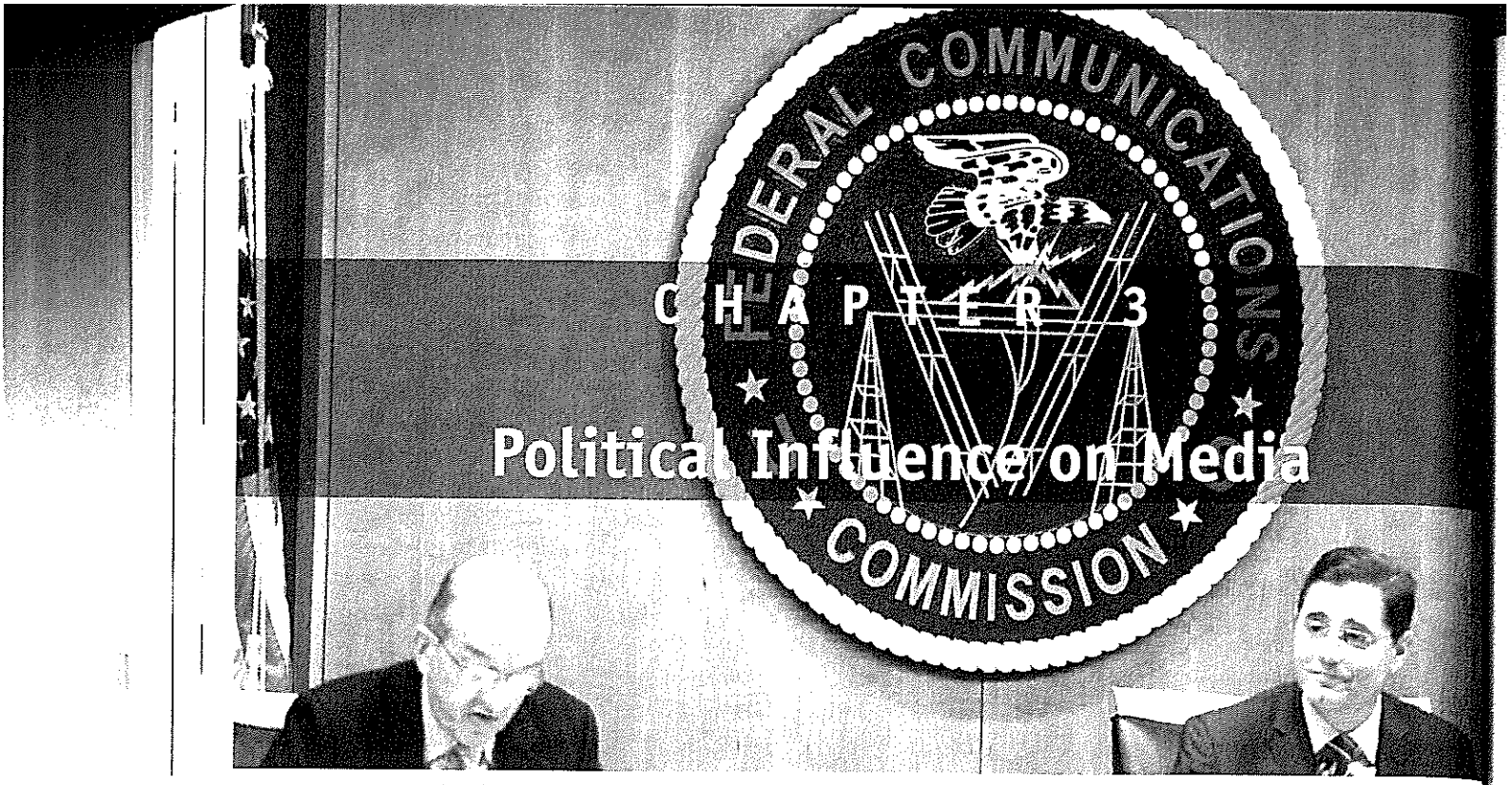

CHAPTER 3
Political Influence on Media

Bloomberg/Getty Images.

The nonprofit watchdog group Reporters Without Borders listed three democratic countries—Finland, the Netherlands, and Norway—at the top of its 2013 annual Press Freedom Index, and three countries with authoritarian governments—Turkmenistan, North Korea, and Eritrea—at the bottom of the list. (The United States ranked 32nd of the 179 countries in the report.) The index was constructed from several criteria, including the amount of violence against journalists, the nature of legislation governing media, and the degree of economic pressures on the media (Reporters Without Borders 2013).

Reporters Without Borders Secretary-General Christophe Deloire noted that the Index "does not take direct account of the kind of political system but it is clear that democracies provide better protection for the freedom to produce and circulate accurate news and information than countries where human rights are flouted." But being in a democracy does not mean the media are totally unconstrained. Deloire continued, "In dictatorships, news providers and their families are exposed to ruthless reprisals, while in democracies news providers have to cope with the media's economic crises and conflicts of interest." These various types of pressure on the media differ widely, but they all have an effect.

As the Index rankings suggest, to better understand media—news and entertainment media alike—we need to consider the political environment in which they

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operate. Government in all nations serves as an organizing structure that can, to varying degrees, constrain or promote the free activity (or agency) of the media (Starr 2004). This is the tension between structure and agency as it applies to media and the political world. In totalitarian systems, the structural constraint of the state largely dominates the potential agency of the media. State-owned news agencies, broadcast media, and film studios can act as propaganda arms of the state, promoting a narrow set of government-sanctioned images and messages. Authoritarian regimes hire sympathetic bloggers and tweeters to spread their messages, while using censorship and surveillance technologies to monitor potential political threats. In extreme cases, journalists can be imprisoned or killed for challenging state polices.

Democratic societies, on the other hand, pride themselves on protecting freedom of the press and freedom of expression. Such societies are usually characterized by a more diverse mix of public and privately owned media outlets offering a variety of arts, news, information, and entertainment. The media in such societies are still subject to government regulation, but they are usually given much greater latitude to operate independently. However, in some democratic societies, the media are still largely controlled by a relatively small group of powerful interests—commercial corporations. In those cases, it is corporate domination of media rather than government control that is of most concern.

The relationship between political forces and the media raises important questions about the limits of free speech, the impact of economic interests, and the appropriate role of government. These are the topics of this chapter. (Later, in Chapter 7, we will look at the media's influence on politics.) Our concern is not with the details of media legislation but rather with the general dynamics that characterize the relationship between government and media. We also address the more informal political pressure brought to bear on the media by media advocacy groups, public interest organizations, religious groups, and media critics.

THE "FIRST FREEDOM" AND THE "PUBLIC INTEREST"

In the United States, debates about media regulation—and the balancing of competing interests—go back to the founding of the country. Most Americans are familiar with the First Amendment to the U.S. Constitution, which guarantees, among other things, freedom of the press. The amendment in its entirety reads as follows: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

Because the amendment begins with "Congress shall make no law . . ." this "first freedom" suggests that the government should take a hands-off approach toward the media. The framers of the Constitution knew all too well how European governments had persecuted authors, printers, and publishers. Throughout Europe, governments limited the right of printers through tactics such as requiring licenses, heavily taxing newsprint, censorship, and aggressively prosecuting libel (Eisenstein 1968). The U.S. legal and legislative system

took a different route. It protected the freedom of the press in several key ways. First, it treated the licensing of the press as a case of illegal "prior restraint." Second, it developed a tradition of opposing special taxes on the press. Third, it greatly restricted criminal libel suits. This was the hands-off dimension of public policy embodied in the First Amendment.

But we do not have to go any further than the U.S. Constitution to see another dimension of the government's relationship with the media. Section 8 of Article I lists the powers of Congress, among which is the power "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." Here the Constitution explicitly gives Congress the right to intervene in the communications marketplace to protect the interests of authors and inventors and, in effect, to advance the public interest through the promotion of science and the arts.

Thus, the relationship between government and media in U.S. society is complex. It involves balancing the protection of free expression by *limiting* government intervention with the protection of the public interest by *using* government intervention. In many ways, these competing demands are at the heart of the debates regarding government regulation of the media.

Supporters of deregulation generally assert that the "free market" system is adequate for accommodating the needs of both media producers and media consumers. They argue that consumers have the ultimate power to choose to tune into or buy media products and that there is no need for government interference in the form of media regulation. The marketplace serves as a quasi-democratic forum in which consumers, not government agencies, get to decide the fate of media.

In its pure form, the deregulation approach is a negative prescription for policy. That is, deregulation advocates suggest what they are *against* (regulation), not what they *favor*. While they clearly support the "free market" process, there is little or no discussion about the undemocratic nature of a marketplace where more dollars mean more influence and where people are viewed as consumers rather than citizens. Nor is there much discussion of the outcome of this market process beyond the idea that media products would reflect changing market tastes. But what if explicit sex, graphic violence, and endless trivia are what market tastes demand? Should the government then involve itself in the regulation of content? And where do the needs of a democracy for news and information that may not be profitable fit in this vision? There are among the dilemmas raised by the deregulation position.

In contrast to the deregulation approach, support for media regulation is usually based on a desired outcome. The most common standard for assessing this outcome is the "public interest." The idea that media should serve the public interest was first explicitly articulated in the earliest days of radio broadcasting when the government tied serving the public interest to the granting of licenses because broadcast media were using publicly owned airwaves. But what is the "public interest"? This is a central dilemma raised by the proregulation position. (For a more detailed comparison of the "free market" versus "public interest" models, see Croteau and Hoynes 2006.)

Many of these regulation debates now involve the Federal Communications Commission (FCC), the independent U.S. government agency established in 1934. Comprised of five commissioners, appointed by the president and confirmed by the Senate for five-year terms, the

FCC regulates U.S. interstate and international communications by radio, television, wire, satellite, and cable. The FCC is also responsible for the issuance of licenses, the setting of some charges, and the enforcement of communication rules. (You can get more information on the FCC at fcc.gov.)

FCC policymakers have generally expressed agreement with the importance of serving the "public interest," and they have shared some common ground in understanding the term (Krugman and Reid 1980). For example, policymakers commonly believe that the FCC serves the public interest by attempting to balance the interests of various groups, suggesting that there is no single public interest. They also stress that the government cannot write media regulation in stone for all eternity because technological and economic changes are constantly occurring. Finally, they believe that regulation that promotes diversity in programming and services is in the public interest. However, beyond these broad parameters, much disagreement remains about what is or is not meant by the "public interest." Defining the meaning of this malleable term is one way in which different actors have influenced the construction of public policy.

All governments develop some policies aimed at regulating and controlling the media because they understand their political and social importance. Obviously, the method by which governments try to achieve such control varies. As noted, some nations have taken direct authoritarian control of media through state ownership of broadcast outlets, bans on opposition media, and constraints on Internet access. But most nations engage in media regulation that is nonauthoritarian in nature, combining government policies with free market forces.

The role of the U.S. government in regulating the media has always been minuscule compared to many other democratic nations (Starr 2004). The early days of radio in the United States were characterized by free market commercialism that produced considerable chaos. In contrast, European nations adopted an approach that involved government operation of the media as a technique to avoid signal interference. The result was a system that (1) emphasized public service, (2) was national in character, (3) was politicized, and (4) was noncommercial (McQuail, de Mateo, and Tapper 1992).

In many countries, this approach meant adopting a state monopoly system. The British Broadcasting Corporation (BBC), established in 1922, was the first such system. Within four years, Italy, Sweden, Ireland, Finland, and Denmark had copied the BBC model. Over time, more nations developed similar arrangements, and many variations developed as well. Most monopolies, for example, were nationwide. But in countries such as Belgium, where both Flemish and French were widely spoken, each linguistic group had a separate public broadcasting service. Also, although some countries maintained state monopolies, other nations—for example, Britain since the 1950s—adopted approaches that coupled state-run with privately owned systems.

In most European countries, the government controlled the organization and financing of broadcast services, while programming was largely run independently. Here, too, there

was no single model. Producers outside the state-run system often created the actual programming. However, unlike in the United States, public broadcasting in Europe was always a central force in broadcasting. The point of government involvement was to ensure that broadcasting could deliver quality programming that served the public interest, including educational programs and news. As in the United States, the interpretation of "public interest" was debated in Europe. However, people generally considered the purpose of public service broadcasting to be to provide citizens with a diverse range of high-quality entertainment, information, and education. This in turn was generally understood to mean the production of a broad range of programs rather than only programs that were highly profitable (Donders 2011; Hills 1991). Thus, unlike in the United States, success in the purely commercial marketplace has not been the dominant model for most media in Europe. Instead, governments have invested substantially in public broadcast media, supporting the production of both news and entertainment.

Government media, however benignly run, present difficulties. In some countries, controversy regarding the political content of programs has plagued public service broadcasting. In part because of such debates, in part because of changes in technology, and in part because of shifts in the political winds, European broadcasting has undergone dramatic changes since the 1980s. Governments have significantly reduced regulations concerning the structure and financing of broadcasting. The shift has been toward more open competition between public broadcasters and commercial stations. In some countries, such as Italy, the pressure to liberalize airwaves came from private companies and business leaders, who saw the profit potential inherent in television and radio stations and challenged the state by operating illegal stations, forcing the regulators to reconsider the state monopoly principle (Ginsborg 2005; Hibberd 2008). Thus regulators have introduced advertising into many public stations (though not the BBC, which inside the UK remains advertising free) and have added new commercial stations. The results have been increases in advertising, increases in imported programming (which is often cheaper to air than original domestically produced programming), and the consolidation of media companies into ever larger corporate conglomerates that buy up formerly independent producers (Hills 1991).

Ironically, deregulation in structure and finance has been followed by increased regulation of media content, in part because free market competition has led to more violent and sexually explicit programs as a way to attract audiences. In response, some governments introduced limits on programming and regulated the amount and frequency of advertising. For example, in some European countries, governments require that news, public affairs, religious, and children's programming run for 30 minutes before a commercial break (Hirsch and Petersen 1992). Also, France, Great Britain, and Sweden (along with Canada and Australia) have restrictions against broadcasting violent programs during children's hours, with broadcasters subject to stiff fines for violations (Clark 1993). These and other policies are evolving as commercial options expand but some researchers argue that these new commercial offerings are "hardly conducive to what might be thought of as socially desirable outcomes such as range and diversity of content—including, crucially, locally produced programmes that reflect children's own communities and environment" (D'Arma and Steemers 2013: 123).

COMPETING INTERESTS AND THE REGULATION DEBATE

So far, we have presented the regulation debate in its simplest form—a free market approach versus government regulation in the public interest. But, in reality, the debate is far more complicated. Despite simple rhetoric calling for "deregulation," virtually everyone involved with the media *wants* government regulation. This includes liberal and conservative politicians, industry executives, and public interest advocates. What these groups disagree about is *what kind* of government regulation should exist.

For example, almost all calls for deregulating media are, in practice, calls for *selective* deregulation, leaving in place many of the laws and policies that benefit the media industry. Indeed, the media industry could not exist in its present form without active government regulation and control through broadcast licensing, copyright enforcement, and other provisions. That is why the media industry actively supports *some* regulations, namely, those that benefit the industry.

Meanwhile, supporters of press freedoms and increased media diversity often call for regulations that protect the interests of the public against the influence of the powerful media industry. The media industry usually cites the merits of deregulation when it is faced with such constraints. So, as we will see, the history of regulatory debates is not about *whether or not* the government should play a role in regulating the media. Instead, it is about *how* and *to what extent* government should act.

These debates reflect competing interests (Freedman 2008). Regulatory decisions create winners and losers, so it is important to ask, "Who benefits from such regulation?" as well as "Who is constrained?" This can explain a great deal about regulation debates. The media and telecommunications industry promotes its interests through a well-organized and powerful political arm that—along with individual media corporations—finances political candidates and lobbies elected officials (see Table 3.1). It is safe to assume that such efforts are aimed at promoting legislation in which the industry has an interest and at derailing efforts it deems threatening. And, of course, the media industry controls the biggest soapbox in society. One FCC official pointed out that one reason broadcasters are such a powerful Washington lobbying group is because they control the air time given to members of Congress on local stations (Hickey 1995). Politicians courting favorable media coverage for re-election are likely to be highly conscious of legislation that can affect the media industry.

Ordinary citizens, on the other hand, can try to influence regulatory debates through their own advocacy groups and social movement organizations, or by giving feedback to elected officials or the FCC when regulatory debates arise. Often, these struggles go back and forth for a long period of time. For example, in the mid-1990s the government relaxed or eliminated various regulations that the industry opposed. This led to a variety of citizen actions from across the political spectrum protesting the resulting concentration of media ownership, advocating for more diversity and more community-oriented noncommercial media, and calling for the containment of violent and sexually explicit material—all concerns that continue to this day.

Following this broad overview of the contest over media regulation, we turn to some common U.S. debates about media regulation and the public interest. We group the issues into two broad categories: the regulation of *ownership and control* and the regulation of *content and distribution*.

Select Media-Related Organizations' Spending on Elections and Lobbying, 2012

	Elections	*Lobbying*	*Total*
AT&T Inc	$6,773,161	$17,430,000	$24,203,161
Google	$3,820,612	$18,220,000	$22,040,612
National Cable & Telecommunications Association	$2,216,971	$18,890,000	$21,106,971
Comcast Corp	$5,154,400	$14,750,000	$19,904,400
Verizon Communications	$4,161,582	$15,220,000	$19,381,582
National Association of Broadcasters	$1,618,243	$14,510,000	$16,128,243
Microsoft	$5,313,086	$8,086,000	$13,399,086
National Amusements (Viacom and CBS)	$1,872,488	$7,370,000	$9,242,488
Time Warner Cable	$1,401,044	$7,770,000	$9,171,044
News Corp	$1,736,545	$6,340,000	$8,076,545
Cox Enterprises	$3,215,457	$3,140,000	$6,355,457
Deutsche Telekom (T-Mobile USA)	$832,261	$5,323,901	$6,156,162
Time Warner	$2,450,294	$3,548,000	$5,998,294
CC Media Holdings (Clear Channel Communications)	$1,025,090	$4,542,050	$5,567,140
Recording Industry Assn of America	$349,293	$5,068,387	$5,417,680
Facebook	$742,733	$3,850,000	$4,592,733
Sony Corp	$809,491	$3,258,000	$4,067,491
Sprint Nextel	$493,228	$2,745,223	$3,238,451
Motion Picture Assn of America	$871,955	$1,950,000	$2,821,955
Liberty Media (DIRECTV)	$757,719	$450,000	$1,207,719

Federal Election Commission data and lobbying disclosure reports filed with the Secretary of the Senate's Office of Public Records summarized by the Center for Responsive Politics (www.opensecrets.org). Accessed June 14, 2013.

Election spending includes contributions to PACs, parties, outside spending groups, and candidates in the 2012 election cycle. Lobbying spending was for the 2012 calendar year.

In this section, we review examples of the debates over regulating media ownership and technology in the United States (Brenner and Rivers 1982; Freeman 2008; Noam 1985, 2009; Pool 1983; Tunstall 1986). We do not attempt to provide any sort of comprehensive review; rather, our primary goal is to show how debates about the relationship between

politics and the media represent one kind of tension between agency and structure in the social world. We begin with a brief case study that illustrates some of the conflicts involved in regulating ownership and control.

The Case of Pirate Radio

It was 6:30 A.M., says Doug Brewer (a.k.a. Craven Moorehead), when government agents burst into his Tampa Bay, FL, home. The agents wore flak jackets and had their guns drawn. They made Brewer and his family lie on the floor while they searched the house. A police helicopter circled the neighborhood, and other officers with submachine guns stood outside. When they found what they had come for, the agents handcuffed Brewer to a chair while they removed thousands of dollars' worth of contraband (Nesbitt 1998; Shiver 1998).

Brewer was not a drug dealer. He was a "radio pirate" whose unlicensed microstation—"Tampa's Party Pirate"—broadcast "biker rock" music. The agents entering his home on that morning in November of 1997 included Federal Communications Commission (FCC) officials who were enforcing federal regulations prohibiting unlicensed radio broadcasting. The raid was part of an FCC crackdown on "radio piracy." The contraband they confiscated was electronic broadcasting equipment.

If Brewer had produced a magazine or a website, he would have been protected by the Constitution's First Amendment. But government and the courts treat broadcast media differently because they use the public airwaves to reach an audience. There is a limited spectrum of available electromagnetic frequencies, and the government regulates who can use certain frequencies. (A radio station's call number—for example, 98.6 or 101—refers to the frequency at which the station broadcasts.) The government does this by issuing licenses, which "pirate" broadcasters do not have, to stations that seek to broadcast at certain frequencies.

The argument for broadcast licenses is practical: An unlicensed radio signal can interfere with the signal of another station that is legally licensed to use the same, or a nearby, frequency. Or it may interfere with other wireless services—such as cellular phones, pagers, police walkie-talkies, digital television signals, or even air traffic control communication—all of which use the airwaves as well. The absence of government regulation of the airwaves might lead to chaos as multiple stations drowned each other out at the same frequencies and personal communications devices were interrupted. The result would be akin to a street and highway system with no lanes, signs, stoplights, or speed limits. In fact, it was precisely fear of this sort of chaos in the early days of radio that led to regulation and the practice of requiring broadcast licenses. (License requirements began in 1912, even before commercial broadcasting began, because other maritime communications traffic was interfering with the Navy's radio communications.) The government, therefore, says it uses licensing requirements to protect the "public interest."

But unlicensed "pirate" operators—who generally prefer the more neutral term *microbroadcaster*—tell a different story. They suggest it is commercial media corporations that are really behind the effort to keep them off the air. They point out that low-power stations are just that—low-power—and pose virtually no interference threat to other stations. In addition, microbroadcasters go to great lengths to ensure that their signals don't interfere with other broadcasts or communications. Even so, their efforts were illegal because the FCC simply did not grant licenses to small microstations, leaving radio to be dominated by larger, mostly commercial, interests. If the FCC is so concerned about chaos on the

.obbying, 2012

Total
$24,203,161
$22,040,612
$21,106,971
$19,904,400
$19,381,582
$16,128,243
$13,399,086
$9,242,488
$9,171,044
$8,076,545
$6,355,457
$6,156,162
$5,998,294
$5,567,140
$5,417,680
$4,592,733
$4,067,491
$3,238,451
$2,821,955
$1,207,719

Senate's Office of
.4, 2013.

in the 2012

ownership and
8; Noam 1985,
comprehensive
nship between

airwaves, radio activists asked, then why doesn't it simply allocate a section of the broadcast spectrum for microstations and then issue licenses?

That idea ran into stiff opposition from commercial broadcasters. The National Association of Broadcasters (NAB), the industry's lobbying group, used the fear of widespread signal interference to oppose the creation of a new category of low-power FM radio stations. The NAB even distributed a CD to members of Congress supposedly documenting what such interference would sound like. However, the FCC's own engineers said the audio simulation was fraudulent, and the FCC's then-chairman William E. Kennard accused the NAB of a "systematic campaign of misinformation and scare tactics" (Labaton 2000: C1). Later, an independent study commissioned by the FCC confirmed that low-power radio posed no significant interference issues (FCC 2004).

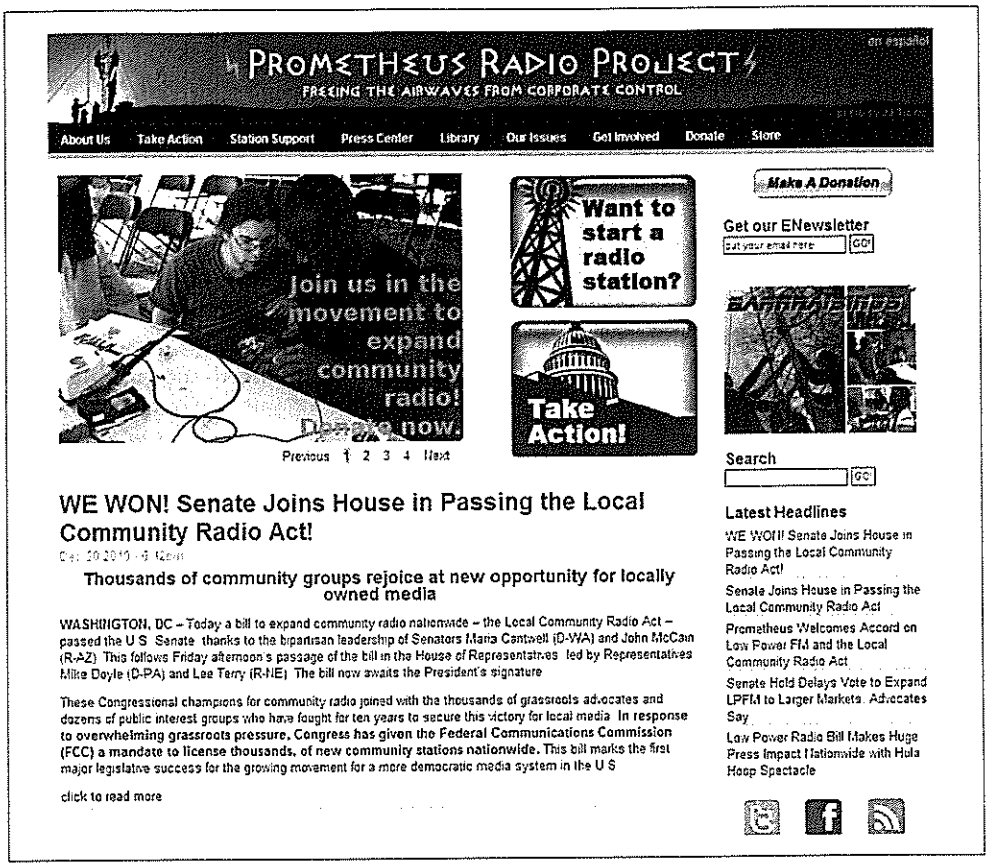
With the industry's primary argument exposed as bogus, community radio activists finally achieved some limited success in 2000 when the FCC agreed to begin licensing low-power stations. But existing broadcasters, including both the NAB and National Public Radio (NPR), successfully lobbied Congress to make licensing so restrictive as to limit the number of such stations to just a few dozen instead of the thousands originally proposed. Licensing and operation requirements were later eased somewhat and by 2010 more than 800 licenses had been granted. But community radio advocates continued to pressure for more. Finally, the Local Community Radio Act was signed into law in January 2011, giving the FCC a mandate to expand the broadcast spectrum allotted to community radio stations, marking a major victory for low-power radio advocates. The FCC began accepting applications for these new low power community stations licenses in late 2013.

This pirate radio case shows that policy is a product of political activity, that different media are regulated differently, that the real debate is typically over what type of regulation should exist, and that competing interests are at stake in such media policy making. These will be recurring issues as we explore various policy debates.

When early government officials crafted the First Amendment, media ownership was largely a local, decentralized affair. As a result, the First Amendment closely links "freedom of speech or of the press" because, in colonial times, the two were very similar. Individual printers or shops employing just a couple of people created the media products of the day. The written word, therefore, was largely an extension of the spoken word.

In this context, the issue of ownership was of little concern. The equipment needed to operate a press was relatively straightforward and affordable for purchase or lease to those with modest capital. In theory, there was no limit on the potential number of different presses. Over time, however, communication media have changed in significant ways.

First, *media technology* has changed. Print was the only mass medium that existed when the First Amendment was written. Every time a new medium emerged—such as radio, broadcast television, cable, or the Internet—regulators had to create the new rules within which this medium would operate. In general, the rules regulating media have historically differed among the three basic types of communication media: print media, broadcast media, and common carriers. The latter are industries whose operators must provide equal access in their service of the public, often because they have some type of



Source: www.prometheusradio.com.

Radio activists have long worked to promote the expansion of nonprofit community-based radio. The Prometheus Radio Project in Philadelphia, whose website is pictured here, is one such group that works to demystify the media process, assist community group in creating radio stations, and promote public participation in the FCC regulatory process that oversees low-power FM (LPFM) radio.

protected monopoly. Telephone companies and the mail system, for example, are common carriers.

Broadcast media enabled producers to reach millions of people through a networked system that blanketed the country. This ability transformed the nature of the media by dramatically expanding their reach and potential influence. Also, the technologically accessible range of the electromagnetic spectrum limited the number of free broadcast stations that could operate in any market, creating the scarcity that was crucial in justifying broadcast regulation such as radio licensing. The Internet also altered the technological terrain, creating new opportunities for content providers to offer text, audio, and video to anyone with Internet access. In addition, it has enabled everyone, including nonprofessionals, to produce and post their own content—in some ways harkening back to the older model of decentralized media producers.

Second, *ownership patterns* have changed. The amount of investment capital necessary to produce and promote major state-of-the-art media products is now enormous. As the wry saying goes, freedom of the press exists only for those who can afford to own one—and the price tag keeps getting higher. With changes in technology and in the scale of production, most competitive media ownership is affordable only for those with substantial capital. Even the start-up costs for major websites now routinely run into the millions of dollars. As a result, media have moved away from their independent localism, and more and more media outlets are part of national and international corporate entities. We saw in the last chapter that large media conglomerates, for example, now own many "local" newspapers. Magazine and book publishers are now largely national, or international, enterprises. The days of free speech protecting the small publisher of pamphlets are largely over. Instead, the control of major media has become centralized in the corporate offices of giants such as Time Warner and Viacom.

These changes have led to the regulation of media ownership. For example, the FCC has regulated the number of television and radio stations a single company can own, and there have been sharp political battles over the extent of these limits. By the early 1990s, the government prohibited companies from owning more than 12 television stations or from owning stations that reached more than 25 percent of the nation's audience. Regulations also limited companies to owning a total of 20 AM and 20 FM radio stations, with no more than 2 AM and 2 FM stations in any one city. The aim was to limit the potential monopolistic power of a media conglomerate and to encourage diverse media ownership.

However, changes introduced in the 1996 Telecommunications Act and subsequent updates eased restrictions on both television and radio station ownership, leading to more concentrated ownership patterns. For example, less than two years after the elimination of limits on radio ownership in 1996, there was a 12 percent decline in the number of radio station owners, even while the total number of stations increased by 3 percent. The FCC acknowledged that the regulatory changes had led to "consolidations of radio ownership [that] have reshaped the radio industry" (FCC 1998). Ironically, this consolidation provided fuel for radio pirates to argue for the licensing of microbroadcasters.

The FCC has also restricted certain types of cross-ownership, although it sometimes gives waivers that override such restrictions. A single company usually cannot own both a daily newspaper and a broadcast outlet (radio or TV) in a single city—except in the 20 largest markets, where there remain at least 8 independent media outlets. Also, common ownership of a television broadcast station and a cable system in a single market is prohibited. The aim is to prevent monopolistic control of media in a local market. But such restrictions are constantly under revision, and media companies work to have such limits relaxed. They have plenty of opportunity to influence the rules: The 1996 Telecommunications Act requires that, every four years, the FCC reviews all of its broadcast ownership rules with an eye toward eliminating or modifying any that are no longer in the public interest due to increased media competition. As noted, revisions of the 1996 act led to further relaxation of ownership rules, and more are likely to come.

In fact, there has been a long pattern of easing regulation on media owners. For example, prompted by the merger of Viacom and CBS, which resulted in one company owning controlling interest in both the CBS and the former UPN networks, the FCC allowed the ownership of two broadcast networks by the same company, something that had long been illegal.

However, the so-called dual network rule prohibits a merger between any of the four major television networks (ABC, CBS, Fox, and NBC). In addition, court rulings in 2001 overturned, first, regulations that prevented a single company from owning an interest in cable systems that reach more than 30 percent of the country's cable homes and, second, rules prohibiting a cable company from owning more than 40 percent of the programming shown on its system. This continuing deregulation allows for the growth of larger and more concentrated media companies.

One clear way in which government can intervene in the media industry, then, is by regulating ownership of media outlets. By preventing monopoly ownership of media, the government attempts to act in the public interest because control of media information by a few companies may well be detrimental to the free flow of ideas. Through such regulations, the government prevents media giants from acquiring control of the media market.

Media companies have been so successful in rolling back ownership restrictions that some observers see an unprecedented threat emerging from the consolidation of media ownership into fewer and fewer hands. As far back as 1995, Reuven Frank, former president of NBC News, suggested that

> it is daily becoming more obvious that the biggest threat to a free press and the circulation of ideas is the steady absorption of newspapers, television networks and other vehicles of information into enormous corporations that know how to turn knowledge into profit—but are not equally committed to inquiry or debate or to the First Amendment. (quoted in Shales 1995: C1)

Since that statement was made, media consolidation has continued unabated.

Regulating Content Ownership: Copyright and the Case of Music Sampling

Rap music fans know Public Enemy's 1990 album, *Fear of a Black Planet*, as a classic in the genre. The album epitomized the group's "wall of noise" approach that layered sound fragments cut from other recordings into a new and unique composition. Though Public Enemy's use of nearly a hundred samples on the album was extreme, frequent sampling was a common practice during the "golden age of hip hop" in the late 1980s. But that age was over in 1991 when a U.S. District Court ruled in *Grand Upright Music Ltd. v. Warner Bros. Records Inc.* that artists were breaking copyright laws if they sampled sounds from other people's work without first obtaining permission from the copyright owners. The ruling changed music forever since bands could not afford to pay the permissions fees for so many different samples. Instead, contemporary recordings that use the technique typically sample only a couple of sounds to keep costs down.

In 2010, Benjamin Franzen directed a documentary film about music sampling and copyright law. In it, he used over 400 unlicensed music samples. But despite the title of his film, he and his collaborators were not *Copyright Criminals*. That's because their work is protected under the "fair use" provision of copyright law that allows creators to quote from copyrighted works without permission for the purposes of education, commentary, criticism, and other transformative uses (McLeod 2010). Ironically, the film is available for sale in a copyrighted DVD version.