

Introduction—“The Future of Online Journalism: News, Community, and Democracy in the Digital Age”

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“Disruptive,” “revolutionary,” and “transformative” are among the adjectives most commonly deployed to describe the social impact of new digital information and communications technologies. No enterprise has been more convulsed by these technologies than the business of journalism. The proliferation of new tools for creating and sharing video, audio, text, and data has exploded the number of voices in the public square and the number of ideas and viewpoints they communicate. Innumerable new outlets for news and information have created a widespread sense of information abundance, even overload. Citizens enjoy unprecedented opportunities to choose the

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sources of intelligence about the world around them on which they rely for conducting their private and public affairs.

As documented, however, in the 2011 FCC Future of Media Study,¹ the new media glut provides no guarantee that communities around the U.S. are experiencing the volume or quality of original, in-depth news reporting essential to meeting the needs of a self-governing people. Our information glut has only intensified people's dependency on trusted information intermediaries to help "acquire, verify, select and make sense of information."² In terms of local news and information flow, no intermediaries are more important than journalists who engage in civic reporting.³ Yet, local news is in crisis. The migration of readers and advertisers to online venues weakened pretty much every legacy institution providing any sort of in-depth news coverage at the state and local level.⁴ Newspapers experienced drastic cutbacks.⁵ Broadcast stations operate with smaller staffs and provide minimal coverage of local government, even as the number of hours of broadcast news increases.⁶ The all-news radio format is increasingly rare.⁷ Online sites are not filling the gap because they simply lack the income and the staff resources to do so.⁸ As a consequence, what is missing across our media landscape, no matter how vibrant, is labor-intensive journalism on civically important topics—both the "beat" journalism that keeps a watchful eye on the everyday business of key institutions, and the investigative journalism

¹ STEVEN WALDMAN ET AL., *THE INFORMATION NEEDS OF COMMUNITIES: THE CHANGING MEDIA LANDSCAPE IN A BROADBAND AGE* (2011) [hereinafter, "WALDMAN FCC REPORT"].

² KNIGHT COMMISSION ON THE INFORMATION NEEDS OF COMMUNITIES IN A DEMOCRACY, *INFORMING COMMUNITIES: SUSTAINING DEMOCRACY IN THE DIGITAL AGE* (Peter M. Shane, Lead Drafter) 25 (2009) [hereinafter, "KNIGHT COMMISSION REPORT"].

³ *Id.* at 26.

⁴ Leonard Downie Jr. & Michael Schudson, *The Reconstruction of American Journalism*, *COLUM. JOURNALISM REV.* (Oct. 2009), available at http://www.cjr.org/reconstruction/the_reconstruction_of_american.php?page=all&print=true (last accessed Mar. 5, 2013).

⁵ WALDMAN FCC REPORT, *supra* note 1, at 40.

⁶ *Id.* at 79.

⁷ *Id.* at 62.

⁸ *Id.* at 124–133.

that unearths the sorts of waste, abuse, and mismanagement that powerful institutions inevitably endeavor to conceal.⁹

A blue-ribbon national commission—the Knight Commission on the Information Needs of Communities in a Democracy—asserted in 2009 that the health of American democracy depends on “informed communities,” places where the information ecology meets people’s personal and civic information needs.¹⁰ It concluded further that “[i]ndividuals and communities depend on news as a critical element of the information ecology, and effective intermediaries are critical in gathering and disseminating news.”¹¹ News assists local communities in at least four ways¹²: it helps to guide individuals in their private affairs. It enables citizens “to connect their private and public concerns.”¹³ It promotes effective community coordination and problem solving. It fosters government accountability. For all these reasons, journalism—defined as providing “truthful, comprehensive, and intelligent account[s] of the day’s events in a context which gives them meaning”¹⁴—is “essential to community health.”¹⁵

“For over a decade,” however, the Knight Commission also found, “many local news institutions have been in crisis from financial, technological and behavioral changes taking place in our society.”¹⁶ In brief, local newspapers, already losing readership in the pre-digital era, saw their twentieth century business model utterly upended by the Internet. A variety of websites, including many operated by the newspapers themselves, offered content for free that newspaper subscribers previously had to pay for. Craigslist and other online forums pulled the rug out from under classified newspaper advertising. Advertisers, in general, no longer needed newspapers to

⁹ *Id.* at 345.

¹⁰ KNIGHT COMMISSION REPORT, *supra* note 2, at 2.

¹¹ *Id.* at 13.

¹² *Id.* at 9.

¹³ *Id.* at 13.

¹⁴ *Id.* at 13 (quoting THE COMMISSION ON FREEDOM OF THE PRESS, A FREE AND RESPONSIBLE PRESS—A GENERAL REPORT ON MASS COMMUNICATION: NEWSPAPERS, RADIO, MOTION PICTURES, MAGAZINES AND BOOKS 20 (1947)).

¹⁵ *Id.* at 26.

¹⁶ *Id.* at 3.

reach local audiences. And readers who once bought newspapers just to get the sports page, the movie timetable, or the local weather forecast no longer need to buy the entire paper, thus subsidizing its news operation. Each of these services and more is available in unbundled form, often for free, through online sources. A direct consequence of this economic upheaval has been a dramatic shrinkage in newspaper newsrooms; the Project for Excellence in Journalism estimated that roughly twenty-five percent of the newspaper “news workforce” lost its jobs between 2001 and 2009.¹⁷

None of this is by way of nostalgia for any golden age of local news. Even if we think of the 1970s and 1980s as a kind of heyday of U.S. news reporting, many communities even then lacked regular journalistic attention. Many received news coverage primarily through a single newspaper, whose output might or might not be of high quality, but which would nonetheless likely be the major source of news stories covered also by local radio and television. The Knight Commission offered the following calculation regarding the nation’s current need for local news reporting:

The 2007 Newspaper Association of America count of daily newspapers in the United States was 1,422. At the same time, there are 3,248 counties, encompassing over 19,000 incorporated places and over 30,000 “minor civil divisions” having legal status, such as towns and villages. It follows that hundreds, if not thousands of American communities receive only scant journalistic attention on a daily basis, and many have none. Even accounting for community weeklies—a 2004 survey identified 6,704 such papers nationwide—it is likely that many American communities get no attention from print journalism at all.¹⁸

From this, the Commission concluded: “Journalistic institutions do not need saving so much as they need creating.”¹⁹

¹⁷ PEW PROJECT FOR EXCELLENCE IN JOURNALISM, THE STATE OF THE NEWS MEDIA 2009: NEWS INVESTMENT, available at <http://stateofthemediamedia.org/2009/newspapers-intro/news-investment> (last accessed Mar. 5, 2013).

¹⁸ KNIGHT COMMISSION REPORT, *supra* note 2, at 27.

¹⁹ *Id.*

Against this background, the 2012 *I/S* symposium, “The Future of Online Journalism: News, Community, and Democracy in the Digital Age,” brought together leading figures from communication studies, economics, journalism, law, and sociology to discuss the economic viability of online news and the impact of online journalism on community information needs and democratic self-governance. There is much to celebrate in our new media environment, but also much that provokes anxiety—especially if one’s gaze at the future is framed by the concept of community information needs.

For the *I/S* symposium, the depth and complexity of community information needs are thoroughly illustrated in Fiona Morgan’s case study of Siler City, North Carolina.²⁰ Siler City, as Morgan describes it, is “a small, post-industrial city in a rural county at the periphery of two media markets.”²¹ And, as she further recounts: “Like many small communities in the [Research] Triangle, Siler City relies on metro media and a weekly print newspaper to supply coverage of local affairs. Yet metro media coverage has been irregular and is getting less frequent.”²² The diminution in news coverage hardly corresponds to any reduced need for civic understanding. Siler City is a diverse, but low-income community of whites, African-Americans, and Hispanics, with the lowest average levels of educational attainment in its geographic area. Politics are contentious, the economy is depressed, schools are in need of reform, and infrastructure worries are considerable. Some online venues have arisen which contribute something to the circulation of ideas, but not much to actual news reporting. Morgan writes:

Online journalism could play a significant role in improving Siler City’s information ecosystem—online discussion already does. Yet the best ways to meet this rural community’s information needs may not be particularly advanced in terms of technology, but rather will address basic information needs and tackle the problem of high fixed costs of quality content creation. (Digital distribution may be cheap, but professional reporting is not less expensive on a digital

²⁰ Fiona Morgan, *The Stories Not Told: A Case Study of the Information Needs of Siler City, North Carolina*, 8 *ISJLP* 482 (2012).

²¹ *Id.* at 483.

²² *Id.* at 496.

platform.) For Siler City, the high number of Spanish-speaking residents means even higher fixed costs, in that even quality reporting *in English* would ideally require Spanish-speaking reporters and some translation.²³

The distinction Morgan offers between the costs of distribution and the costs of reporting goes to the heart of the journalism shortfall that the shift to new media may accelerate. Online venues in Siler City are circulating ideas, but do not currently have the resource base to produce accountability journalism.

The picture of what online venues are most likely to contribute to communication information flow emerges yet more clearly from Patrick Barry's typology of neighborhood information sources.²⁴ As Mr. Barry maps the local information terrain, online information sources vary according to the degree to which those sources edit or filter the information provided to assure its accuracy and relevance. The online environment now creates the potential for an influx of unfiltered public data and crowd-sourced data, news and tip sheets that individual consumers of news would have been hard-pressed to come by in the pre-digital world. Hyperlocal blogs and neighborhood-specific special interest sites can potentially interject a significant volume of information into local conversation, although little of it may count as "reporting." Barry's map observes that online readers may find what Fiona Morgan calls "timely, reliable, authenticated news,"²⁵ but these sites, according to Barry, "depend on underpaid writers or editors."²⁶ The question is posed "whether they will always be shoestring operations paying low wages, if they can become something more, or if they will survive at all."²⁷

None of this is to deny, of course, that significant innovation is occurring, both among journalists and the institutions they cover. An important player in spurring that innovation is "J-Lab: The Institute for Interactive Journalism," which was launched in 2002 and is now a

²³ *Id.* at 530.

²⁴ Patrick Barry, *As Hyperlocal Info Streams Grow, a Taxonomy to Sort the Methods*, 8 ISJLP 531 (2012).

²⁵ Morgan, *supra* note 20, at 530.

²⁶ Barry, *supra* note 24, at 537.

²⁷ *Id.*

center at American University's School of Communications. Its founder and director, Jan Schaffer, who previously directed the Pew Center for Civic Journalism, reports that local news startups are "sprouting up in communities around the country" and "[committing] genuine acts of journalism"; their good work alone, however, does not guarantee viability.²⁸ A major insight Schaffer derives from the success stories J-Lab has observed has been the importance of innovating around collaborations—partnerships focused variously on distribution, content creation, co-reporting, or the active promotion of civic engagement.²⁹

A key, of course, to a successful business plan for any online (or other) news venture, is its audience. From that standpoint, Paul Socolar's experience in founding and growing *The Notebook*, a news organization focused on providing in-depth coverage of the Philadelphia public school system, is especially instructive.³⁰ Socolar, who had previously worked on public education issues for both the National Coalition of Education Activists and the American Friends Service Committee, realized that a web-only presence would limit *The Notebook's* potential impact, given that many parents and grandparents involved in public school issues were simply not online. *The Notebook's* combined print and online strategy, plus its activist orientation and direct involvement in a citywide anti-dropout campaign, have made it "particularly successful at reaching and engaging an economically diverse readership."³¹ Mr. Socolar's essay implicitly suggests that successful local online journalism initiatives will require offline, as well as online strategies to recruit readers and to promote engagement with their content.

The news shortfall is not just spurring innovation among those who cover the news. News making institutions are also changing. Christopher J. Davey, the Director of Public Information for the Ohio Supreme Court, details how court systems are feeling compelled to play a more proactive role in providing information to the public concerning judicial activities, given that "public trust and confidence

²⁸ Jan Schaffer, *Innovations in the Delivery of Online Local News*, 8 ISJLP 543 (2012).

²⁹ *Id.* at 549.

³⁰ Paul Socolar, *Philadelphia Public School Notebook: Resurrecting the Urban Education Beat With a Print-Web Hybrid*, 8 ISJLP 565 (2012).

³¹ *Id.* at 567.

are so integral to the mission of courts.”³² It is arguably worrisome, of course, that the public’s understanding of powerful institutions may come increasingly through narratives that such institutions provide on their own. It may be, however, that the courts are the “least dangerous” branch³³ on the information landscape because, compared to legislative bodies or executive branch offices, the courts’ capacity to mobilize public policy through flattering self-portrayal is more limited. When a prize-winning journalist can seriously pose the question, “Have the media stopped covering courts?”³⁴ judicial innovation in the online delivery of court-related information may seem an attractive alternative to no information at all.

Of course, envisioning the future of online journalism requires attention not only to the supply side, but also to the demand side for news and information. Here, too, there are reasons for both optimism and anxiety. On one hand, people are spending more time than ever on media, and they are spending for it, as well.³⁵ More of them, however, are spending less time on news: “The percentage of Americans who reported that they had gone ‘newsless’ the day before they were asked in a Pew survey rose from fourteen percent in 1998 to 17 percent in 2009—and it was highest, 31 percent, among 18 to 24 year olds.”³⁶ Moreover, as documented in the work of Talia Stroud and Ashley Muddiman, it is not clear that those who do seek news online are taking advantage of the unprecedented access the Internet affords

³² Christopher J. Davey, *The Future of Online Legal Journalism: The Courts Speak Only Through Their Opinions?*, 8 ISJLP 575 (2012).

³³ I am here echoing, of course, Alexander Hamilton, who wrote: “Whoever attentively considers the different departments of power must perceive, that, in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the Constitution; because it will be least in a capacity to annoy or injure them The judiciary . . . has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatever. It may truly be said to have neither FORCE nor WILL, but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments.” THE FEDERALIST, No. 78 at 392 (Alexander Hamilton) (Ian Shapiro ed., 2009).

³⁴ Joshua Gerstein, *Have the Media Stopped Covering Courts?*, THE CRIME REP. (Nov. 1, 2012), <http://www.thecrimereport.org/viewpoints/2012-11-has-the-media-stopped-covering-courts>.

³⁵ WALDMAN FCC REPORT, *supra* note 1, at 228.

³⁶ *Id.* at 21.

to analysis and opinion from divergent points of view.³⁷ Information policy in the United States has long been grounded on the normative premise, as these authors note, that citizens benefit from exposure to different and contesting views on public issues. Yet, “even though diverse views exist online, there is no guarantee that (1) the public will process the information with equal charity toward all perspectives or (2) each person will have the same access to diverse information as the web becomes more personalized.”³⁸

The processing of online information is arguably more difficult than ever for its audience because of “the intentional blurring of the genres of art, journalism, and advocacy.”³⁹ Renee Hobbs, the founding director of the University of Rhode Island’s Harrington School of Communication and Media, believes readers “are acquiring the new competencies they need to be effective interpreters, communicators and citizens in a world”⁴⁰ where “[p]ropaganda is so common and so effective that, in many senses, it is displacing and replacing traditional journalism, with its longstanding and careful attention to fairness, accuracy and balance.”⁴¹ Of course, not all readers may share Dr. Hobbs’s optimism. While it is true that she and many other communications educators are pioneering in the development of those skills, it is concerning that “attention to fairness, accuracy and balance” may represent a vanishingly small commitment among at least some purveyors of online journalism.

Of the pioneering initiatives in online journalism, none is more celebrated than ProPublica, self-described as an “independent, non-profit newsroom that produces investigative journalism in the public interest.”⁴² In the symposium’s keynote address, Richard J. Tofel, ProPublica’s General Manager, explains the business model behind this ground-breaking initiative.⁴³ Three features of the model leap out

³⁷ Natalie Jomini Stroud & Ashley Muddiman, *Exposure to News and Diverse Views in the Internet Age*, 8 ISJLP 601 (2012).

³⁸ *Id.* at 620.

³⁹ Renee Hobbs, *The Blurring of Art, Journalism, and Advocacy: Confronting 21st Century Propaganda in a World of Online Journalism*, 8 ISJLP 625 (2012).

⁴⁰ *Id.* at 628.

⁴¹ *Id.* at 627.

⁴² PROPUBLICA, <http://www.propublica.org/about> (last accessed Mar. 5, 2012).

⁴³ Richard J. Tofel, *ProPublica and Journalism in the Public Interest*, 8 ISJLP 639 (2012).

immediately: the firm's nonprofit structure, its reliance on partnerships, and its dependence on both market-driven and non-market-driven revenue streams. Because ProPublica has no stockholders, it is able to survive on short-term revenue yields that would be low by market standards. Partnerships allow ProPublica to focus its energies on what it does best—news reporting and application development—while relying on others to extend significantly ProPublica's audience and impact.

But, to my mind, the most critical lesson in ProPublica's success is its ability to generate both market-driven and non-market-driven revenues. This is important because, as explained by Fiona Morgan,⁴⁴ among others,⁴⁵ civic news is a public good that will always be under-produced relative to its social value if supported only by market mechanisms. This is simple economics. Because consumers of civic news know they can derive much of its benefits without paying for them, many will be content to free-ride on what other people are willing to pay to support news reporting. The resulting shortfall in news production is dangerous in a democratic society because news and information is a public good whose production yields (a) significant positive externalities that (b) are themselves public goods, and which (c) are not readily achieved through other means. These externalities include less corrupt government, a better informed and more participatory electorate, and better government performance. The underproduction of news reporting threatens each of these things.

The public goods nature of accountability journalism explains why we need social mechanisms other than the market to increase the resources available for news reporting. These may include government investments, but are perhaps more likely to comprise philanthropy, membership programs, an expanded commitment of nonprofit institutions such as foundations and universities to engage in journalism, and new forms of pro-am networked co-production that involve low or no financial compensation for many of its participants. For an enterprise like ProPublica, which has a national and international audience—and an impact of potentially equivalent scope—there is every reason to believe that enough of these non-market-driven forms of support are available to sustain robust online

⁴⁴ Morgan, *supra* note 20, at 487.

⁴⁵ JAMES T. HAMILTON, *ALL THE NEWS THAT'S FIT TO SELL: HOW THE MARKET TURNS INFORMATION INTO NEWS* 8-9 (2006); Peter M. Shane, *Democratic Information Communities*, 6 *ISJLP* 95, 111 (2010).

journalism. The picture for local communities, with correspondingly smaller populations and economies, is much less clear.

In the spring of 2012, I invited talented students in a Harvard Law School seminar on the future of media policy to rough out a business plan to support a hypothetical journalism enterprise for Braddock, Pennsylvania, a struggling former steel town of about 2,500 people that has gotten significant publicity because of the tenacity and vision of its charismatic mayor, John Fetterman.⁴⁶ Their conclusion: a viable enterprise would be impossible without philanthropic investment, and there is no obvious source to make that investment. With over half the country still living in relatively small towns or rural areas,⁴⁷ Braddock's news problems are surely not unique.

As Richard Tofel noted in his remarks, FCC staff concluded that a redirection of just one percent of Americans' charitable giving, if directed to nonprofit media, would produce \$2.7 billion a year.⁴⁸ That could fund not only all of what we now enjoy as a nation in terms of public radio and television, but, by Mr. Tofel's estimate, 100 ProPublica's, as well.⁴⁹ The challenge to Americans is figuring out how to muster resources of that magnitude on behalf of meeting community information needs. The theoretical potential for online journalism—with its inherent flexibility and low distribution costs—to help sustain a vibrant, well-informed U.S. democracy is limitless. Translating that potential into reality, however, looks to be no small challenge.

⁴⁶See 15104 BRADDOCK, PENNSYLVANIA, <http://15104.cc/braddock> (last accessed Mar. 5, 2013).

⁴⁷Wendell Cox, *America is More Small Town Than We Think*, NEW GEOGRAPHY (Sep. 10, 2008), <http://www.newgeography.com/content/00242-america-more-small-town-we-think> (last accessed Mar. 5, 2013) ("In 2000, slightly more than one-half of the nation's population lived in jurisdictions—cities, towns, boroughs, villages and townships—with fewer than 25,000 people or in rural areas.").

⁴⁸WALDMAN FCC REPORT, *supra* note 1, at 355.

⁴⁹Tofel, *supra* note 43, at 647.

