




FEDERAL ELECTION COMMISSION
Washington, DC 20463

July 13, 2005

MEMORANDUM

TO: The Commission
General Counsel
Staff Director
Public Information
Press Office
Public Records

FROM: Brad C. Deutsch 
Assistant General Counsel

SUBJECT: Supplemental Materials for the Internet Communications
Rulemaking

Attached please find written opening statements and supplemental documents submitted by Commissioners and witnesses regarding the June 28-29, 2005 hearing on Internet Communications. The close of the period for submitting supplemental documents for the record was July 6, 2005.

Attachments

cc: Associate General Counsel for Policy
Congressional Affairs Officer
Executive Assistants

SUPPLEMENTAL MATERIALS SUBMITTED BY
COMMISSIONERS AND WITNESSES

<u>Name</u>	<u>Document</u>
1. Michael Bassik	- Opening statement
2. Peter Bearse	- Amended comment - Letter with attached <i>Doonesbury</i> cartoon and <i>Parade</i> magazine article - Chapter 8 from Peter Bearse's book: <i>We, the People: A Conservative Populism</i> (2004) - Faxed note
3. Duncan Black, Markos Moulitsas, and Matt Stoller	- Duncan Black: Opening statement - Duncan Black: Printouts describing how Eschaton works - Markos Moulitsas: Printouts describing how DailyKos works - Matt Stoller: additional comment to supplement testimony
4. Jim Boulet, Jr.	- Opening statement - Letter to supplement testimony - Printout of webpage to supplement testimony
5. Reid Alan Cox	- Opening statement - Press release from Center for Individual Freedom
6. Michael Krempasky	- Opening statement - Letter with attached chapter from Dan Gillmor's book <i>We the Media: Grassroots Journalism by the People, for the People</i> (2004)
7. John Morris, Jr.	- Opening statement - Letter to supplement testimony
8. Trevor Potter	- Letter to supplement testimony
9. Karl J. Sandstrom	- Printouts of OMB Watch's website
10. Kristinn Taylor	- Opening statement with attached articles and previously submitted comment
11. Chairman Thomas	- Statement of correction for the record - Supplemental research materials referenced during the hearing

12. Vice Chairman Toner - Opening statement
13. Commissioner Weintraub - Opening statement

Testimony of Michael Bassik, The Online Coalition
Hearing on Proposed Rulemaking on Internet Communications
June 29, 2005

Chairman Thomas and distinguished members of the Federal Election Commission: Thank you for the opportunity to testify today. I am pleased to represent The Online Coalition during these proceedings.

The Online Coalition is a bipartisan group of more than 4,000 bloggers, activists, and everyday cybertizens. We were formed in March of this year in response to Commissioner Smith's CNET News interview, the title and content of which suggested the coming crackdown on blogging.

I plan to focus my attention today on the proposal to add the term "paid advertisements on the Internet" to the definition of "public communication."

Over the past ten years, the Internet has grown into a political powerhouse that competes directly with newspaper, radio, and television for its fair share of voter attention.

As a result, organizations, political parties, and candidates for federal office are now taking advantage of the growth of the web by building robust websites to distribute information, organize volunteers, and solicit contributions.

Many have also begun to dabble in paid online advertising.

Responding to the growth in online penetration and popularity, Republicans and Democrats have started to integrate online marketing into their overall paid media strategies, spending more than \$14 million last year to purchase billions of advertising impressions on over 100 leading websites, blogs, and search engines.

While this number pales in comparison to the billions spent on television and tens of millions spent on direct mail, it is still a significant number and represents an exponential increase over the 2000 election cycle.

As one of the few professional online media consultants in the country and after serving as the online advertising agency of record for John Kerry for President and the Democratic National Committee this past election cycle, I am intimately aware of the consequences of adding the term "paid advertisements on the Internet" to the definition of "public communication." Truthfully speaking, I see absolutely no consequences to this change in the rules.

- Few, if any, individuals, lawyers or consultants set out to take advantage of the ability to coordinate freely with respect to paid online advertising in 2004;
- 99% of paid political advertisements on the Internet carried proper disclaimers; and
- Despite the presence of what many consider to be a gaping loophole created by the Federal Election Commission, not one single state or local party spent soft money online for the purposes of influencing a federal election.

It has been argued that no one took advantage of these internet “advantages” because no one knew they existed. This, however, is no reason to change the existing rules based on what amounts to a hunch that abuse and corruption may one day befall the online advertising industry.

It appears, however, that we have no choice. We realize that it was a court – and not the FEC – that brought about this NPRM.

So, what are we to do? How does the FEC comply with the court decision and not stifle democracy at the same time?

The best course of action appears to be the expansion of the definition of “public communication” to include paid advertisements on the Internet.

We arrive at this conclusion reluctantly. After all, the growth of the Internet as a political information, fundraising, and marketing tool has been fueled, in part, by the Federal Election Commission’s hands-off approach to online political communication and advertising.

We do, however, have a few additional comments.

The Internet has effectively put the power of advertising communication into the hands of every citizen. For the same price as a yard sign or handful of bumper stickers, anyone can design and purchase a small amount of advertising on the Internet. Ads on blogs, for example, cost as little as \$10 per week. Ads on search engines, such as Google, can cost just \$.10 per click. In fact, The Online Coalition is currently advertising the ability to endorse our FEC comment on Google for less than \$1 a day – 1,600 signatures and counting.

Should we really be treating inexpensive ads purchased by individuals the same way we treat multi-million-dollar television buys? We would argue no.

We believe that there should be a spending threshold that must be surpassed before a paid advertisement on the Internet is subject to disclaimer or reporting requirements – especially if the advertisement is purchased by an individual.

Yesterday, many ran from the question of what constitutes a reasonable threshold. We don’t blame them. We do, however, have a suggestion.

The minimum to run a banner ad campaign on most newspaper websites and portals is roughly \$5,000. As such, we think the threshold for reporting and disclaimer requirements on paid advertisements on the Internet should be no less than \$5,000.01.

In addition, the Commission should clarify when disclaimers are required on paid advertisements on the Internet and how they should appear. For example, disclaimers are not currently required on “bumper stickers, pins, buttons, pens, skywriting, and similar items upon which the disclaimer cannot be conveniently printed.”

In the past, the Commission has applied this principle to certain digital advertisements. The Commission held that text messages sent to cellular telephones did not require disclaimers because the size of the message rendered disclaimers inconvenient and impractical.

The commission should follow these precedents in only requiring disclaimers on ads that are large enough to provide proper identification without rendering the advertisement useless.

Google text links, which only provide a maximum allocation of 95 characters including spaces, should not be forced to carry disclaimers. The same should apply to small "tile" banner ads, such as those that are often found on blogs.

Individuals should not need to consider the legal ramifications of disclaimers and reporting requirements when only purchasing a small amount of advertising space on the Internet.

Forcing individuals to do so would be the equivalent of imposing a de facto gag on free speech on the one medium that offers the most promise to increase participation in the democratic process. We hope you would agree. Thank you.

COMMENTS

in re:

**FEDERAL ELECTION COMMISSION
Notice of Proposed Rule-Making (NPRM)**

on

Internet Communications

Notice 2005-10 [Federal Register Vol. 70, No. 63 (April 4, 2005, pp. 16967-16979)]

Context and Executive Summary

The Federal Election Commission (FEC) has little choice but to maintain the status quo in the matter at issue, regulation of "Internet Communications – exemption of the Internet from CFR regulation under the Bipartisan Campaign Reform Act of 2002 (BCRA). This does not mean permitting a loophole in BCRA regulation of political party committees. These are the prime targets of CFR regulations and it clearly was the intent of Congress that they not be allowed to use "soft money" to finance "public political advertising in any form." This interpretation establishes an essential context for regulation of Internet use by political party committees. It does not establish a basis for regulating "Internet communications" more generally. This standpoint also honors the admonition of the Commission as well as the urging of many others, that BCRA requirements be provided a "narrow" construction in the Internet arena. Thus, any redefinition of the key "public communication" feature of the BCRA should be qualified to state: "general public political advertising by political party committees that employs electronic media of any sort, including those named in the Act."

The Commission already recognizes the danger of overreaching in this arena. It should thereby avoid trying to solve the seeming problem of Internet "exclusion" identified by the Shays court via the back end of amending the "by means of" phrasing in 2 U.S.C. 431(22), rather than, directly and narrowly, via the front end of focus on the organizations implicated as in need of regulation by the BCRA, CFR and the history of Congressional debates on campaign finance reform. After all, the mutable, dynamic, innovative, informal and self-organizing qualities of the Internet would be most endangered by FEC overreaching. There is great danger to overreaching if a "back end" approach implied by the Notice is taken on this matter. There is, moreover, perhaps arguably, insufficient legal basis for the Commission to adopt such an approach because the Congress deliberately chose not to engage the question of Internet regulation via the BCRA. The issue was avoided by the time of passage of the Act, politically, and the only way that it can be engaged in any decisive way is by the Congress, politically. Perhaps arguably, but in this author's considered opinion, the Shays Court previously overreached via its interpretation that the phrase "or any other form of general public political advertising," implied that the Internet must be specified in the definitions of "public communication" and "political advertising."

In its prior rulemaking to implement the BCRA, the Commission had properly excluded the Internet, observing that:

“the Internet is not one of the eight types of mass communication Congress listed in 2 U.S.C. 431(22)” and that “general language following a listing of specific terms... does not evidence Congressional intent to include a separate and distinct terms that is not listed, such as the Internet. 67 Fed. Reg. 49072.”¹

The precise nub of the “Internet Communications” issue was stated by the plaintiffs in the Shays proceeding during the Commission’s proceedings on “soft money” rulemaking: “appropriate disclosure requirements and funding restrictions apply to *public communications by political party committees via electronic means* (emphasis the author’s). The Commission should recall this as sufficient basis for a narrowly constructed approach to regulation of political speech via the Internet as recommended earlier in this commentary. The Commission is also advised to recall, in its own language, that ““Federal election activity” is “defined by the Act... and the definition includes no mention of the Internet.” The implication is unmistakable: Rather than proceed to respond to the (overreaching) decision of the Shays court in a way that threatens the “unique nature” of the Internet, the FEC would be well advised to remand the issue back to the Congress for further deliberation and decision to amend the Act.

Guiding Principles

The comments to follow accord with the “principles” to guide “possible regulation of online political speech of individuals” set forth by the Center for Democracy and Technology and supported by about 1,000 signatories.² Numbers 4-7 among the Center’s eleven principles are most germane to this commentary:

“4. The Federal Election Commission (FEC) should adopt a presumption against the regulation of election-related speech by individuals on the Internet, and should avoid prophylactic rules aimed at hypothetical... harms... Instead, the Commission should limit regulation to those activities where there is a record of demonstrable harm.

5. If in the future evidence arises that individuals’ Internet activities are undermining the purpose of the federal campaign finance laws, any resulting regulation should be narrowly delineated to avoid chilling constitutionally protected speech. The Commission should eschew a legalistic and overly formal approach to the application of campaign finance laws....

**** Background on This Principle:** Speaking out during an election is a constitutional right. The government needs to be very careful when it tries to regulate political speech. ... even if the FEC finds clear evidence that wealthy interests are engaging in practices that corrupt the political process, we believe it must write rules that are very narrow and

¹ **IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA:**
CHRISTOPHER SHAYS and MARTIN MEEHAN, Plaintiffs, v. FEDERAL ELECTION COMMISSION,
Defendant, Civil Action No. 02-CV-1984 (CKK), MOTION FOR SUMMARY JUDGMENT (P.37).

² As set forth by John Morris of the Center (jmorris@cdt.org) via an e-mail distributed by Steven Clift (clift@publicus.net) through his Democracy Online DO-WIRE listserve on 27 May, 2005.

clear, so that it does not also regulate or chill the online speech of small, independent political speakers.

6. Ordinary people should be able to broadly engage in volunteer and independent political activity without running afoul of the law or requiring consultation with counsel. The FEC should make clear that such activities are... beyond the scope of all campaign finance regulation (*including disclaimers...* emphasis mine).

7. Individuals should be able to collaborate with other such individuals to engage in a very substantial amount of independent election related speech online without being deemed a "political committee."

"Public Communications" via the Internet

Not being in a position of simply adding the Internet to the list of "by means of" media in the BCRA definition of "public communication" (a change that would have to be made by Congressional amendment), the FEC finds itself in the position of having to include the Internet -- following the objections to its exclusion in *Shays v. Federal Election Commission* -- by insinuating it as falling under the purview of the final phrase in the list: "any other form of general public political advertising" [2 U.S.C. 431(22)]. This puts the Commission into a very awkward position in trying to frame appropriate responses to the DC Circuit Court decision. Only a small portion of Internet activity can be considered "advertising" and only a small portion of the latter can be considered "political advertising." Thus, there is a real danger of seriously injuring an elephant with regulations that amount to swatting flies on the elephant's hide.

Under the circumstances; that is, without explicit Congressional authorization otherwise, the Commission should continue to retain a general exclusion of Internet communications from the definition of "public communication" -- with exception only of Internet communications that provide political ("PASO") advertising (see below) by political party or federal candidate committees. The Commission proposes to veer from this policy in cases of "advertisements where another person or entity has been paid to carry the advertisement on its website." But for disclosures or disclaimers (see the section below on these), this would be poor policy. Why? -- Because it is discriminatory, favoring established, largely centralized, conventional media with respect to decentralized, mostly disestablished Internet media. The former rely upon advertising to survive. Why not Internet media? Many Internet media have disappeared for lack of even modest advertising revenues. Many more are struggling financially. It is doubtful that the Commission's proposed change would withstand legal challenge.

Another problem with the Commission's proposed ruling is that, as introduced in col.1 of page 16969 of the "Proposed Rules," it is indiscriminate in its wording and, thereby, in the potential scope of its applicability. It refers to paid political advertising generally, not to that which only "refers to a clearly identified candidate for Federal office... and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office" (PASOs). The proposed rule should be worded so that it governs PASO

advertising more precisely. Advertising is also “speech.” Any proposition that purports to regulate political speech on the Internet must be de-minimus – with the narrowest possible construction. Rather than arbitrarily trying to redefine “public communication” within the terms of BCRA, and emerging with what may turn out to be a practically null change or unenforceable rule, the Commission would do well to send the matter back to the Congress for their reconsideration.

“Generic campaign activity”

The Bipartisan Campaign Reform Act of 2002 (BCRA) defines “generic campaign activity” as “campaign activity that promotes a political party and does not promote a [Federal] candidate or non-federal candidate” (2 U.S.C. 431(21)). “Public communication” is considered to be such an activity. So, FEC regulations CFR Part 100, paragraph 100.25, defines generic campaign activity more specifically as “a public communication that promotes or opposes a political party and does not promote or oppose a clearly identified Federal candidate or a non-Federal candidate. Note that this definition does not include “party-building” activities.³ Most of these have come to be treated as “Federal election activity” subject to regulation because they are presumably “connected” to elections that feature candidates for Federal office. “Type 2” of the latter cross references “generic campaign activity” so that this category becomes a sub-category of “Federal election activity.”⁴ This categorization is mistaken, as many of the Type 1 and Type 2 activities undertaken by sub-national political party committees have, at the times when they are undertaken, little or no connection to Federal elections. They are primarily localized and oriented to state and local elections. The lack of an appropriate, localized definition or effective focus upon “party building” activity in this definitional morass is, at best, problematic, and at worst, harmful to political parties as many commentators observed when campaign finance reform was being debated, pre-passage of BCRA. The definition of “generic campaign activity” is thus unsatisfactory, but the Commission would have to ask Congress to revisit BCRA to obtain any basis for redefinition that would make any substantial difference.

Internet Public Communication (as) Media

The implication pointed to by earlier paragraphs now can be put more precisely: Internet public communications should be afforded the same exemption as broadcast media. They are media. As a recent headline in a major metropolitan newspaper stated: “Websites offer citizens a chance to write stories, rival traditional media.”⁵ Public Radio International’s Christopher Lydon repeats daily, in announcing his interactive “Open

² Party-building activities include voter registration (an activity that, in all states, must be carried out several weeks in advance of elections), identification (ID) of those eligible to be members of an electorate; provision of information on party principles, positions on issues, organizations, forums, officials, et al.; sponsoring forums on issues, organizing “meetups” or social events, doing collaborative projects with other community-based organizations, and doing many activities that fall under the rubric of GOTV (“get out the vote”) that may not involve PASO with respect to federal or other candidates that may or may not be on the ballot.

⁴ FEC notice, op.cit., page 16968, footnote 2.

⁵ Light, Joe (2005), “Spreadin’ the news, 1 volunteer at a time,” *THE BOSTON GLOBE* (June 25).

Source” program that, via the Internet: “Readers become writers and listeners become broadcasters.”

The movement towards “citizen’s journalism” and the increasing role of bloggers vis a vis mainstream media (MSM) should be sufficient to remind the Commission of the original meaning of the First Amendment – that it focuses on persons, not journalists or media organizations -- as if every person had a printing press, which now they nearly, practically do, along with a keyboard.⁶ Businesses were not recognized as “legal persons” until 1886. Thus, public communications via the Internet should qualify for the “press exemption.” If the Commission decides, however, that the exemption should be extended only to “bloggers,” then it should apply even if a blogger uses corporate-owned computers (as, for example, if a blogger is “a corporate employee who blogs on her lunch hour”).⁷ Such a restriction, however, means that the Commission will have to struggle with a difficult question of definition: What is a blogger?, a question that begs an arbitrary answer in the dynamic, mutable arena of the World Wide Web.

Political Volunteer Activity

The Commission’s comments relative to “Internet Communications – Proposed 11 CFR 100.26” (Proposed Rules, p.16971) reveal a remarkable misunderstanding with regard to the nature of political volunteer activity. The “soapbox in a public square” public speaker example is quite malapropos as a lead-in to the Commission’s question of “cost,” especially since such activity should not be imaginable as a possible target of governmental regulation. The relevant cost of volunteerism is opportunity cost. Direct monetary outlays of the sort that preoccupy the Commission are the least of it. The opportunity costs of volunteers’ time, not defined or valued by the BCRA, are what really needs to be weighed; and FEC regulations must take great care to reduce these costs or at least not increase them. Unfortunately, as revealed by the writing of one of the Commissioners, CFR regulations have too often violated the latter precept.⁸

It is important to note that the highly restricted definition of Internet communications

⁶ Outing, Steve (2005), “The 11 Layers of Citizen Journalism,” www.poynter.org/content_view.asp?id=83126 (14 June), one of many good examples of online citizen journalism collected by Steve Clift via http://www.dowire.org/wiki/Citizen_journalism_online. See also: Dube, Jonathan (2005), “Legal Guide to Weblogs.” CyberJournalist.net Publisher, which opens with the line: “Blogging is publishing,” in clift@publicus.net, DO-WIRE for 21 June, 2005. Richard Lewis, on his website and blog via www.TakeBackAmerica.tv, has written more directly on the fact that the First Amendment pertains to “living persons,” each potentially with their own “press,” with reference to state constitutions as well as the federal. E.G., Section 8 of the Kentucky Bill of Rights: “Printing presses shall be free to every person who undertakes to examine the proceedings of the General Assembly or any branch of government, and no law shall ever be made to restrain the right thereof. Ever person may freely and fully speak, write and print on any subject, being responsible for the abuse of that liberty” (quoted in the section “Campaign Reform – I call it Fraud – you decide!”

⁷ This is implied by, and the quote is taken from, Hasen, Richard L. (2005), “The Ripple Effects of the FEC’s Rules on Political Blogging...,” FindLaw’s Legal Commentary Writ (<http://writ.news.findlaw.com>, April 5, 2005).

⁸ See, for example, among other writings: Smith, Bradley (2000), “Address to the Catholic University Law Review Symposium on Election Law Reform.” Washington, D.C. (September 23).

subject to Commission purview under the terms of reference (ToR) of the BCRA proposed earlier exclude such communications as may serve to elicit and inform political volunteer activity without engaging in PASO advertising, including Internet communications by political party committees and candidates for the sake of recruiting and engaging volunteers.

The purview of FEC regulation of Internet communications that might impact political volunteer activity must be further circumscribed in addressing the value of “in kind” contributions to facilitate volunteer activity. The focus of the BCRA and the FEC is misplaced with respect to corporate donations of computer and Internet facilities used by volunteers without qualification as to corporate size. The literature on firm size has long since revealed that public features, impacts or implications of the private corporation increase with size. There are at least substantial quantitative and qualitative differences between big business and small. The corporate aspects of FEC purview of Internet communications, therefore, should be entirely limited to the “big” business part of the corporate sector, exempting small business⁹. The latter could be defined using Small Business Administration criteria. Cost and allocation criteria (see below) would be onerous for small business.

Costs and Allocations

Requirements to account for and allocate the costs of Internet communications should be restricted to large corporations. These include not-for-profit corporations.

From an economist’s standpoint, the most appropriate basis for allocation would be the marginal costs of PASO Internet communications. These are more readily measurable or computable than “allocation calculations” based on questionable percentages or more or less arbitrary cost assignments.

An issue here not raised by the Commission’s April 4, 2005 Notice should also be addressed or hereby identified for future deliberation – that of Internet communications within large corporations that own media organizations. Those that implicate “costs,” “allocations,” “coordination,” “disclosure” or other issues of concern in the Notice should become the subjects of FEC regulatory purview to the extent that “public communications” of PASO or “generic campaign activity” types are subjects of intra-corporate Internet communications.

Disclaimers and Disclosures

Any “general public political advertising” on an Internet website or blog should be required to carry a disclaimer or disclosure if there is any source (“disbursement”) involved other than the website’s or blog’s own author, or some monetary or other transactional (“expenditure”) basis upon which political advertising has been provided. The issues involved here are less those of campaign finance regulation than of intellectual

⁹ This point of using corporate size as a discriminator could be made, and has been made, more generally with regard to government regulation, but this is not the place to elaborate it.

honesty, journalistic integrity and accountability in the “marketplace of ideas” that the political arena is supposed to represent.

Coordination

The “coordination” strictures governing public communications are, in this writer’s opinion, arbitrary, difficult to enforce and contrary to the First Amendment. At least in the case of Internet communications, FEC rules should not apply but for the requirements to provide disclaimers and/or disclosures as indicated above.

BCRA: Needs to be Radically Revamped

Any amendments to FEC rules to implement the BCRA following on the NPRM addressed herein will not obviate the need to take the fundamental issue of FEC regulation of political speech over the Internet back to where it belongs -- the U.S. Congress for resolution, politically. This should be done in context – in recognition of the fact that the Act has failed to achieve reformers’ goals and needs to be radically revamped.

Review and revision of the Act should be guided by two observations

- (1) Money will always find a way to influence politics; the only substantial antidote to money is peoples’ time; and therefore...
- (2) CFR regulation must focus on how to recognize, value and encourage (peoples’ volunteer) contributions of time.

An alternative approach to campaign finance reform based on time rather than money is presented in the author’s book, *WE, THE PEOPLE: A Conservative Populism* (Alpha Publishing, Inc., 2004).

Peter Bearse, Ph.D., author, local political activist and
International Consulting Economist recently in Iraq. June 23, 2005

Dear Mr. Deutsch:

Pursuant to the 30 June 2005 e-mail I received from Attorney Sferra and my phone conversation of today with Mary Dove, I hereby enclose a few "Supplemental Materials"

These materials serve to:

- (1) Highlight the highly individualistic and politically "grassroots" nature of Internet communications, qualities that any new rules should do nothing to deter. I hesitate even to apply a "political" adjective here because many such communications may be quite personal in nature or indistinguishable from interpersonal communications, akin to neighbors sharing views on candidates "over the back fence" as in pre-Internet times. In my opinion, campaign finance reform has already gone too far towards infringing upon First Amendment rights and should do no more.
- (2) Also reveal the somewhat inchoate, individualistic, personal, mutable and idiosyncratic nature of blogging, which should give pause to the FEC's apparent view of blogs as a readily discernible and sensible target for any new rules.

The Doonesbury cartoon adds some leaven of humor, I hope, to the serious undertaking of rulemaking. In addition, though, it helps to make a serious point along with the recent clipping from *PARADE* Magazine – that the "blogosphere" is overwhelmingly populated by people who operate their blogs on a shoestring or a wish and a prayer. The bloggers that you heard testify represent nothing more than a very tiny tip of an enormous and rapidly growing iceberg, not bloggers representative of blogging.

The fact that the latter is increasingly popular leads to another note of caution: Any "overreaching" by the Commission is likely to spark a popular reaction, especially with 2006 elections already on the political horizon. As Commissioner Weintraub remarked to me in response to the first part of my testimony, the FEC cannot "remand" anything to the Congress; however, a large number of people can. That is what the grassroots politics that I and my book represent, now highly amplified by the Internet. Thusfar, the process auguring new rules to govern Internet political communications has proceeded largely under the popular political and media radar. Now, you are about to affect very large numbers of people who would very quickly become aware of how they may be affected. Enough said? A word to the wise?

A final advisory note must be submitted regarding the definition of "political committee (PC)" and its implications. The Internet is home for a highly dynamic, mutable, fast-

changing, variegated set of new organizational forms. Superficially, many will appear to be subject to regulations as PCs. Under the rubric of CFR, the FEC may be tempted to apply new rules to a "PC" definition. Don't go there. The Commission would set itself up for a fall if it does. It cannot operate quickly or cost-effectively enough to even try to regulate Internet organizational mutations. It will be very difficult for the FEC even to get a handle on blogs. The challenge is akin to hunting a heffalump except in the most obvious cases. But, even in the case of DailyKos.com, what are you facing? – not a well-defined, conventional organizational form but an evolving complex of blogs within blogs. The wise man looks to feasibility as well as desirability or legality when trying to regulate even a small part of a fast-changing, complex universe. Just as money always manages to find its way into politics in spite of regulatory barriers, the Internet forms can and would mutate to avoid constraints. See Seth Godin's "The Blog of Things to Come," for example, and note that it was written nearly two years ago!

Thank you for your attention, your consideration and for the help of your very kind, responsive, considerate, professional and helpful staff.

With best wishes for a thoughtful rulemaking process, one that will help advance peoples' "grassroots" political participation, I am...

Sincerely yours,



PETER BEARSE, Ph.D., author,

local political activist and International Consulting Economist

P.S. You should have already received a supplemental item submitted earlier via Attorney Sferra – Chapter 8 of my new book, ***WE THE PEOPLE: A Conservative Populism***, entitled "Digital Democracy: The 'Web, 'Net and Media of Politics."

DOONESBURY

by G.B. Trudeau



www.doonesbury.com

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Millions of Americans are creating online diaries—or “blogs”—to post their ideas and opinions on the Web.

Share Your World

By Robert Moritz

HAVE YOU EVER FELT the urge to discuss minor league baseball statistics, celebrity gossip, Dutch tulip cultivation or French cuisine with a vast, appreciative audience? Have you thought about creating a

Web site that tracks blogs. “The Blogosphere is doubling in size every five months. People are talking to their communities, and the communities are responding. It’s growing faster than the Web did.”

The rapid growth is due mostly to an array of online services that

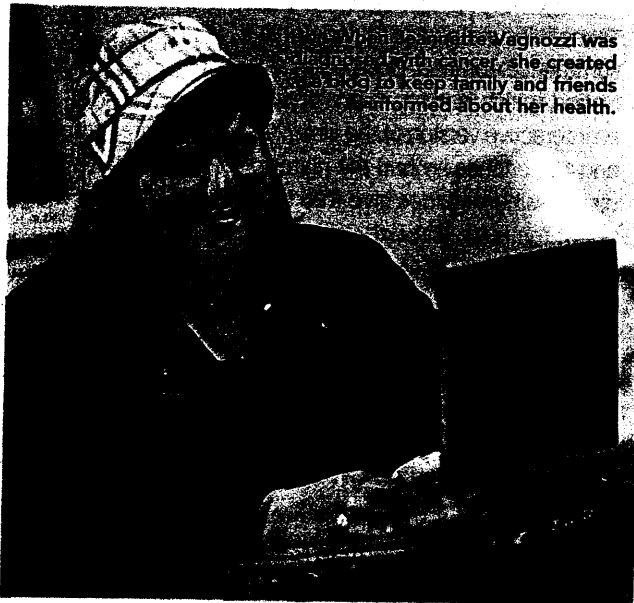
personal Web site but been discouraged by the technical hurdles? Perhaps it’s time you discovered the power of the blog.

You’ve likely heard about the blog phenomenon and wondered what all the hoopla is about. A blog—short for Web log—is an online diary that looks like a Web page

but is incredibly simple to create and update by posting text, photos or links to other sites. Because they’re free and easy to use, blogs have skyrocketed in popularity in recent months.

“We’re seeing about 30,000 new Web logs created every day, along with more than 500,000 new posts,” says David Sifry, CEO of *Technorati.com*,

require virtually no technical know-how to use (see box). As a result, ordinary people are creating blogs on just about every topic imaginable—from the political to the comical to the educational and inspirational. Odds are, if you can think of it, there is a blogger out there typing about it.



Jeannette Vagnozzi was diagnosed with breast cancer last July. She created her blog to keep family and friends informed about her health.

“I wanted something positive to come out of my experience, so I decided to start a blog,” says Jeannette Vagnozzi 40, an administrator for the city of La Verne, Calif. Jeannette was diagnosed with breast cancer last July. She launched her blog, called “Two Hands” (*2hands.blogspot.com*), two days later.

Although she created her blog to keep family and friends informed about her treatment, Vagnozzi hopes that others might also benefit from reading about her experiences. They have. To date, more than 30,000 people have read her postings, including her final pathology report, which showed no residual sign of cancer.

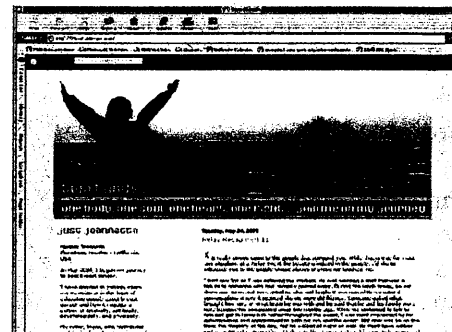
While the majority of blogs are like “Two Hands”—personal journals complete with photographs and links to other blogs and Web sites of interest—many focus on specific topics like movies, sports and politics.

Kevin Agee, 20, of Springfield, Mo., created a blog so he could share his thoughts on his favorite baseball team, the Kansas City Royals. His blog is now located at

all-baseball.com/kauffman though he created his first one using the online service “Blogger” (see box).

“It started as a casual hobby, but now I spend two hours a day writing my posts,” says Agee. “The most fulfilling part is knowing that my thoughts and words are out there for the world to read.”

Amy Sherman, author of the “Cooking With Amy” food blog (*cookingwithamy.blogspot.com*), agrees. “When you write in a private journal, it’s a very personal meditation,” she explains. “With a blog, you are expressing yourself to an audience of people who are interested in what you have to say. Blogs are what the Internet was supposed to be about—making it easy to reach out and connect.”



Jeannette Vagnozzi’s “Two Hands”

Ordinary people are creating blogs on every topic imaginable—from the comical to the inspirational.



Visit www.parade.com and click on “WebLinks” to find more blogging tips and links—and to learn how the author created a blog for his dog, Ruby, in less than five minutes.

PHOTO BY ANN SUMMA FOR PARADE

Politics

Edited by Robert Schlesinger

Hands off my Internet

Robert Schlesinger

Who is a reporter these days? And who gets to decide?

The Federal Election Commission may take a shot at choosing. Starting today, the Federal Election Commission will hold two days of public hearings looking into the extent to which it should regulate politics on the Internet. (The question of whether to regulate politics on the Internet was answered by a federal judge who said that the Commission's initial effort to avoid doing anything was illegal.)

Among the issues they'll consider are whether bloggers should get the exemption from campaign finance laws accorded the media, what kind of actions on the Internet qualify as political contributions and under what circumstances Internet activity requires disclosure of who paid for what.

It can get fairly technical and minute, which may be why the mainstream media has pretty much ignored the story. But the issues are huge: Not just who's a reporter, but whether the Internet will be allowed to bloom as an open political petri dish and whether the Internet should be allowed to become a campaign finance "neutral zone" where big corpo-

rations, labor unions and the political parties can open loopholes big enough to drive elections through.

Everyone says that the commission should use as light a touch as is necessary — but the definition of "necessary" is the crux of the debate.

The biggest issue for the anti-regulation crowd is the media exemption.

"To me, there is not a distinction between me talking about the news and Rush Limbaugh talking about the news," said Markos Moulitsas, who runs the lefty blog Daily Kos. "The notion that we are somehow different from the more traditional media is completely absurd."

A reasonable point, but when the blogger in question is not Daily Kos or RedState.org, but is a Jeff Guckert/Jeff Gannon — not journalism but partisan transcription — the issue gets fuzzier.

And regulation proponents conjure more extreme potential problems when the parties, corporations or unions, restricted on how much they can spend offline, start seriously investing on the Web. "You don't want the Internet to become the funnel for ... spending hundreds of thousands or millions of dollars for production of an ad that [such a group] shows on its Web site," said Larry Noble, a former FEC general counsel, "and [then] claims an exemption just because it's being shown on the Web site."

Added Carol Darr, a regulation proponent with George Washington University's Institute for Politics, Democracy and the Internet: "I see it as the end of campaign finance regulation."

The disconnect stems from trying to apply 1970s-era laws to 21st-century forms of com-

munication that are still evolving. "You knew who [the media] were — they were the guys with press passes stuck in their fedoras," Darr said. "But if everybody is media, you can't regulate it the same old way."

And these days virtually anybody can be the media. "This is the first medium in the history of the world that's truly a mass medium," Moulitsas said. "Anybody can participate — there's no barrier to entry."

A much wider pool of political activists makes detailed campaign finance regulations problematic. "Before you had the Internet, you had a little, elite group of politicians doing politics," Darr said. "When you had that system, as a small group of people you could have a lot of detailed regulations because everybody had access to expert legal advice."

Or as Michael Krempasky of the conservative RedState.org put it: "If they regulate this, it will once again become the purview of those that have attorneys and those that have budgets."

(The commission could take care of this broad issue easily. According to Noble, the vast majority of Internet activity should be ruled inviolable as being under the commission's individual volunteer exception.)

Ultimately, the commission would be wise to make as much Internet activity inviolable as is possible. The Internet has unmatched potential for energizing the political process. That potential includes the possibility — and the probability — that the elites will use it to subvert the campaign finance system. But here's the thing: That system is already a mess and history tells us that closing one loophole only leads to the discovery of others. Not that those loopholes shouldn't be closed. But as Krempasky and others point out: "There's no problem they're trying to fix." We don't know yet from whence the abuses will come. ("Often what you think will be the big issue next time will not be," Noble acknowledged. "And something that you were not expecting comes back to bite you.")

Prophylactic regulation should not be allowed to impinge on the growth of the Internet as a political tool. The commission will likely have to revisit this subject in coming years, but for now, less is more.

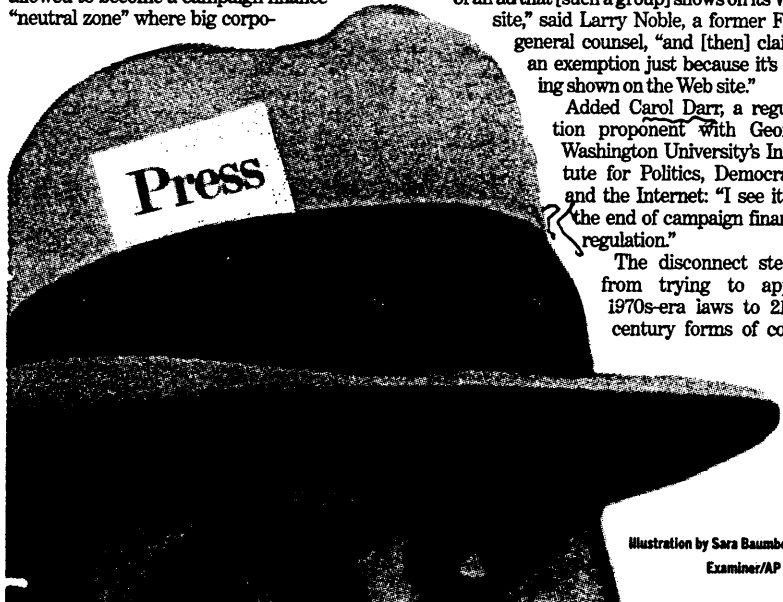


Illustration by Sara Baumberger/
Examiner/AP photo

Robert Schlesinger is an Examiner contributing editor.

Not a Joke ...

Keeping its focus on issues of only the greatest import, the House voted last week to amend the Constitution to ban the burning of the U.S. flag. Hopefully they'll remember to also amend the Section Title 36, Chapter 10, subsection 176, part (k) of the U.S. Code, which states: "The flag, when it is in such condition that it is no longer a fitting emblem for display, should be destroyed in a dignified way, preferably by burning."

... Joke

"In response, the House Republicans are also calling for tattered flags to be kept alive via a feeding tube," Jon Stewart joked after reading that flag-burning section of the code.

DataPoints: Congressional travel (2000-04)

- Number of top lobbyists sitting on boards of 501(c)(3) (nonprofit) organizations that are supposed to refrain from lobbying but sponsor congressional travel (a la Jack Abramoff): 123
- Number of trips these groups took members of Congress on from 2000 through mid-2004: 850
- Amount spent on those trips: \$4 million
- Aspen Institute, the Ripon Educational Fund, the International Management and Development Institute and the Korea-U.S. Exchange Council sponsored: 600
- Total cost of those trips: \$3.7 million
- Amount Aspen Institute spent on trips: \$2.5 million
- Value of trips sponsored by these groups taken by Rep. George Miller, D-Calif.

*the note on this to Patrice Online
7/5/05*

DIGITAL DOMAIN
RANDALL STROSS

The Battle for Eardrums Begins With Podcasts

IN pre-Web times, marketers counted noses. With the advent of the Web, eyeballs. Mark my words: eardrums are next.

Who will keep our ears well filled with portable entertainment while we move about? On the one ear are older media repackaged and sold in digital form, like music and audio versions of books and magazines. On the other are podcasts, the audio programming from the masses that has popped up in the past year, available free.

"Podcast" is an ill-chosen portmanteau that manages to be a double misnomer. A podcast does not originate from an iPod. And it is not a broadcast sent out at a particular time for all who happen to receive it.

It is nothing other than an audio or video file that can be created by anyone — add a microphone to your computer, and you're well on your way. The file begins its public life when you place it on a Web site, available for anyone to download to a computer and, from there, to transfer to a portable player, which may or may not be an iPod. It's encoded in such a way that the receiving computer can pick it up in successive installments automatically, whenever they are posted to the Web site. Subscribing is the term used for the automatic downloads, and it's apt.

The delivery mechanism for a podcast subscription is rather slick. There's no need to go to the trouble of browsing the Web site again for fresh material: the new stuff moves without so much as a beep from the original server to your computer. Then it moves automatically to your attached portable player, keeping the content perpetually refreshed. Welcome to the post-Web era.

If new programs are added daily, you may begin to regard it as a new form of radio broadcast, ready whenever you happen to be free. But the seemingly trivial technical fact that you cannot begin to listen to the program before the file transfer is complete turns out to have important legal implications. A podcast falls in the not-a-broadcast category, which is otherwise known as file-sharing. It cannot include

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copyrighted music without authorization from the copyright owners. This is why podcasts are not the place for aspiring disc jockeys to realize their fantasies.

Preparing to receive podcasts for the first time used to be cumbersome. You had to install a layer of "podcatching" software on your personal computer, which constantly checked the sites to which you subscribed, to see if new installments had been posted. The software also took care of the mechanics of the transfer to your computer. Last week, however, that problem was removed in one brilliant, dazzling flash, when Apple released a new version of its iTunes software with podcatching capability built in.

It also added a directory of more than 3,000 free offerings, grouped by subject — public radio, talk radio, comedy, news and so on — making browsing easy. When you find something that looks interesting, it takes only one click to subscribe, and you're done. Someone else's server will now keep your portable player perpetually well stocked, and you won't have to pay a penny for the service.

Given Apple's sleek online music store, it is no surprise that it has designed an elegantly simple way for visitors to subscribe to podcasts, too. What is unexpected is the variety of initial offerings. Blogs rendered into audio form are a natural for podcasting, and their likely appeal to strangers can be expected to be about the same as that of the text versions — or even less, given the time-consuming nature of skimming audio.

But audio blogs constitute only one of the 21 subject categories offered at iTunes' podcast directory. A smattering of recognizable brands — news programs from ABC News and ESPN and the British Broadcasting Corporation, political commentary from Al Franken and hip tips from the "Queer Eye for the Straight Guy" Fab Five — help to pull the curious in.

Of course, the amount of time available for listening to a portable player is finite, even if an iPod's buds were to be permanently implanted. The more we listen to free programs, doesn't it stand to reason that we'll have less time for paid ones? When Apple makes it so easy for a visitor to its iTunes store to find freebies, isn't it sabotaging its own commercial interests?

INSIDE THE NEWS



"I was surprised to see how prominent podcasting was," Gene Munster, senior research analyst at Piper Jaffray, told me last week, after he saw the new iTunes store. Mr. Munster explained his hypothesis: the podcasting phenomenon had simply become too large for Apple to ignore — it had to embrace it or resist it. By opting to embrace, the company regains the aura of revolution; by introducing many people to podcasts, he added, Apple "will reinvigorate conversation about the iPod."

Apple's decision to add free podcast subscriptions to its store shelves creates potential problems for another supplier: Audible, Apple's exclusive supplier of more than 17,000 audio book titles for the iPod. At its own Web site, Audible sells the audio books, either à la carte or as part of a subscription bundle.

It also exclusively sells audio digest versions of well-known periodicals, including The Wall Street Journal, The New Yorker (a new offering) and, yes, we would be remiss if we failed to mention, The New York Times. Click to subscribe, pay and your portable player will be automatically updated, just like a podcast subscription. The only difference is that intermediate step of "pay." (Did it stand out?) Will no-name podcasts dent Audible's famous-names business?

Audible's investors did not show signs of concern. The company's share price rose slightly in the four days after Apple's embrace of podcasts. Among these shareholders undoubtedly are the same investors who were believers in the commercial promise of spoken-word audio for digital players when there were many doubters, the same ones who helped to rescue the company after it had fallen to penny-stock depths from its giddy heights of the dot-com bubble. Today Audible is profitable and enjoys a market capitalization of \$412 million; this year, the company is on track to reach revenue of \$62 million, up 80 percent from the previous year.

It's impossible to imagine Audible's happy and healthy aspect today without noting that it is the direct beneficiary of the won-

drous success of the iPod. Although Audible's software for protecting copyrighted files is embedded in digital media players of more than 35 manufacturers, Don Katz, Audible's chief executive, said, "If the iPod hadn't come along, our accelerated growth wouldn't have happened."

Mr. Munster of Piper Jaffray is bullish about Audible's prospects and predicts that Apple's support of podcasting will ultimately help Audible because it will increase awareness of spoken-word programming. Ultimately, awareness will lead back to Audible's core business, audio books, which account for 90 percent of its revenue. He also points out that Audible's exclusive agreement with Apple runs through September 2007; under that agreement, Apple cannot charge for spoken-word programming other than Audible's.

But Audible is free to try to add a new line of business serving anyone who wants to attempt to make a paying business out of podcasting. Audible has not yet introduced its services for entrepreneurial podcasters, but it did release a white paper last week that floated two possible business models for future clients. One is a subscription-based model, for which it already has the infrastructure. But the other, "ad-supported podcasting" would take it into terra incognita, where the discordant sound of the first commercial is heard. (It would also be the moment when advertisers would want those eardrums to be counted.)

The very prospect is certain to raise hackles among podcast pioneers. Anticipating this, Audible compares the present with that time in the 1990's when the Internet, then reserved for academic and government use, was first opened to commerce. The report predicts that resistance will be overcome today, just as it was then.

Last week, Apple trumpeted its support of podcasting with a technically misleading but undeniably catchy tag line: "Podcasting. The next generation of radio."

At the same time, Audible brought out its own print ad: "Audible.com announces a revolutionary breakthrough in podcasting. Profit." □

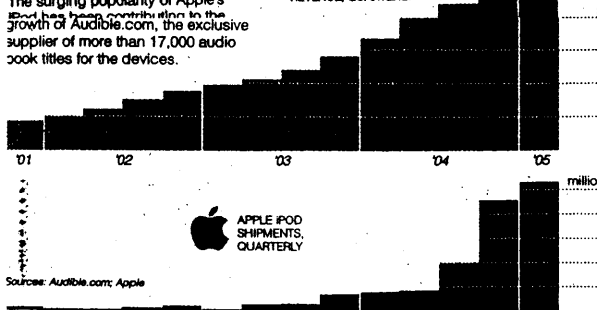


Illustration by The New York Times

Spreading The iPod Wealth

The surging popularity of Apple's iPod has been contributing to the growth of Audible.com, the exclusive supplier of more than 17,000 audio book titles for the devices.

audible.com
CONSUMER CONTENT REVENUE, QUARTERLY



APPLE IPOD SHIPMENTS, QUARTERLY

Source: Audible.com; Apple

The New York Times

ff am sent 7/2/c

Date: Fri, 1 Jul 2005 16:32:13 -0400 (EDT) [07/01/05 13:32:13 PDT]

From: Common Sense <commonsense@getliberty.org>

To: peterj@politicalcommunity.us

Reply-To: commonsense@getliberty.org

Subject: Common Sense: Champ Against the Bit

Champ Against the Bit
07/01/2005

We are losing it.

The First Amendment, I mean. If we have to look over our shoulders in fear of government hounds even when talking about politics on the most democratic and easy-to-access soap box ever -- namely, the Internet -- our freedom of speech is in may may trouble. Not that it isn't in plenty already.

The recent McCain-Feingold campaign finance reform muzzles speech politicians don't like. Speech critical of them. If the news coming from the Federal Elections Commission is any clue, things are about to get worse.

FEC commissioner Bradley Smith, one of the good guys, notes that the regulation being proposed would open the door to stomping hardest the persons with the least resources. As he puts it, "A wealthy guy like George Soros, who can spend his millions, or Rupert Murdoch, who can own a network, will have heightened influence. Your average small business doesn't have that possibility. They can, however, go onto the Internet. But now we are going to say, 'No, you can't take it on the Internet either.'"

We must fight back. If the new regulations are indeed imposed, let's treat a single assault on a single Internet publisher for a single alleged free speech "transgression" as an assault on all of us.

Therefore, as soon as one guy talking politics on the Net is targeted for having the wrong political opinion or linking to the wrong political website, every other concerned netizen should repeat the same violation. Let them bring up a million people on charges for talking out of turn, instead of just one.

This is Common Sense. I'm Paul Jacob.

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Disclaimer:

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*data folder per CFA
(6/28/05)*

The Blog of Things To Come

The history of the Internet has been about people trying to get the same things they already get, but cheaper, faster, or more easily.

Banner ads are just online billboards. Email is just an online fax. Search engines are just a better, faster library. We didn't change our lives—we just used the Net to make our lives faster and more flexible.

That's where Joi Ito comes in.

Joi is one of the preeminent bloggers working today. (A blog is an electronic Weblog, a diary filled with quick posts and links.) But Joi isn't doing what almost everyone else is doing with their blogs. The typical blog contains uninformed opinion about world events, or overlong posts about the weather or your uncle Bob. The typical blog is narcissistic and often focused on how to get other people to link their blogs to your blog, so that both blogs will rank higher in Google searches.

The typical blog addresses a variety of needs that already existed in the offline world: the desire for attention, the urge to express yourself, a way to pass the time at work. Not Joi's. (To find his blog, visit <http://joi.ito.com>, or go to Google and type "Joi.")

Joi has decided that instead of using a blog to make his life function better, he would change his life to make it work better with his blog. As an enormously successful entrepreneur, political rabble-rouser, and investor, Joi's not a typical "Hey, look at me!" blogger. He created one of Japan's first personal Web sites, was the chairman of Infoseek Japan, and runs a \$40 million venture fund. He's also eager to see how this experiment changes his life.

When Joi is online (six or eight hours a day), a camera broadcasts him as he types. If you want him to invest in your company, he'll point you to a discussion of his investment process and his standard terms, both of which are posted online. He'll encourage you to talk to the CEOs of companies that he invests in (all just a click away). If you send him a proposal, he's likely to turn it down, but he'll encourage you to post it on the blog, participate in an online discussion, and see what the thousands of people who read it have to say. It will help sharpen your message.

It's important, though, to not think of this as Joi's powerful new network or Joi's group. "Joi Ito is no longer a name, it's a place," he says. He coordinates a collective, one in which he's a member, not the chief. He's one of

what he calls "a posse" of 70 or 80 people who are almost always hanging out in his blog's chatroom, 24 hours a day, keeping order, doing research, responding to queries, and helping out. When I met Joi at a conference, he was blogging it, in real time, over the wireless network. Others in the group started sharing their questions with Joi, and he passed the questions on. Suddenly, it wasn't 30 people on a panel—it was 110 people, all around the world. Some of those in the live group then opened their laptops and joined the online discussion instead.

Every time Joi posts a comment on his blog, many people respond to it. Post a stupid remark, and the group is likely to shout you down.

Surprisingly, this doesn't lead as much to groupthink as it does to civil behavior.

So is it working?

Joi tells me that he's more productive than ever. He doesn't need employees; he has the posse. One day, Joi came up with an idea for a clever device called a Hecklebot. A simple scrolling LED display (the kind they have announcing the lotto results at your local 7-Eleven), it would be hooked up to his blog's chat room. That way, any time someone wanted to make a comment to Joi or anyone with him, she could just send a message to the Hecklebot. Two weeks after Joi posted the idea, someone in the posse built one and sent it to him.

This is the virtual organization in action. It's about people leaning into the Web, counting on it for organization, sustenance, and psychic and monetary rewards—and doing things with it that were inconceivable just three years ago.

This is not about faster or cheaper. It's about very fast, very flexible, sometimes very deep links with strangers who share similar goals. The end result is something that's hard to recognize as a logical step in our organizational development. But of course, that's just what it is.

What if we combined our existing organizations with this new thing? It's a new sort of management that focuses on nothing but creating cool stuff fast, as part of the mob. You may not want to do it. But your competition does! ☐

CHANGE

By Seth Godin

cially through block grant programs, but the "something" needs to be identified, analyzed, culled, codified and greatly extended. Remember general revenue sharing?

32. See Meyrowitz (1985), and Mitroff and Bennis (1989) on "boundary warping." Also see Chapter 8.
33. Cameron, op.cit., p.545.
34. See Shea, Daniel (1995), *Transforming Democracy: Legislative Campaign Committees and Political Parties*.
35. Cameron, op.cit., p.545.
36. Price Waterhouse (1995), *The Paradox Principles: How High Performance Companies Manage Chaos, Complexity and Contradiction to Achieve Superior Results*. New York: McGraw-Hill, (Pt. 2).
37. Except treating them as "wells" to which they repeatedly return to try to draw out more money.
38. For example, see Lessen, Ronnie (1988), *Intrapreneurship: How to be an Enterprising Individual in a Successful Business*. Ashgate Publishing Company.
39. Price Waterhouse, op.cit.(Pt.3).
40. Senge, Peter, op.cit., p.25.
41. Shumpeter, Joseph A. (1942), *Capitalism, Socialism and Democracy*. New York: Harper and Row.
42. For example: Price Waterhouse (1995), op.cit., Pt.6.
43. Price Waterhouse, op.cit., Pt.6.
44. Committee for Economic Development (1999).
45. Smith, Bradley A. (2000), Presentation to the Catholic University Law Review Symposium on "Election Law Reform." Washington, D.C. (September 23).

DIGITAL DEMOCRACY?

The Media 'Net' and Web of Politics

Introduction

They say that we live in the Information Age—that knowledge is power and that information provides a large part of what counts as knowledge. So the media — prime vendors of "information" — are in the catbird seat of politics. They appear to be the source of power. How so? What influence do the media have on political participation and how do they exercise that influence?

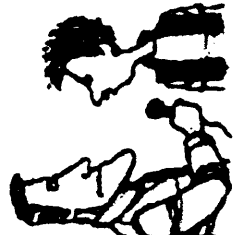
One of the most influential students of the media, Marshall McLuhan, coined the famous phrase, "The medium is the message." Politicians are familiar with this, especially since their ability to win depends upon how their image appears on TV. They don't stand a chance to get elected if they can't get their message out. Here then, we see another dimension of media power: some critics of the media claim that the "media problem" is deeply rooted and system-wide, not just a topical, current issue. We caught part of the flavor of such a claim earlier, with reference to Sennett, Lasch and Toffler, among others. More recent authors say that the new age we live in is not only an electronic/information age, but a "Systems Age" whose complexity calls for more understanding, not less, but whose media generate what Mitroff and Bennis have called a "trained incapacity" and a "growing inability" to even face, let alone, handle and resolve complex issues.¹

Obviously, we're not just concerned about campaign messages here. What about the message people are getting about politics overall? We saw in Chapters 4 and 5 how a number of those interviewed or surveyed for this book remarked on how the media were feeding people's negativity and cynicism about politics. If they're right, this has influence and it affects candidacies, including people's willingness to run. Many interviewees thought the impact of the media on the latter — what we earlier called the "supply side" of politics — is also negative. So, can we place the brunt of blame on the media for the negatives noted up to this point? The following political cartoon is just one example of very many that provide unflattering portrayals of the political process. Are media responsible for drying up both the grassroots and pools of candidates? Let's take a closer look.

"THESE ARE THE YEARS THAT WE'VE BEEN SO LITTLE BITTERS IN THIS YEAR'S CONGRESSIONAL RACES..."

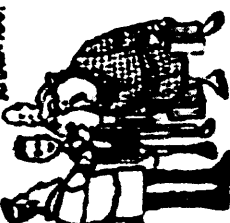


"WELL, THESE ARE THE YEARS THAT WE'VE BEEN SO LITTLE BITTERS IN THIS YEAR'S CONGRESSIONAL RACES..."

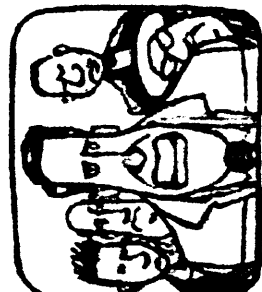


"SO, MOST OF US HAVE A CHOICE BETWEEN AN INTERESTING AND A SIGNIFICANT LIFE..."

"AND THESE ARE THE YEARS THAT WE'VE BEEN SO LITTLE BITTERS IN THIS YEAR'S CONGRESSIONAL RACES..."



"PLUS YOU LACK BY ONE DIRTY CENT TO BE A POLITICIAN... YOU JUST DO THESE THINGS AND LIVE LIKE A NORMAL PERSON..."



"OH, WELL, WELL... I GUESS IT REMAINS A MISFORTUNE THAT YOU DON'T SEEM TO CARE..."

David Horsey. Washington. The Seattle Post-Intelligencer

The way this introduction has proceeded provides a prime illustration of one way the media exert political power and influence. It's called "framing." Politicians, political consultants and media studies claim that the media frame issues, articles, and media treatments to lead the public to certain conclusions. This introduction has framed this chapter to focus your attention on possible adverse impacts of the media on political participation. The focus primarily comes down to identifying WHAT and HOW — What impacts; How generated.

What and How: Reinforcing Vicious Circles

Earlier, we identified several "vicious circles" dragging our politics down. These include the:

- Political Lemons cycle: Politics is dirty so good people stay away from politics, making it more dirty.
- Fear and lack of confidence cycle: Feeling that one lacks what it takes to become involved with others, politically, a person fails to get involved, and so the feeling is compounded as he or she observes the process being taken over by political pros or others among "the usual suspects." And so, for lack of being involved,

one never gains what it takes and the fear factor prevails or is increased.

- Voting cycle: People don't vote, on the basis of feelings that "my vote doesn't count" and/or that "all we have to vote for is the lesser of two evils," but then they truly don't count and potential candidates who might represent a real difference are deterred from stepping forward for fear there is not a sufficient constituency for their views. Then people are even less likely to vote, etc.
- Political Inequality cycle: This is the voting cycle with a vengeance adverse to those who can least afford the negative feedback loop: Poor people don't vote because they rightly feel that nobody in elected office is doing anything for them and, indeed, unless they vote, nobody does anything for them. Along with this goes the well-documented fact that the better off someone is economically, the more likely they are, not only to vote but to participate politically in other ways. So to them that has goes the goods and the poor are left with what Rumpy got for Christmas.
- Public/Private cycle: The rewards of private life are more personal, direct, less costly and less diffuse; thus, people are less likely to participate in public life. The reduced participation translates into a public life where participation is more costly, less direct (less local, more removed), and thus more likely to be dominated by "the usual suspects" with whom there are no personal, familial or community relationships. Thus, others are even less likely to participate.

Party cycle: Party politics is seen as fractious, contentious, partisan and serving only "them," not "us," so people increasingly stay away from parties as unrolled or independent; thus, parties become more of what leads to the negative perceptions of them and even less important to people's lives.

Independence cycle: People develop self-images as private, independent people who can think and act for themselves, even in the political realm. This leads to an atrophy of political parties except as money laundries and an increasing dependence upon interest-advocacy groups among whom the citizen consumer can increasingly "shop" to find avenues for representation of particular views. From the standpoint of political participation, however, this leads to growing political independence, the further atrophy of both political parties and of anything that could be called the public interest, and even greater incentives to become independent.

To what extent are the media at the core of these cycles or significant sources of their aggravation? The media as primary producers of images at the core of the Lemons Cycle because the images that the media present

of politics and politicians are predominantly negative. The image of a politician that typically emerges from the media is that of a person who:

- Is ambitious and egotistical;
- Talks out of both sides of his mouth;
- Is beholden to "special interests," and who...
- Has no special skills or has no career or achievements outside of politics.

The latter point is especially important, as Boulding (1961) indicates that a political system in which the "distribution of images" falls out of line with the "distribution of skills" needed to run it is a system that is or will become unstable.³ The major skill featured by the media and admired by the public is rhetorical — public speaking ability — the "gift of gab." Ironically, many observers and historians say that even this skill, as exhibited by our current crop of politicians, falls far short of the quality of political oratory heard from past generations of our nation's political leaders. As for other skills, even though we have seen the election of some people to Congress who have built remarkable, prior political careers in fields other than politics, who can name them or their non-political fields? Damn few. There is irony here, too, for the other fields that may be named are most likely centered on the media, like TV acting (e.g., former U.S. Sen. Fred Thompson) or entertainment (e.g., former Rep.'s Sony Bono or Fred Grandy). How many people other than some Democratic activists in Northern New Jersey know that Rep. Rush Holt is a former physicist? Perhaps because of his high visibility as Senate Majority Leader, many Americans know that Sen. Bill Frist is a doctor, but it remains to be seen whether his skills will serve him well in the Majority Leader's position.⁴

The prevailing view of the political process emerging from the media is also unflattering, to say the least. It is a game in which:

- Ethical standards are, at best, grey;
- Truthfulness doesn't count for much;
- One needs a lot of money to play; and...
- Ordinary people have no influence after votes are cast.

Evidence on the other side of the "lemons" coin? — people are shying away from politics. Look at the increasing numbers of uncontested seats, even positions for which there are no candidates at all, incumbent or otherwise, plus some towns where an election was declared but nobody came. "In New Ashford, voters: 202; turnout, Zero."⁵

The media are also at the core of the Party Cycle. This is partly by default, evidenced by decreasing coverage of political party activities. Those of local party committees receive very little or no coverage, so most people do not even know that there are such organizations nearby where they can go to get

politically involved. Coverage of higher level political party organizations is also lacking and, when it does occur, negative. Coverage of state and national party conventions has been diminishing. Parties are partisan by definition, but partisanship has been put in an increasingly negative light by the media. Party officials are seen as party hacks who receive their appointments as payoffs for otherwise failed or finished political careers or as favors for party loyalty. Party members are viewed as political "activists" or political "junkies," i.e., people not like "us."

To feed the other side of the Party Cycle, the media increasingly present declarations of independence from parties as intelligent and principled. One never sees such shifts described as stupid and self-defeating, as Ron Mills indicated in his interview for Chapter 4. Thus, the Independence Cycle and Party Cycle interact. Note, for example, the coverage of U.S. Sen. Jim Jeffords' shift from Republican to Independent. Not surprisingly, numbers and percentages of voters that are independent or un-enrolled continue to rise, political parties continue to weaken and the trend towards independence is reinforced.

The Public/Private Cycle is strongly reinforced by media-generated images even though the roots of this cycle, as noted in Chapter 2, run much deeper than media programming patterns. Questions: (A) When was the last time we saw political involvement or even dinner table political conversations featured in TV programs? (B) By contrast, how often do we see private family life extolled, private recreation activities advertised and self-involved behaviors featured? The answers to this quiz are (A) A long time ago; (B) Innumerable. So, fewer and fewer people even think of participating in politics and there are decreasing numbers of role models that might inspire young people towards such activities. People retreat into private worlds, and the public sector, attracting less talent, is less able to deliver. So, this cycle reinforces the Lemons Cycle and some of the other negative cycles. The most powerful indictment of the media in this respect was provided by *The Private Future* in 1974, a picture that has largely come to pass 30 years later.

As for the political inequality cycle, Barbara Ehrenreich notes the dismissive attitude and sometimes outright erroneous reporting of the media with respect to people who are poor. She also observed: "Forty years ago, the hot journalistic topic was 'the discovery of the poor' in their inner city and Appalachian 'pockets of poverty.' Today you are more likely to find commentary on their 'disappearance,' either as a supposed demographic reality or a shortcoming of the middle-class imagination."⁶

The possibility that the media can play a different, more positive role, however, one that encourages people to get involved in public life is indicated by claims of a "West Wing flip." Polling of young viewers indicates that they are more favorably inclined towards careers in government than the public at large.⁷

Manufacturing Unreality and Undermining Truthfulness

The title of this section borrows from the titles of two books, each of which should be far more widely read than they have been:

- *The Unreality Industry: The Deliberate Manufacturing of Falseness and What it is Doing to Our Lives*, and
- *Time for Truth: Living Free in a World of Lies, Hype and Spin*.⁸

As already indicated in Chapter 6, these two books, with support from some others,⁹ document dangerous long-term trends away from reality and truthfulness. These trends, moreover, amount to an indictment of electronic media. The fact that some readers may react to the use of the words "reality" and "truthfulness" with skepticism speaks to the danger. Guinness shows how the disease of "postmodern" attitudes — politically correct (PC) relativity without Einstein's devotion to truth-seeking — has many people disbelieving that there is any reality outside of what they can create in their own small, controllable (they think), self-centered worlds. Mitroff and Bennis directly relate to the vicious cycles noted earlier by stating at the outset that the "manufacturing" they point to amounts to a negatively interlocking "combination of mutually reinforcing influences." Just one of the troubling implications of this is that any proposed solution to a public problem usually "consists of intensifying the initial problem." A truly dangerous implication of both books is that we are losing our ability to tell the difference between what is real and what is imagined. "The end consequence is a society less and less able to face its true problems directly, honestly and intelligently."¹⁰

This is a concern of long standing. Initial symptoms were apparent at least 100 years ago. They were quite visible during the '20's; then they were precisely diagnosed and brought to the attention of wide audiences over 40 years ago. What the two books cited at the outset of this section have served to do is to provide evidence of a long-term trend towards two un's — untruth and unreality. A pretty complete diagnosis of the problem was provided by Daniel Boorstin, former Librarian of the Library of Congress, in a remarkably insightful book that he published in 1961. The more recent books show that the symptoms he identified and analyzed have blossomed into a disease. Mitroff recently reaffirmed the thesis of his 1989 book with Bennis in ways that reinforce the urgency of the far more recent (year 2000) book by Guinness: "The problem (as indicated by the book's title) is every bit as bad and probably worse now... Politics is a media circus. The next step for us as humans is to become unreal, like Cyborgs. What is human? Have we crossed over? We are not just celebrities going for a makeover. The intrusion of media and technology into our lives is now much deeper." (by telephone to this author, August 9, 2000).

One feature of what Mitroff and Bennis called the "manufacture of unreality" by the media, Boorstin had identified much earlier as the creation

of "pseudo events."¹¹ So, if we are looking at trends of long-standing, what's new, and what's so "dangerous?" Mitroff and Bennis say that "what's new" is the new electronic technology, and what's dangerous is its low cost, broad scope, speed of transmission and worldwide applicability. The dangers, however, have long been demonstrated by an electronic technology that is hardly new — television (TV). What is new since the "Unreality Industry" book was released is the introduction and spread of the Internet, whose implications for political participation we will turn to later in this chapter under the heading of "Digital Democracy?"

What is definitely not new is people's tendency to fancy myth, illusion, magic, un-truth and escapism. This tendency is so ancient, so deeply rooted, that it must be recognized as fundamental to human nature. As we shall see in the next section, part of our problem is that the media play upon this tendency, somewhat as they exploit another even more ancient fundamental, sex. The overriding problem, new relative to ancient but already old relative to the 21st century, is that tendencies toward self-delusion became collective, involving millions of people, in the 20th century. These now threaten to become more so as 21st century media technology enables the extension of various forms of collective delusion ever more widely and deeply into the public domain in ways that undermine our democracy.

There is an ancient ordinariness to human behavior in that people in any age feel the need to escape from the ordinariness of their day-to-day existence. This need is paradoxical. It has an undeniably good side insofar as it is a prime root of innovation and creativity. But the bad side, its dangerousness, has been amply exhibited in the 20th century in the banality (ordinariness) of evil and the greater potential of evil over good when the possibilities of escaping the "ordinary" has spread to mass society. Then, via some pretense of democracy, the banality of evil can become the order of the day.¹²

Both the Guinness and Mitroff & Bennis books indicate that the "smoke and mirrors" often attributed to politics now find their true home primarily in the media, to be recycled by the media to give a more professional, highly paid, media consultants' gloss to political imagery. Indeed, it is in the public (political) arena that the trends they alert us to are most perilous, simply (!) because our ability to solve shared problems at any level of community; indeed, the very integrity of "community" itself, is what is threatened and open to question.

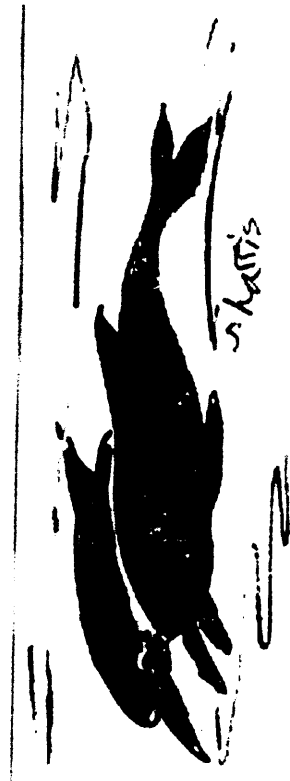
One aspect of fantasy is found among several reputable writers urging us to "get a grip" on the real issues of our public life—their reference to the Greeks and their Athenian "polis" or "Agora" as representing a model for democracy via "full engagement with the world at all levels."¹³ For a small, 600 B.C. century society of slave owners to be so viewed is hardly an effort to come to grips with 21st century reality! So it's no surprise to see a citizen's "op-ed" contribution to a local newspaper titled "Whatever happened to real life?" and commenting: "We have become a nation of voyeurs and exhibitionists. The viewers live out their fantasies..."¹⁴

From some writers, there is speculation about the applicability in the 21st century here and now of even more ancient, pre-historical models—the “hunter-gatherers” of the Pleistocene age. These were people with no relationship to a place, and a lack of boundaries where everyone was involved with everyone else’s business.¹⁵ Such speculations seem harmless except to the degree that they represent a lack of serious effort to grapple with the real problems of real people in real places here in the U.S. of A. As we shall see further on, however, reliance upon old archetypes can become dangerously serious, as when others start to write and talk about a “new Middle Ages.” See Eco’s chapter on “The Return of the Middle Ages,” for example,¹⁶ and recall that medieval motifs figured heavily among Nazi icons.

The books referenced provide few answers but they leave us with questions of the utmost urgency. For example:

- How can we even begin to face, let alone solve “shared problems” if we spend most our discretionary leisure time watching TV?
- How can we come together as a community – as a great American majority – at any level, from neighborhood to nation, if most of us continue to think that quiet time at home is the be-all and end-all of non-working hours?

Answers? We can’t provide them. TV is addictive, like a drug, so we need to learn to “JUST SAY NO.” It can be done. We did it in our family. We eliminated TV in one house and strictly limited access in the other (summer house).¹⁷ TV is dangerous to family health. Gee, what do we do if we do away with our TV? We might actually have to do other things, like talk to each other (God forbid!) read a good book, even one that we can discuss or share! We might learn to communicate with each other (contrary to the following cartoon). We might even talk about politics! Instead, by relying on TV for the sort of political news that some call “pabulum” or “sound bites,” we gain the sort of “understanding” referred to by the Director of Communications for the White House, below.



“Although humans make sounds with their mouths and occasionally look at each other, there is no solid evidence that they actually communicate with each other.”

“Americans are leading busy lives... If they can have an instant understanding of what the president is talking about by seeing 60 seconds of television, you accomplish your goals as communicators.” [To which a newspaper columnist responded: “Communicators to whom? Children?”]¹⁸

Another impact of TV may be reduced ability to distinguish differences or discriminate among parties or candidates, as suggested by another cartoon, below. So, could time spent watching TV help to explain the oft-expressed feelings of many voters that “there ain’t a dime’s worth of difference between the major parties?”



David Morrey.

Another question to ask and answer to watch for is whether “September 11th” will turn out to be a “wake-up call for media as well as the rest of America. Initial reactions led one to hope. Some media commentators wondered whether so-called “Reality TV” would still have an audience now that people had found that real life was more dangerous and far more meaningful than the unreality of “Survival” and other such shows. Network news seemed to be somewhat reoriented toward “hard news” and away from news-as-entertainment. Newspapers and TV paid more attention to “the heroes of everyday life” and somewhat less to glitzy stars. There seemed to be more investigative reporting, at least on terrorists and Afghanistan, as a backdrop to “America at War.” More Americans were facing the world, not just themselves. Americans were aroused. Unfortunately, it did not take media long to return to reality-as-usual, that is, the unreality noted earlier.

Reinforcing as well as responding to a rising wave of patriotism, the media proceeded to leap from public arousal to support for government, especially for national (central) government initiatives. We saw such headlines as “Bashing Government is Over” and “Terrorism is Making Government Look Good.”¹⁹ This shift runs counter to the critical stance toward government failure noted in Chapter 6. It also threatens to reinforce the centralization of government and politics, as every war has done, contrary to the decentraliza-

tion that would reinforce local democracy and promote greater grassroots political participation.

The family is the first and best foundation for enabling our children to face the world, live in it and make a difference to people other than themselves. They can't do this, however, if their parents are retreating from that world, curling up in their living wombs (sorry, sometimes I lisp) and watching reality (read: fantasy) TV. As shown in the next section, TV is dangerous to community and political health. TV has been with us now for half a century, so there has been plenty of time to recognize the dangers of once new electronic media.

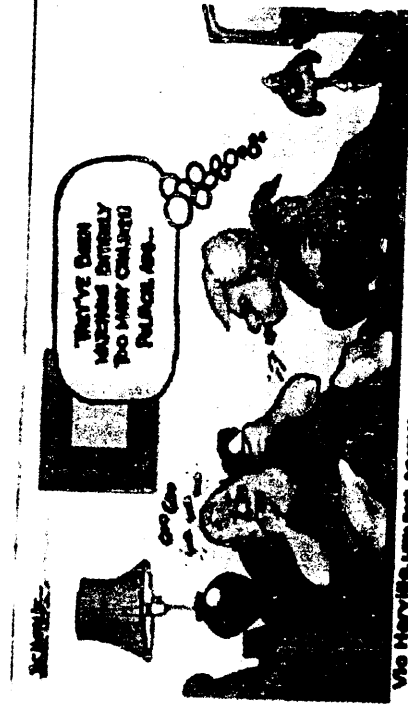
Undermining Public Life and Political Participation in Specific Ways

The danger is that, indeed, the past may prove to be prologue — a predictor of what we may see as the newest of the new media continue their spread across our country and among its people. So, we should really take a look at the effects of TV and other traditional media before turning to prospects for “digital democracy.”

Television

The impact of TV on politics and public life has been studied to a fare thee well. What have we learned? — that television:

- Consumes a major portion of people's free time;
- Takes people away from involvement with their communities, partly by substituting viewers' interaction with figures and situations on TV for involvement with real others in real places;
- Privatizes their leisure time activity;
- Blurs the boundary between public and private;
- Drives up the cost of political campaigns;
- Fosters a politics of personality and spectator sports rather than a politics of public issues and participation;



Mike Smith, The Las Vegas Sun, Nevada

- Has turned news into entertainment;
- Still qualifies for that old label “the boob tube;” and
- Distracts people from attention to important issues and shifts their attention to artificial worlds, so that they are “less and less able to face up to true problems.”²⁰

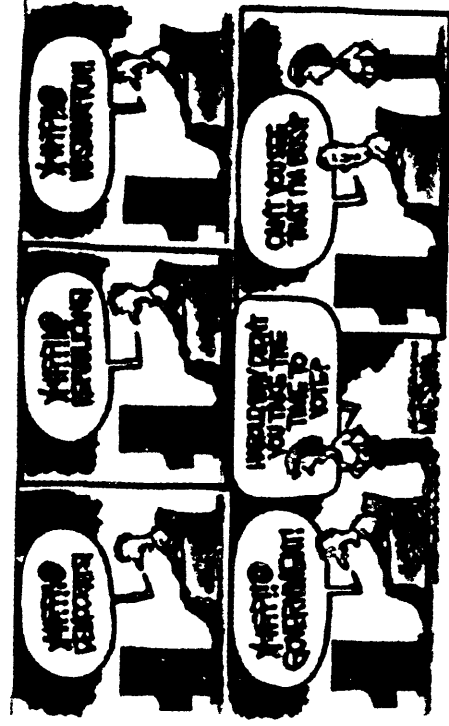
The preceding cartoon provides a partial illustration of TV's influence. According to Paddy Chayevsky, “TV is democracy at its ugliest.”

Based, however, as the lawyers like to say, on the “full body of evidence,” the verdict on the impacts of TV is not all negative. We can also see that TV:

- Helps us to see and to understand the “strangeness and otherness of others... to see what other people are interested in or are doing;”
- Broadens our acquaintance with the rest of the world; and...
- Gives the viewer “a sense of connection” with other people in other places.

A more critical view of these positives is that all they amount to is “watching... as a private act... merely observing... dissociating selves from the content” without taking any responsibility.²¹ Or: “By making us aware of every social and personal problem imaginable, television also makes us less likely to do anything about it.”²² This view is somewhat unfair, however, since we all know of instances where TV news regarding disasters has prompted outpourings of donations and offers of help from viewers. A more common complaint is that TV news, like much of reporting by other media, thrives on “disasters” (i.e., bad news generally) without covering much, if any, good news on what people are doing to help each other or their communities.

Notwithstanding the occasional “outpourings” noted above, the evidence of negative impacts of TV on our politics and public life far outweighs that of positives. Such indictments have been presented over many years by many



Mike Smith, The Las Vegas Sun, Nevada

analysts, yet the evidence presented most recently by Harvard Prof. Robert Putnam amounts to case closed for the prosecution.²³ He observes, in light of the Nielson ratings for household viewing hours, that: *"the average American now watches roughly four hours a day, very nearly the highest viewership anywhere in the world."*²⁴

The cartoon above shows one slant on what this can mean in terms of political participation.

The further observation that "television absorbed almost 40% of the average American's free time in 1995..." significantly underestimates the importance of the time spent watching TV relative to other activities. "Free time" is hardly "free," the use of which is discretionary just because it is defined as time spent not working for pay. As any so-called "soccer mom" (and dad) knows, there are a variety of things to be done during non-working hours, most of which are subject to real scheduling requirements or constraints. These include cooking, cleaning, home repair, child care, shopping and social events, not to mention chauffeuring kids to soccer games (or whatever, wherever). As leading scholars of how and why people spend time as they do, Martha Hill and Tom Juster, wrote:

The notion of constraints must be a basic characteristic of any analysis that purports to deal with time allocation, simply because total time itself represents a fixed quantity per time period for every individual.²⁵

Recall that we earlier referred to time as "the signature of our mortality, definitely "fixed" for each of us, even if we don't know how little is left to us.

Thus, TV watching competes with a variety of other "free time" activities, some of which are higher priority for individuals or families. More time spent watching TV means less time for other things. Is TV watching complementary to any other activities; that is, does more TV watching go hand in hand with more of some other activity? Specifically, what about time devoted to political activities and/or to otherwise taking part in the public life of one's community?

Prof. Putnam's analysis of DDB Needham Life Style Survey data show that there is only one exception to his overriding observation that TV watching is destructive of participation in politics and public life; that is, for the category of "selective viewers"—"the more time spent watching news, the more active one is in the community."²⁶ Otherwise, outstanding evidence demonstrates unequivocally (with page references to Putnam's book) that:

- "the introduction of television deflated...residents' participation in community activities" (p. 236);
- "Heavy television watching by young people is associated with civic ignorance" (p. 237);
- "TV watching comes at the expense of nearly every social activity outside the home..." (p. 237);

- "those who said they were spending more time watching TV than in the past were significantly less likely to attend public meetings, to serve in local organizations, to sign petitions and the like..." (p. 238);
- "television programs erode social and political capital by concentrating on characters and stories that portray a way of life that weakens group attachments and social/ political commitment..." (p. 242);
- "each additional hour of television viewing per day means roughly a 10 percent reduction in most forms of civic activism — fewer public meetings, fewer local committee members, fewer letters to Congress, and so on." (p. 228)
- "Television...is particularly toxic for activities that we do together." (p. 229).

Even the news-watching aspect needs to be qualified, for many observers of the media agree that there has been a marked trend by the TV networks to turn news into entertainment. This trend poses another serious set of problems, affecting not only political participation but the ability of participants to deal with public issues. Major problems arise from the fact that TV trades in visual images that have nothing to do with literacy, whereas the ability to deal with issues rests substantially on one's ability to read. Visual images may enable each of us, like Bill Clinton, to better "feel your pain," but not help us to understand your underlying problem, let alone how to effectively address it. TV or other electronic media cannot entirely supplant print media. Meanwhile, there are estimates that 23-72 million American adults are "functionally illiterate."²⁷ The Gallup organization reported that, "on average, 75% of adults have *not* read a book in the previous month."²⁸ Dear reader, you don't appear to be one of them.

This contrast between reading and watching does not imply that TV is unable to help people understand public issues and deal with them. Actually, if the power of this and other electronic media were exploited for the purpose of providing more and better public information rather than more and better entertainment for profit, the media could add considerable value to the information over and above that which one could get from a book on the same subject. Why? Because the electronic media add information in at least two forms that a book cannot directly provide — audio and visual. This is one reason why "multi-media" applications have such promise. But how much influence did MTV's "Rock the Vote" have on the turnout of young people during 2000 and 2004 elections?

The battle between print and non-print media has been going on for decades. Advocates for the electronic media say that print is a "linear" medium that disables us from taking a "holistic" view appropriate to the "new age." Yet this old printoholic holdover from the Gutenberg era wonders who is the more

disabled. It is easier to diagnose "Patterns in the Sand" when the grains are words on a page than when they are pixels on a screen.²⁹ One wonders how someone can even see, let alone understand, a pattern of visual images if one cannot identify and analyse the underlying elements.³⁰ It is easy to use the word "holistic" without being able to recognize what the whole represents. Yet, let's not get caught up in word games. From the standpoint of people's role in politics, we may be reflecting two sides of a coin here, not a case of either/or. Combinations of visual images and words can provide a powerful 1-2 punch. They can reinforce each other.

It's possible for TV to be much more effective than print in calling attention to an issue in ways that excites people's interest or concern and sparks their involvement with others to deal with the issue. The dean of public opinion research, Daniel Yankelovich, calls this "consciousness raising."³¹ Once someone is engaged with an issue and trying to do something about it, reliance upon print media may come into play. Print media can be more analytic. Meyrowitz writes: "The logical linking of pieces of information into large, complex and connected treatises and theories is a feature of writing and print."³² So, if "holistic" is equated or at least connected with the ability to perceive (the) "complexity" (of the "whole" of something), then we can hardly rely on electronic media alone. TV images and multi-media can convey some overall sense of something but sensation is a long way from understanding.

Even the ability of electronic media to "convey more of an overall sense of something" is open to question. Put the power and nuance of the English language into the hands of a great writer and you get both a richer sense and better understanding of the human condition from one book than one can obtain from a month of Sundays of watching TV. This is the gist of the case for print media made by a distinguished author, Mario Vargas Llosa, as he declared "The premature obituary of the book."³³

The complex sum of contradictory truths...constitute the very substance of the human condition. In today's world, this totalizing and living knowledge of a human being may be found only in literature...(which) exists only when it is adopted by others and becomes part of social life - when it becomes, thanks to reading, a shared experience.

Which type of medium is more likely to call upon participatory behavior? Print advocates say that good print treatments of an issue are more likely to engage someone's active involvement with an issue because well-written words excite a reader's imagination and thought processes. Both get engaged as a reader tries to grapple with an issue, even while just reading about it. For the sake of this book's purpose, I hope the print advocates are right. My own experience says that they are. Good writing has me thinking about the topic of the writing as I read. As a result, I have developed the bad habit of marking and jotting on the pages of virtually everything that I read unless a quick scan

indicates that it is hardly worth reading. Then I just file the item - in the round file.

More specifically, apart from the evidence already highlighted, what do the differing features of print vs. non-print media imply about the likelihood and nature of people's political involvement? Literature is subversive: "This is because all good literature is radical...Literature says that...the world is badly made and that those who pretend to the contrary, the powerful and the lucky, are lying..." (Vargas Llosa, here again and in the next paragraph).

To the contrary, the offerings of non-print media are generally opposite in quality; that is, they are not subversive. They do not promote, as good reading does, "the critical mind" or a "critical and non-conformist attitude towards life."

Remember irony and paradox, whose importance we observed earlier? Well, these can be found in abundance in literature. But what's most ironic in this contrast of media is that both TV and literature rely greatly upon fantasy. Many media critics take TV to task for programming far too much fantasy. But the main point of impact - upon people's willingness to get involved with others in the real (non-fantasy) world - this seems to have been missed by most.³⁴ Even Vargas seems to have missed it, with a snide, elitist reference to "illiterate people who have been made into idiots by television's soap operas."

Both types of media rely substantially on fantasy, but one type promotes active engagement and the other does not. Why? Because one is an active medium and the other is passive. In order to read a book, one must make a conscious decision to acquire it, open it up and read it. Then, as indicated earlier, if it's a good book, it's more likely to foster an actively open mind and critical attitude towards what's happening in the world. It may be literature that helps you "to understand the impotent feeling of the isolated individual." By contrast, watching TV is a very easy, low-cost, no-brainer.³⁵ Just press a button or flip a switch to find yourself in transported into other worlds. So fantasy generation is not the main issue.

Unfortunately, for the most part, these "other worlds" on TV are those which value "conformism and the universal submission of humankind to power." Sure, it often seems otherwise; but the brand of individualism most featured is that characterized by differences in personal appearance that can be gotten off the rack or out of a jar or exhibited in terms of personal behavior quirks with no socially redeeming value. Such "seems," such appearances veiling the true nature and distribution of power in society, suggest what is at stake in one's choice of participation or lack of participation in public life. As Bill Kibben, a prominent author and former staff writer for the *New Yorker* said as a 2001 commencement speaker: "We weren't born to live on the couch with the remote control."³⁶

Putnam noted that: "If TV steals time, it also seems to encourage lethargy and passivity." In one medium, "fantasy" reminds us of idealism, the tragic

nature of human life and "acts of defiance," in the other, we are entertained and then put gently to sleep. Perhaps this is part of the privilege of being an American. In other cultures, TV may be a technology of liberation. In the old Afghanistan, for example, watching TV was "truly scary," subject to punishment, for the ruling Taliban, a group of Islamic fundamentalists, are (were) watching the watchers.³⁷

Yet, the early days of TV were like the early days of the Internet now: Pundits carried on about the wonderful potential of the new medium for reinvigorating American democracy. Then it became "mass media" under the control of major, nationwide networks. Marshall McLuhan, at one time the seminal guru of electronic media, wrote: "Today, the mass audience... can be used as a creative, participating force. It is, instead, merely given packages of passive entertainment. Politics offers yesterday's answers to today's questions."

The potential for TV to do more returned through the development of cable TV on both national and local scales. Nationally, Brian Lamb led the initiation and development of *C-Span*. Local cable channels were required, by law, to enable public access via local channels and training of local activists who wanted to mount their own programs. The primary competition for network TV, however, is turning out to be the Internet rather than cable, especially with respect to people's involvement with public issues via electronic media. That is why, later in this chapter, we turn to "Digital Democracy?" Nevertheless, the great importance of the cable options as an antidote to the negative influences of network TV should be noted. *C-Span*, especially, continues to be a dynamic, growing influence with a devoted, participatory set of viewers.

Why do about nine of every ten people who call into *C-Span* with their views, comments and opinions say: "Thank you for *C-Span*"? Because *C-Span* programming is both genuinely and continuously informative as well as somewhat interactive. On *C-Span1*, viewers see live feed of the U.S. House of Representatives in session, unvarnished by interruptions of media commentators trying to put their own "spin" on what is happening. On *C-Span2*, viewers receive a similarly direct view of the U.S. Senate in session. Before the sessions begin, they can tune into *Washington Journal*, a review of the news of the day with a call in feature, often focused on some topical issue. Other programs include: Book TV (a nice integration of TV and print media), "American Presidents," "American Writers," "C-Span in the classroom" and many special programs too numerous to mention. The *C-Span* story — the devoted leadership and staff, the many struggles to get it going and its continuing efforts to address emerging challenges — this story has been well told by a Professor at the Naval Academy, Steve Frantzich, whose books make good reading.³⁸ Some quotes from callers into *C-Span* help to flavor parts of this book. The *C-Span* web page (<http://www.c-span.org>) is another rich resource that invites people's participation. A third channel, *C-Span3*, was begun early in 2001 to provide additional public service coverage.

C-Span is also a good antidote to print news media that, too often, are prone to provide biased perspectives on the news. Part of the *Washington Journal* program features news stories from a variety of newspapers around the country, and it enables people of all political persuasions nationwide to call in with others. Here again, we have a program that demonstrates how electronic and print media can be mixed and matched with people's participation to take advantage of their potential complementarity. Another good example of this type is *Public Radio International (PRI)*. Besides maximizing information and minimizing editorializing, they mix in reader feedback and music.

Print Media

Why and how do print media often provide biased perspectives? It is important to recognize the ways, especially since most local media markets now lack competitive newspapers. These ways have been set in high relief by a counterpoint movement called Public Journalism which has arisen from the core problem that animates this book — the erosion of citizenship. We already began to confront one source of possible bias at the outset of this chapter — framing. You know what it means to select a frame for a picture. It helps to focus the viewer's attention. Some artists now embellish the frame so that it becomes a part of the picture itself. Starting with the Renaissance introduction of perspective, it became possible to view the individual in context through paintings that presented both foreground and background components. This still provides the best model of framing, because the frame is not leaving out something essential. The individual is not isolated or out of context. Remember: there are two ways for someone to lie: by commission (deliberately) or by omission (leaving out something that may be important).

Cappella and Jamieson, in their landmark study of how the media have served to promote political cynicism, identified two major ways of framing — "strategic" and "issue."³⁹ "Strategic" refers to a tendency of journalists and others to frame stories to focus the reader's attention primarily upon the machinations, personal characteristics and clashes of politicians and their campaigns that may influence winning or losing a political race. "Issue" framing refers to setting a story or feature so as to maximize its information value on issues to the reader. The studies reported and analysed in the book, properly titled *Spiral of Cynicism*, show how the proportion of journalistic coverage employing the strategic frame has increased relative to issue coverage and how this shift correlates with increases of people reporting increasing alienation towards politics and government. During 2000, we saw predominantly strategic coverage of the presidential race and election aftermath (see chapter 9). 2004?

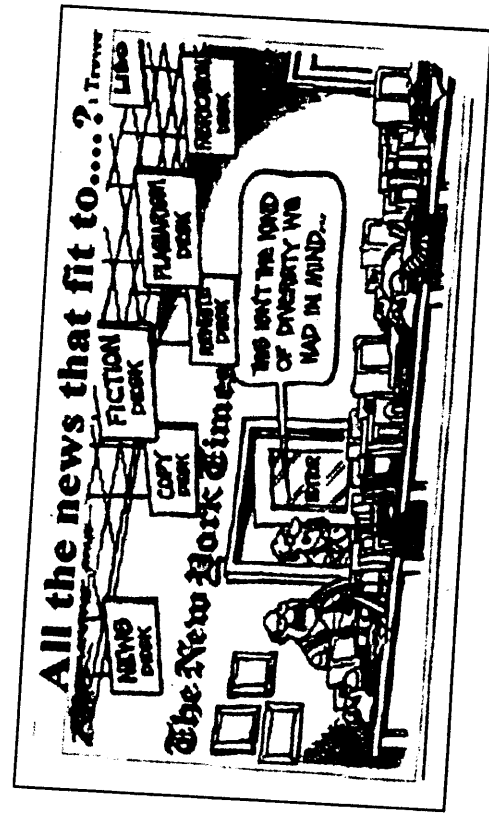
Another source of bias is a marked tendency of journalists to slant their stories so that they are, implicitly, editorializing in the guise of reporting. There are many ways to do this. One is via selection. A reporter can select certain things to report and not others. Such selection can highlight positives or

negative features of a candidate; for example, depending on whether publishers or editors favor the candidate, a certain ideology or other point of view. A second method is the organization of paragraphs and points. Editors and reporters know that most readers don't get beyond the first page except for gossip, sports, weather or obituaries. So, they will put points they favor up front and relegate the rest to the inside pages. Further selection bias may determine whether the inside story continues on page 2, 5, 15 or 24.

We have been noting the more implicit ways of editorializing. One should pay some attention to explicit methods, too, via editorials labeled as such that usually appear on editorial pages. The history of the media in America began with newspapers that were established by publishers with axes to grind. They made no bones about the fact that they were investing their money to promote their point of view.⁴⁰ Most of today's publishers and newspapers are not so intellectually honest. Many (most?) editors have little shame and less humility. They have no compunction whatsoever about using their pages to lecture the rest of us on virtually anything, as if their opinions should somehow count more than ours. Truth or untruth is selective—whatever facts suit their purposes will do; let's not quibble about the rest or even bother to mention them.

Whatever the quality of editorials or reporting may be, serious questions need to be addressed to editors, authors and readers. Here are just a few:

1. Why should we tolerate publishers' policies that allow or require editors to endorse candidates for office on their editorial pages? Is one of the major roles of a newspaper to be an arbiter of power in a community? Should not that role be reserved for the voters, based not on journalists' opinions but on information that the newspaper provides, so that voters can make up their own minds?
2. What are publishers and editors doing to counter the various, more subtle sources of bias in the media cited earlier, not just the obvious "liberal" or "conservative" sources?



3. What are print and other media doing to improve their ability to "police" or govern themselves and improve the transparency and accountability of their ownership and operations?

The Spring, 2003 scandal surrounding a rogue reporter at the *New York Times* served to make an issue of #3.⁴¹ This is an opportunity to enlarge the debate over how the media exercises power and influence. The opportunity may be lost, however, because the issue is too narrowly defined—as a question of how editors can catch deliberate errors like made-up stories and plagiarism. The above cartoon is illustrative. Note some of the categories of concern like "framing" and "reporting-as-editorializing" are missing among the signs. Fortunately, some of the larger issues surfaced as a result of the big stink made by the bad odor of changes in media regulation emerging from the Federal Communications Commission around the same time.⁴² We'll turn to these further on.

As someone who has done a lot of statistical work over the years, I am well aware that one case proves nothing. Yet, perhaps some reflection on my own experience with a local newspaper will provide some perspective. As several times a candidate for local office in my hometown, elected at-large, I felt that whenever I ran I faced at least two opponents – whoever happened to be competing with me on the ballot plus the local paper. The only reason that I could figure for this is that I was a declared Republican and the opinions of the newspapers' publisher and editor(s) were those of a liberal rag owned by a non-local conglomerate. I could write a separate book on my experience but a couple of vignettes will have to suffice here and now.

During one of my campaigns for Mayor, a young reporter from another place⁴³ couldn't resist editorializing in the guise of reporting. While reviewing the report of my campaign committee to the State Office of Campaign Finance, he thought he found a violation – that I had wrongfully accepted a contribution from a corporation! The lawn signs in question were (1) paid for and (2) innovative – the first plastic, indestructible political signs ever seen in Gloucester. They were produced by a small, minority owned business in Chicago that my wife and I had assisted pro bono, so we were able to get the signs at a discount. I found it curious that a liberal paper presumably in favor of helping minorities would try to hang me for buying signs from a minority enterprise on the pretext that the discount provided was equivalent to accepting illegal contributions from a big, bad corporation. Besides the questionable reporting, what we saw in this case was a small local instance of a much larger media problem that has helped to turn people off politics. It's called "gotcha" journalism.

A second type of treatment I experienced locally has come to be observed nationwide as an unfortunate trend towards "personality politics" or, more generally, the confusion of public and private, often leading to the invasion of politicians' personal privacy. More than any other candidate had done in a long time, I put out position papers and press releases on issues, including a

handbook showing how I would govern as Mayor. It was very frustrating to me that these were not covered by the local newspaper; rather, the paper tried to focus people's attention on my personality and "style." I would joke that the paper couldn't tell the difference between its (or my) private parts and public parts.

In retrospect, however, this was one feature of journalism that I came to respect. The values I try to honor in both my private and public life are fundamentally public values. A man is either all of a piece in these terms or he is not. If he is, then the word "integrity" means something. So, I have learned this much from my experience with the media — that a candidate should be willing to subject him- or her-self to detailed scrutiny of all aspects of one's life, career and personality. The problem that this raises with the media is more fundamental than one of privacy; it is one of truthfulness. There is no incentive in politics to be truthful; rather the opposite, given the way the media cover politicians and campaigns.⁴⁴ Reveal something on which they can put a negative spin and they "gotcha."

There were other instances that I also found more troubling than being attacked as a candidate, because they revealed another basic form of hypocrisy. These were instances where the newspaper would pontificate editorially about the need for people to step forward to run for local office, so that the electorate would face competitive races, only then to undercut a serious candidate who came forward if he or she didn't fit the paper's ideology. This kind of newspaper behavior is troubling because it affects what earlier chapters have referred to as the supply-side of politics, resting on people's willingness to step forward to run for office and expose themselves to media scrutiny. Local editors need to recognize that their tendency to exhume negatives from the more personal sides of candidates lives serves to dry up the pool of potential candidates. Only a very, very small proportion of people are tough, committed and/or masochistic enough to be willing to expose themselves to such treatment.

This brief treatment far from exhausts the identification of media techniques that can bias or color media treatments of public issues, politicians and political campaigns. The point here is not to be exhaustive but simply to heighten your sensitivity to how you, the American citizen, can be led or misled, informed or misinformed. Watch, but watch out. Be skeptical. Question everything from the media and everyone in the media. Rely on those who see their business as informing rather than influencing. Watch C-Span, listen to *PR1*, subscribe to the *Utne Reader*, use most newspapers to line litter boxes and rely more on your own native American common sense than the mouthings of the media "commentariat."

As noted earlier, there is a movement in progress to overcome the journalistic faults noted in this section plus some others. It is called "public journalism." We will turn to it under Options for Change in the concluding section of this chapter.

The Media as a Powerful "4th Estate"

The fundamental issue here is the locus of power, the most basic concern of politics. The media constitute a 4th estate with enormous political power. In a democracy, we are all in trouble when power and responsibility are significantly out of whack. The media has become a dominant sector whose power far exceeds its responsibility.

The basic problems have been documented by others,⁴⁵ so let's just highlight here.

- Conglomeration of the media — buy outs, mergers and acquisitions, cross-ownerships of media across media types and locations; growing large corporate domination of media ownership and control.
- Mounting financial conflicts between journalism in the public interest and media owners' pressure for profitability⁴⁶
- Increasing reliance of political campaigns on the media — This was referred to earlier as an "incestuous mix of money and media," amply in evidence during Senate testimony on the McCain-Feingold campaign finance reform bill.
- Increasing media power in the political process — as illustrated by:
 - Increasing reliance upon polls and polling by both elected officials' and the media;
 - The media increasingly seeing their role as primarily that of "opinion management" which "amounts to manipulation of a mass" via polls and other techniques;⁴⁷
 - Politicians' increasingly looking for media exposure and "playing to the (media) galleries"; and...
 - Decreasing factual media news treatments of politics, politicians, campaigns and political parties.

An underlying factor is the need for both media and politicians to capture both people's attention and their money. So, as the media decrease political coverage in order to make more money, politicians need to raise more money to buy media time — yet another vicious cycle. One observer of the media's role in politics wrote:

Journalists interceded more than ever between candidates and voters as they consumed 71 percent of campaign coverage on evening newscasts and left only 12 percent for candidates... The proportion of total election news devoted to issues continued to decline... while the proportion dedicated to "horse race" coverage... rose from 25 percent... to 35 percent...⁴⁸

The media and politics as fabled marketplaces of ideas are both endangered by media conglomeration. It's surprising that anti-trust monitors haven't paid more aggressive attention to what's been going on in the media. The

America on Line/Time Warner merger received a great deal of attention but it was ultimately approved. The erosion of competition in media markets has been going on progressively for a long time. With some justification, reformers on the left regard this trend with apprehension as a threat to progressive politics. Across a broader ideological spectrum, it's hard to imagine how the public journalism movement will succeed in achieving much broader impact in a media world dominated by large corporations whose overriding concern is increasing profitability and company stock prices.

New Dimensions Radio's Michael Toms stated that "The biggest theft in American history has been the theft of the airwaves by corporate interests."⁴⁹ He then went on to remark, however, that:

"the technologies for electronic media are no longer controllable by big money interests. The Internet is an example... We started Webcasting three and a half years ago and it was like having a worldwide radio station without a license."

Nichols and McChesney would agree with Toms' first ("theft") statement but not his second. Their review of the actual and likely impacts of the media on our politics and public life documents "an extraordinary degree of economic and social power located in very few hands" due to a trend of consolidation and increasing domination of media markets by mega-corporate conglomerates that has been aggravated by the 1996 Telecommunications Act.⁵⁰ They report that, in 2000:

"the U.S. media system is dominated by fewer than ten transnational conglomerates: Disney, AOL-Time Warner, News Corporation, Viacom, Seagram [Universal], Sony, Liberty [AT&T], Bertelsman, and General Electric [NBC]... These firms tend to have holdings in numerous media sectors."

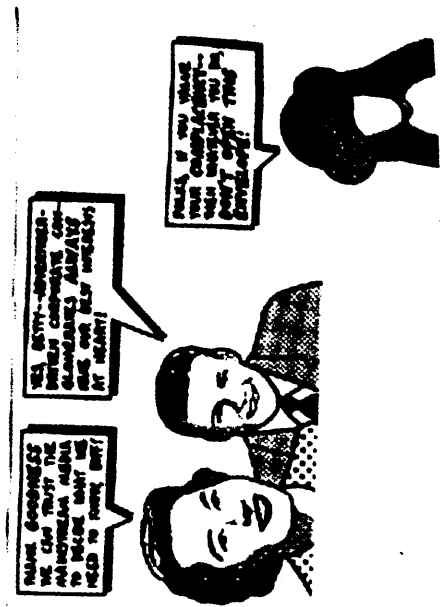
An important question that arises here is: With the "4th Estate" dominated by such corporations, to what extent can we rely on the media to police themselves and/or: To what extent is new law and regulation needed, perhaps raising thorny First Amendment issues? During Congressional debates on campaign finance reform, only a few Members advocated provision of free time for candidates for federal offices to "get their message out." The allocation of spectrum to enable the establishment of up to 1000 small, community-oriented FM broadcast outlets is a proposition that brought forth such strong corporate media opposition that licensing of such outlets will be limited to less than 100 stations. Even National Public Radio added its voice in opposition as a large established entity with something to lose.⁵¹ But the American public at-large seemed to be about as complacent as in the direct mail envelope caricature pictured on the next page.⁵²

Fortunately, a significant part of the American public began to wake up in response to other FCC proceedings, as indicated further on. The questions at issue are critical to the future of American politics. What is to be the future

of public media? Of cable in a new era of telecommunications that will be increasingly wireless? Will changes in federal elections' coverage initiated by the networks in response to the debacle in Florida prove sufficient as a part of overall elections reform? Wilhelm's major study "on the whole show(s) that (media) technologies as currently used largely unravel the democratic character of the public sphere..." and so calls for "substantial media reform."⁵³ His call has more recently been trumpeted by others. Nichols and McChesney, for example, say that it's past time for "making media an issue in American politics" – as the linchpin of a broader political reform movement that can "free the political imagination" so that "the supposed apathy of the electorate can be replaced with a level of engagement that suggests that the promise of American democracy might yet be made real."⁵⁴ One of those already engaged, a participant in a recent "e-democracy" forum on campaign reform stated:

The media, having completely abandoned any responsibility to the public or the democracy thanks to..."deregulation," is the worse offender and the biggest roadblock to reform...the airwaves are not a privately owned resource, they are publicly owned...⁵⁵

Relaxation of old rules constraining media ownership approved by three of five FCC commissioners promised to continue the trend towards media deregulation during 2003. Most heartening was the fact that many people finally woke up to the media as a public, political issue. The proposed changes ignited a firestorm of controversy whose consequences still have not been played out. A "key Senate committee voted... to tighten some of the Federal Communication Commission's recently adopted (relaxed) media ownership restrictions, out of concern that the new rules would allow too much media consolidation... The bill also requires the FCC to hold at least five public hearings before voting on future ownership changes..." (Senator Byron L.)



Dorgan (D, ND) predicted an "orgy of mergers" if the FCC's ownership rules are not rolled back.⁵⁶ As this book was going to publication, it appeared as if the rules would not be cancelled or amended, after all, due to a compromise in Congress to gain support for approval of the 2004 budget.

How the issues raised in this chapter and before the FCC may be resolved is critical. To a great extent, the future of American democracy hinges on the media. The above indictment and other observations up to this halfway point of our "media" chapter indicate that they are a large part of the problem. Moving forward, we will see that they could be the major, underlying contributor to a solution. If only there wasn't a Catch 22 here as elsewhere: People's ability to perceive, and continue to make a stink over, the media as a political issue depends in part on—you guessed it—the media!

Destroyer of Community?

The question mark in this heading needs to be there because it is too easy to place blame for the decline of "community" at the foot of the media while failing to recognize that the media are just another sector of a market economy that has been undermining the community idealized by small town America for at least 150 years. It is too easy to romanticize "community" while failing to acknowledge that small town life can be "cabined, cramped and confined," sustaining a local politics that can be petty, inbred, resistant to change, corrupt, gossipy, hidebound, oligarchic and more focused on personalities than issues. Here, as elsewhere, we need to face facts as they are and not as we may want them to be. This is especially the case as we lead up to a later section in which we will confront the advocates of digital democracy, who believe that there can be such a thing as a "virtual" political community. We need to realistically look at how electronic media may be undermining, even if not substantially destroying, the face-to-face, person-to-person interactions and the "sense of place" which are among the keys to an authentic political community.

Unless our parents are itinerant farmers, employed by the military or corporate nomads, most of us have obtained some sense of place during our childhood. That place is usually the community represented by our hometown. So, our sense of place is colored by childhood memories and dreams. I know. I returned to my hometown after two dozen years away, served on its City Council and hoped to become the City's mayor. A real place, however, is not a projection of childhood memories and dreams. The political community just beneath the surface of the place is something else again. The only way that one obtains a true "sense of place" is by working and living in a community for some years and getting involved with the public life of that community. Again, one should not romanticize "community," even one's hometown.

A real community is a set of real people rooted in a real place — people with struggles, hopes, ambitions, rivalries and the rest, in a community with customs, traditions, power centers, structure, hierarchy, problems and possibilities.⁵⁷ The ability to serve a community in a public office depends on much

more than willingness. Willingness may depend on ability. Many people are reluctant to get involved because they think they lack ability, but they lack ability because they have not been involved. This is a Catch 22. The way to break it is to act like a swimmer facing the North Atlantic in June — jump in! Start dog paddling with other amateurs. Next season you might be able to swim with the sharks.

We have seen how too much or unselectively watching TV takes significant time and energy away from participation in the political life of a community. Given the connection between "willing" and "able," therefore, TV also detracts from peoples' ability to serve. You can't develop adequate political skills without being involved in politics, even though some political skills can be picked up on the job or as an active member of a church or other community-based organizations.⁵⁸ But TV watching is a source of distraction and displacement from being actively enough involved to acquire political skills through any sort of organization. TV watchers are consumers of images of the lives of others. They can indulge their consumption at no direct cost to themselves as they are subjected to advertisements from corporations trying to sell them other ways to indulge their consumption desires. Even selective viewers are consumers. Rather than be even a micro-maker of history, you can be a consumer of history on the History Channel. Rather than making discoveries of your own powers to change things together with others by participating in public life, you can be a consumer of discoveries — on the Discovery Channel.

But it is not consumers but producers who build community. Displacement and distraction from community serve to undermine community. With some notable exceptions, electronic media tend to diminish people's ability to relate to the place where they live as part of a community of shared problems and possibilities.⁵⁹ This is also a problem for TV producers as well as viewers. Keith Connors, News Director of *WCNC*, Charlotte, NC, observed: "As much as I've moved in this business, nothing seems like home anymore... It all seems like an assignment."⁶⁰

One might risk generalizing here a bit by also referring to communities of character and truth.⁶¹ The "greatest generation" was raised in place-based communities of character that were not infected by TV. Will the younger generation escape the media's influence enough to try to rebuild such communities? We adults tend to lavish hopes on the younger generation, praying that they will pick up a torch that we have dropped and run with it. And so, Bill McKibben, quoted earlier, also...

urged students to find pleasure as members of a community, not consumers, adding that no one on their deathbed wishes they had watched more television or made more trips to the mall.⁶²

Our sense of place is further diminished by media technologies that have no place reference or significance at all (more on this when we turn to the medium of the Internet). Electronic media news coverage focuses on state and

AP (Associated Press). There have been many, as seen on 60 Minutes, or even state-of-the-art nostalgia something of how the alternative journalism of the place. Local boards and commissions have been created to create a public space that is the most obvious and legitimate members of people representing the dis-Local planning on public life in local shops.⁶³ For a matter of public things community. A recognition of the that power — private political in the public

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The importance of people's re-engagement at the community level in ways that include direct, face-to-face, person-to-person (P2P) interactions over "res publica" is highlighted by an awareness of how political power, increasingly, is being generated and exercised. Ironically, this is occurring at the community level even while the virtues of the traditional American community are being undermined by the media except through the unreality of nostalgia, fantasy or myth.⁶⁶ Political power is increasingly gestated and applied in and through "communities" whose only effective place referent is Washington, D.C. or a state capitol. Consider the House of Representatives, the U.S. Senate or state legislatures. These become effective communities in basically the same ways that other communities are created — through the face-to-face, P2P interactions of people in proximity with some shared concerns. The fact that voters often refer to these groupings as "clubs" is a grudging recognition of their effectiveness as communities. You may hear someone say, for example, something like: 'that Congressman Jones, we elected him to represent us; then he got to Washington and joined the club.'

Now turn to the much maligned "interest group." This is a type of community, too, but one that is even less place-based and more divided into parts than legislatures. Nevertheless, it is an increasingly powerful type of "community." The power of the group is increasingly exercised by a small, close-knit set of activists and professionals (the group's core, who may be co-located in a place) who are supported by members and/or financial contributors who share the groups "interest," whatever that may be. Of one thing you can be sure, no matter how worthy the group's interest (goal, issue, belief, etc.) may be, it is not the public interest but, at best, a part of that broad category referred to as "private interest(s)."

You may question the use of "community" to denote "interest group," but few would question the observation that interest groups wield increasing power along with the legislative "clubs" that the groups lobby. Their power derives from their organization as a community of individuals determined to make a difference in a certain direction. By themselves, the individuals involved would be powerless except in very rare ("Erin Brockovich") instances.⁶⁷ Yet, the exercise of the groups' power in Congressional committee hearings, et al., occurs on a small group basis. Congressional power itself is exercised substantially on a small group basis in committees.

The antidote to the growing influence of interest groups is not more interest groups but groups of citizens actively involved in the politics of place — based communities where citizen participation in public affairs provides some real sense, not only of the value of community and place but of what public interest can really mean — because people have worked to recognize what "it" is or can be by "coming to public judgement." Following the great political philosopher Hannah Arendt, Dan Kemmis directly connects place and public via the metaphor of a table at which people are sitting:

national events. Even local papers are increasingly filled with AP (Associated Press) or other distant feeds, relative to the amount of local news. There have been some fine examples of investigative journalism nationally, as seen on *60 Minutes*, for example, but fewer and fewer produced by local or even state-level media. If our sense of place is to mean something more than nostalgia or fond hopes; if, in fact, people living in a place are to learn something of how a community works, then more rather than less local investigative journalism is needed — plus, one might add, more participation in the politics of the place.

There also needs to be greater sensitivity on the part of local boards and commissions as to how developments that they can influence have been undermining community by diminishing the supply of public space that democracy needs to function, as well as in other ways. The most obvious example is the development of a shopping mall that can legitimately be viewed as a "public place" because that is where large numbers of people congregate. Private owners, however, have succeeded in preventing the distribution of leaflets or other political activities on mall premises. Local planning and zoning boards need to attend to such detrimental impacts on public life in their community as well as to their likely negative impact on local shops.⁶³

Much more of what is called "public journalism" is needed, too. For a community is more than a set of shared feelings. It is also a matter of public information and, based on this, of shared understandings of how public things (res publica, the latin root of republic) work or don't work in a community. A more public journalism is based upon the truthful, forthright recognition of the fact of media power in any community, and the implications of that power — not the dishonest use of media outlets as expressions of the private political preferences of editors and publishers while pretending to operate in the public interest.

Public journalism media intervene in communities in order to help rebuild a civic culture. They not only provide valuable informational reporting on issues of major concern in communities; they sponsor public forums on the issues and urge people to participate in a process of confronting, debating and resolving differences over issues and thereby "coming to public judgement."⁶⁴ Public journalism recognizes that the task of rebuilding the American political community is a two-way street, perhaps even a partnership, between citizens and the media. The foundation for this relationship is "a common interest in common affairs." It "depends on the people's willingness to attend to current (and longer-term) issues, (to) take responsibility for public things... Then the media can fortify the public trust that comes with the special privileges granted by the First Amendment... to strengthen... America's civic culture, by which we mean the forces that bind people to their communities, draw them into politics... and cause them to see "the system" as theirs..."⁶⁵

Can these great goals be achieved? Some good local examples show that they can. These examples include newspapers and communities in Wichita, Charlotte, Portland and Minneapolis.

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To live together in the world means essentially that a world of things is between those who have it in common, as a table is located between those who sit around it...⁶⁸

The root of our political problem, Kemmis writes, is the "vanishing table," the "res" in "res publica."⁶⁹ The sense of place is the thing (res) that has been diminishing to the point that the public (publica: public interest, public things, &c) has been diminishing, too. To be a public, we need a place for which we care and to which we can repair, to talk, debate, deliberate and reach public judgement. Instead, as Kemmis remarks as if commenting on fast food indigestion:

Public life as we all too often experience it now is very much like a Big Mac—it can be replicated in exactly the same form, anywhere...placeless "food" consumed under placeless yellow "landmarks," weakens both our sense of food and of place, so too does the general placelessness of our political thought...⁷⁰

Kemmis' aim resonates with that of this book. He writes of rebuilding a "political culture" that is unmistakably grassroots — grounded in locality and community. He refers to the preamble to Montana's state constitution as indicating "that the political culture of a place is not something apart from the place itself." What is a place that counts as a community? Here, he justifiably turns to the eloquence of another author, Wendell Berry. It is where "all who are living as neighbors...are part of one another, and so cannot possibly flourish alone..."⁷¹

There is a paradox here that should be confronted along with others. It is a paradox along several overlapping dimensions, such as:

1. Place...non-place
2. Close...distant
3. Organization...non-organization
4. Voters...citizens
5. Consumer...producer
6. Affective...effective

An effective political community has features that:

1. place it, strategically, somewhere along the line of each of these paradoxical dimensions, so that...
2. its defining strategy is designed to "make a difference" to and for the community by acquiring and applying power through a political process.

The first placement is that of "place." Any community needs a place where political activity, power and influence can be exercised and where participants can see, close up and meaningfully, how they can make a difference. This is why we pointed to the "diminishing...supply of public space,"

earlier. BUT, paradoxically, there also need to be non-place features, even in places where several generations have grown up. A small town with a tight network of community relationships can generate conflict as well as consensus. The late, great city planner Lewis Mumford once wrote: "When people share the same environment, they often see more differences among themselves." Meyrowitz notes that the introduction of print media 500 years ago served to "distance people from sound, touch and direct response (and give them a break from total reliance on oral communication."⁷²

These days, people say they need "space." Sometimes, they have to ask others to "get out of my face." Indeed, everyone needs some effective distance as well as closeness to others. This is the second placement. How close or distant we choose to be from others will vary, person by person. Among these will be people who we will want to count among our strategic allies, not necessarily among friends or relations. Some of these will be "non-place," living or working in locations other than "our place," or otherwise located some effective distance from us (social, financial, political, et.al).

To be effective, politically, we need both organization and non-organization in our community. The lack of organization on behalf of "community" is one reason why this feature of our national life is disappearing except for its honorable mention in commencement speeches. What voice does the community of Merrimac, Massachusetts, have in the state legislature, for example? None qua community, even though the Chairman of the Board of Selectman may be able to get the State Representative representing Merrimac (among others) to introduce a "home rule" petition regarding some specific issue. Merrimac is better organized administratively to manage its self-governing polity internally.

Even in this respect, however, it's not well organized politically. Local political party committees in the town are in limbo. The Town has trouble getting quorums for Town Meeting(s) because there's hardly anyone out "beating the bushes" for people to come, and most voters don't recognize that attendance at Town Meeting is their responsibility as citizens.⁷³ By contrast, some municipalities are over-organized. Town or city politics may be dominated by one party, one interest group, one industry or one local newspaper. Any community needs some degree of dis-organization to make room for effective dissent, innovation, "new blood" and the like.

So we've already reached dimension #4: "Voters...Citizens." Citizens of a federal republic have a responsibility to do more than just vote. That doesn't mean that we all have to be activists or political junkies" heavily involved or "participating" most of the time or even frequently—just that we all recognize that we have some (shared) responsibility that we fulfill when, if and as we can. Voting and other activities of citizenship go together. It's hard to make your vote count if you don't have good choices and it's even harder to get good choices to vote for if there aren't more than the usual suspects involved in the process that determines what those choices might be. Every adult American

needs to ask where he or she stands along the "Voter...Citizen" dimension and then, like a politician, ask not only "where" but "when", "how" and "with who(m)"? Unfortunately, the local media as they typically operate will not help you in this.

In terms of the fifth dimension, most of us may have to say "beam me up, Scotty," because, politically, we are consumers, not producers. But, as the public journalists say, if we want to "take our (political) system back" or "make it ours," we will have to start acting as producers, not just as consumers of whatever the media and the political class throw out at us. We will also have to be more selective as consumers of media offerings and political fare. Unless you are in one of the cities already tuned into public journalism, your local media will not help you here, either. You will not be informed as to where to go or whom to call to get involved, politically.

Now we can be more specific as to what the question mark denotes in the title of this section. Whether or not the media are partly responsible for "destroying community" as some have claimed, we can recognize the ways that they are undermining community directly or indirectly, by design or default. More specifically, we have seen how the media undermine politics at all levels, but especially at the local or community level, while doing nothing to promote or assist the building of a political community at any level. Those media that have adopted the philosophy of public journalism provide some exceptions, but they are few and their numbers are unlikely to increase without considerable public pressure.

Digital Democracy

"The Internet will save democracy. Or so the early 1990's technohype led many to believe. With each new communications medium comes a wide-eyed view of its potential. I'd like to suggest that, just as television saved democracy, so will the Internet."⁷⁴

Introduction

I first got acquainted with the wonderful potential of the new electronic media based upon fast, broad bandwidth technology through my subscription to *Wired* magazine and a round of correspondence with one of its writers, Jon Katz. Jon thought he had seen the emergence of a "new political sensibility" in "Cyberspace." The magazine referred to the bearers of this sensibility as "netizens." Then *Wired* teamed up with the Merrill Lynch Forum to sponsor a survey in 1997. The December, 1997, issue featuring the survey results showed Norman Rockwell's painting "Freedom of Speech" on the cover. The central figure in the painting is that of an American workman standing up to speak his piece at a town meeting.⁷⁵ If there is a single motif for American democracy this is it. But does the figure of then — one of the "greatest generation" participating in a public meeting — bear any resemblance to the figure of now, a "netizen"?

The *Wired* survey data, viewed in light of the more complete and trend-wise data compiled and analyzed by Putnam, suggest that the answer to the above question is NO. The American workman is highly unlikely to be seen in the foreground of such a scene today. The typical "netizen" is not a workman but a "super-connected" or well-"connected" upper middle class professional. Here, "connected" is akin to "wired."⁷⁶ Less than half of those connected through the "Net thought that "who you know" is more important to getting ahead than "what you know." Perhaps they took their better connections for granted. The connected set closely overlaps those who are better educated, with better jobs and higher incomes than the "unconnected." These are the ones more likely to vote, to be "participatory" (though neither the survey nor Katz specify what this involves), to know the name of their Congressman, etc. It is not surprising they are more likely to own a PC and otherwise be tuned in, technologically.

The *Wired* crowd reacted as if this group of wired clientele had just been discovered and, moreover, as if the same crowd was thought to be "alienated" from the political system. Of course, as the Verba, et.al. (1995) study, could have told them if they had crawled out of their techno-bubble long enough to look before commissioning their own survey:

- "Digital Citizens are not alienated..."
- "the online world encompasses many of the most informed and participatory (!) citizens..."

Unfortunately, the *Wired* survey did nothing to negate the gnawing anxiety that Putnam's *Bowling Alone* thesis might be right — that both the connected and the unconnected might be equally alienated from direct political involvement with others.⁷⁷ The question of whether the new digital media enabled such participation or rather presaged a participatory oxymoron — being involved by "surfing" alone at one's PC — this question was not addressed. Being involved as a political volunteer with others was not included among the participatory options in the survey questionnaire.

Swept along by the wave of an "electronic outpouring" over the *Wired* survey results, Katz asked: "Can we build a new kind of politics?... Or are we nothing more than a great, wired babble pissing into the digital wind."⁷⁸ Six years later, it appears that the answers to these key questions are, respectively, NO (at least not thusfar) and MAYBE (there's still a lot of babble and some pissing). The high tech political enthusiasm that Jon and many others felt at the dawn of the digital age now seems naïve and exaggerated. Not much of the promise of "a new kind of politics" has yet been realized. The jury is still out in 2004, notwithstanding the huge media hype over the waves Howard Dean made in the early part of the 2004 presidential primary season. We still don't know what became of the waves of volunteers that were aroused by the real pioneers in use of the Internet for major political campaigns (McCain, Bradley and Ventura). We know even less of whether the latest up-blip of

political participation aroused by Dean will endure. Look for more on the latest efflorescence of digital democracy (Dean, Moveon, et al.) in the next chapter.

The *Wired* hype over "netizens" might appear to be little more than a curious footnote in cyber-political history but for the fact that the history is repeating itself. A 2004 report from the Graduate School of Political Management at The George Washington University [a school to paper over the pseudo-science of political pros with the veneer of an academic degree] reveals a new class of "Online Political Citizens, over two-thirds of whom "qualify as Influentials" – another great survey discovery akin to that of Katz. The new 2004 Influentials seem curiously like the 1997 Netizens. They are:

- twice as likely as members of the general public to have a college degree; they
- have higher incomes, are slightly younger, and are more likely to be white, single
- and male...the Americans who "tell their neighbors what to buy, which politicians to support, and where to vacation..."⁷⁹

Thus, the pollsters (Roper ASW and Nielson/NetRatings, who conducted the "innovative study") discovered another group that is a prime target for the pro's that love to apply their marketing techniques to sell candidates like soap. But are Influentials political leaders or just opinion leaders? Are they directly involved in political organizations? Are they reaching out to less elite others, helping to increase political participation and build political organization across class and group lines, so diverse cross sections of people in their political subdivisions can be politically more active and effective, not just the Influentials themselves? The answers to these questions appear to be NO. Even though they are described as "politically energized," their political energies primarily appear to be focused as Cyber couch potatoes:

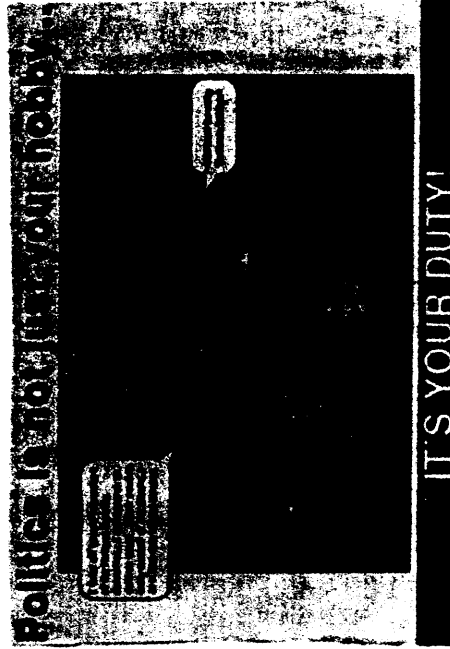
They support their candidates by visiting their Web sites, joining Internet Discussion groups, reading political Web logs and making political (money) contributions over the Internet."⁸⁰

Is there more democratic promise to be fulfilled in our wired society? Let's hope so. The TV news media seem to think so, as they solicit viewer e-mails in response to questions they broadcast in response to the news of the day. This is a variation on "instant polling." Those few whose e-mails are broadcast may feel empowered. What about the rest of us, or even the chosen few. Does their brief moment in the TV sun amount to citizens' influence on decisions being made by few others far away? Or is it more like a lesser version of the brief moment of glory felt by those exposing themselves on "reality TV," that has little to do with reality?

Another term in the new digital technology dictionary that is a contra-

diction in terms when used in conjunction with "citizen" is "dis-intermediation." This term connotes one of the most profound impacts of the Internet – the ability of people to use the World Wide Web (WWW) to go right to the source – of products, services, information...you name it – and bypass the usual intermediaries, such as travel agents, banks, retail stores or, in the case of public life – political parties. But in political terms, dis-intermediation means dis-organize and thereby, dis-empower – unless, of course, as an article of faith, one believes, as many digital-democracy advocates apparently do, that the new technologies will enable a libertarian electronic fulfillment of Jeffersonian democracy (more on this further on).

We have nothing to lose but our high tech toys! The individual American, "superconnected" via his keyboard, cell phone or Palm pilot, will have as much power to shape our collective future as the K Street lobbyist backed by an industry trade association! During the late '90's, this viewpoint, not unlike some of the other hype endemic to the "dot.com bubble," was advertised as shown below.



The sentiment is admirable but the means of its fulfillment are not – as if all we have to do is look to "high tech" to revive political participation. So some of the pundits inclined to make a fetish of technology would have us believe. The ad text accompanying the above picture is indicative: "In-House Lobbyist (software) can transform a computer novice into a lobbying...powerhouse...we just made it (politics) a lot more fun and easy."⁸¹ As if satisfaction of our civic responsibility is only a click away!

A cartoon spoof of this technological euphoria is shown below. The cartoonist may be closer to the likely truth of how the new electronic technology could affect "American Civic Life."



Technology

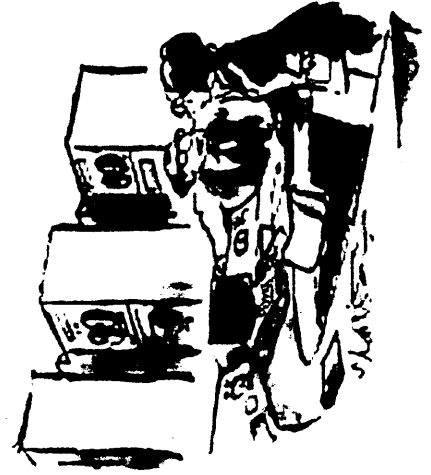
After all, technology is a tool; indeed, it helps to think about digital technology as providing a set of power tools like those some of us have in our basement workshops, kitchens and garages. We use our tools to do things that we want to do or that need doing – to develop, make or create; communicate, inform, influence, repair or renovate, sell or trade, travel, improve our health, etc. Digital technology is like a small power tool, only with potential far greater than “small.” Our purchase of it is the result of an individual choice but our ability to use it depends on affordable access to a network whose existence, affordability and capacity is far from being the result of individual choice. We

Technology

overlook the latter because we now take access to electrical power for granted. People in the U.S. did not always do so.⁸² The Rural Electrification Administration (REA) during the New Deal was a big deal. So was Lyndon Johnson’s stint as REA Director, long before he became a U.S. Senator and President. Ask old Texans and others who grew up in rural counties what difference electrification made to them.

The power tool analogy is a good one because it helps us to make some basic distinctions as well as to focus on “power.” Digital technology is not the same as TV. A power tool is an active technology; i.e., it requires at least some amount of continuous, active concentration and skill by its user. As we noted earlier, TV is a relatively passive medium. Until interactive television becomes a widespread reality, TV cannot be properly viewed as a tool even though, for some how-to programs, there may be some tool-like acquisition features in the viewing. Other tool-like features to consider? – speed, selection (choice of technology) and individuality in use as well as choice. You may have a ¼” or 1/3” power drill but there is no question that you can get the drilling job done at a higher speed than with a hand drill. Analogous digital technology speed has already led to similarly obvious contrasts; e.g., e-mail relative to “snail mail.”

Perhaps the single most important feature from both business and political standpoints, however, is that of individualism or individuality in the selection and use of the new digital technology. The use we make of the new tools is up to us. There are no prescribed adoptions, roles or functions to follow. Keep this point in mind, for the prophets, pundits, futurists and other salesmen among us are putting out all kinds of nostrums that may suggest otherwise. Some seem positively Lincolnesque – that the new technologies may provide “a new birth of freedom.” Perhaps, but not necessarily if used as AOL/Time Warner, NBC or CBS would have you use them. The choice is yours but, for many, any saving grace may appear only if there are bugs in the programs, as suggested by the cartoon below.



The beauty of this system is that there are a few small errors per grammar and it which helps to avoid total depersonalization.

The choice and use of technology always involves pros and cons. The main "pro" is that some important tasks can be done much faster,⁸³ although this is a mixed blessing. Some chalk it up as a "con," especially with regard to the political impact of the media. Intense media competition during the 2000 election — the need to "call it" first, for example, contributed to the Florida election mess, which has been examined exhaustively elsewhere. The most important adverse impact, however, arises from the other side of the new technologies individualistic coin. Narrowly private decisions about the use of a new technology that has wider, public impacts may carry consequences adverse to a democratic republic. Some even label this, following colleagues in the environmental movement, "the tragedy of the (digital) commons."⁸⁴ This is such a serious concern, let's return to it later in this chapter when we can pay it more attention.

Uses, Users and Utilization

We are all more or less familiar with the uses of digital technology but it may help to classify and lay them all together for easier review. From the standpoint of prospects for a digital democracy, it's also important to see how the technology is being used by various types of users. Will the uses enhance the already dominant political powers of the "powers that be" or give the rest of us chances to play more effective roles in public life?

There are two major uses of the Internet—to:

1. Get information, and to
2. Send and receive e-mail.

They overlap, as anyone who has received files attached to an e-mail can attest. The files add to the information value of what's in the e-mail itself. Why is information important?—mainly to find out what's happening in some larger world. This is one reason why web pages set up by major news channels have become increasingly popular sites on the Internet. But what's the point of knowing more than we did before we opened a web page, e-mail, newspaper, book or magazine? Does the information have a use? Is information power, or is it a stretch to go from information to knowledge to action?

Questions of "why" and "what for" may seem obvious, even trite, but they become increasingly important as we move to assess the real potential of digital democracy. Moving from information to knowledge is indeed "a stretch." The challenge starts with a choice of a search engine. You enter a word or phrase, click on "go" and the typical general purpose, pre-packaged search engine like that built into systems by Microsoft or AOL will spit out a minimum of dozens of references, sometimes hundreds or thousands. You thought finding needles in haystacks was an old problem?

Let's say you narrow down the list to a dozen items. So you print them out. Anyone got time to read? What about analyze? Digest? Notate? Synthesize? Draw conclusions? Then to do what? Write a letter to the editor of your

local paper? Good idea, as long as your thinking doesn't run against the grain of the paper's bias. Write to your Congressman. Try it, but don't hold your breath for any but a form response, maybe not even that. So let's ask again: What's the point? Just to sound well-informed in a group of others indulging in cocktail party chatter? The two problems we've identified thusfar seem curiously similar to those that afflict political participation: time and efficacy. Who has the time to run a gauntlet with an uncertain result at the end of the line? How effective might any investment of time prove to be? Remember Mike Lynch's remarks in Chapter 4?

Those promoting a more "deliberative" democracy need to ask: If democracy can't be deliberative without more knowledge of public issues among more people, and the Internet doesn't make it any easier for people to be knowledgeable, what are the consequences? One dire forecast makes the digital divide look like a dividend — that our society could break up into two cultures, one a group of wired "netizens" like those touted by Katz; another, a group of couch potatoes that will be satisfied with political pabulum fed by major networks that dominate both TV and 'Net channels under conglomerate ownerships. Guess who's left out of the political picture in this scenario? Most likely, you are and, as a cyber-citizen, perhaps even more so. Note that using the 'Net as a consumer to buy things wasn't highlighted earlier as a major use, because it hadn't yet become so. But now it's become so, and the private commercial/advertising/ purchasing functions of the medium may come to crowd out its still undeveloped public potential as a people's political tool.

The late, great Christopher Lasch had it right here as well as on narcissism and elites: Information and deliberation have little practical value in the absence of political debate. "What democracy requires is public debate, not information," he wrote, just before he died in 1994. Why? Because of the old maxim: "If you don't ask the right questions, you'll never find the right answers." Lasch continued: "we can identify the right questions only by subjecting our ideas...to the test of public controversy." In other words, information of real value to real people dealing with real issues in the real world is partly the result of debate, not some abstraction of academic value prior to or apart from debate. And what kind of debate? — P2P or face-to-face, where people face each other across aisles, tables or rooms. Not faceless, often anonymous interchanges over the Internet. Lasch lamented the loss of political debate starting about 100 years ago—healthy, vigorous debate aided and abetted by journalists. He noted:

It's no accident that journalism of this kind flourished during the period from 1830 to 1900, when popular participation in politics was at its height. Eighty percent (80%) of the eligible voters typically went to the polls in presidential elections. After 1900, the percentage declined sharply...⁸⁴

What about e-mail? Here's something we can all do in small doses. As a way of communicating with friends, relatives, colleagues, anyone, it's a lot

more quick and convenient than "snail mail." It's tit for tat, send and receive. No response? Not to worry; there's always Aunt Helen. And if you get additional information, attached, it's probably something you requested or something that somebody has some reason to believe you might want.⁸⁵ The beauty of e-mail is that it's something that each of us can do to be in contact with others, quickly, in the limited time that we have at odd hours, to sign on, send and receive. It's also a much more effective political tool than receiving more information, as we'll see; but e-mail is no substitute for face-to-face interactions. According to Janet Bruno, CEO of Marlboro Cooperative Bank and Chairman of the Board of Selectmen in the Town of Merrimac, MA, it is neither a genuine nor an adequate means of communicating with others over either business or political matters. She would never provide a loan nor hire someone simply on the basis of e-mail or other electronic submissions. People who send in job applications via e-mail without coming into the bank receive automatic form-letter rejections. She thinks that Di-Tech.com, the online mortgage lender, will eventually get into trouble.⁸⁶

The Internet and Political Organization

After all, organization is key to politics in a variety of forms — political party committees, campaign organizations, governmental boards and commissions, et.al. Information is a product of organization rather than vice-versa. E-mail is more likely to be a tool of organization than a conveyor of substantial information. The Internet, therefore, is potentially more important as a facilitator of political organization than as a provider of information. This potential is already apparent. Recall Ingrid Reed's remark (in Chapter 4) on how the 'Net served as an organizing tool to those in the Princeton (NJ) area who were concerned about the imposition of state highway plans. Scan the Appendix on political 'net resources and notice how the organization of many political groups around all kinds of causes and concerns has coalesced through the Internet. Much of this organization has begun by way of an e-mail two-step:

1. identification of a core group of people with shared concerns through searches of political web sites and early e-mail exchanges; and...
2. construction of a group e-mail list, perhaps followed by use of a list-server, to enable intra-group communications and continued organizing around issues, events, ideas and political positions.

Steve Clift, founder of what is, in this author's opinion, the single best digital e-democracy website on the Internet, confirms the effectiveness of e-mail: "Almost by accident, we discovered that the most valuable thing Minnesota E-Democracy created in 1994 was the *MN-POLITICS*...e-mail discussion forum — our online public commons (which) quickly became a part of real politics in Minnesota."⁸⁷

In 2001, Clift noted: "This is pretty amazing. The new Prime Minister of Japan, <<http://www.kantei.go.jp/>>, recently launched an e-mail newsletter and it already has 1,000,000 members."⁸⁸ About two years later, he wrote: "In my opinion, any member of Congress that does not provide a simple e-mail address for their constituents are acting in a fundamentally undemocratic manner. E-mail is the clear choice for citizen communication in social and business life."⁸⁹ Here, as Janet Bruno did earlier, we might ask what is the quality or adequacy of e-mail communications, especially when members of Congress rely on "auto-reply...processes." Clift's promotion of e-mail above has to do with e-government rather than e-democracy. Among the many ways he has promoted e-democracy, however, he has urged that any political campaign website is neither complete nor effective without an e-mail newsletter that enables those interested in getting involved to see what's going on, how to participate and how to get together with similarly motivated others.⁹⁰

The downside of the Internet as a tool of organization is also apparent, perhaps even above. It has been the subject of increasing attention, especially since the publication of Cass Sunstein's book *Republic.com*. It is interesting to note how the attempts of "ordinary" individual Americans to empower themselves even a little bit through the Internet often earn critical comments in major media outlets. The danger of the downside was apparent long before Sunstein's book was released in the early Spring of 2001. The danger is that of fragmentation—a citizenry increasingly divided into a multiplicity of non-interacting, uncompromising groups as individuals identify like-minded others via the 'Net. Anyone using the 'Net for political purposes has seen this happening. Whether via "UseNet," Yahoo "e-groups," AoL groups or whom-ever, group-wise citizen "organization" has multiplied over the Internet, but there's very little interaction among the various groups. It's become like a paraphrase of an old Kingston Trio song: 'The English hate the Irish and the Irish hate the Dutch, and I only like those who share my crutch.' (originally: "I don't like anybody very much," which is largely still true if we insert "politicians" for "body").

The word "hate" here may be too strong, but it does suggest the kind of coverage that the media have given to people's attempts to come together over shared concerns via the 'Net outside of established channels. These attempts are viewed as catalysts for extremism. A recent headline is illustrative: "Adding Up the Costs of Cyberdemocracy: Experts Worry That the Web Encourages Extremism."⁹¹ There is no question that many hate groups have found the Internet provides convenient, low-cost ways to identify similarly angry others. But to play on this feature? One wonders what the so-called "experts" have to lose.

The real danger is the continuing loss, aggravated by the Internet, of the sort of genuine public that is so crucial to the health of American democracy — citizens who pay attention to public issues, debate them in order to arrive at informed compromises or common ground and then find ways to act

together on the issues that most concern them. Media leaders would do well to consider how they can counter this danger rather than contributing to it—by promoting cross-group Internet interaction rather than casting a negative pall over citizens' self-organizing efforts to come together over shared concerns. As one commentator noted: "The point is not which party is more extreme, but how the media characterizes the parties' respective positions."⁹²

Recently, websites have popped up that are designed to bring people together face-to-face, to overcome the impersonality, inadequacies (and sometimes, the dangers) of e-mail "communication" at a distance. These include meetup.com, twofortheshow.com, friendster.com and craigslist.org. One headliner wrote: "Web sites that create new acquaintances are making local connections..." while the article itself quoted a website-inspired get-together participant as saying: "This mobilizes people." All to the good. Right? Yet the websites ask potential participants to "pick a topic," or "create a profile" and "meet with people with similar interests" — not exactly venues for generating debates that could generate understandings or hammer out compromises over controversial issues.⁹³

So, as Sunstein lamented at length, there's damn little "cross-group Internet interaction."⁹⁴ As David Brooks continued more generally in "People Like Us": "what I have seen all around the country is people making strenuous efforts to group themselves with people who are basically like themselves."⁹⁵

The preceding remarks amount to one big reason that Steven Clift has been fostering "a simple concept" that he calls the "Public Internet." In his own words: the private sector, government, non-profits, educational institutions, and others need to work together to develop and apply the Internet in public interest ways that none of them can do on their own. Unfortunately, we are constrained by our notion of public broadcasting as an alternative channel or that government alone is responsible to solve public problems. We have a hard time seeing that a new model—only possible because of the Internet—is emerging.⁹⁶

The organizational arrangement implied here is hardly "simple." Thus, it is no surprise that it has not yet emerged front and center through the unadulterated dynamics of the Internet. If the 'Net is to facilitate political participation, especially at the local level, a good deal of public-spirited leadership, including political and governmental, will be required to effect new, creative public/private collaborations. Instead of citizens' leadership to foster e-democracy, however, we see "e-government" being promoted by private, for-profit Internet software and systems vendors. This enables you to "participate" in public hearings without showing up at city hall or a legislative chamber. It doesn't help you to organize others so that, altogether, you can make a far more significant difference.

A simpler "e-"model, albeit one that requires substantial volunteer effort to get underway and work well, has been demonstrated by another fellow from

Minnesota, Tim Erickson, via e-mail *Politiak* issue forums that facilitate one essential element of a democratic process — deliberation.⁹⁷ These have taken place on a variety of issues, both state and national, via e-groups that are now accessible through Yahoo. The issues thereby debated have all been important, including campaign finance reform, globalization, transportation and war with Iraq. What's most important to note here, however, in light of Sunstein's criticisms, is that the forums have enabled a diverse set of opinions to be represented. They have avoided the "flaming," "spam," ideological fixations and personality colorings that have afflicted other e-mail interchanges.

What have been key features of *Politiak* that have enabled the forums to work well?—

- Recruitment of a cross section of resource people who initially post background information on the issue at hand, including government officials, experts and legislators. These "resource people" also participate in e-mail exchanges as the forum proceeds.⁹⁸
- The care and attention of a good moderator who sets ground rules, distills debate interactions daily and archives the proceedings for retrieval later by a wide variety of others, including elected officials.

Two questions remain, however, that need to be addressed by any evaluation of this model:

1. Among those participating, how many minds have been changed to any degree as a result of interactions with others with different points of view on the issue(s)?
2. Have the forums influenced anyone in a position to act on the issue(s); i.e., have any influences on government policy, program or legislation been apparent as a result?

As we have seen, expectations of the latter influence the likelihood of people participating in political forums of any sort.

The possibility that the Internet could empower us has inspired e-democracy guide-books to help citizens realize the possibility. These include:

- *Cybercitizen: How to use your computer to fight for all the issues you care about*; and
- *Modern Nation: The handbook of grassroots activism online*.⁹⁹

Both of these are marked by their orientation to issues activism and to enabling readers to use the Internet to communicate with the powers that be, including established media (e-government), rather than to enabling Internet users to politically self-organize, to empower each other and to participate in partisan, electoral politics in order to help make a difference across a set of issues (e-democracy).

Political Campaigns

Candidates' campaigns are another form of political organization that, increasingly, is finding form and expression over the Internet. Website designers have entered the stable of political consultants as other consultants have told candidates that having their own campaign website is a sine qua non of a political campaign in this high tech day and age. There is even now, as in other areas of media accomplishment, a set of annual awards for the best political websites. What are they called?—"Webby" awards, of course.

The McCain and Bradley 2000 campaigns for President, building on Ventura's 1998 campaign for Governor, did a lot to establish campaign website development as a trend. McCain raised over two million dollars via the Internet during the salad days of his primary campaign in New Hampshire (NH). Bradley raised thousands of volunteers through the 'Net from all over the country. I can speak to this from experience since I was a volunteer working for Bradley in NH. In one city, I was teamed with a volunteer from Virginia to go door-to-door during a cold February weekend. He had found the Bradley campaign through the Internet, and he questioned whether he and other volunteers from out of state would have been located and induced to volunteer in NH without Internet interactions via campaign websites.¹⁰⁰ A good feature of both the McCain and Bradley campaign websites was also their self-organizing features — encouraging people who signed on and decided they liked the candidate to help identify and organize others, friends and neighbors via e-mail. Ventura's "cyber volunteers... were able... to follow. Jesse... around the state and post messages on the bulletin board... the Web... allowed his supporters to keep in touch and spread his message."¹⁰¹ Thus, McCain, Bradley and Ventura were the early leaders and role models of the "virtual activism" and Internet fundraising that, much later in 2003, gave former Vermont Governor Howard Dean such an early jump to the head of the pack of 2004 Democratic presidential candidates.

For the sake of a perspective that can only be provided by a real person, a non-digital, non-virtual sidelight on my volunteer partner in New Hampshire, 2000, should be inserted here. He was Bob Smith, from Alexandria, Virginia. He had been involved in local politics. He had led a fight to keep his kids' high school open. So he ran for School Board. Neighbors didn't talk to him for months afterwards. He agrees with what we found in Chapter 4 — that local political party committees have atrophied — so it's unlikely that he would have gotten involved in the Bradley campaign via that route. He also observed that people don't understand or appreciate what it takes to be a "public servant."

Political Parties

Political parties have found homes in the Internet, too, at all levels from ward to national. It's interesting to note that, as between the two major parties,

the Republicans have most aggressively exploited the 'Web and 'Net at all levels, recruiting over 300,000 "e-Team Leaders" nationwide. We saw this earlier at the local level in the survey results reviewed in Chapter 5. The power of the Internet in helping to communicate, inform and mobilize citizens with shared concerns has been amply demonstrated by all parties, including the Green and Libertarian parties among the non-majors. From the standpoint of place and community, it's important to recognize that the power of the tool can be as great at the local level as at higher levels. Some good model local websites are cited in the political website resources' Appendix.

Dependence on other media needs to be noted. Websites cannot be viewed as stand-alone entities. Their viability depends on two factors — their linkages and how many people know to go there. The last is first. Websites need to be advertised widely in other, "old economy" media for people to know that they even exist. McCain knew that. Every one of his campaign posters, signs, palm cards, brochures and letters; that is, all the traditional campaign items, included his campaign's web address.¹⁰² Why did commercial websites spend millions of dollars on advertising during Super Bowl 2000? The dot.com post-mortem cynics would say: so that they could use up their financing and go out of business. The fact of the matter is that if you don't advertise or otherwise get the word out that your site exists, very few will know to visit it.

The main "otherwise" is linkages. Other, related political sites need to include references to yours to bring people to your site who are likely to share your concerns. So, for example, state political party committee websites like those referenced in the Appendix Directory of Internet Political Sites usually contain references to local political committee websites, other politically relevant sites, or relevant e-mail addresses. Linkages are so important that internet services' providers (ISP's), website designers and search engine managers are charging extra in order to place customers' websites near the top of lists that search engines would generate for those searching for sites with certain qualities.

Having recognized the centrality of websites to their activities, what are parties doing with them? — still primarily using them to raise money rather than revive grassroots' political participation. An August 27, 2003 letter to the Republican Party's "Sustaining Members" from the new Republican National Committee Chairman, Ed Gillespie, is indicative. After he appeals to me in the body of an e-mail to "renew your membership in the RNC with a contribution" (of \$\$), he continues with a "P.S. The RNC is currently laying the groundwork for winning campaigns in '03-'04 (with) the support of grassroots activists like you..." Trouble is, this appeal seems remarkably similar to disingenuous fundraising appeals that I have often received in the past that claim to be raising money for local or regional campaigns and party organizations. As an active member of a political party, however, I have never seen any such contributions filter down to the local level — rather the opposite, in fact, as reported earlier in Chapter 5. As for the real, substantial contributions of

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time invested by party members and other interviewees observed in that earlier chapter—what of these? We can see signs, noted in a later section of this chapter, that parties may be waking up to the value of people's grassroots political participation.

Electronic Government

A third major organizational form implicated by the notion of digital democracy is "e-Gov" – electronic government. This is the topic of frequent articles in the business press as digital systems' integrators and a flock of e-business others seek to sell their products and services to governments at all levels.¹⁰³ What does this have to do with political participation? Perhaps something. The negativity of people's attitudes towards politics – a factor in their non-participation – is partly attributed to the shortcomings of government as well as those of politics and politicians. These include lack of government responsiveness, inadequacies of various government services, poor channels for citizens' input into governmental decisions and other factors that advocates of e-Gov say that their systems would remedy.

So, for example, some local governments have set up public information kiosks with keyboards and screens to enable citizens readily to find information and services from government agencies without having to go to City Hall to get them. Others are taking steps to electronically enhance local government by enabling e-mail interactions among and between citizens and government officials, including on-line, real-time debates over issues. As e-Gov initiatives take root and systems are improved, however, researchers would need to address two key questions:

1. Will improved government access, enhanced citizen input and better services help to offset people's political apathy and cynicism?, or...
2. Might e-Gov further reduce political participation to the extent that it enhances government's ability to "do its job" without increased citizens' participation, as if government had been put on automatic pilot via new technology?

One student of e-gov titled an article "E-Government vs. E-Democracy" (emphasis mine), observing that: "Encouraging e-democracy is less desirable to elected officials (because) E-democracy uses information technology to make (them) more accountable to the public."¹⁰⁴ So, which one is going to be encouraged and the other, discouraged?

Direct Democracy / Digital?

The major use that the advocates of digital democracy see for the new technology is realization of the Jeffersonian dream of direct democracy. Ironically, this dream is closely related to the use of polling, which has been the target of complaints from many of those most concerned with the health of

American democracy. Superficially, the dream of an electronic direct democracy seems attractive, including:

- Issues to be decided by citizens directly through electronic voting and instant tallies (polling), and so there would be...
- Internet "disintermediation" – no need for political parties, pundits, editorialists, representative or other intermediaries standing between citizens and the making of decisions that affect their lives.

Instant polls seem to provide a starting model. We now see them frequently on the Internet, via AOL, CNN, Yahoo, interest groups and others. Some of these provide input so interest groups can deluge legislators with messages such as "Two-thirds of people polled say they favor 'x' or oppose 'y'." For example, on May 8, 2000, CNN put forth two questions to poll those tapping into its media:¹⁰⁵

1. "Do you think that India can succeed in reducing its population growth?"
2. "Can a computer virus spread accidentally?"

Are such questions the prelude to making government policy on the basis of direct/digital democracy? Is this really imaginable, even in a dream? The factors inducing population growth in any country are many and their interrelations are complex. Would my uninformed YES or NO answer to question #1 mean anything at all? Or even to #2? The questions quoted above are only two examples but they are not untypical of many others. What's the sense of asking such questions to get only yes or no answers?¹⁰⁶

A company named "21st Century Faxes" also conducts such polls via fax, the results of which are posted at <http://www.poll-results.com>. These polls also ask questions requiring only a "YES" or "NO" answer. This is OK for questions like: "Do you still want to receive your mail on Saturdays?," the answers to which will be forwarded to the Postal Workers Union, General Accounting Office and Congress; but other questions, such as those mentioned above?¹⁰⁷

So we again face a question that we confronted earlier, only now with a high tech twist: Except for decisions that can be made on the basis of simple yes or no answers, can electronically mediated direct democracy replace representative government? The answer, again, is NO. The digital direct democracy dream is an illusion. We can't get most voters to come out for Town Meeting or to cast an unspoiled ballot for President, and yet we expect them to take the time and effort to think about the U.S. stance towards population policy in India?¹⁰⁸ Some matters are properly left to representatives for final decision.¹⁰⁹

So, the punster asks: What do you get when you combine the new technology with direct democracy in California?—a bad joke—an election

with 135 candidates that quickly became one the most multi-ring of the political media circuses of 2003.¹¹⁰ This media event not only brought out a lot of strange political characters, it led to some very curious turns and contradictions; like, liberals who are self-described "progressives" turning against the Progressive initiative and referendum provision in the state's constitution that enables people to recall a Governor. Liberals opposing direct democracy—is this an example of "the politics of paradox" described in Chapter 7, or just another instance of the kind of political hypocrisy that turns most people off politics?

Long after the California recall election is history, the most important digital democracy question will remain: whether our representatives will use the new media technologies to enhance their ability to provide both representation and leadership for "constituents"—a.k.a. concerned public citizens with an ability to play a greater role than that of just "customers" of whatever their "representatives" care to provide? Will they use digital technologies to better effect more and better outreach to people, to engage them in the political process?—Or to tap into both individual and collective intelligence residing in the public at-large in a process of co-deliberation and co-determination on issues?¹¹¹ In other words, will elected representatives work to make our democracy more direct by reducing the effective distance that people feel from both the political process and the people elected to advance it? Who would lay odds on a 'yes' answer to any of these questions?

So the key factor affecting the political process that the new technologies can alter is "distance," a factor that we touched in the section on community. And the key corollary question is: Alter for the better? Our earlier focus on place was not misguided, for it is at the community level in a real (i.e., not a digital-virtual) place that people can make a difference, see the fruits and realize appreciations for their efforts. So, in addressing the "key corollary question," above, we need to confront the fact that the digital tools provided to us by the new technologies are double-edged swords. On the one hand, they can help us to be more politically effective wherever we are, in any real place. On the other hand, they know not "place;" they are place-less. In fact, as many students of the media have pointed out, they blur, undermine or erase boundaries; they consummate people's leaning towards the "non-place urban realm."¹¹²

- The dangers of this trend are suggested by the following quotes:
- "Nothing can be further from the new technology than "a place for everything and everything in its place." (Marshall McLuhan)
 - "Our world may seem suddenly senseless to many people because...it is relatively placeless."¹¹³
 - "As place and information access become disconnected (via the new information technologies), place-specific behaviors and activities begin to fade...so now do many live relationships take on an ephemeral and sporadic quality." (Meyrowitz, op.cit., p.148)

- "direct physical presence and mutual monitoring are still primary experiential modes." (Meyrowitz, op.cit., p.312)

It's important here to recognize that distance means more than mileage; i.e., distance has more dimensions than just geographic ones. So we need a broader notion of distance; call it "effective distance." There's social distance — if someone's not part of your social, cultural, ethnic or other group, they may as well be on the dark side of the moon. There's psychological distance. If you've had a falling out with a former friend, then the effective distance between you and that person is infinite, even he or she lives next door. There's intra-family closeness (the inverse of distance), as in the old saying "blood is thicker than water." So, from now on, when you see the word "distance," realize that we're looking at something with more than one dimension.

Digital media are a plus from the standpoint of effective distance because they reduce it — between people, places, groups and otherwise. The non-place aspect of digital democracy is hardly all bad. Even TV. We see, or we can interact with, all kinds of people reflecting situations, interests or concerns that we would not otherwise encounter. We are brought into visual, informational or e-mail contact with people in vastly different places all over the world, so our horizons are broadened, virtually on a daily basis. TV, for example, has told us the story of the "Lost Boys of the Sudan" and how they have adapted to life in communities very foreign to them (as they are to us), like some in North Dakota. *60 Minutes* has brought to our attention the plight of abandoned children in Romania. We can then follow up at websites to see whether there's anything we can do in response to such situations.

There are countless other examples of how digital media break down boundaries between here and there, public and private, leaders and led, and our place in the world and that of others. This digital process of "breakdown" is not an unmixed blessing, but it is necessary and OK. There are still many more artificial walls to be taken down between people, groups and places.¹¹⁴ Meyrowitz has pointed out that "to merge information worlds" (via digital media) is to "encourage egalitarian forms of interaction,"¹¹⁵ a definite plus for digital democracy.

Guinness remarks how difficult it is to have a more truthful politics in the face of the fragmentation brought about by the "partitioning" and "compartmentalizing" of people and information. Ironically (since much of his book is critical of the media), he credits media coverage of the Clinton/Lewinsky scandal. The media role in blurring the boundary between public and private in this case may have the salutary effect of raising the moral standard of public life. His remark that "there can be no liberty for a community that lacks the means to detect lies" implies a challenge to the media to play a greater, more positive, investigative, informational role in the future.

Like so much in this book, the role of the media is paradoxical. The digital media are simultaneously serving two opposing tendencies: to break down walls and link people up while creating new nodes of fragmentation. Again,

the new technologies can serve to build community, including a larger, more inclusive sense of what "community" can mean, or it can help to destroy it as groups and individuals in cyberspace "do their own thing," virtually and sometimes with virtuosity, but with little public virtue. The response to the negative tendencies is partly one of attitude: Treat the new technologies as tools that you can (or should) control and use (or be able to use) in ways that can improve your private, public and public/private lives. The only new walls that should be built are "fire walls" to ensure privacy under the Constitution. All others should be warped, blurred, broken down or eliminated. "The opening of closed situations is the reversal of a trend several hundred years old." Thus the media's influence could prove to be quite revolutionary.¹¹⁶ But, for now, you have reached digital democracies'...

Last Page

You have reached The End of the Internet

Thank you for visiting the Last Page.

There are no more links. You must now turn off your computer and go do something productive.

And So...

An old saying left over from the '60s is that "You're either part of the problem or part of the solution." As someone who is, in part, a child of the '60s, I have continued to swear by this saying even as others of my vintage would just as soon forget it. Anyway, a reference from that period is not out of place in a chapter on the media for, at one and the same time, the media are both a prime source of the problem of declining political participation our country and a prime source of any solution. Another reason reference to the period is not out of place is that the '60's generation, as the first whose politics were largely shaped by and played to the media, is another source of our problem; i.e., a generation that we have to move beyond. Media/consumer politics needs to be supplanted by grassroots/producer politics.

Changing attitudes and behaviors is the key. Those derived from the '60s are destructive of American democracy. Those demonstrated by "the greatest generation" are otherwise, and it is from these that we can derive and adapt attitudes and behaviors sufficient to the challenges of our own. Influencing attitudes and behaviors is something the media are good at. Observations of what was called the "West Wing flip," noted earlier, reveal the media's potential as an instrument of change with respect to attitudes towards government and politics. As media leaders become more aware of the adverse political consequences of their programming decisions, along with their public

power and corollary responsibility; they can modify their decisions accordingly. Whether they will do so depends, in part, upon concerned Americans and their representatives in Congress - whether we and they have the balls to make media power a political issue.

The first test of this will be how the Congress deals with outrage over the recent FCC rulings that would enable big corporate media interests to increase media cross-ownership and to dominate more of media markets. The fact that, according to Common Cause, "nearly two million Americans have contacted the FCC and asked the agency not to make it easier for media giants to acquire even more media properties," is encouraging but who would like to bet on the ultimate outcome, especially since the President has said he would veto any attempt by Congress to overturn the FCC rulings?¹¹⁷ The House Appropriations Committee, against the "weight of corporate pressure...approved an amendment that would deny the FCC the money to implement the new FCC rules..."¹¹⁸ As of this writing, however, it does not appear that this amendment or other bills in Congress that would "overturn the FCC rulings," survived compromises to pass the 2005 budget. In the ongoing battle between corporate lobbyists and popular pressure, chalk up another big win for the former and a loss to the latter.

The second big test depends on the extent to which we are willing and able to make use of the new, digital media technologies in ways that assert and effect some significant degree of independence from established media. During 2000, a survey conducted by the University of Connecticut found that "51 percent of Americans believe the press has too much freedom."¹¹⁹ This should have been a wake-up call for all the media. The issue is not one of freedom but of political power.

The sometimes paradoxical combination of problems and opportunities created by the media in the political arena can best be addressed by keeping some basic guidelines in mind:

- **Openness:** A more open system is better than one that is relatively closed.
- **Truth-seeking:** Providing information based on in-depth investigation and fact-gathering is better than attempts at "spin," opinion-shaping and punditry.
- **Competition:** Opening up opportunities for increasing media competition and new, more localized media outlets is better than allowing continued media conglomeration.
- **Linkages:** Promoting cross-fertilization among websites on the Internet is better than smirking at their fragmentation, or behaving as if the Internet is naturally an archipelago; i.e., assuming that, as long as we have discovered our island of co-believers in cyberspace, we don't have to bother with others who may disagree with us.

- **Public space:** Creating more public and public/private media channels would give American citizens much more "space" to discover common ground (i.e., to become a public with an interest broader than the narrowly private) than if we allow media to be pre-empted or dominated by the private-market and its advertising. If the latter trend continues, then "I believe we're going to see something like the Microsoft Grand Canyon National Park..."²⁰
- **Coverage:** Competitive media will cover more of what Americans want if both they and the officials they have elected indicate what they want and find ways to exert pressure on media outlets to supply more of it. The "it" needed to help revive American grassroots political activity is a two-sided coin: (1) more coverage of politics that treats more of issues and less of personalities; (2) coverage of the political involvement of ordinary Americans, especially at the local level.
- **Public journalism:** The guidelines represented by this approach.

Let's reflect on these before we try to draw up an agenda for action that we think would remedy media failings identified in this chapter. Per the paradoxical nature of these, note that nearly every weakness of current media could be turned into a strength. "Coverage of the political involvement of ordinary Americans," for example, could employ media techniques now used to turn news into entertainment or sell issues of *People* magazine to tell some really engaging stories of "ordinary" Americans who are political "heroes of everyday life."²¹ The popularity of *Erin Brockovich* suggests the media potential of such stories without the media having to embellish the tales or focus on some latter-day Joan of Arc.

NOTES

1. The quotes here are drawn from Mitroff and Bennis (1989) but their views as to the systemic nature of the problems we face are shared by many others who will be referenced elsewhere in this chapter.
2. The view put forth by Nobel Laureate Kenneth Boulding in his book *The Image*.
3. *Ibid.*, p.106 of Chapter VII: "The Image in the Political Process."
4. Early indications are that they may in terms of his image but may not in terms of the insider dealings of the political world of the U.S. Senate. See Gram, David (2003), "The Price of Power," *New York Times Magazine* (May 11).
5. *Daily News*, Newburyport, MA (October 2, 2000), originating as an Associated Press story out of Boston.
6. Ehrenreich, Barbara (2002), *Nickel and Dimed: on (not) getting by in America*. New York: Henry Holt & Co., LLC, Owl Books, p.216.

7. As reported by Public Radio International's "Marketplace" program of June 13, 2001.
8. Respectively, see Mitroff and Bennis (1989) and Guinness (2000) among the References for full citations.
9. Others include Cappella and Jamieson (1997), Putnam (2000), Wilhelm (2000) and Guinness (2001).
10. Mitroff and Bennis, op.cit., p.6.
11. Boorstin, Daniel (1961), *The Image: A Guide to Pseudo Events in America*. Reprinted in 1987 with an "Afterword" by George Will. It is remarkable that Boulding's book was published in the same year with the same main title and some overlapping, supporting observations. They were written independently. There is no reference to Boulding in Boorstin's extensive bibliography or index, even in the later edition.
12. The potential pointed to here did not end with 2000's millennial celebrations. Recent coverage of the crime of Timothy McVeigh has recognized the "banality of (his) evil." We also need to recall that Hitler was brought into power through the abortive democracy of the Weimar Republic.
13. Ironically, the quote is from Mitroff and Bennis' book, page 161. Another, more recent example is provided by Jonathan Wallace (jw@bway.net) in his article "Minority Rule," in *The Ethical Spectacle* (<http://www.spectacle.org>), February 2001.
14. Lee Heffner writing in *The Daily News*, Newburyport, MA (May 1, 2002, p. A8).
15. The sentence paraphrases Meyrowitz (1985, p.316).
16. Eco, Umberto (1986), *Faith in Fakes: Essays*.
17. As further noted by "Throw those TV's out with the trash", a letter to the editor of the *Gloucester Daily Times* published February 7, 1997, which seconded an earlier, similar letter from Peg Sibley, a member of the City's School Board.
18. Quoted by Seaquist, Carla (2002) in "America, we need to talk—seriously," *The Christian Science Monitor* (June 24).
19. The latter was seen in "The Arts" section of the *New York Times*, covering many media, on October 10, 2001, p.F1.
20. Mitroff and Bennis, op.cit., p.xii.
21. The quotes here are from Meyrowitz (1985), pp. 85 and 89.
22. Putnam (2000), p. 242.
23. The highlights presented here are drawn from Chapter 13 of Putnam's book *Bowling Alone*, cited earlier.
24. Although Putnam qualifies this to say that the average could be as low as three, other studies indicate that it could be as high as 6 and 2/3 hours per day across virtually all income groups in our society. See Meyrowitz' (2000), footnote on page 79, for example. The higher estimates are per household. Families are watching instead of talking, least of all talking about politics or public issues.

25. Hill, Martha S. and F. Thomas Juster (1979), "Constraints and Complementarities in Time Use." Ann Arbor, Michigan: Survey Research Center, Institute for Social Research, University of Michigan.
26. Putnam (2000), p.243. As documented by the research of Verba, cited earlier, and others, "selective viewers" are primarily those of higher socio-economic status. Thus, again, those most in need of political influence are swayed away from political participation even if they could afford the time.
27. Reported in Meyrowitz (1985), footnote on p.75.
28. Reported in Meyrowitz (1985), footnote on p.80. This is not to imply that one must read in order to participate in public life. Forums on public issues sponsored by the Kettering Foundation and Public Agenda have demonstrated that diverse cross sections of citizens participate enthusiastically and effectively once they are convinced that their involvement is meaningful—that their views will be taken seriously.
29. The quoted phrase is the title of a neat little book by Terry Bossomaier and David Green (1998), the subtitle of which is "Computers, Complexity and Everyday Life."
30. People are easily fooled by optical illusions such as the the Ouchi pattern [as found on <http://www.expert.booksonline.com>], and the ability of TV to convey other illusions is even more sophisticated.
31. See his insightful book: *Coming to Public Judgement: Making Democracy Work in a Complex World*. "Consciousness raising," however, is only the first step in moving from public opinion to the kind of public judgement needed in a healthy democracy.
32. Meyrowitz, op.cit., p.79.
33. Vargas Llosa, Mario (2001), "Why Literature?" *The New Republic* (May 14). It's interesting to note that he doesn't treat the distractions of electronic media as the reason for why people are reading less; rather, he opens by attacking people's excuses for lack of time to read—that "literature...can be sacrificed without scruple when one "prioritizes" the tasks and the duties that are indispensable in the struggle of life." There is a curious parallel here with political participation. The same excuses for non-involvement are trotted out for an activity that is similarly "indispensable." Several quotes following are also from Vargas' article unless otherwise indicated. Vargas is Professor of Ibero-American Literature and Culture at Georgetown University.
34. It was not missed by Putnam. His evidence showed that people who read are more likely to be involved, but he did not go into the contrast of TV with literature.
35. The low-cost feature has been highlighted by Meyrowitz; however, this is only the direct, private cost. The indirect cost of being such a "free rider" is immeasurable—the social cost of the erosion of our democracy.
36. Ingraham, Jason (2001), "GDA grads told to strive for community, not consumption." Newburyport, MA: *Daily News* (June 3).
37. See Bearak, Barry (2001), "This Job Is Truly Scary: The Taliban are Watching." *New York Times* (June 1). The "job" referred to is that of TV repairman.
38. See Frantzich, Stephen, and J. Sullivan (1996), *The C-Span Revolution*. Norman, OK: The University of Oklahoma Press; and Frantzich, Stephen (1999), *Citizen Democracy: Political Activists in a Cynical Age*. New York: Rowman and Littlefield Publishers.

39. Cappella, Joseph N., and K.H. Jamieson (1997), *Spiral of Cynicism: The Press and the Public Good*. New York: Oxford University Press.
40. Tebbell, John (1974), *The Media In America*. New York: New American Library.
41. And served to impel or induce a response – appointment of an "ombudsman" by that newspaper and many others.
42. See, for example, the editorial in *U.S. News & World report* by Mortimer B. Zuckerman: "A sure-fire recipe for trouble," which remarked that "The FCC's recent decision to ease ownership rules on big media companies, if not reversed, will deliver a body blow to our democracy" (June 23, 2003).
43. Two features here are apparently characteristic of many local papers along with a third mentioned earlier, lack of an alternative or competitive paper. One is a tendency to recruit and employ reporters that arrive from someplace else, work a couple of years locally and then leave by the time they undergo enough on-the-job training to get acquainted with the community they are covering. Julie Salamon, a reporter for the *New York Times*, wrote: "Increasingly, local news isn't reported by home-grown reporters with an indigenous passion for the place they live" (October 10, 2001, p. E8). Another feature is non-local ownership, increasingly conglomerate in form. Neither of these is conducive to community-building, let alone a community-based politics. My hometown newspaper, for example, was owned by Essex County Newspapers which, in turn, was owned by Dow Jones, which sold it to the *Eagle-Tribune*.
44. This point was elaborated in an "op ed" piece entitled "Truth Isn't a Political Priority," published by the *Gloucester Daily Times* (April 24, 1987).
45. For example: Nichols, John, and Robert W. McChesney (2000), *It's The Media, Stupid!*.
46. See Barringer, Felicity (2001), "Unresolved Clash of Cultures: At Knight Ridder, Good Journalism vs. the Bottom Line." *New York Times* (June 1). Note also the PBS series on "Local News: One Station Fights the Odds." Julie Salamon's review of this five-part profile of *WCNC* (Charlotte, NC) included this sketch of Keith Connors, the new director: "a decent and compelling soul, trying to cheer his staff and encourage good reporting while answering to the corporate bosses. It's a tough job" (*New York Times*, October 9, 2001, p. E8).
47. Thelen, David (1996), *Becoming Citizens in the Age of Television* (p. 195).
48. Thelen, op.cit. His statistics are from 1988-92 but the trends he reports have continued. "Horse race" coverage was amply apparent during 2000.
49. As stated during an interview with Karen Olson, Assistant Editor of the *Utne Reader* (March-April, 2001, pp. 84-86). New Dimensions is "the longest running independently produced program on National Public Radio" (NPR).
50. Nichols and McChesney (2000), op.cit., p. 29.
51. Michael Toms also claimed that "Low-power FM would recreate democracy, which we have never really tried successfully." *Utne Reader* (March-April, 2001), p. 85. Unfortunately, Republicans in Congress backed "big broadcasters" and "sought to block a Federal Communications Commission program to license hundreds of new, low-power radio stations." (*New York Times*, May 27, 2001, p. 1).

52. From a solicitation for subscriptions received from *In These Times*, a periodical published in Mt. Morris, IL (P.O. Box 1912, 61054-9885) oriented to liberal political activists.
53. Wilhelm, Anthony (2000), *Democracy in the Digital Age*. New York: Routledge (p. 10).
54. Nichols and McChesney, op.cit., p. 92.
55. Remark of Vivian Tenney via e-mail to the *Politalk-US1* forum on campaign finance reform (3/4/2001).
56. Ahrens, Frank (2003), "Senate Panel Approves Tougher Media Rules," *Washington Post* (June 20, p. E01).
57. What is "real"? – not a creature of the media.
58. See Verba, et.al. (1995), whose study reveals to what degree "willing" is dependent on "able," and vice-versa.
59. The notable exceptions are community-based sites.
60. Quoted by Julie Salamon in "A Station Pursues Both the News and the Audience," *New York Times* (October 9, 2001, p.E8).
61. As with the reference to "character" in President George W. Bush's Inaugural Address and Stanley Hauerwas' reference to "truthful communities" in his book *A Community of Character*.
62. McKibben, op.cit. (see footnote 36).
63. For more on this, see Kohn, Margaret (2001), "The Mauling of Public Space," *Dissent* (Spring).
64. The quoted phrase is the main title of the book by Daniel Yankelovich (1991), cited earlier, on how the media should do more than use polls to reflect the opinions of the moment or as fodder for the evening news. See also Kay, Alan (1998), *Locating Consensus for Democracy*. St. Augustine, FL: Americans Talk Issues, on "public interest polling."
65. Quotations here and preceding, as well as the following examples, are drawn from Rosen, Jay, and D. Merritt, Jr. (1994), "Public Journalism: Theory and Practice." Dayton, OH: the Kettering Foundation.
66. As in TV renderings of "Little House on the Prairie" or Garrison Keillor's "Lake Wobegon" monologues on "Prairie Home Companion." A much longer list of examples could be compiled.
67. The movie is an inspiration and the reception that it received was heartening, but the word "rare" is important. The movie also misleads. You don't have to be like the heroine – you don't have to sacrifice your all on the altar of political activism to be able to make a positive difference to the quality of life in your community.
68. Kemmis, Daniel (1990), *Community and the Politics of Place*. Norman, OK: University of Oklahoma Press. Dan is a former state legislator, Speaker of the House in the Montana Legislature and Mayor of Missoula. He is quoting from Arendt's book *The Human Condition*.

69. "vanishing table" also refers to the lack of conversations on politics and the issues of the day around family dinner tables which have nurtured both public and private leaders. Anne M. Mulcahey, Chief Executive, the Xerox Corporation, for example, recalled from her childhood that "dinner was a time to be provocative, to discuss politics, religion, current events, anything that was contentious. You had to participate..." See "Shaped by Family Debates," *New York Times* (October 10, 2001). Many more such recollections have been seen or heard from political leaders as well. Thus, both public and private-sector leadership may spring from the same (diminishing) family "table" source.
70. Kemmis, op.cit., p. 7.
71. Kemmis, op.cit., p. 7. The quote is from Berry's book *The Unsettling of America*.
72. Meyrowitz, op.cit., p. 17. He continues, wondering whether "electronic sensors will return us to village-like encounters but on a global scale." (p. 18) Others wonder whether they will "return" us to "1984."
73. For instance, during the winter of 2002-03, Town Meeting had to be convened three times before a quorum was present, even though tax bills and other town business had been held up.
74. Clift, Steven (2000) "Democracy is Online," *OnTheInternet magazine*. Internet Society (March/April 1998, p. 1). Did you sense the sarcasm in the final line of this quote? If you did, good for you. I didn't. Via e-mail, I questioned Clift about his reference to TV and, of course, he set me straight. Boy, did I feel dumb when I received his response!
75. You can tell that the central figure is a "workman" by looking at his hands even though there is also a contrast of dress. The figures on either side of him are wearing suits.
76. A "superconnected" person exchanges e-mail at least three times a week and uses four technologies: cell-phone, beeper, PC and laptop. A "connected" person uses three of the four technologies. A "semi-connected" person uses some of the technologies but not e-mail; "unconnected," none of the technologies.
77. Long before either his book came out or the survey was done, Putnam had put forth his thesis in an article with the same title that, like the book, received a good deal of attention and generated a great deal of controversy.
78. Katz, Jon (1997), "The Digital Citizen." *Wired* magazine, no. 5.12 (December).
79. Keller, Ed, and Jon Berry (2004), *The Influentials*, Washington, D.C.: Institute for Politics, Democracy & the Internet, Graduate School of Political Management, The George Washington University (quote from the Executive Summary accessed via <http://www.ipdi.org/Influentials/Report.pdf>).
80. *Ibid.*, op.cit.
81. Advertisement of Starboard Response, San Luis Obispo, CA 93406, in *The Washington Times National Weekly Edition*, Family and Culture section (July 6-12, 1998).
82. Not perhaps even now. In 2002, largely because of screw-ups by their Governor and elected representatives, people in California found that they couldn't take electric

- power for granted. In 2003, people in New York and a broad swath of states through Ohio and into the Midwest found out the same thing during "The Great Blackout." Thus, *The Economist* could refer to "the powerless masses" in the August 25, 2003 issue. The double meaning here was apparently deliberate. Faith in technology was undermined by "a system in chaos," yet people's response to the crisis, especially in New York City, seemed to boost their faith in each other and their local communities, at least for awhile. See *U.S. News & World Report* article by Marianne Lavelle titled "Gridlock," September 1, 2003, p. 30.
83. Two books highlight this aspect: Gleick (2000), *Faster*; and Davis (2001), *Speed is Life*.
84. Quotes from Lasch here and just prior are drawn from his article "Journalism, Publicity, and the Lost Art of Argument," *Kettering Review* (Spring, 1995, pp. 44-50).
85. A problem we're running into here, however, is a possible "privacy" issue. Advertisers are trying to reach you with customized ads but they can't customize without knowing a lot more about you. So they are building massive data bases on business customers so that they can do targeted marketing focused on a target of a single individual—you. Political candidate marketing is going the same way.
86. Views conveyed to the author in private conversation, August 26, 2003.
87. Quoted from Chapter 7, "Building Civic Life Online", of Clift's (2000) opus: *Democracy is Online 2.0*, the closest thing to a "bible" for e-democracy that I have yet found. As of this writing, it is still available only online via www.e-democracy.org/ do; that is, via Clift's excellent *Do-Wire—Democracies Online Newswire*. The *MN-POLITICS* site is at www.e-democracy.org/mn-politics.
88. *Do-Wire* of 6/14/2001 (from clift@publicus.net - click here to send an e-mail to Steve).
89. *Do-Wire* of 8/18/2003, p. 1.
90. As emphasized, for example, in Clift's [DW] Report of 2/5/2004: "a single, well-edited, concise, weekly e-newsletter...is essential."
91. *New York Times*, "Arts and Ideas" section front page article by Alexander Stille (June 2, 2001).
92. Limbaugh, David (2001), "Moderation in all things? Not quite." *Jewish World Review* (June 6).
93. Quotes from "Want 2b Friends," by Kristi Palma in the *Sunday Eagle-Tribune* (August 17, 2003, p. E1).
94. Sunstein, Cass (2001), op.cit. Note, moreover, that a study on "The Consequences of Cross-Cutting Networks for Political Participation" observed that "social accountability (peer) pressures in cross-cutting networks discourage political participation." See the article by Diana C. Mutz in the *American Journal of Political Science* (Vol. 46, No. 4, October, 2002, p. 838).
95. Quote from *The Atlantic Monthly* (September 2003, p.29).
96. Clift, Steven (2000), op.cit., p. 2 of Chapter 7, Draft 3.1.

97. Is there something in the water of the state of Minnesota that has given rise to models of democratic process that can inspire those of us in other states?—not only e-democracy and *Politalk* but the three-way gubernatorial debates that led to Jesse Ventura being elected?
98. I was both a resource person and a participant in the forum on campaign finance reform, for example.
99. Cited in the Bibliography, respectively, as Kush, Christopher (2000) and Bowen, Charles(1996).
100. McCain also elicited a great number of volunteers for his campaign, too, but I can't relate to that from my own experience. One of the big questions left over from the 2000 political season is what became of the McCain and Bradley volunteers after their candidates dropped out. Are they still involved or did they drop out, too?
101. "Politics Online: Internet Tools for Politics" (www.politicsonline.com), 1/31/2002, p. 1.
102. This is truly a "footnote" to McCain's 2000 campaign. One of his Internet addresses was for sale on the Internet. Anyone want to spend several thousands of dollars so that Americans can continue to channel on "straight talk" via the 'Net without having to read the usual promotional newsletter(s) from an elected official?
103. See, for example, the publication *Washington Technology*.
104. Snider, J.H. (2001), in *Government Technology* (August 1).
105. CNN has a website as well as a TV channel, as watchers are frequently reminded.
106. The answer, according to Alan Kay, is 'not much,' which is why he has devoted so much of his valuable time and creative talent to designing and advocating an approach to what he calls "public interest polling." See Kay (1998), op.cit.
107. 21st Century Faxes, Ltd., 331 W. 57th St., PMB 504, New York, NY 10019. A response fax to 1-900-370-3200 (YES) or 1-900-370-9400 (NO) costs \$2.95 per minute.
108. This is hardly an academic concern since President Bush cancelled Clinton's rule allowing the use of federal funds to support population planning initiatives that include counseling on abortion in such countries as India.
109. A key question that seems unavoidable here, however, is: What does it mean to be an elected representative? If a poll showed that most constituents were against a certain measure, can the representative vote against it and still be (a) "representative"?
110. Cartoonists had a field day along with late-night comedians. One cartoon pictured a joking face on a map of the U.S. highlighting Florida and California, with the face in Florida saying to that in California: "We're not laughing with you." See cartoon by Bill Mitchell in the *National Journal* of August 13, 2003.
111. The key potential, the greatest enabling potential of the new technology, in my opinion, is "distributed intelligence." See "Mining the Minds of the Masses: Researchers Muster Online Volunteers for Collective Brainpower." *New York Times* (March 3, 2001).

Peter Bearse
 112. This designation was coined by urban planner Melvin Webber (1964), in *Explorations in Urban Structure*, and employed more recently by Sharpe and Wallach (1987), "From the Great Town to the Non-Place Urban Realm," in *Visions of the Modern City*.

113. Meyrowitz, op.cit., p. 308.

114. At this point, if this were an electronic, multi-media book, you would hear a passage from Pink Floyd's *The Wall*: "Take down the wall! Take down the wall!" (EMI Records, Ltd., United Kingdom, 1994). Recall that one of the greatest boundary-busting events in history was the destruction of the Berlin Wall not long after Ronald Reagan, with an only slightly different combination of words, said "Take down the wall" to Mikhail Gorbachev.

115. Meyrowitz (1985), op.cit., p. 64.

116. The quote is from Meyrowitz, p.310, but it is based upon work by the French sociologist Foucault which documented the "trend." More recent work by James C. Scott (1998), *Seeing Like a State*, is also illuminating in this regard.

117. Quoted from a July 31, 2003 press release of Common Cause titled: "In the FCC Rules Debate, Will Two Million Voices Trump \$124 Million." See www.commoncause.org.

118. The Senate bill is titled "The Preservation of Localism, Program Diversity and Competition in Television Broadcast Act of 2003." The quote here is from another Common Cause press release, dated July 18, 2003, titled: "July 18 Report from the House of Representatives: House appropriations committee stands up to big media."

119. Quoted in an editorial in the *The Eagle-Tribune* (Lawrence, MA, Tuesday, July 4, 2000, p. 6).

120. Bill Carter's remark in "Survival of the Pushiest," *The New York Times Magazine* (January 28, 2001).

121. Similar to stories our fathers and grandfathers read in school nearly 100 years ago, as in: Coe, Fanny E. (1911), *Heroes of Everyday Life: A reader for the upper grades*. Boston: Ginn and Company. The preface to this delightful old book observes that: "A rarer quality than military valor in the citizens of our own land or of any land is that form of moral bravery known as civic courage." (page v). We saw such courage exhibited most recently on September 11th, 2001.

9.

Year 2000 and the Agenda for Reform

- 2000: What a Year! Threshold of Change? Reform as a Subtext of the Year 2000 (and 2004?) Presidential Campaign
- Populism and Participation in the Politics of a Presidential Election Year
 - The 2000 Primary Season & Reform
 - Presidential campaigns
 - Campaign Finance Reform: Debates
 - Campaign Finance Reform: Legislation
- Other Reform Initiatives Stemming from 2000
 - Florida, the Count and Election Reform
 - Other Propositions for Election Reforms
- Postscript to the 2000 Election
- Goodbye to Bill Clinton
- Prognosis, Postlude, New Beginnings and Reform Redux

Executive Summary

From the standpoint of real political reform, election year 2000 started with a bang and ended with a whimper. Ironically, campaign finance reform (CFR), though supposed to reduce the role of money in politics, focused only on money. No value was assigned to the people's time as political volunteers. Both CFR and election reform initiatives took steps to federalize campaign finance and elections that bordered on being unconstitutional. Bill Clinton's exit served to remind us how he depreciated the coin of political life even while focusing attention on an imperial Presidency and national politics. Both our attention and the reform agenda need to be refocused on state and local initiatives and political parties that recognize the value of people's participation in the whole process of electoral politics, not just voting. In these terms, 2000 revealed some signs of hope, that the "old politics"—bringing people back into the process—could make a significant difference to the outcome of new political races, as witnessed by the impact of Democratic labor unions putting more workers on the streets, and by Republicans mobilizing people to get out the vote in key Congressional districts.

Dear Attorney Deutsch:

I put a supplemental letter and set of attachments into the express mail to you yesterday.

Additionally, as I reflected on the rulemaking and regulatory enforcement problems that your agency faces in the "Internet communications" area and upon some of the bloggers' testimony, a couple of other suggestions came to mind.

One, implied by Mr. Stoller's testimony, is that the agency look seriously at self-policing options. Some Federal agencies; e.g., the SEC, rely upon these together with regulation to ensure good behavior in arenas such as the capital markets where there is at least as much at stake as with campaign finance reform (CFR). As I mentioned in my letter to you of yesterday, an overwhelming proportion (I would guess over 98%) of bloggers are surviving on "a wish and a prayer," financially. Their efforts, like most of my own in this area, can be characterized as labors of love, not for money. They and the millions of people who visit their sites have a direct interest in maintaining the Internet as a venue of "grassroots" political participation that is uncorrupted by big money. This interest provides an incentive for a self-policed CFR system.

I can imagine, for example, a "CFR Watch" arrangement by which those engaged in political "speech" over the Internet would watch out for violations. Such self-policing options deserve, indeed require, much more attention than was accorded them during the hearings.

Yours sincerely,  PETER BEARSE, Ph.D.

2005 JUL -6 1 P 3:36
FEDERAL BUREAU OF INVESTIGATION
OFFICE OF THE ATTORNEY GENERAL

Comments for FEC by Duncan Black

June 29, 2005

Good afternoon. My name is Duncan Black. I run the Eschaton weblog located at atrios.blogspot.com, and I appreciate the opportunity to contribute my remarks to this very important process.

I'd like to use my brief time to address one of the central issues - are bloggers entitled to the media exception - because I believe that many people have been asking the wrong question. Frequently the question is raised regarding whether or not bloggers are "journalists," the implication being that if the answer is "no" that the media exception should not apply.

However, this takes a very narrow (and incorrect) view of what the media exception is applied to, and a very narrow definition of what comprises our modern media.

We hear it said that bloggers should not be entitled to the media exception for a variety of reasons. The reasons given include:

- Bloggers don't do much original reporting.
- Bloggers are overly opinionated, ideological, or partisan.
- Bloggers engage in activities such as fundraising or candidate advocacy.
- Bloggers are irresponsible because they engage in hyperbolic or nasty speech.
- Bloggers have received money from campaigns, for direct advertising or on a few occasions for consulting services.
- Bloggers publish a lot of misinformation.

I won't bother to defend bloggers against these descriptions. Each is true to a greater or lesser degree, depending on the blogger. It's only the last one that I consider to be an actual potential flaw, though it certainly isn't a flaw unique to bloggers.

What I would like to point out is that all of these features are pervasive throughout our modern media and have not generally been raised as reasons to deny other outlets the media exception. The media exception doesn't simply apply to what we would consider to be "responsible balanced journalism." The media exception applies, for example, to talk radio hosts, who do little original reporting, are opinionated, sometimes engage in fundraising activities on and off the air, certainly engage in hyperbolic and nasty speech, may receive money to consult for campaigns without any legal on air disclosure requirements, and, as my affiliation with a media watchdog organization allows me to attest, regularly and repeatedly broadcast misinformation, deliberately or not.

This isn't limited to talk radio. Highly ideological and opinionated magazines exist all over the political spectrum. Tabloid newspapers are generally much more opinionated than broadsheets and frequently use less than polite rhetoric. Cable news is filled with partisan hosts and guests, sometimes in a "fair and balanced" fashion and sometimes not. Guest who are identified as "political strategist" or "political consultant," are almost never asked to disclose their political clients on air even while discussing them. Some with consulting firms have even been hosts or

co-hosts of their own television shows. James Carville and Paul Begala were Kerry campaign advisers while hosting CNN's Crossfire, and while this was occasionally disclosed it wasn't legally mandated. Broadsheet newspapers have opinionated editorial pages, and the endorsement of candidate by their editorial boards is standard practice for most of them. Syndicated columnists have used their column inches to suggest that readers donate to politicians or parties.

For my readers, I occasionally provide scoops or original reporting. I provide a lot of commentary and opinion. I engage in various forms of activism and fundraising, though no third-party money for candidates for parties has ever passed through my hands or bank account – I provide a link to the campaign site, and the money flows directly. I sometimes use hyperbolic speech. The only money I've ever received from campaigns was for advertising, which anyone is welcome to buy, subject to my approval of the appropriateness of the ad. I've frequently published incorrect information inadvertently, most of which I believe I have promptly and prominently corrected. In all of these things I am not significantly different than the rest of the various elements of our modern media.

My site receives about 100,000 visits per day. Over the roughly 3 year period I've operated the site my out of pocket direct expenses, aside from maintaining a working computer and paying for a standard broadband internet connection, have probably been under \$150. Some bloggers spend more on their sites, but the point I am making is that they don't have to.

Let me offer the following illustration. Consider the case of Joe Trippi, former campaign manager for Howard Dean, a political consultant, and at times a regular media presence. During the 2004 campaign season he was consulting for congressional races. He was also a regular contributor on MSNBC television. He also wrote regular "blog entries" for their companion website MSNBC.com. The media exception means that none of these activities would face scrutiny by the FEC. However, he also operated a personal website, joetrippi.com, on which he talked about news and politics. I'm concerned that we're heading down a path today such that his appearances on MSNBC television would invite no FEC scrutiny, his writings for MSNBC.com would invite no scrutiny, but his activities on his own web site would be subject to scrutiny. This would baselessly privilege elite and expensive media backed by large corporate conglomerates over internet communications, in seeming opposition to the spirit of campaign finance law.

Campaign finance laws were enacted to limit the disproportionate impact of big money on the political system. While I understand that medium-specific regulations may be necessary, I'm troubled by the fact that participants in this emerging medium, which allows anyone the opportunity to participate in the national political discourse at a minimum cost, would face stricter regulation and stronger scrutiny, along with the potential for ruinous legal expenses, than would participants in media outlets owned by large corporations such as Time Warner, General Electric, and Disney. I do not believe such discrimination would be tolerated under the First Amendment.

I thank you for your time and this opportunity, and I look forward to answering your questions.

A User's Guide to DailyKos.com

By Markos Moulitsas Zúniga

As a supplement to my written and live testimony, I have prepared this handout to help the understand how DailyKos.com operates. I started the site in July 2002. The site now receives more than 12 million hits per month, making the most successful political site on the internet.

Daily Kos Home Page

DAILY KOS

Kill ads! subscribe now.

Advertisement

HEART of the DEMOLDER
www.Baholder.com

Remove the blasphemous filth from your store or we'll make it our holy crusade to put you out of business.

A young couple endure harassment and death threats until they lose everything when a fanatical religious group blackmails the prosecutor into turning them over rental of Merlin Scorsese's film, "The Last Temptation of Christ."

But the couple gets something the powerless seldom do.

THE STATE OF THE NATION

Menu

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Tools

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- Hidden Comments

Recommended Diaries

Please Support Keith Olbermann
by JustWinBaby
31 comments (22 new)

Don't blow off the simulators. Be STANFORD

Internet 12:57 PM

This is the "Main Page" of DailyKos.com. The website comes in three sections. The primary column, located down the left side of the screen, is what is commonly called the "front page", which is what loads when a visitor goes to <http://www.dailykos.com>. The people who write stories that appear there are known as "front page posters", including me. These stories contain links to breaking news, original political commentary, calls to action and other items.

Readers can see an opening paragraph or two there and then click "There's more" to read the rest of the story. Readers can add their own Comments to each story but only after they register. Users have the ability to navigate the site and read user-submitted stories ("Diaries") using the menu on the right. The middle column has advertisements.

User registration is free, though for a fee users can pay to eliminate all advertising. While anyone can read the site, only registered users can post responsive comments, post their own Diaries, and have the site track which threads have new comments. In addition, registered users can maintain a "Hotlist" which tracks stories of interest on the site, and alerts them when other users have responded to their comments.

Users are known by user names, whether first names ("Armando", "ProfMatt"), nicknames ("emptywheel", "Plutonium Page") or otherwise. A user's true identity is only revealed as much as the user chooses to reveal through his posts – I do not collect real names, addresses or other identifying information from users beyond their email addresses.

Discussion Threads

Daily Kos: Schaudenfreud: Wishing Miller Ill: But What of Freedom of the Press? Microsoft Internet Explorer

File Edit View Favorites Tools Help

Back - Forward - Stop - Search - Favorites - Go

Address: http://www.dailykos.com/story/2005/6/27/154113/650

Google - Search Web - 307 blocked

Agreed. Its hard to reconcile... (none / 1)

but ultimately freedom of the press trumps my loathing of Miller.

Reigning Welterweight Female Prefighter since 1998

by shingleton on Mon Jun 27th, 2005 at 15:13:07 EDT

[Parent] Reply to This [none] [Rate All]

Although freedom of the press is paramount... (none / 1)

...there is a difference between the journalistic privilege that protects a reporter's source and what Miller (and others) are doing.

The privilege should apply to news gatherers and reporters in the course of their job. There is no privilege for a propagandist who is conspiring with a government individual or agency to plant or leak information as part of their political agenda.

The Media Is Dead. Long Live NewsCorporation!

by EmptyWheel on Mon Jun 27th, 2005 at 15:24:16 EDT

[Parent] Reply to This [none] [Rate All]

I think the distinction (none / 0)

should be that the privilege does not extend to a situation in which the source's communication with the reporter is itself a federal crime.

(although my wife points out that that in that case, there might be no privilege when the source divulges classified information, in which case I'll have to rethink my position)

by ProfMatt on Mon Jun 27th, 2005 at 15:36:55 EDT

[Parent] Reply to This [none] [Rate All]

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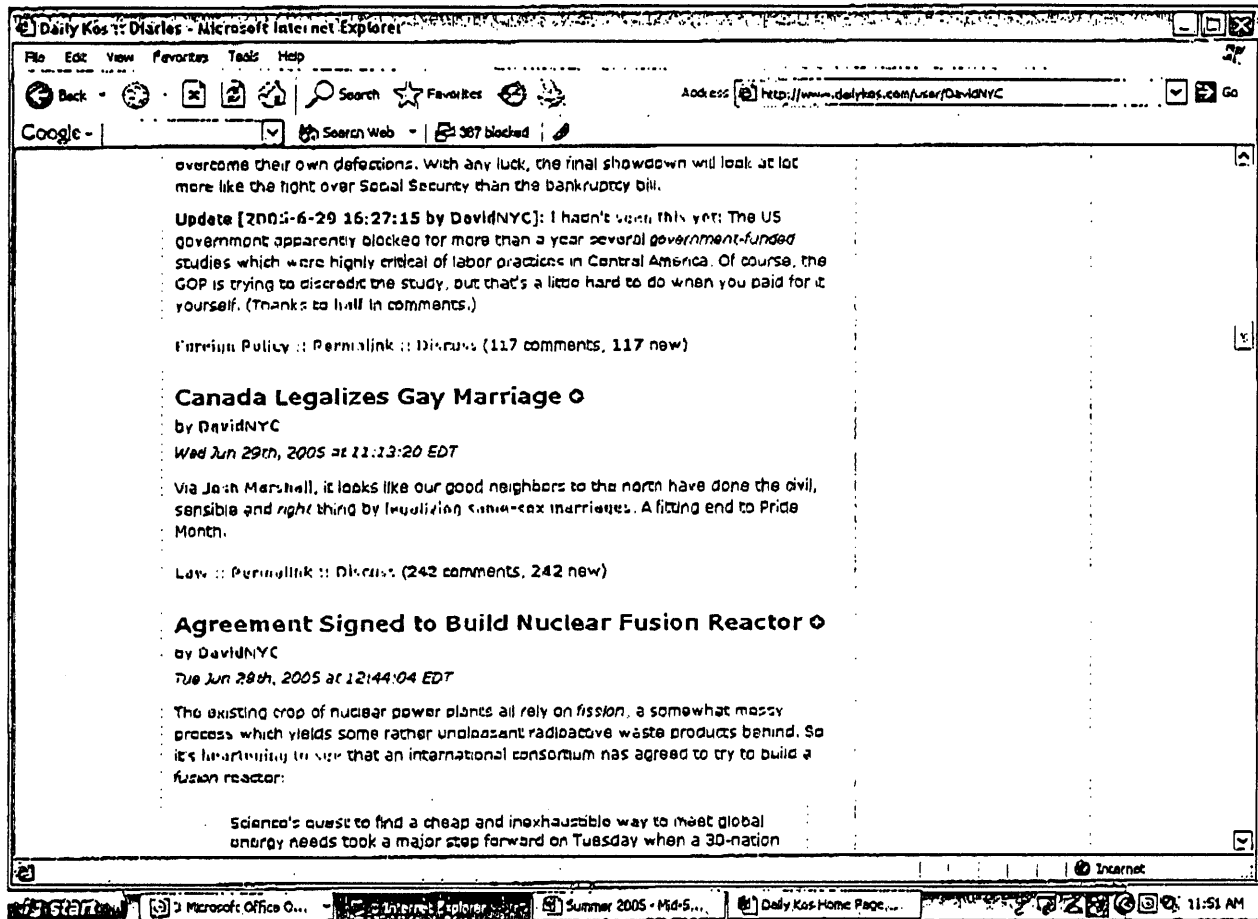
Microsoft Office Word - Microsoft Word - Docs Open - Daily Kos: Schaudenfreud: Wishing Miller Ill: But What of Freedom of the Press? 3:58 PM

Upon clicking on a front-page story or user-posted diary, registered site users can post their responsive comments and participate in a "discussion thread". A "comment" is a message that a registered user adds to an existing article. In the above image, users are reacting to an article discussing the Supreme Court's decision to not hear an appeal of a judge's ruling holding two journalists in contempt.

Comments are "threaded" – each comment is placed on the page that reflect which comment is being responded to, and each discussion can expand into multiple sub-threads, like limbs on a growing tree.

Registered users are also empowered to rate each other's comments based on helpfulness or offensiveness, on a scale from 0 to 4. A comment accumulating a number of 4's indicates to other readers that a post is particularly instructive or noteworthy; a comment accumulating numerous 0's for offensive content will be automatically deleted from general view, and a poster with repeated offensive content may be barred from posting privileges. It is worth noting that political disagreement, alone, is never enough to merit such treatment.

Diaries

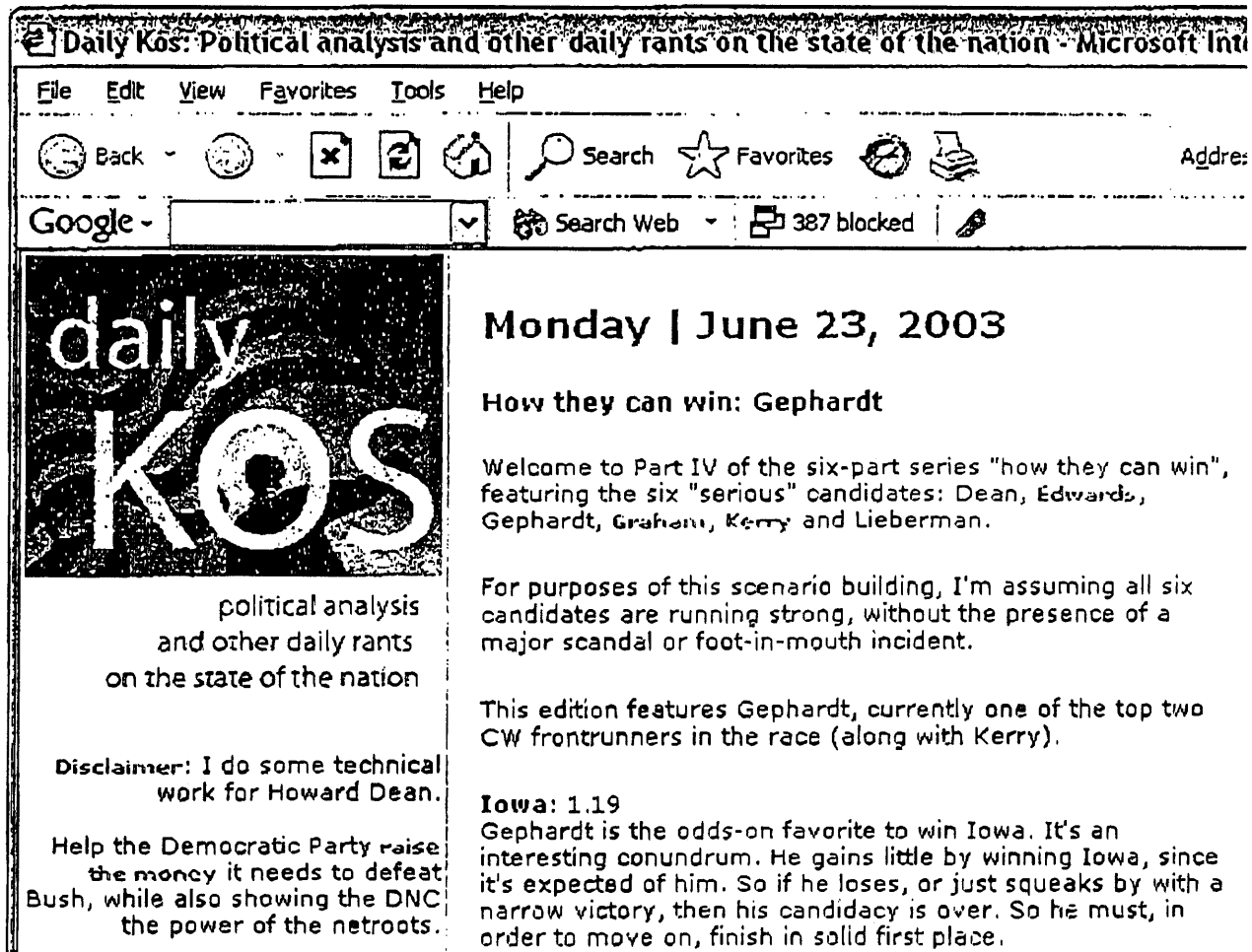


The other half of the website are the Diaries. These are articles written by registered visitors to the site, which they are free to do without pre-clearance or editing by me or anyone else. They are listed down the right-hand column of the front page in chronological order. Users have the ability to recommend each others' diaries, and the software on which the website operates automatically promotes the most recommended diaries of the day to a prominent position atop the site's right-hand column.

By clicking on a user's name, a reader can pull up all the diaries, or even all the individual comments, posted by a particular registered user. The above image shows the page for user DavidNYC's diaries, including a story about the legalization of gay marriage in Canada which prompted 242 responses, as well as science news on nuclear power development..

DailyKos limits users to two diaries per day. The diaries must be original content and not repeat other diaries.

Disclaimers



Because the issue of my consulting for Governor Dean emerged during the hearings, I wanted to reproduce the disclaimer from my site during that period. Above is an enlargement of the home page from June 23, 2003, which is indicative of how prominently the disclaimer remained during my consultancy.

Clicking on the word "Disclaimer" brought users to a page which read:

Daily Kos: Full Disclosure - Microsoft Internet Explorer

Back - Home - Favorites - Media - File Edit View Favorit

Address <http://web.archive.org/web/20030619171103/www.dailykos.com/archives/002972.html>

Links BR CNN.com DKhot ESPN.com Firm Intranet FLB FO Hotmail NYT Philly.com Pi

Google - Search Web 7710 blocked

« Previous Entry | Next Entry »

Monday | June 09, 2003

Full Disclosure

I've been on the road a lot the past few months. Some of it was for my day job as a web developer. But the bulk of it was for my new political consulting firm (alongside my partner).

I spent this weekend in Burlington, VT, where we officially accepted work on behalf of presidential candidate Howard Dean. Dean joins a Senate candidate in our still small but hopefully growing roster of clients.

Of course, this means many of you will accuse of me of certain biases (with good reason).

That's fine. I never claimed to be free of bias. But I've always been able to see past such biases to do what I love to do -- analyze the political landscape. For example, I'm biased against Gephardt, yet have had no problem slapping him in first for the Cattle Call. My approach to writing will remain unchanged. I won't turn this into a rah-rah for Dean site. That's just not my style.

Ultimately, I trust you all to take what I write with the proper grain of salt, fully appraised of whatever conflicts of interest I may have.

But for the record, I will not discuss my role within the Dean campaign, other than to say it's technical, not message or strategy. I will also not discuss any of my other clients, including their identities (I have non-disclose agreements to which I must adhere).

Some of you may be upset, but there's nothing I can do about it. I have to make my living, and if I can do so helping

Home

Archives

- Bush, Administra
- Business and Eco
- Congress
- Elections
- Environment
- Foreign Policy
- Law
- Media
- Misc.
- Religion
- War

© 2002. Steal all

Done

start DOCS Open Internet Explorer Inbox - Microsoft Out...

Address

The full page is visible at <http://web.archive.org/web/20030619171103/www.dailykos.com/archives/002972.html>

Eschaton

By Duncan Black

As a supplement to my written and live testimony, I have prepared this handout to help the understand how Eschaton operates. I started the site in April 2002, and other than the addition of advertising, the structure remains unchanged since that date. The site now receives more than 3-5 million hits per month, and is the most popular weblog using the free Blogger.com service.*

Eschaton - An Online Magazine of News, Commentary, and Editorial

Philly Folk: New Drinking Liberally Location: Tangier, 18th and Lombard

check to have links open new windows

Wednesday, July 06, 2005

Cooper to Testify

This is getting silly.

NEXT says:

Cooper took the podium in the court and told the judge, "Last night I hugged my son good-bye and told him it might be a long time before I see him again."

"I went to bed ready to accept the sanctions" for not testifying, Cooper said. But he told the judge that he left before his only afternoon appearance, he

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Don't let Bush's choice end yours. Click Here.
Tell your Senators: Don't let Bush replace O'Connor with a man who will end a woman's right to choose. Stand for freedom with NARAL Pro-

This is the home page, located at atrios.blogspot.com. Eschaton is hosted on the blogspot.com domain, which is available free to any internet user. Eschaton is a more basic site than DailyKos, with columns of advertisements on the left and right, and blog entries in the middle of the page. Simple, unformatted text predominates, and except when I am away, I provide all the content on the site.

* (See <http://www.truthlaidbear.com/TrafficRanking.php?start=1> for full rankings)


Comments

Haloscan.com - Comments - Microsoft Internet Explorer

<wap>
 well it doesn't matter anyway if Rove looked Plame's name
 because almost everyone know she worked for a fake company
 and Joe Wilson was a partisan Democrat anyway.
 </wap>
 renqo | Email | 07.06.05 - 2:53 pm | #

Why is it silly? He's blinking first, He was willing to try the anklet, but doesn't
 actually want to go to prison.
 loser | Email | 07.06.05 - 2:59 pm | #

I'm glad Cooper's not going to jail, because I don't think he's in the same
 class of reporter as Miller. And please please please let his testimony create
 the "chain of culpability" that Rove's dodged for so long.
 I wanna know what Miller's gonna do: rat on her buddies or toddle off to jail?
 Interesting...
 jiggavages | Homepage | 07.06.05 - 2:54 pm | #

That had to be the dumbest article from the AP I've seen in a
 while. 

So what was the "dremene fashion"? did the source faint? have hysterics? the
 vapours?
 four legs good | Email | 07.06.05 - 2:54 pm | #

3:09 PM

As opposed to the comment threads on DailyKos, the free Haloscan service used on Eschaton does not allow for user registration or comment threading. Instead, each poster enters her name with each post (including email address and homepage, if desired), and there is no verification as to whether the poster is who she claims to be.

As I mentioned in my testimony, I have spent no more than \$150 in direct operating costs over the past three years to maintain the site, aside from maintaining a working personal computer and internet connection. All the services mentioned here are available free to all Internet users, are fairly easy to implement, and require little or no technical knowledge

Campaign Finance and the Internet: A Proposal for a 'FEC Public Communications Database'

By Matt Stoller

Abstract: This is a proposal for an affirmative regulation requiring all registered Federal political committees to promptly disclose to the FEC all mass public communications, which will then quickly be placed into a public archive called the 'FEC Public Communications Database' for dissemination and analysis by the public.

Thank you for letting bloggers testify about applying campaign finance reform laws to the internet. The whole experience involved a melding of two different worlds, and hopefully, we will bridge them. As the FEC Commissioners work to apply regulations to the internet to comply with campaign finance legislation, we would like to propose a way that the principles behind the campaign finance legislation - the elimination of corruption and the protection of the First Amendment - can coexist on the internet. By slightly reinterpreting the phrase 'public communications', our proposal may also allow the FEC to reasonably and responsibly act on the Shays-Meehan lawsuit, without creating an excessively intrusive regulatory architecture.

Before we get into this proposal, let's look at how the FEC currently uses the internet to augment its mission, and see if there are not lessons to be drawn when understanding the nature of regulating 'public communications' online. You don't have to look far. Indeed, among the least controversial and most effective regulatory mechanisms the FEC has designed is not a rule telling people what to do, but a database. Specifically, the FEC donor database, a public and searchable archive that allows any citizen or journalist to research the donors of any registered Federal political committee. When combined with the power of the internet, a bevy of anti-corruption tools - such as opensecrets.org - were created by the public for citizens to access and use. Any citizen can sleuth and hold campaigns accountable for their donor base and communicate that to others through traditional and internet channels. As more people go online, this power of ordinary citizens to fight against corruption will grow.

There are lessons here that we could use to keep political corruption out of the political process. The reason the FEC donor database's success is amplified in the internet age is because it works with the architecture of the internet. For instance, regardless of whether prescriptive behavioral rules limiting donation amounts to candidate committees (rules we support) are a wise course of action, the internet has given these regulations more powerful teeth by making the required disclosure information accessible to everyone at the click of the button.

Transparency yields remarkable benefits. In other words, public disclosure and citizen investigations can be a powerful mechanism for regulation. This has of course always been true, but the internet supercharges the ability of moral suasion by multiplying the number of media outlets available to supervise the political process. Because of the internet, the FEC has an added tool in its toolbox. Aside from telling organized entities what they can and can't do; the commission can now force political actors to consider whether they are willing to be held publicly accountable for their political communications.

So let's turn the problem of political corruption from money in the process around, and unleash citizens on the problem of corruption rather than just a regulatory agency. To that end, a wise and unintrusive thing the FEC could do to root out corruption in the campaign world would be to create a public database for communication by Federal political committees. This 'FEC Public Communications Database' would be an archive of all communications coming from any Federal registered Political Committee that is distributed to more than a set number of people, such as the 50,000 for reporting electioneering communications.

Every direct mail piece, every TV spot, every radio spot, every email, every official blog entry - would be part of this publicly archived and searchable database within 24-48 hours of its release. This is not hard in the age of Google - databases like this exist and the technology to create one for the FEC is at this point a commodity. A model for such a database is the Internet Archive, at www.archive.org, an organization dedicated to archiving the internet, or even the FEC's own Electioneering Communications database. By creating such a database, just as political committees now must stand behind who gives to them, they will also need to stand behind what they say.

The creation of such a database avoids many serious problems posed by the intersection of old regulations and a new world. First of all, it will naturally change along with technology. Should a new type of technology appear to displace or augment blogs, it would not matter. Second, the FEC Public Communications Database wouldn't impose a restriction on anyone. No one is prevented from doing anything, it's just that what political committees do is open to the public. Third, if designed well, such a system is not confusing to the public or political committees. Fourth, such a database would not necessarily preclude other forms of regulation, just as the FEC donor database doesn't by itself impose restrictions on donations. It would work with existing regulations. Fifth, the FEC could extend this regulation to groups that act like political committees, which would be a less intrusive regulation than other extensions of the FEC's regulatory realm. Sixth, such a system would combine naturally and effectively with state-wide databases, should states choose to emulate the FEC.

The benefits are manifold. Citizens will be able to use the tools of the internet to comb and talk about campaigns, drawing from the FEC Public Communications Database. With this enlarged public sphere, they can engage in a more open political discourse. And candidates in office will have a complete record of everything they asserted during their campaigns, searchable by the public. This in itself is a substantial restriction on corruption, with a natural enforcement mechanism.

Right now, even without such an FEC database, the internet is still the most transparent mechanism for political communications, which is why at the testimony you heard such laudatory comments from various witnesses about the internet and politics. Public websites can be seen by all and Google and other services archive large parts of them. When an embarrassing communication inadvertently appears on a website and is hastily yanked away, it can be logged by an enterprising Internet user and redistributed online.

While it would still be useful for the FEC Public Communications Database to archive internet communications, it's also the use of the internet to store other communications - radio/direct mail/tv - that provides the immense added value in terms of elevating public discourse.

Creating a system like this will not change the amount of money in politics, but it will do something at least as important - it will change the amount of power money can buy in politics. For as we showed in our repeated discussions of the fake Mazda blog,¹ what organized commercial centers of power find when they go online is that the more prominent they are, the less control they have over the conversation. This is true in the political world as well. If the FEC gives citizens more tools to engage in robust public communications themselves, it will dramatically change the architecture of political discourse. In addition, by pulling all offline communication onto the internet, the FEC Public Communications Database would foster genuine public communication and conversation around what political committees are most trying to hide.

There are logistical problems with such a system, and there will be somewhat inconvenient reporting requirements for registered political committees. For instance, web sites and blogs may attract more than 50,000 readers, or they may not (though it's worth noting that archiving these already public communications is not hard, especially if campaigns are told not to unpublish their sites or delete blog posts). Still, these are not hard problems to solve, nowhere near as difficult as deciphering the current maze of regulations and law.

Preventing corruption and the appearance of corruption in the political process is a difficult task, but one necessary for the health of our democracy. By forcing political actors to disclose not just who gives them money and what they spend it on, but also what they say, the FEC can use the internet to dramatically supplement the current regulatory architecture and better fulfill its established mission.

¹ See http://www.splatt.com.au/blog/archives/2004/11/mazda_blog_come.html, <http://www.jalopnik.com/cars/ads/promotions/mazda-blog-bustcd-as-viral-marketing-gimmick-is-taken-down-024942.php>

ENGLISH FIRST

OUR SYMBOL IS THE STATUE OF LIBERTY TORCH, CAPTURING THE SPIRIT OF IMMIGRANTS WHO LEARNED ENGLISH AND BECAME FULL MEMBERS OF AMERICAN SOCIETY

Chairman Thomas and Commission Members:

My name is Jim Boulet, Jr. I have served as Executive Director of English First since 1995. I have been a political activist since 1976.

In 1976, to use a computer required a trip to the computer center in the hope of finding an unoccupied keypunch machine. In 2005, people need not leave Starbucks and its free wireless networks to accomplish in minutes what might have taken me hours or even days during the 1970s.

During the late 1980s and early 1990's, I would upload files to bulletin boards run by volunteer "sysops" at the then-breathtaking speed of my 14.4 fax/modem. Sometimes those files would be transmitted elsewhere via the FidoNet network in 24 hours time.

I built the first English First Internet site myself in 1996. I added a blog in 2002, "English First Daily News and Comment."

It is my hope that this experience will enable me to translate for the Commission what every twentysomething seems to have learned by osmosis.

If I could persuade the Commission of only one thing today, it would be this: regulating the Internet would be in no way similar to its experience in regulating political campaigns or political mail, in any way, shape or fashion.

Say I wished to campaign against a presidential candidate. If I commission advertising and then purchase time for that advertising to air, I am out real money long before I have reached the eyes or ears of a single voter. Yet it is quite easy for the Commission to identify every detail of these expenses and determine how (and by whom) they are paid. Amount of money at stake? Substantial.

Meanwhile, a few unhappy Ohio Republicans could create an Internet web site in mere hours to express their displeasure with Senator Voinovich's tearful diatribe against John Bolton on the Senate floor. Cost? Little or nothing. Ability of the Commission to identify the details of the expenses involved? Limited. Amount of money at stake? Nickels and dimes.

Let us also consider the issue of e-mail for a moment. Political campaigns know that their postal mailings will get through the postal system in a timely fashion. They have no such assurances if they attempt to use e-mail.

(over, please)

Yesterday, a "spam blocker" nearly kept me from communicating with an online business in order to purchase its product. Here I was, standing there, waving money and unable to use the firm's on-line shopping cart and was almost unable to complete my transaction.

A household's postal mailbox is open to anyone who has the price of postage. Their e-mail box, by contrast, is surrounded by the cyberspace equivalent of armed guards and barbed wire. The success rate of unsolicited political e-mail is virtually indistinguishable from zero.

Like everyone in this room, I get nervous when I see an organization, which has vowed to destroy everything I stand for, urge its member to use their web sites and e-mail to spread the word on behalf of their to me loathsome ideas.

But then I am reminded that our First Amendment was passed precisely to encourage political debate. The Internet has strengthened the dialogue so vital to the democratic process. Blogs provided a level of fact checking in 2004 that kept political candidates, and the reporters who covered them, accountable in a way they have not been since the days of the direct democracy of ancient Athens.

It would ill behoove this Commission to exert a chilling effect on this crucial improvement in political communication. Groups like English First or the AFL-CIO pay attorneys and accountants to stay on the right side of the law. If you tell me I can no longer blog on my organization's own web site, I will obey.

But the little guy, accountable to no one but himself and his readers on the Internet, does not have ready access to lawyers. For him or her, even the hint of possible litigation will make talking politics with his friends and neighbors in cyberspace too costly a risk to undertake. We would all be the poorer for his or her silence. Accordingly, the Internet should remain a zone of unregulated political free speech.

Allow me to conclude by saying that I stand by my written testimony as submitted on June 2nd and will gladly address any questions any of you might have for me. Again, my thanks for your time and consideration today.

ENGLISH FIRST

OUR SYMBOL IS THE STATUE OF LIBERTY TORCH, CAPTURING THE SPIRIT OF IMMIGRANTS WHO LEARNED ENGLISH AND BECAME FULL MEMBERS OF AMERICAN SOCIETY.

July 6, 2005

Mr. Brad C. Deutsch
Associate General Counsel
Federal Election Commission
999 E Street NW
Washington, DC 20463

VIA FAX: 202-219-3923

Dear Mr. Deutsch,

Thank you for the opportunity to reemphasize a few key points regarding Notice 2005-10: Internet Communications.

Most organizational web sites are of great interest only to (1) journalists (2) members and allies of that organization and (3) opponents of that organization.

A web site is really nothing more than a store front in cyberspace. People will visit when they wish for reasons of their choice. The Commission itself has an excellent web site, but one that is viewed as people feel they need the information it may contain. There are a good many Republicans who never seek out the GOP's official web site and I suspect there are many union members who spend little or no time on the AFL-CIO's web site despite all the time and money invested in its creation and maintenance.

The Commission must understand that most Internet sites cost money rather than make money. Unless your web site sells pornography or gambling, contains moneymaking information (*Wall Street Journal*) or actually is your entire business (Amazon.com), the Internet is no gold mine. Rather, it is just another cost of doing business in the 21st century.

Given that most Americans are sadly indifferent to political discussion even during hotly contested presidential races, web sites devoted to political questions or ideological rants will always generate relatively low traffic numbers. C-SPAN would hardly be overwhelmed with prospective advertising purchasers should it ever offer to sell advertising during Congressional hearings.

Additional proof of the lack of profit of Internet sites can be derived from the fact that the days of newspapers and magazines making their content available for free online are rapidly disappearing. Onerous registration requirements, which build actual mailing lists for direct

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English First Letter of July 6, 2005 to Brad C. Deutsch
page 2 of 2

marketing purposes, and/or subscriber fees are the order of the day. If the *New York Times* feels compelled to seek new revenues from users of its web site, what does that say about the profit (or lack thereof) generated by NationalReview.com or RedState.org?

A possible exception may be web sites for national presidential candidates. If Howard Dean wins a debate, some folks will want to throw their credit cards at him. But candidate web sites are already part of political campaigns and thus already fully regulated by the Commission.

My second, and last point to the Commission is this: any Internet web site, including a blog, is a pull medium. It does not intrude upon a users computer (with the exception of some of the RSS syndication technology, but must be sought out by someone interested in its contents.

E-mail, by contrast, is a push medium. A computer user can receive e-mail whether he wishes to or not. Because people think of e-mail boxes as private and resent intrusions by strangers or delays caused by overlarge mass e-mails, e-mail must be used cautiously and in ways which create the least reader annoyance by any organization in the persuasion business.

During the hearing I attended, there were Commissioners concerned with the possible abuse of e-mail lists. They need not worry as e-mail lists are self-policing in ways that other methods of public contact are not. For example, unlike postal mail, a person's e-mail box can be set up to block e-mail from any person or entity sight unseen with something called a "Bozo filter."

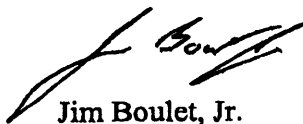
Any organization which sends a mass e-mail with an attached video file will destroy their list of e-mail activists. Any organization which sends an e-mail alert every day will soon burn out their e-mail list.

Even if broad-band access becomes more common, I sincerely doubt most Americans will think downloading the latest campaign ads from a Democratic Party web site is the best use of their leisure time.

English First members are Republicans and Democrats; liberals and conservatives. I suspect this is true of many other organizations, corporations and unions. If any member feels I have crossed a line in some fashion, they are quick to let me know.

The Commission has plenty of work on its plate already. Trying to monitor every word typed on the Internet will consume its staff and resources to no good end.

Sincerely,



Jim Boulet, Jr.
Executive Director



Take Control of Your Inbox®

Sender Verification

Please type the verification code into the box below and click the "verify" button to approve the delivery of your email. You will not need to do this again.

Thank you, Drake

Verification Code: ((type these letters into the box below))



If you cannot see the word, Click here to listen to it.

Enter Verification Code: [creamery] [Verify]

Send me an email confirming my verification [checked]

SENDER AGREEMENT - By clicking the "VERIFY" button above, and in consideration for Spam Arrest, LLC forwarding your e-mail (and any e-mails you may send in the future) to the intended recipient (the "Recipient"), you agree to be bound by the following Sender Agreement:

You represent and warrant to Spam Arrest and the Recipient that any e-mail you desire to send to the Recipient is not "unsolicited commercial e-mail" i.e., the e-mail does not primarily contain an advertisement or promotion of a commercial product, service or Web site; unless the Recipient expressly consented to receive the message, either in response to a clear and conspicuous request for such consent or at the Recipient's own initiative. Further, you represent and warrant that your transmission of any e-mail does not violate any local, state or federal law governing the transmission of unsolicited commercial e-mail, including, but not limited to, RCW § 19.190.020 or the CAN-SPAM Act of 2003. You understand and acknowledge that it is fair and reasonable that you agree to abide by the restrictions set forth in this agreement. You acknowledge and agree that this agreement is central to Spam Arrest's decision to forward your e-mails to the Recipient. Accordingly, if you violate this agreement, Spam Arrest and the Recipient shall be entitled to (1) temporary and/or permanent injunctive relief to restrain any further breaches or violations of this agreement; and (2) damages in the amount of two thousand dollars (\$2,000.00) for each violation of this agreement. You acknowledge that such remedies are appropriate and reasonable in light of the costs and expenses Spam Arrest incurs as a result of eradicating and filtering unsolicited commercial e-mail. You acknowledge that the \$2000.00 remedy is a reasonable estimate of Spam Arrest's and the Recipient's actual damages. This agreement is governed by the laws of the State of Washington and the exclusive venue for any action related to this agreement shall be held in the state and federal courts located in Washington. You hereby waive any right to object to venue or jurisdiction based on inconvenient forum, lack of personal jurisdiction or for any other reason.

english english

中文 chinese

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Deutsch german

italiano italian

日本語 japanese

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português portuguese

español spanish

台語 taiwanese

CENTER FOR INDIVIDUAL FREEDOM

113 S. Columbus St., Suite 310 • Alexandria, VA 22314 • (703) 535-5836 • (703) 535-5838 (fax) • www.cifif.org

BEFORE THE FEDERAL ELECTION COMMISSION

PUBLIC HEARING ON INTERNET COMMUNICATIONS AND NOTICE OF PROPOSED RULEMAKING

JUNE 28, 2005

PREPARED TESTIMONY OF REID COX, GENERAL COUNSEL CENTER FOR INDIVIDUAL FREEDOM

Good Morning.

I am Reid Cox and — though I'm not running for any office — I approved this testimony.

In all seriousness, I am the General Counsel of the Center for Individual Freedom.

The Center is a non-profit, non-partisan advocacy group dedicated to protecting and defending individual rights and freedoms in the legal, legislative, and educational arenas. Perhaps the cornerstone of the Center's advocacy has been — and continues to be — a vigorous defense and exercise of its free speech, press, and association rights. Indeed, we at the Center are not only concerned about our own First Amendment rights, but also whether those same freedoms are enjoyed by all Americans regardless of their political persuasion or ideological outlook. Quite simply, we believe all Americans should enjoy and are constitutionally entitled to speak, publish, and associate concerning the issues facing our neighborhoods, communities, states, and country, as well as our representative government.

Let me begin with some first principles.

The freedoms of speech, of the press, and of association protect all Americans equally. The First Amendment draws no distinction between the individual who sets up his soapbox in the town square and the network news anchor who sits down each night at a studio in New York City. The Constitution doesn't value the newspaper sold at newsstands nationwide any more than the leaflet handed out at a local intersection. Neither the amount of money expended nor the number of people reached has ever been a test for whether speech should be free under the Constitution.

Moreover, today, neither of those factors is a barrier to anyone thanks to the Internet.

The Internet is, quite simply, both the most powerful and the most democratic communications medium the world has ever known. Over the Internet, an individual or a group of individuals can set up their own printing press, broadcast radio or television station, and mailing center all at virtually no cost. Moreover, they can choose to communicate to the whole world, a single person, or any size audience in between, doing so in real time, asynchronous time, or both.

On the other end, receivers have more power to determine what they read, hear, and see on the Internet than they do with any other medium. Though anyone can publish on the Internet, the receiver generally has to take some affirmative step to receive those communications. Thus, while the Internet allows the publisher to reach anyone across any boundary, it gives just as much power to the audience not to be reached. Indeed, these features of the Internet make it the perfect public forum — empowering speakers and listeners alike.

All of this is my long way of wondering aloud why the Commission's so-called media exemption should not protect all news stories, commentaries, or editorials published on the Internet?

While we all have been trained to understand the "media" to be the institutionalized press, this is no longer true in the information age. Let me just briefly use the Center for Individual Freedom as an example.

Each and every week the Center publishes news stories, commentaries, and editorials that are read by millions of readers each year. And, just like any other periodical publisher, the Center distributes this content to tens of thousands of subscribers each Friday in a publication named the "Lunchtime Liberty Update."

It happens that the Center's periodical is published exclusively on the Internet, not only because it is cost-effective to do so, but also because it enables the Center to publish quickly and retain control over its content. But otherwise, the Center's publications are just like those you might receive from the "mainstream" press, say the Weekly Standard or the New Republic. Parenthetically, these are same reasons that the Weekly Standard, New Republic, and other traditional publications have shifted a large portion of their content exclusively to the Internet.

So the question for the Center and countless other groups and individuals is: Why aren't our news stories, commentaries, and editorials exempt under the Commission's media safe harbor?

Returning to the first principles, it cannot be because we don't own an old-fashioned printing press or an FCC broadcasting license, because the First Amendment protects the town crier and pamphleteer just the same as the daily newspaper and evening newscast. Thus, the distinction seems to turn on what this Commission chooses to define as the "press." As I explained in my written comments, such preferential treatment not only raises the specter of the government choosing who can speak, it also threatens the speech of those with the least means.

Indeed, while it may be true, in theory, that the First Amendment protects everyone equally, it does so only with extraordinary transactions costs in the form of legal time and fees, especially when the speaker finds himself or his speech at the margins. Thus, in practice, any careful speaker, especially one with limited means, must weigh the consequences of speaking before uttering even the first word. A clear blanket exemption counteracts this chilling effect by ensuring safe harbor for those who are included. But those who are not remain left out in the cold. As a result, if the Commission is to protect the free speech, press, and association rights of all Americans — as it should — it must do so by expanding the media exemption to clearly and explicitly include every publisher.

Again, I thank the Commission for the opportunity to testify and welcome your questions.

CENTER FOR INDIVIDUAL FREEDOM

113 S. Columbus St., Suite 310 • Alexandria, VA 22314 • (703) 535-5836 • (703) 535-5838 (fax) • www.cfif.org

FOR IMMEDIATE RELEASE

June 29, 2005

Contact: Reid Cox or Marshall Manson

(703) 535-5836

CFIF Urges FEC to Limit Internet Regulation

Alexandria, VA — In testimony today, Reid Cox, General Counsel for the Center for Individual Freedom, urged the Federal Election Commission to minimize the impact of its proposed regulations applying campaign finance restrictions to the Internet.

In his testimony, Cox specifically argued that the Commission should extend the “media exemption,” which provides that media publishers won’t be subject to the speech, content and disclosure regulations in the current campaign finance laws and regulations, to cover all bloggers and web-based publishers. “If the Commission is to protect the free speech, press, and association rights of all Americans — as it should — it must do so by expanding the media exemption to explicitly include every publisher,” Cox said.

Cox has also raised more general concerns. “The proposed rules go way too far,” Cox explained. “The proposed regulations mark the government’s first foray into regulating the Internet, so the FEC must tread more carefully.

“One way or another, these rules will chill speech on the Internet,” Cox continued. “The rules are lengthy and confusing. As a result, Americans will now find their freedom to speak online tied up in regulatory red tape. No one should have to call their lawyer before they express their political views.”

In comments submitted earlier, Cox argued, “The constitutional promises of free speech and association are most readily and universally available to Americans via the Internet, where they can set up their virtual soapboxes on any corner of the information superhighway to discuss the most pressing public issues with their fellow citizens. Surely, this virtual public forum should not be chilled by regulation.”

The Center for Individual Freedom (www.cfif.org) is a non-profit, non-partisan Constitutional advocacy organization dedicated to protecting individual rights and freedoms. The Center has been a leading advocate of free speech rights in both Congress and the courts.

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**PUBLIC HEARING ON INTERNET COMMUNICATIONS/NOTICE OF
PROPOSED RULEMAKING - JUNE 28, 2005
PREPARED TESTIMONY OF MICHAEL KREMPASKY**

I thank the Commission for allowing me to participate in these hearings. You are each due a great deal of credit for your tremendous sensitivity to the issues of speech and freedom as you contemplate these rules.

Today you consider rules that will affect millions of people. Not just the eleven million blogs currently indexed by the search engine Technorati, but the millions of people who currently have the freedom to take a few minutes, join the blogosphere and add their voice to our political conversation.

I'll focus my testimony this morning on the media exemption. My hope is that the Commission will take specific and discrete steps to ensure that no blogger, no amateur activist, and no self-published pundit ever need consult with legal counsel in fear of the regulatory might of the federal government.

Our current campaign finance regulations touch nearly every area of political participation by associations, corporations, candidates, political parties and individuals. But one group is notably and, for practical purposes, completely exempt – the news media. The Commission is now considering the proper scope of that exemption. As it has asked, “Should the exemption be limited to entities who are media entities and who are covering or carrying a news story, commentary, or editorial?”

With respect, the question properly formed should have been, “can the exemption be limited?” The answer must be an emphatic no. There is no doubt that bloggers are media entities. Nor is there any doubt that the tradition of citizen journalists is a long accepted part of our national culture. From before very founding of our country, individuals and relative unknowns have contributed to this great conversation¹.

The boundaries defining who or what is a quote-unquote media entity have eroded to the point of irrelevance. No longer do we have limited number of easily-defined outlets or a restricted professional community. Government rules and regulations granting media *bona fides* (and all the associated privileges) to some while denying those credentials to others would be like building a new laptop computer with vacuum tubes. The old ways simply cannot keep up.

Presumably, this media exemption is rooted in the notion of the intrinsic value of trusted, objective, and comprehensive information in the hands of the citizenry. Unfortunately,

¹ For a further discussion of citizen journalism, please find attached: Gillmore, Dan. We The Media: Grassroots Journalism by the People, for the People. 1st ed. : O'Reilly, 2004.

when we look at our traditional media today – it is neither trusted, nor objective, nor comprehensive.

A Pew study released just this week showed that, “The percentage [of respondents] saying they can believe most of what they read in their daily newspaper dropped from 84% in 1985 to 54% in 2004.” Worse yet, another study by Columbia University showed that among journalists themselves, 45% are less trusting of the professional behavior of their own colleagues – just two years ago, only 34% had such doubts.

As far as the objectivity of the established and *bona fide* press is concerned, we need not look very far to see a deep distrust of our mainstream media. Organizations on both the right and on the left raise and spend millions of dollars documenting examples of bias in coverage when it comes to campaigns and elections.

Moreover, the popular established media in this country is anything but comprehensive. Large majorities of Americans believe that news organizations are more concerned with gathering large audiences than informing the public with facts.

Time and time again, it is the new media – these bloggers – that fill the information gap. The vast resources of the blogosphere as a whole, its expertise, creativity and motivation – dwarf any newsroom in the country. Indeed, free of the constraints of bureaucratic hierarchies and concerns of column inches, blogs can provide news coverage that is both faster and more in depth than anything the mainstream media can hope to provide.

Minutes after the reports of the tsunami that struck southeast Asia, bloggers were collecting, sharing, and distributing first-hand reports of the devastation, hosting sought-after documentary video footage, and even lent help to relief efforts. In a news cycle measured in tiny increments, bloggers were hours ahead of their mainstream counterparts.

This very rulemaking is an even better case in point. What newspaper or television station could afford to devote time and space *every* day to covering the actions or potential actions of a relatively small government agency? None did, and none could. Meanwhile, bloggers wrote thousands of words about the Commission’s rulemaking, educating their readers and encouraging them to participate in the process.

There is no doubt that the Commission recognizes the difficulty in extending the media exemption to these citizen journalists. It is imperative that it does so. What goal would be served by protecting Rush Limbaugh’s multimillion dollar talk radio program – but not a self-published blogger with a fraction of the audience? How is the public benefited by allowing CNN to evade regulation while spending corporate dollars to put campaign employees on the airwaves as pundits, while forcing bloggers to scour the Record and read Commission advisory opinions?

Worse yet, if the Commission were to adopt a policy of examining individual blogs on a case-by-case basis, how is that to be distinguished from a government license to publish

free of jeopardy – only granted (or denied) **after the fact**? Unlike previous Commission investigations in the offline world, these cases would affect not large corporations or interest groups with the ability to hire the best firms in Washington, but instead unsophisticated and unfunded individuals poorly suited to navigate the Commission's regulatory process.

In the explanation and justification for this rule, the Commission identifies Slate.com, the DrudgeReport, and Salon.com as entities presumably deserving of the exemption. But if the Commission grants credentials to these three – how can the Commission then deny the same privilege to AndrewSullivan.com, Joshua Marshall's TalkingPointsMemo.com, or Kevin Aylward's Wizbang blog? They all provide news coverage and opinion. They all generate revenue through advertising. Substantively, they are no different.

The Commission should extend the media exemption to bloggers and other online publishers with the broadest possible terms. The American people, when given the chance tend to make choices that best serve them. The more voices, the more outlets, the more "media entities" – the more informed our public – and our voters will be.

I thank you again for your time and attention, and I look forward to answering any questions Members of the Commission might have.

The
Online Coalition
910 15th Street, NW | Washington, DC | 20005

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COUNSEL

July 6, 2005

Mr. Brad C. Deutsch
Assistant General Counsel
Federal Election Commission
999 E Street NW
Washington, DC 20463
Internet@fec.gov

Re: Supplemental materials regarding Internet Communications

Dear Mr. Deutsch,

Once again, thank you for the opportunity to testify before the Commission last week regarding the Notice of Proposed Rulemaking relating to Internet communications.

Much of the Commission and witness discussion during the public hearing involved the press and media exemptions in our campaign finance regulations. At least one witness posited that when the original exemption was written into law more than thirty years ago, we could hardly conceive of an environment in which average, everyday citizens had the capacity to act as journalists or press.

I've included, to be entered into the record, the first chapter ("From Tom Paine to Blogs and Beyond") of Dan Gillmor's *We The Media: Grassroots Journalism by the People, For the People* (O'Reilly, 2004) with the author's permission. Mr. Gillmor, a seasoned journalist himself makes quite the contrary case – that indeed, individual citizens have been involved in journalism and the press since even before the founding of the country.

Extending the press and media exemption to everyday citizens would not be an extraordinary change reflecting new realities in our information age – but denying that exemption surely would be.

Respectfully,



Mike Krempasky
RedState.org
Falls Church, VA

Chapter 1

From Tom Paine to Blogs and Beyond

We may have noticed the new era of journalism more clearly after the events of September 11, but it wasn't invented on that awful day. It did not emerge fully formed or from a vacuum. What follows doesn't pretend to be a history of journalism. Rather, these are observations, including some personal experiences that help illustrate the evolution of what we so brazenly call "new media."

At the risk of seeming to slight the contributions from other nations, I will focus mostly on the American experience. America, born in vocal dissent, did something essential early on. The U.S. Constitution's First Amendment has many facets, including its protection of the right of protest and practice of religion, but freedom of speech is the most fundamental part of a free society. Thomas Jefferson famously said that if given the choice of newspapers or government, he'd take the newspapers. Journalism was that important to society, he insisted, though as president, attacked by the press of his day, he came to loathe what he'd praised.

Personal journalism is also not a new invention. People have been stirring the pot since before the nation's founding; one of the most prominent in America's early history was Ben Franklin, whose *Pennsylvania Gazette* was civic-minded and occasionally controversial.

There were also the pamphleteers who, before the First Amendment was enshrined into law and guaranteed a free press, published their writings at great personal risk. Few Americans

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can appreciate this today, but journalists are still dying elsewhere in the world for what they write and broadcast.

One early pamphleteer, Thomas Paine, inspired many with his powerful writings about rebellion, liberty, and government in the late 18th century. He was not the first to take pen to paper in hopes of pointing out what he called common sense, nor in trying to persuade people of the common sense of his ideas. Even more important, perhaps, were the (at the time) anonymous authors of the Federalist Papers. Their work, analyzing the proposed Constitution and arguing the fundamental questions of how the new Republic might work, has reverberated through history. Without them, the Constitution might never have been approved by the states. The Federalist Papers were essentially a powerful conversation that helped make a nation.

There have been several media revolutions in U.S. history, each accompanied by technological and political change. One of the most crucial, Bruce Bimber notes in his book, *Information and American Democracy*,³ was the completion of the final parts, in the early to middle 1800s, of what was then the most dependable and comprehensive postal system in the world. This unprecedented exercise in governmental assistance should be seen, Bimber argues, as "a kind of Manhattan project of communication" that helped fuel the rise of the first truly mass medium, newspapers. The news, including newspapers, was cheaply and reliably distributed through the mail.⁴

For most of American history, newspapers dominated the production and dissemination of what people widely thought of as news. The telegraph—a revolutionary tool from the day in 1844 when Samuel Morse's partner Alfred Vail dispatched the message "What hath God wrought?" from Baltimore to Washington D.C.—sped up the collection and transmission of the news. Local papers could now gather and print news of distant events.⁵

Newspapers flourished throughout the 19th century. The best were aggressive and timely, and ultimately served their

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readers well. Many, however, had little concern for what we now call objectivity. Papers had points of view, reflecting the politics of their backers and owners.

Newspapers have provoked public opinion for as long as they've been around. "Yellow journalism" achieved perhaps its ugliest prominence when early media barons such as Joseph Pulitzer and William Randolph Hearst abused their considerable powers. Hearst, in particular, is notorious for helping to spark the Spanish-American War in 1898 by inflaming public opinion.

As the Gilded Age's excesses began to tear at the very fabric of American society, a new kind of journalist, the muckraker, emerged at the end of the 19th century. More than most journalists of the era, muckrakers performed the public service function of journalism by exposing a variety of outrages, including the anticompetitive predations of the robber barons and cruel conditions in workplaces. Lincoln Steffens (*The Shame of the Cities*), Ida Tarbell (*History of the Standard Oil Company*), Jacob Riis (*How the Other Half Lives*), and Upton Sinclair (*The Jungle*) were among the daring journalists and novelists who shone daylight into some dark corners of society. They helped set the stage for the Progressive Era, and set a standard for the investigative journalists of the new century.

Personal journalism didn't die with the muckrakers. Throughout the 20th century, the world was blessed with individuals who found ways to work outside the mainstream of the moment. One of my journalistic heroes is I.F. Stone, whose weekly newsletter was required reading for a generation of Washington insiders. As Victor Navasky wrote in the July 21, 2003 issue of *The Nation*, Stone eschewed the party circuit in favor of old-fashioned reporting:

His method: To scour and devour public documents, bury himself in The Congressional Record, study obscure Congressional committee hearings, debates and reports, all the time prospecting for news nuggets (which would appear as boxed paragraphs in his paper), contradictions in the official line,

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examples of bureaucratic and political mendacity, documentation of incursions on civil rights and liberties. He lived in the public domain.⁶

A generation of journalists learned from Stone's techniques. If we're lucky, his methods will never go out of fashion.

THE CORPORATE ERA

But in the 20th century, the big business of journalism—the corporatization of journalism—was also emerging as a force in society. This inevitable transition had its positive and negative aspects.

I say “inevitable” for several reasons. First, industries consolidate. This is in the nature of capitalism. Second, successful family enterprises rarely stayed in the hands of their founders' families; inheritance taxes forced some sales and breakups, and bickering among siblings and cousins who inherited valuable properties led to others. Third, the rules of American capitalism have been tweaked in recent decades to favor the big over the small.

As noted in the *Introduction*, however, the creation of Big Media is something of an historical artifact. It stems from a time when A.J. Liebling's famous admonition, that freedom of the press was for those people who owned a press, reflected financial reality. The economics of newspaper publishing favored bigness, and local monopolies came about because, in most communities, readers would support only one daily newspaper of any size.⁷

Broadcasting has played a key role in the transition to consolidation. Radio, then television, lured readers and advertisers away from newspapers,⁸ contributing to the consolidation of the newspaper industry. But the broadcasters were simultaneously turning into the biggest of Big Media. As they grew, they brought the power of broadcasting to bear on the news, to great

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effect. Edward R. Murrow's reports on CBS, most notably his coverage of the wretched lives of farm workers and the evil politics of Joe McCarthy, were proud moments in journalism.

The news hegemony of the networks and big newspapers reached a peak in the 1960s and 1970s. Journalists helped bring down a law-breaking president. An anchorman, Walter Cronkite, was considered the most trusted person in America. Yet this was an era when news divisions of the major networks lost money but were nevertheless seen as the crown jewels for their prestige, fulfilling a longstanding (and now all but discarded) mandate to perform a public service function in their communities. The networks were sold to companies such as General Electric and Loews Corp., which saw only the bottom line. News divisions were required to be profit centers.

While network news may have been expensive to produce, local stations had it easier. But while the network news shows still retained some sense of responsibility, most local stations made no pretense of serving the public trust, preferring instead to lure viewers with violence and entertainment, two sure ratings boosters. It was an irresistible combination for resource-starved news directors: cheaper than serious reporting, and compelling video. "If it bleeds, it leads" became the all-too-true mantra for the local news reports, and it has stayed that way, with puerile celebrity "journalism" now added to the mix.

America has suffered from this simplistic view of news. Even in the 1990s, when crime rates were plummeting, local TV persisted in giving viewers the impression that crime was never a bigger problem. This was irresponsible because, among other things, it helped feed a tough-on-crime atmosphere that has stripped away crucial civil liberties—including most of our Fourth Amendment protection against unreasonable searches and seizures—and kept other serious issues off the air.

As the pace of life has quickened, our collective attention span has shortened. I suppose it's asking too much of commercial TV news to occasionally use the public airwaves to actually inform the public, but the push for profits has crowded out

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depth. The situation is made worse by the fact that most of us don't stop long enough to consider what we've been told, much less seek out context, thereby allowing ourselves to be shallow and to be led by people who take advantage of it. A shallow citizenry can be turned into a dangerous mob more easily than an informed one.

At the same time, big changes were occurring in TV journalism, and big newspaper companies were swallowing small papers around the nation. As noted, this didn't always reduce quality. In fact, the craft of newspaper journalism has never been better in some respects; investigative reporting by the best organizations continues to make me proud. And while some corporate owners—Gannett in particular—have tended to turn independent papers into cookie-cutter models of corporate journalism, sometimes they've actually improved on the original. But it's no coincidence that three of the best American newspapers, *The New York Times*, *The Wall Street Journal*, and *The Washington Post*, have an ownership structure—voting control by families and/or small groups of committed investors—that lets them take the long view no matter what Wall Street demands in the short term. Nor should it surprise anyone that these organizations are making some of the most innovative use of the Internet as they expand their horizons in the digital age.

It was cable, a technology that originally expanded broadcast television's reach in the analog age, which turned television inside out. Originally designed to get broadcast signals into hard-to-reach mountain valleys, cable grew into a power center in its own right when system owners realized that the big money was in more densely populated areas. Cable systems were monopolies in the communities they served, and they used the money in part to bring more channel capacity onto their systems.

The cable channel that changed the news business forever, of course, was Ted Turner's Cable News Network (CNN). We've forgotten what a daring experiment this was, given its

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subsequent success. At the time it was launched on June 1, 1980, many in the media business considered CNN little more than a bizarre corporate ego trip. As it turned out, CNN punched a hole in a dam that was already beginning to crumble from within.

Even if cable was bringing more choices, however, it was still a central point of control for the owner of the cables. Cable companies decided which package of channels to offer. Oh, sure, customers had a choice: yes or no. As we'll see in Chapter 11, cable is becoming part of a broadband duopoly that could threaten information choice in the future.

FROM OUTSIDE IN

During this time of centralization and corporate ownership, the forces of change were gathering at the edges. Some forces were technological, such as the microprocessor that led straight to the personal computer, and a federally funded data-networking experiment called the ARPANET, the precursor to the Internet. Some were political and/or judicial, such as Supreme Court decisions that forced AT&T to let third parties plug their own phones into Ma Bell's network, and another that made it legal for purchasers of home videotape machines to record TV broadcasts for subsequent viewing.

Personal choice, assisted by the power of personal technology, was in the wind.

I got my first personal computer in the late 1970s. In the early 1980s, when I first became a journalist, I bought one of the earliest portable personal computers, an Osborne, and used it to write and electronically transmit news stories to publications such as *The New York Times* and *The Boston Globe*, for which I was freelancing from Vermont. I was enthralled by this fabulous tool that allowed me, a lone reporter in what were considered the boondocks, to report the news in a timely and efficient manner.

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The commercial online world was in its infancy in those days, and I couldn't resist experimenting with it. My initial epiphany about the power of cyberspace came in 1985. I'd been using a word processor called XyWrite, the PC program of choice for serious writers in those days. It ran fast on the era's slow computers, and had an internal programming language, called XPL, that was both relatively easy to learn and incredibly capable. One day I found myself stymied by an XPL problem. I posted a short message on a word-processing forum on CompuServe, the era's most successful commercial online service. A day later, I logged on again and was greeted with solutions to my little problem from people in several U.S. cities and, incredibly, Australia.⁹

I was amazed. I'd tapped the network, asking for help. I'd been educated. This, I knew implicitly, was a big deal.

Of course, I didn't fully get it. I spent the 1986-87 academic year on a fellowship at the University of Michigan, which in those days was at the heart of the Internet—then still a university, government, and research network of networks—without managing to notice the Internet. John Markoff of *The New York Times*, the first major newspaper reporter to understand the Net's value, had it pretty much to himself in those days as a journalist, and got scoop after scoop as a result. One way he acquired information was by reading the Internet's public message boards. Collectively called Usenet, they were and still are a grab bag of "newsgroups" on which anyone with Net access can post comments. Usenet was, and remains, a useful resource.¹⁰

CompuServe wasn't the only way to get online in the 1980s. Other choices included electronic bulletin boards, known as BBS. They turned into technological cul-de-sacs, but had great value at the time. You'd dial into a local BBS via a modem on your computer, read and write messages, download files, and get what amounted to a local version of the Internet and systems

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such as CompuServe. You'd find a variety of topics on all of these systems, ranging from aviation to technology to politics, whatever struck the fancy of the people who used them.

Fringe politics found their way onto the bulletin boards early on. I was a reporter for the *Kansas City Times* in the mid-1980s and spent the better part of a year chasing groups such as the Posse Comitatus around the Farm Belt. This and other virulently antiestablishment organizations found ready ears amid a rural economic depression that made it easier to recruit farmers and other small-town people who felt they were victims of banks and governments. I found my way onto several online boards operated by radical groups; I never got very deep into the systems because the people running them understood the basics of security. Law-enforcement officials and others who watched the activities of the radicals told me at the time that the BBS was one of the radical right's most effective tools.¹¹

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Personal technology wasn't just about going online. It was about the creation of media in new and, crucially, less expensive ways. For example, musicians were early beneficiaries of computer technology.¹² But it was desktop publishing where the potential for journalism became clearest.

A series of inventions in the mid-1980s brought the medium into its new era. Suddenly, with an Apple Macintosh and a laser printer, one could easily and cheaply create and lay out a publication. Big publishing didn't disappear—it adapted by using the technology to lower costs—but the entry level moved down to small groups and even individuals, a stunning liberation from the past.

There was one drawback of having so much power and flexibility in the hands of nonprofessionals. In the early days of desktop publishing, people tended to use too many different

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fonts on a page, a style that was likened, all too accurately, to ransom notes. But the typographical mishmash was a small price to pay for all those new voices.

Big Media was still getting bigger in this period, but it wasn't noticing the profound demographic changes that had been reshaping the nation for decades. Newsrooms, never mind coverage, scarcely reflected the diversity. Desktop publishing and its progeny created an opening for many new players to enter, not least of which was the ethnic press.

Big Media has tried to adapt. Newsrooms are becoming more diverse. Major media companies have launched or bought popular ethnic publications and broadcasters. But independent ethnic media has continued to grow in size, quality, and credibility: grassroots journalism ascendant.¹³

OUT LOUD AND OUTRAGEOUS

Meanwhile, talk radio was also becoming a force, though not an entirely new one by any means. Radio has featured talk programs throughout its history, and call-in shows date back as far as 1945. Opinionated hosts, mostly from the political right, such as Father Coughlin, fulminated about government, taxes, cultural breakdowns, and a variety of issues they and their listeners were convinced hadn't received sufficient attention from the mainstream media. These hosts were as much entertainers as commentators, and their shows drew listeners in droves.

But modern talk radio had another crucial feature: the participation of the audience. People—regular people—were invited to have their say on the radio. Before that, regular people had no immediate or certain outlet for their own stories and views short of letters to the editor in newspapers. Now they could be part of the program, adding the weight of their own beliefs to the host's.

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The people making this news were in the audience. Howard Kurtz, media writer for *The Washington Post*, believes that talk radio predated, and in many ways anticipated, the weblog phenomenon. Both mediums, he told me, reach out to and connect with "a bunch of people who are turned off by the mainstream media." Kurtz now writes a blog-like online column¹⁴ for the *Post* in addition to his regular stories and column.

Talk radio wasn't, and isn't, just about political anger, even if politics and other issues of the day are the normal fodder. The genre has also become a broader sounding board. Doctors offer advice (including TV's fictional "Frasier Crane"), computer gurus advise non-geeks on what to buy, and lawyers listen to bizarre legal woes.

Talk radio gave me another mini-epiphany about the future of news. In the mid-1990s, not long after I moved to California, a mild but distinct earthquake rattled my house one day. I listened as a local talk station, junking its scheduled topics, took calls from around the San Francisco Bay Area, and got on-the-spot reports from everyday citizens in their homes and offices.

THE WEB ERA EMERGENT

As the 1990s arrived, personal computers were becoming far more ubiquitous. Relatively few people were online, except perhaps on corporate networks connecting office PCs; college campuses; bulletin boards; or still-early, pre-web commercial services such as CompuServe and America Online. But another series of breakthroughs was about to move us into a networked world.

In 1991, Tim Berners-Lee created the hypertext technology that became the World Wide Web. He wrote software to serve, or dish out, information from connected computers, and a "client" program that was, in effect, the first browser. He also

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sparked the development of Hypertext Markup Language, or HTML, which allowed anyone with a modest amount of knowledge to publish documents as web pages that could be easily linked to other pages anywhere in the world. Why was this so vital? We could now move from one site and document to another with the click of a mouse or keyboard stroke. Berners-Lee had connected the global collection of documents the Net had already created, but he wanted to take the notion a step further: to write onto this web, not just read from it.

But there's something Berners-Lee purposely *didn't* do. He didn't patent his invention. Instead, he gave the world an open and extensible foundation on which new innovation could be built.

The next breakthrough was Mosaic, one of the early graphical web browsers to run on popular desktop operating systems. These browsers were a basis for the commercial Internet. The browser, and the relative ease of creating web pages, sparked some path-breaking experiments in what we now recognize as personal journalism. Let's note one of the best and earliest examples.

Justin Hall was a sophomore at Swarthmore College in 1993 when he heard about the Web. He coded some pages by hand in HTML. His "Justin's Links from the Underground"¹⁵ may well have been the first serious weblog, long before specialized weblog software tools became available. The first visitor to Hall's site from outside the university came in 1994. He explained his motivations in an email:

Why did I do it? The urge to share of oneself, to join a great global knowledge sharing party. The chance to participate in something cool. A deep geek archivist's urge to experiment with documenting and archiving personal media and experience. In college I realized that Proust and Joyce would have loved the web, and they likely would have tried a similar experiment—they wrote in hypertext, about human lives.

It was journalism, but I was mostly reporting on me. In the early days, I wrote about the web, on the web, because few

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other people were doing so. Once search engines and link directories emerged, I didn't need to catalog everything online. So I enjoyed having a tool to map my thoughts and experiences, and a chance to connect those thoughts and experiences to the rest of the electrified English-speaking world!

What had happened? Communications had completed a transformation. The printing press and broadcasting are a one-to-many medium. The telephone is one-to-one. Now we had a medium that was anything we wanted it to be: one-to-one, one-to-many, and many-to-many. Just about anyone could own a digital printing press, and have worldwide distribution.¹⁶

None of this would have surprised Marshall McLuhan. Indeed, his seminal works, especially *Understanding Media: The Extensions of Man*¹⁷ and *The Medium is the Message*,¹⁸ presaged so much of what has occurred. As he observed in the introduction to *Understanding Media*:

After three thousand years of explosion, by means of fragmentary and mechanical technologies, the Western world is imploding. During the mechanical ages we had extended our bodies in space. Today, after more than a century of electric technology, we have extended our central nervous system itself in a global embrace, abolishing both space and time as far as our planet is concerned. Rapidly, we approach the final phase of the extensions of man—the technological simulation of consciousness, when the creative process of knowing will be collectively and corporately extended to the whole of human society, much as we have already extended our senses and our nerves by the various media.

Nor would it have come as a shock to Alvin Toffler, who explained in *The Third Wave*¹⁹ how manufacturing technology had driven a wedge between producers and customers. Mass manufacturing drove down the unit cost of production but at the cost of something vital: a human connection with the buyer. Information technology, he said, would lead—among many other things—to mass customization, disintermediation (elimination of middlemen), and media convergence.

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Perhaps no document of its time was more prescient about the Web's potential than the *Cluetrain Manifesto*,²⁰ which first appeared on the Web in April 1999. It was alternately pretentious and profound, with considerably more of the latter quality. Extending the ideas of McLuhan and many others, the four authors—Rick Levine, Christopher Locke, Doc Searls, and David Weinberger—struck home with me and a host of other readers who knew innately that the Net was powerful but weren't sure how to define precisely why.

"A powerful global conversation has begun," they wrote. "Through the Internet, people are discovering and inventing new ways to share relevant knowledge with blinding speed. As a direct result, markets are getting smarter—and getting smarter faster than most companies."

They explained why the Net is changing the very nature of business. "Markets are conversations," proclaimed their first of 95 theses with elegant simplicity.

Journalism is also a conversation, I realized. *Cluetrain* and its antecedents have become a foundation for my evolving view of the trade.

WRITING THE WEB

The scene was now set for the rise of a new kind of news. But some final pieces had yet to be put in place. One was technological: giving everyday people the tools they needed to join this emerging conversation. Another was cultural: the realization that putting the tools of creation into millions of hands could lead to an unprecedented community. Adam Smith, in a sense, was creating a collective.

The toolmakers did, and continue to do, their part. And with the neat irony that has a habit of appearing in this transformation, a programmer's annoyance with journalists had everything to do with one of the most important developments.

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Dave Winer had written and sold an outlining tool called "More," a Macintosh application.²¹ He was a committed and knowledgeable Mac developer, but in the early 1990s, he found himself more and more annoyed by a trade press that, in his view, was getting the story all wrong.

At the time, Microsoft Windows was becoming more popular, and the hype machine was pronouncing Apple to be a troubled and, perhaps, terminally wounded company. Troubled, yes. But when the computer journalists persisted in saying, in effect, "Apple is dead, and there's no Macintosh software development anymore," Winer was furious. He decided to go around the established media, and with the rise of the Internet, he had a medium.

He published an email newsletter called "DaveNet." It was biting, opinionated, and provocative, and it reached many influential people in the tech industry. They paid attention. Winer's critiques could be abrasive, but he had a long record of accomplishments and deep insight.

Winer never really persuaded the trade press to give the Mac the ink it deserved. For its part, Apple made strategic mistakes that alienated software developers and helped marginalize the platform. And Windows, with the backing of Microsoft's roughhouse business tactics that turned into outright law-breaking, became dominant.

But Winer realized he was onto something. He'd found journalism wanting, and he bypassed it. Then he expanded on what he'd started. Like Justin Hall, he created a newsy page in what later became known as the blog format—most recent material at the top.

In the late 1990s, Winer and his team at UserLand Software²² rewrote an application called Frontier. One collection of new functions was given the name *Manila*, and it was one of the first programs that made it easy for novices to create their own blogs. My first blog was created on the beta version of Manila. Winer has suggested that traditional journalism will wither in the face of what he helped spawn. I disagree, but his contributions to the craft's future have been pivotal.

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OPEN SOURCING THE NEWS

The development of the personal computer may have empowered the individual, but there were distinct limits. One was software code itself. Proprietary programs were like black boxes. We could see what they did, but not how they worked.

This situation struck Richard Stallman, among others, as wrong. In January 1984, Stallman quit his post at the Massachusetts Institute of Technology's Artificial Intelligence Lab. He formally launched a project to create a free operating system and desktop software based on the Unix operating system that ran on many university computers.²³ Stallman's ideas ultimately became the foundation for Linux, the open source operating system that brought fame to Linus Torvalds.²⁴

The goal of Stallman's work, then and now, was to ensure that users of computers always had free software programs for the most basic and important tasks. Free, in this case, was more about freedom than about cost. Stallman and others in this movement thought that the programming instructions—the source code—of free software had to be open for inspection and modification by anyone. In the late 1990s, as Linux was gaining traction in the marketplace, and as many free software applications and operating systems were available, the movement got another name: open source, describing the open availability of the source code.²⁵

Open source software projects are a digital version of a small-town tradition: the barn raising. But open source projects can involve people from around the world. Most will never meet except online. Guided by project leaders—Torvalds in the case of Linux—they contribute bits and pieces of what becomes a whole package. Open source software, in many cases, is as good as or better than the commercial variety. And these programs are at the heart of the Internet's most basic functions: open source software powers most of the web server computers that dish out information to our browsers.

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When the code is open for inspection, it's safer to use because people can find and fill the security holes. Bugs, the annoying flaws that cause program crashes and other unexpected behavior, can be found and fixed more easily, too.²⁶

What does this have to do with tomorrow's journalism? Plenty.

Yochai Benkler, a Yale University law professor who has written extensively on the open source phenomenon, has made a strong case that this emergent style of organization applies much more widely than software. In a 2002 essay, "Coase's Penguin,"²⁷ he said the free software style could work better than the traditional capitalist structure of firms and markets in some circumstances. In particular, he said that it "has systematic advantages over markets and managerial hierarchies when the object of production is information or culture, and where the physical capital necessary for that production—computers and communications capabilities—is widely distributed instead of concentrated."

He could have been describing journalism. In his essay, and in the course of several long conversations we've had in the past several years, Benkler has made the case that several of the building blocks are already in place to augment Big Media, if not substitute it outright, with open source techniques.

He told me that bloggers and operators of independent news sites already do a respectable job of scanning for and sorting news for people who want it. The editorial function has been adopted not just by bloggers, but by a host of new kinds of online news operations. Some peer-reviewed news sites, such as the collaborative KuroShin,²⁸ which describes itself as "technology and culture, from the trenches," are doing interesting journalism by any standard, with readers contributing the essays and deciding which stories make it to the top of the page.

According to Benkler, only in the area of investigative journalism does Big Media retain an advantage over open source journalism. This is due to the resources Big Media can throw at an investigation. In Chapter 9, I will argue that even here, the grassroots are making serious progress.

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In my own small sphere, I'm convinced that this already applies. If my readers know more than I do (which I know they do), I can include them in the process of making my journalism better. While there are elements of open source here, I'm not describing an entirely transparent process. But new forms of journalistic tools, such as the Wiki (which I'll discuss in the next chapter), are entirely transparent from the outset. More are coming.

An open source philosophy may produce better journalism at the outset, but that's just the start of a wider phenomenon. In the conversational mode of journalism I suggested in the *Introduction*, the first article may be only the beginning of the conversation in which we all enlighten each other. We can correct our mistakes. We can add new facts and context.²⁹

If we can raise a barn together, we can do journalism together. We already are.

TERROR TURNS JOURNALISM'S CORNER

By the turn of the new century, the key building blocks of emergent, grassroots journalism were in place. The Web was already a place where established news organizations and newcomers were plying an old trade in updated ways, but the tools were making it easier for anyone to participate. We needed a catalyst to show how far we'd come. On September 11, 2001, we got that catalyst in a terrible way.

I was in South Africa. The news came to me and four other people in a van, on the way to an airport, via a mobile phone. Our driver's wife called from Johannesburg, where she was watching TV, to say a plane had apparently hit the World Trade Center. She called again to say another plane had hit the other tower, and yet again to report the attack on the Pentagon. We arrived at the Port Elizabeth airport in time to watch, live and in horror, as the towers disintegrated.

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The next day our party of journalists, which the Freedom Forum, a journalism foundation, had brought to Africa to give talks and workshops about journalism and the Internet, flew to Lusaka, Zambia. The BBC and CNN's international edition were on the hotel television. The local newspapers ran considerable news about the attacks, but they were more preoccupied with an upcoming election, charges of corruption, and other news that was simply more relevant to them at the moment.

What I could not do in those initial days was read my newspaper, the *San Jose Mercury News*, or the *The New York Times*, *San Francisco Chronicle*, *The Wall Street Journal*, or any of the other papers I normally scanned each morning at home. I could barely get to their web sites because the Net connection to Zambia was slow and trans-Atlantic data traffic was overwhelming as people everywhere went online for more information, or simply to talk with each other.

I could retrieve my email, however, and my inbox overflowed with useful news from Dave Farber, one of the new breed of editors.

Then a telecommunications professor at the University of Pennsylvania, Farber had a mailing list called "Interesting People"³⁰ that he'd run since the mid-1980s. Most of what he sent out had first been sent to him by correspondents he knew from around the nation and the world. If they saw something they thought he'd find interesting, they sent it along, and Farber relayed a portion of what he received, sometimes with his own commentary. In the wake of the attacks, his correspondents' perspectives on issues ranging from national-security issues to critiques of religion became essential reading for their breadth and depth. Farber told me later he'd gone into overdrive, because this event obliged him to do so.

"I consider myself an editor in a real sense," Farber explained. "This is a funny form of new newspaper, where the Net is sort of my wire service. My job is to decide what goes out and what doesn't... Even though I don't edit in the sense of real editing, I make the choices."

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One of the emails Farber sent, dated September 12, still stands out for me. It was an email from an unidentified sender who wrote: "SPOT infrared satellite image of Manhattan, acquired on September 11 at 11:55 AM ET. Image may be freely reproduced with 'CNES/SPOT Image 2001' copyright attribution." A web address, linking to the photo, followed. The picture showed an ugly brown-black cloud of dust and debris hanging over much of lower Manhattan. The image stayed with me.

Here was context.

Back in America, members of the then nascent weblog community had discovered the power of their publishing tool. They offered abundant links to articles from large and small news organizations, domestic and foreign. New York City bloggers posted personal views of what they'd seen, with photographs, providing more information and context to what the major media was providing.

"I'm okay. Everyone I know is okay," Amy Phillips wrote September 11 on her blog, "The 50 Minute Hour."³¹ A Brooklyn blogger named Gus wrote: "The wind just changed direction and now I know what a burning city smells like. It has the smell of burning plastic. It comes with acrid brown skies with jet fighters flying above them. The stuff I'm seeing on teevee is like some sort of bad Japanese Godzilla movie, with less convincing special effects. Then I'm outside, seeing it with my naked eyes."³²

Meg Hourihan was a continent away, in San Francisco. A cofounder of Pyra Labs, creator of Blogger, another of the early blogging tools (now owned by Google), she pointed to other blogs that day and urged people to give blood. The next day she wrote, in part: "24 hours later, I'm heading back into the kitchen to finish up the dishes, to pick up the spatula that still sits in the sink where I dropped it. I'm going to wash my coffee press and brew that cup of coffee I never had yesterday. I'm

FROM TOM PAINE TO BLOGS AND BEYOND

going to try and find some semblance of normalcy in this very changed world."³³

Also in California that day, a little known Afghan-American writer named Taimur Ansary sent an impassioned email to some friends. His message was in part cautionary, observing that while America might want to bomb anything that moved in Afghanistan, we couldn't bomb it back to the Stone Age, as some talk show hosts were urging. The Asian nation, he argued, was already there. Ansary's email circulated among a widening circle of friends and acquaintances. By September 14, it had appeared on a popular weblog and on Salon, a web magazine.³⁴ Within days, Ansary's words of anguish and caution had spread all over America.

Ansary's news had flowed upward and outward. At the outset, no one from a major network had ever heard of him. But what he said had sufficient authority that people who knew him spread his message, first to their own friends and ultimately to web journalists who spread it further. Only then did the mass media discover it and take it to a national audience. This was the best kind of grassroots collaboration with Big Media.

In Tennessee, meanwhile, Glenn Reynolds was typing, typing, typing into his weblog, Instapundit.com, which he'd started only a few weeks earlier. A law professor with a technological bent, he'd originally expected the blog to be somewhat lighthearted. The attacks changed all that.

"I was very reactive," he told me. "I had no agenda. I was just writing about stuff, because the alternative was sitting there and watching the plane crash into the tower again and again on CNN."

He was as furious as anyone, and wanted retaliation. But he warned against a backlash targeting Muslims. He said Americans should not give into the temptation to toss out liberty in the name of safety. He didn't expect to develop a following, but that happened almost immediately. He'd struck a chord. He

WE THE MEDIA

heard from people who agreed and disagreed vehemently. He kept the discussion going, adding links and perspectives.

Today, InstaPundit.com has a massive following. Reynolds is constantly posting trenchant commentary, with a libertarian and rightward slant, on a variety of topics. He's become a star in a firmament that could not have existed only a short time ago—a firmament that got its biggest boost from the cruelest day in recent American history. The day is frozen in time, but the explosions of airplanes into those buildings turned new heat on a media glacier, and the ice is still melting.

**Statement of John B. Morris, Jr.
Staff Counsel
Center for Democracy & Technology**

**before the
Federal Election Commission**

**concerning
Notice of Proposed Rulemaking 2005-10
The Internet: Definitions of "Public Communication" and
"Generic Campaign Activity" and Disclaimers**

June 28, 2005

Chairman Thomas and members of the Commission, thank you for permitting the Center for Democracy & Technology to testify today. I am John Morris, Staff Counsel with CDT.

CDT is a non-profit public interest organization founded in 1994 to promote democratic values and individual liberties in the digital age. CDT works for practical, real-world solutions that enhance free expression, privacy, and democratic participation. We are guided by our vision of the Internet as a uniquely open, global, decentralized, and user-controlled medium. We believe the Internet has unprecedented potential to promote democracy, by placing powerful communications technology in the hands of individuals and communities.

Specifically with regard to the goals of the campaign finance laws, we believe that the Internet has been, and will continue to be, an overwhelmingly positive force. The Internet has dramatically broadened the nation's political conversation, and has enabled tens of millions of people to express their political views and receive political information from a vast array of sources. The political speech of individuals on the Internet is, in simple terms, part of the solution, and not part of the problems addressed by the campaign finance laws.

We do not argue that all political speech on the Internet should be free from regulation. We readily acknowledge that this Commission can regulate the Internet spending of candidates, political parties, and other core targets of the campaign finance laws. Our concern, however, is that in trying to extend to the Internet rules that apply in the offline world, the rules threaten to chill the remarkable explosion of online citizen participation in the political process.

In reviewing the more than 700 comments filed with the Commission in this rulemaking, it is striking that those comments are almost unanimous on one point: that the independent political speech of ordinary individuals should not be burdened by the campaign finance laws. In comments ranging from those filed by Senators McCain and Feingold and Congressmen Shays and Meehan, all the way to the most ardent individual bloggers, the message is the same: protect the speech of individuals. And that is the same message found in the Joint Statement of Principles that CDT helped to file on behalf of organizations such as the American Civil Liberties Union, the Electronic Frontier Foundation, the National Taxpayers Union, People for the American Way, and more than a thousand other organizations, bloggers, and individuals. And that goal – of protecting the online speech of individuals – is one that the Commission itself endorses in its Notice of Proposed Rulemaking.

So the critical question for the Commission is not *whether* to protect the speech of individuals, but *how best to do it*. And there is one absolutely crucial answer to that question: Keep it simple.

And although the NPRM strives to be narrow in its impact, it fails to articulate a simple exemption of individuals' online speech. This Commission should break out of the mold of existing campaign finance regulation, and should draft a *short and easy-to-understand* statement protecting individuals' speech.

If at the end of the day the Commission protects individuals by drafting 5 more pages of regulations and issuing a dozen new Advisory Opinions, then an opportunity to promote and protect democratic discourse will have been lost, and valuable online political speech will be chilled. It is crucial that individual speakers be able to determine that their speech is exempt from regulation without hiring an attorney, and without wading through the results of a case-by-case application of a new set of complex regulations.

In our comments, CDT offers a number of approaches to creating a clear and simple exclusion for individuals' online speech. First and most simply, the Commission can reorient its rules to only apply to candidates, political parties and other core targets of the law. By focusing first on *who* is regulated and not on *what* speech is regulated, the Commission can properly target its regulations at the problems addressed by the campaign finance laws. There is nothing in the *Shays* decision that requires the Commission to regulate the speech of individuals.

Alternatively, the Commission could create a significant monetary threshold below which individuals' online activities are wholly exempt from regulation. What is critical is that the Commission must do something to make the protection of individual speech both unmistakably clear, and readily accessible to the ordinary speaker.

Thank you again for the opportunity to testify, and we would welcome any opportunity to assist the Commission in achieving the goal of protecting individuals' online political speech.

July 6, 2005

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2005 JUL -6 P 5:19
FEDERAL ELECTION
COMMISSION
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Re: Supplemental Material of Hearing Witnesses
Notice of Proposed Rulemaking 2005-10
The Internet: Definitions of "Public Communication" and
"Generic Campaign Activity" and Disclaimers

Dear Mr. Deutsch:

On behalf of the Center for Democracy & Technology, I would like to submit some additional information to supplement my testimony before the Federal Election Commission ("FEC") on Notice of Proposed Rulemaking 2005-10, entitled 'The Internet: Definitions of "Public Communication" and "Generic Campaign Activity" and Disclaimers' (the "NPRM"). We appreciate that the Commission decided to keep the record open for one week following the hearing. The following discusses why we believe that the Internet user's experience is fundamentally different than that of users of newspapers and traditional broadcast media, and thus why policy makers – including this Commission – cannot simply import offline regulation into the online world.

The Unique Nature of the Internet

On the second day of the hearing two Commissioners expressed their perception that the user experience on the Internet was similar to the experiences of newspaper readers and TV viewers, in that newspaper readers could turn right to a preferred section of the paper, and TV viewers could use their remote controls to select what to watch. With respect, we disagree and believe that the Internet user's experience is fundamentally different from that of other media, and that the differences are relevant to policy makers' consideration of rules that may apply to

the Internet. As discussed below, the open and democratic nature of the Internet makes it wholly different from traditional mass media, and the degree of an Internet user's control over his or her media experience is unprecedented.

The Reno v. ACLU Decision: A starting point for assessing the unique characteristics of the Internet is the landmark litigation that culminated in Supreme Court's decision in *Reno v. ACLU* striking down as unconstitutional the "Communications Decency Act of 1996."¹ In the first comprehensive assessment of the Internet by an American court, the trial court in *Reno* found what it termed "a unique and wholly new medium of worldwide human communication."² As one judge put it, the "Internet is a far more speech-enhancing medium than print, the village green, or the mails."³

In concluding that speech on the Internet merited the highest level of constitutional protection, the Supreme Court explained:

This dynamic, multifaceted category of communication includes not only traditional print and news services, but also audio, video, and still images, as well as interactive, real time dialogue. Through the use of chat rooms, any person with a phone line can become a town crier with a voice that resonates farther than it could from any soapbox. Through the use of Web pages, mail exploders, and newsgroups, the same individual can become a pamphleteer. As the District Court found, "the content on the Internet is as diverse as human thought." We agree with its conclusion that our cases provide no basis for qualifying the level of First Amendment scrutiny that should be applied to this medium.⁴

One of the trial judges specifically identified "[f]our related characteristics of Internet communication have a transcendent importance" to the conclusion that the Internet deserves the highest levels of constitutional protection:

First, the Internet presents very low barriers to entry. Second, these barriers to entry are identical for both speakers and listeners. Third, as a result of these low barriers, astoundingly diverse content is available on the Internet. Fourth, the Internet provides significant access to all who wish to speak in the medium, and even creates a relative parity among speakers.⁵

¹ *Reno v. American Civil Liberties Union*, 521 U.S. 844 (1997). CDT was instrumental in organizing one of the two lawsuits that were consolidated into the *Reno* case. As a partner with the Jenner & Block law firm at the time, the undersigned was one of the lead counsel in that case, and had primary responsibility among counsel for the development and presentation to the court of the technical evidence about the Internet and how communications over it work.

² *American Civil Liberties Union v. Reno*, 929 F. Supp. 824, 844 (E.D. Pa. 1996), *aff'd*, *Reno v. American Civil Liberties Union*, 521 U.S. 844 (1997).

³ *Id.* at 882 (Dalzell concurring).

⁴ *Reno*, 521 U.S. at 870 (citation omitted).

⁵ *ACLU*, 929 F. Supp. at 877 (Dalzell concurring).

The judge continued:

It is no exaggeration to conclude that the Internet has achieved, and continues to achieve, the most participatory marketplace of mass speech that this country – and indeed the world – has yet seen. The plaintiffs in these actions correctly describe the “democratizing” effects of Internet communication: individual citizens of limited means can speak to a worldwide audience on issues of concern to them. Federalists and Anti-Federalists may debate the structure of their government nightly, but these debates occur in newsgroups or chat rooms rather than in pamphlets. Modern-day Luthers still post their theses, but to electronic bulletin boards rather than the door of the Wittenberg Schlosskirche. More mundane (but from a constitutional perspective, equally important) dialogue occurs between aspiring artists, or French cooks, or dog lovers, or fly fishermen.⁶

In its Findings of Fact, the *Reno* trial court concluded:

76. Such diversity of content on the Internet is possible because the Internet provides an easy and inexpensive way for a speaker to reach a large audience, potentially of millions. The start-up and operating costs entailed by communication on the Internet are significantly lower than those associated with use of other forms of mass communication, such as television, radio, newspapers, and magazines. This enables operation of their own Web sites not only by large companies . . . but also by small, not-for-profit groups

....

79. Because of the different forms of Internet communication, a user of the Internet may speak or listen interchangeably, blurring the distinction between “speakers” and “listeners” on the Internet. . . .

80. It follows that unlike traditional media, the barriers to entry as a speaker on the Internet do not differ significantly from the barriers to entry as a listener. Once one has entered cyberspace, one may engage in the dialogue that occurs there. In the argot of the medium, the receiver can and does become the content provider, and vice-versa.⁷

The “openness” of the Internet translates into an unprecedented ability of speakers to speak and listeners to receive content, free (to date) from significant governmental or private interference. Internet users have a wide range of choices as to how to access the Internet and what to do with the communications medium once online. Users can speak to the entire world with little or no investment. Listeners can access a vast wealth of content quickly and easily, without significant governmentally- or privately- imposed limitations. In short, the Internet offers individuals, communities, non-profit organizations, companies, and governments an unprecedented ability to speak and be heard.

⁶ *Id.* at 881 (Dalzell concurring).

⁷ *Id.* at 843-44.

Affirmative User Control and the Diversity of Content on the Internet: Although users of newspapers and TV have an element of control over what information they receive – in that they can turn to a particular section of the paper or choose a particular channel – users of the Internet have orders of magnitude greater control over their user experience. This greater user control flows, at a minimum, from (a) the unlimited capacity of the Internet, (b) the immediacy of content on the Internet, (c) the radically more diverse sources of content available on the Internet, and (d) the technical means users have to choose what information to receive. Each of these is briefly discussed below.

First, the Internet has overwhelmingly more capacity than any other medium. Taking today's Washington Post as an example, a reader is able to choose what to read from approximately 95 full articles and 65 brief news items (plus stock tables, box scores, etc.). In a generous evening of cable TV viewing (assuming 8 half hour shows on each of 150 channels), a viewer can choose what to watch from 1200 TV shows. On the Internet, in contrast, (1) a search of "Google News" indicates that it added more than 2,000,000 news stories in the past 24 hours (including all of the stories contained in the Washington Post), (2) a search of "Google Groups" indicates that at least 300,000 new postings were made to subject-specific "newsgroups" in the past 24 hours, and (3) tens of millions of web pages, blogs, and other Internet sites have certainly added new content in that same time frame.

Second, the vast content on the Internet is available on whatever schedule suits the users, whether it be at 3:00 a.m. (before the morning paper has been delivered) or 3:00 p.m. (before the major network evening newscasts).

Third, the sources of news and information are far narrower in the print or broadcast media. All of the news stories in the Washington Post, for example, were chosen for inclusion by the employees of a single company. More broadly, the ownership of traditional media in the United States is consolidated in the hands of a relatively small number of companies. According to one recent analysis, "in 2000, despite more than 25,000 outlets in the United States, twenty-three corporations controlled most of the business in daily newspapers, magazines, television, books, and motion pictures."⁸ Collectively, those companies serve as powerful gatekeepers, deciding each day what news and information will be made available to the American people. This contrasts with the tens of millions of different sources of content on the Internet.

Finally, Internet users can use tools such as search engines and "RSS feeds" (which monitor web sites and alert users to new content) to jump to specific content desired by the users or have that content automatically appear on the users' computer "desktops."⁹

A single example illustrates the greater ability of Internet users to control what content they receive. Assume a hypothetical media consumer wanted to learn about the hearing conducted last week by the Commission in this proceeding. If that user only subscribed to the

⁸ K. Smith, "The FCC Under Attack," 2003 Duke Law & Technology Review 19 at n.38 (citations omitted).

⁹ For more information on RSS feeds, see for example http://en.wikipedia.org/wiki/RSS_Feed.

Washington Post, she would have been entirely out of luck – that paper did not cover or write about the hearings. The user would have been able to see a very short report on one network news report, and could have heard a somewhat longer story on public radio – but only if she happened to tune in at just the right times for the broadcasts. On the Internet, in contrast, Google News could take the user to over 25 relevant news stories on more than 300 different web sites. Moreover, one could learn about and discuss the hearings on a range of blogs and web sites, including at least one blog that included comments in real time.¹⁰

Far more than with traditional media, Internet users can directly control what content they access, and can access at any time a far broader range of content than is ever available in more traditional media.

Preventive User Control: Beyond the Internet users' ability affirmatively to access desired content, users also have the ability to proactively *avoid* content that they do not want to receive. Although TV viewers can change channels if they do not want to watch a particular show or advertisement, Internet users can take steps to avoid undesired content in advance. For example, Internet users today can install software tools that block the display of the vast majority of advertisements on the Internet, so that the users are shielded from both political and commercial banner advertisements.¹¹

Moreover, if there are entire categories of content that a user does not want to access (or, for example, to which a parent wants to block a child's access), there are a broad range of tools that can screen or filter access to particular content.¹² Although some of these tools were originally aimed at blocking sexual content, many can now block a far broader range of content – indeed, an Internet user could choose to be shielded from all Internet content relating to “politics” and “government.”¹³

* * * * *

¹⁰ See <http://www.dailykos.com/story/2005/6/28/12514/1317>.

¹¹ See, e.g., <http://adblock.mozdev.org/>.

¹² For a description of the range of “user empowerment” tools, see <http://www.getnetwise.org/>.

¹³ Content categories that can be blocked include “Abortion Advocacy, Abusive Behavior by Others, Activist Groups, Adult Language, Advertising, Advertising for Adults, Alcohol, Alternative Journals, Anarchy, Art, Bomb, Broadcast Media, Cartoon Violence, Chat Rooms, Cults, Drugs, File Transfer, Free Mail, Free Pages, Gambling, Game Sites, Gay/Lesbian/Bisexual Lifestyles, Gothic, Government, Gross, Hacking, Hate Groups, Humor, Illegal Activity, Immoral Activities, Investments, Job Search, Leisure Activities, Lingerie, Message/Bulletin Boards, Militancy, Movies, MS Macro Files, Murder, New Age, Nudity, Obscenity, Occult, Online Auction, Online Games, Personal Ads, Personal Information, PICS Ratings Adult Topics, Politics, Popup Windows, Pornography, Profanity, Racism, Religion, Satanic, School Cheating Information, Search Engines, Self-Help, Sex/Acts, Sex/Attire, Sex/Nudity, Sex/Personals, Sexual Education (multiple levels), Sexually Oriented, Sexually Predatory, Shopping, Sports, Stock Quotes, Suicide, Swimsuits, Tasteless, Tobacco, Transgender, Travel, Unwholesome Activities, Usenet, Violence, [and] Weapons.” See <http://kids.getnetwise.org/tools/blockother>

This unprecedented level of user control on the Internet has a broad range of implications for public policy makers. In the context of governmental efforts to control access to sexual content, for example, courts around the country (starting with the Supreme Court in *Reno*) have repeatedly concluded that Internet users (and their parents) can protect themselves from undesired content without governmental intervention or censorship.¹⁴

In the context of the campaign finance laws, the greater user control over content on the Internet indicates that candidates, campaigns, and big money interests will be far less able to dominate the political conversation and squeeze out other voices. Because of the unique nature of the Internet, the Commission must be particularly careful in crafting any regulation of Internet speech to ensure that it does not chill the very speech that the campaign finance laws should be encouraging.

* * * * *

We appreciate the opportunity to submit these additional comments to the Commission. In addition, if there remain technical questions about which either the Commissioners or FEC staff would like additional information, CDT would be glad to arrange for one or more technical presentations by technical experts from the academic community. We look forward to continuing to work with the Commission on the important issues raised in this rulemaking.

Respectfully Submitted,

/s/ John B. Morris, Jr.

John B. Morris, Jr.
Center for Democracy & Technology

COUNSEL FOR CENTER FOR
DEMOCRACY & TECHNOLOGY

¹⁴ See, e.g., *ACLU v. Johnson*, 194 F.3d 1149 (10th Cir. 1999) (New Mexico); *PSINet, Inc. v. Chapman*, 362 F.3d 227 (4th Cir. 2004) (Virginia); *American Booksellers Foundation v. Dean*, 342 F.3d 86 (2d Cir. 2003) (Vermont); *Cyberspace Communications, Inc. v. Engler*, No. 99-2064, 2000 WL 176992 (6th Cir. 2000), aff'g 55 F. Supp. 2d 737 (E.D. Mich. 1999) (Michigan); *ACLU v. Goddard*, Civ. 00-0505 TUC-AM (D.Ariz. Aug. 11, 2004) (Arizona); *American Library Association v. Pataki*, 969 F. Supp. 160 (S.D.N.Y. 1997) (New York).



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July 5, 2005

By Facsimile

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1 2005 JUL -5 P 4: 57
 FEDERAL ELECTION
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Re: Supplement to Oral Testimony at June 29 Hearing on Internet Rulemaking

Dear Mr. Deutsch:

During my testimony before the Commission on June 29, 2005 in the Internet rulemaking, I requested the opportunity to supplement my remarks by written response to two questions posed by Commissioners. I address both questions below.

First, Commissioner Mason asked how the disclaimer requirement in 2 U.S.C. § 441d can be interpreted to require a disclaimer on the Web site of a political committee (including a political party committee), but not on the Web site of an individual.

As Commissioner Mason pointed out, section 441d refers to certain communications conveyed by “general public political advertising” both in the case of a political committee and in the case of “any person.”

The Commission’s current regulations apply the disclaimer requirement only to “public communications.” 11 C.F.R. § 110.11. Under the existing regulations, all Internet communications by individuals are exempt from the disclaimer requirement (whether on the individual’s Web site or paid for on another Web site), while the disclaimer requirement applies to “Internet websites of political committees available to the general public....” *Id.* Thus, the Commission’s *existing* practice is to distinguish between individuals and political committees for purposes of the disclaimer requirement.

In our written comments, we proposed that the term “public communication” exclude the Web site of individuals (but include communications paid for by individuals on another person’s or entity’s Web site), but continue to include the Web site of a political committee (as well as ads

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placed on another person's or entity's Web site). See Comments of Campaign Legal Center, *et al.* at 11-14.

This differentiation in treatment is grounded on familiar principles in the campaign finance laws. The definition of "expenditure," 2 U.S.C. § 431(9), for instance, is different when applied to an individual (where the definition is limited by "express advocacy") than it is when applied to a political committee, including a political party (where the definition is not limited by "express advocacy," but includes a broader class of electioneering messages).¹

This longstanding distinction in campaign finance law between the activities of political committees and the activities of individuals has perhaps best been explained by the Supreme Court in *Buckley v. Valeo*, where the Court construed the term "political committee" to encompass only those organizations controlled by a candidate or "the major purpose of which is the nomination or election of a candidate." 424 U.S. 1, 79 (1976). The Court reasoned: "Expenditures of candidates and 'political committees' so construed can be assumed to fall within the core area sought to be addressed by Congress. They are, by definition, campaign related." *Id.*

On this basis and in many respects the law much more comprehensively and extensively regulates the activities of party committees (imposing, for instance, extensive reporting requirements, 2 U.S.C. § 434, and spending limits, *id.* at 441a(d)), than it does individuals.

As we noted in our written comments, "The campaign finance laws provide for different levels of regulation of individuals, corporations and labor unions, and political committees (including party committees). In the context of 'public communications' that are to be subject to the coordination rules, we believe the definition of what constitutes a 'public communication' should reflect these longstanding distinctions drawn by the law." Comments at 11.

Accordingly, consistent with its current practice, we believe the Commission has the authority, by regulation, to define the term "public communication" more broadly when applied to political committees than when applied to individuals. This would result in a requirement that party committees include a disclaimer on their Web sites, while individuals need not do so.

Second, Commissioners Weintraub and Toner asked whether state party committees can be required to use some or all hard money for certain communications on their Web sites.

Under 2 U.S.C. § 441i(b)(1), a state party must spend hard money on "federal election activity," which includes any "public communication that refers to a clearly identified candidate for Federal office" and that promotes, attacks, supports, or opposes ("PASO") that candidate. *Id.* at 431(20)(A)(iii).

¹ Further, although the statutory definition of "expenditure" contains no exception for individual volunteer activities, the Commission has for good reason proposed in this rulemaking a regulatory exception to the definition of "expenditure" for individual Internet activity. See NPRM 2005-10, 70 Fed. Reg. 16967, 16978 (April 4, 2005)(proposed § 100.155 "Uncompensated individual or volunteer activity that is not an expenditure").

Under 2 U.S.C. § 441i(b)(2) (Levin amendment), a state party must spend either all hard money or a mixture of hard money and Levin funds to pay for any “public communication” that constitutes “generic campaign activity” (*i.e.*, public communication that promotes a political party and does not promote a candidate). *See id.* at §§ 431(20)(A)(ii) and 431(21)(b)(2). *See also* 11 C.F.R. § 100.25.

Thus, assuming (as we do) that a state party’s Web site is a “public communication,” the law requires that any PASO communication on the Web site must be funded with hard money. Similarly, a “generic campaign activity” communication on a state party’s Web site must be funded either with all hard money, or with a mixture of hard money and Levin funds.

The Internet poses a unique problem for judging the contours of the “public communication.” Unlike a print ad, broadcast ad, direct mail piece, etc., all of which are discrete and unitary forms of communication, an Internet Web site is of shifting and somewhat indeterminate boundaries.

If a state party’s print ad, for instance, referred to a federal candidate and met the PASO test, the entire ad would have to be paid with hard money, even if the ad also referred to a non-federal candidate. The party could take out two separate ads – one referring to the federal candidate (and paid entirely with hard money) and one referring exclusively to non-federal candidates (and paid with soft money).

As an initial matter, if a state party Web site refers to a federal candidate and meets the PASO test, the statute can be read to require that the entire Web site be funded with hard money. We believe this would clearly be a permissible interpretation of section 441i(b).

On the other hand, by analogy to the “two print ads” example set forth above, a state party committee could set up two separate Web sites, one for references to federal candidates and one for references to state candidates, and propose to use hard money only to fund the former site. But given that “separate” Web sites can be easily cross-linked, it is not clear that the boundaries of what constitutes the “federal” site could be clearly defined.

Although this problem poses a dilemma, the path out of the dilemma is not for the Commission to simply allow all state party Web sites to be funded entirely with soft money, no matter how clearly or often they promote or attack federal candidates. To do so would be to operate in violation of clear statutory dictates that party communications with regard to federal elections be funded with hard money.

Rather, we urge the Commission, as a matter of administrative convenience and practicality, to set minimum percentages on an across-the-board basis that can be used to define the scope of a state party’s Web site that constitutes the “public communication” referring to a federal candidates.

The Commission can rely on the recent precedent of how it set flat allocation percentages for the spending of Levin funds by state parties. *See* 11 C.F.R. § 300.33. There, the Commission established four set percentages, depending on the type of election year

4

(Presidential and Senate, Presidential, Senate, and non-Presidential/non-Senate). The allocation ratios are based on the sensible assumption that the federal percentage should be highest in the first of the four cases, and progressively decline.

A similar methodology, based on similar assumptions, could be adopted by the Commission to determine flat percentages of state party Web sites that should be deemed a segregable "public communication" for purposes of the section 441i(b) requirement that state party PASO "public communications" referring to federal candidates be funded entirely with hard money. While this approach is analogous to an "allocation" of the state party Web site, the underlying concept is different, and instead is based on determining the discrete portion of the Web site that includes a federal PASO communication, and thus must be funded entirely with hard money.

I am pleased to have the opportunity to address both of these questions.

Respectfully submitted,

Trevor Potter

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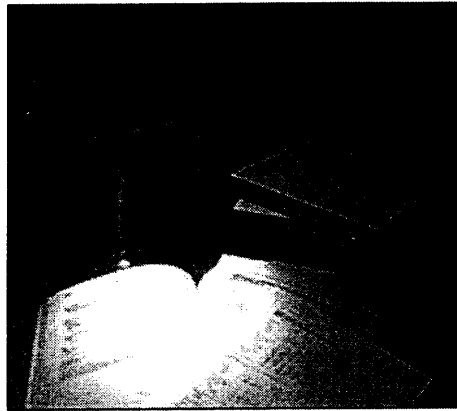
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Spotlight



How Bush's FY06 Budget Will Affect Nonprofits

The President's budget that was released on Feb. 7 is not just austere; it is also frighteningly bleak for nonprofit groups and the people and causes they serve. The President has manufactured a fiscal crisis with massive tax cuts, mainly targeted to the wealthy, that has resulted in federal revenues being reduced to the lowest levels since the 1950s as a percentage of our economy. Cutting revenue to that level means there is drastically less money to fund programs that address community and human need problems, a core function of many nonprofits.

[The Bush FY 2006 Budget from a Nonprofit Perspective \(.pdf\)](#)

How To Be Tough On Budgets, Not Poor Americans

There is something interesting going on in Indiana this year. Republican Governor Mitch Daniels, former Office of Management and Budget (OMB) director under President Bush, wants to institute a progressive tax for one year to help close Indiana's \$645 million budget shortfall.



Daniels As OMB Chief in 2001

[Read more...](#)

What's New

OMB Watch Budget Blog

Be sure to visit the OMB Watch Budget Blog for the latest news and analysis on tax and budget issues.

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Tuesday, June 28, 2005

 Search Blogs

Bank of International Settlements Issues Warnings in Report

The Bank for International Settlements released their annual report yesterday. In the report (see also a summary), they issued warnings on economic imbalances, the U.S. budget deficit, and dollar depreciation.

The report found that the world economy is marked by increasing internal and external economic imbalances. These imbalances raise serious questions about future global growth and financial stability. The report said, "One simply cannot ignore the number of indicators that are now simultaneously exhibiting marked deviations from historical norms," and went on to warn that the U.S. budget deficit was an increasing concern of global importance. The report basically stated that without any sort of budgetary discipline, the continued decline of the U.S. dollar against other currencies appeared "inevitable."

The report also stated that the U.S. deficit "expanded to a record high as a proportion of GDP [almost 6%], and this in spite of a reduction in the effective real value of the dollar of more than 20% from its peak in early 2002.... It is unprecedented for a reserve currency country to have a current account deficit of such magnitude." The high deficit has resulted in the global financial system seemingly becoming increasingly prone to various sorts of financial turbulence. The Bank of International Settlements is warning Bush and Congress that if deficits continue to rise, there could be serious consequences. Given the current fiscal health of the U.S. economy, now is not the time for Congress and the President to be considering any extremely expensive legislation, without figuring out a way to pay for it.

Posted by Becky Lewis

Watcher: June 28, 2005

Federal Budget

- Rhetoric Heats up on Estate Tax as Political Reality Pushes Compromise

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Posted by Becky Lewis

Monday, June 27, 2005

Where is the Party of Fiscal Responsibility?

This is an excellent op-ed in today's New York Times by Nicholas Kristof, focused on the debt and the lack of fiscal responsibility which has permeated White House economic policy for the last five years. As Kristof points out, "More than two centuries of American government produced a cumulative national debt of \$5.7 trillion when Mr. Bush was elected in 2000. And now that is expected to almost double by 2010, to \$10.8 trillion."

There are reasons why we are now so far into debt that three-fourths of the debt have to be purchased by foreigners -- many of them are related to the economic policies passed by the administration and Congress over the last five years. Bush was able to pass his tax cuts of 2001 based on projections of future levels of revenue that proved to be false; yet the tax cuts are still in place, and Congress is calling for more (i.e., repeal of the Alternative Minimum Tax and the Estate Tax).

As the article points out, in a speech Bush gave after presenting his first budget in 2001, he said, "I hope you will join me to pay down \$2 trillion in debt during the next 10 years. That is more debt, repaid more quickly, than has ever been repaid by any nation at any time in history." He stated that the U.S. would be "on a glide path toward zero debt." This has turned out to be almost ludicrously false. The debt held by the public is \$4.5 trillion today. And each time Bush and Congress pass expensive legislation without figuring out how they are going to pay for it (as they are trying to do with Social Security right now), it only increases this amount. In one of the richest countries in the world, every baby is born tens of thousands of dollars in debt. There is a reason why GAO Comptroller David Walker calls our fiscal irresponsibility "the greatest threat to our future." We are currently on an unsustainable path.

Posted by Becky Lewis

Friday, June 24, 2005

More on DeMint's Social Security Plan

While the legislation proposed by Sen. DeMint has the support of the Ways and Means Committee, it varies slightly from what the House intends to propose in a bill sometime in the future. Both however, will call for the creation of private accounts. The DeMint legislation, according to aides, would end the prevailing practice of reducing the deficit by the size of the Social Security surplus, since the obligations to the accounts would be treated as regular outlays. The government, however, could continue to spend the surplus on other needs, since the money would be invested in treasury bonds (just as payroll taxes are today). His plan also calls for the creation of an independent board which could offer individuals the opportunity to diversify the accounts into stocks or other investments.

Chairman of the Finance Committee, Sen. Grassley (R-IA), has not yet specifically endorse the DeMint proposal, and it is unclear as of right now how the Finance and Ways and Means Committees will work together to reach a consensus on these ideas. In a statement, Grassley said, "I want to pass legislation that makes Social Security solvent along with personal accounts if possible, and that obviously goes further than this legislation does."

Finance Committee ranking member Max Baucus (D-MT) characterized the DeMint plan as being part of a "bait-and-switch" strategy that will likely see the House approve a private account plan and wrap it in a non-amendable conference report to try to force enactment. House Minority Whip Steny Hoyer (D-MD) released a statement saying the proposal would do nothing to address solvency issues, and "would actually weaken Social Security's solvency by diverting the surpluses that are expected over the next several years and depleting the Social Security Trust Fund even sooner."

Baucus' point has been supported by evidence elsewhere, most notably by Jason Furman of the Center on Budget and Policy Priorities. Furman has stated that the DeMint proposal would drain \$600 billion from the Social Security trust fund in the first ten years it is in effect. He stated it will also increase the deficit to nearly \$500 billion in 2007. Much of the cost would be administrative, with Furman noting that thousands of new federal employees would be needed to administer the accounts.

Furman presented many of these points and more in his recent testimony before the Ways and Means subcommittee on Social Security.

Posted by Becky Lewis

Thursday, June 23, 2005

White House Changes Course On Private Accounts

Despite reports yesterday that Sen. DeMint's Social Security plan, GROW, has received the support of the Ways and Means Committee, there are reports today that the White House has encouraged -- and even instructed -- Republican Congressmen to go forward with introducing reform plans which don't include private accounts. Sen. Robert Bennett (R-Utah) said after a White House meeting that the president encouraged him to introduce a Social Security bill that does not include the private accounts. "He indicated I should go forward and do that," Bennett told reporters. Bennett's bill would aim to garner Democratic support. According to news sources, Senate Majority leader Bill Frist (R-TN) refused to comment on these developments.

Posted by Becky Lewis

Wednesday, June 22, 2005

DeMint and Ways and Means Move Forward with SS Plans

Sen. Jim DeMint (R-SC) has revealed a Social Security proposal which includes private accounts. DeMint's plan is cosponsored by Sen. Santorum (R-PA), Sen. Graham (R-SC), Sen. Crapo (R-ID), and Sen. Coburn (R-OK).

The Ways and Means Committee also unveiled a proposal today which is quite similar to the DeMint plan. The name of the committee's plan is GROW, or "Growing Real Ownership for Workers," and it attempts to paint the creation of private accounts as more worker-friendly than they really are. Under the plan, workers could elect to have their share of the Social Security surplus set aside in a personal account. Critics point out it does nothing to solve the issue of solvency, which is unarguably the biggest problem facing Social Security. Rep. Jim Kolbe stated "If it's an attempt to get us off dead center, to move us forward, that's fine. But it doesn't fix the solvency [problem]: You'd have to borrow the money from some place else."

Posted by Becky Lewis

Budget Committee Hearing on Budget Process

Today the House Budget Committee held a hearing reflecting on the budget process. All hearing documents can be seen [here](#). The purpose of the hearing was to take a comprehensive look at the current process, including its various aspects and implications — both for policy and the practical operations of Congress. Former Rep. Bill Frenzel, Professor Allen Schick, and Center on Budget and Policy Priorities' Richard Kogan testified.

Posted by Becky Lewis

Tuesday, June 21, 2005

NY Times Editorial on the Estate Tax

This excellent editorial in the New York Times discusses the conservative push to repeal the estate tax in the Senate. The article says "The mostly Republican supporters of repeal don't have the necessary votes, but are threatening to bring the measure to the floor to force Democrats to vote against it. Democrats, in turn, fear being painted as pro-tax at election time, so would rather broker a compromise than vote against repeal."

However, a bad compromise would be worse than no compromise at all. The article notably points out that irresponsible repeal - such as one that had the exemption level at \$3.5 million and the taxable rate at 15% - would end up costing the treasury almost as much as full repeal would (87 percent), and thus is just as harmful.

Posted by Becky Lewis

House Leads Senate in Work On Approps Bills

While the House is set to finish work all eleven House spending bills by the end of this month, there is pressure on the Senate to figure out a floor strategy to avoid the unruly process that characterized last year's spending negotiations. Next week the Senate is scheduled to work on the Interior-EPA and Homeland Security bills, but after the July Fourth recess the appropriations schedule remains uncertain, according to leadership and committee staff.

This Washington Post article from yesterday looks in depth at the Appropriations Chairman - Sen. Thad Cochran (R-MS) and Rep. Jerry Lewis (R-CA) - and what they are hoping to accomplish during this appropriations cycle.

Posted by Becky Lewis

Thursday, June 16, 2005

Congress Looks at Proposals to Reform Medicaid

The tough FY 06 budget calls for cuts in most discretionary programs, as well many entitlement programs. Specifically, House and Senate lawmakers have been charged with cutting some \$10 billion or more from the Medicaid program. Yesterday, National Governor's Association Chairman Mark Warner (D-VA) and Vice Chairman Mike Huckabee (R-AK) presented their proposals for reform. These proposals are intended to provide Congress with a blueprint as lawmakers work to implement legislation to reduce Medicaid spending.

The proposals suggest improvements to reduce the cost of prescription drugs by increasing rebates from manufacturers, reforms to the Average Wholesale Price system, policies to increase generic drug use, and tiered copayments. In addition, the NGA plan suggests closing loopholes that allow some people to hide or transfer assets to qualify for Medicaid long-term care benefits, increasing cost-sharing for beneficiaries, and implementing judicial reforms to allow states to "locally manage the optional Medicaid categories." Sen. Max Baucus (D-Mont.), ranking member on the Senate Finance Committee, expressed concern about increasing cost-sharing, saying in his opening statement before the committee, "Onerous cost-sharing requirements can harm access to care. While personal responsibility is important, we should not place unduly high barriers to access through changes in cost-sharing."

Congress appears to be a long way from agreement on how to go about reforming Medicaid. The governors have long supported efforts to save more money on prescription drugs; to close loopholes that let people shelter assets to qualify for Medicaid-covered nursing home care, and to encourage the purchase of private long-term care insurance. More contentious are proposals to allow states to require patients to pay for more of their care and what the proposal refers to as "judicial reforms" that would shield states from lawsuits when they change Medicaid programs; both of concern to consumers and consumer advocates.

Posted by Becky Lewis

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House Conservatives Coopt DeLay into Pushing Dangerous Budget Process Reforms

After House Republican leadership avoided the derailment of the FY 2006 budget resolution by a small group of House conservatives over a standoff about budget process rules, the movement to change those rules in Congress has picked up steam once again. This time, however, the group of conservative House Republicans has enlisted the help of a powerful ally: Majority Leader Tom DeLay (R-TX).

The Hill newspaper reported last week that DeLay has been working behind the scenes with conservative Republicans seeking radical changes to the budget rules and leading members of the key committees in the hopes of implementing changes that would support DeLay's goals of defunding the federal government. This comes as a surprise since only a few months ago DeLay opposed an effort by a group of conservatives to make these same changes in the budget process.

Some aides on Capitol Hill believe DeLay's move to ally with House conservatives is a reaction to the embattled leader's recent trouble with charges about ethical violations as well as harsh attacks from liberal activist groups. Conservatives in the House have been some of DeLay's strongest supporters and make up his power base in the GOP caucus in the House.

DeLay claims he has always supported budget process reform - just not the piecemeal approach used by the Chair of the Republican Study Committee (RSC), Mike Pence (R-IN), and other conservatives during the beginning of the 109th Congress. Pence and other House Republicans pushed for individual budget rule changes during the Republican conference meeting after the 2004 elections as well as in amendments to the 109th Congress's rule package, both which DeLay opposed.

Specific proposals being discussed this year include annual spending caps and giving the budget resolution the force of law. These proposals were voted down on the House floor last year - some garnering less than 100 votes. But many House conservatives are optimistic that the support of someone like DeLay is all that is needed to gather the necessary votes to win approval on the floor. Rep. Mark Kirk (R-IL), chairman of the Tuesday Group, a caucus of about 40 Republican centrists, is much more confident about passing changes to the rules. Quoted in *The Hill*, Kirk stated, "This time I've got Tom DeLay." "He goes from someone not supportive of the rules package to someone who can make it happen."

The budget-reform "working group" created by DeLay includes himself, Pence, Kirk, Rules Committee Chairman David Dreier (R-CA), Budget Committee Chairman Jim Nussle (R-IA), Ways and Means Committee Chairman Bill Thomas (R-CA) and Rep. Jeb Hensarling (R-TX), who handles budget reform for the RSC. The group, except for Thomas, met for the first time during the week before the Memorial Day recess.

Pence said the ultimate purpose of the changes is to make it easier to pass tax cuts and more difficult to pass spending increases or create new programs. The working group will most likely consider some if not all of the following changes:

- Eliminating budgeting gimmicks often used by the White House.
- Moving up the date the president submits his budget to Congress.
- Postponing the start of the fiscal year.
- Reforming the reconciliation process.
- Creating sunsets (or time limits) for mandatory spending programs.
- Eliminating spending programs that have exceeded their authorization.

- Rewriting the Byrd rule, which limits changes in policy on appropriations bills.

These proposals will essentially make it much easier to cut spending and reduce federal investments in communities across the country and much more difficult for Congress to respond to future unknown needs.

There may still be one stumbling block in the process DeLay has set in motion. There appears to be resistance to these changes from members of the appropriations committee, including Chairman Jerry Lewis (R-CA) who attended one meeting of the working group, "just to listen," he said. Historically, appropriators have clashed with House conservatives about spending levels and budget rules.

There is no timetable set for future meetings at this point and despite DeLay's support and efforts, it is still unclear if any changes will be implemented this year.

Erosion of Retirement Security Continues in America

A recent wave of bankruptcies has caused the benefit pension plans of many large companies to be significantly under-funded or fold, leaving millions of workers dependent upon the government-sponsored insurance system: the Pension Benefit Guaranty Corporation (PBGC). These bankruptcies have put additional pressure on the PBGC to cover the payments to millions of Americans who were planning on their pensions for retirement. This wave of corporate bankruptcies that is burdening the PBGC makes it all the more important that the Social Security system remain a guaranteed benefit that is risk-free, especially for workers who have lost their pensions through no fault of their own. It is also a warning that the PBGC could become the equivalent of the savings and loan debacle of the 1980s.

The purpose of the PBGC is somewhat similar to that of Social Security. They both involve individual entities forming a collective agreement to help minimize future risk. The PBGC is an insurance system that guarantees pension plans to employees whose companies have gone bankrupt or have lost the means to pay their liabilities, while Social Security guarantees month-to-month benefits for anyone who contributed to the system while employed. The PBGC, first set up in 1974, is a federal corporation financed by fees from companies with defined-benefit pension plans. It provides retirees with monthly checks based on years of service and pay.

Normally, companies with pension plans maintain funds to cover their liabilities, but in recent years a number of businesses have under-funded their plans and thrown their obligations onto the PBGC. This trend has become more prevalent since 2000, and can be attributed to a mixture of low interest rates, stock market losses, lower overall corporate earnings, and an increase in the number of retirees guaranteed payments.

From 2000 to 2003, the agency went from a surplus of \$9.7 billion to a deficit of \$11.2 billion. Things have only gotten worse with a \$23.3 billion deficit today and no sign of improvement in the future. Recently released data from the PBGC indicates the country's 1,108 weakest pension plans had an aggregate shortfall of \$353.7 billion. These shortfalls mean probable benefits cuts for millions of people. While the program is able to make all payments owed to current retirees with failed benefits *right now*, the long-term solvency of the PBGC is questionable, and thus the pension plans of those who are working now. As United pilot Klaus Meyer, 47, of Bethlehem, PA, said, "I lost almost all my United stock value in the bankruptcy, and here's another part of the retirement I was promised that is gone. And now my Social Security is at risk. Where does it all end? You feel brutalized by the system."

Spotlight on Pension Issues

Under-funded pension plan troubles are currently in the spotlight because a number of large, high profile companies have been forced to declare bankruptcy over the past few years in part because of their pension liabilities. United Airlines recently defaulted on their pension plan and the PBGC made the decision to step in to rescue the company. While this decision will benefit the workers of United, PBGC does not always pay 100 percent of the amount promised to retirees by their employers. In the case of United Airlines, for example, PBGC will only guarantee \$6.6 billion of the \$9.8 billion promised to employees. If other companies default on their pension liabilities and PBGC covers the costs, other workers will no doubt experience the same loss.

Unless Congress acts to prevent under-funding of private pension plans, a number of the larger airlines in the U.S. with defined-benefit pension plans will be heading down the same path as United Airlines. PBGC Executive Director Bradley Belt has stated in an interview that United is only the latest and largest example of what ails the federal pension protection system. The system allows companies to drastically under-fund pensions, escalating defaults and driving the PBGC \$450 billion in the hole. In three years, Belt says, it has gone from having a \$7 billion surplus to a \$23 billion deficit.

Delta Airlines is one company which may default soon, currently facing approximately \$3 billion in pension shortfall payments over the next three years. The Congressional Budget Office estimates that a PBGC takeover of Delta's defined-benefit pension plan would add 40 percent to the corporation's pension coverage responsibilities. Airline and steel companies, in fact, account for 70 percent of total PBGC claims. General Motors is another large corporation showing signs of fiscal distress as well; on June 7 the company announced they would eliminate 25,000 jobs by 2008, partly due to the rising cost of their health care pension commitments.

Similarities to the Savings and Loan Crisis of the 1980s

Free market champions, who ruled the day in the late 1970s and early 1980s, argued that regulations would destroy the ability of banks to make money and generally argued that regulation was not good for the bank or the consumer. The result of this rather *laissez faire* approach was a period of deregulation in which government regulation was reduced or removed. Many savings and loan operations (S&Ls) took advantage of the lack of supervision and regulations to make highly speculative investments, in many cases loaning more money than they really should.

When the real estate market crashed in the 1980s, the S&Ls were crushed. They owned properties for which they had paid

enormous amounts of money but weren't worth a fraction of what they paid. Many went bankrupt, losing their depositors' money. This was known as the "S&L Crisis" as Congress stepped in to bailout the banks.

In 1980, there were 4,600 thrifts, by the mid-1990's less than 2,000 survived. The S&L crisis cost about \$600 billion dollars in "bailouts," which is over \$900 billion in today's dollars. As Cato Institute's Richard A. Ippolito points out, the PBGC situation is very similar to the S&L of the 1980s.

"[T]he plans are permitted to hold assets that are mismatched to their liabilities (the main reason for the S&L crisis). Pension liabilities are like bonds and require a bond portfolio carefully matched for maturity to eliminate underfunding risks. But pensions hold large amounts of stock. Pension sponsors hope that stock investments will earn a higher return, reducing the need for contributions, but the PBGC holds the downside risks. In economic downturns, underfunding swells and bankruptcy rates increase, creating a potentially catastrophic rush on PBGC insurance."

Congress Adds Pensions to Other Retirement Security Work

The Senate Finance Committee held a hearing on this issue on June 7 in order to explore ways to prevent under-funding and pension collapse. Committee members heard from government officials, corporate executives, and union representatives. In the hearing, CBO Director Douglas Holtz-Eakin and PBGC Executive Director Bradley Belt told committee members pension laws need to be tightened so ailing companies cannot "smooth over" financial difficulties when making pension reports, or take steps to increase pension benefits while at the same time under-funding their plans.

A number of lawmakers have introduced bills addressing the pension issue. On June 9, Chairman of the House Education and the Workforce Committee Rep. John Boehner (R-OH) and Rep. Sam Johnson (R-TX) introduced a pension bill that would require companies with under-funded pension plans to fund them fully within seven years. Under the bill, companies would have less time to make up shortfalls in their pension funds. It would also require companies to disclose more information to employees about the financial status of their pensions.

The bill has drawn criticism from Democrats on the committee, most notably the ranking member, Rep. George Miller (D-CA). Miller said the bill would discourage the use of defined-benefit pension plans rather than ensure their stability. "These actions would seriously undermine the use and attractiveness of defined-benefit plans for both employees and employers and would fail to provide the protection employees need for their hard-earned nest eggs," Miller commented. Boehner defended the bill saying the collapse at United called for fundamental changes to the current pension systems. While this may be true, the explosion of this issue also underscores the need for generally reliable and risk-adverse retirement benefits for all Americans.

With millions of people relying on shaky and at times unstable defined-benefit plans which may or may not pay out throughout retirement, the importance of the Social Security system grows exponentially. As Belt, head of the PBGC stated, "The defined benefit pension system is beset with structural flaws that undermine benefit society for workers and retirees and leave premium payers and taxpayers at risk of inheriting the unfunded pension promises of failed companies."

Given the risks we are currently seeing with corporate pension plans, it seems particularly poorly timed to be pushing for the addition of private accounts in the Social Security system. Proposals to institute such accounts have universally been criticized as adding inherent risk to retirement security. Not only would they provide risk for those who depend upon Social Security payments to stay above the poverty line, but they would also provide risk for the millions of families who depend upon a combination of pension plans and Social Security to live comfortably during retirement. As United pilot Klaus Meyer, 47, of Bethlehem, PA, said recently in the Washington Post, "I lost almost all my United stock value in the bankruptcy, and here's another part [his pension] of the retirement I was promised that is gone. And now my Social Security is at risk. Where does it all end? You feel brutalized by the system."

Yet it appears these two issues will be coming together in Congress. Rep. Bill Thomas (R-CA), chairman of the House Ways and Means Committee, which has jurisdiction over Social Security, has stated publicly he would like to combine Social Security reform with pension overhaul in a single piece of legislation. Given Thomas's strong support of private accounts, it is possible the combination of these two issues into a single piece of legislation could result in a dangerous bill that adds large amounts of risk in retirement for all American workers.

Horrible and Costly Legislation to Repeal the Alternative Minimum Tax Introduced

In a strange development in late May, a bipartisan group of Senators on the Finance Committee cosponsored legislation introduced by Sen. Max Baucus (D-MT) to permanently repeal the Alternative Minimum Tax. However, the legislation does not include provisions to offset the huge cost of the bill. While there is broad consensus that the AMT needs to be reformed as it continues to creep into the consciousness and tax returns of middle-class Americans, a full repeal would be a horrible tax policy that would once again give a huge tax break to the super-wealthy and is the wrong choice when Congress is attempting to control federal deficits.

First introduced in 1969 and affecting only a few hundred people, the AMT was originally designed to prevent extremely wealthy individuals from avoiding paying any income tax with the excessive use of tax deductions and shelters. However, because two key aspects of the tax (the income exclusion and tax brackets) were not indexed for inflation, it has gradually begun to affect millions of upper-middle class Americans - something it was never intended to do. By 2010, approximately 30 million tax filers (about 26 percent of all filers) will be impacted by the AMT, according to the Tax Policy Center.

The Congressional Budget Office (CBO) has calculated full repeal of the AMT will cost \$611 billion over the next ten years (2006 - 2015). According to the Center on Budget and Policy Priorities if the President's 2001 and 2003 tax cuts are extended, as they are likely to be, the cost would jump to \$954 billion.

This is a tremendous cost to the federal government during a time of huge deficits and when future obligations, such as the wars in Iraq and Afghanistan, Social Security, and rising health care costs, will put tremendous strain on the federal budget. The CBO, Government Accountability Office (GAO), and many other analysts have repeatedly warned throughout this year that current fiscal policies are unsustainable over the long-term. These warnings have come without assuming repeal of the AMT, which will only exacerbate the long-term problems already facing the country.

The cosponsors of S. 1103 are throwing the baby out with the bathwater. The AMT needs to be reformed, but it would only take simple and small changes to ensure the tax would meet its original purpose of preventing a small number of extremely wealthy Americans from paying no income taxes. Full repeal of the tax is simply unacceptable.

While the bipartisan support for S. 1103 is disconcerting, its chances for becoming law are slim. The cost of full repeal alone would necessitate that it passes outside the reconciliation process this year, thus requiring 60 votes to pass. Charles Grassley (R-IA), chairman of the Senate Finance Committee, has stated his intention to include a one-year fix for the AMT in his committee's reconciliation bill at a cost of \$30 billion. This would allow more time to implement a responsible reform option rather than full repeal.

Tax Cuts Often Slide Through Congress Undetected

It is one thing for Congress to cut taxes for major manufacturers such as those working in the wine, beer, and liquor industry, but it is another issue altogether to do so by burying the language in little-noticed sections of the highway reauthorization bill. Yet this is exactly what is happening right now and it is only one example of an increasingly opaque system Congress uses to make piecemeal changes to the tax code without debate.

Spending earmarks in federal legislation are not uncommon. They have long been a way for members of Congress to fund seemingly random pork projects hidden under the umbrella of otherwise needed legislation. With appropriations bills and other legislation often running thousands of pages in length, members of Congress can include line-items for projects in home districts or states that usually escape the scrutiny of the full Congress.

Recent cases of earmarks range from \$1.5 million for a Henry Ford museum in Dearborn, Michigan, to \$4.5 million to renovate a recreation center at St. Bonaventure University. Whether pork-barrel spending is done in an effort to please constituents, better communities and neighborhoods, serve political interests for lawmakers, or pay back a powerful special interest, the lack of transparency and debate surrounding such items is troublesome.

Even more dangerous than pork-barrel spending being hidden away in legislation is when tax provisions are tucked deep into bills, especially since these are often long-term, if not permanent changes. Take the afore-mentioned occupational tax on the alcohol industry for example. It is collected from thousands of producers and sellers of distilled spirits, wine and beer, and brought in over \$100 million dollars in FY03 and FY04 for the federal government.

Last year when the Corporate Tax Bill was approved, it included a short-term tax provision which freed the alcohol industry of all "special occupational taxes," amounting to a tax cut of tens of millions of dollars for the so-called hospitality industry over the next three years. The language for this tax cut was included in a little-noticed section of the bill.

Today, the wine and beer lobby has convinced legislators to prioritize a permanent repeal of this tax. In order to expedite passage and reduce any possible criticism, the language was included in the highway reauthorization bill many view as a must-pass bill this year in Congress. As the House and Senate spend most of their time debating over the total level of funding for the bill (the House passed a \$284 billion bill, while the Senate passed a \$295 billion bill), the small tax provision continues to go mostly unnoticed.

This is not an isolated incident. The Senate version of the highway bill also contains a number of other tax cut provisions besides the alcohol occupational tax, including a cap on fishing rod taxes, a ticket tax exemption on sightseeing planes, and repeal of some custom gunsmith's taxes.

Regardless of the merits and practicality of these tax changes, tax laws should not be created or reformed under-cover in legislation focusing on other priorities. This is an insider tactic used to reduce dissent by often forcing lawmakers to vote for a bill containing small tax provisions with which they may not ideologically agree, but cannot vote against because of the legislative vehicle being used.

Changes to tax laws have a greater long-term impact on the government's ability to meet its obligations than the typical one-year pork-barrel spending project; to hide tax provisions in unrelated legislation only serves to remove transparency and healthy debate from the legislative process and eliminates any comprehensive attempts to federal budgeting.

Whistleblower Reveals Bush Administration Altered Climate Change Reports

A former oil industry lobbyist changed language in government climate change reports to undermine the science on climate change and present it as less problematic, according to a government whistleblower, in what is becoming a persistent problem of politics trumping science. Days after news outlets broke the story, Sen. John Kerry (D-MA) and Rep. Henry Waxman (D-CA) sent a letter to the Government Accountability Office asking for an investigation into the whistleblower's claims.

The whistleblower, Rick Piltz, accused Philip Cooney of changing several 2002 and 2003 reports, including *Out Changing Planet* and the *Strategic Plan for the United States Climate Change Science Program* that discussed climate change. He asserts Cooney made changes focused on creating an air of doubt around climate change science. One of the changes Cooney made was crossing out a section on ice and snowpack melting, noting that it strayed "from research strategy into speculative findings/musings."

Before joining the White House Council on Environmental Quality as chief of staff, Cooney was a lobbyist for the largest oil industry trade group -- the American Petroleum Institute. He is trained as a lawyer, not a scientist. Cooney's changes echo the beliefs of the institute, whose website states, "U.S. oil and natural gas companies believe that uncertainties about climate change make it hard to justify mandatory, severe, near-term emission reductions."

Piltz, a Senior Associate with the U.S. Climate Change Science Policy Office and former Associate Director of the U.S. Global Change Research Program, resigned from the Climate Change Science Program in March in protest of the politicization of his science program. He noted in a memorandum sent to climate change officials last week, "I have not seen a situation like the one that has developed under this administration during the past four years, in which politicization by the White House has fed back directly into the science program in such a way as to undermine the credibility and integrity of the program."

White House spokesman Scott McClellan defended Cooney in a press briefing, saying that many people within the federal agencies edit these reports, and since it was part of a broad review, "[e]verybody who is involved in these issues should have input in these reports, and that's all this is." However, on June 10, days after the accusations came to light Cooney abruptly resigned. The White House denies his departure had anything to do with the turmoil over the climate change report alterations.

Kerry and Waxman sent a letter to the Comptroller General David Walker at the Government Accountability Office (GAO) asking for an investigation into Cooney's influence on these reports. They broaden the request to also include other example of politics competing with science in government.

This is not the first time the White House has altered reports on climate change. The Bush administration has also repeatedly shown resistance to embracing the scientific community's consensus that global warming is occurring, and oppose mandatory regulations aimed at curbing the release of greenhouse gases. As previously reported by OMB Watch, administration officials cut out an entire chapter on climate change within EPA's 2003 Draft Report on the Environment. In this case, CEQ requested changes such as the removal of any reference to National Academy of Sciences (NAS) findings which confirmed the Intergovernmental Panel on Climate Change report asserting that climate change is happening, and humans are altering the atmosphere. This is particularly ironic, given that the White House requested the NAS report, but was unhappy with its findings. The administration also inserted a reference to a discredited study from the American Petroleum Institute.

FOIA Continues to Get Congressional Attention

Sens. John Cornyn (R-TX) and Patrick Leahy (D-VT) introduced another bipartisan Freedom of Information bill last week that would require any new bills that exempt information from the Freedom of Information Act (FOIA) to say so within the text. This bill joins several bills aimed at strengthening FOIA, while several others would chip away at the act.

Introduced on May 7, the new legislation (S. 1181) takes a section from another Cornyn and Leahy FOIA bill, the OPEN Government Act, and introduces it as a stand-alone bill. Section 8 of the OPEN Government Act requires that anytime Congress introduces legislation that would exempt information from disclosure under FOIA, it must explicitly say so within the bill text. Cornyn explained the need for the stand-alone bill, stating, "The justification for this provision is simple: Congress should not establish new secrecy provisions through secret means. If Congress is to establish a new exemption to FOIA, it should do so in the open and in the light of day."

The new bill already passed through the Committee on Judiciary June 9 and may have an easier time passing through Congress than the larger OPEN Government Act, which is expected to be a longer battle. The senators introduced the bill just days after a June 3 Cox News Service article pointed out 140 cases where FOIA exemptions were inserted into legislation.

One current example of one of these exemptions is language in the National Defense Authorization Act for Fiscal year 2006. As reported in a previous *Watcher*, the Defense Intelligence Agency within the Department of Defense is looking to obtain a FOIA exemption for its "operational files." This could hide a great deal of information that the public needs to hold the government accountable. The House stripped the measure from its version of the bill, H.R. 1815, however the Senate version (S. 1042) contains the exemption language in section 922. In fact, the Senate Committee on Armed Services recommended the exemption in its report. Congress rejected the same exemption for the agency in 2000.

Several other bills currently pending in Congress would chip away at FOIA.

- H.R. 1256 would consider information on animal identification "commercial information," therefore hiding information about the food supply.

- H.R. 1360 would label information about claims of asbestos-related disease and injury as a "confidential commercial or financial record."
- H.R.1513 would add an additional exemption to the FOIA statute to block the release of any photos of deceased individuals.

Nuclear Commission Allows Access to Classified Information, Maybe

The Nuclear Regulatory Commission (NRC) published a final rule June 2, allowing individuals or organizations access to classified information on agency licensing activities if they can demonstrate a "need to know." The agency originally published an identical final rule Dec. 15, 2004, but withdrew it after negative comments.

The rule amends NRC's regulations (10 CFR 25, 10 CFR 95) governing access to classified information and the procedures for getting the security clearance necessary to handle the information.

The changes to the rule broaden who could potentially access classified information regarding licensing activities. Previously, the only people allowed access to such information included licensees (holders of radioactive materials license), certificate holders, and others regulated by NRC. The new rule allows anyone not within the above categories to apply for a security clearance if they "need to know" classified information in connection with licensing activities. Need to know, as defined by 10 CFR Part 25, means "a determination by an authorized holder of classified information that a prospective recipient requires access to a specific classified information to perform or assist in a lawful and authorized governmental function under the cognizance of the Commission."

The impetus for the change was the upcoming license application that the Department of Energy will likely submit in order to operate a radioactive waste repository in Yucca Mountain, Nevada. Clearly, environmental and public interest groups would need to participate in these proceedings, and therefore the regulations needed to be altered to give them access. However, it is unclear if all interested parties will be able to get the access they need. It is not clear what the criteria are for determining the "need to know." NRC will also conduct background investigations on anyone applying to access them. Agency officials responsible for the information will then make any determination about the application.

NRC published the original final rule Dec. 15, 2004 along with a proposed rule the same day. The agency stated that if any adverse comments were submitted in reaction, it would withdraw the final rule. Seven environmental and public interest groups submitted a letter objecting over the rule's language. They asserted that the rule did not make it clear enough that public interest and environmental organizations, or other parties, could take part in licensing proceedings. They also questioned how the NRC will apply the "need to know" criterion.

In response to these comments, NRC withdrew the final rule Feb. 24. However, the agency did not take the comments into consideration for the new final rule. While it responded to the comments, it made no change, therefore the language still remains vague.

NRC states that this rulemaking only concerns access to classified information, and does not address safeguards information (SGI) or other sensitive but unclassified (SBU) information. The agency published a proposed rule Feb. 11 expanding the amount of information it can hide from the public as SGI. OMB Watch submitted detailed comments challenging many of the changes.

The June 2 final rule on classified documents is effective on July 5.

Biomonitoring Shows We Have Toxics in Our Bodies

Steve Lopez, a columnist for the Los Angeles Times, participated in biomonitoring tests with ten other people and writes about the troubling results in his June 8 column, "We've Got Really Bad Chemistry". As California considers a bill for a state-wide biomonitoring research program, this test case bolsters the claims that biomonitoring can become a useful tool for protecting human health.

Biomonitoring tests analyze blood and urine samples to determine levels of an individual's toxic exposure. Biomonitoring studies consistently find carcinogens, neurotoxins, reproductive toxins, developmental toxins, and endocrine disruptors in people, although in most cases below traditional levels of toxicological concern.

Lopez, a Points West resident in California, was troubled to learn that he had the second-highest level of mercury among the 11 people tested. However, he was even more surprised to learn that compared to his group, he had 40-times the median level of phthalates in his body. Phthalates are a group of synthetic chemicals that have been linked to reproductive damage. They are present in flexible polyvinyl chloride plastic (PVC), cosmetics, and other consumer items.

This small experiment demonstrates that biomonitoring tests can provide new and important information on toxic exposure and the health impact on individuals. Lawmakers could use such information to focus chemical testing efforts and improve regulatory protections. Current U.S. chemical regulations do not require companies to test the safety of tens of thousands of synthetic chemicals on the market. The public and decision-makers lack basic health and environmental information on the majority of chemicals in everyday items such as fabrics, toys, paints, and other consumer products. In fact, the U.S. Environmental Protection Agency lacks basic safety data on more than 85 percent of chemicals in commerce.

California currently has a bill before the state legislature that would establish a state-wide biomonitoring program. According to Nancy Evans, a Health Science Consultant for the Breast Cancer Fund, "The Healthy Californians Biomonitoring Program is close to passing in Sacramento. This legislation will establish first state-wide, community based biomonitoring program for the county. Each of us is a walking toxic waste site and it time to take action. We have a right

to know what is in our bodies so we know how to reduce risk and demand corporate accountability for cleaning up the community. Public opinion polls in California said eight out of 10 support the bill. Biomonitoring can provide communities with the evidence they need to argue for better regulations."

Open Records Act Helps Uncover Government Impropriety in Virginia

Two Virginia citizens' fight under the state's Freedom of Information Act (FOIA) helped to uncover an African safari that Virginia state officials took on the public's dime. The citizens ended up going to court and winning their case, which could have significance in other states.

Lee and Paulette Albright, who own a farm adjacent to the Montebello fish hatchery in Nelson County, inquired to Virginia Department of Game and Inland Fisheries about the cancellation of tours of its facilities. The Department's initial answer that state budget cuts and layoffs prevented the hatchery from conducting tours did not convince the Albrights.

Lee Albright began filing requests for information under the state FOIA law to get more details about the Department's budget. One of the requests sought travel expense records of nine high-ranking members of the game department. The department charged Albright \$3,000 for the records (which he paid), and then blacked out more than 100 pages of the requested information.

Albright took his case to court, arguing that the \$3,000 was excessive. Nelson County Circuit Judge J. Michael Gamble agreed and lowered the fee to \$989. After reviewing the materials, the judge also ordered the Department to turn over 65 of the 100 pages that the department had blacked out. The documents revealed that several department officials, many of whom have now resigned their posts, spent more than \$10,000 of taxpayer money last fall to finance a personal African safari.

High FOIA fees have been used by government agencies, both at the national level and in states around the country to discourage requests and limit access to avoid public scrutiny and accountability. Just recently Kentucky attorney general capped what state agencies can charge for copying fees under FOIA charges. At the national level, Congress is considering the 'Faster FOIA' bill. Among other things, the bill would allow requestors to recoup their legal fees from the government if they take a FOIA case to court and win. The government would also be required to pay you back legal fees if it gives up its argument before the case goes to trial.

House Committee Repeals Parts of Campaign Finance Law

The House Administration Committee approved an amended version of the 527 Fairness Act (H.R. 1316) on June 8 in a straight party line vote. The bill would repeal some parts of the Bipartisan Campaign Reform Act of 2002 (BCRA) by increasing limits on individual and PAC contributions and removing restrictions on electioneering communications by some nonprofits. It would not put limits on contributions to independent 527 groups, but would require them to report to the Federal Election Commission (FEC) as well as the IRS. Internet communications would also be exempt from regulation. A competing bill that would restrict contributions to 527 groups was not considered.

H.R. 1316, sponsored by Reps. Mike Pence (R-IN) and Albert Wynn (D-MD), is intended to counter the influence of 527 groups by making it easier for parties and candidates to raise money and coordinate their activities with outside groups. Democrats opposed the measure, noting that the parties raised record amounts of money after BCRA passed. They also oppose efforts to limit independent 527s, saying they are constitutionally protected.

Committee chair Robert Ney (R-OH) proposed several amendments to the original bill. Nonprofits would be most impacted by repeal of the "Wellstone Amendment" to BCRA, which would remove restrictions on "grassroots" organizations making paid broadcasts that refer to federal candidates during the period before an election (electioneering communications). Although the Wellstone Amendment specifically refers to groups exempt under sections 501(c)(4), (5) and (6) of the tax code, charities, which are exempt under 501(c)(3), would still be prohibited from funding these "electioneering communications" unless the Federal Election Commission (FEC) exempts them by regulation. Current FEC rules do exempt 501(c)(3) groups, but that rule will be re-considered later this summer as a result of a legal challenge filed by BCRA sponsors Reps. Chris Shays (R-CT) and Marty Meehan (D-MA). The case challenged several FEC rules implementing BCRA, and a federal judge struck down a dozen rules in September 2004. (See the September 21, 2004 OMB Watcher for details.) The FEC has appealed that ruling.

One of Ney's amendments would require independent 527 groups to report to the FEC in the same manner as regulated federal political committees, even though contribution limits would not apply. These groups already report to the IRS, but the FEC requires more frequent reports. State and local political committees would be exempt from this requirement. The Ney amendment would result in duplicative reporting for many 527 organizations.

Another Ney amendment would exempt Internet communications from the definition of regulated public communications. This mirrors a provision in the 527 bill approved by the Senate Rules Committee in late April. (See a summary of the Senate bill.) The Shays-Meehan lawsuit overturned the FEC rule exempting Internet communications, and the agency is currently conducting a rulemaking process to re-write the rule. OMB Watch has submitted comments calling for a hands off approach.

The Senate 527 bill has provisions that conflict with H.R. 1316, since it would limit contributions to 527s. Since neither bill has been scheduled for floor consideration, it is unclear how they would be reconciled in conference if they pass their respective houses.

Update: Senate Finance Committee and Nonprofit Legislation

Senate Finance Committee activity on nonprofit regulation is picking up steam as the projected date for introduction of the long-awaited reform bill approaches. Conservative groups and Sen. Rick Santorum (R-PA) have expressed concern about the impact some proposals could have on small nonprofits and that there is inadequate resources to enforce existing laws. The committee's staff report on land donations was released June 7, and a June 8 hearing took an in-depth look at ways future abuse in this area can be avoided. However, the scope of the bill will likely be much broader, although details remain unknown. Meanwhile, the IRS has changed its selection process for audits, focusing on areas of high risk for abuse.

On May 20, a Senate Finance Committee staffer told the American Bar Association (ABA) Section on Taxation that a comprehensive bill addressing governance of tax exempt organizations is likely to be filed in June or July. Charles Grassley (R-IA), the Finance Committee chair and the staffer's boss, said it will be "comprehensive charitable governance reform." A staff draft paper released last year recommended changes in standards for exempt status eligibility, conflicts of interest, grantmaking, federal-state coordination, reporting and disclosure, boards of director responsibilities, best practices and funding for enforcement. (see a summary here.) But there are differing views on how comprehensive the legislation will be. Finance Committee ranking member Max Baucus (D-MT) said some changes in the law regulating nonprofits is necessary, but told reporters, "I don't know what yet."

In late April a letter signed by 72 conservative groups, including the Philanthropy Roundtable and Focus on the Family, wrote to Senate majority leader Bill Frist (R-TN) expressing concern over the impact staff proposals could have on small charities. The conservative groups' letter said these proposals would "substantially increase the regulatory burden on public charities. These proposals, if enacted, would severely reduce the ability of public charities to play their historic role of addressing public needs with private resources. Indeed, with regard to the large number of charities that are small institutions, it could put many of them out of business, while simultaneously discouraging the formation of new charitable organizations." The letter also argued that we do not now put adequate resources into enforcement of existing laws and suggested that creation of new laws without adequate enforcement is a mistake.

On May 31, Santorum and 20 other Republican senators wrote Grassley and Baucus expressing similar concerns. Santorum is the leading sponsor of the CARE Act, which focuses on incentives to increase charitable giving. That bill has been held up pending committee action on accountability, and both giving and reform issues are likely to be merged into one bill. The Santorum letter praised the committee's efforts to "root out wrongdoers in the charitable sector," but said, "we are very concerned that some of these proposals would have the unintended consequence of overburdening small organizations and/or creating disincentives to contribute to legitimate charitable activity at a time we are asking more of this community, not less." The senators asked Grassley and Baucus to take five factors into consideration as they draft their bill:

- The IRS should enforce existing law,
- Give more consideration to the impact on small organizations,
- The impact of contributions should be more fully vetted,
- One size fits all is not a workable approach, and
- Encourage philanthropy by families.

It is rumored that the reform bill will likely include provisions on private foundations, supporting organizations, land conservation easements as well as the charitable giving incentives pending in the CARE Act. The Finance Committee gave close scrutiny to conservation easements in the June 8 hearing, which capped a two year investigation into the Nature Conservancy and some land trusts. Staff findings were published the day before in a report that found some land conservation programs raised potential tax issues, including insider benefits.

The report, titled *The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform*, recommends reform in the appraisal process that determines the size of the tax deduction donors of conservation easements may take. It also says insider transactions that benefit board members and poor record keeping were a problem at the Nature Conservancy. Both the Nature Conservancy and the Land Trust Alliance (LTA) have called for reforms in the appraisal process. LTA released a joint report with the American Society of Appraisers and the American Society of Farm Managers and Rural Appraisers calling for development of "uniform and clear professional guidelines" and a certification process for appraisers dealing with conservation easements.

At the June 8 hearing Senators heard from Republican and Democratic tax counsels, the Internal Revenue Service (IRS), land trusts, the Nature Conservancy and others. The testimony and statements by Grassley and Baucus are online. Grassley predicted that conservation easement reform would be part of the larger bill.

The IRS testified it currently has a team looking for patterns of abuse in this area. The result is audits of 240 donors and seven organizations. Four more organizations are in the pipeline for audits. These enforcement actions are consistent with a larger shift in the IRS' to greater enforcement targeting high risk areas. Martha Sullivan, the IRS Exempt Organizations Director, told the ABA meeting that their goal is to combat abuse practices, and four areas have been targeted: executive compensation, credit counseling agencies, donor-advised funds.

Host of Comments Filed on FEC Proposed Internet Regulation

Comments filed by a host of groups and individuals concerned with proposed regulation of Internet communications by the Federal Election Commission (FEC) reflect a general sense that the Internet should be largely unregulated, but disagreement over details. Over 1,000 groups, bloggers and others signed a Statement of Principles calling for protection of this "unique and powerful First Amendment forum." Comments from three reform groups opposed a *per se* exemption for organizations. OMB Watch comments recommended a hands-off approach.

The FEC proceeding is the result of an order from a federal court to reconsider its exemption of Internet communications from campaign finance regulations. A public hearing will be held in late June. No date for publication of a final rule has been set.

Many of the comments reflect agreement that individual activity on the Internet should be exempt, but the campaign finance reform groups suggest this apply only when personal or public computers are used. They suggest limiting individual use of office/corporate equipment to one hour a week. They say this is necessary to prevent corruption to the political system by "very large sums of money." The Center for Democracy and Technology comments called for exemptions for individuals and bloggers.

The eligibility of bloggers and online publications for the FEC's media exemption demonstrates the difficulties of applying pre-Internet area law to Internet communications. Several different proposals are made in the comments, but all suffer from difficulties presented by the blurry lines that separate the press from bloggers, advertisers and advocacy groups that publish on websites. The OMB Watch comments said, "Attempts to use the exemption from regulation for the press would only create confusion and arbitrary outcomes." The comments note, "To stretch the existing press exemption shoe to fit the big foot of Internet publishing will render the press exemption meaningless."

Application of disclaimer rules to bloggers that are paid by candidates or parties is another area of hot debate. While OMB Watch believes the public should be informed when candidates are paying for what appears to be independent speech, it also believes this issue is not unique to Internet communications. It would be better to address it in another forum, and not create more restrictive rules for Internet communications than off-line publications.

The comments filed by OMB Watch ask that the FEC "step back and allow the Internet to flourish as a public square where all are invited and all can be heard." The comments note that the Internet has empowered ordinary citizens, as seen in the 2004 election, and that key assumptions justifying regulation of campaign finance do not apply to most Internet communications. The comments propose that Internet postings and emails on one's own site be exempted from the definition of regulated contributions or expenditures. This would "allow people full use of the Internet to engage in politics without fear...", but "would leave unaffected payments made for banner ads or other forms of Internet advertising on other people's websites."

The increased interest in voter education and mobilization by nonpartisan nonprofits in 2004, much of it occurring on the Internet, was cited as a development that should be "applauded and nurtured," and not lost to regulation based on "speculative harms." A website operated by OMB Watch, NPAction.org, provided tools to assist nonprofits with these efforts and saw heavy traffic during the election season.

The comments demonstrate that "many of the underlying premises of campaign finance regulation do not hold on the Internet." For example:

- The link between money and influence is reduced, since "[o]pen access forecloses dominance by the well situated or by the wealthy."
- Campaign finance regulation assumes that "the source, the publisher and the audience are easily distinguished." This creates problems defining how the rule restricting republication of candidate materials would apply to common Internet tools, such as links, forums or audio/video communications. The comments argue against limiting these kinds of Internet communications.

Congress Grapples With Industry Influence at FDA

Efforts to free the Food and Drug Administration from the pharmaceutical industry's excessive influence seesawed between success and failure in the same week, as the House voted to ban drug company scientists from FDA advisory committees while an agency whistleblower revealed that a new drug safety board has been tilted in favor of the drug companies.

New Drug Safety Board Biased Towards Industry

David Graham, the FDA scientist who publicly revealed the agency's missteps in the Vioxx scandal, recently told the *Washington Post* that a new drug safety office created in the aftermath of the scandal is already "severely biased in favor of industry."

Reeling from disclosures of the agency's failure to address the safety of Vioxx and other drugs after they have been introduced to the market, FDA announced in February the creation of a new Drug Safety Oversight Board (DSB) charged with focusing on post-market drug safety issues. Although intended to provide independent oversight of the Center for Drug Evaluation and Research (CDER), the DSB has been located within CDER, and 11 of the 15 voting members are senior CDER management.

The new DSB has been compromised not just by its membership roster but also by its lack of authority to do the job it was created to do. Although it was created in the wake of FDA's inaction in the Vioxx case, the new DSB has been given no authority to pull drugs deemed dangerous off the market.

Sen. Chuck Grassley (R-IA) echoed Graham's criticism of the DSB, adding in a letter to acting FDA commissioner Lester Crawford that the board does not go far enough in ensuring drug safety and, in fact, amounts to "nothing more than the status quo."

Grassley also questioned FDA's decision to make the proceedings of DSB private. Unlike advisory committee meetings, which are required by law to be conducted in the open, DSB deliberations will be kept from the public. In his letter, Grassley expressed surprise "that the FDA has chosen to make DSB deliberations private at a time when the agency should be making every effort to improve transparency and accountability." Grassley asked Crawford to explain how FDA will ensure the independence and objectivity of the board.

House Works to Block Industry Bias on Advisory Panels

Meanwhile, the House appropriations committee voted on June 8 to limit conflicts of interest on FDA advisory committees. The House voted 218-210 to pass an amendment offered by Rep. Maurice Hinchey (D-NY) to the FDA/USDA appropriations bill, prohibiting any expenditure of funds for advisory committees that waive conflict-of-interest provisions.

FDA uses advisory committees of outside scientists to advise the agency on the safety and effectiveness of drugs and medical devices. Scientists on these panels have frequently been found to have ties to the makers of the drugs and medical devices under review by the advisory committees. For instance, 10 of the 32 scientists on FDA's COX-2 advisory panel had ties to manufacturers of the drugs.

Because the amendment is limited to advisory committees, it would not apply to the Drug Safety Oversight Board.

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**STATEMENT OF FREE REPUBLIC AT THE FEDERAL ELECTION
COMMISSION HEARING ON REGULATING INTERNET
COMMUNICATIONS**

PANEL 5, WEDNESDAY, JUNE 29, 2005

BY KRISTINN TAYLOR, SPOKESMAN, FREEREPUBLIC.COM

202 309-1589 Cell kristinn@verizon.net

My name is Kristinn Taylor. I am here speaking on behalf of James C. Robinson, founder, president and principal owner of Free Republic, LLC, which owns the electronic bulletin board known as FreeRepublic.com. I ask that the following statement and supporting documents be entered into the record.

FreeRepublic.com is a news, analysis and activism Website. It is one of the most popular and influential politically oriented sites on the Internet with over 200,000 registered accounts (some inactive or revoked) and many times over that number of people who freely read the site without posting to it.

FreeRepublic.com is read by officials at the highest levels of government in all branches. It is also read by major political parties, the media, talk show hosts, Americans all across the country and people from around the world.

FreeRepublic.com is a living embodiment of what the Founders had in mind when they enshrined the First Amendment in the Bill of Rights.

Free Republic is dedicated to advancing conservatism and defending the Constitution of the United States. To that end, Mr. Robinson issued a statement on March 22, 2004 to make clear to all who visit and wish to participate on his Website his goals and principles, excerpts from which I'll quote.

Statement by the founder of Free Republic:

In our continuing fight for freedom, for America and our constitution and against totalitarianism, socialism, tyranny, terrorism, etc., Free Republic stands firmly on the side of right, i.e., the conservative side.

Free Republic is private property. It is not a government project, nor is it funded by government or taxpayer money. We are not a publicly owned entity nor are we an IRS tax-free non-profit organization. We pay all applicable taxes on our income. We are not a part of or funded by any political party, news agency, or any other entity. We sell no merchandise, product or service, and we offer no subscriptions or paid memberships. We accept no paid advertising or promotions.

We are funded solely by donations (non tax deductible gifts) from our readers and participants.

We aggressively defend our God-given and First Amendment guaranteed rights to freedom of speech, freedom of the press, free exercise of religion, and freedom to

peaceably assemble and petition the government for redress of grievances. We also aggressively defend our right to freedom of association, as well as our constitutional right to control the use and content of our own personal private property. Despite the wailing of liberals and others who do not share our purpose we feel no compelling need to allow them a platform to promote their repugnant and obnoxious propaganda on our forum. Free Republic is not a liberal debating society. We are conservative activists dedicated to defending our rights, defending our constitution, defending our republic and defending our traditional American way of life.

Our God-given liberty and freedoms are not negotiable.

May God bless and protect our men and women in uniform fighting for our freedom and may God continue to bless America.

Signed by Jim Robinson

Let me repeat, "Our God-given liberty and freedoms are not negotiable."

We do not come here on bended knee, begging Federal masters for relief. We do not come here to pledge our fealty to Lord John McCain, nor to Lords Feinfold, Shays and Meehan. We do not come here to bow before the black robes of Her Majesty, Kollar-Kottelly.

No. We come here to say, "Hands off the Internet! Hands off the First Amendment! And hands off Free Republic!"

We are here because our system of checks and balances has failed. Congress passed a law they knew to be unconstitutional. President Bush signed the law knowing it was unconstitutional. The Supreme Court, in its ruling on this law, threw out the Constitution—once again reaffirming the principle that the plain language of the Constitution does not mean what it says, but only what five Justices in black robes say it means.

While this commission has commendably tried to minimize the impact of BCRA on the Internet, even this modest proposal by the commission is the proverbial camel's nose under the tent.

Groups like FreeRepublic.com and our members, do not have the resources to fend off attacks by the government and lawyers who wield the law as a weapon of political intimidation and control.

Recently, the communist government of China has tightened its grip on the Internet. All China-based Websites must register with the government. All Internet cafes must register with the government. Major Websites must sign a code of conduct approved by the government.

Incredibly, the American company Microsoft has kowtowed to the communist

government of China by blocking words like "freedom," "democracy" and "human rights" from it's blog-hosting service in China.

Surely, the commission does not want to be known as the agency that followed the lead of the communists in China by restricting political speech on the Internet.

Thank you.



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China to close down unregistered websites by June 30



Fri Jun 24 11:14 AM ET

All Chinese-run websites that fail to register with telecommunications authorities before June 30 will be temporarily closed down, state media said.

The announcement was made Friday by the Ministry of Information Industry in a bid "to control domestic Internet information services," the Xinhua news agency said.

The temporarily closed sites will then have another ten days to comply before being shut down permanently.

The move is the latest in China's efforts to police the Internet and follow stringent efforts -- known as the Great Firewall of China -- to keep content authorities deem as "unhealthy" such as anti-government postings, off the web.

China already requires all users of Internet cafes to register before using the Internet, while major websites have signed onto a code of conduct to keep non-authorized content off their websites and chatrooms.

The Chinese government forecasts the country will have 120 million Internet users by the end of 2005, a figure that would mark a growth of nearly 28 percent from 94 million at the end of 2004.

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<http://www.baltimoresun.com/news/opinion/bal-ed.china23jun23,1,3662078.story?coll=bal-opinion-headlines>

China's 'Great Firewall'

June 23, 2005

REMEMBER NOT that long ago when it was morning on the Internet, there was a vast new world of possibilities, and Microsoft Corp. captured all that by asking in its ads, "Where do you want to go today?" Today, Microsoft is working closely with Chinese government censors to make sure Chinese bloggers don't take their readers' minds where Beijing doesn't want them to go - by blocking postings with certain dangerous words, such as "human rights," "freedom" and "democracy."

The restrictions apply to postings on Microsoft's blog-hosting service in China, MSN Spaces, which has already attracted 5 million Chinese, or about one-twentieth of the Internet users in the world's largest nation - a potentially lucrative toehold for the world's largest software firm. But at what price? Selling out core American values - starting with free speech - for the lure of vast profits in China not only aids Beijing's repression but also damages Microsoft's credibility worldwide.

Other Internet service companies - Yahoo and Google - have been accused of participating in China's "Great Firewall," Beijing's Big Brother system of keyword filtering and user monitoring to limit the cyber-paths and information available to its 1.3 billion citizens, a fifth of the world. But for the most part, China's restrictions have been imposed by Beijing on Yahoo and Google, whereas Microsoft's Shanghai-based joint venture is said to have built the censorship mechanisms into its own computers. It's the difference between doing business under a changing but still repressive system and doing business by sustaining that system with active collaboration.

In response to criticism, Microsoft has justified this big misstep by saying it's simply adhering to China's laws. Even more galling, one of the company's more prominent bloggers, an employee named Robert Scoble, actually suggested in a June 12 posting that many Chinese don't believe in free speech and thus Microsoft shouldn't put itself in the position of foisting it on China - an assertion so ill-founded as to be offensive. Mr. Scoble also wrote something a lot closer to the truth of this matter when he noted, from the perspective of a Microsoft shareholder, that the company needs to do business in China.

Indeed, like so many other multinational companies, Microsoft does need to cultivate the Chinese market. We wonder, though, what Microsoft's leaders think they will gain by offering a sham: a cyber-forum for the publication and exchange of thoughts that is heavily restricted. Does the firm think that China's Internet users - increasingly adept at evading the government's army of online censors - will have trouble figuring out whose side Microsoft's really on?

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<http://www.baltimoresun.com/news/opinion/bal-ed.china23jun23,1,2525179,print....> 6/26/2005

vze4m6cx

From: "vze4m6cx" <vze4m6cx@verizon.net>
To: <internet@fec.gov>
Cc: <internettestify@fec.gov>
Sent: Friday, June 03, 2005 11:59 PM
Subject: FR Comments on FEC Internet Proposed Rules

James Robinson, President
Free Republic, LLC
PO Box 9771
Fresno, CA 93794

www.freerepublic.com

June 3, 2005

Mr. Brad C. Deutsch
Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: Draft Notice of Proposed Rulemaking on Internet Communications

Dear Mr. Deutsch:

Please accept these comments on the proposed rules for FEC regulations of Internet Communications (11 CFR Parts 100, 110 and 114) pursuant to Notice 2005-10.

Please note that we are requesting to give public testimony at the hearing scheduled June 28-29, 2005.

FreeRepublic.com is an internet based electronic bulletin board owned by Free Republic, LLC, in Fresno, California. James C. Robinson of Fresno is the principal owner of Free Republic, LLC

FreeRepublic.com was founded in 1996 as a forum to discuss and expose the crimes of the Clinton administration and to further conservatism.

FreeRepublic.com's mission statement is: "Free Republic is the premier online gathering place for independent, grass-roots conservatism on the web. We're working to roll back decades of governmental largesse, to root out political fraud and corruption, and to champion causes which further conservatism in America. And we always have fun doing it. Hoo-yah!"

Since it's founding, FreeRepublic.com has been a pioneer in online political expression in America. It is one of the most popular and influential sites on the Web. Its Alexa.com rating is the 1366th most popular Website. In contrast, the liberal blog DailyKos.com is ranked 5386th and the liberal forum DemocraticUndeground.com is ranked 4,108th.

The content on FreeRepublic.com consists of postings by registered account holders (over 200,000) and Mr. Robinson. The postings can be news articles, commentaries, personal observations, and calls to First

6/4/2005

Amendment activities such as demonstrations and e-mails or phone calls. Members post from all over the United States and the world.

There are also repostings of campaign literature, links to 501c3 and 501c4 organizations, 527s and an occasional campaign Website. Those links are provided without cost and at the discretion of Mr. Robinson.

Links to such organizations are done so free of charge. FreeRepublic.com has no paid advertising. Its budget consists solely of donations by members and lurkers. There are no membership fees or dues. The postings (except private messages between members) at FreeRepublic.com are open to all to read without membership. Anyone with access to a computer and a modem can read FreeRepublic.com.

FreeRepublic.com is not a blog. It was founded several years before Blogs came into existence.

FreeRepublic.com has been called a modern day Liberty Tree, where concerned citizens use modern technology to exercise their First Amendment rights. FreeRepublic.com has been credited with helping to cause the impeachment of President Clinton. The phrase "broken glass Republican" was coined by a Freeper on FreeRepublic.com during the 2000 election. FreeRepublic.com was also instrumental in exposing the fake Bush National Guard documents that were used by CBS News in a story last fall that tried to influence the 2004 presidential election.

FreeRepublic.com members also report news. For example, the explosion of the Columbia space shuttle was first reported on FreeRepublic.com.

The Internet has proven to be an invaluable tool for average Americans to get their voices heard by those in power. FreeRepublic.com is read by leaders in all branches of the federal government and political parties. It is used as show prep for talk radio and as a research tool for reporters and authors.

Given that the First Amendment guarantees freedom of speech and petitioning of the government, citizen Websites like FreeRepublic.com should be exempt from FEC regulation. If the FEC grants exemptions for public communications to Blogs, electronic bulletin boards like FreeRepublic.com should be given the same exemptions.

Members who post comments and articles, etc. on FreeRepublic.com are anonymous unless the poster identifies themselves. This anonymity is a central point to freedom of expression on the Internet. Just as whistleblowers like Deep Throat hide in anonymity to protect themselves from retribution from those in power in the government, so do posters at FreeRepublic.com.

Any effort by the government to force the disclosure of posters' identities to meet some draconian federal regulation would have a chilling effect on free speech, especially if that speech involved advocating for or against political candidates.

FreeRepublic.com has an internal private message system similar to e-mail that can be used to communicate privately between members. Such a system should not be regulated by the FEC, as it is a free service.

The free dissemination and reposting of campaign material on the Internet should be exempt, including links to campaign and party Websites should be exempt from regulation.

Mr. Robinson, and the posters at FreeRepublic.com are very concerned that after this first step by the government to rein in free speech on the Internet, more attempts will follow. We strongly urge the

commission to respect the First Amendment rights of Americans.

Very truly yours,

Kristinn Taylor
Spokesman, FreeRepublic.com

6/4/2005



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

OFFICE OF THE CHAIRMAN

Statement for the Record Correcting Figures Cited

I mistakenly cited certain figures when discussing Internet-related disbursements gleaned from IRS filings by certain 527 groups. The total for Progress for America Voter Fund E-mail disbursements during the 2004 election cycle was not about \$900,000, but about \$467,000. Thus, the total I cited for Progress for America and the eight groups overall was inflated by the same amount. My apologies.

July 1, 2005
Date

Scott E. Thomas
Scott E. Thomas
Chairman

**Public Hearing on Internet Communications
June 28th-29th, 2005
Materials for the Official Record
Chairman Thomas**

<u>Progress for America Voter Fund</u>	<u>Quarter</u>	<u>Email List Services</u>	<u>Web Site Services</u>	<u>Internet Banner Ads & Production</u>	<u>Total</u>
	Post-Gen	1000	6000	7602	
	Post-Gen	244443	82350	8400	
	Post-Gen	185491	6000		
	Post-Gen	2500			
	Pre-Gen			31500	
	Pre-Gen			2000	
	Pre-Gen			10000	
	Pre-Gen			40000	
	Pre-Gen			25000	
	Pre-Gen			7000	
	Pre-Gen			17500	
	Pre-Gen			17500	
	Pre-Gen			6000	
	Pre-Gen			5000	
	Pre-Gen			16500	
	Pre-Gen			2500	
	Pre-Gen			5750	
	Pre-Gen			10000	
	3rd Q		5000		
	3rd Q		22500		
	3rd Q		14902		
	3rd Q		15350		
	3rd Q	29899	2500		
	3rd Q		4250		
	Yr End	4000		1150	
	Yr End			2000	
	2nd Q			9094	
	Subtotal	467,333	158,852	224,496	850,681
<u>Swift Boat Vets and POWs for Truth</u>	<u>Quarter</u>	<u>Email</u>	<u>Website</u>	<u>Internet Services</u>	<u>Webcast</u>
	Pre-Gen		15704	9645	
	Pre-Gen		31407		
	Post-Gen		56845		
	Post-Gen		28423		85100
	Post-Gen		3555		
	3rd Q		1850		
	3rd Q		1850		
	3rd Q		57287		
	3rd Q		28643		
	3rd Q		500		
	2nd Q		1600		
	2nd Q		1600		
	Subtotal		229,264	9,645	85,100
					324,009

<u>New Democrat Network</u>	<u>Quarter</u>	<u>Email</u>	<u>Website Maintenance</u>	<u>Blog Ad Buys</u>
	Post-Gen		5500	3799
	Post-Gen			3401
	Pre-Gen			2000
	3rd Q		5000	
	2nd Q		6902	
	2nd Q		2385	
	2nd Q		3153	
	2nd Q		1635	
	2nd Q		1352	
	2nd Q		498	
	2nd Q		281	
	2nd Q		500	
	2nd Q		99	
	2nd Q		16563	
	2nd Q		11350	
	2nd Q		500	
	Yr End		1037	
	Yr End		1037	
	Yr End		1037	
	1st Q		5500	
	1st Q		2569	
	1st Q		3000	
	1st Q		3302	
	Subtotal		73,200	9,200
				82,400
<u>Sierra Club</u>	<u>Quarter</u>	<u>Email Collection</u>		
	Pre-Gen	10000		
	Subtotal	10,000		10,000
<u>League of Conservation Voters</u>	<u>Quarter</u>	<u>Email</u>	<u>Website Consultant</u>	
	Post-Gen		24087	
	Subtotal		24,087	24,087
<u>The November Fund</u>	<u>Quarter</u>	<u>Email</u>	<u>Website Creation/Management</u>	<u>Internet Advertising/Production</u>
	Post-Gen			200,000
	Pre-Gen			56127
	3rd Q		56,500	200,000
	Subtotal		56,500	456,127
				512,627

<u>Stronger America Now</u>	<u>Quarter</u>	<u>Email</u>	<u>Website(Fee,Design, Content)</u>	<u>Internet</u>	<u>Webcast</u>
	Post-Gen		3597		
	Pre-Gen		17500		
	3rd Q		10000		
	Subtotal		31,097		31,097
<u>Music for America</u>	<u>Quarter</u>	<u>Email</u>	<u>Website</u>	<u>Internet</u>	
	3rd Q		913		
	3rd Q		500		
	3rd Q		980		
	3rd Q		1590		
	3rd Q		6620		
	3rd Q		500		
	3rd Q		1010		
	3rd Q		1785		
	3rd Q		8400		
	3rd Q		1785		
	2nd Q		1050		
	2nd Q		1095		
	2nd Q		690		
	2nd Q		1790		
	Subtotal		28,708		28,708
Grand Totals		477,333	601,708	699,468	85,100
					1,863,609

THE INTERNET AND CAMPAIGN 2004: A Look Back at the Campaigners

Commentary
By Michael Cornfield

The Project report confirms that the internet has become an essential medium of American politics. It has done so gradually, like other media. Yet, the internet's distinctive role in politics has arisen because it can be used in multiple ways. Part deliberative town square, part raucous debating society, part research library, part instant news source, and part political comedy club, the internet connects voters to a wealth of content and commentary about politics. At the same time, campaigners learned a great deal about how to use the internet to attract and aggregate viewers, donors, message forwarders, volunteers, and voters during the 2003-2004 election cycle.

The Dean Campaign's Innovations

Campaigning on the internet took a great leap forward with former Vermont Governor Howard Dean's long-shot bid for the Democratic nomination for the presidency. It was the first presidential campaign to stake so much on the new medium. Manager Joe Trippi's strategy was to brand Dean as the candidate who would use the internet to revive democracy. "When you looked at him," Trippi wrote in his campaign memoir, "you were going to think Internet and personal empowerment in the same way you thought Vietnam hero when you looked at John Kerry, or Southern optimism when you looked at John Edwards."¹

Trippi possessed a rare combination of expertise in both presidential politics and high-technology enterprise. Together with a cadre of young talent, Dean and Trippi created a campaign eager to experiment with the internet. The discoveries they made together with the hundreds of thousands of Americans who became active in the Dean network during 2003 revolutionized online campaigning. Five innovations stand out:

1. News-pegged fundraising appeals. Campaigns typically play to three motivations when they solicit donations. Potential contributors want access to decision-makers, to please a friend (or get rid of a pest), and to advance shared policy goals. The Dean campaign, taking a cue from the online advocacy group Moveon.org, demonstrated that candidates can raise money a fourth way, on the strength of the internet's instant turnaround capacity: by promulgating short-term goals which immediate donations can help the campaign attain.

Such goals often flow out of a campaign's daily battles to win media attention. Contributions are sought to finance ads that will let a campaign respond fast and

¹ Joe Trippi, *The Revolution Will Not Be Televised: Democracy, the Internet, and the Overthrow of Everything* (New York: ReganBooks 2004), p. 100.

prominently to an opponent's assertion, or to stage an event that will attract news coverage. The campaign can then thank the donors with evidence of the media play their dollars made possible. And it can count on the ensuing week to bring fresh news and new goals to set.

For example, in July 2003 the Dean campaign took advantage of news reports about an upcoming \$2,000-a-plate Republican luncheon featuring Vice-President Cheney. Up, out, and around the Dean network went word of "The Cheney Challenge" -- could Dean supporters raise more money than the luncheon by the time it took place?-- accompanied by a web video of the candidate munching on a "three-dollar" turkey sandwich. Cheney's lunch raised \$250,000 from 125 guests. The online fundraising gimmick netted the Dean campaign \$500,000 from 9700 people, and great publicity about its grassroots enthusiasm and prowess.

Before long, every television appearance by a presidential candidate, from the Sunday talk shows to the conventions and debates, was seen by netwise campaigns as an opportunity to rake in money. In July 2004, Kerry asked his online supporters to make a statement to the nation on the day he accepted the party nomination, and pulled in \$5.6 million.

2. *"Meetups" and other net-organized local gatherings.* Early in 2003, Trippi put a link on the home page of the Dean campaign to the web site of MeetUp.com, a company which helps individuals arrange to get together with others in their area who share an interest in something. The something can be a hobby, sports team, television program, or a campaign, as the Dean team discovered to its delight. The Dean Meetup population eventually constituted a virtual mid-size city, with several hundred thousand activists situated across the nation and beyond. Monthly Meetups among Dean campaign veterans were still attracting people in January, 2005.

3. *Blogging.* A blog is an online diary posted in reverse chronological order, sometimes with room for reader comments, usually with links to blogs run by people the reader may also find interesting. The social bonding and grassroots organizing which occurs in and around Meetups also occurs through clusters of blogs. In 2003, the Dean campaign posted 2,910 entries on its "Blog for America" and received 314,121 comments, which were also posted there. As the result of one of those comments, 115,632 handwritten letters were sent from supporters to eligible voters in the upcoming Iowa caucuses and New Hampshire primary. (MeetUp captains were issued lists, stamped envelopes, and a sample text for the letterwriters to follow.) A blogger also came up with the Cheney Challenge. Among the hundreds of blogs and web sites listed in the Blog for America home-page directory, or blogroll, were Deanybopper, which clipped articles for major newspapers, and Dean Defense Forces, which organized calls to talk shows to correct what the network perceived as unfair media coverage.

4. *Online referenda.* When the Dean campaign considered opting out of public financing, it decided to put the question to its network for an online vote. The overwhelming positive response affirmed to the Dean supporters and the political world that the move was worth it; indeed, those who voted “yes” received back a thank-you email with a request for money. Two other 2003 online referenda provided its backers with political cover, resources, and momentum: the drive to recall California Governor Gray Davis, and the draft Wesley Clark for President movement.

Technically speaking, these were not actual referenda; no one was legally bound to abide by the majority choice. The voting population was self-selected, and thus not an accurate reflection of any portion of the electorate. But as a tool to engage public support, online referenda can be handy to campaigns regardless of how much is known about the participants, and how the voting population is constructed.

5. *Decentralized decision-making.* Dean’s slogan was “You have the power.” His campaign put something behind the rhetoric (populist, but also libertarian) through the four techniques listed above, and more generally by leaving local supporters to campaign as they saw fit. Balancing the positive energy flow of a movement with the precise coordination of an organization presents the next generation of campaigners with perhaps their greatest challenge. Some have argued that one reason the Dean campaign collapsed in January 2004 was for want of better organization. The internet makes the movement-organization balancing act a matter of software configuration as well as political management.

After several months of stitching online connections through Meetups, blogs and other web sites, and email, the Dean campaign won respect from political insiders in late June and early July of 2003. Presidential politics in the year before an election year is largely the province of a clique highly sensitive to signs of potential electoral strength. Well before the first actual votes in Iowa and New Hampshire, Dean finished first in a “virtual primary” staged on June 24 and 25 by the online advocacy group MoveOn.org, with 317,647 votes (44%). One week later, Dean won another artificial event scrutinized by the campaign establishment, the “money primary” constituted by the reporting of fundraising totals to the Federal Election Commission for the second quarter of 2003. George W. Bush had burst to the front of the Republican pack in the comparable report in 1999. Now it was Dean’s turn on the Democratic side. The internet was seen as the primary instrument through which his political power was accruing. If one had to single out a shared moment of realization among political professionals that henceforth they had to take the internet seriously, this was it.

Conventions, Videos, and Blogs

The 2004 national conventions were the first in which both presidential candidates invited viewers to visit their Web sites during their acceptance speeches (neither did so in 2000, and only Dole did in 1996). Neither party displayed the URLs throughout the arenas, so that television viewers would see them constantly; this shortcoming was emblematic of how the presidential campaigns did not promote their web sites as much, or as well, as they could. Nevertheless, the number of Americans visiting presidential campaign Web sites nevertheless rose sharply for the cycle: from 9 million going to Bush 2000 to 16 million to Bush 2004, and from 7 million going to Gore 2000 to 20 million going to Kerry 2004.²

An even bigger political web site “ratings winner” featured a made-for-internet video which thumbed its nose at both candidates. The JibJab cartoon “This Land” (at www.jibjab.com) drew over 10 million unique visitors in July alone. Although it was intended as entertainment, its popularity illustrated the utility of web videos as a campaign tool. A campaign can test a video online before buying time for it to be shown as an ad on television. It can send a video to its email list, who can then be asked to contribute funds to place it on television. A video can also attract attention through the blogosphere and the rest of the web, eliminating the need to distribute it as an ad. More people saw the ads produced by the anti-Kerry advocacy group Swift Boat Veterans for Truth as a result of them becoming a political hot topic through the internet then through their paid placement in television markets. Americans Coming Together (ACT), a Democratic advocacy group launched a web video featuring comedian Will Ferrell impersonating the president; it was downloaded more than a million times, with more than 30,000 viewers clicking through to the site to enroll as volunteers in ACT’s grassroots campaign.

But the bloggers, not the video makers, were the new stars of the quadrennial convention shows. During the 2000 conventions, a collection of booths for web site interviews had been dubbed “Internet Alley;” in 2004, the talk was about “Blogger Boulevard.” Convention bloggers, like political bloggers in general, linked to each other’s sites and cross-referenced each other’s comments. They put a burr under the saddle of some conventional journalists, who criticized them for a lack of professionalism. However, a blog scored what may have been the only scoop associated with the 2004 conventions when someone posted word that the Kerry campaign was painting the word “Edwards” on its plane, a sure sign that John Edwards would be the vice-presidential nominee.

Targeted Grass Roots

The Kerry and Bush campaigns built on different aspects of the Dean for President campaign’s online experiences. Kerry focused on fundraising. Bush focused on grass-roots organizing and mobilization. These different emphases are illustrated in their appeals to the millions who subscribed to their email lists. Between March 1 and

² Figures for 2000 derived from Bruce Bimber and Richard Davis, *Campaigning Online: The Internet in U.S. Elections* (New York: Oxford University Press, 2003), p. 102.

November 19, 2004, three out of four Kerry campaign emails to its list contained an action box to contribute money, compared with fewer than one in five (18%) Bush campaign emails. During the same time period, 78% of Bush campaign emails featured a box to forward the message to a friend (Kerry 5%), and 22% had a box to create or contact an online team of supporters (Kerry 0%).³

After decades of mass-media domination, interpersonal campaigning has undergone a renaissance in the early years of the millennium. The resurgence of the so-called “ground war” entails canvassing citizens to discern their preferences, engaging them to persuade and mobilize supporters, and finally, getting out the vote (GOTV), both on election day and before through programs aimed at taking advantage of the burgeoning early and absentee voter programs in many states. As the survey notes, nearly two-thirds of the adult population (64%) was contacted directly by political actors in the final two months of the 2004 campaign. Republicans and Democrats reached roughly the same number of people, and relied on the four same interpersonal channels in about the same proportions: regular (or “direct”) mail remained the top channel of contact (reaching 49% of the public), with phone calls second at 40%, emails at 14%, and home visits at 9%.

But these numbers say nothing about the efficacy of the contacts. The internet made a difference in helping campaigns decide who to contact, what to say, when to say it, and, crucially, who to send to say it. The Bush-Cheney campaign planned, tested, refined, and committed itself and its allies to a program which fused the basics of old-fashioned canvassing, marketing, and proselytizing with the latest in data acquisition, analysis, and distribution—targeted grassroots politicking. The campaign determined which segments of the voting population it wanted to contact, installed a rewards program to motivate volunteers (notably, choice seats at events featuring the president), equipped volunteers with customized talking points and contact lists so as to make the most of existing relationships (and supplied home door-knockers with downloadable maps spelling out estimated walking times), and kept track of every action taken to increase efficiency and output. The campaign encouraged online volunteers to head up “virtual precincts,” assuming responsibility to create their own email list and ensure that those on it turned out to vote.

The House Party for the President initiative constituted another aspect of this targeted grassroots operation. Starting on April 29, 2004, the BC04 campaign relied on the internet to organize and coordinate simultaneous team-building sessions across the country --MeetUps without the company as middleman. The July 15, 2004 parties featured a 30-minute conference call with Laura Bush, who answered six questions selected earlier from submissions and then brought her husband to the phone for a surprise cameo finish. There were 6,920 parties that day; in all, over 30,000 would be held, with over 350,000 participants.

³ The figures come from a forthcoming Pew Internet & American Life Project Data Memo on campaign emails.

Democrats mounted a targeted grassroots which matched the Republicans in sophistication, but they started later, and did not coordinate as well. Like Dean, they hired recruits and bussed college students to faraway states, where the GOP relied more on the stronger ties inherent to local congregations, neighborhoods, and (under the aegis of the "Prosperity Project" spearheaded by BIPAC, the Business Industry Political Action Committee) employer-employee and business-stakeholder relations. The Democratic field team was also hampered more by the rules of the recently enacted Bipartisan Campaign Reform Act. Under its restrictions, field operatives working for one of the 527 groups could neither coordinate with the Kerry campaign, nor advocate voting for him.

Conclusions and Implications

Did internet use make a difference in the 2004 presidential race? Yes. The most successful campaigns relied on it to gain advantages over their competitors. The numbers of adult Americans who relied on the internet to learn about the campaigns, to help make up their minds, to help others make up theirs, and to register and vote is simply too large relative to the final margin to think otherwise.

The numbers of American citizens who turn to the internet for campaign politics may dip in 2005 and the off-year election in 2006, in the absence of a presidential election. But a return to pre-2000 or even pre-2002 levels of engagement seems unlikely. As broadband connections proliferate and hum, the old mass audience for campaigns is being transformed into a collection of interconnected and overlapping audiences (global, national, partisan, group, issue-based, candidate-centered). Each online audience has a larger potential for activism than its offline counterparts simply because it has more communications and persuasion tools to exploit. This transformation makes life in the public arena more complex.

The more citizens use the internet, the more they might expect from campaigners and political journalists: rapid responses to information searches; a multiplicity of perspectives available on controversies; short and visually arresting promotional messages; drill-down capacities into referenced databases; more transparency from, and access to, institutions and players. Meanwhile, on the supply side of the political equation, candidates, groups, and parties now have models for how to use the internet to raise money, mobilize voters, and create public buzz. The new benchmarks established in 2004 could well be matched and surpassed in 2008.

In the coming months, well before net-guided election mobilizing recommences in earnest for the 2006 midterm elections, the online citizenry will continue to make donations to campaigns, sometimes in a big rush triggered by a news event. Political organizations with email lists ranging from the millions to the dozens will continue to urge citizens to give money, sign petitions, and tell friends to join. The definition of "activist" might continue to loosen, to include people who do little more than what ten minutes a month at their computers enables them to do; parties and groups will devote more energy and creativity to aggregating these actions into grassroots power. The

definitions of “newsmaker” and “news” will also loosen, both because of what grassroots campaigners can do with the internet, and what bloggers, web video-makers, and others with things to say to the public can do through the internet to distribute their messages. These changes could herald a major reconfiguring of the most public aspects of the American political process. Its contours are as yet unclear. Perhaps one approach to campaigning will dominate in the age of the internet –but it may be the case that several models compete over a period of time, or that each election cycle and political situation summons a unique configuration from each major player. Furthermore, there are innovations yet to come as more internet tools (for advertising, polling, and knowledge-creating) make it out of the lab and early adoption phase.

The only change that would surprise us would reverse the fundamental trend underwriting all the other changes: the cycle-by-cycle expansion of the population of the online citizenry. 75 million Americans at the last election-day peak, and counting.

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January 14, 2005

Section: B

DEAN CAMPAIGN MADE PAYMENTS TO TWO BLOGGERS
BULKELEY, WILLIAM M

Zephyr Teachout, former head of Internet outreach for Howard Dean's presidential campaign, reports that the campaign hired two Internet political 'bloggers' as consultants so they would say positive things about Dean in their online journals (M)

---- INDEX REFERENCES ----

Language: EN

OTHER INDEXING: (BULKELEY, WILLIAM M; DEAN, HOWARD; TEACHOUT, ZEPHYR) (HOWARD DEAN) (DEAN CAMPAIGN; Zephyr Teachout) (PRESIDENTIAL ELECTION OF 2004; NEWS AND NEWS MEDIA; COMPUTERS AND THE INTERNET; PUBLIC RELATIONS AND PUBLICITY; CONSULTANTS)

Word Count: 49
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NewsRoom

The Hill

State by state

Rhode Island

Rep. James Langevin (D-R.I.), who had considered challenging Sen. Lincoln Chafee (R-R.I.) next year, now faces a challenge himself — from Democratic House hopeful Jennifer Lawless.

A 30-year-old political science professor at Brown University, Lawless is running to Langevin's left, saying that, unlike Langevin, she backs abortion rights and medical marijuana. She also says that Congress should not have meddled in the Terri Schiavo affair; Langevin backed the GOP-led intervention on Schiavo's behalf.

Adam Deitch, Lawless's campaign manager, declined to say how much money the candidate has raised since she began exploring a House bid earlier this year.

"She is confident that she is going to be able to raise the money to make this more than a viable campaign," Deitch said.

Langevin won his third term, in 2004, with 75 percent of the vote.

Arkansas

Former Congressman and Homeland Security Undersecretary Asa Hutchinson launched his campaign for governor of Arkansas last week — in Washington.

Former Rep. James Rogan (R-Calif.), who has been said to be mulling over a possible bid for the seat being vacated by Rep. Chris Cox (R-Calif.), was among the 21 hosts of Hutchinson's fundraiser.

Attendees paid at least \$50 for the event at La Colline restaurant.

Hutchinson faces Lt. Gov. Win Rockefeller for the Republican nomination. Arkansas Attorney General Mike Beebe is the only Democrat in the race.

Pennsylvania

Democrats, capitalizing on a lawsuit filed last week against Rep. Don Sherwood (R-Pa.), are targeting the rural district in the northeastern corner of the Keystone State.

Cynthia Ore, a 29-year-old Maryland woman who met Sherwood at a Republican event several years ago, is accusing the congressman, in his third term, of physical abuse during their five-year "intimate relationship."

Sherwood, who is married, denies the allegation and calls Ore a "casual acquaintance."

An official at the Democratic Congressional Campaign Committee (DCCC) said Democrats are recruiting several potential candidates but declined to name anyone.

Sherwood's spokesman, Jack O'Donnell, said the congressman, 64, would seek reelection in 2006. Republicans hold a 13-point registration advantage.

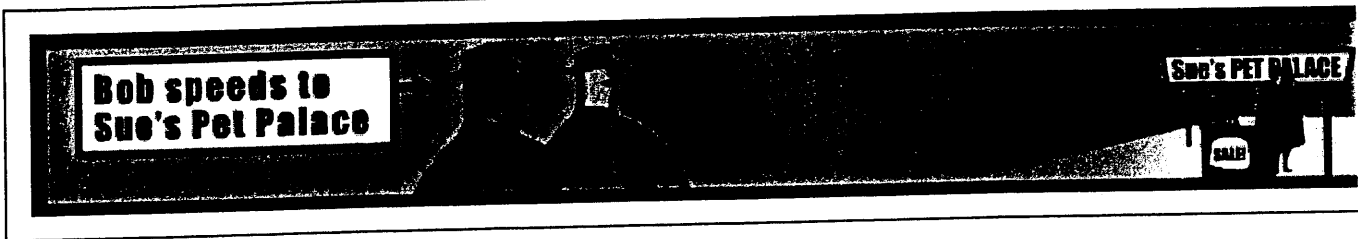
West Virginia

Sen. Robert Byrd (D-W.Va.) comes from one of the most conservative states in the country with Democratic members in Congress. But that hasn't stopped Byrd from seeking support from liberals in a less visible venue — the Internet.

Byrd's campaign has bought ads on at least 16 websites seeking campaign cash in advance of June 30, when the senator files his second-quarter fundraising report to the Federal Election Commission.

Byrd is spending close to \$2,500 a week on the ads. The sites his campaign has targeted include Daily Kos, Talking Points Memo (by The Hill columnist Josh Marshall) and Eschaton.

Brian Nick, press secretary to the National Republican Senatorial Committee, said of the recent expenditure, "Senator Byrd's re-election campaign is being financed by ultra-liberal, radical Democrats because he represents their values and not West Virginia's."



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Consultants: Politicos Coming Around On Online Ads

by Shankar Gupta, Tuesday, May 17, 2005 6:00 AM EST

POLITICAL CANDIDATES ARE STARTING TO believe that online advertising allows them far greater opportunities to extend reach and target constituents than do traditional ad campaigns, said panelists Monday at a conference in New York City sponsored by Personal Democracy Forum, a Web site dedicated to examining how technology and the Internet are changing American politics.

What's more, politicians will continue to spend more online in the next election, predicted the panelists. Michael Bassik, a Democratic political consultant with Malchow Schlackman Hoppey & Cooper Partners, forecast that 2006 will be a big year for online advertising in the political sector. "I think '06 is going to be insane," he said. "The amount of work we've done--it's more attention than I've ever seen paid to online."

Republican political consultant Eric Porres of Pericles Consulting agreed that political advertising online will continue to grow in '06. But, he said, he wasn't counting on a breakout year, because many political advisers aren't yet familiar enough with online advertising. "As more people become familiar with it, more people will recommend it," he said. "I'm not waiting for it to be a banner year in 2006, but smart campaigns will be in it."

The panel consisted of Porres, Bassik, and Henry Copeland, the founder of the Blogads service, which allows advertisers to place ads on networks of subscribed blogs. Journalist and frequent OMMA magazine contributor Kate Kaye moderated.

Panelists said that online political campaigns can give candidates

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an extra edge over their opponents. Porres cited the Nebraska senatorial race, in which John Thune won a close victory over Tom Daschle--in that race, an online ad featuring Rudy Giuliani had a total number of click-throughs that was larger than the number of votes that decided the election.

Using the Los Angeles mayoral race as another example, Porres said that Bob Hertzberg, a Republican candidate for mayor, saw a 40 percent increase in his polling numbers based on his proposal to divide Los Angeles's school districts--a proposal that he had promoted heavily using an online ad campaign.

Ads on Web logs are an especially useful tool for targeting local, engaged audiences, said panelists. Pointing to a BlogAds reader survey that claimed that 70 percent of blog readers are the "influentials" coveted by advertisers, panel members said that blogs should be a major consideration for political campaigns. "If you're an advertiser, and you're trying to influence the influential, you've got to be there," said Bassik. And, although ads on blogs don't necessarily offer the reach of mass media, advertising to the influencers allows campaigners to "move the zeitgeist a little," Copeland said.

Candidates who are Internet-savvy, Bassik said, end up with a major edge over their less-Web-oriented opponents. "It's a huge edge," he said. "There are so many campaigns where online ads gave that initial boost the candidate needed."

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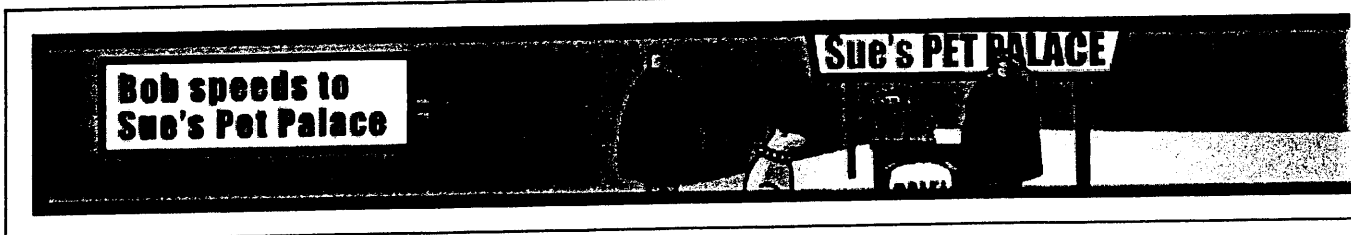
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OPA: Publishers Not Keeping Up With Demand For Online Video

by Wendy Davis, Wednesday, Feb 9, 2005 6:00 AM EST

FUELED BY THE RISE IN high-speed Web access, the majority of Internet users view at least one streaming video feed per month, according to a study released Tuesday by the Online Publishers Association. The organization reported that nearly three out of four Web users--74 percent--have viewed online video at least once; 51 percent do so a minimum of once a month; 27 percent watch streaming video at least once a week; and 5 percent view Web video streams daily. For the report, "Drivers & Barriers To Online Video Viewing," the Online Publishers Association and Frank N. Magid Associates surveyed more than 27,000 Web users age 13 and older last October and November. The researchers intercepted respondents from 25 news, information, and entertainment Web sites, including USAToday.com, GameSpot.com, and Weather.com.

In fact, not only do many Web users regularly watch streaming video, but they would apparently watch even more, if additional clips were available. "One of the major takeaways is that there's more demand for video than consumers can find," said Michael Zimbalist, president of the Online Publishers Association. That conclusion is based on the finding that 59 percent of respondents discovered online videos via random Web surfing, while only 43 percent of respondents said they had previously watched a streaming video on the site where they were intercepted--mainly because they didn't know videos were available on the site. If more video was available--and respondents knew where to find it--they would presumably watch more.

Most survey respondents--70 percent--reported having watched an online video ad, and many indicated that the spots spurred them to action. When asked what they did, if anything, as a result of

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viewing the ad, 34 percent said they investigated a Web site, while 15 percent requested additional information, 14 percent visited a brick-and-mortar store, 10 percent forwarded the ad to another person, 9 percent made a purchase, and 3 percent ordered a subscription. But more than half of the respondents--56 percent--said they hadn't done any of those activities in response to the ad.

For now, broadband video represents only a small portion of online advertising. JupiterResearch predicts online video ads to amount to \$200 million this year, out of a total rich media ad spend of \$1.5 billion. Research firm eMarketer predicts that all rich media--the majority of which is flash ads, as opposed to streaming video--will account for about \$1 billion online ad dollars, out of a total Internet ad spend of \$11.3 billion.

Still, the study could encourage online marketers to purchase more streaming video spots if only because of the desirable demographics of those who watch online video: the mean age of those who watch online video at least once a week is 40, and nearly one out of four--23 percent--have household income exceeding \$100,000; sixty-three percent are male.

What do they watch online? The largest proportion, 66 percent, report viewing streams of news and current events, while 49 percent see movie trailers, 29 percent eyeball music videos, and 27 percent check out sports highlights. Those figures might be somewhat skewed, however, because many of the sites included in the survey were online newspapers or magazines, said Zimbalist.

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The Internet transforms modern life

By Steve Almasy
CNN

(CNN) -- In 1994, most people had to call the bank to check their balances. Or inquire in person, or wait for a paper statement to arrive in the mail. Baseball box scores were found in the newspaper. Weather forecasts came over the phone from the weather bureau, or on TV.

Back then, most Americans still had to lick a stamp to send mail.

Then along came an experimental browser called Mosaic, followed by an improved browser from Netscape. And if you had a computer, you discovered a new way to this cool, new thing called the World Wide Web.

Mosaic and Netscape were the first popular connection to what came to be called the information superhighway and followed the first browser by Tim Berners-Lee called WorldWideWeb.

According to the Pew Internet & American Life Project, fewer than one in seven Americans were online in 1995. Today, the majority of Americans are surfing the Web, exchanging e-mail, reading bank statements and ball scores, checking the weather. Today, Pew says, two out of every three Americans spend time online.

The World Wide Web has transformed the way people live, work and play. People can play travel agent and book all the elements of a vacation online. They can arrange for their bills to be paid automatically while they are gone. They can put a hold on mail delivery, find directions to tourist attractions and get a long-term weather forecast before they pack.

Even on vacation, they can log onto the Web to keep up with news from their hometown paper or TV station, and stay connected with friends and family. In its first decade, the Web altered the pace of popular culture. It made distance less daunting, rendered information instantly accessible and revolutionized communication.

Googling and blogging

In the mid-1990s, the top three Web sites were AOL, Netscape and WebCrawler (which was a search engine owned by AOL), according to Internet research measurement company comScore Media Metrix. Each had an audience of 4 million to 6 million people per month.

Today, the audience for the Web numbers more than one billion and is growing.

"People are being much more customized in the type of content that they want to see and consume [online]," said Peter Daboll, president of comScore Media Metrix. "Also, there are the communication advances where it is easier to communicate and stay online. And they are just having more of their needs filled, whether it's travel, shopping and all these other activities that didn't exist to the same degree in the early days of the Web."

The Web has added plenty of words to our lexicon, although some have yet to make the dictionary. If you had talked about Googling or blogging 10 years ago, you might have had a lot of listeners scratching their heads.

But like any youngster, the Web still has some growing to do. For all its uses, most people still go to the Internet primarily for e-mail. According to Pew surveys, 58 million Americans sent e-mail each day in December 2004, while 35 million used the Web to get news.

Many of those online users are irked by spam – unsolicited offers for everything from lower mortgage rates to pornography, pharmaceuticals and pitches to help a Nigerian launder millions of dollars.

Congress passed an antispam law in November 2003, with the backing of several of the biggest Internet companies. Spammers seem undeterred and San Francisco-based Ferris Research estimates the time lost by employees dodging spam will cost U.S. businesses \$17 billion in 2005.

Another e-mail problem is phishing, the fake e-mail that looks like it is from a legitimate source. The bogus e-mail is designed to get the reader to divulge personal information, often a credit card number.

Broadband 'has changed everything'

E-mail is a one-way media; you send an e-mail and wait for a response. Steve Outing, a senior editor at the Poynter Institute for Media Studies and an interactive media columnist for Editor and Publisher, says the Web has evolved into an interactive forum where users can converse through chat rooms and instant messaging. It has also become participatory through the advent of blogs – online journals or columns – he said.

"We've come a long ways, but we still have a ways to go," he said.

In the early days of the Web, many news sites were little more than a collection of links to stories by The Associated Press and a few pieces of content repurposed from the newspaper or TV station. If you were lucky, there might be a photo in the story. With so many people using the Web today for news, TV networks, newspapers and magazines have been increasing the types of content they make available on the Web.

"Rich media and multimedia content are much more popular," Outing said. "Media companies are more willing to put in the money to produce it. They recognize that people can now use it."

Some media companies have been slow embrace the Web, he said, and in the meantime, they have found themselves facing increased competition from entrepreneurial sites, like craigslist.org, which is a popular bulletin board featuring free classifieds.

The biggest change has been effected by broadband, Outing said.

"In the past four or five years, the penetration of broadband has changed everything," he said. "The computer is always on and the information is always there."

There are 10 times more broadband users today than there were in June 2000, according to Pew.

The Internet generation

Daboll, of Media Matrix, said broadband outnumbers dial-up as the connection of choice among people who log on from home.

Just a few years ago, the move from a 28.8k modem to 56k was enough to make many users ecstatic. These days many DSL and cable connections are up to 70 times faster than the old dial-up. The faster Web makes it much easier for people to watch video, listen to audio and share files.

The Web is changing the way people communicate, Daboll said. He pointed to the "Internet generation," teenagers who have grown as the Web as grown. One of their favorite tools is instant messaging, he said.

But the Internet isn't an orderly environment for the person who wants to pay bills, watch the latest music or take a virtual college class. It also can be a tempest. There are bad people out there – hackers, pedophiles and thieves.

According to the Federal Trade Commission, 1 in 25 adults was a victim of identity theft in 2003 and the number of people affected online continues to increase.

But the Web can also help combat ID theft. An FTC booklet with tips to prevent or deal with ID theft is accessible on the department's Web site. The agency says it has received more than 1.8 million visits.

And there's plain old fraud. The FTC said slightly more than half of the fraud-related claims it received in 2004 were Internet related, and many of the deceptions involved individuals or companies that used e-mail or a Web site.

Internet users are also vulnerable to spyware, computer viruses and annoying forms of advertising.

Advertisers are changing, too, trying to figure out how to best use the Web. JupiterResearch projects that Internet advertising will grow 27 percent, to \$10.7 billion, in 2005.

The increase in demands of the Web has even affected the way Media Matrix serves its clients, generally companies looking to best place their advertisements.

"The nature of what we do has changed from ratings and ranking to more broadly covering what goes on the Web," Daboll said. "Looking at actual number of searches and looking at actual expenditures by household by category – for instance money spent on travel sites versus retail sites."

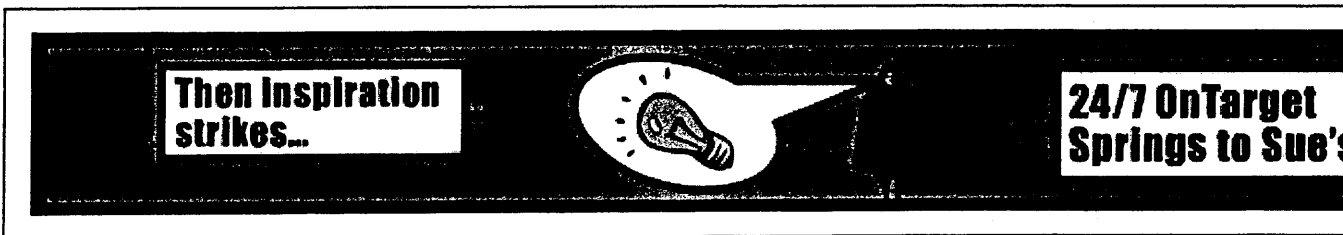
A decade from now, who knows what statistics and functions they'll be measuring.

After all, 10 years ago, few people imagined it wouldn't be long before you'd be able get a satellite picture of a city a continent away or read the local news from three time zones away or even order pizza without talking to the folks a few blocks away.

Find this article at:

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TNS: Internet Ad Spend Will Grow 7.6 Percent

by David Kaplan, Wednesday, Jun 29, 2005 6:00 AM EST

SPENDING ON WEB ADS, OTHER than paid search listings, is expected to grow 7.6 percent, while ad spending across all media likely will rise 3.4 percent this year, according to TNS Media Intelligence. But, cautioned TNS CEO and president Steve Fredericks, the medium is entering a phase in which year-on-year comparisons are becoming more difficult.

"I don't think we've seen such buzz surrounding a media industry since its first heyday in 2000," Fredericks said at a presentation in New York City. "There is considerable press attention not only on who is moving ad dollars to the Internet and what percentage the Internet is of an overall brand marketing budget--but also many opinions on how the industry is and will be tracked in the future.

In the aftermath of the dot-com bust, measured Internet ad spending bottomed out in 2002 at \$5.2 billion dollars. However, in 2003, expenditures jumped 17.6 percent, and last year we saw an increase of 21.4 percent over the prior year. During the last two full years, the net increase has been more than \$2.2 billion dollars."

He also pointed out that the recent growth in Internet ad spending is coming from traditional advertisers at the expense of dot-com brands. Over the past four years, these traditional brands have grown their total online ad spending by 50 percent, from \$2.8 billion to \$4.2 billion. On a share basis, these brands now account for 57 percent of total ad spending on the Internet, versus 48 percent in 2001. As a disclaimer, TNS representatives noted that Internet ad projections don't include paid search advertising,

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which comprises nearly one-half of all online ad spending.

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Copyright 2004 The Washington Post
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October 19, 2004 Tuesday
Final Edition

SECTION: A Section; A05

LENGTH: 820 words

HEADLINE: Bush, Kerry Make Last-Minute Pleas for Help by E-Mail

BYLINE: Brian Faler, Special to The Washington Post

BODY:

The e-mails come in a torrent now, each seemingly more urgent than the last.

"President Bush not only needs your vote, he needs your help."

"It is time to turn off the computer, lace up your sneakers and do some old-fashioned on-the-street politics."

"It's going to take hard work and a lot of creativity to get out John Kerry's message. . . . Even two hours of your time will have an impact."

The campaigns of President Bush and his Democratic challenger, Sen. John F. Kerry, are increasingly calling on all those who gave them their e-mail addresses to do something between now and Nov. 2 to help put the candidates over the top -- and they're following in the footsteps of Howard Dean, by using the Internet to make that something more accessible than ever.

Both have transformed their Web sites into virtual campaign offices that offer an array of tools. After feeding online supporters a steady diet of hard-hitting Web videos -- designed to stir their partisan juices -- the campaigns are now urging them to use those tools to help spin the media, contact voters and get out the vote.

But whether all this translates into results is not a sure thing. Despite the success that Dean, Kerry and others have had raising money online, experts note, it is one thing to get people to spend 10 minutes giving \$25 or \$50 online and quite another getting them to donate their time and energy.

Still, with the election so close, passions running high on both sides and millions of supporters' e-mail addresses at their fingertips, both campaigns have found it impossible to ignore the potential payoffs of trying. The Bush campaign said it has 6 million of its supporters' e-mail addresses. The Kerry camp said it has 2.5 million. It is impossible to independently confirm those figures. But if taken at face value, they suggest that even if a tiny percentage of those people respond, it could be significant. If just one-half of 1 percent of Bush's list responds, for example, that's 30,000 people. For Kerry, it's 12,500. Those people can knock on a lot of doors, write a lot of letters, help get a lot of people to the polls -- all at minimal cost to the campaigns.

Both campaigns have studied Dean's Internet-driven campaign, learned from what they see as its mistakes and have adopted tools that both worked for him and mesh with their command-and-control styles of campaigning. Building on this base, they have developed a number of new tools that both hope will entice more of their people to get involved.

Both have stolen a page from Dean's playbook and have adopted a variation on the Web site Meetup, which enables supporters to organize campaign-related meetings in their communities wherever and whenever they like. The Bush campaign calls its meetings "Parties for the President." To the Kerry camp, they are house parties. The name has

The Washington Post October 19, 2004 Tuesday

changed, but the purpose remains the same: to introduce their supporters to one another, give them an opportunity to share their enthusiasm, and put them to work raising money, calling voters and spreading the good word about their candidate.

Both campaigns have also developed tools tailored to their supporters' communities. The Bush Web site gives users almost everything they need to canvass their neighborhoods: lists of their neighbors' addresses and phone numbers, custom-made maps to help them find their way -- even estimates of how long it might take knock on their doors. The Kerry site provides supporters with calendars of campaign-related events in their communities, from local "visibility events" to drives to the polls for senior citizens hoping to vote early. Each campaign has also created lengthy lists of news outlets' contact information, to help its partisans churn out letters to their local newspapers touting their candidate's leadership.

The campaigns are hoping to tap the energy of those who live in non-battleground states, who want to have more of an impact on the election outcome. Both are recruiting their online supporters to travel to swing states to help get out the vote, an effort reminiscent of the Dean's campaign effort during the Democratic primaries to flood Iowa with mostly out-of-state Deaniacs.

Can't travel to Ohio? They can phone -- or, until recently, write -- it in. The Bush site enabled users to send letters to swing-state voters explaining why the president deserves another term. The Kerry campaign is offering volunteers in uncontested states the phone numbers of those who live in contested ones, in hopes that if their e-mails do not get them into the streets, a personal call from another supporter might.

Both campaigns said their sites have helped organize tens of thousands of supporters who, in turn, have somehow contacted thousands of other voters. But the e-mails are still coming: "Will you make a difference and commit to helping President Bush in the crucial final hours of this campaign?"

LOAD-DATE: October 19, 2004

PEW / INTERNET

PEW INTERNET & AMERICAN LIFE PROJECT

PEW INTERNET PROJECT DATA MEMO

BY: Michael Cornfield, Senior Research Consultant – 202.296.0019

RE: Presidential campaign advertising on the internet

DATE: October 2004

The presidential campaigns have virtually ignored the internet as an advertising medium, according to the first-ever systematic study of online political ads. The campaigns have spent more than \$100 on television ads for every dollar they have spent on web ads. The few ads that ran online between January and August 2004 mainly sought \$25 and \$50 campaign contributions.

SUMMARY

The presidential campaign world today regards the internet as an asset for fundraising, voter-profiling, and insider communication, but not for advertising.

Since January 1, 2004, Evaliant Media Resources, a TNSMI/CMAG affiliate company, has monitored more than two thousand commercial web sites on a daily basis. Evaliant has archived each political ad its tracking technology has encountered, noting the ad's web page location, and estimated the amount of money spent to place the ad. A systematic review and analysis of ads placed online by the presidential campaigns, the national parties, and 527 advocacy organizations during the first eight months of 2004 reveals that:

- **The primary players in presidential politics this year spent just \$2.66 million on online banner ads between January and August –less than 1% of the buy for television ads in the top 100 markets.** Preliminary spending analysis for September shows little change in this pattern, despite the start of a ban on broadcast and cable election ads paid for with soft money. By contrast, between March 3 and September 20, 2004, according to a CMAG estimate, the campaigns spent \$330 million on television advertising in the top 100 markets.
- **The Kerry campaign has outspent the Bush campaign by a 3:1 margin: \$1.3 million by Kerry, \$419,000 by Bush.** The Democratic National Committee (\$257,000) has picked up its online advertising since July, but has spent a little over half of that spent by the Republican National Committee (\$487,000). The 527s (advocacy groups such as MoveOn.org and Swift Boat

Veterans for Truth which are taking advantage of campaign finance law loopholes) have done very little online advertising: \$184,000, with \$104,000 by the MoveOn.org Voter Fund.

- **Strategically, the Bush campaign aimed its online advertising at middle-class women and voters in battleground states in one big blast in May (\$403,000 of the \$419,000 total). The Kerry campaign concentrated on raising money from progressive outlets in metropolitan areas. Both campaigns preferred local to national and global news outlets, and web sites of “old media” properties to those of online companies.**
- **The most popular purpose of the ads was to raise money, usually solicited in \$25 and \$50 amounts. A few ads sought to recruit volunteers. A few made statements about the candidates and issues without calling for money or volunteers. No ads contained endorsements or invitations to campaign events.**
- **The biggest online ad buys for Bush were at these sites:**
 - **KPTV Oregons12.tv.com** (FOX, Portland OR)
 - **Parents.com** (*Parents* magazine)
 - **KNVA-TV.com** (WB network, Austin TX)
 - **El Nuevo Herald.com** (Miami FL)
 - **KPHO CBS 5 News.com** (CBS, Phoenix AZ)
- **The biggest online ad buys for Kerry were at these sites:**
 - **SFGate.com** (San Francisco *Chronicle* newspaper)
 - **Newsweek.com** (*Newsweek* magazine)
 - **Village Voice.com** (New York City NY alternative weekly newspaper)
 - **Reuters.com** (Global news service)
 - **L.A.Weekly Media.com** (Alternative weekly newspaper)
- **Although parts of the online world are a public “wild West” where few standards of taste, civility, and accuracy prevail, political advertising on the internet has adhered to mass media standards of political discourse. Content analysis of the 137 ads in the collection by the Bush, DNC, Kerry, and RNC campaigns pre-conventions shows that although a few ads took remarks out of context, none descended to obscenity, graphic violence, or manifest smears and lies. A majority (56%) of the ad designs analyzed either praised the sponsoring candidate or concluded a candidate contrast on a positive note.**

INTRODUCTION: Where are the ads?

Presidential campaigns have incorporated the internet into their activities to a greater degree than in 2000. They have learned from the spectacular successes of Democrat Howard Dean's campaign, and from the small realizations which accrue as people spend more time with a new technology. Specialists in online politics have been lobbying the campaigns to try more things on the new medium, partly out of self-interest, of course, but partly out of the sensible belief that use of the internet can improve on the *status quo*. The internet offers creative opportunities in multimedia expression. It costs little to produce online messages and make them available to others. The internet gives campaigners the opportunity to codify, test, discuss, and refine their messages and operations --in sum, to sharpen their collective intelligence. Finally, few legal restrictions stand in the way of what can be tried online.

The campaigns have tried some new things. This year, for the first time, both presidential candidates invited people to visit their web sites during their nomination acceptance speeches. Bush and Kerry campaigners are organizing house parties, making videos and sound files especially for online distribution, posting interactive games, and narrating the campaign from their point of view in multiple listserv missives a week. Tens of millions of dollars have been collected with the help of the internet, most notably from small donors. (Exact online fundraising amounts are not reported to the government, and are to some extent incalculable, since online appeals may be answered through a phone call or letter, and vice versa.) Both parties have amassed and analyzed data identifying the personal traits, consumer preferences, and voting behavior of more than one hundred million citizens, in order to pinpoint canvassing activities and refine mobilization appeals.

Yet for all the online experimentation the campaigns have attempted this year, they have not ventured aggressively into online advertising. This is somewhat surprising because online ads can reach new, undecided, and wavering voters in the demographic and geographic niches where they are thought to reside.

Online ads would seem to provide a missing link between the campaigns' existing internet efforts and tens of millions of Americans. Industry estimates say overall spending on online ads is growing faster than in any other medium, and is expected to top \$8 billion in revenue by the end of 2004.¹ Yet the presidential campaigns have moved tentatively into the field, as analyses of the spending, content, and placement to date discloses.

SPENDING²

As Table One and Chart One show, the presidential and national party campaign organizations accounted for 93% of the estimated ad spending detected through the

¹ "Ad Spending Up 27%; Growth Twice as Fast as Cable," www.adage.com, July 29, 2004.

² The spending figures would rise slightly if sponsored links on search engines are included; these calculations have yet to be performed.

Evaluating software in the first seven months of 2004: Kerry for President (49.5%), the Republican National Committee (18.3%), Bush for President (15.7%), and the Democratic National Committee (9.7%). The 527s have largely ignored online advertising. (As of the first week in September, Swift Boat Veterans for Truth had not run any online ads.)

TABLE ONE: SPENDING ESTIMATES BY MONTH.

CHART ONE: JANUARY-AUGUST SPENDING BY PROPORTION.

{Ed. Note: For both of the above charts, please see Excel document, available at http://www.pewinternet.org/files/INTERNET_AD_SPENDING_YTD_August1.xls}

The current total of \$2.7 million is less than half of what the John Kerry campaign raised in contributions from the internet in a single *day*: \$5.7 million on July 29, the day Kerry gave his nomination acceptance speech.

CONTENT

An examination of the 137 online ads deployed by the Bush, Kerry, DNC, and RNC campaigns between January and July 2004 reveals that the advertisements have consisted mostly of slogans and graphics of the sort found on bumper-stickers and billboards, with occasional forays into flash animation. The online ads were notable more for the messages they did **not** contain, rather for their content. For example:

- No campaign ad contained a political endorsement, even though that is a familiar practice in listserv emails, automated phone calls, and direct mail.
- No campaign ad issued invitations to political events or meetings.
- Very few ads attempted to build enthusiasm among voters as the candidates were going into or coming out of primaries and financial disclosure deadlines. Again, this is striking because such messages are a common feature in other campaign media.
- Only a small number of ads contained messages targeted to groups, states, or other segments of the population that are strategically important to the campaigns. This is so despite the fact that the campaigns made careful choices reflecting targeting strategies when they made ad buys.
- Only one ad invited viewers to click to a specific message: a banner in which Laura Bush asked readers to "Let me explain why" the president shares her passion for education. The ad linked to a 2 ½-minute video which in turn contained a 30-second ad also shown on television.³ This was clear effort at persuasion, as the placement analysis in the next section confirms.

³ Brian Faler, "Presidential Ad War Escalates Online," *Washington Post*, May 30, 2004; Ron Fournier and Liz Sidoti, "Laura Bush Appears in Internet Ad," *Associated Press*, May 11, 2004.

Some observers anticipated that the unfiltered and unregulated status of the internet might induce campaigns to run underhanded attacks through advertising. A general concern about internet political communications motivates the bill sponsored by Senators Lindsay Graham and Ron Wyden to apply the “Stand By Your Ad” disclaimer requirement to the internet.

Despite those concerns, the online ads to date were no better or worse than those in other high-visibility media. There were no glaring falsehoods or really low blows. As Table Two shows below, 56% of the ad designs either praised the sponsoring candidate or concluded a candidate contrast on a positive note. Only the Bush campaign designed more negative than positive ads; however, the single positive ad –the Laura Bush banner with the “special message” link to a video-- accounted for 98% of its placements.

TABLE TWO					
Content Analysis of Online Advertisements by Selected Campaigns					
January-July, 2004					
	DNC	RNC	BUSH	KERRY	TOTAL
Positive	11 (52%)	8 (57%)	1 (14%)	57 (60%)	77 (56%)
Negative	10 (48%)	6 (43%)	6 (86%)	38 (40%)	60 (44%)

Variations in the size and shape of an ad were counted as a single ad. Variations in the message of an ad (e.g. changing the name of a state) were counted as separate ads. In (the handful of) static contrast ads, the right side of the ad was regarded as the conclusion, on the presumption that most viewers' eyes scan as they would read English, from left to right.

SOURCE: Evaliant Media Resources.

A heavy majority of the Kerry and DNC ads (78%) had fund-raising as their main purpose. Bush and RNC ads focused more on recruitment and persuasion (57%). Only the RNC sought to register voters through online ads. Table Three summarizes the text for the five most frequently spotted advertisements by the big four campaigns. They run the familiar gamuts from the vacuous to the substantive, from the straight-forward to the shifty. There has been humor, outrage, and a little outrageous humor, albeit nothing to compare with some of the videos posted by the campaigns.⁴

⁴ See “Listserv Campaigning Heats Up,” a July 6, 2004. Pew Internet Project Commentary at www.pewinternet.org .

TABLE THREE
Top Five Creatives by Frequency

DNC	RNC	BUSH	KERRY
Victory is Ours (135)	Kerry Own Words (930)	Laura/Education (7180)	Give \$50 Now (528)
Hurt Missouri (74)	Every Vote Counts (444)	"Conservative Values" (34)	NCLB Debt (332)
Vote Wallet (73)	No Defense (356)	Donate \$50 Now (30)	Bush Record (313)
Expiration (68)	Success (185)	Kerry SUV (26)	One-Termer (312)
Wrong Direction (53)	Improve Economy (142)	Kerry For/Against (20)	Take Back (296)

NUMBERS INDICATE ENCOUNTERS BY EVALIANT WEB SEARCH TECHNOLOGY.

GENERAL CONTENT OF THE ADS:

VICTORY IS OURS: Fireworks and confetti, post-convention appeal.

HURT MISSOURI: In investigative genre black-and-white with traditional typeface: "George Bush promised Missouri Security Cheaper Health Care More Job Training; But a Secret White House Memo Shows Bush Planning Deep Cuts That Will Hurt Your Family (Washington Post, 5/27/04); Click Here to Find Out How the Bush Cuts Will Hurt Missouri."

VOTE WALLET: "On November 2, Vote With Your Ballot, Until Then Vote With Your Wallet."

EXPIRATION: "Expiration Date 11/02/04 -Help Send Bush Packing."

WRONG DIRECTION: Cartoon of an animal skull beneath a sign marked "Bush" that points into the desert. "George W. is leading America in the wrong direction."

KERRY OWN WORDS: Kerry says his own vote to "abandon our troops" was reckless and irresponsible; listen in his own words.

EVERY VOTE COUNTS: 20,000 votes decided four states in 2000 -make a difference.

NO DEFENSE: "Democrats Have No Defense" with photo of angry Howard Dean, "Click here to get the facts."

SUCCESS: "Lower taxes. More jobs. Low interest rates." Learn more about the future. Photo of Bush standing in front of a large rock formation.

IMPROVE ECONOMY: "The RNC plans to continue to improve the economy. Click here to learn more."

LAURA/EDUCATION: Photo of First Lady in front of a bookshelf. "Education is my passion. And the President's too. Let me explain why." "Please click here for a special message."

"CONSERVATIVE VALUES": "Kerry says he's for 'conservative values.' Really? The nonpartisan National Journal says he's more liberal than Hillary and Ted."

DONATE \$50 NOW: "The most liberal ticket in history." Photos include Howard Dean, Michael Moore.

KERRY SUV: Kerry saying different things about his SUV to autoworkers in Detroit and to environmentalists. "Huh? Keep Kerry Out."

KERRY FOR/AGAINST: Kerry line about voting for \$87 billion before he voted against it. "Huh? Keep Kerry Out."

GIVE \$50 NOW: "If you want Kerry to win in November we need your help today."

NCLB DEBT: "George Bush wants to 'Leave No Child Behind.' He'll need every last one to pay off his \$5 trillion debt. Help stop Bush misleadership for just \$25."

BUSH RECORD: An animated cartoon in which Bush with a crown on his head tries to run away from his record but is flattened by a letter with a contribution to the Kerry campaign.

ONE-TERMER: "Help make George W. a one-termer."

TAKE BACK: "Help me take back the White House." Photo of smiling Kerry with sleeves rolled up and an upraised fist.

PLACEMENT (With research assistance by Alex Storey)

Online ads provide a campaign with great versatility in placement options. Ads can be purchased on the web counterparts of most media outlets (e.g. local television stations, specialized magazines, national radio networks), as well as on portals (AOL), marketplaces (eBay), blogs, and other sites analogous to physical locations. Thus, a web buy can complement or substitute for buys in almost every other medium.

The Bush and Kerry campaign ad buys prior to the conventions reflected different priorities. As Tables Four, Five, and Six detail below, the Bush campaign aimed one big blast at middle-class women and voters in battleground states, while the Kerry campaign concentrated on raising money from progressive outlets in metropolitan areas. Both campaigns preferred local to national news outlets, although the Kerry campaign spent much more on national news outlets. Neither campaign sought ads in national political magazine web sites, with one exception, a single Bush placement on NationalJournal.com.

**TABLE FOUR
Bush and Kerry Ad Placement Contrast
(January-July 2004)**

TYPE OF OUTLET*	BUSH	KERRY
Local Outlets	5025 (69.5%)	3931 (59.1%)
Nat'l News Outlets	16 (0.2%)	2043 (30.7%)
Nat'l Specialized	2142 (29.6%)	531 (8.0%)
Nat'l Business	40 (0.6%)	54 (0.8%)
Nat'l Political	1 (0.0%)	0 (0.0%)
Miscellaneous	6 (0.1%)	98 (1.5%)
Battleground	3347 (46.3%)	1315 (19.8%)
Metro Area	237 (3.3%)	1413 (21.2%)

This information was compiled by a TNSMI/CMAG affiliate company, Evaliant Media Resources. Using its "spidering" technology, Evaliant searches thousands of Web sites seeking brand-related banner advertising. Once found, these advertisements are tagged and collated according to Web site location, daily frequency, and estimated media-buying expenditure. Thus, the numbers in the above table correspond to the number of times an ad with the brand name was encountered in daily sweeps for the first seven months of 2004.

OUTLET DEFINITIONS:

LOCAL OUTLETS: geographically delimited web sites, such as those of television stations and most newspapers.
NATIONAL NEWS OUTLETS: web sites of broadcast/cable networks, nationally distributed newspapers, etc.
NATIONAL SPECIALIZED PUBLICATIONS: web sites of nationally distributed periodicals and online publications and services.
NATIONAL POLITICAL PUBLICATIONS: web sites of opinion journals and specialized periodicals focusing on national government and politics.

BATTLEGROUND: defined here as 16 states: AR, FL, IA, MI, MN, NV, NH, NM, OH, OR, PA, TN, WA, WV, WI.
METRO AREA: geographically delimited web sites corresponding to large metropolitan areas.

TABLE FIVE
Bush Top Twenty Placements
January-mid-September, 2004

1. KPTV Oregons12.tv.com (FOX, Portland OR)	970
2. Parents.com	938
3. KNVA-TV.com (WB, Austin TX)	551
4. El Nuevo Herald.com (Miami FL)	471
5. KPHO CBS 5 News.com (CBS, Phoenix AZ)	335
6. AZFamily.com	303
7. KGW.com (NBC, Portland OR)	272
8. WOOD TV8.com (NBC, Grand Rapids MI)	233
9. Bon Appetit.com	222
10. KXAN-TV.com (NBC, Austin TX)	217
11. CondeNet/Epicurious.com	215
12. Ohio.com	214
13. ParentCenter.com	201
14. Gourmet.com	186
15. ColumbusDispatch.com	176
16. KHOU-TV.com (CBS, Houston TX)	165
17. LadiesHomeJournalOnline	153
18. Miami Herald Internet Edition.com	141
19. STLToday.com (St. Louis MO)	118
20. FoxNews.com	113

This information was compiled by a TNSM/CMAG affiliate company, Evaliant Media Resources. Using its "spidering" technology, Evaliant searches thousands of Web sites seeking brand-related banner advertising. Once found, these advertisements are tagged and collated according to Web site location, daily frequency, and estimated media-buying expenditure. Thus, the numbers in the above table correspond to the number of times an ad with the brand name was encountered in daily sweeps for the first seven months of 2004.

TABLE SIX
Kerry Top Twenty Placements
January-mid-September, 2004

1. SFGate.com	1144
2. Newsweek.com	938
3. Village Voice.com	766
4. Reuters.com	462
5. L.A. Weekly Media.com	437
6. US News & World Report.com	435
7. Seattle P-I.com	416
8. Seattletimes.com	288
9. Hollywood Reporter.com	195
10. Salon.com	194
11. MSN Slate.com	166
12. TheBookMarc.com (textbook vendor)	151
13. MSNBC.com	130
14. Sun Times.com (Myrtle Beach SC)	97
15. El Nuevo Herald.com (Miami FL)	87
16. Washington Post.com	86
17. CNN.com	77
18. Ohio.com	69
19. Monterey County Herald.com (CA)	46
20. Sun Herald.com (Biloxi MS)	45

This information was compiled by a TNSM/CMAG affiliate company, Evaliant Media Resources. Using its "spidering" technology, Evaliant searches thousands of Web sites seeking brand-related banner advertising. Once found, these advertisements are tagged and collated according to Web site location, daily frequency, and estimated media-buying expenditure. Thus, the numbers in the above table correspond to the number of times an ad with the brand name was encountered in daily sweeps for the first seven months of 2004.

Parenting web sites (which also include ParentCenter.com, AmericanBaby.com and family.msn.com) made up 16.5% of Bush ad occurrences. Parents.com (the web site of Parents Magazine), according to its advertising kit, has as its typical visitor a 32 year-old mother with children under the age of 3. Gourmet.com, Epicurious.com, BonAppetit.com, LadiesHomeJournal.com and BetterHomesandGardens.com accounted for 11.4% of Bush ad occurrences; the average visitor to Gourmet.com (Gourmet Magazine's web site) is a 44 year-old college educated woman who works full time and has a median household income of over \$74,000. This demographic pattern, along with the content analysis, suggests that the preeminent interests were in persuasion and perhaps recruitment of middle-class women to the Bush campaign. The absence of buys after May suggests that the Bush campaign regarded this foray into online advertising as a failed experiment. Others note that there might have been a small chance for any

political ad to succeed during this period because the national attention was riveted on stories about abuse of Iraqi prisoners in Abu Ghraib.

Five national news sites – newsweek.com, reuters.com, usnews.com, slate.com and salon.com – accounted for a third (32.9%) of Kerry ad occurrences. The top site was Newsweek.com, a part of MSNBC.com. It attracts an equal amount of men and women. They are relatively young (74% age 25-54), middle-class (69% have a household income of \$50K+), married (69%), and well educated (59% have at least a college degree). Six sites aimed at metropolitan area readers, especially progressives, accounted for 49% of the Kerry buy: SFGate, Village Voice, LA Weekly, Hollywood Reporter, and the web sites of the two Seattle daily newspapers. This pattern, again in conjunction with the content analysis, suggests that the Kerry campaign's predominant interest was in fundraising.

There was not great effort in either campaign to coordinate its online advertising with its advertising on television. We compared local ad placement preferences with those for television ads, as tabulated by the Nielsen Monitor-Plus and the University of Wisconsin Advertising Project.⁵ The Bush campaign placed online ads in only 2 of the top 10 markets for its television advertising (Detroit MI and Wilkes Barre-Scranton PA), and Kerry placed online ads in only 1 of the top 10 markets for its television advertising (Cleveland OH). Preliminary analysis of August data shows more overlap in that month. However, the Bush campaign has purchased no online ads in September, with only 102 ads encountered for August (all on FoxNews.com); ads by the Kerry campaign were encountered by the Evaliant technology 34 times in August and 26 so far in September.

CONCLUSION

Presidential campaigns play a special role in the American political system: they are the main venue for communication between the nation's leaders and its sovereign citizens. For decades, the dominance of mass media have inculcated a sense of spectatorship among the citizenry. Mass media have also driven up the cost of campaigning. The internet has the potential to include more voices in the campaign dialogue, from aggregations of individual preferences in polls, to sequential discussions in blogs, to synchronous participation in conference calls and online chats.

The 2004 presidential campaigns have acted on that potential in creative ways. The Bush and Kerry campaigns have employed a variety of internet tools to recruit volunteers, raise money, and engage new voters through their web sites, email efforts, use of blogs, and social networking activities such as Meetup.com. What they do not yet seem to believe very deeply is that aggressive online advertising might have a payoff.

⁵ Nielsen Monitor-Plus and University of Wisconsin Advertising Project, "High Volume of Presidential Campaign TV Advertising in Battleground States...." July 2004 news release.

METHODOLOGY

This information was compiled by a TNSMI/CMAG affiliate company, Evaliant Media Resources. Using its "spidering" technology, Evaliant searches thousands of Web sites seeking brand-related banner advertising. Once found, these advertisements are tagged and collated according to Web site location, daily frequency, and estimated media-buying expenditure. Each time the spider sees an ad on a web site page, that is counted as an encounter; an ad placed on three different pages of one site on one day would thus yield a count of three.

Citation
11/7/04 RECNNJ A01

Search Result

Rank 42 of 618

Database
RECNNJ

11/7/04 Rec. N. N.J. A01
2004 WLNR 6887477

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November 7, 2004

Section: NEWS

E-mail credited with pivotal role in 2004 election

The election of 2004 came down to this: One guy's database was better than the other guy's.

E-mailing wasn't new this year, but many of its applications were. Campaigns used electronic mail to pepper supporters with daily appeals for cash, shepherd them to voter registration Web sites and provide them with leaflets to download and distribute. Campaign workers sent supporters phone numbers of voters in swing states to call and scripts for them to read, and they linked partisans to like-minded bloggers.

They used e-mail to spin their take on news topics of the day - often before the news had even hit the street. Voters swapped Web sites such as JibJab, whose parody of President Bush and Sen. John Kerry in "This Land Is Your Land," received some 50 million hits. Video clips such as the anti-John Kerry ads put out by the Swift Boat Veterans for Truth.

New political tools sprung up outside of cyberspace, too. So-called 527 organizations poured \$420 million into attack ads and an unprecedented get-out-the-vote effort. And Republicans cut into a traditionally solid Democratic constituency by courting African-American churches.

Here's a closer look at political innovations of Campaign 2004, and their possible impact on future elections:

Old-time religion

Even old-fashioned "family values," the issues that pollsters say won the day for President Bush, were propelled to the forefront of voters' consciousness using e-mail.

"We used e-mail to make things happen," Roberta Combs, president of Christian Coalition America, said in a phone interview.

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Tax law prohibits clergy from endorsing candidates, but religious conservatives have become increasingly bold about touting Republican candidates.

"This was President Bush's base," Combs said. "People of faith are a lot more educated about the political process than they used to be. Churches pushed it now more than ever."

Bush may have been helped by an announcement by some Catholic bishops that they would refuse Holy Communion to congregants who backed candidates in favor of legal abortion, stem-cell research and gay marriage.

The Republicans made family values a campaign centerpiece, then peddled it to a traditional Democratic constituency, said Alexander Bolton of The Hill, a Washington newspaper that covers politics.

"The Republicans made an effort to reach out to black ministers because many of them had a problem with gay marriage," Bolton said. "They tried to use black ministers to swing some more of the African-American vote to their side."

Nationally, Bush received 11 percent of the black vote, up 2 points from 2000, according to exit polls. In Ohio, Bush won 16 percent of African-American support, an increase of 7 points.

What's next: Rep. Walter B. Jones, R-N.C., is sponsoring the Houses of Worship Free Speech Restoration Act. The legislation would change the tax code to allow clergy to endorse specific candidates without jeopardizing their tax-exempt status.

Spinning Web sites

While churches were pushing the campaign message, other voters turned to sites such as MeetUp.com, an online bulletin board that sets up times and places for the like-minded to gather.

According to MeetUp, 450,000 people met at more than 25,000 political Meetups this election season. Five Democratic presidential candidates struck deals with the Web service to cross-promote and give registrants the choice of receiving e-mail from the campaigns.

Former Vermont Gov. Howard Dean, the candidate who put MeetUp on the map, led all politicians with 158,483 MeetUp supporters. Kerry totaled 131,953 and 6,069 "met up" for Bush.

Obviously, the number of MeetUps is no predictor of the winner. But MeetUp CEO Scott Heiferman says that his two-year-old site was part of "an enormous amount of activity on the grass-roots level for both candidates.

"You're going to see a more robust democracy come out of it," he said.

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What's next: "We're working day and night to make it so these MeetUp groups last a long time," Heiferman said.

Words as weapons

Back in the 1970s, when Larry Purpuro was a teenage political junkie, he wrote a letter to the Henry Jackson for President campaign asking where the senator stood on national security.

"I waited a month, then received an overstuffed envelope containing a load of papers that had been photocopied so many times I could barely read them," said Purpuro, a Republican consultant who has worked on statewide GOP races.

Today, he points and clicks.

"The Internet has actually made the campaigns more substantive," he said. "Every candidate has to fill a Web site with content."

But candidates don't have complete control over their own words. The more a candidate has blabbed in the past, the easier it is for an opponent armed with an Internet search engine to track down an embarrassing quote.

"The most lethal attack one can make against an opponent is using the opponent's own words against them," Purpuro said.

Michael Moore's "Fahrenheit 9/11" depicted various members of the Bush Administration in embarrassing poses - Condoleezza Rice, Colin Powell and Paul Wolfowitz preparing for TV interviews, unaware the camera was on. Not to mention the excruciating images of President Bush uncomfortably following along while a teacher read "My Pet Goat" to her class and the Twin Towers burned.

"Nothing is off the record anymore," said Art Simon, a Montclair State University film professor. "Every scrap of footage will now be archived for later integration into some attack ad."

Simon points to the example of Howard Dean, whose hollering the night he did surprisingly poorly in the Iowa caucuses effectively killed his bid for the White House.

"Dean was savaged for a single night on video," Simon said.

The Bush campaign seemed to realize this during the 2004 campaign, Simon said. In 2000, Bush was the subject of a goofy documentary by Alexandra Pelosi called "Journeys With George." In 2004, there was little access.

What's next: "My guess is that campaigns of the future will understand that this will be part of the arsenal," Simon said. "That will allow us less and less to see who these guys really are."

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The 527 connection

After the 2000 election, campaign reform legislation cut the major political parties off from their biggest donors - the so-called "soft-money" ban.

Enter the 527s.

The 527 organizations are political committees regulated by the Internal Revenue Service but not the Federal Election Commission. Anyone can contribute any amount of money to a 527, as long as it's reported to the IRS and the 527 remains unconnected to a candidate or campaign.

"Both sides benefited from the operations of these groups," said Derek Willis, who tracks 527s for the Center for Public Integrity, a watchdog organization.

This season's most famous 527, the Swift Boat Veterans for Truth, aired TV ads ripping Kerry's war record and questioning his honesty.

The Swift Boat group spent \$13.7 million, according to the Web site opensecrets.com. The group's accusations dominated the campaign for three weeks, inflicting deep wounds on the Kerry campaign.

Though the Republican Swift Boat group may have grabbed more headlines, Democratic 527 groups raised more money, mostly due to the efforts of billionaire George Soros.

In all, 527s spent more than \$420 million on the election, Willis said. The top 527s - Joint Victory Campaign 2004, America Coming Together and the Media - combined to spend about \$161 million, according to opensecrets.com. All three had connections to Soros. All three poured money into voter registration and pushes to get out the vote - nicknamed "the ground game" by political junkies.

"Clearly, turnout was a big thing for both sides and both sides did well with it," Willis said. Unofficial numbers indicate at least a 9 percent increase in voters over 2000.

What's next: The influence of 527s could be curtailed as soon as next year if the IRS and FEC limit contributions to federal 527s.

A loophole looms, however. Organizations that concentrate on state races may not be subject to the same scrutiny as players in national campaigns.

"There are a number of 527s that concentrate on state races," Willis said. They'll raise and spend money as they see fit."

Last-minute push

How did the GOP win? The Kerry campaign had about 2.5 million people on its e-

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mail list. The Bush campaign, with five years to accumulate addresses, boasted almost 5 million.

In the last 72 hours of the campaign, 7.2 million volunteers had e-mailed friends, family and co-workers to urge them to vote, according to the Republican National Committee.

After the madness of the 2000 election, both major parties committed themselves to getting as many absentee ballots as they could. They made it easy - applications were available through the candidates' Web sites and about 4 million absentee ballots were cast.

GOP consultant Larry Purpuro sees New Jersey's 2005 gubernatorial race as the perfect laboratory for these politics of the future. With TV advertising in the New York and Philadelphia media markets prohibitively expensive, the winning candidate will be the one who focuses less on a beautiful Web site and more on building an e-mail list and developing a message that works."

"It's a matter of content," Purpuro said. "The glitzy Web platform with all the bells and whistles can't help the candidate who doesn't have a message."

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----- INDEX REFERENCES -----

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BYLINE: Charles Babington and Brian Falter

BODY:

Do I hear \$16 million?

Rep. Harold Rogers (R-Ky.), seeking the powerful post of House Appropriations Committee chairman, wrote to Speaker J. Dennis Hastert this month pledging to shrink the deficit, impose discipline on congressional appropriators and, oh, by the way, raise \$15 million every two years from committee Republicans for GOP campaigns.

"I believe appropriators must help maintain our Republican majority through aggressive fundraising," Rogers said in his two-page letter to Hastert (R-Ill.). "On my watch, members of the committee will raise, at a minimum, \$15 million per [election] cycle towards that goal. As I've proven -- raising and giving over \$5 million to our candidates -- I am ready to lead by example." Rogers's office declined to comment on the letter, first reported in Congress Daily, but a source clarified that the \$15 million would be a cumulative sum from the committee's three dozen Republicans, not a per-person goal.

It's no secret that congressional Republicans and Democrats who seek coveted committee assignments are expected to raise campaign money for their parties. But Rogers's unblushing bid suggests that the targets keep rising, veteran congressional staffers say.

The letter "makes it look like the job is for sale," said Scott Lilly, top Democratic aide on the Appropriations Committee the past decade and now a senior fellow at the Center for American Progress. Rogers, a 24-year House veteran, is considered a long shot in the three-way race to succeed term-limited chairman C.W. Bill Young (R-Fla.) at the all-important spending panel. The top contenders, Reps. Ralph Regula (R-Ohio) and Jerry Lewis (R-Calif.), declined to comment on their pitches to Hastert. Hastert spokesman John Feehery said his boss never comments on activities of the GOP Steering Committee, which chooses House committee chairmen and is largely controlled by the speaker.

House Democrats also require fundraising help from those seeking top committee assignments, though the figures are less dizzying.

What happens when bloggers are on a candidate's payroll?

That's what some campaign finance experts are wondering after this year's Senate race in South Dakota. John Thune (R), who won, paid thousands of dollars to two bloggers who ran ostensibly independent Web sites attacking his opponent, Sen. Thomas A. Daschle (D), and what they termed biased coverage of the campaign by the state's largest newspaper, the Argus Leader. One blogger, history professor John Lauck, received \$27,000. The other, lawyer Jason Van Beek, received \$8,000.

Neither blogger nor the campaign publicly disclosed the relationship before it was revealed in Thune's campaign finance reports. The episode, previously reported by National Journal, poses a question for campaign finance experts.

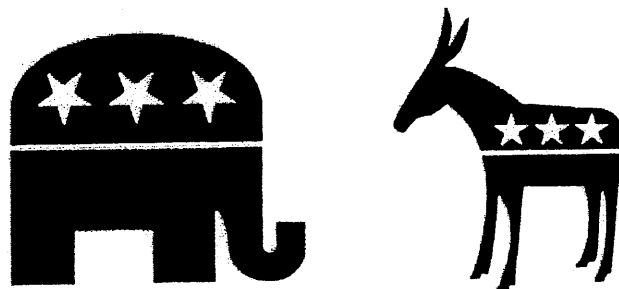
The Washington Post December 18, 2004 Saturday

Candidates must state on everything from television ads to yard signs when they paid for them. The intent is to prevent campaigns from making anonymous accusations. But the rule predates blogs, and experts said it is unclear if the sites are subject to the disclosure requirement.

LOAD-DATE: December 18, 2004

Political Media Buying 2004:
Analysis of Spending on Political Advertising & Marketing Communications

Executive Summary



A Special Report By:



August 2004

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Summary

PQ Media launched *Political Media Buying 2004* after conducting an analysis of available research on political communications spending that revealed a dearth of quality data regarding expenditures on all forms of media used to reach voters. Most of the research PQ Media analyzed covered mainly political advertising on broadcast television. While broadcast television still commands the largest share of political advertising spending in a given election year, there are several other forms of advertising media that political candidates and organizations use to reach voters, including cable television, radio, newspapers, outdoor, the Internet and magazines. In addition, PQ Media could find very little, if any, credible information concerning political spending on marketing communications, such as direct mail, public relations and promotions. As a result, we decided to mine our proprietary global media databases, conduct interviews with our extensive network of industry contacts and review thousands of public and private documents in an effort to provide our clients with the first comprehensive look at total political spending on advertising and marketing communications.

The product of this extensive endeavor is *Political Media Buying 2004*, which for the first time examines political spending in all nine categories of advertising and marketing communications, broken down by media segment, political race and election year. The advertising sector includes spending on broadcast television, cable television, radio, newspapers, the Internet, outdoor and magazines/ITV. The marketing sector includes spending on direct mail and public relations/promotions.

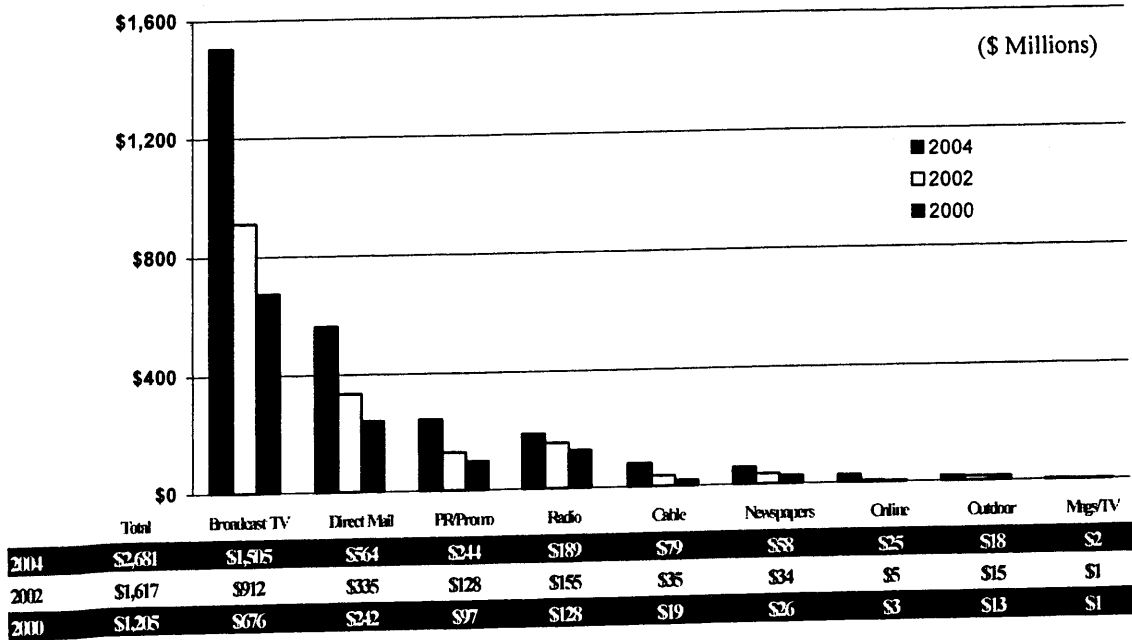
Comparison with Past Campaigns

Total spending on political advertising and marketing communications is projected to reach \$2.68 billion for the full year 2004, compared with \$1.62 billion in 2002 and \$1.2 billion in 2000. Total political spending on all media outlets is projected to increase 65.8% in 2004 compared with 2002 spending and is expected to rise 122.8% compared with 2000.

Political spending on advertising media will reach \$1.87 billion in 2004, compared with \$1.15 billion in 2002 and \$865.4 million in 2000. Total advertising spending is projected to increase 62.2% in 2004 compared with the 2002 level and is projected to rise 116.4% compared with 2000. Advertising expenditures will account for 69.8% of all political media spending in 2004, down from 71.4% in 2002 and 71.8% in 2000. The decline is mainly a result of the significant increase in marketing expenditures at the national level.

Expenditures on political marketing communications are expected to reach \$808.3 million in 2004 compared with \$462.6 million in 2002 and \$339.4 million in 2000. Marketing communications spending is projected to increase 74.7% over the 2002 level and 138.2% from the 2000 results. Marketing expenditures will account for 30.2% of all political media spending in 2004, up from 28.6% in 2002 and 28.2% in 2000.

Chart 1: Total Spending on Political Media, by Medium



Source: PQ Media

While broadcast television will again command the largest share of political media spending in 2004 with 56.1%, this is down slightly from 2002 and equal to the 2000 share. Of all nine advertising and marketing communications segments, spending on Internet advertising has seen the fastest growth since 2000, up an estimated 853.8%, followed by cable television, projected to rise 331.2%, and public relations/promotions, forecast to climb 151.4%. The largest gains in share since 2000 will be cable television, up 1.3 points to 2.9% of all spending, direct mail, up 0.9 of a point to 21%, and the Internet, up 0.7 of a point to 0.9%.

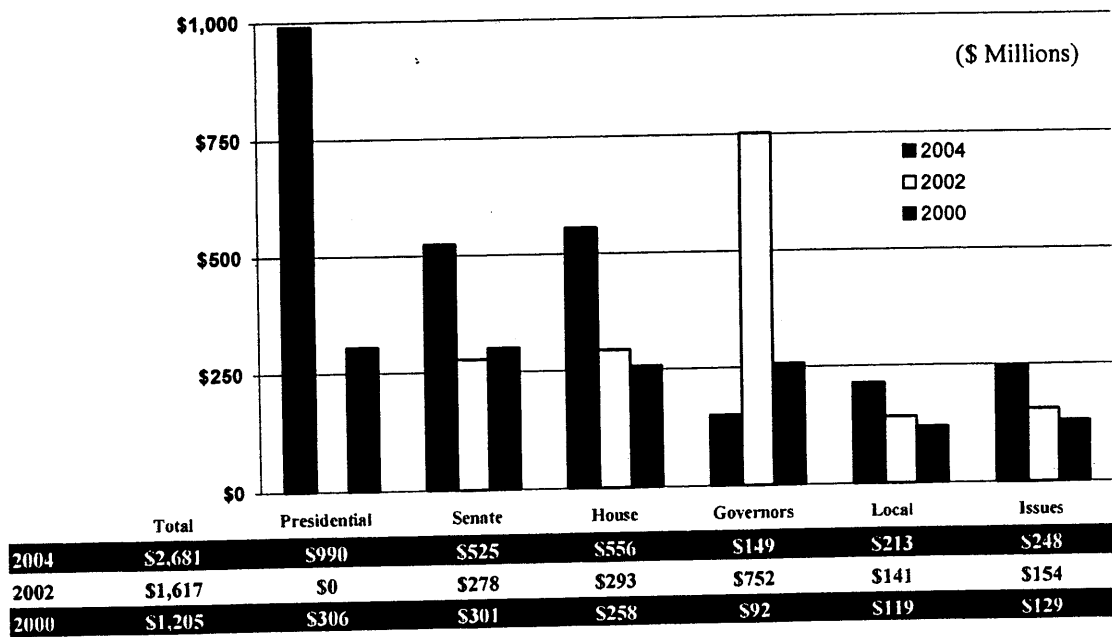
Radio advertising's share of overall political spending is projected to fall in 2004 compared with the 2002 and 2000 election cycles, despite a double-digit increase in spending on this medium for the full year. Radio remains the number two choice for candidates, particularly on the local level, but competition from other media has begun to take share from this medium. Most political spending tends to take place in September and October, and radio usually does better in these final two months of the campaign, especially the all-talk and ethnic stations.

Meanwhile, the dramatic rise in campaign funding this year has led to the expanded use of other media vehicles such as direct mail and the Internet. Direct mail ranks second behind broadcast television in total spending by medium at \$564.2 million in 2004, which represents an increase of 132.9% from 2000 spending. Direct mail expenditures are increasing as candidates use more sophisticated databases that provide

zip code targeting in an attempt to find niche audiences at lower price points, as opposed to the mass mailings used in previous elections.

National races (President, Senate, House) are projected to command a 77.3% share of all political spending on media, up from 71.8% in 2000. Of these categories, the presidential election will account for the highest share in 2004 at 36.9% compared with a 25.4% share in 2000. As a result of fewer gubernatorial races in 2004 compared with 2002 (11 vs. 34) and no presidential election in 2002, the share of spending on local races is projected to fall to 20.8% in 2004 compared with 46.5% in 2002.

Chart 2: Total Spending on Political Media, by Candidates



Source: PQ Media

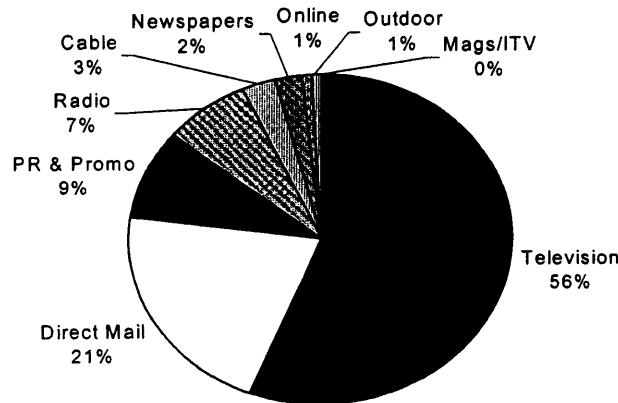
Summary of Major Trends

The key trend driving overall growth in 2004 is the dramatic increase in campaign donations at both the national and local levels, especially by the Democratic Party candidates and 527 groups that have resulted in levels equaling the Republicans. Other trends include early spending by both parties, niche advertising and marketing that have been aimed mainly at the 21 “battleground” states in the presidential election, approximately two dozen hotly-contested Senate, House and gubernatorial races, and communications designed for specific audiences such as Hispanics.

Spending on political advertising during the primaries proved to be less than first expected as a result of Senator Kerry winning the nomination relatively early in the campaign. Once Senator Kerry won enough delegates, however, the Republican Party

began spending heavily to negatively define him rather than wait for the Democrats to launch a positive spin. The hypothesis behind the Republican strategy was that it is easier to create an image than change an image.

Chart 3: Shares of Total Spending on Political Media in 2004



Source: PQ Media

Furthermore, President Bush and Senator Kerry both have raised more money than any presidential candidate before, but due to the limitations set by the McCain-Feingold Act, the candidates are required to spend it all before their respective conventions or donate it to their national parties. This won't slow down overall media spending for the rest of the year, however, as the national parties and 527 organizations scramble to outmaneuver their rivals backing the other party. The strategy was evident during the Republican convention when many organizations continued to advertise, such as Club for Growth and Moveon.org. It's unusual to see a proliferation of ads during a convention, but both parties are seeking an edge in this tight election.

By July, President Bush had spent more on political advertising than Senator Kerry had, but spending by Democratic-leaning 527 organizations, such as the Media Fund and Moveon.org, had leveled the field. We expect the 527 phenomenon to fuel record spending through the November elections. One strategy being used to spend this money is the use of "shadowing," that is, when one candidate visits a state, the other candidate spends heavily on all media in that market immediately before or after the visit.

Broadcast television advertising has been limited mainly to the battleground states (16 to 21 states, according to various sources). By July, ads had run in only 96 of the 210 Designated Market Areas (DMAs). However, the heaviest months of advertising are normally September and October as more independent voters become focused and the various campaigns expand their advertising strategies.

In addition to the targeted battleground states, spending aimed towards niche audiences has also increased. Advertising for the presidential campaign aimed at

Hispanics, and to a lesser extent African-Americans, has increased 1,150% to approximately \$75 million in 2004 versus \$6 million in 2000. Most of the political media spending aimed at these minorities, however, is limited to four battleground states (Florida, Arizona, New Mexico and Nevada) or to ethnic media, such as Univision, BET, Hispanic newspapers or Internet sites.

As to media choices other than broadcast television, the share of radio advertising is falling as candidates are increasing the share of their media budgets for cable television, newspapers and the Internet. Outdoor advertising, normally used more often in local races, is also experiencing a decline in share. Both of these media tend to be used more often as the election draws nearer, especially all-talk and ethnic radio stations, as well as boards with heavy foot and auto traffic aimed at niche audiences.

Meanwhile, newspaper publishers actively sought more political advertising dollars in 2004 with their own public relations campaigns aimed at attracting political consultants and campaign managers. Although newspapers' share of overall spending was relatively flat in 2004 compared with the 2000 level, total spending on newspapers more than doubled this year to \$57.5 million compared with 2000 expenditures. Cable advertising should see a significant bump in spending for the full year for two reasons. First, local MSO sales departments have become more astute at selling time. Second, cable viewing's share of the overall audience has increased substantially since 2000. As a result, a number of hotly-contested senatorial and House races are expected to allocate over 10% of their television budget to cable, while some local contests should see 20% cable share.

Though banner ads and rich media have been purchased, the major use of the Internet will be for campaign fundraising and voter registration rather than pushing a candidate or issue. Many candidates are using e-mail to supplement direct mail campaigns. Direct mail spending is increasing as candidates attempt to find targeted audiences through dynamic databases. Other marketing communications categories, such as spending on event sponsorships, will also exhibit higher growth in 2004. For example, spending on corporate sponsored events during each convention is expected to increase by more than 100% compared to 2000.

The only decline in spending will be seen when comparing those races in 2004 that are defined as "hotly-contested" against the same type of races in 2002 and 2000. Most of the hotly-contested Senate, House, and gubernatorial races in 2004 are found in smaller DMAs when compared to the two previous elections. Only a handful of the top 25 DMAs will see any advertising from these campaigns, though some spill-over will occur in a few larger markets due to the lack of major DMAs in the smaller contested states. For example, candidates will advertise in Boston media to reach New Hampshire voters or on television stations in Washington, DC to reach Northern Virginia. As a result of the significant rise in overall campaign fundraising, expenditures in all Senate and House races will increase over 2002 while gubernatorial races will fall, mainly as a result of fewer contests than 2002 (11 vs. 34).



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

**OPENING STATEMENT OF
VICE CHAIRMAN MICHAEL E. TONER
PUBLIC HEARING ON PROPOSED INTERNET REGULATIONS
JUNE 28-29, 2005**

The central question in this rulemaking is whether the federal government will begin regulating the political speech of Americans over the Internet. Several key principles guide my thinking on this rulemaking.

First, some commenters contend that in light of the District Court's ruling in *Shays*, the Commission has no choice but to regulate online politics in at least some manner. I do not agree. The Commission is challenging the legal standing of the *Shays* plaintiffs and is currently awaiting a ruling from the D.C. Circuit. If the Commission prevails on appeal, the District Court's ruling could be vacated and made null and void. Moreover, even if the *Shays* ruling is upheld, it would only apply in the District of Columbia and would not be a binding decision anywhere else in the United States, including in the other 10 circuit courts of appeals. If the Commission decides to regulate online political speech, it should do so only if a majority of Commissioners conclude independently -- apart from the *Shays* decision -- that the McCain-Feingold law requires the FEC to regulate the Internet.

Second, I continue to be highly skeptical that the McCain-Feingold law requires the Commission to regulate the Internet or alter its current regulations in any manner. The plain meaning of the statutory language supports this conclusion. When Congress defined what is a "public communication," it identified a wide variety of communications, including "broadcast, cable, or satellite communication[s], newspaper[s], magazine[s], outdoor advertising facilit[ies], mass mailing[s], or telephone bank[s] to the general public . . ." 2 U.S.C. § 431(22). However, Congress did not include the Internet in the statutory definition of "public communication." I do not believe this omission was an accident. Rather, I believe it was a conscious, informed judgment by Congress that the Internet should not be subject to the many restrictions that McCain-Feingold applies to other types of mass communications.

The evidence has mounted during this rulemaking that Congress did not intend for the Commission to regulate the Internet when it passed the McCain-Feingold law. Senators Kerry and Edwards filed comments with the Commission stating categorically that "Congress did not intend to create new barriers to Internet use when it passed [McCain-Feingold]." In these comments, counsel for Senator Kerry noted that Senator Kerry was a co-sponsor of McCain-Feingold and emphasized that he

supports the law and its objective of removing corruption from the political process. He believes that [McCain-Feingold] can and should tilt the balance of political power back toward ordinary citizens. Nonetheless, for those like Senator Kerry who strongly support giving average Americans a more effective voice in the political process, this rulemaking raises more concern than hope. The draft rules published by the Commission for consideration are more modest in scope than some potential alternatives. However, their adoption would nonetheless have the potential to chill the sort of activism that had such a positive force in 2004.

Similarly, Senate Minority Leader Harry Reid sent a letter to the FEC this spring expressing “serious concerns” about the Commission’s Internet rulemaking. Senator Reid has introduced legislation that would specifically exempt the Internet from the statutory definition of “public communication.” Earlier this month the House Administration Committee passed legislation containing the statutory provisions that Senator Reid proposes regarding the Internet; the full House is expected to act on the legislation within the next couple of weeks.

Third, the great virtue of the Commission’s current approach to the Internet is that people involved in online politics can know -- without consulting federal statutes and regulations, and without hiring lawyers – that what they are doing is legal. However, if the Commission adopts the regulations proposed in the NPRM, people involved in online politics in the future will face numerous legal concerns, including, but not limited to:

- Whether their speech is a “public communication” under 11 CFR § 100.26;
- Whether their speech is “express advocacy” under 11 CFR §100.22;
- Whether their speech qualifies for the media exemption under 11 CFR §§ 100.73 and 100.132;
- Whether their email communications require a disclaimer under 11 CFR §§ 100.27 and 110.11;
- Whether their speech is considered to have been made independently or in coordination with any candidate under 11 CFR §§ 109.10, 109.11, 109.20, 109.21, 109.22, and 109.23, and the consequences that flow from either determination.

The federal election laws occupy over 225 pages of the United States Code, and the Commission’s regulations consume over 500 pages of the Code of Federal Regulations. The proposed regulations regarding the Internet would add yet another chapter to these voluminous legal authorities.

Finally, on the broadest level, this rulemaking challenges us to answer the following question: must every aspect of American politics be regulated by the Federal Election Commission? Can there not be any part of politics in the United States that is free of government review, investigations, and potential enforcement actions?

I don’t view these as rhetorical questions. If any domain in American politics is going to remain free of regulation, the Internet is one of the most promising prospects. The

Supreme Court has observed that the Internet is “the most participatory form of mass speech yet developed,” (*Reno v. ACLU*, 521 U.S. 844, 863 (1997)), whose “content is as diverse as human thought.” *Id.* at 870. The Internet is not only a unique medium, it also defies most if not all of the legal premises behind the federal election laws. One key premise is that “virtually every means of communicating ideas in today’s mass society requires the expenditure of money.” *Buckley v. Valeo*, 424 U.S. 1, 19 (1976). Yet, millions of Americans today use the Internet to communicate about politics at virtually no cost. As the AFL-CIO pointed out in their comments to the Commission:

[T]he fundamentally democratic and leveling aspects of the Internet render it a potentially potent counterweight to concentrations of financial power in the political marketplace, and there is no apparent means at present by which corporations, unions or others can utilize their resources to dominate the medium.

The Commission’s action in this rulemaking will determine whether people of all political persuasions will be able to continue supporting the candidates of their choice on the Internet free from any legal concerns or challenges. I look forward to working with everyone at the Commission as it decides this important question.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Opening Statement of Commissioner Ellen L. Weintraub
Hearing on Proposed Rulemaking on Certain Internet Communications
June 28-29, 2005

I would like to welcome all the witnesses and I want especially to thank the over eight hundred private citizens around the country who offered comments regarding the Commission's proposals.

The resounding message that has been conveyed by these commenters is that the internet has emerged as the great equalizer in political debate, raising the vast and diverse voices of common citizens above the established voices of other media. As Chiara LaRotonda of Seattle, Washington wrote: "I used political blogs to enhance and expand my understanding of the issues pertaining to the 2004 presidential elections and honestly believe that I would not have been as informed a voter otherwise.... One of the best things about the internet for me is the multitude of voices to be found, from every perspective and standpoint." Andrew Collins of Portland, Oregon urged us to "[p]lease understand that the immediate free flow of ideas worldwide, from all sides, that one currently finds on the internet is the greatest promoter and safeguard to democracy we have ever seen. It will only get better as new bloggers from presently oppressed countries start throwing in their two cents."

The internet can be an antidote to the cynicism that develops when the citizenry feels that they have no voice. Many of the comments provide firsthand insight into how the medium provides an outlet that many people believe is otherwise not available. Anthony Ross of San Jose, California wrote: "Maybe the greatest value of blogs is that individuals can convey and share their views without large institutional intermediaries that keep all but a very few people from effectively speaking... Blogs provide a kind of middle class in the economy of information and can have a stabilizing effect if they're not driven out of the marketplace."

I look forward to the testimony of those who will appear before us today and tomorrow. We invited the commenters to look carefully at our proposals and tell us what we could do better to protect expression, while still complying with the court order that made this rulemaking necessary. We have received some very detailed and insightful examinations of our proposals and will carefully consider these comments as we shape a final rule. I appreciate that many of the comments have been generally supportive of the Commission's focus and precision in this sensitive area. To the many people who took the time to write to us, your comments have been very constructive and helpful. I anticipate an illuminating discussion with the witnesses.