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Media Regulation and Democracy: A Minimalist Approach

by

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For my parents
who gave me the tools to solve problems
and an interest in doing so.

Abstract

While many scholars have argued that media deregulation has a deleterious effect on democracy, all have done so in a way that assumes the truth of a particular normative theory of democracy. This thesis instead describes the minimal requirements for a democratic public sphere and compares deregulated media to that standard, using the United States as a case study. The conclusions explore the causal relationship between deregulation and those results by delving into the economic forces at work within the media market. Popular contemporary objections are considered, including the potential contribution of the Internet.

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I. Introduction

There has already been much written on the topic of media regulation and its affect on democracy. (Cf. Baker 2002, Bennett 2001, Dorgan 2005, Emery 2005, Stoll 2006, Warf 2007) One recent manifestation of this discussion has focused on whether deregulating news media negatively impacts that media's, and therefore that democracy's, health. These arguments necessarily have a normative aspect to them—there is some way democracy *ought* to be but is not when news media are deregulated. Unfortunately, the crucial question of exactly how democracy ought to be is rarely addressed let alone settled in these arguments, leaving their conclusions vulnerable to criticism by anyone favoring a different normative conception of democracy. For example, Mary Lyn Stoll (2006) and Byron L. Dorgan (2005) both argue that deregulation of media results in news media that are biased toward certain topics, undermining the dialogic public sphere required for Habermasian democracy. However, Habermas' ideal of democracy is controversial to say the least, and any number of individuals could reject the conclusion of such arguments on the grounds that Habermas is wrong about how individuals should be involved in democracy and thus wrong about what they require from the media in order to participate.

Some authors, recognizing the defects of arguing with one normative conception of democracy in mind, have made an attempt to be more judicious. C. Edwin Baker, a prominent scholar on this topic, addresses three normative forms of democracy in his book *Markets, Media and Democracy* (2002). He describes each type of democracy and then relates his arguments directly to the demands that democracy makes on its citizens. However, the description and arguments for each type of democracy are covered so briefly that, while being an improvement, his points remain readily contestable. Addressing enough counterarguments to establish the credibility of what Baker has argued would require the space of an entire book rather than part of a chapter.

Rather than trying to come to a consensus about the nature of multiple forms of democracy, or trying to argue in favor of one form, I will adopt a more determinative argument structure, seeing how deregulated media provide for the most minimalist democracy. Different forms of democracy can be arranged along many scales: for example from most to least direct. One such scale is epistemological demandingness on citizens—how much people must know and how thoroughly they must engage that knowledge in order to be considered participants in the democratic process. This is the scale most relevant to discussions of media regulation and democracy. At one end of the scale stand the highly demanding Habermasian forms of democracy, which require that citizens not only have access to a large amount of varied information, but also that they be given forums for discussing this information with others. At the other end of the scale stand much less demanding forms of democracy like elite and economic. Because elite democrats feel there is an entire range of topics that should be handled by policy experts rather than citizens, it is not necessary for those topics to be covered by the news media or engaged by citizens. Citizens are therefore

required to know less, particularly about policy specifics, for ideal participation in government.

This thesis will describe the theoretical space occupied by the least epistemically demanding democracy possible and determine whether deregulated media are sufficient for this normative form of democracy. By focusing on the form with the easiest requirements to satisfy, whatever conclusion I draw provides information valuable to the debate. If deregulated media are *sufficient* for this form, then it is not true that deregulated media are bad for democracy tout court, and opponents of media deregulation will have to spend more time advocating a particular normative theory of democracy. However, if deregulated media are *insufficient* for this normative form of democracy, then deregulated media will be insufficient for *any* normative form of democracy, since all the others are more demanding of citizens. So, this thesis will either illuminate the areas future researchers should focus on (i.e. advocating normative democracies) or indicate that, from a democratic perspective, deregulation of the media should be reconsidered. This is not to say that some other value, such as free enterprise, will not ultimately be found more important than democracy, and therefore potentially outweigh the practical recommendations of this conclusion. However, there is value in determining at least this one variable.

The central question of this thesis will therefore be: is a deregulated media adequate for what I am calling minimalist democracy? I will address the question in the following way. In the first section, I will describe the characteristics of minimalist democracy. Then, I will use those characteristics to determine the shape of a minimalist democracy's public sphere and specifically the news media's role within it. Determining the requirements of minimalist democracy will allow me to later compare them to what a deregulated media provides.

In the second section, I will describe what is provided using the United States as a case study. I have chosen the United States because it has, more than any other democracy, steadily decreased media regulation over the last 25 years. As a result, there is a wealth of information about media both before and after deregulation. Before I compare the deregulated media's qualities to those required of the media by minimalist democracy, I will respond to the most potentially devastating objection to my argument. This objection questions whether it is deregulation that causes the media trends currently seen in the US, or whether those trends are caused by some other factor, such as a particular culture surrounding media or amongst journalists. If there is not a direct, causal relationship between deregulation and the current state of the media in the US, no conclusion can be drawn about the suitability of a deregulated media for minimalist democracy.

To establish the causal rather than merely correlative connection between deregulation and the media trends described in the second section, I will use the third section to outline the nature of competition within markets and how the rules of competition apply to media as a unique product. Regulation, insofar as it determines the nature of competition within markets, determines competitive

strategies of media firms. It will become clear upon examination that the kind of media released by firms is a direct result of competitive strategies adopted by those firms in response to changes in regulation.

Having established that current US media trends do not merely correlate with historic deregulation, but are causally connected, I will compare these trends to the trends that would be required by a minimalist democracy. I will conclude that deregulated media are insufficient for minimalist democracy, taking care to address the unique questions posed by the Internet. Finally, I will recommend which course further discussion in this area should take.

II. The Minimalist Public Sphere

This section will outline first the requirements of minimalist democracy, then the minimal requirements of its public sphere. Naturally there would be a great deal of variation in the theories advocated by different minimalist scholars and it is not my intention to cover them all. Rather, this section will pick out the qualities each theory has in common and any further details supplied by different authors will be taken to be more restricting. Because the same general policies can be advocated for very different reasons leading to very different implementations of those policies, I have listed all potential intellectual groundings for several qualities of minimalist democracy. While these groundings may initially seem superfluous, I will make sure to highlight how they affect the public sphere and therefore my conclusion.

II.1 Minimalist Democracy

As I mentioned above, I will be describing a potential normative form of democracy, rather than one that has actually been advocated. Because it is most relevant to questions about media sufficiency, I will be focusing on the scale of epistemic demandingness—how much information an individual needs to possess in order to be considered a full participant in the democratic state. While high epistemic requirements do not entail high levels of participation, I will argue that low epistemic demandingness does require low participation, because our intuitions about the point of democracy—authentic individual involvement in government—necessitates that combination of qualities.[1, 2]

An advocate of the low knowledge/high participation view—the view that citizens should have to know very little, but engage very heavily in voting—must hold one of two further beliefs, both of which are highly unintuitive. The first potential supporting belief is that democracy is *exclusively* intrinsically valuable,

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[1] Throughout this paper I will use "participation" to refer exclusively to the activity of voting.

[2] For example, it would make sense to believe that while individuals should vote on as few things as possible (perhaps because of Arrow's Theorem, discussed below), they should be absolutely maximally informed about those few things—they should have heard a number of different opinions about them, learned many pertinent statistics, and/or reasoned in a group about the relative merits of voting certain ways.

so that the mere act of casting a ballot is sufficient to add value to the world. If this is true, every other aspect of democracy is irrelevant. The person voting may or may not have effectively advocated for herself by voting—she may or may not even be aware that she has just voted. It may even follow that an ideal world would maximize the amount of time people spent casting ballots on various things (e.g. what the congressional cafeteria should serve on Tuesday). Viewing democracy as strictly intrinsically valuable without any concern about its instrumentality, since instrumentality requires at least the information necessary for means-ends reasoning, is a sufficiently bizarre position that I will assume no such objectors exist.

The other potential belief that would support the low knowledge/high participation view is that the very most basic desire satisfaction of voters, represented by desire to and then success in voting a certain way, are the valuable objects within a democracy. This belief has a cognate within moral philosophy—desire satisfaction theory. The most basic form of desire satisfaction theory states that the well-being of a person is improved any time one of his desires is satisfied. This view is initially intuitive, but quickly runs into problems. Bernard Williams expressed the difficulty with a thought experiment: suppose a man is sitting at a table and is thirsty for a glass of gin. In front of him, on the table, is a glass of clear liquid. Believing it to be gin, he forms the desire for a drink from that glass and reaches forward for it. However, the glass contains petrol, not gin. Williams believes this case demonstrates that the intuitive appeal of desire satisfaction is not the *mere* satisfaction of a desire, but rather the satisfaction of an informed desire; it would be very unintuitive to maintain that the man's life is actually made better by drinking the petrol, because he had a desire (to drink from that glass) satisfied. (Williams 1981, 102)

In the case of voting, this thought experiment also supports my position in the following way. A man desires to vote for a candidate opposed to "pork-barrel" spending.[3] One candidate, Jones, rails continuously against pork-barrel spending and regularly says that he never participates in it. In reality, Jones secretly engages in much pork-barrel spending and simply claims not to. The low knowledge/high participation advocate that grounds his advocacy in desire satisfaction would be obligated to say that the world was improved by that man's vote for Jones, even though it fails to meet his higher order desires: to vote for a candidate that does believe X rather than Y candidate in particular. To say that the world has not been improved by this vote but would have been if the man had voted for someone who actually opposed this spending is to acknowledge a correlation between knowledge and the value of voting. If the desire for that glass counts, desire satisfaction seems like an absurd measure of a good life (or good

[3] Pork-barrel spending is also referred to as Christmas lighting and occurs when congresspeople tie small amounts of funding for other projects (usually those that will help their constituency) to larger bills, meaning that if others want the larger bill passed, they must also fund these small side-projects.

democracy). If the desires for gin or an anti-pork politician are what count, low knowledge is insufficient for political action.

From the above discussion, I will infer that the least epistemically demanding theory of democracy will also demand low participation from citizens. With these basic characteristics settled, I will now theorize about the normative form minimalist democracy would take. Examining reasons someone would advocate minimalist democracy—in other words, argue that democracy ought to be comprised of these qualities—will allow me to sketch out more particulars of the theory, and therefore more particulars about what it requires from its public sphere.

Arguments in favor of low democratic participation and low demandingness have one of three intellectual roots, grounded in the fallibility of either humans or the democratic process.[4] Skepticism about the governing capabilities of the public stems from one of two further beliefs: either human beings are fairly dim, at least when it comes to things as complex as policy, or they lack sufficient incentive to put more cognitive effort into such matters. (Posner 2003, 144, 177) The former school of thought reasons, along with its slightly more optimistic cohort among elite democrats, that the average person within a society is a utility-maximizer prone to cheating others, especially if her self-interest is pitted too often against duty. (Buchanan and Tullock 1962, 13, 27) These sorts of minimalist democrats take the elite democrat's assumptions about human nature—that people are "restless and immoderate" (Dahl 1959, 151), apathetic (Ibid., 48; Posner 2003, 130), sheep-like (Schumpeter 1956, 253-4, 283; Posner 2003 183-4), irrational (Schumpeter 1956, 253-4), uncritical (Ibid., 262), easily manipulated (Ibid., 263), and egoistic (Ibid., 263-4; Posner 2003 130)—to their natural conclusion: if people in general have these qualities, so will the ruling elite.

The more optimistic of the two explanations of human deficiency in government takes into account the opportunity costs of thoughtful political involvement. Apart from straightforward questions regarding whether it is even rational to vote (cf. Downs 1957; Riker and Ordeshook 1968), theorists like Posner and Schumpeter believe that more general involvement in politics, and particularly deliberation about what to achieve and how to achieve it, lowers the quality of life of participants for two reasons. First, because some values may be simply incommensurable, discussing politics does not have the effect of arriving at consensus, as the deliberative democrats suppose, but rather the effect of agitating people without ever coming to a satisfying conclusion. Engaging in deliberation is upsetting and therefore not pursued. Second, the time citizens

[4] Note that while I derived low participation from low epistemic demands, it does not mean that an advocate of minimalist democracy would also take low epistemic demands as her starting point, though some might. The superiority of a less epistemically demanding type of democracy is one justification of low participation, but so is the perceived fallibility of voting processes. This section should reflect an organization preference, rather than a claim about all minimalists.

would have to devote to deliberation comes out of their pockets, by preventing them from spending that time engaged in financial or leisure pursuits. (Posner 2003, 173) In other words, there is an opportunity cost for engaging in political deliberation, and that opportunity cost can sometimes be quite high. So whether they lack the capacities to engage in politics or not, individual citizens do not stand to gain much from that sort of political participation, which makes it a reasonable project to avoid. Under either of these conditions—insufficient mental capacity or insufficient incentive—the minimalist democrat believes that what is true of the masses will also be true of politicians. Either explanation of human deficiency makes relying on career politicians for universally beneficial policy seem ill-advised.[5, 6]

The third potential intellectual root of advocating low participation faults not humans (at least not entirely), but the processes that govern elections. This belief, specifically that no voting system can meet both standards of fairness and standards of accuracy, is known as Arrow's Theorem. (Riker 1982, 164) Arrow's Theorem states that any method of amalgamating votes will, at least some of the time, return a social ordering of preferences (in this case about candidates or policies) that does not reflect what citizens actually want. (Riker 1982, 161) Furthermore, the same voting system might produce different outcomes with the same input. (Ibid) Under such circumstances there is both the concern that this "consigns democratic outcomes…to the world of arbitrary nonsense" and that this will encourage those that stand to gain from error cycles, namely politicians, to induce them.[7] (Riker 1982, 164-5) Minimalist democrats take this as a serious challenge to normative theories of democracy, since "it is hard to have unbounded confidence in the *justice* of such results." (Riker 1982, 161; original emphasis)

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[5] If, for whatever reason, the general population is unable to intelligently engage political questions, any elite they choose to solve those questions will be likewise unable. However, one can maintain that this is descriptively true while also maintaining that it is better to divide labor within a society so that some people are in charge of the minutia of government and others merely vote on who those people are. If the people who will be elected are as fallible as the general population, it makes sense not to give them complete power (e.g. to have a democratic system rather than oligarchic system) and to remove a certain amount of policy determination (e.g. what the fundamental rights within a society are) from their grasp.

[6] The assumption to this point has been that minimalist democrats value democracy instrumentally, rather than intrinsically. This is not necessarily the case (as I will explain below), however I will not be addressing the intrinsic perspective because it practically leads to the same conclusion as the lack-of-incentive school above. Theoretically, a minimalist could maintain that democracy is intrinsically valuable and yet that we should not try to maximize democratic involvement. A reason for this would be that there are other values that should also be realized and that democracy, while intrinsically valuable, is best with the lowest possible participation, because this allows for the pursuit of other values.

[7] Specifically, Arrow's theorem states that no decision with three or more options can *consistently* take the ranked preferences of those choosing and convert them into a group ranking while also meeting three fairness criteria: universality, non-dictatorship, and independence of irrelevant outcomes. (Arrow 336-8) Voting systems may often form a correct ranking for the voting group, however, at least some of the time, all voting systems will return an erroneous ranking. These occasions are called error cycles.

Assuming the truth of any or all of the above statements, it is clear how one would conclude that citizen participation in government should be minimal; whatever needs to be decided, more voting will only introduce greater likelihood of nonsense, fraud, or illiberality. So what does a minimally demanding democracy look like?[8] First, many ordinarily elected topics would instead be enshrined in a constitution; individual citizens would be removed from the explicit determination of policy and instead elect local officials who enforce basic property rights and liberties "which can be more easily understood and brought under the control of ordinary citizens." (Christiano 2008) The presence of a constitution remedies many of the concerns a minimalist might have: citizens, whether stupid or lazy, would not be able to eliminate each others' rights, and neither would a politician, however she was elected. To avoid a problematic constitution, one that is rife with policy details put in by politicians, it would have to be kept fairly limited in scope—perhaps limited entirely to basic rights like property and the internal limits of democracy.

The second feature of a minimalist democracy would be a strong focus on local, rather than federal, government. Someone who believes that the processes of government are inherently flawed and will either be ignorant, nonsense or manipulated (and furthermore someone who thinks those things are bad), will presumably also want to limit both the number of opportunities for ignorant, nonsense or manipulated outcomes *and* the number of people that would suffer from them. The proximity of elected officials to their constituents in smaller ridings increases transparency, and possibly information about causality. While a federal leader elected to overlook basic property rights for an entire nation (with the help from a federal pool of police, say) will have many different areas to divide resources and attention between, local leaders act within a smaller area that is easier to observe and understand, in addition to being more salient to the citizens watching.

Another consequence of low knowledge requirements is that this form of democracy will be non-transformative. Unlike deliberative democracy, minimalist democracy does not require individuals to reason in groups, modify their beliefs, or come to a compromise with other voters, but rather advocate for themselves according to the values they currently hold.[9] This does not imply that citizens cannot deliberate, or that it would be an ineffective method of forwarding their own goals. Rather, minimalist democracy cannot *require* it, and the outcomes of elections will still be legitimate even if such salons have not occurred. Transformative processes necessarily require greater base knowledge from citizens, such as a rudimentary grasp on logic.

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[8] In this section I am taking my cues from scholars who advocate economic, constitutional, and elite democracy. Each of those forms shares the core beliefs that participation should be minimized. The theory I am outlining is different from these forms, however, because it does not adopt the theory of human nature or system of government advocated by these theories.

[9] I assume here that being engaged in the described processes also entails (however minimally) knowledge of opposing groups' current beliefs, if only to know what topics are in contention, and possibly where compromises can be made.

II.2 The Internal Limits of Democracy[10]

In addition to the above qualities, minimalist democracy must meet several further qualifications—those that apply to all forms of democracy. In addition to the above qualities, minimalist democracy must meet several further qualifications—those that apply to all forms of democracy. There are two primary grounds for democratic authority: consent and public equality. Both grounds impose similar internal limits on democracy. The Lockean perspective (consent) states that a democracy ceases to be authoritative if the democracy decreases the robustness of consent. So, for example, citizens cannot vote for a monarchy because that vote would undermine the very value that justified the use of democracy in the first place—it would decrease the consent in government. Similarly, if democratic authority is derived from public equality, citizens may not vote to decrease public equality. On the other side of the coin, it also means that democratic systems that fail to live up to these ideals are not authoritative and therefore are not legitimate.[11]

In practice, the basic ways individuals must relate to governments are the same for each theory. They are most succinctly summarized by Ronald Dworkin. (2003) First, each citizen must have a *part* in the election, which means that the difference an individual makes in an elected outcome is not limited by structural assumptions about that person's worth (e.g. there may not be IQ or literacy tests for voting). This serves the goal of public equality by denying the legitimacy of processes that eliminate or moderate the public standing of individuals. It serves the goal of consent by ensuring that no individual who is subject to the limitations of the state is denied the power she was allowed to keep as part of her contract with the state. Second, each citizen must have a *stake* in the election, meaning that the impact a voted decision will have on that person's life is given neither exaggerated nor deflated weight in considerations; philosopher kings do not receive extra or more heavily weighed votes simply because they know more about government than the average citizen. Dworkin characterizes this as a "bona fide conception of equal concern for the interests of all members," a requirement that clearly reflects the public egalitarian's position. (248) If consent is the grounding of democratic authority, equal consideration of interests will ensure that consent given by citizens is robust, with neither her own nor the interests of

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[10] This section discusses political authority, which is sometimes treated an as equivalent of legitimacy. For the sake of clarity, the definitions and relationships of authority and legitimacy I am using are as follows. There are two types of authority: normative and de facto. Normative authority exists when a state is legitimate—that state gives its constituents a reason to obey its laws. Legitimacy refers to whether or an authority is morally justified. So, a state with de facto authority (e.g. a police state) may lack legitimacy, and a state with normative authority may lack the de facto authority to enforce its own laws.

[11] See Christiano 2008a and 2008b, as well as Locke *On Liberty*. The grounds of democratic authority could be pursued in greater detail, but I will forgo that here since the implications of those differences do not ultimately have a noticeable effect on my arguments about the shape of the minimalist public sphere.

others overlooked by her vote. Finally, each citizen must be *independent* of elected outcomes, meaning that even if she has participated in deliberation about a decision, she cannot vote to yield responsibility for the central values of her life; her continuing existence as a self-determining being cannot be affected by any election process, however just. (248) This is a classic case of not being able to consent to something that removes future consent, and not being able to undermine public equality by allowing the possibility of removing personhood.

So, while individual minimalist democrats may require more from democracy, a normative minimalist democratic theory minimally will have the following characteristics:

- A constitution concerned largely with basic liberties and rights,
- A structural arrangement that gives every citizen part, stake, and independence in or from voting,
- A minimal scope of voting (i.e. electing local officials without seriously engaging policy),
- And a non-transformative process.

II.3 Implications for the Public Sphere

In view of these qualities, the public sphere must have certain characteristics that can be arranged into three groups: scope (i.e. the number of people reached), depth of coverage, and focus (i.e. topics considered). With regards to focus, the public sphere should only encourage citizen engagement at a certain level. Unlike liberal pluralist or republican conceptions of the public sphere, the minimalist public sphere should not provoke citizen interest in voting on nuanced policies in their own interest or otherwise.[12] Instead, citizens should be encouraged to oust candidates who behave tyrannically or demonstrate other offensive characteristics according to their values. Topics the public sphere must address include: how candidates enforce basic liberties and property rights, the character of candidates, what large projects current officials are engaged in, and whether those projects are in line with standards found in the community.[13] Furthermore, media would need to prioritize coverage of the politician that highlights issues most relevant to the constituents of a certain area; the same

[12] Liberal pluralists seek a system where citizens are uniquely informed about their values and interests and lobby the government to address them.(Dahl 1959, 69) Republicanism encourages communal "discussing, formulating, and committing to common ends." (Baker 2002, 140) Both view the role of the individual citizen as a proactive and robustly determinative one, making them at odds with the more laissez-faire minimalist democrats.

[13] Of course, not every single standard can be considered, but the standards common to the community and as many other standards as possible should be. The Public Interest Standard formerly enforced by the FCC anticipated this need by requiring broadcasters to meet with heads of the community to discuss the populace's interpretations of its needs.

candidate may warrant different focuses depending on her audience.[14] For example, the appropriate coverage of Mitt Romney would vary greatly between Massachusetts and Utah: his willingness to advocate centrists policies as a governor may be most relevant to voters in Massachusetts, whereas his devoutness as a Mormon may be most relevant to Utahans. Beyond those topics, media may cover whatever they like, so long as it does not encourage political engagement on any off-limits topics; while the efficacy of certain approaches to constitutional enforcement may be considered, values should not be considered, except in circumstances where individuals clearly seek out potentially value-transforming dialogue.

Because of the emphasis on democracy as a mechanism for running one's own life, the concepts mentioned above—part and stake—also play an important role in the shape of the public sphere. In a democracy, which is of necessity majoritarian, it is only possible for me to consider myself free and self-governing, even on the occasions that I am outvoted, if there is some robust sense in which I was a participant in the democratic process.[15] If "each person must have an opportunity to make a difference in collective decisions," where the amount of this difference is not structurally predetermined, the public sphere must not only be regulated by principles of free speech, but must also facilitate discussion amongst *all* community members. (Dworkin 2003, 248) In other words, the scope of reach of the public sphere must include—or at least not systematically exclude—every citizen. The opportunity to make a difference entails not just the possibility of voting and having one's vote counted, but also expressing ideas, arguing in favor of them, and having the information and media necessary to do so.[16] This is partly because having a stake in an election—"treat[ing] the consequences of any collective decision for his life as equally significant a reason for or against that decision as are comparable consequences for the life of anyone else"—must entail knowledge of those consequences and the articulation of possible grievances by the parties affected.

Finally, the depth discussions go to within the public sphere must be limited by the recognition of either limited abilities or limited resources individuals have to invest in political involvement. In other words, coverage of acceptable topics should not provide so much information that it ceases to be helpful.

II.4 Concerns and Clarifications: What Can Be Demanded?

An objection that immediately surfaces is whether demanding the above specifics from the public sphere is at odds with the practices and values of a

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[14] This criterion arises from the non-transformitivity requirement; it is not the news media's job to convince the population that X or Y topic is worth caring about, but rather to provide information on whatever topic the population already cares about.

[15] I am using "majoritarian" here to mean only that issues will be decided by whatever has the most votes, not necessarily 50% plus one.

[16] I weigh the rights of the consumer versus the producer of media in this area later, in the following section.

minimalist democracy. The basic rights outlined in a minimalist constitution would almost certainly seem to imply being able to do what you want with your property, be it a house or a printing press.[17] Furthermore, the hands-off nature of minimalist democracy implies that the policies required to create such a public sphere would be at odds with that democracy's underpinning values and assumptions. In other words, requiring the public sphere to provide certain things, whatever they are, will ultimately require an individual to do something a certain way (e.g. cover certain facets of a topic) thereby impeding his liberty, and likely a liberty that is protected in the state's constitution. It is important, therefore, to consider what limits to maximal liberty a minimalist constitution would allow.

In this case, both involved parties—media firms and citizens—seem to be infringing on the other's ability to act as they wish, media firms when citizens regulate them and citizens when media firms fail to provide information necessary to their means-ends reasoning.[18] Another way of conceptualizing this problem is by seeing it as a competition between two groups of citizens' autonomy; journalists, editors, and publishers are citizens too, after all. If we take the uncontroversial definition of autonomy provided by Gerald Dworkin, that autonomy is "the independence of one's deliberation and choice from manipulation by others, and the capacity to rule oneself," it is clear that the public's independence of deliberation is negatively impacted by deregulation, while journalists' capacity to rule themselves is compromised by regulation. (Dworkin 1989, 61)[19] Faced with a conflict between what appear to be two equally fundamental and mutually exclusive liberties, it is necessary to determine which is overriding. If a minimalist democracy cannot rightfully demand that news carriers cover topics in a certain fashion, any public sphere will be sufficient.

Isaiah Berlin's discussion of autonomy offers a way of determining which liberty is actually more fundamental, and therefore worth protecting at the expense of the other. First, he points out that liberty is not just measured by the number of options I have, but also by the significance of certain options "in my plan of life." (Berlin 1969, 11) This implies that the options for choice that should be eliminated first are those options that are least significant in the life plans of affected individuals. If my liberty to obtain an ice cream sandwich is somehow in conflict with another's liberty to move freely, and each liberty is mutually

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[17] Mark Fowler, then Chair of the FCC, argued that one important objection to the traditional interpretation of the public interest standard was that it infringed on the First Amendment rights of broadcasters by requiring certain types of programs. So, this concern clearly extends to other basic constitutional rights, as well. (1982)

[18] Behind this point lies the assumption that media firms will not provide the information voters need without regulation. This idea will be explored in section III.4, but it is also worth noting that *Media, Markets, and Democracy* by C. Edwin Baker argues at length for this very point. I will leave this assumption unjustified here for the sake of brevity.

[19] I have chosen this definition of autonomy because nearly all definitions of autonomy run along these lines. The differences between different definitions of autonomy lie in what is considered independence from manipulation.

exclusive, my liberty to obtain ice cream sandwiches must be overridden; no matter how much I crave its creamy goodness, an ice cream sandwich simply is not as central to my life plans as another's free movement is to his plans.

The correlate in the media context is the following. Citizens within a minimalist democracy will require certain media coverage (like that mentioned above) in order to have the information they need to engage in means-ends reasoning about who they want ruling them. Without certain regulations, there is no guarantee that citizens will receive this information. The media producer, on the other hand, faces not a complete abnegation of her freedom of speech, but rather very specific injunctions that apply only while she is at work: perhaps limited ownership of media outlets (to stem homogeneity) and program genre quotas. While the centrality of ownership and programming allocation to a producer's plan of life may vary, it is hard to imagine that many producers would consider the limitations they faced seriously detrimental to their conception of a good life, particularly when they would also (presumably) have desires involving a healthy political system. Even if they did find the injunction profoundly offensive, the fact that it applies only to their work life, and practically speaking still allows a great number of editorial choices, the imposition on them cannot be considered comparable to the imposition faced by citizens.

A further consideration is whether the choices made by producers are authentic *without* regulation.[20] Part of being an autonomous subject, according to Berlin, is to "be moved by reasons, by conscious purposes, which are my own, *not by causes which affect me, as it were, from outside."* (1969, 12) If a deregulated media market encourages competition and that competition in turn requires greater responsiveness to market forces, it is difficult to see the choices made by producers as authentic reflections of their preferred media. This is supported by the way we talk about the market colloquially—market "forces" move resources around—as well as by Adam Smith's classic use of the metaphorical invisible hand.[21] So, while concerns about the reciprocity of liberty initially appear to make demanding certain qualities from the public sphere impossible for minimalists, in actuality it is consistent with maximizing liberty.

However, what if there were more extensive repercussions for the liberty of media producers and their financial interests were harmed by regulation,

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[20] In this discussion, I mean "authenticity" as identification with my own desires and actions because they spring from values I recognize as my own. One way of saying this may be second-order identification with first-order desires. (see, e.g. Frankfurt 1987) Another way may entail recognizing the existence of a personal narrative. (see Christman 2009)

[21] Howard Nye has pointed out that individuals are always subject to environmental influences and questions whether market forces are inherently more alienating. My feeling is that other environmental influences (e.g. being raised within a certain religious community and having that community dictate one's actions) tend to become more deeply incorporated or internalized in one's personal identity than this particular influence does. This may not be true for all individuals, and I would not want to speculate on how frequently free-market ideals become central to individuals' identities, however it seems intuitive enough to me that this is the case. Certainly it does not seem likely that, descriptively, the majority of media producers personally identify with free-market over Christian values, for example.

thereby disrupting their pursuit of a conception of the good? As a matter of fact, this appears not to have been the case, at least for the majority of media producers. Newsrooms at both papers and television studios have never seen greater and more consistent staff cuts in the history of our records on them with 69% of national newspapers, 82% of local newspapers, and 52% of Internet news sources reporting significant cuts between 2005 and 2008. (Pew Research Center 2008) The bottom line is that, while profits may be increasing at certain pay scales, the overall financial efficacy of media producers is likely decreased. Instead, there are fewer overall producers, some of whom receive larger financial shares.

If we assume that economic means to work toward one's ends are equivalent to the information needed to work towards one's ends, the scale will still tip in favor of protection of the public's interest. If two liberties are, as we have assumed, exactly equally worthy of consideration, and furthermore are mutually exclusive, comparison of the size of each group seems to be the only way to make a decision. An estimate of the size of the media producing community (journalists, analysts, correspondents, and editors) in the US is approximately 240,000 people. However, that ignores other individuals involved in the news production process (e.g. camera operators) who may also suffer from the economic misfortunes of a media enterprise. If we assume generously that there are 10 times as many ancillary roles in news production as there are direct content roles, 2.4 million individuals stand a risk of serious economic loss. If we assume further that deregulation resulted in every one of those individuals losing money—though I have given reasons to think that would not be the case—the losers in this scenario would still be greatly outweighed by the winners, namely the general public; in the US at least 83% of the public consumes news products, totaling roughly 255 million individuals who stand a risk of losing crucial information. (Pew Research Center 2010) [22]

In addition to all these arguments, the good provided by the public sphere seems like what is known in the liberal tradition as a public good. Public goods are both non-excludable and non-rivalrous, meaning that once they have been produced there is no way to prevent others in a community from benefiting from them. This leads to the free-rider problem: if a good is non-excludable, there is little incentive for consumers beyond the first consumer to pay for access to it; those who benefit secondarily from the good are free-riding on the investment of those who sought it out and paid for it. Free-riding in turn means that there is little incentive for producers to provide the good, even though the benefit of having the good available may overall be very great. In fact, public goods tend to be

[22] This argument clearly makes us of a utilitarian approach to government, which, while popular, is not the only one. However, a deontic argument could also be made with the same conclusion. Ultimately, there would still be a duty to preserve the democracy that provided the liberties being weighed in the first place. If minorly limiting one group's rights proved crucial to preserving the democracy, as it does in this case, that group's rights would be the one's to limit, whatever their size. Thanks to Donald Ipperciel for this point.

extremely important (e.g. clean air and national defense), so liberal theory must account for how these things will be provided in a market economy.[23] The solution to this problem is collective or group rights.

According to Joseph Raz, a group right will be necessitated if the following conditions are met:

> ...an aspect of the interest of human beings justifies holding some person(s) to be subject to a duty... it serves their interest as members of that group... [and] the interest of no single member of that group in that public good is sufficient by itself to justify holding another person to be subject to a duty. (Raz 1986, 208)

The informedness of citizens fits this description. Both the particulars of sharing space and resources, and the group action necessary for political engagement require that a community have a shared understanding of what is taking place within it, and how that relates to the action of its government.[24] The public sphere, defined by Habermas (1962) as the social realm uniting private life and the government, is the sole provider of this good. The most crucial component of the public sphere is the news media, which supplies the information necessary for groups and individuals to assess the sphere of public authority. As such, there is already a precedent for requiring the provision of goods like a robust news media in democracies.

II.5 Concerns and Clarifications: How Much Is Enough?

When one party owes something to another party and the owed thing is potentially many discrete objects, identifying the amount owed is crucial; I may have carried out my duty as long as I have provided at least one of that thing, but I also may not have.[25] The extent to which news media must take a certain shape depends on what constitutes having been provided the appropriate media.[26] It could be argued that so long as a person had at least one opportunity to obtain information or express himself, whether or not he took it, the media would have executed its duty with regards to the public sphere. In that case, the minimally

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[23] Clean air is actually only a contingently-public good because we currently lack the technology to control access to it. I use it here to demonstrate the usual importance of public goods.

[24] It is important to note that news is not the public good, but rather a (the only) means for providing the actual public good, which is informedness.

[25] If I owe my neighbor her right to life, either I have satisfied that right or not—there are only two potential states of affairs that matter and the satisfaction of my obligation to her will be decided according to one of those two states. However, if I owe my brother some share of my toys, there is a great deal of variation in what he may end up with—he may receive one Lego, or several sets. Either amount will technically fulfill my duty.

[26] An important distinction should be made here: the media are required (from a democratic perspective) to provide the potential to be informed, not informedness.

acceptable public sphere could look almost any way, as long as it met that criterion.

This would be what Michael Garnett calls a *disjunctive* liberty: as long as one option is present, an agent is at liberty to do something. (2007, 429) However, the more appropriate conceptualization of liberty in the context of a democratic state is *aggregative* liberty: some "unspecified but sufficient number of more specific liberties." (Ibid) This fits best with intuitions that civil liberties are measured by thresholds:

> …while a group free to assemble only for five minutes on one day of the year atop a mountain peak has, *a fortiori*, the freedom to assemble, it does not, in the ordinary sense, enjoy freedom of assembly. For freedom of assembly, one requires some reasonable variety and number of such somewhat specific liberties.
>
> *Perfect* or *total* freedom of assembly is unnecessary for freedom of assembly. One may have freedom of assembly while being prevented from assembling at some specific time and place. For instance, groups A and B are mutually prevented from assembling at the exact same time at the exact same place, since bodies cannot interpenetrate. (2007, 430-1)

In other words, if the recipients of a certain right are agents, preservation of their autonomy seems to necessitate having some reasonable choice of where and when they partake of their right. Failing to provide a reasonable choice infringes on individuals' self-determination by forcing them to participate on the provider's terms. The minimalist public sphere must therefore provide an unspecified but sufficient number of individual instances for information-gathering and expression to take place.[27]

While the concepts "unspecified but sufficient" and "reasonable" are vague, they do provide something in the way of guidelines. In the same way that obscenity is used in deciding what is pornographic, reasonableness can be used to determine what is sufficient access to media, perhaps with some more specific definition, such as when the costs of participating are less than or equal to the costs of allowing participation. Some cases will be obviously reasonable or unreasonable and others may require more detailed investigation; the difficulty of determining some cases should neither indicate that it is impossible nor that the standard is useless.

II.6 Conclusion

[27] As with the argument in the previous section, the truth of this claim can be seen by comparing the centrality of these mutually exclusive rights to the provider's and beneficiary's life. In this case, the potential beneficiary stands to gain not only greater political efficacy, but greater control over the scheduling of her entire life.

In this section, I described a normative theory of democracy intended to be the least demanding of a citizens, and therefore the public sphere, while still remaining robustly democratic. I argued that this form of democracy would require a public sphere of a certain type for its citizens to effectively engage the political process. The purpose of this section was to establish a democratic baseline for the public sphere—a public sphere so minimally democratic that any public sphere providing less than this idealized one could not be sufficient for a democratic government deserving of the name. In the following sections, I will describe the current United States public sphere and the results of its (partial) deregulation. Ultimately, I will compare the US public sphere to the minimalist public sphere I have described in this section, using this case study to draw a more general conclusion about the appropriateness of media deregulation in a democratic state.

Part III: The Modern Media

The US makes an ideal case study for media deregulation because it has both a long history of deregulation, meaning businesses have had time to adjust strategies, and a large body of media statistics that allow the analysis of these adjusted strategies. This section will discuss the history of deregulation in the United States, as well as the anticipated and actual results of deregulation on the public sphere. Using the information above, this section will conclude by comparing the results of deregulation to the minimalist democrats ideal of the public sphere. Ultimately, I will argue that deregulation does not provide an adequate public sphere insofar as it systemically denies information to certain groups.

III.1 A Brief History of Media Deregulation

Deregulation of the United States media started in the mid-80s with the weakening of the "7-7-7" rule, which had been in place for thirty years and allowed media firms to own no more than seven television stations, AM frequencies, and FM frequencies each. (Dorgan 2005, 446) This first ownership adjustment was modest by contemporary standards—it allowed a company to own an additional 5 of each station type. FCC Chair Fowler led the change, arguing ultimately for the abrogation of any rules that "restrict growth by existing players" particularly those "restrictions on ownership of media facilities." (Fowler and Brenner 1982, 217, 245) Fowler also advocated and eventually achieved the retraction of ascertainment standards and program log requirements used to determine the degree to which a media provider was serving the public's interest.[28]

[28] Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations, 98 FCC 2d 1076 (1984) recon. denied, 104 FCC 2d 358 (1986), affd. in part and remanded in part sub nom. Action for Children's Television v. FCC, 821 F.2d 741 (D.C. Cir. 1987)

Deregulation peaked in 1996 with the Telecommunications Act, which specified, among other things, that the FCC review its broadcast ownership rules every two years and "repeal or modify any regulations it determines to be no longer in the public interest." (Telecommunications Act of 1996) The changes made in this act were substantial: broadcast license duration was extended from 5 to 8 years, the limits on the number of radio and television stations one entity could own nationally were completely removed subject to limits within individual markets, and the national television audience cap was raised. [29] (Ibid)

As a result, the media was swept with the rash of consolidations that dominated headlines in the late 90s: Viacom acquired CBS, Comcast acquired AT&T, News Corporation acquired Direct TV after lobbying against EchoStar's bid on anti-trust grounds, and AOL acquired Time Warner.[30] (Lauria 2004) Mergers and acquisitions in this period totaled $1.3 trillion with AOL Time Warner's merger becoming the largest in US history at $165 billion. (Warf 2007, 90-1) Mergers like these have changed the landscape of the US media. The top five media firms, AOL Time Warner, Walt Disney, Viacom, News Corporation, and Vivendi have unprecedented reach, controlling 75% of the US television audience and 90% of the television news audience. (Warf 2007, 91) Twenty-five years earlier, the media assets controlled by these five entities were held by 50 different corporations. (Bagdikian 2004, 27)

The trend toward consolidation did not end with the high-profile mergers mentioned above. Many smaller mergers were taking place at the same time and were no less relevant to the shape of the public sphere. Clear Channel Communications grew from 12 radio stations—the limit stipulated prior to the Act—to 1,214 stations and 105 million listeners; Clear Channel also acquired 37 television stations by 2003.(Schwartz and Fabrikant 2003) The same firms that were involved in the large-scale mergers were also consuming smaller enterprises. News Corporation alone now owns 175 newspapers and magazines worldwide, 35 local news stations in the US that reach 44% of the local news audiences, and 33 regional and national cable/satellite channels, on top of movie studios and publishing houses. (Warf 2007, 96)

III.2 Anticipated Results of Deregulation

The anticipated results of deregulating the media can be summarized by the following quote from FCC Chair Fowler:

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[29] For radio markets with 45 or more commercial stations, one entity can own no more than 8, only 5 of which may be on the same service (AM or FM) and so on for smaller and smaller groups. This metric ceases to apply if "the Commission determines that such ownership, operation, control, or interest will result in an increase in the number of radio broadcast stations in operation," (202 (b) 2) which means that a corporate entity may not buy out all the radio stations in a particular area, but they may create new radio stations that increase their share of the market and eventually drive other stations out of business. The national audience cap for television is 35%.

[30] There were other large mergers beyond these: Bell Atlantic acquired Nynex and GTE, forming Verizon, MCI bought Sprint, and Sony acquired MGM.

> …Consumer satisfaction is enhanced by freedom of choice in the price, quality, or variety of products. We increase social utility by promoting competition, removing artificial barriers to entry, preventing any one firm from controlling price or eliminating its competitors, and in general establishing conditions that allow the price of goods to be as close as possible to their cost of production.

His first point is a comment on the existence of the Public Interest Standard at that time. The Public Interest Standard had been put in place initially as a way to guarantee that broadcasters were acting as trustees of a resource for a community. It required, among other things, that broadcasters gather and meet with community leaders for the purpose of ascertaining what the community wanted from programming. The broadcaster would then keep logs of what was aired so that the FCC could evaluate the broadcaster's success in serving the community. Other stipulations of the standard included at various times a minimum percentage of airtime dedicated to news and children's programming, as well as equal and comparable airtime designated to each candidate in a political race.[31] Fowler emphasized freedom of choice because he believed the above process denied consumers direct influence in programming; if the public wanted 20% of airtime dedicated to news, they would support entities that provided it. In other words, he felt that the market was a better instrument for measuring preferences and therefore would better serve communities.

The second half of Fowler's quote alludes to perceived problems in the regulations media entities faced at the time and what their removal would offer consumers. Preventing media firms from owning more that seven of each station type protected certain markets—if I could only own seven FM radio stations and I wanted to make money, I probably would not open a station in Butte, Montana. However that means that the local Butte radio station is safe from competition and has no incentive to provide better than the minimally acceptable service. The local station would also have undue control of the price of radio advertising. Removing ownership limits would make it financially feasible for there to be multiple channels in every market, no matter how small.

The assumption that this sort of deregulation would make services cheaper—"as close as possible to their cost of production"—is based on the belief that, faced with the threat of competition, media firms would react by becoming more efficient in the creation of products in a way that was not unacceptably detrimental to the quality of the products. The latter assumption stems from the belief that after a certain point, as the quality of programming declines, so will the consumption of that programming, which serves as an incentive for producers to

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[31] The requirement for equal and comparable airtime for opposing candidates was enacted to prevent broadcasters from using their power to advocate for certain candidates. However, broadcasters responded by removing all coverage of candidates instead of letting the opposite side have airtime. (Baker 2002, 204)

maintain at least a relatively high level of quality. Furthermore, producers with inefficient or low-quality programming could be bought and fixed up by firms more capable at producing media. These strategies appear not to have been those adopted, as the following sections will show.

III.3 Types of regulation

Before moving on, I would like highlight the specific types of regulation that come into play throughout this section: ownership limitation, audience limitation, and content provision.[32] Ownership limits, as one might expect, limit the number of outlets a single media firm can own, usually with reference to the medium involved. For example, the 7-7-7 rule limited the number of AM radio, FM radio, and television channels one firm could own. Ownership limitations recognize two important facts about media, namely that common owners will result in common coverage of topics (leading to possibly harmful homogeneity in the public perception of certain views), and that monopolies in media will be as harmful (for the same reasons) as monopolies in other sectors. The second type of regulation stipulates the audience size of each of a firm's media, limiting the percent of a certain type of audience that can be held, for example 45% of national news audiences. Limits like these prevent one firm from achieving a monopoly of ideas, particularly an area-specific monopoly, and thereby having an excessive influence on the outcomes of political decisions. They also prevent monopoly pricing from arising in any given community. The third type of regulation pertains to content. Content regulations (in democracies, at least) dictate not the exact contents of news programs, but rather what percent of content in various news outlets must be dedicated to a particular type of news. For example, the Public Interest Standard formerly used in the United States required things like equal coverage of candidates running for an elected position, a certain amount of programming for children, and a certain amount of programming meeting agreed upon needs of the community, as recommended by community representatives. The goal of content regulations in democracies has traditionally been to encourage adequate coverage of topics relevant to viewers. The Public Interest Standard was explicitly enacted for the purpose of ensuring that the media would provide a public good.

Each type of the above mentioned regulations has been employed in the United States and responds to specific concerns not just regarding the pricing of certain goods, but also the public sphere's influence on democratic outcomes.[33] Monopolistic pricing is most problematic, after all, when it involves a good consumers actually need in order to function as members of a society (e.g. the

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[32] While there are content limitations placed on media, for example on what words can be said during certain hours of programming, content provision regulations are more relevant to discussions of news media because of the historical existence of things like the Public Interest Standard mentioned above.

[33] Most Western democracies employ some combination and variation of these types of regulation. A good example is the United Kingdom and the BBC.

good of water access). Each of these regulations addresses a state of affairs that is considered problematic precisely because the media, as a key player in the public sphere, is acknowledged to have such a significant role in determining political decisions; if the media were not so influential, the only concern might be monopolies charging too high a price for goods.

Each of these types of regulation obviously inhibits the behaviors of those who own media, insofar as they stymie the influence of free market forces on products. Ownership limits prevent successful outlets from taking over less successful outlets, and audience caps and content prescriptions theoretically inhibit the marketplace of ideas. In general, an objection to one is an objection to all: if the market is the best determiner of the allocation of goods, limiting ownership, audience, and content all clearly prevent the market from determining the shape of goods. For this reason, a governing body with a deregulatory attitude will tend to want to remove all three types of regulation, rather than just one or two.

III.4 Why the Market Will Not Deliver

Many of the strategies anticipated by advocates of deregulation rely heavily on the assumption that the market will respond to and provide what people want. There are several reasons this will not be the case. The first is a conceptual point: willingness and ability to pay is not necessarily the best measure of actual preference. There is nothing that inherently recommends it over other metrics, such as expressing preference in an allocation of points, where each person starts with an equal amount. (Baker 2002, 63) Furthermore, willingness and ability to pay is a measurement that will count the preferences of some groups much more than others. For example, a wealthy person might be willing to pay $200,000 for her child's college education, whereas a less wealthy person may only be willing to pay $5,000; the less wealthy person does not therefore value the education of his children less.

This leads to the next point, which is that questioning the appropriateness of willingness and ability to pay is consistent with the way societies already parse market and non-market items:

> …Society concludes that market responses to preferences are appropriate for a wide range of goods but also concludes that a more egalitarian response is appropriate for goods that relate to a person's status and capability of being a full member of the community. (Baker 2002, 74)

The status goods Baker mentions are things like basic rights, votes, and citizenship. While some media products (i.e. entertainment) may be appropriate to choose via the market, it is at least far from obvious that news media products fit in the same category. On reflection, news media seem to have a goal much more like public schools and much less like sit-coms.

In addition to the arguments above, there are three practical reasons news media will not be highly responsive to the market. First, media of all kinds tend to create a significant amount of positive and negative externalities that cannot be captured in their price (e.g. the ability to induce riots or topple an unjust leader). (Baker 2007, 70) Unlike other products, it is difficult for a media firm to put a dollar value on either eventuality. In contrast, an ethical clothing company can calculate, via the cost of carbon credits and living wages, a relatively exact cost to pass on to the consumer. Inability to capture these externalities and the subsequent inability to appropriately price goods hampers market responsiveness.

The second practical reason is that consumers are not the only purchasers of media products and therefore not the only party to be pleased. Since media products take in revenue from both viewer/reader subscriptions *and* advertisers, media will necessarily have two groups' preferences to respond to. Considering news media as a whole (newspapers, radio shows, cable news, etc.) advertising dollars make up more than half of any given news source's revenue stream, making them a more significant customer than the public. And while advertisers themselves may be thought to represent the people's interest (by providing what they think they need or desire), that is certainly not *always* the case.[34]

Finally, there is the packaging of media products, which is enough in itself to show that news media will not be responsive to preferences. Even assuming that willingness and ability to pay were legitimate measures, the fact that most news media come in bundles makes voting with one's dollar impossible. Apart from newspapers and Internet sources—which make up only 20% of news consumed on a given day—news tends to come packaged with entertainment media. (Pew Research Center 2010) Local news is just one show on a local channel that runs 24 hours, and the same is true for network news. Cable news channels come packaged with all other cable channels, as do satellite radio news channels. In order to vote with her dollars, a consumer must be willing to relinquish access to all other goods bundled with the unwanted good, as well. Choosing not to tune into the station (to avoid being a consumer advertisers pay for) is so ineffective it is scarcely measurable; viewer numbers are still

[34] For example, in 2009 Toyotas experienced a malfunction that apparently caused random acceleration, some of which resulted in accidents. Drivers who experienced the problem felt it was an electronic malfunction, but Toyota maintained that it was user error involving foot mats. During this period, it would not be unreasonable to suppose that Toyota had an interest in news stories reporting their explanation of the acceleration events, as opposed to news stories suggesting they were at fault for the accidents. Toyota is also a large company that purchases significant ad space in various news media. Acknowledging this potential conflict of interests between their financial backers (sponsors) and the public they serve, news shows like The News Hour with Jim Lehrer disclosed the fact that they were partly sponsored by Toyota each day that they covered the story. While this is a very specific example of the potential conflict between media consumers and advertisers, more general trends can readily be imagined. For example, a company that produces disposable Tupperware will not want to purchase advertising space between news stories about the harm of disposable goods on the environment. If the Tupperware company is a significant enough advertising interest, it may be a better choice for news outlets to simply omit the story about disposable plastics and retain that income.

determined in relatively rudimentary ways, via surveys. Unless an individual is part of the surveyed group, or part of a large, organized dissent, her absence goes completely unrecognized.[35]

III.5 Actual Results of Deregulation

Deregulation is designed to, and does, increase competition among media firms. There are two broad strategies for maximizing the competitiveness of a business. The first strategy is minimizing the average production cost of goods. The second strategy is to maximize revenue, either by selling a greater number of units at a lesser cost per unit, or a lesser number of units at a greater cost per unit. Either strategy could be adopted without the other, but pursuing both results in the highest possible net income, which is revenue minus production costs.

The revenue sources of news media have had a significant impact on the outcome of deregulation. Unlike other forms of media like movies and sitcoms, news media are largely limited to two streams of revenue. While a sitcom makes money from DVD sales, merchandise, and repeat airings—on top of advertising dollars and television subscription fees during the initial airing—news programming is largely restricted to income via advertising and subscription fees. Different sectors of the news media rely to different extents on these two sources of income. For newspapers, advertising is the greatest contributor to income, accounting for between 70-85% of their annual revenue. (Mensing 2007, 25) Cable news, on the other hand, receives roughly half its revenue from advertising and half from subscription fees.[36] Local and network channels carrying news (e.g. NBC and ABC) do not release data on revenue, however it is known that advertising during news programs on local stations brings in an average of 45% of the station's overall income. (Project for Excellence in Journalism 2005)

The importance of advertising income in service is evident in the strategies adopted by media firms. In the wake of the Telecommunications Act, Graham and Marvin predicted that rural areas would be bypassed by companies developing advanced communications technologies that most urban areas now take for granted, such as high-speed Internet and cable. (Graham and Marvin 1996, 325) This prediction has borne out in a more general trend of "cherry-picking" for the most profitable customers, resulting in a de facto abandonment of less profitable customers, both rural and urban. (Warf 2007, 99)

Cherry-picking has largely taken two forms.[37] First, the value of certain demographics to advertisers causes media outlets to offer lower subscription fees

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[35] Internet news sites have an advantage on this front since they can tally things like the number of hits their site receives. However, as will be discussed below, even hit-counters are an imperfect measure of audience size.

[36] Cable channels negotiate subscription contracts with cable service providers. CNN and Fox are both currently around fifty cents per subscriber, while channels like ESPN are around three dollars. (Project for Excellence in Journalism 2009a)

[37] The discussion of cherry-picking that follows is clearly focused on televised news. Greater treatment of televised news is warranted, however, because it makes up 49 of the 66 minutes (average) per day spent by Americans on the news. (Emery 2005, 742)

or free trial subscriptions to those demographics, effectively causing the advertisers to subsidize the media consumption of those groups. (Baker 2002, 75-6) Poorer areas are not offered deals and freebies, and so are charged the higher "normal" price, which takes up a larger percent of their monthly income, making the price even more inflated. This makes cable and internet service prohibitively expensive for certain groups, explaining why as of 2008, "only 25% of low-income Americans—and only 43% of African-Americans of all incomes—have broadband access at home, versus the 82% of households making over $100,000 a year." (Horrigan 2008)

The second method of cherry-picking avoids physical infrastructure costs by simply failing to offer service at any price in an area. If whole neighborhoods are unable to afford cable at the prices presented, the provider is under no obligation to invest in the physical infrastructure for carrying cable to that area, a cost which is ordinarily recouped by greater advertising dollars, but which would not be for low-income groups. Rural areas have the dual disadvantage of having spatially diffuse households, as well as a lower overall number of households. Being spatially diffuse increases the fixed cost of providing service to an area—there are just more feet of cable and piping needed per household reached. This is a classic diseconomy of scale: increasing the number of purchasers (viewers, in this case) also increases the long-run average cost per unit because of the infrastructural needs of the new viewers. In addition to a higher per-customer investment, the company acquires fewer new households between which it can spread the costs of that initial investment.

Rural areas typically lack other qualities that might mitigate the higher cost of providing them service: they are also disproportionately poor compared to urban areas, making them unattractive populations to advertisers. Poor urban areas face this problem exclusively; while laying the physical infrastructure may be the same price or cheaper than other areas in the same city (e.g. in apartment buildings vs. houses) advertisers are decidedly less interested in populations with fixed incomes or otherwise low disposable income. As a result, rural areas still rely heavily on dial-up access to the Internet, which is correlated with lower rates of contribution to and use of the Internet as a source for news, due to its frustrating slowness. (Holahan 2007)

If a media enterprise is interested in minimizing the cost of its products themselves, as distinct from their distribution, there are multiple ways to do so. Cuts in staff have played significant a role in cost management, with 69% of national newspapers, 82% of local newspapers, and 52% of Internet news sources reporting noticeable cuts over the last three years alone. (Pew Research Center 2008) In non-print media, staff cuts have resulted in what Mark Emery calls the "news/ed/ad" mixture: a programming strategy that minimizes the expensive aspects of news, like investigative journalism, in favor of the less expensive aspects like editorial content. (Emery 2005, 473) Anchors can also be shared between editorial and content-based programs (e.g. Brit Hume and Chris Matthews), decreasing the number of journalists needed to maintain a channel.

Much in the way the concern of keeping advertisers results in self-censorship and news biased toward at wealthy demographics, the high potential profit derived from editorial programs has lead to a tendency to favor the presentation of news items that can or will be discussed later in those shows; this unduly favors stories on topics amenable to back and forth debate, like abortion. (Emery 2005, 745)

The ad aspect of news/ed/ad is particularly concerning. It is the self-advertisement that broadcast media use to direct attention to their editorial programs. Not only does the "the market create incentives to generate particular preferences," but a firm participating in this type of market "has a greater incentive to encourage more cheaply stimulated or cultivated desires or preferences." (Baker 2002, 88-90) This means that the market pushes the long-term strategy of a media firm to encourage its viewers to have a preference for the products it creates most cost effectively (editorials vs. investigative pieces), to carry products that satisfy preferences that are cheaply created, and to minimize the number of different preferences held.

Another method for reducing production costs is to create less content "in house." Sometimes this takes the form of using a greater number of the stories from wire services, like the Associated Press (AP). AP is able to split the cost of a story among the hundreds newspapers, television programs, and radio shows it sells the story to. Another form of content sharing has also appeared recently. According to Pew's 2009 State of the News Media report:

> Papers in South Florida and Texas now share copy rather than simply compete. The local television affiliates of NBC and Fox are sharing video of breaking news events. Online, CBS Radio began a joint venture with AOL and Yahoo, pooling its stations together on one platform. (Project for Excellence in Journalism 2009b)

While some of these varieties of resource sharing seem harmless, others do not; sharing local copy seems to undermine the incentive competing papers have to keep each other honest. More importantly, media firms share content among their different outlets. Clear Channel has adopted this approach explicitly as a cost-cutting measure. (Jones 2003) The potential harm of content sharing is not limited to homogenous news coverage, though that is cause for concern. As demonstrated by the case of Minot, North Dakota, clone broadcasts can prevent vital information from reaching small communities.[38]

III.6 How These Changes Are Concrete Failures of the Public Sphere

[38] In 2002 there was a train crash that caused toxic fumes to spill out over the community. The emergency alert system was improperly engaged and six of the seven radio stations in the town were owned by Clear Channel, who had them all on auto-pilot; the seventh was a small religious station. Emergency bulletins were delayed until the police were able to locate someone who could override the music. (Dorgan 2005, 449)

The purpose of this section will be to compare deregulated media trends to the media standards indicated by the section on minimalist public sphere above. If deregulated media fail to provide the information required for functional minimalist democracy, it will fail to provide the information required for any democracy, since any other will be more epistemically demanding. First I will consider the public sphere elements dictated by the internal limits on democracy, then I will discuss the elements more specific to minimalist democracy.

The three internal limits of democracy summarized above by Dworkin were part in, stake in, and independence from elected outcomes. Having a part in a democracy was defined as not having structural assumptions limit one's political contribution. An example of a democracy that fails this test would be one that unreasonably disallows a certain group of citizens to vote; reasonable disallowance would have to make reference to the citizen's legitimate incompetence (e.g. because she is a child). However, a structural limit on participation need not be the explicit denial of suffrage. Jim Crow laws implementing poll taxes, for example, had the stated purpose of being a flat tax for government services but (arguably) the intention and outcome of their implementation was the disenfranchisement of black citizens and recent immigrants.[39]

Assuming the stated intention of the poll tax—that it was simply a flat tax on civic-minded citizens, or a way to make sure people took voting seriously—the consequences were sufficiently disproportionate for certain groups that it raises the question of structural assumptions. The assumption underlying the poll tax is identical to that underlying deregulation of the media: willingness and ability to pay for access to something is an effective and just measurement of strength of preferences. If you care strongly about the government, you will pay to help it function and in order to have a say. Unwillingness to pay indicates apathy or distaste for those things. As I have argued above, willingness and ability to pay is sometimes, but not always, an appropriate rubric. An economic barrier to physical access of polling places is not significantly different from an economic barrier to information about where those polling places are, and what effect the actions within it will have on one's life. Both represent the structural denial of means to achieve citizens' most fundamental ends. If an individual's ability to advocate for herself in elections is at least partly a function of the knowledge she has of her own situation, and if policy enacted by the government predictably leads to decreased knowledge of her situation, there is a structural assumption about the individual's worth in a democratic context.

In terms of stake—the proportionate consideration of the impact a voted decision will have on a person's life—deregulated media are even less adequate. The practice of cherry-picking customers makes cable and internet service

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[39] This is especially clear given the exemptions to poll taxes—anyone whose father and grandfather had voted was able to waive the fee. Having only received the right to vote in 1870 (with poll taxes springing up in 1876), there was a significant period of time where it was nearly impossible for a black person to receive this exemption.

unavailable to significant portions of the population. The percent of US citizens who access the Internet, either at home or elsewhere, has leveled off at around 66%. (Project for Excellence in Journalism 2009c) Of those who do not access the Internet, only 33% say that their reason is that they do not want to access it. The remaining 66% of Americans who do not access the Internet site its cost or unavailability in their area as the reason they do not have it. (U.S. Department of Commerce 2004) That means fully 22% of the US population lacks access to cable and Internet news in their home, and Internet in their life altogether because it is unobtainable, a state of affairs that is exacerbated by deregulation. This leaves these populations with newspaper, public radio, and public television as the only available news sources.[40]

News content is also cherry-picked in that only the most profitable topics and demographics are addressed, leaving the interests of certain portions of the population ignored. A three-year study of CBS, ABC and NBC, the major network news providers, showed that there were just 58 stories on poverty. (De Mause and Rendall 2007) This is even more significant since Hurricane Katrina, an event that had a vastly disproportionate affect on the low-income citizens of New Orleans, took place during the study period. For the purposes of comparison, 58 stories is about 0.12% of the stories covered in those years, meaning that, except for the six months following Katrina, "barely one network news segment a month so much as mentioned poverty or the needy." (Ibid.) While this is especially relevant to the US since it has more low-income and impoverished citizens than other democracies, the average poverty rate for western democracies excluding the US is 9.8%—a non-negligible portion of a population to go under-served.[41] (Mischel et al. 2009, 384) In addition to deflating the consideration of some portions of the population, the deregulated media will inflate consideration of other portions. The tendency toward consolidation of media firms and the associated resource sharing means that those whose interests align with deregulated content will have those interests overrepresented in every medium.

As I argued above, the limited scope of voting advocated by democratic minimalists entails taking the threats of uninformed, apathetic, and random outcomes seriously; if these outcomes were not unwanted states of affairs, there

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[40] This may sound like a great number of options, but in practice it is not, especially for rural populations, where a local newspaper may or may not exist, and public radio and television may be limited to as little as one channel each, with news programming making up only a fraction of the content run. Furthermore, the media consolidations described in the above section—a direct result of deregulation—have resulted in a number of the public radio and television stations being bought and filled with non-local, generalized content. In other words, the remaining options may or may not contain any content that is actually relevant to the consumers from a democratic perspective.

[41] For comparison, one-third of all US citizens will experience government-defined poverty within a 13 year period. (De Mause and Rendall 2007) 9.8% intuitively seems to be a non-negligible portion of a population to be under-served, however I will leave the question of what an acceptable percent of under-served citizens would be unanswered in this paper.

would be no reason to advocate limited citizen participation. These potential states of affairs are only bad according to two standards: democracy being the genuine will of the people or the outcomes standing a greater chance of being bad for citizens. Either potential reason for advocating limited participation implies that regulated media is preferable to the kind provided via deregulation.

If the value of democracy is that it represents the genuine will of the people, the conclusion of my discussion of Bernard Williams above applies here also. We can either say that whatever a person does is de facto an expression of his will or we can, along with Williams, claim that intention or other mental objects are relevant to determining someone's desires and will. The latter claim aligns better with our intuition and understanding of psychology. For example, a life-long smoker discovers she is pregnant. Knowing that smoking with harm her baby and also wanting the absolute best for it, she has a strong desire to quit. Yet, often in this exact situation, women continue to smoke while pregnant, hating themselves for being unable to quit and regretting the action each time. It would be odd to say that her will and desire was to smoke, when she did not identify with that goal and wanted to distance herself from the action. Likewise, it would be odd to say that an uninformed decision (e.g. drinking gasoline) or a random/manipulated decision represented the public's true will. If an arrangement of the public sphere makes it more difficult for individuals to effectively exercise their will, that arrangement is less desirable than one that makes exercising their will less difficult.

If voting is limited to avoid the potential for bad outcomes—here bad outcomes could be anything from illiberality to significant loss of utility—a deregulated media is also inadequate. The populations under-served by that media will lack the information necessary to effectively engage in basic means-ends reasoning for themselves, including on topics directly tied to their rights or happiness. Furthermore, while minimalist democracy does not require citizens to deliberate with others and consider how their actions affect co-citizens, it also does not discourage these things. As a result, individuals enthusiastic about their government and community may be unable to advocate on others' behalf. Of special interest may be the possibility of political action in the service of under-served populations who are also unable to politically engage themselves, for example children in low-income households, the severely disabled, and ex-convicts. Just as lack of information will make it difficult for citizens to engage in basic means-ends reasoning for themselves, so will it make it difficult to engage in basic means-ends reasoning regarding the health, safety, or rights of others. So, while deregulated media will not completely fail to provide information to citizens, it complicates the avoidance of bad outcomes for certain populations.

Another feature of minimalist democracy was its focus on local government. Though minimalist democracy limits topics of political discussion to matters of basic rights and the character of politicians, there would still be a need for investigative journalism. The content of the stories might change, but their usefulness in allowing citizens to advocate for themselves would not. The media

trends currently being witnessed are extremely harmful to local news producers. While there is an overall failing trend in non-cable televised news, local stations bear the greatest load by far, losing larger percentages of their income and staff than network news. (Project for Excellence in Journalism 2008)

Two other trends—copy sharing and broader audiences—decrease the quality and quantity of local news. Radio stations playing the same content across the country (with local advertising at breaks) will not address issues unique to each locale. Locale-specific content would not share well, since it would be irrelevant to most consumers at any given moment, and would be significantly less cost effective since it would require a greater number of content experts. Furthermore, a radio station sharing the cost of content creation across two hundred other stations will out-compete a local station. In *Carroll Broadcast Co. v. Federal Communications Commission*, the Supreme Court ruled to deny a license to a new station for just that reason—the addition of another station to the community would have split advertising revenue, making the local station financially unfeasible. A deregulated news media is encouraged to use methods of production that lead to broad, unspecific coverage that is acceptable to the largest audience. These trends are inconsistent with adequate local coverage.

III.7 Objection: Is it really that bad?

While there are clearly some imperfect aspects of the US media, it is not completely devoid of informative news. There are several reputable nation-wide newspapers, National Public Radio, and public news shows like The News Hour with Jim Lehrer. Furthermore, those with access to the Internet and certain cable channels can consume news from outlets with international recognition, like the BBC and Al Jazeera. Those with Internet access can also read any number of blogs discussing specific topics of interest, from constitutional reform to trade union negotiations. There are also a wealth of acceptable-quality news sources, like CNN and most large newspapers. Does the existence of those resources not indicate that sufficient news media exist?

To answer this question I must reiterate the argument I am actually making and draw some distinctions. First, I am not claiming that the present media is equally inadequate for all citizens. There is strong reason to believe that many citizens, particularly affluent, politically moderate members of large urban areas, will be more than adequately served by the present media. Those citizens will tend to benefit from the best-funded public radio and television channels, multiple newspapers, easy access to news magazines, easy access to cable and Internet service, and abundant public libraries, as well as the public transportation to get to them. However, the fact that the present media affords citizens in that group with such a wealth of news does not mean that all citizens, even those within the same city, will have their needs met. Low-income citizens and groups with interests outside the cultural average (e.g. non-centrists, and certain religious or ethnic groups) will be under-served by this system.

First, low-income citizens face a higher opportunity cost for obtaining an adequate amount of issue coverage. Assuming they watch public television and listen to public radio, they will have a cursory knowledge of national occurrences and a few key ideas about current happenings in their city. Free local news programs run for roughly 30 minutes three times per day, and must cover topics of interest to sometimes a very large and diverse population.[42] Other programs, like the News Hour, are in some ways ham-strung by their high standards: the quality and depth of their coverage means that in a full 60 minutes of reporting, only five to seven topics are covered, half of which focus on international news. NPR faces the same problem in spite of running 24 hours a day: it covers national, international, local, and cultural news and must limit its topics to those that share well.

For a low-income citizen to obtain, for example, in-depth coverage of their local politicians or issues of strong personal importance (e.g. whether a certain area will be receiving more rent-controlled apartments), their best resource may be a public library with subscriptions to all the area papers, getting to which involves a much greater investment of time than simply flipping on a computer and searching the Internet. Furthermore, once a low-income citizen has obtained access to news sources, it is extremely unlikely that she will find coverage of the issues most central to her life for the reasons listed above: advertisers, who are absolutely critical for all news media, are not interested in audiences that cannot afford their products; it does not pay for news firms to attempt to attract low-income consumers with stories that they want to hear about. [43] Additionally, these points entirely ignore the fact that non-affluent citizens will also tend to lack the cultural capital necessary to make the most of the resources they do obtain access to (e.g. strong literacy).

The fact that low-income citizens will tend to be under-served by a deregulated media is sufficient to conclude that that media is inadequate by democratic standards. However, many groups outside the statistical average of a population will also find their needs ignored given the production trends detailed in the previous section. Diverse content is more expensive to produce and cannot be sold to as many people, so producing it has limited economic value to most firms. All of the trends described above, especially cherry-picking and content sharing, contribute to ever greater homogeneity in news coverage—something of

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[42] It is worth mentioning that local news outlets are also feeling the pressure to use wire content, most of which is not locally focused, with a recent survey of local news station sites indicating wire content made up 40% of the total content on average. (Project for Excellence in Journalism 2005)

[43] Howard Nye has noted that the arguments I make in this section seem paternalistic toward low-income citizens, in that they appear to assume knowledge of what those citizens should want from their news media. I would like to clarify that I am not implying that any individual of any group *must* consume the news most relevant to effectively advocating their basic needs. I do think it is reasonable, however, to demand that all groups have reasonable access to information about how government is or is not meeting their basic needs, whether or not they ultimately choose to consume that information.

serious concern for any democratic state, given that democracy fundamentally recognizes the diversity and autonomy of those ruled by it.

Part IV: A Porterian Analysis of Media Competition

The significance of the previous section depends on whether the outcomes of the US case are predictable, as opposed to coincidental, results of deregulation. In this section, I will argue that there is a very strong, if not strictly logically necessary, correlation between deregulation and the sorts of changes in news service mentioned above. I will first present an analysis of both the static and plastic aspects of the news media market, drawing on Michael Porter's description of the five forces that shape markets and firms strategic positions within them. Once the unique features of the news market are clear, I will use Porter's *Competitive Strategy* (1980) to analyze actual and potential strategies for coping with both the inherent shape of the market and the changes brought about by deregulation. These analyses will show that the competitive strategies discussed above are a predictable result of decreased regulation because of the unique features of news as a product. [44]

IV.1 Factors Influencing the News Media Market

The five forces Porter identified as contributing to the shape of the market—how competition manifests within that market—are supplier power, buyer power, threat of substitutes, entry barriers, and degree of rivalry. Each of these forces is a species of reducing production cost or increasing overall revenue by increasing the number of units sold or increasing the price obtained per unit.[45]

Supplier power will play a relatively limited role in determining media competition because media companies, compared to companies producing tangible goods, purchase largely one-off supplies like journalists, presses, microphones and cameras; once a camera has been purchased or a journalist's contract fixed, the media outlet can make repeated use of that camera or journalist for years afterward. Another way of saying this is that there is a relatively low impact of inputs on cost. While bread prices rise with the price of flour, television channel prices do not rise (or at least not noticeably) when the price of cameras goes up; flour suppliers, therefore, have a much more significant role in bread markets. A consequence of this state of affairs is that the news market is relatively free from constraints imposed by component suppliers.

Buyer power plays a more significant role in determining the competitive strategies of media outlets. The news media industry is consistently characterized

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[44] Using Porter's analysis of competitive strategies is appropriate here because it is not only one of the most in-depth treatments of the topic, but its enduring predictive value has made it the most widely taught theory of competition in markets to date. Arguments to modify Porter's model have been largely absent, and those that have met with any degree of success, for example Kim and Mauborgne's value innovation model, have required only minor additions. (1997)

[45] Note that not every determinant will come into play in every market, depending on the nature of the good produced.

by low audience buyer power and comparatively high advertiser buyer power. Apart from individuals who are members of organized and sizeable groups, most consumers lack significant bargaining leverage with media producers. In the case of televised news, this is partly the result of how channels are purchased. Channels with news programming are sold exclusively in bundles with other programs, where the news channels make up a small portion of what is received with a subscription. In other words, my cable fees will still partially fund certain cable news channels, even if I would choose not to have such channels if I could.[46] This makes the switching costs for consumers extremely high—if I wish to withdraw my contribution to a news channel, I must forfeit all channels bundled with it.[47] Furthermore, buyer information—a crucial aspect of buyer power, insofar as it allows buyers to choose where to spend their money—is necessarily limited to what the media outlets are willing to report on themselves and others. Even independent studies must be publicized somehow.

Advertisers, however, have much more significant leverage. While advertisers and subscribers may be the source of roughly equal amounts of revenue for cable news, the number of advertisers is significantly smaller and each contribution to the total revenue of the station significantly higher, giving them much greater bargaining power with the station. The same is true of newspapers, who receive the vast majority of their income from advertising. While the switching costs to newspaper consumers are much lower than those to televised news consumers, individual subscription and newsstand sales contribute a similarly tiny fraction of newspaper's income. Newspapers can be more effectively boycotted should a group decide to do so, but again, the group boycotting would have to be fairly sizeable to accomplish anything, and publishers are unlikely to do anything that offends a *significant* portion of their audiences. The relatively lower buyer power of consumers paired with the relatively high buyer power of advertisers means that, when considering the shape their news will take, media firms will first aim to please advertisers.

The competitive strategy a firm will adopt is also determined by the degree of rivalry among firms. An industry could have other qualities that ordinarily lead to strong competition, such as price-sensitive products, but without a corresponding high degree of rivalry, the potential to undercut others' prices is unrealized. An atmosphere of low rivalry could arise for any number of reasons. Rivalry tends to drive down profit margins, so a relatively concentrated industry might implicitly fix prices in order to maintain a sufficient profit margin. Concentrated industries make implicit price-fixing easier because there are fewer potential free-riders and greater possibilities of retaliation, since each firm is large

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[46] Furthermore, channels that are not entirely dedicated to news programming package an entire line-up, for example morning shows, soap operas, kid's programming, sitcoms, *and* nightly news. In this case, the buyer is not only unable to choose whether or not to have the channel, but also unable to choose which selections from the line-up to pay for.

[47] Recently, a class-action lawsuit was filed against most broadcast networks and cable service providers for the very reason that bundling denies consumers the ability to vote with their money, thereby creating an environment that allows media cartels. (Bode 2007)

enough to spare resources for retaliating. Deregulation does, as intended, greatly increase the degree of rivalry in the media market immediately after taking place. However, for reasons discussed below, firms will work toward decreasing the rivalry amongst themselves. As a result, the degree of rivalry within the current media market is fairly low—the wave of consolidations that occurred in the 90s have left the vast majority of the news media in the hands of five companies; no company stands to gain very much more of the market.[48] (Warf 2007, 91)

The shape of the news media market can be summarized as follows. First, news media firms are relatively unconstrained by the actions of companies that supply their inputs, leaving them free of worries like producing at maximum capacity and bargaining over purchase contracts. Second, consumer buyer power is uniquely low for reasons that are tied to the way news products are sold and the inequity of information between sellers and consumers. Advertiser buyer power is relatively high, making advertisers a more important group to please. Finally, rivalry between firms is low. Knowing these features allows us to anticipate what strategies firms will use to compete when increased competition is deliberately introduced via deregulation.

IV.2 Competitive Strategies

As discussed above, a company can reduce its expenditures on a product, thereby becoming more profitable and competitive, in a number of ways. Increased efficiency, supposed to happen by eliminating redundancy and other waste, is the most frequently cited method in discussions about deregulation. However, there are many additional strategies, such as "gaining unique access to a large source of lower cost materials, making optimal outsourcing and vertical integration decisions, or avoiding some costs altogether." (Porter 1985, 39) In the news media context, the vast majority of the inputs are related to gathering and processing information. An optimal outsourcing decision in this case would entail incorporating a certain amount of wire content. This is more efficient in that multiple journalists are not investigating the same facts about the same story at any given time. However, as the above sections argue, homogenous coverage like that which results from widespread use of wire content will disproportionately favor certain consumer groups and ignore the facets of a story most relevant to certain communities.

The strategy of avoiding some costs altogether could include cutting specialized segments of news reports and the associated content-creators, changing the method of distribution or distributed medium (e.g. opting to offer content online to eliminate printing costs), cutting the number of staff contributing and, the related method, offering more cheap content (e.g. wire, press-release, and editorial) in place of expensive non-copyrightable content (i.e. investigative pieces). Because facts about the world, particularly the sorts involved in news production, are non-copyrightable news outlets are limited in the revenue they can derive from having uncovered a fact. They can "scoop" other news outlets, but

[48] I discuss the reason for this unanticipated result later in this section.

once the information is made public any news outlet can use it, making the cost of uncovering the information hard to recoup. The only thing that can be copyrighted is the unique expression of a fact.[49] For this reason, cutting content producers like investigative journalists will take precedence over cutting more superficial investments. An excellent example of this trend is CNN's purchase of a hologram machine for the 2008 elections. The machine allowed Wolf Blitzer to speak to correspondents in a visually novel way but contributed nothing to the content of reports. Yet, the hologram machine was by no means a low-cost investment.[50]

In addition to being a copyrightable expression of facts—the hologram was, after all, the first ever televised—it was a way to differentiate CNN's election night coverage from other televised coverage. Differentiation strategies serve to favorably distinguish one company's product from the myriad other options available, resulting in a product that is less likely to be substituted for another. (Porter 1985, 104) It is a way of producing or marketing content that will maximize the revenue received for the product. A brand that establishes itself as the highest quality, or the best for a particular demographic, or the best overall value will win over the segment of consumers dedicated to that category. The first two differentiation strategies have the added benefit of allowing companies to increase the mark-up of the product to account for the perceived added value. The added value of the differentiated product need not actually be that great. All that matters is that consumers perceive added value in the differences that they are willing to pay for. (Porter 1985, 106)

There are several reasons to think that news media differentiation strategies will diverge from the differentiation strategies of other products. First, news media products are information packaged in a certain way. The information can be better or worse quality, however it effectively belongs to the public domain as soon as it is released. For this reason, differentiation strategies focused on a higher quality input will only be successful to a certain point. Second, and related to the previous point, packaging differentiation will take precedence over input differentiation. Since unique expressions are copyrightable and, more importantly, cheaper to produce, media firms will get a greater return on packaging differentiation strategies. "Packaging" in this case refers to the newscasters, graphics, sets, layouts, etc. via which news is presented. So, an effective differentiation strategy for a media firm will be one that focuses on likeable and recognizable anchors, graphics, and presentation styles. Finally, news media are

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[49] This is also unlikely to change, since the alternative would be too restrictive. For example, pharmaceutical companies have argued that it would be beneficial drug production if things like facts discovered about breast cancer genes could be patented, allowing the discovering company to make money from its research investment. However, having a monopoly on an important fact about a breast cancer gene would allow the company to have a monopoly on cure research, or make using the information prohibitively expensive by preventing companies from leap-frogging each other. That arrangement shows great potential to stifle extremely important research and development.

[50] The Chicago Tribune estimated the cost of the feature at $300,000 – 400,000. (Ryan 2008)

traditionally packaged with entertainment media, inviting a bleeding together of value standards.[51] Viewers who have been primed to judge the content surrounding news content based on its entertainment value will inevitably compare the stimulation they receive from the entertainment to that they receive from the news. Knowing that entertainment values will also be applied to their products, media producers are encouraged to differentiate their products according to those values, rather than strictly according to ideal journalistic standards. On the whole, the unique characteristics of news media mean that its differentiation strategies will be biased in favor of superficial qualities, rather than valuable content.

The goal of differentiating a product is to avoid substitution and so secure a certain percent of a market. This is a species of the strategy to maintain or increase the overall revenue of the firm (as opposed to the strategy of lowering production costs). However, in addition to having a consistent audience base, firms will also want to have as great a percentage of the total market as possible. There are several ways to increase market share. Providing the cheapest version of a product generally increases the number of consumers a firm has. Providing the best product, as long as it is not vastly more expensive than other versions, is another method; successfully marketing one's product as the best is a distinct but related method. Horizontal integration—buying competing firms—is the final way to increase market share, since the audience associated with purchased firms will largely come with.

The first two strategies for increasing market share are those that are most often cited in discussions of deregulation because they appear to favor consumers. Price wars make products cheaper. Market incentives to make better products result in innovation and better-met consumer desires. However, these strategies also have their drawbacks. Price wars drive down the margin of profit for firms and can go on indefinitely. Innovation and other ways of making a better product involve upfront investment in a process that will not necessarily translate to market share. Unlike other products, news media do not have a recipe or process that can ultimately be patented as a way of securing returns on investment. Furthermore, the success of a better product relies to a certain extent on its marketing—a further upfront investment with uncertain outcomes. Better products will also only be rewarded if consumers have the information and skills necessary to compare one firm's product to another's, something that is more difficult for news products since they are more complex, as well as responsible for disseminating that very information. Of the strategies available to a firm for increasing market share, horizontal integration is the only one that is essentially risk free. It requires the capital to initially invest, but the returns in market share are almost guaranteed. For this reason, it will be a firm's first choice to expand market share.

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[51] This is less true of newspapers than all other news media, but there are still significant entertainment sections of newspapers.

Of the two revenue-maximizing strategies mentioned above—increasing market share and increasing price—increasing market share will be the favored strategy. Price increases are limited by willingness to pay, which is influenced by the nature of a product. Higher education, cars, houses, and other goods perceived as long-term investments make the best use of this strategy. The benefits associated with those products, like earning potential and safety, are difficult to put an exact price on, allowing the producing firm more leeway in establishing their dollar value. These benefits are also reaped over a long period; I have and can make use of my education for the rest of my life. News media as a product is not similar. Whatever form the news is purchased in, the buyer knows that the content will become significantly less valuable very soon after it is purchased. The short shelf life of news content limits the upper price it can be offered for. Furthermore, when information from an expensive source will soon become available from a less expensive source, there is little incentive to opt for the more expensive version.

IV.3 Overall Consequences of Market Influences

Deregulating ownership increases competition by effectively removing a barrier that formerly mitigated the force of rivalry among firms, particularly in terms of horizontal integration. The looser ownership regulations become, the more financially successful each individual firm must be to avoid being purchased or bankrupted. In a maximally regulated state of affairs (e.g. one in which ownership was limited to one channel/newspaper/station/site), a media outlet could persist as long as it was able to make ends meet. However, the more channels, magazines, or newspapers one company can own, the more robustly each company must succeed in order to remain independent. A greater net profit will allow the firm to invest in things like self-promotion and periods of price undercutting, thereby increasing its chances of survival. Deregulating content allows firms to cope with ownership deregulation by making their products more cheaply produced but less democratically valuable goods, and avoiding content for less valuable customers altogether.

I can only claim that deregulation is the cause of inadequate media if increased competition predictably leads to competitive strategies that affect the quality of media. As I have argued above using the phenomena identified by Michael Porter, news media like the kind currently seen in the US are a direct result of increasing competition within this market paired with the unique nature of news goods. While a deregulated market may increase the consumer-responsiveness of certain product markets, because news consumers have low buyer power, they will not be able to influence the market enough to ensure products they want and need are provided. Advertisers, having high buyer power, *will* be able to influence the market to ensure their needs are met—the need for as large an audience as possible, as long as that audience has disposable income. As competition increases in the market, firms will be under greater pressure to lower the production costs of their goods and increase revenue. Among the strategies

available to lower production costs, those that increase homogenous news (e.g. use of wire content) and democratically irrelevant content (e.g. graphics and gimmicks) will prevail, simultaneously decreasing democratically good content. Since the nature of news products makes these competitive strategies the soundest, increasing competition within the news market is bad for democracy.

V. The Internet Objection

One intuitive response to my overall argument, especially in light of the recent boom in blogging and social media sites, is that the Internet can or will provide the news coverage that newspapers, radio shows, and television lack. The comparatively low start-up and delivery costs for an Internet news venture make news production accessible to a far greater range of people. (Baker 2007, 101) Free website hosts with simple, intuitive graphical interfaces allow non-experts to build clear, attractive pages that are easy to update. Furthermore, there is room for more sources to co-exist—what is available to read is not limited by the space available on a newsstand or the number of time-slots on a channel. These characteristics combine to make it seem like the Internet is capable of both covering additional stories and distributing them to a greater audience. Additionally, these qualities give the impression that content creation is democratic, and content popularity meritocratic. Along with the perceived pervasiveness of Internet access ushered in by the era of WiFi and smart phones, the Internet seems like a panacea capable of rounding out any democracy's public sphere.[52]

While the Internet certainly does contribute to the public sphere, it does so in very specific ways. In this section, I will argue that the ways the Internet contributes are both not those normally attributed to it, and not those that would allow it to fulfill the role it must in order to be an objection to my broader argument. First, I will describe the role the Internet must play in order to undermine my argument. Then, I will describe what role the Internet actually plays. Finally, I will explain the disconnect between the perceived and actual role of the Internet by discussing recent data on Internet use, content, and economics.

V.1 What the Internet Must Do

While the Internet obviously contributes content to the public sphere, increasing the overall amount of information available to constituents, in order to serve as an objection to my argument it must demonstrate a high likelihood of fixing the areas I identified as lacking in the deregulated news media. Those areas were breadth of topic coverage and access to news. In both cases, rural and low-income populations were those most inadequately served. In order for the Internet

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[52] See, for example: Benjamin Compaine and Douglas Gomery *Who Owns the Media?: Competition and Concentration in the Mass Media Industry*. 2000. Bruce Owen “Confusing Success with Access: 'Correctly' Measuring Concentration of Ownership and Control in Mass Media and Online Services” 2005. Eli Noam “Media Concentration in the United States: Industry Trends and Regulatory Responses.”

to solve these problems of exclusion faced with other media, it must therefore do two very specific things: lead to the ideal breadth of coverage and lead to ideal access to news.[53]

With regards to breadth of coverage, the Internet must increase the news content available on topics that are under-reported in traditional media; more news on topics already represented in other media may contribute something that improves the public sphere, but it does not fill the gap it must. Essentially, what matters to the health of the public sphere is not the absolute number of units of information it contains (above a certain minimum), but how those units are distributed. For example, a source that provided yet another analysis of candidate poll data during the 2008 US Federal Election would have increased the absolute amount of news content available to constituents, assuming it addressed the topic in a unique way. While this source would increase the amount of information available to media consumers, the US public sphere was so heavily saturated at that time with exactly those sorts of analyses that the presence of one more, even if it were better researched and argued, would contribute little to the health of the public sphere. Nor would it be sufficient for sources to provide new information on uncovered topics, even though that would increase breadth of coverage in a certain way, for example if this new information were of secondary importance to well-served populations. Supposing that any group within a democracy has multiple tiers of information relevant to their political choices, if a source like the Internet added coverage of secondary and tertiary topics for a group whose primary topics are already covered, rather than covering the primary topics for another group (who is simultaneously under-served by all other media), the addition of the secondary and tertiary topic coverage would contribute breadth, but not the appropriate type of breadth.[54]

In addition to providing the requisite breadth of coverage, the Internet must also solve problems of accessibility faced by underserved populations; more news sources for demographics already provided for contributes something that improves the public sphere, but again does not fill the gap it must. If it does not achieve those two things, the diversity the Internet creates may make some areas

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[53] An important distinction to make here is that, in order to serve as an objection to my argument, the Internet does not need to actually increase the number of people accessing information or amount of information people actually possess about certain topics. It merely must provide an adequate amount and type of information, and not present the same access barriers.

[54] An example may be useful for imagining this scenario. Suppose there is a democratic state composed entirely of vampires and werewolves. The primary news topic of interest to vampires could be access to protection from the sun, while the secondary and tertiary topics of interest could be access to blood and night-time business hours, respectively. The primary news topic of interest to werewolves might be gun control, with access to edible humans and flea shampoo being secondary and tertiary topics of interest, respectively. A public sphere that only covered stories related to sun protection would be inadequate for this particular democracy. If a new medium came along that increased topic coverage to include not only sun protection, but also blood access, the amount of information and breadth of relevant topics covered by the public sphere would have, in fact, increased. However, this public sphere would remain inadequate because it failed to cover any topics of relevance to half its population—the werewolves.

of public sphere more robust (e.g. by increasing the number of perspectives on a particular topic), but it does not serve as a viable objection to my argument that deregulated media are overall democratically lacking.

V.2 What the Internet Actually Contributes

One of the problems with countering an argument like "the Internet will provide" is that, while certain sorts of information are relatively easy to acquire with regards to the Internet, other sorts are not, namely *exactly* what kind of content is being provided and whether it represents an overall change in the amount of a particular type of content available to the public. The sheer size of the Internet—last estimated at 17 billion pages—makes qualitative analysis of its contents daunting at best. However, in spite of the difficulty of pinpointing these contributions, intuitively the Internet does add something consequential to public spheres. I believe the Internet primarily contributes in two ways.[55] The first way is by allowing extremely rapid viral transmission of information. Prior to the Internet, social memes like urban legends were spread virally by word of mouth, limiting the number of individuals who could realistically gain access to the legend. The ease of using content-generating sites like Twitter and Facebook, paired with the relative pervasiveness of Internet access (it is, at least, not as strictly limited by physical proximity to a source), means that information about some topics will spread like wildfire. This benefits the public sphere not only by increasing the likelihood that individuals will have up-to-date information, but more importantly by lessening the amount of time powerful and interested parties have to censor or otherwise control the information being spread.

An excellent example of Internet virality's contribution to the public sphere was the 2006 US Senate re-election campaign of George Allen. Allen was strongly favored to win until, at a campaign stop, he referred to an Indian American taping the event as "Macaca" and then welcomed him to America, ignorant of the fact that the taper had been born in the US and simply was not Caucasian. The video capturing Allen's foible was posted on YouTube, where it quickly gained millions of views as surfers passed the link around via social networking sites. The video became so widely viewed so rapidly that the Allen campaign had little time to formulate a response strategy to minimize the damage. Ultimately, the video and the negative coverage it garnered is theorized to have lost Allen his bid for re-election. In the absence of the Internet or similar technology, knowledge of Allen's latent racism may not have spread far enough to impact the election.

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[55] This is not to say that the Internet *only* contributes in these two ways. As I will discuss below, it does sometimes contribute to the overall breadth or depth of information available, in that way mitigating damage that deregulation has done to the public sphere. My point here is simply that the contributions of virality and international transmission make a far greater impact on the public sphere than the addition of some information does, despite common beliefs to the contrary.

Another way the Internet contributes to the public sphere is by allowing international transmission of information, also more rapidly than in years prior. Sites like Wikileaks allow information that would be banned, otherwise censored, or result in legal and employment consequences for journalists to be released. The Internet's global reach is a crucial component of these sites because it allows those leaking the information to be located in a country where they are largely free from what may be unjust responses by the regimes they report on, while still (largely) being able to release the information to the desired population. The use of the Internet also allows a certain amount of anonymity, so that sources who are not able to relocate can also (hopefully) release information without undesirable consequences. In other words, the relative safety of using the Internet as a medium, paired with its low publishing cost makes it an excellent tool for working toward political transparency, particularly through the leaking of documents and other information.

Another argument is that there have been some cases of Internet sites (e.g. Wikileaks) "scooping" other news media forms, thereby making significant contributions to the content services needed from online news media.[56] It is certainly the case that sites like this increase the amount of information available to the public. However, it is worth noting the limitations of those contributions. First, these types of sites best loan themselves to generating information on big stories, particularly those that have already received a certain amount of coverage in the mainstream media. By big stories, here, I mean international affairs like the Afghanistan War, federal elections, and executive orders, as opposed to low-impact or local stories. Second, these sites focus on obtaining classified or otherwise censored materials, which means that if a topic is not classified or does not require obtaining documents per se, that topic will not be covered. This limits the content contributions they will provide.

Finally, what scooping that has occurred has also involved a great deal of work from legacy news providers: Wikileaks shared their largest body of documents on the Afghanistan War with major newspapers prior to releasing them in a recognition not only that they would get better readership, but also that they were the only groups with the investigative resources to get through the 92,000 documents and come to a coherent conclusion about them. The latest Wikileaks release contains roughly 390,000 documents, a quantity insurmountable by one journalist, let alone one ordinary Internet user. In other words, while sites like Wikileaks do increase the information in the public sphere, they still rely on the infrastructure of legacy news sites, and in that way are better described a source for those groups than a true alternative news source in themselves.

V.3 Rebuttal

So, intuitions that the Internet will resolve the issues created by a deregulated media are grounded in truths about the Internet's contributions to

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[56] I will discuss other sites, like blogs, below.

public spheres. But, I will argue, these contributions ultimately fall short of what is necessary to undermine my argument. In this section, I will explain the disconnect between intuition and reality by highlighting research and recent Internet news.

V.4 Failure in Content

As mentioned above, the size of the Internet makes conclusive qualitative analyses of its contents difficult to obtain. However, there are good reasons to believe that the Internet is not currently filling the gaps it would need to in order to undermine my argument. First, only 14% of news websites are online-only firms that produce mostly original reportorial content, meaning only 14% of news sites are providing new content of any sort to the public sphere. (Project for Excellence in Journalism 2010) The remaining 86% of news sites are associated with legacy media firms (e.g. a newspaper), and merely repeat content from their legacy source.[57] Of that 14% providing original reportorial content, there are no numbers on how much of the content represents an actual addition of information versus original but repetitive content. For example, during an election year an online-only firm may crunch its own numbers and do its own research to provide original "horse-race" style coverage of candidate standings. However, if many other firms are also providing that information, the fact that it is strictly speaking original content does not mean it has broadened topic coverage in the necessary way. Furthermore, even if the 14% were providing not only original but novel content, that fraction of news sites would have to be responsible for contributing *all* coverage missing from other sites or media, namely content for a wide range of rural areas as well as content relevant to low-income communities. In other words, that small portion of the media pool would need to be original, novel, *and* on topic, something it would be unreasonable to assume it currently is.

In addition to the small pool of additional reportorial content provided by the Internet there is also the "blogosphere", which is often praised for its contributions to the analysis of news and popularization of certain topics. However the Project for Excellence in Journalism conducts an ongoing analysis of over a million blogs that shows that 80% of blog links go to legacy media sites, meaning that "these new media are largely filled with debate dependent on the shrinking base of reporting that began in the old media." (Project for Excellence in Journalism 2010) Compounding these trends is the fact that the same market forces apply to Internet content as to content in any other medium: rural and low-income viewers are *still* unappealing to the advertisers whose dollars make content available. Worse still, those same groups face barriers to Internet access in

[57] Barring reports of extremely sudden developments like natural disasters and massive acts of terrorism, almost no new content is created for websites, though occasionally content is shown in a different form. The New York Times, for example, sometimes provides interactive infographics that display data released in text form. Creating new content for a medium that offers lower returns on content simply is not often a choice businesses make.

the first place, further complicating the possibility of voting for content with their clicks.[58]

Whatever shape the Internet's contribution to the public sphere currently takes, it is relevant only if that shape in non-incidental; if the Internet reasonably could fulfill the role it must and simply does not because there is a lack of interest that would be a different problem entirely. However, there are good reasons for concluding that the description I have thus far made is a predictable structure for Internet media to assume. First, legacy media firms, regardless of their country of origin, will always have a competitive advantage over online-only sites—the content they have already created for a different medium merely needs to be copied into an online space at little additional cost to themselves (except in terms of lost advertising revenue, which I will discuss below). The higher per-story cost non-legacy sites pay acts as, if not a barrier to entry, a serious hurdle to long-term existence.

Second, Internet news media face unique problems from those of other media. Unlike other media, which finance themselves with a combination of ads and subscription fees, advertising dollars are effectively the only revenue sources for online news outlets. Various models attempting to monetize online news sites with anything other than advertising have consistently failed over the last decade.[59] Compounding this problem, online news sites can only partake of certain forms of online advertising, namely display ads, and display ads account for only 40% of online advertising dollars spent.[60] News sites then compete with all other sites on the Internet for a share of that 40% of display ad dollars, ultimately only drawing 16% of that pool. In other words, news sites receive only 6.4% of online advertising dollars.[61] (Project for Excellence in Journalism 2011a) That small portion of advertising money is then split among all news sites, and far from equally. Traffic is extremely concentrated, with the top 7% of news sites drawing 80% of overall traffic to news sites. (Project for Excellence in Journalism 2010) Because advertising dollars are tied closely to audience size, that leaves the remaining 93% of news sites with a small portion of an already small pot of potential revenue.[62] With numbers like that, it is hardly surprising that in 2010

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[58] I will discuss access issues in greater detail below.

[59] The one exception to this rule is business news sites, which unsurprisingly appeal to a wealthy audience who is willing to pay subscription fees for information relevant to the success of their financial ventures. (Project for Excellence in Journalism 2011) One reason for this trend may be the general perception that content on the Internet is (or always has been) free.

[60] Other types include search ads, text message ads, and lead generation. (Project for Excellence in Journalism 2011a)

[61] Part of the reason for this is that news sites draw a wide audience, making it harder to target ads. Any product that is not nearly universally used may be better off placing a display ad on specialty websites (e.g. a sport fishing site if the product is boats or swamp vacations). Another potential reason is that news sites have a harder time identifying how many hits they actually receive. (Project for Excellence in Journalism 2011b)

[62] Concentration of audiences is not incidental, but the mere fact that it currently occurs makes the future existence of alternative news sources unlikely—a niche news site will only be

newspaper websites accrued only 13% as much revenue as their physical print counterparts. (Saba and Bavdek 2011) While that represents an increase—in 2004, newspaper sites made only 3% as much revenue as physical print—the increase is slow compared to the rapid migration of viewers online. The result is that producers of news are making significantly less for providing the same content to the same number of people.[63]

Another draw away from news media revenue is the phenomenon of aggregation services like those provided by Google and Yahoo. These aggregation services pull headlines and sometimes brief quotes from news articles all over the web and then list them with links to the originals. The aggregation sites then sell advertising in their aggregation space. However, unlike other products, the headline of a news article sometimes contains a sufficient amount of the product as to make the rest of the article unnecessary. So, for example, while a journalist may have devoted serious resources to a story on a politician's financial misdeeds, Google reader provides the headline "E-mail Record Shows Jones Embezzled Millions," which is sufficient information that the viewer need not necessarily click through. This decreases the value of advertising on the actual news site as opposed to the aggregation site; the aggregator literally steals advertising dollars from the site that invested in the good being shared. In summary, online news sources can only support themselves with one difficult to obtain revenue stream, making their existence so difficult it would be unreasonable to expect them to provide good investigative journalism, particularly about and to the necessary low-income and rural audiences.

These trends in advertising allocation may change, but there are reasons for thinking they will not change too much. The vast majority of advertising dollars (48%) go to search ads, the "sponsored" links that appear at the top or side of search engine results. These ads are effective because their audiences are large and self-selecting, where both qualities greatly increase the likelihood of the ad being clicked. For example, someone who searches "Pokemon card game" will be shown ads for sites selling Pokemon cards—something they almost certainly will have an interest in. The ease of targeting a particular audience with these ads makes them desirable and therefore probably a persisting advertising trend; it is unlikely that advertising dollars will shift away from this medium. Another trend that could be bucked is the percent of display ad dollars that news sites draw. However, compared to interest-specialized sites, news sites draw viewers with an incredibly wide range of purchase habits. A business looking to buy ad space has the option of doing so on a site that directly addresses their market, or a site that draws viewers for which only information on age range, political leanings, and rough income can be provided, as opposed to exact purchase preferences. As such, ads placed on news sites will simply always be uninteresting to a larger

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able to survive so long on the small amounts of revenue it is able to attract, unless it is bankrolled by some other source (e.g. a wealthy philanthropist).

[63] Decline in numbers of newspapers purchased is almost exactly matched by increased viewer numbers on newspaper websites. (Angwin and Hallinan 2005)

percentage of their viewers than would be the case on a non-news site, making them a less appealing investment for businesses.

Finally, if current online news attention were less concentrated, smaller, independent sites—those most likely to produce the additional content the public sphere needs—may be less likely to starve for lack of funding. However, the concentration is not incidental either. Reasonable epistemic practices in the face of the nature of the Internet will push viewers toward legacy sites, starving smaller sites. In most cases, the value of an information good is determined by its accuracy. However, if one has "little basis for checking [a good's] quality (e.g., its accuracy), the good's reputation has considerable value." (Baker 2007, 104) Additionally, the very properties that make the Internet a potentially more democratic news medium also make it a potentially more inaccurate news medium: "the obvious ease of publishing anything... and the lack of controls reflecting either the standards of professional editors or the commercial incentive to maintain reputation make unknown sources found online particularly suspect." (Ibid) These properties make established legacy media sites the most reasonable and attractive option for news consumers online.[64]

V.5 Failure in Access

Perhaps the most important argument against the Internet as a media fix is the fact that there is still a digital divide, although it is now more closely correlated with age and income than it is with race. (Project for Excellence in Journalism 2005) Two-thirds of Americans have Internet access, whether at work or at home, a number that appears to have flat-lined. (Project for Excellence in Journalism 2009c) However, as discussed in an earlier section (see page 23), 22% Americans do not have Internet access at all because of cost or physical infrastructure barriers. Of people surveyed who recently, but no longer, had Internet access 55% cited expense (either of the basic service, or because they no longer had an adequate computer), while only 18% cited lack of continued interest. (U.S. Department of Commerce 2004) So, while the digital divide has

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[64] Donald Ipperciel has noted that this discussion of the Internet seems to completely discount the possibility of sites (e.g. blogs) written by dedicated academics and scientists who are uninterested in the possibility of garnering a profit for their work. My intention is not to claim that such people and sites do not exist, rather that their continued existence faces a number of serious hurdles. Specifically, the relatively short shelf-life of news paired with the relatively high opportunity cost of creating it (at a certain quality), makes the long-term maintenance of a news site a non-trivial investment. Those willing to undertake this sort of project may not seek explicitly financial returns (except perhaps to cover the cost of website hosting), but the other rewards of running a blog are also minimized by the economy of Internet news. For example, receiving sufficient page hits to justify the continued effort of producing updates may require a further significant investment in advertising the blog in ways that are either free (e.g. leaving the address in comments on other pages) or paid (e.g. buying banner ads on other sites). While there are undoubtedly individuals and groups who commit to contributing in this way, facts about the difficulty of winning either financial benefits (to counter the costs of the site, advertising, and time spent) or viewership sufficient to make this an appealing long-term project will limit the sustainability of these sorts of sites as news resources.

changed, it is far from having disappeared completely. As such, it is hard to claim that the Internet currently fill the gaps in access created by traditional media.

More importantly, this gap in access is likely to remain because of the conditions described above: underserved populations, barring extensive government investment in equitable Internet access, will continue to be unappealing to advertisers. As such, their areas will continue to be denied infrastructure that would allow them Internet, as well as service provided at a price that they can manage. The economic factors that lead to the current state of affairs, where low-income populations are largely ignored because providing for them garners virtually no benefits for ISPs, will continue.[65] As those economic factors do remain, they will continually contribute to denying service to those low-income populations.[66]

V.6 Conclusion on the Internet

In order for the Internet to serve as an objection to what I have claimed is an insufficient media for minimalist democratic involvement (and therefore all democratic involvement) it must fill the gaps in story coverage left by other media and reach a wider audience. I have argued that, while providing certain benefits to a public sphere, the Internet does neither of the things necessary to make it an objection to my argument. The most important thing to remember with regards to my rebuttal is that low income and rural citizens are not incidentally under-served, so that in a different state with a different deregulated media the under-served population might be upper-middle class. Deregulation increases competition which, because of the unique nature of news products, increases reliance on a series of strategies that skew content towards that relevant to richer, more geographically centralized viewers. These competitive strategies are dictated by the constraints a media market realistically faces. As a result, the fact that the Internet contributes some types of content very well does not indicate that it could play the role advocates say it does. Rather, deregulation systemically creates many of the same problems with Internet content that it does with other media.[67] Given the other considerations faced by Internet news, the overall effect

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[65] For discussion of the economic factors limiting Internet service see the discussion of cherry-picking in section III.5.

[66] Donald Ipperciel has pointed out that Barack Obama has a goal of achieving 98% Internet access in the US within the next five years. This does not undermine my conclusion here, however, because that goal can only be achieved via regulation; the last big deregulatory move was the 1996 Telecommunications Act, so if the market were going to provide this sort of access, it would have by now. Realistically, Obama is likely to back something like the Communications Act of 1934, which mandated universal access to "rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges." The implementation of this Act significantly increased access to telephones.

[67] While the particularities of the Internet allow for some of those problems to be counteracted, for example by sites like Wikileaks, there is no reason to expect that a regulated media would not also allow for sites like Wikileaks. So a deregulated media leads to all sorts of problems for Internet content, but a regulated media would lack those problems while retaining the benefits provided by the Internet.

is one of increasing contribution in many ways, just not those necessary to complete the public sphere.

VI. Conclusions

I began this thesis by identifying a problem: while many scholars have written about the effects of media deregulation on democracy, all begin their arguments by assuming the truth a normative theory of democracy (e.g. deliberative).[68] These assumptions are what allow them to ground their judgments of "good" and "bad"—deregulation is good or bad according to the standards for a public sphere set out by X democracy—however these assumptions also open their arguments to the immediate criticism of scholars endorsing a different normative theory. To avoid this problem, I opted to identify and describe the least demanding form of democracy possible—minimalist democracy—and then imagine what its public sphere would look like. The goal of this strategy was to identify the most permissive public sphere *any* democracy could have, so that any normative prescriptions the theory gave with regards to the public sphere would represent the bare minimum for any type of democracy. Establishing this minimum would allow me to compare its requirements to the provisions of a deregulated media and draw general conclusions about the suitability of deregulated media for democracies.

After describing minimalist democracy and its public sphere, I provided a case study in media deregulation: the United States. I began by describing the last 25 years of media deregulation in the U.S., including both the anticipated and actual results of that deregulation. I covered both the expectations and reality of deregulation for two reasons: first, as a way of recognizing the intuitive appeal of calls to deregulate, then as a precursor to the more concrete economic arguments I engaged in the following section. Having described the state of a deregulated media, I compared it to the media requirements of a minimalist public sphere. I argued that the deregulated media of the U.S. failed to meet those minimal requirements by systemically under-serving certain groups, namely low-income and rural populations.

It would be difficult to claim that the U.S. is a typical democratic state, and as such it was important to establish that there was not merely a correlation between deregulation and democratically insufficient media, but rather a causal relationship. To achieve this, I detailed and the dominant model of markets and competition—Porter's—and applied it to the special case of media goods. In addition to identifying deregulation as the culprit for democratically inadequate media, this section allowed me to concretely identify the reasons initial intuitions about deregulating media failed to predict the actual outcomes: media products are different from other products in a number of economically significant ways.

Finally, I responded to the most significant and frequent objection to my conclusion, namely that the Internet would provide what goods other media had

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[68] The exception to this rule is C. Edwin Baker, however I give separate reasons for finding his treatment insufficient in my introduction.

failed to, even under conditions of deregulation. The central argument of that section was that the role often attributed to the Internet ignores other important considerations about the economic conditions it faces. Those economic conditions ultimately mean that the same groups who are underserved by traditional media will be underserved by the Internet. While I concede that the Internet is an excellent technology that in many ways improves the public sphere, I maintain not even its presence can remedy the problems caused by deregulation.

Over the course of this thesis, I was not always able to explore questions as much as they deserved. For example, the question of how much media is enough gives, I feel, too broad an answer to presently be applied. More work will have to be done on that question to determine a concrete rubric for application. Furthermore, it is worth considering whether the cultural and economic diversity of a state is a critical factor in whether deregulated media will be democratically adequate; would largely homogenous states be able to accommodate these changes without issue? And finally, related to this last point, I have left open the question of what a non-trivial percent of a population is, with regards to who is under-served. There is at least intuitive appeal to the idea that a state will never be able to achieve 100% media service to its public, so at what point would a public sphere simply be good enough? Without resolving these issues, it is difficult to universally condemn media deregulation.

While I must leave these questions open—and they are important ones, to be sure—I still believe I have made some headway on the issue of media regulation and democracy. The original goal was to determine whether a deregulated news media would be adequate for even the most minimally demanding democracy. I think there are, at very least, strong reasons to worry that it will not be. Even if I cannot definitively say that a deregulated media will be insufficient for any democracy whatever the type, the fact that it presents so many problems for even minimalist democracy says something. Minimalist democracy is far from the ideal of most individuals—it is more miserly in its democratic involvement than even elite democracy, its closest cousin. For this reason, most normative theories of democracy should find deregulated media *exceptionally* inadequate, since each of those theories will be more demanding of its public sphere than minimalist democracy is. So, while there are still worthwhile questions to resolve, it seems fair to conclude that most states should think very carefully about media deregulation.

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