

IDEOLOGY OF THE AIR:
COMMUNICATION POLICY AND THE PUBLIC INTEREST IN
THE UNITED STATES AND GREAT BRITAIN, 1896-1935

A Dissertation
presented to
the Faculty of the Graduate School
at the University of Missouri-Columbia

In Partial Fulfillment
Of the Requirements for the Degree
Doctor of Philosophy

by
SETH D. ASHLEY
Dr. Stephanie Craft, Dissertation Supervisor

MAY 2011

The undersigned, appointed by Dean of the Graduate School,

have examined the dissertation entitled

IDEOLOGY OF THE AIR: COMMUNICATION POLICY AND THE PUBLIC

INTEREST IN THE UNITED STATES AND GREAT BRITAIN, 1896-1935

presented by

Seth D. Ashley

a candidate for the degree of Doctor of Philosophy and hereby certify that, in their
opinion, it is worthy of acceptance.

Professor Stephanie Craft

Professor Tim P. Vos

Professor Charles Davis

Professor Victoria Johnson

Professor Robert McChesney

For Mom and Dad.

Thanks for helping me explore so many different paths.

ACKNOWLEDGEMENTS

When I entered the master's program at the University of Missouri School of Journalism, my aim was to become a practitioner of journalism, but the excellent faculty members I worked with helped me aspire to become a scholar. First and foremost is Dr. Stephanie Craft, who has challenged and supported me for more than a decade. I could not have completed this dissertation or this degree without her. I was also fortunate to have early encounters with Dr. Charles Davis and Dr. Don Ranly, who opened me to a world of ideas. More recently, Dr. Tim Vos and Dr. Victoria Johnson helped me identify and explore the ideas that were most important to me. The work of Dr. Robert McChesney has served as inspiration throughout my education, and I am glad he was willing to serve on my all-star committee. I am grateful to all of the teachers and scholars who have helped me reach this point, and I also owe thanks to my fellow graduate students in journalism and sociology, who served as teachers, colleagues, research partners and friends. I am also thankful for librarians everywhere, especially the ones at Missouri's Ellis and Journalism libraries, and those working behind the scenes to make interlibrary loans possible. Finally, I dedicate this work to my mom and dad, who have always supported me in every way possible, who provided me with every opportunity, and who encouraged me to pursue paths not taken. I love you both very much.

Table of Contents

ACKNOWLEDGEMENTS.....	ii
Chapter 1: Media, Democracy, and the Role of the State	1
Communication Policy Today.....	4
Understanding Communication Policy	7
Chapter 2: Literature Review.....	13
The American Approach: Serving the Market	14
The British Approach: “The Brute Force of Monopoly”	18
What is the Public Interest?.....	26
Chapter 3: Explanatory Frameworks and Concepts	35
Historical Institutionalism and Path Dependency	36
Critical Junctures and Long-Term Processes	41
Political Economy and Communication.....	45
Markets and Society	47
Positive and Negative Liberty	58
Chapter 4: Methodology	65
Historical Comparative Analysis	66
Selection of Cases and Time Period.....	70
Data Collection.....	74
Chapter 5: Communication Policy Before 1896.....	76
The Rise of the Market Economy	77
The Press and Commercialization.....	81
The Post Office and the Telegraph.....	85

Chapter 6: The Origins of Broadcasting Policy, 1896-1920	93
International Origins	94
America: Questions of Control	101
Britain: The First Wireless Act	113
Chapter 7: Chaos in the Ether, 1921-1926.....	122
The Radio Explosion in America	122
Herbert Hoover and the National Radio Conferences.....	135
The Birth of the British Broadcasting Company.....	149
John Reith and the Theory of Public Service.....	157
The Crawford Committee and the Transformation of the BBC.....	167
Chapter 8: Modern Forms Take Shape, 1927-1935.....	177
America: The Institutionalization of the Status Quo.....	178
Britain: Building a New National Church.....	191
Chapter 9: Conclusion	198
Why Structure Matters: What Kind of Liberty?.....	202
Communication Policy Today: Market Failure and Public Goods	206
Bibliography	211
Vita	224

Chapter 1: Media, Democracy, and the Role of the State

In 1922, Secretary of Commerce Herbert Hoover gave an opening address to the First National Radio Conference in Washington, D.C., and described how the new medium of radio was poised to revolutionize public life. “We are indeed today upon the threshold of a new means of widespread communication of intelligence that has the most profound importance from the point of view of public education and public welfare,” he said.¹ As Hoover and others foresaw, electronic communication over the past century has proved to be one of the greatest educative and democratizing forces of all time. Radio, television and now the Internet bring news and information to billions of people around the world.

Yet paradoxically, these same means of communication in the United States have become subject to limited, oligopolistic ownership and control, which in turn, can deliver a limited diversity of opinion and can have a tendency to marginalize dissenting views.² Hoover’s promise of the “widespread communication of intelligence” is obscured today in mainstream mass media outlets, which are predominantly commercial operations controlled by a handful of large profit-seeking corporations. As citizens turn to these

¹ Herbert Hoover, *The Memoirs of Herbert Hoover, 1920-1933* (New York: Macmillan Company, 1952), 140.

² See generally Robert McChesney, *Rich Media, Poor Democracy: Communication Politics in Dubious Times* (Urbana: University of Illinois Press, 1999) and *The Problem of the Media* (New York: Monthly Review Press, 2004); Edward S. Herman and Noam Chomsky, *Manufacturing Consent: The Political Economy of the Mass Media* (New York: Pantheon Books, 2002); Ben Bagdikian, *The New Media Monopoly* (Boston: Beacon Press, 2004); Pamela J. Shoemaker and Stephen D. Reese, *Mediating the Message: Theories of Influence on Mass Media Content* 2nd ed. (White Plains, N.Y.: Longman, 1996); Pamela J. Shoemaker and Tim P. Vos, *Gatekeeping Theory* (New York: Routledge, 2009).

operations for the news and information required in a self-governing democracy, their needs can sometimes go unmet.³

How did it get to be this way? Was the U.S. media system destined to look like this? Of course not. A system must be structured and regulated through law and policy, and decisions regarding these matters must be made by human actors working in specific contexts. Indeed, there is nothing natural or inevitable about the structure of a media system, and clear alternatives existed as today's system took shape in the early twentieth century. In fact, the most striking alternative—a noncommercial public media system—actually took root in a relatively similar Western, industrialized democracy. This system that emerged in Great Britain in the 1920s provides a stark contrast to the system being crafted in the United States at the same time. How could two similar nations, sharing the same ostensible concerns for the “public interest,” produce such drastically different outcomes?

This dissertation aims to address that question by investigating the origins of broadcast policy in the United States and Great Britain, and by providing a comparative analysis of the factors that led to the development of drastically different media systems in each country based on different conceptions of the “public interest.” The purpose of the investigation is to gain a better understanding of how social, cultural, political and economic conditions affect choices about the structure and regulation of media systems, and to address questions about how some approaches to media are better equipped than others to enhance democratic practices.

³ Obvious examples include coverage of the Iraq war, recent political campaigns and the recent debate over health care reform.

Ultimately there will be no easy explanation. The reason for the different outcomes is at least part historical accident based on incomplete understandings of the evolving technology. But explanations also can be found in the social, cultural, political and economic milieu of each country. Ironically, both systems emerged as top-down regimes controlled by powerful actors and institutions. As van Cuilenberg and McQuail have indicated, communication policy in both the U.S. and U.K. was and always has been viewed primarily as a technical matter to be handled by experts and administrators, not by democratic choice; lawmakers did what they could to keep the issues out of the sphere of public debate.⁴ But despite the similar antidemocratic origins, the outcomes were decidedly different and had drastically different implications for democratic practices.

This historical analysis will show that the outcomes that finally emerged from debates over the structure of broadcasting hinged on two radically different conceptions of the role of the state in regulating communications. Where the U.S. design was dominated by capitalist concerns for profit and growth, the British outcome was better able to balance capitalist and democratic impulses. The “public interest” that guided the American outcome gave preference to industry and economic concerns, while the British outcome was motivated by the notion of “public service,” which treated broadcasting more like a utility designed to bring quality content to the paying audience. Both systems have seen changes since their origins, but these early designs still resonate strongly today.

⁴ Jan van Cuilenburg and Denis McQuail, “Media Policy Paradigm Shifts: Toward a New Communications Policy Paradigm,” *European Journal of Communication* 18, no. 2 (2003): 181-207.

Communication Policy Today

Earlier this year, the Federal Communications Commission issued a ruling on what has been called “network neutrality,” the idea that Internet service providers should treat all websites equally.⁵ Before the ruling, FCC commissioner Michael Copps, who favors net neutrality, told *The New York Times* that he wanted to make sure the Internet “doesn’t travel down the same road of special interest consolidation and gate-keeper control that other media and telecommunications industries—radio, television, film and cable—have traveled. What an historic tragedy it would be,” he said, “to let that fate befall the dynamism of the Internet.”⁶ Copps opposed the FCC’s ruling, which some argue laid the groundwork for a two-tiered Internet giving preference to commercial interests.⁷ While it is still too early to tell what the full impact of this ruling will be, decisions such as this one create the structure of the media system, and they are informed by the legacy that was born in the early 1900s.

In the wake of this legacy, many scholars and other experts in the U.S. have called for more noncommercial public media to increase diversity and localism in media content and ownership.⁸ One recent report points out that America is “unique among western

⁵ On network neutrality, see Tim Wu, “Network Neutrality, Broadband Discrimination,” *Journal of Telecommunications and High Technology Law* 2 (2003): 141-179.

⁶ Brian Stelter, “F.C.C. Is Set to Regulate Net Access,” *New York Times*, Dec. 21, 2010, accessed March 2011, <http://www.nytimes.com/2010/12/21/business/media/21fcc.html>.

⁷ Joelle Tessler, “Divided FCC Adopts Rules to Protect Web Traffic,” *Associated Press*, Dec. 21, 2010, accessed March 2011, <http://www.msnbc.msn.com/id/40768809>.

⁸ Rodney Benson and Matthew Powers, “Public Media and Political Independence: Lessons for the Future of Journalism from Around the World,” Free Press Report, Washington, D.C., 2011; Barbara Cochran, “Rethinking Public Media,” The Aspen Institute, Washington D.C., 2010; Victor Pickard, Josh Stearns, and Craig Aaron, “Saving the News: Toward a National Journalism Strategy,” Free Press Policy Report, Washington, D.C., 2009; The Knight Commission on the Information Needs of Communities in a Democracy, “Informing Communities: Sustaining Democracy in the Digital Age,” The Aspen Institute, 2009; and David Westphal and Geoffrey

democracies in its nearly complete reliance on commercial media to present comprehensive information about government and politics, to hold political and business elites to account through critical commentary and investigative reporting, and to provide a forum for a broad range of voices and viewpoints.”⁹ Despite the dominance of commercial media, national public media has existed in the U.S. since the late 1960s and today offers an alternative to mainstream commercial outlets. At the same time, public media is constantly under ideological fire, as evidenced by the recent vote in the House of Representatives to defund the Corporation for Public Broadcasting.¹⁰ Critics of federal spending on public media “call the expenditure an unneeded luxury at a time when most households are awash in media.”¹¹ What these critics mean is that households are awash in commercial media outlets controlled by a handful of giant corporations. Critics of public media often disregard evidence that “public service broadcasters play an important civic role in overseas markets, remedying the classic market failure in the production of quality, independent, commercial-free journalism.”¹²

This is to say nothing of the fact that American public media is already weakly funded at best. Current U.S. funding for public media stands at around \$420 million per

Cowan, “Public Policy and Funding the News,” USC Annenberg School of Communications and Journalism, 2010.

⁹ Benson and Powers, “Public Media and Political Independence,” 8.

¹⁰ Felicia Sonmez, “House Votes to Defund NPR,” *Washington Post*, March 17, 2011, accessed April 2011, http://www.washingtonpost.com/blogs/2chambers/post/house-votes-to-move-forward-on-defunding-npr/2011/03/17/AB50Uqk_blog.html.

¹¹ David Lieberman, “Federal Funding of Public Media Under Fire,” *USA Today*, March 10, 2011, accessed March 2011, <http://abcnews.go.com/Business/federal-funding-public-media-fire/story?id=13110096>.

¹² Benson and Powers, “Public Media and Political Independence,” 6.

year, or about \$1.35 per American.¹³ Compare this to Britain's licensing fee, which stands today at \$233.40 (145.50 pounds), and is paid by every household with a color television, generating around \$5.8 billion (3.6 billion pounds) for the British Broadcasting Corporation.¹⁴ The fee is used to support numerous media outlets via radio, television and the Internet. The BBC estimates that 97 percent of U.K. citizens use BBC services each week.¹⁵

Despite the ravages of market-oriented neoliberalism that began in the 1980s,¹⁶ from which Britain and the BBC have not remained immune,¹⁷ Britain still has fared somewhat better than the U.S., as evidenced by a continuing strong commitment to public media. The high quality of the BBC is also reflected in the increasing numbers of Americans who have turned to the BBC, especially after 9/11 and during the Iraq war, as an alternative to what is available in the U.S.¹⁸ The *Columbia Journalism Review* reported in 2007 that

the BBC and other high-end British news outlets have been making their presence felt here. Not just media critics, but a host of political bloggers have pointed to the Brits' more skeptical coverage of the run-up to the Iraq war and wondered why

¹³ Corporation for Public Broadcasting, "Fiscal Year 2011 Operating Budget," accessed March 2011, <http://cpb.org/aboutcpb/financials/budget/>.

¹⁴ BBC Trust, "The BBC Trust's Review and Assessment," 2010, accessed March 2011, http://downloads.bbc.co.uk/annualreport/pdf/bbc_trust_2009_10.pdf.

¹⁵ BBC, "About the BBC," accessed March 2011, <http://www.bbc.co.uk/aboutthebbc/licencefee/>.

¹⁶ See generally David Harvey, *A Brief History of Neoliberalism* (New York: Oxford University Press, 2007); John L. Campbell and Ove K. Pedersen, eds., *The Rise of Neoliberalism and Institutional Analysis* (Princeton, N.J.: Princeton University Press, 2001). Noam Chomsky, *Profit over People: Neoliberalism and Global Order* (New York: Seven Stories Press, 1999).

¹⁷ Mike Feintuck, *'The Public Interest' in Regulation* (New York: Oxford University Press, 2004): 110. See also Georgina Born, *Uncertain Vision: Birt, Dyke and the Reinvention of the BBC* (London: Secker & Warburg, 2004).

¹⁸ Douglas Bicket and Melissa Wall, "BBC News in the United States: A 'Super-Alternative' News Medium Emerges," *Media Culture Society* 31, no.3 (2009): 365-384.

can't American reporters be more impertinent, why can't they ask sharper questions—why, in short, can't they be more Brit-like.¹⁹

Bicket and Wall, in their study of American interest in the BBC conclude: “The accumulated impact of the BBC in Britain and around the world – including America – over the past 80 years has been immense. The institution, and the social responsibility/public-service broadcasting model it embodies, has become intimately associated with the very idea of Britain.”²⁰ Although the BBC today faces a range of criticism, including charges that it too often reflects the positions of the government,²¹ it remains the gold standard for public service broadcasting around the world and is celebrated for its quality journalism.²²

Understanding Communication Policy

Considering these contrasts between British and American media, this dissertation follows previous work that centers on the notion that there is nothing inherently “natural” about the way media systems develop over time.²³ Rather, media systems develop and evolve due to deliberate and accidental policies and practices that exist within social

¹⁹ Susan Hansen, “Superiority Complex: Why the Brits Think They’re Better,” *Columbia Journalism Review* 46, no. 1 (2007): 26.

²⁰ Bicket and Wall, “BBC News,” 365.

²¹ For example, see Colin MacCabe and Olivia Stewart, eds., *The BBC and Public Service Broadcasting* (Manchester: Manchester University Press, 1986). See also Born, *Uncertain Vision*.

²² Born, *Uncertain Vision*, 5. See also Lucy Kung, *Inside CNN and the BBC: Managing Media Organizations* (New York: Routledge, 2000).

²³ See Jurgen Habermas, *The Structural Transformation of the Public Sphere* (Cambridge, Mass.: MIT Press, 1989); Daniel C. Hallin and Paolo Mancini, *Comparing Media Systems: Three Models of Media and Politics* (Cambridge, U.K.: Cambridge University Press, 2004); Robert McChesney, *Telecommunication, Mass Media, and Democracy: The Battle for the Control of U.S. Broadcasting, 1928-1935* (New York: Oxford University Press, 1993) and *Communication Revolution: Critical Junctures and the Future of Media* (New York, New Press, 2007); Paul Starr, *The Creation of the Media: Political Origins of Modern Communications* (New York: Basic Books, 2004).

contexts. Dominant ideologies and paradigms have the capacity to influence this process, as do institutions and actors.

To understand today's media systems, it is necessary to look to the past to identify and examine the "critical junctures" or "switch-points" that led to certain outcomes.²⁴ The "path-dependent" nature of media systems means that the outcomes produced at these critical junctures have a significant impact on a system's future.²⁵ Broad forces have worked to mold the development of media systems, and the different structures that have resulted influence media ownership, control and performance in a variety of ways. Media outlets in different systems have different levels of autonomy from outside influences, such as commercial pressure and political power.

Following previous research that has identified the development of broadcast media as a major critical juncture in the history of communication,²⁶ this study presents a comparative historical analysis of the origins of communication policy for broadcast media in the United States and Great Britain in the early twentieth century with a focus on the "public interest" as the central organizing concept. Although both countries are fundamentally similar, they took very different approaches to structuring and regulating

²⁴ On critical junctures, see Giovanni Capoccia and R. Daniel Kelemen, "The Study of Critical Junctures: Theory, Narrative, and Counterfactuals in Historical Institutionalism," *World Politics* 59, no. 3 (2007): 341-69; Kathleen Thelen, "Historical Institutionalism in Comparative Politics," *Annual Review of Political Science* 2, no. 1 (1999): 369. For critical junctures in the context of communication, see McChesney, *The Problem of the Media and Communication Revolution*.

²⁵ On path dependence, see Paul Pierson, *Politics in Time: History, Institutions, and Social Analysis* (Princeton, Princeton University Press, 2004). James Mahoney, "Path Dependence in Historical Sociology," *Theory & Society* 29, no. 4 (2000): 507; W. Brian Arthur, *Increasing Returns and Path Dependence in the Economy* (Ann Arbor: University of Michigan Press, 1994).

²⁶ For example, McChesney, *Telecommunications, Mass Media, and Democracy*; Susan Smulyan, *Selling Radio: The Commercialization of American Broadcasting, 1920-1934* (Washington: Smithsonian Institution Press, 1994); Thomas Streeter, *Selling the Air: A Critique of the Policy of Commercial Broadcasting in the United States* (Chicago: University of Chicago Press, 1996).

broadcast media as it emerged in the first three decades of the twentieth century. In the U.S., a private, commercial media system was fully institutionalized in the 1930s, while in Britain, the noncommercial, publicly funded BBC held a monopoly. Why did these two countries establish such drastically different systems for broadcasting? Specifically, how did different conceptions of the “public interest” shape early broadcasting policy outcomes in the United States and Great Britain?

More broadly, the birth of broadcasting offers a useful site for investigating the role of the state in market economies, and the lessons of this period have broad applicability to policymaking in general and particularly to policy choices that accompany the emergence of any new media technology, even today. From the questions surrounding the earliest media technologies to today’s disputes over net neutrality and ownership rules,²⁷ the politics of media regulation have always been with us, and they are rooted in a deep mix of technological complexity and social and political philosophy. At the core of these debates are notions of the “public” and the “public interest,” which are often invoked in rationalizing the outcomes that emerge. But what do these terms really mean in the context of industrialized, profit-oriented market economies, and how do their meanings shift depending on their usage? From a comparative perspective, the communication policies of the U.S. and the U.K. seem to hinge on dramatically different understandings of the relationship between citizens and the market, especially at the start of the twentieth century, when many of the policy orientations that remain today were initially put into practice. The “public interest” concept is especially important in

²⁷ See McChesney, *The Problem of the Media*, Chapter 7. See generally Des Freedman, *The Politics of Media Policy* (Cambridge, U.K.: Polity, 2008).

understanding the evolution of media, due to its frequent yet vague invocation in communication policy.

Thus, though a lens of historical institutionalism, this proposed study takes a broad view of the early American and British radio broadcasting media systems in their respective social contexts. While many scholars have studied the origins of broadcasting and communication policy, relatively few have taken the broad institutionalist approach, drawn from the disciplines of sociology and political science, that I apply here.²⁸

Institutionalism examines relationships between state and society to see how patterns of behavior become structured and carried out by individuals and groups. The goal is to formulate explanations for the development of state and social structures that reflect the instability of human relations and the fluid nature of socially constructed norms. In the context of early broadcasting, a complex mixture of engineers, hobbyists, corporations, policymakers and others influenced the creation of state policy for radio. These individuals and groups operated within and were bound by their respective historical and social contexts and legal frameworks. How did these different actors, each with unique preferences and expectations, contribute to different policy outcomes?

²⁸ For example, Charles Tilly, *Big Structures, Large Processes, and Huge Comparisons* (New York: Russell Sage Foundation, 1984); Kathleen Thelen & Sven Steinmo, "Historical Institutionalism in Comparative Politics," in *Structuring Politics: Historical Institutionalism in Comparative Analysis*, eds. Sven Steinmo et al. (Cambridge, U.K.: Cambridge University Press, 1992); Theda Skocpol, "Why I am a Historical-Institutionalist," *Polity* 28 (Fall 1995): 103-6; Peter A. Hall and Rosemary C.R. Taylor, "Political Science and the Three New Institutionalisms," *Political Studies* 44, no. 5 (1996): 936-57. For applications to communication policy, see Tim Vos, "Explaining Media Policy: American Political Broadcasting in Comparative Context" (PhD Diss., Syracuse University, 2005) and Victor Pickard, "Media Democracy Deferred: The Postwar Settlement for U.S. Communications, 1945-1949" (PhD Diss., University of Illinois at Urbana-Champaign, 2008).

Part of the reason for this approach is to break down the silos of traditional research areas and paradigms, and to apply new tools to the study of media structures. Thus, part of the value added here is that I bring sociological explanations to bear on questions surrounding media structures, questions that have often been addressed by more realist explanations of policy battles and their winners and losers.²⁹ This interdisciplinary approach can be viewed as part of a larger project to move communication history away from its traditionally descriptive function and to bring explanation and analysis to bear on historical evidence. A handful of scholars working in the institutionalist tradition increasingly see this as an essential transformation in historical research generally.³⁰

Ultimately, this comparative historical analysis aspires to make theoretical, methodological and empirical contributions to the existing research on the origins of the British and American broadcast media systems. It also aims to yield insights into the social conditions that led to the development of each and to examine the paths—both taken and avoided—that produced such divergent outcomes. Ultimately, the central goal of this study is to make a contribution to our understanding of how media systems can be best equipped to enhance democratic practices and place the needs of self-governing citizens first.

The rest of this work is structured as follows. Chapter 2 briefly reviews some of the key literature. This includes a review of literature related to the concept of the “public interest,” which deserves special attention before setting out to analyze its invocation in

²⁹ For example, Erik Barnouw, *A History of Broadcasting in the United States* (New York: Oxford University Press, 1966-1970); Philip T. Rosen, *The Modern Stentors: Radio Broadcasters and the Federal Government, 1920-1934* (Westport, Conn.: Greenwood Press, 1980).

³⁰ See Skocpol, “Why I am a Historical-Institutionalist.”

early broadcast policy. Chapter 3 presents the explanatory frameworks and concepts that inform the discussion to follow. This begins with a description of historical institutionalism and path dependence, and proceeds with a review and synthesis of social and political theories relevant to my policy analysis. Chapter 4 briefly describes the comparative historical method used in the analysis of broadcast policy, which employs an orientation derived more from critical and cultural studies than from legal and policy studies.³¹ This approach pays attention to historical documents as cultural texts, as opposed to conducting a formal legalistic analysis. Chapters 5 through 8 explore the historical data from different time periods, beginning with the precursors to broadcast communication policy that can be found in nineteenth century and proceeding to the institutionalization of modern approaches to broadcast policy in 1935. Chapter 9 offers an analysis and synthesis of the historical evidence, reconceptualizes the public interest concept, and discusses an agenda for future research and action.

³¹ See Willard D. Rowland, Jr., “The Meaning of ‘The Public Interest’ in Communications Policy, Part I: Its Origins in State and Federal Regulation,” *Communication Law & Policy* 2, no. 3 (1997): 309.

Chapter 2: Literature Review

Much has been written about the history of both American and British broadcasting. A starting point for any American history is the sweeping work of Erik Barnouw,¹ just as any history of British broadcasting must rely on the seminal work by Asa Briggs.² These histories are used throughout this dissertation to give context to the analysis and to help piece together the narrative. Both authors obviously place their focus on the country whose history they are recounting, but both authors also give some consideration to what was happening concurrently in the rest of the world. Barnouw pays considerably less attention to Britain than Briggs does to America. This is partly because radio developed faster and earlier in the U.S., and many decisions made by the British were made in response to developments in the U.S. Both authors begin their histories in the late 1800s with the birth of wireless telegraphy and continue forward through the introduction of television. Because these massive multiple-volume histories exist and have been supplemented and enhanced by the works of other scholars, I make no attempt to retell the entire history of broadcasting in either the U.S. or Britain. I have relied on these secondary sources to inform my own inquiry into the notion of the public interest as invoked in each country.

¹ Erik Barnouw, *A History of Broadcasting in the United States* (New York: Oxford University Press, 1966, 1968, 1970).

² Asa Briggs, *The History of Broadcasting in the United Kingdom* (London: Oxford University Press, 1961, 1965).

The American Approach: Serving the Market

Before Barnouw's work in the 1960s, U.S. broadcasting histories often focused on the triumphs of industry and technology.³ Barnouw introduced the idea that the American commercial broadcasting system was "never formally adopted." He noted: "There had never been a moment when Congress confronted the question: Shall we have a nationwide broadcasting system financed by advertising?"⁴ This line of questioning has since been pursued by a number of other scholars seeking to revise previously unquestioned accounts and incorporate critical analysis.⁵ Rosen paid attention to the early battles over control for wireless technology that took place between the Navy, the Post Office and the Department of Commerce, and considered alternative types of broadcast systems that were clearly available as radio evolved.⁶ He also focused on the difficulties posed by the need to regulate broadcasting in light of the First Amendment:

By its nature, broadcasting did not lend itself to any of the older forms of government supervision. It most nearly resembled utilities, but classification as a utility was not possible for a single, insurmountable reason: to impose 'standards of service' was to oversee program content, and to interfere with entertainment,

³ For example, Gleason L. Archer, *History of Radio to 1926* (New York: The American Historical Society, 1938).

⁴ Erik Barnouw, *A Tower in Babel: A History of Broadcasting in the United States to 1933, Vol. 1* (New York: Oxford University Press, 1966), 281.

⁵ Robert McChesney, *Telecommunications, Mass Media, and Democracy: The Battle for the Control of U.S. Broadcasting, 1928-1935* (New York: Oxford University Press, 1993); Philip T. Rosen, *The Modern Stentors: Radio Broadcasters and the Federal Government, 1920-1934* (Westport, Conn.: Greenwood Press, 1980); Susan Smulyan, *Selling Radio: The Commercialization of American Broadcasting, 1920-1934* (Washington: Smithsonian Institution Press, 1994); Thomas Streeter, *Selling the Air: A Critique of the Policy of Commercial Broadcasting in the United States* (Chicago: University of Chicago Press, 1996); Susan J. Douglas, *Inventing American Broadcasting, 1899-1922* (Baltimore: Johns Hopkins University Press, 1987); Hugh R. Slotten, *Radio and Television Regulation: Broadcast Technology in the United States, 1920-1960* (Baltimore: Johns Hopkins University Press, 2000).

⁶ Rosen, *The Modern Stentors*.

newscasts, educational fare, or any other features would constitute a direct violation of First Amendment guarantees of freedom of speech and press.⁷

The late 1980s and 1990s brought a flurry of broadcasting histories, including Douglas' important study of the period from 1899-1922, which brought to light the conflicting visions for broadcasting propagated in the press by inventors, amateurs and businessmen, who each competed to have their visions dominate the popular imagination. Douglas concludes that this period is when the real debates over the structure of American broadcasting were settled, years before the first Radio Act was written into law. Streeter agreed with this assessment and built on this story by placing broadcasting in the context of corporate liberalism and clarifying the contradictions inherent in broadcast policy.⁸ He wrote:

The effort to create a free open marketplace has produced an institution that is dependent on government privileges and other forms of collective constraints. Although constructed in the name of the classical ideals of private property and the free marketplace, American commercial broadcasting, under close inspection, calls the coherence of those ideals into question.⁹

Smulyan¹⁰ concentrated on the rise of commercialism from 1920 to 1934, and Slotten¹¹ argued that broadcasting had been viewed as a technical problem to be managed efficiently by the regulation of structure, not content or ownership. Slotten wrote: "Individuals were probably for the most part unaware that by applying technocratic principles to policy making about radio and television standards, especially by attempting to reduce issues to narrow technical facts, they were indirectly supporting corporate

⁷ Rosen, *The Modern Stentors*, 4.

⁸ Streeter, *Selling the Air*.

⁹ Streeter, *Selling the Air*, xii-xiii.

¹⁰ Smulyan, *Selling Radio*.

¹¹ Slotten, *Radio and Television Regulation*.

liberal principles.”¹² Another major contribution came in the form of McChesney’s analysis of media reformers who, in the 1920s and 1930s, resisted the dominant approach to broadcasting and advocated for educational and noncommercial stations.¹³ His focus on the period from 1928 to 1935 suggests that the debates over structure were hardly settled until the commercial system was finally institutionalized in the Communication Act of 1934.

In addition to these major works on early U.S. broadcasting history, Rowland’s two-part article in the *Journal of Communication Law and Policy* is perhaps most relevant to this dissertation. In “The Meaning of ‘The Public Interest’ in Communications Policy,” Rowland describes the uses of the “public interest” standard in other applications prior to the advent of broadcasting and concludes that the standard always had a clear pro-industry meaning.¹⁴ When applied to broadcasting, the standard was intended first and foremost to protect the economic interests of private companies. As Aufderheide points out, the American approach to broadcasting “drew on the notion of natural monopoly” but “ensured that communication services would be commercial rather than governmental.”¹⁵ The Communication Act of 1934 would ultimately go out of its way to separate mass media and common carrier, where mass media would describe the private commercial operations that would dominate the airwaves and common carrier would be

¹² Slotten, *Radio and Television Regulation*, 237.

¹³ McChesney, *Telecommunications, Mass Media and Democracy*.

¹⁴ Willard D. Rowland, Jr., “The Meaning of ‘The Public Interest’ in Communications Policy, Part I: Its Origins in State and Federal Regulation,” *Communication Law & Policy* 2, no. 3 (1997): 309; Willard D. Rowland, Jr. “The Meaning of ‘The Public Interest’ in Communications Policy, Part II: Its Implementation in Early Broadcast Law and Regulation,” *Communication Law & Policy* 2, no. 4 (1997): 363.

¹⁵ Patricia Aufderheide, *Communication Policy and the Public Interest: The Telecommunications Act of 1996* (New York: Guildford Press, 1999), 14.

the classification for utility services such as the telephone that would provide equal access to all citizens.¹⁶

Despite evidence that seems to indicate an easy victory for industry forces in the battle to control radio, scholars have noted that it is actually remarkable that the U.S. was alone in the world in creating a private broadcasting industry; in many other nations, the state retained control of the broadcasting system or created significant independent public broadcasting corporations.¹⁷ Yet since the origins of broadcasting, the intricacies of communications policy have come as much from business strategies as from government.¹⁸ Even in the early days of broadcasting, regulators were disinclined to regulate in order to avoid accusations of government censorship.¹⁹ In sum, media policy making in the U.S. always has been an intensely political process with no guaranteed winners or losers.²⁰

¹⁶ This is the distinction between Title II and Title III, on which the current FCC's ruling on net neutrality hinges. The Internet remains classified as a mass medium rather than a common carrier, suggesting a preference to industry interests over public service.

¹⁷ Huseyin Leblebici, Gerald R. Salancik, Anne Copay, and Tom King, "Institutional Change and the Transformation of Interorganizational Fields: An Organizational History of the U.S. Radio Broadcasting Industry," *Administrative Science Quarterly* 36, no. 3 (1991): 333-63. Herman S. Hettinger and William A. Porter, "Radio Regulation: A Case Study in Basic Policy Conflicts." *Annals of the American Academy of Political and Social Science* 221 (1942): 122-37.

¹⁸ Harold D. Lasswell, "Communications Research and Public Policy," *The Public Opinion Quarterly* 36, no. 3 (1972); Jan van Cuilenburg and Denis McQuail, "Media Policy Shifts: Toward a New Communications Policy Paradigm," *European Journal of Communication* 18, no. 2 (2003): 181-207.

¹⁹ Erik Barnouw, "Historical Survey of Communications Breakthroughs." *Proceedings of the Academy of Political Science* 34, no. 4 (1982): 13-23.

²⁰ Des Freedman, *The Politics of Media Policy* (Cambridge, U.K.: Polity, 2008); Erwin G. Krasnow et al., *The Politics of Broadcast Regulation*, 3rd ed. (New York: St. Martin's Press, 1982); McChesney, *Telecommunications, Mass Media, and Democracy*.

The British Approach: “The Brute Force of Monopoly”

Scholarship surrounding the history of British broadcasting almost cannot help but place itself in the context of American broadcasting, whether discussing similarities or differences. For example, Briggs points out how the two systems evolved in sharp contrast:

Not only the American lead in broadcasting but the kind of broadcasting pattern which took shape there had considerable impact on the sequence of events in Britain. Eventually the British and American broadcasting systems were to be so completely different—one based on a concept of ‘public service’, the other fully integrated into the business system—that in all controversies about the place of radio in society they were to be taken as the two chief contrasting types.²¹

However, this was only true in the later years of the evolution of broadcasting. Early on, the two systems were not so different. “In both countries there were the same pressures and the same outspoken advocates of common ideas and comparable institutions.”²²

Ultimately, the outcome in Britain was quite different.

John Reith, who led the British Broadcasting Company from its origins as a heavily regulated private monopoly in 1922 through its shift to a public corporation operating under royal charter in 1927 and until he stepped down in 1938, was perhaps the lead proponent of or at least the best known advocate for the preservation of a noncommercial system of broadcasting in Britain. In a 1949 Report of the British Broadcasting Committee, Reith articulated the manner in which this preservation was accomplished:

It was the brute force of monopoly that enabled the BBC to become what it did, and to do what it did; that made it possible for a policy of moral responsibility to be followed. If there is to be competition it will be of

²¹ Briggs, *History of Broadcasting Part I*, 59.

²² Briggs, *History of Broadcasting Part I*, 59.

cheapness not of goodness. The usual disadvantages and dangers of monopoly do not apply to Broadcasting; it is in fact a potent incentive.²³

The “brute force” employed by the leaders of the BBC was their solution to the paradox of democracy, in which rational, informed policies and practices can be difficult to come by when irrational, uninformed approaches to problems carry just as much weight. As Crisell points out, “The conflict between the status of authority and the rights of the individual, between the fact that some people know more or better than others and the idea that each of us should be empowered or free to choose, is a central problem for political thinkers.”²⁴ It is far easier to make decisions based on quantitative analyses of mass opinion; it is more far more difficult—but perhaps more useful—to employ qualitative criteria.

Reith sought to reconcile this dilemma, and it is this approach to democracy that earned him and the BBC charges of elitism and paternalism: “There must be some principle of ethics or economics to justify equality of electoral power to an intelligent, responsible, respectable citizen, a producer by hand or brain, contributor in large or small measure to the wellbeing and wealth of the State; and to another unintelligent, irresponsible, a lifelong charge on the State.”²⁵ It is easy to see how Reith could be viewed as an elitist, but it is this approach that governed the BBC at least until the introduction of commercial television in Britain in 1955. Even after the emergence of competition and the Independent Television Authority, the BBC continued and continues

²³ Memorandum from the Right Honorable the Lord Reith, “Report of the Broadcasting Committee 1949: Appendix H: Memoranda submitted to the Committee” (Cmd. 8117), 364. Quoted in Burton Paulu, *British Broadcasting* (Minneapolis, University of Minnesota Press, 1956), 18.

²⁴ Andrew Crisell, *An Introductory History of British Broadcasting*, 2nd ed. (London: Routledge, 2002), 56.

²⁵ John C.W. Reith, *Into the Wind* (London: Hodder and Stoughton, 1949), 170.

to lead as one of the world's foremost broadcasting institutions, widely regarded for its strong resistance to commercial pressures. As Crisell writes:

even though Reith's concept of public service broadcasting has been gradually eroded by the tides of democracy and the extension of individual choice, there is a sense in which nothing has changed, for people continue to determine cultural value not primarily by counting heads but by invoking reason and intellect. They thus make judgments which are, in their way, every bit as elitist as Reith's were.²⁶

While it is tempting to think of Reith's approach as more noble than the American system, Paulu suggests that it is important not to think of either system as superior: "Both the critics and the admirers of the British system overlook one very important fact: a broadcasting system grows out of its environment and cannot be described or appraised apart from its national setting. Above all, it cannot be judged on the basis of how it might function in another country."²⁷ Paulu suggests that the British system is unfathomable to Americans because of the potential for government control. But this neglects the fact that government control was not a totally foreign concept in the U.S.; in fact, it had long been present in daily life in America in such forms as public schools, the Post Office and the military. Further, government control of radio actually was a distinct possibility in the U.S. well into the 1920s. Paulu also points out that even without government control of broadcasting, critics warn of government influence in the American system just as much, if not more, than in the British system.²⁸

Curran and Seaton suggest that the development of British broadcasting has been described in two ways.²⁹ One view is that the emergence of the BBC monopoly was the

²⁶ Crisell, *Introductory History*, 58

²⁷ Paulu, *British Broadcasting*, 3-4.

²⁸ Paulu, *British Broadcasting*, 42.

²⁹ James Curran and Jean Seaton, *Power without Responsibility: The Press and Broadcasting in Britain*, 5th ed. (London: Routledge, 1997).

“personal achievement” of John Reith, who embarked on a cultural mission and succeeded. The other view is that the emergence of the monopoly was accidental, or at least was a mere bureaucratic solution crafted by the Post Office to deal with what was viewed as a technical problem. Coase sides with the latter view, pointing out that radio was developed faster and with better results in the U.S.³⁰ More experimentation took place in the U.S. because people were eager to sell wireless receivers and set up commercial broadcasting services. The British Post Office, which already controlled all wireless and telephone communication, was not prepared to issue broadcasts and thus had no incentive to encourage experiments. Furthermore, based on the U.S. experience, British officials thought a monopoly was necessary to avoid interference problems. Coase acknowledges that there was a unique public service mission in the U.K. but suggests that this is only part of the story. Scannell and Cardiff suggest that there is truth in all of these understandings and that the public service mission came after the monopoly had been established for technical purposes. “Public service was a concept grafted onto an initial pragmatic set of arrangements between the Post Office and the British radio industry to establish a broadcasting service that would create a market for radio-receiving apparatuses.”³¹

Curran and Seaton suggest that approaches that focus on what was happening inside the BBC “disregard political and social change in the world outside broadcasting.”³² The changes happening in Britain had to do with the fact that many

³⁰ R. H. Coase, *British Broadcasting: A Study in Monopoly* (Cambridge: Harvard University Press, 1950).

³¹ Paddy Scannell and David Cardiff, *A Social History of British Broadcasting* (Oxford, U.K.: Blackwell, 1991), 5.

³² Curran and Seaton, *Power without Responsibility*, 135.

people had come to view capitalism and competition as inefficient when it came to matters of public service. This view certainly informed notions of the public interest and is reflected in the policy outcome. As Curran and Seaton point out:

Although in all countries the state has determined who can broadcast, the conditions of this right have varied enormously. In some liberal democracies broadcasting has been directly controlled, either by government or by a coalition of political parties. In others, private enterprise and the profit motive have been the dominating forces. In Britain, broadcasting has had some protection from market pressures, and has claimed political independence.³³

Paulu's review of British broadcasting history arrives at a similar conclusion:

There is no question that ultimate policy control resides with the state. In this respect the BBC is less free in theory than is American broadcasting, the policies of which are determined to a much less degree by what Congress or the FCC ordains. However, under the British system in practice, public opinion precludes the corporation's becoming in any sense a government mouthpiece.³⁴

Since its creation, the BBC has sought to adhere to a public service mission, aiming to elevate cultural standards. John Reith, "saw the BBC as an opportunity to raise the knowledge, morals, and taste of the British public."³⁵ Financed by licensing fees and largely protected from political influence, the BBC model served as the world's primary alternative to a commercial approach to broadcasting.

Americans were not keenly aware of the varying systems as they emerged elsewhere in the world; by the 1930s, insofar as the issue was debated at all, both the critics and the defenders of American commercial radio contrasted it with the British public-service model. These two institutional paradigms were widely seen as the fundamental alternatives for broadcasting in the English-speaking world.³⁶

Other countries were guided by these alternative approaches in the U.S. and Britain.

Canada, for example, followed the U.S. at first, allowing private, commercial stations,

³³ Curran and Seaton, *Power without Responsibility*, 10-11.

³⁴ Paulu, *British Broadcasting*, 42.

³⁵ Paul Starr, *The Creation of the Media: Political Origins of Modern Communications* (New York: Basic Books, 2004), 341.

³⁶ Starr, *Creation of the Media*, 330.

but then created a national public broadcasting commission in 1932, which became the Canadian Broadcasting Corporation in 1936. Private stations remained, however, resulting in a hybrid model of public and private broadcasters.³⁷

In Britain, public service broadcasting had a solid footing, benefited from public support, and gained a complete monopoly over broadcasting from the 1920s until the 1950s. The BBC retained a commitment to public service even after the introduction of commercial radio and television. Regulations made it difficult for commercial broadcasters to dominate the market and established standards requiring them to serve the public interest. “In short, commercial principles were kept on a short leash and were not permitted to set the rules for the entire system.”³⁸ In the early days of broadcasting, the U.S. and Britain often looked to each other to see how not to do it, as McChesney has reported: “‘The whole American system of broadcasting,’ the BBC politely noted in 1932, lies ‘outside our comprehension’ and ‘clearly springs from a specifically American conception of democracy.’”³⁹ It was only for media reformers in the U.S. who were pushing for a strong noncommercial sector that the British provided an example:

[T]he reformers were enthralled by the BBC’s seeming capacity to combine the benefits of a nonprofit, noncommercial monopoly with a lack of overt partisan or government interference....[T]he BBC provided the ‘ideal’ example of a ‘broadcasting service maintained primarily for the benefit of all radio listeners’ and was the solution to ‘the whole world problem of broadcasting.’⁴⁰

As McChesney notes, the media titans in the U.S. were strongly opposed to the anti-capitalist system that was developing in Britain. At the same time, the anti-capitalist

³⁷ See Paul W. Newsbitt-Larking, *Politics, Society, and the Media: Canadian Perspectives* (Peterborough, Ontario: Broadview Press, 2001), Chapter 3.

³⁸ McChesney, *Rich Media, Poor Democracy*, 249.

³⁹ McChesney, *Telecommunications, Mass Media, and Democracy*, 100.

⁴⁰ McChesney, *Telecommunications, Mass Media, and Democracy*, 100.

system in Britain worked to protect itself against American influence. As Camporesi describes, the British “radio men,” in order to protect their national culture, employed strategies to control and limit the amount of American radio programming that could be accessed in Britain:

In short, the strategies to resist U.S. cultural influences in sound broadcasting before and after the Second World War, entailed a degree of political ‘manipulation’ insofar as they were designed to defend national traditions of mass culture which were being ‘invented’ at the moment. What should not be forgotten, however, is that those ‘traditions’ enjoyed a comparatively considerable success which did suffer periods of crisis but on the whole seems to have served well the changing society into which they were immersed.⁴¹

The “success” of the BBC in preserving national traditions and culture also has invited harsh critiques from both the left and the right. Critics charge that despite efforts to insulate the BBC from political influence, the institution narrowly represents the interests of the dominant class. As one British scholar has noted:

In actual fact the largeness and wealth of the BBC indicate precisely its willingness to incline to the wishes of the powerful. If it posed the slightest threat to the powerful it would be dismantled. It is exactly because it has served the rich and powerful that it has occupied such a central position in our society for so long. Only a professional individual completely insulated from the political realities of his own society could consider the BBC as a neutral national resource.⁴²

Another British scholar challenged the very notion of public service broadcasting as a myth, suggesting that this myth “masks the ideological orientation of the BBC’s actual

⁴¹ Valeria Camporesi, *Mass Culture and National Traditions: The BBC and American Broadcasting, 1922-1954* (Fucecchio, Italy: European Press Academic Publishing, 2000), 199.

⁴² William Maley, “Centralisation and Censorship,” in *The BBC and Public Service Broadcasting*, eds., Colin MacCabe and Olivia Stewart (Manchester: Manchester University Press, 1986), 41.

practice of broadcasting.”⁴³ Rather than being free from political pressures, the BBC was explicitly designed as a tool of social control, he suggests. “This ideological orientation is shown to be largely that of the dominant classes, and that what is perceived as [public service broadcasting] is, in fact, a powerful tool in the struggle to cement the hegemony of the dominant classes.”⁴⁴ It is worth noting that a similar critique has been applied to American commercial media, in that news outlets can be said to reflect the ideology of their capitalist owners.⁴⁵

Scholars point out that, in Britain today, the long-established licensing fee and the culture it perpetuates are the central reasons for the BBC’s ability to produce what is often considered to be high quality content.

It is part of the BBC’s mythology, and extremely plausible, that its programme-making excellence is inextricably linked to the fact that it is licence-fee funded. The two elements have combined to create a ‘virtuous circle’, whereby guaranteed funding from the licence fee has enabled creativity and professionalism to flourish, and a critical creative mass to develop, which has enabled the BBC to raise public service broadcasting to the highest standards possible, which in turn has created a discerning and demanding viewing public, which is then prepared to finance the organization on an ongoing basis.⁴⁶

This paints a portrait of a quite different media culture for Britain compared to what originated in the United States and remains present today.

⁴³ Alan David Wadforth, “Public Service Broadcasting as a Myth: The Hegemonic Implications of the BBC’s Concept and Practice of Public Service Broadcasting, 1922-1988” (PhD Diss., New University of Ulster, 1989), 6.

⁴⁴ Wadforth, “Public Service Broadcasting,” 6.

⁴⁵ For example, Edward S. Herman and Noam Chomsky, *Manufacturing Consent: The Political Economy of the Mass Media* (New York: Pantheon Books, 2002).

⁴⁶ Lucy Kung, *Inside CNN and the BBC: Managing Media Organizations* (New York: Routledge, 2000), 136.

What is the Public Interest?

Despite ostensibly similar claims of concern for the “public” and the “public interest” in the U.S. and the U.K., the outcomes produced by the debates over how to structure broadcasting were polar opposites. What were the intended and received meanings behind these socially constructed concepts that informed the debates and the outcomes? By virtue of its name, the public interest appears to set itself in opposition to the private or individual interest, but a lack of normative purpose makes the concept malleable. As Feintuck notes, “Though the very phrase ‘the public interest’ has an air of democratic propriety, the absence of any identifiable normative content renders the concept insubstantial, and hopelessly vulnerable to annexation or colonization by those who exercise power in society.”⁴⁷ This is, of course, what makes it so attractive as a policymaking and regulatory tool. A review of previous scholarship addressing the concept of the public interest and its role in structuring relationships between the state and society reveals multiple socially and temporally constructed meanings and interpretations dependant on context.⁴⁸

References to the “public good” and “common good” go back at least as far as the ancient Greeks and persisted through time to America’s colonial origins. The Mayflower Compact of 1620 speaks of the “general Good of the Colony.”⁴⁹ Perhaps the earliest use of the term “public interest” comes from Lord Matthew Hale, an English justice, who

⁴⁷ Mike Feintuck, *The Public Interest in Regulation* (New York: Oxford University Press, 2004), 33.

⁴⁸ Deborah Stone, *Policy Paradox: The Art of Political Decision Making* (New York: Norton, 2001); Carl J. Friedrich, ed., *Nomos V: The Public Interest* (New York: Atherton Press, 1962); Feintuck, *The Public Interest in Regulation*

⁴⁹ Candace Hetzner, “The Meaning of the Public Interest,” (PhD Diss., University of Chicago, 1982), 103.

suggested in a 1670 essay that some types of private property such as seaports can be “affected with a public interest,” thereby justifying regulation by the state.⁵⁰ These sorts of early usages imply that an appeal to the public good or public interest could be used to justify public intervention in private matters and to place restrictions on private activity.

In exploring the meaning of “public interest” in U.S. broadcast policy, Rowland reported that the public interest standard had been in statutory use in the U.S. for nearly a century prior to its use in broadcasting regulation, and it originated in state-level administrative agencies or commissions in the 1830s. In the U.S., the concept was applied to projects of a “special, quasi-public nature” involving “industrial-governmental relationships,” such as the construction of railroads, shipping canals, roads and highways.⁵¹ The landmark railroad case *Munn v. Illinois* in 1877 initially gave the state power to regulate private property in the public interest.⁵² But by the early 1900s, this idea gave way to a preference for the property rights of industry as America moved into the Progressive Era and began to establish a number of federal administrative agencies, beginning with the Interstate Commerce Commission, which, despite their “independent” label, were actually dependent on the industries they were designed to regulate.⁵³ According to Horwitz, “Notwithstanding some anti-corporate rhetoric, Progressive Era reforms defined the public interest within the context of a rationally functioning capitalist system. Consumer welfare was considered enhanced through expanded, rational

⁵⁰ Breck P. McAllister, “Lord Hale and Business Affected with a Public Interest,” *Harvard Law Review* 43, no. 5 (1930): 759-791.

⁵¹ Willard D. Rowland, Jr., “The Meaning of ‘The Public Interest’ in Communications Policy, Part I: Its Origins in State and Federal Regulation,” *Communication Law & Policy* 2, no. 3 (1997): 316.

⁵² *Munn v. Illinois* 94 U.S. 113 (1877).

⁵³ See Rowland, “Part I”; Robert B. Horwitz, *The Irony of Regulatory Reform: The Deregulation of American Telecommunications* (New York: Oxford University Press, 1989).

competition.”⁵⁴ Concern for industry, then, overlapped with the public interest in these early conceptions, which aimed to minimize and avoid state control or ownership. This also fit with the cultural context of the early 1900s, during which business and industry worked to successfully win the hearts of Americans.⁵⁵ As Rowland writes,

the ideology of the post-progressive period was one that strongly favored the image of enlightened, scientific corporate leadership. Business and government, which had always been less at odds than had been apparent, would now explicitly overcome their differences, and the private would henceforth be infused with a responsible public purpose.⁵⁶

In this context, Rowland suggests that the concept always had a clear pro-industry connotation and was never intended to require service to some higher ideal other than economic efficiency. By the time it was introduced in the Radio Act of 1927, “the public interest standard was neither vague nor undetermined in meaning or practice when introduced into broadcasting legislation. To the contrary, it was a well-rehearsed doctrine, with a rather widely understood practical meaning that had been emerging throughout the earlier stages of American industrial regulation.”⁵⁷ Thus, Rowland concludes that the “public interest” standard in U.S. broadcasting “contained within it the seeds of its own compromise, if not destruction.”⁵⁸

Despite the merits of Rowland’s analysis and conclusion, legal scholars, academics and regulators have spent decades debating the meaning and application of the

⁵⁴ Horwitz, *The Irony of Regulatory Reform*, 68-69.

⁵⁵ See Roland Marchand, *Creating the Corporate Soul: The Rise of Public Relations and Corporate Imagery in American Big Business* (Berkeley: University of California Press, 1998).

⁵⁶ Rowland, “Part I,” 328.

⁵⁷ Rowland, “Part I,” 315.

⁵⁸ Rowland, “Part I,” 313.

public interest concept.⁵⁹ For example, the lawyer Louis G. Caldwell, in a 1930 law review article about the use of the public interest standard in the 1927 Radio Act, noted that “public interest, convenience or necessity” “means about as little as any phrase that the drafters of the Act could have used and still comply with the constitutional requirement that there be some standard to guide the administrative wisdom of the licensing authority.”⁶⁰ If the concept had such clear meaning based on its previous applications, why all the confusion? As Wollenberg noted in 1989,

From the perspective of more than half a century, it seems passing strange that a society traditionally fearful of government should have subjected one of its major communications media to sweeping, vaguely defined administrative powers. It seems even more remarkable that the process of subjection was led by conservative, business-oriented government officials and was fully supported by the nascent broadcasting industry.⁶¹

Indeed, why employ a phrase so subject to debate, especially if pro-industry forces had the power to craft the law as they pleased? The Radio Act of 1927 and its successor, the Communications Act of 1934, would eventually be used to generate outcomes that were not likely preferred by licensed broadcasters or the titans of industry, such as protections for political speech,⁶² the Federal Radio Commission’s crackdown on self-serving

⁵⁹ For example, Jack N. Goodman and Erwin G. Krasnow, “The ‘Public Interest’ Standard: The Search for the Holy Grail,” *Federal Communications Law Journal* 50, no. 3 (1998).

⁶⁰ Louis G. Caldwell, “The Standard of Public Interest, Convenience or Necessity as Used in the Radio Act of 1927,” *Air Law Review* 1, (1930): 296.

⁶¹ J. Roger Wollenberg, “The FCC as Arbiter of ‘The Public Interest, Convenience and Necessity,’” in *A Legislative History of the Communications Act of 1934*, ed., Max D. Paglin (New York: Oxford University Press, 1989): 61.

⁶² For example, Section 315 of the Communication Act of 1934. See Tim Vos, “Explaining Media Policy: American Political Broadcasting in Comparative Context” (PhD Diss., Syracuse University, 2005).

broadcasters,⁶³ and later, the divestiture of the National Broadcasting Corporation and the breakup of the Associated Press monopoly.⁶⁴

Furthermore, consider the libertarian view that the public interest concept embodied in communication law was a horrifying intervention in the marketplace:

Since there is no such thing as the “public interest” (other than the sum of the individual interests of individual citizens), since that collectivist catch-phrase has never been and can never be defined, it amounted to a blank check on totalitarian power over the broadcasting industry, granted to whatever bureaucrats happened to be appointed to the Commission.⁶⁵

From a libertarian perspective, the American approach to regulation does not fit. Coase suggests that the broadcast regulation in the U.S. was flawed due to the failure to create property rights in the scarce airwaves. He proposes that the market was not allowed to operate properly: “A private-enterprise system cannot function properly unless property rights are created in resources, and, when this is done, someone wishing to use a resource has to pay the owner to obtain it. Chaos disappears; and so does the government except that a legal system to define property rights and to arbitrate disputes is, of course, necessary.”⁶⁶ This radical view was never seriously considered, but it does demonstrate that the regulatory scheme that emerged, with its vague invocation of the public interest concept, was hardly consistent with free market principles.

Ultimately, the U.S. regulatory approach to broadcasting reflected an attempt to strike a balance between pure market principles of private ownership, which did not seem

⁶³ For example, Brinkley, Baker and Shuler. See Louise M. Benjamin, *Freedom of the Air and the Public Interest: First Amendment Rights in Broadcasting to 1935* (Carbondale, Ill.: Southern Illinois University Press, 2001), Chapter 6.

⁶⁴ *NBC v. FCC*, 132 F. (2d) 545 (App. D.C. 1942); *Associated Press v. U.S.* 326 U.S. 1 (1945).

⁶⁵ Ayn Rand, *Capitalism: The Unknown Ideal* (New York: New American Library, 1967), 126. Quoted in Goodman and Krasnow, “The ‘Public Interest’ Standard,” 624, note 93.

⁶⁶ R. H. Coase, “The Federal Communications Commission,” *Journal of Law and Economics* 2 (1959): 14.

feasible, and direct ownership or control by government, which did not seem desirable. As Streeter indicates, this approach in the 1920s did offer a reasonably clear guiding principle for broadcasting thanks in large part to the cultural context: the rise of consumer society.⁶⁷ Streeter writes that two interrelated ideas—“a particular vision of the public as a social force in need of harmonious integration into the larger political economy, and the belief that the consumer system would facilitate that integration”—helped to guide broadcasting policy. “The public, in other words, was a body of potential consumers, and the public interest lay in the cultivation of a consumer society.”⁶⁸ Bringing commercial radio into millions of homes would accomplish exactly that. While Streeter is critical of the corporate liberalism that dominated broadcasting policy, others suggest that this is to be expected or even appropriate. Hetzner attributes this general approach to the rise of a “radical individualist utilitarian ethos” in the U.S., which “dominates not only the economic arena but also all other spheres of life including the ethical.”⁶⁹

Compare this to what existed in Britain during the early days of radio. “The ‘collectivism’ of state ownership in Britain” contrasted sharply with “the ‘individualism’ of private ownership in the United States.”⁷⁰ Furthermore, state ownership had a much stronger tradition in Britain, as exemplified by the Telegraphy Act of 1869 and the Wireless Act of 1904, which put the control of communication services squarely in the hands of the state under the direction of the Post Office. These means of point-to-point communication were closely regulated by the state from the beginning. The initial reason

⁶⁷ Streeter, *Selling the Air*.

⁶⁸ Streeter, *Selling the Air*, 45-46.

⁶⁹ Hetzner, “The Meaning of the Public Interest,” 187.

⁷⁰ Kenneth C. Dewar, “The Origins of Public Broadcasting in Canada in Comparative Perspective,” *Canadian Journal of Communication* 8, no. 2 (1982): 38.

for this approach had to do with national security as Britain worked to secure its empire.⁷¹ This approach also emerged out of the changing nature of government regulation of industry in general. As industries such as the railway, telegraph and gas and water supplies developed in the first half of the nineteenth century, “competition was presumed to regulate the industries in the public interest.”⁷² By the 1860s, the public and public officials began to see the inefficiencies of these natural monopolies in private hands. “In short, state policy in these years allowed competition between networks and the public was dissatisfied with the results.”⁷³ Eventually, the state moved to place limits on profits (just as it would do with the formation of the British Broadcasting Company in 1922), but this had a negative impact on the incentive to invest, and private industries found themselves struggling to attract capital.⁷⁴ This led to the rise in the late 1800s of the public corporation model, which would provide the framework for the British Broadcasting Corporation in 1927.

This historical context for the development of British broadcasting reflects the emphasis placed on public service to be provided by utilities and networks, which would come to include the BBC. As broadcasting developed, the conception of broadcasting as a “public utility to be developed as a national service in the public interest came from the state. The interpretation of that definition, the effort to realize its meaning in the development of a programme service guided by considerations of national service and the

⁷¹ See Crisell, *An Introductory History*.

⁷² James Foreman-Peck and Robert Millward, *Public and Private Ownership of British Industry, 1820-1990* (New York: Oxford University Press, 1994), 10.

⁷³ Foreman-Peck and Millward, *Public and Private Ownership of British Industry*, 10.

⁷⁴ Foreman-Peck and Millward, *Public and Private Ownership of British Industry*, Chapters 2 and 3.

public interest, came from the broadcasters and above all from John Reith” himself.⁷⁵

Outside of this sort of usage, the term “public interest” has no formal legal usage in British broadcasting. Yet “public interest” was a commonly used phrase. A search of the Hansard database of Parliamentary debates yields 5,948 mentions of the term in the nineteenth century, used in a range of contexts often related to public works projects from bridges to prisons. The term was also used in the context of broadcasting. For example, Member of Parliament Sir Henry Norman in the House of Commons in 1912:

Everybody who knows anything about wireless knows that the Marconi Company have always sought by every means to secure such a monopoly. I repeat, I am not blaming them for this; on the contrary, their efforts, and the success which has attended them, show very great commercial sagacity. But the interests of the Marconi shareholders are one thing and the public interest is another.⁷⁶

This type of use of the public interest rhetoric could have been heard in the United States just as easily as in Britain. In fact, the U.S. Secretary of Commerce made many statements similar to this.⁷⁷ The language was also employed by the two major British commissions that would make the recommendations that would lead to the formation of the BBC. For example:

While it is impossible to forecast with certainty the development of broadcasting, it seems clear that it will be utilized for matters of widespread public importance, and in these circumstances not only the regulation of what should, in the public interest, be broadcast, but also the actual operation of so important a national service, should be in the hands of the Government rather than in private hands.⁷⁸

The point here is simply to convey that the “public interest” concept and its variants were used in Britain just as they were in the U.S. even though they were not formally adopted

⁷⁵ Scannell and Cardiff, *A Social History of British Broadcasting*, 6-7.

⁷⁶ Hansard HC Deb 11 October 1912 vol 42 cc667-750: 675.

⁷⁷ See Chapter 7 of this dissertation.

⁷⁸ Sykes Committee, “Report of the Broadcasting Committee” (Cd. 1951) (1923), 13.

as a matter of law in exactly the same way. Ultimately, the BBC's Royal Charter of Incorporation in 1927 would call for the organization to act "as Trustees for the national interest."⁷⁹ Thus, the BBC was built on a foundation of "public service," a concept that was part of the legal framework of the public corporation, and more importantly, a sort of cultural value that would be embraced by John Reith and the BBC. The historical analysis that follows will explore this in detail. However ill-defined it may have been, the "public interest" concept did inform British broadcasting policy, though not in the same way as the notion of "public service," which did carry a specific meaning quite contrary to anything that existed in the U.S.

⁷⁹ "Royal Charter of Incorporation," in "Report of the Broadcasting Committee 1935" (Cmd. 5091) (1936), Appendix B, 56.

Chapter 3: Explanatory Frameworks and Concepts

The origins of broadcasting and the related communication policy outcomes in the United States and Great Britain reflect dramatically different understandings of the relationship between state and society, between markets and individuals. At the heart of these—and any—disputes over the role of the state is the tension between private and public, a push and pull between the forces of political and economic power on the one hand and the impulse toward democracy and equality on the other. An examination of these broad social forces and their application in broadcasting invites an historical institutionalist perspective, with its attention to critical junctures, path dependence and temporal sequencing. How, when and why did these different approaches to structuring media systems arise, and how, when and why were they ultimately adopted or rejected?

First of all, the institutional framework allows for a broad investigation of social, cultural, political and economic contexts that guide the development of patterns of human organization and behavior. The historical approach, with attention to critical junctures, is necessary to look back and see where significant patterns emerged and whether they were adopted or avoided. Second, in applying the institutional approach to communication studies, there is overlap with political economy, which deserves attention here. Third, the institutional approach has been central in many of the major works of social and political philosophy, some of which I draw on here for their theoretical, methodological and empirical relevance. For example, Polanyi, Marx, Weber and Durkheim all employed historical analysis in what we might now call an institutionalist framework. Like modern institutionalists, they studied patterns of human behavior and social organization that

contributed to and emerged from the development of markets. Furthermore, these theorists also draw attention to a number of concepts that inform any analysis of the role of the state in society generally and are particularly helpful in analyzing and understanding the origins of broadcasting. This is because media institutions, as noted in Chapter 2, are structured and regulated in terms of public and private property and interest. Fourth, public and private interests can also be characterized in terms of competing notions of liberty, which conclude this chapter.

Ultimately, this chapter highlights theoretical frameworks and concepts that can point to the conditions under which certain outcomes are likely to occur, and can help examine the role of temporal dimensions of social life in understanding political and economic outcomes. *When* things happen tends to affect *how* they happen, so in order to understand the present, it is essential to look to the past.

Historical Institutionalism and Path Dependency

This study looks through the lenses of historical institutionalism and path dependency as theoretical frameworks. The institutional approach allows for a broad examination of social, cultural, political and economic forces. As Skocpol notes, “bringing the state and state-society relationships to the fore in the definition of important, substantive problems for research, and in the search for explanatory hypotheses,” has helped to identify “the interconnections of institutions and organizations that other scholars tended to treat separately from one another.”¹ Within this institutionalist context, an emphasis on path dependency highlights the temporal element

¹ Theda Skocpol, “Why I am a Historical-Institutionalist,” *Polity* 28 (Fall 1995): 103.

of processes that often exhibit considerable stability until times of change, when decisions are made, paths are selected and alternatives are pushed aside.

First, a few definitions are useful. Broadly, an institution can be defined as “a set of regularized patterns of human behavior that persist over time and perform some significant social function or activity.”² Rules and structures are the manifestations of these behavior patterns in political life, but as Anderson points out, “are usually not neutral in their effects; rather, they tend to favor some interests in society over others and some policy results over others.”³ While “old” institutionalists focused on specific legal and political structures, “new” institutionalists, who have emerged since the mid-1970s, take a broader view.⁴ In general, today’s institutionalists “are interested in the whole range of state and societal institutions that shape how political actors define their interests and that structure their relations of power to other groups.”⁵ Thus, a historical approach to institutionalism concerns itself with these issues in temporal context and attempts to understand how a given trajectory of an institution is chosen over others, with an eye toward “paths not taken.”⁶ Centered in the disciplines of sociology and political science, historical institutionalism has been used to describe work “geared to understand how specific constellations of institutional legacies and patterns shape interactions among

² James Anderson, *Public Policymaking*, 7th ed. (Boston: Cengage, 2009), 23.

³ Anderson, *Public Policymaking*, 24.

⁴ Kathleen Thelen & Sven Steinmo, “Historical Institutionalism in Comparative Politics,” in *Structuring Politics: Historical Institutionalism in Comparative Analysis*, eds. Sven Steinmo et al. (Cambridge, U.K.: Cambridge University Press, 1992).

⁵ Thelen & Steinmo, “Historical Institutionalism,” 2.

⁶ Paul Pierson and Theda Skocpol, “Historical Institutionalism in Contemporary Political Science,” in *Political Science, State of the Discipline*, eds. Ira Katznelson and Helen V. Milner (New York: W.W. Norton, 2002): 693-721.

states, economies, and citizens.”⁷ Thus, scholars suggest that the analysis of institutions requires considerations of how and when changes occur over time. As Pierson notes, “Attentiveness to temporal process can help us recognize and explore parts of the social landscape that are likely to escape notice from alternative vantage points.”⁸

In politics and policymaking, a path, once taken, can be difficult to alter. According to Thelen, “Politics involves some elements of chance (agency, choice), but once a path is taken, then it can become ‘locked in’ as all the relevant actors adjust their strategies to accommodate the prevailing pattern.”⁹ These prevailing patterns lead to periods of stability and equilibrium but are also said to be punctuated by critical junctures and policy windows that affect future choice options.¹⁰ Path dependence helps explain how this process occurs. “History matters” is the bumper-sticker explanation of path dependence, which is also commonly defined by Sewell’s conceptualization that “what happened at the earlier point in time will affect the possible outcomes of a sequence of events occurring at a later point of time.”¹¹

⁷ Ira Katznelson, “Periodization and Preferences: Reflections on Purposive Action in Comparative Social Science,” in *Comparative Historical Analysis in the Social Sciences*, eds., James Mahoney and Dietrich Rueschemeyer (New York: Cambridge University Press, 2003), 273.

⁸ Paul Pierson, *Politics in Time* (Princeton: Princeton University Press, 2004), 71.

⁹ Kathleen Thelen, “Historical Institutionalism in Comparative Politics,” *Annual Review of Political Science* 2, no. 1 (1999): 385.

¹⁰ Brian W. Arthur, “Competing Technologies, Increasing Returns, and Lock-in by Historical Events,” *The Economic Journal* 99, no. 394 (1989): 116-31; Frank R. Baumgartner and Bryan D. Jones, *Agendas and Instability in American Politics*, 2nd ed. (Chicago: The University of Chicago Press, 2009); Paul Pierson, “Increasing Returns, Path Dependence, and the Study of Politics,” *The American Political Science Review* 94, no. 2 (2000): 251-67; Pierson, *Politics in Time*.

¹¹ W.H. Sewell, Jr., “Three Temporalities: Toward an Eventful Sociology,” in *The Historic Turn in the Human Sciences*, ed. Terrence J. McDonald (Ann Arbor: University of Michigan Press, 1996), 262-263.

While specific outcomes are never guaranteed, positive feedback or increasing returns in a system often encourages movement down a specific path.¹² The selection of a given path is said to depend on the timing and sequence of prior events, which can often provide a definable range of possible outcomes given a certain set of initial conditions. Seemingly small or contingent events can lead to significant consequences or outcomes, and forces of inertia can render certain courses of action virtually permanent.¹³ “The identification of path dependence therefore involves both tracing a given outcome back to a particular set of historical events, and showing how these events are themselves contingent occurrences that cannot be explained on the basis of prior historical conditions.”¹⁴ In the context of communication policy, the development of radio and the systems of regulation to which broadcasting gave rise were highly contingent occurrences that produced outcomes that would limit future choice options. And even though communication policy outcomes in the 1920s and 1930s were influenced and informed by prior historical conditions, these outcomes can only be explained as breaks in the chains linking past to future, as my historical analysis will illustrate.

The critique of path dependence centers on the notion that it is “too contingent and too deterministic” in its application.¹⁵ In the context of the opening stages or critical juncture of a process, path dependence may be overly willing to accept that any given event is the primary facilitator of the path in question. And once the path is established, the notion of path dependence becomes too narrow by suggesting that change is unlikely.

¹² Baumgartner and Jones, *Agendas and Instability*, 17; Pierson, “Increasing Returns, Path Dependence, and the Study of Politics.”

¹³ Pierson, *Politics in Time*, 18-19.

¹⁴ James Mahoney, “Path Dependence in Historical Sociology,” *Theory & Society* 29, no. 4 (2000): 507-508.

¹⁵ Thelen, “Historical Institutionalism in Comparative Politics,” 385.

Pierson responds that analyses based on path dependence do not suggest that “anything goes” at the outset, but that more than one path can be viewed as plausible given the opening circumstances. Specific narrowly defined factors influence how a given path is selected. “Although sometimes these junctures are treated as highly contingent or random, generally analysts seek to generate convincing explanations for why one path rather than another was chosen.”¹⁶ For example, Pierson cites Hacker’s study of the U.S. failure to develop national health insurance as part of the New Deal.¹⁷ The failure was not “highly contingent”; it was the “likely outcome.” But this point of departure can be viewed as a critical juncture that created a self-reinforcing dynamic. The important argument is that “this initial development generated powerful positive feedback, institutionalizing a set of private arrangements that made it *much* more difficult to make a transition to national health insurance at a later point in time.”¹⁸

Similarly, in the context of broadcasting, the American debate over whether to create a national public broadcasting network like the BBC reflected the plausibility of more than one possible outcome. And even though the preference for a commercial rather than public system was not necessarily a foregone conclusion, the eventual outcome generated powerful positive feedback that made it virtually impossible to alter the chosen path at a later time, leading to the institutionalization of the commercial system. In this case, specific alternative outcomes can be highlighted, especially when viewed in a comparative context.

¹⁶ Pierson, *Politics in Time*, 51.

¹⁷ Jacob Hacker, *The Divided Welfare State: The Battle over Public and Private Social Benefits in the United States* (Cambridge: Cambridge University Press, 2002). Referenced in Pierson, *Politics in Time*, 51-52.

¹⁸ Pierson, *Politics in Time*, 52.

As Pierson points out, it is important to consider how alternatives to a given outcome are eliminated. This is not because “the outcome at that stage is permanently locked in, but because the removal of certain options through path-dependent processes creates different outcomes at a later choice-point in a historical sequence.”¹⁹ In other words, the evolution of a system is influenced by the choices that are not made just as much—and perhaps more—than they are by the choices that are made. Pierson suggests that in studying path dependence, the goal is to highlight the specific mechanisms that lead to movement over time down a given path, from critical juncture to outcome. From here, it is useful to turn to an examination of the time frames in which processes unfold.

Critical Junctures and Long-Term Processes

Critical junctures are central to the concept of path dependence, for they are the moments of potential when changes occur. Capoccia and Kelemen define critical junctures as “relatively short periods of time during which there is a substantially heightened probability that agents’ choices will affect the outcome of interest.”²⁰ They suggest two components in the analysis of critical junctures:

First, the narratives should specify not only the decisions and actions that were taken but also those that were considered and ultimately rejected, thus making explicit the close-call counterfactuals that render the critical juncture “critical.” Second, the narrative should reconstruct the consequences of the decisions that were taken and (as much as the available data allow) the likely consequences of those that could plausibly have been taken but were not.²¹

¹⁹ Pierson, *Politics in Time*, 53.

²⁰ Giovanni Capoccia and R. Daniel Kelemen, “The Study of Critical Junctures: Theory, Narrative, and Counterfactuals in Historical Institutionalism.” *World Politics* 59, no. 3 (2007): 348.

²¹ Capoccia and Kelemen, “Study of Critical Junctures,” 357.

Through its comparative approach, my historical narrative will identify policy outcomes that were chosen, but will also identify those that were rejected. Furthermore, I will also address the consequences of the chosen outcomes and the possible consequences of the paths not taken. This “counterfactual” approach is a key element in historical analysis.

Identifying critical junctures also requires attention to the time frames in which processes unfold. Pierson differentiates between the time frame of the cause and the time frame of the outcome.²² For example, in the case of a tornado, the time frame is short for both the cause and the outcome. The tornado emerges quickly during a storm, does its damage and disappears. An earthquake, by comparison, is caused by slow geologic forces over a long time frame, but like the tornado, the outcome occurs over a short time frame when the ground shakes for a matter of seconds or minutes. Just the opposite, the theorized extinction of the dinosaurs was caused over a short time when a meteorite collided with the earth, but the outcome unfolded over a long period of time as species slowly died out. And finally, a process such as global warming unfolds over a long time in both cause and outcome. To summarize:

1. Tornado: short cause/short outcome
2. Earthquake: long cause/short outcome
3. Extinction by meteorite: short cause/long outcome
4. Global warming: long cause/long outcome

The origins of broadcast media are most like an earthquake. The cause is long, due to the evolution of technology and the shifting regulatory debates over a matter of decades. The outcome, however, is relatively short as choices were finally made and alternatives

²² Pierson, *Politics in Time*.

pushed aside. In the U.S., the outcome is represented chiefly by the Radio Act of 1927. In Britain, the outcome is reflected in the incorporation of the BBC, also in 1927.²³

To illustrate the concepts that define slow-moving causal processes,²⁴ Pierson uses these different phenomena:

1. Cumulative/incremental. Change is continuous but gradual, as with demographics, suburbanization, literacy rates and global warming.
2. Threshold effects. Cumulative forces have a negligible effect until they reach a certain critical level or breaking point, as in the case of an earthquake. A slow moving factor such as demographic change plays a major role in the sudden outcome of revolution.
3. Causal chains. Long-term, multistage causal processes such as state building or democratization occur over long time frames even though the outcome may happen quickly, as with an earthquake.

Analyses of causal chains may lead to concerns about “infinite regress,” which posits that there is always an earlier link in a chain of events, so it is tempting to endlessly seek the earlier link. The solution is to break the chain at critical junctures or where causal connections become vague. The chain of communication history is easily broken at the advent of broadcasting policy.

Overall, these concepts encourage researchers to avoid the “tornado approach.” There is little value in examining causes and outcomes by looking only at short time frames because these rarely exist in the social sciences. However, long-term processes, such as those with threshold effects or multistage causal chains, often are neglected in research—especially quantitative studies—because the theories that exist do not support such examinations. The more common and opposite tendency is to work to identify ever closer links in the chain, to simplify causal explanations by bringing cause and outcome

²³ It strikes me that the year 1927 has some strange cosmic significance in the history of communication, sort of like the year 1955 in the *Back to the Future* trilogy. Or it could just be an incredible coincidence.

²⁴ Pierson, *Politics in Time*, 82-90.

as close together as possible.²⁵ Slow-moving outcomes with long time horizons highlight “processes where meaningful change in the dependent variable occurs only over the long run.”²⁶ For example, a shift in birthrates will have an impact on population only over an extended period of time. Similarly, while incumbents in Congress are rarely voted out of office, major social change led to declining prospects for Democrats in the South after 1960. However, the social change takes decades to produce an outcome.²⁷

The failure to study processes in time, or the “tornado approach” to research, is a central problem. The neglect of temporal relationships leads a research agenda away from paying attention to and working to understand significant social forces and outcomes. “Instead, causality is attributed to those factors that operate as triggers—factors that are temporally proximate to outcomes of interest but of relatively minor significance.”²⁸ It would not make much sense to study the outcome of an earthquake by examining the current weather conditions as a cause. Understanding the real cause—slow-moving geologic forces—demands a long view of process over time. In studying media, a “snapshot” analysis of contemporary media would be of little value in examining the development of the commercial broadcasting system in the U.S., for example. Rather, one would have to examine the policies and practices that have shaped the system over time.

²⁵ Pierson, *Politics in Time*, 99.

²⁶ Pierson, *Politics in Time*, 90.

²⁷ Pierson, *Politics in Time*, 90.

²⁸ Pierson, *Politics in Time*, 101-102.

Political Economy and Communication

While the growing literature of historical institutionalism and path dependence is of great value in the study of media systems, some readers will have noted an overlap with political economy, a long-established theoretical and methodological approach, which provides a similar important framework for analyzing the structure of media systems and has already been employed in such an application.²⁹ Political economy can be viewed broadly as the return of social, political and cultural contexts to the realm of economics, which often takes a too-narrow view of policies and procedures while neglecting larger contexts.

As Pierson notes, research in economics has traditionally ignored such concepts as path dependence because it is believed that the market is equipped to correct for errors of problematic paths and suboptimal outcomes: Competitive pressures will force the creation of the most efficient structures, and learning processes within firms will lead to improvements and corrections.³⁰ Pierson points out that these notions are not only flawed in the study of economics, but that these corrective mechanisms are even less effective in the realm of political institutions. Political environments are more forgiving and less self-correcting than economic environments. While innovation can breed success and change in a market situation, the features of political institutions and public policy are resistant to change and inherently biased toward the status quo.

As Mosco points out in *The Political Economy of Communication*, as economies and wealth have grown over centuries past, economists have turned away from

²⁹ Vincent Mosco, *The Political Economy of Communication* (Thousand Oaks, Calif.: Sage Publications, 1996); Robert McChesney, *The Political Economy of Media: Enduring Issues, Emerging Dilemmas* (New York: Monthly Review Press, 2008).

³⁰ Pierson, *Politics in Time*, 40.

considerations of the ways in which the exchange of commodities in markets influences and is influenced by larger social forces. Mosco describes the many ways in which economics attempts to exist out of context: “Economics does not take into account many of the significant socio-economic determinants of productivity, including corporate structure and ownership, education and training, and family background. It tends to ignore the relationship of power to wealth and thereby neglects the power of structures to control markets.”³¹ As such, today, using standard economic analyses, there is virtually no way to account for a “public good” in the free market, that is, a service that everyone benefits from regardless of who pays for it, like national defense. With no possibility for the consideration of public goods, Mosco suggests there is generally no room for collective decision-making or regulation in the public interest. This is just as true whether the “public good” is clean air and water or the need for a vibrant, unfettered journalism and public sphere.³²

Mosco points out that economics tends to exaggerate the “marketness” of society. Under this view, markets are abstracted from the social, cultural and political contexts that make them possible. This view neglects considerations of “the vast social system of supports for market activity, such as flexible supply of low-wage labor, unpaid household labor, and a social system of desire that organizes the relationship of want to need in a form amenable to market transactions.”³³ The success of a market system is gauged by its efficiency regardless of social consequences such as those related to race, class, gender,

³¹ Mosco, *Political Economy of Communication*, 63-64.

³² Mosco, *Political Economy of Communication*, 62.

³³ Mosco, *Political Economy of Communication*, 64-65.

power and commodification. Thus, political economy strives to situate concerns about these social consequences within the vagaries of markets. Mosco notes:

As political economy has persistently maintained, it is not the pricing system that shapes behavior and gives direction to the economy, but the wider system of values and of power in which the economy is embedded...Where economics begins with the individual, naturalized across time and space, political economy starts with the socially constituted individual, engaged in socially constituted production.³⁴

Thus, rather than being structurally deterministic, research in political economy takes the view that it is possible for the producers of cultural commodities to question and object to mainstream views. Indeed, Mosco suggests that certain forms of production have been “the locus of struggles against the economic logic of capitalism in defense of the public sphere and citizenship over the corporate sphere and consumerism.”³⁵ This struggle certainly is evident in the debates over the regulation of broadcasting in the U.S. and Britain. This type of struggle in a market society stresses the contingent nature of the critical juncture given the possibility that a struggle will take place at all. This also suggests that the struggle can involve a challenge to the economic logic of the dominant ideology even if the struggle takes place on this ideology’s home turf. In other words, resistance to market logic can still take root in a capitalist context, just as it did in the U.S. and Britain in debates over how to regulate broadcasting.

Markets and Society

As explanatory frameworks, historical institutionalism, path dependence and political economy all emphasize the contingent interplay of institutions in contexts over

³⁴ Mosco, *Political Economy of Communication*, 65.

³⁵ Mosco, *Political Economy of Communication*, 106.

time. Whatever name we give to this general approach, it has long been employed by many of the major figures in the formative period of the social sciences. Pierson notes that these figures, including Polanyi, Marx and Weber, “adopted deeply historical approaches to social explanation.”³⁶ Thus, it is worth reviewing a few key works by these figures. Not only do they demonstrate the theoretical and methodological application of the historical approach to social explanation, they also highlight concepts that help to sensitize my historical analysis of broadcasting origins. As Blumer describes, “sensitizing concepts” give “the user a general sense of reference and guidance in approaching empirical instances,” as opposed to definitive concepts, which refer “precisely to what is common to a class of objects.”³⁷ If my definitive concept is the “public interest,” then my sensitizing concepts include the expansionism and protectionism of Polanyi’s double movement, as well as individualism and self-interest, and community and regulation. All of these concepts help to characterize the struggle for control of broadcasting and underlie the debates that took place.

To begin with, Polanyi’s *The Great Transformation*, originally published in 1944, is central to this inquiry for several reasons.³⁸ First, his book is a classic work of historical sociology in its analysis of the origins of markets and their impact on society. Second, Polanyi has much to say about the social history of England and the conditions that existed during the Industrial Revolution in the nineteenth century that may have influenced the British approach to the broadcast technologies that emerged in the early

³⁶ Pierson, *Politics in Time*, 2.

³⁷ Herbert Blumer, “What is Wrong with Social Theory?” *American Sociological Review* 19, no. 1 (1954): 7.

³⁸ Karl Polanyi, *The Great Transformation: The Political and Economic Origins of Our Time*, 2nd ed. (Boston: Beacon Press, 2001).

twentieth century. Third, his analysis of the tensions between markets and society offers a direct parallel to the establishment of the broadcast media systems in the U.S. and Britain.

Polanyi's analysis centers on the idea that the "almost miraculous improvement in the tools of production" that accompanied the Industrial Revolution brought with it "a catastrophic dislocation of the lives of the common people."³⁹ The attitudes toward the changes that occurred represented "a mystical readiness to accept the social consequences of economic improvement, whatever they might be."⁴⁰ The pace of progress had to be slowed, he suggests, "so as to safeguard the welfare of the community."⁴¹ The common liberal economic approach to understanding the history of the changes that took place in the 1800s has neglected these points because "it insisted on judging social events from the economic viewpoint."⁴² Taken together, these points remind historians of the significance of the nineteenth century in charting the social courses that in large respects we continue to follow today. This is also the general lesson of the institutional and political economic approaches in their critique of traditional economic analysis.

Polanyi introduces the Speenhamland Law of 1795 as a key moment in the transformation of society at the dawn of the Industrial Revolution. Speenhamland's "allowance system" offered "a powerful reinforcement of the paternalistic system of labor organization as inherited from the Tudors and Stuarts."⁴³ As Ogus points out, "At no time in English legal history has the law governing industry and commerce been so

³⁹ Polanyi, *Great Transformation*, 35.

⁴⁰ Polanyi, *Great Transformation*, 35.

⁴¹ Polanyi, *Great Transformation*, 35.

⁴² Polanyi, *Great Transformation*, 35.

⁴³ Polanyi, *Great Transformation*, 82.

extensively and intensively penetrated by regulation as in the Tudor and Stuart periods.”⁴⁴ In other words, industry and commerce were never more heavily regulated than during this period. Central to the social and cultural history of England is this tradition of paternalism and protectionism that dates back to the Middle Ages. Despite the emergence of enclosures and labor legislation, the “Tudors and early Stuarts saved England from the fate of Spain by regulating the course of change so that it became bearable and its effects could be canalized into less destructive avenues.”⁴⁵ But by the time of the Industrial Revolution, this approach began to give way to the force of progress and those individuals who preferred unchecked growth. In Polanyi’s view, “human society would have been annihilated but for protective counter-moves which blunted the action of this self-destructive mechanism.”⁴⁶

After the disaster of Speenhamland and the conditions that followed as land, labor and capital were fully commodified in 1834, these protective counter-moves gave rise to what Polanyi calls the “double movement,” which defined the rest of the nineteenth century. He defines the double movement: “the extension of the market organization in respect to genuine commodities was accompanied by its restriction in respect to fictitious ones.”⁴⁷ Measures including factory laws and social legislation were put in place immediately to protect the “fictitious” commodities of land, labor and capital. The market

⁴⁴ A.I. Ogus, “Regulatory Law: Some Lessons from the Past,” *Legal Studies* 12, no. 1 (1999): 1. Quoted in Mike Feintuck, *The Public Interest in Regulation* (New York: Oxford University Press, 2004), 36.

⁴⁵ Polanyi, *Great Transformation*, 79.

⁴⁶ Polanyi, *Great Transformation*, 79.

⁴⁷ Polanyi, *Great Transformation*, 79.

system that dominated the nineteenth century gave rise to a reflexive working-class movement that would permanently shape society.⁴⁸

This social history of England helps to set the stage for the emergence of broadcast technologies in the twentieth century. This tradition of protectionist measures taken to protect society from market forces may have influenced the decision of British regulators to prefer a public, noncommercial media system to one dominated by commercial interests. My historical analysis will show, by examining the philosophical and ideological approach of the early regulators, that “protectionism” was indeed a motivating factor. More generally, Polanyi’s double movement concept vividly illustrates the inevitable tensions between society and markets and points to the role of the state in generating policies that attempt to reconcile these tensions. Thus, this concept is central to my investigation of the role of the state in weighing the potential promise of unchecked growth and economic liberalism with the need for regulation.

As Polanyi notes, there is nothing “natural” about laissez-faire or free markets, which “could never have come into being merely by allowing things to take their course.”⁴⁹ Assuming the naturalness of markets is unjustified. This type of system, he suggests, “is an institutional structure which, as we all too easily forget, has been present at no time except our own, and even then it was only partially present.”⁵⁰ As evidence of this, Polanyi discusses primitive cultures and their reliance on redistribution and reciprocity as central components of social organization.⁵¹ If humans do have a “natural”

⁴⁸ Polanyi, *Great Transformation*, 87.

⁴⁹ Polanyi, *Great Transformation*, 145.

⁵⁰ Polanyi, *Great Transformation*, 40.

⁵¹ Polanyi, *Great Transformation*, 50.

inclination toward a certain form of social organization, it almost certainly looks more like that of these primitive societies, which seem to find ways to fulfill their needs without creating vast social inequality and unrest. By focusing on “production for use,” these societies eschew the notion of “production for gain,” which Polanyi, referencing Aristotle, points out was “a motive peculiar to production for the market.”⁵² Again, the tensions between markets and society are clear, and the implications regarding the role of the state in balancing these tensions are obvious. Like societies, media systems have no “natural” structure but rather are institutions constructed by human actors.

Before Polanyi, Marx made similar observations in “Grundrisse,” written in 1857, in which he focuses on social history as he analyzes the conceptions of production and property in past societies.⁵³ Marx points out that the notion of the independent individual is an eighteenth century idea and that history reveals humans to be naturally dependent on each other, constructing their societies around tribal organizing principles.⁵⁴ Here Marx is refuting the common conception of humans as “naturally” independent and self-interested. Only in eighteenth century bourgeois society “do the various forms of association in society appear to the individual simply as means to his private ends, as external necessity.”⁵⁵ This shift was central to the rise of markets and the tensions created in society.

Marx’s theories again remind us that social institutions do not arise naturally but are the creations of human actors. In markets and media systems alike, the capitalist,

⁵² Polanyi, *Great Transformation*, 56.

⁵³ Karl Marx and Eugene Kamenka, *The Portable Karl Marx* (New York: Viking Press, 1983).

⁵⁴ Marx, *Portable Karl Marx*, 376.

⁵⁵ Marx, *Portable Karl Marx*, 376.

commercial, profit-oriented ideology enhances the tensions between the individual and the community by giving preference to the self-interest of the owners of the means of production. For example, in his analysis of the political rights of man as expressed in the constitutions and declarations of America and France, Marx identifies a common conception of the right to private property as a right of liberty. “Man’s right to private property is therefore the right to enjoy one’s property and to dispose over it arbitrarily *a son gre* [according to one’s will], without considering other men, independently of society. It is the right of self-interest.”⁵⁶ This ideology is central to economic liberalism and gives preference to individual self-interest over the needs of the community. In response to the injustice and inequality created by this approach, Marx’s socialism was an attempt to better balance these needs by giving preference to the community.

Looking back even further, Weber also discussed the tension between markets and society, and in “The Social Psychology of the World Religions,” pointed to the rise of Puritan religious sects in England, suggesting that “the practical impulses for action...are founded in the psychological and pragmatic contexts of religions.”⁵⁷ The impulse toward individualism and self-interest is rooted in the exclusivity of these sects, which contrasted sharply with the inclusive nature of the Church of England, Weber suggested. “It is crucial that sect membership meant a certificate of moral qualification and especially of business morals for the individual. This stands in contrast to membership in a ‘church’ into which one is ‘born’ and which lets grace shine over the

⁵⁶ Marx, *Portable Karl Marx*, 108.

⁵⁷ Max Weber, Hans Heinrich Gerth, and C. Wright Mills, *From Max Weber: Essays in Sociology* (New York: Routledge, 2009), 267.

righteous and the unrighteous alike.”⁵⁸ This shift would pave the way for the emergence of the spirit of capitalism, with its emphasis on individuals and competition among them.

Furthermore, with the emergence of sects, individuals became empowered to communicate with God directly rather than needing to rely on the church to communicate with God. This dismissal of the church as an intermediary worked to suppress the sense of community fostered by the church and to promote the sort of independent individualism that would be required for capitalism to flourish. Weber went on to analyze the impact of this shift on society and found that the “the more the world of the modern capitalist economy follows its own immanent laws, the less accessible it is to any imaginable relationship with a religious ethic of brotherliness. The more rational, and thus impersonal, capitalism becomes, the more is this the case.”⁵⁹ As Weber demonstrates, the social conditions created by these shifts in religions and their “economic ethics” established a foundation for the changes brought by the nineteenth century. Weber helps to connect the shifts in religious life as early as the sixteenth century to twentieth-century capitalism through the “spirit of individualism” that fuels it. Understanding the rise of individualism prior to this time contributes to the analysis of markets and media as institutional structures in social contexts.

Durkheim also advanced this analysis of markets and society by offering evidence that the individualism spawned by the Puritan sects of England and developed through the nineteenth century during the growth of capitalist markets actually contributed to the disintegration of society and had to be kept in check by more community-oriented social

⁵⁸ Weber, *From Max Weber*, 305.

⁵⁹ Weber, *From Max Weber*, 331.

forces. Limits on liberty actually provide social benefits to both the individual and the community, Durkheim suggested.

In *Suicide*, published in 1951, Durkheim, concerned about social disintegration, addresses tensions between individual and community by examining rates of voluntary death in the context of religious, domestic and political societies.⁶⁰ “Egoistic” is the label he uses to describe the type of suicide that results from “excessive individualism,” which he found evident in widespread detachment from social life, weakened social groups, and the dominance of individual goals and private interests over those of the community. “If we agree to call this state egoism, in which the individual ego asserts itself to excess in the face of the social ego and at its expense, we may call egoistic the special type of suicide springing from excessive individualism.”⁶¹ This rampant “egoism” was caused by such factors as the overthrow of traditional beliefs, the rise of a spirit of inquiry as with Protestantism, and the lack of general social authority during the industrialization of Western Europe in the nineteenth century.

Durkheim found that suicide exists independently of individuals and environments, suggesting that the tendency toward suicide depends on social causes and is a collective phenomenon rooted in the separation of the individual from social life. For example, in the context of religious society, Durkheim demonstrated that Protestant individualism released humans from their traditional bonds and encouraged a desire for knowledge. Egoism develops in the wake of the breakdown of religious society:

“Reflection develops only if its development becomes imperative, that is, if certain ideas

⁶⁰ Emile Durkheim, *Suicide, a Study in Sociology* (Glencoe, Ill.: Free Press, 1951).

⁶¹ Durkheim, *Suicide*, 209.

and instinctive sentiments which have hitherto adequately guided conduct are found to have lost their efficacy.”⁶² In contrast to Protestants in the 1800s, Jews in Europe did not see such high rates of suicide. Durkheim attributes this to the strong social ties and rules associated with Judaism, which tends to preclude excessive individualism. Judaism “consists basically of a body of practices minutely governing all the details of life and leaving little free room to individual judgment.”⁶³

Durkheim also presented the concept of “anomic” suicide, which is the reaction to disturbances of the collective order. Both anomic and egoistic suicide “spring from society’s insufficient presence in individuals,” but anomic suicide “results from man’s activity’s lacking regulation and his consequent sufferings.”⁶⁴ With this concept, Durkheim focused on rapid economic progress, unregulated industrial relations and excessive wealth, which “deceives us into believing that we depend on ourselves only.”⁶⁵ These factors—even though they may enhance the comforts of life—cause disturbance to social equilibrium, which leads to anomie. Overall, Durkheim concluded that suicide rates increase “because we no longer know the limits of legitimate needs nor perceive the direction of our efforts.”⁶⁶ For Durkheim, control and regulation of society is the solution to this problem.

Durkheim explores religion and family as the possible venues for restoring the consistency of social groups. He ultimately points to the corporation, which he defines as “all workers of the same sort, in association, all who cooperate in the same function,” as

⁶² Durkheim, *Suicide*, 158.

⁶³ Durkheim, *Suicide*, 160.

⁶⁴ Durkheim, *Suicide*, 258.

⁶⁵ Durkheim, *Suicide*, 254.

⁶⁶ Durkheim, *Suicide*, 386.

positioned to provide a “collective personality” and a “moral environment” for society.⁶⁷ However, due to problems with its lack of structure and regulation, the corporation, to serve these ends, “must be organized on wholly different bases from those of today.”⁶⁸ Because the state is not equipped for such a complex regulatory function, Durkheim concluded that the regulation of corporations should be the purview of a “cluster of collective forces outside the State.”⁶⁹ Durkheim’s analysis parallels the problems faced and the solutions presented during the development of broadcasting technology. The need for some kind of regulation was apparent, but the difficulty was in selecting the design and purpose of that regulation. Durkheim’s call for a “moral environment” to resolve tensions in society resonates in the debates that resulted.

In sum, Polanyi, Marx, Weber and Durkheim were all concerned with social relations and patterns of behavior that developed in the wake of or helped contribute to the rise of markets. In this sense, they all employed approaches that can be characterized as institutionalist or political economic. Furthermore, these theoretical and empirical understandings illustrate attempts to balance individual interests with the interests of the community in the context of market economies, and these understandings are reflected in an analysis of the institutional structure of media. My historical analysis aims to mimic these approaches and employ their explanatory criteria.

⁶⁷ Durkheim, *Suicide*, 378.

⁶⁸ Durkheim, *Suicide*, 379.

⁶⁹ Durkheim, *Suicide*, 380.

Positive and Negative Liberty

The tensions between markets and society, as discussed above, are often resolved by appeals to different types of liberty that influence regulation by the state. Whether the state is portrayed as limiting or enhancing individual freedom, regulation and policymaking can be characterized by a competition between negative and positive notions of liberty. These different notions of liberty are central to this dissertation, which seeks to examine different levels and styles of state intervention in what was once a new media technology. In comparing the origins of broadcasting in the U.S. and Britain, I analyze the different invocations of liberty—implied and overt—that underpin the debates that ultimately led to two very different systems. Although both systems reflected positive liberty through heavy government involvement, the public, noncommercial BBC model speaks to a very different notion of positive liberty compared to the commercially dominated system that emerged in the U.S.

In his “Two Concepts of Liberty,” Isaiah Berlin offered a framework for thinking about different conceptions of freedom through the notions of negative and positive liberty.⁷⁰ Negative liberty, broadly, explains that which I am not kept from doing; positive liberty, in general, describes that which I may do in order to fully exercise my “humanness.” More specifically, negative liberty keeps the state from interfering with my existence; positive liberty permits the state or other regulator of liberty to create conditions intended to facilitate or enhance freedom or other interests. Writing in the context of World War II, Berlin showed a strong preference for negative liberty. He, like

⁷⁰ Isaiah Berlin, “Two Concepts of Liberty,” in Isaiah Berlin, Henry Hardy and Ian Harris, *Liberty: Incorporating Four Essays on Liberty* (Oxford: Oxford University Press, 2002).

others of the time, feared totalitarianism and communism as massive intrusions into personal freedom by “positive” or active means. These mid-twentieth century forms of government employed bastardized versions of socialist ideals meant to balance negative liberty with other social values such as equality and justice. But through the efforts of totalitarian dictators, personal liberty was ultimately squashed, and individuals ended up with liberty neither negative nor positive. These conditions and Berlin’s response illustrate the balance that must be sought between the two concepts of liberty.

I wish to suggest here that in any sort of civilized society, there can be no negative liberty alone. Negative liberty by itself is mere anarchy. Each of the state’s efforts to structure society places limits on someone’s liberty in order to uphold and balance other interests. The goal of democracy is to find the best balance of interests in order to maximize social welfare. In the United States, the right to free expression is enshrined in the First Amendment, which, to many, represents a strong declaration of liberty in the negative sense. It is very clear: “Congress shall make no law...” But despite this apparent clarity, a truly absolutist view of the First Amendment has never been held by any branch of American government. Courts, legislatures and executives have always sought to balance freedom of speech and press (as well as religion and the rights to assemble and petition) with competing social interests. Further, the state has sought to balance different types of speech and press, and to balance the speech rights of different groups and individuals, including those organized in the forms of corporations, which are creations of the state designed to operate in the context of a capitalist marketplace, which is yet another creation of the state.

Cass Sunstein has written extensively about the clash of positive and negative liberty, especially in the context of media and democracy. In 1992's "Free Speech Now," Sunstein reviews historical interpretations of the First Amendment and challenges its contemporary conceptions, which are still largely en vogue almost two decades later.⁷¹ In 2000's "Television and the Public Interest," he applies these issues to broadcast regulation.⁷² And in his book "Republic.com 2.0," he asserts that the fundamental question should not be whether to regulate (indeed, there are always regulations) but rather should ask if a given regulation serves democracy and benefits the social welfare.⁷³ Historically, courts and policymakers have offered conflicting views of how to properly interpret the First Amendment, but the absence of an absolutist vision is universal. Fundamentally, Sunstein points out that the media system is built on legal structures that are not unique to media and thus are commonly omitted from discussions of press freedom. Property rights, contracts, tort law and rights of exclusion are all fundamental legal principles that allow the media system to exist as it does. These are "positive" (meaning active) intrusions of government into public and private life that create capitalist media markets. Copyright law, libel law and laws designed to protect children are legal intrusions—limits on liberty—that are more specific to media. Even Berlin points to the state's interest in compulsory education and in prohibiting public executions as permissible limits on liberty.⁷⁴

⁷¹ Cass R. Sunstein, "Free Speech Now," *The University of Chicago Law Review* 59, no. 1 (1992): 255-316.

⁷² Cass R. Sunstein, "Television and the Public Interest," *California Law Review* 88, no. 2 (2000): 499-564.

⁷³ Cass R. Sunstein, *Republic.com 2.0* (Princeton: Princeton University Press, 2007).

⁷⁴ Berlin, "Two Concepts," Conclusion.

Further, Sunstein points to prominent examples of speech and press regulations that technically violate the First Amendment's admonition to make "no" law. From the birth of broadcasting, government has sought to regulate the practice by issuing licenses to occupy the airwaves, a common pool resource⁷⁵ that must somehow be protected if it is to benefit society, just as enclosures were necessary to prevent overgrazing in seventeenth century England and the proverbial tragedy of the commons.⁷⁶ The 1927 Radio Act and the 1934 Communications Act contend that broadcasting must serve the public interest, convenience or necessity, and despite confusion and disagreement surrounding the meaning of this phrase, this can be seen as both a limit on and enhancement of liberty. The 1934 Act also compelled broadcasters to offer "equal time" to political candidates at the lowest available rate.⁷⁷ In the 1940s, the government attacked the Associated Press monopoly on anti-trust grounds, limiting the organization's liberty by forcing it to offer wire copy to nonmembers.⁷⁸ This was also the era of the forestalled "Blue Book," which intended to regulate media content, as well as the Fairness Doctrine, passed to enhance the freedom of speech by guaranteeing airtime for public affairs and opposing viewpoints.⁷⁹ Significantly, the case of *Red Lion*

⁷⁵ Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action* (New York: Cambridge University Press, 2008). First published 1990.

⁷⁶ See Polanyi, *Great Transformation*.

⁷⁷ Section 315 of the Communications Act of 1934. See Tim Vos, "Explaining Media Policy: American Political Broadcasting in Comparative Context" (PhD Diss., Syracuse University, 2005).

⁷⁸ *Associated Press v. U.S.* 326 U.S. 1 (1945).

⁷⁹ See Victor Pickard, "Media Democracy Deferred: The Postwar Settlement for U.S. Communications, 1945-1949" (PhD Diss., University of Illinois at Urbana-Champaign, 2008).

Broadcasting affirmed the Fairness Doctrine, and the court even indicated that its existence was “constitutionally compelled” by the First Amendment.⁸⁰

These dominant interpretations began to shift in the 1970s and 1980s, as the rise of neoliberalism introduced a new view of economic power in society generally and, regarding media, brought what McChesney would later call the “new theology of the First Amendment,”⁸¹ or the return to a preference for a negative view of liberty, even though this transformation—especially regarding the rights of corporations to consolidate and eschew speech restrictions—was really just a different type of positive liberty. In this case, however, the enhancement of liberty is aimed at a tiny class of corporate plutocrats rather than at citizens. The 1980s brought a wave of so-called “deregulation,” which was actually just a new form of regulation that promoted corporate interests and reduced or eliminated policies meant to promote social welfare in non-economic ways. Reagan’s FCC chairman, Mark Fowler, made the case eloquently when he told *Reason* magazine that a “television is just a toaster with pictures” and that people should get over any impulse to the contrary.⁸² What he meant, of course, was that media is an industry like any other, which should be ruled by the laws of economics and “consumer sovereignty.” In a 1987 law article, Fowler and others make the case for the total deregulation of telecommunications, especially the telephone industry, which was dominated by AT&T’s regulated monopoly for most of the century.⁸³ Fowler’s FCC was also responsible for the

⁸⁰ *Red Lion Broadcasting Co v FCC*, 395 US 367 (1969).

⁸¹ Robert McChesney, *Rich Media, Poor Democracy: Communication Politics in Dubious Times*, (Urbana: University of Illinois Press, 1999), Chapter 6.

⁸² Mark S. Fowler, “Reason Interview: Mark S. Fowler. Reason.” Accessed March 2011, <http://reason.com/archives/1998/12/01/voices-of-reason/singlepage>.

⁸³ Mark S. Fowler, Albert Halperin, and James D. Schlichting, “‘Back to the Future’: A Model for Telecommunications,” *Federal Communications Law Journal* 38, no. 145 (1986).

repeal of the Fairness Doctrine, which was said to have had a chilling effect on the nation's broadcasters and to impose unconstitutional limits on a form of media.

In *American Broadcasting and the First Amendment*, Powe agrees with Fowler's position and contends that broadcasting had been unfairly regulated while print media were free to do as they pleased.⁸⁴ He argued against the notion that the public benefits from having two types of media: regulated (broadcasting) and unregulated (print). Print media has historically been free from regulation, as it is not, in theory, limited by a scarcity problem like broadcasting has been. The case of *Miami Herald v. Tornillo* confirmed this when courts found Florida's "right of reply" law to be unconstitutional for newspapers, which are plentiful.⁸⁵ (A.J. Leibling challenged this notion when he pointed out that "a free press belongs to the man who owns one.") All of this also points to what Sunstein has called a "two-tiered" vision of the First Amendment, which implies different levels of regulation for different types of media (broadcasting versus print) and different types of content.⁸⁶ For an example, Sunstein points to the *New York Times v. Sullivan* case, which created the "actual malice" standard that sets public figures apart from private individuals when it comes to libel. Similarly, media law also offers different regulatory standards for news and advertising, and provides a higher level of protection for political over commercial speech.

In sum, modern communication policy illustrates various attempts to reconcile positive and negative liberty and the search for the appropriate balance of limiting liberty

⁸⁴ L.A. Scot Powe, *American Broadcasting and the First Amendment* (Berkeley: University of California Press, 1987).

⁸⁵ *Miami Herald Publishing Co. v Tornillo* 418 US 241 (1974).

⁸⁶ Sunstein, "Television in the Public Interest."

while also promoting it. But ultimately, as McChesney notes, there is no avoiding affirmative regulation that promotes certain types of structures and content over others:

The question is not whether we will have subsidies and policies, but rather, what will the subsidies and policies be, what institutions will they support, and what values will they encourage and promote? When we talk about media, what most of us are concerned with, ultimately, is the content the media system produces and what effect that has upon our lives. But the content is shaped to a significant extent by the institutional structures of media systems, which is why political economists devote so much time to studying that issue. And the institutional structures are determined by policies and subsidies, which are in turn determined by the policymaking process.⁸⁷

McChesney's comment illustrates the importance of understanding how and why policies are made and what interests they promote or support. He also makes clear the usefulness of the institutionalist and political economic approaches to studying media structures, which are dictated by a confluence of social, cultural, political and economic forces. These questions are central to this dissertation, which seeks to understand the forces at work during the formative period of modern mass media structures.

⁸⁷ Robert McChesney, "How to Think About Journalism: Looking Backward, Going Forward," in Barbie Zelizer, *Explorations in Communication and History* (New York: Routledge, 2008), 200.

Chapter 4: Methodology

According to Skocpol, all of the modern social sciences and especially sociology were originally a response to the effects of the industrialization and commercialization of society in the nineteenth century.¹ Through a range of methods, scholars have attempted to understand and provide explanations for the drastic changes that took place during this time. Historical sociology is one of the earliest and most enduring forms of knowledge production, as it allows scholars to focus their attention on big questions about the nature of society, social processes, and social institutions over time. Some of the most significant scholarly works of the past century employ this method as they examine a range of topics including the rise of the welfare state, class formation, economic development, social revolutions, and political organization.² Studies in this tradition can be broadly interpretive or causal and analytical, and can seek to make modest empirical claims and generalizations. These studies typically rely on a small number of cases—sometimes even a single case—which allows for the kind of deep, contextualized analysis that is often lacking and indeed often impossible in quantitative research, especially that which relies on cross-national comparisons based on statistical analyses.³

¹ Theda Skocpol, “Sociology’s Historical Imagination,” in *Vision and Method in Historical Sociology*, ed., Theda Skocpol (New York: Cambridge University Press, 1984).

² For examples, see chapters 2 through 10 in Skocpol, *Vision and Method*.

³ See generally Skocpol, *Vision and Method*; James Mahoney and Dietrich Rueschemeyer, *Comparative Historical Analysis in the Social Sciences* (New York: Cambridge University Press, 2003).

Historical Comparative Analysis

The study described in this dissertation is best conducted through comparative historical analysis. As Calhoun points out, certain forms of social phenomena “cannot be dealt with adequately through purely contemporaneous data sources.”⁴ The phenomena to be studied often include those that occur only in a small number of cases, such as revolutions—or in my case, the institutionalization of media systems—that cannot be studied through statistical techniques or other contemporary research methods. Calhoun also suggests that certain specific events are of broad theoretical interest, such as economic development in Japan, which speaks to broader theoretical questions about the rise of capitalism generally.

Historical methods also are useful when examining phenomena that occur over extended time periods. Because certain processes unfold on long time scales, it is not useful to limit examination to present-day cases. And finally, Calhoun points out that, in some cases, “changing historical context is a major set of explanatory variables.”⁵ The study of broader social or political struggles may be necessary for examining how a process unfolds over time. Classic examples are Moore’s *Social Origins of Dictatorship and Democracy* and Thompson’s *The Making of the English Working Class*.⁶

In seeking to “explore alternative ways of establishing a meaningful dialogue between ideas and evidence,” Ragin presents the holistic case comparison approach,

⁴ Craig Calhoun, “The Rise and Domestication of Historical Sociology,” in *The Historical Turn in the Human Sciences*, ed., Terrance J. McDonald (Ann Arbor: University of Michigan Press, 1996), 313.

⁵ Calhoun, “The Rise and Domestication,” 313.

⁶ Barrington Moore, *Social Origins of Dictatorship and Democracy: Lord and Peasant in the Making of the Modern World* (Boston: Beacon Press, 1966); E.P. Thompson, *The Making of the English Working Class* (New York: Pantheon Books, 1964).

which is the method employed here.⁷ He considers the tradition of comparative social science, and describes it as qualitative, historical, and case-oriented rather than variable-oriented. Thus, the case orientation is “both historically interpretive and causally analytic”⁸ and “provides a basis for establishing modest empirical generalizations.”⁹ These generalizations are derived from evidence gained “by identifying comparable instances of a phenomenon of interest and then analyzing the theoretically important similarities and differences among them.”¹⁰

Despite the weaknesses of the case-oriented approach such as the problem of handling multiple or conjunctural causation, Ragin suggests that case-oriented methods are still useful for “the development of new theoretical and empirical distinctions and for the elaboration of historical models and types.”¹¹ Overall, case-oriented methods are useful for comparing a small number of instances of a particular social phenomena and are likely to combine “causal analysis, interpretive analysis, and concept formation.”¹²

In general, comparative historical analysis is “united by a commitment to offering historically grounded explanations of large-scale and substantively important outcomes.”¹³ The approach is defined by “a concern with causal analysis, an emphasis on processes over time, and the use of systematic and contextualized comparison.”¹⁴

Mahoney and Rueschemeyer remind us that the goal of comparative historical analysis is

⁷ Charles C. Ragin, *The Comparative Method: Moving Beyond Qualitative and Quantitative Strategies* (Berkeley: University of California Press, 1987), viii.

⁸ Ragin, *Comparative Method*, 35.

⁹ Ragin, *Comparative Method*, 31.

¹⁰ Ragin, *Comparative Method*, 31.

¹¹ Ragin, *Comparative Method*, 44.

¹² Ragin, *Comparative Method*, 51.

¹³ Mahoney and Rueschemeyer, *Comparative Historical Analysis*, 4.

¹⁴ Mahoney and Rueschemeyer, *Comparative Historical Analysis*, 6.

to produce explanations of the outcomes analyzed in a small number of cases. This is the value of the historical comparative approach that cannot be equaled in other, more quantitative approaches to investigation.

Above all, the approach makes possible a dialogue between theory and evidence of an intensity that is rare in quantitative social research. By employing a small number of cases, comparative historical researchers can comfortably move back and forth between theory and history in many iterations of analysis as they formulate new concepts, discover novel explanations, and refine preexisting theoretical expectations in light of detailed case evidence.¹⁵

This is exactly the goal of this comparative analysis of the origins of broadcasting.

Through a grounded historical approach to a small number of cases, this study seeks to provide novel explanations of the divergent outcomes evident in Britain and the U.S.

The historical comparative approach used to investigate these questions may elicit complaints from scholars who are skeptical of qualitative and comparative methods as overly humanistic and from those who would discount my observations or conclusions as overly deterministic, subjective, speculative and lacking in empirical validity. These complaints propose that small-*N* studies are without value due to a lack of generalizability on one hand or due to overly deterministic, unsupportable claims. Lieberman, for example, complains that “small-*N* studies operate in a deterministic manner, avoiding probabilistic thinking either in their theory or in their empirical applications.”¹⁶ Determinism implies direct, generalizable causality that is normally the province of quantitative research. “One must take a very cautious stance about whether the deterministic mechanisms implied by the methods used in these small-*N* studies cause

¹⁵ Mahoney and Rueschemeyer, *Comparative Historical Analysis*, 13.

¹⁶ Stanley Lieberman, “Small N’s and Big Conclusions: An Examination of the Reasoning in Comparative Studies Based on a Small Number of Cases,” *Social Forces* 70, no. 2 (1991): 310.

institutional and macrosocietal events.”¹⁷ The methods of small-*N* studies, of course, need not imply “deterministic mechanisms,” especially when seeking to analyze unique historical events. An analysis of historical processes does not necessarily aim to establish generalizable causes of common events but does seek to make claims and provide explanation based on empirical evidence.

Sewell’s analysis of the comparative method offers a useful critique. While he does not seek to reject the comparative method, he does suggest that “we need to strip it of inappropriate scientific rhetoric and rethink it as a means of theorizing causal narratives through looping contexts of discovery.”¹⁸ He proposes the notion of “eventful temporality,” which “sees the course of history as determined by a succession of largely contingent events.”¹⁹ Indeed, my study fits with such a view as described by Sewell: “Events may be defined as that relatively rare subclass of happenings that significantly transform structures. An eventful conception of temporality, therefore, is one that takes into account the transformation of structures by events.”²⁰ Indeed, the goal of this study is to highlight and compare the events that led to the formation of two different broadcast media systems.

Finally, this study also takes cues from critical and cultural studies in communication policy research, and follows the approach described by Rowland.²¹

¹⁷ Lieberman, “Small N’s,” 318-319.

¹⁸ W.H. Sewell, Jr., “Three Temporalities: Toward an Eventful Sociology,” in *The Historic Turn in the Human Sciences*, ed., Terrence J. McDonald (Ann Arbor: University of Michigan Press, 1996): 247.

¹⁹ Sewell, “Three Temporalities,” 247.

²⁰ Sewell, “Three Temporalities,” 262.

²¹ Willard D. Rowland, Jr., “The Meaning of ‘The Public Interest’ in Communications Policy, Part I: Its Origins in State and Federal Regulation,” *Communication Law & Policy* 2, no. 3 (1997): 309.

Studies of communication and telecommunication policy and history often rely on “formalistic legal analysis of the relevant laws, administrative agency decisions, and judicial rulings with an emphasis on questions of constitutionality, process or precedence.”²² This study, like Rowland’s, views policy debates and documents

as social and political texts subject to quite different readings, as socially created documents subject to interpretation in much the same way as are literary and other cultural texts. The intent is to understand them for what they reveal about patterns of thought and power in the history of American life and how those conditions are related to the terms under which American communication media policies have emerged.²³

This historical comparative analysis of broadcasting origins broadens Rowland’s approach to include American and British life, and thus centers on the state as the unit of analysis with attention to the legal codification of the public interest relevant to broadcasting policy and the institutional context for that development. Ultimately, this research aims to address a central question: How did different conceptions of the “public interest” shape early broadcasting policy outcomes in the United States and Great Britain?

Selection of Cases and Time Period

Why does Great Britain make for a good comparative case to help understand and explain U.S. communication policy? What sort of comparative leverage is gained through this approach? For a successful comparative analysis, it is important to have an appropriate mix of similarities and differences. If cases are too similar or too different,

²² Rowland, “Part I,” 313.

²³ Rowland, “Part I,” 313.

comparative analysis can be ineffective in generating useful evidence and explanation.²⁴ I submit that the British and American media systems are appropriate for comparative analysis due to an attractive blend of similarities and differences in both their modern and historical incarnations. Other scholars have tended to agree, as historical analyses of one system often rely on comparisons with the other.²⁵

Broadly, in their modern contexts, the British and American media systems are often considered to be quite similar when compared to the rest of the world. Both systems enjoy relatively similar press freedom and legal restrictions, and both systems exist within relatively similar market economies.²⁶ As such, both systems fall within Hallin and Mancini's conceptualization of the "North Atlantic or Liberal" media system model, which contrasts with the "Polarized Pluralist Model" of the Mediterranean region and the "Democratic Corporatist Model" of north and central Europe. "The Liberal Model is characterized by a relative dominance of market mechanisms and of commercial media" even though there is "considerable variation among countries" grouped together.²⁷ In one of the central differences, public broadcasting in general receives a much larger audience share in the U.K., where the organizational and institutional structure of the BBC and its long history helps to set the British media system apart.

Hallin and Mancini describe the British model for the regulation of broadcasting as the "professional model," in which "a strong tradition developed that broadcasting should be largely insulated from political control and run by broadcasting

²⁴ Mahoney and Rueschemeyer, *Comparative Historical Analysis*.

²⁵ For example, most of the histories reviewed in Chapter 2, including Briggs, Barnouw, McChesney, Camporesi.

²⁶ Daniel C. Hallin and Paolo Mancini, *Comparing Media Systems: Three Models of Media and Politics* (Cambridge, UK: Cambridge University Press, 2004).

²⁷ Hallin and Mancini, *Comparing Media Systems*, 11.

professionals.”²⁸ Other broadcasting systems that exemplify this model include the Canadian Broadcasting Company, Irish public broadcasting, and some Scandinavian countries. Hallin and Mancini suggest that public broadcasting in the U.S. also fits within this model, but it is a much smaller part of the overall American media system as compared to the BBC in Britain. Of course, both media systems have experienced change over time. National public broadcasting did not exist in the U.S. until the 1960s, just as the British media landscape began to change in the 1950s with the introduction of commercial broadcasting and the Independent Television Authority, created by the Television Act of 1954. Today, both countries can be characterized as mixed systems, although the American system remains much less mixed than the British.

In their historical contexts, the two countries share a common cultural heritage under the British crown, but the American Revolution also represents a significant departure from this heritage.²⁹ The timeline is not the same, but both countries experienced relatively similar processes of democratization, and both countries experienced the Industrial Revolution in the nineteenth century, first in Britain then later in America, eventually giving rise to working and middle classes as well as similar social structures.³⁰ Culturally, the late nineteenth century saw the growth of similar protectionist movements in both countries, as evidenced by Victorian ideals of service in Britain and

²⁸ Hallin and Mancini, *Comparing Media Systems*, 31.

²⁹ Gordon S. Wood, *The Radicalism of the American Revolution* (New York: Knopf, 1992).

³⁰ See Philip Norton, *The British Polity*, 2nd ed. (New York: Longman, 1991); Thompson, *Making of the English Working Class*; Paul Starr, *The Creation of the Media: Political Origins of Modern Communications* (New York: Basic Books, 2004).

Progressive Era reforms in the U.S.³¹ And the long tradition of British paternalism, originating during the Tudor and Stuart eras, actually has a kind of analogue in American republicanism as espoused by such thinkers as Walter Lippmann.³² Politically, British parliamentary democracy is not the same as American republican democracy, but in that they are both Western, industrialized democracies, they are appropriate for comparative analysis. With regard to media and communications, the two countries are historically similar in that they both developed similar publishing and telecommunication industries and experienced similar levels of press freedom. These patterns of similarities as well as differences will be more deeply explored in Chapter 5. Generally, the U.S. and U.K. and their respective media systems have an appropriate blend of similarities and differences in both their modern and historical contexts to make them well suited to comparative analysis.

The time period analyzed is 1896-1935. I begin with 1896 because this is the year that Marconi filed his patent for his “black box,” the first wireless communication device, with the London patent office. This marks the beginning of state regulation of wireless communication. I end with 1935 because this is when the modern broadcasting structures were fully institutionalized in the U.S. and Britain. The Communications Act of 1934 went into effect in the U.S., and the BBC’s status as public corporation was confirmed by the 1935 Ullswater Report. Some attention must also be paid to precursors to communication policy before 1896 because some path dependent processes that would influence the structure of broadcasting were already in place in the nineteenth century.

³¹ Paddy Scannell and David Cardiff, *A Social History of British Broadcasting* (Oxford, U.K.: Blackwell, 1991), 9. See also Lewis L. Gould, *America in the Progressive Era, 1890-1914* (New York: Longman, 2001).

³² Walter Lippmann, *Public Opinion* (New York: Harcourt, 1922).

Data Collection

The advent of broadcasting is an obvious critical juncture in the history of communication due to the rapid establishment of policies required to structure and govern the emerging technologies. This study seeks to understand the paths already in place at the advent of broadcasting and the paths that emerged as broadcasting evolved that helped dictate the options available—and unavailable—to communications policymakers.

The collection of data began with secondary sources, many of which were described in Chapters 2 and 3. After gaining a solid grounding in the relevant secondary material, data collection moved to primary sources. My focus is on government documents including legislation, hearings and court cases but also includes historical newspapers, trade journals, scholarly articles, law review articles and books from the time period studied. I also relied on memoirs and correspondence written by such key players as Herbert Hoover and John Reith. The collection of data was an iterative process, in which I moved back and forth between primary and secondary sources as new information was revealed and discovered. I also relied heavily on secondary sources in constructing a narrative of the time period analyzed, perhaps more heavily than some historians would tolerate, but this is part of the historical comparative approach in sociology. As Vos has noted, an “overwhelming amount of data” is needed to attempt to forge a comprehensive narrative and an adequate explanation for questions such as the ones at hand.³³ For this reason, it is common for works of historical sociology to lean heavily on previous research in synthesizing explanations. As Skocpol argues,

³³ Tim Vos, “Explaining Media Policy: American Political Broadcasting in Comparative Context” (PhD Diss., Syracuse University, 2005), 51.

a dogmatic insistence on redoing primary research for every investigation would be disastrous; it would rule out most comparative-historical research. If a topic is too big for purely primary research—and if excellent studies by specialists are already available in some profusion—secondary sources are appropriate as the basic source of evidence for a given study.³⁴

To be sure, this comparison of broadcasting origins is a big topic, and excellent studies by specialists are indeed available in profusion. I am fortunate to be able to make use of those works in the analysis that follows.

³⁴ Theda Skocpol, “Emerging Agendas and Recurrent Strategies,” in *Vision and Method in Historical Sociology*, ed., Theda Skocpol (New York: Cambridge University Press, 1984), 382.

Chapter 5: Communication Policy Before 1896

The origins of modern mass media and the policies that governed them can be traced back to the birth of the printing press and the social change that resulted from the Renaissance and the Enlightenment period of the 1500s. Increasing literacy, mercantilism and political unrest in Europe eventually gave rise to a bourgeois class and a public sphere where political authority could be challenged and criticized.¹ The institutions of church and state reacted by unsystematically censoring anything deemed subversive and by regulating the publishing industry by creating monopoly structures, as with the Company of Stationers in England. As Starr points out, a “key feature of policy in both England and France was the alignment of the dominant groups in the trade with the aims of the state. The control of any industry is likely to be more effective when enforcement becomes endogenous—that is, when those who run the industry have strong incentives to make state policy their own.”²

But these structures were challenged with the emergence of the postal service in the 1600s and the debut of the newspaper in the 1620s. The public sphere came to exist in a new space between emerging markets and the state, and thus found some independence from political and economic influence. By the 1700s, licensing boards had been eliminated in England and much of the rest of Europe, and the first copyright law was in place in England in 1710. Bribes and stamp taxes helped elite rulers maintain a

¹ See generally Jurgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* (Cambridge, Mass.: MIT Press, 1989); Paul Starr, *The Creation of the Media: Political Origins of Modern Communications* (New York: Basic Books, 2004).

² Starr, *Creation of the Media*, 28.

commanding presence in the press, and “Great Britain and France, unlike the United States, continued to constrain the economic development and autonomy of the press well into the nineteenth century.”³ These shifts in early communication contexts and policy followed by the different regulatory approaches to the telegraph would have a commanding influence on the structure of broadcasting in the twentieth century. All of these changes took place in the context of emerging markets, which gave rise to the causal chains that would serve to dictate the available options for future communication policymakers.

The Rise of the Market Economy

As discussed in Chapter 3, the rise of market economies in the nineteenth century caused major transformations in society. But the idea of the classic market economy, with free trade in land, labor and capital, never actually came to be, as described by Polanyi and Reddy.⁴ What did transpire, as Reddy suggests, was the rise of a market *culture*, or a set of incorrect perceptions and misguided practices that were informed by the language and ideas of classic market economics but were never reflected in reality. Regardless of its level of adherence to the “rules” of capitalism, this market culture, in both the United States and Europe, “sparked countermovements of protest, reform, and public regulation, all attempting to control the unsettling effects of economic upheaval.”⁵ This was especially true in Britain, which has been called the first industrialized nation and the first

³ Starr, *Creation of the Media*, 147.

⁴ Karl Polanyi, *The Great Transformation: The Political and Economic Origins of Our Time*, 2nd ed. (Boston: Beacon Press, 2001); William M. Reddy, *The Rise of Market Culture: The Textile Trade and French Society, 1750-1900* (New York: Cambridge University Press, 1984).

⁵ Starr, *Creation of the Media*, 233.

to have an established working class, which emerged around the mid-eighteenth century.⁶ The British Empire was growing to cover a quarter of the planet, but the expectations for government were beginning to change to reflect needs beyond those of the national defense. The expansion of government was “attributable to the increasing demands and expectations of the newly enfranchised working population. Government began to conceive its duties as extending beyond those of maintaining law and order and of defending the realm. The statute book began to expand, with the addition of measures of social reform.”⁷ These new measures enacted in the nineteenth century included efforts to improve working conditions and public health, and were “within the capabilities of the government to provide. They did not create too great an economic burden; they were not themselves economic measures.”⁸ Concern for public welfare began to grow in the mid-1800s and remained a largely nonpolitical issue well into the twentieth century.⁹ Protective measures were put into place by conservatives and liberals as the welfare state grew and the British Empire shrank. Attention was increasingly paid to domestic needs, especially during the interwar period. In this context, the British Parliament was designed to facilitate cooperation during the political process and to accommodate citizen input.

This is also the context in which the paternalism of John Reith’s BBC likely grew. Since the Tudors and Stuarts, who heavily regulated what industry and commerce existed

⁶ Philip Norton, *The British Polity*, 2nd ed. (New York: Longman, 1991); E.P. Thompson, *The Making of the English Working Class* (New York: Pantheon Books, 1964).

⁷ Norton, *The British Polity*, 52.

⁸ Norton, *The British Polity*, 52.

⁹ See Brian Howard Harrison, *The Transformation of British Politics, 1860-1995* (New York: Oxford University Press, 1996).

at the time,¹⁰ Britain has a long history of paternalism, the effects of which can be seen well into the 1800s. Historically, this notion of paternalism described the relationship of the aristocracy to the working class; it was thought that the privileged members of society owed some duty to the lower classes, which needed to be cared for both economically and culturally. This paternalism manifested itself, in part, in the protectionist measures instituted in response to the Industrial Revolution. Polanyi's "double movement" concept describes the way in which British society was pulled in separate directions, which he called expansionism and protectionism. As markets grew during the Industrial Revolution, government sought to facilitate economic growth but to keep the pace slow enough as to protect citizens from the negative effects of emerging markets. Self-interest was restrained to some degree in order to serve larger social aims. Norton describes this pattern of British history:

The reforms of the nineteenth century were facilitated not only by an empirical orientation to change but also by the paternalism of political leaders. *Noblesse oblige* (privilege entails responsibility) is a foreign phrase but it embodies a very British concept. Many of the country's aristocratic leaders believed that they had a duty to help improve the condition of the working man.¹¹

This was far less so in America, where the revolutionary, republican spirit still filled society with a preference for individualism and independence over state intervention. As Schudson notes, the increasing "democratization of economic life" stressed economic gain "to the exclusion of social aims."¹² This blurred distinctions of class in what Schudson calls "the egalitarian age," a period in the 1830s and 1840s that

¹⁰ A.I. Ogus, "Regulatory Law: Some Lessons from the Past," *Legal Studies* 12, no. 1 (1999): 1. Quoted in Mike Feintuck, *The Public Interest' in Regulation* (New York: Oxford University Press, 2004), 36.

¹¹ Philip Norton, *The British Polity*, 2nd ed. (New York: Longman, 1991), 57.

¹² Michael Schudson, *Discovering the News: A Social History of American Newspapers* (New York: Basic Books, 1978), 46.

saw “the opening of opportunity to persons regardless of birth or breeding.”¹³ The spread of public education during this time brought with it a spreading of wealth and political power, and “economic development was promoted and shared by many rather than by few.”¹⁴ And penny papers contributed to the expansion of the market through increased advertising thus enlarging the market for manufactured goods and by transforming the newspaper into a consumable product for private home use, not just borrowed or passed around in public. This all speaks to the rise of a market culture in the early U.S. that was somewhat closer to classic market economics than the market culture in Europe. As Schudson writes,

The growth of a market economy in the 1820s and 1830s integrated and rationalized American economic life—but it did more than this. Not only did more people and a greater range of goods participate in the marketplace, but a culture of the market became a more pervasive feature of human consciousness. And this culture, it is fair to say, was democratic. In the market there were no special categories and privileges. Land could be bought and sold, and even human labor had a price set by supply and demand, not by custom. In the market, one individual was as good as the next; in the ideology of the marketplace, all individuals acting separately to promote their own advantage would produce the greatest possible aggregate wealth for society as a whole. It became more acceptable to think of ‘self-interest’ as the mainspring of human behavior and, indeed, in the theory of the market, as a motive to be admired, not distrusted.¹⁵

Thus, it was during this period and the decades that followed that notions of democracy and personal freedom and equality became tied to economic self-interest. The capitalist pursuit of wealth was becoming synonymous with democracy itself.

¹³ Schudson, *Discovering the News*, 44.

¹⁴ Schudson, *Discovering the News*, 45.

¹⁵ Schudson, *Discovering the News*, 58.

The Press and Commercialization

It was also in this context that the notion of press freedom had been formed in the American colonies; the main threat to free speech was thought to be from government.

As Starr notes:

Precisely because of the interest in strengthening republican institutions, early American policy included strong positive commitments to information and communications, not merely the ‘negative liberty’ of individual rights to free expression. While the Europeans taxed publications, the United States subsidized the growth of independent newspapers through cheap postal rates.¹⁶

While the First Amendment expresses an essentially negative conception of liberty based on broad libertarian ideals,¹⁷ press freedom in practice relied on the positive commitments described by Starr. In the early- to mid-1800s, printers were typically aligned with political organizations, and the content of their publications was generally partisan and advocacy-oriented. This is not surprising, as funding came from political organizations, but it also came from government, which subsidized the early press through printing contracts and other means.¹⁸

The printing press began to see a shift in the mid-1800s as capitalism was born and the press began to commercialize.¹⁹ Baldasty documents the American “evolution of news as a commodity to be shaped and marketed with an eye for profit”²⁰ as a phenomenon that began in the nineteenth century as newspapers shifted away from

¹⁶ Starr, *Creation of the Media*, 16.

¹⁷ Jeffery Alan Smith, *Printers and Press Freedom: The Ideology of Early American Journalism*. (New York: Oxford University Press, 1988).

¹⁸ See Robert McChesney and John Nichols, *The Death and Life of American Journalism: The Media Revolution That Will Begin the World Again* (Philadelphia: Nation Books, 2010); Richard B. Kielbowicz, *News in the Mail: The Press, Post Office and Public Information, 1700-1860s* (New York: Greenwood Press, 1989).

¹⁹ Gerald J. Baldasty, *The Commercialization of News in the Nineteenth Century* (Madison, Wis.: University of Wisconsin Press, 1992).

²⁰ Baldasty, *Commercialization of the News*, 4.

partisanship toward objectivity. While the partisan press was heavily influenced by political interests, it is important to note that its main goal was to provide information, advocate for causes, and support candidates for office. They did not operate for profit, and they stressed news and politics over entertainment and gossip. Before the commercialization of news, partisan newspapers

were a vibrant part of the political process. Editors did not debate in some idealistic desire to create a vast marketplace of ideas. Rather, they argued with one another because they wanted power. They were highly opinionated and interpreted events within their partisan ideology. Through all this they defined their readers as voters. Despite their bias, their intolerance of their opponents, and their subservience to political parties, they produced fervent and wide-ranging debate about political issues.²¹

This began to change as publishers realized they could make a profit by neutralizing content, reaching a wider audience, and selling space to advertisers. It is in this period, after the Civil War, that advertising began to take its modern form, shifting from dry, fact-based claims to a reliance on slogans and images.²²

Thus, the rise of the penny press brought with it a decline in interest in and attention to politics and a rise in attention to business and the general commercialization of society. “The rise of the penny press, as limited geographically as those cheap and lively papers were, provided the basis for the press as a servant of business rather than of politics.”²³ Rather than advocating for political goals and participating in the political process, the press shifted its focus to providing entertaining and sensational fare that would attract large audiences, large circulations and large revenues from advertisers.

Success was now measured by “news gathering and scoops, by ever-growing circulation,

²¹ Baldasty, *Commercialization of the News*, 143.

²² Inger L. Stole, *Advertising on Trial: Consumer Activism and Corporate Public Relations in the 1930s* (Urbana: University of Illinois Press, 2006).

²³ Baldasty, *Commercialization of the News*, 37.

and by booming revenues. Public service was second to private gain.”²⁴ Advertisers began to counsel newspapers on the type of content that would be attractive to business. Successful papers would avoid politics, especially criticism of government officials, would be “optimistic and happy about the world” and “present the bright side of life,” and offer “something of interest to everyone in the potential reading audience, but particularly to women.”²⁵ This shift also required increasing attention to demographics so that news content could be designed to attract consumers who could purchase the goods and services being advertised.²⁶

So while the rise of advertising during the nineteenth century did help to free the commercial press from government and political parties, new structures and limitations were put in place. As Starr notes, “The growth of commercial advertising reduced then virtually eliminated the role of political patronage in the economics of daily newspapers. The shift to advertising did not simply liberate the press to serve the public; it created new commercial incentives and pressures.”²⁷ Rather than being tied to political ideologies, the press became tied to one dominant ideology of commercialism and market values. Schudson describes this as a shift to “the culture of a democratic market society, a culture which had no place for social or intellectual deference. This was the groundwork on which a belief in facts and a distrust of the reality, or objectivity, of ‘values’ could thrive.”²⁸ The penny papers, from which modern journalistic values were drawn, were guided by and helped to institutionalize the emerging ideology of commercialism with its

²⁴ Baldasty, *Commercialization of the News*, 47.

²⁵ Baldasty, *Commercialization of the News*, 78.

²⁶ Baldasty, *Commercialization of the News*, 114.

²⁷ Starr, *Creation of the Media*, 146.

²⁸ Schudson, *Discovering the News*, 60.

focus on economic growth. This shift laid the groundwork for the commercialization of broadcasting in the coming century in the U.S. In Britain, it is exactly this approach to media content that John Reith and the BBC would later resist, electing to ignore audience demands or at least balance them with content that reflected the high culture of the British elites.

The commercialization of the American press in the mid-1800s would have parallels in Britain, where these new pressures “introduced a new system of press censorship more effective than anything that had gone before. Market forces succeeded where legal repression had failed in establishing the press as an instrument of social control.”²⁹ The reaction was the emergence of a radical, working class press that would thrive in the 1800s and then decline with the increasing commercialization and industrialization of British life, the rise of the middle class, and the lifting of stamp and paper taxes, or the “taxes on knowledge.” The lifting of taxes was not meant as a gift to publishers or readers, but rather as a shift away from state regulation to regulation by market forces. “The parliamentary campaign for a free press was never inspired by a simple libertarian commitment to diversity of expression... All that had changed was an increasing conviction that market forces were a more efficient and morally preferable control system to that administered by the state.”³⁰ In Britain as in America, the commercialization of the press helped to create mass audiences and mass markets, in which the press and advertising soon became dependent on each other.

Mass reading-publics and mass markets tended to go together, and the 1890s were years of unprecedented development both for the industries which made consumer

²⁹ James Curran and Jean Seaton, *Power without Responsibility: The Press and Broadcasting in Britain*, 5th ed. (London: Routledge, 1997), 17.

³⁰ Curran and Seaton, *Power without Responsibility*, 41-42.

goods and for the advertising business. The various aspects of growth were associated. Without advertising in popular national newspapers the mass production of ‘branded goods’ would have been impossible. Without advertising revenue the publication of cheap daily newspapers would have been impossible.³¹

Thus, the shifts in press structure in the U.S. and Britain in the nineteenth century show far more similarities than the structures chosen for any of the electronic communication technologies that emerged later. These early similarities emphasize the nature of broadcasting origins as a critical juncture, where links in the chains of communication history were clearly broken as the two countries diverged sharply from what had previously been similar social contexts. At the same time, these early similarities helped define the paths available to the actors who created broadcasting policy.

The Post Office and the Telegraph

The revolution brought by the wired electric telegraph in the 1840s cannot be understated, as it separated communication from transportation for the first time in human history, as James Carey noted.³² Paul Starr and Richard John have catalogued this revolution and the developments that followed.³³ The new communication technology quickly evolved in very different ways in the U.S. and Europe. As Starr notes:

In Europe, the domestic telegraph, and later the telephone, came under the control of the state and were often assimilated into the organization of the postal system. In the United States, in contrast, both the telegraph and the telephone were established as private enterprise and went through a phase of intense competition

³¹ Asa Briggs, *The History of Broadcasting in the United Kingdom Part I* (London: Oxford University Press, 1961), 42.

³² James W. Carey, *Communication as Culture: Essays on Media and Society* (Boston: Unwin Hyman, 1989).

³³ See also Joshua D. Wolff, “‘The Great Monopoly’: Western Union and the American Telegraph, 1845-1893” (PhD Diss., Columbia University, 2008); Robert L. Thompson, *Wiring a Continent: The History of the Telegraph Industry in the United States, 1832-1866* (New York: Arno Press: 1972).

before evolving into monopolies and becoming subject to government regulation.³⁴

These early decisions constituted new and different understandings of the role of the state in regulating industry in general and communication in particular. In terms of path dependence, the contested policy decision in America created inertia and feedback through the removal of options over time. It also helped to write the policy “scripts” that future policymakers would rely on in promoting industry power over government control in communications. Had the U.S. opted for a government buyout of the telegraph companies as Britain did, American radio policy might have seen an entirely different fate.

Thus, the birth of the telegraph represents a critical juncture of its own, and it initiated path-dependent processes that would carry well into the twentieth century and affect the structure of broadcasting in both nations in the 1920s and 1930s. But these processes were affected by more than mere matters of ownership and control. Broader economic, legal and cultural conditions affected the development of the new technology. The regulatory environment in the U.S. encouraged the development of industry and technology more than in Britain, as Starr notes:

American law and policy, as well as other conditions, were more favorable to telecommunications development and led to more rapid, early deployment of the technologies. Indeed, Americans played more of a pioneering role in developing both the telegraph and the telephone than one might reasonably have expected from the country’s overall level of industrial and scientific development in the mid-nineteenth century.³⁵

³⁴ Starr, *Creation of the Media*, 153-154.

³⁵ Starr, *Creation of the Media*, 154.

The centralized nature of the economy in the early American republic, which presupposed a government takeover of the telegraph, eventually came into conflict with a “state-oriented political economy that encouraged competition between rival telegraph network providers chartered as private corporations.”³⁶ In spite of this competition in the race to develop the first telecommunications network, Western Union gained control of the telegraph industry in the 1840s, and the Associated Press monopolized wire service news. These monopolies represented “a new form of centralized power” for which Americans “at first had no institutional response.”³⁷ Western Union was subject to more government regulation than other business operations,³⁸ but it still gave preference to business correspondence over personal messages, and its collusion with the Associated Press made it difficult for smaller, local wire services to exist. This will provide a sharp contrast to the telegraph service that was provided by the British Post Office, which treated the technology as a public utility and a nationalized monopoly. It was not until the late nineteenth century in America that concerns about private monopoly power grew and regulation of industry became acceptable. This would be evident with the trust-busting of presidents Roosevelt (1901-1909) and Taft (1909-1913).

This is not to suggest that Americans did not debate the private monopoly held by Western Union in the nineteenth century. Wolff characterizes the rise of Western Union as America’s first national corporate monopoly as a “traumatic transition” from the

³⁶ Richard R. John, *Network Nation: Inventing American Telecommunications* (Cambridge, Mass.: Belknap Press, 2010), 8.

³⁷ Starr, *Creation of the Media*, 16.

³⁸ Charles H. Tillinghast, *American Broadcast Regulation and the First Amendment: Another Look* (Ames, Iowa: Iowa State University Press, 2000), 18.

tradition of public ownership in the postal system.³⁹ This took place in spite of intense public, state and commercial opposition, and represented a shift away from traditional concerns for the public interest. As early as 1845, *The New York Herald* had called for the federal government to “undertake the arrangement,” suggesting that the “public interest” would be “much more securely promoted” in the hands of government.⁴⁰ Similarly, an 1868 article in *The New York Times* summarized a report advocating for uniting the post office and the telegraph in the U.S., as had been done in Britain and much of Europe. The report by Massachusetts lawyer Gardiner G. Hubbard described the situation in Europe and “gives evidence of the fact that where the Government owns the telegraph and unites it with the Post Office the wants of the public are far better supplied than where the lines are owned and operated by individuals or companies.”⁴¹

By the 1880s, many Americans were hopeful for a government takeover of the telegraph. As John notes, “In no other decade did so many journalists, lawmakers, and telegraph users invest such high hopes in the establishment of a government telegraph. And in no other decade did they come away more disappointed.”⁴² The closest Congress came was with the National Telegraph Act of 1866, which was designed to restrict Western Union and made provisions for a possible Congressional buyout of existing telegraph corporations. The passage of this act and the nearly simultaneous nationalization of the British telegraph spurred many calls for a government takeover in the U.S., such as one by Missouri Senator B. Gratz Brown. Contending that competition

³⁹ Wolff, “The Great Monopoly.”

⁴⁰ “Electric Telegraph,” *New York Herald*, April 22, 1845. Quoted in John, *Network Nation*, 55.

⁴¹ “The Post Office and the Telegraph,” *New York Times*, November 25, 1868.

⁴² John, *Network Nation*, 172.

was not working in the telegraph industry, Brown proposed that a government telegraph would, like the postal service, better serve rural areas and would break up the “collusive relationship” between the telegraph corporations and the Associated Press.⁴³ This takeover never happened, and political economists in the late 1800s introduced the idea that the telegraph represented a “natural monopoly,” an idea that could be used to justify private ownership by a single company, but could also be used as a call for more effective federal government control.⁴⁴ This sort of debate foreshadows what was about to become the central question surrounding the emergence of broadcasting.

The American tolerance of the Western Union monopoly contrasts sharply with the British approach to the telegraph. While the British state eventually relinquished direct control of the publishing industry, new communication technologies did not share the same fate. The rise of the telegraph in the mid-1800s led to the Telegraphy Act of 1869, which gave the Post Office the exclusive right to transmit telegrams within the U.K.⁴⁵ Prior to this Act, several private telegraph companies operated in the U.K., including the Electric and International, the British and Irish Magnetic, and the United Kingdom Telegraphy Company. Fixed prices were set in 1865, several years before the transition to full public monopoly. (This transition from regulation of private industry to total public ownership would later be mirrored in the shift from the British Broadcasting Company to the British Broadcasting Corporation in the 1920s.) In addition to inconsistent pricing, the public had also complained about poor service, especially in

⁴³ John, *Network Nation*, 121.

⁴⁴ John, *Network Nation*, 157.

⁴⁵ See Joseph C. Hemmeon, *The History of the British Post Office* (Cambridge: Harvard University, 1912); Andrew Crisell, *An Introductory History of British Broadcasting* (New York: Routledge, 2002); Starr, *Creation of the Media*.

rural areas. These complaints from the public fueled the drive for nationalization in the public interest.

Despite the complaints, even before the Postmaster General was empowered by Parliament to purchase the private holdings, the telegraph service was a popular means of communication among ordinary citizens, as compared to America's Western Union, which mostly existed to serve business communication needs. In 1868, the average Western Union toll was \$1.05, about two-thirds of what an American worker earned in a day.⁴⁶ By 1870, the British and American services both sent around 10 million messages per year, but the U.S. had twice the population of Britain. The British service transmitted 33 million messages in 1884-85 and 50 million messages in 1886-1887.⁴⁷ For Western Union, in 1887, commercial and speculative messages provided 87 percent of the Western Union's revenue, according to a report from Western Union to the U.S. Postmaster General. The report said only two percent of Americans used the telegraph each year, and only five percent of the company's revenue came from "family and social messages."⁴⁸ According to Wolff, "To Western Union, the telegraph was first and foremost an adjunct of commerce, and speed was more important than price. As long as the principal customers of the telegraph were in businesses that demanded high-volume, high-speed communication, Western Union's network was 'best.'"⁴⁹ This characterizes the opposite of what was expected from public service utilities operating in the public interest. Reformers who opposed the Western Union monopoly "envisioned a low-priced

⁴⁶ Wolff, "The Great Monopoly," 9.

⁴⁷ Hemmeon, *History of the British Post Office*, 210.

⁴⁸ Wolff, "The Great Monopoly," 4.

⁴⁹ Wolff, "The Great Monopoly," 8.

telegraph that would be used by all Americans, and while many reformers claimed that such a system would be at least break-even, some admitted that even at a loss it was a cost worth bearing.”⁵⁰

The British telegraph in the hands of the Post Office was never profitable, partly due to management problems and partly due to competition from telephone and improved postal services.⁵¹ So neither the British nor the American telegraph services were successful in the sense that neither was able to serve a broad citizenry and remain profitable. But it certainly is clear where their priorities lay. The American system served American business at a high cost and a large profit; the British system served the public at a low cost even while operating at a loss. And despite their shortcomings, both of these distinct approaches to regulating communication technology would be repeated to some degree by each respective country, first with the telephone and later with broadcasting.

Especially in Britain, the early decision to maintain government control over wired transmissions had a lasting effect. An 1880 court case established the Post Office as the universal licensor of wired phone services, and a 1904 act gave the Postmaster General control of wireless telegraphy and later all telephony. Ultimately the Post Office became the licensor of “broadcast wireless telephony” and the sole operator of broadcasting, as it began to compete with its own licensees and established a near monopoly by taking over trunk lines and refusing to extend local licenses until after 1911. Telephony remained a public monopoly under the Post Office until 1984 when it was privatized as British Telecom. The U.S., on the other hand, would allow its telephone

⁵⁰ Wolff, “The Great Monopoly,” 8.

⁵¹ Hemmeon, *History of the British Post Office*.

service to operate as a private, regulated near-monopoly, and would leave broadcasting in the hands of industry, which by the turn of the century, was a whole new force in society.⁵²

In sum, Britain and the U.S. experienced relatively similar processes of commercialization in their press structures in the nineteenth century, setting the stage for divergent approaches to broadcasting. But the divergent approaches are less surprising considering the path-dependent processes initiated during the emergence of the first electronic communication forms in the mid-1800s. Britain viewed competition in the telegraph industry as problematic and chose to nationalize and improve the service, which was popular among the public even before the government buyout of industry. Despite widespread protests, the U.S. tolerated the Western Union monopoly, preferring a veneer of regulatory control to any sort of government takeover. In both countries, the debates over the regulation of telegraphy would be echoed in the debates over broadcasting, as similar policy scripts would be invoked by subsequent historical actors. The policy outcomes would also be echoed, suggesting that causal chains were being laid even if the links would later be broken, if only for a short time. And although the public interest may not have been explicitly invoked in communication policymaking at this critical juncture, the different approaches to the telegraph likely influenced what different meanings the public interest would take on when it was invoked later.

⁵² See Stole, *Advertising on Trial*; Roland Marchand, *Creating the Corporate Soul: The Rise of Public Relations and Corporate Imagery in American Big Business* (Berkeley: University of California Press, 1998).

Chapter 6: The Origins of Broadcasting Policy, 1896-1920

The possibility of broadcasting—though not the idea of it—was born when an Italian named Marconi used his “black box” to transmit telegraph signals wirelessly in 1895.¹ It would be more than two decades until the perceived problems of wireless communication—messages went from a sender to many receivers rather than just to the intended recipient—would be reconceived as an amazing new mass medium. But the story of broadcasting undoubtedly begins with Marconi’s invention, made possible by the pioneering work of Michael Faraday and James Clerk-Maxwell, who first conceived of electromagnetic waves in 1831 and 1864, respectively; Heinrich Rudolf Hertz, who actually discovered the mysterious waves in 1888; and Nikola Tesla, who put them to use in 1893. Countless engineers, inventors and businessmen would contribute to the development of the technology, notably R.A. Fessenden, who was the first to broadcast the human voice over a mile in 1902 and speech and music over several hundred miles in 1906. Lee De Forest contributed the audion tube in 1906, and Edwin Howard Armstrong improved it and later discovered frequency modulation. David Sarnoff, who would go on to head the National Broadcasting Company in the U.S., was among the earliest—though not likely the first—to conceive of broadcasting as we know it today when he proposed the “radio music box” in 1916. These are just a handful of the names associated with the birth of radio broadcasting, a host of innovators working independently but never alone, a

¹ This history of early wireless inventors relies mainly on Erik Barnouw, *A Tower in Babel: A History of Broadcasting in the United States to 1933, Vol. 1* (New York: Oxford University Press, 1966), Philip T. Rosen, *The Modern Stentors: Radio Broadcasters and the Federal Government, 1920-1934* (Westport, Conn.: Greenwood Press, 1980); Susan J. Douglas, *Inventing American Broadcasting, 1899-1922* (Baltimore: Johns Hopkins University Press, 1987).

community of minds building on the work of each other. Equal parts genius inventors and ruthless businessmen, this community made broadcasting possible.

International Origins

Enter the state. Marconi's invention was certainly a major milestone.² Upon perfecting his invention in 1896, Marconi was taken by his mother to London, where their first stop was to meet with a patent lawyer to begin work on patenting the device, and the second stop was the Post Office where it could be tested and developed. They went to London because the Italian Minister of Post and Telegraph had not been interested in the device, and because they had family connections in England, "where interest in improving maritime communications would no doubt be keen."³ Within a year, Marconi's patent came through, and at age 23, he had formed the Wireless Telegraph and Signal Company, Ltd., and owned half the stock.

Thus, from the beginning, several tools of the state—not the market—were instrumental in dictating the evolution of broadcasting in Europe and the U.S. Patent law would protect Marconi's invention, public officials in the Post Office would help develop it, and a legal structure would allow the company to be formed. But the battle for control of wireless was just beginning. British Post Office engineer-in-chief William Preece had "tried in vain to arrange a speedy takeover by the government of wireless" but could not offer enough money to keep Marconi from forming his own company.⁴ Marconi now had to establish his invention in commercial spheres, figure out how to market the device,

² For the story of Marconi, see generally Douglas and Barnouw.

³ Douglas, *Inventing American Broadcasting*, 17.

⁴ Douglas, *Inventing American Broadcasting*, 17.

how to make it pay. And he needed to preserve his patents in the face of competitors who wanted to steal the technology. As Douglas notes, any inventor of radio who wanted to be successful had to dominate in three realms—technology, business strategy and in the press—and Marconi was just the man to do it.⁵

Marconi had visited the U.S. in 1899 to debut the device by covering the America's Cup Yacht Races for the *New York Herald*.⁶ The idea of broadcasting was still more than a decade away, but Marconi's vision for the airwaves was already one of private, commercial monopoly—under his control.⁷ In the United States in the early 1900s, this view contrasted sharply with views held by the Navy and the Post Office, both of which wanted to control the new wireless telegraph.⁸ Newspapers and magazines came down on Marconi's side, for they had much to gain from privatization; the press certainly didn't want the navy hogging wireless for itself.⁹ A 1902 *New York Times* editorial suggested that government officials would serve as “mere trustees” of Marconi's new technology, “under the strongest of obligations to preserve and protect the property put in their hands, but with no right to injure it and only the smallest discretion for making improvements or for letting others make them.”¹⁰ Inventors agreed—they had received little cooperation from the Navy and could only achieve financial success through private enterprise.¹¹ And amateur wireless operators had a different view, preferring to think of wireless as the “people's medium” and resisting the Navy's claims

⁵ See Douglas, *Inventing American Broadcasting*, xix.

⁶ Douglas, *Inventing American Broadcasting*, Chapter 1.

⁷ Douglas, *Inventing American Broadcasting*, 101.

⁸ Rosen, *The Modern Stentors*; Douglas, *Inventing American Broadcasting*, Chapter 4.

⁹ Douglas, *Inventing American Broadcasting*, 142.

¹⁰ “Topics of the Times,” *New York Times*, March 6, 1902.

¹¹ Douglas, *Inventing American Broadcasting*, Chapter 5.

to the airwaves based on national security concerns.¹² The big question was emerging: Who owns the airwaves? Meanwhile, inventors were struggling to align themselves with companies and capital, but by 1910, many of these endeavors were overinvested, in debt and had reached too far. Companies were selling stock when they barely had a product.¹³ It was the original tech bubble.

Even though the idea of broadcasting had yet to be conceived, even in the first decade of the twentieth century, the air was already being thought of as property to be owned or controlled.¹⁴ Governments in Europe and the U.S. were quick to see the international dilemma in managing the ether. This early realization led to a series of international conferences and conventions to seek consensus on frequency management and allocation. The First International Radio Telegraphic Conference was sponsored by Germany and held in Berlin in 1903. Seven nations attended and addressed disputes about communication between stations owned by different companies and minimizing interference. The delegates were asked to review the issues and reconvene in another international conference, which happened in 1906, again in Berlin. This convention worked out technical details and transmission rates, questions originally raised in the 1903 meeting.¹⁵

The 1906 convention was attended by representatives from 27 countries, ranging from Russia to Denmark to Turkey to Brazil. The provisions agreed upon were to be

¹² Douglas, *Inventing American Broadcasting*, Chapter 6.

¹³ Douglas, *Inventing American Broadcasting*, Chapters 5 and 6.

¹⁴ Douglas, *Inventing American Broadcasting*, 142.

¹⁵ An overview of the 1903 and 1906 conferences as well as their final protocols are provided in Linwood S. Howeth, *History of Communications-Electronics in the United States Navy* (Washington, D.C.: Government Printing Office, 1963), Chapter 10, Appendix B and Appendix F.

applied to “all radio stations open to public service between the coast and vessels at sea,” and the countries were to “make the observance of these provisions obligatory upon private enterprises authorized” to establish and operate stations of all kinds.¹⁶ One of the main sticking points was between the British and American delegations, as the British had already entered into contracts with Marconi’s company that prohibited the exchange of signals with equipment made by other manufacturers.¹⁷ Article 3 of the proposed treaty read simply: “The coastal stations and the stations on shipboard shall be bound to exchange radiograms without distinction of the radio system adopted by such stations.”¹⁸ The American delegation called the acceptance of Article 3 “indispensable” and said it should “serve as the basis of an international agreement.” They addressed objections by noting that the U.S. Navy had demonstrated that “the different systems of radio telegraphy can be effectively used simultaneously one with the other.” The Navy “is actually using at present eight different systems,” they noted.¹⁹ A compromise was reached that would allow the British time to construct new transmitting stations that would not be bound by the Marconi contracts.

Despite the American victory regarding the inclusion of Article 3 and President Roosevelt’s and the Navy’s recommendation that the proposed treaty be ratified by the Senate, hearings by the Committee on Foreign Relations in 1908 led to a different

¹⁶ International Radio Telegraph Convention of Berlin: 1906, United States Navy Dept., Washington, Government Printing Office, 1912, p3

¹⁷ Howeth, *History of Communications-Electronics*, 120.

¹⁸ International Radio Telegraph Convention of Berlin: 1906, Article 3.

¹⁹ Letter dated Nov. 25, 1906, Ambassador C. Tower to the Secretary of State, files, Bureau of Equipment, National Archives, Washington, D.C. Quoted in Howeth, *History of Communications-Electronics*, 120.

outcome.²⁰ After hearing from representatives of industry and government, the committee recommended a “wait-and-see” approach. In a memorandum to the committee, the American branch of the Marconi Company objected to the treaty because “it is taking the property of the Marconi Company and subjecting it to the use and service of others against the will of the owners, and to their injury” and “because the Convention, if adopted by the United States, will impair the value of the patents issued to Marconi and thus violate the national faith.”²¹ The Marconi company felt that its “refusal to agree” to the terms of convention “is unjustly represented as contrary to all precedent and against the public interest.”²² The company also complained that the convention “commits this Government to the policy of Government operation of wireless telegraphy for commercial purposes.”²³ The Marconi Company thus suggested that the public interest was aligned with business interests and invoked in its defense the “national faith” in the government’s ability to uphold patents. To the Marconi Company, adopting the convention’s recommendations would amount to a government takeover of wireless.

Among the witnesses before the committee was John W. Griggs, president of the American branch of the Marconi Company and former U.S. attorney general. Griggs told the committee that the Marconi Company would not be opposed to regulations “where

²⁰ “International Wireless Telegraph and Hearings,” First Session, Sixtieth Congress. Washington, D.C.: Government Printing Office, 1908.

²¹ “Memorandum of Objections Submitted on Behalf of the Marconi Wireless Telegraph Company of America to the Confirmation of the International Wireless Telegraph Convention, Proposed at Berlin, November 3, 1906.” In “International Wireless Telegraph and Hearings,” First Session, Sixtieth Congress. (Washington, D.C.: Government Printing Office, 1908): 66.

²² “Memorandum of Objections,” 68.

²³ “Memorandum of Objections,” 64.

humanity or public necessity require it,”²⁴ as in the case of distress signals, but suggested that the terms of the convention amounted to a European-style government takeover of industry. In his parting words, Griggs told the committee that

the control here provided for is the kind of control that they are accustomed to in Europe where the governments themselves operate many of the agencies of public service....There it is considered an ordinary thing to take a public invention and use it and carry it on by the government. Here [in the U.S.] the principle adopted is to allow private ownership subject only to such public regulation as is necessary in the interest of the public.²⁵

On the other hand, John I. Waterbury, a representative from the Department of Commerce and Labor who had been part of the U.S. delegation to the Berlin convention and favored its implementation in U.S. law, wrote that a failure to regulate the growing technology represented “serious curtailment of the vast benefits to humanity which the discovery had promised” and would be “detrimental in high degree to public welfare in the broadest application of the term.”²⁶ Waterbury noted that Marconi stations had engaged in the practice of “drumming,” or “filling the atmosphere with a series of powerful electrical waves thrown out at short intervals” to intentionally produce interference.²⁷ Similarly, Lieutenant-Commander of the Navy Cleland Davis told the committee that the Navy was “often greatly annoyed” by the problem of malicious and

²⁴ Statement of John W. Griggs, “International Wireless Telegraph and Hearings,” First Session, Sixtieth Congress. (Washington, D.C.: Government Printing Office, 1908): 53.

²⁵ Statement of John W. Griggs, 61.

²⁶ “Memorandum Concerning International Wireless Telegraphy Convention Concluded at Berlin, November 3, 1906 by Mr. John I. Waterbury.” In “International Wireless Telegraph and Hearings,” First Session, Sixtieth Congress. (Washington, D.C.: Government Printing Office, 1908): 124.

²⁷ “Memorandum by Waterbury,” 126.

unintentional interference. “The public interests demand that this be regulated,” he said.²⁸

In the end, the wait-and-see approach suggested by the committee and adopted by the Senate was a victory for members of industry, who were not yet ready to be regulated.

What is noteworthy here is that Article 3 aimed to promote public welfare by ensuring that distress calls could be uniformly sent and received, a goal that was ultimately opposed by both the U.S. and the British on the grounds that it interfered with arrangements with industry even if it was actually a modest attempt to save lives. A retired naval officer wrote in 1963 that the proposal was an essentially “humanitarian” measure, referencing a 1906 report from a naval officer to the Chief of the Bureau of Equipment that was part of the testimony before the Senate Committee on Foreign Relations.²⁹ The report cited, for example, the “outrageous instance of a Marconi station interfering to prevent communication between a U.S. Government vessel that had suffered loss in a storm and desired to send notice to the authorities, and an American Merchant steamer; on the ground that the wireless instruments on the government vessel was not of the Marconi system.”³⁰ What seems like a fairly reasonable policy goal—ensuring uniform ship-to-ship and ship-to-shore transmissions in order to promote emergency communication, or what was called “compulsory intercommunication”—was essentially thwarted by business interests and legal frameworks in both the U.S. and Britain.

²⁸ “Statement of Lieutenant-Commander of the Navy Cleland Davis.” In “International Wireless Telegraph and Hearings,” First Session, Sixtieth Congress. (Washington, D.C.: Government Printing Office, 1908): 100.

²⁹ Howeth, *History of Communications-Electronics*, 122.

³⁰ Letter dated Nov. 25, 1906, Rear Adm. H.N. Manney, USN (retired), to the Chief of the Bureau of Equipment, files, Bureau of Equipment, National Archives, Washington, D.C. Quoted in Howeth, *History of Communications-Electronics*, 122.

Even though no actions were taken at this point, these early international agreements and the resistance they faced already made two significant contributions to later conceptualizations of broadcasting. The first was to introduce the notion of “public service,” which even if it was limited to communication to and among ships at sea, still presupposed that wireless technology should exist for reasons beyond mere private gain and should purport to provide some type of service to the public good. The second contribution was to suggest that even privately owned or operated wireless stations should be regulated by the state and forced to conform to international agreements. The future debates over the role of the state in regulating broadcasting continued to take shape.

America: Questions of Control

In the U.S., the first major recommendation on how to structure and regulate the new wireless technology came in 1904 from the Inter-Departmental Board on Wireless Telegraphy.³¹ The board consisted of three Navy officials, one Army official, and one representative of the Department of Agriculture. The “Roosevelt Report,” which they presented to the President, contained three significant conclusions that would begin to chart a course toward the government’s role in broadcasting in the U.S. First, the Navy wanted to maintain strong control over “a complete coastwise system of wireless telegraphy” for the “efficient and economical management of the fleets of the United States in time of peace and their efficient maneuvering in time of war.” Second, the board

³¹ “Inter-Departmental Board Appointed by the President to Consider the Entire Question of Wireless Telegraphy in the Service of the National Government” (Government Printing Office, Washington, 1905). Also known as the “Roosevelt Report.” Appears in Howeth, *History of Communications-Electronics*, Appendix C.

felt that wireless stations should fall under the jurisdiction of just one government department. Third, and most important, the board left room for the possibility of commercial stations and recommended that they be controlled by the Department of Commerce and Labor. The board wrote that “the Government must take the necessary steps to regulate establishment of commercial wireless-telegraph stations among the States and between nations.”³²

To this end, the board requested legislation to allow Navy control of wireless stations and did not hesitate to invoke the language of the public interest as a central rationale:

The Board believes it to be in the interest not only of governmental but public economy and efficiency to permit the naval stations to handle the public service, for in the present state of the art but one station is desirable for the public interests in such places. As the needs of the Navy are paramount on account of the problem of national defense, private stations should not be allowed to locate to the disadvantage of the former. Moreover, there is at present no public need for multiplication of stations at these points.³³

The “interest,” even in this early report, is clearly one of efficiency, and the exclusivity of control is justified by an appeal to the problem of national defense. The report does go on to allow for the future possibility of licensed commercial operations:

It is admitted, however, that there may be special cases where private stations can serve a useful purpose, and the Board believes that the Department of Commerce and Labor should have the duty of issuing licenses in such cases under such regulations as will prevent interference with stations necessary to the national defense. All private stations in the interior of the country should also be under supervision of the Department of Commerce and Labor.³⁴

³² Roosevelt Report, 8-11. In Howeth, *History of Communications-Electronics*, 549-550.

³³ Roosevelt Report, 10. In Howeth, *History of Communications-Electronics*, 550.

³⁴ Roosevelt Report, 10. In Howeth, *History of Communications-Electronics*, 550.

The proposed method of licensing private stations under the Department of Commerce would, to the dismay of the Post Office, have a lasting effect. The report went on to recommend “full Government supervision” in order to regulate private stations “for their mutual and public welfare, as well as from considerations of national defense.” The board believed that, in addition to solving technical problems, government control of private stations would be important because “it seems desirable that there should be some wholesome supervision of them to prevent the exploitation of speculative schemes based on a public misconception of the art.” The board also felt that the Navy was poised to facilitate enterprise and innovation, but that supervision by the Commerce department was essential “to prevent the control of wireless telegraphy by monopolies or trusts.”

The U.S. government was slow to act on this front, allowing a foreign interest to gain what would become an unwelcome foothold. “By 1912 this shortsightedness, combined with the unscrupulous methods of radio stock promoters, resulted in the survival of only one important American radio operating company, the Marconi Wireless Telegraph Co. of America, a subsidiary of British Marconi.”³⁵ It was clear that the Navy was no fan of Marconi and his early monopoly on wireless. In a 1904 letter to the Department of Commerce, the Inter-Departmental Board that had produced the Roosevelt Report made their feelings known:

This company has played a bold game, calculated to “hold up” the Government in this matter and in its negotiations with the Navy Department, and the board is of the opinion that its action in regard to the light-ship and its refusal to receive messages at any of its stations from other systems are strong arguments in favor of Government supervision of private stations.³⁶

³⁵ Howeth, *History of Communications-Electronics*, 313.

³⁶ Letter from the Inter-Departmental Board on Wireless Telegraphy to the Department of Commerce and Labor, Washington, D. C., July 29, 1904. In Roosevelt Report, 38.

But regulation was slow to come. European governments endorsed the international treaties in 1903 and 1906, and made laws to reflect them. Even though the U.S. signed the agreement at the 1906 Berlin convention, no formal laws were made as wireless companies and amateurs lobbied against regulation from 1904 to 1910. Regulation of wireless was also a low legislative priority in Congress, which was dealing with more salient issues related to child labor and the meat-packing industry. Plus the technology was so poorly understood that no one was sure how to regulate it anyway.³⁷ Congress finally took action after a 1909 shipping accident prompted legislation.³⁸ This came in the form of the Wireless Ship Act of 1910, which required that ships be able to communicate and assigned the job of enforcing the new law to the Bureau of Navigation within the Department of Commerce and Labor. The Act did not deal with the problem of interference. In fact, interference may have actually increased in the wake of the new mandate.

The more significant act of Congress in 1910 was the Mann-Elkins Act,³⁹ which classified the telegraph, telephone and cable as “common carriers” and placed them under the control of the Interstate Commerce Commission. Interstate telephone and telegraph was a small portion of the business at the time, but this change would force consideration of the role of the state in the new communication technologies. Some public utility commissions would encourage mergers among phone providers to create regulated

³⁷ Douglas, *Inventing American Broadcasting*, Chapter 7.

³⁸ Hugh R. Slotten, *Radio and Television Regulation: Broadcast Technology in the United States, 1920-1960* (Baltimore: Johns Hopkins University Press, 2000), Chapter 1.

³⁹ Richard R. John, *Network Nation: Inventing American Telecommunications* (Cambridge, Mass.: Belknap Press, 2010), 343.

monopolies; others encouraged competition to avoid violating anti-trust laws.⁴⁰ In any case, the Act, like others at the time, introduced the idea that business should be regulated to serve the public. “The Mann-Elkins Act was one of several major pieces of business legislation enacted by Congress in the opening years of the twentieth century to regulate the emerging corporate order....Each of these laws had been intended to preserve capitalism from its worst excesses by constraining the passions that innovation had unleashed.”⁴¹ Furthermore, the “common carrier” language would be retained as an important distinction in the Communications Act of 1934 and continues to affect communication policy today.⁴²

Problems of interference and chaotic usage of frequencies were not unique to the U.S., and this became apparent around the world with the sinking of the Titanic on April 15, 1912. Nearby ships were unable to receive the Titanic’s distress signal because wireless operators were not on duty, and rescue efforts were hampered by interference caused by amateur operators.⁴³ Shortly thereafter, another International Radiotelegraph Convention was held, this time in London, and 45 nations were represented. In addition to establishing new standards for wireless communication, the London convention agreed that all radio transmitters and their operators had to be licensed.⁴⁴ A unanimous resolution suggested that individual governments should institute these requirements; it was not a

⁴⁰ Paul Starr, *The Creation of the Media: Political Origins of Modern Communications* (New York: Basic Books, 2004), 208.

⁴¹ John, *Network Nation*, 343

⁴² Indeed, this is the Title II/Title III distinction that is at the center of the FCC’s current ruling on net neutrality.

⁴³ See Barnouw, *A Tower in Babel*; Douglas, *Inventing American Broadcasting*; Rosen, *The Modern Stentors*.

⁴⁴ “International Radio Telegraph Convention, July 5, 1912,” (London: HM Stationery Office, 1912).

controversial idea in the wake of the Titanic disaster.⁴⁵ The U.S. passed the Radio Act of 1912, which reflected the new international agreements. This was the first piece of legislation to require radio stations to be licensed, a duty which was placed in the hands of the Department of Commerce. Little attention was paid, however, to how Commerce officials were to go about doing this.⁴⁶ No potential grounds for denying licenses were given, and chaos was virtually guaranteed. But in 1912, this hardly mattered as demand for licenses remained low until the radio explosion in the early 1920s.

The only specific mention of the “public” in the 1912 Act and the regulations put in place by the Department of Commerce and Labor was in the context of classification of “land stations,” which separated “general public service stations” from “limited commercial” stations. General public service stations were those “required to maintain a constant receiving service” by the Interstate Commerce Act of 1887. This provision effectively brought to life the requirements of the 1906 Berlin convention that coastal stations should be available to send and receive all signals. “Limited commercial stations” received special licenses to transmit commercial messages on certain wavelengths and were not open to “public” service.⁴⁷

Thus, the effect of the Radio Act of 1912 was to favor “the navy by awarding it a dominant position in the electromagnetic spectrum and by specifically protecting its

⁴⁵ Howeth, *History of Communications-Electronics*, 165.

⁴⁶ Frank J. Kahn, ed., *Documents of American Broadcasting* (Englewood Cliffs, N.J.: Prentice-Hall, 1984); Willard D. Rowland, Jr. “The Meaning of ‘The Public Interest’ in Communications Policy, Part II: Its Implementation in Early Broadcast Law and Regulation,” *Communication Law & Policy* 2, no. 4 (1997): 369.

⁴⁷ “An Act to Regulate Radio Communication,” approved August 13, 1912; *Regulations Governing Radio Communication*, Department of Commerce and Labor, Bureau of Navigation, Government Printing Office, Washington, D.C., Sept. 28, 1912.

stations from interference by private companies.”⁴⁸ The Act also effectively relegated amateur operators to high, largely unusable frequencies. Amateurs were increasingly pushed out of the wireless world through the rest of the decade, especially as war broke out. As Douglas chronicles, it was becoming increasingly apparent that wireless, far from being the “people’s medium” as was once thought, was actually becoming firmly subsumed by government and corporate control. The social construction of the new technology was shifting to become one of top-down control by powerful elites who would use wireless as they saw fit.⁴⁹ General Electric and American Telephone and Telegraph, working with the Navy, continued to experiment and grow, developing new technologies that would soon outpace the Marconi Company. AT&T was the first company to send wireless voice signals across the Atlantic in 1915. Thus, a number of shifts were taking place in the years between the 1912 Radio Act and the end of the decade. As the Navy and corporations gained greater control, the technology was being transferred “from individual to institutional control,” and there was a tendency in the press “to legitimate corporate visions of how radio should be managed, thought about, and used.”⁵⁰

During this period, the Navy’s dominance over wireless also grew as many officials, principally Secretary of the Navy Josephus Daniels, continued to advocate for the rest of the decade for a full government monopoly in the hands of the Navy. The first World War only intensified this advocacy and made it easier to justify. In 1914, as fighting broke out in Europe, President Wilson issued a proclamation “to prohibit U.S.

⁴⁸ Rosen, *The Modern Stentors*, 21.

⁴⁹ See Douglas, *Inventing American Broadcasting*, Chapter 7.

⁵⁰ Douglas, *Inventing American Broadcasting*, 240.

wireless stations from engaging in nonneutral conduct.”⁵¹ Daniels wanted more. As he told *The Wireless Age* in February 1917: “Authority to take over and operate or to close commercial stations in time of war will not suffice. The stations must be in full Government operation before the first hint of possible hostilities.” Daniels went on to complain about interference and confusion resulting from too many competing interests. “I am firmly convinced that Government control of wireless is absolutely necessary to the best interests of the nation. I deem the matter most urgent. Delay only will increase the difficulties under which we are working; delay also will mean an increased outlay to the Government when the step finally is decided upon.”⁵² By 1917, when the U.S. entered the war, the president authorized a Navy takeover of all wireless communication devices. The Navy responded by purchasing all but 15 of the privately owned wireless stations in the U.S., most of them owned by the Marconi Company and Lee De Forest.⁵³

At this point, the Navy had some support in Congress and among newspaper publishers, who after the war, had become eager to use the navy’s wireless stations to receive news from abroad, especially from across the Pacific. California Representative Charles F. Curry introduced House bill 8783, “authorizing the use of radio stations under the control of the Navy Department for commercial and other purposes.” In hearings before the Subcommittee on the Merchant Marine and Fisheries, Curry made it clear that he was not advocating a government takeover, but rather government supervision and facilitation of commercial operations.

⁵¹ Rosen, *The Modern Stentors*, 23.

⁵² “Government Ownership of Wireless,” *The Wireless Age*, February 1917, 301.

⁵³ Rosen, *The Modern Stentors*, 23.

Personally I am not in favor of public ownership or Federal ownership of railroads or telegraphs, telephones, or radio, or other public utilities. I used to think that probably the Federal Government could give good service in those lines, but the railroad control has disabused my mind entirely of that idea up to the present.

This bill of mine is not a Government-ownership bill. It simply authorizes and directs the Secretary of the Navy to use the radio station where it can be done without detriment to the public business, for the transmission of commercial and news radio and radiograms from overseas, and it fixes a minimum rate of charge.

My interest in the bill, and Mr. McClatchy's interest in the bill, is simply in the interest of giving right news to the American people, through American sources...⁵⁴

Newspaper publisher V.S. McClatchy also spoke to the committee, noting that "between Government control of radio facilities and private control I have no suggestion to offer," but he did call for government to supply the "necessary radio facilities" and a "very low-word rate" across the Pacific. McClatchy continued:

In my judgment, that is the proper and most effective policy to secure an independent report. There will be no embarrassment to the Government, as there has been in the past, no charge that the news which it is furnishing is propaganda or partisan, but it will insure the confidence on the part of the public which comes from such an independent report.⁵⁵

This bill and testimony introduced the idea that the government could and should facilitate the reporting of news as a public service even without a full takeover of industry.

An opposing view came from Edward J. Nally, Vice President and General Manager of Marconi Wireless Telegraph Co., of America, who testified before a Senate

⁵⁴ "Statement of Hon. Charles F. Curry, A Representative in Congress from the State of California." In "Authorizing Use of Radio Stations Under Control of Navy Department for Commercial Purposes," Hearings before the Subcommittee on the Merchant Marine and Fisheries, House of Representatives, 1st session, 66th Congress, Part 1, (Washington, D.C.: Government Printing Office, Sept. 26, 1919): 3-4.

⁵⁵ "Statement of Mr. V.S. McClatchy, Publisher of the Sacramento Bee, Sacramento, Calif." In "Authorizing Use," 4-5.

Subcommittee of the Committee of Naval Affairs regarding the same House bill and a similar Senate bill. Nally's view was that "the Navy should not go into commercial business," though he stated that private companies would be willing to use existing naval stations, saying he would not want "to prevent the operation of those facilities in the public interest." What this meant was the company wanted to avoid building duplicate stations if it could receive the same benefit using the Navy's. Nally recommended that the Navy operate commercially within the U.S. but should not engage in overseas operations. He noted: "But so far as international service is concerned, I feel that that is purely the function and field of a private company. I think private companies can best serve the public interests."⁵⁶ Once again, business interests were helping to define the public interest as their own.

By the end of the war, Congress had come to resist the idea of a Navy takeover and gave Secretary of the Navy Daniels a sharp reprimand by deleting more than \$4 million from Navy appropriations in 1919. Daniels continued to urge government ownership of wireless but he was increasingly alone in this view.⁵⁷ Daniels and the Navy had faced opposition throughout the decade by those who feared a Navy monopoly of wireless, namely the Post Office and the Department of Commerce. "The Post Office Department, like Secretary Daniels, accepted the general proposition that all means of electrical transmissions should be held by governmental monopoly. The Post Office contended, however, that because of both its wire and wireless interests it should assume

⁵⁶ "Statement of Mr. Edward J. Nally, Vice President and General Manager, Marconi Wireless Telegraph Co., of America." In "Use of Naval Radio Stations for Commercial Purposes, Hearings Before a Subcommittee of the Committee on Naval Affairs," US Senate, 1st session, 66th Congress. (Washington D.C.: Government Printing Office, 1919): 205-209.

⁵⁷ Rosen, *The Modern Stentors*, 23-24.

jurisdiction over radio as well.”⁵⁸ To this end, the Post Office proposed a Bureau of Communications for the supervision of radio. “Citing the need to consolidate facilities for increased efficiency and the Western European example of centralized management (usually through the postal service), the Post Office presented a formidable obstacle to navy designs.”⁵⁹ In 1919, Congress gave \$850,000 to the Post Office Air Mail Service for operation of radio facilities across the country. Will Hays would serve as Post Office director in the early 1920s under President Harding and encourage the conception of radio as a public service.⁶⁰ James C. Edgerton supervised the Post Office’s Air Mail Service and wanted to “establish Post Office supremacy by creating a network to disseminate agricultural, meteorological, and governmental information to the public.”⁶¹

Despite the ambitions of the Post Office and the Navy, it was the commercial interests, represented by the Department of Commerce, who would eventually win control. The Radio Act of 1912 had delegated supervision of all private stations to the Department of Commerce, and this would have a lasting effect. Its Bureau of Navigation had enforcement powers and sent requests to the Bureau of Standards to investigate equipment and procedures in enforcing the acts of 1910 and 1912. By the end of the decade, commercial firms united under the Department of Commerce would have yet another reason to fear a government takeover of the airwaves. In 1920, military officials from France, Britain, Italy and the U.S. convened in Washington to amend the London Radiotelegraph Convention based on the recommendations of an Economic Treaties

⁵⁸ Rosen, *The Modern Stentors*, 25-26. Note that Rosen is one of the few to consider the influence or role of the Post Office, which is mostly ignored by Barnouw, Douglas and others.

⁵⁹ Rosen, *The Modern Stentors*, 8.

⁶⁰ Rosen, *The Modern Stentors*, 26.

⁶¹ Rosen, *The Modern Stentors*, 27.

Subcommittee of the Supreme Council of Paris. “The members aimed to stabilize radio by restricting private enterprise and developing unified regulation,” and they drafted a “Convention and Regulations” for a Universal Electrical Communications Union to “consolidate jurisdiction over radio, wire telegraph, and cables.”⁶² American businesses were firmly opposed to this idea, and turned to the Department of Commerce to oppose the proposed government control. After the war ended, the sentiment in Congress was to oppose plans by both the Navy and Post Office, and Secretary of Commerce Herbert Hoover “solicited the active support of nongovernmental interests, including amateurs, commercial groups, and scientists, to ensure that navy and Post Office intervention became and remained a thing of the past.”⁶³ As Rosen concludes, the Department of Commerce, which did not use radio itself, “could be billed as an unbiased body able to serve civic, commercial, and governmental concerns. What appeared to be a groundswell of opinion urging the Commerce Department to intervene had in reality, of course, been carefully orchestrated by Secretary Hoover.”⁶⁴

It was in this context that the major American communications firms emerged and took control of wireless. Marconi had been hailed as “hero-inventor” by the American press, and his company had helped make the case for commercial interests in Congress, but after the war, many American officials did not like the idea of a vital national and economic resource in the control of Marconi, a foreign company, and wanted to avoid giving control back to after the war.⁶⁵ It was at this fateful moment that General Electric

⁶² Rosen, *The Modern Stentors*, 30.

⁶³ Rosen, *The Modern Stentors*, 32.

⁶⁴ Rosen, *The Modern Stentors*, 33.

⁶⁵ Starr, *Creation of the Media*, 217.

set up the Radio Corporation of America as a subsidiary in 1919 and offered a takeover deal to the Marconi company, which was forced to accept.⁶⁶ RCA had the backing of a government-sanctioned monopoly, leading to a period of collusion between RCA, GE, AT&T and eventually Westinghouse in order to make use of each other's patents and delineate manufacturing responsibilities and shares of the market for different types of wireless equipment.⁶⁷ This critical shift of control back in the direction of corporate hands would facilitate continued innovation and enterprise, and would also help position the newly emerging commercial interests to gain control over radio in the 1920s. Furthermore, this important shift would go largely unrecognized by the press and the public. As Douglas notes, "A watershed institutional event in the history of radio, and America, was ignored by the popular press."⁶⁸ War news had crowded out news about wireless in the last half of the decade, and the novelty of the technology was wearing off with no new major developments. The revolution in radio in the early 1920s would bring massive new excitement about the technology, but the story of institutional control would not change, as that foundation had already been laid.

Britain: The First Wireless Act

The story of wireless technology in Britain at the turn of the century is somewhat less complicated thanks to an early decision that would avoid the battle for control among government departments that defined the early 1900s in America. Britain emerged from the nineteenth century with a powerful telegraph network, both wired and wireless. By

⁶⁶ Barnouw, *A Tower in Babel*, 59; Tom Burns, *The BBC: Public Institution and Private World* (London: Macmillan, 1977).

⁶⁷ See Douglas, *Inventing American Broadcasting*, 289-290.

⁶⁸ Douglas, *Inventing American Broadcasting*, 286.

1899, the first British ships were outfitted with wireless equipment, and Britain also dominated the industry for undersea cables. “In 1896, there were thirty cable laying ships in the world and twenty-four of them were owned by British companies. In 1892, British companies owned and operated two-thirds of the world’s cables and by 1923 their share was still 42.7 percent.”⁶⁹ As the telegraph and related industries grew, the British Post Office sought to extend its control from wired telegraphy, as established by the 1869 Telegraph Act, to wireless. The 1904 Wireless Telegraphy Act did just this, as Briggs describes:

It was the first Wireless Act in the world, and laid down that no person should establish a wireless telegraph station or ‘instal or work any apparatus for wireless telegraphy’ without first securing a licence from the Postmaster-General. A further clause stated that ‘every such licence shall be in such form and for such period as the Postmaster-General may determine, and shall contain the terms, conditions, and restrictions on, and subject to which the licence is granted.’⁷⁰

Although the Act would have to be renewed several times, this authority would not be challenged in Britain as it was in the U.S.

The British Post Office went about taking control of Marconi’s patents, for which the company was compensated, and issuing licenses to existing transmitters and receivers of wireless messages and to experimenters seeking to further develop the new technology. In 1909, Postmaster General Sydney Buxton, who had assumed that the Post Office’s purview over wired transmissions extended naturally to wireless, expressed his satisfaction with this arrangement:

I am satisfied that it is to the public interest, both from a commercial and a strategical point of view, that the coast stations used for communication with

⁶⁹ Daniel R. Headrick and Pascal Griset, “Submarine Telegraph Cables: Business and Politics, 1838-1939,” *The Business History Review* 75, no. 3 (2001): 543-578.

⁷⁰ Asa Briggs, *The History of Broadcasting in the United Kingdom Part I* (London: Oxford University Press, 1961), 95.

ships should be in the hands of the Government, and should be worked as part and parcel of the general telegraphic system of the country. I think it important also that no private monopoly in wireless telegraphy should be allowed to grow up. I trust that the new arrangements will result in an even more rapid extension of the use of this important invention than has taken place in the past.⁷¹

Even though competition existed under this scheme, there was a perception of a monopoly held by Marconi's company, and this was thought to be in violation of the public interest. This was especially true as the Postmaster General began, in 1912, to call for a chain of Imperial Wireless Stations to be built in cooperation with Marconi. Sir Henry Norman submitted that the proposed arrangements between the Post Office and the Marconi Company had been criticized on two grounds: "first, that it is a bad bargain, an imprudent bargain; and, second, that it is a bargain which is tainted with corruption."⁷² Sir Norman added: "I submit, therefore, that to stereotype—to petrify—Imperial wireless on the Marconi system without giving all these competitive systems even a hearing, would be wholly opposed to the public interest..."⁷³ This debate in Parliament would go on until the release of the Imperial Wireless Report in 1920. It is clear, however, that monopoly practices were viewed by some as antithetical to the public interest, which favored competition among parties engaged in free enterprise.

The dilemma, however, became moot when, in 1914, at the start of the First World War, the British government took control of all broadcasting, clearing the airwaves of amateurs and experimenters.⁷⁴ This is one area where Britain led the U.S., as America did not enter the war until three years later. Although this gave the U.S. extra

⁷¹ Hansard HC Deb 30 September 1909 vol 11 cc1408-10, 1409.

⁷² Hansard HC Deb 11 October 1912 vol 42 cc667-750, 667.

⁷³ Hansard HC Deb 11 October 1912 vol 42 cc667-750, 682.

⁷⁴ Briggs, *History of Broadcasting Part I*, 36-39.

time to continue with experimentation, this is not to say that wireless progress ceased in Britain. Engineers continued to develop the valves used in wireless transmissions, and British soldiers, sailors and airmen were introduced to the new technology during the war only to become experimenters themselves when the war was over.⁷⁵

In addition to these developments, the First World War helped to legitimize the concept of public service utilities in Britain. The government took on new roles that were initially only justified by the war, but these roles would outlast the war. This social shift was instrumental in the eventual formation of the BBC, as Curran and Seaton suggest:

Despite bitter opposition the centralized control of health, insurance, coal, and ultimately the rationing of food had been introduced. These were seen as exceptional war-time measures. By the 1920s, however, a generation of reformers who had been civil servants during the war were experienced in organizing the centralized distribution of resources. Indeed for a brief period after the War even the government accepted a more interventionist role. The BBC was formed in this period.⁷⁶

From this account, it is possible to see how the impact of the war on communications differed in the U.S. and Britain. The more limited nature of the role the U.S. played in the war may have influenced the difference in attitudes toward state intervention in public services. After the war, the U.S. was eager to get back to the business of private enterprise, unencumbered by the state.

By the war's end, new technology was bringing the possibility of broadcasting ever closer. "With the end of the Great War in 1918 it became harder for the British government to resist on military grounds the pressure from both wireless manufacturers

⁷⁵ Briggs, *History of Broadcasting Part I*, 38.

⁷⁶ James Curran and Jean Seaton, *Power without Responsibility: The Press and Broadcasting in Britain*, 5th ed. (London: Routledge, 1997), 139.

and amateur enthusiasts to authorize some kind of regular broadcasting service.”⁷⁷ Radio enthusiasts wanted something to listen to, and “manufacturers were keen to stimulate the sales of receiving equipment and were willing if need be to provide the service themselves.”⁷⁸ The Post Office licensed the Marconi Company to make limited broadcasts from its transmitter at Writtle near Chelmsford, beginning in 1920.

Meanwhile, the British government was still focused on how to structure and regulate the new technology based on its use in point-to-point communication applications. A system of Imperial Wireless Communication, possibly to be built by the Marconi Company, had been suggested for years prior to the convening of the Norman Commission, or the Imperial Wireless Telegraphy Committee, which released its report on May 28, 1920. The committee was charged with preparing “a complete scheme of Imperial wireless communications in light of modern wireless science and Imperial needs.” This included considering “what high-power stations it is desirable on commercial or strategic grounds that the Empire should ultimately possess.” They were also to examine capital requirements and costs, traffic and revenue, and make recommendations.⁷⁹ The committee predicted that naval bases, military headquarters and aviation centers would also serve as commercial centers and that the needs of all of these would be met by the same station.

The committee laid out the factors it thought necessary for a satisfactory commercial wireless service: reliability, speed and cheapness. “If the service aims at

⁷⁷ Andrew Crisell, *An Introductory History of British Broadcasting*, 2nd ed. (London: Routledge, 2002), 17.

⁷⁸ Crissel, *Introductory History*, 17.

⁷⁹ Report of the Imperial Wireless Telegraphy Committee, 1919-1920 (Cmd. 777), 1. Also known as the “Norman Commission.”

becoming self-supporting, while offering low rates to the public, sufficient paying traffic must ultimately be secured to keep the stations occupied for practically twenty-four hours a day at high speed.”⁸⁰ The committee felt that this was not likely to be achieved in the hands of commercial services.

Of the financial results of existing long-range wireless services we have no knowledge, but as regards only speed and accuracy, including the avoidance of excessive repetition, we are of opinion that no satisfactory commercial wireless service, as we have defined the expression, is in operation anywhere to-day over a distance of 2,000 miles.⁸¹

The committee report discusses different types of transmitting technology and construction of stations throughout the empire in such places as New Zealand, Singapore, India and South Africa. More importantly, the committee was asked to consider a proposal by Marconi’s Wireless Telegraph Company to build the imperial network. The committee noted that the Marconi Company’s scheme “is of a scope and magnitude never hitherto contemplated,”⁸² and made the following statement expressing their discontent with the proposed confluence of private and state power:

Although we do not wish to trench upon the question of private monopoly *versus* State ownership, we feel bound to indicate what would in our opinion be the effect of the Marconi scheme upon the development of wireless science in this country. The proposals are, it should be clearly understood, that the Marconi Company shall duplicate the systems not only of the cable companies and the State-owned ‘Imperial’ Atlantic cable and the State-owned Pacific cable, but also the existing telegraph systems of the various Governments of the Empire. Further, ‘Feeder Stations’ are to be erected for communication between the United Kingdom and the principal towns of foreign countries, and wireless services are to be established even between the main stations and inland home towns, the Post Office land lines being employed as little as possible....And the British

⁸⁰ Norman Commission, 4.

⁸¹ Norman Commission, 4.

⁸² Norman Commission, 16.

Government is to secure for the Company the use of all necessary wave-lengths, and to facilitate the compulsory acquisition of sites.⁸³

The report goes on to suggest that the proposal by Marconi would preclude wireless development by other entities and would discourage competition and research. It would curtail the possibility of employment for wireless technicians or operators and “would tend to deprive the services and the Post Office of their best engineering personnel.”⁸⁴ This concern for jobs and for a sort of “brain drain” away from the departments of state expresses a sentiment unlike anything seen in the U.S. The committee ultimately regards “the inclusion of virtually all civilian wireless activity in the hands of one commercial company as likely to be deeply prejudicial to research and progress.”⁸⁵ The report goes on to consider that the Marconi proposal would amount to a complete private monopoly of the airwaves in Britain and beyond. Rejecting this, but recognizing that the limited airwaves required a monopoly of some sort, the committee expounded on the virtues of public ownership and control by the state mixed with an oligopoly of regulated but privately owned stations:

We are of opinion that, in order to secure efficient working, an Imperial system, by whomsoever provided, must be protected from interference from other sources, and must, therefore, be a practical monopoly. But a State monopoly of this kind would not preclude private enterprise in other spheres of wireless activity. Wireless companies would still have an important sphere as manufacturers, and in providing and operating ship-stations, and they might, if desired, be granted concessions on suitable conditions for long-distance communications between British territory and foreign countries. Indeed, the provision of long-distance communication with foreign countries by commercial companies, and of long-distance communication within the Empire by the Government, might lead to a healthy emulation which would benefit both services. On the other hand, the grant

⁸³ Norman Commission, 17.

⁸⁴ Norman Commission, 17.

⁸⁵ Norman Commission, 17.

of a practical monopoly such as that asked for by the Marconi Company excludes the State altogether.⁸⁶

Ultimately, the commission did recommend the establishment of an Imperial wireless telegraph network, and proposed that it be entrusted to the Engineering Department of the General Post Office. It even acknowledged that the system would operate initially at a loss, but that loss would be worth the ultimate benefit to the empire.⁸⁷

This Imperial Wireless Telegraph Committee, also referred to as the Norman Commission, does not often appear in histories of British broadcasting.⁸⁸ It is somewhat tangential to broadcasting itself, and it had no immediate impact on policy. The concerned parties continued to debate for another two years before an outcome was achieved. This would come in 1922 in the form of the British Broadcasting Company—a publicly controlled oligopoly of six privately owned radio manufacturers—just as the Norman Commission had proposed. This outcome, however, was not a foregone conclusion, at least not until British officials considered what was happening in the U.S. As Camporesi notes, “After all, in 1919-1920 the establishment of a commercial broadcasting system was still in Britain a perfectly viable alternative to monopoly and public control. In the course of 1921, however, developments in the United States convinced British elites that such an alternative did not really exist.”⁸⁹

Before the early 1920s, causal chains continued to form even though they would be decidedly broken in the years to come. Both the U.S. and Britain had spent

⁸⁶ Norman Commission, 17.

⁸⁷ Norman Commission, 28.

⁸⁸ Although Briggs does mention Sir Norman’s interest in radio, he does not discuss the commission directly. It does not appear in Paulu, Coase, Crisell or Starr. Camporesi notes it briefly on pp 17-18, characterizing the committee’s recommendation as “cautious liberalization.”

⁸⁹ Valeria Camporesi, *Mass Culture and National Traditions: The BBC and American Broadcasting, 1922-1954* (Fucecchio, Italy: European Press Academic Publishing, 2000), 19.

considerable time and energy debating the merits of the different approaches to the structure of wireless communications, and the systems up to this point still represented a somewhat chaotic mix of public and private ownership and control. This was largely due to the influence of the First World War, which mandated a complete government takeover of wireless in both countries. The post-war period was one of great contingency. With wireless firmly in the hands of government, both nations had to decide whether to give this approach permanence through peacetime legislation or to somehow turn wireless communications back over to industry and enthusiasts.

Nevertheless, in the long causes of the path-dependent processes leading to the eventual outcomes for broadcasting, forces of inertia continued to grow in each country, and cumulative and incremental changes were building toward the breaking point that would be reached in the coming years. In Britain, the early government control of wireless would make it easier to retain government control of broadcasting as a policy option. In the U.S., policy options were gradually being removed as Congress came to favor private business over government control. In these contexts, policy scripts were being written, and the public interest was being defined in increasingly divergent ways. In the U.S., a theoretically negative conception of liberty informed the “wait-and-see” approach by a government that was hesitant to interfere with private business outside of wartime. In Britain, a more positive view of liberty was evident in government efforts to promote wireless as a public service and regulate the ambitions of private business. Yet no outcomes were guaranteed at this point. The idea of broadcasting was just beginning to take shape, and all of the preexisting conceptions of the state’s role in regulating communications were about to be challenged. The chaos was about to begin.

Chapter 7: Chaos in the Ether, 1921-1926

At the start of the 1920s, the conditions of radio in the U.S. and Britain were not so different. In the U.S., the Navy was poised to retain control over coastal operations, and the Department of Commerce would issue licenses to amateurs and the handful of private stations that requested them. In Britain, the Post Office retained control of the airwaves and licensed a handful of radio manufacturers to make their own broadcasts. Demand was low, broadcast signals could not travel far, and the situation was relatively stable. But things were just beginning to change. Advances in technology and in imagination had given birth to the possibility of broadcasting as a form of mass communication, and radio manufacturers were eager to see their new crystal set receivers in every household. Stimulating this sort of mass demand required programming, and as radio grew, there was no shortage of groups of people—from newspapers, department stores and other businesses to universities, churches and political groups—who wanted to make their voices heard. Spectrum scarcity—the limited physical property of the airwaves—demanded some system of control, but the sudden boundless enthusiasm to hear and be heard challenged efforts to regulate the new technology.

The Radio Explosion in America

The wartime ban on amateurs receiving wireless signals was finally lifted by the Navy on April 12, 1919, and the ban on transmitting was lifted September 26. The Department of Commerce licensed thousands of amateur operators in 1920 and 1921, but the amateurs, despite their advanced knowledge, were slow to gain access to the new

technologies that would allow them to send and receive speech and music. They were also relegated to the amateur range of frequencies so as not to interfere with the growing number of private businesses operating their own licensed stations, such as department stores and newspapers. It is tempting to describe these stations as “commercial,” and they were in the sense that they were operated by private businesses, but there was no paid advertising on the airwaves at this point. Rather, for a station run by a department store or newspaper, for example, “the entire station was an advertisement.”¹ “Toll” advertiser-supported broadcasting, or “commercial” broadcasting in the modern sense, would not come along until 1922, and it would be slow to catch on. Nevertheless, as the struggle for the airwaves continued, the amateurs did not always comply with warnings from the Department of Commerce to stay in their range. But once the amateurs were back in the radio game, Westinghouse executives realized what they were missing out on. They had failed to understand the true potential and meaning of radio. Westinghouse scrambled to build a new transmitter at their plant in Pittsburgh and apply to the Department of Commerce for a special license to launch a regular broadcasting service with the goal of stimulating sales of their own receivers. They received the call letters KDKA, and on November 2, 1920, made what is usually considered the first mass radio broadcast of significant strength as they read election returns over the air.²

Over the next year, amateur operators started lining up to purchase the radio sets made by hobbyists and sold by department stores, some of which started their own radio

¹ Paul Starr, *The Creation of the Media: Political Origins of Modern Communications* (New York: Basic Books, 2004), 336.

² This story is told in many places including Susan J. Douglas, *Inventing American Broadcasting, 1899-1922* (Baltimore: Johns Hopkins University Press, 1987), Chapter 9; Erik Barnouw, *A History of Broadcasting in the United States Part I* (New York: Oxford University Press, 1966), Chapter 2.

departments. In 1921, Westinghouse aligned with GE, RCA and AT&T to share a pool of patents and trademarks and began manufacturing radio sets. GE and Westinghouse manufactured radio sets and parts while RCA marketed and sold them, and AT&T handled transmitter equipment. Towers went up all over the country; amateurs did whatever they could to circumvent the four radio giants. These four companies formed the “radio trust” that would come to dominate what can only be loosely described as an “industry” over the next few years and receive licenses for the preferred high-power bands of the spectrum. Despite the growth of the radio trust, “the industry” was still a diverse mix of interests, including everyone from RCA to universities to churches to political groups. Amateurs and others also inundated the Department of Commerce for private business licenses to broadcast on the better, clearer frequencies. And although Secretary Hoover had been granted the power to issue these licenses under the 1912 Radio Act, he had no power to deny them. Under these conditions, chaos was inevitable.

Broadcasting presented a unique challenge in America, in that it “did not lend itself to any of the older forms of government supervision.”³ As Rosen notes:

It most nearly resembled utilities, but classification as a utility was not possible for a single, insurmountable reason: to impose ‘standards of service’ was to oversee program content, and to interfere with entertainment, newscasts, educational fare, or any other features would constitute a direct violation of First Amendment guarantees of freedom of speech and press. On the other hand, it was inherent in the technology of the medium that it could not be left unregulated, for the cacophony of competing voices on the airwaves would have made development impossible. Regulation and standardization therefore were necessary but impossible within the framework of existing institutions.⁴

³ Philip T. Rosen, *The Modern Stentors: Radio Broadcasters and the Federal Government, 1920-1934* (Westport, Conn.: Greenwood Press, 1980), 4.

⁴ Rosen, *The Modern Stentors*, 4-5.

The battle for control raged. In January 1922, the Department of Commerce ordered all amateurs to stop broadcasting to attempt to bring order to the airwaves.⁵ Meanwhile, the Post Office continued to fight, introducing resolutions in Congress in 1922 and 1923. House Resolution 14196, for example, sought “to launch a legislative program projecting an ultimate monopoly of electrical means of transmission under postal auspices,” but “the measure had little support.”⁶ Hoover, in 1921, had established the Interdepartmental Advisory Committee on Government Broadcasting, including representatives from ten government departments and agencies. Hoover was hoping to gain a mandate for control of radio in the Department of Commerce and to stir up business sentiment against the Navy, which was still reaching for broad control of radio and interfering with business operations. The Navy launched a publicity campaign in 1922 to promote its own cause, and the Post Office continued to claim “all rights for the transmission of government materials,” a position that “effectively isolated the postal service from the navy and the Commerce Department and drastically curtailed any effect it might have on the committee.”⁷

In January 1923, the interdepartmental committee was renamed the Interdepartmental Radio Advisory Committee, or IRAC, which recommended a regulated private system that would be available to the government in the event of war.⁸ The growing institutionalization of corporate control prompted President of RCA James G. Harbord to declare by the end of 1923 that “the ‘heresy of government ownership,

⁵ Rosen, *The Modern Stentors*, 37.

⁶ Rosen, *The Modern Stentors*, 46.

⁷ Rosen, *The Modern Stentors*, 43.

⁸ Rosen, *The Modern Stentors*, 45; Louise M. Benjamin, “Regulating the Government’s Airwaves: Creation of the Interdepartmental Radio Advisory Committee (IRAC),” *Journal of Broadcasting and Electronic Media* 51, no. 3 (2007): 498–515.

especially in radio matters,' no longer persisted in the federal bureaucracy."⁹ Rosen compares the radio trust broadcasting alliance to railroad pools that would fix prices and divide profits. They didn't fix prices, but the radio trust essentially colluded with Commerce to protect and preserve the system that would best serve them. Despite the introduction of numerous bills and resolutions in Congress, policymaking was delayed as radio continued to grow and change.

The search for money—how to profit not just off the sale of radio sets but off broadcasting itself—led to ideas and experimentation. Broadcasting so far was mostly local and the work of amateurs. As AT&T experimented with new strategies to dominate radio, they shifted their attention away from selling transmitters and began constructing commercial facilities designed to transmit paid messages. By 1922, AT&T received a license to operate its own station, WEOF in New York City, as a facility available for hire; with this, advertising-supported “toll broadcasting” was born.¹⁰ David Sarnoff, then vice president of RCA, took the next step toward modern forms when he proposed in 1922 “the establishment of a high-quality, nationwide broadcasting organization to be called the ‘Public Service Broadcasting Company or National Radio Broadcasting Company or American Radio Broadcasting Company, or some similar name’.”¹¹ Sarnoff suggested that the company would include in addition to business men “a few men from outside, prominent in national or civic affairs.”¹² Sarnoff even proposed a system of licensing based on private radio sales, not through government, as would happen in

⁹ Rosen, *The Modern Stentors*, 46.

¹⁰ Rosen, *The Modern Stentors*, 65.

¹¹ Starr, *Creation of the Media*, 336.

¹² Letter to E.W. Rice, 17 June 1922, in Asa Briggs, *The History of Broadcasting in the United Kingdom Part I* (London: Oxford University Press, 1961), 59.

Britain with the creation of the British Broadcasting Company around the same time, in 1922.

Meanwhile, Hoover proceeded to grant licenses and organize some broadcasters on specific bandwidths, shifting stations operated by private businesses into the government band of the spectrum even though he had no legal authority to do so.¹³ By 1924, however, “the industry began to establish its own priorities separate and distinct from the Commerce Department and began to support an alternative approach to control under an administrative official.”¹⁴ The “industry,” at this point, rather than being a cohesive set of commercial interests as the term implies, was still a diverse mix of private broadcasters, ranging from the four radio giants to department stores and newspapers to universities and churches, all competing for limited spectrum who were growing weary of Hoover’s messy, extralegal approach. Nevertheless, the vision of control of radio by an administrative official would ultimately anticipate the regulatory commissions of the New Deal and the creation of the Federal Radio Commission in 1927.

Broadcasters eventually favored regulation because stations were plagued by interference due to a lack of control.¹⁵ As Hoover famously commented, “I think this is probably the only industry of the United States that is unanimously in favor of having itself regulated.”¹⁶ The dominant commercial players in the “industry,” of course, wanted to be regulated in a very specific way that would allow them to control the prime real

¹³ Starr, *Creation of the Media*, 335.

¹⁴ Rosen, *The Modern Stentors*, 76.

¹⁵ Herman S. Hettinger and William A. Porter, “Radio Regulation: A Case Study in Basic Policy Conflicts,” *Annals of the American Academy of Political and Social Science*, 221 (1942): 122-137.

¹⁶ Sydney W. Head, *Broadcasting in America: A Survey of Television and Radio*, 3rd ed., (Boston: Houghton Mifflin, 1976), 146.

estate in the radio spectrum. By 1923, Hoover declared the spectrum “closed” and refused to issue any new licenses. This was just the type of limitation on entry into the broadcasting market that the dominant commercial players desired and that would later be enshrined in law. In 1923, however, this closure of the spectrum led to a U.S. Court of Appeals ruling that said Commerce could not deny licenses but could assign frequencies.¹⁷ Effectively, the Department of Commerce could do little more than register broadcasters and call for self-regulation.

Meanwhile, Commerce worked to craft legislation that would give the department the power it needed to do what it felt it needed to do, and many of these early attempts at legislation invoked the public interest and public service. For example, the Commerce Department helped to design House bill 11964, “To amend the Radio Act of 1912,” which was discussed before the House Committee on the Merchant Marine and Fisheries in early 1923. The bill that would become the 1927 Radio Act was starting to take shape, but at this point the regulatory power was still vested in the Commerce Department rather than an independent commission. The proposed bill gave Commerce power to grant licenses and stated that a license could be revoked “whenever the Secretary of Commerce shall deem such revocation to be in the public interest.”¹⁸

Hiram Percy Maxim, representing the American Radio Relay League, an association of amateur operators, was among the witnesses who testified before the

¹⁷ *Hoover v. Intercity Radio Co., Inc.*, 286 F. 1003 (1923).

¹⁸ “To Amend the Radio Act of 1912,” Hearings Before the Committee on the Merchant Marine and Fisheries, 67th Congress, 4th session (Washington, D.C.: Government Printing Office, 1923), 2.

committee.¹⁹ Maxim was not opposed to the idea of vesting licensing power in the Department of Commerce—indeed, nearly everyone accepted that some system of licensing was unavoidable—but Maxim was concerned that the bill made it too easy to push amateurs aside. He contested the language of the proposed bill, which invoked “public service.” He told the committee:

It would be a simple matter to interpret ‘general public service’ as excluding the amateur, for the reason that it might be argued that his operation serves no direct and immediate public service. Such an interpretation makes it possible to withhold a station license from a worthy amateur applicant or to cancel all amateur station licenses. This is not fair or just to the amateurs of the country, and we hope nothing ulterior is intended in this peculiar wording.²⁰

Representative Wallace H. White of Maine responded, using “public interest” interchangeably with “public service.” He said he felt the bill aimed to convey the notion that

the work of the amateur by and large was in the public interest, certainly it was not intended to exclude him. Of course, there might be a particular case where the thing which a given amateur was seeking to do was not in the public interest, but speaking by and large, I think everybody concedes that the work of the amateur is in the public interest.²¹

In theory, amateur operators would be protected by the public interest, but the vagueness of the term raised questions. White even reflected on the problematic nature of the “public service” language, as possibly offering too much protection in legal terms. “I was a little fearful myself of that language, ‘general public service.’ Those of use who are lawyers realize that when we speak of a public service corporation we speak of a distinctive class of corporate form. It is not intended to narrow it to a public utility, and I

¹⁹ Statement of Mr. Hiram Percy Maxim Representing the American Radio Relay League, Hartford, Conn. “To Amend the Radio Act of 1912.”

²⁰ Statement of Maxim, 15.

²¹ Wallace H. White, “To Amend the Radio Act of 1912,” 16.

think, perhaps, the language might be improved.”²² White also noted that the “whole theory followed in drafting the bill was to get away from specific statutory limitations” on the grounds that “a statutory provision might be obsolete tomorrow.”²³ The tendency among regulators was to do as little regulating as possible, and this was for two interconnected reasons. First, policymakers generally had weak understandings of the new technology, especially as it was constantly undergoing change and innovation. Second, they did not want to produce legislation that would be accused of limiting or stifling this innovation.

The proposed legislation reflected this hesitancy. One engineer objected to provisions in the bill “to amend the Radio Act of 1912” that “would give the power to the Secretary of Commerce to exclude, from the requirements of the regulations hereby prescribed or authorized, any radio station and the operators required therein...in which he shall find that such action will facilitate commerce and will not be incompatible with the public interest.”²⁴ This sort of vague provision gave Hoover and Commerce the power to do what they wanted “in the public interest.” The committee’s chairman, William S. Greene, replied plainly: “That is what we are going to try to do, of course. We have been at this business for a number of years and we have been trying to liberalize it and not to hamper it.”²⁵

Not surprisingly, the Radio Corporation of America favored the bill, saying in a letter to the committee: “The Radio Corporation is of the opinion that the purposes of the

²² White, “To Amend the Radio Act of 1912,” 17.

²³ White, “To Amend the Radio Act of 1912,” 58.

²⁴ Alfred P. Thom, Statement, “To Amend the Radio Act of 1912,” 58.

²⁵ White, “To Amend the Radio Act of 1912,” 58.

bill are in the interests of the American public to adequately provide for regulations which will foster rather than hinder the scientific development of the art, and because it provides what radio needs, a flexible, mobile regulating power.”²⁶ RCA proposed adding language that would give preference to the dominant broadcasters in matters regarding licensing. The RCA letter, signed by Wm. Brown, RCA’s vice president and general attorney, proposed that “the Secretary of Commerce shall take into due consideration the existence and location of existing stations, the property interests, investments, and any equities involved therein, as well as the special adaptability, if any, of the apparatus therein located for use in specific bands of wave lengths.”²⁷ RCA also wanted the bill to protect the property rights of established broadcasters, namely RCA. They proposed language saying, “the Secretary of Commerce may in the public interest or for protection of private property rights prevent the erection and operation of any station hereunder in a location where the operation thereof would materially interfere with the operation of, or property rights in, an existing radio station.”²⁸ This idea that the public interest should be associated with efficient station operation unencumbered by interference would become central to the Federal Radio Commission’s approach to licensing after 1927. RCA was helping to write the script that policymakers would come to rely on.

Even Hoover, when speaking before Congressional committees, frequently invoked the public interest regarding regulation, but usually in vague ways or simply to refer to the idea that the public had become interested in radio. In this sense, the public

²⁶ Letter from Wm. Brown, “To Amend the Radio Act of 1912,” 59.

²⁷ Letter from Wm. Brown, “To Amend the Radio Act of 1912,” 60.

²⁸ Letter from Wm. Brown, “To Amend the Radio Act of 1912,” 61.

interest was simply what interested the public. For example, he told the House Committee on the Merchant Marine and Fisheries:

From the viewpoint of public interest, the interference to-day largely lies in the broadcasting stations, broadcasting entertainments, news, and other matters of public interest. While there are altogether 569 of such stations, there are, variously estimated from 1,500,000 to 2,500,000 receiving stations. So that the matter has become one of profound public interest.²⁹

Despite vague or unclear meanings, the public interest language was beginning to appear consistently in any legislation related to radio and in the related Congressional hearings. In fact, as early as 1924, House bill 7357, “A Bill to Regulate Radio Communications, and for Other Purposes,” which also vested regulatory power in the Department of Commerce, included the “public convenience, interest, or necessity” language that would appear in the 1927 Act.³⁰ In his testimony related to this bill, Hoover helped give shape to the public interest language by using it to celebrate the idea that radio had been such a success in the U.S. because it was not subject to much regulation:

The tremendous development in electrical communications is to a large extent due to the fact that individual initiative has not only been unhampered by the Government, but has been encouraged to the extent of the Government’s ability and regulated so as to give the maximum service. The further legislation needed should in my view regulate only to the extent that is necessary in public interest for the development of the science itself; for the service of those who make use of it. It seems to me, therefore, that the fundamental thought of any radio legislation should be to retain possession of the ether in the public and to provide rules for orderly conduct of this great system of public communication by temporary permits to use the ether. It should be kept open to free and full individual development and we should assure that there can be no monopoly over the distribution of material.

Radio communication is not to be considered as merely a business carried on for private gain for private advertisement, or for entertainment of the curious, it is a public concern impressed with the public trust and to be considered

²⁹ Statement of Herbert Hoover, “To Amend the Radio Act of 1912,” 29.

³⁰ “To Regulate Radio Communication,” Hearings Before the Committee on the Merchant Marine and Fisheries, House of Representatives, 68th Congress, 1st session (Washington, D.C., Government Printing Office, 1924).

primarily from the standpoint of public interest to the same extent and upon the basis of the same general principles as our other public utilities.³¹

While Hoover continued to conflate “public interest” and “public utilities,” something the lawyers involved were increasingly careful to avoid, he was mainly using the general appeal to the public good to advocate for minimal regulation. At the same time, Hoover also responded to requests by the Navy to lengthen the period for which licenses would be granted. Hoover defended the need for short licensing periods, which would retain power in his hands to make adjustments as technological conditions continued to change. He told the committee that the question of license duration

would go to the heart of the whole question of the public interest in radio. During the past three years we have pursued as a policy the belief or the theory that the ether was in fact the possession of the public; that the use of wave lengths in the ether was a public function, a matter of public interest, and should be retained by the Government on behalf of the public.³²

Again, the appeal to the public good and public interest was a way to justify power and control in his hands. Over these years, Hoover put up such a fight for control of radio; it was almost tragic that the regulatory framework he was fighting so hard for would eventually be given by Congress not to him but to an independent commission.

Although government policy in the 1920s, haphazard as it was, clearly favored corporations and the military, by this time, the popular conception of the airwaves and how they would be used was well established. “Whether saving lives at sea or bringing lectures to the farmer, radio was consistently cast as the agent of American democracy and altruism.”³³ Douglas suggests that the airwaves needed an altruistic caretaker, and the

³¹ Statement of Herbert Hoover, “To Regulate Radio Communication,” 10.

³² Statement of Herbert Hoover, “To Regulate Radio Communication,” 27.

³³ Douglas, *Inventing American Broadcasting*, 320.

corporate radio broadcasters worked to position themselves for this role so as to minimize government interference. Douglas notes:

The badge of legitimacy went to the communications corporations, who burnished its authority by presenting themselves as acting out of benevolent, farsighted paternalism. There were dissenters from this conception of spectrum management, especially among amateurs, educators, and religious groups, and there was some resentment in the 1920s about a potential corporate monopoly of the air. But there was no major break in this ideological frame concerning who was best qualified to serve as warden of the ether.³⁴

This corporate “paternalism” would find parallels in British radio, for the BBC has been described as acting out of the same sort of cultural concern, which will be discussed later. What is striking is that even though American paternalism could be seen in the dominant communication corporations and British paternalism came from a government monopoly, both sets of institutions had a similar approach to their social and cultural role in the mid-1920s. Once again, the similarities between the two countries suggest that although causal chains were being laid, they would have been broken at some point in order to produce divergent outcomes. Douglas ends her story of American radio in 1922, suggesting that the links in the chain of U.S. radio policy were established and unbreakable. But further investigation challenges this notion. Until the passage of the Radio Act of 1927, the commercial structure of radio was hardly a foregone conclusion, and even after 1927, it could hardly be considered stable. Thus, throughout the 1920s, policymakers and a diverse group of public and private interests continued to fight for control of broken chains, as exemplified by Hoover and his series of radio conferences.

³⁴ Douglas, *Inventing American Broadcasting*, 317.

Herbert Hoover and the National Radio Conferences

The system of broadcast regulation that would emerge from the chaos of the early- and mid-1920s “has been much criticized as a confused jumble of laissez-faire and statist principles.”³⁵ This was the result of efforts by the government and industry to find a solution to a clear instance of market failure. As Streeter notes:

The ‘chaos of the airwaves’ that threatened the development of broadcasting in the early 1920s presented government and business elites with a striking dilemma. Autonomous individual radio broadcasters, rationally pursuing their selfish individual interests, had created a mess, not a market; Adam Smith’s invisible hand was not working. The trick was thus finding a way to rectify the situation without too obviously abandoning the Liberal principles of private ownership and competition upon which the legitimacy of private ownership of radio (and capitalism in general) depended.³⁶

This was the broad goal Secretary Hoover set out to achieve in the 1920s when he called a series of National Radio Conferences, one each year from 1922 through 1925. More specifically, Rowland describes the conferences as “the principal federal government efforts reviewing the options for radio regulation in the mid-1920s,” and suggests that, “while adopting a public interest gloss,” the conferences “were envisioning its application in the context of the well rehearsed cooperation between the government and the private communications industries over the preceding two decades.”³⁷ Rowland concludes that the conferences ensured that the government would implement little direct regulation, the idea of public service would mean technological capability, and that license holders would be subject to no specific responsibilities or requirements. Before analyzing the

³⁵ Thomas Streeter, “Beyond Freedom of Speech and the Public Interest: The Relevance of Critical Legal Studies to Communications Policy,” *Journal of Communication* 40, no. 2 (1990): 56.

³⁶ Streeter, “Beyond Freedom of Speech,” 56-57.

³⁷ Willard D. Rowland, Jr. “The Meaning of ‘The Public Interest’ in Communications Policy, Part II: Its Implementation in Early Broadcast Law and Regulation,” *Communication Law & Policy* 2, no. 4 (1997): 375.

proceedings of these conferences, it is worth taking a look at Hoover generally and his broad orientation toward the state, industry and the public.

Hoover graduated from Stanford University in 1891 and worked as a mining engineering, traveling to Australia and Europe. He organized humanitarian relief efforts during the First World War and was appointed by President Woodrow Wilson in 1917 to head the U.S. Food Administration. Despite being wooed by Democrats after the war, Hoover ran in the 1920 presidential primary as a Republican. He ultimately supported Warren G. Harding, who won the presidency and made Hoover Secretary of the Department of Commerce, where he worked to streamline relations between government and industry, aiming to reduce waste and increase efficiency. He had a clear pro-business orientation. After the war, he encouraged reconstruction in Europe through private means rather than government aid. In a public statement on January 7, 1920, he said: “The world needs to get away from the notion of governmental help, both internally and externally, and get back to work and to business.”³⁸ In other statements that year, he “insisted that private credit was needed, but that our government should not mix with the affair, and that our system for extending private credit should be better organized to prevent fraud, waste, and loss.”³⁹ At a meeting in Chicago of a committee of the American Bankers Association in 1920, he said, “It is far better that these problems be solved by the process of business and individual initiative than that they be attempted by our government.”⁴⁰

In his memoirs, Hoover frequently wrote about waste and inefficiency in government. For example: “In my service in Washington during the war I had observed

³⁸ Herbert Hoover, *The Memoirs of Herbert Hoover: The Cabinet and the Presidency* (New York: Macmillan, 1952), 13.

³⁹ Hoover, *Memoirs*, 13.

⁴⁰ Hoover, *Memoirs*, 13.

the amazing duplication, overlap, waste, red tape, tyranny, and incompetence of the government bureaucracy.”⁴¹ But despite these apparent anti-government sentiments, Hoover was not hesitant to use his power to regulate certain aspects of industry and to serve the public welfare. During his tenure as Commerce Secretary, he created the Commerce Department Building and Housing Division to improve the quality and supply of housing and was president of the American Child Health Association, which secured funds from Congress and worked to protect child health and prohibit child labor. He also worked to abolish the twelve-hour workday: “It was barbaric, and we were able to demonstrate that it was uneconomic.”⁴² In general, he claimed to believe that commerce and industry could not make progress “unless labor advanced with them.”⁴³ In his memoirs on labor relations, he wrote:

I held that there are great areas of mutual interest between employee and employer which must be discovered and cultivated, and that it is hopeless to attempt progress if management and labor are to be set up as separate “classes” fighting each other. They are both producers, they are not classes. . . . I supported continuously the organization of labor and collective bargaining by representatives of labor’s own choosing. I insisted that labor was not a “commodity.”⁴⁴

One chapter in his memoirs is titled “Curing Bad Business Practices and the Business Cycle.”⁴⁵ To Hoover, fixing business was a central concern. He apparently saw the need to save capitalism from its own abuses lest alternative approaches to government and economics take root:

⁴¹ Hoover, *Memoirs*, 71.

⁴² Hoover, *Memoirs*, 103.

⁴³ Hoover, *Memoirs*, 101.

⁴⁴ Hoover, *Memoirs*, 101.

⁴⁵ Hoover, *Memoirs*, Chapter 23, 167.

Fixing the boundaries of governmental relations to business perplexed me daily and in innumerable ways during my twelve years as Secretary of Commerce and President. Fundamentally, this problem involved the destiny of the American scheme of life. Although business committed various abuses that were only marginal in an otherwise great productive system, the marginal wrongs had to be cured if the system was to survive—they were abuses of freedom, which grow like a cancer. Also they were the propelling texts of the Socialists, the Communists, and the exponents of the new breed—Fascists. This left-wing cure for all business evil now appeared under the lovely phrase “national planning.” It was mixture of government operation and government dictation of economic life into a free economy.

The real cure of our marginal evils lay in the application, where necessary, of government regulation, which clearly and specifically prohibited an evil practice. But beyond and better than even that was cooperation in the business community to cure its own abuses. I considered it part of the duties of the Secretary of Commerce to help bring business to a realization of its responsibilities and to suggest methods of its own cures.⁴⁶

In doing so, Hoover drew arbitrary lines between acceptable government intervention and the evils of socialism. “For instance, the government alone could build many of the great dams required to conserve water for irrigation, flood control, and navigation. All these dams produce electrical power. But the distribution of power by the government was pure Socialism.”⁴⁷ Any advocacy of such government operation of utilities, including the railroads, clearly represented for Hoover “the growth of Socialism inch by inch. In all this we faced a collectivism which sought to limit and not to expand the freedom of men.”⁴⁸ Later, as President from 1929-1933, Hoover was forced to reconsider and reframe his views as he worked—and failed—to rescue America from the Great Depression. In his memoirs, he defended the extent to which his administration regulated the economy, acknowledging the clear limits of the market yet defending it in the face of encroaching socialism:

⁴⁶ Hoover, *Memoirs*, 167.

⁴⁷ Hoover, *Memoirs*, 174.

⁴⁸ Hoover, *Memoirs*, 174.

Those who contended that during the period of my administration our economic system was one of *laissez faire* have little knowledge of the extent of government regulation. The economic philosophy of *laissez faire*, or “dog eat dog,” had died in the United States forty years before, when Congress passed the Interstate Commerce Commission and the Sherman Anti-Trust Acts....

We were a system of “regulated individualism.” These regulatory acts required periodic revision with the advance of technology and ingenuity in violations. The problems which confronted me were the weak spots in existing regulations and the socialistic drive to put the government into business.⁴⁹

Hoover’s “regulated individualism” was on full display during the four National Radio Conferences in the 1920s. In his memoirs, he conveyed the struggle he faced with limited regulatory power and legal authority even as he worked to move the progress of radio forward and control the increasingly chaotic airwaves.

The law authorizing the Secretary of Commerce to regulate radio had been enacted prior to voice broadcasting. It was a very weak rudder to steer so powerful a development. I was early impressed with three things: first, the immense importance of spoken radio; second, the urgency of placing the new channels of communication under public control; and third, the difficulty of devising such control in a new art. Radio men were eager for regulation to prevent interference with one another’s wave lengths, but many of them were insisting on a right of permanent preemption of the channels through the air as private property—a monopoly of enormous financial value. Their argument was that the necessary capital could not be provided without permanent tenure. It was in a fashion comparable to private ownership of a water navigation channel. Therefore in our usual fashion of solving problems wherever possible by cooperation rather than by law, I called a conference of representatives of the industry and various government agencies on February 27, 1922.⁵⁰

That the titans of industry desired a monopoly of the airwaves—a property of “enormous financial value”—apparently was not lost on Hoover. He was also eager to cooperate with them, in his “usual fashion,” devising systems of self-regulation rather than making laws. He also saw the enormous potential for radio to reach into every American home and provide great benefit to the public, not just as consumers but also as citizens.

⁴⁹ Hoover, *Memoirs*, 300-301.

⁵⁰ Hoover, *Memoirs*, 139-140.

The First National Radio Conference convened in Washington in 1922 with more than 1,000 delegates in attendance. The delegates came from a range of government departments, industry, utilities, institutes and universities. In his opening address, Hoover stated: “We are indeed today upon the threshold of a new means of widespread communication of intelligence that has the most profound importance from the point of view of public education and public welfare. The comparative cheapness...of receiving sets...bids fair to make them almost universal in the American home.”⁵¹

As early as this first conference, Hoover invoked the notion of the public interest, but did so in the context of “central stations” and the “communication of commercial matters,” referring to the increasingly dominant private broadcasters who ran stations for the purpose of publicizing their businesses:

The wireless spoken word has one definite field, and that is for broadcast of certain predetermined material of public interest from central stations. This material must be limited to news, to education, and to entertainment, and the communication of such commercial matters as are of importance to large groups of the community at the same time.⁵²

His opening statement went on to express the central dilemma at the time: who is in charge of the airwaves? Again he invoked the public interest and, in expressing his views on advertising, made one of his most famous, often-quoted statements: “it becomes of primary public interest to say who is to do the broadcasting, under what circumstances, and with what type of material. It is inconceivable that we should allow so great a possibility for service to be drowned in advertising chatter.”⁵³ Hoover also described to his audience the dilemma of how to finance broadcasting stations, which was a relatively

⁵¹ Hoover, *Memoirs*, 140.

⁵² Hoover, *Memoirs*, 140.

⁵³ Hoover, *Memoirs*, 140.

new concern, shifting the focus away from the sale of receiving sets. In two sentences, Hoover described and rejected the general European model: “In certain countries, the government has prohibited the use of receiving instruments except upon payment of a fee, out of which are supported government-sending stations. I believe that such a plan would most seriously limit the development of the art and its social possibilities.”⁵⁴ The only alternative was a system of regulation required a “policeman” and the establishment of “public right over the ether roads.” The “policeman” would be responsible for detecting the “ether hogs that are endangering the traffic.”⁵⁵ Hoover concluded: “There must be no national regret that we have parted with a great national asset.”⁵⁶

The outcome of this first national conference made clear reference to radio as a public utility to be operated in the public interest. Among other things, the Report of the Department of Commerce Conference of Radio Telephony concluded: “That it is the sense of the conference that radio communication is a public utility and as such should be regulated and controlled by the Federal Government in the public interest.”⁵⁷ The report would also lay out definitions for different types of broadcasting, including government, public, private and toll. Public broadcasting was defined as “signifying broadcasting by public institutions, including State governments political subdivisions thereof, and universities and such others as may be licensed for the purpose of disseminating informational and educational service.” Toll broadcasting was defined as “signifying broadcasting where charge is made for the use of the transmitting station.” That these

⁵⁴ Hoover, *Memoirs*, 141.

⁵⁵ Hoover, *Memoirs*, 141.

⁵⁶ Hoover, *Memoirs*, 141.

⁵⁷ Report of the Department of Commerce Conference of Radio Telephony, “To Amend the Radio Act of 1912,” 32.

early distinctions were made in 1922 suggests that much remained to be determined about the organization of the airwaves. The report also laid out considerations to be followed in the granting of licenses and offered preference to stations with high degrees of public interest: “It is recommended that the degree of public interest attaching to a private or toll broadcasting service be considered in determining its priority in the granting of licenses, in the assignment of wave frequencies, and in the assignment of permissible power and operating time, within the general regulations for these classes of service.”⁵⁸ In this invocation, we begin to see the idea of “general interest” stations, which would receive priority over “propaganda” or special interest stations, which would include churches and political groups.

Three more “conferences of the industry”⁵⁹ were held in Washington, the second in March 1923 and the third in October 1924. In these early years, Hoover “felt we should have more experience before drafting legislation. With the approval of the Congressional committees we carried on until 1924.” Congress was not ready to take on such a complicated topic and did not see any great urgency to deal with radio. “One of our troubles in getting legislation was the very success of the voluntary system we had created. Members of the Congressional committees kept saying, ‘It is working well, so why bother?’ A long period of delay ensued.”⁶⁰

In his opening statement at the third radio conference in 1924, Hoover continued to express his hopes for the future of radio. Even as the broadcasting industry began to

⁵⁸ Report of the Department of Commerce Conference of Radio Telephony, “To Amend the Radio Act of 1912,” 36.

⁵⁹ Hoover’s term in Hoover, *Memoirs*, 141.

⁶⁰ Hoover, *Memoirs*, 142.

take shape, Hoover again equated the technology to a public utility and expressed concern for its impact on “family life”:

Radio has passed from the field of an adventure to that of a public utility. Nor among the utilities is there one whose activities may yet come more closely to the life of each and every one of our citizens, nor which holds out greater possibilities of future influence, nor which is of more potential public concern. Here is an agency that has reached deep into the family life. We can protect the home by preventing the entry of printed matter destructive to its ideals, but we must double-guard the radio.⁶¹

He concluded by again invoking the public interest. Despite his grand rhetoric, his contextual language at this point does not necessarily suggest an understanding of the concept as a code word for pro-industry regulation as Rowland and others have suggested. He speaks of the position of elites with a self-imposed “high sense of service” in the public interest, and he again invokes parallels with public utilities.

In conclusion, I can only repeat what I have said on these occasions before—that it is our duty as public officials, it is our duty as men engaged in the industry, and it is our duty as a great listening public to assure the future conduct of this industry with the single view to public interest. The voluntary imposition of its own rules and a high sense of service will go far to make further legislation or administrative intervention unnecessary. Indeed, it will contribute enormously to the development of the art if in this stage of its infancy we can annually secure such adjustments by voluntary action as will protect public interest. We shall then have evolved a unique chapter in the development of public utilities.⁶²

In one sense, he is advocating for self-regulation by broadcasters in order to avoid legislation that might have limited their power. But in doing so, he is highlighting a moralistic concern that would have lasting effects. When the Federal Radio Commission was finally created in 1927, broadcasters were not sure how the new commission would treat the industry, and for some time, broadcasters considered themselves “guests in the

⁶¹ Department of Commerce, “Recommendations for Regulation of Radio Adopted by the Third National Radio Conference, October 6-10, 1924,” (Washington, D.C.: Government Printing Office in Washington, D.C., 1924). Hoover’s address is printed in Section 1.

⁶² Department of Commerce, “Recommendations,” Section 1.

home,” making efforts to limit the extent to which they exploited their power for commercial aims.⁶³ Perhaps this was an early attempt to introduce the idea of “social responsibility,” in that he suggested broadcasters should avoid direct advertising and provide important social and political content.

By the time of the fourth conference in November 1925, Hoover was still advocating and celebrating industry self-regulation, but began to acknowledge the reality of the need for government involvement to balance the interests of the industry.⁶⁴ Among his opening remarks:

The problems in broadcasting are, as ever before in these conferences, of two categories—those, on the one hand, which the industry can and should solve for itself in order to safeguard the public service and its own interest and, on the other hand, those which can only be solved in cooperation with the Government; and again, as before we should find the solution of as many of our problems as we can in the first category. I have no hesitation in discussing these questions, because, as I have said, the more the industry can solve for itself the less will be the burden on the Government and the greater will be the freedom of the industry in its own development.⁶⁵

This is also where Hoover began to make the case for technological supremacy. He laid out the costs of operating a broadcast station and suggested that any limitations on broadcasting would preclude these well-financed stations from being economically successful. It is here that his conception of the public interest begins to shift when he suggests that the public is best served by the “best stations,” that is, the stations with the most money and best equipment.

⁶³ Starr, *Creation of the Media*, 341; James L. Baughman, *Same Time, Same Station: Creating American Television, 1948-1961* (Baltimore, Johns Hopkins University Press, 2007).

⁶⁴ Opening Address by Herbert Hoover, “Proceedings of the Fourth National Radio Conference and Recommendations for Regulation of Radio, November 9-11, 1925,” in “Radio Control: Hearings Before the Committee on Interstate Commerce,” 69th Congress, 1st session, (Washington, D.C.: Government Printing Office, 1926). Hoover’s opening address is printed in Section 1.

⁶⁵ Opening Address by Herbert Hoover, “Fourth National Radio Conference,” 53.

As the art progresses the capital investment in a good station has risen to upward of \$150,000, and to provide technical staff, good talent, and interconnection the cost of operation has risen to as much as \$100,000 per annum, and frequently even more. The costs are in large part the same whether the station works one day in a week or seven. If we impose more division of time than at present, we shall drive the best stations out of action, and the public will be more poorly served. The choice is between public interest and private desire, and we need not hesitate in making a decision.⁶⁶

Hoover's distinction between the "public interest and private desire" set up a telling dichotomy. The "public interest" was now being used as part of the market rhetoric that would come to dominate radio regulation. In this context, the public interest reflected a defense of the market, gently regulated by government to make sure the dominant players would all get a share. As Streeter notes, Hoover

sees the choice as one between a dichotomized public interest and private desire, between a reified public good set against an atomized, self-interested individual autonomy. Generally, Hoover and his cohorts reconciled the opposing poles of this basic Liberal dichotomy through the marketplace; and in the case of radio, the market of course remained at the center of their vision. But when faced with the failure of the marketplace in the form of spectrum chaos, their dichotomized Liberal understanding of human existence made a turn to the public interest half of the dichotomy the natural thing to do.⁶⁷

In other words, the appeal to the public good was now code for letting the dominant broadcasters monopolize the airwaves but only because it was in the interest of the broader community and certainly not because it would serve individual self-interest.

In this context, Hoover would go on to issue other now-famous sound bites. This where he said, for example, "The ether is a public medium, and its use must be for public benefit. The use of a radio channel is justified only if there is public benefit."⁶⁸ His public

⁶⁶ Opening Address by Herbert Hoover, "Fourth National Radio Conference," 55.

⁶⁷ Streeter, "Beyond Freedom of Speech," 57.

⁶⁸ Opening Address by Herbert Hoover, "Fourth National Radio Conference," 56.

interest rhetoric grew increasingly vague, and perhaps began at this point to take on the pro-industry connotation that would be ascribed to it in the 1927 Radio Act. He said:

I can see no alternative to abandonment of the present system, which gives the broadcasting privilege to everyone who can raise the funds necessary to erect a station, irrespective of his motive, the service he proposes to render, or the number of others already serving his community. Moreover, we should not freeze the present users of wave lengths permanently in their favored positions irrespective of their service. That would confer a monopoly of a channel in the air and deprive us of public control over it. It would destroy the public assurance that it will be used for public benefit. There are, indeed, many difficult issues to be solved, but we have to face them just the same.⁶⁹

The third and fourth radio conferences were the first to include a number of committees assigned to different tasks, including allocation of spectrum, advertising, licenses, marine, amateurs, interference and copyright. At the fourth conference, Committee No. 8 was tasked with legislation and, in their remarks, drew, perhaps for the first time, a clear distinction between broadcasting and public utility service:

That authority should exist to limit the number of stations in any community has already been determined by this conference, which has likewise recommended that benefit to the listener must be the basis for the broadcasting privilege. With these determinations your committee is of course in hearty accord. We would, however, point out that recognition of the principle of public benefit does not bring the broadcasting stations into the category of recognized public utilities. The owners of broadcasting stations have not dedicated them to public use in a legal sense, and such matters as regulation of rates and other similar features of supervision exercised by governmental bodies over public utilities generally, should still, in the judgment of your committee, remain under the exclusive control of the station owner. In many respects these provisions are inapplicable to broadcasting stations by their very nature; and in any event, we do not believe the time has come for their imposition.⁷⁰

⁶⁹ Opening Statement by Hoover, "Fourth National Radio Conference," 57.

⁷⁰ "Proceedings of the Fourth National Radio Conference and Recommendations for Regulation of Radio, November 9-11, 1925," in "Radio Control: Hearings Before the Committee on Interstate Commerce," 69th Congress, 1st session, (Washington, D.C.: Government Printing Office, 1926), 83.

Add to this defense of the commercial broadcasters the very first resolution appearing in the 1925 conference proceedings. Paul B. Klugh, executive chairman, National Association of Broadcasters, presented the resolution of his association:

Resolved, That it be the sense of the National Association of Broadcasters that in any congressional legislation or pending such legislation that the test of the broadcasting privilege be based upon the needs of the public served by the proposed station. The basis should be convenience and necessity, combined with fitness and ability to serve, and due consideration should be given to existing stations and the services which they have established...⁷¹

“Fitness and ability to serve” and “due consideration for existing stations” would become central to the meaning of the public interest along with “convenience and necessity” as the impending legislation was crafted.

The central alternative to this approach was reflected in the conference proceedings by Harry J.C. Umberger of Kansas State College, who called for provisions for the many state and public departments and universities that were already making good use of the airwaves. Umberger present a resolution on behalf of the Department of Agriculture, the farmers, and agricultural colleges using radio, reading in part:

Whereas the distribution of the information gathered by these agencies to the public, particularly the rural districts, is a matter of national importance; and

Whereas radio broadcasting presents a most satisfactory and economical method of reaching the public with this important information and of making effective the public investment in these agencies; and

Whereas these institutions have immediately at hand among their regular staffs abundant material for educational and public service programs with practically no additional cost; Therefore be it

Resolved (1), That full recognition should be given by the Department of Commerce to the needs of these services, and (2) that adequate, definite, and

⁷¹ “Proceedings of the Fourth National Radio Conference and Recommendations for Regulation of Radio, November 9-11, 1925,” in “Radio Control: Hearings Before the Committee on Interstate Commerce,” 69th Congress, 1st session, (Washington, D.C.: Government Printing Office, 1926), 59.

specific provision should be made for these services within the broadcast band of frequencies.⁷²

If the “public interest” had any meaning at all, surely it was reflected in this proposal, which emphasized service to the public but died in a technical committee. As Rowland concludes, “As the public interest standard was being adopted in the principal forum where private and public interests were being authoritatively welcomed and their results officially sanctioned, the public service notion of broadcasting, a model that would appear to have been central to the public interest, was being systematically ignored.”⁷³

In sum, the Fourth National Radio Conference and the mid-1920s generally marked the shift of the meaning of the public interest to give it a clear pro-industry connotation, to divorce broadcasting from any notion of public utility service, and to establish a preference for existing commercial broadcasters who already possessed the technology necessary to provide a national broadcasting service. By delaying legislation in its hesitancy to restrict private business, Congress allowed time for the dominant commercial broadcasters to gain power over the Navy, the Post Office, and amateurs. Thus, the big communications corporations were poised to come out on top with the creation of the Federal Radio Commission in 1927.

The mid-1920s had seen increasing chaos as amateurs and non-corporate broadcasters including universities, religious groups and labor organizations competed for the airwaves with the emerging “commercial” stations operated by private businesses. The messy situation finally came to a head when the government sued the Zenith Corporation for violating spectrum-use rules in its broadcasts and a district court found in

⁷² “Fourth National Radio Conference,” 60.

⁷³ Rowland, “Part II,” 373.

1926 that Secretary Hoover was in fact powerless to regulate broadcasting under the 1912 Radio Act.⁷⁴ This opinion was confirmed by the Attorney General, who wrote, “the present legislation is inadequate to cover the art of broadcasting, which has been almost entirely developed since the passage of the 1912 Act. If the present situation requires control, I can only suggest that it be sought in new legislation, carefully adapted to meet the needs of both the present and the future.”⁷⁵ In this context, Congress would finally decide to act.

The Birth of the British Broadcasting Company

At the start of the 1920s, Britain had not yet decided what path its broadcasting system would take, and unlike the United States, it had many options before it. It was certainly possible that the Post Office would take full control as it had with previous forms of communication. But it was equally possible that the radio manufacturers would begin sponsoring commercial broadcasts under licenses from the Post Office, much like the U.S. approach. As in the U.S., Britain had instituted a ban on amateur radio during the First World War, and as in the U.S., this ban was lifted in 1919. As amateur operators resumed their work, the realization that broadcasting regular entertainment over the airwaves could stimulate the sale of wireless receivers came to British radio manufacturers, just as it had in the U.S. But the U.S. radio companies had become more technologically advanced than British Marconi and the other British manufacturers, possibly because the U.S. had lost less time to the war. “America’s lead time was envied

⁷⁴ *United States v. Zenith Radio Corporation et al.*, 12 F. 2d 614 (1926).

⁷⁵ William J. Donovan, 35 Ops. Att’y Gen. 126, July 8, 1926, in Frank J. Kahn, ed., *Documents of American Broadcasting* (Englewood Cliffs, N.J.: Prentice-Hall, 1984), 27-31.

in Britain and quickened the pace of development in Britain, but the use made by American broadcasters of their lead served as a warning rather than an example.”⁷⁶

Perhaps the British system was slow to catch up, but this may have been an advantage in that it gave regulators more time to observe what was happening in the U.S. and to think about how to approach the new technology.

Still, commercial pressures did exist in Britain, and the broadcasting boom in the U.S. didn't help. After the war, the national security argument for government control of broadcasting gave way to pressure from wireless manufacturers and amateurs radio operators to authorize a regular broadcasting service.⁷⁷ As a result, the Post Office allowed the Marconi Company to broadcast from a sole transmitter at Writtle near Chelmsford but warned them not to encroach on military transmissions. The Post Office eventually allowed a few other stations to broadcast but never granted any official, permanent licenses to operate due to the unresolved question of how to deal with the technological problem of “spectrum scarcity,” the limited availability of frequencies on which to broadcast. The Marconi Company began experimental broadcasting in February 1920, but did not begin a regular broadcasting service until February 14, 1922, a full year-and-a-half after the first KDKA broadcast in the U.S. Marconi's London station, 2LO, began broadcasting—under major restrictions—on May 11, 1922. Other radio manufacturers soon began to show interest. At that point, the Post Office, “anxious to avoid the chaos that had arisen from unrestrained broadcasting in the United States and unwilling to have to arbitrate between rival interests in the British radio industry,

⁷⁶ Asa Briggs, *The History of Broadcasting in the United Kingdom* (London: Oxford University Press, 1961), 59-60.

⁷⁷ Andrew Crisell, *An Introductory History of British Broadcasting*, 2nd ed. (New York: Routledge, 2002), Chapter 1.

persuaded the manufacturers to form themselves into a cartel which represented the interests of the industry with which the Post Office would negotiate.”⁷⁸ In the spring of 1922, discussions between the various radio manufacturers and the Post Office led to the formation of the British Broadcasting Company. (It would remain a “company” until it became the British Broadcasting Corporation in 1927.) The Company began broadcasting on November 14, 1922, but did not receive an official license from the Post Office until January 18, 1923.

Before this could happen, though, a few decisions had to be made. F.J. Brown, an assistant secretary at the Post Office, had been visiting the U.S. and attended Hoover’s First National Radio Conference in early 1922. The lessons he learned about frequency chaos were apparent in a report made by the Postmaster-General in Parliament in 1922:

It would be impossible to have a large number of firms broadcasting. It would result only in a sort of chaos, only in a much more aggravated form than that which arises in the United States, and which has compelled the United States, or the Department over which Mr. Hoover presides, and which is responsible for broadcasting, to do what we are now doing at the beginning, that is, to lay down very drastic regulations indeed for the control of wireless broadcasting.⁷⁹

Thus, when the Post Office received 20 new applications for permission to broadcast in the spring of 1922, the reply was always “the ether is already full.”⁸⁰ In the sense of “closing” the ether, Britain’s Post Office was a full year ahead of Hoover’s Commerce Department. Instead of the indiscriminate granting of licenses, the British Postmaster General F.G. Kellaway told Parliament that he would “ask all those who apply—the various firms who have applied—to come together at the Post Office and co-operate so

⁷⁸ Paddy Scannell and David Cardiff, *A Social History of British Broadcasting* (Oxford, U.K.: Blackwell, 1991), 5.

⁷⁹ Hansard, vol. 152, col. 1869, 3 Apr. 1922. Quoted in Briggs, *History of Broadcasting*, 68.

⁸⁰ Briggs, *History of Broadcasting*, 85.

that an efficient service may be rendered and that there may be no danger of monopoly and that each service shall not be interfering with the efficient working of the other.”⁸¹ This early view expressed a concern for striking a balance between efficiency of service and maintaining equal barriers to entry.

That same spring, the Wireless Sub-Committee of the Imperial Communications Committee began designing the strict set of controls that would govern operations of the British Broadcasting Company. By 1922, the syndicate of six private British companies had an effectively monopoly over the airwaves, although “it was at first denied that the British Broadcasting Company was a monopoly, because entry into the company was allowed to any genuine British manufacturer in the radio industry.”⁸² Complaints about monopoly came mostly from the popular press, which thought radio would harm newspaper circulation.

The Wireless Sub-Committee of the Imperial Communications Committee would eventually come up with a set of rules for broadcasting. The subcommittee set limits on the days and times that broadcasters could use the airwaves, they placed technical limitations on power and manner of transmissions, and they ruled that facilities “should be given to *bona fide* radio manufacturing companies to broadcast news and educational matter,” which then and later prevented applicants such as newspapers and retail stores from entering the industry.⁸³ Furthermore, agreements between the Post Office and the manufacturers dictated that the original BBC would be funded by three sources: original stock, royalties on wireless sets sold by manufacturers, and receiving licenses collected

⁸¹ Hansard, vol. 153, col. 1600, 4 May 1922. Quoted in Briggs, *History of Broadcasting*, 100.

⁸² Scannell and Cardiff, *Social History*, 6.

⁸³ Briggs, *History of Broadcasting*, 97.

by the Post Office from the public. These severe limitations on such important technical and financial questions provided a sharp contrast to the American approach, just as they were meant to do in light of the chaos in the U.S. As Briggs noted, “American broadcasting had blundered into chaos: British broadcasting was to be forced into a strait-jacket.”⁸⁴

Unresolved matters remained related to questions of control of content. Postmaster General Kellaway had said that “there will be certain regulations in regard to the character and classes of news which these agencies will be allowed to transmit, but on that head I have not yet come to a final decision.”⁸⁵ Kellaway avoided questions about censorship of content, but this early statement about “character and class” suggested the possibility of content control through some means and anticipated the leadership of John Reith. At the same time, at least part of Kellaway’s concern about “content” had to do with the calls from the British press that broadcasters should be restricted from producing original news reports so as to minimize competition with the newspaper industry. Kellaway also had to contend with members of Parliament who attacked the emerging plan for broadcasting as monopolistic and in violation of free trade. He responded by saying that the Post Office’s approach actually promoted competition in broadcasting and would serve national business interests by restricting access by foreign radio manufacturers to Britain’s radio market. Ultimately, Kellaway and the Post Office took their time in addressing these matters. “It was the concern of the Post Office with matters like these—matters which involved its conception of the ‘public interest’—which held

⁸⁴ Briggs, *History of Broadcasting*, 98.

⁸⁵ Hansard, vol. 153, col. 1600, 4 May 1922. Quoted in Briggs, *History of Broadcasting*, 100.

back progress in the late summer and autumn of 1922.”⁸⁶ Kellaway wanted to ensure that the broadcasting service to emerge from the Post Office’s long deliberations would be one he would not have to defend to angry members of Parliament, the press, the broadcasters, the radio manufacturers, or the public.⁸⁷ He knew, whatever the outcome, he would be held responsible.

One month after the British Broadcasting Company first began regular broadcasts, they hired a general manager named John Reith, a 34-year-old Scottish engineer who knew nothing about broadcasting but came highly recommended. “In December 1922 Reith knew nothing of broadcasting, neither of its problems or of its opportunities. He did not even know the word until he read a public advertisement in the newspapers of 13 October 1922 giving details of four vacancies in the Company, which was described as still in the process of formation.”⁸⁸ How did he get the job that would allow him to transform British culture forever? “When King George VI asked him in 1938 to what he owed his appointment he jokingly ascribed it to ‘Aberdonian favouritism’ on the part of Sir William Noble.”⁸⁹ Both Reith and the man who hired him were from the same part of Scotland. For reasons that remain unclear, Reith would be one of those four original employees, and within a year, would be promoted to managing director of the Company. Despite his lack of knowledge and experience, and even lacking a real interest in the endeavor since he didn’t even know what it was, Reith, from the start, had concluded that broadcasting was a “precious national resource—too precious to be used merely to

⁸⁶ Briggs, *History of Broadcasting*, 123.

⁸⁷ See Briggs, *History of Broadcasting*, Chapter 3; Crisell, *Introductory History*, Chapter 1.

⁸⁸ Briggs, *History of Broadcasting*, 135.

⁸⁹ Charles Stuart, ed., *The Reith Diaries* (London: Collins, 1975), 126.

deliver audiences to advertisers or even to wireless manufacturers.”⁹⁰ According to Crisell, Reith wanted the BBC to provide a public service with five main characteristics:

1. It aimed to broadcast to *everyone* who wished to listen.
2. It sought to maintain *high standards*—to provide the best of everything.
3. It needed to operate as a monopoly to avoid competitive pressure to abandon “quality” and only maximize audience
4. It needed to be funded by a license fee so expensive programs could be made for minority audiences
5. It needed to be institutionally and editorially independent—from commercial pressures and government.⁹¹

These characteristics were not simply the original thinking of Reith; they had organizational precedents in Britain in the context of the rise of the public corporation in the early 1900s.⁹² The forestry, gas, water and electricity industries had been organized as public corporations and designed to combine best of civil and commercial values. As Curran and Seaton note:

The Post Office, which played a critical role in the BBC’s development, was itself an early example of a nationally run business. William Beveridge had commented in 1905 that the GPO was the ‘one social experiment...that now works well.’ Forestry, water, and electricity were all important public corporations set up in the years before the BBC was even thought of. Lincoln Gordon, the economist, wrote that by the 1920s, ‘Public boards had become all the rage, politicians of every creed when confronted with an industry or a social service which was giving trouble or failing to operate efficiently—created a board’.⁹³

Thus, the BBC already possessed some of these qualities before Reith’s arrival. The structures already in place, to some extent, dictated that the technology would eventually be organized as a public resource, in the manner of libraries or adult education. The early

⁹⁰ Crisell, *Introductory History*, 18.

⁹¹ Crisell, *Introductory History*, 19.

⁹² Crisell, *Introductory History*; James Curran and Jean Seaton, *Power without Responsibility: The Press and Broadcasting in Britain*, 5th ed. (London: Routledge, 1997); Brian Winston, *Media Technology and Society: A History: From the Telegraph to the Internet* (London: Routledge, 1998).

⁹³ Curran and Seaton, *Power without Responsibility*, 138-139.

shareholder rates of return were modest, and the companies were never driven primarily by profit. Perhaps most significant is the fact that the British government approved the licensing fee from the beginning to cushion the BBC from having to rely too heavily on profit.

Considering all this, to say that the BBC began as a private company is somewhat misleading. The company was so heavily regulated by government that it was basically a public institution from the start, and much of its funding came from royalties and licenses collected by government on the company's behalf. All of this had happened somewhat haphazardly, largely in reaction to the perceived chaos in the U.S. Thus, at this point, "two of the key features of the British broadcasting system had been established, but without any ideological rationale: the license fee and the monopoly. There was little perception at the time of the possibility of profit from broadcasting as such: that lay in the creation and exploitation of a market for radio-receiving equipment."⁹⁴ As Scannell and Cardiff and others argue, the initial goal was to create a market for the sale of radio receivers; the notion of broadcasting as a public service came later. "Public service was a concept grafted onto an initial pragmatic set of arrangements between the Post Office and the British radio industry to establish a broadcasting service that would create a market for radio-receiving apparatuses."⁹⁵ Notably, however, the public service concept did come, and it came even though there was no real need for it. The public service approach may have actually been detrimental to the demand for radio sets; perhaps an American-

⁹⁴ Scannell and Cardiff, *Social History*, 5.

⁹⁵ Scannell and Cardiff, *Social History*, 5.

style, commercial, entertainment-oriented approach to broadcasting would have made radio in Britain all the more popular. But John Reith wouldn't have it.

John Reith and the Theory of Public Service

It seems that Reith had a sense of the grandeur of what was about to happen. In his diary, an entry dated December 28, 1922, just a month-and-a-half after his hiring, reads:

I told mother I wanted her to live to see me a knight anyhow. I feel if this job succeeds and I am given grace to succeed in it, I might not be so far off this. I do want a title for dear Mother's sake and Muriel's [his wife] and other similar reasons. May I never forget dear Mother's prayer. I must take Christ with me from the very beginning and all through this difficult work. I cannot succeed otherwise. 'Without me ye can do nothing.' I can do all things through Christ.⁹⁶

In many ways, this sounds downright delusional. But now we know that he was not far off. This also makes clear how Reith would carry his strong religious background with him in his work at the BBC. As Briggs notes, "Reith's whole conception of moral standards derived from Christian principles..."⁹⁷ But these principles meant more to Reith than mere moralizing over the airwaves. They would inform his view of the public, of economics and of technology.

As Briggs points out, Reith never refers to "mass media" or "mass communication" in any of his writings. Instead he emphasizes the "public" or the "publics" as part of "the great audience," not to be analyzed for tastes and preferences to be pandered to, but as humans in need of cultural enrichment and fulfillment.

⁹⁶ Stuart, *The Reith Diaries*, 129.

⁹⁷ Briggs, *History of Broadcasting*, 272.

The 'publics' are treated with respect not as nameless aggregates with statistically measurable preferences, 'targets' for the programme sponsor, but as living audiences capable of growth and development. In other words, Reith's theory of public service began with a conception of the public. Without such a conception the conception of public service itself becomes bleak and arid.⁹⁸

It is easy to imagine how this sort of approach would earn Reith charges of elitism and socialism, which he did not shy away from. In his book *Broadcast over Britain*, written hastily in 1924, Reith countered these charges with simple appeals to reason: "To disregard the spread of knowledge, with the consequent enlargement of opinion, and to be unable to supplement it with reasoned arguments, or to supply satisfactory answers to legitimate and intelligent questions, is not only dangerous but stupid."⁹⁹ Reith's 1924 book, one of the most important documents in the history of broadcasting, expresses a bold vision for public service broadcasting and did much to influence the future of the BBC. It is important to note that Reith's approach to public service broadcasting in 1924 had been informed and emboldened the year before by the work and report of The Broadcasting Committee, better known as the Sykes Committee, on which Reith served as a member.

The Sykes Committee, named for its chairman Sir Frederick Sykes, was appointed by the Postmaster General on April 24, 1923 to consider "broadcasting in all its aspects" as well as "the action which should be taken upon the determination of the existing licence of the Broadcasting Company" and the "restrictions which may need to be placed upon its user or development."¹⁰⁰ The committee recognized the future importance of the new technology and began its work under the assumption that "the

⁹⁸ Briggs, *History of Broadcasting*, 239.

⁹⁹ John C.W. Reith, *Broadcast Over Britain* (London: Hodder and Stoughton, 1924), 19.

¹⁰⁰ Sykes Committee, "Report of the Broadcasting Committee" (Cd. 1951) (1923), 5.

control of such a potential power over public opinion and the life of the nation ought to remain with the State, and that the operation of so important a national service ought not to be allowed to become an unrestricted commercial monopoly.”¹⁰¹ To this end, the committee declared the airwaves to be “regarded as a valuable form of public property; and the right to use them for any purpose should only be given after full and careful consideration.”¹⁰² The committee also recognized from the start that the outcome it recommended was likely to have a lasting effect, opening and closing certain alternative paths. The committee declared that any wavelengths “assigned to any particular interest should be subject to the safeguards necessary to protect the public interest in the future. Should readjustments become necessary after definite allocations of the national property, they may be found both difficult and costly.”¹⁰³ Indeed, “exit costs” are central to the concept of path dependence and explain why it is hard to stray from chosen paths. These costs can be material or nonmaterial, as is the case with the QWERTY keyboard we still use today. In the case of broadcasting, substantial costs, both material and nonmaterial, would be involved in attempts to alter future paths in both Britain and the U.S.

Due to the provisional nature of the agreements governing British broadcasting thus far, the Sykes Committee was asked to respond to the original license granted to the British Broadcasting Company in January 1923.¹⁰⁴ The license outlined all the ways in

¹⁰¹ Sykes Committee, 6.

¹⁰² Sykes Committee, 6.

¹⁰³ Sykes Committee, 6.

¹⁰⁴ “Wireless Broadcasting Licence” (Cmd. 1822) (1923).

which the Company was already operating like a public monopoly.¹⁰⁵ For instance, manufacturers had to pay to join and be approved by Postmaster General, the Post Office issued broadcast receiving licenses and sets were marked “BBC—Type approved by Postmaster General”, the Post Office paid the Company half of the licensing fees received, and receiving sets had to be British-made and carry a tax payment to the company as approved by the Postmaster General. Furthermore, no “advertising or paid matter” was to be broadcast, and “only such news as is obtained from news agencies approved by the Postmaster General” was allowed. The Company also was “not to pay dividends at a higher rate than 7.5 per cent per annum.”¹⁰⁶

It is fine to say that technical restrictions on wavelengths and policies regarding Company organization were due to the limited nature of the airwaves, or at least the current understanding of the airwaves at the time. And the restrictions on types of radio sets to be used and the requirement of receiving licenses were certainly meant to help national industry and increase revenue for the Post Office. But the restrictions on content—certain types of news and advertising—reflect different interests. The limits on news broadcasts and advertising were meant to protect the publishing industry, although these restrictions on news would loosen throughout the decade, partly due to Reith’s insistence. As Scannell and Cardiff note, “The restrictive attitude of the Post Office which, at the time, had forbidden the BBC to deal with any matters of public controversy,

¹⁰⁵ The “outline of the existing scheme” is summarized in Sykes Committee, 8-9.

¹⁰⁶ Sykes Committee, 9.

was severely restricting the development of this side of broadcasting, and Reith sharply criticized the shackles imposed on radio's treatment of news and politics."¹⁰⁷

The restrictions on advertising, however, reflect the perhaps the biggest difference between the British and American approaches to broadcasting. Beyond protecting newspapers, the Sykes Committee said no to advertising for other reasons:

We attach great importance to the maintenance of a high standard of broadcast programmes, with continuous efforts to secure improvement, and we think that advertisements would lower the standards. The broadcasting of advertisements on a large scale would tend to make the service unpopular, and thus to defeat its own ends. In newspaper advertising the small advertiser as well as the big gets his chance, but this would not be the case in broadcasting.... This would be too high a privilege to give to a few big advertisers at the risk of lowering the general standard of broadcasting.¹⁰⁸

The Committee goes on to say it would be permissible to accept the "gift" of a concert and broadcast the name of the donor, or to name the publisher and price of a song to be played. The Committee also ruled on the "Broadcasting of Commercial Information," saying "this would be permitted if extra revenue is needed, but limited to a block of five minutes per hour, for example, and under suitable safeguards."¹⁰⁹ These sorts of declarations, coming from the mainstream policymakers, were unlike what was happening in the U.S. in 1923. Although Hoover had claimed to be opposed to advertising—it was "inconceivable that we should allow so great a possibility for service...to be drowned in advertising chatter," Hoover declared at the first radio

¹⁰⁷ Scannell and Cardiff, *Social History*, 8.

¹⁰⁸ Sykes Committee, 19.

¹⁰⁹ Sykes Committee, 19-20.

conference in 1922¹¹⁰—this grand rhetoric never worked itself into any specific recommendations or requirements as it would in Britain.

One reason for this was that radio in the U.S. had developed so quickly and with so little regulatory authority that there had been no time to implement an organized, universal approach to financing broadcasting. Britain’s slightly late arrival to the radio craze gave it a great advantage in this regard. The aims of the original British approach to radio had been “to secure the early establishment of an efficient and attractive broadcasting service without cost to the taxpayer and without the establishment of any manufacturing monopoly,”¹¹¹ and the outcome in 1923 was thought by many to have actually achieved this goal. The Company was a consortium of manufacturers rather than a monopoly of one, and the cost for broadcasting was paid by the end user in the form of the radio license. Barring the early introduction of such a licensing scheme, it would be difficult to implement such an approach later. The committee’s approach to the funding model, while resting on “the educative value of broadcasting,”¹¹² precluded a tax on the general population. Instead, the committee approved of the licensing fee approach and recommended that “the Government should not aim at making a profit on the control of the service or the licensing of wireless sets.”¹¹³

It is worth noting here that some Britons evaded the licensing fee by building their own sets. The promise had been made in the House of Commons in July 1922 that “amateurs who construct their own receiving sets...will be allowed to use them.” It was

¹¹⁰ Hoover, *Memoirs*, 140.

¹¹¹ Sykes Committee, 10.

¹¹² Sykes Committee, 17.

¹¹³ Sykes Committee, 17.

“the view then taken by the Post Office being that if an applicant were sufficiently skilled to make his own apparatus he would have sufficient knowledge to make proper use of an experimental license, which is free of the restriction inserted in the broadcasting license as to the type of apparatus.”¹¹⁴ Based on this early promise, radio parts, both domestic and foreign-made, began to appear on the market, undermining the official Company sets, as homemade sets were cheaper. Ultimately, “the Post Office agreed in January, 1923, to issue experimental licenses only to persons with unquestionable qualifications, the applications from other persons being held over for further consideration.”¹¹⁵ They discussed the possibility of a “constructor’s” license for those who wanted to use homemade sets, but this never became a reality, as the Post Office and the Company could never come to an agreement on the conditions under which such a license would be issued.

This problem was indicative of one of the central objections to the scheme thus far. The Sykes Committee noted that these objections centered on the notions that it was wrong to control the manufacture and importation of wireless apparatus, and that firms had to join the Company in order to manufacture and sell apparatus. It was wrong that “the Company is practically controlled by a few large firms, who, it is suggested, are placed in a position of advantage over smaller trade rivals,” and “certain conditions of the agreement which members of the British Broadcasting Company have to sign are of an oppressive character or give the Company powers which might be used harshly.”¹¹⁶ Despite these objections, the Sykes Committee did not hesitate to recommend “that

¹¹⁴ Sykes Committee, 9.

¹¹⁵ Sykes Committee, 10.

¹¹⁶ Sykes Committee, 11.

permission to transmit, and the matter to be transmitted, should be subject to public authority.”¹¹⁷ That the committee would include the “matter to be transmitted” was an early indication that someone would be in charge of the content of broadcasting. The committee proposed a “Broadcasting Board” to work out the details in conjunction with the Post Office.

As to the question of state operation, the Sykes Committee recognized that “once the principle of public control is established, it is evident that considerable latitude is possible in deciding by whom broadcasting should be operated.”¹¹⁸ Their argument in favor of public control centered on their conception of the public interest and national service as well as the idea that the public interest is more than what interests the public:

While it is impossible to forecast with certainty the development of broadcasting, it seems clear that it will be utilized for matters of widespread public importance, and in these circumstances not only the regulation of what should, in the public interest, be broadcast, but also the actual operation of so important a national service, should be in the hands of the Government rather than in private hands.¹¹⁹

On the other hand, the committee recognized that government would not be suited to handle entertainment programming and that it would be subject to criticism regarding political power and influence. The government-controlled operation “would be constantly open to suspicion that it was using its unique opportunities to advance the interests of the political party in power; and, in the endeavour to avoid anything in the slightest degree controversial, it would probably succeed in making its service intolerably dull.”¹²⁰

¹¹⁷ Sykes Committee, 12.

¹¹⁸ Sykes Committee, 13.

¹¹⁹ Sykes Committee, 13.

¹²⁰ Sykes Committee, 14.

Ultimately the committee's recommendation favored state control but noted that "care should be taken to interfere as little as possible with the broadcast programming."¹²¹

The committee's final recommendation was the creation of a "Broadcasting Board" to assist the Postmaster General, noting that "the broadcasting service should not be operated by a Government Department, but that those entrusted with the service should work under Governmental licence."¹²² This recommendation was in keeping with the scheme established under the original Company license but suggested and anticipated the transformation of the Company into a public corporation. It is significant that although these recommendations in the interest of public service originated with the British government, they were realized by the broadcasters themselves. As Scannell and Cardiff note, this

definition of broadcasting as a public utility to be developed as a national service in the public interest came from the state. The interpretation of that definition, the effort to realize its meaning in the development of a programme service guided by considerations of national service and the public interest, came from the broadcasters and above all from John Reith...¹²³

Reith's vision was informed by his desire to use the new technology to serve the public by encouraging widespread access to knowledge and culture. As he wrote in *Broadcast Over Britain*:

Till the advent of this universal and extraordinarily cheap medium of communication, a very large proportion of the people were shut off from first-hand knowledge of the events which make history. They did not share in the interests and diversions of those with Fortune's twin-keys: Leisure and Money. They could not gain access to the great men of the day and these great men could deliver their message to a limited number only. To-day all this is changed. He

¹²¹ Sykes Committee, 14.

¹²² Sykes Committee, 34-35.

¹²³ Scannell and Cardiff, *Social History*, 6-7.

who really has something to tell his countrymen, something which it shall be to their profit to hear, can command an audience of millions ready to hand.¹²⁴

Reith was eager to promote his cause and to defend his approach in the face of criticisms of the elitist monopoly. “I think it will be admitted by all that to have exploited so great a scientific invention for the purpose and pursuit of entertainment alone would have been a prostitution of its powers and an insult to the character and intelligence of the people.”¹²⁵ He also specifically characterized the Company as a utility and emphasized its non-profit nature. “The Company operates as a public utility service, and it is of great importance that this should be definitely recognized. In other words, the Company is not out to make money for the sake of making money; by its constitution it is debarred from doing so.”¹²⁶ Furthermore, Reith argued that a broadcasting service that operated in this manner would actually benefit British industry rather than detract from it. “In this business, the interests of the public and the interests of the trade happen to be identical, even though this may not be apparent at first sight. The greater the extent to which, as a public service, the Company is able to give satisfaction, the greater the benefit to the new British industry.”¹²⁷ He also dismissed monopoly concerns by noting that “unity of control” was essential “in a concern where expansion is so rapid and the problems so unique.”¹²⁸ Reith had always preferred the term “unified control” over “monopoly,” which he avoided using. Finally, he compared the British system to the American approach, pointing out that the delay in initiating a broadcasting service in Britain served the country well:

¹²⁴ Reith, *Broadcast Over Britain*, 15-16.

¹²⁵ Reith, *Broadcast Over Britain*, 17.

¹²⁶ Reith, *Broadcast over Britain*, 57.

¹²⁷ Reith, *Broadcast over Britain*, 57.

¹²⁸ Reith, *Broadcast over Britain*, 70.

In America broadcasting had been initiated more than a year earlier than in this country; with characteristic energy it had been developed wholesale, largely on a commercial basis, and without any method of control whatsoever. There is no co-ordination, no standard, no guiding policy; advertising, direct or indirect, is usually the sole means of revenue. I gather from many American visitors that they consider that the delay which took place before a service was begun in this country, is more than justified by the progress subsequently made. There is scarcely a civilized country of which representatives have not visited us, usually staying for a period, to absorb something of the procedure and methods of operation. We are always glad to see them. We make no copyright of our experience, however valuable or unique it may be.¹²⁹

By the mid-1920s, Reith and the Company were facing less and less resistance as their approach became more and more accepted throughout Britain. For example, an article in *The Times* was indicative of the realization that the monopoly approach was preferable to American-style competition.

But in this case we have to consider the alternative to monopoly: it would be, almost certainly, confusion, and quite certainly the debasement of an influence far too permeating to be allowed to be vulgarized....It is now a monopoly, but in generous and humane hands the interest of the majority will probably be in its continuing to be a monopoly.¹³⁰

As this consensus grew, the transformation of the BBC from Company to Corporation came closer.

The Crawford Committee and the Transformation of the BBC

Radio in Britain was exploding throughout the 1920s and 1930s. In 1923, the Post Office issued 80,000 receiving licenses. In 1924, they issued one million. And by 1939, the number was 9 million.¹³¹ Between 1922 and 1924, nine “main” stations and ten “relay” stations had been set up in England, Wales, Scotland and Northern Ireland, and

¹²⁹ Reith, *Broadcast over Britain*, 81

¹³⁰ *The Times*, Nov. 15, 1924. Quoted in Briggs, *History of Broadcasting*, 329.

¹³¹ Crisell, *Introductory History*.

they reached nearly 80 percent of the population.¹³² Despite this growth in the mid-1920s, there was no discussion in Parliament of major matters of broadcast policy until late 1926. Rather, Parliament was concerned with setting up the Empire Wireless Communications Network.¹³³ One notable policy change was that the embargo against foreign radio receivers was dropped as of December 31, 1924 because the Post Office had switched to a single form of receiving license for all types of equipment. As early as 1923, however, the Postmaster General had already appointed another committee to review the BBC's finances.

This second Broadcasting Committee, known as the Crawford Committee after the chairman, met in 1925 and made its report in 1926. The goal was “to advise as to the proper scope of the Broadcasting service and as to the management, control and finance thereof” after the expiration of the existing Company license, which was set to end on December 31, 1926.¹³⁴ Much like the Sykes Committee, the Crawford Committee recognized the public service role of broadcasting and rejected advertising on the grounds that it would lead to lower standards. Monopoly was advocated as an efficient way to provide successful service and a way to ensure quality programming. As Camporesi notes, “Broadcasting had come to be viewed as too delicate a matter to be left to the market.”¹³⁵ Not only did the committee believe that “competition for listeners would force down program standards,” as Paulu notes, but they were operating in a context

¹³² Scannell and Cardiff, *Social History*, 15.

¹³³ Scannell and Cardiff, *Social History*, 23.

¹³⁴ Crawford Committee, “Report of the Broadcasting Committee, 1925” (Cmd. 2599) (1926), 2.

¹³⁵ Valeria Camporesi, *Mass Culture and National Traditions: The BBC and American Broadcasting, 1922-1954* (Fucecchio, Italy: European Press Academic Publishing, 2000), 23.

where government monopoly “was strongly supported by the articulate public of that day.”¹³⁶

Ultimately, there would be no major opposition to the change to public corporation, which was meant to solidify the monopoly and protect it from both political and commercial influence by changing it from a regulated private entity to a government-owned operation protected by royal charter. The Post Office was supportive of the change, as was public opinion.¹³⁷ The committee recommended the single licensing fee of 10 shillings, and 75 percent was to go to the BBC.¹³⁸ They also recommended that wireless receiver royalty payments to radio manufacturers should stop. The licensing system remained problematic, however, as the Post Office didn’t want to collect fees on behalf of a private company. Reith maintained that broadcasting was a public service, and that the public should pay for it, not advertisers. This led Reith and the Crawford Committee to advocate for making the BBC a public corporation. The British government was sympathetic, as this institutional model was now popular and widely accepted.

Like the Sykes Committee, the Crawford Committee reported that they were “deeply conscious of the magnitude of the issues involved,—not merely as regards their scientific or mechanical aspects, but still more in relation to their ultimate impact on the education and temperament of the country.”¹³⁹ As before, the Crawford Committee maintained that the “United States system of free and uncontrolled transmission and

¹³⁶ Burton Paulu, *British Broadcasting* (Minneapolis, University of Minnesota Press, 1956), 14.

¹³⁷ Scannell and Cardiff, *Social History*, 8-9.

¹³⁸ Crisell, *Introductory History*.

¹³⁹ Crawford Committee, 4.

reception, is unsuited to this country, and that Broadcasting must accordingly remain a monopoly,—in other words that the whole organization must be controlled by a single authority.”¹⁴⁰ The committee recommended against the continuation of the current Company license and instead advocated for a public corporation form of organization. A central reason for this was to insulate the operations of the broadcasting service from politics and to provide leeway in selecting content. “Such an authority would enjoy a freedom and flexibility which a Minister of State himself could scarcely exercise in arranging for performers and programmes, and in studying the variable demands of public taste and necessity....Its status and duties should correspond with those of a public service, and its directorate should be appointed with the sole object of promoting the utmost utility and development of the enterprise.”¹⁴¹

Furthermore, the committee recommended that the commissioners of the new corporation “should be persons of judgment and independence, free of commitments, and that they will inspire confidence by having no other interests to promote than those of the public service. We hope they will be men and women of business acumen and experienced in affairs.”¹⁴² The committee was clear that it was authorizing a monopoly “vested by Statute in the whole Community,” and said that in this context, “the State safeguards the listener against exploitation; takes steps to maintain the efficiency of the service, and also exercises its regulative powers without which broadcasting would be thrown into chaos.”¹⁴³ Looking to the future, the committee noted that they could not

¹⁴⁰ Crawford Committee, 5.

¹⁴¹ Crawford Committee, 5.

¹⁴² Crawford Committee, 7.

¹⁴³ Crawford Committee, 8.

predict the future of broadcasting and envisioned two different possible outcomes. “On the one hand it is conceivable that Broadcasting might have to become a department of State like the telephone service: on the other it is possible that its character as a monopoly might have to disappear, and that the rights of transmitting should be distributed.”¹⁴⁴ In the latter possibility, the Crawford Committee anticipated correctly that competition would eventually be introduced to British broadcasting.

Although Reith was not a member of the Crawford Committee, they did share the same vision for broadcasting, and the committee stressed the educative value of radio. As Briggs notes, “Reith sometimes regretted that he himself was not a member, as he had been of the Sykes Committee, but he appeared before it on several occasions and was the only member of the Board of the BBC to give full-length evidence.”¹⁴⁵ As the committee noted:

We are much impressed by evidence reaching us from authoritative witnesses who advocated the vigorous and extended employment of broadcast for education in its widest and most liberal sense. Not only can listeners in general gather much knowledge from the intelligent study of broadcast matter, but broadcasting itself is an agency by which the teacher in the central studio can obtain direct access to the school itself.¹⁴⁶

The committee called for the maintenance of high standards and praised the BBC for having “held the balance between conflicting tastes with discretion.” The committee recommended that listeners be afforded “latitude” in available content. “He must not be pressed to assimilate too much of what he calls ‘highbrow’ broadcast, and the Commissioners would not be wise in transmitting more educational matter than licensees

¹⁴⁴ Crawford Committee, 9.

¹⁴⁵ Briggs, *History of Broadcasting*, 331.

¹⁴⁶ Crawford Committee, 12.

are prepared to accept. At the same time every effort must be made to raise the standard of style and performance.”¹⁴⁷ In many ways, Reith and the BBC would inform if not create the normative roles not just of broadcasting but modern journalism in general, especially as the BBC began to broadcast more news and public affairs programs in the late 1920s and 1930s. The British press of the 1920s was notoriously irresponsible,¹⁴⁸ and it is certainly remarkable that Reith would eventually institute at the BBC the types of goals and norms that would be celebrated and codified in the decades to come, for example, in the Pilkington Report and Hutchins Commission. It is worth noting that these norms were largely possible because of the unique structure of the organization, which “depended on the rejection of both market forces and politics in favour of efficiency and planned growth by experts.”¹⁴⁹

A problem arose, however, with the 1926 general strike in Britain, during which time questions arose about how a public broadcasting system would cover the actions of government.¹⁵⁰ Some in government, including Winston Churchill, growing concerned about seditious speech, wanted to commandeer broadcasting altogether but were prevented from doing so. “During the 1926 General Strike Winston Churchill, then the Home Secretary, wanted to take direct control of the BBC and use it openly as a propaganda tool. He was overruled in government by those who argued that this would undermine the very thing which made the BBC a valuable ideological weapon—its

¹⁴⁷ Crawford Committee, 12.

¹⁴⁸ See Curran and Seaton, *Power without Responsibility*; Tom Burns, *The BBC: Public Institution and Private World* (London: Macmillan, 1977).

¹⁴⁹ Curran and Seaton, *Power without Responsibility*, 139.

¹⁵⁰ Crisell, *Introductory History*.

perceived independence.”¹⁵¹ This does not mean the BBC went without being criticized, for many believed that the government had exercised some control over coverage of the strike.¹⁵² “Even if it proved possible—thanks largely to the licence fee—to resist the identification of the BBC with a department of State, there persisted the vexing association of ‘public service’ with service to the State seen as the embodiment of the national or public interest.”¹⁵³

The early BBC tended to avoid politics, especially in light of restrictions on news content that were only gradually lifted. In fact, this may have been one of the reasons the organization was successful. This was partly due to Reith’s own predisposition against politics in favor of other fare. As Kuman notes:

The early BBC dealt with the problem by avoiding it. Reith despised politics and politicians, and sought to maintain the BBC’s independence by ignoring the contentious and, to him, sterile realm of political debate.... This left the BBC free to get on with what Reith considered the important talks: building it up as a cultural church. Politics did not matter: philosophy, religion, music, poetry and drama—laced with ‘light entertainment’ as ground-bait—did.¹⁵⁴

The BBC was widely praised for its attention to these sorts of cultural affairs. At the same time, the notion of the early BBC as an immediately hailed cultural institution speaking for the masses has been challenged.

The analogies with the Bank of England, Parliament and the Church of England may be suggestive for certain purposes but they should not mislead us into exaggerating the range or depth of the BBC’s engagement with British society. Whatever its aspirations at the time, the BBC could hardly be said to be speaking for Britain, still less *to* it. Its relative newness, its conception of its role as the

¹⁵¹ Brian McNair, *News and Journalism in the UK*, 3rd ed., (London: Routledge, 1999), 57, italics in original.

¹⁵² Crisell, *Introductory History*, 25.

¹⁵³ Krishan Kuman, “Public Service Broadcasting and the Public Interest,” in *The BBC and Public Service Broadcasting*, eds., Colin MacCabe and Olivia Stewart (Manchester: Manchester University Press, 1986), 46.

¹⁵⁴ Kuman, “Public Service Broadcasting,” 47.

guardian of high culture and morality, its self-denying ordinances against dealing with ‘controversial’ matters, all militated against a true involvement with the deeper and more varied levels of the society.¹⁵⁵

But others point out that the BBC’s service of high culture was not a new idea in Britain, and this is the reason the broadcasting service was successful. Reith and company were really just riding on the coattails of the success of the Victorian middle class, which brought the ideal of service to the forefront in late nineteenth century Britain, as Raymond Williams first suggested. Referencing Williams, Scannell and Cardiff write:

The Victorian reforming ideal of service was animated by a sense of moral purpose and of social duty on behalf of the community, aimed particularly at those most in need of reforming—the lower classes. It was institutionalized in the bureaucratic practices of the newly emerging professional class, especially in the reformed civil service of the late nineteenth century, whose members thought of themselves as public servants. At its best this passion for improving the lot of those below had a genuinely humane concern to alleviate the harsh consequences of a newly industrialized society. But it did nothing to change the balance of power in society, and maintained the dominance of the middle classes over the lower ranks.¹⁵⁶

Indeed, the motivation behind the ideal of service wasn’t always so altruistic, and this is where the BBC earned its reputation as a hegemonic cultural dictator. In *Culture and Anarchy*, Matthew Arnold explained the nineteenth-century political motivations for “civilizing” the masses and “incorporating the working classes within the existing social and political order, and thus preventing the threat of revolt from below.”¹⁵⁷ Whether oppressing the masses through cultural hegemony or destroying culture through standardization and democratization, the BBC was always doing something wrong in eyes of many cultural critics. But somehow, it still survived, and Scannell and Cardiff

¹⁵⁵ Kuman, “Public Service Broadcasting,” 50.

¹⁵⁶ Scannell and Cardiff, *Social History*, 9.

¹⁵⁷ Scannell and Cardiff, *Social History*, 9.

attribute this to the non-profit nature of the BBC. “Cultural critics feared both the leveling-down effects of the modern media and their power to beguile the innocent, the uneducated and unwary. If broadcasting in Britain emerged relatively unscathed from such withering criticism it was because the BBC, like the cultural critics, rejected the profit motive as the basis of its institutional existence.”¹⁵⁸ Finally something to agree on.

Ultimately, at the close of 1926, the British government accepted the recommendations of Reith and the Crawford Committee, and the British Broadcasting Corporation was born. Unlike the messy, chaotic situation in the U.S., the British approach was more measured and restrictive of private enterprise. The fact that John Reith and the early British Broadcasting Company were so perfectly in tune with so many British cultural elites in and out of government was the main reason for their success. Most Britons, viewing the U.S. as a cautionary tale, were pleased with the British use of the airwaves and were supportive of the institutionalization of the BBC as a public corporation operating what had been conceived of in Britain as a natural monopoly and a public service. While government control of such services was not unheard of in the U.S., it was far more likely to be accepted in Britain due to a history of public control of such aspects of industry, such as the telegraph. Thus, path-dependent processes continued to shape the role of the state in the market and society. Causal chains that had been broken in the 1920s were beginning to reform as the critical juncture was coming to a close. The main difference seems to be that the chains were broken much longer in the U.S. as debate ensued and interests collided throughout the 1920s. For Britain and the BBC, the period of greatest contingency appeared to be at the start of the 1920s before the original

¹⁵⁸ Scannell and Cardiff, *Social History*, 17.

Company was formed. The early decision to form a heavily regulated monopoly followed by the success of Reith did much to push aside open competition as a policy alternative. In the U.S., it was just the opposite: public ownership and control was pushed aside as communication companies were given time to dominate broadcasting in fact if not yet in law.

Chapter 8: Modern Forms Take Shape, 1927-1935

By 1927, both Great Britain and the United States were poised to codify into law the regulatory structures that would come to govern broadcasting for years and would have major lasting effects all the way through to the present day. Despite debates and shifts that would come in the period from 1927 to 1935, the substantive regulatory structure and ideological approaches that would last were already effectively in place in 1927. When the British Broadcasting Corporation received its royal charter in 1927, it received a mandate to continue working as it had for the past five years. Although the charter kept the BBC on a tight leash at first, the corporation was at that point allowed to broadcast its own news reports, and various other restrictions were gradually lifted throughout the 1930s. The transition to corporation can be said to culminate with the report of the Ullswater Committee in 1935, which recommended no major changes.¹ As a result the corporation's royal charter was renewed for ten years. In the U.S., the Radio Act of 1927 was passed somewhat hastily, but the creation of the Federal Radio Commission would provide the framework for the Communications Act of 1934, which generally retained the structures of the 1927 act, mainly serving to bring all types of communication regulation under one new independent agency, the Federal Communications Commission. Although significant debate regarding the structure of the U.S. broadcasting system would take place between the passage of the two acts, no major changes would come out of the resistance movement that opposed a fully commercial

¹ Ullswater Committee, "Report of the Broadcasting Committee, 1935" (Cmd. 5091) (1936).

system and advocated for part of the system to operate in a non-profit, non-commercial manner.

America: The Institutionalization of the Status Quo

The chaos that followed the Zenith ruling in 1926 led Congress to act quickly and pass the 1927 Radio Act, which created the Federal Radio Commission and gave it the authority to issue licenses in the “public interest, convenience or necessity.” The new law was essentially Hoover’s framework, although Congress gave regulatory power to an independent commission, the FRC, rather than to the Department of Commerce as Hoover had wished. Many historians suggest that this was largely due to the fact that Hoover was an increasingly politicized figure and was expected to run for president in 1928, which he did, and won. Many in Congress, therefore, did not trust him or at least wanted to make sure that control of radio would not fall into his hands as he embarked on a campaign for president.² The FRC, however, was meant to exist for only one year, after which Commerce was to regain control of radio. This never happened. As Starr notes, “an independent commission proved to be so durable a political compromise that, just seven years later, Congress would use it to refashion the radio commission into a more general regulatory authority over communications.”³

In the meantime, Congress made a variety of alterations to the 1927 Radio Act due to the FRC’s inability to regulate firmly established broadcasters who had been on

² Paul Starr, *The Creation of the Media: Political Origins of Modern Communications* (New York: Basic Books, 2004), 342.

³ Starr, *Creation of the Media*, 343.

the air for years.⁴ The notion of public interest regulation raised many questions, mainly because it had no clear meaning in this new context. As McChesney notes, “Although the phrase may well have had a distinct meaning with regard to articulating the nature of the relationship between the government and industry, Congress clearly had no particular notion as to how the term should be applied to the thorny problems of broadcasting.”⁵

As discussed in Chapter 2, historically, the term had been applied to public utilities and works projects and gave a clear preference for helping industry meet its goals.⁶ The other conception implied some degree of responsibility for providing quality educational and cultural content due to the scarce nature of the airwaves as a resource. Scholars such as Rowland contend that this latter conception was hardly the one that existed in the minds of commercial broadcasters and their regulators. Rowland, Slotten, Streeter and others point out that broadcasting was viewed by regulators primarily as an engineering problem that required a technical solution.⁷ Thus “public interest” meant giving preference to those broadcasters who had the best equipment that could provide strong signals and reach the widest audience. “Public interest” also meant providing

⁴ Marvin R. Bensman, *The Beginning of Broadcast Regulation in the Twentieth Century* (Jefferson, N.C.: McFarland & Co., 2000).

⁵ Robert McChesney, *Telecommunications, Mass Media, and Democracy: The Battle for the Control of U.S. Broadcasting, 1928-1935* (New York: Oxford University Press, 1993), 18.

⁶ Louise M. Benjamin, *Freedom of the Air and the Public Interest: First Amendment Rights in Broadcasting to 1935* (Carbondale, Ill.: Southern Illinois University Press, 2001); Willard D. Rowland, Jr., “The Meaning of ‘The Public Interest’ in Communications Policy, Part I: Its Origins in State and Federal Regulation,” *Communication Law & Policy* 2, no. 3 (1997): 309; Willard D. Rowland, Jr. “The Meaning of ‘The Public Interest’ in Communications Policy, Part II: Its Implementation in Early Broadcast Law and Regulation,” *Communication Law & Policy* 2, no. 4 (1997): 363.

⁷ Rowland, “Part I”; Rowland, “Part II”; Hugh R. Slotten, *Radio and Television Regulation: Broadcast Technology in the United States, 1920-1960* (Baltimore: Johns Hopkins University Press, 2000); Thomas Streeter, *Selling the Air: A Critique of the Policy of Commercial Broadcasting in the United States* (Chicago: University of Chicago Press, 1996).

content that would be acceptable to a wide audience. This meant giving preference to “neutral” broadcasters rather than so-called “propaganda” stations, which included those operated by everyone from labor organizations to religious groups. Finally, as Streeter points out, regulators and commercial broadcasters can be viewed as having one ultimate and, in their view, altruistic goal in mind: participation in market society. In this view, the public’s primary interest was in having access to the world of consumer goods that could be promoted and discussed via the airwaves. Capitalism and commercialism became increasingly entrenched in American life through the roaring 1920s, and this affected the outcome of the 1927 Radio Act. This is evident from the many bills and hearings in Congress that increasingly reflected the emerging commercial industry’s point of view, as discussed in the previous chapter.

The 1927 act itself makes liberal use of the public interest language, often appearing in context as requiring the commission to classify stations, assign frequencies and handle other tasks “as public convenience, interest, or necessity requires,” as in Section 4. The language is also used to qualify what the commission may not do. For example, changes in regulations “shall not be made without the consent of the station licensee unless, in the judgment of the commission, such changes will promote public convenience or interest or will serve public necessity or the provisions of this Act will be more fully complied with...”⁸ Again in Section 9, the phrase is used as a qualifier: “The licensing authority, if public convenience, interest or necessity will be served thereby, subject to the limitations of this Act, shall grant to any applicant thereof a station license

⁸ Radio Act of 1927, Sec 4.

provided for by this Act.”⁹ The manner in which this phrase is peppered about the act seems to support the notion that it was inserted largely to satisfy the “guiding principle” requirement in the constitution, as Caldwell noted.¹⁰ Even the FRC notes that it has “been urged that the statute itself is unconstitutional because of the alleged uncertainty and indefiniteness of the phrase.”¹¹

The commission was clearly lost as to the Congressional intent in the Radio Act. One commissioner stated in 1927 that the job of the FRC “is a rather appalling responsibility. The law tells us that we shall have no right of censorship over radio programs, but the physical facts of radio transmission compel, what is, in effect, a censorship of the most extraordinary kind.”¹² Commissioner Bellows not only effectively admitted that licensing of radio amounts to censorship of content, but went so far as to confirm that the overriding concern for the public interest was equivalent with the technical goal of eliminating interference so that stations could be received clearly. He goes on: “We must say to John Doe, ‘You are rendering a service of great value in the interest, convenience, or necessity of the public, and you shall have a good wave length, plenty of time, and ample power,’ while we say to Richard Roe, ‘We find your service of less value to the public; so you shall have a poorer wave length, less time, and less power, or perhaps no wave length, time or power at all.’”¹³ Bellows and his colleagues were

⁹ Radio Act of 1927, Sec 9.

¹⁰ Louis G. Caldwell, “The Standard of Public Interest, Convenience or Necessity as Used in the Radio Act of 1927,” *Air Law Review* 1, (1930): 296.

¹¹ Statement on the Public Interest, Convenience, or Necessity, “Second Annual Report of the Federal Radio Commission, Appendix F,” in Federal Radio Commission, *Annual Reports, Numbers 1-7, 1927-1933* (New York: Arno Press, 1971), 167.

¹² Commissioner Bellows to League of Women Voters, April 29, 1927, “First Annual Report of the Federal Radio Commission,” in Federal Radio Commission, *Annual Reports*, 6.

¹³ Commissioner Bellows, “First Annual Report,” 6.

apparently at such a loss as to how to go about this that they turned to outside organizations such as the League of Women Voters for guidance. “Congress has said that we shall administer the radio law in the public interest; we in turn ask you to help us define public interest in such a way that this marvelous agency shall be free to play the great part it ought to play in building up and strengthening the understanding of our people.”¹⁴ Bellows went on to threaten government regulation if broadcasters and their audiences could not work things out on their own:

If [the broadcasters] and you do not so safeguard [the right of free speech]—if you do not make it clear that your understanding of public interest, convenience, and necessity involves a very broad conception of the obligations of the broadcaster to his listeners—then it may be that Congress will feel that there is need for some amendment to the present radio law, an amendment calling for such Government regulation of radio programs as would manifestly be deplorable if it can possibly be avoided.¹⁵

These types of broad invocations of the public interest are not terribly helpful in understanding how the FRC viewed its responsibility. The most direct explication of this responsibility appears in the “Statement made by the commission on August 23, 1928, relative to public interest, convenience, or necessity,” an appendix to the FRC’s second annual report.¹⁶ This is where the FRC acknowledges the uncertainty of the phrase’s meaning but argues that it is “no less certain or definite” than other phrases in federal law.¹⁷ The FRC declares that the phrase “will have to be defined by the United States Supreme Court, and this will probably be done by a gradual process of decisions on

¹⁴ Commissioner Bellows, “First Annual Report,” 6.

¹⁵ Commissioner Bellows, “First Annual Report,” 7.

¹⁶ Statement on the Public Interest, “Second Annual Report,” 166-170.

¹⁷ Statement on the Public Interest, “Second Annual Report,” 167.

particular conditions of fact.”¹⁸ The commission does offer a few general principles that it feels are supported by the phrase, including the commission’s right to allocate frequencies and to promote the “best possible broadcasting reception conditions throughout the United States.”¹⁹ The commissions states that it feels it is authorized to ensure different types of service, such as local and national stations, and to minimize duplication of types of programs. The rest of the statement deals with technical details, direct advertising, and the broadcasting of “matters of a distinctly private nature, which are not only uninteresting but also distasteful to the listening public.”²⁰ The statement concludes:

In a measure, perhaps, all of [the broadcasters] give more or less service. Those who give the least, however, must be sacrificed for those who give the most. The 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.²¹

This is hardly a “measure” and does little to reveal what the commission really thinks about the statement. It also does not reflect the commission’s actions. Rowland calls portions of the statement “naïve, and possibly even duplicitous.”²² He also notes that “It is telling that in this statement there is absolutely no discussion of the complex problems of the meaning of the ‘public’ and the questions of community, social character, culture and political voice that one would normally expect to accompany any reasonably open, intellectual responsible treatment of the matter.”²³

¹⁸ Statement on the Public Interest, “Second Annual Report,” 167.

¹⁹ Statement on the Public Interest, “Second Annual Report,” 167.

²⁰ Statement on the Public Interest, “Second Annual Report,” 169.

²¹ Statement on the Public Interest, “Second Annual Report,” 170.

²² Rowland, “Part II,” 381.

²³ Rowland, “Part II,” 381.

The FRC's understanding of its mission is better reflected in the way it went about promoting commercial radio in its process of reallocation under the new Radio Act. It was under General Order 40 in 1928 that the FRC began to restructure the airwaves. In General Order 40, the commission vaguely stated that it "has determined that the definite assignment of a band of frequencies for broadcasting...will serve public interest, convenience or necessity."²⁴ The commission added that their planned reallocation of frequencies and operations "will promote public interest and convenience and will serve public necessity...and will greatly improve reception conditions in the broadcast band by the elimination of a large portion of the interference which now exists..."²⁵ What this meant was that broadcasters had to prove their worth to the FRC, and "worth" was often based on technological dominance. Hundreds of stations were shut down as "clear channel" frequencies and time slots were assigned to those best equipped to broadcast across the nation. As Rowland notes, "the Commission's policy greatly favored the major private, commercial stations, worked directly to the advantage of the networks, whose affiliates accounted for 30 percent of all stations and 70 percent of all broadcasting hours by 1931, and greatly stimulated national advertising as a prime factor in the support system for American broadcasting."²⁶

The FRC also showed its explicit support for advertising and commercial broadcasting in a proceeding on the renewal of a license for the Great Lakes Broadcasting Co. In this, the FRC rejects that idea commercialism or advertising represents a private interest, as it had complained regarding the "propaganda" stations. The commission

²⁴ General Order No. 40, "Second Annual Report," 48.

²⁵ General Order No. 40, "Second Annual Report," 48.

²⁶ Rowland, "Part II," 382.

defends advertising on the grounds that without it, “broadcasting would not exist,” and therefore it “must be accepted for the present as the sole means of support for broadcasting, and regulation must be relied upon to prevent the abuse and overuse of the privilege.”²⁷ The Commission also demonstrated its authority to deny licenses to “propaganda stations,” or at least stations that were not attached to major commercial operations, in two well known cases, *KFKB Broadcasting Association v. Federal Radio Commission*²⁸ and *Trinity Methodist Church v. Federal Radio Commission*.²⁹

Thus, by the time the FRC was created, “serving the public interest” seemed to be well understood shorthand for the notion that it was the American government’s job primarily to facilitate consumer society and provide solutions to technological problems. Broadcasting mostly presented a unique engineering challenge that was to be solved in the most efficient way possible. Further, technological or engineering-based solutions to the problems presented by broadcasting were viewed as “neutral” and thus preferable to specifically content-based approaches to regulation, which is the approach the BBC favored. In the U.S., it was viewed as more egalitarian to solve problems based on who had the best equipment and could thus provide the strongest signal, which some believed was the best way to serve the public “interest, convenience and necessity.” As Rosen notes, “Clearly revenues for the less-favored could in no way equal those of their larger competitors. By selectively defining public interest and by manipulating frequency

²⁷ *Great Lakes Broadcasting Co.*, 3 FRC Ann. Rep. 32 (1929). Quoted in Rowland, “Part II,” 384.

²⁸ *KFKB Broadcasting v. FRC*, 47 F.2d at 671. Quoted in Rowland, “Part II,” 385.

²⁹ *Trinity Methodist Church v. FRC*, 62 F.2d at 851. Quoted in Rowland, “Part II,” 385.

allocation, the FRC rewarded commercial broadcasters far in excess of other radio users.”³⁰

But as Slotten points out, there were many constraints and limitations placed on content even when regulating in a purportedly agnostic, content-neutral manner based on structure alone. Slotten writes: “Individuals were probably for the most part unaware that by applying technocratic principles to policy making about radio and television standards, especially by attempting to reduce issues to narrow technical facts, they were indirectly supporting corporate liberal principles.”³¹ Obviously not all individuals were unaware of this indirect support of commercial interests. Evidence suggests that many people and groups operating outside of government and industry—especially amateur radio operators, educators and even some engineers—were well aware of the problems with the policies being crafted in the name of the “public interest.” As McChesney has documented, there was a pushback against the commercial approach to broadcasting.³²

It was at this point that the debate over broadcasting made its greatest appearance in the public eye, and that is to say, it hardly made any appearance at all. As McChesney and Barnouw point out, at no point did the nation have any widespread discussion about the value of a commercial, advertising-dominated system of broadcasting. However, a reform movement made largely of educators was born and grew in the years between the 1927 act and the 1934 act. As McChesney documented, reformers encouraged debate about the prospects of having a fully commercial broadcasting system, and many used the

³⁰ Philip T. Rosen, *The Modern Stentors: Radio Broadcasters and the Federal Government, 1920-1934* (Westport, Conn.: Greenwood Press, 1980), 136-137.

³¹ Hugh R. Slotten, *Radio and Television Regulation: Broadcast Technology in the United States, 1920-1960* (Baltimore: Johns Hopkins University Press, 2000), 237.

³² McChesney, *Telecommunications, Mass Media, and Democracy*.

BBC as a model in their proposals for alternatives. At the same time, “there was a general consensus in the broadcast reform movement that public opinion would not tolerate government radio, monopoly or otherwise. The ideology of enterprise was too deeply entrenched in U.S. culture.”³³ Starr provides a similar assessment: “Commercial radio did not merely become entrenched as an interest group; it became embedded in culture and consciousness, and it gathered legitimacy until it seemed impossible that it could be any other way.”³⁴ The public was generally satisfied with broadcasting as it stood, but that was because they weren’t aware of the alternatives, as the University of California President noted in 1934: “It may be true, as the broadcasters assert, that the people are satisfied with what they are getting, but that does not prove they would not like something better. They public has been taught to want what it is getting.”³⁵ The commercial broadcasters launched a fierce campaign against the reform movement, arguing that the current system was true to American and democratic values.³⁶ The major challenge came from the National Committee on Education by Radio, who, with support from the Payne Fund, wanted 15 percent of broadcast channels reserved for government or government-chartered educational stations. Another reform group, the National Advisory Council on Radio in Education, conflicted with NCER in that they wanted collaboration with commercial broadcasters.

Although the reform movement was divided among how to best proceed, the broad sentiment among reformers that it was not in the interests of democracy to let

³³ McChesney, *Telecommunications, Mass Media, and Democracy*, 101.

³⁴ Starr, *Creation of the Media*, 363.

³⁵ Quoted in McChesney, *Telecommunications, Mass Media, and Democracy*, 95.

³⁶ See McChesney, *Telecommunications, Mass Media, and Democracy*, 113.

commercial interests dominate radio. Responding to the Report of Advisory Commission on Education by Radio, Paul Hutchinson wrote: “It is clear that such a radio policy will, if unchanged, speedily bring broadcasting in the United States to the point where nothing can go on the air except by grace of the business interests. That is a prospect not to be lightly contemplated.”³⁷ Joy Elmer Morgan, one of the leaders of the reform efforts, used stronger language: “Whoever controls radio will in the end control the development of the human race. It is unthinkable that so powerful an instrument should be monopolized by any one branch of the government—by the nation as against the state or by the state as against the locality.”³⁸ Morgan, like other reformers, pointed out that the existing scheme for broadcasting amounted to censorship just as much as any state-run system: “Do they fail to realize that we already have censorship—a censorship applied not by government which is elected and maintained by the people and responsible to their control, but a censorship maintained by powerful interests who are responsible to no one but to their own selfish ambitions.”³⁹

Chief among the attempts to reform the commercial approach to broadcasting was the Wagner-Hatfield Amendment, which would have required 25 percent of the broadcast spectrum be used for non-profit, educational means. The amendment was introduced just months before the 1934 act was signed in June. The amendment failed, and, as Rowland says, “the reasons are instructive.”⁴⁰ Broadcast reform was not on the agenda of the Roosevelt administration, especially considering that “the principal purpose of the New

³⁷ Paul Hutchinson, “Education and the Radio,” *Christian Century* 48 (1931): 478-81, in Helen M. Muller, ed., *Education By Radio* (New York: The H.W. Wilson Company, 1932), 96.

³⁸ Joy Elmer Morgan, “Education’s Rights on the Air,” *Education By Radio* 1 (1931): 73-8, in Muller, *Education by Radio*, 104.

³⁹ Morgan, “Education’s Rights on the Air,” 105.

⁴⁰ Rowland, “Part II,” 388.

Deal was to save American capitalism from itself” thus providing “little incentive to attack its manifestation in broadcasting.” Further, the administration needed broadcasting to help push its overall legislative agenda, and perhaps most importantly, the Wagner-Hatfield amendment would likely have meant the revocation of a large number of commercial licenses.⁴¹ Under these conditions, reform of the established broadcast regulatory structure was hardly possible.

In 1933, a report on radio regulation requested by Franklin Roosevelt suggested the creation of a new regulatory body that combined the powers of the FRC with the Interstate Commerce Commission and the postmaster general. The result was the landmark Communications Act of 1934, which created the FCC and became the central piece of legislation that would regulate broadcasting for decades. The Communications Act of 1934 gave the FCC broad authority over all communications, including emerging interstate telephone and telegraph technologies. Although the 1934 act came in the context of Roosevelt’s sweeping New Deal social and economic legislation, the act wasn’t really a product of the New Deal. It really just combined the common carrier law of the Interstate Commerce Act of 1887, which had been amended by the Mann-Elkins Act of 1910, and the regulation of radio provided for by the 1927 Radio Act.⁴² In this sense, it was not viewed as a major shift in policy. “As largely a rearrangement of existing powers and institutional structures the Communications Act of 1934 did not

⁴¹ Rowland, “Part II,” 388-389.

⁴² See Glen O. Robinson, “The Federal Communications Act: An Essay on Origins and Regulatory Purpose,” in Max D. Paglin, ed., *A Legislative History of the Communications Act of 1934* (New York: Oxford University Press, 1989), 3-24.

prompt intense controversy. There were, to be sure, controversies over some facets of the new legislation, but not over the scheme in general.”⁴³

Significantly, the 1934 act retained the 1927 Radio Act’s notion of a broadcaster’s obligation to serve the “public interest.” Indeed, the 1934 act invokes the public interest, convenience or necessity no fewer than 15 times.⁴⁴ Congress also called on the FCC to conduct long-range studies on the future of communication technology, but Congress has never provided the agency with sufficient funds to carry out such studies.⁴⁵ From the beginning, the notion of the FCC as an “independent” regulatory agency was dubious due to the influence of Congress, the courts and especially industry.⁴⁶ Unlike other regulatory agencies, the FCC had no power to regulate rates or profits of industry. The agency’s primary function was to grant licenses, and the sometimes abstract and arbitrary standards on which licensees were to be judged would lead to significant conflict surrounding government’s role in regulation of communication due to disagreement over how to interpret the First Amendment. Indeed, the FCC “is supposed to make sure that broadcasting stations serve the ‘public interest, convenience and necessity,’ but it is forbidden by law to exercise any form of censorship over the very programs through which these ends might be achieved.”⁴⁷ Ultimately, this appears to be exactly the light regulatory touch the dominant players in the industry were hoping for all along.

⁴³ Robinson, “The Federal Communications Act,” 3.

⁴⁴ Max D. Paglin, ed., *A Legislative History of the Communications Act of 1934* (New York: Oxford University Press, 1989).

⁴⁵ Erwin G. Krasnow, Lawrence D. Longley and Herbert A. Terry, *The Politics of Broadcast Regulation*, 3rd ed. (New York: St. Martin’s Press, 1982).

⁴⁶ Joan Baker, “Free Speech and Federal Control: The U. S. Approach to Broadcasting Regulation,” *The Modern Law Review* 39, no. 2 (1976): 147-61.

⁴⁷ William B. Ray, *FCC: The Ups and Downs of Radio-TV Regulation*, 1st ed. (Ames: Iowa State University Press, 1990), xv.

Britain: Building a New National Church

The American approach to broadcasting that emerged in the 1920s and was codified by the 1934 act contrasts sharply with the British approach. And just as the British approach seemed unfathomable in America, the American approach seemed bizarre to Britons in general and especially to British broadcasters. “To the men of the BBC the chaos of American radio seemed an extraordinary phenomenon. Travelers regularly reported on its extreme commercialism. The eruption of competing networks, vying for public events as well as advertising dollars, created a bizarre picture, totally unlike the more orderly BBC.”⁴⁸ When American broadcasters visited the BBC, Reith commented on the strange American arrangement, in which commercialism was supposedly somehow balanced with public service. “‘What I’d like to know,’ said Sir John Reith to the CBS visitors, ‘is how you Americans can successfully worship God and Mammon at the same time.’”⁴⁹ The BBC Yearbook noted in 1932 that the American system lies “outside our comprehension” and “clearly springs from a specifically American conception of democracy.”⁵⁰

On January 1, 1927, the British Broadcasting Company became the British Broadcasting Corporation. It was established by royal charter and not from a parliamentary statute, which would help insulate the corporation from political influence. To this day, its constitution and statutory obligations have remained largely unchanged. These obligations, as recorded in the charter, are far more specific than anything

⁴⁸ Erik Barnouw, *A History of Broadcasting in the United States* (New York: Oxford University Press, 1966), 248.

⁴⁹ Cesar Saerchinger, *Hello America! Radio Adventures in Europe* (Boston: Houghton Mifflin, 1938), 17. Quoted in Barnouw, *History of Broadcasting*, 248.

⁵⁰ Quoted in McChesney, *Telecommunications, Mass Media, and Democracy*, 100.

American broadcasters have ever been charged with. The BBC was obligated to inform, educate, entertain; report the proceedings of Parliament; provide political balance; and broadcast emergency messages. The BBC was not allowed to editorialize or carry advertising. The programs on the BBC included drama, comedy, sports, Shakespeare and opera, as well as children's programming, notably the "Children's Hour," which was present from the very beginning in 1922. Ironically, the BBC offered little news at first because the newspaper association—Fleet Street—pressured government to forbid news broadcasts until after 7 p.m. and forced the BBC to take their reports from the main news agencies such as Reuters. This restriction remained in place until 1938. The 1927 charter finally allowed the BBC to broadcast its own news rather than relying on print, but news broadcasts still were not allowed before 6 p.m., until after World War II. The Post Office also banned all political commentary and controversy and most political speeches. Furthermore, the BBC has never been entirely free from state pressure: the license is never permanent, the state appoints the board of governors, and the state determines and can withhold the licensing fee.⁵¹

The BBC grew from a staff of 31 in 1922 to a staff of 773 in 1927. By 1938, the year of Reith's departure, the BBC had 5,000 employees. In 1935, Reith said, "I am beginning to feel that I have organized and developed myself out of a job."⁵² Reith liked centralized administration but avoided conformism of output and saw the distinction between the two. Still, Reith and the BBC weathered criticisms of elitism, being undemocratic, and making value judgments about art and music and culture. Reith wrote:

⁵¹ See Andrew Crisell, *An Introductory History of British Broadcasting*, 2nd ed. (New York: Routledge, 2002).

⁵² Charles Stuart, ed., *The Reith Diaries* (London: Collins, 1975), 169.

“It is occasionally indicated to us that we are apparently setting out to give the public what we think they need—and not what they want...but few know what they want, and very few what they need.”⁵³ Viewed in context, Reith saw the BBC as a form of continuing education; universal education in Britain ended at age 14.⁵⁴ The BBC featured a variety of music programming and light entertainment, but also included educational programming, features and documentaries. The BBC was received in schools and gave lessons over the air.

Eventually the BBC began to conduct audience research, which Reith resisted.⁵⁵ He wanted the content to be free from the pressures of public whims. But it was impossible to ignore the fact that the BBC staff was recruited from the educated middle class and molded listeners in this social and moral image. “Implicitly it promoted the idea that contemporary social arrangements were the best ones possible, that family togetherness was cemented by radio listening, and that in the context of our vast European cultural heritage the influence of America was for the most part a vulgar irrelevance.”⁵⁶ Later audience research revealed that the BBC would likely not withstand competition from populist, commercial stations.

The tension between meeting the public’s wants and needs was always present at the BBC, and Reith struggled to balance the perceived elitism of the BBC with openness to the views and desires of the masses—something that was never a concern for American broadcasters.

⁵³ John C.W. Reith, *Broadcast Over Britain* (London: Hodder and Stoughton, 1924), 34.

⁵⁴ Crisell, *Introductory History*, 35.

⁵⁵ Crisell, *Introductory History*, 43.

⁵⁶ Crisell, *Introductory History*, 44.

While Reith's BBC eagerly embraced the democratic medium of broadcasting—democratic in not only reaching millions of ordinary people but reaching them in the privacy of their homes—there is no doubt that it tried to resist the democratization of culture that came with it. The American media catered to the masses on their own terms, giving them what they wanted: the BBC sought to elevate and educate them.⁵⁷

This reflects the different conceptions of democracy that existed in the U.S. and Britain at the time. The British commitment to democracy was strong. Yet the attempts to resist the democratization of culture are an interesting outgrowth of the earlier paternalism of British life, much like the air of paternalism that American communications corporations tried to convey in the 1920s.⁵⁸ Ultimately, the problem of democratization could only truly arise with the advent of mass media, especially broadcasting. Nevertheless, many Britons came to appreciate Reith's accomplishments, made possible only by his commitment to the "brute force of monopoly."

Those who condemn Reith for being arrogant and patronizing and for force-feeding the public with highbrow culture are just as likely to come back from other countries thankful that British television offers something more than an unvarying diet of populist entertainment: game shows, chat shows, soaps, sport, action movies, and news bulletins in which two presenters swap jokes in case the viewers are not finding the items exciting enough.⁵⁹

As the BBC received its charter, the monopoly corporation received widespread public support.⁶⁰ To the extent that it needed to be defended, the arguments in favor of the monopoly relied on the notion that British broadcasting was simply the best in the world, especially compared to the American system, which was thought to be the only real alternative. The limited nature of the airwaves also led many to believe that have

⁵⁷ Crisell, *Introductory History*, 56.

⁵⁸ Douglas, *Inventing American Broadcasting*, 317.

⁵⁹ Crisell, *Introductory History*, 54.

⁶⁰ R. H. Coase, *British Broadcasting: A Study in Monopoly* (Cambridge: Harvard University Press, 1950); Asa Briggs, *The History of Broadcasting in the United Kingdom Vol. I* (London: Oxford University Press, 1961).

competing broadcasters was a technical impossibility. This does not mean the BBC was not subject to criticism as it gained public corporation status, although as Coase notes, criticism was limited. What criticism existed was “largely based on the threat to freedom of speech and expression which was thought to be implicit in a monopoly; the value of competition as a means of improving the programmes was not ignored, but it was a secondary matter compared with the maintenance of free speech.”⁶¹ While critics did not necessarily advocate for replacing the BBC with commercial broadcasting, they did propose mixed systems, which would begin to emerge in the 1950s.

To Reith and the BBC, the notion of public service remained paramount during the 1920s and 1930s. Reith went out of his way “to emphasize that he and his subordinates were public servants: they did not require the incentive of making money to keep them energetic and enterprising.”⁶² In an Address to the Royal Institution, Reith spoke of the benefits of the public corporation in avoiding the problems he saw in the American system. “To the right man, a dividend motive is unnecessary. More than this, the serving of the public interest and the serving of financial interest are not normally fully compatible.”⁶³ Reith said he “saw the public corporation as “a precedent for similar advances towards a better world in other domains where great services are handicapped by too definite State control or where the public is handicapped by there being too little State control.”⁶⁴

⁶¹ Coase, *British Broadcasting*, 141.

⁶² Asa Briggs, *The History of Broadcasting in the United Kingdom Vol. II* (London: Oxford University Press, 1965), 414.

⁶³ John C.W. Reith, “Address to the Royal Institution,” 13 May 1932, in Briggs, *History of Broadcasting Vol. II*, 413.

⁶⁴ Reith, “Address to the Royal Institution,” in Briggs, *History of Broadcasting Vol. II*, 416.

Reith and his BBC were largely vindicated in 1935 by the report of another Broadcasting Committee.⁶⁵ This one, known as the Ullswater Committee, was appointed in 1935 to consider the future of the BBC, whose first ten-year Charter was due to expire at the end of 1936. The committee recommended no significant changes, and the charter was extended for another ten years. The license fee remained the same at 10 shillings, but the BBC was awarded a greater share of the revenue. The report also called for the development of television. The committee expressed its pleasure with the BBC, saying, “The position of the Corporation is thus one of independence in the day-to-day management of its business, and of ultimate control by His Majesty’s Government.”⁶⁶ The report did mention the idea of a mixed system of broadcasting in which competition would be introduced, but did not call for or suggest any specific modifications. As Briggs notes, “The Ullswater Report suggested no drastic changes in the life of the BBC, but it hinted, for those who had eyes to read and ears to hear, that one day drastic changes might come.”⁶⁷

Nevertheless, Reith’s approach dominated British life and culture for decades, well past the end of his tenure at the BCC in 1938. As Smith writes,

In the 1930s Reith came to think and feel about the BBC as if it were a kind of national church, its producers a priesthood and himself a kind of cardinal or pope, at times even perhaps a Messiah. Certainly he fulfilled his Weberian role of charismatic institutional founder and left behind a system of governance in broadcasting which remained basically intact, as Asa Briggs shows, for several decades.⁶⁸

⁶⁵ Ullswater Committee, “Report of the Broadcasting Committee, 1935” (Cmd. 5091) (1936).

⁶⁶ Ullswater Committee, 18.

⁶⁷ Briggs, *History of Broadcasting Vol. II*, 504.

⁶⁸ Anthony Smith, “License and Liberty: Public Service Broadcasting in Britain,” in *The BBC and Public Service Broadcasting*, eds., Colin MacCabe and Olivia Stewart (Manchester: Manchester University Press, 1986), 8.

At the same time, the “national church” approach to broadcasting is the centerpiece of criticisms of the BBC. Without question, it is an arm of the state, once empowered with dominance over an entire mass medium, with specific goals about bringing a specific type of “culture” to the masses. As Maley writes:

Reith was, of course, quite correct when he likened the BBC to a national church; it is an ideological state apparatus which most certainly serves its function of creating the illusion of social cohesion and political integration in the midst of difference and disintegration. The BBC is both powerful and political and it is very often the powerless who bow to its wishes....Who controls the medium, controls the production and distribution of ‘truth’ and ‘meaning.’⁶⁹

While there is certainly validity in this critique, the same can be said of any media system or outlet. Indeed, as Maley continues: “How can any institution in a capitalist society function as a free agent?”⁷⁰ Better yet, how can any institution *ever* function as a free agent? As this comparison of the U.S. and British broadcasting has clearly shown, institutions, regardless of their contexts, are always subject to limitations based on their structure. The best we can do is to become aware of those limitations and, where necessary, work to minimize them.

⁶⁹ William Maley, “Centralisation and Censorship,” in *The BBC and Public Service Broadcasting*, eds., Colin MacCabe and Olivia Stewart (Manchester: Manchester University Press, 1986), 33.

⁷⁰ Maley, “Centralisation and Censorship,” 45.

Chapter 9: Conclusion

The central goal of this dissertation was to investigate the causes of the divergent outcomes in communication policy in the United States and Great Britain in the 1930s with attention to the different conceptions of the public interest that shaped those outcomes. The comparative analysis of path-dependent processes reveals that the eventual policy outcomes in the 1930s, far from being inevitable, were indeed contingent on different understandings of the public interest. In Britain, the public interest remained tied to earlier notions of public service, which suggested a regulatory approach that would treat broadcasting more like a public utility than a commodity to be bought and sold. In the U.S., the public interest over time became wedded to notions of technological efficiency and economic consumption that gave preference to the dominant commercial broadcasters and their advertising-supported networks. Independently, these findings are not terribly surprising, given that they are consistent with previous research. Indeed, volumes have been written about the origins of broadcasting in these two countries due to the significance of this critical juncture in the history of communication. But the comparative approach used here and the attention to path-dependent processes helps this dissertation achieve its goal of highlighting and explaining the different causes and conditions that led to divergent outcomes.

Thus, this dissertation has attempted to make three contributions to the existing literature. First, by employing a comparative approach, this work gains comparative leverage that helps to identify the enormous differences in the regulatory approaches taken in the U.S. and Britain. Second, by taking a long view and focusing on institutional

development and path-dependent processes, this work has identified the different trajectories and paths not taken that led to the divergent outcomes. Third, by employing sociological analysis, this work has attempted to shed light on the tensions that arise between markets and society with attention to the role of the state in regulating communications in particular and industry in general.

First, comparative historical analysis is useful for examining social phenomena that occur in limited numbers and on large scales over long time frames. The historical development of broadcasting is this type of social phenomenon, and the comparative approach helps accentuate the differences in outcomes and their causes. Histories that focus exclusively or primarily on the origins of broadcasting in a single country are limited to the debates and deliberations that took place in the country being investigated. This dissertation gains comparative leverage by contrasting the private, commercial, advertising-supported system of broadcasting that emerged in the U.S. with the noncommercial, public monopoly that dominated in Britain. The contrast emphasizes the point that the American outcome was far from inevitable and could have easily turned out different. This is also evident in the intense struggles to control and influence broadcasting policy between the Department of Commerce, the Navy, the Post Office, various members of Congress, the communications corporations that dominated private broadcasting, other private broadcasters such as universities, churches and political groups, and amateur operators and hobbyists. These American struggles contrast sharply with the comparatively stable regulatory approach in Britain beginning with the birth of the British Broadcasting Company in 1922.

Second, the historical comparison highlights the path-dependent processes that led to these divergent outcomes. The long tradition of government control of communications in Britain contrasts sharply with the American tendency to promote private entrepreneurialism and technological innovation that led to the massive growth of radio in the U.S. These different regulatory approaches were informed by increasingly different conceptions of the public interest in the two countries beginning in the nineteenth century. While it is important to “break the chain” of path dependence in order to avoid the problem of infinite regress, the development of electric communication, particularly the telegraph, in the 1800s represents an earlier critical juncture with clear path-dependent outcomes in both countries. The outcomes for broadcasting were never guaranteed, but forces of inertia helped to perpetuate policy scripts that would limit private business in Britain and support it in the U.S.

Furthermore, the temporal sequencing of the development of broadcasting suggests that the U.S., in that it “went first” in developing radio, served as a cautionary tale in the U.K. This is interesting not just because the timing helped to dictate the outcome but also because the British reacted by deciding that the American “chaos” was unacceptable. The acceptability of the chaos in the U.S. and not in Britain speaks to the different views of the role of the state in society generally in allowing or restricting individual self-interest. Failures to understand the technology aside, the individualistic nature of the race to develop radio despite the chaos it produced was an acceptable tradeoff in the U.S., where a light regulatory touch giving preference to industry was generally favored over the type of heavy government involvement witnessed in Britain.

What if the causes of the different policy outcomes had been different? What if the First World War had further delayed American commercial development of radio and Britain had “gone first”? Given the tradition of British government regulation of communications, it seems likely that Britain would have pursued a BBC-type outcome even without the “cautionary tale” of America. Now consider the American alternative. What if control of radio had been handed to the Post Office or the Navy, both entirely possible outcomes before and after the First World War? It is easy to imagine a scenario where this would have led to a system of government-controlled national radio, although this likely would have given way to a hybrid competition model much faster than it did in Britain.

Third, the different policy causes and outcomes can be better understood and explained through sociological analysis, using such concepts as Polanyi’s double movement, which highlights the tendency to restrain growth in the face of social disruption. The different outcomes in communication policy speak to the stronger British tradition of restraining growth in the face of market expansion, especially compared to the U.S., where growth and expansion have often been the central goal of policy. These differences can be thought of as an outgrowth of the Industrial Revolution, which began in Britain before it did in the U.S. This speaks to fundamentally different approaches to the regulation of markets in order to ease the tensions created in society, as explored by Polanyi, Marx, Weber and Durkheim, and discussed in Chapter 3. The rise of markets and the capitalist ethic led to different attempts to balance individual interests with the interests of the community, and these understandings are reflected in the institutional

structure of media. Ultimately, these different institutional approaches to structure are informed by fundamentally different conceptions of liberty.

Why Structure Matters: What Kind of Liberty?

In media institutions, structure limits the agency of actors producing content within that structure, and it limits the potential benefits to individuals who consume that content. Both the U.S. and British broadcasting systems ultimately were top-down organizations, imposed by powerful actors upon the masses. Neither approach can hardly be considered democratic. This pattern is evident throughout the history of communication. In the new book *The Master Switch*, Columbia University law professor Tim Wu, who coined the phrase “network neutrality,” describes what he calls “the Cycle,” or the process that occurs as a new communication technology becomes dominated by powerful actors. Simply put, it goes from an open to a closed system:

History shows a typical progression of information technologies: from somebody’s hobby to somebody’s industry; from jury-rigged contraption to slick production marvel; from a freely accessible channel to one strictly controlled by a single corporation or cartel—from open to closed system. It is a progression so common as to seem inevitable, though it would hardly have seemed so at the dawn of any of the past century’s transformative technologies, whether telephony, radio, television, or film.¹

The development of broadcasting in both the U.S. and Britain seems to represent this process of the closing of a system, but the closed systems that resulted had very different aims.

“The brute force of monopoly” was the language used by John Reith of the BBC to describe the manner by which the British broadcasting system came to be; if there is to

¹ Tim Wu, *The Master Switch* (New York: Knopf, 2010), 6.

be competition, he said, it will be for “cheapness, not goodness.” But Reith unapologetically resisted the democratization of broadcasting and fought charges of elitism and paternalism by saying he was justified in controlling the content of the media because he had benefited from the education and cultural enlightenment that he thought everyone should be able to access. The notion of “noblesse oblige” figures prominently in this approach, as well as Reith’s determination not to turn a resource as valuable as the airwaves over to commercial interests but rather to preserve the airwaves as a system of continuing education. This represents a fundamentally positive conception of liberty, which is used to justify government intervention in the marketplace to serve the public interest.

In America, the structure and regulation of broadcasting was more heavily influenced by the rise of capitalism in the mid-1800s as it took hold of American life; structures and institutions quickly emerged that made commercialization the dominant approach to regulating society. Faith in the democratic ideal encouraged the freedom of markets and a theoretically negative conception of liberty that limited government’s ability to interfere in business. To the contrary, government worked in many ways to structure society to serve markets and justified this as a different type of public interest.

Thus, the historical evidence demonstrates that the differences in the cases investigated in this dissertation can be tied to the differences in communication policy outcomes. Ultimately, the British approach was far closer to what one would expect from a reasonable normative understanding of the public interest, in the sense that it serves the larger public good of improving the conditions of democracy and freedom. As

Feintuck argues, the public interest from a normative perspective can “be endowed with strong democratic credentials,” and “its adoption as an interpretive principle, emphasizing the value of equality of citizenship, within the legal and regulatory systems, is not only advisable, but necessary, in the protection of democratic values.”² The evidence explored in this dissertation suggests this type of normative definition was more fully embodied in the British approach to broadcasting.

At the same time, there are a number of noteworthy similarities in the outcomes in U.S. and British broadcasting, and they can be tied to similar causes. The similarities between the two countries were noted in Chapter 4; it is these basic similarities that help make the comparison possible. It is worth noting that both countries were sufficiently equipped to develop radio broadcasting at about the same time. Both countries created new systems of mass communication that brought media content into people’s homes, changing the way people received and related to news, information and entertainment. And, as noted above, both of these systems, rather than being structured with a great deal of public input and consideration, were chiefly top-down systems organized by a handful of powerful elites. Both countries elected to issue licenses and create some sort of regulatory structure; neither seriously considered a free market for spectrum. And finally, over time, both countries have adopted a hybrid model of public and private broadcasting, although the public media tradition remains far stronger in Britain.

With regard to both similarities and differences between U.S. and British broadcasting, it is important not to overstate the impact of path-dependent processes and critical junctures in order to avoid an overly deterministic view. To the contrary, we can

² Mike Feintuck, *The Public Interest in Regulation* (New York: Oxford University Press, 2004), 255.

use path dependence and critical junctures to highlight the contingent nature of communication policy. The development of radio was at least part historical accident in that no one knew what the technology would eventually become. It is for reasons like this that we must remember to look forward from the past rather than backward from the present when conducting historical analyses.

Future research should continue to explore institutional origins of communication policy and structures, and scholars should continue to apply an interdisciplinary approach, making use of such tools as path dependence, historical comparison and sociological analysis. As Pierson notes, theoretical work on sources of institutional origins and change in general “continue to be sketchy at best,”³ so this is certainly an area of communication studies ripe for further exploration. More specifically, future studies should pay careful attention to the path-dependent processes of the early- and mid-1920s, as well as the debates that took place during this period about the role of the state in regulating communications in the U.S. In general, future studies should continue to explore the types of media structures and institutions best suited to enhance democratic practices. There is a real need for increased evidence and understanding that publicly funded media, properly insulated from government and commerce, can serve self-governing citizens better than market-based alternatives.

Ultimately, the central goal of this study has been to make a contribution to our understanding of how media systems can be best equipped to enhance democratic practices and place the needs of self-governing citizens first. In both the U.S. and Britain, regulatory intervention based on an appeal to the public interest dictated the structure of

³ Paul Pierson, *Politics in Time* (Princeton, N.J.: Princeton University Press, 2004), 103.

communication institutions but to drastically different ends. The commercial system that resulted from the U.S. approach favors content that serves commercial interests. Markets favor speech that favors markets. The British approach, imperfect as it may have been, at least reflects a commitment to serving the public with content that has positive social benefits beyond profit accumulation. If top-down control of structure is inevitable, it is worth considering what kind of control is preferable. Obviously a system of government propaganda would be no more preferable than a purely commercial system, but a public system sufficiently insulated from the whims of politics is in a better position to provide some kind of public benefit. As Fiss notes, “We should never forget the potential of the state for oppression, but at the same time, we must contemplate the possibility that the state will use its considerable powers to promote goals that lie at the core of a democratic society—equality and perhaps free speech itself.”⁴

Communication Policy Today: Market Failure and Public Goods

This is not to say that systems of ostensibly free enterprise are not capable of producing public benefits. But the reality is that market economies depend on elaborate and explicit policies that are favorable to business often at the expense of the public. The U.S. system of broadcast licensing, for example, in which broadcasters are granted free use of the supposedly publicly owned airwaves, has been called a \$70 billion giveaway.⁵ Despite pro-business policies such as this one, market advocates often suggest that the

⁴ Owen M. Fiss, *The Irony of Free Speech* (Cambridge, Mass.: Harvard University Press, 1996), 26.

⁵ Cass R. Sunstein, *Republic.com 2.0* (Princeton: Princeton University Press, 2007), 154.

FCC interferes with the workings of the broadcast market by regulating ownership and other structural matters.⁶

As Krasnow and Goodman note, “the FCC has recognized that as the number of competing electronic ‘voices’ has gone up, there is less need for the government to ensure that individual broadcast stations serve particular functions.”⁷ Market advocates call this “deregulation,” which has been an increasing trend since the 1980s and especially since the rise of digital communication. With digital communication, the argument that “spectrum scarcity,” or the limited nature of over-the-air broadcasting, carries less weight.⁸ But this ignores other reasons to regulate communication, such as requirements for diversity and localism in the ownership and control of media outlets. Furthermore, when market advocates argue for “deregulation,” they are really calling for altering the regulatory scheme from one that places limits on industry to one that enables it. As Sunstein points out,

though many people claim to argue for ‘deregulation,’ that route is not in fact an option, or at least not a reasonable one. What ‘deregulation’ really means is a shift from the status quo to a system of different but emphatically legal regulation, more specifically one of property, tort, and contract rights, in which government does not impose specific public interest obligations but instead sets up initial entitlements and then permits trades among owners and producers. This is a regulatory system just as much as any other... Such law imposes rights and duties, permissions and prohibitions; among other things, it ensures, via the law of property, that some people, and not others, will have access to the public sphere.

⁶ See Mark S. Fowler, “A Marketplace Approach to Broadcast Regulation,” *Texas Law Review* 60, no. 2 (1982): 207.

⁷ Jack N. Goodman and Erwin G. Krasnow, “The ‘Public Interest’ Standard: The Search for the Holy Grail,” *Federal Communications Law Journal* 50, no. 3 (1998): 635.

⁸ Philip M. Napoli, *Foundations of Communications Policy: Principles and Process in the Regulation of Electronic Media* (Cresskill, N.J.: Hampton Press, 2001); Ithiel de Sola Pool, *Technologies of Freedom* (Cambridge, Mass.: Belknap Press, 1983).

The issue is thus not whether to ‘deregulate,’ but whether one or another regulatory system is better than imaginable alternatives.⁹

Sunstein suggests that real regulation—the kind that aims to promote democratic values and place limits on unbridled profit maximization—is needed to prevent three types of “market failure,” or problems that markets are not able to solve.¹⁰

First is the classic problem of “eyeballs as commodity,” which is a way of describing the dual product model of media. Rather than selling content to audiences, media outlets actually make their money by selling audiences to advertisers. This creates the structural problem of commercial bias; media outlets are likely to be interested only in the type of content that will attract the type of audience that will be most appealing to advertisers. This is likely to mean more *Jersey Shore*, less public affairs programming. The second problem Sunstein describes is “informational cascades,” which result in the following of trends and the homogenization of content produced by different outlets. This happens most commonly with sensational fare, such as the Clinton-Lewinsky affair, and with misleading or erroneous information, such as the misinformation propagated by the Bush administration in making their case for the Iraq war. A third problem that characterizes market failure is related to “externalities and collective action problems.” These result when a collection of individuals come to support actions—often negative—based on misinformation, such as the decision to go to war in Iraq. Taken together, these components of market failure offer a strong incentive for some type of regulation of media independent of the problem of spectrum scarcity.

⁹ Cass R. Sunstein, “Television and the Public Interest,” *California Law Review* 88, no. 2 (2000): 512-513.

¹⁰ See Sunstein, “Television and the Public Interest,” 514-518. See also C. Edwin Baker, *Advertising and a Democratic Press* (Princeton, N.J.: Princeton University Press, 1994).

Objections to interventions in the marketplace for media often rely on the First Amendment’s requirement that Congress make no law restricting speech or the press. But this argument ignores the fact that many laws have been made and upheld by the courts that embrace this affirmative or positive interpretation of the freedoms of speech and the press. Furthermore, it has been suggested that journalism—the news and information required by a self-governing society—should be thought of as a “public good” or “common pool resource,” or something that everyone benefits from regardless of who pays for it, like clean air or water.¹¹ Such public goods must be actively protected and promoted by law and policy.

Any media system is constructed through elaborate laws and policies, many of which are not always obvious but are nonetheless integral to the structure of the system and the content it produces. And in a democracy, it is not unreasonable to expect those policies to reflect and enhance democratic values. As Sunstein writes: “The question is not whether we will regulate speech, but how—and in particular how we can do so while promoting the values associated with a system of free expression, emphatically including democratic self-government.”¹² To this end, one Supreme Court ruling stands out. In the 1945 case *Associated Press v. U. S.*, the court ruled against the Associated Press due to a set of bylaws that the court deemed in violation of the Sherman Anti-Trust Act because of restrictions placed on access to the news wire service by nonmembers. This ruling suggests a precedent that would allow the government to break up media monopolies and

¹¹ Robert McChesney and John Nichols, *The Death and Life of American Journalism: The Media Revolution That Will Begin the World Again* (Philadelphia: Nation Books, 2010); See also Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action* (New York: Cambridge University Press, 2008).

¹² Sunstein, *Republic.com 2.0*, 219.

encourage a greater flow of diverse information. In the court's opinion, Justice Black made the case that regulation of media is not a violation of First Amendment protections.

It would be strange indeed however if the grave concern for freedom of the press which prompted adoption of the First Amendment should be read as a command that the government was without power to protect that freedom. The First Amendment, far from providing an argument against application of the Sherman Act, here provides powerful reasons to the contrary. That Amendment rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public, that a free press is a condition of a free society. Surely a command that the government itself shall not impede the free flow of ideas does not afford non-governmental combinations a refuge if they impose restraints upon that constitutionally guaranteed freedom.¹³

These words should be used to guide communication policy today and to create media structures and institutions that promote democratic values and practices. This positive approach to liberty can be used to break the corporate stranglehold on mainstream mass media through limits on size, ownership and commercial content. It can also be used to promote public media organizations like the BBC, which even today remains capable of producing positive social benefits by being sufficiently insulated from politics and from markets. In our media-saturated information age, our ability to facilitate democratic media structures and institutions will play a role in deciding the fate of democracy itself.

¹³ *Associated Press v. U. S.*, 326 U.S. 1 (1945).

Bibliography

- Anderson, James. *Public Policymaking*. Boston: Cengage, 2009.
- Arthur, W. Brian. "Competing Technologies, Increasing Returns, and Lock-in by Historical Events." *The Economic Journal* 99, no. 394 (1989): 116-31.
- Aufderheide, Patricia. *Communications Policy and the Public Interest: The Telecommunications Act of 1996*. New York: Guilford Press, 1999.
- Bagdikian, Ben H. *The New Media Monopoly*. Boston: Beacon Press, 2004.
- Baker, C. Edwin. *Advertising and a Democratic Press*. Princeton, N.J.: Princeton University Press, 1994.
- Baker, Joan. "Free Speech and Federal Control: The U.S. Approach to Broadcasting Regulation." *The Modern Law Review* 39, no. 2 (1976): 147-61.
- Baldasty, Gerald J. *The Commercialization of News in the Nineteenth Century*. Madison, Wis.: University of Wisconsin Press, 1992.
- Barnouw, Erik. "Historical Survey of Communications Breakthroughs." *Proceedings of the Academy of Political Science* 34, no. 4 (1982): 13-23.
- . *A Tower in Babel: A History of Broadcasting in the United States to 1933, Vol. I*. New York: Oxford University Press, 1966.
- Baughman, James L. *Same Time, Same Station: Creating American Television, 1948-1961*. Baltimore: Johns Hopkins University Press, 2007.
- Baumgartner, Frank R., and Bryan D. Jones. *Agendas and Instability in American Politics*. Chicago: The University of Chicago Press, 2009.

- Benjamin, Louise Margaret. *Freedom of the Air and the Public Interest: First Amendment Rights in Broadcasting to 1935*. Carbondale: Southern Illinois University Press, 2001.
- . “Regulating the Government’s Airwaves: Creation of the Interdepartmental Radio Advisory Committee (IRAC).” *Journal of Broadcasting & Electronic Media* 51, no. 3 (2007): 489-515.
- Bensman, Marvin R. *The Beginning of Broadcast Regulation in the Twentieth Century*. Jefferson, N.C.: McFarland & Co., 2000.
- Berlin, Isaiah, Henry Hardy, and Ian Harris. *Liberty: Incorporating Four Essays on Liberty*. Oxford: Oxford University Press, 2002.
- Bicket, Douglas, and Melissa Wall. “BBC News in the United States: A ‘Super-Alternative’ News Medium Emerges.” *Media, Culture & Society* 31, no. 3 (2009): 365-84.
- Blumer, Herbert. “What Is Wrong with Social Theory?” *American Sociological Review* 19, no. 1 (1954): 3-10.
- Born, Georgina. *Uncertain Vision: Birt, Dyke and the Reinvention of the BBC*. London: Secker & Warburg, 2004.
- Briggs, Asa. *The History of Broadcasting in the United Kingdom: Volume I: The Birth of Broadcasting*. London: Oxford University Press, 1961.
- . *The History of Broadcasting in the United Kingdom: Volume II: The Golden Age of Wireless*. London: Oxford University Press, 1965.
- Burns, Tom. *The BBC: Public Institution and Private World*. London: Macmillan, 1977.

- Caldwell, Louis G. "The Standard of Public Interest, Convenience or Necessity as Used in the Radio Act of 1927." *Air Law Review* 1 (1930): 295-300.
- Campbell, John L., and Ove K. Pedersen, eds. *The Rise of Neoliberalism and Institutional Analysis*. Princeton, N.J.: Princeton University Press, 2001.
- Camporesi, Valeria. *Mass Culture and National Traditions: The B.B.C. And American Broadcasting, 1922-1954*. Fucecchio, Italy: European Press Academic Publishing, 2000.
- Capoccia, Giovanni, and R. Daniel Kelemen. "The Study of Critical Junctures: Theory, Narrative, and Counterfactuals in Historical Institutionalism." *World Politics* 59, no. 3 (2007): 341-69.
- Carey, James W. *Communication as Culture: Essays on Media and Society*. Boston: Unwin Hyman, 1989.
- Chomsky, Noam. *Profit over People: Neoliberalism and Global Order*. New York: Seven Stories Press, 1999.
- Coase, Ronald H. *British Broadcasting: A Study in Monopoly*. Cambridge: Harvard University Press, 1950.
- Crisell, Andrew. *An Introductory History of British Broadcasting*. London ; New York: Routledge, 2002.
- Curran, James, and Jean Seaton. *Power without Responsibility : The Press and Broadcasting in Britain*. London ; New York: Routledge, 1997.
- Douglas, Susan J. *Inventing American Broadcasting, 1899-1922*. Baltimore: Johns Hopkins University Press, 1987.
- Durkheim, Emile. *Suicide, a Study in Sociology*. Glencoe, Ill.: Free Press, 1951.

- Feintuck, Mike. *"The Public Interest" in Regulation*. New York: Oxford University Press, 2004.
- Fowler, Mark S. "Reason Interview: Mark S. Fowler. *Reason*." <http://reason.com/archives/1998/12/01/voices-of-reason/singlepage>.
- Fowler, Mark S., Albert Halperin, and James D. Schlichting. "'Back to the Future': A Model for Telecommunications." *Federal Communications Law Journal* 38, no. 145 (1986): 145-200.
- Freedman, Des. *The Politics of Media Policy*. Cambridge, UK: Polity, 2008.
- Goodman, Jack N., and Erwin G. Krasnow. "The 'Public Interest' Standard: The Search for the Holy Grail." *Federal Communications Law Journal* 50, no. 3 (1998): 605-36.
- Gormley, William T., Jr. "A Test of the Revolving Door Hypothesis at the FCC." *American Journal of Political Science* 23, no. 4 (1979): 665-83.
- Habermas, Jürgen. *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*. Cambridge, Mass.: MIT Press, 1989.
- Hacker, Jacob S. *The Divided Welfare State: The Battle over Public and Private Social Benefits in the United States*. New York: Cambridge University Press, 2002.
- Hall, Peter A., and Rosemary C.R. Taylor. "Political Science and the Three New Institutionalisms." *Political Studies* 44, no. 5 (1996): 936-57.
- Hallin, Daniel C., and Paolo Mancini. *Comparing Media Systems: Three Models of Media and Politics*. Cambridge, UK: Cambridge University Press, 2004.
- Hansen, Susan. "Superiority Complex: Why the Brits Think They're Better." *Columbia Journalism Review* 46, no. 1 (2007).

- Harrison, Brian Howard. *The Transformation of British Politics, 1860-1995*. New York: Oxford University Press, 1996.
- Harvey, David. *A Brief History of Neoliberalism*. New York: Oxford University Press, 2007.
- Head, Sydney W. *Broadcasting in America: A Survey of Television and Radio*. Boston: Houghton Mifflin, 1976.
- Hemmeon, Joseph C. *The History of the British Post Office*. Cambridge: Harvard University, 1912.
- Herman, Edward S., and Noam Chomsky. *Manufacturing Consent: The Political Economy of the Mass Media*. New York: Pantheon Books, 2002.
- Hettinger, Herman S., and William A. Porter. "Radio Regulation: A Case Study in Basic Policy Conflicts." *Annals of the American Academy of Political and Social Science* 221 (1942): 122-37.
- Hetzner, Candace. "The Meaning of the Public Interest." PhD Diss., University of Chicago, 1982.
- Hilliard, Robert L. *The Federal Communications Commission: A Primer*. Boston: Focal Press, 1991.
- Hoover, Herbert. *The Memoirs of Herbert Hoover*. New York: Garland, 1979.
- Horwitz, Robert B. *The Irony of Regulatory Reform: The Deregulation of American Telecommunications*. New York: Oxford University Press, 1989.
- Howeth, Linwood S. *History of Communications-Electronics in the United States Navy*. Washington, D.C.: Government Printing Office, 1963.

- John, Richard R. *Network Nation: Inventing American Telecommunications*. Cambridge, Mass.: Belknap Press, 2010.
- Jones, Timothy H. "The Deregulation of Broadcasting." *The Modern Law Review* 52, no. 3 (1989): 380-88.
- Kahn, Frank J., ed. *Documents of American Broadcasting*. Englewood Cliffs, N.J.: Prentice-Hall, 1984.
- Katznelson, Ira. "Periodization and Preferences: Reflections on Purposive Action in Comparative Social Science." In *Comparative Historical Analysis in the Social Sciences*, edited by James Mahoney and Dietrich Rueschemeyer, 270-301. Cambridge, U.K. ; New York: Cambridge University Press, 2003.
- Knight Commission on the Information Needs of Communities in a Democracy. "Informing Communities: Sustaining Democracy in the Digital Age." Washington, D.C.: The Aspen Institute, 2009.
- Krasnow, Erwin G., Lawrence D. Longley, and Herbert A. Terry. *The Politics of Broadcast Regulation*. New York: St. Martin's Press, 1982.
- Küng, Lucy. *Inside the BBC and CNN: Managing Media Organisations*. New York: Routledge, 2000.
- Lasswell, Harold D. "Communications Research and Public Policy." *The Public Opinion Quarterly* 36, no. 3 (1972): 301-10.
- Leblebici, Huseyin, Gerald R. Salancik, Anne Copay, and Tom King. "Institutional Change and the Transformation of Interorganizational Fields: An Organizational History of the U.S. Radio Broadcasting Industry." *Administrative Science Quarterly* 36, no. 3 (1991): 333-63.

- Lieberson, Stanley. "Small N's and Big Conclusions: An Examination of the Reasoning in Comparative Studies Based on a Small Number of Cases." *Social Forces* 70, no. 2 (1991): 307-20.
- Lippmann, Walter. *Public Opinion*. New York: Harcourt, 1922.
- MacCabe, Colin, and Olivia Stewart, eds. *The BBC and Public Service Broadcasting*. Manchester: Manchester University Press, 1986.
- Mahoney, James. "Path Dependence in Historical Sociology." *Theory & Society* 29, no. 4 (2000): 507-48.
- Mahoney, James, and Dietrich Rueschemeyer. *Comparative Historical Analysis in the Social Sciences*. Cambridge, U.K. ; New York: Cambridge University Press, 2003.
- Marchand, Roland. *Creating the Corporate Soul: The Rise of Public Relations and Corporate Imagery in American Big Business*. Berkeley: University of California Press, 1998.
- Marx, Karl, and Eugene Kamenka. *The Portable Karl Marx*. New York: Viking Press, 1983.
- McChesney, Robert. *Communication Revolution: Critical Junctures and the Future of Media*. New York: New Press, 2007.
- . *The Political Economy of Media: Enduring Issues, Emerging Dilemmas*. New York: Monthly Review Press, 2008.
- . *The Problem of the Media: U.S. Communication Politics in the Twenty-First Century*. New York: Monthly Review Press, 2004.

- . *Rich Media, Poor Democracy: Communication Politics in Dubious Times*. Urbana: University of Illinois Press, 1999.
- . *Telecommunications, Mass Media, and Democracy: The Battle for the Control of U.S. Broadcasting, 1928-1935*. New York: Oxford University Press, 1993.
- McChesney, Robert, and John Nichols. *The Death and Life of American Journalism: The Media Revolution That Will Begin the World Again*. Philadelphia, PA: Nation Books, 2010.
- McDonald, Terrence J., ed. *The Historical Turn in the Human Sciences*. Ann Arbor: University of Michigan Press, 1996.
- McNair, Brian. *News and Journalism in the UK*. London: Routledge, 1999.
- Moore, Barrington. *Social Origins of Dictatorship and Democracy: Lord and Peasant in the Making of the Modern World*. Boston: Beacon Press, 1993.
- Mosco, Vincent. *The Political Economy of Communication: Rethinking and Renewal*. Thousand Oaks, Calif.: Sage Publications, 1996.
- Muller, Helen M., ed. *Education by Radio*. New York: The H.W. Wilson Company, 1932.
- Napoli, Philip M. *Foundations of Communications Policy: Principles and Process in the Regulation of Electronic Media*. Cresskill, N.J.: Hampton Press, 2001.
- Newsbitt-Larking, Paul W. *Politics, Society, and the Media: Canadian Perspectives*. Peterborough, Ontario: Broadview Press, 2001.
- Norton, Philip. *The British Polity*. New York: Longman, 1991.
- Ogus, A.I. "Regulatory Law: Some Lessons from the Past." *Legal Studies* 12, no. 1 (1999): 1-19.

- Ostrom, Elinor. *Governing the Commons: The Evolution of Institutions for Collective Action*. New York: Cambridge University Press, 2008.
- Paglin, Max D., ed. *A Legislative History of the Communications Act of 1934*. New York: Oxford University Press, 1989.
- Paulu, Burton. *British Broadcasting*. Minneapolis: University of Minnesota Press, 1956.
- Pickard, Victor. "Media Democracy Deferred: The Postwar Settlement for U.S. Communications, 1945-1949." PhD Diss., University of Illinois at Urbana-Champaign, 2008.
- Pierson, Paul. "Increasing Returns, Path Dependence, and the Study of Politics." *The American Political Science Review* 94, no. 2 (2000): 251-67.
- . *Politics in Time: History, Institutions, and Social Analysis*. Princeton: Princeton University Press, 2004.
- . "The Study of Policy Development." *Journal of Policy History* 17, no. 1 (2005): 34-51.
- Pierson, Paul, and Theda Skocpol. "Historical Institutionalism in Contemporary Political Science." In *Political Science: State of the Discipline*, edited by Ira Katznelson and Helen V. Milner, 693-721. New York: W.W. Norton, 2002.
- Polanyi, Karl. *The Great Transformation: The Political and Economic Origins of Our Time*. Boston: Beacon Press, 2001.
- Pool, Ithiel de Sola. *Technologies of Freedom*. Cambridge, Mass.: Belknap Press, 1983.
- Powe, L. A. Scot. *American Broadcasting and the First Amendment*. Berkeley: University of California Press, 1987.

- Ragin, Charles C. *The Comparative Method: Moving Beyond Qualitative and Quantitative Strategies*. Berkeley: University of California Press, 1987.
- Ray, William B. *FCC: The Ups and Downs of Radio-TV Regulation*. Ames: Iowa State University Press, 1990.
- Reddy, William M. *The Rise of Market Culture: The Textile Trade and French Society, 1750-1900* New York: Cambridge University Press, 1984.
- Reith, John Charles Walsham. *Broadcast over Britain*. London: Hodder and Stoughton, 1924.
- . *Into the Wind*. London: Hodder and Stoughton, 1949.
- Rosen, Philip T. *The Modern Stentors: Radio Broadcasters and the Federal Government, 1920-1934*. Westport, Conn.: Greenwood Press, 1980.
- Rowland Jr., Willard D. "The Meaning Of 'The Public Interest' In Communications Policy, Part II: Its Implementation in Early Broadcast Law and Regulation." *Communication Law & Policy* 2, no. 4 (1997): 363-96.
- Rowland Jr., Willard D. "The Meaning Of 'The Public Interest' In Communications Policy, Part I: Its Origins in State and Federal Regulation." *Communication Law & Policy* 2, no. 3 (1997): 309-28.
- Scannell, Paddy, and David Cardiff. *A Social History of British Broadcasting*. Oxford: B. Blackwell, 1991.
- Schudson, Michael. *Discovering the News: A Social History of American Newspapers*. New York: Basic Books, 1978.

- Sewell, W.H., Jr. "Three Temporalities: Toward an Eventful Sociology." In *The Historic Turn in the Human Sciences*, edited by Terrence J. McDonald, 262-64. Ann Arbor: University of Michigan Press, 1996.
- Shoemaker, Pamela J., and Stephen D. Reese. *Mediating the Message: Theories of Influences on Mass Media Content*. White Plains, N.Y.: Longman, 1996.
- Shoemaker, Pamela J., and Tim P. Vos. *Gatekeeping Theory*. New York: Routledge, 2009.
- Skocpol, Theda. "Vision and Method in Historical Sociology." New York: Cambridge University Press, 1984.
- . "Why I Am a Historical-Institutionalist." *Polity* 28 (1995): 103-06.
- Slotten, Hugh Richard. *Radio and Television Regulation : Broadcast Technology in the United States, 1920-1960*. Baltimore: Johns Hopkins University Press, 2000.
- Smith, Jeffery Alan. *Printers and Press Freedom: The Ideology of Early American Journalism*. New York: Oxford University Press, 1988.
- Starr, Paul. *The Creation of the Media: Political Origins of Modern Communications*. New York: Basic Books, 2004.
- Steinmo, Sven, Kathleen Ann Thelen, and Frank Longstreth. *Structuring Politics: Historical Institutionalism in Comparative Analysis*. Cambridge, England: Cambridge University Press, 1992.
- Stole, Inger L. *Advertising on Trial: Consumer Activism and Corporate Public Relations in the 1930s*. Urbana: University of Illinois Press, 2006.
- Stone, Deborah A. *Policy Paradox: The Art of Political Decision Making*. New York: Norton, 2002.

- Streeter, Thomas. "Beyond Freedom of Speech and the Public Interest: The Relevance of Critical Legal Studies to Communications Policy." *Journal of Communication* 40, no. 2 (1990): 43-63.
- . *Selling the Air: A Critique of the Policy of Commercial Broadcasting in the United States*. Chicago: University of Chicago Press, 1996.
- Stuart, Charles, and John Charles Walsham Reith. *The Reith Diaries*. London: Collins, 1975.
- Sunstein, Cass R. "Free Speech Now." *The University of Chicago Law Review* 59, no. 1 (1992): 255-316.
- . *Republic.Com 2.0*. Princeton: Princeton University Press, 2007.
- . "Television and the Public Interest." *California Law Review* 88, no. 2 (2000): 499-564.
- Thelen, Kathleen. "Historical Institutionalism in Comparative Politics." *Annual Review of Political Science* 2, no. 1 (1999): 369-404.
- Thelen, Kathleen, and Sven Steinmo. "Historical Institutionalism in Comparative Politics." In *Structuring Politics: Historical Institutionalism in Comparative Analysis*, edited by Sven Steinmo, Kathleen Ann Thelen and Frank Longstreth, 1-32. Cambridge, England: Cambridge University Press, 1992.
- Thompson, E. P. *The Making of the English Working Class*. New York: Pantheon Books, 1964.
- Thompson, Robert L. *Wiring a Continent: The History of the Telegraph Industry in the United States, 1832-1866*. New York: Arno Press, 1972.

- Tillinghast, Charles H. *American Broadcast Regulation and the First Amendment: Another Look*. Ames, Iowa: Iowa State University Press, 2000.
- Tilly, Charles. *Big Structures, Large Processes, Huge Comparisons*. New York: Russell Sage Foundation, 1984.
- van Cuilenburg, Jan, and Denis McQuail. "Media Policy Paradigm Shifts." *European Journal of Communication* 18, no. 2 (2003): 181-207.
- Vos, Tim P. "Explaining Media Policy: American Political Broadcasting Policy in Comparative Context." PhD Diss, Syracuse University, Syracuse, N.Y., 2005.
- Wadforth, Alan David. "Public Service Broadcasting as a Myth: The Hegemonic Implications of the BBC's Concept and Practice of Public Service Broadcasting, 1922-1988." PhD Diss, New University of Ulster, 1989.
- Weber, Max, Hans Heinrich Gerth, and C. Wright Mills. *From Max Weber: Essays in Sociology*. New York: Oxford University Press, 1946.
- Winston, Brian. *Media Technology and Society: A History: From the Telegraph to the Internet*. London ; New York: Routledge, 1998.
- Wolff, Joshua D. "'The Great Monopoly': Western Union and the American Telegraph." PhD Diss., Columbia University, 2008.
- Wood, Gordon S. *The Radicalism of the American Revolution*. New York: A.A. Knopf, 1992.
- Wu, Tim. *The Master Switch: The Rise and Fall of Information Empires*. New York: Alfred A. Knopf, 2010.
- . "Network Neutrality, Broadband Discrimination." *Journal of Telecommunications and High Technology Law* 2 (2003): 141-79.

Vita

Seth Ashley was born in New Orleans, La., and grew up in St. Louis, Mo. In 2000, he graduated from the University of Southern California with a BFA in Theater (Design). He received his master's degree from the University of Missouri School of Journalism in 2002 and worked as a newspaper and magazine writer and editor as well as a producer, designer and engineer for theater, video and live music. He taught journalism and media studies as an assistant professor at Stephens College for two years before returning to the Missouri School of Journalism for the doctoral program. His research interests include media sociology, policy, history, literacy and reform.