

draft!

Chapter 1

INTRODUCTION

A/

"Television is a faraway land. When we turn on the TV we see what they're doing there."

So runs one five-year-old's conception of television; and for practical purposes, it is the conception most Americans have of mankind's latest major innovation in mass communications. There seems to be an opacity about television -- an inability or unwillingness to see behind the screen and the knobs on the front panel -- that leaves the viewer feeling powerless or passive or just plain uninterested in why the programming fare that moves over the face of the tube is what it is.

This book is about why we see what we see on television, and more to the point, why we can't see what we can't see. It is about how corporate and governmental forces have interacted to shape the character of American television. It is about the meaning of the First Amendment in a government-regulated medium of expression. It is about the political, economic, and technological choices we as a nation can have or can forego in shaping the future character of television. Ultimately and most importantly, this book is about whether the principles of free expression in a democratic society can and will survive into the age of electronic mass communications.

A+B

These topics require us to look at the television industry and its regulatory appendages from without -- from the perspective of American history and the larger issues of America's future. Unfortunately, there is not much literature on the subject of television in this tradition. () Most writing on television falls, by contrast, into one of two categories: critical reviews of TV programming or complicated explanations of narrow legal or technical aspects.

Under the heading of critical reviews, we can include the entire editorial content of TV Guide and the Sunday newspaper TV section, TV columns in weekly magazines, and most studies of the impact of television-watching on children and other groups. The common thread in this category of writing is that it is about the content of the programming that makes it to the viewing screen. While calling into question quite often the quality or appropriateness of TV programming, it seldom questions the reasons why such programming is selected and produced in the first place. [Perhaps the only exception is the ritual condemnation of "ratings" by reviewers who vaguely associate "profits" with low-quality, mass-audience fare they and their associates don't much like and call for someone (unidentified) to do something (unspecified) to curb profits in favor of "better" programming.] Even those articles dealing "behind the scenes" tend to be color stories about

A & B

(3)

personalities in television or the ratings, reviews, or politics of specific shows. In short, most writing of this sort deals with ~~that realm~~ ^{the two-dimensional world on} from the face of the tube, ~~out~~.

The specialized literature on television practices, on the other hand, is concerned primarily with that realm behind the face of the tube. Understood only by the specialist, the law, the technology, the program economics, and so forth have become insulated from outside influences to a considerable degree.

The critical reviews and the specialized writing on television do from time to time meet and even overlap of course. But by being largely separate, they conspire to keep television largely unchanged and to keep our attention from a far more important and more basic perspective: how could the incentives and restraints of television be shifted in accord with various principles or preferences to allow television to become a richer and more responsive medium?

Our goal in this book will be to show that there are significant alternatives to our present system of television, mostly better and mostly in addition to rather than in place of what we now have.


From the outset, three questions need to be addressed:

Why do we need alternatives to our present TV system and the fare it provides, particularly more TV fare?

Where do we look for those alternatives and how can they be brought about?


How do we know they are better?

△



The first question invites all manner of discourse, that of the critical review variety being the easiest to fall into. It is not the purpose of this book to engage in a critical judgment of current television programming, and such is not necessary to answer the question. We need to know about major alternatives to our current TV system because the ways in which the people in a democracy carry on their public communications clearly have a major impact on the future success and character of that people. America has nurtured the principles of free expression more than any other nation, making the distribution of information, ideas, and ideals as free as possible from excessive restraint by private or governmental power. We have long held that access to a wide range of points of view contributed to the ability of an informed citizenry to determine their own destiny. It is self-evident that such conditions can obtain only when there is the maximum opportunity for choice in what one will read or watch and only when individuals are free to compete for the attention and understanding of their fellow citizens.

The opportunity for more choice in television viewing, therefore, is a far more fundamental and important issue than superficial criticisms of ratings, artistic merit, or political coloration suggest.



Secondly, where do we look for the alternatives? Changes in the use of ratings, broadcaster profits, public service or artistic requirements, and the like can change the mix of programs from which viewers make their choices, and deserve some careful consideration. But they do not expand the range of choices and the effect of implementation of such changes certainly requires more serious consideration than is usually the case. Changes in technology offer a different route for expanding choice." By making it possible to bring more channels into the home, to use some of those channels for subscription programming or for access to information libraries, or to achieve higher quality pictures and sound, the viewer's access could be broadened considerably. Most discussions of cable, lasers, satellites, and other technologies to achieve this broadened access have foundered, however, on the question of whether such technology would in fact bring about a wider choice or just more of the same fare. Clearly, without new technologies our choice cannot be significantly expanded; but economic and institutional factors will play an important role in determining what the technology is used for. Finally, we must look to changes in the law and in Federal regulatory policy to find alternatives to the present system of control over and access to the television channels. Indeed, there is reason to believe that this is the most important area for examination in any search for alternatives to our present

system of television. Because of past Federal legislation, the Federal government determines rules for access to television channels and whether and how new television technologies will be introduced. It is because of this primary and pivotal role of the Federal government that the area of Federal policy is so important in determining the nature of our future television system. Moreover, the control of communications by the government is itself a key issue in a democracy and the extent of such control should reflect a conscious choice of public policy, a point that emphasizes even more the need to examine alternatives to the present system.

④ Our third question about alternatives is how we know they are better. This, of course, is the hardest question of all and will be a major issue to be looked at later on. One way of determining "better" is by comparing the kinds of programming likely to be produced and distributed with a new television system; another is to compare the principles used to establish the terms and conditions for the use of the system and for its growth. To be sure, there is no sharp line between these two approaches, but clearly the first invites expressions of public policy in terms of personal taste and what people ought to see, whereas the latter invites evaluation in terms of how well the system responds to the needs and desires of the public. Without ingoring the valid considerations (Note 1) of certain kinds of program content, the most useful measure of preference for

(D)
alternatives to our present TV system is likely to be principles, terms, and conditions linking the TV system to the other concerns of society, because only such content - neutral measures can ultimately line up to the First Amendment when included in public policy.

The purpose of this book, quite directly, is to set forth a basis for evaluating and designing public policy toward public communication in the electronic age and to stimulate broader public understanding and interest in this important subject than there has been in the past. Because of the need for broader public debate on these issues, considerable emphasis is placed on pulling together all the various components of such a public policy and stressing their interactions rather than the detailed workings of any one area.

Throughout the book, but especially in Chapter IX, there is reliance on the premises that the First Amendment by and large has served us well; that a key issue for the next decade as we deal with making Federal policy for broadcasting, cable, and other new technologies will be whether we want the First Amendment to apply fully to our electronic media and whether the First Amendment concepts can endure limited to ink but not electrons; and that, above all, if we come to rely on bureaucratically regulated bureaucracies for our public communication we will have surrendered an essential ingredient of our character and our promise as a people.

Notes

Chapter 1

Note 1.

On the level of individual taste and public discourse, certainly almost any consideration of program content is valid. Even in law and public policy, where we have long eschewed most such considerations because of the First Amendment, however, issues of obscenity, advertising content, libel, criminal incitement, and the like, have traditionally been held to be valid areas for governmental limitations.

Note 2.

Those who would repeal the First Amendment will find this book largely irrelevant to their concerns. It is certainly possible to devise various TV (and newspaper) regulatory systems that dispense with the First Amendment to a substantial degree and still remain consistent with the principles of democratic government. Many western nations have such systems, involving commercial as well as government-owned broadcast stations (See, e.g.). Moreover, the line of reasoning developed and espoused by FCC Commissioner Nicholas Johnson and D.C. Court of Appeals Judge David Lionel Bazelon in the late 1960's could offer such a system if certain inconsistencies were resolved; such a system, however, appears clearly to violate the First Amendment in its logical conclusion. The constitutionality of such a policy is treated at more length in Chapter VI.

Dewey Ref. Library Under Who's who report.

(D)

We all accept the fundamental principle that the freedom of the press and the freedom of speech of individual citizens are to be protected from government encroachment, even for high purpose. But then why is the government so deeply involved in content-related aspects of communications policy? I believe the answer is that we have carried the theories underlying our regulation of the broadcasting media to their logical conclusion. And we don't like where we are.

A.

Television broadcasting is different in many ways from the print media. Different in impact, in adaptability to various types of messages, in appeal to children; different in all ways suggested by the still enigmatic thought that "the medium is the message." But broadcasting is also different in the way it is treated in the law, and that is what I want to focus on here. The broadcasting industry as it is structured today is not a classical private enterprise development. It is the direct product of law and government policy. As a creature of the government, it deserves particular attention by government and by the public.

CW Book
Chapter #1, excerpts
Notes and Comments

A
- obviously

- 7 -

in favor of these principles does not necessarily mean being in favor of their implementation by the Government. No society that ever adopted a system of censorship did so for reasons which it thought were any less noble than balance, and fairness, and access. But the nobility of the purpose does not alter the ultimate intellectual desolation to which the system leads.

B.F.

~~Y~~
Y

Chap 1 notes

(1) There are some exceptions. See e.g.
Lee Brown, The Business Behind the Box; Martin
Mayer, About Television; — — — Smith,
"The Wired Nation" in — — — ;

(2) —

(3) cf. AP case supra ct.

(4) —

(5) —

(6) —

(7)

(8)

th
B
D-3
Almost without our realizing it, the American economy has become heavily organized around information and the utilization of information. The inputs to a productive enterprise are no longer the traditional capital and labor only, but rather capital, labor, and information. And, within the general field of information, communication plays a vital role.

Communication is to the information business what transportation is to the industries dealing in goods and materials. Without good transportation, production would be scattered, decentralized and inefficient. Transportation creates large markets and permits efficient production. But it does more -- it has determined where and how we live. One only need consider the influence of rivers and harbors on population distribution to see this influence.

More and more of our national resources are engaged in the information business. Communications will be a major shaping force in this business. More and more it will determine where and how we live, how our businesses are organized, how large they become, and whom they serve. The impact goes beyond our economy. In our society, too, information technology in the forms of telephone and television have done much to change our social, political, and broad informational characteristics.

th
B-H
We have learned from our experience in other fields that regulation of communications has a tremendous impact on the underlying information that is communicated. In broadcasting, for instance, regulatory

-3-

I } policies regarding the number of television channels, programming requirements, and advertising support, have heavily directed television toward programming for mass audiences and mass tastes.

I.

Government policy with respect to the media has always been considered particularly important and sensitive. Free speech and free press are central to our concepts of democracy and an open society. An informed body politic and a robust political process depend on a free, open, and vital exchange of ideas.

B

These precepts have served us well. But we are suddenly faced not only with difficult social and economic changes, but at the same time, with major changes in the pervasiveness and impact of the communications media. And these two kinds of change are not independent of one another. The media are shaping social change as well as reflecting it.

F

The role of ideas and how we exchange them within our society have never been more important. We cannot expect that broad premises and constitutional guarantees will automatically lead us to sound public policy in communications. We have a complex, profound, and emotional problem on our hands. Now that we have truly become a national community, how shall we communicate?

I.

The press has always played a particularly important and visible role in this process of communication. The terms "the press" and "the media" are often used interchangeably, but they are not at all the same. It is particularly important for purposes of government policy that they should not be confused.

F

basic direction is clear: More information, more highly organized, more heavily dependent on technology, and more rapidly moved around. Who will have access to this emerging system of information -- access as a provider as well as access as a receiver? Will these forms of access be widely diffused or highly centralized? How will information access affect our social and political institutions? What will be its impact on the free enterprise system?

In seeking answers to these questions, we will have to recall the basic principles of variety and diversity that our society and our economy are founded upon. When we structure the information business, we structure the framework for the expression of ideas, for the exchange of information, and for the use of information in business. We will have to think of access that encourages diversity and quality in the sources of information, as well as in the way information is utilized; access that benefits individual human beings and small business, as well as large organizations and institutions; access that minimizes social polarization. Finally, we will have to think of structuring access so as to avoid the development a new class division -- the information-poor and the information-rich -- before that situation can arise.

It is obvious that there are many uncertainties in evaluating what is the best way of providing for access. The answer is neither easy nor readily available. Government cannot force people to be informed; it cannot ignore the realities and the freedoms of the marketplace; nor

F.
B, H
D-3
anyone not
mentioned about

6

Nonetheless, it is clear to me that man's communications for 1990 are already taking shape. Communications technology and the regulatory framework are already in their formative stages. In addition, we're beginning to see the shape of the new services that might be available by 1990; mobile communications in a sense we have never known it may be available - that is, a telephone in every car, perhaps in every pocket. We may have world-wide international communications at very low cost. There is also cable television, which may make feasible direct transmission from satellite to your local community; such transmissions could be distributed by cable, which would replace a world of channel scarcity with a world of channel

I plenty. Computers will come into their own in conjunction with communications systems in the next 19 years. In particular, data communications will make possible an information economy; total information communications may become a reality.

From this, it is clear that communications of all types will have quite a different shape in 1990, but it's very difficult to see what that shape will be. What will be its effect on our lives? How will it affect our economy? Some possibilities come to mind: It may bring about less geographical concentration of information and education. It may create more plentiful opportunities for person-to-person contact and for mass communications. It may bring more services into the home and the office.

My basic theme will be that many of the dissatisfactions with broadcasting grow out of the way we have structured that industry rather than from failings within the industry itself. That this industry structure is largely the product of government policy -- or the lack thereof. That such policies as we do have are an accumulation of ad hoc solutions to piecemeal problems -- that have now come to be considered nearly immutable rules. That these rules, together with our rapid technical, economic, and social change are creating a dynamism of their own; rules lead to problems which justify more rules. That we the public -- including for a change those of us in government -- are in danger of losing control of this process. That the rules and the process are conspiring with our emotions to take us down a road we might well prefer to avoid. And finally, that the really critical policy question is that of access to the broadcasting media.

I'll probably sound a bit naive to you when I say that some of these relationships don't make sense and should be changed. But why can't they be changed? -- especially when they are the cause of many of our problems.

The Communications Act isn't sacrosanct. It's a 37-year-old law that was intended to police radio interference -- and it has frozen our thinking about broadcasting ever since. But something more than that is needed in a day when the electronic mass media are becoming the mass media.

By
I.

First of all, I think communications are having a major impact on us as a people that we're only beginning to understand. Communications are growing, growing in use; growing in kinds of service; growing in scope and growing in importance to us. Communications affect intimately how we deal with one another; how we see ourselves as people, as a country; and how we see our world; it affects how we exchange ideas; how we conduct our political processes.

I've mentioned the technology that will be available to us by the year 2000. What man's communications is at the end of this century depends as much on what Government policy is, as on what technology can produce, because communications is a very highly regulated industry. For example, the FCC table of television station allocations was made in 1952. That happens to be 20 years ago, and yet the table remains virtually unchanged today. This allocation drives the structure of our television industry, and is responsible for much of what we will do and have available in the future.

McLuhan's famous dictum, "the medium is the message," is a popularization of some very profound, but not very readable, insights of the Canadian economist, Harold Innes. The point, of course, is that the means of communication in society -- the technology -- is an important determinant of what interpretation is finally conveyed -- and therefore

I has great impact on broad economic and political patterns. So long as information could be easily controlled by the church in medieval Europe, the social organization of the Middle Ages could be maintained. The invention of cheap printing processes inevitably changed all that, and helped determine the course of economic and social development for several centuries.

But I think while I agree it

is true that we do have the best television system, we do have the best telephone system, it's precisely because we do have the best that we in this country have the ability as no other country in this world does to look beyond basic telephone service, look beyond a basic level of national mass television service, and look to a whole host of new and specialized communications for those non-geographic communities of interest which I mentioned before.