Hands Off the Journalist
Remarks of Commissioner Meredith Attwell Baker
The Media Institute
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We gather today to reflect upon the First Amendment and how its protection of the freedoms of speech and press are reflected in our work at the FCC. Kyle did so insightfully last month with respect to our Open Internet proceeding. I want to focus today on freedom of the press and the future of journalism.

We read daily about Congressional, FTC, and FCC interest in the future of journalism. Tellingly, we read about the government's focus in the newspaper at the end of our driveways, on newspaper and aggregator websites, on our cell phones, in industry publications, blogs, and even on Facebook. Given the topic, I'll provide my own headline available to all those platforms:

Baker Says Government Should Stay out of Journalism.

Just like many of our other traditional industries, journalism is at a crossroads — struggling to navigate the minefields of increased competition and a transition from analog to digital. At this point, the challenges facing traditional journalism — particularly newspapers — are well-established and known.

And the numbers are admittedly grim. Last year, 142 daily and weekly newspapers closed ranging from the Doylestown Patriot to the Rocky Mountain News. Other papers changed their circulation schedules or shrunk their newsrooms. Overall, newspaper circulation is down 11 percent in the last five years. And the advertising market, which has historically paid the vast majority of a newspaper's costs, has collapsed and evolved. Specifically, the success of Craiglist and ebay has significantly reduced highly profitable classified ads, and print advertising revenue has fallen for 13 quarters in a row.

There are also encouraging signs. News content is consumed today more than ever: according to Scarborough Research, 171 million Americans read a newspaper in some form each week.

A number of parties, however, suggest the government must step in immediately and fund journalism. I disagree. This is not a knee-jerk reaction to government interaction, or a failure to appreciate the difficult times faced by many media entities. Rather, fundamentally, I think there is value in the news business and I oppose the proposition that at the first sign of a challenge the government should step in and fix it. Our nation has flourished for over 200 years with a strong independent press as a check on government abuse. This tradition should not be discarded so easily.

This is also not the first transformation of journalism in this country. We have moved from political party propaganda newsletters at our founding to the penny press, the age of family-owned media, and now into an era of innovation.

This is a time of dynamic and exciting change. We can access more content from more sources than ever. New ventures are established each day taking advantage of the Internet's distribution power. I can keep track of news from Houston today in a way unimaginable when I first moved to D.C.

At the end of this innovation cycle, tomorrow's journalist may be different than yesterday's: my money says it will not be a man with a fedora and a typewriter. How journalism is presented to us tomorrow may be different as well. Newspapers may thrive again or be replaced with new, more collaborative and interactive fora. But the core attributes of professional journalism must remain: an objective and

fact-based attempt to educate and inform while uncovering the truth about powerful interests whether public or private.

I should note that change and transitions are always difficult, fraught with uncertainty and doubt. In particular, I recognize that this transition has real consequences for professional journalists struggling to adjust to job losses, shrinking budgets, and new business models. While the transition provides an unrivaled opportunity for journalists to find an underserved niche to conduct their craft, this may be little solace for those who are displaced.

Innovative and New Forms of Journalism

Given this uncertainty, proponents of government intervention point most often to two market gaps in journalism today. First, the traditional source of revenue to support journalism has changed. Second, smaller newsrooms and newspapers may not cover all the stories that they did in the past.

I agree it is imperative that the press reconstitute itself for the 21st century to address these and other potential gaps. But back to my basic regulatory principles: market gaps are not necessarily market failures requiring government intervention.

More often than not, gaps are market opportunities for innovators and entrepreneurs to find a new way to provide critical services. And the market is responding. Entrepreneurs are focused on solutions to each of these issues. Some new ventures will succeed, some will fail, and I cannot predict which will work and which will not. I am, however, hopeful that a new model for newsgathering will arise from this experimentation.

How Much for the News?

With respect to revenue, professional journalism requires high-quality trained reporters and editors with sufficient resources and experience to find and tell the story. This is an expensive proposition, and media companies need to be paid for their efforts. The Dallas Morning News alone puts $30 million a year into its newsgathering.

The move to digital has, however, splintered the traditional compensation structure of the news. For instance, Scripps has reported that a print reader brings in $500 in annual revenue, but an online reader only $75. Stark evidence of trading analog dollars for digital dimes. Even worse, USC Annenberg has found that 22 percent of online users say they stopped their newspaper subscription because the same content is free online.

Newspapers today typically rely on advertising for 100 percent of their online product, giving it away to readers. In the traditional print world, advertising has historically paid approximately 80 percent of the costs. Advertising in some form will remain a critical funding source going forward, and media entities will need to find ways to maximize advertising revenues in print and online.

That said, changes in the advertising markets have required online and print strategies to shift and focus more on the reader for revenue. In print, this translates into higher costs to readers. The Chicago Tribune now costs $1.00 an issue, double the price from just two years ago. How to charge online is the next challenge, and news companies are not unique when it comes to struggling with how to charge – or not charge – for content online.

In this debate, there are more questions than answers. I know the experts are asking whether money can be made in links, advertising, direct charges for content, or something else? Is a search engine a friend or foe?

Steve Brill and Journalism Online are trying to offer papers multiple compensation options. Some papers are charging subscribers a wide range of prices by the day, by the month, or with annual subscriptions. The *Wall Street Journal* has 1 million paying online subscribers. Can others find similar success? Walter Isaacson supports yet a different approach: a micropayment E-ZPass-like model: iTunes for news. Are music and news sufficiently analogous to make that work? Or is the answer new platforms like the Kindle – which offers papers a la carte and also for a monthly fee?

Finding the best platform is a complex task with no clear answers, but the important point is that a lot of very smart people are working to find solutions.

The optimist in me also wants to highlight that while the analog to digital transition has been difficult for traditional media, it is a boon to new media. For new media companies, digital distribution offers the reverse of analog dollars for digital dimes. The overhead cost to produce and distribute news online is a fraction of the legacy costs of newsprint, printers, and delivery trucks. Less revenue is needed to support online ventures as the bulk of the money can go directly to journalism itself. This breeds innovation and opportunity. These new entities compete against, partner with, and complement existing media properties. As we approach these issues, we should focus on journalism's future and not the package it comes in – let the best model work. For instance, Politico has found success with a hybrid print/online model.

The second identified gap is that today's journalism does not cover all the news. Shrinking budgets and newsrooms have resulted in newspapers closing overseas offices and Washington bureaus and reducing coverage of some local communities and governments. You have to ask yourself: what's being missed?

Putting aside whether it ever made sense for mid-sized papers to have far-flung offices across the nation and around the world, the shift of many papers to focus more on their communities has opened up commercial opportunities. I think it is interesting that the closing of overseas bureaus encouraged a new opening for companies like *Global Post*. *Global Post* is a for-profit enterprise with correspondents in 50 countries. It provides international coverage through its own membership website, advertiser-supported content, as well as syndication deals with CBS, Reuters, and others.

It's also interesting that similar ventures, such as the *Arizona Guardian* and *News Service Florida*, are appearing in state capitals in response to budget cutbacks. The same trend appears in local coverage. AOL Patch will serve 30 different communities, and Peer News in Hawaii will provide in-depth reporting on Hawaiian issues. Here in D.C., Albritton – the company that established Politico – is forming a new local news website.

Traditional media is also reaching out to pool resources to cover statewide news and partner with new entities to serve local communities more effectively. The largest 8 papers in Ohio formed a news organization to cover statewide events to allow the individual papers to "focus on more [expensive] enterprise reporting." With respect to local coverage, the Miami Herald has partnered with former reporters, local weeklies, and foundations on hyper-local efforts. These new entities benefit from lower digital costs and an available pool of talented reporters. Again, there will be no single model for how news will be gathered or distributed. There is also nothing that says the *Cleveland Plains Dealer* needs to have its own reporter in Madrid or Columbus, or that residents of Cleveland can only get news from the local paper.

I should highlight that I have purposefully focused on for-profit enterprises trying to fill these gaps because as the founding editor of the announced D.C. local news venture has said, "if you can figure out [a model] to make a profit, then there's an endless supply of people who are willing to make a profit." This is not intended to slight the substantial efforts of non-profit, foundation, and university-based journalism to fill the gaps caused by shrinking newsrooms. Indeed, much of the broader discussion about the future of journalism has focused on those non-profit efforts. Led by the Knight Foundation, foundations in that past five years have given over $100 million to non-profit journalism, often focusing on investigative journalism.

A Question of Quality

One last gap that gets a great deal of attention is the quality of journalism. Some call for the end of commercial press because it has failed to provide a quality product. Pew finds that only 29 percent of Americans say that news organizations generally get their facts straight. Jon Stewart wins polls as the nation's most trusted newscaster. It is healthy and important for the public and media itself to closely monitor the press for objectiveness, bias, and accuracy. Media – no matter how it is structured – can be poorly run or responsible. For every publisher that slashes newsroom resources to benefit the bottom line, there are editors that send reporters to cover every state legislature session because that is [quote] "the price we pay for having a free press."

Discussion of quality journalism is also not a new phenomenon. Complaining about the media is a national pastime. The *Economist* recently noted that the *Atlantic Monthly* in 1891 complained about the "frantic haste [of journalism that] abolishes deliberation from judgment." Imagine what they would think of Twitter. I'm confident that the *Atlantic* – however distributed– will be critical of journalism in 2021 as well.

It is an important debate, and we should hold our media's feet to the fire. I only ask that our national dialogue on quality journalism be realistic. We need to aspire to have more enlightened coverage and news, but we need to start with some pragmatism that the golden years of news may not have been so golden. A few years ago, the *American Journalism Review* compared news from the 1960s and the 1990s and found that more modern journalism was "better written …better organized, more responsible, less sensational, [and] less sexist and racist." Twenty five years ago, our total collective news options were three versions of the evening news and a newspaper.

I think the government itself is poorly equipped to participate in this debate of good and bad journalism. I agree with Justice Byron White that the Constitution largely resolved this issue: he said the "press is not always accurate, or even responsible, and may not present full and fair debate on important public issues. But the balance struck by the First Amendment with respect to the press is that society must take the risk that occasionally debate on vital matters will not be comprehensive, and that all viewpoints may not be expressed."

Direct Governmental Funding of Journalism is Unnecessary and Worrisome

Faced with these challenges, a number of parties have proposed greater governmental intervention in journalism. Some of these proposals appear to be overly punitive towards the commercial press, while others are more thoughtful efforts to provide journalism funding from government in a careful and measured manner. At different times, proponents of governmental intervention have suggested a small tax on advertising, a tax on electronic media devices, or a National Endowment of Journalism. Many come with strings attached– certain news obligations or requirements to keep content free online.

The most prominent recent example is former *Washington Post* editor Len Downie's *Reconstruction of American Journalism* in which a National Fund for Local News is proposed with universal service-like funding by local grant making bodies. Downie approaches this issue with open eyes, explaining that "[m]ost Americans have a deep distrust of direct government involvement or political influence."

However well-intentioned and well-crafted, I vote no on this public option. Direct government funding of journalism is the wrong answer.

I think it is dangerous for industries to start looking to answers from Washington to resolve the fundamental challenges to their business. It inhibits self-reflection and is unnecessarily defeatist. Bailing out journalism could hamper the commercial efforts I referenced earlier that are seeking a new way of providing journalism. Many of these new approaches are in their infancy and need the time to develop and grow as newsgathering and reporting entities. Traditional news organizations also require more time to find their digital way.

Pragmatically, I am also concerned that direct government funding of journalism will erode the public's trust in media. This is not a question of journalistic integrity or ethics. Rather, our nation is already too cynical and skeptical of the independence of the press. Pew has found that only 20 percent of Americans believe news organizations are independent of powerful interests. Pew also reports that 60 percent of Americans believe news organizations are politically biased. Combining these metrics with government-sponsored journalism is not a recipe for success in my view. Funding – no matter how well-insulated – will only exacerbate concerns about a captured press.

And, lastly but most importantly, the First Amendment has too often been missing from this debate. Proponents of large-scale government intervention point conclusively to postal subsidies for periodicals in the early days of the Republic as justifying any and all government action. Similarly, proponents suggest that if the government willingly funds the Arts, Humanities, and Science, why not journalism?

The press is not just any other industry for all the reasons proponents of reform want to protect journalism. First and foremost, journalism is different because of its proud role as a check on government authority and its role to promote civic discourse. Justice Hugo Black explained in *Mills v. Alabama* that "[t]he Constitution specifically selected the press … as a constitutionally chosen means for keeping officials … responsible." Indeed, the press is the only specific industry highlighted for extra protection in the Bill of Rights. James Madison's first draft of the Amendment is revealing: the "freedom of the press, as one of the great bulkwarks of liberty, shall be inviolable." We focus often on the need for clear separation of church and state, yet ignore the matching need for separation of senator and reporter. We must be wary of any attempts to let the government foxes into the henhouses of the press.

A Modest Government Role to Foster Innovation

This is not to suggest that the government has no role in this debate. Steve Waldman is leading the FCC's review of media within the agency. In his prior life, he saw a gap in religious coverage and formed Beliefnet. There were no Commission rules preventing him from doing this, nor were there rules preventing him from merging his organization with News Corp. Other innovators may, however, be prevented from exploring new forms of journalism or news distribution by FCC rules.

Although I never envisioned examining the health of the newspaper industry while serving as an FCC Commissioner, I'm aware that the question will interact with our upcoming media review. In conducting our review, I am hopeful we will address the concerns of parties that our current rules – based on a far different media landscape – inhibit innovative and new forms of journalism and

newsgathering. As we proceed, consolidation need not be a dirty word, nor is it always a good thing. I want to know more about proposals that go beyond bigger for the sake of getting bigger.

For instance, Pew Research has highlighted that newspapers typically have more reporters than all other media outlets in a market combined. Some commenters complain of a free rider problem where TV, radio, and other media rely on newspapers for their news content. A recent Pew study of Baltimore news revealed that the newspaper remains the dominant source of original news. Would a paper be able to better leverage the costs of its reporters – and improve the breadth and quality of its product – if it was able to take advantage of additional platforms in a community with a converged newsroom? I do not know the answer, but I think we should explore this possibility.

The second area where the government, not necessarily the FCC, can help is content protection. As journalists experiment with how best to seek compensation online, media companies will need the tools necessary to protect against piracy and enforce their copyright. I am hopeful that any Open Internet rules adopted by the Commission deal directly with measures to curb illegal content online.

The third area goes directly to the work of the Broadband Team to address concerns about broadband adoption. If our news is going digital, we need to ensure that all Americans can get connected. Similarly, I agree with the Downie Report and Knight Commission on the need for more government transparency. I think the FCC is making good strides under Chairman Genachowski's leadership to be a more open and inclusive agency.

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As journalists search for their future identity, I urge that we leave journalists largely to their own devices to find a new sustainable commercial foundation. This is not intended to be callous or insensitive. Quite the opposite: this nation has thrived with a strong independent press as promised by the First Amendment, and I want to ensure that tradition remains.

Thank you.