FOUR

Inside the Beltway as an Interpretive Community: The Politics of Policy

When an issue is raised in society, the first (and often most momentous) move is the one which defines it as "policy" or "politics," for once done, the rules of the game, including who can play, are set.
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Introduction

Broadcasting Policy versus the Policy of Commercial Broadcasting

This chapter is about a puzzle. Since the consolidation of the system in the early 1930s, there has been a great deal of discussion surrounding something called "broadcast policy" in the United States. That discussion, however, is not about the American policy for broadcasting, about the American broadcast system.

Broadcast policy is an accepted part of the institution of commercial broadcasting. Station owners, network executives, and program producers all devote considerable amounts of time to following broadcast policy developments, supporting and advising the lobbying activities of their trade organizations, and, when necessary, directly participating in efforts to influence the FCC and Congress. To commercial broadcasters such activities are as inevitable as maintaining an inventory or paying taxes. Broadcast policy also thrives in a series of nonprofit organizations, think tanks, foundations, and university programs and disciplinary specialties. Every year, research grants are given, studies commissioned, conferences held, courses taught, and dissertations written under the rubric of broadcast (or sometimes "telecommunications") policy.[1] And

1. The history of the shifting variety of terms (e.g., broadcasting, communications, electronic media, telecommunications) and their shifting referents (ranging from AM radio to the telephone to military remote control systems) is complex enough to be worthy of a monograph. Because the focus here is on the institution of broadcasting, I will use "broadcast policy," even though "communications" and "telecommunications" are just as frequently used in practice, probably because the Communications Act and corporate America both tend to treat broadcasting and common carriers as subcategories of a whole.

at the center of these activities is the community of Washington-based lobbyists, lawyers, and career bureaucrats whose professional raison d'être is the broadcast industry, whose theater of operations is the FCC, and whose horizons are set by the terms and procedures of the 1934 Communications Act. Far from disappearing from the agenda, then, broadcast policy has become the basis for a thriving set of activities.

Broadcast policy nonetheless leaves the underlying legal and institutional framework of the system untouched. Granted, grand principles like free speech, the public interest, and the marketplace are frequently mentioned and debated in textbooks, professional conferences, congressional and administrative hearings, and government reports. And historically there have been challenges to one or another element of the system: attacks on the autonomy of station ownership during the 1940s, for example, and attacks on the public-interest principle during the 1980s. Nonetheless, with one or two possible exceptions, the desirability of the advertising-supported system of broadcasting has never been the subject of policy debate.[2] As we will see, the corporate liberal foundations have been left untouched throughout: the for-profit character of broadcasting, government licensing in the system's behalf, advertising support, and the other integral components of the system remain simply taken for granted, unchanging givens of the broadcast policy universe.

So what is broadcast policy about, if it is not about the American policy for broadcasting? This chapter offers an analysis of the broadcast policy-making process in the United States, focusing on the patterns of shared meanings (with associated political and social values) implicit in and enacted by conventional policy procedures, organizational structures, and professional roles common to the policy arena. It suggests that policy making may be usefully understood as taking place within a specific interpretive community, a community of individuals that interact with one another in such a way as to generate a shared, relatively stable set of interpretations in the face of potentially unresolvable ambiguities. What makes a ruling appear practical, a legal decision seem sound, or a procedure appear fair, is the contingent, shared vision of the interpretive community itself, not simply rational policy analysis, legal reason, formal rules of process and procedure, or interest group pressures. Looking at the FCC and broadcast policy making this way, this chapter argues, suggests explanations for both shifts and continuities in broad-

2. Two exceptions to the general rule of nondiscussion of corporate fundamentals in broadcast policy might be the failed 1934 effort to grant one-quarter of the AM band to nonprofits, and the discussion that led to the creation of PBS in the 1960s.

cast policy, and allows for an analysis of policy within the context of broad historical trends.

This chapter looks at broadcast policy, then, as a way of thought embedded in a social and institutional context. And it argues that the way of thought peculiar to broadcast policy, while certainly not eliminating all debate and political struggle, nonetheless aids in the creation of broad corporate liberal boundaries outside of which debate cannot go. As an institution, therefore, broadcast policy supports the principles of corporate liberal broadcasting by legitimating those principles without calling them into question.

Communities, Rules of Discourse, and the Power of Interpretation

Meaning is contextual. It is created, kept alive, and changed by people acting within institutional, social, and historical contexts. Some scholars describe the basic unit of support for patterns of meaning in social life as an "interpretive community," a community of individuals that interact with one another in such a way as to generate a shared, relatively stable set of interpretations. The formation of interpretive communities is an ordinary, perhaps fundamental, human process: over time, any group tends to create informal, commonly shared interpretations of the meaning of phrases, words, and activities important to the group, and builds institutional structures in which to maintain those shared meanings.[3] Those structures, in turn, embody discursive rules, rules about what can be said and done and what can't be said and done, and more important, how to say and do them.

Within interpretive communities, imponderables that otherwise might be open to an infinite variety of interpretation—moral values, canons of aesthetic taste, religious matters—are given relatively stable, agreed-upon meanings. The child may wonder how God created the world in seven days, the undergraduate may question the value of Shakespeare, but the designation of authorities (priests, professors) and the creation of institutions for inculcating the doubtful with appropriate

3. The phrase "interpretive community" has been made famous by Stanley Fish in *Is There a Text in This Class? The Authority of Interpretive Communities* (Cambridge: Harvard University Press, 1980). The general idea that meanings are collectively created and stabilized in symbol use by interacting communities, however, has a much wider currency in anthropology and sociology, going back, on this side of the Atlantic, to the works of C. S. Peirce, G. H. Mead, and the symbolic interactionist school and, on the other side, to Husserl, Alfred Schutz, and the tradition of phenomenological sociology.

interpretations helps assure that by the time the child is an adult, by the time the undergraduate graduates, they will have come to share the interpretations they once doubted.

The broadcast policy world is rife with imponderables, of which the public-interest standard is only the best known.[4] Like other human communities, therefore, the maintenance of stable meanings is a matter of building interpretive communities appropriate to the social and institutional context. These meanings are sometimes articulated explicitly, but more often implicitly represented or enacted in institutional structures, organized activities, and patterns of interaction. In this way, the policy process itself becomes meaningful; it takes on meanings that are in some ways more important than the explicit issues that are discussed within policy debate. Policy making, then, is not just a goal-directed activity. It is a way of thought.

This is not to say that broadcast policy making is free of dissent. Not everyone in the policy arena thinks the same way. Broadcast policy is characterized more by constant struggles and disagreement, not by some monolithic ideology. Policy "issues," as they are called, are always being hotly contested; knowing what those issues are, who is involved, and what is at stake is part of the job of the broadcast policy expert. Broadcast policy is hardly a straightforward matter of engineering. It is not a clean, neutral, predictable, mechanical, or routine process.

The approach here is based in an observation from interpretive sociology: whether one is dealing with parking-lot brawls or parliamentary debates, in human social contexts certain things can and cannot be said and done, and they must be said and done in certain ways. Disagreement, when it does occur, must occur within a broad framework of underlying assumptions, of what might be called discursive rules. Those rules are not so much rigid requirements as they are structures of expectations—including expectations about conflict—that embody the underlying operating assumptions of any social order.

The power of discursive rules lies in this: their influence on how one's statements and actions are interpreted by others. Discursive rules thus do not restrain action; they determine whether one's arguments make sense to others, and what sense others make of them. The heretic's artful violation of a rule or two, for example, might attract attention precisely because his or her actions would be labeled as violations from

4. For a discussion of indeterminate concepts in communications policy, see Thomas Streeter, "Beyond Freedom of Speech and the Public Interest: The Relevance of Critical Legal Studies to Communications Policy," *Journal of Communication* 40 (spring 1990): 43–63.

within the framework of discursive rules; the framework still operates in the heretic's arguments, even if negatively. But speaking from too far outside the framework renders one, not a heretic, but uninteresting, incomprehensible, or at best quaint—a far more effective way to silence opposition than condemnation. The world of broadcast policy is no exception: underlying all the (very real) disagreements and debates is a relatively constant structure of expectations that limit discussion, not by coercion, but by way of the subtle but profound power of interpretation.

Inside the Beltway as an Interpretive Community

The existence of this kind of interpretive community in American politics is informally acknowledged by the colloquialism known to all who are involved with the policy process: "inside the beltway." This phrase does not just refer to a place: many of the poor and working-class residents of Washington, DC, are geographically inside the freeway that circles the city, but they are not "inside the beltway," and some of those who *are* "inside" spend much of their time geographically elsewhere. Rather, the phrase stands for both an institutional context—the network of public and private organizations associated with the federal government—and a perspective—the point of view of Washington officials and bureaucrats, which is acknowledged to be peculiar and difficult to understand to those on the "outside."

The interpretive community of broadcast policy is basically a subset of the larger "inside the beltway" community in Washington. Like any interpretive community, it has its structures of authority, its masters and initiates, its roles and rituals. Taken together, these activities help generate stability of interpretation both on the level of contingent issues (e.g., Is it acceptable to discuss common-carrier regulation of cable TV this year? Is a rhetoric of "economic efficiency" necessary to being taken seriously today?) and on enduring patterns of thought (e.g., the belief that political problems can be resolved by expertise).

Of course, the interpretive community does not generate absolute unanimity on all issues. Particularly since its self-understanding includes the premise that its activities are on some level consistent with liberal democratic discussion, it frequently engages in heated debate and struggle over particular issues. But it organizes and circumscribes debate in very particular ways. One of the functions of any interpretive community is to designate which issues and which positions are properly subject to debate, and which issues are beyond the pale. A measure of the ideological strength of an interpretive community is the extent to which it can ignore its critics: if one resorts to denouncing those who speak from outside the community, the interpretive framework is troubled,

but if one can afford to greet them with indifference, the power of the framework is secure.

The core institutions that maintain the particular interpretive community associated with broadcast policy are the FCC and similar government offices: that is, the Federal Trade Commission, the Office of Management and Budget, Congress's Office of Technology Assessment, and the National Telecommunications and Information Administration (NTIA) in the Department of Commerce. These institutions, in turn, share personnel and maintain ongoing relationships with a number of congressional committees and committee staffs.[5] Mastering the shifting labyrinth of organizations, congressional subcommittees, hearings, procedures, and terminologies in which broadcast policy is conducted has been the basis for many a distinguished and lucrative career.

Another premise shared by the broadcast policy community is that of the autonomy and neutrality of expertise. Although the FCC and related government institutions are to various degrees independent and neutral under law, they lack both the resources and the institutional distance from elected officials to successfully produce analyses that consistently appear autonomous and expert.[6] Other institutional homes for broadcast policy experts are needed.

Research universities, of course, are a natural institutional site for fostering the required neutral expertise. They regularly provide the society with a corps of individuals whose claim to authority and income rests on their degrees and professional training, and who thus are predisposed to careers as experts of one sort or another. Moreover, the tradition of the disciplinary specialty dovetails nicely with the sociopolitical need for expertise in policy matters; broadcast or telecommunications policy can and has become a subspecialty for academics in political science, communications, and law. Courses appear in the catalogs, articles appear in the journals, and academic conferences devote panels and subdivisions to matters of broadcast law and policy. In a few cases, universities have created institutes and programs specifically devoted to media policy.[7]

5. Key congressional subcommittees include the Subcommittee on Communications of the Senate Committee on Commerce, Science, and Transportation, and the Subcommittee on Telecommunications and Finance of the House Committee on Energy and Commerce.

6. There are exceptions. In the late 1980s the Office of Technology Assessment showed unusual autonomy, in some ways bucking the deregulatory trend with its report titled *Critical Connections: Communication for the Future,* OTA-CIT-407 (Washington, DC: Government Printing Office, 1990).

7. Well-known university programs include City University of New York's Center for

From the point of view of the broadcast policy world, however, universities can be *too* independent. Tenure and the principle of intellectual freedom allow for work that strays far outside the proper bounds of policy research. Psychologists, for example, have produced a steady stream of work that embarrasses television network executives with exhaustive studies of the negative effects of televised violence. Marxists and other malcontent tenured radicals rail against the for-profit foundations of the system in print and in front of their undergraduates. And even more frequently, academics produce work that is simply too technical and specialized to be of use to those inside Washington: the jargon, theorizing, and concern for obscure academic debates produces scholarship that does little more for policy participants than cause their eyes to glaze over.

The authors of this scholarship may believe that their work is ignored by the policy circles in Washington because of a cowardly resistance to hard truths or because of a conspiracy on the part of the powers that be. Those inside the policy world, on the other hand, are more likely to say that the problem is simply that this kind of academic work is too "impractical." There is a certain kind of truth to the latter explanation: to be practical in this context means that one somehow contribute to the larger project of using neutral expertise to integrate broad liberal principles within a corporate consumer economy. Being "practical" in this particular corporate liberal sense is a requirement of admission to the world of broadcast policy, and being "practical" is not exactly the same as being brilliant, wise, or insightful. Hence, if academic research doesn't successfully associate itself with this larger project, no amount of compelling evidence or elegant theory can gain the research a serious hearing in the policy world.

Because of the tendency toward "impracticality" in academia, a number of secondary institutions have evolved for circumscribing policy discussion: a few think tanks and foundations have made broadcast policy one of their specialties.[8] At least one well-funded annual conference (the

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Public Policy and Telecommunications and Information Systems; Columbia Business School's Center for Telecommunications and Information Studies; Harvard's Program on Information Resources Policy; MIT's Research Program on Communications Policy; New York University Law School's Communications Media Center; Northwestern's Annenberg Washington Program in Communication Policy; and UCLA Law School's Communications Law Program. Graduate programs in media and communications with faculty interested in policy also are common in research universities throughout the country, particularly in land grant institutions.

8. The Rand Corporation, the Markle Foundation, the Gannett Foundation, and the

Telecommunications Policy Research Conference) devotes much of its energy to media regulation, and occasional blue-ribbon commissions (e.g., the Carnegie Commission on Educational Television)[9] all provide funding and outlets for policy expertise. The function of these organizations is to foster that special mix of practical yet expert activity that corporate liberal policy requires. They thus provide funding, outlets for research, and contexts that bring select academics and other experts together with Washington insiders around specific policy issues. The result is a steady supply of new research grants, conferences, research reports, and jobs for policy specialists, carefully screened and selected by the community of policy experts themselves. In this context, the shared meanings necessary for interpretive stability can be maintained.

It is tempting to understand the institutional context of broadcast policy instrumentally: after all, corporations pay corporate lawyers and lobbyists and create trade organizations in order to serve corporate interests in Washington.[10] Conflicts are generally between corporations, not between corporations and other "interests." Much of what goes on is thus fueled rather directly by corporate profit desires.

Yet the profit motive alone cannot account for all that goes on, at least not in a simple way. For, in a corporate liberal environment, administrative neutrality and expertise are political prerequisites of procorporate decisions. If there is going to be government intervention on the industry's behalf, it must be done in a way that at least suggests the presence of neutral principles and expert decision making, that is, some independence from corporate interests. As a result, even corporations have an interest—an ambivalent one—in fostering institutions that are not mechanically tied to corporate designs, institutions that demonstrate some autonomy.

Aspen Institute have all on occasion given substantial support to conferences and research programs in media policy areas.

9. See the Carnegie Commission for Educational Television, *Public TV: A Program for Action* (New York: Harper & Row, 1967). For a similar though lesser-known example of a blue-ribbon study, see the Sloan Foundation, *On the Cable: The Television of Abundance* (New York: McGraw-Hill, 1971).

10. The familiar "capture" theory of regulation can be interpreted this way, but the classic statement of this method of accounting for state action in capitalist societies is G. William Domhoff's Marxist instrumentalist account, *The Powers That Be: Processes of Ruling Class Domination in America* (New York: Vintage, 1979). For a direct and relatively compelling application of Domhoff's theory to communications policy, see Vincent Mosco, *Pushbutton Fantasies: Critical Perspectives on Videotex and Information Technology* (Norwood, NJ: Ablex, 1982), 24-37.

The Meaning of Broadcast Policy: Expertise Brings Order to Chaos on Behalf of Liberalism

Corporate Liberal History: The 1927 Act as the Rule of Law

One key to understanding any community is to look at the stories the community tells itself about itself. The community of broadcast policy is no exception. With remarkable frequency, textbooks, law journals, and legal decisions tell a particular version of the story of the 1927 Radio Act and the origin of broadcast law in the United States. In the early 1920s, the story goes, the fledgling broadcast industry lacked a proper institutional and legal order. As a consequence, broadcasters interfered with one another and chaos reigned. In response to the chaos, Congress stepped in and resolved the problem by passing the first legislation to govern broadcasting and by creating the FRC. The imposition of law and administrative structure thus brought order to chaos. This is the origin myth of American broadcast policy.[11]

Not surprisingly, these abbreviated historical accounts vary somewhat according to the agenda of their authors. The most common telling of the story describes the 1927 act and the resulting regulatory apparatus as the technologically necessary outcome of a period of preregulatory chaos in the 1920s.[12] Some conservative advocates of marketplace principles, on the other hand, have recently described the act as the ham-handed actions of marauding government bureaucrats restraining the efforts of plucky commercial entrepreneurs operating in a natural marketplace.[13] Significantly, however, none of these accounts discuss in any

11. A representative example of this version of the story can be found in Erwin G. Krasnow, Lawrence D. Longley, and Herbert A. Terry, *The Politics of Broadcast Regulation,* 3d ed. (New York: St. Martin's Press, 1982), 10–12.

12. The Supreme Court has tended to tell this version of the story when upholding broadcast regulations against charges of interference with the rights of broadcasters. See *National Broadcasting Co., Inc., et al. v. United States et al.,* 319 U.S. 190 (1943), reprinted in *Documents of American Broadcasting,* ed. Frank J. Kahn, 4th ed. (Englewood Cliffs, NJ: Prentice Hall, 1984), 138–41; the same argument is used in *Red Lion Broadcasting Co., Inc., et al. v. Federal Communications Commission et al.,* 395 U.S. 367 (1969), reprinted in Kahn, *Documents of American Broadcasting,* 275–93. Textbooks lean toward this version of the story as well. See, for example, Don R. Pember, *Mass Media Law,* 2d ed. (Dubuque, IA: William C. Brown, 1981), 424–25; and Marc A. Franklin, *The First Amendment and the Fourth Estate: Communications Law for Undergraduates* (Mineola, NY: Foundation Press, 1977), 461–64.

13. For example, Thomas Hazlett, "The Rationality of U.S. Regulation of the Broadcast Spectrum," *Journal of Law and Economics* 33 (April 1990): 133; and Matthew Spitzer, "The Constitutionality of Licensing Broadcasters," *New York University Law Review*

detail the pre-1920 history of broadcasting I discussed in chapter 3. All those events that set the stage for the both the regulatory patterns and the broadcast marketplaces of the 1920s—the assertion of legal control of the spectrum on behalf of a corporate-military alliance in 1912, the efforts of the amateurs during the teens, and so forth—are omitted from the accounts.

These omissions reveal a more general story that is being told in the context of the specific story of early broadcasting: the story that laws impose order on social relations, not the other way around. By starting the story in the early 1920s, one does not have to address the extralegal organizational patterns that presaged the 1927 act. Without the pre-1920 developments, the 1927 act is not a matter of asserting one *kind* of order at the expense of other possible forms of organization, nor a matter of using legislation to underwrite an already present but prelegal form of order. Rather, before there was simply chaos, and then in 1927 law brings order and justice.

Part of the implicit message here is a reassertion of the liberal belief in "the rule of law, not of men," that is, in the capacity of formal rules and procedures to transcend politics. The traditional story implies that the 1927 act and its 1934 successor represent an abstract, transcendent, impersonal order—the rule of law—not an assertion of the visions, designs, and interests of some specific groups and individuals at the expense of others—the rule of men. But it is also a particularly corporate liberal variant of that belief: it is less a story of lawyers and judges locating bright lines in the world of rights and responsibilities than a story of administrator-engineers making technical decisions on the basis of the public safety, kilohertz, signal-propagation characteristics, technological progress, and so forth.

Corporate Liberal Organization: The Federal Communications Commission

An obvious (though not the most cogent) sign of the corporate liberal principles underlying broadcast policy is the structure of the FCC that originated in the 1920s. By law, the FCC is an independent regulatory commission supposedly insulated from the winds of politics by formal institutional boundaries and rules. FCC decisions can be appealed to the

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64 (November 1989): 990, 1046. Although Hazlett and Spitzer treat their revision of the history as highly original, its outlines are essentially the same as those used, with polemical clarity, in Ayn Rand, "The Property Status of the Airwaves," in *Capitalism: The Unknown Ideal* (New York: Signet, 1967), 122-29. These arguments are discussed in more detail in chapter 6.

federal courts, but only when the FCC can be claimed to have violated a legal or constitutional rule; the courts accept that, within its own sphere, the FCC's administrative expertise is to be respected. Commissioners must come from both political parties, and once appointed they are by law independent. The organization of the FCC thus embodies the corporate liberal faith that neutral expertise and social engineering can be brought into the service of liberal principles.

As any cultural anthropologist is quick to assert, underlying rules of behavior are rarely of a mechanical sort. Rather, their application is more a matter of art than science, and is typically rife with ambiguity and nuance. Participants must do a lot of work to creatively construct actions that uphold or celebrate the rules, often in contexts with which the rules seem to conflict. In the case of the FCC, for example, many decisions can be explained in terms of partisan politics; a newly elected administration in Washington typically appoints a majority of sympathetic commissioners to the FCC, who then make decisions reflecting the administration's views.[14] When the Reagan administration appointed Mark Fowler to be commission chair, for example, Fowler's many proindustry, "deregulatory" decisions at the FCC reflected the general political views of the Reagan administration.

Yet the rules of the game are such that the decisions cannot be officially justified on political grounds. Commissions are supposed to be staffed by experts, not politicians. A commissioner cannot defend a decision with the argument that "this is what the majority of the people want because they voted this way." FCC decisions must be justified within the framework of expertise: with references to expert testimony, statistical evidence, and a neutral public interest. More than one FCC decision has been overturned by the courts simply because these discursive rules were violated, because the political nature of its decision was not sufficiently couched in the trappings of neutral expertise.[15] In one particularly illustrative case, Fowler changed his vote on a broadcast policy issue after a visit to the White House. Eyebrows were raised throughout

14. James M. Graham and Victor H. Kramer, *Appointments to the Regulatory Agencies: The Federal Communications Commission and the Federal Trade Commission, 1949-1974,* printed for the use of the Senate Committee on Commerce, 94th Cong., 2d sess. (Washington, DC: Government Printing Office, April 1976), 385-86.

15. For example, Action for Children's Television was able to force the FCC to revisit its decision to allow program-length commercials, not because the courts thought the decision itself was a bad one, but because the courts thought that the FCC had not done a proper job of gathering evidence to support its decision; that is, it had not been properly expert (FCC, "Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations," 98 F.C.C. 2d 1012 [1984]).

Washington, and some suggested that his action constituted a violation of the law.[16] Fowler's mistake in the incident was not that he pursued policies shaped by the politics of the president that appointed him. No one would expect him to do otherwise. His mistake was to allow the politics of his decision to become blatant. He violated the discursive rules of policy.

Today, it must be pointed out, the belief in the administrative neutrality and expertise of the FCC has lost much of its cogency among participants in the policy world. This may in part be because of its obviousness: a particular ritual activity once cherished can over time become a stale cliché that no longer grips the imagination the way it once did. So today among seasoned policy experts it is a matter of insider wisdom that the FCC's autonomy is largely a chimera, that its activities are deeply political. But this does not mean that the policy insiders have abandoned the ideal of apolitical expertise. When symbols become clichés, communities are more likely to create new, more subtle symbols than they are to abandon the premises that the symbols embody.

The inhabitants of the contemporary broadcast policy world, therefore, follow more subtle, implicit versions of the discursive rules of expertise and apolitical objectivity. These rules exist on an implicit level throughout key sectors of twentieth-century American political culture, and by their implicitness are rendered all the more powerful. The rules extend to lobbying organizations, congressional committees, foundations, think tanks, the legal profession, and, at the policy world's outer perimeter, universities. This world is united by shared patterns of talk and action, by the set of expectations that come with the idea of expertise in a corporate liberal universe.

Corporate Liberal Semantics: Policy and Politics

Another interesting clue to the meaning of broadcast policy thus involves a pattern of talk, a habit of speech. Today, among those who inhabit the world of broadcast policy, it is often asserted as a matter of insider wisdom that broadcast policy is a highly *political* process. Curiously, however, one does not refer to the activities of this world as "broadcast politics." One does not hear of a "Telecommunications Politics Research Conference" or see courses on broadcast law and the FCC listed in university catalogs as "Broadcast Politics." None of the lawyers, lobbyists, bureaucrats, or academics whose careers focus on broadcast policy describe themselves as "broadcast politicians." In spite of the fact

16. Ann Cooper, "Fowler's FCC Learns Some Hard Lessons about What It Means to Be 'Independent,'" *National Journal,* April 6, 1985, 733.

that it is regularly described as political, in sum, the world of broadcast policy remains "policy."

To untangle this oddity, one needs to look at the two words "politics" and "policy." Over the centuries, the precise meanings of these two members of the *polis* family of words have shifted in complicated ways.[17] And in contemporary French and German, the distinction between "politics" and "policy" does not exist; each language has only a single word—"politique" and "Politik," respectively.[18] But in contemporary American discourse, policy is different from politics.

Basically, policy is spoken of as something quite distinct and opposed to the raucous clamor and maneuvering of open political struggle among self-interested parties. The most common ideal image of policy making is that of a neutral, calm, reasoned, carefully moderated process. Hence, there are frequent complaints about the "interference" of political concerns with policy making, and calls are frequently heard for replacing a chaotic "political" process with a rational "policy" process. As Harold Lasswell put it when he defined "the policy orientation," " 'policy' is free of many of the undesirable connotations clustered about the word *political,* which is often believed to imply 'partisanship' or 'corruption.' "[19]

Exactly what people have in mind when they discuss the policy process varies. For some it is envisioned as expert advice and guidance; for others, plans for management and coordination developed along scientific or rational principles; for others, rationalized structures for decision making such as administrative agencies and committees; and for many, it means some mixture of all of these. The yardstick of order and reason also fluctuates: there have been periods when the dominant model seems to have been legal reason, and others when it was social science, whereas today it is largely economics—though the model of electrical

17. According to the *Oxford English Dictionary,* the word "policy" itself apparently was once associated with the word "polish," and carried connotations of refinement, elegance, culture, and civilization. It has also been used to refer to formal documents that serve as evidence of money paid, as in "insurance policy." Throughout history, however, its most important meanings have come from its association with the complicated word "politics." At times the two words have been used more or less synonymously. The *OED* lists some of the older meanings of policy as "expedient . . . cunning, craftiness, dissimulation," and "a device, expedient, contrivance; a crafty stratagem, trick," senses today reserved for particular uses of "political."

18. Arnold J. Heidenheimer, " 'Politics,' 'Policy,' and 'Policey' as Concepts in English and Continental Languages: An Attempt to Explain Divergences," *Review of Politics* 48 (winter 1986): 3–30.

19. Harold D. Lasswell, "The Policy Orientation," in *The Policy Sciences* (Stanford: Stanford University Press, 1951), 5.

engineering seems to be a constant in the background of these shifting fashions. In any case, society, it is felt, sometimes needs something more orderly, more stable, more scientific, more rational than the simple struggle of self-interest or the uncertainty of political struggle. It needs, in other words, a process for making policy.[20]

In another context, Rolf Kjolseth has neatly captured the implications of the policy/politics distinction in contemporary discourse. A "political matter," he writes, "is one which has been socially defined as involving decisions where all those who are understood to be directly affected by the outcome are granted rights to influence the decision directly; by contrast, a 'policy matter' is one which has been defined as involving decisions in which only those certified as specially qualified (by training or office) are granted the right to have a direct influence upon the decision." Hence, these two terms are associated with different ways of organizing decision making:

> "politics" opens the door to participation by a wide range of persons and interest groups, . . . "policy" withdraws the matter to a narrow range of known and predictable experts . . . When an issue is raised in society, the first (and often most momentous) move is the one which defines it as "policy" or "politics," for once done, the rules of the game, including who can play, are set. Politics runs by popular democratic rules; policy follows elite, technocratic rules.[21]

The fact that it is broadcast *policy,* not broadcast *politics,* then, implies that what goes on in the FCC and related arenas is a neutral, technocratic activity. That the inhabitants of this world consistently refer to what they do as "policy" implies they are, by their own definition, specially qualified experts dealing with technical matters, not politicians dealing with matters of social value.

The larger point here is this: even on the level of language, today's broadcast policy experts are heirs (frequently unconsciously) to the faith, born in the utopian visions of Saint-Simon and Comte and imported to the United States by Charles Francis Adams, in economic management by government-appointed social engineers. And they

20. This ideal, associated with the Weberian ideal of administrative rationality, was embodied in Lasswell's seminal vision of "policy science," and was declared an actuality in the field of communications by Ithiel de Sola Pool in the early 1970s. See Ithiel de Sola Pool, "The Rise of Communications Policy Research," *Journal of Communications* 24 (spring 1974): 31–42.

21. Rolf Kjolseth, "Cultural Politics of Bilingualism," *Society* 22 (May–June 1983): 47.

implicitly follow the ideals of Senator Charles C. Dill and Herbert Hoover, who hoped for radio regulators that were not "politicians," but "men of technical and legal experience." For all their claims to the contrary, in their language and demeanor they cling to the supposition that the government's relation to the broadcast industry is a matter of policy, not politics.

Of course, the world of broadcast policy is bounded, not simply by the faith in neutral expertise, but by that faith in its corporate liberal form. Broadcast policy experts do not use their expertise to question the value or coherence of basic liberal values in broadcasting. They take for granted that broadcasting can and should operate on a commercial marketplace basis. The world of broadcast policy, therefore, is corporate liberal at its core: to be taken seriously as a broadcast policy expert, one's style, language, and behavior must uphold one or another version of the argument that classical liberal principles can be squared with government intervention by way of expertise.

What is meant, then, by the word "politics" inside this framework, when "policy" experts assert that "broadcast policy is political"? "Politics," it can be argued, has always carried two connotations: "high" politics and "low" politics. The two connotations are often hard to separate; since Machiavelli they have been inextricably intertwined. Roughly speaking, however, high politics is associated with the state, a body of citizens, or government affairs, particularly of a secular, democratic nature—it is what Kjolseth calls "involving decisions where all those who are understood to be directly affected by the outcome are granted rights to influence the decision directly." Low politics, in contrast, is politics in the sense of maneuvering and strategizing for the gain of oneself or one's group. In its most negative sense, low politics connotes scheming, craftiness, and the smoke-filled room. Hence, although "policy" was also once used in both the low and high senses of "politics," today it would seem incongruous to use "policy" in this way. Perhaps due to its secondary associations with civilized refinement and formal documents, "policy" has been moved into a position of contradistinction to low politics. Policy has become politics with the low sense removed. Hence, we can now speak of "politics interfering with policy," and call for a "rational policy" as opposed to "mere politics."

When broadcast policy experts talk about "politics interfering with policy," and speak of the "political" nature of policy-making processes, they mean politics in the low sense, politics in the sense of maneuvering for gain, in the sense of the smoke-filled room. They do *not* mean politics in the high sense, politics in the sense of democratic decision making by

citizens. "Politics" in this world means a messy departure from the policy ideal—an inevitable one, perhaps, but nonetheless a departure.

Put this way, the character of American "broadcast policy" becomes clear: broadcast policy is a realm for experts, not for "politics" in the broad sense of governance in a democratic society. High political questions are not on the agenda; they are considered to be resolved, and thus to be taken for granted or at least best left to others. And when those inside the delimited broadcast policy world knowingly acknowledge that policy is political, they mean political in the sense of maneuvering for gain—low politics. The world of policy, they readily acknowledge, has become infected by the processes associated with self-interested strategizing and struggles. But they don't describe the subject matter of their conferences and research grants as "broadcast politics" because this might imply high politics: matters of value, structure, and legitimacy that they and their sponsors have little interest in opening for consideration.

Corporate Liberal Discourse: The Slide from Rights to Measurement

There have been those who, exasperated with the arid formalism of classical legal thought, argue that law schools should be turned into policy institutes, and lawyers turned into sociologists.[22] Occasional hubristic flights of social engineering aside, however, policy terms and procedures generally figure as subordinate and complementary to traditional liberal principles, not as alternatives to them. A useful illustration of the way that policy discourse relates to liberal principles can be seen in a favorite debating topic in broadcast policy for the last twenty years: the fairness doctrine. The doctrine was an FCC rule that between 1949 and 1987 required broadcast station owners to provide balanced news coverage of controversial issues. As of this writing it seems possible that it will be revived in some form by Congress.

All sides in the fairness doctrine debate conform to a basic legal liberal framework. All agree that the ultimate purpose of broadcast regulation is to protect the freedom of individual communication from constraint by others, and thus to maintain what the Supreme Court calls "an uninhibited marketplace of ideas in which truth will ultimately prevail."[23] (If one were to make an argument that fell completely outside the existing framework, for example suggesting that any form of the mar-

22. Harold D. Lasswell and Myres S. McDougal, "Legal Education and Public Policy: Professional Training in the Public Interest," *Yale Law Journal* 52 (March 1943): 203–95.

23. *Red Lion,* 287.

ketplace is inherently against the social good, one would be ignored by courts, the FCC, and, in all probability, funding agencies.)

Both opponents and proponents of the doctrine tend to begin by framing their arguments within something resembling classical liberal terms, such as the language of absolute free speech rights. Opponents might describe the doctrine as a case of state tyranny constraining the free speech rights of an individual broadcaster, or of marauding government bureaucrats and special interest groups limiting the self-expression of a licensee. Proponents might begin by depicting the situation as one in which, in the absence of the doctrine, individuals with alternative opinions are constrained from exercising their free speech rights by the notoriously centrist and politically timid television industry, or in which powerful broadcasters prevent minorities, activists, and people with unpopular opinions from expressing their views. In each case, the situation is framed in terms of active individuals with rights struggling against constraints to those rights.

Framed in these classical terms, however, the debate is threatened with some ambiguities. Everyone within the policy arena agrees that we should protect individuals' freedom to communicate by limiting constraints on that freedom by others, for the purpose, ultimately, of upholding the marketplace of ideas and thus the public interest. But who has rights that are being constrained and who is interfering with those rights? Is the selection of a schedule of broadcast programming, the decision to include some programs and exclude other programs, an exercise of freedom or an act of constraint? What about forcing a station to add one's own point of view to that schedule? It is hard not to conclude that both actions involve both freedom and constraint, and that the idea of inviolable rights cannot be applied in this situation.

The typical route out of this kind of dilemma is illustrated in the *Red Lion* case of 1969, in which the Supreme Court upheld the fairness doctrine. The Court responded to the dilemmas of absolute rights by turning to "policy" arguments. The Court made it clear that in the case of broadcasting the normal exercise of rights can restrict the rights of others; ownership of a television station, after all, gives one the power to prevent others from using it. Broadcasters, the Court reasoned, are necessarily much fewer in number than the audience, yet have a much greater opportunity to make their views heard. Arguing functionally, the Court suggested that treatment of broadcasters' free speech rights as absolute would clearly violate the purpose, if not the letter, of the First Amendment. So, the Court shifted the terms of discussion away from moral principles toward technical, "empirical" questions: Is there some tech-

nological necessity that can help decide the question, such as a scarcity of broadcast spectrum? Is there sociological evidence that provides an answer, such as a measurable chilling effect of the doctrine on broadcasters? The Court, in other words, sought to rescue the marketplace of ideas by recasting the problem in terms of empirical questions amenable to resolution by the logic of sociological expertise.

Broadcasters and audiences, the Court assumed, possess competing rights. If treated as absolutes, one set of rights proves fatal to the other. The Court's solution to this problem involves, in part, *balancing* broadcasters' rights against those of others; this is implicit in the Court's support of the fairness doctrine on the grounds that "[i]t is the right of the viewers and listeners, not the right of the broadcasters, which is paramount" (287). To make the problem into an empirically testable one instead of a purely moral matter of rights, the Court in a sense symbolically calibrated the space between absolute rights for broadcasters and absolute rights for the audience into a series of measured increments along a continuum, and then calculated and weighed the resulting relative values against one another. By taking upon themselves this task of balancing, the Court acted as if they and the FCC were a body of social scientists or judicial engineers. Hence, they were able to conclude that, if the fairness doctrine does interfere somewhat with broadcasters' free speech rights, such marginal interference is justified when empirically calculated against the rights of the audience.

Of course, the Court's *Red Lion* decision did not resolve the question. The fairness doctrine was thrown out by the Reagan-era FCC, has been passed in a legislative version twice by Congress only to be vetoed by Presidents Bush and Reagan, and, if in the likelihood it appears again under Clinton, very well might be found unconstitutional by the current Supreme Court. The debate goes on. The point is that, on both sides of the ongoing debate, matters begin with hallowed constitutional principles and then proceed into questions theoretically subject to resolution by experts: opponents muster data and experts to prove that spectrum scarcity no longer exists but chilling effects do, and proponents muster data and experts to prove otherwise.

This discursive pattern is repeated on a regular basis throughout the world of activity called broadcast policy. The ratio of traditional legal argument as opposed to policy argument differs according to context and political climate. Discussions about the allocation of frequencies for new technologies such as high-definition television, for example, tend to be overwhelmingly technical. They usually stay within the FCC and related policy institutions, and traditional liberal principles are left

largely implicit (in the form of, say, an underlying assumption that corporate domination of the technology is in the society's best interest). Decisions involving free speech or minority ownership of broadcast stations, conversely, contain explicit discussions of rights and other constitutional matters, and are consequently more likely to work their way from the FCC into the federal court system (and to become topics for college debate teams).

Furthermore, policy arguments can be used against rights arguments and vice versa. They are not so much rigid requirements as they are available rhetorical tactics. In the early 1960s, during the civil rights movement, a successful effort to deny a broadcast license renewal to an overtly racist television station was construed by those on the left largely as a matter of protecting the rights of the station's large minority audience.[24] In the 1980s, conversely, the Supreme Court upheld licensing preferences for minorities more by reference to policy arguments, particularly to minority station ownership data compiled by social scientists.[25]

But participants in the policy arena quickly learn to operate within the general assumption that policy expertise ultimately serves traditional liberal values. Stray too far in the direction of either rights or expertise and you drop off the policy map. As an example of the former, in the early 1980s the cable television industry turned to conservative First Amendment and marketplace purists to lobby against FCC regulations that hobbled cable's growth. But when free market logic led to arguments against municipal regulations that protected cable monopolies on the local level in the mid-1980s, the cable industry quickly lost interest; the free market purists were no longer as useful.[26] An example of the dangers of "excessive" expertise at the expense of liberal values, conversely, can be found in the fate of an elegant and ingenious proposal, published in the 1970s. The proposal called for completely redesigning the American broadcast system in a way that would separate transmission from production, and thereby effectively remove much of both the networks' and local broadcasters' power. Nowhere in American law does it say that existing broadcasters have a right to government

24. *Office of Communication of the United Church of Christ v. Federal Communications Commission,* 359 F. 2d 994 (D.C. Cir. 1966).

25. *Metro Broadcasting, Inc., v. Federal Communications Commission,* 110 S. Ct. 2997 (1990).

26. Thomas Streeter, "The Cable Fable Revisited: Discourse, Policy, and the Making of Cable Television," *Critical Studies in Mass Communication* 4 (June 1987): 195; *City of Los Angeles et al. v. Preferred Communications, Inc.,* 476 U.S. 488.

protection of their economic interests in the existing system of spectrum allocations, yet the proposal is known today in the policy arena only as an archetype of madcap impracticality.[27]

How to Be a Policy Expert: Roles and Methods

Roles in the Policy World: Staging the Subjective/Objective Distinction

Generating interpretive stability is not simply a matter of declaring things to be true or of prohibiting the participation of those with alternative interpretations. Preferred interpretations need to be rendered compelling, and this involves ritual and drama. Meanings need to be acted and reenacted in the everyday activities of a community of people, in this case the community of broadcast policy experts. And regularized actions in human communities involve acting in a very real sense. They involve roles, systematic patterns of activity that are known to participants. Roles both enact underlying meanings in their form and structure, and serve as tickets to entry to the interpretive community. To take part in the broadcast policy world, to be taken seriously, one must compellingly act out a predefined role, and in playing that role, one gives expression to the underlying meanings that hold the community together.

There are several roles to play in the broadcast policy world, different positions to take up in order to participate. Although the roles are highly varied, the way that they operate can be illustrated by discussing four representative and archetypal roles in the policy community: commissioner, lawyer, lobbyist, and policy analyst. The same people often play different roles at different times, and people with different views and goals can play the same role. But entry into the broadcast policy world requires at least some knowledge of these different roles and the rules of behavior. And those rules of behavior, in turn, reveal and help reproduce the corporate liberal belief system underlying commercial broadcasting.

The general meaning of these roles was once suggested by a leading economist in the field of telecommunications policy. The role of policy research, he wrote, "is to tell decisionmakers how to maximize output with given resources, or how to realize given objectives at least cost, or at least to quantify the costs and benefits of decisions made on arational

27. John M. Kittross, "A Fair and Equitable Service; or, A Modest Proposal to Restructure American Television to Have All the Advantages of Cable and UHF without Using Either," *Federal Communications Bar Journal* 29, no. 1 (1976): 91-116.

grounds."[28] This was said in exasperation; it is revealing that the author went on to describe how far in his estimation the actual policy process had declined from this ideal. Yet it is just as revealing that he thought this to be a worthwhile ideal in the first place. Policy research, in this definition, views itself as working strictly within a framework established by "given resources," "given objectives," and established authorities or "decisionmakers." Decisions, objectives, and the authority of decision makers, in other words, are all "given"; they are not up for discussion. What policy research is about, then, is something objective and uninvolved, which is why it conceives of problems in terms of a linear view of causality divided into distinct means and ends, and relies heavily on the language and imagery of mathematics, science, and technology ("maximize," "quantify," "output").

Not everyone in the world of broadcast policy speaks exactly this way. But the quote does illustrate a pattern that is characteristic of much of what is said in the policy world: matters subject to decision, to choice, are presented as problems of a neutral and technical nature, whereas subjective matters of value, of high politics, are treated as outside the reach of the speaker. The subjective is thus treated as a given by those inside the policy world; it is decided elsewhere. And policy issues, those matters properly subject to choice within the policy world, though readily acknowledged as tricky, complex, and controversial, are nonetheless presented as basically objective in their nature.

Implicit in the logic here is a belief that decision making is categorizable along a continuum ranging from subjective to objective. At the subjective end are those who make basic value judgments, that is, those who engage in politics. Their archetype is the elected official: the House member who introduces legislation, the influential member of the FCC's oversight committee in the Senate. These people, properly speaking, are not part of the policy world; they provide decisions ("inputs" in the argot) to the policy world from the outside.

Commissioners and Judges

The policy world proper begins somewhere in the middle of the spectrum with the appointed members of the FCC, appointees to similar bodies like state utility commissions, and judges whose work touches upon broadcast policy (including the "administrative judges" or hearings examiners that make most of the routine decisions at the FCC). The job

28. Bruce M. Owen, "A View from the President's Office of Telecommunications Policy," in *The Role of Analysis in Regulatory Decisionmaking: The Case of Cable Television,* ed. Rolla Edward Park (Lexington, MA: Rand Corporation and Lexington Books, 1973), 3.

of commissioners is legally constituted as independent yet subordinate to the general guidelines given them by the political process and by the boundaries set by the courts. Commissioners are thus expected to use neutral, rational principles to flesh out broad mandates given to them from elsewhere, specifically Congress; this expectation puts them properly within the policy world, and makes it necessary for them to operate according to the discursive rules of expertise. They are generally thought of as somewhere in the middle of the subjective-objective spectrum because as political appointees it is obvious to all that they have political views. Yet they are restrained from presenting their actions as political, both by law and, more importantly, by the belief system of expertise.

When a commissioner does enter the scene with a clear agenda, it can be justified only if it is couched in terms of one or another legal, technological, or economic theory or principle. A commissioner does not act on behalf of a particular group of underprivileged people; she acts according to the "true," and thus politically neutral, legal interpretation of the public-interest principle. Similarly, a commissioner does not act on behalf of NBC, ABC, and CBS; he acts according to, say, the neutral principle of economic efficiency or free speech rights.

Commissioners with clear agendas are often prominent, but are probably a minority.[29] A more typical characterization of a commissioner, both among scholars and among commissioners themselves, is that of the neutral arbiter of political struggles among interest groups. Commissioners, the story goes, are buffeted from all sides by political pressures from lobbyists, politicians, and the like. They struggle mightily to maintain neutrality, and to somehow balance all these groups against one another, with varying degrees of success. Commission members often speak with exasperation of how hard it is to maintain neutrality in the face of all this pressure, and critics of the policy process often cluck their tongues sadly at the frequency with which commissioners seem to succumb to the force of the lobbyists. Yet, in spite of the nearly universal agreement about the impossibility of maintaining true neutrality, the discursive rules of the policy world prevent its participants from taking the logical next step: saying out loud that commissioners are politicians.

Hired Guns: Lawyers and Lobbyists

The role of communications lawyers and lobbyists is of course central to the policy process. To an outsider, they might seem to be the opposite of the commissioner or judge: they are paid by what are called "stakeholders" or "interests"—typically corporations involved in broadcasting

29. Krasnow, Longley, and Terry, *Politics of Broadcast Regulation,* 42–48.

—to cajole out of policy-making institutions decisions that favor their clients. And their actions are described, especially in the business press, in terms that tend to emphasize their role as embodiers of the profit desires of various business interests: they are soldiers in epic battles between industry factions.

But the subjective, "interested" character of these hired guns of the policy world is much like the neutral, objective character of commissioners and judges: it is more a dramatic role than a simple fact. Lobbyists, after all, do not simply transmit their clients' desires to policy institutions; if a television network simply wanted to express opposition to a regulation, they could send the FCC a memo. Rather, lobbyists do the work of translating those desires into the language and practices of the policy world. A lobbyist for broadcasters will tell the FCC that eliminating restrictions on syndication will serve the public interest by increasing competition, not that it will make more money for her clients. A lawyer representing cable operators will say to a judge that restrictions on cable operators limit, not their profits, but the operators' constitutional rights of free speech. The hired guns of the policy world thus first and foremost translate corporate goals into appropriately neutral and expert policy language. They do not represent corporate interests as much as they transform them; they *re-present* interests.

Given their function as translators of corporate designs into the language of corporate liberal expertise, it is thus not surprising that within the community of lawyers and lobbyists, a coolly professional attitude toward issues is valued. If the religious evangelist hides his or her polished rhetorical calculations behind a stylized emotional spontaneity, the lobbyist does the reverse: whatever passionate commitment exists is best hidden behind a coolly professional demeanor. Like others in the policy world, the hired guns are first and foremost "experts." A broadcast industry lobbyist, for example, might deliver a virulent attack on the cable industry in the hearings room, and immediately afterward compliment his cable industry counterpart for her performance—perhaps over drinks, as if they had just finished a friendly tennis match. One can sometimes see this sense of mutual professional respect revealed in the knowing smiles opposing lobbyists will direct toward each other while delivering their attacks during a conference panel or public debate.

Lawyers and lobbyists, in sum, are as much committed to the community of the policy world, and to the discursive rules that constitute it, as they are to their clients. They are all part of the same professional community, follow similar career paths, and frequently come from similar or even identical career backgrounds. It is well known that a stint at the FCC is frequently a stepping stone on the way to a more lucrative posi-

tion with a communications law firm or lobbying organization. But this famous "revolving door" between private and public policy institutions is not best seen as evidence that vaunted neutral principles are being corrupted by some kind of cronyism. Rather, the behavior of lobbyists and lawyers dramatize a sustained commitment, not just to the interests of corporations, but to the hypothesis that professionals can reconcile corporate power and profit seeking with "neutral" principles like free speech and the public interest.

Policy Analysts

At the objective end of the scale in the world of policy are the academics and staff members of government agencies and subcommittees who conduct policy research or policy analysis. Like the other positions, the analyst is more a role than a particular person or group of people; it is good form for commissioners, lawyers, and lobbyists to engage in policy analysis from time to time.

The analyst does not vote on policy decisions, but does produce a steady stream of official reports, books, and journal articles that are used to provide support for decisions and on occasion launch new policy-making trends. Often enough, it is possible to identify the political position of policy analysts: a study that analyzes the efficiency of various means of establishing a marketplace in broadcast frequencies is likely to come from an economic conservative, whereas one that finds constitutional justifications for policies that favor minority ownership is likely to come from somewhere more to the left of the spectrum. Yet there are plenty of cases where policy analysts produce research whose political implications are unclear, where a scholar will pursue a theory or some evidence for its own sake, and come to conclusions that seem to conflict with the scholar's own camp.

The art of policy analysis principally involves finding a way to come across as both practical and objective at the same time. One's research must be able to be plausibly understood as expert advice proffered to those in positions of decision-making power, yet it must somehow project an image of expert objectivity and neutrality. If one's work is too obviously designed to advance the cause of a particular official's political agenda, one may temporarily gain a cozy appointment but in the long term will be written out of the profession as a political shill. Conversely, if one's work consistently leads to politically impractical or obscure conclusions, the conference invitations and grants begin to disappear, and one finds oneself marginalized and ignored.

There are several tricks helpful to the policy analyst's balancing act. One is knowing which policy issues at a given moment are up for debate,

and which are not. This is not easy. Not only do issues shift from time to time, but the demands of both political and policy rhetoric work to hide the reality of shifting issues from outsiders: journal articles and official reports tend to present themselves as concerned with time-honored universal principles and objective needs of society and the legal system, not with policy fashion. Policy fashions are shaped behind the scenes or in quasi-public settings: in political cloakrooms, think tanks, funding centers, academic appointments to journal and conference boards, and the intricate community of professionals inside the Washington beltway. Keeping in touch with the shifting winds of the "practical" is thus a key to the policy analyst's art.

Of course, knowing which issues are considered "practical" at any given moment does not necessarily mean taking a stand on those issues. The need to present oneself as objective means that it's often helpful to produce work that, rhetorically anyway, is neutral on controversial issues. The point is to produce research that could plausibly provide evidence or argument for those who do take a stand. This not only increases the likelihood that one's research will be noticed by those in positions of power, but more importantly, transmits the image of appropriate practicality that defines one as a policy analyst in the first place.

Method as the Emblem of Expertise

An equally important trick in policy analysis is the use of a method that safely positions one's work as neutral and objective. A method is one of the principal defining characteristics of the expert. Methods are thus central to the maintenance of (and thus participation in) the interpretive community of broadcast policy. Ordinary people have mere opinions, but experts have knowledge and reason, which entitles them to more privileges, more participation in policy decision making, than ordinary people: this is the message that must be conveyed.

The archetype of expert knowledge in the modern era is physical science, which, it is generally assumed, produces irrefutable truths. Those operating in the policy world, of course, have generally not yet had the good fortune to produce irrefutable truths; for each policy theory, argument, or analysis, there exists an alternative that has at least some adherents. So, lacking the irrefutable truths of hard science, one turns to that which the hard sciences appear to have used to gain those truths: a specialized method. As Lasswell put it, "the closer the social scientist [comes] to the methods of physical science the more certain his methods could be of acceptance."[30] The way our culture signifies that

30. Lasswell, "Policy Orientation," 5.

experts possess knowledge and reason is that experts couch what they say in the trappings of one or another method.

It is more important for the policy analyst to have a Ph.D. or academic appointment than it is for others in the policy world, and more important that the academic trappings—jargon, footnotes, references to the literature, and so forth—are prominently featured in one's discourse. Some methods seem to have been respected throughout the history of the broadcast policy world: the "method" of legal reason, maintained by the legal profession with the support of legal academics and law schools, is a constant; and there will always be some respect for the electrical engineer, and a concomitant respect for the trappings of science and engineering: charts, graphs, data, mathematics are always helpful in this regard. But there are fashions in methods just as there are fashions in policy issues. (The two, as we shall see below, are in complex ways closely related.) In the 1960s and 1970s, for example, the methods of social science gained a certain amount of respectability, whereas in the 1980s they were almost thoroughly eclipsed by neoclassical economics.

The complex tension between practicality and objectivity is illustrated by the fact that, the more popular a method, the less necessary it is for one's research to be of immediate practical value. In the 1970s the popularity of the behavioral sciences became the occasion for large amounts of research on the effect of televised violence on children, even though the research was associated with very little concrete policy activity.[31] In the 1980s, in contrast, when neoclassical economics became a dominant mode in policy analysis, sociological or political economic methods appeared in government studies and conference panels only when they were closely tied to very specific policy issues, such as minority ownership policies, or the development of new telecommunications networks, and even then had difficulty being taken seriously.[32] Conversely, the use of economic method was often enough to qualify one's research as policy research, even if the specifics of the analysis were politically impractical.[33]

31. Willard D. Rowland, Jr., *The Politics of TV Violence: Policy Uses of Communication Research* (Beverly Hills: Sage, 1983).

32. *Metro Broadcasting v. Federal Communications Commission* (1990) upheld minority preferences policies in broadcast licenses as constitutional and used survey data on minority ownership of broadcast stations to make its point (see especially 3017 nn. 31–33, citing survey data and sociological analyses).

33. For example, Tim Brennan, "Discrimination in Theory, by Vertically Integrated Regulated Firms," paper presented to the Twentieth Annual Telecommunications Policy Research Conference, Solomons, MD, September 12–14, 1992.

Law and Legal Reason

The policy process generally operates as subordinate to law, formally recognized by that blurry zone of contemporary legal practice called administrative law. Law is thus the outer framework of broadcast policy, and the legal system's enigmatic modus of "legal reason" remains a central model of method.

Much of what counts as legal reason is expressed in the rhetorical practices found in any law review: argument from precedent (betokened by copious footnoting of legal cases), argument by legislative intent (quotes of legislative hearings), and axiomatic deduction from abstract legal principle (besides the conventional Latinisms, eloquent quotes from federal judges, particularly past Supreme Court justices, are helpful here).

Yet the peculiarly twentieth-century idea of administrative law, of a special legal realm dominated by contingent problems to be solved by experts according to the complexities of the moment, separates policy from more traditional areas of law. The role of legal reason is thus not as prominent on the surface as it is in, say, constitutional law. Rather, the more typical pattern of argument begins with references to hallowed constitutional principles, but then progresses toward "technical" questions such as matters of spectrum scarcity, minority ownership data, or chilling effects. The initial language and terminology of classical legal reason is gradually supplanted by the trappings of policy science such as allocations tables and survey data.

Social Science, Social Engineering

The power, prestige, and character of what may be broadly construed as sociological expertise and argument in broadcast policy has gone through numerous permutations and has waxed and waned over the years. Though often having very little relationship to the methods taught in contemporary sociology programs, a loosely sociological logic nonetheless remains a constant presence in the policy arena.

There always have been some who argue that the confusions of broadcast policy can be overcome by making the FCC more independent, more expert, more scientific, and generally more rational—that is, more what was envisioned by nineteenth-century social engineers like Charles Adams. In the 1940s, for example, some New Deal FCC staffers released what came to be called the Blue Book, a proposal for regulatory revision accompanied by elaborate and compelling surveys of broadcast content and economic analyses. The Blue Book argued that the commercialism that resulted from an exclusive reliance on marketplace forces to determine broadcast content clearly fell short of fulfilling the "public

interest."[34] This inadequacy of the marketplace, therefore, ought to be remedied by a modest effort of social engineering: specifying detailed requirements for informational and public-service programs without advertising support ("sustained" programming), according to percentages fixed by economic and social scientific analysis. As the political climate shifted right in the post-World War II era, the Blue Book's proposals were ignored, but the hopes attached to social scientific method continued to grow.

The heyday of positivist social science in Washington came in the 1960s. In 1960 the social scientist Paul Lazarsfeld made the extraordinary claim to the FCC that, given enough time and "a corps of trained minds, it would be possible to set up workable standards of excellence in television."[35] Social science could finally objectify that most elusive subjective entity, cultural taste. A more elaborate and influential effort was the Rostow Report of the late 1960s, which concerned, among other things, cable television. The report called for the creation of a centralized government agency charged with planning and coordinating the U.S. telecommunications system, on the theory that something was needed to lift broadcast policy making up above the petty, feudal squabbles that bogged down the FCC. The report called for "a well-conceived public policy," which involved such measures as

> operational experiments . . . to explore the feasibility and flexibility of full-scale systems, [programs designed] to provide useful technical, operational, and economic data as a basis for more permanent policy decisions, [and c]areful preliminary training and testing [to help] reach firm conclusions about the possible contribution of full-scale applications of telecommunications technology to major development problems.[36]

The benefits expected to flow from these "operational experiments," "full-scale systems," and "data" were not modest. For example, the report suggested that appropriately engineered social policies for cable television might help solve problems of crime and unrest in the inner cities.[37] Although in retrospect such a claim seems almost poignant in

34. FCC, "Public Service Responsibility of Broadcast Licensees," March 7, 1946, reprinted in Kahn, *Documents of American Broadcasting*, 148-64.

35. *Current Biography Yearbook* (New York: H. W. Wilson Co. 1964), 252.

36. President's Task Force on Communications Policy, *Final Report* (Washington, DC: Government Printing Office, 1968), 12-15.

37. Ibid., 16. The report suggested that its social-engineering approach might point to "the constructive possibilities for the use of television to help overcome some of the

the extremity of its naïveté, at the time the report was read with great seriousness.

Each of these efforts expresses a desire to resolve policy ambiguities by turning to social engineering in order to make the regulatory system more autonomous and better insulated from the "subjective" (and thus "irrational") winds of politics. Each of these proposals expresses a version of the hope that the contradictions of policy can be overcome by more rigorously restraining the chaos of private desire with the constraint of a rationally conceived public interest—by moving, in other words, more decisively in the technocratic direction established but only sheepishly pursued by the Hoover-era framework of the Communications Act.

Social scientific discourse, however, is most effective when it is "practical" in the sense peculiar to the policy arena, that is, when it can be used to address dilemmas of liberalism. Hence, sociological method was put into service of regulatory practice in the 1960s, not in any full-scale implementation of the grand plans of a Lazarsfeld or Rostow, but in a procedure called "ascertainment." The FCC in the early 1960s was struggling with its mandate to, on the one hand, make sure broadcasters "serve the public interest" and, on the other, uphold the principle of free speech. Its way out of this dilemma was to require of broadcast licensees that they conduct survey research to "ascertain" their community's needs and interests.[38] Social scientific survey methods, the reasoning went, would thus ensure that broadcasters serve the public without the FCC having to act as a censor. Sociological technique would let the FCC off the hook and square the circle of rights and regulation.

Economics

Liberalism as a whole is permeated with economic ideas: ideas about the social value of private property, about the invisible hand of the market, about the compatibility or even equivalence of capitalism with social and material progress. But in this century the profession of economics has achieved for itself the status of the "hardest" of the soft sciences and thus, in its own mind, the closest thing to truly scientific expertise in the sociopolitical arena. As the grander plans of social science ran aground

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problems of urban ghetto dwellers. Isolated rural people such as the inhabitants of Indian reservations could benefit from similar undertakings."

38. FCC, "Report and Statement of Policy re: Commission en Banc Programming Inquiry (the 1960 Programming Policy Statement)," 25 Fed. Reg. 7291, 44 F.C.C. 2303 (1960).

on the failures of the Great Society in the late 1960s and early 1970s, economic expertise rose to take its place.

The rise to prominence of neoclassical economics in Washington policy circles is a major phenomenon of the last two decades and has played a major role in the deregulatory movement. On one level, neoclassical economic theory has served largely to signify a reassertion of long-standing principles of American politics: the faith in laissez-faire economics and the free marketplace. But within the policy arena, economics has come to be the predominant discourse of expertise. Within policy circles, the heroes of deregulation such as Alfred Kahn and Richard Posner embody a new form of fascination with expertise and social science, this time centering on the concept of "efficiency" and the tools of "post-Coasian" law and Chicago school economics. Economists now get government grants and FCC staff positions, and noneconomists in the system often find it fashionable to couch their arguments in economic language.

Economist Donald McCloskey has suggested that his field is better understood as rhetoric than as a science.[39] It certainly is the case that economic arguments have been mustered in favor of many divergent positions over the last decade. A central tension in contemporary economic discourse seems to revolve around an ambiguity concerning the relation of markets to government action. On the one hand, the traditional economic assumption is that markets are more efficient regulators than government intervention. On the other, economists are frequently attracted to matters of broadcast policy precisely because the high level of government involvement in the industry provides opportunities to administratively enact economic principles, that is, to use government to tinker with industry affairs in order to enhance the efficiency of market relations. Markets, after all, don't ask economists for advice, but government agencies do. So, for example, economic arguments about the inefficiency of regulation figured prominently in the deregulation of cable television, but once that deregulation was accomplished, economic arguments about cable's monopoly profits under deregulation were used to support the current reregulation of cable.[40]

39. Donald N. McCloskey, *The Rhetoric of Economics* (Madison: University of Wisconsin Press, 1985).

40. The effect of deregulation on cable prices is discussed in A. B. Jaffe and D. M. Kanter, "Market Power of Local Cable Television Franchises: Evidence from the Effects of Deregulation," *Rand Journal of Economics* 21 (summer 1990): 226; and J. W. Mayo and Y. Otsuka, "Demand, Pricing, and Regulation: Evidence from the Cable TV Industry," *Rand Journal of Economics* 22 (fall 1991): 396.

Meritocracy, Insider Wisdom, and the Institutional Maintenance of Unquestioned Assumptions

Corporate liberal broadcast policy in many senses has been extraordinarily successful. While the FCC remains modest-sized as government agencies go, it is encircled by a thriving network of meritocratic organizations that in their very structure share and maintain the belief that expertise can solve problems of broadcast policy: law firms, conferences, consulting firms, institutes, and university research programs. Within this community, the ritual of expert decision making is maintained. Legislators and lobbyists present commissioners with problems to be solved, analysts undertake analyses, and along the way grants are funded, articles are published, hearings are held, and the business of policy goes on. Ritually speaking, everything is in its place.

The meritocratic premises by which this community operates fulfill two important functions. On the one hand, the legitimacy of the community's expertise is maintained by the entry criteria of higher degrees, accepted methodologies, and other traits typically esteemed on academic curriculum vitae. On the other hand, meritocracy provides a mechanism for policing entry into the community by insiders, ensuring that discussion stays within certain bounds: invitations to a conference, research funding, and staff positions are forthcoming only to those judged by community insiders as being both sufficiently expert and appropriately "practical." A career, a point of view, a research proposal that, say, questions the fundamentals of the system or uses terms and ideas in radically unconventional ways is judged not practical because it cannot be easily construed as relevant to policy problems, that is, as helping to reconcile dilemmas faced by politicians and regulators. It is thus quietly passed over or marginalized, and the unsuitable ideas are filtered out.

To varying degrees, there is some recognition within the policy community that "practicality" involves a simple deference to power. Sometimes this is relatively overt. The policy arena is after all bounded by the coercive power of law and of the state. If the Supreme Court declares the principles one believes in unconstitutional, what recourse does one have except to twist one's arguments to fit the requirements of the courts? Many proponents of media access as a legal principle, for example, probably agree with Jerome Barron that the fact of economic concentration should create a First Amendment right of access on the part of the public to *all* concentrated media.[41] But because the Supreme

41. Jerome A. Barron, "Access to the Press: A New First Amendment Right," *Harvard*

Court declared this general argument invalid, access advocates have fallen back on the tenuous but still acceptable argument that at least broadcast media are susceptible to access arguments on technological, if not economic, grounds. Broadcasting, the Court has held, can suffer from the technological condition of spectrum scarcity, and is thus susceptible to access arguments where print media are not.[42] Over the near term, at least, one is forced to either argue from within this framework or abdicate one's right to participation in the legal process altogether. Such is the coercive power of law.

Often, however, the deference to power is less overt, and extends to matters that are *not* explicitly stated in law. While rarely said in public forums, some policy experts will privately point out that if one is sincere about having influence with one's ideas, one must take into account the fact that for ideas to have influence they must be attended to by people in positions of power. There is a conservative version of this acknowledgment, which can afford to be relatively frank: it is based on the assumption that existing power relations are inherently legitimate, that some are destined to rule, others to follow. Yet, after a few years in Washington or state government, even former sixties activists will often express a desire "to do something successful for once," to no longer feel like one is howling in the wilderness; if compromise with the powers that be is necessary to get anything done, then compromise is the wise choice.

This limitation of debate, however, is not simply the result of a coercive power, such as the power of capital or of legal force. Rather, to a large degree, it can be seen as an unconscious product of the assumptions shared by the interpretive community of broadcast policy, as a product of the power of unquestioned beliefs. Certainly most if not all of the participants in the process are sincere in their actions, and do not go out of their way to exclude alternative points of view. They believe in what they are doing, and are not above occasionally inviting, say, a Marxist to their conferences.

But any community of people develops shared understandings, and the policy community is no exception. Those shared understandings become the insider wisdom, the insider's sense of what's practical, interesting, and original and what's foolish, trivial, and outdated. Policy issues, any insider will tell you, are complex; understanding them

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Law Review 80 (June 1967): 1641–78; and Jerome A. Barron, *Freedom of the Press for Whom? The Right of Access to Mass Media* (Bloomington: Indiana University Press, 1973).

42. *Miami Herald Publishing Co. v. Tornillo,* 418 U.S. 241 (1974).

involves experience and judgment. For the insider, particularly after years of experience, certain things come to seem obvious. Insiders "know" that a given argument is either interesting or old hat, that the correct interpretation of a principle is this and not that. After all, everyone else inside the community agrees, and they are the experts. These shared understandings, then, are experienced by insiders as simply the wisdom of experience.

Of course, over time, the insider wisdom shifts dramatically. In the 1930s (as we will see in the next chapter) the law's insistence that broadcast licenses do not confer ownership was understood by many to mean that the exchange of money for a license as part of the sale of a station was illegal or at least problematic. Since the late 1940s, however, no one even thinks to question the practice; the inclusion of license value in station sales has been understood to be thoroughly normal, as if the practice were intended all along. Similarly, in the late 1930s the belief that broadcast networking constituted a natural monopoly was taken quite seriously by both regulators and industry executives and used as an argument against regulation, whereas today, economically similar levels of industry concentration are generally interpreted as "highly competitive," and natural monopoly arguments are considered ridiculous by all sides in debates.[43] In the mid-1980s, insiders "knew" that arguments couched in the language of free markets supported by quantitative economic data would fly while predictions that properly managed broadcast policy could solve problems of inner-city unrest would be scoffed at, just as in the late 1960s they "knew" something of the reverse to be true.

Yet for the most part, these distant historical differences are either ignored or attributed to early regulatory error or naïveté. At any given moment, the ideas that are taken for granted by insiders seem like the obvious, reasonable ones. Hence, matters that to others might look like irreconcilable contradictions or fundamental ambiguities are given stable meanings, are made to make sense.

The assumptions of the policy world are rendered all the more invisible by the fact that there are always matters that *are* contested, that are

43. In 1941 the fact that 61 percent of all radio stations were network affiliates was taken by the FCC to be a sign of outrageous monopoly, to which the networks replied, not that there was no monopoly, but simply that the monopoly was a natural and fair one. Since the early 1950s television station network affiliation has yet to drop that low, yet the situation has never been viewed as so monopolistic as it was generally agreed to be in the 1940s (Thomas Streeter, "Policy Discourse and Broadcast Practice: The FCC, the U.S. Broadcast Networks, and the Discourse of the Marketplace," *Media, Culture, and Society* 5 [July-October 1983]: 247-62).

debated and struggled over. If the Right continues to struggle for more business autonomy, the Left of the policy community generally couches its efforts in terms of "access." Access arguments can take various forms: the fairness doctrine is a famous example, but they also turn up in arguments for common-carrier-style regulation of the electronic media (an argument made all the more compelling by the coming of cable). During the Reagan era, the phenomenal success of the Right almost pushed common-carrier arguments off the map: one major policy figure announced that the idea that cable be treated as a common carrier "is about as likely to get a second hearing as the Articles of Confederation."[44] Yet the need to dismiss the common-carrier solution belies the claim of its demise, and as neoclassical economics has lost much of its sheen, the left edge of the policy community has made an effort to reintroduce the concept.

That these debates are bounded is seen when one searches for policy efforts that question the principle of for-profit organization in broadcasting. For the most part, they are nowhere to be found; one can successfully challenge the power of this or that industry segment in certain spheres, but not to the extent that one challenges or limits the profit imperative. Deference to some form of corporate hegemony in broadcasting, though rarely stated explicitly, is nonetheless a tacit assumption of any policy effort that is to be taken seriously.

This deference is evident in all successful policy initiatives that have come from those typically thought to be opposed to business interests. In 1941, for example, when an aggressive New Deal-era FCC staffed by Roosevelt appointees successfully broke NBC's near monopoly of network radio, its actions had to be justified with the declaration that the free market was "the essence of the American system of broadcasting."[45] In what was probably the most famous verbal assault on the commercial broadcast establishment, Newton Minow's "vast wasteland" speech, the Kennedy-era FCC chair felt compelled to add to his stinging attack on the low quality of broadcast television, "I believe in the free enterprise system. I believe that most of television's problems stem from lack of competition."[46] As this is being written, moderately left-wing policy activists, encouraged by the Clinton victory, are launching new access-based initiatives. A recent conference entitled "Breaking the Barriers to

44. Daniel L. Brenner, "Cable Television and the Freedom of Expression," *Duke Law Journal* (April-June 1988): 329.

45. FCC, *Report on Chain Broadcasting,* Docket 5060 (1941), 95.

46. Newton Minow, address to the National Association of Broadcasters (the "vast wasteland" speech), Washington, DC, May 9, 1961, reprinted in Kahn, *Documents of American Broadcasting,* 207-17.

Universal Telecommunications Access" speaks in terms of achieving "balance" between regulation that will "keep the quality of existing services high and prices low" and providing "incentives for the development of new services," that is, between equity-based regulation and the principle of profit.[47]

The strength of the corporate liberal way of thought is such that challenges to it are not even acknowledged as such; they are invisible. This is illustrated by the community's reaction to those rare cases that do stray in the direction of challenging the profit imperative in small ways: these efforts, while acknowledged to be controversial, are not even recognized as the small heresies that they are. The academic Marxist is a classic example. He or she may gain a seat on a panel at a policy conference, but is often treated by the other panelists as a naive, dewy-eyed idealist interested in helping the downtrodden but lacking a sense of the "hard realities" of the modern world; that the Marxist's paper is an almost overly grim analysis of exactly those "hard realities" is invisible from within the policy community's interpretive framework.

The systematic character of this obliviousness can be seen in the invisibility of the few historical cases when events within the policy community proper have strayed in heretical directions. When the Blue Book was published in the 1940s, for example, it couched its arguments in technocratic terms, but it also committed a heresy: it announced that the right to unlimited profits and the public-interest standard were in conflict. The Blue Book argued for relatively aggressive regulation of broadcast content in the form of, for example, requirements for sustained programming. The authors granted that broadcasters were entitled to a profit, but were frank that the regulations they suggested might reduce the levels of profit then current in the industry.[48]

The Blue Book was thoroughly rejected. It met with vociferous opposition from the industry, none of its proposed rules were adopted, and the station singled out as a bad example in the report's analysis won its license renewal shortly thereafter.[49] It fell outside the bounds of the corporate liberal parameters of broadcast policy.

Yet this is not how the Blue Book is described in much of the policy literature. As one textbook puts it, the Blue Book's conclusions were "neither regulations nor proposals for new rules but rather . . . codifica-

47. The quotes are from a promotional pamphlet for a conference presented by the Alliance for Public Technology on February 25-27, 1993, titled "Technologies of Freedom: Breaking the Barriers to Universal Telecommunications Access: A Conference on Achieving Telecommunications Equity in the 21st Century."

48. FCC, "Public Service Responsibility of Broadcast Licensees."

49. *FCC Annual Report,* 15 F.C.C. 1149 (1951).

tion of FCC thinking to help licensees and regulators alike. . . . the report had some solid results over time. . . . the FCC showed that it had the backbone for once to speak out if not act in a controversial area, and the 'Blue Book' still provides the commission with a useful precedent and the industry with a rallying point."[50] Perhaps this Pollyannaish characterization of the Blue Book episode is a simple matter of historical interpretation. Yet it is just as plausibly seen as a projection of the expectation that policy experts are reasonable, and reasonable policy experts cannot disagree over fundamentals, only over details of implementation. The history of policy by its own definition is a steady accumulation of rational, expert solutions to problems. Underlying givens of the system, such as for-profit principles and the public interest, do not conflict. Broadcast law is not beset by insoluble contradictions or fundamentally political discontinuities. Policy problems can be solved—hence, evidence of deeper fissures in the system of broadcast policy gets ignored.

The fundamental assumptions of the policy community, in sum, are like water to fish: so much a part of the environment as to be invisible. They are simply common sense, beyond questioning. It is more by the maintenance of unquestioned corporate liberal assumptions than by deliberate exclusion that the discussion of fundamentals is kept off the agenda of broadcast policy.

Angst at the Edges: Theorizing Regulatory Disappointment

For all its success as an institution, broadcast policy has been the subject of an enormous amount of academic criticism. Since the beginning in 1927, broadcast policy has been the object of a steady stream of complaints, a bibliography of which would be a book in itself. Books on broadcast regulation that describe the situation as a "crisis" or describe the agency as a "reluctant regulator" are met with very little refuta-

50. Christopher H. Sterling and John M. Kittross, *Stay Tuned: A Concise History of American Broadcasting,* 2d ed. (Belmont, CA: Wadsworth, 1990), 304–5. The idea that the Blue Book "provides the commission with a useful precedent" seems to have originated in two articles by Richard J. Meyer: "The 'Blue Book,' " *Journal of Broadcasting* 6 (summer 1962): 197–207; and "Reaction to the 'Blue Book,' " *Journal of Broadcasting* 6 (fall 1962): 295–312. The suggestion that the Blue Book involved "neither regulations nor proposals for new rules" seems to be based on a relatively trivial distinction between rules that are automatically required of all licensees (which the Blue Book did not suggest) and rules that are applied in deciding license renewals (which the Blue Book did suggest, and which over time would influence all licensees anyway).

tion.[51] It is now almost axiomatic that the nominally independent FCC is anything but independent, that the phrase "public interest" is extraordinarily vague, that existing legislation was already "obsolete when passed" and is even more obsolete today, and that FCC policy is systematically biased toward the industry it is supposed to regulate. It is practically impossible to find an article in the literature that does not criticize one or another aspect of the system. So common is a negative evaluation of FCC performance that one illuminating survey of the literature classifies the bulk of the writing about the "public-interest" principle, not as public-interest theory, but as *perverted* public-interest theory; most observers seem to believe that regulation, at least in the case they are discussing, has failed to live up to the public-interest ideal.[52]

A 1960 report by James Landis, a major figure in the history of U.S. regulation, is as good an example as any of the general tone of the commentary: "The Federal Communications Commission presents a somewhat extraordinary spectacle. Despite considerable technical skill on the part of its staff, the Commission has drifted, vacillated, and stalled in almost every major area. It seems incapable of policy planning, of disposing within a reasonable period of time the business before it, of fashioning procedures that are effective to deal with its problems."[53] This opprobrium is very pronounced in broadcast regulation, but can be heard in other areas of regulation as well. As one writer put it, "the prevailing burden of judgment holds overwhelmingly that regulation in America has been a failure."[54]

Why the pervasive negative tone? After all, broadcasting under American regulation has become a massively successful and powerful institution. There is no comparison between broadcast regulation and, say, the crises in the welfare system or efforts at international develop-

51. Don R. Le Duc, *Cable Television and the FCC: A Crisis in Media Control* (Philadelphia: Temple University Press, 1973); Barry G. Cole and Mal Oettinger, *Reluctant Regulators: The FCC and the Broadcast Audience* (Reading, MA: Addison-Wesley, 1978).

52. Robert Britt Horwitz, *The Irony of Regulatory Reform: The Deregulation of American Telecommunications* (New York: Oxford University Press, 1989), 27.

53. James Landis, *Report on Regulatory Agencies to the President-Elect,* printed for use of the Senate Committee on the Judiciary, 86th Cong., 2d sess., 1960 (Washington, DC: Government Printing Office). For a brief survey of some major studies of the FCC over the years illustrating the typicality of Landis's evaluation, see Le Duc, *Cable Television and the FCC,* 29–30. Le Duc quotes from reports with conclusions similar to Landis's released in 1941, 1951, 1958, 1962, 1964, and 1969.

54. Thomas K. McCraw, *Prophets of Regulation: Charles Francis Adams, Louis D. Brandeis, James M. Landis, Alfred E. Kahn* (Cambridge: Harvard University Press, 1984), viii.

ment, where large-scale human suffering is at stake. And it is not the case that critics of regulation are motivated by disdain for the cultural product of broadcasting, at least not overtly.

One source of the negative tone may be the expectations associated with the role of the policy analyst. Authors of scholarly work on broadcast policy for the most part are, or are aspiring to be, policy experts. They want to be heard by the system. And the job of experts, particularly analysts, is to bring order to chaos. There's little point in publishing an article that says, "Everything's fine, leave it as it is." To fill the role to which they aspire, authors thus need some problem to which they can apply their legal, sociological, or economic expertise. They need some chaos to bring order to. So it is to a degree a matter of rhetorical form that the typical policy study locates a flaw or confusion somewhere in the regulatory process for which the author can then propose a solution.

Many of the most successful campaigns to change federal policy in broadcasting have in fact come from "Young Turk" policy activists who claim to offer a cure, an idea or approach that can transcend the irrational quality of business as usual in Washington. In the 1980s the best known of these were generally the deregulatory economists, offering transaction cost analysis, new technologies, and market forces as the way out of what they often astutely analyzed as the irrationalities of existing policies. But many have preceded them. In the late 1930s, for example, left-wing Roosevelt-era trustbusters were the Young Turks, and in the late 1960s and early 1970s, "wired nation" fans of cable television's utopian promises filled that role. In each case, regulators with ideas and principles marched into the policy arena in hopes of overcoming the resistance of entrenched power bases with the force of better ideas.

Each of these groups had considerable impact on the course of events, arguably more impact than can be attributed to any industry member's self-interest. But the fate of the motivating ideas that each wave of regulatory reformers brought with them is less clear. The Roosevelt-era trustbusters successfully overcame vociferous industry opposition and, among other things, forced NBC to divest itself of its second radio network, which became ABC. Yet the ideas that motivated their actions—a populist desire to overthrow the entrenched monopoly powers of the corporations in the name of an open society and marketplace competition—were not realized: network dominance of both the industry and the airwaves only increased in the ensuing years.[55]

Three decades later, "wired nation" advocates of cable television successfully spearheaded the drive to remove FCC constraints on cable

55. Streeter, "Policy Discourse and Broadcast Practice," 247–62.

expansion against the objections of the networks and over-the-air broadcasters. The visions that informed their efforts, however—a utopian hope that cable's limitless channels would bring interactive democracy and openness to the centralized, one-way world of television—have met with lukewarm success at best.[56] In the 1980s, proponents of marketplace solutions to regulatory problems undoubtedly transformed the character of regulation and industry relations in numerous ways, from broadcast station prices to program content. Whether or not the resulting changes amount to dramatically more efficient market relations or merely a rearrangement of relations within generally oligopoly conditions, however, is arguable. Many of the initial deregulatory efforts are now under attack for having had unintended effects: the deregulation of cable that culminated in the Cable Act of 1984, for example, is now accused of having created local monopolies instead of markets. And as we will see, most of the intellectually driven efforts to institute "pure" marketplace relations such as spectrum auctions have been used at most experimentally, and as of this writing are falling out of favor.

Although professional self-concept and ambition provides some impetus to criticize the existing state of affairs, therefore, it cannot account for all of the negative tone in policy work. While the continuities between today's regulators and those of the first decades of this century are striking, one can also detect a marked shift in tone between then and now. It is still common to call on expertise to solve political problems, but it is rarely done with the same optimism or confidence that was expressed by Charles Adams, Woodrow Wilson, Herbert Hoover, or Charles C. Dill. On the one hand, expertise has become an assumption; it is part of the background, not a rallying cry. At the same time, a kind of skepticism has crept into the process, wherein once-vaunted ideals are treated as simple practical necessities. Bringing a Ph.D. to a hearing to testify on your behalf, commissioning a research project, or couching your goals in the language of the public interest—these are simply means to end, they are necessary to get one's way, but they no longer stir the same enthusiasm they once did.

The Secret Fate of Regulatory Dropouts

Throughout the century numerous individuals have optimistically marched into the policy arena to do battle on behalf of the public good against entrenched interests and irrational thinking, only to emerge a few years later, not so much defeated as disappointed. The list is long: just a few of the most prominent include the proponents of educational

56. Streeter, "Cable Fable Revisited," 174–200.

broadcasting in the early 1930s, trust-busting FCC commissioner James Fly of the late 1930s, the Blue Book advocates of the 1940s, law professor Bernard Schwartz in the 1950s, Newton Minow in the early 1960s, Commissioner Nicholas Johnson in the late 1960s.[57] In different ways, each of these crusaders began by raising questions about the fundamental structures of the system, and in the end at best were able to accomplish only modest reforms within that system.

The policy insider might describe these people as representing extreme points of view—moderate and conservative ones might add, extreme points of view from somewhere on the left. They failed to bring fundamental change, the insider might say, because they fell outside the dominant center of the American political system, at least the center as it lay at the time of their efforts: that's how the American political system works.

Yet this political-center-of-gravity view of what's going on doesn't exactly capture the character of this pattern when looked at historically. Looked at individually, it may make sense to interpret each case as a simple struggle between one view of the public good and another interpretation, as democratic debate, as the gradual struggle of truth to assert itself over time. Yet taken together, it's harder to view matters as simple struggles between conservatives and liberals, or between heroic visionaries and the status quo. Things look less like a story of heroic struggle than a case of patterned contortion, less like *Pilgrim's Progress* and more like Kafka's *The Trial.*

One reason the Kafkaesque character of policy is not often noted within the policy arena is the self-policing function of the community's self-definition as "practical." A policy expert by definition should be working toward finding solutions to policy problems, and books and articles that suggest that the problems can't be solved aren't of much help in achieving that goal. The experiences of those who drop out of direct participation in the policy process in frustration are thereby automatically filtered out of the system because what they have to say after they

57. For the educational broadcast proponents, see Robert McChesney, *Telecommunications, Mass Media, and Democracy: The Battle for the Control of U.S. Broadcasting, 1928-1935* (New York: Oxford University Press, 1993). For the story of James Fly, see Streeter, "Policy Discourse and Broadcast Practice," and Joon-Mann Kang, "Franklin Roosevelt and James L. Fly: The Politics of Broadcast Regulation," *Journal of American Culture* 10 (summer 1987): 23-33. Another revealing discussion of the period is found in Frank C. Waldrop and Joseph Borkin, *Television: A Struggle for Power* (1938; reprint, New York: Arno Press, 1971). For the Blue Book advocates, see Meyer, "Blue Book," and the discussion above. For the story of a dismayed professor who tried and failed to introduce some integrity into the policy-making process, see Bernard Schwartz, *The Professor and the Commissions* (New York: Knopf, 1959).

have dropped out is not "practical," that is, not helping anyone engaged in policy activity to solve problems. So while the works of such authors are cited often enough in the literature, their criticisms of the system as a whole are more often ignored than refuted in the policy literature.

Media scholar Vincent Mosco, for example, began his career with a book that took the policy reformer's approach of identifying a policy problem and offering a solution.[58] Since then, Mosco has concluded that, as he puts it, turning to the FCC to solve the problems of broadcasting is like expecting the Wizard of Oz to get you back to Kansas. When Toto finally pulls back the curtain, you realize that nothing's there but a rather smooth-talking old man.[59] Mosco has gone on to become a thoughtful critic of the media policy-formation system, well read in academic circles.[60] Similarly, political scientist Murray Edelman's first work was a look at the FCC and broadcast policy making that, although critical, was written as though his criticisms might be heard and acted upon.[61] He subsequently took a much more skeptical approach to policy formation, and made a career of studying what he calls the "symbolic uses of politics," with an emphasis on the ways that American politics often serves purposes other than those officially stated.[62] Former FCC economist and Blue Book contributor Dallas Smythe, after his initial stint "in the system," became a prolific and unpredictably innovative neo-Marxist critic of media structure.[63] Each of these individuals has a wide following within the academy, but their skeptical analyses of the system as a whole are for the most part ignored or trivialized by the policy community out of which they emerged.[64]

58. Vincent Mosco, *Broadcasting in the United States: Innovative Challenge and Organizational Control* (Norwood, NJ: Ablex, 1979).

59. Vincent Mosco, paper presented to the Mass Communications Division of the International Communications Association Convention, Honolulu, May 1985.

60. Mosco's critical works include *Pushbutton Fantasies,* and *The Pay-per Society: Computers and Communication in the Information Age: Essays in Critical Theory and Public Policy* (Norwood, NJ: Ablex, 1989).

61. Murray Edelman, *The Licensing of Radio Services in the United States, 1927-1947: A Study in Administrative Policy Formation* (Urbana: University of Illinois Press, 1950), reprinted in *Administration of American Telecommunications Policy,* vol. 1, ed. John M. Kittross (New York: Arno Press, 1980).

62. Murray Edelman, *The Symbolic Uses of Politics* (Urbana: University of Illinois Press, 1964).

63. Dallas Smythe's best-known works include *Dependency Road: Communication, Capitalism, Consciousness, and Canada* (Norwood, NJ: Ablex, 1981), and *Counterclockwise: Perspectives on Communication,* ed. Thomas Guback (Boulder: Westview Press, 1994).

64. Krasnow, Longley, and Terry, in *Politics of Broadcast Regulation,* for example, cite Mosco's and Edelman's early works in their annotated bibliography (289) but do not

Expert Explanations of the Failure of Expertise: Interest Group Theories of Regulatory Behavior

The phenomenon of government regulation in capitalist economies in the twentieth century raises some of the most crucial questions of contemporary life: questions about the character of bureaucracy and its relation to democracy, questions about the relation of government to business and to citizens, and so forth. At its best, the literature on regulatory behavior contributes to the discussion of these larger questions. The discussion taking place in that literature has informed many of the schools of thought important to this book, including revisionist historiography and legal realism. This is not the place for a full review of the literature on regulatory behavior, however.[65]

Instead, I will focus on one important way that these theories have filtered into public life and become part of the institution that they are trying to describe. While the skeptical critics have generally withdrawn into academic subcultures, another midlevel sort of criticism has developed in the form of theories of regulatory behavior offered as a means to better master, and thus improve and participate in, the policy arena. Theories of regulation, both formal and informal, have come to serve as social-scientific systems that can help legitimate policy arguments and certify an expert's authority. Academic theories that provide explanations for why regulatory systems do what they do thus can, with varying degrees of explicitness, function as a way to refurbish the official explanation of regulatory behavior, that is, the belief that regulatory agencies like the FCC are staffed by neutral experts who make apolitical, rational decisions. To the extent that these theories are used as tools for experts within the policy arena, they thus can have an effect opposite that of the

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refer to any of the later works (a particularly glaring omission in the case of Mosco's *Push-button Fantasies*). A related pattern can be found in surveys of the literature: a recent survey of locations and outlets for communications policy making, while listing "communications policy journals," failed to include *Media, Culture, and Society,* a progressive journal that regularly publishes in the area, and the interpretive *Critical Studies in Mass Communications,* while including journals as far afield as the *Computer Lawyer* and the *Rand Journal on Economics.* The measure that determined inclusion seems to have been neither scholarly respect nor amount of content directly relevant to communications policy, but the seriousness with which journals were taken within the policy community, that is, "practicality." See Mark S. Nadel, "U.S. Communications Policymaking: Who and Where," *Comm/Ent* 13 (winter 1991): 273–323.

65. For the best overview of these theories to date, see Horwitz, *Irony of Regulatory Reform,* 22–43, especially his discussion of "perverted public interest," "conspiracy," and "capture" theories of regulation.

skeptics and policy dropouts. Even though these theories raise profound questions about the official view of the policy process, in other words, in the end they can serve to keep the policy faith alive.

A classic example of this pattern is found in Krasnow, Longley, and Terry's *Politics of Broadcast Regulation,* a very useful textbook regularly used in classes on broadcast policy in universities across the country. The book, as its title suggests, is quite willing to admit that broadcast policy is fraught with politics, at least in the low political sense of that word. It opens with the following passage:

> [T]he regulation of American broadcasting is often portrayed as if it takes place within a cozy vacuum of administrative "independence." In reality, the making of broadcast policy by the FCC, an ostensibly independent agency, is an intensely political process. . . . Too frequently, the participants [in the regulatory process] are viewed in a way that suggests an impersonal mechanical operation. Witness the description of their activities by the term "government regulation." Realistically, there is no such thing as "government regulation"; there is only regulation by government officials. . . . Thus a major problem for regulatory agencies like the FCC is not just to conform to the letter of the law but, beyond that, to find ways to attune their behavior to the requirements imposed by its political environment. (9–10)

Right from the start, the authors express skepticism about the idea of administrative neutrality and independent expertise, and assert the insider wisdom about the "political" nature of policy making. They go on to acknowledge the well-documented fact of what they call the "complex web" of industry-commission relationships, and that relations "between some Washington lawyers and officials of the regulatory agencies can be so intimate they embarrass an onlooker" (50).

Thus the FCC, they warn the reader, is heavily tainted by the subjective winds of politics. Yet they do not then go in the direction of, say, Theodore Lowi's *End of Liberalism,* which argues that the administrative discretion that enables "regulation by government officials" has come to undermine the rule of law and the democratic process.[66] For them, liberalism has not ended. Rather, the "letter of the law" has not been abandoned but, more benignly, has been supplemented by a process of "attuning behavior to political environments."

66. Theodore J. Lowi, *The End of Liberalism: The Second Republic of the United States,* 2d ed. (New York: Norton, 1979).

The FCC, in the authors' view, is basically an embattled arbiter caught in the midst of struggles between a variety of interest groups—the "political environment" to which the FCC "attunes" itself. For although "interest groups" pull the FCC this way and that, the agency itself is not inherently biased toward one or another view. They dismiss the criticism that the agency has been "captured" by industry interests with the observation that most policy conflicts are *between* members of the industry (49). They conclude that, happily, in the "pluralist" process of policy making, "nobody dominates the process consistently" (139). Lobbyists, Congress, the president, even community groups have a chance to jump into the fray and, if not always get their way, at least influence the process.

If this state of affairs is safe for democracy, it also has a place for experts. The book goes on to provide a "systems analysis" of the FCC accompanied by a diagram bristling with boxes connected by dotted lines and arrows by which one can trace the "inputs" and "outputs" of the policy process and a series of case studies that exemplify the workings of the "policy system" (136). Policy experts are no longer imagined as producing grand industrial blueprints for society to gratefully effectuate. Yet they have a role to play as advisers to bewildered "actors" in the policy arena, charting a course through the complexities of the process, perhaps suggesting procedures to "better attune the FCC's behavior to its political environment." The authors, in other words, suggest that the admittedly hurly-burly "politics" of broadcasting can be approached as a "management problem," a situation that can be rationally analyzed and managed, if not completely controlled.

The vision presented here thus responds to the disappointments of the original corporate liberal framework by reproducing it in new terms. The citizens of a democratic polity are replaced by "interest groups," and the "men of big ability and big vision" that Senator Dill hoped would staff the FCC are replaced by modest policy scientists offering their expert knowledge of the complexities of the policy "system" to those very interest groups. Charles Francis Adams's heroic social engineers have been superseded by liberal Machiavellians armed with theories of regulatory behavior.

The continuities between contemporary interest group theory and earlier corporate liberal visions run deeper than their differences, however. Interest group theory shares much with Herbert Hoover's original vision of society as functionally interrelated units of capital, labor, and the public. Although the public-spirited optimism of Hoover's day has since dampened considerably, today's interest group approach is similarly functionalist, and similarly sets up policy making as a matter of

achieving homeostasis through a mixture of careful arbitration, balancing of interests, and right reason. And the vision is similarly tautological: the different, competing "interests" (also known as "stakeholders") are treated as self-explanatory givens of the social universe, not as socially constructed, certainly not as changeable.

The most central given of applied interest group theory, of course, is the belief that a corporate capitalist system of broadcasting is the best choice or at least inevitable. Perhaps it is not surprising that an American book such as *The Politics of Broadcast Regulation* does not once seriously address the for-profit character of the broadcast system; the book takes it to be so obvious as to be not worth mentioning, that is, not having any political implications. That assumption, furthermore, is necessary to the authors' sanguine assertion that the industry has not been captured by industry interests on the grounds that there are struggles between industry factions. That the general interests of industry as a whole should be the focus of FCC policy is treated as a given, and "capture" is interpreted to mean capture by one industry faction over the interests of another (49).

But the structure of the book's argument also takes for granted some of the principles of liberal metaphysics, particularly the theoretical separability of politics from law and policy. The authors maintain a dichotomy between "the letter of the law" and political pressure, between the objective character of formal rules and the subjective character of politics. Also present is the terminological distinction between politics and policy: the authors ask how politics "imposes" itself on policy, but nonetheless maintain the assumption that these two things are distinct. They do not ask, in other words, about the politics of policy itself.

The Politics of Broadcast Regulation is a textbook, generally thought of as useful but not as a contribution to the most sophisticated theories of regulatory process. The book's arguments are nonetheless telling because, although the role of this kind of interest group theory in scholarship is complex and partial, its assumptions have become a part of standard operating procedures in the policy world. Informal interest group theory's construction of the role of expertise in the policy-making process, I would submit, is symptomatic of patterns of thought that underlie much of the practical wisdom about contemporary broadcast policy.

Ever since the late 1940s, FCC commissioners have increasingly come to understand their role in the world as one of mediating disputes between subgroups of regulated industries. Both observers and participants in policy making regularly describe rule making as the product of a compromise between particular factions. Cable must-carry rules which

pit broadcasters against cable operators, financial syndication regulations which pit Hollywood television producers against the networks, and video carriage policies which pit cable operators against telephone companies: all of these are generally treated as self-interested industry struggles carried out, not in the marketplace, but in the arena of federal policy. The FCC and other policy-making bodies, in turn, understand their principal role to be mediating such disputes. On more than one occasion, the FCC has made its arbiters' self-image official, announcing proceedings designed to find a compromise between interested parties. With unconscious irony, a theory that began as a criticism of the policy process has become a tool of that process. If not in academe, then in the trenches of the Washington bureaucracy, interest group theory becomes a working reality; functionalist analysis becomes a self-fulfilling prophecy.[67]

Living with the Legitimation Crisis: Policy Practice as Theater

At a recent conference on communications policy in the Washington area, a plenary session was devoted to the role of policy research in policy making.[68] A panel of staff members and commissioners of various regulatory bodies described what they wanted from policy research. The panel members spoke in familiar corporate liberal terms: one of them, for example, asserted the apolitical character of his work as a state utility commissioner by claiming that he was not a "policy maker," but merely a "regulator," an implementer of policies established elsewhere. While the panel members had their differences, they all seemed to agree that policy research tended to be too arcane to be understood by those who weren't academic specialists, not directed at solving problems of immediate relevance to regulators, and lacking in solid, irrefutable data and conclusions that could be used to back up policy decisions.

Several of the panelists were quite explicit about the difficulty of get-

67. Another example of the extent to which pluralist habits of thought have become second nature in policy circles can be found in Nadel ("U.S. Communications Policymaking," 296), who writes, "Although the pluralist theory of policymaking often neglects the early stages of policy formation (e.g., journal articles . . .) these are the forums where it is easiest for stakeholders to participate in the policymaking process and where proposals are most susceptible to modifications." He thinks he is criticizing pluralist theory, yet he still understands the process as one where self-evident "stakeholders" simply "participate" in the policy-making process.

68. Twentieth Annual Telecommunications Policy Research Conference, Solomons, MD, September 12–14, 1992. The panel was titled "Telecommunications Policy Research: Policymakers' Perspectives," and featured representatives from the FCC, the Canadian Radio-Television and Telecommunications Commission, and the Maine Public Utilities Commission.

ting things done when any given decision inevitably invoked the ire of one or another powerful industry or political "interest." If research was going to be useful in this context, they said, it should be accessible and unambiguous enough to silence potential opposition; work that was obscurely presented or equivocal in its policy implications just provided more fodder for debate. In order to be useful, therefore, policy research must be accessible, directed toward resolving problems in the lives of regulators, and unequivocal in its conclusions.

The audience reaction was varied, but there was a lot of grumbling, particularly among the many academics present—each of whom, to some degree, had staked their careers on being policy experts. Perhaps part of the tension was simply the product of conflicting operating principles inherent in the different policy roles of commissioner and analyst. One gets tenured for producing sophisticated work that deals with leading-edge issues in a scholarly field, not for being accessible to nonacademic politicians and bureaucrats. Yet the tension seemed to go a little deeper than that. An economist in the audience pointed out that, for all the research conducted, most past major policy decisions were not based on research. Most of the major policy actions of the 1980s, for example—the elimination of the prohibition against program-length television ads, the elimination of the station-trafficking rule, changes in station ownership rules, and the extension of license terms—were loosely justified by promarket economic logic but were not based on any detailed analysis. The panelists, it seemed, were not asking the researchers for advice about what to do; they were asking the researchers to help smooth the way for decisions already made, which was not exactly comforting to academic egos.

What was surfacing at that moment was a contradiction within the policy process. The implicit model of policy making suggests that, given broad guidelines, policy analysis produces solutions to policy problems based on expert, rational analysis. More often than not, however, research serves the largely rhetorical purpose of helping to justify decisions made politically. NBC's network duopoly was broken up in the 1940s because of the political savvy and moral fervor of FCC chair Fly combined with the residual New Deal political climate; the facts collected in the case were persuasive but not irrefutable, and by today's standards would not be understood to demonstrate monopoly.[69] Broadcast-industry resistance to limits on cable growth were overcome, not because of the irrefutability of the often grandiose "wired nation" policy analyses of the time but because the rhetoric of the "cable fable" helped introduce

69. See footnote 43.

new ways of thinking and enabled a political realignment in the policy arena.[70]

The data show, in sum, that the data often don't matter. As often as not, what matters in policy analyses are not the careful, well-reasoned empirical analyses but the catch phrases, the sweeping introductory and concluding paragraphs, and the broad patterns of thought to which the analyses lend authority. What has a real effect in policy analyses, in other words, is the rhetoric, the window dressing, whereas the information and reasoning merely lend expert authority to that rhetoric; the content is in the window dressing, and the rhetoric in the details.

If the policy process sometimes fails as a rational example of social engineering, however, it generally succeeds as theater, as a symbolic enactment of the procedures of social engineering. In this case Murray Edelman's analysis of the symbolic uses of politics is accurate. The ambiguities of policy allow for any number of policy questions: Is this or that interpretation of the public interest the constitutional, efficient, or reasonable—that is, the "correct"—one? Should this or that criteria be used to select broadcast licensees? Is the spectrum scarce or plentiful, and does scarcity in any case justify restricting the rights of one or another "interest" in broadcasting? Should this or that industry faction be favored with supportive regulation, or punished by favors granted its competitors? These questions, furthermore, can be made to overlap with numerous interesting academic ones: What is economic efficiency, and how best might it be measured? How can constitutional principles be applied to new electronic media? How does one measure the relationship between media ownership and media content? What is media diversity and how can it be measured?

As long as professionals are employed in regulatory agencies to raise these questions, studies are conducted in an effort to answer them, and academics continue to design policy courses, write policy analyses, and attend policy conferences around them, policy activity goes on. Every few years a new policy trend surfaces that promises to correct all the errors of the old ways, and amid struggle and debate we are treated once again to the drama of heroic public servants doing battle on behalf of truth and the public interest against entrenched interests. As a result, a general image of a successful policy activity is presented that, though perhaps a little ragged around the edges, is sufficient to comfort those inside the apparatus and generate acquiescence on the part of those outside it, at least to the degree necessary to keep the process going.

70. Streeter, "Cable Fable Revisited."

Conclusion: Policy and the Deferral of Politics

Policy insiders are not unaware of many of the criticisms that have been advanced here, and would undoubtedly provide compelling and thoughtful counterarguments. True, broadcast policy has its problems, they might argue, but a less-than-flawless record need not be understood as indicative of total intellectual bankruptcy. Let's not throw the baby out with the bathwater, it might be said. There are cases where good policy ideas helped improve things. There is still room for reasonable and qualified people to present thoughtful advice to elected and appointed officials with an eye toward helping make things work a little better.

Without wishing to discount the occasional strategic importance of policy actions in the short term, it is nonetheless difficult to remain sanguine about existing patterns in American broadcast policy if one looks at things over the long term. In its seventy-five-year history, the hope that reconciling corporate liberal logic and procedures with broad liberal goals in broadcast policy has received very little support, even in its own terms. The definition of the public interest, even within corporate liberal parameters, has proven to be highly unstable and subject to constant wrangling; many have pronounced the phrase dead, though it continues to live on in the official laws of the land. As we will see in subsequent chapters, the search for some kind of marketplace competition that satisfies all the traditional liberal criteria—easy access, large numbers of competitors, lack of government interference, lack of privileged players—has fueled any number of policy initiatives but has yet to produce anything that is universally accepted as an industrywide open marketplace. And the hope that expertise and administrative procedure would insulate broadcast regulators from both political winds and corporate self-interest has had to take refuge in a series of policy fads: from the trustbusters of the thirties to the sociologists of the sixties to the deregulators of the eighties, each of which entered the scene with a promise to achieve the technical clarity and neutrality that its predecessor failed to deliver and each of which, under the force of experience, eventually succumbed to the same forces that it proposed to transcend.

The point here is not that corporate liberal broadcast policy should be abandoned in some kind of revolutionary purge. The point is rather that there is plenty of justification for inquiry into the fundamental assumptions that are generally left untouched by existing discussions. Broadcast policy *should* be about the American policy for broadcasting.

Corporate liberal policy may not need to be abandoned, but it should be allowed to be open to question.

The process of inquiry into underlying premises, it should be emphasized, need not be seen as a perhaps interesting but relatively "impractical" theoretical exercise. If being practical means seeking understanding that might be brought to bear on the improvement of collective life, then in the current context exploration of premises is altogether practical. It is impractical only if one narrowly defines "practicality" as contributing to the corporate liberal project of enacting liberal principles with recourse to neutral expertise. After seventy-five years of at best mixed success in trying to work within those corporate liberal premises, opening those premises themselves to questioning might be as practical as anything else.

The most obvious of the never-discussed questions is the social value of commercial organization itself. Yet inquiry into commercial organization is not a simple matter of debating the values of untrammeled greed versus elevated public principles (or of free markets versus government regulation). That these seem to be the fundamental questions is in turn a product of other fundamental liberal premises: assumptions about the nature of social organization, markets, government, rights, bureaucracy, communication, and property. So the following chapters investigate the practical character of those assumptions, particularly the last, as they have operated in broadcasting.

It should be remembered, however, that this investigation also calls into question another characteristic liberal principle, the principle underlying formalist understandings of the rule of law and scientistic understandings of expertise: the wish to transcend politics. The point in exploring the role of property and other key liberal categories in commercial broadcasting, therefore, is not merely to neutrally dissect them, or to discover the correct, most efficient, or coherent understanding of them. The point is to open them up, to help make them available, in all their complexity and fluidity, for a broader discussion—to politicize them in the "high" sense of that word.