# Bold Analysis, Weak Solutions

## Rethinking the Recommendations in the Federal Communications Commission report on the Information Needs of Communities

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The Federal Communications Commission has finally released its much anticipated report on the "Information Needs of Communities" (aka the "Future of Media Report"). The 400-page report is a wide-ranging look at the media landscape with an eye toward two questions: whether people and communities are getting the news and information they need, and whether current media policy is furthering local public interest goals.

The Future of Media Report is significant in a number of respects. First, the analysis is one of the most comprehensive to come out of the FCC or any other agency on this topic. This is in large part due to the open and inclusive process staked out by Steve Waldman, the report's author, as well as to the countless hours that the entire Future of Media team spent listening to diverse stakeholders.

Also remarkable is that the FCC (an agency that generally avoids criticizing the powerful industries it regulates) was so candid in its critique of the media industry, broadcast television and the agency itself. Indeed, the report's findings vindicate what media reform groups, consumer groups and citizens themselves have been saying for years: Many broadcast stations aren't doing local news; paid propaganda is rampant on the airwaves; and the FCC doesn't always protect the public interest.

But on balance, the report disappoints.

For example, the report documents a crisis in local coverage and accountability reporting – which it defines as investigative reporting about government and other powerful institutions. This has left many communities without access to critical information and journalistic "watch-dogging." But the report concludes that government has little role to play in bringing the system out of crisis.

For example, the report correctly finds that when broadcasters fail to serve their communities, the FCC rules against citizen complaints about such failures nearly 100 percent of the time. Rather than calling for improved enforcement of broadcaster responsibilities, the report concludes that the FCC may as well give up. It suggests abdicating responsibility for actions well within the FCC's power that could help staunch the bleeding in newsrooms devastated by job losses and help remedy the resulting information deficit in many communities. The report recognizes problems, but punts on concrete proposals to fix them and on the FCC's general responsibility to promote a vibrant media system.

## TV News Is More Important than Ever. But Many Stations Are Doing Little or None, in Spite of Rebounding Revenues.

The FCC reports that on a typical day, 78 percent of Americans get their news from local TV – more than the number that rely on newspapers, radio or the Internet. What's more, even when people are getting news online, that news is likely to have originated with local TV. The report finds that TV stations and other traditional media players are the largest and most popular providers of local news online, as they do the reporting for stories that turn up on their own sites and on other web outlets, too.

Despite the continuing importance of local TV newsrooms, the FCC found that many TV stations are providing very little news or none at all. The report finds that 21 percent of commercial TV stations air no local news. Worse, if you consider all TV stations – both commercial and noncommercial – a whopping 44 percent of all broadcast TV stations provide no local news at all.

Interestingly, the report suggests that individual TV stations are providing more hours of news than a few years ago. But a closer look reveals that more news may just mean more repetition of the same information and views. The report points out that of those stations that do air news, a good third of them are outsourcing their journalism and airing the newscasts of other stations. That means less diversity of voices and more re-run news for local communities – not an actual increase in the range of viewpoints or coverage of different issues.

The report also finds that broadcast TV maintains healthy profits. Unfortunately, stations are not reinvesting those profits in journalism or local programming.

Like many advertising-supported industries, broadcasting was hit by the recent economic downturn. Yet the Future of Media Report notes that TV stations still maintain healthy profit levels. Looking at data generated by the National Association of Broadcasters, the report finds that an average local TV station in 2009 with average net revenues would have had a cash flow margin of nearly 23 percent. Additionally, 2010 was a bang-up year for TV station revenues as advertising and political spending shot up. Moreover, as broadcasters charge cable operators more to carry their programming, TV stations are developing a robust secondary revenue stream.

One would think that recovering revenues would translate into better service in the form of more and better local programming for communities – the bedrock obligation of every broadcaster. Not so.

The FCC report finds that instead of using "the additional money that poured into local TV stations from the historic levels of political advertising in the 2010 election season to increase the pool of reporters who could cover their communities and more effectively monitor institutions and government agencies, many stations have opted to let those dollars simply flow to the bottom line."

This finding confirms what Free Press and other media reform groups have demonstrated in debates over media consolidation. Time and time again, broadcasters ask for "regulatory relief" that would allow big companies to get bigger, promising that they will reinvest the money saved from "efficiencies" in better service for communities. But once they are allowed to consolidate, broadcasters just pocket these savings. It's a losing proposition for the public. Broadcasters that benefit from their exclusive use of public spectrum get to acquire and eliminate their rivals. In return, the public gets less diversity, less competition and less local news.

### Waffling on Media Ownership

> But the report doesn't take a strong stance one way or another about the effects of media consolidation. Citing the fact that the FCC is in the midst of one of its congressionally mandated media ownership reviews, the report's authors at the agency are "not persuaded that relaxing ownership rules would *inevitably* lead to more local news, information or reporting or that it would *inevitably* lead to less." The report merely recommends that the FCC "consider the potential effects of newspaper-TV station mergers on local news ecosystems."
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> A better suggestion would have been for the FCC to enforce its existing media ownership limits and to increase media diversity and competition by tightening those limits. The evidence is conclusive: Consolidation doesn't result in better or more service for local communities. The same goes for "covert consolidation" by local media outlets that share newscasts and other resources, evading the FCC's rules by effectively handing over control of a station while stopping just short of formal consolidation.

## The FCC Is Not Enforcing the Public Interest Bargain for Broadcasters. Nor Does It Plan To.

The broadcast licensing system is based on a social contract between broadcasters and the public. In return for their exclusive use of their over-the-air channels in the public resource known as spectrum, broadcasters must operate and program their stations in the public interest. This social contract is supposed to be enforced by the FCC, which is tasked by Congress with ensuring that stations serve the public interest, convenience and necessity.

But while citizens regularly try to hold broadcast stations accountable by filing complaints and petitions with the FCC, the agency does not have the public's back. The Future of Media Report acknowledges that "the FCC invites community groups to [submit] challenges to licenses — and then rejects nearly 100 percent of those challenges. The FCC says that stations have an obligation to serve their communities, but then offers no definition of what that means." Indeed, the report admits that the FCC oversight system "operates almost on auto-pilot to the benefit of current license holders."

As a consequence, many stations continue to squat on valuable public spectrum while giving back virtually nothing to local communities in return. And the FCC lets them do it with relative impunity.

For example, the Future of Media Report notes that one TV station claimed to serve local audiences by listing the following on-air announcement as a "program" providing significant treatment of a community issue:

> *"America's Next Top Model Casting Call . . . an open casting call for Cycle 14 of America's Next Top Model on July 11 from 2-4 p.m. at Seven Sushi Ultralounge sponsored by Sunny's Hair and Wigs"*

It is clear that the public interest bargain is broken – in large part because the FCC is not doing its job to enforce it. In the end, one gets the sense that both broadcasters and the FCC have abdicated their responsibilities to the public. Yet rather than suggesting that these failures be corrected, the report proposes giving up on the agency's duty to promote the public interest.

### One Step Forward, Two Steps Back on Disclosure and Accountability

> Despite its damning findings, the report suggests no renewed commitment from the FCC to fulfill its congressional charge and promote broadcasting responsive to community needs. In fact, the report repeatedly argues that government should play a limited role in addressing the shortcomings of media markets. It encourages the Commission to "emphasize disclosure as a pillar of FCC media policy."
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> Free Press supports increased disclosure of information regarding broadcasters' claims to serve their local communities. That information is critical for public oversight of broadcaster performance. Unfortunately, the report suggests getting rid of an existing disclosure form (known as Form 355), which was adopted by a bipartisan FCC vote in 2007 but has been caught up in bureaucratic red tape ever since. The report advises replacing this disclosure with a new online form that significantly pares down the information made available to the public.
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> The FCC's new proposal *might* work to provide *some* effective disclosure, but designing a whole new process could take a long time, further delaying public access to important information. In any event, Free Press believes the existing disclosure model is a good one -- and it's already on the books and ready to implement.

## Fake News Runs Rampant.

Local TV stations are not reinvesting their healthy profits in better journalism, and they are finding troubling new revenue streams related to news. The Future of Media Report paints a disturbing picture of the amount of pay-for-play practices on the public airwaves:

> *"We found instances in which local stations appeared to sell their news time, and reputation, to advertisers—in some cases literally allowing sponsors to buy their way into news segments."*

For example, the report provides detailed examples of hospitals paying TV stations (in some cases shelling out $100,000) to air stories about medical treatments. These spots were packaged as – and appeared to viewers as – *bona fide* news coverage. But in reality, they were commercials that benefited the hospitals.

The fact that advertisers so directly shape news coverage is one of the most worrisome developments in local TV journalism. People rely on local TV news to inform decisions they make about everyday issues – as well as more consequential ones, such as the type of medical treatment to seek, or how to vote on a public issue. As Free Press has pointed out in multiple filings and pay-for-play complaints with the FCC, this alarming trend means that the public cannot trust that the news it receives is accurate and unbiased, or that it is even "news" at all. People deserve to know when programming or news coverage has been influenced by sponsors.

More importantly, they deserve to know when programming that looks like news is in fact a commercial.

### More Information is Meaningless without More Action

> The report argues for strengthening pay-for-play disclosure rules by requiring broadcasters to reveal their payola practices online**.** Free Press agrees that better disclosure of payola would help the public and media watchdogs to expose these practices. But we also think that the FCC needs to do a better job of acting promptly on citizen complaints of undisclosed payola. While the agency recently issued fines for a few stations airing fake news without proper sponsorship identification, Free Press has documented more than one hundred instances of undisclosed payola. As of yet, no further enforcement action has been taken by the Commission on the majority of those cases.
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> Furthermore, while online disclosure can reveal pay-for-play after the fact, people deserve to know they are watching fake news while they are watching it. So, in addition to disclosing these arrangements online, we also think there needs to be better, more prominent disclosure during broadcasts themselves. Most broadcasters relegate sponsorship identification disclosures to a minuscule, fast-moving scroll at the end of the program credits that viewers can barely read, assuming they even bother to watch the credits. (And remember, disclosure doesn't make payola go away – it just makes it less secret.)

## Universal Access to the Open Internet Is Essential, But Is Not Enough to Solve the Journalism Crisis.

The Future of Media Report finds that technology and the Internet, in particular, have increased the "potential potency of transparency as a policy tool" by potentially empowering citizens, improving accountability, and lowering reporting costs. It further finds that boosting broadband adoption "will increase the audience for digital news enterprises as well as the pool of citizen journalists capable of generating digital news. In short, *universal broadband is an essential ingredient for enabling local media innovation to succeed and to improving the information health of communities*." What's more, the report recognizes correctly that it is the "openness" of the Internet that spurs and sustains innovation.

Free Press agrees that universal access to an open Internet is essential to the free flow of information, to a strong economy, and to a healthy democracy. But these benefits are under attack from those who would limit the freedom and openness of the Internet so that they can maximize their profits at the expense of user choice. Free Press also believes that there is only one Internet, but rules adopted by the FCC in December 2010 allow phone and cable companies to divide it into fast and slow lanes, and fail to protect wireless users.

We also caution against viewing technology as a silver bullet. The Internet may help foster alternative journalism models and diverse points of view, but it has not yet demonstrated that it can substitute for the journalistic functions and resources typically provided by traditional media outlets. Thus far, the Internet – even for those who have access to it – appears to be just a complementary avenue for news consumption.

## The Best of the Rest.

In addition to some of the FCC-specific proposals discussed above, the report also contains a number of recommendations that fall outside the scope of FCC authority. A number of them are helpful and should be seriously considered. However, it is unclear whether there is appetite or momentum to implement them. For example:

- *Foundation funding for journalism-school "residencies" for recent graduates and increased attention to communications programs in historically black colleges and other schools with particular emphasis on reaching historically underserved communities*

- *Congressional reinstatement of the minority tax certificate program to encourage the sale of media outlets to diverse owners*

- *Tax policy changes that would support nonprofit news outlets' ability to develop sustainable business models*

- *Targeting current government advertising spending toward local media businesses*

- *Encouraging broad-based digital and media literacy through support for community media centers and Public, Educational and Government (PEG) access stations*

- *Providing the Corporation for Public Broadcasting with more flexibility to invest in innovation and educational programming across a broader range of platforms including nonprofit programming on satellite, PEG channels, Low Power FM stations, state public affairs networks and nonprofit websites*

Many of these suggestions are promising – and have been proposed and supported by Free Press in the past. If policymakers are serious about ensuring that Americans have access to the news, information and diversity of viewpoints needed for democracy, then these ideas represent some initial steps forward. Now it's time to start walking.