columbia Journalism Review: “In election years, politicians develop a special attentiveness to the needs of local TV entrepreneurs, whose goodwill, airtime, and contributions they need to get re-elected. Thus, most TV people are quietly confident that no digital auction will ever happen...” (“What’s at Stake in the Spectrum War?” July/August 1996, p. 42).

Paul Taylor in the New Republic: “[B]roadcasters back home... are the figures, far from Capitol Hill, who hold the ticket to every congressman’s heart—access to the six o’clock news.... This is not the sort of currency that’s openly exchanged. On the contrary, broadcasters insist in private and in public that they never barter journalistic coverage for bottom-line favors. And they may mean it. But not many politicians believe them. They’re as jaundiced about the media’s ethics as the media are about theirs. They live in a world where image is a fragile commodity, where paranoia is a survival tool and where it’s taken as a given that if the station manager, the news director and the anchorman think you’re a helluva guy, that’s a very good thing” (“Superhighway Robbery: America’s broadcasters v. the public good,” May 5, 1997).

Shortly after the broadcasters were finally awarded their digital spectrum licenses from the FCC, ABC’s Nightline aired a program, “Digital TV—Coming Soon to a TV Near You.” The program focused on discussing the cost and quality of digital TV for the consumer, but during a brief interchange on the politics of advanced television, ABC correspondent Jeff Greenfield mentioned the power of covert bias in influencing the outcome:

JEFF GREENFIELD: There is also a major public policy question to be answered here....

FOREST SAWYER: Is this going to be a political brouhaha, Jeff?

JEFF GREENFIELD: I don’t think it’s going to be a major one, primarily because broadcasters have so much political clout—you know, politicians kind of like to be on television... (“Digital TV—Coming Soon to a TV Near You,” April 22, 1997”).

Are these journalistic observations correct? Can we offer any systematic evidence to back them up? Yes, our own research has uncovered substantial indications that covert media bias is a powerful tool of political action.

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<sup>30</sup>This was not the Washington Monthly’s first article on the political power of the media lobby. For a description of the broadcasters’ lobbying activities during the mid-1980s, including the benefit they received from fear of covert bias, see Sheila Kaplan, “The Powers That Be—Lobbying,” Washington Monthly, December 1988.

Snider's interviews with more than 40 aides, mostly telecom aides, in Congress, the NTIA, and the FCC,<sup>31</sup> revealed that many players close to the policymaking process thought that the broadcasters' unique control of voter perceptions, not their money, lobbying, or discussion of the spectrum issue, was the main source of their power on Capitol Hill.<sup>32</sup> Most aides, as a condition of speaking to Snider, would not allow attribution by name. Also, Snider rarely asked about an aide's boss. He almost always asked questions about other members of Congress. Aides' bosses were almost always depicted as fiercely independent defenders of the public interest, beholden to no one, including broadcasters. Thus, there was an inconsistency in the comments Snider heard. Given the aides' strong incentive to make their bosses look good, however, Snider placed greater weight on the comments made about other congressmen.<sup>33</sup> A sample of such comments, each from a different aide, follows:

"No politician wants a broadcaster against them."

"They're extremely powerful because they control the debate."

"They're the gatekeepers into the voters' home.... You don't have to be a rocket scientist to understand their power. Part of getting elected is understanding the power of local TV."

"If the broadcasters decide you don't exist, you don't exist."

"Broadcasters don't need to pay for access; they're the ones getting your message out."

"They control the networks, the media; that's people's worst fear."

"A staff person thinking about a vote situation would never put himself in a position of alienating (TV broadcasters) near the election."

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<sup>31</sup>These interviews included a dozen current and former staff members from the Senate and House commerce committees, several aides from the Senate Budget Committee, an aide from the House Judiciary Committee, several dozen telecom aides working for members of Congress (most were for retiring or recently defeated members of the 104th Congress who felt more free to talk), a half dozen congressional press aides, two congressional administrative assistants, three members of Congress (two from the House Commerce Committee), four senior officials at the NTIA, five senior staffers (three from the 8th floor) at the FCC, and one staffer at the National Economic Council.

<sup>32</sup>Aides working for members of the commerce committees were the most important exception. Many emphasized that free, over-the-air TV was in the public interest.

<sup>33</sup>Alternatively, such a discrepancy might be characterized as a third person effect. In a third person effect, the individual speaking thinks that others are more influenced by a communication than they in fact are (e.g., Lasorsa 1992; Perloff 1993). For example, most people think that others are more influenced by advertising than themselves. Given the human being's propensity for self-delusion, however, the existence of a third person effect does not establish the accuracy of either the first or third person's perceptions. Truth can only be established by knowing the first and third person's incentives and available information in a particular context.

“You never pick a fight with someone who buys ink by the barrel.”

“They have something more important than money. They have something money cannot buy. They have access. They are your access to people back home.”

“You live and die through the media. You’ll do anything you have to do to get on the media... you spend a lot of time thinking about how you can ingratiate yourself with these folks. Say you’re in a heated campaign getting down to the end. You say one thing. Your opponent says another. Neither side has conclusive evidence. Who does the media give the benefit of the doubt? You or the opponent? A politician’s future depends so much on the media that you tread very carefully.”

“We’re at their mercy. If you schedule 10 press conferences, we’ll only get one covered. They can pick and choose.”

“The networks have power. Sure they do. Damn right they do. They have a lot of power given the nature of our democratic system these days. The networks are the place the average American gets information about how the government operates. No legislator would want to get crosswise with a broadcaster. There is always the issue of whether the industry might bias the presentation because they control the airwaves. To sit here and tell you they’re not important would be naive on my part. On this particular issue, I wonder if the broadcasters felt if they said something about it they’d be perceived as having some bias on the issue. And then be accused of being biased on this and then everything else, thus endangering their credibility.”

Representative Barney Frank, one of only three members of Congress who were outspoken critics of the spectrum clause in the Telecommunications Act (Senators Dole and McCain were the other two) was quoted as saying:<sup>34</sup>

“We know [broadcasters] have enormous discretion over what goes on the air each night and what doesn’t.... It’s not that members of Congress fear out-and-out retribution. It’s more subtle. They worry that the station might decide to just ignore the shit out of them. Now I happen to be at the stage of my career where if they never say another word about me, a

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<sup>34</sup>Other experienced members of Congress have made similar statements about the nature of the broadcasters’ power, albeit in other contexts. Rep. Lionel Van Deerlin, the longtime chair of the House Telecommunications subcommittee, said: “The clout that newspapers and broadcasters exert is the desire of every elected official to have favorable press attention.... When you hear from these guys, you listen” (Sheila Kaplan, “The Powers That Be—Lobbying,” *Washington Monthly*, December 1988, p. 36). Senator Ernest Hollings, as chair of the Senate Commerce Committee, said: “We live and breathe by TV, and that is our reelection. If the local broadcaster calls, you are going to do him a favor” (Sheila Kaplan, “The Powers That Be—Lobbying,” *Washington Monthly*, December 1988, p. 44).

blessing on their head. But, for a lot of members, it can have a chilling effect.” (Taylor, Paul, “Superhighway Robbery,” May 5, 1997, p. 21)

Broadcast historians have also found that covert bias has been a major source of broadcaster power. For example, in his history of TV broadcasting regulation, Braughman repeatedly states that broadcaster effectiveness in the political arena has stemmed from their control over the re-election prospects of members of Congress.<sup>35</sup>

“In the absence of much organized constituent involvement, congressmen were more likely to accept the entreaties of local station managers who had been helpful in reelection campaigns....(74) Within individual districts, radio and television stations offered an efficient source of exposure, a reminder to voters of a representative’s name and positions. In some communities, such publicity was vital if the local newspaper opposed the congressman. Stations aired tapes in special studios on the Hill. A South Carolina congressman confessed: “Any person in politics benefits, ordinarily, by any radio or television interview. The honest politician will tell you that he knows the value of being placed before the public in the off season, when there is no political contest involved. It is an advertisement at its best insofar as his ambitions are concerned.” (1985, p. 130).

In The Politics of Broadcasting Regulation, Krasnow and Longley make a similar point. Krasnow is NAB’s former General Counsel:

Since media exposure over the airwaves is practically essential for election to Congress, usually the only politicians who criticize the media with relative impunity are national leaders, who are too prominent for the media to ignore them or elected officials who come from one-party or ‘safe’ districts. By contrast, a congressman may be reluctant to criticize local broadcasters if his reelection depends in great measure on the amount and tone of the exposure obtained from them. (1978, p. 72).

This material from historians and from Snider’s interviews certainly adds to the credibility of the covert bias hypothesis. But a striking feature of assertions by the journalists, and even historians and interviewees, is the lack of evidence provided in support of their allegations of covert bias. Assuming that the journalists and broadcast historians had picked up these ideas by talking to legislators, were the legislators paranoid for holding such beliefs about broadcasters? Was the political communication literature, then, correct in giving short shrift to this type of media bias?

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<sup>35</sup>Braughman identifies what may be the earliest high profile allegation of covert bias by TV broadcasters. In November 1959, New York Times columnist James Reston predicted that “Congress in an election year is not going to want to punish the TV industry too hard.” (1985, p. 49)

To Snider's repeated questions about this lack of evidence, he generally got one or both of the following responses:<sup>36</sup> First, the broadcaster-intelligence response: "Broadcasters are not stupid; they do their shit in private and don't document it for the public eye." Second, the legislator-intelligence response: "Legislators are not stupid; they don't need to see the consequence of their colleagues' jumping over cliffs in order to avoid jumping over cliffs themselves." Both responses are based on rational actor theories, not empirical evidence. Both assess the incentives facing the different actors and consider the implications obvious. Such reasoning has significant persuasive force.

Of course, such explanations do not rule out the possibility that legislators overestimate broadcaster power (at least over their colleagues), but they provide a plausible mechanism—that of anticipated reactions under conditions of clearly anticipated and much feared reactions—to suggest the existence of latent power with few, if any, empirically observable antecedents.

This has led us to conclude that a rational choice perspective, bolstered by solid empirical evidence of covert bias under certain special conditions, is the appropriate method to study the political importance of covert bias.

## **Anticipated Reactions vs. Observable Reactions**

In studying the motivational wellsprings of human behavior, we can conceptualize human beings in two ways. We can think of them as purely reactive organisms, with an observable cause—a stimulus—always leading to an effect. Or we can think of them as rational actors who can anticipate reactions and avoid unpleasant events without having to first experience them. Here the cause is a mental object and the effect has no observable antecedent. The first approach, call it the method of observable reactions, is well-suited for traditional empirical research and is arguably the predominant standard of evidence employed in the social sciences. The second approach, call it the method of anticipated reactions (or rational expectations), appears less scientific, unless it is dressed up in fancy formal equations, but can sometimes provide more insight into empirical phenomena. Of course, the distinction between mental and observable sources of human behavior is not without ambiguity. If one looks hard enough, even anticipated reactions often have observable roots, but these may be so removed in time and space as to be all but impossible to measure with available tools.

Under what circumstances will a legislator respond to anticipated as opposed to observable power? We propose the following commonsense "law":

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<sup>36</sup>During Snider's interviews, his interviewees frequently got angry when he repeatedly asked the same question: "Where is the evidence of retribution? How can you believe something with no evidence?" Many interviewees implied that by asking such a question Snider was both insulting their political intelligence and revealing an embarrassing lack of political sophistication on his part. For these people, no evidence was needed; it was part of the air they breathed, the basic logic of the universe they inhabited.

**The Conditions for Anticipated Political Reactions:** The smarter the legislator and the more he has to lose by testing political power through actual reactions (trial and error experiments), the more he will rely on anticipated reactions (mental experiments).

Res Ipso Facto (“the thing is self-evident”), an obvious and powerful force will rarely be tested empirically. To prove why Americans who live on the seacoast do not jump over the numerous cliffs they come near, we do not need to find hundreds of dead bodies fallen over cliffs. Most reasonable observers will agree that the reason people do not jump over cliffs is self-evident, a matter of simple human intelligence. They do not need to jump over a cliff, or to know anyone who did, in order to determine that such an action would be harmful to their health. Similarly, if a legislator knows that taking a course of action—such as angering his local TV broadcaster—will very likely harm himself, he will not take it.

## **Legislators’ Incentives**

Consider the political environment in which the legislator found himself in considering the Telecommunications Act.

First, legislators, especially the crucial legislators on the House and Senate Commerce Committees, had little uncertainty about what broadcasters wanted. The NAB alone reported 44 individuals lobbying on its behalf during the first six months of 1996. In addition, more than a dozen large broadcasting groups, including, ABC, NBC, CBS, Fox, and Tribune Broadcasting, employ Washington lobbyists on their own behalf. The primary function of these lobbyists is to provide detailed information articulating and supporting broadcaster positions. These lobbyist efforts are supplemented by frequent contact between members of Congress and their local broadcasters.

Second, to most members of Congress, local media are more important than national media. In a survey of congressional press aides, Tim Cook found that they evaluated local media as far more effective than national media in helping their boss (1989, p. 83). Stephen Hess found that the median member of the House appeared on a particular network-affiliated local TV station’s news eight times in a year (multiplying by three local network stations would come to 24 times a year). The corresponding number for the national news program was zero times a year (1991, pp. 44-5). Hess reported the following comment as representative among press aides: “This office focuses on the local press, and the national reporters could keel over for all I care.” (1991, p. 72). Hess also found that the popularity of local TV news consistently tops national TV news (1991, p. 37).

Third, effective use of the media has become increasingly important for a successful congressional career (Robinson 1981; Cook 1989). Scholars often portray the contemporary Congress as a “beehive of media courtship.” (Hess 1991, p. 74). The number of press aides listed in House offices increased from 69 in 1979 to 323 in 1987 (Cook 1989, p. 73). In particular, TV news may be driving this change. Between 1979



and 1987 the number of members in the Senate Radio and Television Gallery grew from 750 to 2,300 members (Hess 1991, p. 35).

Fourth, for local news there is a buyer's market. In most congressional districts, TV stations have more news, including congressional press releases, than they can fit in their news hole. Symbolically, after the president delivers his State of the Union address, hundreds of congressmen prowl the 28 allocated camera positions waiting for an opportunity to respond on their local TV channels (Cook 1989, p. 39). Local TV stations like to provide a local angle on many presidential initiatives, but often have more than one local legislator from which to choose. Hess characterizes the increasingly common congressional attitude toward local TV by quoting Representative Dan Glickman: "I'm never too busy to talk to local TV, period, exclamation point" (1991, p. 33).

Fifth, legislators are unlikely to believe claims of altruism such as broadcaster protestations of professional honor codes. Legislators do not generally rise to power by believing that the people who lobby them, including broadcasters, are altruists. Most legislators instinctively recognize that talk is cheap. They spend their day surrounded by people who endlessly talk about the public interest but act otherwise. Nor, unlike scholars, can they afford to be overly bothered by the lack of scientific evidence supporting their suspicions. Effective politicians are brilliant at devising stratagems for covering their dirty tracks; Snider found that aides considered it a trivial matter for broadcasters to hide any breaches in their ethical standards. In short, legislators are as suspicious of journalists' claims of objectivity as journalists are of legislators' claims of acting in the public interest. In this regard, legislators' cynicism toward journalists may be reflected in their hiring practices. Most press aides are former journalists, and many will return to journalism after their stint in Washington (Hess 1991, p. 64). Press aides are hired, in part, to bend the truth in the service of their bosses.

In conclusion, whether or not broadcasters ever actually breach the Chinese Wall—or breach it in a way that is indisputable—may only marginally affect their political power. What is most important is what legislators perceive. If legislators have strong incentives to act as though the Chinese Wall does not exist, then broadcasters may be able to benefit from their media power without often having to soil themselves by exercising it. Political scientists, with their strict standards of evidence, could be right that local TV broadcasters do not often abuse their power over the airwaves, but they could be wrong in inferring that the capacity to exercise covert bias doesn't matter—and matter a lot—politically.

The foregoing discussion suggests that it would be foolish to look for lots of examples of broadcasters' exacting easily traceable retribution through their most powerful tool—control of the media. Attention should be focused on rare events that illustrate underlying power relationships. If the broadcasters did not use covert bias at a moment when their interests were defied by a powerful enemy, at a moment of the most extreme temptation concerning an issue with an obvious conflict of interest, this would constitute *prima facie* evidence that, at the very least, legislators' fear of local commercial broadcasters is exaggerated.

In the case of the Telecommunications Act, the period of greatest temptation, we believe, began on December 28, 1995 and culminated in a written threat delivered to Senator Bob Dole on January 23, 1996.

## **The Buildup**

April 9, 1992—The FCC outlines a proposed transition to HDTV. Existing broadcasters are to be given an additional channel to ease the transition from today's low definition to tomorrow's high-definition TV. Broadcasters must simulcast the same programming on both channels.

March 2, 1994—To the bill that is the precursor to the Telecommunications Act of 1996, Broadcasters win an amendment giving them "spectrum flexibility." Instead of using the additional 6MHz of spectrum granted by the FCC only for simulcasting HDTV, the broadcasters will be allowed to use it for a broad array of digital services.

May 5, 1995—The FCC values broadcasters' currently licensed analog spectrum, if repackaged and sold by auction, at between \$20 and \$132 billion. It values the additional spectrum it proposes to license to broadcasters at between \$11 billion and \$70 billion.

December 20, 1995—Capping a decade-long effort to overhaul United States telecommunications law, top Senate-House conferees reach a compromise on the last remaining issues. While the Republican leadership is briefing other conferees, Vice President Gore telephones newspapers and TV networks to proclaim the good news and boast that the Clinton administration got all it wanted. In the midst of their meeting, the Republican conferees are told that Gore is on NBC TV's evening news being interviewed by anchorman Tom Brokaw. They are enraged. Many publications later suggest that this episode caused Dole to change his position on the telecommunications bill. (Bryan Gruley, "Bill's Passage Represents Will of Both Parties," Wall Street Journal, February 2, 1996, p. B1; Dennis Wharton, "Telco dereg gets Gored," Variety, January 1, 1996, p. 59). In the words of Senator Larry Pressler, chair of the Senate Commerce Committee, "It may well be that Dole wanted to say, 'Hey, I can stop this thing. I'm in charge here.'" (Mike Mills, "A 'Camelot Moment' on Communications"; Washington Post, February 4, 1996, p. H1)

December 28, 1995—Senate Majority Leader Bob Dole, a leading presidential contender, publicly says there are "a number of problems in the bill that could have been resolved in a different way," including a spectrum "giveaway." Dole's comment raises no new issues; for many months, think tanks, interest groups, newspaper columnists, and even an occasional member of Congress (most notably Senator McCain) have attacked the "giveaway." The significance of Dole's comment lies not in its content but in the position of the person saying it. Dole's position allows him not only to bring the issue to the forefront of the national agenda, but to stop the telecommunications bill from ever coming to a vote in Congress.

December 29, 1995—The government is in the midst of a shutdown due to disagreement over the budget between the Republican-controlled Congress and President Clinton.

Both sides are desperate to come up with new ideas to resolve the impasse and balance the budget. A front-page story in the New York Times ties Dole's statement on the spectrum "giveaway" to the battle over the budget. (Jerry Gray. "Battle Over the Budget." December 29, 1995, p. A1.

January 3, 1996—Dole brings up the spectrum issue during budget negotiations with the White House. (Brooks Boliek, "Telcom bill sitting out while Congress dances budget," Hollywood Reporter, January 8, 1996).

January 4, 1996—Nationally syndicated New York Times columnist William Safire again attacks the spectrum giveaway. He quotes a January 3 interview with Dole: "This is a big big corporate welfare project. Here we're cutting Medicaid and doing all the painful things while we lend them the spectrum for 12 years. Why shouldn't they pay for it?" Safire himself calls the bill's spectrum clause a "ripoff... on a scale vaster than dreamed of by yesteryear's robber barons. It's as if each American family is to be taxed \$1,000 to enrich the stockholders of Disney, G.E., and Westinghouse." ("Stop the Giveaway," New York Times, January 4, 1996). NAB spokesperson Walt Wurfel responds that it's "pretty clear" Dole is waging war against the broadcasters (Dennis Wharton, Variety, "Dole Demands Toll on Infopike Dereg Bill," January 8, 1996, p. 61). Between January 4 and January 23, the great majority of newspaper editorials across the country will support Dole's position. No nationally syndicated columnist will support the broadcasters.

January 8, 1996—The New York Times prints a letter from NAB president Eddie Fritts attacking the Safire column. The same day, Broadcasting & Cable quotes Fritts as saying Dole's proposal could drive a "stake into the heart of the television industry." Also on the same day, NAB's member-only weekly newsletter, TV Today, reports that Dole's budget package would be "a disaster for the TV industry."

January 9, 1996—The New York Times prints a letter from Senator Bob Kerrey saying "Democrats Don't Want To Give Away Airwaves." Kerrey argues that the Safire column mischaracterized the Democratic position as hiding on this issue where in fact Democrats "have worked to insure that taxpayers are compensated for the transfer of this national asset to private use." The Kerrey letter apparently accurately reflects a quiet bipartisan concern over the "giveaway."<sup>37</sup>

January 10, 1996—The CEOs of the three largest TV networks and a half dozen other prominent broadcasters write President Clinton a four-page letter opposing plans for a digital auction.

January 10, 1996—On the Senate floor, Dole denounces the giveaway as a "giant" corporate welfare program: "Let me get this straight. America lends the broadcasters a national resource so they can increase their profit margins, but they do not think it's fair

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<sup>37</sup>Until Dole's December 28th statement, the broadcasters' nemesis was arguably FCC chairman Reed Hundt. Hundt sought to make the broadcasters pay for their new spectrum with greater public interest obligations. Broadcasters were furious with his valuation of the spectrum in May 1995 and accused him of encouraging competing interest groups to oppose broadcaster interests.

to pay rent.” He concludes, “Let’s, for the sake of taxpayers and for the sake of the American consumers, fix this one corporate welfare provision before we have to vote on it.” (Edmund L. Andrews, “Dole Steps Up Criticism Of Telecommunications Bill,” New York Times, January 11, 1996, p. D2) The New York Times, Washington Post, and Wall Street Journal report this speech. The Wall Street Journal runs the story on page 1.

January 12, 1996—Nationally syndicated liberal columnist Molly Ivins supports conservatives Dole and Safire in a column entitled “Greed Stampede; Airwaves giveaway will cheat the public.”

January 12, 1996—The Washington Post reports on Dole’s November 30, 1995 meeting with the CEOs of the four major TV networks. One of the broadcasters present appears to have leaked the story. Dole is accused of using the spectrum issue to seek retribution for their coverage of the budget issue. Dole is quoted as saying: “Why should I give you a \$40 billion giveaway when you’re driving my [approval rating] numbers through the floor on Medicare?” (Paul Farhi, “Broadcast Executives Say Dole Vented Anger at Them; Senator Denies Linking Licenses to Coverage,” p. F1). Three days later Variety reports: “One attendee said Dole ‘definitely had an agenda’ going into the meeting.... Dole, however, was ‘too smart’ to make an explicit link between news coverage and whether broadcasters will get free spectrum.” (Dennis Wharton, “Dole’s Political Spectrum,” Variety, January 15, 1996, p. 140). News Corporation CEO Rupert Murdoch later writes to Dole apologizing for the behavior of his fellow CEO who apparently leaked this story to the press.

January 13-17, 1996—NAB’s TV Board meets in La Quinta, California, and the spectrum threat tops its agenda (Kim McAvoy, “Digital TV tops NAB board’s agenda,” Broadcasting & Cable, January 15, 1995, p. 10; “Winter Board Meeting: Board Acts On Spectrum Threat, Key Issues,” TV Today, January 22, 1996, p. 1). Television Digest reports that the “NAB will fight Dole to bitter end on auctions” (“NAB Sets Goals,” January 15, 1996, p. 4). The Board announces a grassroots lobbying and media campaign to educate the public and legislators about the value of Free TV. The campaign includes sending a grassroots lobbying kit to all local station general managers. Nick Evans, who would deliver a written threat to Dole one week later, is a member of the Board.

January 17, 1996—Daily Variety reports that the 4,000 member Radio-Television News Director Association (RTNDA) “has criticized Sen. Robert Dole (R-Kan) over allegations that the Senate majority leader is blocking broadcasters’ free transition to digital TV because he believes network TV coverage of GOP plans to curb Medicare growth has been biased.” David Bartlett, president of RTNDA, is quoted as saying: “Sen. Dole’s threats are another good example of why government regulation of the media is dangerous” (Dennis Wharton, “RTNDA Lambastes Dole,” Daily Variety, January 17, 1996, p. 27.)

January 16, 1996—Democratic Senator Exon, a senior member of the Commerce Committee, appears to switch to Dole’s side, saying: “we’re very likely to expect more from the broadcasters from some kind of auction of the spectrum, more in billions than

we had earlier anticipated” (“Bipartisan Spectrum Debate Flares,” Television Digest, January 22, 1996, p. 3).

January 17, 1996—Democratic Senators Kerrey and Lieberman write to President Clinton: “While members of Congress stand on both sides of this issue, they are not divided by partisan lines. We wanted you to know, as you press forward with auction proposals to ensure there is no spectrum giveaway, that there will be congressional Democrats who will support this policy” (“Bipartisan Spectrum Debate Flares,” Television Digest, January 22, 1996, p. 3).

January 18, 1996—Republican Senator McCain writes to Dole that Congress now “may be able to prevent a valuable public resource from being given away at no cost to corporate interests.” (“Bipartisan Spectrum Debate Flares,” Television Digest, January 22, 1996, p. 3).

January 18, 1996—Daily Variety reports that “[NBC president Robert] Wright and other broadcasters have grown apoplectic amid threats from Dole....” (Dennis Wharton, “NAB Fights Spectrum Sale,” Daily Variety, January 18, 1996, p. 1.)

January 19, 1996—the New York Times runs an editorial in support of Dole: “Mr. Dole Fights a Big Giveaway.”

January 22, 1996—Speculation is rampant that President Clinton may side with or move closer to Dole on the spectrum issue.<sup>38</sup> This would be consistent with Clinton’s campaign strategy of narrowing the distance between himself and the opposition. It would also be consistent with his aversion to picking public fights on issues that gave every sign of being unwinnable in the court of public opinion. Larry Irving, the top telecommunications advisor to the White House, tells broadcasters “there is no way anyone in Congress will let people keep (both digital and analog) spectrum for 15 years.” (Martin Peers, “Clinton May Side With Dole,” Daily Variety, January 23, 1996, p. 1). He

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<sup>38</sup>The Clinton administration’s brilliant but cynical strategy was to defer the return of the spectrum to a later date. By projecting a sale of the spectrum in 2002, Clinton was able to project a seven-year balanced budget, a politically important goal in late 1995 and early 1996. The brilliance of Clinton’s strategy was that he got the budget benefit but postponed broadcaster opposition to a later administration. Moreover, he was able to argue that his approach would bring in more money for the treasury than Dole’s approach, because the spectrum that would be sold at the end of the seven years would be more valuable than the spectrum in Dole’s plan. After the broadcasters got the spectrum, they successfully fought the Clinton return plan. The Clinton strategy wouldn’t have been cynical if the Clinton administration had followed its original plan and insisted on providing vouchers (from the spectrum auction proceeds) for all Americans who couldn’t afford to buy converters to receive digital TV. But once that provision had been dropped under broadcaster pressure, the return policy became merely a budgetary gimmick. The broadcasters had little fear of the Clinton plan because they knew few politicians in their right mind would ever implement a government mandate to force millions of low-income Americans to throw away their old analog TV sets. In the meantime, the broadcasters could make the politically useful claim that the spectrum they were getting was a short-term loan, not a giveaway. Nevertheless, it still was a multibillion-dollar interest-free loan. And, under the glare of sustained public scrutiny, would have put the Clinton administration in the awkward position of supporting one of the largest corporate welfare programs in United States history.

says they are “dreaming” if they think otherwise (Dennis Wharton, “Dole Presses Digital Bid,” Daily Variety, January 26, 1996, p. 3).

## **The Threat**

On January 23, John Shine, the general manager of the CBS affiliate in Mason City, Iowa, personally hands the following letter to Robert Dole, the key opponent of the spectrum giveaway, while Dole is campaigning for president in Iowa. The two-page single-spaced letter is dated January 22 and written by Nick Evans, Shine’s boss. Evans is the president of Spartan Communications, a television group with 11 stations, including nine CBS and two ABC affiliates. Evans is on NAB’s TV board. He also owns four TV stations in Dole’s home state of Kansas.<sup>39</sup>

Evans starts his letter by saying it is not a threat.

I hope you take this letter in the spirit for which it is written. It is in no way intended to be disrespectful of you or your position as one of our nation’s leaders, and it is not a threat. I simply want to bring a very important issue to light and inform you of our position and intentions if forced to defend what I believe to be the survival and livelihood of free over-the-air television. Personally, I want to support you and vote for you for President. However, my support is waning.

He continues by stating that Dole’s position on spectrum auctions will kill him and that he won’t go down without swinging.

Your current stance and talk of auctioning spectrum will destroy free over-the-air television and America’s local television stations. I cannot—and will not—sit on the sidelines and allow this to happen. My American and Southern heritage will force me to fight for victory or go down swinging.

Evans reminds Dole that “Our company owns television stations in Kansas, Iowa, South Carolina, Georgia, and Florida.” The order in which Evans lists the states, starting with Kansas and Iowa, is a good approximation of the political importance to Dole of the various stations he owns. After explaining that Dole’s auction proposal is prohibitively expensive and will destroy his company, Evans expresses his Republican sympathies and natural inclination to support Dole:

Senator Dole, I am a registered Republican and have wanted to vote for you for President since I met you at Senator Strom Thurmond’s 90th birthday celebration in Washington. I met Mrs. Dole a few years earlier at

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<sup>39</sup>After Dole’s defeat in the November 1996 general election for president of the United States, Snider was able to obtain a copy of the letter from a senior Dole staffer.

a dinner in Charlotte, North Carolina, and believe she would be one of the all-time great First Ladies.

Next comes Evans' key paragraph, his threat to use his most potent weapon, his control over the media, to hurt Dole. Note Evans' assertion that his sentiments are representative of the larger broadcasting community. Given Evans' long-standing lobbying activities on behalf of the NAB (he currently has a position on NAB's TV Board) and his extensive contacts with other broadcasters (Evans was elected by NAB membership and was thus by necessity well connected in the broadcasting community), his threat that his 11 TV stations will not be alone in seeking retribution comes across as credible. Note that the Iowa caucuses, a major hurdle in Dole's campaign for the Republican nomination, will be held on February 12. Winning the Iowa caucuses, not fighting for spectrum reform, is clearly Dole's top priority.

This is where the hard part comes into play. If over the next few days your position on spectrum has not changed and been made public, you will have lost my support. I will be forced to use our resources to tell the viewers in all of our markets of your plan to destroy free over-the-air television. I will be forced to tell the over 700 employees of our company of your plan and encourage their support of another Presidential candidate. I have spoken with many other broadcasters who feel the same as I do. Without speaking for them, I know that they are making the same plans that I am, while wishing and hoping that they can support your race for the Presidency.

In a long paragraph, Evans elaborates on all the good things broadcasters do for their local communities. He even notes his company's support for the American Red Cross. Elizabeth Dole, Dole's wife, is the president of the Red Cross. Then Evans summarizes his argument and warns Dole that if he doesn't change his position, Evans (and his fellow broadcasters) will begin a campaign against Dole in Iowa and elsewhere during the week preceding the Iowa caucuses.

I believe the spectrum issue is important to the American people. I hope you will reconsider your views and position. Providing broadcasters a smooth transition to digital is not "corporate welfare." It is good business and a necessity for the American consumer and local broadcasters. My plan is to start our campaign against spectrum auctions and its supporters in the next ten days.

Evans concludes: "I hope that you will find a way to be with us so that we can be with you. My best wishes to you and your family for a safe and healthy 1996."

## **Representativeness of the Threat**

How representative of the entire broadcasting community was Evans' threat? Was he acting as a loner, or was he acting with the encouragement of the larger broadcasting community? Evans himself says in the letter that his threat is representative of a larger broadcasting community. But precisely what this means is unclear. One plausible possibility is that he was acting with the awareness and support of the NAB TV Board. Direct evidence on this point is extremely difficult to obtain. Board members have strong incentives to deny it. The 24 members of the NAB TV Board collectively control a large fraction, probably a majority, of the TV stations in the United States. As we have seen, the NAB TV Board met one week before the Evans letter was sent. Its meeting focused on the digital spectrum issue and the orchestration of a broad-based campaign to influence Congress. A central part of that multimillion-dollar campaign would obviously have sought to influence Bob Dole. One can imagine that the TV Board—or at least NAB government relations—would recognize that Nick Evans was the perfect person to apply that pressure. Evans was an experienced and trusted member of the NAB board. He owned four TV stations in Dole's home state of Kansas and also owned a TV station in Iowa where Dole was campaigning in the days leading up to the vote on the Telecommunications Act (February 1) and the Iowa caucuses (February 12). The Iowa caucuses were a tight contest and a uniquely powerful pressure point on Dole.<sup>40</sup>

Moreover, NAB's governmental affairs department was very likely aware of the letter both before and after it was sent out. The mandate of the government affairs department is to orchestrate both Washington and grassroots lobbying of Congress, especially congressional leaders with control of broadcasting legislation. As part of that mandate, it maintains constant contact with members of the legislative liaison committees in each state, especially members in states with access to key lawmakers. To facilitate this exchange of information, it maintains a toll-free hotline just for congressional contacts. It also regularly requests of all station members that copies of all congressional correspondence be sent to NAB headquarters. For this purpose, it maintains a large file cabinet filled with thousands of letters. Given Evans' position in the NAB, it seems unlikely that he would have flouted NAB protocol. If the NAB did know, it is interesting that the NAB did not denounce the Evans letter or acknowledge it when journalists asked for reactions to allegations that fear of retribution was a major source of the NAB's power.<sup>41</sup>

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<sup>40</sup>Note that the impact of TV is uniquely powerful in early presidential primaries where images of candidates are relatively unformed. In such circumstances, the slimmest piece of information can change voter intentions and lead to wild swings in poll results (Bartels 1988).

<sup>41</sup>This is consistent with Snider's observation that in thousands of pages of NAB correspondence with TV station general managers, the NAB has constantly exhorted station managers to lobby more aggressively, but never exhorted them not to breach the divide between the news and business sides of their companies. This point is all the more telling because in the past the NAB has encouraged its station managers to alert their news directors of information favorable to the broadcasters.

During the fight over must-carry, most commonly known as the Cable Act of 1992, the NAB repeatedly encouraged its members to alert their news departments of the importance of free TV and the problems of cable monopoly. Although the Cable Act of 1992 was known to the public for its promise of



Evans' action may also have had a certain democratic legitimacy. Approximately half the seats on the NAB TV board are chosen by ballot, and Evans holds one of those seats.<sup>42</sup> Almost every TV station in the United States has had the opportunity to vote on Evans both before and after his letter dated January 22, 1996. In February 1997 Evans was reelected to the NAB TV Board in a highly competitive election in which 16 senior TV executives ran for only six open slots on the NAB TV board.<sup>43</sup>

It is also interesting that thoughts of retribution were widely in the air. On January 8, 1996, Daily Variety, a major trade organ with impeccable ties to broadcasting lobbyists, reported: "Sources said broadcasters are preparing a grass-roots lobbying campaign to torpedo Dole's digital TV plans. One not-so-subtle strategy calls for TV station execs in key presidential primary states such as New Hampshire to remind the GOP presidential front-runner of the importance of passing the telecom bill" (Dennis Wharton, "Dole Demands Infopike Toll," p. 5) The author of the article, Dennis Wharton, would shortly leave his post at Daily Variety and assume the position of spokesperson for the National Association of Broadcasters.

On January 16, the Associated Press reported: "Some telecommunication lobbyists, including those representing TV broadcasters, said Dole was striking back at threats by unidentified broadcasters to restrain coverage of his campaign in the primaries if he pushed the channel payment issue."

The mid-January broadcaster accusations that Dole was seeking retribution may also be a form of evidence. The well-connected broadcasters who made the charges were themselves planning retribution, and it must have at least crossed their minds to use their most potent weapon of retribution, the media. Assuming the broadcasters were not altruists, the accusation could reflect the common psychological tendency to project one's own motivations onto others. It could also have been a self-conscious tactic of political hardball. A classic technique of hardball politics is to inoculate oneself from opponent accusations by first anticipating them and then firing a low-key warning shot accusing the opponent of exactly the same malfeasance. This serves to confuse the public and minimize the political gain from an accusation that will be reported as controversial and cutting both ways.

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reducing monopolistic cable rates, its value to the broadcasters was in its provisions for must-carry and retransmission consent, rules that added billions to the value of broadcast licenses.

<sup>42</sup>The TV networks and representatives from other broadcasting organizations have standing seats on the board.

<sup>43</sup>After re-election, Nick Evans, apparently speaking for the NAB TV board, said of Congress: "Broadcasters are tired of being bullied" (Paige Albiniak, "NAB board focusing on content, spectrum," Broadcasting & Cable, June 23, 1997, p. 20). The statement is ironic not only because of Evans' own behavior and earlier victories, but because it came after the NAB had just used Congress to overturn the FCC and Clinton administration plan to force broadcasters to return their spectrum by 2006.

In the final analysis, the evidence tying Evans's letter to the broader broadcasting community is circumstantial. Moreover, it is not clear that Evans or any other broadcaster would have carried out their threats of retribution. However, what counts politically is not reality but perception. If the goal of media owners was to influence short-term legislation through covert bias, all that matters is that Dole had reasonable grounds to believe that Evans was not a loner and was perhaps reflective of a significant fraction of the broadcasting community. Given this reality, the fact that the leadership of the broadcasting community has never exposed and punished the type of behavior exhibited by Evans makes them guilty not just of hypocrisy but of knowingly aiding and abetting a form of media bias that, even if rarely exercised and only by a small minority, greatly enhances their own political power as an industry.

### **Aftermath of the Threat**

Within one week of the Evans letter, Dole did almost everything Evans asked for and could have hoped for, including keeping the spectrum issue out of the presidential campaign and letting the telecommunications bill pass with the spectrum clause intact. Was the Evans letter the cause of Dole's change of heart? No definitive answer can be given. The Evans letter was just one of many pressures influencing Dole and may, singly, have been a relatively minor one. Surely, however, Evans (with the NAB TV Board's backing?) would not invest his time in writing such a potentially compromising letter—and also have one of his managers personally deliver it—if he didn't think it could be influential. It is of course possible that Dole changed his mind about the telecommunications bill and kept the spectrum issue out of the presidential campaign for reasons wholly or largely independent of the forces the Evans letter represented. But Dole is also a practical politician. It is reasonable to think that he took the Evans letter seriously and recognized that spectrum policy was not an issue for which he would risk sacrificing the Iowa caucus and the Republican nomination for his life's ambition, the presidency. If Dole did come to conclude that pursuit of the spectrum issue would bias coverage against him by the Iowa TV stations and perhaps TV stations in other primary states, then his choice of action seems obvious.

Late on the afternoon of January 26, three days after the Evans letter, Dole surprised nearly everyone by saying that he would let the telecommunications bill proceed. Given that Dole had held up the telecommunications bill for more than a month with the goal of getting the spectrum giveaway clause either removed or altered, his release of the bill was a significant defeat. All he was able to get in the subsequent days before he brought the bill to a vote was a written letter signed by all five FCC commissioners and the congressional leadership promising they would not award licenses for the new spectrum until Congress had reviewed the issue and passed spectrum legislation in the light of day. Some industry observers described this compromise as a "public relations ploy intended to save face for Senator Dole" (Doug Halonen, "Historic Industry Rewrite Finally Passes," Electronic Media, February 5, 1996, p. 1). A less cynical explanation is that Dole simply tried to salvage what he could. Shortly after Dole left the Senate in May

1996, the Dole-inspired FCC/leadership letter was overturned at the request of the House and Senate leadership.<sup>44</sup>

Dole also kept the issue out of the subsequent presidential campaign. When Dole, the presumptive Republican presidential nominee, originally raised the spectrum issue on December 29, 1995, it was widely perceived as an attack on the Clinton administration, which had publicly endorsed and taken credit for the telecommunications bill. The position was intended to show that the Republicans, unlike the Democratic administration, were serious about attacking corporate welfare and balancing the budget. However, in the aftermath of the Evans letter and passage of the telecommunications bill, Dole kept the spectrum issue out of the presidential primary, not raising it again publicly until April 17, 1996, a date by which he had for all practical purposes secured the Republican nomination.

On April 17 Dole delivered a blistering attack on the Senate floor against the broadcasters. During that speech he for the first and only time publicly alluded to the Evans letter, which he ridiculed and implied could not intimidate him. The gist of Dole's speech attacked the broadcasters for their blackout of opposing views on the spectrum issue and their use of the airwaves to intimidate Congress.

The April 17th speech may be interpreted as Dole's last attempt to make this an issue in the general election. Coincidentally or not, on April 17 Vice President Gore delivered a keynote address at NAB'96, the major annual convention of the broadcasting industry. In it he attacked the "Gingrich-Dole" plan to immediately auction digital TV spectrum. (Since Gingrich was a strong supporter of the broadcasters and would later overturn the letter Dole secured from the FCC, this accusation would not appear to have merit.) The TV networks covered neither Dole's speech nor Vice-President Gore's attack. Not until after the general election would Dole again speak publicly about the spectrum giveaway. On March 27, 1997, one week before the FCC handed out digital licenses to the broadcasters, Dole wrote an op-ed for the New York Times entitled "Giving Away the Airwaves; Industry should pay for licenses for digital TV." Dole pointedly noted that the FCC commissioners were about to violate their letter of agreement with him dated February 1, 1996.

It is also interesting that the Clinton administration kept the issue out of the presidential campaign. Only on March 12, 1997 would the Clinton administration publicly state that there should be a quid pro quo for the granting of additional spectrum to the broadcasters.

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<sup>44</sup>The June 18, 1996 letter was signed by Speaker of the House Newt Gingrich, Senate Majority Leader Trent Lott, House Commerce Committee chair Thomas Bliley, House Commerce Committee ranking minority member John Dingell, and Senate Commerce Committee member Ernest Hollings. Senator Larry Pressler, Chair of the Commerce Committee, refused to sign it. The letter was orchestrated by Rep. Bliley, whose wife happens to be a close friend of NAB president Eddie Fritts. Bliley got Sen. Lott, Eddie Fritts' college roommate, to sign on, and from there had relatively little trouble in getting the rest of the congressional leadership on board (letter from James Derderian, Majority Staff Director, House Commerce Committee, to the House and Senate leadership, June 1996). Dole obliquely denounced this betrayal of his trust in a March 27, 1997 op-ed in the New York Times.

Previously, the Clinton administration had called for increased public interest obligations for broadcasters, including the v-chip and more children's TV, but had kept the issues separate.

In an ironic twist, Dole currently works for Verner, Lipfert, Bernhard, McPherson and Hand, a high-profile lobbying firm one of whose clients is the NAB. One of Dole's aides also took a job in NAB's government affairs department.

## **Retribution Against Interest Groups**

This paper has focused on the use of covert media bias to seek retribution against elected officials. But it can also be used against competing interest groups. As Electronic Media reported shortly after the telecom bill passed, "According to [one] analysis, the broadcast industry's competitors haven't been lobbying for auctions overtly thus far, for fear of broadcaster retaliation." (Douglas Halonen, "Historic Rewrite Finally Passes," February 5, 1996, p. 1) One case may have occurred in the fall of 1995.

The cellular telephone industry was the main competitor for the spectrum granted to the broadcasters (Brinkley 1997). On September 6, 1995 the Campaign for Broadcast Competition (CBC) was announced. CBC opposed the broadcast giveaway and the largest share of its funding came from the Cellular Telecommunications Industry Association (CTIA). In early October 1995, ABC's PrimeTime Live ran an expose on CTIA's congressional junkets. The CTIA accused ABC of retaliation for the group's effort to oppose "the \$37 billion spectrum rip-off of America's taxpayers by CapCities/ABC and other broadcasters." In a letter to ABC News President Rooney Arledge, the CTIA stated: "Your use of PrimeTime Live to attack CTIA for hosting an education forum and working session—which people had to give up their weekend to attend—can only be explained as reprisal for CTIA's willingness to stand up and blow the whistle on the broadcast giveaway" (Stern 1995).

The widely reported CTIA incident may have served as a cautionary tale to other interest groups. It may also have encouraged the CTIA to take a low profile during the January 1996 spectrum debate.

## **Conclusion**

Our evidence, based upon the case of the Telecommunications Act of 1996, indicates that—at least under circumstances of extremely high financial stakes—TV broadcasters can and do exert substantial political power. They do so not only through campaign contributions, standard lobbying techniques, and overt bias in their treatment of the policy issue of concern to them, but also—and perhaps most importantly—through the threat or reality of covert biases that punish their political enemies. Politicians appear to be highly sensitive to the possibility of such covert biases; they anticipate how broadcasters will react, and tend to go along with broadcasters' policy desires in order to

avoid punishment. Thus, TV broadcasters exert political power through anticipated reactions.

We cannot, of course, be sure how widely the power that broadcasters wielded in the Telecom case extends to other issues. When the stakes are lower, we would expect less intense political efforts. Still, this case makes clear that the opportunity exists to influence many types of policy. It is important to investigate to what extent and under what circumstances that opportunity is taken.

Broadcasters are frequently referred to as one of the most powerful lobbies in Washington. Senator McCain, as chair of the Senate Commerce Committee, has said the “[NAB] is the most powerful lobby I’ve run into” (Todd Lappin, “The McCain Mutiny,” Wired, June 1997, p. 123). Senator Hollings, the ranking minority member (and a strong supporter of broadcasters), once said on the Senate floor “Our broadcaster friends are the most powerful I know of.... They can change votes right and left” (Sheila Kaplan, “The Powers That Be—Lobbying,” Washington Monthly). Representative Newt Gingrich, speaker of the House, has said that “The practical fact is, nobody’s going to take on the broadcasters” (Kim McAvoy and Don West, “Newt Gingrich: The Great Liberator for Cybercom,” Broadcasting and Cable, March 20, 1995, p. 6).

The print media, similarly, have often noted the broadcasters’ power. The New York Times, Wall Street Journal, and Washington Post routinely refer to the “powerful broadcasters.”

The broadcasters themselves have not been modest about their own political prowess. Eddie Fritts, the president of the National Association of Broadcasters, told his own members: “No one has more sway with members of Congress than the local broadcaster.” Those who question broadcaster power often cite examples based on a loose use of the term broadcaster. The broadcasters’ political power in Congress is based on the relationship between the local commercial TV station and the member of Congress. Two other groups are often confused with the local broadcasters: network TV and Hollywood. Both groups, however, may be comparatively weak politically and indeed are favorite targets for media bashing. This suggests that if political communication scholars and media critics seek to understand the broadcasters’ political power, they should focus on local TV, not network TV.

A good rule of thumb in analyzing broadcaster defeats is to look for divisions within the broadcasting community.<sup>45</sup> One of the most notable divisions is between the major TV networks and the local TV stations. When divisions exist on such issues as media concentration (only the TV networks tend to favor deregulation) or the v-chip (a TV

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<sup>45</sup>Krasnow and Longley (1978, 42) describe a broadcasting community made up of eight distinct trade associations with competing interests. The recent consolidation of the broadcasting community, bringing together previously independent AM, FM, VHF, and UHF channels under fewer and more homogeneous corporate umbrellas, combined with the growth of common competitors such as the cable, telco, cellular, and computer industries, may have on the whole reduced divisions within the broadcasting community, although new divisions have also surely been created.

network issue—because they produce the programming), lively debate is likely to ensue. This suggests that an important flaw in the literature on media monopoly (e.g., Bagdikian 1992; Lichtenberg 1990) is its heavy focus on the threat that monopoly poses to diversity in the marketplace of ideas. The major threat created by the consolidation of the broadcasting industry may instead be the decline of competing interests within its own ranks.<sup>46</sup>

Broadcasters' power is also not uniformly distributed across all congressmen and all branches of government. Senators, especially those not up for re-election, have historically been more likely to take on broadcasters. House members in urban districts, which rarely if ever get on the local TV news anyway, also are less responsive to the broadcasters. Others prone to opposition appear to be legislators with presidential ambitions and national visibility (e.g., Senators Dole and McCain). And finally, the president and the courts, both of which have relatively little to fear from local TV broadcasters, have been major checks on their power.

Even if local TV broadcasters are powerful political actors, their power would not be of much interest to political scientists, especially political communication scholars, if the scope and significance of their power were narrow. Indeed, the type of relationship highlighted in this paper between the local broadcasters and congressmen has been previously noted (Robinson 1981). But it would only deserve footnote status if the broadcasters were a single-issue group whose primary concern was to ensure that the local congressmen would go to bat for an individual station owner if his FCC-granted license were challenged.

Today, however, the political context in which the broadcasting industry operates has changed dramatically. The issues broadcasters lobby most intensely about—telecommunications policy; intellectual property rights; electronic commerce, democracy, and education; and subsidies for information have-nots—are increasingly important to the prosperity of countries, especially America, in the emerging Information Age. During the first six months of the 104th Congress, broadcasters lobbied on close to 100 bills of vital significance to the future of America. The spectrum they have been granted, invisible and worthless at the beginning of this century, is now one of America's most precious assets. If broadcasters use their media-based power to preserve an archaic industry based on an inefficient and anti-democratic use of spectrum, this should be of concern to political communication scholars, and citizens generally.

This analysis suggests that scholars should spend proportionately more time studying media owners' pocketbook bias and less on their partisan bias, although the two may be related. Broadcaster trade organizations are overwhelmingly focused on pocketbook issues, and it would appear that broadcasters are primarily concerned with making

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<sup>46</sup>Political communication scholars, with their emphasis on public opinion, tend to subscribe to the individual theory of democracy. Interest group scholars, with their focus on what happens outside the public eye, tend to subscribe to the group theory of democracy, more commonly known as pluralism (e.g., Olson 1965; McConnell 1967). This analysis suggests the importance of a pluralist approach to studying the effects of media concentration.

money, not supporting sweeping political ideologies—although, of course, the two are often connected. Moreover, the focus should be on the common interests of broadcasters as a group rather than the unique interests of corporate behemoths like GE, Disney, and Westinghouse, which happen to have TV broadcasting properties, but lack the power to mobilize local TV stations throughout the country in support of their causes.

Snider is continuing to investigate the political activity of broadcasters. Do broadcasters behave as a conventional interest group? In what ways? To what extent does control over the media enhance their power? Can the success of broadcasters as a special interest group be understood independently of broadcasters as a source of information into the voters' home? Should broadcasters, because of their public subsidies and unique role in our democratic system, be held to a higher standard than other interest groups?

The findings of this paper suggest that political communication scholars should devote more energies to studying covert bias. How frequently do legislators take positions opposing their local broadcaster? When legislators oppose their local TV broadcaster, how widespread is covert bias? How do the control mechanisms for covert bias differ from those for overt bias? Are they simpler? More efficient? Do present empirical tools lend themselves to studying covert bias? If not, how should we proceed?

The findings of this paper also suggest that scholars interested in understanding broadcasters' political power should focus their efforts on studying local TV, not just network TV. But this poses severe logistical problems. Transcripts of local TV news are hard to come by, and hiring a news clipping service to monitor local TV broadcasts (Burrelle's, the largest clipping service, covers 450 local TV stations) can be prohibitively expensive. Moreover, with more than 1,000 local TV broadcast stations in the United States, it is hard to make generalizations from a small number of cases. Nevertheless, scholars interested in gaining insight into broadcaster power have no other choice. Studying network TV is cost-effective and has the ring of scientific generalizability about it, but if the wrong phenomenon is being studied, little is gained.

The wide variety of mechanisms by which media owners may exert political power, and the wide range of issues and circumstances under which they may or may not do so, suggest many fruitful avenues for further investigation.

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**Does Media Ownership Affect Media Stands?**  
**The Case of the Telecommunications Act of 1996**

**Paper #3: The Paradox of News Bias**

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In the Telecommunications Act of 1996, Congress<sup>47</sup> granted existing local TV broadcasters spectrum the FCC valued at between \$11 and \$70 billion if sold by auction.<sup>48</sup> The grant was controversial.<sup>49</sup> Reed Hundt, the chair of the Federal Communications Commission, said that granting digital channels to broadcasters was “the biggest single gift of public property to any industry in this century.”<sup>50</sup> The National Cable Television Association, which often lobbies against broadcasters, said in a nationally syndicated AP story that the grant “makes the sale of Manhattan for a few beads look like a hard bargain.”<sup>51</sup> William Safire, a nationally syndicated *New York Times* columnist, described the grant as a “ripoff” worthy of “yesteryear’s robber barons.”<sup>52</sup>

In the period immediately preceding passage of the Telecommunications Act and in the following several years, major print publications alleged that a major reason for the broadcasters’ political success was their control of politicians’ gateway into the voters’ home. Politicians, they alleged, feared antagonizing their local TV broadcaster for fear of some type of news-related retaliation. By implication, this allegation applied not just to the spectrum clause in the Telecom Act but also to all cases when important broadcaster interests were at stake. I shall call this the Allegation, capitalizing it for emphasis and easy identification. A front page *Wall Street Journal* article presented a common variation of the Allegation:

Broadcasters control the one thing politicians care about more than money: television time. It is hard to find a member of Congress who

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<sup>47</sup> The transfer of spectrum rights from the public to broadcasters actually involved a series of steps culminating in the FCC’s grant of digital licenses to the broadcasters in April 1997. The 1996 Telecom Act, however, is widely perceived to have been the crucial step that made the rights transfer a near certainty.

<sup>48</sup> Letter from Robert M. Pepper, Chief of the FCC’s Office of Plans and Policy, to Senator Joseph I. Lieberman, dated May 5, 1995. The \$70 billion figure was extrapolated from the value of recent spectrum sales for PCS, a new wireless telephone service. The \$11 billion figure was extrapolated from the projected sale price of a recent analog TV license with minimal tangible assets attached to it. The actual sale of the TV license was for far more than initially projected, thus leading to a revised estimate, using this extrapolation method, of \$37 billion (Letter from Robert Pepper to Joseph I. Lieberman on September 6, 1995).

<sup>49</sup> Public spokespeople for broadcasters denied the spectrum was a grant in the sense of a gift. Compared to standard property exchanges, the grant appeared to be a gift because it involved no explicit, quantifiable, and legally enforceable quid pro quo. Broadcaster supporters called the new spectrum a “loan.” But unlike conventional loans, the loaned property was ambiguously defined (thus providing loopholes to diminish its value), had indefinite duration, and no explicit, quantifiable, and legally enforceable interest payments.

<sup>50</sup> “FCC Begins Digital TV Channel Allocations,” *Television Digest*, July 29, 1996 36(31):2.

<sup>51</sup> Jeannine Aversa, Associated Press, April 4, 1997.

<sup>52</sup> William Safire, “Stop the Giveaway,” *New York Times*, January 4, 1996, p. A21.

doesn't fear that crossing the owner of his or her local broadcast station will translate into an immediate reduction in air time. So when broadcasters come knocking, members of Congress answer.<sup>53</sup>

Between December 27, 1995 and September 29, 1997 the *Wall Street Journal* printed the Allegation four times. It made the Allegation a fifth time on March 17, 1997, but along with a broadcaster denial.<sup>54</sup> Between February 25, 1996 and July 23, 1997 the *New York Times* printed the Allegation 4 times. The *Washington Post* printed the Allegation four times, including twice in Herb Block cartoons. The Allegation was also printed in a diverse group of other reputable publications, including the *Columbia Journalism Review*, the *New Republic*, *Washington Monthly*, *Wired*, *Broadcasting & Cable*, *Variety*, *U.S. News & World Report*, the *Washington Times*, the *Boston Globe*, *National Journal*, and *The Hill*. A variety of respected broadcasting historians from different eras made the Allegation (Krasnow and Longley 1978; Baughman 1985; McChesney 1999; Hazlett 1998, Brinkley 1997; Southwick 1998). Representatives from prominent Washington DC based think tanks and public interest groups made the Allegation. These included the Heritage Foundation, the American Enterprise Institute, the Media Access Project, and Common Cause. In an advertorial in a leading trade publication, a prominent cable TV industry leader advised cable operators to develop a local news capability so that they could compete in Washington with the local TV broadcasters.<sup>55</sup>

In not a single case cited above was verifiable proof offered of the veracity of the Allegation. Only in rare cases was a named politician even cited as a source for the Allegation. The most common type of proof, if any were offered, was to cite an unnamed lobbyist, an unnamed politician, or a named representative from a public interest group. In part to better assess the validity of the Allegation--the alleged link between broadcaster control of news and broadcaster political power regarding telecommunications policy--I interviewed more than 50 Washington insiders. These included prominent officials responsible for telecommunications policy at government agencies (the Federal Communications Commission and the National Telecommunications Information Administration), Congress (members, personal staff, and committee staff), and lobbyists (e.g., the National Association of Broadcasters, National Cable Television Association, and United States Telephone Association). I asked these individuals a variety of questions, but the two questions I asked most consistently were: 1) who were the major interest group players lobbying either the Telecommunications Act of 1996 or the Cable

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<sup>53</sup> Alan Murray, "Broadcasters Get a Pass on Campaign Reform," *Wall Street Journal*, September 29, 1997, p.1

<sup>54</sup> The four additional *Wall Street Journal* Allegations: "I-Way Detours," December 27, 1995; "Asides," April 26, 1996, A20; "Off the Dole," January 24, 1996, p. A14; Alan Murray, "Digital TV Giveaway Foils Campaign Reform," March 17, 1997. The four *New York Times* Allegations: Max Frankel, "Digital Castles in the Sky," February 25, 1996, p.38; "Another Broadcast Giveaway," June 25, 1997, p. A26; William Safire, "Broadcast Lobby Triumphs," July 23, 1997; Leslie Wayne, "Broadcast Lobby's Formula: Airtime + Money = Influence," *New York Times*, May 5, 1997, p. C1.

<sup>55</sup> Bill Daniels, "A Defining Moment." *Broadcasting & Cable*. November 16, 1998.

Act of 1992, and 2) why were they politically effective. I concluded from these interviews that the elite print publication reporters who made the Allegation were accurately reflecting common perceptions by political insiders who were speaking off-the-record.

Political communication scholars who have studied the Allegation are generally<sup>56</sup> skeptical of claims and evidence that media owners use the media to pursue their public policy interests (Entman 1989; Gans 1979; Tuchman 1972). As Doris Graber sums up the literature, perhaps with slightly excessive conclusiveness: “A number of content analyses of [political] events definitely refute the charges of political bias, if bias is defined as deliberately lopsided coverage or intentional slanting of news” (1984, 97).

A partial explanation for the failure to find media bias relating to public policy may be the narrow range of such biases commonly studied. Public policy media bias can be divided into three categories: cross-industry, industry-specific, and company specific. The vast majority of studies on media bias have focused on cross-industry bias; specifically, whether media have a liberal or conservative ideological bias (Patterson 1998; Lichter, Rothman, and Lichter 1986; Weaver and Wilhoit 1986; Parenti 1986; Herman and Chomsky 1988; Gans 1985). Another group of studies--much smaller in number, anecdotal in nature, and most often found in journals of media criticism such as the *Columbia Journalism Review* and *Brill's Content*--looks at company-specific bias<sup>57</sup>; for example, whether NBC will objectively report on the affairs of its parent company, GE (Bagdikian 1992). The existence of industry-specific bias, the type of bias potentially illustrated by the Telecommunications Act, has rarely been studied.

There are a number of reasons to believe that industry-specific bias might be unusually common, especially in comparison to cross-industry bias. First, the selective incentives for industry-specific bias are much stronger than for cross-industry bias. For example, a \$50 billion dollar tax break for corporations in general must be shared with literally millions of companies. But a \$50 billion subsidy for the 25 companies that dominate local TV broadcasting would come to \$2 billion on average per company.

Second, collective action problems are greater for cross-industry bias because the number of beneficiaries is larger (see Olson 1965). Continuing with the example above, the general corporate tax cut benefits millions of companies whereas just 25 companies divvy up the lion's share of the spectrum grant to local TV broadcasters. Given the relatively small number of beneficiaries for industry-specific bias, the beneficiaries have less incentive to free ride on the political efforts of others.

Third, cross-industry bias is generally a lot harder to hide than industry-specific bias. For example, a liberal or conservative slant necessarily cuts across a large number of

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<sup>56</sup> Recent exceptions include Sparrow (1999) and Gilens and Hertzman (2000).

<sup>57</sup> E.g., Carol Guensburg, “When the Story is About the Owner,” *American Journalism Review*, Dec. 1, 1998.

issues. Since both the political process and news programs are structured around information about competing ideological positions, the public is highly informed about ideological issues and can relatively easily detect ideological bias. In contrast, industry-specific bias cuts across a tiny fraction of total issues and often does not lend itself to an ideological frame. In the case of the primary area of broadcast industry lobbying, telecommunications policy, public deliberation suffers from an additional handicap: the issues tend to be technical and therefore intrinsically difficult for the public to understand.

Despite these theoretical grounds for believing that industry-specific bias would be relatively common, I found little direct evidence of such bias, not least because local TV news archives are all but inaccessible in the United States (Snider 2000a). Why, then, the discrepancy between the Allegation and the evidence necessary to back it up? Why have scholars—let alone journalists and even politicians—failed to find direct, verifiable evidence to support the Allegation? Why has no perfect smoking gun arisen? Does this mean the Allegation is false? Or does it mean that scholars have been looking for the wrong type of evidence?

### **The Paradox of News Bias**

The fundamental insight necessary to pick a method to study news bias is what I call the “paradox of bias,” of which the “paradox of *news* bias” is a special case. The paradox of news bias is a logical implication of principal-agent theory.

In a principal-agent relationship, one person (the principal) delegates a task to another person (the agent) in return for some type of compensation (Lupia and McCubbins 1998). Such principal-agent relationships are prevalent in modern societies because no individual can efficiently produce the thousands of private and public goods he consumes. By delegating the production of the great majority of these goods to other individuals, specialization ensues and a complex, prosperous civilization becomes possible. In the context of local TV public affairs coverage, the local TV broadcasters are the agent, the local TV viewers the principal, and accurate, fair information about public affairs the product that broadcasters offer to exchange with viewers in return for their attention, which broadcasters can then sell to advertisers.

The two central problems of delegation are that 1) principals and agents often have conflicting interests, and 2) asymmetric information between principals and agents often cannot be completely eliminated. In the context of local TV broadcasters and the Telecom Act, the conflict of interest is that it is in the broadcasters’ interest to pay (in cash or in-kind contributions) the minimum amount for public spectrum, and in the public’s interest to receive the maximum amount for its property.

**Asymmetric information** occurs when one party to a transaction has information not available to the other party and that **private information** has a material impact on the

outcome of the transaction. **Bias** is the act of creating asymmetric information.<sup>58</sup> **Opportunistic behavior** is behavior that increases the agent's welfare at the expense of the principals' welfare.<sup>59</sup> **Trustee-like behavior** means behavior that enhances the principal's welfare even if it might mean a reduction in the agent's welfare. The payoff from opportunistic behavior is the motive for bias. Since bias facilitates opportunistic behavior, it can be viewed as a type of opportunistic behavior.

According to principal-agent theory, agents have a strong incentive to hide opportunistic behavior, including bias, because no rational principal would pay someone to harm himself. A corollary is that if bias is discovered, it is no longer useful. The very act of discovery eliminates the motivation for the discovered phenomenon. Since humans can anticipate the act of discovery, they will not practice bias in a way that can be discovered. And if by chance an act of bias is discovered, they will find a new method of bias, if one exists, that remains unlikely to be exposed.

The paradox of bias as applied to news bias has important—and interrelated—methodological consequences for both political communication scholars and politicians. For political communication scholars, the paradox of news bias implies that merely looking at public data sources for direct and verifiable evidence of media bias is a fundamentally flawed method. By public data source in the context of media bias I mean actual media content. The method of analyzing such output, sometimes employing highly elaborate statistical analyses, is called content analysis.

Scholars should also not expect broadcasters who engage in opportunistic behavior—or people who depend on broadcasters' goodwill—to go on the record with claims of broadcaster bias. Scholars should accept as simple common sense that people will not publicly incriminate themselves or others on whose goodwill they depend.

For politicians, the paradox of news bias has similar methodological consequences: politicians should not expect definitive evidence of news bias to be readily available. But there is one vital difference between scholars and politicians. Politicians must make decisions even in an environment of uncertainty. They cannot conveniently ignore making a decision because data are incomplete. Moreover, a politician's entire career may depend on a correct assessment of the consequences of crossing his local TV broadcasters. Scholars, in contrast, can reserve judgment until better evidence (which may never arrive) can be found. As for career-enhancing research, there are always plenty of other areas where data pastures are greener.

These different ways of coping with uncertainty are closely related to different professional rewards. Scholars are likely to be rewarded for rigorous methods as much as for important results; politicians, in contrast, are only rewarded for results.

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<sup>58</sup> This definition of bias differs from typical journalistic accounts of bias (e.g., Bagdikian 1992; Schudson 1998) which contrast bias with fairness or objectivity and do not clearly specify an audience (principal) that is harmed by the media's (agent's) act of bias.

<sup>59</sup> The principal-agent literature often uses the term "shirking" to describe opportunistic behavior.



In this paper, I will look at the world through the eyes of politicians. In particular, I will explain how politicians can infer news bias even when they lack direct information about news bias. Then I will conclude with an assessment of what this means for scholarly methods. I call this approach a “rational choice” approach because of its heavy emphasis on using incentive structures—the anticipated utility (benefits minus costs) of actions—to explain behavior. The emphasis on working out the logic of universal incentive structures (e.g., principal-agent relationships) and applying them to a specific domain (e.g., the relationship between news director and viewer) is also characteristic of rational choice theories. Contrary to much rational choice work, I eschew formal, mathematical analysis. Such analysis adds little insight given my application of a well-developed rational choice construct—principal-agent theory—to a specific situation. Contrary to much rational choice work, I am also primarily interested in the rationality of belief formation rather than behavior. Specifically, given the evidence, what is it rational for a politician to believe? And if given very poor evidence, how can a politician figure out the causal structure of the situation he confronts?

### **How Politicians Reason About Bias**

Reasoning is the process of inferring from what one knows to what one doesn’t know. Theories (or models) are the primary tools of reasoning because they allow us to make predictions based on limited data.

On what basis do politicians evaluate the news media's claims of objectivity and trusteeship? Let us contrast two types of reasoning: high information and low information (Simon 1957; Downs 1957; Popkin 1994; Sniderman, Brody, and Tetlock 1991).

In high information reasoning, decision makers have all the relevant information needed to make a decision readily at hand. They know all the possible alternatives, carefully weigh them, and choose the best one for their purposes. In low information reasoning, decision makers have little information that is directly relevant to the decision at hand. Instead, they use information shortcuts to come to a decision. These shortcuts involve using an indirect piece of information (also called a cue), which triggers a theory (also called a schema, interpretative construct, rule of thumb, or heuristic) that can be used to generate a prediction.

An example of low information rationality is the way most voters choose their elected representatives for Congress. Instead of relying on extensive information about the candidates for office, voters are likely to rely on simple cues such as the candidate's party label, likeability, gender, ethnic group, hometown, or last name.

An example of high information rationality might be the way elected representatives choose their chief of staff. Since many chiefs of staff are promoted internally or come from other congressional offices with which the representative has had a long relationship, representatives are likely to have highly detailed and relevant information about these candidates.

The decision about whether politicians use high or low information reasoning to make decisions about news bias affects the type of evidence considered relevant in analyzing news bias. If politicians use high information reasoning, then the only relevant information has to do with direct evidence of news bias. However, if politicians use low information reasoning, then a wealth of indirect evidence becomes relevant.

Of course, there is no sharp dividing line between high and low information conditions. Styles of reasoning are not mutually exclusive. For example, both politicians and scholars can combine them to gain confidence in their estimates of the probability of media bias under specified conditions. Snider and Page (1997, 1999a, 1999b) and Snider (1997, 2000b) have presented evidence appropriate for high information reasoning.

In this paper, my focus is on explaining how politicians (and thus scholars) can cope with the paradox of news bias, not proving that they do in fact reason in such a way. Nevertheless, it is useful to provide evidence that at least some people rely on low-information reasoning, especially the variant that concerns us here: the use of conventional lobbying behavior to infer the likelihood of media bias. I leave for other scholars the effort to more precisely assess the relative frequencies of the different reasoning styles.

One type of evidence for low information reasoning comes from the Washington insiders described above who made the Allegation but were unable or unwilling to back it up with the type of evidence that would be convincing in a court of law (courts don't convict people for murder merely for having a motive for murder; they need actual evidence of murder). When I pointed out to these insiders that the discrepancy between their Allegation and evidence made them sound paranoid, I on several occasions received a contemptuous reply that I understood nothing about politics because the reasons for the Allegation were obvious. Unfortunately, when I conducted my interviews, I was not sophisticated enough to ask why the Allegation was obvious because, following the conventions of the literature, I was not interested in indirect evidence of news bias. In fact, when I continued to probe for direct evidence, the interviewee, annoyed with my naiveté, occasionally brought the interview to an end.

Another type of evidence is the broadcasters' own fear of low information reasoning. A vivid illustration of this occurred in 1986 when NBC's President Robert Wright proposed establishing an NBC political action committee (PAC) financed by employee contributions. Traditionally, newspaper and broadcasting companies had avoided setting up their own PACs because of the appearance of news bias it would create for their news divisions. Wright's proposal caused a furor within the press, including his own company, and he was forced to give it up. Brandon Tartikoff, president of NBC Entertainment, explained why not only news but also entertainment employees couldn't be allowed to contribute: "I wouldn't want... somebody in Iowa or Montana or Michigan or someplace else to think that the programming arm of a network had any sort of political debt." He continued that the entertainment division should remain "apolitical" and "not be seen as

taking sides on issues.”<sup>60</sup> A CBS spokesman explained why the CBS corporation, one of the two other TV networks at the time, lacked a PAC: “We feel that having a PAC would be inconsistent with being a major and significant news organization.... We want to keep the political process separate from our job of informing the public.”<sup>61</sup> A New York Times editorial against NBC’s proposed PAC summed up the conventional press view: “The appearances for the network are bad enough. It is a business, but it is also a primary instrument of information and opinion that depends on public trust. Mr. Wright exempts NBC News from his contribution program, but try making that distinction to ordinary citizens.”<sup>62</sup> Nevertheless, it is important to note that although NBC gave up its proposal for an impossible-to-hide PAC, its conventional, outside-the-public-eye lobbying never abated and arguably became more intense than ever in the years leading up to passage of the Telecom Act.<sup>63</sup>

Broadcasters’ fear of low information reasoning is manifest in the unusual efforts they make to hide evidence of conventional lobbying. An example of this logic occurred on February 8, 1996 when network TV executives collectively refused an invitation to stand next to President Clinton during the February 8 signing of the Telecommunications Act of 1996, a scene widely shown on TV. The network executives were conspicuous in their absence both because they were so actively involved in lobbying for the bill and because they were the only major industry involved in lobbying for the bill that did not appear on the dais with President Clinton.

A common way local TV broadcasters hide their conventional lobbying is to never mention it when reporting their news. For example, TV station management aggressively lobbied members of Congress on the spectrum clause in the Telecom Act. All 535 members of Congress were invited to TV stations and told that this was a life or death financial issue for the TV station. Nevertheless, I was unable to find any evidence of the following type of disclaimer. “The member of Congress you are about to see has been lobbied by the management of this station for favorable laws and regulations that have a material impact on the financial well-being of this station.” Why has this disclaimer been absent? The stations might answer that it is unnecessary because of a claimed firewall between the business and news sides of a TV station. Alternatively, they might simply answer that they would never allow such material considerations to color the news. But another possible interpretation is that TV stations fear that such a disclosure would shed doubt on the objectivity of their news. Given the many cracks in the firewall between the news and business sides of media organizations, and given local TV stations’

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<sup>60</sup> Quoted in “NBC’s Tartikoff: no to PAC,” *Broadcasting*, January 12, 1987, p. 128.

<sup>61</sup> Quoted in “Wright Ponders PAC for NBC,” *Broadcasting*, December 15, 1986, p. 58.

<sup>62</sup> “Speaker Wright, Meet Mr. Wright,” *New York Times*, December 10, 1986, p. A30.

<sup>63</sup> According to interviews with telecom lobbyists, the breakdown of the rank-and-file broadcaster’s inhibition against conventional lobbying is widely considered one of the NAB’s greatest triumphs since Eddie Fritts took over the organization in the early 1980s.

pattern of secrecy regarding many such cracks (Snider and Page 1999a), the latter explanation may be more plausible.

It seems reasonable to infer that if the public can use non-media political action to infer media bias, then politicians could do the same, and with a much greater body of evidence, for they are the objects of the lobbying and can observe the discrepancy between what broadcasters do in private and show the public. I now turn to the detailed logic of the politician's inference.

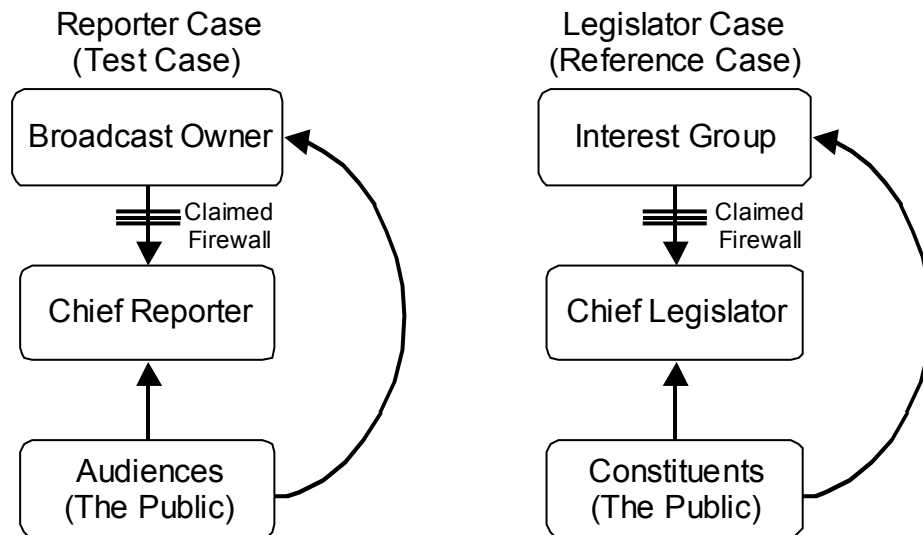
### **A Rational Choice Model**

When politicians lack direct evidence about likely opportunistic behavior in a given situation, they can use the INCENTIVE STRUCTURE of the situation to make inferences. The incentive structure facing a political actor is “the full set of costs and benefits of behaving in one way rather than another” (Dowding 1996, 8; see also Goldman 1986). When political actors lack detailed information about a particular incentive structure, they can use their general knowledge of similar incentive structures to predict likely behavior.

When the prediction involves how an agent will interact with a principal, the politician can use a particular kind of rational actor theory, a principal-agent model of behavior. A principal-agent model is simply a general class of incentive structures. If a politician determines he is faced with a principal-agent relationship, he can use his entire experience with other principal-agent relationships, including his own experience as an agent for both voters and special interest groups, as a basis for predicting what will happen in this particular relationship, given his incomplete information.

The phrase “principal-agent model” may sound intimidating and academic, but it is really just a formal way to describe commonsense perceptions about how people interact in day-to-day situations and decide whom to trust. Every adult has personally experienced or observed thousands of principal-agent relationships in his or her life. As suggested earlier, the daily act of one person (the “principal”) delegating a task to another (the “agent”) is what makes modern civilization possible. Therefore, most people are pretty sophisticated principal-agent theorists, even if only in the narrow sphere in which they live. Although politicians can use any principal-agent relationship to make an inference about another one, I will use a particular and well-known set of principal-agent relationships—well-known both to politicians and the general public—to make my point. In figure 1 we see two sets of principal-agent relationships. Each set is named after its “dual agent,” the agent that must serve two competing principals. Accordingly, the first set is named the “reporter case;” the second the “legislator case.” Arrows points from principal to agent.

**FIGURE 1. The Common Incentive Structure of Two Dual Agents**



The chief reporter I have in mind is the local TV news director; the chief legislator I have in mind is the member of Congress. The legislator case is the “reference case” because it is used to make inferences about the reporter case, the “test case.”

Each case has four elements: 1) An agent that serves two principals with competing interests, 2) A primary principal, 3) A secondary principal, and 4) a claimed “firewall” that prevents the dual agent from acting opportunistically on his conflict of interest. A primary principal is the one the agent publicly claims to serve. For example, local TV news directors claim to act on behalf of their audiences; members of Congress claim to act on behalf of their constituents. A secondary principal is the one the agent serves in private. For local TV news directors, it is their superiors and corporate owners. For members of Congress, it is special interest groups. The “firewall” is the way the dual agent deals with public knowledge of a potential conflict of interest. For reporters, it is the claimed separation of the business and news sides of their corporate employer. For politicians, it is the claimed separation of the political and public policy sides of their offices.

In both the reporter and legislator cases, it should be extremely difficult for third parties to find verifiable evidence of a breach in a claimed firewall, even when such a breach exists. As argued earlier, this lack of evidence arises because agents (e.g., reporters and legislators) have strong incentives to hide opportunistic behavior from principals (e.g., the public).

### **Reasoning from the Reference Case to the Test Case**

The argument here is that members of Congress can use information about the legislator case, which they have direct and intimate knowledge of, to make inferences about the reporter case. For example, let’s assume that the two sets of principal-agent relationships described above are structured similarly from a strategic standpoint. If legislators don’t believe the claims of interest groups and fellow legislators that campaign contributions

don't influence policy stands, then it is easier for them to infer, all other things being equal, that the public trustee claims of broadcast owners and chief reporters may not be credible.

Of course, the legislator case is not the only reference case from which members of Congress can draw inferences regarding the reporter case. Indeed, every principal-agent relationship with which a member of Congress is familiar is a potential basis for making such an inference. The legislator case, however, is useful for three reasons.

First, the case is familiar to readers. The possibly corrupting influence of special interests on members of Congress is a staple of the scholarly and popular literatures. Most political scientists also know that it is hard to draw causal inferences from campaign contributions to legislative behavior.

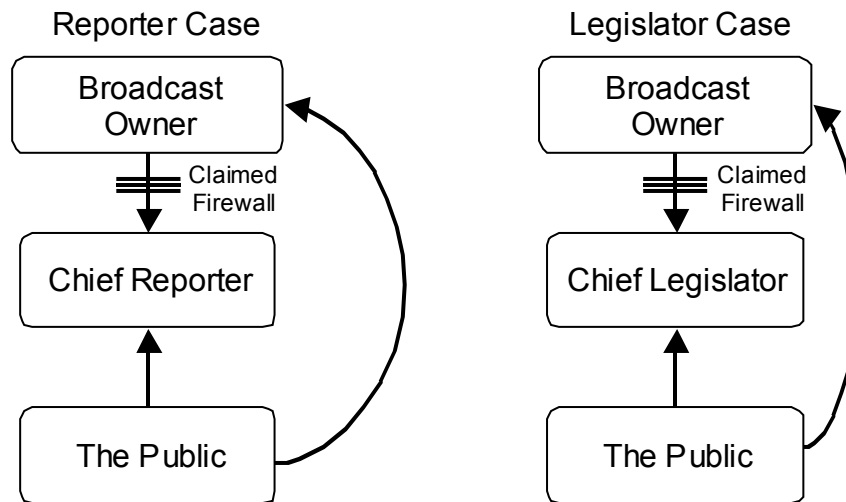
Second, the case is familiar to members of Congress. All members of Congress deal with special interests on a regular basis. They use knowledge of such relationships to attack political opponents, and they expend great effort to make sure that no such influence is traceable and verifiable by their own potential opponents.

Third, as described above, the strategic position of the legislator and reporter is quite similar in both cases. The legislator and reporter both have a conflict of interest. Legislators need campaign contributions to win re-election; reporters need to please their bosses to keep their jobs. Both have strong incentives to claim a "firewall" exists that prevents this conflict of interest from hurting the general public, their primary principal. Both have strong incentives to both hide and deny any evidence to the contrary.

### **A Control for Confounding Variables**

One subcase of the legislator case is especially useful as a reference case because it controls for confounding variables. That subcase substitutes one particular interest group, broadcast owners, for interest groups in general, as the secondary principal. The reference case is now a closer approximation of the test case, and the member of Congress can therefore make a more valid inference from the reference case to the test case. In both cases now, the secondary agents and the principals are the same; that is, the conflict of interest in both cases now stems from the same person, the broadcast owner. The new reference case is depicted in Figure 2.

FIGURE 2. The Reference Case Controlled for the Secondary Principal



The use of broadcast owners rather than interest groups in the reference case by no means guarantees a flawless inference, but it does increase the odds of a correct inference. As an example from day-to-day experience, consider a woman's mistrust of a man's protestations of love. If, all other things being equal, this inference is based on false claims by former men, the inference is not as good as if it were based on false claims by the same man. In neither case is the inference perfect, but the inference involving the same man, rather than different men, is likely to be more accurate.

An important feature of the more precise reference case is that broadcasters can manipulate it to send signals to legislators. Broadcasters know that legislators will use their own direct experience to make inferences about what they cannot experience. Therefore, if broadcasters simply act like every other interest group in their contacts with legislators<sup>64</sup>, this can be enormously informative for legislators trying to make inferences about broadcasters' behavior in a media setting. In other words, conventional lobbying behavior contains within it an implicit threat to employ news bias. Moreover, because conventional lobbying can be done outside the public eye, it is a threat invisible to public detection. Actual news bias carried out is riskier to a media outlet's reputation than an implicit threat of bias carried out in a one-on-one interchange with a member of Congress that cannot be documented for third parties.

## Evidence

How does one go about gathering evidence for this type of interference. I suggest three steps.

### 1) Verification

<sup>64</sup> Examples of inconspicuous conventional behavior include making passionate one-on-one pleas for legislation, bundling campaign contributions from non-broadcasters, and providing highly valued but non-reportable perks (see Snider and Page 1999b).

Verify the structure of the principal-agent relationships in Figure 2. A simple way to do this is by looking at the ethics codes of the agents. These codes are useful because they identify the primary principal and exhort agents to place the interests of the primary principal over all secondary principals. The three agents of relevance here are chief legislators, chief reporters, and broadcast owners/lobbyists.

**Chief Legislators.** The U.S. Senate is one of two bodies that constitute the U.S. Congress. Although each body has different ethics codes, the basic principles contained in them are the same. The U.S. *Senate Ethics Manual* clearly identifies a Senator's primary principal, the public. According to Senate Resolution 266, "[a] public office is a public trust" and each Senator "has been entrusted with public power by the people; that the officer holds this power in trust to be used only for their benefit and never for the benefit of himself or a few."<sup>65</sup> The *Senate Ethics Manual* is 562 pages long and elaborates on this simple principle in great depth. One section of the Manual describes establishing a firewall of ignorance as a solution to conflicts of interest created by financial contributions from special interests.

[A] number of Senators have instituted practices to strictly separate fund raising from substantive legislative or constituent casework activities.... If the Senator or staff member does not know if an individual is a contributor, he or she is not required or encouraged to find out. Most Senate staff members are not provided with information regarding contributions and are unaware of whether an individual seeking assistance is a contributor.<sup>66</sup>

**Chief Reporters.** The Radio-Television News Directors Association (RTNDA) is the primary professional body of local television news directors. Its ethics code, only one page long, includes the following text:

The responsibility of radio and television journalists is to gather and report information of importance and interest to the public accurately, honestly, and impartially. The members of the Radio-Television News Directors Association will accept these standards and will:

1. Strive to present the source or nature of broadcast news material in a way that is balanced, accurate and fair. They will evaluate information solely on its merits as news, rejecting sensationalism or misleading emphasis in any form....

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<sup>65</sup> Cited in *Senate Ethics Manual*, Select Committee on Ethics, United States Senate, 104<sup>th</sup> Session 2<sup>nd</sup> Session, September 1996, pp 232-3.

<sup>66</sup> Ibid. p. 234.



2. Strive to conduct themselves in a manner that protects them from conflicts of interest, real or perceived. They will decline gifts or favors which would influence or appear to influence their judgments.<sup>67</sup>

**Lobbyists.** The American League of Lobbyists is the premier association exclusively serving the interests of individual Washington lobbyists, including employees and outside contractors of the NAB. Its ethics code includes the following text:

The association lobbyist will always deal in accurate, current and factual information, whether it is being reported to the employer or client, government officials, the media or professional colleagues, and will not engage in misrepresentation of any nature.

The association lobbyist will acquire enough knowledge of public policy issues to be able to fairly present all points of view.

The association lobbyist will avoid conflicts of interest... and where conflict is unavoidable will communicate the facts fully and freely to those affected.

Other types of evidence could be used to ascertain the validity of the principal-agent relationships depicted in Figure 2. Research questions could include: Can the secondary principal fire or otherwise harm the agent? What are the penalties when an agent (e.g., legislator or reporter) is publicly caught acting opportunistically with regard to the primary principal (e.g., constituents or viewers)? How often do the agents publicly admit acting against the interests of the primary principal? When conflicts of interest are obvious to outside observers, do agents claim a “firewall” protecting them from the influence of secondary principals?

Space limitations do not permit me to address these questions here. Let it suffice to say that I have never heard a prominent working legislator, lobbyist, or reporter claim, in a public setting, to be acting against the public interest, but I have often heard them strongly deny accusations to the contrary. If my readers will reflect on their own experience, I am confident that the principal-agent relationships depicted in Figure 2 will appear as little more than common sense.

## **2) Conflicts of Interest**

Find evidence of a conflict of interest between the secondary principal (the broadcast owner) and the primary principal (the voter). In the case of the grant of digital spectrum to broadcasters, it was in the interests of the broadcasters to get the spectrum at least cost (zero dollars) and the interests of the public to get the maximum return on its property (up to \$70 billion according to an FCC estimate). For example, if a citizen were to walk out of a Congressional building with an old beaten up chair that the U.S. Congress valued at \$5 for its junk sale, this would be considered a theft of public property and the citizen

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<sup>67</sup> [www.RTNDA.org](http://www.RTNDA.org).

could be thrown into jail. Similarly, if broadcasters were to take control, without payment, of billions of dollars worth of airwaves, the public might feel it wasn't getting fair compensation.

### 3) Action

Find evidence that the secondary principal (the broadcast owners) were willing to act on their conflict of interest. The information here can be divided into two categories: non-media lobbying that is public (e.g., disclosed by government mandate and/or reported in the news) and that which is private (e.g., is known by broadcasters and/or politicians).

**Public Activities.** The public portion of the broadcasters' lobbying primarily consists of PAC expenditures, lobbying expenditures, and public comments by Washington representatives of the broadcast industry. According to the Center for Responsive Politics, during the 1997-1998 election cycle the National Association of Broadcasters, the largest lobbying organization of the combined radio, local TV, and network TV companies, spent \$456,671 on PAC contributions to federal candidates, \$28,196 on soft money donations to political parties, and \$9,880,000 on lobbying expenditures.<sup>68</sup> The lobbying expenditures included the paid services of more than 40 Washington insiders.

**Private Activities.** One of the most important private activities of the local TV broadcasters is their grass root lobbying. Most of this lobbying is orchestrated through the NAB. The NAB information flow to and from local TV broadcasters indicates the frequency and intensity of this lobbying effort.

The NAB regularly sends policy information to local TV broadcasters with the intent both to inform and activate them for lobbying purposes. This information includes the following:<sup>69</sup> 1) *TV Today*, a weekly fax sent to rank-and-file TV station general managers, 2) *Congressional Contact*, a monthly newsletter sent to an elite group of local broadcasters called "LLCs," who are recognized for their interest and prowess in lobbying Congress, 3) *Telejournal*, a monthly satellite TV delivered policy update, mostly watched by LLCs, and 4) *Legislative Issue Updates*, distributed semi-annually to LLCs. All the above publications, with the exception of the *Legislative Issue Updates*, regularly encourage local TV broadcasters to lobby their member of Congress on select key issues.

In addition to the above periodical publications, the NAB sends a substantial amount of non-periodic public policy information. Regarding the grant of digital spectrum to broadcasters, for example, the NAB sent numerous special fax alerts to NAB board members, TV group heads, state association executives, and rank-and-file general

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<sup>68</sup> [www.CRP.org](http://www.CRP.org).

<sup>69</sup> The NAB and the vast majority of its members refuse to make this lobbying material public. However, much of the material is distributed broadly enough that it is possible to find an occasional broadcaster willing to share it for scholarly purposes.

managers. These alerts all focused on applying pressure on one or more members of Congress, usually just before Congress was expected to make a key decision.

Whenever a local broadcaster lobbies a member of Congress, a “Contact Report” is filled out and sent to NAB. One purpose of the contact report is to identify friends and foes. The results of the contact reports are never released publicly. Nevertheless, the lobbying campaign is largely built around the feedback from these reports.

The NAB also sends out frequent lobbying toolkits. These toolkits are substantially similar to those used by other interest groups. They include a call for action, a detailed action plan, and tools to implement the action plan. In early 1996 the NAB sent out two lobbying toolkits, one brief (8 pages) and one long (65 pages), designed to prevent the digital spectrum from being auctioned to the highest bidder rather than given to existing broadcasters. The shorter toolkit, sent out during the third week in January 1996, was given the title “A Call to Arms for Television Broadcasters.” The toolkits were based on detailed public opinion research.

## **Conclusion**

The paradox of news bias suggests that neither politicians nor political communication scholars should expect to find evidence of bias in easily available documents. For scholars, this means that classic methods of researching bias, such as content analysis and interviews with agents (such as chief reporters), should not yield valid data no matter how sophisticated the statistical apparatus. For politicians, it means a reliance on low-information reasoning as a basis for inferring bias. Low information reasoning involves the use of indirect evidence as a proxy for direct evidence.

One type of indirect evidence is conventional lobbying activity. Politicians can use non-media (or “conventional”) lobbying activity to update their beliefs about the probability of media lobbying activity. One of the noteworthy features of most of this lobbying is that it is done out of the public eye but is nevertheless visible to politicians.

From the paradox of bias we thus arrive at a paradoxical conclusion: the most realistic way to study the scope and impact of media bias may be to study its non-media counterpart, where bias is defined in terms of a desire to create asymmetric information favoring media owners’ interests.

Studying non-media lobbying does not preclude the study of media content. At some point one or more powerful politicians or interest groups will have a strong incentive to oppose the broadcasters on an issue of great importance to the broadcasters. The resulting situation will be a “critical test” of the broadcasters’ willingness to engage in news bias. The politics surrounding the Cable Act of 1992 (Snider 2000b) and the Telecom Act of 1996 (Snider 1997; Snider and Page 1997) provide two such critical tests. Nevertheless, the paradox of news bias and the resulting heavy reliance politicians place on low-information reasoning suggest that the opportunities for critical tests should be rare.

The media's practical goal of influencing politicians rather than the general public also suggests a crucial change in research design when studying both non-media and media bias. The lion's share of the broadcasters' lobbying focuses on influencing a few key senior members of Congress who control what legislation gets introduced and how it gets framed. This suggests that broad-based content analyses of national media are misplaced. What counts is how local TV media portray people like Representative Billy Tauzin (R-Louisiana; chair of the House Telecommunications Subcommittee), and Senator Conrad Burns (R-Montana; chair of the Senate Communications Subcommittee). Unfortunately, due to inaccessible local TV archives (Snider 2000a), this is a daunting undertaking.

Even when a critical test via content analysis is appropriate, careful study of media's conventional lobbying may be necessary to identify the media's most important pocketbook issues and potential allies and opponents. Learning this type of information may involve skills more associated with conventional investigative reporting than conventional political communication scholarship. To assume that accurate information about media incentives, allies, and opponents can be learned in either the trade or mass media can sometimes be extremely naïve.

Traditional content analysis may be best suited to the study of ideological and cross-industry bias (where bias would be hard to hide) or other types of media behavior (where the "paradox of bias" is not a relevant consideration because the media have nothing to hide). The methods outlined here may be best suited for industry- and company-specific bias where the incentives to create bias and the ability to hide it are greatest. Given the growing importance of the information technology sector and the active role the media play in determining information policy, the effort necessary to study this type of bias would seem to be increasingly justified.

If industry-specific bias is important, then the literature on "media monopoly" needs to be rethought. The unit of analysis has conventionally been the individual company (Bagdikian 1992; Alger 1998). But the unit of analysis should vary with the type of bias being studied. In the case of information policy bias, the unit of analysis should be at the level of the industry rather than the individual company. Studies should focus not on the number of individual media outlets, but on the extent to which local TV broadcasters, network TV broadcasters, daily newspapers, cable news networks, and other news outlets have common interests adverse to the public. If the interests of the press and public conflict, then the key research question may become whether other democratic intermediaries such as political parties and competing interest groups are sufficiently powerful to keep the press in check.

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## **APPENDICES**

### **Appendix A: Nick Evans Letter**





## **Appendix B: Washington Post Cartoons**

## Appendix C: NAB Lobbying Activities for 1996<sup>70</sup>

### House

- H.C.R. 67 Resolution Concerning the Congressional Budgets for Fiscal Years 1996 through 2002
- H.C.R.178 Resolution Concerning the Congressional Budgets for Fiscal Years 1997 through 2002
- H.R. 177 Diversity in Media Act of 1995
- H.R. 181 Telecommunications Policy Coordination Act of 1995
- H.R. 187 Communications Act of 1934, Amendment
- H.R. 208 Statutory Authority for the Corporation of Public Broadcasting
- H.R. 274 Federal Election Campaign Act of 1971, Amendment
- H.R. 296 House of Representatives Election Campaign Reform Act of 1995
- H.R. 327 State Lottery Advertisements Subject of Federal Trade Commission Regulation
- H.R. 411 Antitrust and Communications Reform Act of 1995
- H.R. 514 Restrictions on Foreign Ownership of Licensed Telecommunications Facilities
- H.R. 525 Certain Provisions of Title VI of the Communications Act of 1934
- H.R. 545 Airfare Advertising Reform Act of 1995
- H.R. 732 Federal Election Campaign Act of 1971, Amendment
- H.R. 789 Fairness in Musical Licensing Act of 1995
- H.R. 804 Tobacco Consumption Reduction and Health Improvement Act
- H.R. 935 Right to View Professional Sports Act of 1995
- H.R. 963 Communications Act of 1934
- H.R. 989 Copyrights Term Extension Act of 1995
- H.R. 1004 Communications Decency Act of 1934
- H.R. 1218 Authority for Competitive Bidding of Federal Communications Commission Licenses
- H.R. 1244 Theatrical Motion Picture Authorship Act of 1995
- H.R. 1248 Film Disclosure Act of 1995
- H.R. 1295 Federal Trademark Dilution Act of 1995
- H.R. 1390 Children's Media Protection Act of 1995
- H.R. 1506 Digital Performance Right in Sound Recordings Act of 1995
- H.R. 1540 Family Viewing Cable Television Act of 1995
- H.R. 1555 Communications Act of 1995
- H.R. 1556 Communications Act of 1934, Amendment
- H.R. 1641 Antitrust Reform Act of 1995
- H.R. 1649 Comprehensive Fetal Alcohol Syndrome Prevention Act
- H.R. 1734 National Film Preservation Act of 1995
- H.R. 1807 Children's Media Protection Act of 1995
- H.R. 1861 Copyright Clarifications Act of 1996

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<sup>70</sup> Sources: NAB 1996 Lobbyist Disclosure Report; Public submissions by NAB to various government agencies.

H.R. 1869	Federal Communications Commission Authorization Act of 1995
H.R. 2030	Parental Choice in Television Act of 1995
H.R. 2072	Clean Congress Act of 1995
H.R. 2271	Fairness in Political Advertising Act of 1995
H.R. 2441	NII Copyright Protection Act of 1995
H.R. 2491	Seven-Year Balanced Budget Reconciliation
H.R. 2830	Campaign Finance Reform, Fairness, and Citizens Involvement Act
H.R. 2962	Internal Revenue Code of 1986, Amendment
H.R. 2964	Parents Television Empowerment Act of 1996
H.R. 2979	Public Broadcasting Self-Sufficiency Act of 1996
H.R. 3010	Advertisement Standard for State Lotteries
H.R. 3073	Communications Act of 1934, Amendment
H.R. 3192	Satellite Home Viewer Protection Act of 1996
H.R. 3207	Amateur Radio Volunteer Services Act of 1996
H.R. 3208	Congressional Campaign Finance Reform Act
H.R. 3274	Federal Election Campaign Act of 1971, Amendment
H.R. 3472	End Taxpayer Promotion of Alcohol Overseas Act
H.R. 3473	Children's Protection from Alcohol Advertising Act of 1996
H.R. 3474	Sensible Advertising and Family Education Act
H.R. 3475	Alcohol Advertising Accountability Act of 1996
H.R. 3476	College Campus Alcohol Abuse Prevention and Education Act
H.R. 3478	Alcohol Promotion and Advertising Tax Fairness Act
H.R. 3479	Comprehensive Alcohol Abuse Prevention Act of 1996
H.R. 3505	American Political Reform Act
H.R. 3515	Consumer Automobile Leasing Act of 1996
H.R. 3553	Federal Trade Commission Reauthorization Act
H.R. 3588	Public Interest Campaign Reform Act of 1996
H.R. 3623	Federal Communications Commission Television Duopoly Rules
H.R. 3644	Just Say No Act
H.R. 3685	Communications Privacy and Consumer Empowerment Act
H.R. 3700	Internet Election Information Act of 1996
H.R. 3760	Campaign Finance Reform Act of 1971, Amendment
H.R. 3800	Federal Election Campaign Act of 1971, Amendment
H.R. 3814	Department of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act, 1997
H.R. 3945	Broadcasting Tower Facility Sharing
H.R. 3957	FCC Modernization Act of 1996
H.R. 3995	Truth in Political Advertising Act
H.Res.484	Resolution Regarding Television Network "Family Hour"
H.Res.541	Resolution Concerning Violence on Television

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Total: 73 bills or resolutions

#### **Senate**

S. 10 Congressional Accountability Act of 1995; Congressional Campaign Spending Limit and Election Reform Act of 1995

S. 46 Senate Campaign Financing and Spending Reform Act  
 S. 116 Senate Fair Elections and Grassroots Democracy Act of 1995  
 S. 170 Comprehensive Fetal Alcohol Syndrome Prevention Act  
 S. 226 Digital Performance Right in Sound Recordings Act of 1995  
 S. 306 Television Violence Reduction Through Parental Empowerment Act of 1995  
 S. 314 Communications Decency Act of 1995  
 S. 332 Children's Media Protection Act of 1995  
 S. 470 Children's Protection from Violent Programming Act of 1995  
 S. 559 Film Disclosure Act of 1995  
 S. 652 Telecommunications Act of 1996  
 S. 704 Gambling Impact Study Commission Act  
 S. 888 Spectrum Auction Act of 1995  
 S. 1116 Broadcast and Cable Voluntary Standards and Practice Act  
 S. 1137 Fairness in Musical Licensing Act of 1995  
 S. 1219 Senate Campaign Finance Reform Act of 1996  
 S. 1241 Public Broadcasting Financial Independence and Family Viewing Act of 1995  
 S. 1262 Tobacco Products Control Act of 1995  
 S. 1284 NII Copyright Protection Act of 1995  
 S. 1330 Spectrum Auctions Offsetting Collection Availability Act  
 S. 1357 Seven-Year Balanced Budget Reconciliation Act of 1995  
 S. 1389 Senate Campaign Spending Limit and Election Reform Act of 1995  
 S. 1528 Senate Campaign Finance Reform Act of 1996  
 S. 1551 Communications Act of 1934, Amendment  
 S. 1567 Communications Act of 1934, Amendment  
 S. 1619 Music Licensing Reform Act of 1996  
 S. 1723 Accountability of Campaign Advertising  
 S. 1857 Bipartisan Campaign Practices Commission Act of 1996  
 S. 1932 Federal Election Campaign Act of 1971, Amendment  
 S. 1953 Campaign Finance Reform and Disclosure Act of 1996  
 S. 2025 Communications Act of 1934, Amendment  
 S. Res.290 Resolution Calling for the Revival of "Family Hour" on Network Television

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Total: 32 bills or resolutions

### **FCC**

CS Docket No. 95-178	Definition of Television Markets for Must Carry
CS Docket No. 96-46	Open Video Systems
CS Docket No. 96-83	Antenna Restrictions
ET Docket No. 93-62	RF Radiation
ET Docket No. 95-18	Broadcast Auxiliary Spectrum and Reallocated Government Spectrum
FO Docket No. 91-171	Emergency Alert System
FO Docket No. 91-301	Emergency Alert System
Gen Docket No. 83-484	Personal Attack/Political Editorial
Gen Docket No. 90-357	Digital Audio Broadcasting

MD Docket No. 95-176	Radio Regulatory Fees
MD Docket No. 96-186	Radio Regulatory Fees
MM Docket No. 87-15	Broadcast Ownership Rules
MM Docket No. 87-154	Broadcast Ownership Rules
MM Docket No. 87-268	High Definition Television/ATV
MM Docket No. 87-7	Broadcast Ownership Rules
MM Docket No. 87-8	Broadcast Ownership Rules
MM Docket No. 91-221	Broadcast Ownership Rules
MM Docket No. 93-143	Children's Television
MM Docket No. 94-150	Broadcast Ownership Rules
MM Docket No. 95-176	Closed Captioning
MM Docket No. 96-16	Equal Employment Opportunity
MM Docket No. 96-62	Broadcast Blanketing Regulations
MM Docket No. 96-90	Broadcast License Terms

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Total: 23 dockets

### **Other FCC**

Radio Ownership

Pirate Radio

Data Broadcasting

Requests by Fox Broadcasting and others for declaratory rulings concerning the offers of time to presidential candidates

Fairness Doctrine

Low Power FM Radio

### **White House**

TV Parental Guidelines

Children's Television

### **Department of Justice**

Relevant product market, etc. regarding radio mergers

Procedures for Review under Hart-Scott-Rodino Act

### **Federal Trade Commission**

Procedures for Review under Hart-Scott-Rodino Act

### **Patent & Trademark Office**

Proceedings relating to a proposed protocol to the Berne Convention

Proceedings relating to a proposed new instrument for the protection of producers and performers of sound recordings

### **Environmental Protection Agency**

RF Radiation Registration