DEmOCRACY OR TECHNOCRACY? AN ANALYSIS OF PUBLIC AND EXPERT PARTICIPATION IN FCC POLICYMAKING

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by
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ABSTRACT

The longstanding debate over the place of the public’s voice in government decision-making has its roots in ancient Athens. Since that time, those that have opposed public involvement have called for government by an elite group of experts – a system of societal organization termed ‘democratic elitism’ by contemporary scholars. Conversely, those that have championed greater public involvement in the political process have argued that the public’s voice is an essential check on elitist, technocratic government bodies whose closed-door perspectives are a threat to societal justice. In light of the rising popularity of more inclusionary models of democracy that seemingly echo the sentiments of the latter, this study questions the extent of public involvement in the Federal Communications Commission’s 2006-2008 review of its media ownership rules. The sequence of events highlighted by an assessment of the FCC’s public hearing and online comment submission processes, quantitative content analyses of the public’s comments, and a review of the FCC’s Report and Order revealed that the Commission repeatedly subordinated the public’s voice to the views of experts and stakeholders. An additional analysis of two interviews conducted with grassroots organizers also revealed that the FCC’s lackluster public mobilization techniques were supplemented by the efforts of various grassroots organizations. The software and form letters provided by these groups to help involve the public in the deliberations speaks to the disconnect that exists between a technocratic FCC and a public voice demanding to be heard.
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For Andrea. My love and my inspiration.

To my parents, Marvin and Helene. For planting the trees and providing the shade.
Chapter One

INTRODUCTION

In 2006, TIME Magazine presented its “Person of the Year” award to “you.” Praising the rising popularity of Web 2.0 applications like Facebook and YouTube, and the fact that millions were increasingly rejecting the passive nature of television consumption and turning to more active pursuits which included individual expression via blogging, audio/video creation and the world of avatars, TIME wrote, “for seizing the reins of the global media, for founding and framing the new digital democracy, for working for nothing and beating the pros at their own game, TIME's Person of the Year for 2006 is you.” (Grossman, 2006, p.1)

Though TIME may be correct and much of the industrialized world is experiencing a rise in what perhaps could be termed “digital democracy,” it can be argued that this revolution is in fact a superficial one, seemingly operating at the ends of the network only, confined to the boundaries defined by those in power. In the realm of communication policymaking, where the decisions that matter are being made, where the levers are being operated and the strings are being pulled, questions and concerns regarding the place of democratic voice remain.

In the arena of communication policymaking, when addressing the issue of public involvement in government decision-making, a first question to ask is whether the public is allowed (or perhaps even able) to participate in government deliberations. The more complex question which follows asks, once included in the deliberations, can members of the public influence those in power? The question of influence is quite complicated, both because of the highly technical nature of the subject-matter being addressed, and the
corresponding reliance upon experts to determine how to operate the levers that direct
and maintain the system. This issue is a challenge that has confronted governments and
citizens throughout the world in recent years, as many Western societies during the
second-half of the twentieth century have been operating under the assumption that
government could deliver solutions to many of the problems it faced by relying primarily
on professional expertise, dismissing the need for public participation in the
policymaking process (Stewart, 1996). This has been due in part to the exponential
growth of technological knowledge in areas such as telecommunications, agriculture,
healthcare, environmental protection and military operation. A government body that
relies on the expertise of scientific elites when making decisions is often referred to as a
‘technocracy’ (Fischer, 1990; DeSario & Langton, 1999). On the surface it might seem as
though the technocratic model is ideal; complex entities like the communications industry
would seemingly benefit from governance by experts supposedly in-touch with empirical
research and endowed with the know-how to make the decisions that would promote
efficiency and progress. The problem with technocratic rule however, is its tendency to
subordinate public participation in the democratic process. As the knowledge of
technological elites increasingly directs government action, the knowledge of ‘untrained
thinkers’ becomes increasingly irrelevant. In addition, as ‘expert language’ and
technological discourse further defines the boundaries of policy deliberations, those who
attempt to affect change with ‘everyday’ language increasingly find themselves
marginalized. This begs the question, what happens when members of the general public
want to impact technocratic deliberations?
1.1. PUBLIC INVOLVEMENT IN CONTEMPORARY POLITICAL DECISION-MAKING

Citizen participation in government decision-making has been defined as a “process by which interested and affected individuals, organizations, and government entities are consulted and included in the decision-making process” (Jeffrey, 2002, p. 648). For thousands of years, but in recent years especially, the notion that the voice of the ‘ordinary’ citizen should be involved in contemporary policymaking practices has been championed by scholars, regulators and citizens alike (Rowe & Frewer, 2004). Seen from multiple perspectives, public involvement in government decision-making has been lauded historically for its ability to act as a government watchdog, making efforts to protect against variegated social, economic and moral stratifications, impropriety, narrow-mindedness, bias, and in some instances, tyranny (Walker, 1966; OECD, 2001). It has also been argued that the public voice can improve the quality of government decision-making. By opening up processes of deliberations to additional on-the-ground perspectives, information and solutions, governments widen their perspective, consider alternatives that may have been hidden by technical and procedural blinders, and connect with their constituents in a manner that only seems appropriate in a just democracy (OECD, 2001). As a result, the betterment of society and of the informed, engaged citizenry have always been goals that public participation has seemingly moved us towards (Bachrach, 1967; OECD, 2001). With the advancement of these normative ideals of equality, fairness, liberty and justice, a society that is shaped by an engaged and active citizenry can more accurately call itself a democracy.
That being said, singling out public participation as the best and only source of information to be considered and evaluated by policymakers would be naïve in light of the complexities of our modern world and the technologies that define it. As noted by Renn, Webler, Rakel, Dienel, and Johnson (1993), in order to ensure a process of government decision-making that incorporates the benefits of technical expertise and the voice of the general public, a balance needs to be struck among the input derived from the knowledge of stakeholders, experts and members of the general public. Examples of the opportunities afforded to experts and stakeholders to participate in government deliberations (especially in the realm of communication policymaking) have been well-documented (see McChesney, 2004a; Chester, 2007 & Obar & Schejter, 2010).

Conversely, the ability to fairly, practically and effectively involve the general public in government deliberations (especially those that are highly technical) is an issue that continues to trouble governments, scholars, activists and citizens alike. Three general areas of concern (labeled as structural, rhetorical and deliberatory concerns) have been constructed by this inquiry from a variety of issues to which scholars have pointed as persistent and ongoing roadblocks to effective participation and voice (Guttman, 2007). While each of the three concerns addressed herein deal with the ability for members of the general public to communicate fairly, practically and effectively with technocrats, each addresses specific areas of potential concern. Structural concerns deal with the ability for members of the general public to participate ‘fairly’ in proceedings, and addresses issues of location and ability. Rhetorical concerns expand upon the issues associated with individual ability and address the extent to which the ‘ordinary citizen’ can communicate and participate in technocratic deliberations that are defined by highly
technical and procedural languages and processes. Finally, deliberatory concerns address the ability of members of the general public to affect change in technocratic deliberations. Will the public voice make a difference? Will the regulators listen? Will regulators be able to use what they’ve heard effectively?

These questions are certainly relevant in the realm of U.S. communications policymaking, where technocratic, expert-dominated bodies like the Federal Communications Commission (FCC) are making highly complex and technical decisions about how media industries are supposed to run, as well as about technologies ranging from broadband Internet to digital television and mobile devices. When it comes to highly technical deliberations such as these, typically dominated by industry-insiders, experts and stakeholders, questions regarding the place of the public voice are difficult to answer.

1.2. STUDYING PUBLIC AND EXPERT INVOLVEMENT IN U.S. COMMUNICATIONS POLICYMAKING

1.2.1. CONCEPTUALIZING THE ‘GENERAL PUBLIC’ AND THE ‘EXPERT’

In the realm of communications policymaking, the concepts ‘general public’ and ‘expert’ are far from clear. In terms of the concept ‘general public,’ one might suggest that this should incorporate all consumers of media. This definition certainly complicates the distinction between the ‘average citizen’ and the expert, as both likely consume media regularly. In fact, how could one be a media expert without being a knowledgeable consumer? Determining ‘experts’ can also be a challenge. This ambiguity can be attributed to the numerous and variegated individuals that affect and are affected by both the policies and the industry. Are media industry professionals the experts, simply
because they have technical expertise? Does the ability to operate a camera or perhaps to sell advertising make one an expert on the contemporary media system? Perhaps academics who study the industry are the experts, or maybe the lawyers and judges who address the industry’s legal issues. Perhaps the regulators are the true experts, as they’re the ones that construct the policy. This of course partially includes, but largely excludes those who perhaps are the true experts – the consumers of media, the general public. Who knows more about how the media impacts local communities, or whether changes in access to information services would change the nature of society?

The complexities that define the relationships between the members of a society and that society’s media system are acknowledged by this inquiry. For the purposes of this present study however, the concept ‘expert’ in the realm of communications policymaking will include individuals with scientific, legal and/or political expertise. In essence, experts will be those individuals with formal training in at least one of these areas. Conversely, the ‘general public’ will be associated with the concept of the ‘average citizen’ or perhaps the ‘lay citizen’ who lacks this formal training.

1.2.2. THE CURRENT INQUIRY

Framed by the issues discussed above, this study explores the issue of public involvement in contemporary U.S. communications policymaking. As the Federal Communications Commission (FCC) is generally regarded as the primary federal regulator in charge of overseeing the rules that govern the media and telecommunications industries in the United States, public involvement in FCC deliberations could potentially have important implications for the role of such involvement in U.S. communications policymaking. Given this, it is also relevant to determine how to evaluate the FCC and
the extent of its public consultation techniques. The specific regulatory issue addressed by this dissertation is the FCC’s media ownership policy, an issue that, this dissertation will argue, has profound implications for the vibrancy of our media system and our democracy.

Section 202(h) of the Telecommunications Act of 1996 requires that the FCC must conduct a biennial review of its media ownership rules “and shall determine whether any of such rules are necessary in the public interest as the result of competition.” Furthermore, the Commission must “repeal or modify any regulation it determines to be no longer in the public interest.” (Telecommunications Act, 1996) In 2002-2003 under then Chairman Michael Powell, the Commission conducted such a review. By the end of the review, as the FCC came to its decision, numerous individuals criticized the Commission for not doing more to involve the public in the process (Blevins & Brown, 2006; McChesney, 2004b). Criticism of the lack of public involvement even came from within the FCC itself. Dissenting FCC Commissioner Michael Copps noted at the time:

I am concerned that this proceeding has been run as a classic inside-the-Beltway process with too little outreach from the Commission and too little opportunity for public participation in this far-reaching review of critical media concentration protections. (Copps, 2003, p. 5)

In 2006, when the FCC began its review of the rules once again, the Commission seemed committed to doing things differently. Instead of holding one official public hearing in a location near D.C., the Commission decided to hold hearings in “diverse
locations around the country” (FCC, 2006a, p. 1) in an attempt to “fully involve the public” (FCC, 2007, p. 1) in the deliberations. Perhaps in response to the general criticisms of the previous FCC, or perhaps in response to the public outcry against the tactics of former Chairman Michael Powell, new FCC Chairman Kevin Martin announced the following in a statement released when the review began:

Public input is integral to this process. The Commission has adopted an extended comment period of 120 days. Over the next several months, the Commission will hold half a dozen public hearings around the country on the topic of media ownership to more fully involve the American people. I look forward to hearing from the American people on a variety of subjects at these hearings … The Commission also is creating a new webpage on this topic that will further contribute to making this an open and transparent process. (Martin, 2006, p.1)

By the end of the review process, in February of 2008, when the FCC released its decision in the Report and Order, Chairman Martin reiterated his commitment to public involvement in the process:

In 2003, when we last conducted a review of the media ownership rules … people complained that there were not enough hearings … and not enough opportunity for comments and public input … [this time] the Commission committed to conducting this proceeding in a manner that was more open and allowed for more public
participation. … I believe that is what the Commission has done.

(FCC, 2008a, p. 99)

Given this acknowledgement of the controversy about the role of the public in previous policymaking and the explicit statement of the need for public input, the 2006-2008 media ownership review presents an ideal opportunity to assess the public’s participation in FCC policymaking. In the above announcement the Chairman emphasized how the FCC held public hearings, invited online comment submission and helped facilitate this process through a new FCC website. In exploring the role of public participation in FCC media ownership policy, this study examined all three of these elements as well as a fourth – the FCC’s Report & Order. Referring to the three general areas of concern regarding public involvement in government policymaking outlined earlier, this study:

1) Assessed the existence of ‘structural’ concerns regarding the ‘fairness’ of access to the FCC’s deliberations by analyzing the FCC’s hearings, online comments submission process and website.

2) Assessed the existence of ‘rhetorical’ concerns that address the problems of technocratic subordination. Two quantitative content analyses were performed for this assessment, one of the public comments presented at the FCC’s public hearings, and one of a sample of comments submitted to the FCC’s online docket. A supplementary analysis of two 30-minute interviews conducted with two grassroots organizers was also performed.

3) Assessed the existence of ‘deliberatory’ concerns regarding the public’s ability to affect the FCC’s decision-making process. The FCC’s Report and Order, released
February 4, 2008 was reviewed and all references to public (and expert) input were analyzed.

The question of the relevance of the public’s voice in government decision-making is at the heart of the issue of a realized democracy. Public participation can be viewed as significant in the communications policymaking arena especially as one of the central goals of communications policy can (and should) be the maintenance of open channels among members of the public and between the public and the political establishment (see McChesney, 2004a & Baker, 2007). Certainly this study is justified because the issue of public participation in contemporary policymaking is an issue that has gained tremendous popularity worldwide in recent years as regulators strive to strengthen support for democracy by boosting transparency, enhancing trust and improving the quality of decision-making (OECD, 2001). Above all however, this study is justified in that it provides a new context and a new answer to one of the richest and most seasoned debates in human history – the question as to whether the individual can and should determine the direction their society should take.

1.2.3. RESEARCH QUESTIONS

This project places the issue of public involvement in government decision-making in the context of the FCC’s 2006-2008 media ownership deliberations, and is directed by the following research questions:

1) To what extent was the general public involved in the FCC’s 2006-2008 review of its media ownership rules?

2) To what extent did any structural, rhetorical or deliberatory concerns hinder the ability of the public to participate?
3) To what extent did any structural, rhetorical or deliberatory concerns reflect the possibility that the contemporary communications policymaking process is a technocratic one, dominated by experts and stakeholders?

Therefore, this project explores the extent to which the FCC engaged the general public in its media ownership deliberations. Should the structural, rhetorical and deliberatory concerns be realized by the FCC’s actions, it can be argued, that at least in terms of the deliberations in question, the Commission can be said to be conducting its policymaking processes and constructing its decisions by employing a more elitist, technocratic model of democracy, as opposed to a more inclusionary, direct form of democracy. The benefits and drawbacks of this potential decision have been introduced, and will be further explored and identified in a review of the literature.

1.3. Chapter Review

There are six chapters in this dissertation. Chapter Two lays the foundation for the current inquiry by discussing three key concepts: democracy, direct democracy and democratic elitism. The discussion of direct democracy and democratic elitism introduces the two sides of the debate addressed by this study, with the former advocating for greater public participation in policymaking and the latter for policymaking processes controlled by experts. The contemporary interest in, and excitement over, public involvement in policymaking comes next, followed by a discussion of the relevance of grassroots organizing. The chapter concludes by addressing the various concerns that hinder public involvement in political decision-making - specifically, structural, rhetorical and deliberatory forms of public subordination.
CHAPTER THREE connects the discussion with communications policymaking and reviews the history of FCC consultation with experts and with the general public. This chapter concludes by outlining the context for our current inquiry, the FCC’s 2006-2008 review of its media ownership rules.

CHAPTERS FOUR and FIVE present a series of empirical approaches designed to investigate the issue of public involvement in the FCC’s 2006-2008 review of its media ownership rules. Collectively, these approaches – using such methods as content analysis, interview analysis and policy evaluations - address the three concerns (structural, rhetorical, deliberatory) discussed earlier. CHAPTER FOUR includes Study One which looks at structural concerns associated with public involvement and assesses the extent to which their existence or absence hinders or helps promote public involvement in the FCC’s ownership deliberations. An analysis of the FCC’s website, online comment submission and public hearing processes are conducted to address this issue. In CHAPTER FIVE, Studies Two and Three assess the rhetorical concerns and include two quantitative content analyses of public comments submitted at the FCC’s public hearings and to the online docket. The extent to which the public presented its opinion and the extent to which this opinion employed technical language are issues that are addressed. A supplemental section includes an analysis of two interviews with grassroots organizers. These interviews help to highlight the role of grassroots organizations in mobilizing the public to participate in government proceedings. Study Four then addresses the deliberatory concerns that assess the extent to which the public’s voice had any impact on the FCC’s decision. The Commission’s Report & Order is reviewed and all references to public involvement are assessed.
CHAPTER SIX is the final chapter and includes both a discussion and a conclusion for this study, focusing on the implications of the dissertation’s findings for public involvement in large-scale communications policy decision-making.
Chapter Two

COMPETING VIEWS OF PUBLIC INVOLVEMENT IN GOVERNMENT DECISION-MAKING

The debate over the place of the public voice in political decision-making has spanned millennia. As a result, any new inquiry into this debate must be placed in context. This chapter lays a foundation for the current endeavor by introducing the central concepts and reviewing some of the seminal arguments that have helped to shape this very seasoned debate over many years. The general question addressed asks, who should direct government decision-making? The general public? Experts? A combination of the two? To properly address all that has been written on the subject would require many dissertations and perhaps, many libraries. With this in mind, it should be recognized that this literature review serves as a brief introduction to the debate. Though a variety of scholars are discussed, many, many more are not; and while this certainly limits our ability to build the new from the old, it does not detract from our ability to provide a broad foundation upon which we can conduct our new inquiry.

This chapter is presented in two parts. PART ONE introduces three key concepts: democracy, direct democracy and democratic elitism. The discussion of direct democracy and democratic elitism frames our discussion of the debate over the place of the public voice in political decision-making. In addition to the detailed definitions of the concepts provided, some of the seminal writings on each topic are explored, including those emanating from ancient Athens for direct democracy and the works of Vilfredo Pareto, Gaetano Mosca and Joseph Schumpeter for democratic elitism. This first section concludes with a discussion of the famous Dewey-Lippmann debate over the place of the
public voice in political decision-making. **PART TWO** brings the discussion to modern day, beginning with a discussion of the relevance of the Administrative Procedures Act and grassroots organizing. The current popularity of public involvement in policymaking is also discussed. The chapter concludes with a review of the various concerns that persist – specifically, the structural, rhetorical and deliberatory concerns introduced in the previous chapter.

2.1. **PART ONE: THE GENERAL PUBLIC OR THE EXPERTS? DIRECT DEMOCRACY VERSUS DEMOCRATIC ELITISM**

2.1.1. **DEMOCRACY AS A CONCEPT**

To say that “democracy” is a loaded concept would certainly be an understatement. Evidence exists that the concept has been the subject of debate for millennia, with discussion dating at least as far back as the Greeks in the Fifth Century B.C. Yet after all this time and the countless hours of debate over the merits and practicality of this system of societal organization, one element appears to remain constant. In every society where a democratic system has been attempted, in every chamber where the concept has been interpreted, in every office where the idea has been practiced, on every playground where it has been uttered, and every bowling team where it has been impossible, in the concept of democracy, there is always a sense of hope and optimism, a demonstration of goodwill and a desire to ensure dignity and respect for our fellow man (or woman); we see its benefits as a system for organizing individuals; and unfortunately, the complexities and possibilities that persist.

At the heart of the concept of democracy are a number of very basic ideas. First, the concept refers to both a grouping of individuals that is organized a certain way, and
the method by which that organization comes to be (i.e., a “democratic” method). This method of organization is derived from a decision-making procedure that is employed by the individuals involved. As questions arise that have an impact on the direction a particular group of individuals is going to go, these questions must be addressed in a certain way. The “democratic” decision-making method refers to a process that has the goal of ensuring that all members in the group have an equal right to express an opinion regarding how the question should be answered, as well as an equal opportunity to have that answer be considered and implemented as the final decision (Beetham, 2005). This form of collective decision-making is placed in contrast to more individualistic forms of decision-making in which one or a few individuals within a group make decisions that must then be followed by the rest. One obvious example of a system that is not democratic is the Feudalistic system, where a monarch makes decisions on behalf of all, without consulting with the rest of the individuals within that society, and without feeling any pressure to consider or even care about the wants and desires of the others being affected by the decision.

This is not to say that all monarchies have cared little for what the people had to say; perhaps some have cared much. This issue raises a second point that is central to understanding the concept of democracy, the distinction between theory and practice. We can imagine a perfect system of collective decision-making as well as a perfect individualistic system. These idealized formulations work well in the mind, but not necessarily in the realm of the body politic. Thus, any discussion of these systems of organization require that we recognize that theoretical formulations differ not only from
the ability to implement these ideas, but from previous attempts at implementation that have occurred in a variety of historical contexts.

Beetham (2005) notes that the following additional ideas are also central to the concept of democracy:

1) That all members of the group have interests that are affected by the collective decisions,

2) That every individual involved, once they reach an adult age, is capable of reaching a view about what the best or least bad decision would be, both for themselves and for the group as a whole,

3) The best decisions over the long run will be ones where all such views have been publicly aired and debated,

4) Where debate and discussion fail to produce a single agreed outcome, decisions should be taken by a vote of all participating members, and

5) The principle of “on person, one vote, one value” reflects a wider conception that all persons are of equal worth.

Each of these ideas is quite loaded and multifaceted. For example, concepts like “interests,” “debate” and “vote” have all been interpreted differently in varied historical contexts and thus again, there is a big difference between how these ideas are theorized and how they are applied. For example, when democratic procedures require that a vote be taken, the notion of “majority rule” often applies – i.e. whatever 51 percent or more of those voting agree upon is then the decision. This concept of majority rule, however, is not always the method used when determining decisions. For example, in the U.S. Senate, (and in other countries around the world) to move forward with certain decisions,
a “super-majority” is sometimes required, which requires that 60 percent of voters vote the same way (Mayhew, 2003). Again, this articulates how the concept of democracy can be conceptualized differently in variegated contexts.

These are some of the basic ideals that make up the foundation of the concept of democracy. With these ideals in mind, we move onto the next step in the discussion which addresses the first systemic formulation to employ these concepts – direct democracy.

2.1.2. DIRECT DEMOCRACY: GOVERNMENT BY CITIZENS

Direct democracy is the most idealistic of all conceptions of democracy. In its purest form, direct democracy incorporates all of the ideals noted above, and strives to fully involve all individuals in the decision-making process. The concept refers to a society in which the citizens are ‘directly’ involved, as opposed to a society where others (i.e. representatives) act as intermediaries between the individuals living in a society and the political decision-making process. Scholars often point to ancient Athens as an example of a society that implemented a form of direct democracy: “Athenian democracy was practiced in a small city-state, where the citizens themselves or a large sample of them could and did actually make many of the political decisions directly” (Mayo, 1960, p. 35). Indeed, this notion of being ‘directly’ involved in the political process is the basis for the concept; in the traditional sense this has been referred to as “government or rule by the people” (Ibid, p.23). Athens celebrated and encouraged its active, involved citizenry who maintained a system of self-government; “the governors were to be the governed” (Held, 1987, p. 17). As will be addressed in the next section, direct participation in government was central to the life of the Athenian citizenry, made
possible by “what Pericles refers to as ‘proper discussions’, i.e. free and unrestricted discourse, guaranteed by isegoria, an equal right to speak in the sovereign ‘assembly’” (Ibid, p. 17-18). This emphasis on a free and open discourse which celebrated and encouraged the language of the people, as opposed to the closed-discourse of experts, was central to the maintenance of direct democracy in Athens.

Direct democracy is placed in opposition to forms of government rule that make it difficult for citizens to participate directly in the governing process. Systems of government that remove citizens from participating directly are numerous, and include representative democracy, a system in which individuals represent a collective group of citizens who then have the ability to remove and replace these representatives. Other forms that are not democratic further remove citizens from the political process; among these are aristocracy, autocracy and other more totalitarian systems such as fascism.

The normative conceptualization of a direct democracy in which all citizens are engaged and involved (i.e., ‘government or rule by the people’), presents us with various idealized notions that would seemingly be of benefit to a society, but would also present numerous impractical realities that may make its realization difficult. The example of an unusually large classroom may illustrate these dynamics. The typical desks and chairs sit side-by-side in a single, horizontal row, equidistant from a blackboard that is not unlike the blackboard many of us stared at for hours on end during our formative years. As noted, this classroom is particularly large, in fact with hundreds of thousands or perhaps even millions of desks lined up next to one another. The classroom stretches for miles. On each of the countless desks sits an endless supply of chalk, an equally endless supply of scrap paper and a microphone. This classroom is certainly not empty; it is filled with
citizens, each of whom is sitting behind a desk, across from a space on the blackboard designated specifically for them. All of the citizens from the specific town, city, state or country in question are there, not a single person is missing. So, in fact, it is quite a scene.

Since it is a perfect direct democracy, without prompting or order, when citizens feel the need, they get up from behind their desks, take a piece of chalk and walk to the board and begin to write. Somehow, all of the citizens have questions that address how their society is to be governed, none draw irrelevant pictures or nonsensical scribble, and at some point every citizen makes their way to the board. The citizens write whatever they want on the board: a concern about a pothole in front of their house, a concern about the moral fiber of their society, a suggestion about the communal tax fund or perhaps a fear about an impending danger. Now comes the complicated part. By some form of communication, all citizens are able to see not only their allocated section of board, but all other citizen allocations. Perhaps special glasses would be designed to ensure that all could see, maybe each desk is equipped with a television screen and a recording device picks up each written comment and places that comment in some form of queue which could then be viewed on the screen. The queries would have to be organized somehow, perhaps on a first-come, first-served basis. Perhaps citizens would be required to not only see all other queries, but to remember which was written first, second, one-hundredth and so forth. The next step in the process would be debate. Each citizen would recognize the issue at the top of the queue, would access his/her extensive knowledge of the subject and begin to speak into the microphone to begin the debate. Perhaps one person would speak at a time, or perhaps all would speak at once; however, in either case, all would somehow
be heard. Ensuring that all were heard on each issue would certainly take months to accomplish, but, since this is the ideal, time would not be a factor here. Individuals never would have to leave for any reason, be it for a bathroom break, to eat or to make a phone call. Of course, citizens would never have to go home or to work to ensure that their families were taken care of because all citizens would live in the classroom. At a certain point, all discussion of each particular issue would cease and the citizens would turn to their scraps of paper. Each would write not a vote, but a potential solution to the problem on their paper and then perhaps read their solution aloud. Should the citizenry not agree unanimously, each issue would be addressed by majority vote, which would resolve each issue. This ‘perfect’ direct democracy would continue, maintaining the body politic, but of course hindering the realization of society itself, as well as everyday life.

There certainly are benefits to this classroom system. All citizens would be provided with equal opportunity, access and power to the system of governance. Citizens would be both knowledgeable and aware of how their society was being governed, and actively engaged in the direction the society would go – these are the pros. The cons are obvious. It is certainly impractical to expect that all citizens could ever congregate in the same area at the same time for as long as it would take to solve every issue that concerned every citizen. Should this issue of impracticality not be as much of an issue, would it make sense that all citizens would be capable of hearing all other citizens and have the ability to provide the best answers to each of the questions? This situation also supposes that the answers to the questions provided would be able to be articulated on a small piece of scrap paper and tabulated in such a way that would make it possible for all voices to be heard in a reasonable amount of time.
While the impractical nature of this fantastic scenario seems obvious, idealized notions of a direct democracy continue to persist to this day. Hardt and Negri (2005) envision a utopian global democracy in which the multitude of individual citizens enable “the rule of everyone by everyone.” (p. 100) This utopian ideal envisions the variegated multitude of citizens actively involved in the decision-making processes that contribute to the advancement of their society. Though citizens exist as singularities – unique in that each is distinguished by elements ranging from genetic makeup to upbringing to life-goals – each is afforded equal opportunity (which of course is acted upon) to contribute to this collective form of self-determination.

Though we see attempts at this idealized form of direct democracy even to this day in the operations of some companies in which all employees own the business and direct decision-making (ESOP, 2010), examples of actual societies that have employed this pure system effectively are difficult to identify. The society that scholars consistently point to when first discussing the realization of direct democracy is also the society from which the concept of direct democracy emanated, ancient Athens. Widely regarded as the closest any advanced human society has come to the normative ideals of a direct democracy, our understanding and contemplation of its development, philosophies and practices should act as essential historical context for this discussion, and an exemplar from which to draw inspiration, direction and knowledge.

2.1.3. THE DEMOCRACY OF ANCIENT ATHENS

Scholars generally point to the system of societal organization operating in ancient Athens between the middle of the fifth century B.C. to 322 B.C. as an exemplar of direct democracy in action (Mayo, 1960; Held, 1987; Sinclair, 1988; Stockton, 1990;
Ober, 1996; Woodruff, 2005; Fleck & Hanssen, 2006). Certainly, the possibility exists that various societies, particularly indigenous ones that existed prior to 500 B.C., could have organized themselves by employing the principles of direct democracy; however, ancient Athens remains the touchstone, perhaps because it truly was the first advanced democracy, but perhaps also because of the rich literature that survived.

The story of democracy in ancient Athens begins on the coastline of Greece around 800 B.C.. At that time, various patterns of ancient forms of urban civilization were slowly emerging along the water. In the three hundred years between 800 and 500 B.C. these communities grew and developed into small, tightly-knit communities (Held, 1987). These small communities could perhaps be described as little cities, as a result of their “urban” setup, with individuals living within the confines of certain walled areas, with the fields for farming on the outside of the walls. Anderson (1974, cf. Held, 1987) describes the time:

in the typical small town of this epoch, the cultivators lived within the walls of the city and went out to work in the fields every day, returning at night – although the territory of the cities always included an agrarian circumference with a wholly rural population settled in it. (pp. 29-30)

With the cities developing along the coast, overseas trading expanded early forms of commercial enterprise, and contributed to the growth of these areas. The growth of wealth and landownership increased the desire for control. In the earlier days the areas were controlled by kingships. After many years of violent uprisings, coupled with the various forms of development, “[t]he political continuity of the early city-states was
broken by the rise of ‘tyrants’ or autocrats (c.650-510 BC), who represented the interests of those who had recently become wealthy through either landownership or commerce and trade” (Held, 1987, p.14). During the 140-year period between 650 and 510 B.C., though various regimes were in power, the cities continued to develop. The expansion of the population, the growing importance and economic autonomy of certain farmers (who were thus, central to specific communities) and the eventual development of the military empowered the individuals who held these positions. This shifting in the balance of power contributed to the social and political instability at the time (Ibid).

The shift towards the eventual democratic system began in the year 510, with the tyrant Hippias being expelled from Athens. In the first few years after the expulsion, there was little central control over those living in the area. The communities were organized generally into four tribes, and a form of aristocracy developed that was controlled by a variety of powerful families. This aristocracy lacked organization and unity and thus left the door open for a more organized movement to take control of the society. The Athenian statesman Kleisthenes started a movement that opposed the aristocracy’s method of determining who was “Athenian” and who was not. The society was seemingly disorganized, and there were a considerable number of individuals in the area who were not labeled as “Athenians.” Instead of favoring the seemingly exclusionary tactics of the aristocrats, Kleisthenes favored a more inclusionary tactic and promoted the notion that the “demes” or local communities should be in charge of determining who should become a part of the Athenian community and who should not. This encouraged new individuals to become associated or “register” with the various communities in the area, and to become a part of the Athenian society; as a result,
“locality replaced kinship or supposed kinship as the basis for political organization.”
(Sinclair, 1988, p. 4) This led to the development of ten new tribes and a system in which equality of rights among citizens (isonomia) and political participation were encouraged. As citizens became increasingly aware and concerned about the affairs specific to their locales, the balance of power shifted again as citizens began to circumscribe the powers of the aristocracy and other similar entities that were making attempts to control of the area. There was power in organization, and this, coupled with the political philosophies promoted by Kleisthenes, encouraged individuals to challenge the authority of the aristocracy, especially regarding the control of the local communities.

The rise of the Athenian demos, which began with Kleisthenes, was furthered during the first half of the fifth century B.C. by a variety of factors. Perhaps chief among them was the ability for Athens to protect itself from invasions. The development of a strong navy and other sectors of the military strengthened not only Athenian society, but Athenian self-confidence. This self-confidence, coupled with the strident political philosophies introduced by Kleisthenes translated into actions by the burgeoning Athenian democracy that reflected a societal independence and a shift towards the notion of the ‘governors being the governed.’ One practice in particular stands out as a prime example of this shift:

It was probably in the mid-460s that the Athenian polis assumed the responsibility for bringing the war dead back to Athens for burial. A practice which applied only to the leaders (for example, the Spartan kings) was being extended by the Athenian polis to all Athenians. (Sinclair, 1988, pp.5-6)
Another factor that was central to the development of Athenian democracy was the expansion of the slave economy. As noted earlier, one of the barriers to direct democracy is the limitation of time. When individuals are required to stay home to maintain the farmland, build and sell commodities, and take care of loved ones, little time remains for political thought, let alone participation. As some acquired slaves with the expansion and development of the economy, various Athenians were able to expand their own enterprises, whether it be agriculture, mining or craft (Held, 1987). The freedom and independence provided to those who now owned slaves contributed to a rise in literacy as well as political participation.

Perhaps most important to the development of Athenian democracy was the organization of the people into systems of government that would both circumvent the remaining aristocracy and strengthen the power of the polis. The organization of the ten tribes led to the development of a central governing body or Boule (also referred to as the Council of 500). Members of the Council were chosen from the 139 local communities (demes) that were organized via the tribes, with the number of representatives (apparently) chosen in proportion to population (Sinclair, 1988): “[m]any demes had only one or two bouleutai while the largest deme of Akharnai is known in the fourth century to have had 22.” (Ibid, p. 52)

The Boule however was only one element of the Athenian democratic system. There were seven major areas of political organization: the citizenry (demos), the Assembly (or Ecclesia), the Council of 500 (or Boule), the Committee of 50, the military generals, the magistrates and the courts. To be a member of the Athenian citizenry, one had to be a male of at least twenty years of age. In 450 B.C., there were approximately
35,000 Athenian citizens, all who had been afforded the equal right of speech in the Assembly, and the ability to participate in the other spheres of the government (Sinclair, 1988). Rich and poor, learned and unlearned, all were encouraged to participate, especially in the Ecclesia. It should be reiterated, however, that while Athenian democracy is often praised for its attempt to transcend the barriers of economic status, women and those without the luxury of more economic freedom (perhaps because they didn’t own slaves, or were slaves themselves) were not afforded the status of “citizen” and were excluded from the polis.

The Athenian Ecclesia or Assembly is perhaps the most famous element of Athenian democracy. The Assembly organized more than forty times each year and had a required quorum of six-thousand citizens; thus, without considerable citizen participation, the Assembly would not have been allowed to function (Held, 1988). The Assembly addressed numerous issues that were central to the maintenance of society, including: the legal framework to be employed for maintaining public order, public finances, taxation, ostracism, foreign affairs, military affairs (military and navy), coordination with allies and (perhaps one of the most important duties of this society) the declaration of war. Each of these issues were brought to the Assembly, debated heavily by those in attendance, and decided upon in order to determine the direction of the Athenian state. The desired outcome of debate was always unanimity (homononia); however, the reality that this wasn’t always possible let to the process of voting with majority-rule determining the outcome. Indeed, scholars suggest that it was likely the Greeks who invented the use of formal voting procedures to determine decisions when conflicting positions were encountered (Held, 1987).
Though quorum for the Assembly was 6,000, all citizens were encouraged to attend. With so many individuals organized in one location at a specific point in time for the purpose of political decision-making, to maintain order, certain functions had to be performed by another body. For example, the agenda to be addressed by the Assembly was determined by the Boule (the Council of 500). As was articulated in the example earlier of the large classroom, one of the major problems with the concept of a direct democracy is the question of how the issues raised by the citizenry are to be organized and addressed. With so many voices clamoring to be heard, so many individual perceptions and ideas for how society should be run, and so many concerns related to individual experience, a strategy needed to be developed to maintain order and keep the process moving forward. Thus, the Council of 500 and a sub-council called the Committee of 50 were organized to help determine the agenda for the Assembly.

The creation of the Boule (and the Committee) was certainly a step away from direct democracy as those chosen to represent the ten tribes did in fact do just that, represent the tribes and thus there was movement away from the idea that all individuals could participate in all elements of rulemaking and governance. That being said, the method employed to choose who would be a part of the Boule brought Athenians a step closer to the notion of direct democracy. Members of the Boule were selected by lot. Any man who was at least thirty years of age and who desired to be considered could be chosen to serve as a member of the council (Manin, 1997). Selection by lot however was not the only element of this process that created a connection to direct democracy, the position of Councilman was only allowed to be held for one year. In some instances,
individuals were allowed to serve for a second term, however, two terms was the maximum amount of time any one individual could serve (Sinclair, 1988, p. 102).

Throughout this project there will be various references to the classical system; therefore, it is worthwhile to summarize some of the basic tenets, both to recognize some of the major components of the ancient Athenian democracy that persist to this day, and to organize a list of objectives upon which normative ideals can refer. This summary is adapted from Walker (1966) and Held (1987) and organized in Appendix A.

2.1.4. “MAN IS THE MEASURE OF ALL THINGS”

More than 2,000 years ago, Athenian philosopher Protagoras wrote “of all things the measure is Man, of the things that are, that they are, and of the things that are not, that they are not;” commonly rephrased as “man is the measure of all things.” A brilliant insight into the nature of humankind, Protagoras provides us with what is perhaps the most profound and succinct statement justifying popular rule. At the very least, his insight suggests that each and every one of us has the ability to accurately recognize, measure and express the truth; we simply have to figure out how to find it.

While there were members of ancient Athenian society who disagreed with this idea (Plato in particular), the notion that all human beings were endowed with the natural ability to be moral and thus, citizens, was something a variety of ancient Athenians believed; “this is the most important and the most controversial idea behind democracy: it is a natural part of being human to know enough to help govern your community.” (Woodruff, 2005, p. 149)

Sophocles’ play Antigone emphasized this point. Woodruff (2005) describes the play which was presented in 442 B.C. The main character was Creon, who had attained
power in an area called Thebes which was over the hills from Athens and never regarded as a democracy. The part of the play that Woodruff focuses on addresses a scenario where Creon is dealing with the death of his brother. Creon is angry with him as he blames him for the civil war that has been waging. As a result of his anger, Creon commands on pain of death that no one bury his brother. The story progresses and a niece, Antigone, and her sister are caught with dust on their hands, having buried the brother. Creon is unsure of what to do because he does not want to further destroy the family, but struggles as he wants to stay true to his word. He summons a council of elders, who are shown to be overly-obliging to the king. Later, Creon’s son Haemon approaches him and tells him what ‘ordinary’ citizens living in Thebes were feeling, afraid to speak for fear of upsetting the king. Haemon says to Creon,

Father, the g-ds give good sense to every human being, And that is absolutely the best thing we have. … My natural duty’s to look out for you, spot any risk In speech or action that someone might find fault. The common man, you see, lives in terror of your frown; He’ll never dare to speak up in broad daylight And say anything you would hate to learn. But I’m the one who hears what’s said at night (cf. Woodruff, 2005, p. 147)

Haemon goes on to say that the ordinary people of Thebes believe that Antigone has done what was right and that the king should not kill her. Woodruff notes, “Sophocles’ audience knew who was right in this debate. The people should be heard.” (Ibid, p. 148)
Our ability to know the face of injustice in many forms is the golden thread which guides us towards this morality. Whether it be the highlighting of differences between the haves and the have nots, or the shining of light on abuses of power, our ability to identify and call-out injustice is just as necessary in today’s modern society as it was 2,000 years ago. As Woodruff notes:

Everywhere people have the capacity to know when they have been treated unfairly. The anger that simmers around the world in deserts and jungles, in tiny villages and overgrown cities, testifies that the power to resent injustice is not the property of an educated class or of a privileged culture. (Ibid, p. 159)

2.1.5. THE POTENTIAL OUTCOMES OF CLASSICAL DEMOCRACY

A discussion of the tenets of classical democracy should also include a discussion of the potential outcomes of the system. Three outcomes that continue to be viewed (in more modern terms of course) as primary justifications for public participation in government decision-making are discussed, including: the development of the citizen, protection from tyranny and the improvement of government decision-making.

2.1.5.1. DEVELOPMENT OF THE CITIZEN

An engaged citizenry is one that attempts to control its own society’s direction. Instead of being sheep directed by the sheppard to go this way or that, an engaged polis, comprised of individual citizens, contribute, debate and in the end, determine the path their society will take. While these ideas paint a picture of a strong, informed, well-directed society, the Athenians saw things from another perspective as well, and emphasized the importance of civic engagement on the development of the individual.
The Athenian conception of the citizen entailed being involved directly in the affairs of the state. Those who refused to get involved were not regarded as true citizens. As said by Pericles, “we do not say that a man who takes no interest in politics is a man who minds his own business; we say that he has no business here at all.” (cf. Held, 1987, p.17) Indeed, Athenians believed that individual fulfillment, and the notion that one was living honorably, could only be accomplished by getting involved in politics. Political participation, along with independence, education, art and religion enabled the citizen to elevate themselves as individuals, to reach towards that which would achieve the ‘common good’ which was connected with one of the highest goals articulated by Athenian philosophers, justice. This is an idea that has persisted alongside the other benefits of the classic model. Proponents of the classical system (or elements of it) have often referred to the notion of the development of the citizen as one that is of central benefit to the individual and to the society as a whole. John Stuart Mill was one theorist who championed this point of view. Bachrach summarizes about Mill, “not to engage in the political affairs of one’s country would result, Mill (argues) … in the stunting of man’s intellectual and moral capacities and in the narrowing and dwarfing of his sentiments.” (Bachrach, 1967, p. 4) Mill also articulated the following point which is as relevant today as ever,

Leaving things to the Government, like leaving them to Providence, is synonymous with caring nothing about them, accepting their results, when disagreeable, as visitations of Nature. With the exception, therefore, of a few studious men who take an intellectual interest in speculation for its own sake, the intelligence
and sentiments of a whole people are given up to the material interests, and, when these are provided for, to the amusement and ornamentation, of private life.” (Mill, 1861, 2001)

The longstanding debate in this area has addressed the issue of whether or not the ‘ordinary’ citizen is capable of being interested in the political realm and the life of society as a whole. The question has always been, can citizens look past their own individual interests, or will they fold in on themselves in self-absorption, taking down any political system they have become affiliated with. This is the view of those who argue for the theory of democratic elitism (discussed further on). Proponents of classical democracy fervently disagree with this viewpoint, suggesting not only that ‘ordinary’ citizens are capable of getting involved in society, making the future of society as a whole a top priority while placing their own interests on the back burner, but also that the individual citizen (ironically, in a selfish move) will only be able to develop fully as an individual if he/she becomes involved in the political life of their society. As Mill noted, citizens who remove themselves from the political arena impede their own intellectual, moral and social development. Therefore, the argument has been made that citizens can move and think beyond their own personal interests and perceptions, and enter into the political arena within which they would consider, reflect and debate problems and perspectives with others. The result would then be that their own individual abilities would become enhanced, and some of the greatest innate human tendencies and capabilities would be realized.
2.1.5.2. PROTECTION FROM TYRANNY (PROMOTION OF LIBERTY)

This is also a very old idea with roots in ancient Athens. As was noted earlier, the ancient Athenian democracy was able to develop because of the removal of the tyrants that ruled for many years, and as a result of the ability for the citizens to circumscribe the power of the rising aristocracy. The ability for citizens to come together and both defeat and prevent totalitarian control has been a benefit linked with the classical system that provides not only feelings of pride and confidence, but also security. While not a viewpoint that is especially prominent in modern society (in fact, the replacement of protection from tyranny with protection from government impropriety is something that is addressed in the final section of this chapter) it has been espoused in many societies and as a part of various revolutions in the years since Athenian democracy. For example, Maximilien Robespierre was famously quoted as describing the French Revolution as “the despotism of liberty against tyranny.” (Sabine, 1952, p.465) Similarly, during the American revolution, independence of thought and action were both goals that the burgeoning American society were striving to protect, as well as defenses against the tyranny imposed by outside forces. These ideas were articulated clearly by Thomas Jefferson in the Declaration of Independence, in particular, through the passage:

Governments are instituted among Men, deriving their just powers from the consent of the governed — That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and
organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. (Declaration, 2010)

Of course, Jefferson was talking about a system of early Democratic Republicanism, and not classical direct democracy; however, the notion that democracy and protection against tyranny were connected was clearly stated.

The words of Carl Becker, writing in 1941, more than two-thousand years after the world of ancient Athens, emphasize how these normative ideals remain relevant in the twentieth century:

Modern liberal-democracy is associated with an ideology which rests upon something more than the minimum assumptions essential to any democratic government. It rests upon a philosophy of universally valid ends and means. Its fundamental assumption is the worth and dignity and creative capacity of the individual, so that the chief aim of government is the maximum of individual self-direction, the chief means to that end, the minimum of compulsion by the state … means and ends are conjoined in the concept of freedom; freedom of thought, so that the truth may prevail; freedom of occupation, so that careers may be open to talent; freedom of self-government, so that no one may be compelled against his will.” (cf Bachrach, 1967, pp.17-18)

Strong and inspiring words echo a normative philosophy that seems to speak to all that is good in a democracy.
2.1.5.3. The Improvement of Government Decision-Making

The discussion thus far has emphasized that direct democracy is successful as a societal system because of its commitment to both means and ends. In terms of means, classical direct democracy values the process of debate, which should be both fierce and as inclusive as possible. These means, would then justify the end result, which would be a decision that has not only had various solutions debated, but had allowed a broad array of individuals to consider and reflect upon the points advanced before a decision was made. Of the various benefits associated with classical democracy, this is perhaps the outcome that continues to serve as the greatest motivation for governments, scholars and citizens alike to champion more participatory models of democracy. A report from the Organization for Economic Co-operation and Development (OECD, 2001) on participatory democracy exemplifies this point of view, by noting in the opening remarks of its executive summary,

Engaging citizens in policy-making is a sound investment and a core element of good governance. It allows governments to tap wider sources of information, perspectives and potential solutions, and improves quality of the decisions reached. (OECD, 2001, p. 11)

While many of the elements of classical democracy are difficult to emulate in contemporary society, especially given the conditions that were specific to ancient Athens (size of the city-state, how far people lived from one another, and the slave economy), the central ideals of this political philosophy, like the improvement of government decision-making, have persisted and continue to justify our reflection upon
this system. In these moments of contemplation, we revisit the problems that persist between notions of theory and true reality. Thus, it is with this mindset that an opposing theory is now introduced - democratic elitism. This system of societal organization articulates the other side of the debate that will be discussed throughout this project.

2.1.6. DEMOCRATIC ELITISM: GOVERNMENT BY EXPERTS

Elitist theories of democracy begin with the notion that societies governed by a minority of experts are an improvement over societies that employ the principles of direct democracy. This system focuses on the benefits of expertise and the drawbacks of the ‘ordinary’ citizen. Champions of democratic elitism argue that the exigencies of everyday life in the industrialized world make it necessary that experts make the political decisions in a democracy (Bachrach, 1967). In fact, as Bachrach argues, “The modern defense of elitism … is based primarily on the contention that the best interest of a free people, of civilization itself, depends upon the ability of the gifted to command the deference of the many for the well-being of all” (Ibid, p.2). The obvious concern that arises when one considers this idea that a minority of individuals would control a society, with only deference communicated from the general public, is that those in control will act in their own interest. Advocates for democratic elitism argue the contrary, noting that unlike totalitarian societies, those elitists who govern in a society of this type operate within a system of democratic elitism and not totalitarianism because they are able to transcend selfish interest while ‘ruling’ with the best interests of the community in mind. But the relationship between elitist rule and community enhancement is complicated: “While elitism and democracy are similar in that the primary purpose of government is to safeguard and further the interest of the community, they differ fundamentally as to what
this interest entails, and as to the role of government in securing it” (Ibid, p. 2). The next section explores the specific dynamics of these complexities as articulated by various scholars who have explored democratic elitism.

2.1.6.1 VILFREDO PARETO, GAETANO MOSCA AND JOSEPH SCHUMPETER

The notion that a small group of experts should govern the masses is an idea that can be traced to ancient Athens as well, although the twentieth century saw extensive theorizing of the philosophy. Countless scholars writing between then and now have advanced this idea in a variety of forms ranging from Plato to Thomas Hobbes to Walter Lippmann (just to name a few). The theory of democratic elitism is just one interpretation of this viewpoint, but one that has gained notoriety, because of the various scholars who have supported it, and their scathing critiques of classical democracy.

Vilfredo Pareto’s *The Mind and Society* (1935) and Gaetano Mosca’s *The Ruling Class* (1939) are considered among the earliest scholarly formulations of the theory of democratic elitism (though apparently, the two theorists were considered rivals). For both Pareto and Mosca, the biggest question confronting contemporary society was how to avoid the power of the demagogues who may turn any hopes of democracy into socialism (Bachrach, 1967). Thus, for these scholars and others of the time, one of the justifications of democratic elitism was the protection of democracy against the possibility of socialism. These early democratic elitists argued that a form of representative government that could control the masses was essential, in order to ensure political and societal stability. For these theorists, it was argued “that although in its unadulterated form, democracy leads to instability and tyranny, under elite rule it becomes an anti-
revolutionary force, assuring political stability and the maintenance of liberty” (Ibid, p. 11). Of course, the question the follows this idea is, what type of liberty, and for whom?

Gaetano Mosca posited both that societies should be governed by elites and that most (if not all) societies always have been governed by elite. He noted:

In all societies – from societies that are very meagerly developed and have barely attained the dawnings of civilization, down to the most advanced and powerful societies - two classes of people appear – a class that rules and a class that is ruled ...the first class, always the less numerous, performs all political functions, monopolizes power and enjoys the advantages that power brings, whereas the second, the more numerous class, is directed and controlled by the first, in a manner that is now more or less legal, now more or less arbitrary and violent… (Mosca, 1939, p.50)

Indeed, Mosca posits that no matter what political form society takes, a minority of elites always seem to take charge in some form, and maintains their power either by manipulation or violence or both. As noted, the problem with the distinction between political theory and political reality is that reality never turns out exactly as the theory intended. Keeping this in mind, Mosca and Pareto never claim that the masses are entirely apathetic and passive. A reality is described in which the governing elites must on occasion, consider the emotional outbursts of those they rule. Pareto notes that the elites, “must now and again bend the knee to the whims of the ignorant and domineering … but they are soon back at their tenacious, patient, never-ending work, which is of
much the greater consequence.”¹ (Pareto, 1935, cf. Bachrach, 1967, p.12) In essence, what is being argued here is the notion that the masses are to be tended to as a flock of sheep; directed and controlled by those with the knowledge and know-how to ensure the benefit and survival of all. On occasion, perhaps the sheep might become fussy or angry, perhaps due to hunger or discomfort, or some other non-intellectual problem. The role of the herder is to assuage and relieve the discomfort by providing relief to these emotional and superficial outbursts. Once these needs have been addressed, the more serious business of directing and controlling resumes again, with the flock following along, relinquishing control.

Proponents of classical democracy posit that as a system of societal organization, democracy requires that both means and ends involve the general public. True democracy, then, is only possible if citizen debate is central to the process and that the decision in the end reflects this inclusionary debate. It was this viewpoint that Joseph Schumpeter, one of the central figures of the democratic elitist movement, developed his central counter-arguments against. Schumpeter’s ideas are often connected to this now infamous hypothetical anecdote:

Let us transport ourselves into a hypothetical country that, in a democratic way, practices the persecution of Christians, the burning of witches, and the slaughtering of Jews. We should certainly not approve of these practices on the ground that they have been decided on according to the rules of democratic procedure. But the crucial question is would we approve of the

¹ Pareto was talking about Parliamentary systems here that had to be dealt with, not a mass of citizens necessarily.
democratic constitution itself that produced such results in
preference to a non-democratic one that would avoid them?
(Schumpeter, 1962, p.242)

Schumpeter argued that most individuals, supporters of democracy or not, would
certainly disapprove of this situation, primarily because their connections to morality
would outweigh their commitment to democracy. Thus, Schumpeter argued that
democracy was merely a system for organizing a society, and not a system for ensuring
morality and the ‘good’. He argued that as articulated by his example, democracy was
always in danger of violating its own assumptions, if the majority were to remove both
liberty and freedom from the minority.

To protect against these potential problems, Schumpeter argued that a system of
democracy needed to be set up that allowed an elite group of individuals to control, direct
and maintain society. The role of the general public was merely to ‘approve’ of the
leaders or not. What he proposed was not “government by the people” but rather
“government approved by the people.” (Schumpeter, 1962, p.246) The system he devised
certainly sounds familiar to the system we employ today, describing the system as,

That institutional arrangement for arriving at political decisions in
which individuals acquire the power to decide by means of a
competitive struggle for the people’s vote. (Ibid, p.269)

It is worth noting here that democratic elitists were not opposed to the idea that
members of the general public who were either innately capable or had developed the
ability to join the ranks of the elites should do so. This was actually a tactic of the
democratic elitists to maintain the superiority of the dominant group, as intelligence and
capability, as opposed to heredity was a major factor in the maintenance of the elitist group (Bachrach, 1967). Therefore, this system of democracy differed from more totalitarian models in that it provided the opportunity for members of the lower classes to rise to the top. Of course the reality of societal stratifications especially in the areas of education and quality of life would certainly do its part to maintain the balance of power. Furthermore, though it might appear at points that theorists like Schumpeter regarded the key to the elite class as leadership ability and talent, their justifications for public subordination persisted. Schumpeter argued that the ignorance of the lower classes was maintained by a lack of specific community-oriented life experiences. Schumpeter went as far as to say that ‘ordinary’ citizens argue and analyze political situations in “an infantile way” and as result the ‘ordinary’ citizen when engaged in debate “becomes a primitive again.” (Schumpeter, 1962, p.262) This definitely articulates a viewpoint that perpetuates notions of prejudice and ignorance, which should not be surprising, at least in Schumpeter’s case who felt it was appropriate to discriminate (in the political arena at least) on the basis of property, race, gender or religion (Bachrach, 1967). In sum, Schumpeter argued quite clearly, that:

democracy does not mean and cannot mean that the people actually rule in an obvious sense of the terms ‘people’ and ‘rule’. Democracy means only that the people have the opportunity of accepting or refusing the men who are to rule them … Now one aspect of this may be expressed by saying that democracy is the rule of the politician.” (Schumpeter, 1962, cf. Bachrach, 1967, p.21)
Thus, Schumpeter articulated a system of democracy in which public involvement was only required during elections. All other forms of societal involvement were antithetical to the system of democracy democratic elitists envisioned. In fact, in a move that is certainly relevant to our current inquiry, Joseph Schumpeter emphasized his disdain for the notion that members of the public would take political action between elections, and thought that the practices of “‘bombarding’ representatives with letters and telegrams … ought to be banned.” (Bachrach, 1967, p.21)

2.1.6.2. DEMOCRATIC ELITISM VERSUS CLASSICAL DEMOCRACY

The differences between democratic elitism and direct democracy could not be more distinct. Bachrach (1967) notes that all elite theories are founded on two basic assumptions about the ‘ordinary’ citizen:

first, that the masses are inherently incompetent, and second, that they are, at best, pliable, inert stuff or, at worst, around, unruly creatures possessing an insatiable proclivity to undermine both culture and liberty. (p. 2)

In essence, the argument here is that the general public, given the opportunity to express themselves would only create chaos. Not a chaos in which erudite, practical solutions to societal problems would result, but a chaos in which nothing of value would be produced, making the entire exercise of wading through the chaos (if possible) a waste of time. Furthermore, proponents of democratic elitism believe that the ordinary citizen is unlikely or perhaps incapable of contributing ideas and solutions that would better society as a whole, and should participation be encouraged, the general public, through their own apparently selfish nature would turn the entire political system upside-down in order to
further their own interests. Thus, democratic elitists see the relationship of elites to masses as reversed from more classical notions. In this view, masses, not elites are the potential threats to the system, and the elites, not the masses become the defenders (Bachrach, 1967).

How society and the masses are to be directed differs depending upon the historical context and place. What does not differ for democratic elitists especially, is the view that the masses are a danger to the system, and the elites are the answer. Again, there is a strong distinction between the elitist theories and those of the ancient Athenians. The Athenians believed (as do others who champion forms of classical democracy) that all men are created equal, and perhaps even that the ability to determine the direction society should take is something that every individual is endowed with. Elitists conversely, believe in a hierarchy within society, especially in terms of ability.

Max Weber articulated his concerns regarding the impractical nature of direct democracy:

Where the group grows beyond a certain size or where the administrative function becomes too difficult to be satisfactorily taken care of by anyone whom rotation, the lot, or election may happen to designate. The conditions of administration of mass structures are radically different from those obtaining in small associations resting upon neighborly or personal relationships … The growing complexity of the administrative task and the sheer expansion of their scope increasingly result in the technical superiority of those who have had training and experience, and will
thus inevitably favor the continuity of at least some of the functionaries. Hence, there always exists the probably of the rise of a special, perennial structure for administrative purposes, which of necessity means for the exercise of rule. (Held, 1987, p. 149)

Just as the view of individual ability differs between the two systems, so too does the view of how society should be organized. In particular, scholars point to a difference in conceptions of the public interest. In classical democratic theory, the public interest is conceived in terms of both process and results. In this theory, the public interest is determined and measured not only by the soundness of the decisions themselves, but by the process and scope of public participation that was involved in reaching the decisions (Bachrach, 1967). In classical democracy, citizens are viewed as capable of conceiving, considering, debating and reaching decisions that are good not only for the individual, but for the society as a whole. Only an elaborate, engaged debate will do for advocates of classical democracy, one that involves the voices of as many citizens as possible. Thus, a fundamental difference between proponents of classical democracy and those of democratic elitism is that those who support classical democracy view the public interest as that which is determined through public debate, a process that helps society and the individual to improve themselves in the process. This is contrasted with the views of the democratic elitists, who view the public interest as being realized when policies are shaped by the views of experts. As opposed to a two-dimensional concept of the public interest, through which process and result contribute, the public interest as conceived by elites is more one-dimensional, in that it is decision-based only. Of course, to those who advocate for democratic elitism, these one-dimensional decisions are superior to any two-
The ordinary man still plays a role in the system since he has the freedom to vote, to bring pressure upon political elites, and to attempt himself to rise to an elite position. But by and large he does, and is expected to remain relatively passive – in fact the health of the system depends upon it. For if he becomes too active, too aroused in politics, awakening the alienated, the apathetic masses of the cities and the rednecks of rural communities, political equilibrium is thrown out of balance and the demagogue finds greater opportunity to challenge successfully the power of established elites. (Bachrach, 1967, p. 8)

Throughout this study there will be various references to democratic elitism, therefore, it is worthwhile to summarize some of its basic tenets, to organize a list of objectives upon which normative ideals can refer. This summary is organized in Appendix A.

2.1.7. THE DEWEY-LIPPMANN DEBATE

As the debate over the place of the public voice in government decision-making has evolved over many, many years, various scholars from different time periods have revisited the question and jostled verbally over the relevance of the issue to their societies. In the twentieth-century, perhaps the most publicized example of this debate
took place between John Dewey and Walter Lippmann. The debate began with the release of Lippmann’s *Public Opinion* in 1922, and Dewey’s review of the book which was published that same year in the *New Republic*. Both Dewey and Lippmann published opposing works in 1927, Lippmann with *The Phantom Public* and Dewey with *The Public and Its Problems*. While this discussion of the debate focuses primarily on the differences between the two, it is worthwhile noting that the two shared a similar perspective on the state of democracy in America during the time they were writing. Both framed their arguments in opposition to what they viewed as the struggling democracy currently operating in America, and both prescribed potential solutions (quite different solutions of course) for how to address the future of the American political system (Whipple, 2005).

### 2.1.7.1. Walter Lippmann and Democratic Elitism

Lippmann had been writing about democratic elitism for many years before Schumpeter’s work pushed the theory to the forefront of the discussion over contemporary democratic theory. In *Public Opinion* (1922), Lippmann’s opening chapter entitled, “The World Outside and the Pictures in Our Heads” emphasizes how citizens construct a “pseudo-environment” in their own minds upon which they base their perceptions and actions. This pseudo-environment is a simplified version of reality that is practical in the sense that it allows the human mind to comprehend it, but is limited in that it does not accurately reflect the true nature of the material world. Lippmann posits that in general, people are simply incapable of taking in all of the complexities of the real world, processing them and acting upon them. The result is the construction of these pseudo-environments, which enable us to get by, but not necessarily to thrive. Lippmann
ends his first chapter with the argument that the best solution for the future of the American democracy is to ensure that the smartest individuals among us are allowed to come together to form a centralized body of experts that can then do their best to help direct the rest of us and control the system of government that will then produce the best possible attempt at informed, rational, political decision-making. Certainly, some of the tendencies of democratic elitists are evident in Lippmann’s arguments, most notably, the notion that the general public is incompetent when it comes to directing the political system, and perhaps society in general, and that it is up to the experts to right the ship.

Lippmann’s elitist critique of the ‘ordinary’ citizen and their limited role in the maintenance of the American democratic system was furthered considerably by his work *The Phantom Public* (1927). In this book, Lippmann presents another harsh critique that outlines the limitations of the general public, in particular, their lack of political agency. He notes:

An ideal should express the true possibilities of its subject. When it does not it perverts the true possibilities. The ideal of the omnicompentent, sovereign citizen is, in my opinion, such a false ideal. It is unattainable. The pursuit of it is misleading. … The individual man does not have opinions on all public affairs. He does not know how to direct public affairs. He does not know what is happening, why it is happening, what ought to happen. I cannot imagine how he could know, and there is not the least reason for thinking, as mystical democrats have thought, that the compounding of individual ignorances in masses of people can
produce a continuous directing force in public affairs. (Lippmann, 1927, p. 29)

For Lippmann, it was not only that the ‘ordinary’ citizen is incapable of governing due to their inability to grasp complex problems (Westhoff, 1995), it was also the modern political environment that required expertise in such a wide range of complex, ever-changing subjects. To govern in this situation would be impossible for the ordinary citizen who has a life to lead and work to attend to. Lippmann argues that the role of the ‘ordinary’ citizen is quite simple (it may sound familiar):

We must abandon the notion that the people govern. Instead, we must adopt the theory that, by their occasional mobilizations as a majority [during elections] people support or oppose the individuals who actually govern. We must say that the popular will does not direct continuously but that it intervenes occasionally. (Lippmann, 1927, p. 52)

2.1.7.2. JOHN DEWEY

In contrast with Walter Lippmann who espoused some of the ideals that would eventually be labeled ‘democratic elitism,’ Dewey’s message had clear connections to classical direct democracy. Dewey saw democracy as many proponents of classical democracy do as being comprised of both means and ends. In democracy, Dewey saw the possibilities of a stable, unified, political order, a Great Community, in which citizens were engaged, and able to reach the ideals of true self-realization. As Whipple (2005) observes, “to Dewey, the participatory model of democracy creates the conditions for the greatest realization of broad individual and collective capacities.” (p.161) Dewey saw the
act of political participation as an activity, facilitated by communication that contributes to both of these advances in society and in the individual. He argued that human beings are not naturally drawn to passivity in the realm of the political (while active in the private sphere), but rather, that citizens are naturally active and desire to participate. Thus political agency was an area that Lippmann and Dewey disagreed. Lippmann saw the ‘ordinary’ citizen lacking it, while Dewey saw it as an innate quality that we all could access.

Dewey’s views on the individual were complemented by his concerns about experts. He saw and understood the benefits of the expert in modern society. At an address in 1900 to the American Psychological Association, Dewey articulated his optimism about the future of psychological scientification, and the potential benefits to society as a whole (Westhoff, 1995). In *The Public and its Problems* (1927) he spoke of the benefits of experts in the political realm as well. That being said, Dewey was concerned about the place of ‘professionalism’ in society, and the rising dependence upon experts in more and more areas (Westhoff, 1995). He saw the importance of political decision-making in local communities, and the importance of freedom and liberty for the ‘ordinary’ citizen. Much of this can be attributed to what has been referred to as his ‘radical theory of knowledge’ which grounded truth in human experience. For Dewey:

Knowledge of truth was not abstract and esoteric; it was an unending experiment open to all individuals since its results were verified by activity rather than by isolated reflection or special training. Thus, the individual possessed the power to understand
and shape society and could avoid leaving its management to fate or to the expert. (Westhoff, 1995, p. 32)

Thus, we see a direct connection between the works of Dewey and the philosophies of the ancient Athenians. In Dewey’s words, we see a more modern reflection upon Protagoras’ “man is the measure of all things” as he posits that all citizens, no matter what their background, are capable of understanding and shaping their society, and thus should engage politically and help fulfill the possibilities of a true contemporary democracy.

2.2. PART TWO: CONTEMPORARY VIEWS OF PUBLIC PARTICIPATION AND THE PROBLEMS THAT PERSIST

This section brings the discussion to modern day as the current popularity of the idea of public involvement in policymaking is discussed. First is a review of some of the guidelines noted in the Administrative Procedures Act, which outlines how public participation is to be connected to contemporary administrative proceedings. This is followed by a discussion of some contemporary views regarding the benefits of public participation (connected to traditional normative outcomes, i.e., improvement of the citizen, protection against tyranny/government impropriety and the improvement of government decision-making). This is followed by a brief section on grassroots organizing that highlights some of the modern techniques that have helped members of the public deal with some of the longstanding concerns the persist and impede public participation. This leads into the extension of the counterpoint, as the various concerns that are associated with public involvement in contemporary policymaking – specifically, the structural, rhetorical and deliberatory concerns are addressed.
2.2.1. PUBLIC PARTICIPATION AND THE ADMINISTRATIVE PROCEDURES ACT (APA)²

In the United States, the rules and guidelines detailing how public participation is to be connected to administrative proceedings are contained in the Administrative Procedures Act (APA, 2010), which includes specific provisions that outline both how the public is to be informed about the proceedings (i.e. provided notice) as well as how members of the public are able to contribute (through comments) to the debate. Notice for proceedings is provided through the requirements that the APA publish a Notice of Proposed Rulemaking in the Federal Register. The APA also notes that the administrative agency must provide members of the public with sufficient opportunity to contribute comments relating to the policy being considered. Processes of promotion and inclusion are followed by a process of disclosure in an attempt to involve the public in the deliberations as thoroughly as possible. Disclosure is achieved through the requirement that the administrative agency must publish the policy and outline the justification for the decision in the Federal Register as well. (Fine & Owen, 2004)

Thus the APA, which was codified in 1946, mandates public access to information regarding an agency's organizational structure and to the process by which parties may obtain documents, access to agency policies, manuals, decisions, and other records for public inspection; it also provides instructions for facilitating dissemination of the documents to "any person" making the request. The Act further dictates that the public

² Independent government agencies like the FCC must adhere to the provisions of the Administrative Procedures Act (APA, 2010).
be given notice and opportunity to comment in situations involving informal rulemaking; for formal rulemaking, the public must be afforded the opportunity to participate in a public hearing. (Jeffrey, 2002, p.649)

Federal agencies are not mandated to agree with comments presented by the public, but they are required to demonstrate evidence of their reasoning. This means that federal agencies are required (if they disagree with the public’s opinion) to justify why their decisions go against what members of the public presented. The Act also allows for individuals to challenge the decisions of the Federal agencies with the opportunity to prove that the decision is unreasonable, illegal or unfounded (Fine and Owen, 2004).

The APA’s specific provisions regarding public participation were not designed simply to satisfy a vague conception of what a democracy should involve, but rather as a strategy to encourage regulators to get in touch with the public interest when making policy decisions (Holman & McGregor, 2001):

This stems in part from the belief that regulator agencies, like other organizations, rarely respond to interests that are not represented in their deliberations. An agency must base its decisions on the opinions of its staff and on the input it receives from various private entities – usually regulated companies with a stake in the outcome of the decisions. Public participation by a wide range of organizations and individuals is mandated because such pluralism is seen as a mitigating force against an agency’s capture by those regulated entities. (Ibid, p. 162)
As will be revisited in the following section, the protection against forms of tyranny (in more modern forms such as government impropriety), as well as education of the citizen and validation of the system of government continue to serve as justifications for public involvement in government decision-making.

2.2.2. CONTEMPORARY VIEWS OF PUBLIC PARTICIPATION IN GOVERNMENT POLICYMAKING

In recent years, at the expense of the more elitist models of public administration, inclusionary models of government in which the voice of the general public is attributed greater value, have grown increasingly popular worldwide (Frewer & Salter, 2002; Rowe & Frewer, 2004). In fact, the literature addressing public involvement in contemporary government policymaking is now quite extensive. Not only does the issue of public involvement in general appear to be quite popular, but in areas addressed by government including health care, transportation, environment, communications, local government and national government, scholars are exploring the relevance of the public voice (Rowe & Frewer, 2004). Governments around the world also appear to be interested in the topic, with a 2001 OECD report declaring how “new forms of representation and public participation are emerging in all of our countries” (OECD, 2001, p. 9). Furthermore, while much attention has been given to the issue of public involvement in American politics, high level commissions and officials in Sweden, the Netherlands and the United Kingdom express similar sentiments to the OECD report (Coleman and Gøtze, 2001) which describes public involvement in government decision-making as a “sound investment and a core element of good governance” (Ibid, p. 11).
While there has arguably been a shift towards more inclusionary models, it does not appear that all of the historical goals of classical direct democracy are the motivating factors behind this change. The improvement of the individual is the goal that appears to be the least important. Certainly there are those who continue to make the argument that political apathy is endangering our society (Mindich, 2005), and as a result, concerns regarding the nature of the individual citizen persist. Perhaps because of the numerous and variegated modern goals available to be accomplished by the multitude of individuals in our society, each of these goals with their own relevance and value attached (evaluated and considered differently by the variety of social and cultural groups within society), the notion of individual achievement and accomplishment that was once associated with civic engagement by the ancient Athenians may not resonate to the same degree today. That being said, while it doesn’t appear to be as central a goal to the process as it was to the ancient Athenians, the impact of civic engagement on the betterment of the individual citizen is still regarded as a major benefit by some (Guttman, 2007).

Concerns regarding protection against tyranny certainly exist beneath the surface; however, the reality of our post-modern representative democracy (especially in the United States), could lead us to assume that fears related to tyranny in the historical sense (especially with the dominance of capitalism in Western industrialized society) are no longer as prevalent as they once were. The notion of protection against tyranny has been replaced by a more contemporary set of concerns – government transparency and accountability (OECD, 2001). In a society where government is being asked to regulate various bodies and organizations that then contribute to the maintenance of our everyday lives (i.e. instead of the government having the direct relationship), concerns relating to
the closed-door meetings and as a result, relationships between regulators and those being regulated arise (McChesney, 2004a; Chester, 2007). Concerns of this type can be linked to a rise in the distrust of government, an issue that actually was also addressed by the ancient Athenians thousands of years earlier, as they considered the reasons certain generals were for or against a war with Syracuse (Woodruff, 2005). Returning to today however, contemporary examples of governments getting too close to industry abound. Frewer & Salter (2002) discuss a rise in the distrust of both government agencies and the experts that advise them as a result of the UK government’s mishandling of the BSE (mad-cow) incident. Even as recently as the summer of 2010, concerns about the inappropriate revolving door relationships between U.S. President Barack Obama’s Minerals Management Service and BP have been expressed with the recent and gigantic oil spill in the Gulf of Mexico (Kirchgaessner, 2010, June 23). As a result, in recent years, regulators have recognized, as noted in an OECD (2001) report on civic engagement, “there is a growing demand for transparency, accountability and participation” (p.19). Growing distrust of government is a primary reason for this demand which has led to a movement towards more inclusionary models (Rowe and Frewer, 2004, p.514):

this rise is attributable to declining public confidence in the processes that develop policy decisions and to reduced trust in those to whom the processes have traditionally been conferred through election or recognition of expertise (Ibid, p.514)
It has been argued that a general mistrust is not the only reason for this shift. The nature of contemporary society may also play a large role. As noted in the 2001 OECD report:

Such developments must be placed in the wider context of the profound economic, demographic and social changes of the post-war period. Citizens in all OECD countries today enjoy higher levels of income, education and opportunities offered by the information age than did members of any previous generation. Surveys show an accompanying shift in values from materialist to “quality of life” issues (such as concern for environment protection) and a decline in respect for authority and hierarchy (OECD, 2001, p. 19)

The OECD report suggests that this demonstrates an increase in the intellectual value attributed to the democratic system of societal organization. The argument being made here is that citizens that are well-informed and often highly-educated increasingly expect their governments to take what they have to say seriously when policies are being formulated. This is especially true of areas of specialization in which citizens are knowledgeable. Perhaps overstating the reality of the situation, in most (if not all) OECD countries (as a result of the definite digital and social-economic divides that certainly exist in many of the countries), the report suggests that this rise in demand for transparency, accountability and public participation can be linked to the ‘professionalization’ of the public sphere (OECD, 2001, p. 19)
The third desired outcome of direct democracy, improvement of government, persists to this day (Guttman, 2007). Indeed, civic engagement helps ensure that leaders are in touch with those they govern, and provides checks on bias and narrow-mindedness. As noted by the OECD,

Engaging citizens in policy-making is a sound investment and a core element of good governance. It allows governments to tap wider sources of information, perspectives and potential solutions, and improves quality of the decisions reached. (OECD, 2001, p. 11)

This is certainly a two-way-street. Government benefits from a broader range of perspectives, and the citizens benefit both as a result of being engaged in the process, and from a government that recognizes and acts upon the ideals of pluralism. The benefits of public participation in policymaking however, go beyond the ideals associated with pluralism and understanding. It has been argued that civic engagement can also be employed to overcome inherent distortions in government-controlled processes that can become dominated by stakeholders and experts. In a perfect world, decision-makers would make rational decisions based upon normative ideals and balanced, objective deliberative processes. Forester (1989) notes however, that different boundaries affect these ideal conditions; what he terms, “structurally distorted/political economic” boundedness, which posits that actors in political economic structures of inequality – which are defined by power relations that involve differential resources, skills, and status – try to solve ideological problems that are structurally skewed and based on ideological misinformation. With these concerns in mind, Forester argues that public participation
should be seen as a method of enabling decision-makers to transcend the boundedness, working “toward effective equality, substantive democratic participation and voice, […] away from the perpetuation of systematic racial, sexual, and economic domination.” (Ibid, p. 61) Indeed, justifications for public involvement in political decision-making point to this potentially biased process, which is maintained by the unfair advantages provided to experts and stakeholders with the means to bias rulemaking processes through the use of considerable resources and access (McChesney, 2004a; Chester, 2007). Thus, the process of involving citizens in government decision-making is a means for correcting this disparity (Holman & McGregor, 2001). Certainly this idea relates back to the second function, which relates to the issue of government power. In either case, public participation acts as a check on bias and close-mindedness, both to protect the citizen and to improve government and their decision-making.

It is arguable that the act of involving the public is a political one above all. Citizens feel confident and respected as their representatives ask them for advice. ‘Certainly pluralism must be the system being employed, or at the very least considered, if the government is taking the time to ask me for my opinion’ the citizen may say to themselves. To the cynical types this may appear as nothing more than a political tactic to create an illusory feeling in the minds of the general public that their opinion matters. A tactic whose goal may be to maintain the balance of power, and to ensure that politicians get re-elected as a result of the public that trusts and enjoys the methods of the politician employing the tactic. While there may be some truth to this point, the pragmatic nature of public involvement cannot be ignored, as its use must certainly have a practical benefit to its practice.
The decision to involve the “ordinary citizen” in political decision-making is only the first step. The next question then becomes, how are citizens involved? On the one hand we can address the methods employed to actually involve the public in the debate. Public hearings can be held, the government can request that members of the public submit comments formally in writing either in written or digital form or informally by contacting and speaking with representatives and their staffers. On the other hand, there is the issue of including what the public has to say in the decision-making process. The issue of measuring the effectiveness of various public participation methods has been addressed (see Rowe & Frewer, 2004). Others have developed systems for ensuring that the input from “ordinary” citizens is separated from the input of stakeholders and experts (see Renn et al, 1993). The latter in particular addresses an issue we have discussed throughout, the relevance of the public voice in a discussion that involves expert opinion. Renn (1993) recognized as the Greeks did that there is value to the voice of the average citizen. Renn also points out how necessary it is to protect the uniqueness of the public’s opinion from denigration by expert and stakeholder opinions, infused with language that can be threatening to the average person. Before we can concern ourselves with the issue of public subordination within the deliberatory process however, we must address the issue of public mobilization.

2.2.3. GRASSROOTS ORGANIZING AND PUBLIC INVOLVEMENT

How does the public get involved in political decision-making? There are at least three possibilities. First citizens may seek out political processes on their own, and actively engage and participate without being prompted. A second is that the government works to mobilize members of the community. Finally, an organization, unaffiliated with
the government, may act to get people involved. Our present inquiry has already addressed and will continue to address the first two possibilities. The third possibility, discussed in more detail below, is referred to as ‘grassroots’ organizing (Bergan, 2009).

The idea of grass-roots organizing for political purposes is related to the notion of lobbying. Referring to the form operating in Washington, D.C. Graziano (2001) describes a lobby or a lobby organization as “the bearer of interests or causes to be safeguarded.” A political lobby thus, is organized around some principle or ideal that those involved want to communicate to those in power. Grassroots lobbying or grassroots organizing for political purposes is a method of political communication, employed to affect political decision-making, through communication and organization/mobilization with members of the general public. (IRS, 2009; Bergan, 2009) The general public becomes informed about a particular topic as a result of the connection to the grassroots organizers, and in turn, participates by either contacting those in power on their own or gets involved with the organization to contact those in power collectively.

In recent years, the Internet has emerged as a powerful organizing tool for grassroots organizations (Opel, 2004; Bergan, 2009; McChesney, 2004; Shulman, 2009; Schlosberg et al, 2007) Organizers can advertise and promote themselves using the web and social media, connect and inform people in an organized and efficient manner using listserves, update, prepare, communicate and mobilize with individuals via email, and even facilitate public participation using a variety of web tools (Opel, 2004; Schlosberg et al, 2007). The Internet has made the process of political mobilization not only easier and more effective, but also cheaper. Groups use complex software packages to maintain and communicate with email lists, emailing activists about upcoming rallies, bills and forums
for debate. Software has also been designed to help facilitate communication between members of a listserve and legislators (Bergan, 2009; Shulman, 2009).

While the Internet has helped to strengthen grassroots organizing campaigns, in terms of public mobilization techniques, it has raised a number of concerns as well. One area that has received some attention is the strategy of mass email campaigns. Many years ago, Joseph Schumpeter denigrated the tactic of citizens flooding representatives’ offices with phone calls and letters; however, his reasons were different from some of the concerns being articulated today. Grassroots organizers, in an effort to emulate the strategies of the past, have increasingly been organizing mass email campaigns that flood representatives’ offices as well as online dockets (Shulman, 2009). The difference between phone and email, however, is also the reason grassroots organizers find the latter strategy more effective – it is easier to coordinate and accomplish. The problem, however, is that to facilitate this strategy, grassroots organizers often use form letters or prompts to get people involved and maximize the quantity of messages (Ibid). Having thousands of emails to sift through certainly sends a message; however, a homogenous message suggests that perhaps the message is only being expressed by a small demagogic minority whose abilities enable them to arouse individuals to agree and participate without thinking for themselves. As Shulman (2009) notes,

Considerable anecdotal accounts from agency personnel about the low quality of public comments, as well as their nuisance factor, must be balanced by recognition of the prerogatives of interest groups to inform, inspire, and activate their busy members. The role of public input in U.S. regulatory policy has always been
tenuous, variously described as critical to the process or entirely for show. Mass e-mail campaigns represent a new chapter in a continuing debate over the proper way for government to respond to the voice of the people while making public policy. (p. 27)

This study addresses this issue as samples of comments submitted to the FCC’s online docket are assessed. Should various form letters be found, perhaps this will enable further analysis of this new phenomenon and tactic for ‘engaging’ the public in the political process.

2.2.4. THE PROBLEMS THAT PERSIST IN THE REALM OF COMMUNICATIONS POLICYMAKING

As noted earlier, there are various concerns associated with public involvement in government policymaking. In the realm of communications policymaking, these issues are especially prominent, likely because enough attention hasn’t been paid to the relevance of the public voice in this area. Guttman (2007) outlines a variety of general concerns that have been raised in recent years. This includes the idea that ‘regular citizens’ may not have the mental capacity or knowledge to discuss complex policy issues. Another is that the agendas that guide regulatory processes are constructed and imposed by those in positions of power and that the resulting deliberatory processes can be manipulated or subject to biases (conscious or unconscious) that subordinate members of the general public. Another general concern is the notion that proper forums for discussion and debate are unlikely in this day and age, “because society is highly complex, diverse, and marred by social and economic inequities.” (Guttman, 2007, p. 414).
In an attempt to organize the various concerns associated with public involvement, Guttman (2007) organized material from Webler (1995), Abelson et al. (2003) & Webler, Tuler, & Kreuger (2001) to create four broad concerns that were then labeled: fairness, competence, a discursive process, and power. For the purpose of the current study, these four concerns have been reorganized into three categories described as: structural concerns, rhetorical concerns, and deliberatory concerns. These three conceptual categories are central to the theoretical assumptions of the dissertation. (The process of reducing the four categories to three is described below.)

2.2.4.1. STRUCTURAL CONCERNS

Guttman’s first category is ‘fairness’. This concept relates to the ability for citizens to participate ‘fairly’ in government decision-making. The concept is described as follows:

disadvantaged populations find it more difficult to attend meetings, and that even if access is achieved, the discourse tends to privilege dominant modes of rationality. Thus, important issues pertaining to fairness are whether there is equity in the physical access of members of diverse populations to attend meetings and whether all participants are able to express their views and are given an equitable opportunity to influence the decisionmaking process. (p. 414)

Guttman emphasizes the ability for citizens to access the process of government deliberations in a manner that is fair; addressing both structural and rhetorical elements that might make access complicated. She suggests that in terms of accessing the process
there are two ways to do so, with presence and with language. Citizens must be able to attend meetings, hearings, either in person or by some other means (i.e. online presence), and they must be able to participate in those meetings. Guttman also describes participation in terms of the ability for individuals to express themselves, as well as the opportunity to influence the final outcome.

The current inquiry reorganizes and renames Guttman’s concern categories. The ‘fairness’ category will be referred to here as ‘structural concerns,’ and instead of focusing on presence and language, the category will focus on presence only. Guttman’s combined category was problematic because issues of societal and governmental structure were connected with issues of individual ability. This combines two very different concerns, one associated with the makeup of society and its governmental processes, and another associated with individual ability. With the emphasis now primarily on structural concerns, the primary emphasis of this category is on the access provided to citizens. Are citizens able to attend the public hearings and access the online comment submission process? In terms of communication policymaking, how easily can they navigate through the FCC’s website? The decision to remove the language element was made in order to give full attention to the language element in the second category. That being said, it is possible that due to assumed language restrictions, access and thus presence could potentially be limited. Government leaders in charge of organizing systems of public involvement who subscribe to some of the ideals of democratic elitism may consciously or unconsciously make it difficult for citizens to participate because of the assumed limitations of citizen input. This reconnects Guttman’s rhetorical concerns to
the fairness category; however, for our purposes, the central focus will be on the notion of physical access to the deliberations.

2.2.4.2. RHETORICAL CONCERNS

This category deals with individual ability. It incorporates Guttman’s (1997) notion that specific forms of “discourse tend(s) to privilege dominant modes of rationality” (p. 414). Furthermore, it also addresses the ‘competence’ concern which generally addresses the issue that ‘ordinary’ citizens might not have the ability to assess and discuss complex and difficult issues, especially those that are highly technical. To properly delve into this issue, it is worthwhile re-introducing the concept of “technocracy” which can be applied the government bodies like the Federal Communications Commission whose deliberations are highly technical.

2.2.4.2.1. TECHNOCRACY

A government body that relies primarily on the expertise of scientific elites when making decisions is often referred to as technocratic or a “technocracy.” (Fischer, 1990; DeSario & Langton, 1999) Deeply embedded in the scientific worldviews and traditions of contemporary Western civilizations, the technocratic concept is the product of the ‘modern’ period which has its beginnings in the seventeenth century – a time that saw European society increasingly shaped by science and technology (Fischer, 1990). The modern time period (whose remnants persist to this day) saw an, “astonishing increase in the scope, variety, sophistication, and effectiveness of man’s scientific and technological activity” (Winner, 1977, cf. Fischer, 1990, p. 60). To this day, many of us regard the notion of “technology” as material only, perhaps referring to a machine that can be found in our home or place of business. Fischer (1990) argues that:
such a conception, however, fails to capture the full significance of modern technology. In the broadest sense, the term today refers to the totality of rational methods designed to efficiently organize human activities in general, both material and social (p. 61)

“Technology” as a concept thus refers to a disciplined, ordered and systematic approach to the completion of an objective, which involves measurement and calculation and is characterized by efficiency and precision (Ibid). Indeed, as government and private institutions have increasingly become involved in the creation and maintenance of scientific activities, processes and projects that structure and maintain our societies, these institutions have increasingly been defined by “the rules of efficient action,” which has been referred to as a “technological rationality.” (Ibid)

Perhaps the central component of this technological rationality is the formalization of the knowledge which defines it. This distinguishing feature places this form of thought and action in opposition to the other forms of human knowledge which have dominated human activity for centuries (Parkin, 1994); and thus, as a result of its ability to lead human activities into realms previously viewed as impossible or unknowable, scientific and technical knowledge has come to be regarded as “superior” to “common, everyday knowledge and nonformal specialized knowledge.” (Freidson, 1986, p. 3) This hierarchy, coupled with the aspirations of a technology-driven society emphasizes why the demand for scientific knowledge and a technocratic system can be so appealing.
2.2.4.2.2. TECHNOCRATIC SUBORDINATION

Government bodies that operate as technocracies privilege the views of technological elite over the “untrained thinker.” As a result, this hierarchy precludes any pluralistic and/or inclusionary model of democracy as the views of those within the general public without the proper “training” become marginalized within the sphere of governmental decision-making. Thus, “in a pure technocracy, technical knowledge would serve as the base of power” (Fisher, 1987, p. 18) with access to the relevant education and experience acting as a large barrier to entry.

The subordination felt by the general public results not only from their lack of technical knowledge, but also because of their inability to communicate in the “formalized,” jargon-filled language of the technocrats. McKenna and Graham (2000) refer to the language of technocracy as a “closed discourse” that treats opposition as incorrect propaganda. Furthermore:

[b]ecause “incorrect” oppositional discourses are often cast as naïve “common sense”, they are pervasively denigrated by technocrats, and are tacitly supposed to defer to the more intelligent scientific knowledge generated by the technical elite. In this way, the pseudo-scientific language of technocracy legitimises (sic) its claims to power in matters that are uniquely social in nature, simultaneously silencing “common-sense” opposition by their claims to expertise. (Ibid, p. 6)

Indeed, a preponderance of technical discourse in public deliberation “makes it difficult, if not impossible, for the public of ‘untrained thinkers’ to win an argument or
even to judge arguments well” (Fisher, 1987, p. 71). Thus, the notion of a “technocratic discourse” refers to the language of technocrats that not only perpetuates the technocratic society but also reinforces the authority of a technical elite who govern that society (Salvador, 1992).

Thus, Guttman’s ‘competence’ concerns translate into what are referred to here as ‘rhetorical’ concerns. Under this umbrella will also be placed Guttman’s concern relating to the ‘discursive process’ which has been described as a concern that citizen participants may not understand or be capable of participating in a sophisticated, orderly discussion as defined by the boundaries of the government process. As this concern also has to do with knowledge of technocratic decision-making, it falls under this category.

2.2.4.3. DELIBERATORY CONCERNS

Guttman’s fourth area of concern is labeled ‘power.’ She notes:

Would participants be able to influence both the process and its outcome? Would they be able to change the agenda set by the organizers or those in dominant positions? (p. 414)

This concern suggests that as a result of the previous two concerns, namely that citizens are limited in their ability to attend meetings and participate, and that citizen input is not technical enough to impact deliberations that require contributions within the closed-discourse, the power-structure that perpetuates these two previous areas of concern will maintain the status quo and marginalize those citizens wishing to affect change. One would expect as a result, that such deliberations would be impacted to the greatest extent by those working within the status quo, namely, stakeholders and experts.
2.2.5. Relating This to the Current Study

In this chapter, a variety of conceptualizations, philosophies, goals and challenges specific to the issue of public involvement in government decision-making have been addressed. In the chapters that follow, an extensive study of public involvement in the FCC’s 2006-2008 media ownership review that has been conducted will be described. In assessing the extent of public involvement in this review, this study will address the three areas of concern articulated above; namely, structural, rhetorical and deliberatory concerns. The extent to which these concerns manifest themselves during the FCC’s deliberations will speak to the extent to which public involvement in this example of communications policymaking was both possible and effective. Before the presentation of the study however (presented in Chapters Four and Five), Chapter Three will provide some historical and theoretical context for this inquiry and describe how the issue of public (and expert) involvement has traditionally been addressed by the FCC.
Chapter Three

EXPERT AND PUBLIC INVOLVEMENT IN FCC POLICYMAKING

This chapter connects the discussion with communications policymaking. Some context is provided, first through a brief review of the makeup of the Federal Communications Commission, and then through a discussion of the Commission’s history with expert and public consultation. The next section begins the more focused analysis of public participation in the FCC’s recent media ownership deliberations and includes a discussion of the media ownership issue, the lead up to the debate and the components of the 2006-2008 review.

3.1. THE FEDERAL COMMUNICATION COMMISSION

The Federal Communications Commission (FCC) is an independent U.S. government agency that was established by the Communications Act of 1934. It exists as a regulatory agency, with jurisdiction in all 50 U.S. States, the District of Columbia and U.S. territorial “possessions” and is charged with overseeing interstate and international communications by broadcast radio and television, wire, satellite and cable (FCC, 2009).

As noted in section one of the Communications Act, the FCC’s mission is to:

make available so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges. (FCC, 2008b, p. 4)

Section one also notes that the FCC was created, “for the purpose of the national
defense” and “for the purpose of promoting safety of life and property through the use of wire and radio communications.” (Ibid, p. 4)

The FCC consists of five Commissioners, each appointed by the President for a five-year term. The Commission is required to be bipartisan, so three of the Commissioners are affiliated with the president’s party and two with the opposing party. Each Commissioner is confirmed by the Senate. One of the Commissioners is designated as the Chairperson. The Chairperson oversees all operations of the Commission, directs Commission action and delegates management and administrative responsibilities to a managing director (FCC, 2009). The Commissioners each individually supervise all FCC activities as well and delegate their responsibilities to various staffs and bureaus. The FCC website clearly states that “none of (the Commissioners) can have a financial interest in any Commission-related business” (FCC, 2009).

There are numerous bureaus at the FCC, many of which are involved in the various responsibilities of the Commission which include (among others): spectrum allocation, overseeing the operations of the Universal Service Administrative Company, promotion of workplace diversity in the media and telecommunication industries, promotion of the public interest in the media and telecommunication industries and some content regulation.

Formal FCC policymaking processes involve active deliberations in which the commissioners as well as those affiliated with the relevant bureaus participate. Mandates like that Administrative Procedures Act, as well as corporate lobbying techniques ensure that members of the FCC connect and consult with those not directly affiliated with the
commission. In the next section, the historical dynamics of FCC consultations with experts and the general public will be discussed.

3.2. EXPERT AND PUBLIC CONSULTATION

As noted in Chapter One, in the realm of communications policymaking, the concepts ‘general public’ and ‘expert’ are far from clear. Regarding the concept ‘general public,’ perhaps one might suggest that this should incorporate all consumers of media; however, this would certainly complicate the distinction between the ‘average citizen’ and the expert as all are likely consumers of media. Determining ‘experts’ can also be a challenge. This ambiguity can be attributed to the numerous and variegated individuals that affect and are affected by both the policies and the industry. Are media industry professionals the experts, simply because they have technical expertise? Does the ability to operate a camera or perhaps to sell advertising make one an expert on the contemporary media system? Perhaps academics who study the industry are the experts, or maybe the lawyers and judges who address the industry’s legal issues. Perhaps the regulators are the true experts, as they’re the ones that construct the policy. This of course partially includes, but largely excludes those who perhaps are the true experts – the consumers of media, the general public. Who knows more about how the media impacts local communities, or whether changes in access to information services would change the nature of society?

For the purposes of this present study, it was determined that the concept ‘expert’ in the realm of communications policymaking would include individuals with scientific, legal and/or political expertise. In essence, experts were conceptualized herein as those individuals with formal training in at least one of these areas. Conversely, the concept of
the ‘general public’ was associated with the concept of the ‘average citizen’ or perhaps the ‘lay citizen’ who lacks this formal training.

3.2.1. THE FCC AND EXPERT CONSULTATION

Decisions in the realm of communication policymaking are the product of a broad set of participants – a dynamic that has been examined in terms of a principle-agent perspective (Napoli, 2001). What this dynamic articulates, is the fact that policymakers are influenced not only by their own skills and expertise, but by the opinions, expertise and institutional power structures associated with different external bodies, which include industry stakeholders and members of the general public, as well as those that fall within a ‘judicial tier’ and a ‘political tier’ (Ibid).

In the realm of broadcasting, the history of consultation with ‘experts’ dates as far back as the very early days of the industry, with industry stakeholders (who served as ‘experts’) having considerable influence over the development of the Communications Act of 1934 (McChesney, 1993). The control exercised by experts was given a major boost in 1970 with the development of the Office of Telecommunications Policy which aimed to advance a ‘technocratic rationalization’ that would subordinate non-experts involved in the policymaking process in an attempt to help take advantage of the great steps that were being realized in the U.S. telecommunication industry (Miller, 1982). The OTA would eventually become the National Telecommunication and Information Administration (NTIA), which still exists as a group that advises the Federal government on issues relating to telecommunications. Major lobbying campaigns by industry stakeholders (for example, the National Association of Broadcasters) that influenced the development of the Cable Act of 1992 and the Telecommunications Act of 1996 are more
recent examples (Snider, 2005) of expert consultation. Indeed, when it came to the
Telecommunications Act of 1996, lobbyists were so entrenched in the policymaking
process, that it has been claimed that parts of the legislation were even drafted by
lobbyists (Aufderheide, 1999).

The big media ownership battle in 2002 in which the FCC led by Chairman
Michael Powell was attempting to push through a huge array of deregulations also
demonstrated how close industry stakeholders were to the policymaking process.
McChesney (2004a) describes the findings of a report from the nonpartisan Center for
Public Integrity:

Since the formal review of media rules had been announced in September 2002,
FCC officials had held seventy-one closed-door, off-the-record meetings with
corporate media CEOs and their lobbyists, but only five such meetings with
public interest groups. Rupert Murdoch and Viacom’s Mel Karmazin had each
had series of meetings with commissioners and staffers in late January and early
February, precisely when the FCC was crafting its new ownership rules. (p. 282)

Furthermore:
The CPI also reported that corporate interests had lavished $2.8 million of FCC
members for junkets over the previous eight years and that much of the data the
FCC used to make its determinations of policies was provided by industry. (p.
282)

With such a long history of FCC consultation with industry stakeholders and
experts, what role does the public play?
3.2.2. The Public Interest Mandate – A Reason for Consultation

With the passage of the Communications Act of 1934, the FCC was given the authority to grant licenses permitting private organizations the exclusive use of a particular part of the broadcast spectrum. With the understanding that the spectrum was a scarce resource, Congress required that the FCC determine “whether the public interest, convenience, and necessity will be served” by the granting of each license (Communications Act of 1934, 47 U.S.C. § 309(a)). This established that one of the early mandates of the FCC would be to determine and protect the public interest when constructing and applying communication policy. This meant (and continues to suggest) that the FCC is required (in addition to the mandates set out by the Administrative Procedures Act) to communicate with the general public in order to broaden its understanding of the public’s voice.

Even though the concept was mentioned eleven times in the Communications Act of 1934 and forty additional times in its first (and to date only) major overhaul - the Telecommunications Act of 1996 (Napoli, 2001) - its definition continues to be debated today. Held (1970) proposed that the public interest mandate has various interpretations, ranging from the basic accumulation of individual interests to the more focused identification of a common interest, to the determination of an ultimate good that serves all when it is achieved. Oppenheimer (1975) noted that a government acting in the public interest would construct policies that are rational and that have the ability to serve a welfare or utility function. Napoli (2001) describes three levels for identifying the public interest: the conceptual, the operational and the applicational. Regarding the conceptual level, he also identifies majoritarian, procedural and unitary definitions of the concept.
Perhaps the most straightforward definition however, was one provided by the first Federal body charged with applying the standard to communication policy – the Federal Radio Commission - which determined in their annual report in 1928 that:

[t]he emphasis must be first and foremost on the interest, the convenience, and the necessity of the listening public, and not on the interest, convenience, or necessity of the individual broadcaster or the advertiser. (Krasnow & Goodman, 1998, p. 611)

Throughout the years, as various definitions have been debated, the FCC has required a method for evaluating this vague concept. To accomplish this task, the Commission has generally operationalized the public interest mandate by focusing its attention on the maintenance and fostering of competition, diversity and localism – three concepts that have been determined to extend directly from the public interest concept (Napoli, 2001).

The determination and protection of the public interest continues to be the FCC’s mandate; however, which system of societal organization does the FCC subscribe to? As discussed in Chapter Two, the view of the democratic elitists, is that the public interest is realized when policies are shaped entirely by experts. As noted, the emphasis, “is placed upon the attainment of enlightened public policy; the elite is enlightened, thus its policy is bound to be the public interest” (Bachrach, 1967, p. 5). Furthermore, whether policymakers are ‘enlightened’ or not, proponents of democratic elitism claim that under this model, “the primary purpose of government is to safeguard and further the interest of the community, they (direct democracy and democratic elitism) differ fundamentally as to what this interest entails, and as to the role of government in securing it” (Ibid, p. 2).
Therefore, should the FCC operate under the tenets of democratic elitism, any suggestion or practice of technocratic decision-making in which the public is marginalized would still coincide (arguably) with the public interest.

Conversely, those who support notions of direct democracy see public participation as integral to the determination of the public interest. Under this model, the public interest is conceived in terms of both process and results. Meaning that the public interest is determined and measured both by the soundness of the decisions themselves, as well as by the process and scope of public participation that was involved in reaching the decisions (Bachrach, 1967). Thus, if the FCC subscribed to a model that championed at least some of the tenets of the direct democracy model, public participation in policymaking would seem necessary in order to satisfy its public interest mandate. As noted by the OECD (2001),

Engaging citizens in policy-making is a sound investment and a core element of good governance. It allows governments to tap wider sources of information, perspectives and potential solutions, and improves quality of the decisions reached. Equally important, it contributes to building public trust in government, raising the quality of democracy and strengthening civic capacity. (p. 11)

Determining to what degree the commission subscribes to either model is one of the central goals of this inquiry. The FCC has a history of public consultation, as well as a history of public marginalization. A brief history of these issues is addressed next, which should act as an appropriate preface for our inquiry which begins in the next chapter.
### 3.2.3. The FCC and Public Consultation

In the 1927 Radio Act, which was formulated by the predecessor of the FCC (the Federal Radio Commission), section 4(k) stipulated that the commission was authorized to hold hearings for the purpose of developing a greater understanding of the issues for which rules were being crafted. Section 4(k) stated that:

> Except as otherwise provided in this Act, the commission, from time to time, as public convenience, interest, or necessity requires, shall… have the authority to hold hearings, summon witnesses, administer oaths, compel the production of books, documents, and papers and to make such investigations as may be necessary in the performance of its duties.

Thus it is clear that public consultation, or at least consultation with outside bodies was regarded as central to the Commission’s job from early on. Though it should not be surprising, the Act also stipulated that the Commission should verbally communicate with those being assigned licenses. Section 11 of the Act noted:

If upon examination of any application for a station license or for the renewal or modification of a station license the licensing authority shall determine that public interest, convenience, or necessity would be served by the granting thereof, it shall authorize the issuance, renewal, or modification thereof in accordance with said finding. In the event the licensing authority upon examination of any such application does not reach such decision with respect thereto, *it shall notify the applicant thereof,*
shall fix and give notice of a time and place for hearing thereon,
and shall afford such applicant an opportunity to be heard
(emphasis added) under such rules and regulations as it may prescribe.

Note that the concept of the public interest, convenience, or necessity is mentioned once again (as it is numerous times throughout the Act) emphasizing the Commission’s role as a public trustee.

As early as 1927, there is evidence that public hearings were indeed held; among them, hearings to assess the expansion of the radio broadcast band (Moss & Lackow, 2008). At these early hearings, the goal of having a broad range of viewpoints presented was evident, as not only broadcasters, but also radio engineers and manufacturers were in attendance. Numerous groups representing the general public appeared at the hearings as well, including amateur radio operators and inventors as well as representatives of radio listeners’ organizations (Ibid). Interestingly, Moss and Lackow (2008) note,

While some speakers at the 1927 hearings referred to having received “invitations,” Herbert Hoover’s assistant observed in a letter at the time that “the Radio Commission has sent out a blanket invitation to all people in the country who desire either to appear in person or to submit their recommendations in writing. I do not understand that the Commission has sent for any particular individuals, however” [Letter from George Akerson, assistant to Sec. Hoover, to Mrs. James T. Rourke, Box 497, Commerce Period
Including members of the general public in the discussion was regarded (or at least articulated) as very important to the Commission’s deliberations. In fact, FCC Commissioner Bellows noted, that “it is the radio listener we must consider above everyone else” (Moss & Lackow, 2008, p. 21). Though there were numerous representatives of the general public at the hearing, some expressing their opinions to the commission verbally, overall there was not a great turnout of everyday listeners at the hearings (Ibid).

Though not a constant fixture of the communications policymaking process, public hearings were occasionally organized as a part of various deliberatory processes as the years progressed. For example, seven years after the enactment of the Radio Act, the Communication Act of 1934 was passed, creating the FCC. That year the Federal Government’s National Recovery Agency (associated with the New Deal period) held public hearings as a part of its deliberations over the creation of new broadcasting codes (Mazzocco, 2005). A few years later, the FCC held hearings to address early cross-ownership issues; specifically, whether newspaper companies owning radio stations was in the public interest (Risley, 1995). These “newspaper divorcement hearings” were held between 1941 and 1944, though it appears that these hearings were geared mostly towards discussion by industry stakeholders (Ibid). Around the same time, the Commission held hearings as a part of its evaluation of the national television standard (Slotten, 2000), and in 1958 held additional hearings on the television network broadcasting rules (Barrow, 1957). Though public hearings were organized somewhat
infrequently, there was an obvious public appeal. In his now famous “vast wasteland” speech in 1961, FCC Chairman Newton Minow noted that the commission would hold a “well advertised public hearing” in each community to assure broadcasters were serving the public interest (Minow, 2003), clearly a move to reconnect the Commission with the public interest (at least rhetorically).

In the 1970s, a variety of studies were conducted that addressed the impact that forms of public participation were having on FCC deliberations. In 1977, one study revealed that only a small percentage of complaints that had been submitted by the public (by letter) were actually reviewed and considered by the FCC, because the majority addressed issues specific to broadcast content that was outside the realm of FCC authority or complaints were improperly filed (Holman & McGregor, 2001). In a 1976 study, with specific attention paid to the FCC’s Cable Bureau, researchers examined how the Commission defined the “public interest” concept (Krugman & Reid, 1980). The study revealed that members of the general public had “little or no representation” in the development of cable policies and rules, and that “there was little likelihood that individuals could effectively mobilize to deal directly with the Bureau on specific policy issues” (Holman & McGregor, 2001, p. 164). In the years that followed, subsequent studies revealed similar results. In the mid-80s, an assessment of the impact that informal public comments had on three highly publicized deliberations noted that while the FCC put in a lot of effort to solicit comments from the public, little attention was paid to these comments in the construction of the policy (McGregor, 1986):

In one proceeding all informal comments containing relevant and ‘novel or significant ideas’ received specific attention in the final
report and order. In a second proceeding, all 11,300 informal comments were summarized in six paragraphs in an appendix to the report and order. In a third proceeding, the informal comments were read by staff members but received little analysis and no mention in the official documents adopted by the Commission. (Holman & McGregor, 2001, p. 164)

The study concluded that even though the Commission had looked through and discussed the comments to a certain degree, there was little evidence that any of the comments had any influence on the Commission’s decision. Similar findings were identified in the 1980s by Kim (1995) who assessed public participation in deliberations over the introduction of direct broadcast satellites, as well as by Shields (1991) who examined participation in price cap proceedings.

3.2.4. THE LPFM BATTLE – A PUBLIC INTERESTED

A public uprising occurred in 2000 in response to a decision over low-power FM radio (LPFM) that perhaps reflected a feeling in the general public that the FCC’s lack of public consultation had caused it to become disconnected with the public interest. As the new millennium came, concerns regarding the effects of the removal of the national radio cap by the Telecommunications Act of 1996 influenced then FCC Chairman William Kennard to promote a policy legalizing LPFM stations nationwide. The original decision was to establish more than 1000 stations to be licensed to local, non-profits for the purpose of providing their communities with additional local broadcasting. The National Association of Broadcasters (the main lobbying arm of the broadcasting industry) and the corporate media lobby worked hard to overturn the FCC’s decision. The lobby went to
work, and with the help of Rep. Billy Tauzin, was able to get The House to vote to overturn the FCC’s decision, requesting that the number of stations be reduced from more than 1000 to under 300 (now only to appear in small markets). In response, media reform groups including the Future of Music Coalition and the Prometheus Radio Project put together a considerable grassroots lobbying campaign through the use of the Internet (Opel, 2004). Activists coordinated via email to prepare comments to be submitted for consideration - this was their only method of communicating with the FCC as no public hearings were scheduled. The public uprising caught the attention of The Senate and the ranking Republican on the Senate Commerce Committee, John McCain, who was opposed to the NAB’s demands (McChesney, 2004a). In the end however, the NAB won, not through a Senate vote, but as Chairman Kennard later explained:

There were no hearings. It was done in the appropriations process at a time when all the special interests know that their power is greatly enhanced because it is done in the dark of night,” Kennard later explained in an interview. “You know, you wake up the next day and legislation is written. The people who had the most to say about it are completely cut out of the process. If I sound bitter, I am.” (McChesney, 2004a, pp. 257-258)

While the public uprising did not alter the FCC’s decision, the advocacy organizations’ tactics had been effective to a certain extent, as they had forced the industry to work during the night to get their way. This was a sign of things to come.
3.3. PUBLIC INVOLVEMENT IN THE FCC’S RECENT REVIEW OF MEDIA OWNERSHIP

3.3.1. WHY ANALYZE THE FCC’S MEDIA OWNERSHIP DEBATE?

The fact that public participation can be viewed as central to any democratic government’s decision-making process suggests that any FCC deliberation could be assessed. That being said, the FCC’s 2006-2008 media ownership debate presents an interesting case to be studied for a variety of reasons. First, FCC Chairman Kevin Martin announced that the commission would hold six public hearings in “diverse locations around the country” (FCC, 2006a, p. 1) in an attempt to “fully involve the public” (FCC, 2007, p. 1) in the deliberations, and thus, an evaluation of the extent to which the Commission followed through seems logical. Another reason is that public participation in government deliberations can be viewed as especially significant in the communications policymaking arena, as one of the central goals of communications policy can (and should) be the maintenance of open channels among members of the public and between the public and the political establishment (see McChesney, 2004a & Baker, 2007). A third and perhaps more compelling reason has to do with the nature of the media ownership debate itself; one that addresses the concerns associated with media consolidation - a process that has the potential to marginalize the voices of those without access to media outlets.

As noted throughout, normative theories of democracy typically emphasize that each individual has an equal right to participate in the process of collective self-determination (Baker, 2007). Equality and autonomy are central to this egalitarian premise, and help shape the conceptualization of democracy as being both a process and
an end goal. Baker continues by noting that the public sphere is essential to the maintenance of these normative ideals, for it is within this public sphere that individuals are able to gather the information they need to be self-governing and cognizant of the true reality of their own (and their community’s) self-interest. It follows that in order for the normative ideals of an egalitarian democracy to be maintained, the central institutions that control the public sphere (as well as the electoral process) must be “structurally egalitarian and politically salient” (Ibid, p. 7) in order to ensure that all voices have the opportunity to be heard. To further develop this point, Baker introduces his democratic distribution principle for communicative power which he describes as the idea that democracy requires “as wide as practical a dispersal of power within public discourse.” He asserts this point in the context of his discussion regarding the important role the mass media play in the maintenance of the public sphere. In fact, he notes that “[i]n any large society, the mass media constitute probably the most crucial institutional structure of the public sphere.” (p. 7) Thus, regarding his democratic distribution principle, “[a]s applied to media ownership, this principle can be plausibly interpreted structurally as requiring, possibly among other things, a maximum dispersal of media ownership.” (Ibid, p. 7)

While it may seem that Baker’s propositions are too idealistic, he is quick to note that while the electoral process emphasizes the one person/one vote model, the normative ideal of the public sphere employs a variation of this model referred to as “the marketplace of ideas.” The marketplace of ideas – a sphere within which intangible values compete for acceptance (Stucke & Grunes, 2001) - operates by controlling the chaos that would otherwise occur if the members of a polis were to shout out their ideas at the same time. While the ideal public sphere invites all ideas to be heard, due to the
marketplace of ideas phenomenon, certain ideas always catch on. There will always be a variegated mix of ideas within a given society, and there will always be opinion leaders that bring people together. The essential next step however, is that once marketplace winners from smaller circles attempt to access larger circles, those “smaller” winners shouldn’t be blocked from competing. The beneficial social value of the marketplace of ideas “is based on the theory that truth prevails in the widest possible dissemination of information from diverse and antagonistic sources.” (Ibid, p. 251) The key for Baker is access. Dispersal of ownership ensures not only that people with differing views will have the opportunity to utilize their media outlet to contribute to the diversity of the public sphere, but also that members of the public with similar views will have an additional source with which to engage. Baker (2007) notes:

> Although the democratic distributive goal may have multiple strands, it must include the notion that members of all groups can experience themselves as being served and represented by mass media that are in some sense “their own.” Their media should not only give voice to their concerns but also provide them room for the internal discussions and questioning they need for formulating their own views. (p. 11)

Just as proponents of dispersal of ownership argue that more owners, not less, are the key to maintaining a diverse marketplace of ideas, advocates for greater public involvement in political decision-making posit that more voices, not less, are the key to a true democracy. While any examination of public involvement in government deliberations would certainly be valuable, this parallel provides a unique opportunity to
assess how both process, outcome and the system affected by that outcome can affect our contemporary democracy.

3.3.2. THE LEAD-UP TO THE 2006-2008 DELIBERATIONS

In many ways the story of the current review began with President Ronald Reagan. The effects of his neo-liberal mandate continue to be felt to this day, both in the dynamics of our consolidated media system as well as in the continued (and perhaps even growing) popularity of his political-economic philosophy (see Freedman, 2008).

President Reagan’s neo-liberal media policies are often associated with the actions of then FCC Chairman Mark Fowler (Reagan appointee) and Fowler’s successor Dennis Patrick. Fowler’s deregulatory fervor was obvious. In his infamous Texas Law Review article he noted, “broadcasters best serve the public by responding to market forces rather than governmental directives” (Fowler and Brenner, 1981, p. 256). Furthermore, “the perception of broadcasters as community trustees should be replaced by a view of broadcasters as marketplace participants” (Ibid, p. 209) as well as:

I pledge myself to take deregulation to the limits of existing law.

No renewal ‘filings, no ascertainment exercises, no content regulation, no ownership restrictions beyond those that apply to media generally, free resale of properties, no petitions to deny, no brownie points for doing this right, no finger-wagging for doing that wrong. (Kellner, 1990)

Though many of the FCC’s major and more recent deregulatory acts have occurred under other Presidents (the Telecommunications Act of 1996 was passed by
President Clinton), the dominance that neo-liberal ideology still enjoys in the arena of U.S. media policymaking is often attributed to the actions of the Reagan administration.

Though the FCC had a long history of regulating in the public interest, in the 1980s, under the leadership of President Reagan, there was a shift from the “public trustee” model to the neo-liberal, “marketplace approach” model, which emphasized the benefits of a free market over the benefits of a representative government (Napoli, 2001). This neo-liberal approach resulted in numerous examples of deregulation beginning in the 1980s, which led to the FCC deliberations being evaluated by this inquiry. For example, in 1985 the national ownership limit for radio stations was raised from the 7-7-7 rule (7AM, 7FM and 7TV stations nationwide) to the 12-12-12 rule. In 1992 the numbers were raised to 18-18-12 and then 20-20-12 in 1994 (Sadler, 2005). In 1989, the FCC’s cross-ownership rules were eased, allowing that in markets with more than 30 radio and television ‘voices’ (had to be within the 25 largest markets in the country), owners would be allowed to own one radio and one television station. Three years later in 1992, the longstanding ban on the owning of multiple radio stations in a single market was repealed with the FCC allowing organizations to own 3AM and 3FM stations in a single market. In the same year that FCC also repealed the rule that prohibited owners of television network stations to own cable stations.

In 1996, this deregulatory trend led to the creation of the Telecommunications Act of 1996. This is the point where the discussion returns to the issue of public involvement in political decision-making. Section 202(h) of the Telecommunications Act states that the FCC must conduct a biennial review of its media ownership rules “and shall determine whether any of such rules are necessary in the public interest as the result of
competition.” In addition, the Commission was ordered to “repeal or modify any 
regulation it determines to be no longer in the public interest.” (Telecommunications Act, 
1996) These mandated reviews pointed to the FCC’s supposed neo-liberal approach, 
which (ironically) appeared to favor the removal of the Commission from the media 
ownership arena. Indeed, in the years the followed the 1996 Act, the deregulation 
continued, beginning with the removal of the national radio cap (a rule that had limited 
how many radio stations a single entity could own nationwide), and other similar 
decisions such as the expansion of cross-ownership limits and the creation of both the 
“duopoly rule” and the “dual network rule” (Sadler, 2005).

While the 1996 Act appeared (and perhaps was designed) to be a move that would 
distance the public from both the regulatory process and the corporate media system, the 
decision to force the FCC to review its media ownership rules biennially, actually 
contributed to a broader discussion over the place of the public’s voice in the FCC’s 
media ownership debate.

3.3.3. PUBLIC HEARINGS (2003)

In September 2002, the FCC issued a Notice of Proposed Rulemaking stating that 
the Commission would re-evaluate its media ownership rules pursuant to the obligation 
specified in the Telecommunications Act of 1996. As 2003 was approaching, a battle of 
words (and perhaps actions) developed between Chairman Powell and Democratic 
Commissioner Michael Copps. Commissioner Copps felt that the Republican FCC was 
too focused on the neo-liberal agenda, and not focused enough on hearing the public’s 
voice regarding the issues at hand, noting, “We need a much wider participation … this is 
not an inside-the-Beltway issue” (Copps, 2003). Copps repeatedly called for the FCC to
hold public hearings with time devoted to public input. Powell responded by noting that
the public had already taken advantage of the online comment submission process and
that no public hearings would be necessary (Quill, 2003). A spokesman for Powell noted,
“if Commissioner Copps thinks something more can be gained from having hearings, he
should feel free to do so” (McConnell, 2002, November 25). In the end, Commissioner
Copps and Commissioner Jonathan Adelstein organized a number of “unofficial” FCC
hearings.

On January 16, 2003, the FCC held an “unofficial” public hearing on media
ownership at Columbia University; surprisingly, Chairman Michael Powell was in
attendance. His opening remarks however, certainly reflected the lack of interest the
Commission had displayed towards public hearings in recent years:

I would be the first to agree that this kind of public discourse is one
of the most, uhh, critical things that the Commission can
participate in, an opportunity to hear a wide ranging set of views.
Umm, I want to apologize in advance, regrettably I also have to
participate today in a, a Rainbow Push Wall Street project later in
the day, so I won’t be able to be here all day.

It should be noted that the Chief of the Media Bureau and some other associates
would be there all day to hear a full report on the event.

Copps remained adamant that all Commissioners should attend an official FCC
hearing before any decisions were made. An editorial in Broadcasting and Cable
articulated the heated nature of the eventual decision regarding an official hearing (at
least from the Republican standpoint). The article is quoted at length as it includes a variety of points that are relevant to this discussion:

FCC Commissioner Michael Copps got his way. … Chairman Michael Powell gave in, saying he would schedule a hearing … in Richmond, Va. … Why Richmond? To save money, says Powell. With the Virginia capital just 100 miles down I-95, the FCC won’t have to pay for a lot of hotel rooms and airline tickets.

We understand what Copps is trying to do: Get some thoughts on media-ownership deregulation from the common folk outside of Washington on the theory that wisdom grows proportionately with the distance from Washington. But that’s a romantic notion. Does Copps really think that people in the provinces think much about media consolidation? At best, what you will get in any given town are local fronts for the Washington lobbyists and groups that spend their lives grappling with the issues. In Richmond, you probably would be able to stir up a better discussion on McClellan’s Peninsula Campaign of 1862 than you will on the Telecommunications Act of 1996.

As Powell hinted in grudgingly agreeing to the hearing, it won’t add much of value to the record. That is in part because this FCC has already taken extraordinary steps to analyze the media marketplace and build a record that will lead not only to reasonable
action this spring but also to a new set of rules that may withstand judicial scrutiny. …

We understand that big media can be too big and that there may be a need for some restrictions. But the burden of proof is on those who would regulate, who would place hobbles on companies and entrepreneurs for fear of what might happen (there is already a Justice Department and antitrust laws to handle what does happen), who would deprive someone of the right to speak through any medium anywhere. That proof might be out there, but it doesn’t require a road trip to Richmond. (Editorial, 2002, December 9)

This piece articulated a number of the problems associated with the disinterest in public participation reflected in the actions of the FCC Chairman at the time. Some viewpoints that have already been used as arguments against public participation in policymaking in general were articulated as well. To begin, there was a definite lack of effort on the Chairman’s part to further involve the public in the process. A trip to Virginia was a poor choice in certain respects, indeed its proximity to Washington made it easier for Washington-based lobbyists to make the trip. On the other hand, there were citizens living in Virginia who had voices that deserved to be heard. The writer of this article however, appeared to believe that everyday citizens or “common folk” had nothing to add to the discussion, an idea reflected in the Chairman’s comments as well.

The last point to focus on is perhaps the most complicated, and that is the idea that technocratic problems require technocratic problem-solving. The media ownership issue was being painted by this author as a technocratic issue, one that ought to be solved
using the “record” built by the FCC. The commissioners, their associates and the experts and stakeholders they worked with apparently were the only ones with the answers. The legal department and legal texts could act as backups. As a result, this author believed that there was little need for public input into this process, and thus the public hearing in Virginia would be a waste of time.

3.3.4. DECISION 2003

In June 2003, after its deliberations – which included the single “official” public hearing in Richmond and the review of nearly two-million pieces of correspondence from the public opposing further relaxation of the ownership rules (Obar, 2009) - the FCC voted 3-2 to change a variety of it ownership rules (FCC, 2008a).

In the months that followed, a number of public interest and consumer advocacy groups petitioned judicial review of the commission’s R&O, “contending that its deregulatory provisions contravened the Commission's statutory mandates as well as the Administrative Procedure Act” (Obar, 2009, p. 487). A number of broadcasters and newspaper owners also petitioned the Report and Order, but noted that the FCC didn’t deregulate enough pursuant to the statutory mandates established by the Telecommunications Act of 1996 and the Constitution of the United States. The eventual decision of the United States Court of Appeals for the Third Circuit Court stated that the FCC’s arguments for the rule-changes were insufficient (Ibid). The court determined that the FCC should conduct a further investigation which included expanding its understanding of the relationship between the rules and the public interest.
3.3.5. The 2006-2008 Review

In June 2006, the new Republican FCC now Chaired by Kevin Martin adopted a Further Notice of Proposed Rulemaking (FNPRM) to address the issues raised by the Third Circuit Court and also to perform the recurring evaluation of the media ownership rules required by the Telecommunications Act. The deliberations would draw upon three formal sources of input: (1) the submission of comments, (2) ten commissioned studies, and (3) six public hearings (FCC, 2006b).

Though the previous review allowed for comment submission and held one official public hearing, Chairman Martin noted in his comments when the new rules were voted upon in December 2007 that things would be different this time around:

In 2003, when we last conducted a review of the media ownership rules, many expressed concern about the process. Specifically, people complained that there were not enough hearings, not enough studies, and not enough opportunity for comments and public input. When we began eighteen months ago, the Commission committed to conducting this proceeding in a manner that was more open and allowed for more public participation. I believe that is what the Commission has done. (FCC, 2008a, p. 99)

3.3.6. Comment Submission (2006)

The FCC called upon stakeholders, experts and members of the general public to submit comments as well as empirical data regarding the impact of the current ownership rules and potential rule-changes on the Commission’s competition, diversity and localism
policy goals (FCC, 2008a). Three Specific “Request for Comment” calls were noted in the FNPRM. First, regarding the Local Television Rule:

We invite comment on all of the issues remanded by the *Prometheus* court regarding the local TV ownership rule. Should the limits on the number of stations that can be commonly owned adopted in the 2002 *Biennial Review Order* be revised, or is there additional evidence or analysis upon which the Commission can rely to further justify the limits it adopted? How should we address the court’s concern that the revised numerical limits allow concentration to exceed the 1800 HHI benchmark relied upon by the Commission in setting the limits? Is there additional evidence to support the Commission’s decision to treat capacity as an important factor in measuring the competitive structure of television markets? Is there evidence to support fluidity of television station market shares? Should the limits vary depending on the size of the market? How would any changes impact the need for the top four-ranked restriction? We urge commenters to consider and discuss whether their proposals with respect to the local TV ownership rule also would be consistent with the *Sinclair* decision.

We also invite comment on the court’s remand of the elimination of the requirement that waiver applicants demonstrate that there is no reasonably available out-of-market buyer. Should we reinstate
this requirement? Is it unduly burdensome? Are there less burdensome means of ensuring that unnecessary concentration of ownership does not occur? Has the requirement had an effect on minority and/or female ownership of broadcast stations? (FCC, 2006b, p.9)

Note the technocratic language throughout. Aside from the rule itself, the reference to the 2002 review and the Sinclair decision, which all required knowledge of FCC history, the Commission also requested comments regarding HHI figures, and referred to terms like “limits,” “capacity,” and “competitive structure of television markets.” Perhaps the statement most easily understandable by those without an understanding of the technocratic language was the question about minority and female ownership, though accurate statistical figures would not be available (most likely) to the general public. Regarding the Local Radio Ownership Rule:

We invite comment on the issues remanded by the Prometheus court with respect to the local radio ownership limits. In order to address the court’s concerns, should the numerical limits be revised, or is there additional evidence that could be used to further justify the limits? If the Commission should revise the limits, what revisions are appropriate? Should we create additional tiers? How should the Commission address the court’s concern that the limits adopted do not account for actual market share? Should the rule still seek to ensure a specific number of competitors in a market, and, if so, what is the appropriate benchmark for that number?
Finally, should we retain the AM/FM subcaps? Lastly, we seek comment on whether the local radio ownership rule currently in effect is necessary in the public interest as a result of competition.

(FCC, 2006b, p. 11)

Again, references to court cases, and technocratic jargon like “subcaps” were included. Regarding Cross-Media Limits:

We invite comment on all of the issues remanded by the *Prometheus* court regarding crossownership. Many of these issues relate to the DI. In light of the court’s extensive and detailed criticism of the DI, we tentatively conclude that the DI is an inaccurate tool for measuring diversity. Moreover, we recognize that some aspects of diversity may be difficult to quantify. To the extent that we will not use the DI to justify changes to the existing cross-ownership rules, we seek comment on how we should approach cross-ownership limits. Should limits vary depending upon the characteristics of local markets? If so, what characteristics should be considered, and how should they be factored into any limits? We seek comment on the newspaper/broadcast cross-ownership rule and the radio/television cross-ownership rule. Are there aspects of television and radio broadcast operations that make cross-ownership with a newspaper different for each of these media? If so, should limits on newspaper/radio combinations be
different from limits on newspaper/television combinations?

Lastly, are the newspaper/broadcast crossownership rule and the radio/television cross-ownership rule necessary in the public interest as a result of competition? (FCC, 2006b, p. 11)

Here, the Diversity Index was noted as “DI” which required the commenter to have read and understood the preceding literature where the term was explained.

Regarding the Dual Network Rule, “We seek comment on whether the dual network rule remains necessary in the public interest as a result of competition.”

Regarding the UHF Discount:

We seek comment on whether the court’s holding on the UHF discount rule was ambiguous. We seek comment on whether the Commission should retain, modify, or eliminate the UHF discount.

Commenters who urge us to modify or eliminate the UHF discount rule should discuss the basis for our authority to take such action.

(FCC, 2006b, p. 16)

Clearly the FCC’s requests were geared towards those with an extensive knowledge of the issues. Aside from the concerns articulated regarding the framing of the calls for comment – which required individuals to have extensive knowledge of the Commission’s history and rules, as well as the prevalence of technocratic language, this document was not widely circulated, and thus, it would be highly unlikely that any member of the public would have accessed this document without being prompted by a more down-to-earth organization. If comment submission was so complicated, perhaps the public hearings would be more accessible.
3.3.7. Public Hearings (2006)

Chairman Martin announced that the commission would hold six public hearings in “diverse locations around the country” (FCC, 2006a, p. 1) in an attempt to “fully involve the public” (FCC, 2007, p. 1) in the deliberations. The hearings were to address the impact of the rules and potential rule changes on the commission’s general policy goals as well as minority ownership, family/children’s programming, religious programming, independent programming, campaign and community event coverage, music and the creative arts, the growth of the internet, jobs and the economy, advertisers, senior citizens, rural America, and the disabled community.

The FCC’s public hearings on media ownership were held in: Los Angeles and El Segundo, CA, on October 3, 2006; Nashville, TN, on December 11, 2006; Harrisburg, PA, on February 23, 2007; Tampa, FL, on April 30, 2007; Chicago, IL, on September 20, 2007; and Seattle, WA, on November 9, 2007.

With such a commitment to public involvement, it would appear that the public would have the opportunity to not only have its voice heard, but to have that voice make a difference in the proceeding. The following studies address these issues.
Chapter Four

AN ANALYSIS OF PUBLIC PARTICIPATION IN THE FCC’S MEDIA OWNERSHIP REVIEW 2006-2008 (PART ONE)

This chapter presents the first of four empirical studies which assess the extent of public involvement in the FCC’s 2006-2008 media ownership review. Study One addresses the structural concerns through the analysis of the FCC’s website, online comment submission process and public hearings.

4.1. STUDY ONE: STRUCTURAL CONCERNS

4.1.1. METHOD

This first study evaluates the extent of public involvement in the FCC’s 2006-2008 media ownership review in light of the structural concerns outlined in Chapter Two. These structural concerns addressed the ability for members of the public to attend and/or participate in the FCC’s review process in a “fair” manner. Three questions were developed to help assess whether any of these concerns were realized. The first two questions addressed by Study One were,

1) To what extent was the public provided notice and of the FCC’s online comment submission process and public hearings?

2) To what extent was the public provided access to the FCC’s online comment submission process and public hearings?

These questions addressed the FCC’s public mobilization techniques. To address the notice provided for the FCC’s online comment submission process, as well as the

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3 Certain sections of Study One were adapted from: Obar, J.A., & Schejter, A.M. (2010). Inclusion or illusion? An analysis of the FCC’s public hearings on media ownership 2006-2007. Journal of Broadcasting & Electronic Media, 54(2), 212-227. These sections will be noted throughout.
notice provided for each public hearing’s date, time and location, press releases made available on the FCC’s website were reviewed. Public testimony analyzed in the content analysis of the hearings described in Part Two of this study was also utilized to help determine notice provided.

The Wayback Machine on Archive.org was employed to determine access to the FCC’s online comment submission process. Studying the ever-changing Internet creates challenges for researchers. Generally speaking, once a website is updated, the older version is lost; there is no automatic archiving function. Fortunately, the Wayback Machine is an on-line feature that does help archive pieces of the Internet by saving websites on specific dates. The Wayback Machine catalogues websites at specific points in time and identifies when they change. Since the FCC website in October 2006 may be different from September 2006, because the machine has catalogued the website as it appeared in both months (links included), users can review how the website looked during each month. Using this catalogue, the FCC’s general and ownership websites were evaluated during the official comment period which ran from June 21, 2006 to October 23, 2006. There was one limitation to this process, however, as the websites were not necessarily saved by the Wayback Machine on every day, and because of this, only the specific archived dates can be reviewed.

With this constraint in mind, the following dates were saved and reviewed for the FCC’s main website (FCC.gov): June 27, July 26, August 26, September 26 and October 26, 2006. The dates saved and reviewed for the FCC’s media ownership website (FCC.gov/ownership) were: June 16, July 14 and September 27, 2006. The media
ownership page was only catalogued by Archive.org on these dates during the comment period.

Access to the FCC’s online comment submission process was determined by reviewing each of the catalogued websites and assessing the extent to which information specific to the relevant proceeding’s online comment submission process was made available. Whether the FCC’s website was ‘user-friendly’ or not was also considered (for example, whether there were easily accessible links to the FCC’s Electronic Comment Filing System (ECFS) as well as clear instructions for how to file comments), as was the amount and type of information provided about the deliberations. In addition to the analysis of the 2006 versions of the website, a more current version of the website (accessed on July 14, 2010) was assessed to see if any significant changes had been made. For a point of comparison, this study also reviewed a recent version (also accessed July 14, 2010) of the Canadian Radio-Television and Telecommunications Commission’s (CRTC) website – the Canadian equivalent to the FCC (see Appendix L).

Access to the FCC’s six public hearings was determined by revisiting the press releases and by reviewing the public testimonies analyzed in the second section of the study.

The rest of the analysis dealt with the public hearings only. Once the public was made aware of the comment submission process and given access to it, the extent of public participation was up to the commenters. As the ability for the public to contribute testimony at the FCC’s public hearings presented a more complicated situation as a result of the hearing dynamics and structure, a more in-depth analysis of the hearing process
was required. The remainder of the analysis of the public hearings addressed a third question,

3) To what extent was public testimony a part of the FCC’s hearings?

In addition to information regarding notice and access, press releases distributed closer to the date of the hearings also included outlines for how each hearing would be organized. Each outline organized the hearing into segments, allocating time for introductory and commissioner remarks, panel presentations and public comments. These allocations were the initial guidelines employed to begin the analysis of how the hearings unfolded. Once this initial analysis was completed, analysis of the hearings themselves began which provided the majority of the data. Audio and video footage was collected for each of the hearings. The FCC website provided audio for every minute of every hearing except for Seattle because the hearing went two hours longer than expected. The missing audio was obtained from a combination of sources including KBCS 91.3FM and from members of Portland Community Media. Video footage was collected for all of the hearings as well (from the FCC site and various private sources), allowing the researchers to code for visual elements. Complete video footage was collected for Nashville, Harrisburg, Tampa and Chicago; however, LA/El Segundo and Seattle only had partial footage. Every minute of each of the six hearings (in total 44 hours, 34 minutes and 59 seconds) was assessed. Transcripts provided on the FCC website were reviewed to ensure accuracy.
4.1.2. RESULTS

4.1.2.1. NOTICE AND ACCESS PROVIDED FOR THE ONLINE COMMENT SUBMISSION PROCESS

On June 21, 2006, the FCC published a press release on its website entitled, “FCC Opens Media Ownership Proceeding for Public Comment” (FCC, 2006c). Members of the public were encouraged via this press release to submit comments to the FCC’s online docket (though the docket number was not listed). The FCC’s press release included a “fact sheet” at the end of the document. This fact sheet contained (in this order) the specific rules the commission was seeking comment on; namely: Local Television Ownership Limit, Local Radio Ownership Limit, Newspaper Broadcast Cross-ownership Ban, Radio Television Cross-ownership Limit, Dual Network Ban, and UHF discount on the National Television Ownership Limit. This list was followed by a brief description of the studies commissioned by the FCC. This was followed by the term “Opportunity for Public Participation” and a description of the issues to be addressed at the six public hearings the commission intended to hold. Information about the location, date, time and structure of the hearings was not listed; however, at the end of the list of topics to be addressed was the statement “The comment cycle will be extended beyond the normal period, to 120 days.” (Ibid) At the bottom of the third and last page, after the information about the hearings appeared the following:

Facilitating Public Comment

• The main page of the Commission’s website (www.fcc.gov) will be updated to feature a hyperlink to a webpage dedicated to the media ownership proceeding.
The page will feature details on public hearings, access to the FNPRM and studies, and instructions to facilitate the filing of public comments. (Ibid, p.3)

The FCC’s main website was evaluated once during each month throughout the comment period (see Appendix L). Navigating the FCC’s website throughout the various months was somewhat difficult as the setup of the page was always quite confusing (while the content was occasionally modified, the setup was not). There was a lot of text on the page with a variety of different topics and subject areas all over the place. ‘User-friendly’ would not have been an appropriate term to apply as the website likely made most people question where to look first as well as second, third, etc. In the middle of the page was a list of links to various press releases. While information on the ownership proceedings could be found by scrolling down the list, finding the link to the FCC’s media ownership page on this main page was somewhat challenging. Halfway down the page, after scrolling once or twice on the left-hand side the words “Media Ownership” appeared under the FCC’s “Strategic Goals” section. The link was not first on the list, but rather sixth. The link was also underneath a “Media” section link and not even the first within the media section, falling beneath the “Digital Television (DTV)” link. Above the “Strategic Goals” section there was a large button that read “Filing Public Comments” which did take users to the FCC’s online comment submission site; however, navigating the path to the media ownership proceeding this way, would have required users to know the FCC’s docket number, which was not made available on the FCC’s front page or in the initial press release. The docket number 06-121 was noted in the FCC’s official
Further Notice of Proposed Rulemaking however (FCC, 2006b), a 36-page, highly technical document, not likely to be read by members of the general public.

The FCC’s media ownership page FCC.gov/ownership was only evaluated during the months of June, July and September. The June and July pages were the same; neither had any information about the review. In fact, at the bottom of both pages was the notation “last reviewed/updated on 1/20/04.” As there was no up-to-date information on the page, there was no information on the upcoming public hearings, studies, or comment submission process. Archive.org noted that the September 26, 2006 page was finally updated and thus different from the July page. At the bottom of the September page was the notation “last reviewed/updated on 7/24/06.” This page had been updated, with information about the current review. (It is possible that the Commission was waiting until the FNPRM was officially released before updating the page. Even though the FCC’s initial press release was made public more than a month earlier, the FNPRM was released on July 24, 2006.) The updated webpage included information about the rules being reviewed, the process of deliberations, the background of the debate, etc. The commission also included the statement “The Commission’s electronic filing system allows commenters to send short comments via e-mail or submit longer documents. Learn more about how to file a comment.” The “Learn more …” statement had a hyperlink to a page that contained a considerable amount of information about filing a comment. Though this linked page contained a considerable amount of information, and was quite wordy, it did include all the information that an individual would need in order to submit a comment to the FCC’s online docket. It also provided information about how to submit electronically, in written form and informally. The Commission also offered an
“ECFS Express” system (Electronic Comment Filing System) for shorter comments in addition to the standard route to the ECFS system for those with more to say and/or upload.

For a point of comparison, more recent versions (accessed July 14, 2010) of both the FCC and CRTC websites were compared (see Appendices L and M). Not only was the CRTC page more organized, there was also far less jargon, which suggests that the CRTC was seemingly more interested in making its site “user-friendly.” In terms of public mobilization, notice how front and center on the CRTC website there is a box that says “Public Proceedings” with the first link clearly stating “How to participate in a public proceeding.” Also note how on the right-hand side of the page is a section with various drop boxes for easy searching with the title, “Find a Public Hearing by Date.” A quick look at the current FCC’s website reveals that while some changes have been made (including the use of more inviting graphics at the top of the page - one advertising the goal of improving the FCC’s website and the other introducing one of the FCC’s current initiatives, the national broadband discussion), the CRTC page appears to be much more engaging than any of the FCC’s pages reviewed by this inquiry.

4.1.2.2. NOTICE AND ACCESS PROVIDED FOR THE PUBLIC HEARINGS

4.1.2.2.1. HEARING NOTICE

The FCC’s public hearings on media ownership were held in: Los Angeles and El Segundo, CA, on October 3, 2006; Nashville, TN, on December 11, 2006; Harrisburg, PA, on February 23, 2007; Tampa, FL, on April 30, 2007; Chicago, IL, on September 20, 2007; and Seattle, WA, on November 9, 2007. For each of the six public hearings, details

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regarding the date, time and location were announced by the FCC in the days and weeks preceding via press releases made available on their website. Initial press releases were usually made available to the public many weeks in advance. For example, the first hearing (Los Angeles) was announced in a press release more than three weeks in advance. The next hearing held in Nashville, TN was also announced more than three weeks in advance. The following hearing which was held in Harrisburg, PA was only announced 15 days in advance. Complaints articulated at the Harrisburg hearing regarding the short notice (discussed further on) perhaps contributed to the following two hearings being announced many weeks before they occurred. The hearing in Tampa, FL was announced almost 7 weeks in advance and Chicago more than two months in advance. This trend changed dramatically with the final hearing which was held in Seattle, WA, announced only 7 days in advance.

While the FCC announced the majority of its hearings with considerable notice, final details regarding location and time for most of the hearings were not provided in advance. Meaning, that the public was made aware that a hearing would be held in their city on a particular date, but the time and location were unclear. For the first hearing in Los Angeles, as well as the announcement of a second hearing being held later that day in El Segundo, CA, final details were provided only one week in advance. Final details were also provided within one week of the Harrisburg and Seattle hearings as well.

As noted, various members of the general public speaking during the public comment periods at a number of the hearings expressed their frustrations with the FCC’s lack of notice. Their comments addressed the structural subordination they were encountering by calling direct attention to the FCC’s actions. For example, a young
woman in Harrisburg said, “getting a true grasp of the public interest is quite difficult when the public has almost no advance notice of the location or date of this hearing.” In Seattle, the Executive director of Capital Community television, a community-based, commercial free television organization in Salem, Oregon said, "I gladly drove the 225 miles today, but with more notice a lot more people would have come with me.” Another individual presented a similar argument,

I'm here to speak for dozens of people from the state of Montana who wanted to be here to speak directly to you … because of the last minute announcement, they were not able to get here and they've been denied an important and vital opportunity to speak to you. …I drove 500 miles this morning so I could be here in person

A young man also stated his confusion as to why the lack of notice, “especially when Senator Cantwell and Congressman Insley told you, folks from Alaska, Idaho and Oregon wanted to attend and asked for a reasonable amount of notice.” Others were more aggressive in their tone. One man in Seattle said “I would like to thank the FCC and Kevin Martin, you in particular, for coming to Seattle on such short notice” (followed by huge applause, laughing). Another man whose name sounded like Murdoch (like Rupert) presented his comments sarcastically, acting as if he was the head of News Corp.,

five days notice is WAAAY too much time. I think the FCC needs to take a lead from FEMA and give only 15 minutes notice (huge applause and cheers) and that way instead of having 1000 people here, we'd only have FCC staff people who would be able to ask
very softball questions… it's clear that you don't want many people here, and I think that's a great thing.

Another man stated, “running this hearing with five days notice, and then trying to jam media consolidation through by mid-December, to me is damning evidence, by the total abuse of the process itself, that you're up to some kinda no good.” (loud applause)

Again at the Seattle hearing, the Governor of Washington State articulated the issue clearly, “had we been able to have more advance notice we would have packed this room. It would have been standing room only.”

For the remaining hearings, while initial notice for Nashville, TN, Tampa, FL and Chicago, IL was provided between one and two months beforehand, final details regarding location and time were provided ten, seventeen and sixteen days beforehand (respectively). One might conclude (especially given the complaints expressed during the hearings) that the publicity process accompanying the FCC’s hearings was inadequate for maximizing public participation.

4.1.2.2.2. HEARING ACCESS

Each of the six hearings provided members of the public with the opportunity to not only listen to members of the FCC and individuals on expert panels speak, members of the public were also provided with the opportunity to have their voices heard. In order to present testimony at each public hearing however, members of the public had to arrive before each hearing to sign their name to an official list. This process was problematic for a variety of reasons. The primary problem with this system was the timing of each hearing. All hearings started during prime working hours: Harrisburg at 9AM, Los Angeles and Nashville at 1PM, Tampa, Chicago and Seattle at 4PM (the hearing in El
Segundo which was announced last minute, did begin at 6:30PM, but is not considered one of the official six hearings, rather it is considered an extension of the earlier hearing). The problem of access wasn’t necessarily the official start time of each hearing, but rather the fact that individuals had to sign their names to an official list, which meant that individuals had to arrive even earlier in the day. At the hearings themselves a number of individuals commented on these issues, again addressing the structural subordination encountered. For example, in Harrisburg, a woman, self-identified as a student noted, Had this hearing not taken place on a work day during business hours, then perhaps those that are not only in the business of media, would be able to attend today. And if this valuable space provided for public opinion was scheduled at a time when the majority of Pennsylvania residents who have something to say on this issue of media ownership could attend, then perhaps the Commission would actually be informed of the public interest.

As a result of this complaint and numerous others, the subsequent hearings in Tampa, Chicago and Seattle all started later in the afternoon (at 4 p.m.); however, as noted earlier, in order to testify after having waited a reasonable amount of time (the hearing in Seattle concluded at 1:30 a.m.), members of the public still had to arrive during working hours. A problem that was articulated by a student in Chicago, …these testimony hearings are virtually impossible for high school and college students to give their testimony. … [the] location … is not readily accessible, and the registration process requires
students to skip school in order to make it here, or to just sign up to testify.

Such constraints did not just impact issues of youth, but also issues of class. As one women in Seattle argued, “I work in affordable housing here in Seattle, your total lack of regard for my work schedule has severely impacted my work schedule today in providing very low income applicants my services. Everyone has the right to free speech.”

Those who did skip work or school early in order to sign up to speak still encountered access difficulties as the length of the non-public comment sections at each hearing (discussed in the next section) were often so long that members of the public were forced to wait hours to testify. For example, the hearings in Nashville and Chicago lasted eight hours while the hearing in Seattle lasted nine. In those meetings, individuals who waited until work was over and arrived late often were provided with the opportunity to speak at the end of the hearings. It should be noted however, that in Los Angeles and Harrisburg, the hearings ended before all individuals who signed up to testify had the opportunity to speak. In total, across the six hearings, 237 individuals had their names called by the moderator, but were not present to testify. Many individuals who did take time away from previous obligations to attend the hearings could not wait the many hours until their names were called likely due in part to the structure and resulting length of the hearings.

5 Those who were still on the list when the hearings ended were provided with the opportunity to speak with the commissioners’ associates.
4.1.2.2.3. HEARING STRUcTURE

The structure of each hearing, for the most part, was the same. Each began with introductory remarks from a member of the Commission and often also from various public figures. This was followed by statements from the Commissioners that were in attendance, one or two expert panels (consisting of media professionals, industry analysts, academics, representatives and dignitaries) and finally the public comment period. Modifications to this general structure occurred at each hearing as certain individuals were allowed (by the FCC) to interrupt the public comment periods.

The amount of time allowed for comment varied depending upon the section of the hearing that a particular individual was speaking in. Members of the Commission, individuals making introductory remarks as well as some of the interrupting individuals generally spoke without a time limit; individuals on the expert panels were allotted five minutes to speak each and members of the public had two minutes each. Some of the hearings went very long, and as a result, at some of the hearings, the amount of time allotted to individuals speaking during the public comment period was shortened to ninety-seconds. Testimony was not in the form of a back-and-forth dialogue; speakers presented their comments and all others present sat and listened. The Commissioners and the audience sat through the majority of the hearings (Commissioners occasionally left for various reasons and of course members of the public came and left at random); however, the expert panelists (who presented on-stage) left their seats after their presentations were finished.

In total, all six hearings lasted 44 hours, 34 minutes and 59 seconds (see Appendix B). Non-public comment time (all time devoted to everything except the public
comment periods) accounted for 39.4 percent of the hearing time (17 and a half hours), with the remaining time, slightly more than 27 hours for public comment (60.61 percent). Though the time devoted to public comment was considerably more than the time devoted to non-public comment, it should be noted that at the hearings in Los Angeles and Chicago, the time devoted to non-public comments was actually longer than the time devoted to public comment. Non-public comment time came close during other hearings as well; for example, non-public time in Nashville was 44.4 percent of the total hearing time and in Tampa it was 41 percent. As noted in Appendix B, while the FCC allotted more time to public comment than to non-public comment in four of the six hearings, most of the hearings allotted approximately the same amount of time, with only Seattle and El Segundo tipping the scales – which contributed to the greater difference.

The following sections analyze the individual components of the meetings’ structure in terms of their ability to facilitate, or discourage, public engagement.

4.1.2.2.3.1. Introductory Remarks

As noted in Appendix B, the time devoted to introductory remarks across the six hearings was 1 hour, 24 minutes, 11 seconds (3.15 percent of total hearing time). FCC Chairman Kevin Martin spoke first at the majority of the hearings, and was followed by a number of public figures invited to say a few words. In Nashville, four public figures made statements including both state Senators, the president of Belmont University and the Mayor. Two Mayors spoke in Harrisburg (Lebanon and York, PA) and one in Tampa. In Chicago, statements were either read or presented by 6 individuals, including two Senators, the Chief of the FCC Consumer and Governmental Affairs Bureau and the Chairman of Rainbow Push Coalition, and in Seattle, statements came from 7 individuals
including one Senator, two Congressmen, the Governor, the State Attorney General, the
State Auditor and a Councilman.

4.1.2.3.2. Commissioner Remarks

Remarks by the FCC Commissioners counted for almost 7 percent of the total hearing time (3 hours, 6 minutes and 40 seconds). At each of the hearings, all five Commissioners made opening remarks, except for two instances (Nashville and Chicago) where Commissioner McDowell and Commissioner Tate were absent (respectively). Commissioners presented opening statements twice during the double hearing in California (once in Los Angeles and once in El Segundo) and twice during the single Nashville hearing.

An interesting and telling exchange occurred as Chairman Martin walked to the podium to present his welcoming remarks in Seattle. The audience reacted ferociously, first booing and shouting at the Chairman and then cheering when he opened by saying that his remarks would be brief. Chairman Martin commented (perhaps in response), “I thought that I should respond to a few of the things and little bit of the rhetoric that has been used tonight. At the Commission the rhetoric is oftentimes easy, but the decision making is much harder.” Throughout the rest of his comments the crowd erupted with applause when he mentioned the rules being discussed, and with shouts against him as he described the current process. At one point a woman shouted, “sit down!” perhaps commenting on the length of the non-public comment portion thus far.

4.1.2.3.3. Panelist Remarks

As noted, there were expert panels at every hearing, and at some hearings, multiple panels. Tabulated, the total time allotted to expert panels was 12 hours, 1 minute
and 37 seconds (26.98 percent of total hearing time). A total of 125 panelists presented comments across the six hearings, five minutes allotted to each speaker. There were two hearings in Los Angeles, Nashville, Tampa, Chicago and Seattle, with the panels appearing one after the other in Los Angeles and the rest with one after the Commissioner comments, and the other after a number of public comments. An example that paints part of the picture of the dynamic between the expert panels and the public comment periods occurred in Chicago. After a long first panel where panelists were allotted five minutes each, several interrupting remarks were heard. Following these remarks the first public comment period began with 29 speakers making comments, two minutes allotted to each. After these speakers had testified, the hearing was then halted for a short break. Upon recommencement, a second expert panel presented (once again, five minutes each), followed by a number of additional interrupting remarks and then the final public comment period. It should be noted that due to the length of the non-public comment period at the Chicago hearing, partway through this second public comment period, public comments had to be shortened to 90 seconds each.

4.1.2.2.3.4. Interrupting Remarks

Total time for interrupting remarks was 1 hour, 1 minute and 6 seconds (2.28 percent of total hearing time). At various points throughout the hearings, a number of individuals were invited by FCC Commissioners to interrupt the public comment periods. At the El Segundo hearing three individuals interrupted the public comment period. Two hours into the hearing and only twenty-five minutes into the public comment period, Congresswoman Diane Watson (who had already spoken in Los Angeles) was allowed to interrupt the public comment period without a time restriction. Twenty-five minutes later
Mayor Kelly McDowell was also invited by the Chairman to interrupt the public comment period without time restriction. This was followed by a third interruption; a panelist who was “caught in traffic” was given the five minutes to speak that he had missed earlier on in the evening.

In Nashville, after the first public comment period where only 38 individuals had spoken, the FCC halted the hearing for a short break. Once the hearing began again and Commissioners made their second sets of remarks, Representative Steve Cohen Congressman Jim Cooper and Congressman Marsha Blackburn were invited to present comments without time restrictions. This was followed by the second panel, and then finally the second public comment period (more than 5 hours after the hearing had started).

In Tampa, after the first panel, the Commission recognized former Congressman Jim Davis and Monsignor Higgins who were each allotted two minutes to speak (likely without having to wait in-line to sign their names to the official list). After 46 individuals from the public testified, the hearing was stopped for a half-hour break. When the hearing re-commenced a second panel presented, and was followed by two individuals - Kim Scheeler, the President and CEO of the Tampa Chamber of Commerce and the Dick Greco, a former Mayor of Tampa who were each asked to speak for two minutes. The second public comment period followed.

In Chicago, after the first panel five additional individuals were invited to speak for two minutes each before the public comment period, but only two were present. Before the second public comment period, after a second panel five additional individuals were invited to speak, but only three were present. Finally, in Seattle after the
Commissioners made their opening remarks, the President of the University of Washington was asked to speak without time restriction. After the first expert panel, six additional individuals were invited to speak before the public comment section period.

4.1.2.3.5. Public Comments

Across the six hearings, 732 individuals testified during the public comment periods (see Appendix B), which totaled 27 hours, 1 minute, 25 seconds (60.61 percent of the total hearing time). A detailed examination of the content of the public comments presented at the hearings will be presented in a later section. In this section, some general observations will be made about the structure of the public comment periods.

During the public comment periods in Los Angeles/El Segundo hearings 115 individuals spoke. In Los Angeles, because of the length of the non-public comment portion at the beginning of the hearing, the public comment period was cut short. Less than an hour and a half into the public comment period (3.5 hours into the hearing), it was announced that the Commissioners had to leave for the El Segundo hearing; only 35 public testimonies had been heard. Members of the public sitting in the audience protested. After some discussion, the Commission agreed to allow five additional speakers to testify (40 spoke in total). After the five speakers testified, the Commissioners left the hearing, leaving 10 additional individuals who testified in front of the Commissioners’ associates. In El Segundo, the Commission stayed until the end of the hearing, with 75 members of the public testifying during the public comment period.

Regarding the public comment periods during the Nashville hearing, aside from the issues already discussed, namely that in Nashville the FCC Commissioners spoke twice, there were two expert panels, various interrupting individuals and thus two public
comment periods (which led to the non-public comment time taking up more than 44 percent of the total hearing time), there were no other major issues with the public comment periods in which 112 individuals testified.

In Harrisburg (104 speakers), the first portion of the public comment period was dominated by representatives from the local network affiliates and various non-media organizations, many of whom were coded as having media ties. In fact, 40 of the first 54 individuals to testify were coded as being either affiliated with a media organization or from a non-profit with a media tie. Most of the individuals that spoke in this first group spoke favorably about the local media, but made little to no reference to the issues of media ownership, consolidation or deregulation. When the public comment period resumed after a short lunch-break, a more diverse crowd of speakers testified with only 5 of the remaining 50 having the aforementioned affiliations. The 59th speaker, a woman named Elizabeth Hainstock described her interpretation of the first portion of the public comment period,

Apparently I came to the wrong meeting. I was expecting debate at a conference or a forum that was about media ownership and about the fact that we, the people, own the licenses. Instead, I seem to be at a forum that is self-serving, embarrassing, (audience applause) humiliating, about the television stations in this area coming here and stacking the deck and speaking before all of us had a chance about how wonderful they are in this area, when they’re only doing their job. (Audience applause)

After 104 individuals testified, the moderator announced that the Whitaker center could only accommodate the meeting until the present time (3pm). The hearing was then
moved from the hall into the lobby. In the lobby an additional 21 individuals spoke; however, only the Democratic Commissioners remained.

At the Tampa and Chicago hearings, 110 and 121 public testimonies were presented respectively. At both of these hearings, as a result of the length of the non-public comment sections of the hearings, even though expert panelists were given five-minutes each to speak, even though the commissioners spoke without time limits, and even though numerous interrupting individuals were given the floor numerous times, public comments were shortened to 90-seconds partway through the public comment periods. Though this decision occurred close to the end of the hearing in Tampa, in Chicago, the decision to make this change occurred at 10:30 p.m., more than six hours into the hearing, after only 55 public comments had been heard (two minutes allotted to each). The remaining 67 speakers who had waited the many hours to have their voices heard had to speak with the 90-second time limit.

A poignant statement regarding the structure of the hearings came from an African-American man in Chicago who identified himself as a representative from a group called Voices of Ex-offenders. With hands clenched as his two-minutes came to an end, the moderator stepped-in to cut him off; the gentleman testifying then called attention to the irony of the imbalance of the hearing structure, exclaiming, “why I only got three minutes and them other people that you had there had five minutes? … why did they have five minutes, what was special about them?”

A total of 169 individual speakers from the public testified in Seattle. The hearing was supposed to run from 4pm-11pm, but concluded two-and-a-half hours later than
expected. The Commissioners remained until the hearing ended at approximately 1:30AM, two and a half hours later than expected.

4.1.2.2.3.6. Where’s Martin?

As this study addresses whether public participation in the six hearings was taken seriously or not, it seemed appropriate to highlight a revealing trend - Chairman Martin’s repeated absence during large sections of the public comment periods. In El Segundo, after having only heard an hour of the public comment period (19 speakers) Chairman Martin announced that he would have to leave the hearing. His comment was, “I have to actually leave and head back to catch the red eye back to Washington for a late scheduled meeting tomorrow morning.” This was the first of numerous such instances of Chairman Martin disappearing during the public comment portions of the hearings. In Nashville, part-way through the first public comment period a member of the public shouted “where’s Martin?” About 12 minutes and four speakers later another individual commented on the absence of Martin noting, “thank you Chairman Martin wherever you are, and members of the Commission for the opportunity to address you today.” Ten minutes later another speaker approached the microphone and stated, “thank you for being here, and we have noticed who wasn’t interested in listening to our voices.” After being absent for close to half an hour of the public comment period, Chairman Martin appeared and made the following statement,

I’d like to respond to the comment from the gentleman just there. I apologize, I did have to step out of the room because I had some other time sensitive business for the Commission I had to get done… and I apologize that I missed some of the comments. The
alternative was to delay the hearing and put everyone else’s opportunity to comment even further back and I didn’t think that was appropriate. So that was why I asked Commissioner Tate to actually start up the hearing so I could go take care of two phone calls for a time-sensitive issue. But I am back and will continue to be here tonight to give everyone an opportunity to have the chance to say whatever they want to say, and all of these proceedings are being recorded… and I didn’t think it was right for the people that were waiting to have to continue to wait because I had to step out of the room for a minute. So I apologize I wasn’t here, but that doesn’t mean we aren’t interested in what’s going on.

In Harrisburg, when the time the Whitaker Center offered had run out, and the Commission was forced to move the meeting into the lobby, Commissioners Copps and Adelstein remained to listen to an additional group of 21 individuals; however, Chairman Martin did not remain to hear them. At the beginning of the public comment period in Chicago, after having only heard nine speakers, Chairman Martin got up out of his seat and left the stage. After approximately 15 minutes and 8 speakers (some of whom commented on the absence of the Chairman) Martin returned to his seat.

4.1.3. STUDY ONE SUMMARY

The findings of this first study revealed that although the FCC claimed that they intended to “fully involve the public” in the deliberations, its methods suggested otherwise. Both the online comment submission and hearing process had considerable limitations in terms of notice and access. The hearings themselves also limited public
involvement by allotting considerable amounts of time to non-public comment and pushing public comments to the ‘back-of-the-line’ in almost every respect. Members of the public always spoke last, for the shortest amount of time and were often interrupted by more ‘important’ individuals. This all suggests that the public encountered what could be termed ‘structural subordination’ in light of the structural ‘concerns’ discussed earlier. These findings suggest that members of the general public were certainly not provided with a fair opportunity to participate in the FCC’s deliberations.
Chapter Five

AN ANALYSIS OF PUBLIC PARTICIPATION IN THE FCC’S MEDIA

OWNERHISP REVIEW 2006-2008 (PART TWO)

This chapter presents the remaining three studies that make up our current inquiry. Study Two and Study Three address the rhetorical concerns associated with public involvement in technocratic decision-making. How might we understand the nature of these comments? Who were the commenters? What arguments did they present? Given the large number of comments, quantitative content analysis was deemed the best method to summarize the manifest meaning of the comments. Study Two consists of a content analysis of the public comments presented at the FCC’s six public hearings on media ownership. Study Three includes a similar quantitative content analysis of the public comments submitted to the FCC’s online ownership docket 06-121. A supplementary analysis of two interviews with grassroots organizers follows. Study Four addresses the deliberatory concerns, and assesses the references to public comments in the FCC’s Report and Order.

5.1. STUDIES TWO AND THREE: RHETORICAL CONCERNS

In this section, Study Two and Study Three address the rhetorical concerns outlined in Chapter Two. Study Two consists of a quantitative content analysis of the public comments presented at the FCC’s six public hearings on media ownership. Study Three consists of a quantitative content analysis of the public comments submitted to the FCC’s online ownership docket 06-121.
5.1.1. STUDY TWO:

A QUANTITATIVE CONTENT ANALYSIS OF THE PUBLIC COMMENTS PRESENTED AT THE FCC’S SIX PUBLIC HEARINGS ON MEDIA OWNERSHIP 2006-2008

5.1.1.1. METHOD

Once members of the public were given their chance to speak at the hearings, what did they say? In the earlier discussion of technocratic deliberations, it was emphasized that it may be difficult for ‘ordinary’ citizens to contribute informed, competent, relevant viewpoints to government deliberations. To address whether these difficulties were encountered in the FCC’s six public hearings, this study content analyzed the testimony of every individual who spoke during the public comment periods (732 individuals in total). Therefore, the following question was assessed:

1): What points of view did members of the general public express at the hearings?

Once the public’s knowledge of the issues was assessed, the next question to explore was the language employed in the testimony. The following question was assessed next:

2): To what extent did the public use technocratic language in their testimony?

As the rhetorical concerns discussed earlier highlighted the issue of technocratic subordination, this analysis assessed the extent to which members of the general public

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6 Certain sections from Study Two were adapted from: Obar, J.A., & Schejter, A.M. (2010). Inclusion or illusion? An analysis of the FCC’s public hearings on media ownership 2006-2007. Journal of Broadcasting & Electronic Media, 54(2), 212-227. These sections will be noted throughout.

employed technical language in their testimonies, or non-technical language that raised rhetorical concerns. The question to be addressed here was not whether technocratic language is ‘good’ or ‘bad,’ but rather whether members of the public were found using it. Later on, after an assessment of the FCC’s decision, and the number of public comments cited in it, connections may potentially be drawn between the public’s participation and the extent (or relevance) of their technocratic discourse.

5.1.1.1.1. CODING INSTRUMENT

A coding instrument (see Appendix C) was constructed coding all of the individuals who spoke during the public comment periods across the six hearings. As each speaker was coded, coders began by noting the hearing location and speaker number. Coders listened closely to assess the general topics and tone of the testimonies. By listening (and in some cases watching) closely, coders then coded the following variables:

Variable 1: Gender

The first four variables were used to address speaker identification. By identifying certain elements about each speaker, this allowed for the assessment of relationships between who people were (or who they were affiliated with) and what they said at the hearings. These variables also enabled the counting of how many different types of individuals testified (i.e. how many men versus women). To assess the gender variable, coders viewed video footage and identified whether each speaker was a man or a woman. In the few instances where only audio footage was available, this variable was coded as “unclear.”
Variable 2: Race/Ethnicity

Similar to the gender variable, the coders viewed the video footage and identified the race/ethnicity of the speaker. Coders noted whether the speaker was white, black, Hispanic, Asian or “other.” When only audio footage was available, race was coded as “unclear.”

Variable 3: Affiliation

Coders noted whether individuals mentioned that they were affiliated with either a media company or a non-media organization. Media companies were defined as groups that produce media products. Non-media organizations were any other organization (i.e. non-media commercial groups, non-profits, etc.). If the speaker did not mention that they were affiliated with a company or organization, they were coded as “no ID.”

Variable 4: Media Tie

Any individual that was coded as being affiliated with a non-media organization and spoke on behalf of a media company - due to a noted relationship between the two groups - was coded as having a media tie. A considerable amount of the testimony presented at the hearings was by representatives of non-profits who worked alongside media personnel for the purpose of producing PSAs. This variable was included to assess the extent that individuals indirectly on the payroll of the media companies came to speak on their behalf.

Variable 5: Prepared Text

While viewing the video footage, coders noted whether individuals read from prepared texts. Texts were generally prepared on sheets of paper, but occasionally smaller
scraps of paper were also used. Individuals coded from the audio footage only had this variable coded as “unclear.”

Variable 6: Media Consolidation Viewpoint

Coders noted whether individuals spoke against or in support of media consolidation. To be coded as either “against” or “support” speakers had to use terms like “consolidation,” “concentration,” “big media,” etc. Comments had to make reference to concerns related to industry structure and not just to media content in general. Any individual who did not make reference to consolidation was coded as “unclear.”

Variable 7: Deregulation Viewpoint

Speakers were coded as being against or in support of deregulation of the media industry. Similar to the process employed for evaluating variable 8, coders listened closely to testimony to evaluate whether speakers used terms like “deregulation,” “deregulate,” or “relax rules.” Any individual who did not refer to deregulation in any way was coded as “unclear.”

Variables 8-12: Concerns

These variables addressed the reasons for coding an individual as against media consolidation and/or deregulation. The following concerns were coded for: democracy, localism, diversity, downsizing of media staff and access. Discussion of any of these concerns helped coders to identify that speakers were against media consolidation and/or deregulation.

Variable 13: Support

This variable addressed the reasons for coding an individual as in support of media consolidation and/or deregulation. If the individual mentioned that
consolidation/deregulation is beneficial because it: helps save struggling outlets, increases diversity/localism and/or helps companies to compete nationally or globally, coders noted these views. Due to inter-coder reliability concerns, these various options were combined into a single variable.

Variables 14-23: Language Used

Coders noted whether individuals used technocratic language, including: “consolidation” (or a modification of the word like “consolidate”), “concentration,” “big media,” “deregulation” when discussing their views on these specific issues. The following additional terms were also coded for: “cross-ownership,” “duopoly,” “public interest,” “Telecommunications Act of 1996” and “Low-power FM.” If speakers called for the FCC to re-regulate, coders noted this as well.

Variable 24: Speaker Cut-off

Coders noted if speakers were cut off by the moderator. Generally the speakers would be interrupted by the moderator after their allotted time was up.

5.1.1.1.2. INTER-CODER RELIABILITY

Inter-coder reliability testing was conducted by three trained coders who evaluated 80 randomly selected speakers. Across the six hearings a total of 732 individuals spoke during the public comment periods; therefore, the subsample tested was 10.9 percent of the total population. Holsti’s (1969) percentage agreement test revealed inter-coder reliability scores ranging from $p = .80$ to $p = 1.00$, with an average across the 24 variables of $p = .96$. Cohen’s $\kappa$\(^8\), a more conservative test for reliability, revealed a range of $\kappa = .71$ through $\kappa = 1.00$, and an average across the 24 variables of $\kappa = .90$. The

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\(^8\) This test analyzed two coders at a time, so the appropriate combinations among the three coders were calculated and then the results were averaged for each variable.
two primary variables measuring consolidation and deregulation viewpoints scored $\kappa = .88$ and $\kappa = .80$ respectively.

5.1.1.3. METHOD OF ANALYSIS

The majority of the information gathered by the quantitative content analysis was descriptive. Chi-square analyses were run for Variables 6 and 7 (consolidation and deregulation viewpoints). Both variables yielded statistically significant results $p < .001$.

5.1.1.2. RESULTS$^9$

5.1.1.2.1. MEDIA CONSOLIDATION AND DEREGULATION VIEWPOINTS

In total, 732 individuals spoke across all six of the FCC’s public hearings on media ownership. The most striking results appeared during the analysis of the media consolidation and deregulation viewpoints. As shown in Appendix D, of the 732 individuals who testified, 340 (46.4 percent) spoke out against media consolidation; whereas, only 8 people (1.1 percent) spoke in support (the remarks of the remaining 384 individuals were coded as “unclear”). Chi square testing revealed this difference to be statistically significant, $X^2(2, N = 732) = 346.36$, $p < .001$. The breakdown of the deregulation viewpoints displayed similar results with many more individuals speaking out against deregulation than in support. 108 individuals (14.8 percent) were against further deregulation, while only 5 people (0.7 percent) spoke in support (the remaining 619 were coded as unclear). Chi square testing also revealed this difference to be statistically significant $X^2(2, N = 732) = 886.24$, $p < .001$.

Numerous speakers were coded as being against both consolidation and deregulation, and thus there was some overlap in the analysis. In total, the number of

individuals who spoke out against consolidation and/or deregulation was 385 (52.6 percent). The same issue occurred with the support measure, thus in total, 10 individuals (1.4 percent of all speakers) were coded as having spoken out in support of consolidation and/or deregulation.

Combining the analysis of the identification variables with the viewpoint analysis revealed that almost all of the individuals coded as having spoken out in support of further consolidation and/or deregulation were industry stakeholders. Of the ten individuals who spoke out in support, six were employees (or former employees) of major media companies see Appendix E. Among these six individuals were the President and Vice-President (publishing) of Media General, a former employee of Media General, the ex-president and general manager of WFLA (who is now the COO for the Tampa Bay Buccaneers), an employee of Hall Communications, and the GM for WJHL-TV (CBS affiliate). The remaining four included the executive director of the Pediatric Cancer Foundation (coded as having a media tie), a representative from a free market advocacy group, and two individuals who mentioned no affiliation. Only three supporters were coded as having no stakeholder affiliations; therefore, only 0.4 percent of all speakers with no apparent industry stakeholder interests were in support of further media consolidation and/or deregulation; by comparison, 315 of the 385 individuals that were against media consolidation and/or deregulation were similarly unaffiliated.10

A total of 337 speakers did not express a clear viewpoint (i.e. in support or against) on media consolidation or deregulation. These comments varied considerably.

10 It should be noted however, that the only way coders were able to note individual affiliations of speakers was if the individual said who they were affiliated with. It is likely that there were individuals (perhaps in both groups) that were coded as having no such affiliation that were in fact stakeholders.
Some were creative, others were angry, some were informed and some were confused. Many individuals used their time to present their complaints about the media in general and in some instances, specifically. Some individuals mentioned stations by name that they either were in support of, or were complaining about. Criticism often dealt with issues like a lack of investigative journalism, the problems associated with hypercommercialism (though this term specifically wasn’t the one that individuals generally used), and very often indecent programming. As noted, other individuals (especially the representative from the affiliates in Harrisburg) praised the local media and the role that they play in their local communities.

**5.1.1.2.2. Identification Variables**

Demographic data for those who presented public comments can be found in Appendix F. The majority of the individuals who testified were white (529 or 72.3 percent of all speakers), second to blacks (59, 8 percent), Hispanic (44, 6 percent), Asian (4, 0.5 percent), “other” (12, 2 percent) and “unclear” (84, 11 percent).

A more intricate breakdown of the demographic variables revealed that 9 of the 10 individuals coded as being in support of consolidation and/or deregulation were white; the tenth was coded as “unclear.” Of the 385 individuals who spoke out against media consolidation and/or deregulation, 294 of them were white, 17 were black, 15 were Hispanic, 2 were Asian, 7 were coded as “other” and 50 were coded as “unclear.”

The analysis of gender revealed that 427 of the speakers were men (58 percent), and 305 were women (42 percent). Of the 10 individuals who spoke in support of consolidation and/or deregulation, 6 were male, 4 were female. Of the 385 individuals
who spoke against consolidation and/or deregulation 223 were male (58 percent), 162 were female (42 percent).

From the 732, 148 (20 percent) identified themselves as being affiliated with a media organization, 228 (31 percent) with a non-media organization, and 356 (49 percent) were coded as “unaffiliated.” From the 228 affiliated with a non-media organization, 60 (26 percent) were coded as having a media tie.

5.1.1.2.3. Concerns/Support

Concerns regarding further consolidation/deregulation were varied. Of the 385, 158 were concerned with diversity, 124 democracy, 122 localism, 97 access and 23 downsizing of media staff. Comments from the 10 individuals who stated support varied from the idea that the rules are outdated to the notion that consolidation/deregulation would help companies to compete and increase localism/diversity.

5.1.1.2.4. Language Used

Of the 732 speakers, 300 used the term consolidation (or consolidate); 261 of those 300 were coded as being against media consolidation. 27 individuals used the term “concentration,” 29 used the term “big media,” and 17 used the term “deregulation.” Other language used: 91 individuals used the term “public interest,” 21 individuals used the term “cross-ownership,” 17 referred to the Telecommunications Act of 1996, 6 used the term “duopoly” and 53 used the term “low power fm” or “LPFM.” 48 individuals asked that FCC develop new regulations controlling ownership of media companies.

Some other elements coded for were whether the individuals read from prepared statements while presenting their testimony. Of the 732, 475 read from prepared statements. Of the 475, 274 were against consolidation and/or deregulation; meaning that
71 percent of those who spoke out against these issues (274 of 385) came with notes prepared. Similarly, 7 of the 10 individuals who spoke in support came with notes prepared. By comparison, of the 337 who did not express a clear viewpoint on either media consolidation or deregulation, 194 and 217 (58 percent) did not read from prepared notes. In total, 217 individuals were cut-off by the moderator. Of the 217, 117 were coded as being against consolidation and/or deregulation, and one was in support (the rest “unclear”).

5.1.1.3. STUDY TWO SUMMARY

The findings of this second study revealed that the majority of those who expressed a viewpoint on consolidation/deregulation spoke out against these issues (385 of 732, 52.6 percent of all speakers); whereas, only 10 individuals (1.4 percent of all speakers) spoke in support. In addition, most of the supporters were identified as industry stakeholders, while the majority of the critics did not identify themselves as being affiliated with a media company or a non-media organization with a media-tie. In terms of the language used, while 300 people used the term ‘consolidation’ in their testimonies, few other technical terms specific to the deliberations were used. Even though it could be argued that the public testimony was for the most part non-technocratic, many individuals came with prepared notes and had so much to say that they had to be cut off by the moderator.

The theoretical rhetorical concerns described earlier suggest that citizen participants may not be able to understand or be capable of participating in a sophisticated, orderly discussion as defined by the boundaries of the government process. The findings of Study Two revealed that even though citizens did not use technocratic
language for the most part, the majority of the individuals coded did express viewpoints that were coded as being either against or in support of consolidation and/or deregulation. In addition, the fact that individuals came prepared with notes and had to be cut-off by the moderator suggests that citizens felt passionately about what they had to say, and took the time to carefully craft their testimonies. These findings suggest that members of the public did indeed make valuable contributions to the debate; the question that remains is whether the FCC agrees with this notion.

The question of ‘rhetorical subordination’ and whether it was encountered by the citizens at the hearings cannot be addressed here. While the argument can be made that citizens did have something of value to say based upon the standards defined by our study, whether the FCC felt the same way or subordinated the views of the public to those of experts will be determined by Study Four, when the FCC’s Report and Order is analyzed.

In the next section, Study Three will extend this analysis of the public’s comments by conducting a content analysis of the comments submitted to the FCC’s online docket.
5.1.2. STUDY THREE:

A CONTENT ANALYSIS OF COMMENTS SUBMITTED TO THE FCC’S MEDIA
OWNERSHIP ONLINE DOCKET 06-121

5.1.2.1. METHOD

As noted earlier, citizens could submit comments about the FCC’s media ownership review in two ways: at public meetings, and online. This second quantitative content analysis assessed the 125,581 comments submitted to the FCC’s online docket 06-121 between June 21, 2006 and October 23, 2006. The FCC’s web-based “Request for Comment” (to which these comments responded) was a part of the Commission’s review of its media ownership rules. The goals of this study were to assess how involved the public was in the comment submission process and what members of the public who submitted comments had to say. In conducting this study, four questions were posed:

1) To what extent was the public involved in the FCC’s online comment submission process?

To answer this question, all 125,581 comments were downloaded from the FCC’s online docket numbered 06-121. This docket was found via the FCC’s “New Electronic Comment Filing System” (ECFS). The ECFS was accessible via the FCC’s website, and using the “Search for Filings” interface (i.e. by typing in the docket number and the dates requested) all comments were accessible and able to be downloaded. “Downloading” a comment could occur in two ways. The first occurred when the docket number and dates requested were inputted into the ECFS and a list of comments were produced. This list consisted of a number of organizing factors; meaning, each comment was provided with a number of labels. For this study, the following labels were used: proceeding name (06-
121), name of filer, US State of filer, lawfirm name, date received, date posted, ex-parte (yes or no), type of comment (chosen from a list) and documents (the type of documents submitted to the FCC). The second form of downloading occurred during the subsequent content analysis of the sampled comments. Each comment that was organized into the list had a link to a pdf file kept on the FCC server. Once the sample was chosen, all required pdfs were downloaded and content analyzed. The first part of the analysis involved the first form of downloading. To begin, all comments were downloaded (with labels), organized into an excel spreadsheet and analyzed to help answer the following sub-questions:

A: When were the comments submitted?

B: What types of comments were submitted?

C: How many comments were submitted from each US State?

This information provided the context for the rest of the comment analysis. The second part of the analysis consisted of a quantitative content analysis of two samples from the 125,581 comments. The sampled pdfs were downloaded for this second step of the analysis. The goal of the content analysis was to assess the content of the public’s comments and the extent to which this content was from an informed, engaged citizenry. This analysis addressed three additional questions:

2): What point of view did the public express in the comments submitted online?

3): To what extent did the public use technocratic language in the comments submitted online?

4): To what extent is there evidence that advocacy groups involved the public in the comment submission process?
5.1.2.1.1. CODING INSTRUMENT

To answer these three questions, a coding instrument was created that assessed 44 variables. The variables assessed were as follows:

Variables 1 & 2: Media Consolidation & Deregulation Viewpoint

Similar to Study Two, coders noted whether individual comments were in support or against media consolidation and/or deregulation.

Variables 3-7: Concerns

The next five variables addressed the reasons for coding an individual as being in support or against media consolidation and/or deregulation. The following concerns were coded: competition, diversity, localism, minority ownership and democracy.

Variables: 8-12: Support

These additional variables were used to identify the reasons individuals were coded as being in support of media consolidation/deregulation. If a commenter wrote that consolidation/deregulation is beneficial because it: helps save struggling outlets, increases diversity/localism and/or helps companies to compete nationally or globally, coders noted these views.

Variables 13-16: FCC Criticism

These variables assessed whether the public was critical of the FCC. These criticisms included: references to the 2003 review, notice concerns, the FCC’s “hidden” localism report and “other.”

Variables 17-28: Language Used

Coders noted whether the following terms were used: “consolidation”, “concentration,” “big media,” “deregulation,” “cross-ownership,” “duopoly,”
“relaxation” (of the rules), “public interest,” “Telecommunications Act of 1996” and
“Low-power FM.”

Variables 29-44: Advocacy Campaigns

Previous research has revealed that various advocacy groups (with differing political views) have coordinated campaigns to encourage and facilitate comment submission (Shulman, 2009; Schlosberg et al, 2007). One of the techniques employed by the advocacy groups addressed was the use of ‘form letters’ or ‘prompts.’ The remaining variables aimed to address the extent to which campaigns and techniques of this type were linked to the FCC’s ownership review. For these variables the terms “primary comment” will refer to the comment that has been coded entirely by this instrument (i.e. all variables to this point), and the term “secondary comment” will refer to the comment that either came directly before or directly after the primary comment in the FCC’s docket. For example, regarding the 125,581 comments uploaded to the FCC docket, if the tenth comment in the list was chosen (via sampling) to be a primary comment, the ninth and eleventh comments in the same list would be the secondary comments to determine if a series of very similar comments were submitted sequentially, which would point to a coordinated campaign.

Variables 29-31: Similarity

Variable 29 addressed whether the primary comment was similar to the secondary comment that appeared before and variable 30 after. Variable 31 addressed whether the secondary comments were similar to one another. Similarity was conceptualized as evidence of a standard or form letter; meaning that there had to be evidence that a similar form letter was being used to construct the comments. Similar phrasing had to be used
(even when modified), and while similar phrasing in multiple paragraphs signaled coders, it was required that only one similar paragraph appear to be coded as similar.

Variables 32-44: Exact Statements

To further test the existence of form letters or prompts, coders noted whether the following statements appeared in the primary comments. These statements were also used to help coders identify similarity between the primary and secondary comments. The following statements were coded for:

1) “I am writing to express my strong disapproval of any relaxation or elimination of the public interest limits on media ownership.”

2) “Few could doubt the obvious truth that media ownership matters and determines the content we receive over the public airwaves.”

3) “Limits on media consolidation have been a bulwark against the concentration of economic power in the marketplace of ideas…”

4) “Media consolidation has already led to declines in local and minority ownership…”

5) “When the FCC attempted to weaken and remove media ownership limits in 2003, millions of Americans rose up in protest.”

6) “Now that these same rules are being reconsidered, the FCC should stand firm with the public…”

7) “Please don't allow more media consolidation.”

8) “As the FCC reconsiders its media ownership rules, please don't allow more media consolidation.”

9) “Don't cover up the facts…”
10) “I don't want the same company that owns my TV station or my radio station to also own my newspaper…”

11) “I rely on the media to find out about national and local issues.”

12) “Thank you for your consideration of this important issue.”

13) “I write to urge you not to weaken the strong media ownership rules…”

**5.1.2.1.2. INTER-CODER RELIABILITY**

Inter-coder reliability was assessed by three trained coders who evaluated 300 (100 primary, 200 secondary) randomly selected comments. A total of 1500 comments were sampled; therefore, the subsample tested was 20 percent of the total population. Using Holsti’s (1969) percentage agreement test, inter-coder reliability scores ranged from $p = .88$ to $p = 1.00$, with an average across the 44 variables of $p = .97$. The two primary variables measuring consolidation and deregulation viewpoints scored $p = .97$ and $p = .95$ respectively.

**5.1.2.1.3. SAMPLE**

A total of 125,581 comments were downloaded from the FCC’s online docket 06-121. These comments had been uploaded by members of the general public and individuals from media and non-media organizations during the official comment period which took place between June 21 and October 23, 2006. When individuals or groups filed their comments, they were given more than 100 options to choose from to provide a label for their comment type, whether it be “comment,” “reply to comments,” “letter,” “motion,” etc. The comment system offered this long list of labels because not only were public comments submitted, but official documents like the FNPRM, press releases and other procedural statements and documents. As this study only addressed comments
submitted by members of the public, once the sampling process began, those submissions that were not labeled “comment,” “email comment,” “reply to comments,” etc. were deleted.

In total, 1500 comments were content analyzed; 500 randomly selected primary comments and 1000 secondary comments (those that appeared directly before and directly after each primary comment). Preliminary analysis revealed considerable differences between comments labeled “comment” and “reply to comments.” Therefore, two samples were created. The 500 randomly selected primary comments included 100 that were randomly sampled from the 748 comments labeled “reply to comments” and 400 from the remaining 124,833 comments.

5.1.2.2. Results

5.1.2.2.1. When comments were submitted

In total, 125,581 items were uploaded to FCC docket 06-121 between June 21, 2006 and October 23, 2006. In terms of when comments were submitted between these two dates, as noted in Appendix G, large numbers of items did flood the FCC on certain days. For example, on September 11, 9153 items were submitted, on September 20, 9374 and on August 17, 8886; but the day with the most items submitted was September 14 with 13,772 items submitted. While there were a number of major spikes in the number of items submitted (refer to Appendix H), there were also stretches of time when submissions per day were somewhat consistent. Between July 24 and August 7, more than 1000 comments were submitted each day, with some days reaching more than 3000. As well, the stretch between September 8 and September 29 saw considerable
consistency, with most days showing more than 1000 items submitted, with many of those days being above 3000.

5.1.2.2.2. COMMENTS SUBMITTED FROM EACH US STATE

Comments were submitted from all 50 states. A state-by-state analysis revealed that certain states had more individuals submit comments than others (see Appendix I). California had the most comments submitted with 17,636, New York had 10,360 and Florida had 8195. States with the lowest number of comments included South Dakota with 147, Wyoming with 153, and the lowest, North Dakota with 55 (the only state with less than 100).

5.1.2.2.3. QUANTITATIVE CONTENT ANALYSIS OF PUBLIC COMMENTS

A quantitative content analysis was employed to analyze 500 randomly selected (primary) comments from docket 06-121, and 1000 (secondary) comments appearing before and after each. The 500 randomly selected comments included 100 items labeled “Reply to Comments” and 400 items from the remaining docket comments. The former will be referred to as the Reply Sample and the latter as the Comment Sample. The coding instrument (see Appendix J) measured 44 variables.

5.1.2.2.3.1. MEDIA CONSOLIDATION/DEREGULATION VIEWPOINTS

There was a considerable difference in the viewpoints found in the Comment and Reply samples. Beginning with the Comment Sample, the majority of those who expressed a viewpoint on media consolidation spoke out against it, with 383 of 400 comments being coded as against media consolidation (96 percent), with 0 comments coded as being in support (the remaining 17 comments were coded as “unclear”). Deregulation viewpoint produced a similar finding, but to a lesser degree, with 144 of
400 (36 percent) speaking out against deregulation, with 0 being in support of deregulation (256 “unclear”).

The comments from the Reply Sample appeared to yield similar findings when the media consolidation viewpoint variable was assessed, with 24 of 100 speaking out against consolidation, 0 speaking in support and 76 coded as “unclear.” The deregulation variable however produced a finding different from the rest with 23 of 100 individuals speaking out against deregulation (21 percent) and 33 individuals speaking in support (33 percent), with the remaining 44 being coded as “unclear.”

5.1.2.2.3.2. SIMILARITY AND EXACT STATEMENT VARIABLES

The similarity and exact statement variables helped to shed light on these differences. In the Comment Sample, 331 of 400 (83 Percent) items were similar to the items that appeared before and 337 of 400 comments (84 Percent) were coded as being “similar” to the items that came directly afterwards. In addition, for 331 of the 400 comments, the comment that appeared before and the comment that appeared after the primary comment were coded as being similar, and in 305 of 400 comments (76 Percent) all three comments (primary and two secondary) were similar to one another.

Further information regarding the similarity of the comments was gathered from the Exact Statement analysis (refer to Appendix K). All of the statements coded for appeared numerous times through the analysis of the Comment Sample. In fact, only 14 of the 400 comments assessed did not include one of the 13 statements coded for, thus 384 of 400 (96.5 percent) had at least one of the statements. 372 comments (93 percent) had two or more of the statements included, with the largest number of statements used being 4 (197 comments, 49.3 percent).
By comparison, the primary comments from the Reply Sample had only 11 comments (11 percent) that had a similar comment that was posted before, and 11 comments that had a similar comment posted directly afterwards. In addition, there were 19 instances where the two secondary comments were similar, and 7 where all three (primary and two secondary) were all similar.

In terms of the Exact Statement analysis, the overwhelming majority of comments (81 out of 100) had none of the statements included. In total, 19 reply comments had at least one of the exact statements (though none of the comments just had one, the minimum was two). There were 8 comments that had two of the statements, one that had 4 and 10 that had 5, but the majority didn’t have any of the statements.

5.1.2.2.3.3. ISSUES AND CONCERNS

With 96 percent of the 400 comments from the Comment Sample being against consolidation and 144 of 400 (36 percent) being against deregulation, there were numerous concerns expressed. 388 of the 400 comments expressed concerns about diversity and 387 concerns about localism. 181 expressed concerns about competition, 128 about minority ownership and 146 about democracy. As there were no comments expressing support, none of the comments outlined reasons that consolidation or deregulation would benefit society and our media system.

Another area of interest was criticism of the FCC. Of the 400 comments, 114 mentioned the “Hidden” FCC localism report, 77 mentioned the battle in 2003, 2 expressed concerns with the FCC’s current deliberatory process and 7 expressed other concerns.
In the Reply Sample, while some concerns were stated (notably 27 of 100 mentioned diversity, 25 democracy and 23 mentioned localism and minority ownership), the biggest difference was in the support comments, as 16 of 100 individuals noted that further deregulation is needed to increase competition in markets. It should be noted that these findings were directly affected by the use of form letters which is addressed further on.

The analysis of FCC criticism in the Reply Sample produced interesting results. Ten individuals were coded as having mentioned the 2003 battle and 9 mentioned the “hidden study;” however, once again, these individuals were also coded as having used the form letters. Most interesting was the fact that 33 individuals were coded as having expressed an “other” criticism of the FCC which often coincided with having been coded as being in support of deregulation. Coders noticed that elements of a standard letter did appear in the Reply Sample, an issue addressed in the form letter analysis.

5.1.2.3.4. LANGUAGE USED

Among the different words coded for in the Comment Sample, the term “consolidation” appeared the most times, noted in 309 (77 percent) of the 400 comments. “Concentration” referring to the concentration of media ownership appeared 129 times, “relaxation” referring to relaxation of the media ownership rules 127 times, “public interest” 127 times, and “cross-ownership” 76 times. “Big media” was noted 14 times and the Telecommunications Act of 1996 was noted only 1 time.

In the Reply Sample, 26 used the term consolidation, 23 used the terms concentration, relaxation (of the rules) and public interest, 10 referred to cross-ownership, 5 referenced the Telecommunications Act of 1996, and none used the term “big media.”
5.1.2.2.4. FORM LETTER ANALYSIS OF ITEMS SUBMITTED TO DOCKET 06-121

5.1.2.2.4.1. FORM LETTERS: COMMENT SAMPLE

The analysis confirmed that almost all of the items (96.5 percent) labeled “Comment” that were randomly sampled were form letters or modifications of form letters. Due to the fact that the variables to be assessed were designed before the study was completed, not every form letter or version of a form letter could be represented in the exact statement analysis. A further and more careful review revealed that at least 9 form letters were made available by specific organizations for individuals to use for submission to the FCC (see Appendix M). This was determined in two ways: first, certain exact letters appeared over and over again; meaning, that certain individuals likely submitted the form letter exactly as it was provided to them, without modifying it. The second way this was determined was by analyzing the comments that had modified the form letters. Certain phrasing was always present, certain words had just been changed, or statements added in-between, before or after paragraphs. It should also be noted that web-searches for the form letter content did reveal form letters that could be automatically submitted to the FCC’s website using the software offered on the site.11

5.1.2.2.4.2. FORM LETTERS: REPLY SAMPLE

A number of the 9 form letter components were found in the Reply Sample as well, with a total of 19 of 100 reply comments having at least two exact statements included. At first glance, it might appear as if the data has demonstrated that the items from the Reply Sample involved a lot more original thought than the items from the Comment Sample. While indeed many of the 81 reply comments were considerably more original than the items from the Comment Sample, four additional form letters were

11 See: http://www.stopbigmedia.com/mickey.php
discovered in the Reply Sample, one that was used by individuals who were coded as being against consolidation/deregulation, and three that were used by individuals who were coded as being in support (see Appendix N).

5.1.2.3. STUDY THREE SUMMARY

The findings of Study Three revealed that major coordinated campaigns employing the use of form letters dominated the FCC’s online comment submission process. The initial analysis of where the comments were submitted from and when they were submitted, with the findings revealing that submissions came from all fifty states, for numerous days at a time, hinted at the idea that perhaps a considerable number of Americans were really engaged in the FCC’s process. While the findings of the content analysis do not suggest that the public that participated was apathetic by any means, the fact that the overwhelming majority of submissions came via form letter (or were modifications of a form letter) points to what perhaps could be termed a ‘partial’ form of engagement. This is not to denigrate the public’s involvement, indeed the decision as to the value of these comments rests with the FCC. That being said, one would assume that the value of the coordinated campaign would likely be in the sheer number of individuals that clicked to submit the form letters, and not in the words that were communicated, suggesting what could be termed perhaps this ‘partial’ engagement. As noted in the summary to Study Two, whether or not this form of participation was subject to rhetorical subordination will be explored in Study Four.

In the following section, a supplemental interview analysis with two grassroots organizers was conducted for the purpose of identifying who was responsible for the coordinated form letter campaigns identified by this study.
5.1.3. SUPPLEMENT TO STUDY THREE: INTERVIEWS WITH TWO GRASSROOTS ORGANIZERS

This section of the project includes the analysis of two 30-minute interviews conducted with two different community organizers. The purpose of this section is to supplement Study Three by addressing the use of form letters as a public participation technique by grassroots organizations. As well, the viewpoints expressed by the different organizers will help inform our current inquiry, which involves the assessment of the potential divide that exists between the general public and FCC deliberations that appear to be technocratic in nature. Both organizers spoke to the issue of bridging this divide, and thus, their responses will help address how contemporary public participation is being facilitated and encouraged by organizations other than the government. It should be noted that both interviewees gave their consent to be recorded and to have their recordings analyzed. Both interviewees also agreed to allow the researcher to refer to their names, titles and organizations in describing the interviews. The same questions were asked of each, and included questions about the organizations they worked for, their views on public involvement in policymaking and ability to facilitate such involvement.

5.1.3.1. GRASSROOTS ORGANIZERS INTERVIEWED

Interview One: Brendan Steinhauser (http://www.freedomworks.org/about/staff)

Mr. Steinhauser is the Director of Federal and State Campaigns for FreedomWorks. He is listed as an organizer for both grassroots and field campaigns. FreedomWorks is a political organization that “recruits, educates, trains and mobilizes hundreds of thousands of volunteer activists to fight for less government, lower taxes, and more freedom.” (FreedomWorks, 2010) The organization was founded in 1984, is headquartered in
Washington, DC and is chaired by former U.S. House Majority Leader Dick Armey. The President of FreedomWorks is Matt Kibbe. FreedomWorks promotes that they do what they do because, “Freedomworks believes individual liberty and the freedom to compete increases consumer choices and provides individuals with the greatest control over what they own and earn.” They also describe how they do it: “FreedomWorks’ aggressive, real-time campaigns activate a growing and permanent volunteer grassroots army to show up and demand policy change.” (Ibid)

Interview Two: Josh Stearns (http://www.freepress.net/about_us/staff)

Mr. Stearns “manages Free Press' journalism, public media and media consolidation campaigns. He develops campaign strategy, outreach and organizing efforts and works with partner organizations on events and actions designed to amplify the voices of people and communities around the country.” (Free Press, 2010)

Free Press “is a national, nonpartisan, nonprofit organization working to reform the media” (Ibid). Through education, organizing and advocacy, Free Press strives to promote “diverse and independent media ownership, strong public media, quality journalism, and universal access to communications.” (Ibid) Free Press was founded by academic Robert McChesney, journalist John Nichols and the current executive director Josh Silver. “Today, Free Press is the largest media reform organization in the United States, with nearly half-a-million activists and members and a full-time staff of more than 30 based in our offices in Washington, D.C., and Florence, Mass” (Ibid).

5.1.3.2. INTERVIEW ANALYSIS

In terms of political ideology, FreedomWorks and Free Press differ considerably. While both claim to focus on the issues primarily, the traditional distinctions between the
two groups can indeed be drawn, with FreedomWorks drifting more to the right, and Free Press more to the left. What was most fascinating about these interviews was the similarity in approach, as well as perspective regarding the importance of bridging the gap between the complexities of contemporary political decision-making and the citizen. Political ideologies aside, both organizations, in fact, both interviewees aspired towards a similar central goal – greater public involvement in communications policymaking.

Public Involvement

Regarding public involvement in policymaking, Stearns noted,

_Free press’s core belief is that better media policy will come as more people are engaged in it. Free press was founded to help mobilize people and to amplify people’s voice in the DC policy debates happening around media policy and so it’s pretty fundamental to our core work that we are engaging the public._

Similarly, Steinhauser noted,

_I think public opinion always matters, because I mean the FCC is a political body ... I think they do care, I think it matters ...they’re looking at public opinion, they’re looking at what their trusted sources say, they’re looking at obviously their own political futures, and their careers, and jobs and so forth. There are all these things playing into it, if there’s a public outcry about something and you can make the issue more front and center and you can persuade enough people to create enough noise you can_
often influence their decision making – same with congressmen, same with the president…

Bridging the Divide

Both also expressed similar sentiments regarding the importance of bridging the divide between the technical components of the Washington process and the public voice. Both Stearns and Steinhauser made it clear that without the help of organizations like theirs, there would be even greater limitations on how involved the public could be.

Steinhauser noted,

There’s a big knowledge gap between how Washington actually works and the average citizen trying to figure it all out and so we try knock down that knowledge gap, that wall, and make them more effective advocates. I think we’ve been able to do that...

Stearns noted,

One of the things that Free Press has done was tried to work really hard on translating the very in depth media ownership proceedings ... and the other Media policy debates into language that gets at what are the real world implications for local people, and then, the other side of that is working with local people whether it be online through innovative web tools or in person through community workshops and outreach to give them to tools, the language etc. to weigh in on this policy debate.

Stearns added his views regarding the place of the ‘ordinary’ citizen’s unique voice in a technical debate,
I think there is a lot of really important work to be done just in inviting the public to speak for themselves and use their own language because I think that that paints a certain picture of the Media....... In the given community.

Form Letters

Perhaps the most interesting finding from Study Three was the amount of form letters that were used in both the Comment and Reply samples. Both Stearns and Steinhauser admitted that their organizations used the form letter approach to help facilitate mass e-mail campaigns.

Steinhauser noted,

*It’s sort of difficult to go to the hearings, it's difficult to have your voice heard, unless you're going to take a lot of time out of your day, so we wanted to make it as easy as possible for our members to comment. A guy that was working for us at the time is kind of a consultant and has his own business doing this sort of thing, he built a custom form so basically you can email it out to your friends and you can easily just create a comment and submit it online and that would basically go right to the FCC form, you fill it out and it dumps it in the file, and we were able to get thousands of comments in before the deadline. I don’t know how tight the deadline was but I think we had a few weeks but we were able to get a lot of people to submit something. So it really made it easier for people to have their voices heard.*
Stearns said,

*There are widely used tools that allow people to instantly, from a mass email, send comments to congress or their elected policy makers. There are a number of tools that non-profits and other organizations use to do that. None of those tools specifically target the FCC or I would say other federal agencies. So, we’ve had to really create our own interfaces and systems to make that a possibility for the public to weigh in as easily as possible with the FCC.*

This point was followed up with a question about organizations like Free Press not only facilitating comments, but shaping them as well. This was coupled with a question as to which organizations were involved.

Stearns said,

*To the best of my knowledge, Common cause, Consumers union, I’m trying to think of who else….. Move On also, sent that sort of mass email to their members to alert them of this opportunity and create a temp version of a form letter that usually can be modified although most people, given the chance, will take the easiest route possible and click if they believe that the letter… reflects their viewpoints will just submit that letter but usually those things can also be tailored to fit each persons comments.*

Steinhauser articulated a similar point,
Most people sort of have a general idea of their principals or vis-à-vis their economics or government, they kind of know where they are politically and consider themselves free market conservatives or something like that so typically they’re going to know how they would react to the idea of government stepping in and doing this or that so when it comes to things like media ownership rules... So these are people who are already familiar with the ideas and they generally know how they feel, now what we do, is we try to say, here’s the issue, here’s our position on it, here’s our take on it so they already trust Freedom works and know that these guys always take the free market position so we are very consistent and that’s important.

Steinhauser then went on to describe the process that he believed individuals went through as they considered using the form letters or not.

So they’ll read through it, usually read through the bullet points or whatever, what’s the issue, what’s going on, what are the other guys trying to do or what’s the FCC considering, ... that’s usually written by our chief economist ... and he’s never going to lead you astray from the free market position, so you can rest assured that that’s what he is going to be putting in there.

Steinhauser was careful to say that he believed that citizens were likely to
consider the points in the form letter or perhaps reconsider them and change them. Meaning that he didn’t feel that FreedomWorks was leading people down a path they didn’t want to go.

...people can read through it, if they want to change it they can, if they agree with it completely they can, if they want to completely delete it and start over, which a lot of people would rather do, they’ll do that but it makes it again so easy for them to just submit. You’re going to get more submissions when you put in sort of a response from Freedom Works that they may be comfortable with because people again don’t have a lot of time, they’re just going to read through it quickly and then they will probably click send.

In addressing other areas of potential criticism regarding the form letters, Stearns addressed the claim that has been made in the past regarding the tactics certain grassroots organizations have been accused of, specifically that individuals weren’t submitting all of the comments, but rather, an organized system or ‘robot’ was taking the names from the vast listserves organized by the advocacy groups and matching them up with form letters which would then be submitted automatically (see McChesney, 2004a).

Stearns said,

I suppose that would be a possibility although it would absolutely go against our privacy policy. So I know that was not something Free Press could ever do and still sort of maintain their privacy policy or what we’ve agreed to with our members who give us their information, so, and I would assume that most other organizations
who have standard privacy policies in place wouldn’t be able to do that sort of thing either. … I haven’t heard it before so this is sort of new to me.

Building from this issue, Stearns then commented on the relevance of the form letter strategy, which echoed the viewpoint made earlier about the importance of giving citizens the tools and motivation (and freedom) to add in their own comments to the form letters; otherwise, something may be lost in the strategy. Stearns said,

I have heard the question of you know, how useful is this… in terms of like what does this really do for the public’s voice, I think different FCCs, different policy debates demand different kinds of public input. So I would say, in the last round with the last FCC (2006-2008), that kind of massive public outrage at an incredible scale was very important to show the profound power and importance of this issue to the public. Right now, because of the more data-driven nature of the way the FCC is approaching many of their proceedings, Free Press found that it was really important to give people the opportunity to do much more in depth tailored comments so you’ll see that we’ve created tools that guide people with really open ended questions and open fields with less of that sample text already inserted so that people, instead of just clicking submit, actually have to fill in information based on their own experiences. And what that does is lowers the number of people who participate but its gives us much more depth in terms of the
level of engagement and the level of detail they’re getting. It really gets in depth to the experiences of people on the ground in their communities.

5.1.3.3. Interview Analysis Summary

The findings of the interview analysis revealed that indeed it was grassroots/public advocacy organizations like Free Press and FreedomWorks that were behind the coordinated form letter campaign that connected so many people with the FCC’s online comment submission process. The interview analysis also revealed the following sequence: first that these groups feel that public involvement in political decision-making is important, especially in the realm of communication policymaking. The second element of the sequence suggests that the groups feel that there is a divide between the public and the government, and that it is up to groups like Free Press and FreedomWorks to help bridge the divide. One of the strategies employed is the third element of the sequence – the form letter strategy, which was a strategy that both groups used to connect the public’s voice with the FCC’s media ownership debate. That being said, the fourth element of the sequence suggests that while the limitations of this method have been realized, it was felt that this form of organization did serve a purpose, and that future campaigns will try to do more to connect more detailed opinions with the process, and not just sheer numbers. It should also be noted, that the findings of this supplementary analysis also point to the fact that it was likely these groups and not the FCC that connected the public with the process. This once again speaks to the public subordination that was encountered throughout the FCC’s deliberations.
In the next section, Study Four will investigate the deliberatory concerns discussed earlier and assess whether the public’s voice was included in the FCC’s deliberations or not.
5.1.4. STUDY FOUR: DELIBERATORY CONCERNS

Study Four assessed the FCC’s Report and Order to address whether the empirical analysis of the FCC’s decision-making process revealed any deliberatory concerns. In essence, this section questioned whether members of the public would be able to influence both the FCC’s deliberatory process as well as its outcome. Would the public’s comments appear in the Report and Order? Would the views expressed by the public influence the FCC’s decision?

5.1.4.1. METHOD

The goal of Study Four was to address whether the FCC’s actions presented any deliberatory concerns. This meant investigating the impact that the public comments reviewed in the other sections of this project had on the FCC’s final decision as outlined in the Report & Order (R&O). The FCC’s R&O released February 4, 2008 was 124 pages long (51,532 words) and contained 519 endnotes. Each endnote contained some element of information relevant to the FCC’s description of its review process, decision and justification. The current analysis involved finding how many references the FCC made to comments presented at the public hearings and submitted online. Specifically, how many of these references referred to individuals, and how many referred to experts. Thus this section addressed the following questions:

1) To what extent did the FCC refer to comments from the general public in its Report and Order?

2) To what extent did the FCC refer to comments from experts in its Report and Order?
The term “reference” in this case was conceptualized as any mention in the R&O of a comment from an individual, organization, group, etc. that testified at any of the six public hearings on media ownership, or any comments from an individual, organization, group, etc. from submitted comments or reply comments to the FCC’s ECFS. References from the main document were assessed only by looking at the footnotes as all references used to support FCC arguments were presented there.

In what follows, all 479 references (contained within the 519 endnotes) to comments presented at the hearings or submitted to the docket were assessed. The name of the individual, organization or group associated with each reference was noted and the total number of references to each was tabulated. It was also noted whether the entities cited were media companies, other organizations or individuals.

5.1.4.2. Results

There were 519 endnotes in the R&O and within those notes there were a total of 479 references to comments submitted to the FCC’s online docket 06-121 and to comments presented at one of the six public hearings on media ownership. Of the 479 references, 430 were from the docket and 49 were from the public hearings.

5.1.4.2.1. Docket References

There were 430 references to public comments that had been submitted to the FCC’s online docket during the specified comment and reply comment periods. As such, the FCC referred to them as “comments” or “reply” depending upon when and how the comments were submitted.

From the 430 references, 229 were from non-media organizations, 194 were from media organizations and 7 were from individuals (meaning that 423 were from ‘experts.’)
The non-media organizations included groups like the National Association of Broadcasters, the Newspaper Association of America, the Communication Workers of America, the United Church of Christ, Free Press, Consumers Union, AFL-CIO, AFTRA, SAG, etc. Some of the references referred to comments that had been submitted by multiple organizations; for example, UCC and CU. The media organizations included groups like Media General, Clear Channel, Gannett, Tribune and a number of other lesser-known organizations. Even though more than 100,000 public comments were submitted to the FCC’s docket, only 7 of 430 references (1 percent) to public comments were made. All 7 references however were not unique; the FCC referred to comments by “Carolyn M. Byerly and John R. Arnold” twice, “Desmond” twice, and “Smith” twice, with the final comment coming from “Stilwell.” Thus, there were only 4 unique individual references from the 125,581 comments submitted online. (It should be noted that Byerly and Arnold are academics working at Howard University).

In total, across the 430 references which included the media and non-media organizations and individuals, 59 organizations and individuals were cited. The range of the number of times each organization was cited varies considerably. While 18 groups were only cited once, 12 groups were cited 10 times or more and 8 groups were cited 20 times or more (these 8 groups were included in the previous 12). From the 12 groups cited 10 times or more, 5 of the groups were media companies, and all large conglomerates: Tribune cited 12 times, Gannett 16 times, Clear Channel 20 times, Belo 24 times and Media General 41 times (the one organization cited the most times). The remaining 7 of the twelve companies cited ten times or more were all non-media organizations: AFTRA 11 citations, CWA 15, AFL-CIO 24, NAB 28, UCC 31, NAA 32
and the CU group 39 (second only to Media General). No individual was cited more than once, and to reiterate, only 7 citations out of 430 (1.6 percent) were from individuals.

5.1.4.2.2. Hearing References

There were a total of 49 references to testimonies presented at the six public hearings. Of those 49, 25 were from individuals affiliated with media companies, 12 were from non-media organizations and 12 were individuals. Of the 12 individuals however, 6 were invited speakers (panelists or interrupting comments), which means that only 6 of the “individual” speakers were members of the general public who spoke during the public comment period. Across all 49 speakers, 38 were panelists and one an interrupting remark, which means that a total of 10 individuals cited were not invited to speak. Thus, 10 of 732 public comments (1.4 percent) versus 38 of 125 panelists (30 percent) were cited, with no public comments cited from the Nashville (112 speakers) or Seattle (169 speakers) hearings.

5.1.4.3. Study Four Summary

The findings of this fourth study tie the findings of the previous analyses together by revealing a ‘deliberatory subordination.’ Even though the general public encountered structural impediments (i.e., structural subordination) as determined by Study One, Studies Two and Three revealed that the public still made valuable contributions to the FCC’s deliberations. The findings of Study Four suggest however, that these contributions were ignored by the FCC, overwhelmingly subordinated to the opinions of experts and stakeholders. This validates the existence of the rhetorical subordination discussed previously, as well as a deliberatory subordination, since the public’s voice was almost completely absent from the FCC’s Report and Order.
Chapter Six

6.1. Discussion

This empirical inquiry explored the FCC’s position on the subject of public involvement in communication policymaking. The findings of this analysis revealed the Commission’s preference for the maintenance of a technocratic system of control that subordinates the voice of the general public to the knowledge and opinions of industry experts.

The sequence of events as they unfolded throughout the analysis of the FCC’s deliberations was clear. The FCC, reacting to pressure from critics who chastised the Commission for being out of touch with its public interest mandate as a result of its continued disinterest in public consultation, promoted the idea that things were going to change. In what could perhaps be deemed an elaborate public relations campaign, the FCC advertised that it would be traveling to “diverse locations around the country” (FCC, 2006a, p. 1) in an attempt to “fully involve the public” (FCC, 2007, p. 1) in its ownership deliberations – the public would be a part of the process this time around. What followed was more spending, more talking, and the same amount of listening – practically none. The Commission organized an elaborate public hearing process consisting of six hearings at a cost of $200,000 (FCC, 2008a) and invited the public to submit comments to its online docket. Throughout both processes, the public encountered both ‘structural’ and ‘rhetorical’ subordination, impeding their ability to properly participate in the process. Participate they did however, primarily without the FCC’s help. At the hearings, the general public presented a variety of viewpoints on the relevant issues, and some partially relevant. In total, 385 of 732 individuals expressed a viewpoint against further media
consolidation and/or deregulation. People criticized the FCC’s process and methods, called out the local and national media for its hypercommercialism, lack of investigative reporting and content (or lack of content), while some praised both the FCC and the media for all that they had and continue to do. The online comment submission process yielded similar as well as very different findings. The overwhelming majority of “comments” submitted to the FCC expressed a viewpoint against media consolidation and/or deregulation, while a number of “reply” comments expressed support. The majority of all of these comments however, were not organized and written by the general public on its own, but rather by various grassroots organizations committed to amplifying the public’s voice and making it relevant to the FCC’s process. In the end however, the general public encountered what was conceptualized as ‘deliberatory subordination’ as well, which finalized the public’s marginalization, as only 10 of 732 hearing testimonies and only 7 of 125,581 comments (4 unique individuals) submitted online were cited in the R&O. The FCC chose instead to favor the opinions of experts and stakeholders, citing 39 expert testimonies from the ‘public hearings’ and citing expert comments from the online docket 423 times. The FCC then thanked the public for its involvement, noting “We value your insight and hope you will continue to be part of this Commission’s work in the future.” (FCC, 2008a, p.120) In what follows, the details of this sequence of events will be reviewed, and its relevance to our current inquiry explored.

6.1.1. A PUBLIC RELATIONS EXERCISE

Maybe it was the OECD (2001) report which declared proudly that “new forms of representation and public participation are emerging in all of our countries.” (p. 9)
Perhaps it was the realization that there has been a rise in the popularity of participatory models worldwide amongst scholars, regulators and citizens in recent years, who have been advocating for better, more transparent systems of government that benefit both the citizen and society (Ibid). Perhaps it was a response to the criticism levied against the FCC for its apparent disinterest in the public voice in recent years (Blevins & Brown, 2006; McChesney, 2004; Copps, 2003), or the 2003 ownership review process that was heavily criticized for being out of touch with the public interest. Maybe it was the two million pieces of correspondence sent to the FCC (Obar, 2009) or the deluge of phone calls in response to the closed-door FCC deliberations of 2003 (McChesney, 2004a), all from a public trying to have their voices heard. Perhaps it was just an attempt to assuage the democratic commissioners, or Chairman Martin had been flipping through his intro to philosophy notes. Whatever the reason, in 2006, when the FCC began its review of the media ownership rules once again, the stated commitment to “fully involve the public” in the deliberations was clear.

On February 4, 2008, when the deliberations had concluded, and the FCC released its Report and Order, outlining its decision and justification, Chairman Martin praised the work of the Commission, suggesting that they had met their stated goals for public involvement,

In 2003, when we last conducted a review of the media ownership rules […] people complained that there were not enough hearings […] and not enough opportunity for comments and public input […] [this time] the Commission committed to conducting this proceeding in a manner that was more open and allowed for more
public participation. … I believe that is what the Commission has done. (FCC, 2008a, p. 99)

As the results pointed out, and the discussion will further reveal, whether or not the Commissioners believed that the FCC expanded its efforts to increase public participation in the rulemaking process, the findings of this study suggest that the Commission’s efforts consistently marginalized public involvement in its deliberations. In all three areas of concern explored, the Commission hindered public involvement which lead to structural, rhetorical and deliberatory subordination of the public’s voice. In what follows, the results of this study will be discussed to demonstrate this assertion.

**6.1.2. THREE FORMS OF PUBLIC SUBORDINATION REVEALED**

**6.1.2.1. STRUCTURAL SUBORDINATION**

The structural concerns addressed by this study assessed presence, and the variegated forms members of the general public were provided the opportunity to engage in as a result of the mobilization techniques of the FCC. Were these proceedings ‘fair’ to the extent that members of the public were encouraged to have their presence heard and felt? Certainly, the FCC did provide opportunity for the public to participate in the deliberations, but the findings of this study revealed that the impediments hindering public participation were far greater than the opportunities encouraging it.

**6.1.2.1.1. ONLINE COMMENT SUBMISSION**

The first section of the analysis looked at the Commission’s website and its online comment submission process. Specifically, the amount of information about the deliberations and the forms of notice and access provided were assessed. Beginning with information and access, while the FCC’s media ownership page did provide a
considerable amount of information about the review (once it was finally updated in July, more than a month into the comment period), as well as easy-to-follow instructions for how to submit a comment online, getting to this page was extremely difficult. The FCC’s main page was far from ‘user-friendly’ and cluttered with technical jargon relating to a variety of different topics. This was coupled with the fact that the link to the media ownership page, one of the central issues being addressed by the Commission at the time, was practically hidden on the main page. Thus, information and access to the online comment submission process were indeed provided to the general public, but the information was hidden, and the access was limited to those individuals who were either actively (and meticulously) seeking out the process, or those who randomly were reviewing the FCC’s website (in detail) and stumbled across the media ownership link.

Related to these access concerns was the issue of notice. The FCC did issue a single press release at the beginning of the deliberations which did articulate an interest in public involvement (at the bottom of the document), and subsequent press releases promoting the hearings did encourage the public to get involved. That being said, the FCC appeared to do little else to promote their deliberations. This coupled with the lackluster coverage of the media (see Schejter & Obar, 2009), which essentially made the press releases meaningless, created a system of ‘mobilization’ that made it so that the only people likely to submit comments were those actively engaged in the process already. As will be discussed further on, without the help of the advocacy groups, it’s likely that the only comments submitted online would have been from stakeholders, experts and perhaps a few engaged citizens.
The FCC’s lackluster mobilization techniques, specifically in terms of the online comment submission process were epitomized by the lack of promotion on the Commission’s main page. As discussed earlier, referring to the screen captures in Appendix L, the problems associated with the FCC’s main page become quite clear when compared with the current page of the equivalent Canadian regulator, the Canadian Radio-Television and Telecommunications Commission (CRTC). Notice how organized the CRTC page is by comparison, how there is far less jargon, and how front and center there is a box that says “Public Proceedings” with the first link clearly stating “How to participate in a public proceeding.” Also take note of how on the right side of the page is a section with various drop-boxes for easy searching with the title, “Find a Public Hearing by Date.”

That being said, an inviting web-page is not enough. Even if the Martin FCC had created a more inviting and ‘user-friendly’ page, what would have been the likelihood that members of the general public, not usually engaged in these issues would have stumbled across the FCC’s page, and found the hidden media ownership link? Had the FCC been genuinely interested in an effort to “fully involve” the public in the debate, they would have invested in some basic public relations tactics such as public service announcements and perhaps a promotional event or two. An information booth at a professional sporting event, at a technology show or perhaps even at a media-sponsored amusement park (the opening months of the comment period were during the summer) would have been meaningful investments in the process, that would have reflected a genuine attempt to mobilize the generally unengaged citizen. Perhaps these suggestions sound silly, who wants to find out about the FCC while being entertained at an
amusement park? As a side note, this point speaks directly to the conflict of interest faced by media companies who serve a dual role as industry stakeholders and purveyors of news and information (see Snider, 2005). The media industry is constantly focused on keeping people engaged in the products and brands that it is interested in selling; why not push the FCC’s media ownership deliberations? The lack of effort on the part of the FCC is the primary problem here. Ironically, politicians are engaging the public all the time in an attempt to win votes. Had the FCC been as genuinely interested in an involved public and the noted benefits associated with civic engagement, the Commission would have employed the services of the media to mobilize the public and done as much as could have been done to connect the public with the process.

6.1.2.1.2. THE PUBLIC HEARINGS

The analysis perhaps would not have been so critical up until this point, had the FCC done a better job with its public hearings. Certainly, the fact that six public hearings were held in various locations throughout the country was indeed an attempt at public involvement (or perhaps at appeasement of the critics); however, the methods employed by the FCC to both mobilize the public and involve the general public in the hearings themselves suggested once again, that there was little interest in the public’s voice.

Before analyzing the hearings themselves, it is worth noting that the FCC’s public hearing process reveals a strong argument for why there may never be a true classical direct democracy in the United States. Skipping ahead to the Third Study, the content analysis of the comments submitted online revealed that public comments were submitted from citizens in all 50 states (and DC). That means that there were citizens across the country with an interest in the debate. Furthermore, while hearings were held in three of
the top-five States that had citizens submit comments, no hearing was held in the state of New York where 10,360 comments were filed or Texas where 6,997 comments were filed. With public hearings being held in only six locations, that meant that millions of citizens were without easy access to the public hearing process. As noted by a speaker in Seattle, "I gladly drove the 225 miles today, but with more notice a lot more people would have come with me.” Another individual also said,

I'm here to speak for dozens of people from the state Montana who wanted to be here to speak directly to you … because of the last minute announcement, they were not able to get here and they've been denied an important and vital opportunity to speak to you. …I drove 500 miles this morning so I could be here in person …

This reality speaks to the point that modern democracies may never be able to produce the system of democracy that was operating in ancient Athens. The Athenians had a small city-state, in which most residents lived near one another; this enabled all citizens access to the process of government decision-making. The United States is far too large, with an enormous population by comparison, which would make emulation of the system in ancient Athens quite difficult. Certainly the online comment submission process is an attempt to address this issue, and as a result, voices from all 50 states were indeed heard. That being said, the process of submitting comments and the impact of speaking face-to-face with commissioners are quite different.

6.1.2.1.3. NOTICE, ACCESS AND STRUCTURE OF THE HEARINGS

Though the FCC invested considerably in the six public hearings which cost more than $200,000 (FCC, 2008a), the Commission’s methods for organizing and conducting
the hearings impeded civic engagement, limiting the public’s ‘presence’ and thus contributing to structural subordination of the public voice.

Though notice was indeed provided for every hearing, for three of the six, important details regarding location and time were released to the public within one week of these hearings. Ironically, the FCC felt it was important to invest considerable funds in organizing the events, but that it was not as important to ensure that the supposed guests of honor would be in attendance. The FCC's public mobilization techniques were most certainly poor in this respect, with the Governor of Washington State articulating the issue clearly at the Seattle hearing, “had we been able to have more advance notice we would have packed this room. It would have been standing room only.”

The findings of this study revealed that the public's access to the hearings was impeded as well. As noted earlier, the fact that hearings were only held in seven locations limited the ability for most Americans to participate in the process. Specific to the hearings themselves, since the FCC required that citizens arrive early to sign their name to an official list in order to testify, this required individuals to arrive at least two hours beforehand in order to ensure that their voices could be heard (the hearings in Los Angeles and Harrisburg ended early, and comments were shortened from two-minutes to 90-seconds in Tampa and Chicago).

All hearings (except for El Segundo) started during working hours, which required people to leave work early in order to testify. The biggest mistake in this regard was made in Harrisburg, where the hearing was started at 9AM on a Thursday morning. This researcher personally attended the hearing in Harrisburg and can speak directly to how complicated it was to reach the Whitaker Center by 8AM on that February morning.
Though Harrisburg is a heavily populated city, many residents live in the surrounding areas. I traveled from State College, PA, a town about an hour outside of Harrisburg. This part of Pennsylvania is in the Allegheny mountains, and on that particular February morning it was lightly snowing. The drive to Harrisburg didn't take any longer than usual, however the drive was not an easy one. Once I arrived at the hearing (around 8AM), many individuals had already signed their names to the list and the line was still quite long. Certainly there was nothing wrong with an effort being made to attend an important public hearing; however, the fact that the Commission held the hearing at 9AM in the morning, on a work day, in a town surrounded by mountains, in February, on a week's notice articulates the amount of care and consideration that went into the planning of the event. It should be mentioned that after the complaints expressed regarding the Harrisburg hearing, subsequent hearings did start in the afternoon; however, all still began during prime working hours. As with the online comment submission process, had the FCC been genuinely interested in ensuring that members of the general public had every opportunity to participate, the hearings would have been promoted and planned more carefully. Had the public's input been the top priority, and not the convenience of the Commissioners and the expert panelists, hearings would have been held on the weekends and in the evenings. Since the FCC was so committed to its apparently new website, why weren't members of the general public allowed to sign up online to participate in the hearings? Why weren't the hearings promoted in such a way as to bring members of the general public to the FCC's website where they could then learn about the issues, submit comments to the online docket and then sign up to testify at one of the public hearings? These sorts of ideas seem logical in our current day and age, but
unfortunately, the Commission seemed more concerned with their own convenience and that of their expert panelists, who were given preferential treatment as compared to the members of the general public who were subordinated by the FCC’s mobilization techniques and by the structural makeup of the hearings.

In the analysis of notice and access, the notion of public ‘presence’ was conceptualized in terms of the ‘ordinary’ citizen being able to participate directly in the online comment submission process by having the opportunity to submit comments online and to actually appear at the hearings. The analysis of hearing structure conceptualized ‘presence’ in terms of the ability for citizens to participate in the hearings themselves. For example, when were citizens allowed to speak and for how long? The findings of this study revealed that the FCC’s methods for involving the public in the hearings seemingly subordinated public participation in almost every way possible. First, comments from members of the public were always relegated to the end of each hearing with expert after expert, panelist after panelist, dignitary after dignitary having the opportunity to speak before them. At two of the hearings (Los Angeles and Chicago) the FCC devoted so much time to comment by experts, that the time devoted to non-public comments was actually greater than the time devoted to public comments, and in two other instances, non-public comment time lasted for greater than 40 percent of the hearing time.

Another clear marker of public subordination was the fact that public comments were allocated the least amount of time per speaker. All other, more ‘important’ individuals whose views ‘mattered’ were allocated more time. The commissioners themselves, whose comments seemingly added very little to the discussion, felt the need
to present more than three hours of comments across all six hearings, with each commissioner speaking (twice in California and in Nashville) without a time limit. The experts who were invited to sit on panels on the stage next to the commissioners, were not only allowed to speak before the public, but each expert was allocated five minutes each. This is compared to members of the public, who spoke last, who were allocated only two minutes each. When the hearings went long because the commission had allocated too much time to non-public comments, it wasn't the experts who had to shorten their comments, or the commissioners, but rather, the public who had to speak to 90-seconds instead of two minutes. A man who was being cut-off by the moderator for going over his two-minutes during the public comment period in Chicago articulated the point clearly, declaring, “why I only got three minutes and them other people that you had there had five minutes? … why did they have five minutes, what was special about them?”

Other glaring examples of public subordination occurred at various hearings demonstrating how little the FCC did to ensure that the public had a strong and fair presence. For example, in Chicago, after a long introductory portion of the hearing which included an expert panel, the FCC then allowed 29 members of the public to speak before stopping the hearing for a short break. Upon recommencement, the public wasn’t allowed to speak, but rather another expert panel and some interrupting remarks went first. Only after this second group of individuals presented was the public allowed to speak; however, after an additional 26 public testimonies, it was 10:30pm, 6 hours into the hearing and only 55 public comments had been heard (two minutes each). It was at that point that the Commission decided to shorten the time allotted to public comments and an
additional 67 speakers (who had been able to wait the many hours to testify) spoke for 90-seconds each.

The decision to allow interrupting individuals at each hearing to cut in-front of members of the public who had signed up hours earlier was another example of public subordination. One example from the El Segundo hearing provides another exemplar of the FCC’s public subordination as the Commission allowed a panelist who had missed his opportunity to speak earlier (because he was caught in traffic) to testify for five minutes between members of the public who were only allowed two minutes each. The epitome of this backwards attitude towards public comment however, was exemplified in Chairman Martin’s repeated and prolonged absences from the public comment periods. Coincidentally, time-sensitive phone-calls and flights heading to DC for early-morning meetings always coincided with the public comment periods and never with the non-public comment time.

In the end, the FCC’s actions also contributed to two of the hearings (Los Angeles and Harrisburg) being adjourned before all members of the public who had signed up had the opportunity to speak. Across all the hearings, an additional 237 individuals who had signed up to testify left before their names were called.

The structural subordination imposed by the Commission through its inability to develop a ‘user-friendly’ website, the poor promotion of the deliberations, and the preference given to all speakers who weren’t ‘ordinary’ citizens, demonstrated how the goal to “fully involve the public” was seemingly nothing more than a ‘PR move.’ The examples of public subordination at the hearings especially, where members of the public were repeatedly pushed to the back-of-the-line were certainly unfair, limiting the public’s
presence at the hearings. Unfortunately, many citizens, as a result of the difficulty accessing the FCC’s media ownership page, finding out about the hearings, and waiting for their turn at the microphone to have their voices heard, suffered what indeed was the ultimate limitation of presence – absence – removing their potential voice from the FCC’s deliberations.

6.1.2.1.4. THE ‘PUBLIC’

Across the six hearings a total of 732 citizens testified during the public comment periods. As a result, any discussion regarding the viewpoints expressed at the hearings should be prefaced by the point that it would be inappropriate to claim that those who spoke at the hearings represented the views of the ‘American public.’ Aside from the fact that 732 individuals simply cannot represent 300 million, the lack of hearing promotion suggests that most of the individuals who did attend were either mobilized by outside organizations or politically engaged and thus were not likely representative of the general American population. Furthermore, the racial, ethnic and gender makeup of the citizens as identified by the content analysis of the hearings also demonstrated how the group was not representative of the American population. For example, only 9 percent of the speakers were black, 7 percent Hispanic, 0.6 percent Asian and 82 percent white.12 Males made up 58 percent of the population and females 42 percent. Thus, the 732 were certainly not representative of the actual population statistics in the United States. One other point, the six locations for the hearings also contributed to the makeup of the citizens (and potential citizens) that could have attended the hearings. Therefore, the 732 individuals who testified were indeed members of the general public, but as a group were

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12 These percentages were from the 648 individuals whose race/ethnicity was coded. The rest were coded as “unclear” due to the availability of audio only.
not an accurate representation of the American population as a whole. This points speaks to the limitations of the analysis of what was said, and also contributes to the criticism of the FCC’s public mobilization techniques.

The 125,581 comments submitted online to FCC docket 06-121 were from individuals all across the country. The fact that individuals submitted comments from all 50 states points to the fact that the potential for widespread public participation certainly existed. That being said, the limitations associated with the FCC’s poor mobilization techniques (coupled with the work of the grassroots organizers) once again makes generalization to the broader population quite difficult.

6.1.2.2. RHETORICAL CONCERNS: WHAT THE PEOPLE HAD TO SAY

At the hearings, the public that expressed a viewpoint on the issues spoke loud and clear – no more media consolidation or deregulation of the media industry. In total 385 individuals spoke out against consolidation and/or deregulation, with only 10 people speaking in support. While it is difficult to say definitively that the large group of individuals who spoke out against consolidation/deregulation represented the unaffiliated general public (though most of them did not identify affiliations), the majority of the 10 individuals who spoke in support of consolidation/deregulation were stakeholders of some kind.

The findings were similar in the analysis of the online comments. Of those who submitted what the FCC labeled as “Comments” 383 of 400 (96 percent) of the comments spoke out against consolidation with 36 percent speaking out against deregulation. Most alarming was the fact that none of the “Comments” were coded as being in support of consolidation or deregulation. Among the submissions labeled “Reply
to Comments” however, the percentages were closer with 23 percent speaking out against
deregulation and 33 speaking in support. The consolidation measure however, revealed
that even in the Reply Sample, while 24 percent spoke out against consolidation, no
comments were in support. Overall, these findings suggest that the individuals
responsible for the two million pieces of correspondence during the 2003 review spoke
up once again. If 96 percent of the 125,581 comments submitted online were against
further consolidation, with few to none in support, the overwhelming majority of the
‘public’ expressing a viewpoint was certainly against further media consolidation.
Certainly there were those who expressed their views in support in terms of the Reply,
but with only 748 of the comments labeled “Reply to Comments” these figures were not
as astounding as the number of comments speaking out against further consolidation
and/or deregulation.

6.1.2.2.1. LANGUAGE USED

At the hearings, the findings of this study revealed that the language employed by
the public, overall was not very technocratic. While almost half of the 732 public
testimonies spoke out against media consolidation, very few spoke out about deregulation
(619 individuals were coded as not having expressed a clear viewpoint on deregulation).
This suggests that individuals were more likely to express concerns about the size of the
media companies controlling the business, than the rules and rulemakers that allowed the
consolidation to happen. Perhaps the issue of media companies and their size is
seemingly more of a mainstream concept, than the specific rules are. Maybe the ‘David
and Goliath’ image resonates more with the general public than the policies do.
Considering that members of the general public were attending hearings and speaking to
policymakers, it certainly is surprising that so many individuals spoke out against ‘big media’ but not against, deregulation, as the two are so closely connected. Again, perhaps this suggests that certain concepts are more mainstream than others.

Returning to the issue of the specific language used, while few individuals expressed a clear viewpoint on deregulation, even fewer used relevant technical jargon in their testimonies. Only 17 of 732 individuals (2 percent) referred to one of the rules the FCC was considering – astonishing, again considering that so many individuals came to the hearings to speak out against further consolidation.

There were some other findings that suggested that the public in attendance at the hearings was committed to participating in the deliberations; for example, the number of individuals who spoke with prepared notes (475) and the number of individuals who were cut-off by the moderator (217). These findings suggest that certain members of the public took the time to think about what they were going to say and were determined to have their voices heard properly.

6.1.2.2. RHETORICAL SUBORDINATION

Rhetorical subordination is difficult to identify, as usually, regulators do not come out and bluntly say that what the public has to say makes little sense and that they are incapable of making any valuable contribution (for members of a democratic government, speaking to the electorate in this fashion probably wouldn’t be a good idea). That being said, this study revealed a variety of examples of FCC behavior that identified the subordination of the rhetoric of the ‘ordinary’ citizen.

To begin with, many of the findings from both the structural and deliberatory analyses revealed that the FCC felt that the voice of the people was less valuable than that
of experts. Why else would experts be given priority to such a degree? Experts were invited by the Commission to speak at the hearings, even though their point of views were likely well-known already. Having experts appear at the hearings to participate in debate perhaps would have made more sense, but the lack of debate at most of the hearings as facilitated by the FCC, with all experts giving prepared statements, made their appearances almost a waste of the general public’s time – experts espousing similarly known points of view could have been invited to Washington. Conversely, specific members of the public were not invited and notice and access in fact were limited. Experts sat up high on a stage, next to the commissioners and spoke for 5 minutes during the earlier portions of the hearings, always before the public comment periods (except for the second expert panels which did take place before the second public comment periods). Clearly, according to the Commission, what the public had to say was less important than what the experts had to say; why else would a panelist who had missed his opportunity to speak earlier (because he was caught in traffic) be allowed to testify for five minutes between members of the public who were only allowed two minutes each? Why else would Chairman Martin repeatedly receive time-sensitive phone-calls and take flights heading to DC for early-morning meetings during public comment periods and never during the non-public comment time? The issue was articulated clearly by an African American man at the Chicago hearing, who said “why I only got three minutes and them other people that you had there had five minutes? … why did they have five minutes, what was special about them?” Indeed, as was reflected in the methods employed by the FCC to organize and conduct the hearings, and the almost complete lack of references to public comments in the Report & Order (discussed
further on), the FCC ascribed a much higher value to the opinions and language of experts than to the testimonies and comments of the general public.

Evidence of this rhetorical subordination came also from the FCC’s own words. Three glaring examples will suffice. The first occurred as Chairman Martin walked to the podium to present his opening remarks in Seattle. The audience reacted ferociously, first booing and shouting at the Chairman and then cheering when he opened by saying that his remarks would be brief. Chairman Martin commented (perhaps in response), “I thought that I should respond to a few of the things and little bit of the rhetoric that has been used tonight. At the Commission the rhetoric is oftentimes easy, but the decision making is much harder.” Later on in the hearing, a few members of the public responded to the Chairman’s claim, two in particular that stand out are noted below; the first, a woman, said:

Mr. Chairman, … (in) your remarks, you used the word ‘rhetoric’ and maybe I misunderstood what you meant by that, but I hope you don’t think that what you’ve been hearing tonight is rhetoric …in the … way I think of it (applause, slight “boo”) You’ve heard from our Governor, you’ve heard from John Carlson who ran as a Republican for our governorship, you’ve heard from all these different people who represent so many diverse groups, and they come from so many different areas, it’s not one voice and it’s not rhetoric. (thunderous applause)

Another came from a young man who said:
Mr. Martin (I) am ashamed enough for the both of us. Because anyone who schedules this hearing 5 days in advance and then dismisses the voices of the people that he has sworn to serve and protect, obviously has no shame to spare. … and I assure you that this is not empty rhetoric, Commissioners.

A second example of rhetorical subordination was perhaps not intended, but rather felt, by the actions of Chairman Martin, who sat quietly with a blank look on his face throughout most of the hearings. This expression and lack of interaction with the public led one gentleman in Seattle to express his frustration with the apparent subordination:

Watching you Chairman Martin tonight, with that impassive expression on your face for hours and hours … it’s real clear to me that there’s a fundamental theme behind almost everything that’s been said tonight … there’s a room full of people here who love democracy and are terrified that we’re losing it. And, I would like to ask you, out of respect for all of us who have come here … to give us a wink or a nod or a thumbs up, that you understand that we’re not about the arcane rules, of the FCC, what we’re here for, is we are frightened for our democracy, do you understand that that’s what we’re saying? (Commissioner then said muffled into the microphone something like “yes” and “I understand”)

Perhaps the most condemning evidence of rhetorical subordination came from the Chairman’s remarks in the Report and Order,
I reject the claims (of the two dissenting FCC commissioners) that the process has been unfair … (They) claim I didn’t listen to the comments of the people in Seattle. However, only 2 people even mentioned newspaper cross-ownership, and one in fact supported relaxation. (FCC, 2008a, p. 101)

Aside from the fact that his figures were inaccurate, with eight people using the term “cross-ownership” (verified by the content analysis discussed herein), and that the individual who spoke in support, spoke about consolidation and not deregulation, by subordinating the public’s outcry against consolidation and deregulation through criticism levied against a lack of technical rhetoric, the Chairman acknowledged the reality of the rhetorical subordination encountered by the general public during the FCC’s deliberations; a point that was further validated by the remarks of dissenting Commissioner Michael Copps who noted:

(the) Seattle residents who had chosen to spend their Friday night waiting in line to testify … were not going to be part of the agency's formulation of a draft rule—it was just for show, to claim that the public had been given a chance to participate. The agency had treated the public like children allowed to visit the cockpit of an airliner—not actually allowed to fly the plane, of course, but permitted for a brief, false moment to imagine that they were. (FCC, 2008a, p. 107)
6.1.2.3. Grassroots Organizers and Form Letters

An interesting finding revealed itself in the analysis of the comments submitted online and was confirmed by the interview analysis. A variety of grassroots organizations employed a coordinated form-letter campaign to flood the FCC’s docket with comments from supposedly concerned citizens. This became evident initially through the analysis of the day-by-day comment tabulations, as on certain days thousands of comments were submitted, and then on other adjacent days, very few were submitted. This suggested that coordinated campaigns were being organized and that vast numbers of comments were either being organized by these groups, and/or that mass-emails were being sent out on certain days to their massive listserves.

The content analysis of the submitted comments revealed that of the 400 comments from the Comment Sample, only 14 did not include one of the 13 statements coded for, which means that at least 96.5 percent of the comments used a form letter (the possibility existed that form letters not coded for could have existed as well). The analysis of similarity between the comments revealed a similar finding with 84 percent of the ‘primary’ comments coded being similar the ‘secondary’ comments that appeared before it, 83 percent with those that came after, and in 76 percent of the cases, all three comments were similar. In all, 9 form letters were found in the analysis of the Comment Sample. These figures were not as high in the much smaller Reply Sample, but this sample did reveal that a variety of form letters were used, both by groups that were against further consolidation/deregulation and in support.

The subsequent interview analysis revealed that indeed a variety of groups were involved in an elaborate form letter campaign. This involved the development and
deployment of a piece of software that would enable the letter to be delivered in an email or through another form of social media that would then provide each individual with an easy and automatic method for uploading their comments to the FCC. Both the form letter and the means of communication seemingly made it easier for individuals to bridge the gap between themselves and the government (the ‘gap’ taking varying structural and rhetorical forms as described throughout this project). Bridging this gap was a primary goal of both FreedomWorks and Free Press as expressed in the interviews with Brendan Steinhauser and Josh Stearns who both communicated their commitment to maximizing the public’s involvement in the FCC’s deliberations.

6.1.2.4. DELIBERATORY CONCERNS

The analysis of the FCC’s Report and Order revealed what was perhaps the most egregious form of public marginalization, what is described here as deliberatory subordination. From the very beginning of the review process, the FCC articulated its goal to “fully involve the public” in the deliberations. Chairman Martin noted early on that he saw “value” to public input. In their appended comments to the Report and Order, two of the three Republican commissioners who voted in favor of the change expressed their thanks for the public’s involvement. To reiterate, Chairman Martin noted,

When we began eighteen months ago, the Commission committed to conducting this proceeding in a manner that was more open and allowed for more public participation. … I believe that is what the Commission has done. (FCC, 2008a, p. 99)

Commissioner Tate noted,
We have traveled across the country and heard from thousands of citizens. The process has been long, but fruitful. Many wanted us to go further in repealing the ownership restrictions, but we have chosen a measured and cautious approach. … which reflects the views of citizens as well as experts gathered over the past 18 months. … thank you to all of those citizens who participated in this truly monumental process. We value your insight and hope you will continue to be part of this Commission’s work in the future. (FCC, 2008a, p. 120)

Though the FCC claimed to support what the public had to say, and expressed thanks for the public’s involvement, the findings of this study revealed that the public’s voice was almost entirely absent from the FCC’s R&O. Of the 430 references made to comments submitted to the online docket, only 7 (1.6 percent) referred to citizen comments. Of the 49 comments cited from the public hearings, only 10 were comments from the general public.

Perhaps the FCC’s eventual decision to deregulate and remove the newspaper/broadcast cross-ownership ban\textsuperscript{13} was the reason for this subordination as the decision went against the viewpoint expressed by the majority of the public that participated. A careful inspection of the R&O revealed however, that the FCC consistently presented counter-arguments alongside their own arguments, with the majority of the dissenting groups and individuals cited being either experts or stakeholders.

\textsuperscript{13} In 1975, the FCC established the newspaper/broadcast cross-ownership ban prohibiting common ownership of a daily newspaper and a full-power broadcast station that serve the same city.
This is deliberatory subordination. Even with the FCC promising to “fully involve the public” in its deliberations in an attempt to break away from the traditions of late, even with the Commission spending $200,000 to hold six public hearings, in the end, the decision was to subordinate the voice of the general public to that of the stakeholder and of the expert.
6.2. CONCLUSION

The many political and philosophical accomplishments of the ancient Athenians are nothing short of awe-inspiring. Perhaps most impressive, is the fact that each and all of their advances and insights were accomplished without the use of personal computers, blackberries, the Internet or calculators; instead, the ancient Athenians used what many democratic elitists have referred to as ‘primitive’ tools – the human mind of the ‘ordinary’ person and the process of inclusionary political decision-making.

When the FCC invites an expert to a hearing (knowing their point of view already) and has members of the general public show up on their own without providing adequate notice or access, has the expert sit up high on a stage, while the ‘ordinary’ citizen sits in the audience, lets the expert speak first, and has the citizen speak last (or not at all), invites the expert to speak for five minutes, and allows the citizen to speak for 90-seconds – a clear message is articulated. Expert knowledge, the knowledge that operates within the technocratic system and perpetuates it, is being attributed a higher value, while the knowledge of the ‘ordinary’ citizen, or rather, the assumed knowledge of the citizen, is subordinated. The actions of the FCC highlighted by this study suggest that if asked, who is the measure of all things? The Commission would respond: the experts, the stakeholders, those that work within the system – not the ‘ordinary’ citizen.

The findings of this inquiry suggest that the FCC is indeed a technocratic body that values the opinions of experts over the opinions of the general public. That being said, perhaps it could be argued that the FCC was justified in its approach towards public opinion. In the end, though many individuals at the public hearings came prepared with notes and spoke passionately about the issues, the majority of the individuals who
submitted comments online used form letters. This could suggest that a considerable part of the effort to involve the public resulted in public involvement that some might regard as useless. Were the democratic elitists right? Were members of the general public too emotional and too uninformed to express opinions that could have made a difference? Was this the reason for the overabundance of form letters? Most likely the answer is ‘no.’ The majority of the online submissions from members of the public used elements of various form letters because the groups mobilizing the general public used the letters to facilitate communication. The form letter finding had less to do with the capabilities of the public and more to do with the lackluster mobilization techniques of the FCC. Had the FCC been genuinely interested in an effort to “fully involve” the public in the debate, there would have been a more involved effort to connect the public with the process. Basic public relations techniques such as public service announcements and promotional events, efforts via social media and community outreach could have been employed to spread the word about the process and expectations. Had the FCC been as genuinely interested in an involved public and the noted benefits associated with civic engagement as politicians are around election time, perhaps the comments submitted online would have been more diverse. This of course is not to discount the large number of submissions, which, when considered in light of the FCC’s poor mobilization techniques, speak to the potential that exists. Indeed, Josh Stearns from Free Press has expressed his optimism that the organization’s shift in approach will demonstrate how capable the public really is:

\[
\text{in the last round (2006-2008) with the last FCC, that kind of massive public outrage at an incredible scale was very important}
\]
to show the profound power and importance of this issue to the public. Right now, because of the more data-driven nature of the way the FCC is approaching many of their proceedings, Free Press found that it was really important to give people the opportunity to do much more in depth tailored comments so you’ll see that we’ve created tools that guide people with really open ended questions and open fields with less of that sample text already inserted so that people, instead of just clicking submit, actually have to fill in information based on their own experiences. And what that does is lowers the number of people who participate but its gives us much more depth in terms of the level of engagement and the level of detail they’re getting. It really gets in depth to the experiences of people on the ground in their communities.

How successful will this new technique be? Future research certainly should address this question as new mobilization techniques strive to further connect the public with the political process. But the question remains, will technical knowledge, expertise and discourse continue to be the essential tools for affecting change at the FCC? Until the Commission realizes that public involvement in political decision-making is more than just a public relations tactic, and is indeed a strategy for the development of the citizen and society, the protection against impropriety and closed-mindedness, and the improvement of government decision-making, the FCC will remain a technocratic body. Though the term “digital democracy” has a nice ring to it and awards like *Time*
Magazine’s “Person of the Year” are indeed flattering, until the benefits of public involvement are truly realized by government agencies like the FCC, the democratic nature of communications policymaking will remain subordinated to the politics of expertise.
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Appendix A: Classical Direct Democracy Model and Democratic Elitism Model

### Classical Direct Democracy Model

<table>
<thead>
<tr>
<th><strong>Central Goal:</strong></th>
<th>Citizens should be able to enjoy political equality, enabling a system of societal organization the creates citizens that are free to rule and be ruled in turn.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Primary Elements:</strong></td>
<td>Direct participation in government decision-making</td>
</tr>
<tr>
<td></td>
<td>Citizen Assembly is sovereign</td>
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<td></td>
<td>Citizen control over all common affairs of the society</td>
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<td></td>
<td>Multiple methods of selection of candidates for public office (lot, election, rotation)</td>
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<td></td>
<td>No distinctions of privilege between ordinary citizens and public officials</td>
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<td></td>
<td>Except for highly specialized positions (warfare, economics, etc.) one individual cannot hold the same office more than twice</td>
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<td></td>
<td>Short terms of office</td>
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<td></td>
<td>Individuals are paid for public service</td>
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<tr>
<td><strong>Structural Conditions:</strong></td>
<td>Small city-state (population size)</td>
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<tr>
<td></td>
<td>All citizens living near each other</td>
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<tr>
<td></td>
<td>Responsibilities of home life taken care of (by women and slaves primarily)</td>
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<tr>
<td></td>
<td>Slave economy</td>
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<tr>
<td><strong>Benefits:</strong></td>
<td>Development of the citizen (Increasing a citizen’s awareness of moral and social responsibilities)</td>
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<tr>
<td></td>
<td>Protection from tyranny (promotion of liberty)</td>
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<tr>
<td></td>
<td>Improves government decision-making</td>
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</table>

### Democratic Elitism Model

<table>
<thead>
<tr>
<th><strong>Central Goal:</strong></th>
<th>Only the highly skilled political elite who are capable of making expert decisions govern.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Primary Elements:</strong></td>
<td>Parliamentary government with a strong executive</td>
</tr>
<tr>
<td></td>
<td>Centrality of political leadership</td>
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<tr>
<td></td>
<td>Bureaucracy</td>
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<tr>
<td></td>
<td>Constitutional and practical limits on the range of political decision-making to ensure some power remains in the hands of the people.</td>
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<tr>
<td><strong>Structural Conditions:</strong></td>
<td>Industrialized society</td>
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<tr>
<td></td>
<td>Poorly informed electorate</td>
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<tr>
<td></td>
<td>Emotional electorate</td>
</tr>
<tr>
<td></td>
<td>A political culture that respects differences of opinion among elites</td>
</tr>
</tbody>
</table>

### Appendix B: Time Devoted to Each Component of Each Hearing

<table>
<thead>
<tr>
<th>Hearing</th>
<th>Introductory Remarks</th>
<th>Commissioner Remarks</th>
<th>Panels</th>
<th>Interrupting Remarks</th>
<th>Total non-public comment</th>
<th>Public Comment</th>
<th>Total Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Los Angeles</td>
<td>00:00:39 (0.22%)</td>
<td>00:17:45 (3.7%)</td>
<td>01:27:25 (42.7%)</td>
<td>00:00:00 (0.0%)</td>
<td>01:45:40 (51.7%)</td>
<td>01:39:03 (48.4%)</td>
<td>03:24:52 (100.0%)</td>
</tr>
<tr>
<td>El Segundo</td>
<td>00:00:48 (0.30%)</td>
<td>00:09:51 (3.7%)</td>
<td>01:04:16 (23.8%)</td>
<td>00:06:08 (2.3%)</td>
<td>01:21:03 (30.1%)</td>
<td>03:08:31 (69.9%)</td>
<td>04:29:34 (100.0%)</td>
</tr>
<tr>
<td>Nashville</td>
<td>00:07:15 (1.5%)</td>
<td>00:28:12 (3.9%)</td>
<td>02:41:12 (33.6%)</td>
<td>00:16:35 (3.5%)</td>
<td>03:33:14 (44.4%)</td>
<td>04:27:15 (35.6%)</td>
<td>08:00:29 (100.0%)</td>
</tr>
<tr>
<td>Harrisburg</td>
<td>00:05:06 (1.7%)</td>
<td>00:31:27 (10.2%)</td>
<td>00:40:36 (13.2%)</td>
<td>00:00:00 (0.0%)</td>
<td>01:17:09 (25.1%)</td>
<td>03:50:19 (74.9%)</td>
<td>05:07:28 (100.0%)</td>
</tr>
<tr>
<td>Tampa</td>
<td>00:01:03 (0.26%)</td>
<td>00:27:38 (7.0%)</td>
<td>02:04:02 (31.2%)</td>
<td>00:09:57 (2.5%)</td>
<td>02:42:40 (41.0%)</td>
<td>03:54:26 (39.0%)</td>
<td>06:37:06 (100.0%)</td>
</tr>
<tr>
<td>Chicago</td>
<td>00:35:08 (7.6%)</td>
<td>00:37:15 (7.9%)</td>
<td>02:36:57 (33.1%)</td>
<td>00:07:39 (1.6%)</td>
<td>03:56:59 (50.04%)</td>
<td>03:56:38 (49.96%)</td>
<td>07:53:37 (100.0%)</td>
</tr>
<tr>
<td>Seattle</td>
<td>00:34:12 (6.3%)</td>
<td>00:34:32 (6.4%)</td>
<td>01:27:09 (16.1%)</td>
<td>00:20:47 (3.8%)</td>
<td>02:56:40 (32.6%)</td>
<td>06:03:13 (67.4%)</td>
<td>09:01:53 (100.0%)</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>01:24:11 (3.2%)</strong></td>
<td><strong>03:06:40 (7.0%)</strong></td>
<td><strong>12:01:37 (27.0%)</strong></td>
<td><strong>01:01:06 (2.3%)</strong></td>
<td><strong>17:33:34 (39.4%)</strong></td>
<td><strong>27:01:23 (60.6%)</strong></td>
<td><strong>44:34:59 (100.0%)</strong></td>
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Note: Total non-public comment is the sum of introductory remarks, Commissioner remarks, panels and interrupting remarks.
Appendix C: Coding Instrument (Hearings)

<table>
<thead>
<tr>
<th>ID NUMBER:</th>
<th>Hearing:</th>
</tr>
</thead>
</table>

**CODING INSTRUMENT**

1) **Length:**
   - Time started _____________
   - Time Finished _____________

2) **Demographics:**
   - MALE / FEMALE Race: WHITE / BLACK / HISPANIC / ASIAN / OTHER

3) **Identification:**
   - NO ID
   - WHERE FROM? ___________________________
   - MEDIA COMPANY ___________________________
   - NON-MEDIA ORGANIZATION ___________________
   - Media tie? YES / NO
   - PREPARED TEXT? Yes / No

4) **Media consolidation:**
   - AGAINST / SUPPORT / UNCLEAR
   - consolidate / concentration / big media / fewer outlets

5) **Deregulation:**
   - AGAINST / SUPPORT / UNCLEAR
deregulation / change or
   - relax rules

6) **Concerns:**

<table>
<thead>
<tr>
<th>DEMOCRACY</th>
<th>access</th>
<th>SAVE OUTLET$</th>
<th>GLOBAL MARKET</th>
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</thead>
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<tr>
<td>localism</td>
<td>COMMERCIALISM</td>
<td>MORE $ FOR DIVERSITY</td>
<td>HELPS TO COMPETE</td>
</tr>
<tr>
<td>DIVERSITY</td>
<td>quality of news</td>
<td>MORE $ FOR LOCALISM</td>
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</tr>
<tr>
<td>downsizing of media staff</td>
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7) **Support**

<table>
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<th>6)</th>
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<td><strong>Concerns</strong></td>
</tr>
<tr>
<td>DEMOCRACY</td>
<td>access</td>
</tr>
<tr>
<td>localism</td>
<td>COMMERCIALISM</td>
</tr>
<tr>
<td>DIVERSITY</td>
<td>quality of news</td>
</tr>
<tr>
<td>downsizing of media staff</td>
<td></td>
</tr>
</tbody>
</table>

8) **Critical of the FCC?**

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<tr>
<th>REFERENCE TO 2003</th>
<th>HEARING NOTICE</th>
<th>CURRENT PROCESS</th>
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</thead>
<tbody>
<tr>
<td>HIDDEN FCC REPORT</td>
<td>OTHER</td>
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</tr>
</tbody>
</table>

8) **Happy with the media?**

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<tr>
<th>LOCAL MEDIA</th>
<th>YES / NO</th>
<th>NATIONAL MEDIA</th>
<th>YES / NO</th>
</tr>
</thead>
</table>

9) **Mentioned support for local independent media outlets?**
   - YES / NO

10) **Re-regulate?**
    - YES / NO

Appendix C: (Continued)
11) CROSS-OWNERSHIP
   Duopoly
   PUBLIC INTEREST
   Telecommunications Act of 1996
   PUBLIC BROADCASTING
   Rules
   LOW POWER FM

12) **Cut off? YES / NO**
## Appendix D: Media Consolidation and Deregulation Viewpoints

<table>
<thead>
<tr>
<th>Hearing</th>
<th>Date</th>
<th>Speakers</th>
<th>Against Media Consolidation</th>
<th>Support Media Consolidation</th>
<th>Viewpoint Unclear</th>
<th>Against Deregulation</th>
<th>Support Deregulation</th>
<th>Viewpoint Unclear</th>
</tr>
</thead>
<tbody>
<tr>
<td>LA/Els Segundo</td>
<td>October 3, 2006</td>
<td>115</td>
<td>57 (49.6%)</td>
<td>0 (0.0%)</td>
<td>58 (50.4%)</td>
<td>15 (13.0%)</td>
<td>1 (0.8%)</td>
<td>99 (86.1%)</td>
</tr>
<tr>
<td>Nashville</td>
<td>December 11, 2006</td>
<td>112</td>
<td>61 (54.5%)</td>
<td>0 (0.0%)</td>
<td>51 (45.5%)</td>
<td>13 (11.6%)</td>
<td>1 (0.8%)</td>
<td>98 (87.5%)</td>
</tr>
<tr>
<td>Harrisburg</td>
<td>February 23, 2007</td>
<td>104</td>
<td>38 (36.5%)</td>
<td>1 (0.9%)</td>
<td>65 (62.5%)</td>
<td>11 (10.6%)</td>
<td>0 (0.0%)</td>
<td>93 (89.4%)</td>
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<tr>
<td>Tampa</td>
<td>April 30, 2007</td>
<td>110</td>
<td>48 (43.6%)</td>
<td>6 (5.5%)</td>
<td>56 (50.9%)</td>
<td>12 (10.9%)</td>
<td>3 (2.7%)</td>
<td>95 (86.4%)</td>
</tr>
<tr>
<td>Chicago</td>
<td>September 20, 2007</td>
<td>122</td>
<td>31 (25.4%)</td>
<td>0 (0.0%)</td>
<td>91 (74.6%)</td>
<td>12 (9.8%)</td>
<td>0 (0.0%)</td>
<td>110 (90.2%)</td>
</tr>
<tr>
<td>Seattle</td>
<td>November 9, 2007</td>
<td>169</td>
<td>105 (62.1%)</td>
<td>1 (0.9%)</td>
<td>63 (37.3%)</td>
<td>45 (26.6%)</td>
<td>0 (0.0%)</td>
<td>124 (73.4%)</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>732</td>
<td>340* (46.4%)</td>
<td>8* (1.1%)</td>
<td>384* (52.5%)</td>
<td>108* (14.8%)</td>
<td>5* (0.68%)</td>
<td>619* (84.6%)</td>
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</table>

Note. Chi square tests (calculated for total speakers across all six hearings) revealed a significant difference between consolidation viewpoint, $X^2(2, N=732) = 346.36, p < .001$ and deregulation viewpoint, $X^2(2, N=732) = 886.24, p < .001$. 

*Percentages calculated for total speakers.
<table>
<thead>
<tr>
<th>Speaker Number (all hearings)</th>
<th>Affiliation/Position</th>
<th>Hearing</th>
<th>Media Tie</th>
<th>Media Consolidation Viewpoint</th>
<th>Deregulation Viewpoint</th>
</tr>
</thead>
<tbody>
<tr>
<td>30</td>
<td>Free Market Advocacy Group</td>
<td>LA/El Segundo</td>
<td>No</td>
<td>Unclear</td>
<td>Support</td>
</tr>
<tr>
<td>121</td>
<td>WJHL TV – General Manager</td>
<td>Nashville</td>
<td>n/a</td>
<td>Unclear</td>
<td>Support</td>
</tr>
<tr>
<td>246</td>
<td>Hall Communications - Employee</td>
<td>Harrisburg</td>
<td>n/a</td>
<td>Support</td>
<td>Unclear</td>
</tr>
<tr>
<td>334</td>
<td>WFLA - Ex-President &amp; General Manager, now the COO for the Tampa Bay Buccaneers</td>
<td>Tampa</td>
<td>n/a</td>
<td>Support</td>
<td>Unclear</td>
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<tr>
<td>342</td>
<td>Media General – Vice President of News (publishing)</td>
<td>Tampa</td>
<td>n/a</td>
<td>Support</td>
<td>Support</td>
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<tr>
<td>344</td>
<td>Media General - Former employee, now works for Joshua House</td>
<td>Tampa</td>
<td>n/a</td>
<td>Support</td>
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<tr>
<td>345</td>
<td>Pediatric Cancer Foundation – Executive Director</td>
<td>Tampa</td>
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<td>Support</td>
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<td>346</td>
<td>Media General - President</td>
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<td>Support</td>
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<td>396</td>
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<td>609</td>
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### Appendix F: Public Testimony Details

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<th>White</th>
<th>Black</th>
<th>Hispanic</th>
<th>Asian</th>
<th>Other</th>
<th>Unclear</th>
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<th>Non-Media Org</th>
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<tbody>
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<td>LA/El Segundo</td>
<td>115</td>
<td>69</td>
<td>46</td>
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<td>2</td>
<td>14</td>
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<td>3</td>
<td>42</td>
<td>6</td>
<td>44</td>
<td>65</td>
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<tr>
<td>Nashville</td>
<td>112</td>
<td>70</td>
<td>42</td>
<td>101</td>
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<td>0</td>
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<td>35</td>
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<td>Harrisburg</td>
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<td>47</td>
<td>93</td>
<td>8</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>16</td>
<td>54</td>
<td>34</td>
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<td>64</td>
<td>46</td>
<td>96</td>
<td>7</td>
<td>4</td>
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<td>1</td>
<td>2</td>
<td>18</td>
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<td>61</td>
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<td>Chicago</td>
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<td>2</td>
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<td>39</td>
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<td>Seattle</td>
<td>169</td>
<td>96</td>
<td>73</td>
<td>125</td>
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<td>5</td>
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<td><strong>TOTAL</strong></td>
<td><strong>732</strong></td>
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<td><strong>305</strong></td>
<td><strong>529</strong></td>
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<td><strong>228</strong></td>
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<td>“Consolidation”</td>
<td>300</td>
<td>Read from a prepared statement</td>
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<td>“Public Interest”</td>
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<td>Cut-off by the moderator</td>
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<td>“LPFM”</td>
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<td>Called for re-regulation</td>
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<td>“Big Media”</td>
<td>28</td>
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<td>“Concentration”</td>
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<td>“Cross-ownership”</td>
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<td>“Telecomm. Act of 1996”</td>
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<td>“Duopoly”</td>
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### Appendix G: Dates Items Submitted

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<td>22-Sep</td>
<td>786</td>
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Appendix H: Item Submission Dates
## Appendix I: Items Submitted by State

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<tr>
<th>State</th>
<th>Comments</th>
<th>Population</th>
<th>Percentage</th>
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<tr>
<td>California</td>
<td>17636</td>
<td>36,961,664</td>
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<tr>
<td>New York</td>
<td>10360</td>
<td>19,541,453</td>
<td>0.05%</td>
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<tr>
<td>Florida</td>
<td>8195</td>
<td>18,537,969</td>
<td>0.04%</td>
</tr>
<tr>
<td>Texas</td>
<td>6997</td>
<td>24,782,302</td>
<td>0.03%</td>
</tr>
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<td>Illinois</td>
<td>5826</td>
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</tr>
<tr>
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<tr>
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<td>3670</td>
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<td>New Jersey</td>
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<td>Oklahoma</td>
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<td>Iowa</td>
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<td>Alaska</td>
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<td>Hawaii</td>
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<td>1,295,178</td>
<td>0.05%</td>
</tr>
<tr>
<td>State</td>
<td>Population</td>
<td>Total Population</td>
<td>Percentage</td>
</tr>
<tr>
<td>----------------------------</td>
<td>------------</td>
<td>------------------</td>
<td>------------</td>
</tr>
<tr>
<td>Vermont</td>
<td>578</td>
<td>621,760</td>
<td>0.09%</td>
</tr>
<tr>
<td>Arkansas</td>
<td>566</td>
<td>2,889,450</td>
<td>0.02%</td>
</tr>
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<td>Louisiana</td>
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<td>4,492,076</td>
<td>0.01%</td>
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<tr>
<td>Utah</td>
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<td>2,784,572</td>
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<tr>
<td>West Virginia</td>
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<td>1,819,777</td>
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<td>District of Columbia</td>
<td>347</td>
<td>599,657</td>
<td>0.06%</td>
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<tr>
<td>Montana</td>
<td>343</td>
<td>974,989</td>
<td>0.04%</td>
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<tr>
<td>Idaho</td>
<td>332</td>
<td>1,545,801</td>
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<tr>
<td>Nebraska</td>
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<td>1,796,619</td>
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</tr>
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<td>Rhode Island</td>
<td>306</td>
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<td>Mississippi</td>
<td>252</td>
<td>2,951,996</td>
<td>0.01%</td>
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<tr>
<td>Wyoming</td>
<td>153</td>
<td>544,270</td>
<td>0.03%</td>
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<tr>
<td>South Dakota</td>
<td>147</td>
<td>812,383</td>
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<tr>
<td>North Dakota</td>
<td>55</td>
<td>646,844</td>
<td>0.01%</td>
</tr>
</tbody>
</table>

Note. Census data retrieved from: [http://www.census.gov/popest/states/NST-ann-est.html](http://www.census.gov/popest/states/NST-ann-est.html)
Appendix J: Coding Instrument (Online Comments)

ID NUMBER:

CODING INSTRUMENT

1) Identification: NAME ____________________________________________________
   NO ID
   MEDIA COMPANY _________________________________________
   NON-MEDIA ORGANIZATION _______________________________
   Media tie?

2) Media consolidation: AGAINST / SUPPORT / UNCLEAR

3) Deregulation: AGAINST / SUPPORT / UNCLEAR

4) Concerns: 5) Support

<table>
<thead>
<tr>
<th>COMPETITION</th>
<th>access</th>
<th>SAVE OUTLETS</th>
<th>GLOBAL MARKET</th>
</tr>
</thead>
<tbody>
<tr>
<td>Localism</td>
<td>COMMERCIALISM</td>
<td>MORE $ FOR DIVERSITY</td>
<td>HELPS TO COMPETE</td>
</tr>
<tr>
<td>DIVERSITY</td>
<td>quality of news</td>
<td>MORE $ FOR LOCALISM</td>
<td></td>
</tr>
<tr>
<td>Minority ownership</td>
<td>DEMOCRACY</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

6) Critical of the FCC?

<table>
<thead>
<tr>
<th>REFERENCE TO 2003</th>
<th>HEARING NOTICE</th>
<th>CURRENT PROCESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>HIDDEN FCC REPORT</td>
<td>OTHER</td>
<td></td>
</tr>
</tbody>
</table>

7) Language

<table>
<thead>
<tr>
<th>Consolidate/tion</th>
<th>Concentration</th>
<th>Big media</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deregulation</td>
<td>Cross-ownership</td>
<td>Duopoly</td>
</tr>
<tr>
<td>Relaxation (rules)</td>
<td>Telecomm 1996</td>
<td>Public broadcasting</td>
</tr>
<tr>
<td>Rules</td>
<td>Low power FM</td>
<td>Public interest</td>
</tr>
</tbody>
</table>

8) Similarity

   a) With A / With B
   b) A & B

FIRST TYPE

9) “I am writing to express my strong disapproval of any relaxation or elimination of the public interest limits on media ownership.”

10) “Few could doubt the obvious truth that media ownership matters and determines the content we receive over the public airwaves.”

11) “Limits on media consolidation have been a bulwark against the concentration of economic power in the marketplace of ideas…”

12) “Media consolidation has already led to declines in local and minority ownership…”
13) “When the FCC attempted to weaken and remove media ownership limits in 2003, millions of Americans rose up in protest.”

14) “Now that these same rules are being reconsidered, the FCC should stand firm with the public…”

SECOND TYPE

15) “Please don't allow more media consolidation.”

16) (OR) “As the FCC reconsiders its media ownership rules, please don't allow more media consolidation.”

17) “Don't cover up the facts…”

18) “I don't want the same company that owns my TV station or my radio station to also own my newspaper…”

19) “I rely on the media to find out about national and local issues.”

20) “Thank you for your consideration of this important issue.”

THIRD TYPE

21) “I write to urge you not to weaken the strong media ownership rules…”
Appendix K: Exact Statement Analysis (Comment Sample)

<table>
<thead>
<tr>
<th>COMMENT</th>
<th>Count (400) COMMENT SAMPLE</th>
<th>Percentage</th>
<th>Count (100) REPLY SAMPLE</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>“I am writing to express my strong disapproval of any relaxation or elimination of the public interest limits on media ownership.”</td>
<td>76</td>
<td>19.0%</td>
<td>10</td>
<td>10%</td>
</tr>
<tr>
<td>“Few could doubt the obvious truth that media ownership matters and determines the content we receive over the public airwaves.”</td>
<td>67</td>
<td>16.7%</td>
<td>0</td>
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<tr>
<td>“Limits on media consolidation have been a bulwark against the concentration of economic power in the marketplace of ideas…”</td>
<td>127</td>
<td>31.8%</td>
<td>18</td>
<td>18%</td>
</tr>
<tr>
<td>“Media consolidation has already led to declines in local and minority ownership…”</td>
<td>127</td>
<td>31.8%</td>
<td>18</td>
<td>18%</td>
</tr>
<tr>
<td>“When the FCC attempted to weaken and remove media ownership limits in 2003, millions of Americans rose up in protest.”</td>
<td>77</td>
<td>19.3%</td>
<td>10</td>
<td>10%</td>
</tr>
<tr>
<td>“Now that these same rules are being reconsidered, the FCC should stand firm with the public…”</td>
<td>77</td>
<td>19.3%</td>
<td>10</td>
<td>10%</td>
</tr>
<tr>
<td>“Please don't allow more media consolidation.”</td>
<td>100</td>
<td>25.0%</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>“As the FCC reconsiders its media ownership rules, please don't allow more media consolidation.”</td>
<td>80</td>
<td>20.0%</td>
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<td>0%</td>
</tr>
<tr>
<td>“Don't cover up the facts…”</td>
<td>63</td>
<td>15.8%</td>
<td>1</td>
<td>1%</td>
</tr>
<tr>
<td>“I don't want the same company that owns my TV station or my radio station to also own my newspaper…”</td>
<td>244</td>
<td>61.0%</td>
<td>1</td>
<td>1%</td>
</tr>
<tr>
<td>“I rely on the media to find out about national and local issues.”</td>
<td>199</td>
<td>49.8%</td>
<td>1</td>
<td>1%</td>
</tr>
<tr>
<td>“Thank you for your consideration of this important issue.”</td>
<td>246</td>
<td>61.5%</td>
<td>1</td>
<td>1%</td>
</tr>
<tr>
<td>“I write to urge you not to weaken the strong media ownership rules…”</td>
<td>13</td>
<td>0.03%</td>
<td>0</td>
<td>0%</td>
</tr>
</tbody>
</table>
Appendix L (continued)

CRTC Main Page July 14, 2010
Appendix M: Form Letters from Comment Sample

Form Letter One

I am writing to express my strong disapproval of any relaxation or elimination of the public interest limits on media ownership. Localism and diversity are the cornerstones of a democratic media system, and we cannot afford to compromise them in any way.

Few could doubt the obvious truth that media ownership matters and determines the content we receive over the public airwaves. We need look no farther than the recent scandal over ABC's "docudrama" about the 9/11 attacks which willfully distorted history about a national tragedy for political reasons. We need local broadcast station owners who will serve the local public interest not those of faraway corporate owners. Stewardship of the public airwaves is a very serious responsibility that merits true public accountability.

Limits on media consolidation have been a bulwark against the concentration of economic power in the marketplace of ideas -- a critical part of balancing the public service mission of the media with their private profit motive. Our democracy requires the free flow of information from a broad range of diverse voices.

Media consolidation has already led to declines in local and minority ownership as well as the homogenization of content in radio and television. Permitting cross-ownership of newspapers and broadcast stations, or allowing further concentration in local television markets, will only worsen the problems we already have.
When the FCC attempted to weaken and remove media ownership limits in 2003, millions of Americans rose up in protest. Congress and the courts ultimately intervened to turn back that misguided regulatory process.

Now that these same rules are being reconsidered, the FCC should stand firm with the public against further concentration of media ownership in the hands of the few. A vote against media consolidation is a vote for democracy.

Form Letter Two

I am writing to express my strong disapproval of any relaxation or elimination of the public interest limits on media ownership. Localism and diversity are the cornerstones of a democratic media system, and we cannot afford to compromise them in any way.

Few could doubt the obvious truth that media ownership matters and determines the content we receive over the public airwaves. We need look no further than the recent scandal over ABC's "docudrama" about the 9/11 attacks, in which the Walt Disney Company willfully distorts the history of a national tragedy for political gain. We need local broadcast station owners who will serve the local public interest not those of faraway corporate owners. Stewardship of the public airwaves is a very serious responsibility that merits true public accountability. Limits on media consolidation have been a bulwark against the concentration of economic power in the marketplace of ideas -- a critical part of balancing the public service mission of the media with their private profit motive. Our democracy requires the free flow of information from a broad range of diverse voices.
Media consolidation has already led to declines in local and minority ownership as well as the homogenization of content in radio and television. Permitting cross-ownership of newspapers and broadcast stations, or allowing further concentration in local television markets, will only worsen the problems we already have. When the FCC attempted to weaken and remove media ownership limits in 2003, millions of Americans rose up in protest. Congress and the courts ultimately intervened to turn back that misguided regulatory process. Now that these same rules are being reconsidered, the FCC should stand firm with the public against further concentration of media ownership in the hands of the few. A vote against media consolidation is a vote for democracy.

Form Letter Three

I am writing to express my strong disapproval of former FCC Chairman Michael Powell's efforts to bury a study that found media consolidation to be harmful to local news reporting. The FCC can't simply hide data from the public and push through new rules that unleash further consolidation of local news outlets. Localism and diversity are the cornerstones of a democratic media system; we cannot afford to compromise them in any way.

The FCC should allow no relaxation or elimination of the public interest limits on media ownership without first weighing all of the evidence and hearing out widespread public concern about the problems of consolidation. Limits on media consolidation have been a bulwark against the concentration of economic power in the marketplace of ideas -- a critical part of balancing the
public service mission of the media with their private profit motive. Our
democracy requires the free flow of local information from a broad range of
diverse voices.

Media consolidation has already led to declines in local and minority ownership
as well as the homogenization of content in radio and television. Allowing further
concentration of local media markets, will only worsen the problems we already
have.

The FCC should stand firm with the public against further concentration of media
ownership in the hands of the few. A vote against media consolidation is a vote
for democracy.

Form Letter Four

I am writing to express my strong disapproval of former FCC Chairman Michael
Powell's efforts to bury studies that found media consolidation to be harmful to
local news reporting. No decision should be made on ownership until a full and
independent investigation of this cover-up is completed.

The FCC can't simply hide data from the public and push through new rules that
unleash further consolidation of local news outlets. Localism and diversity are the
cornerstones of a democratic media system; we cannot afford to compromise
them in any way.

The FCC should allow no relaxation or elimination of the public interest limits on
media ownership without first weighing all of the evidence and hearing out
widespread public concern about the problems of consolidation.
Limits on media consolidation have been a bulwark against the concentration of economic power in the marketplace of ideas -- a critical part of balancing the public service mission of the media with their private profit motive. Our democracy requires the free flow of local information from a broad range of diverse voices. Media consolidation has already led to declines in local and minority ownership as well as the homogenization of content in radio and television. Allowing further concentration of local media markets, will only worsen the problems we already have. The FCC should stand firm with the public against further concentration of media ownership in the hands of the few. A vote against media consolidation is a vote for democracy.

Form Letter Five

Don't cover up the facts. The FCC needs to make all relevant information available to the public -- including the local news study that was reportedly destroyed -- as part of its current media ownership proceeding. The FCC also needs to conduct a thorough investigation of how the local news study was suppressed and who was responsible. The results of that investigation should be released to the public immediately upon its completion. In addition, the FCC needs to adopt rules and procedures to prevent such important information from being kept from the public in the future.
I don't want the same company that owns my TV station or my radio station to also own my newspaper. I would just get the same news recycled for a different outlet.

I rely on my local media sources to find out about national and local issues. And I want to feel confident that I can get all the viewpoints I need to make well-reasoned decisions about these issues. I also want media outlets in my town to care about my needs and interests.

Thank you for your consideration of this important issue. I look forward to hearing from you about your efforts to ensure diversity, localism and independence in our media.

Form Letter Six

Please don't allow more media consolidation. When different companies control the TV, radio and print news in my community they compete with each other to provide me better local and national news.

I don't want the same company that owns my TV station or my radio station to also own my newspaper I would just get the same news all over again.

I rely on the media to find out about national and local issues. I want to feel confident that I can get all the viewpoints I need to make well-reasoned decisions about these issues. I also want media outlets in my town to care about my needs and interests.

Thank you for your consideration of this important issue. I look forward to hearing from you about your efforts to ensure diversity, localism and independence in our media.
Form Letter Seven

As the FCC reconsiders its media ownership rules, please don't allow more media consolidation. When different companies control the TV, radio and newspapers in my community, they compete with each other to provide me better local and national news and information.

I don't want the same company that owns my TV station or my radio station to also own my newspaper. I would just get the same news recycled for a different outlet.

I rely on my local media sources to find out about national and local issues. And I want to feel confident that I can get all the viewpoints I need to make well-reasoned decisions about these issues. I also want media outlets in my town to care about my needs and interests.

Thank you for your consideration of this important issue. I look forward to hearing from you about your efforts to ensure diversity, localism and independence in our media.

Form Letter Eight

I write to urge you not to weaken the strong media ownership rules that have helped protect the rights of viewers and listeners like me. A strong democracy depends on its citizens having a wide variety of viewpoints to decide from. Those viewpoints should be diverse and derived from local sources, not simply homogenized, recycled feeds from big media companies saying the same thing in their "local" newspaper and on their various "local television stations."
Form Letter Nine

Regarding FCC Docket 06-121:

I oppose any efforts to weaken media ownership limits, which would allow too few corporations to control what the public hears, sees and reads.
Reply Form Letter: Against Consolidation/Deregulation

I am writing to express my outrage that the FCC has failed in efforts to monitor and foster more minority ownership of television stations. There is something terribly wrong with our media system when minorities comprise such substantial parts of the U.S. population but own so few broadcast outlets.

A recent report by the media reform organization Free Press found that while minorities make up 33 percent of the U.S. population, only 3.26 percent of all broadcast stations are owned by minorities. The report also finds that the number of minority owned stations has dropped since more consolidated media ownership was permitted in the 1996 Telecommunications Act.

Diversity is the cornerstone of a democratic media system; we cannot afford to lose it in any way. It would be unconscionable for the FCC to let large media owners buy up more local media outlets before redressing the agency's failure to foster minority voices in the media.

The FCC should not allow relaxation or elimination of the limits on media ownership without first hearing out widespread public concern about the problems of minority representation and lack of minority broadcast station owners. Allowing further concentration of local media markets, will only worsen the problems we already have.
Our democracy requires the free flow of local information from diverse voices. The FCC should stand firm with the public against further concentration of media ownership in the hands of the few.

Reply Form Letters: Support Deregulation

The form letters employed by those who supported deregulation, were not as detailed as the aforementioned letters. It appears that the organizing group instead provided at least three statements that individuals could use. One or more of these three statements appeared 16 times in the Reply Sample; however, most of the statements were heavily modified. The first and most common statement was the following:

Instead, the government should move to increase competition and freedom of choice by removing archaic laws that are out of step with the fundamental changes occurring in the marketplace.

Most of the other comments didn’t use this statement exactly; though many used the term “archaic laws” and “changes occurring in the marketplace” statements. The other statements included “The FCC Should Leave Media Ownership to the Free Market,” “80 percent of viewers watch the major networks -- ABC, CBS, FOX, and NBC,” and “No one should take that choice away” (speaking about media choices). Many of these reply comments focused not on the relationship between rule changes and consolidation, but rather on the choice in the marketplace. Many of the individuals who spoke in support of deregulation, or who submitted items that were “unclear” emphasized their concerns about “big government” and how the FCC should not be involved in the limitations of what people should watch – unless it involved the censorship of indecent programming, which a number of these individuals supported.
Advocacy Groups Involved in the Creation of the Form Letters?

Regarding the items in the Comment Sample, when coding, one could only speculate as to the group(s) involved in the creation of the form letters. The anti-consolidation/deregulation form letter found in the Reply Sample suggests that perhaps the group Free Press was involved (the letter cites a Free Press study). Free Press describes itself as a “national, nonpartisan, nonprofit organization working to reform the media.” (Free Press, 2010) Their goals include: education, public mobilization and advocacy, and they strive to “promote diverse and independent media ownership, strong public media, quality journalism, and universal access to communications.” (Ibid)

Guessing which advocacy group was involved in the mobilization of individuals to submit comments in support of deregulation, or in opposition to FCC involvement in further rulemaking was not as difficult as determining the group involved with the numerous form letters discussed earlier. In the comment that came after the twenty-fifth reply comment content analyzed, the individual noted the following (comment listed in entirety):

Dear Sirs:

I agree with the FreedomWorks campaign (emphasis added): "The government should take positive steps to help all viewers and listeners, but not by taking control of the airwaves. Instead, [it] should move to increase competition and choice by removing archaic laws that are out of step with the fundamental changes occurring in the marketplace."

Sincerely,

David Hoyle
"The nine most terrifying words in the English language are, 'I'm from the government and I'm here to help.'"

Ronald Reagan, 40th President

FreedomWorks describes itself as an organization that “recruits, educates, trains and mobilizes hundreds of thousands of volunteer activists to fight for less government, lower taxes, and more freedom.” (FreedomWorks, 2010) Furthermore, “FreedomWorks believes individual liberty and the freedom to compete increases consumer choices and provides individuals with the greatest control over what they own and earn” and their “aggressive, real-time campaigns activate a growing and permanent volunteer grassroots army to show up and demand policy change.” (Ibid)
VITA

Jonathan A. Obar

EDUCATION

M.A. Syracuse University, Media Studies, 2005.
B.A. York University, Communication Studies & Humanities (double), 2002.

PUBLICATIONS


TEACHING (College of Communications, The Pennsylvania State University)

Instructor
- Media and Information Industries
- Research Methods in Advertising and Public Relations

SERVICE


Manuscript Reviewer, National Conference for Media Reform, 2008.