SUSTAINING JOURNALISTIC INSTITUTIONS

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Media have traditionally relied on a mix of advertising and subscription revenue to keep the lights on—and to produce a mix of high quality, thoughtful, well researched, compelling news, information, educational, and other content that is necessary in a modern democracy. The internet has disrupted those revenue streams. And while some media outlets have shored themselves up on other sources of support—grants, government transfers and licensing fees, wealthy patrons, or the like—such funding is both the exception and de minimis in the overall operation of our media ecosystem.

The chapters that follow consider these institutions' struggle to survive technological disruption. Can traditional media enterprises survive internet-era market forces? And if not, can they survive the governmental interventions (and governmental controls) that may be necessary to ride the market out?

In the first contribution to this section, Professor Laurie Lee looks to the relative success of local television news compared to newspapers over the recent past, to explore whether there are lessons that can be learned from the local television business model that can help print news to continue as a going concern. Her chapter surveys a significant amount of material, both historical and regulatory, to understand the enduring success of local television news—as well as to ponder how likely it is to continue to survive, if at all. And in an observation that bears on the other

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This Essay will be republished as a book chapter in MEDIA AND SOCIETY AFTER TECHNOLOGICAL DISRUPTION (Gus Hurwitz & Kyle Langvardt eds., forthcoming Cambridge Univ. Press 2023).

contributions to this cluster, Professor Lee notes that broadcast's most significant advantage may lie in the "regulatory protectionist policies" it enjoys under federal telecommunications law. It is doubtful under the First Amendment that these same policies could be carried over to newspapers.

Paul Matzko carries the discussion forward from here in a chapter that considers a recent mechanism advanced to support traditional media institutions in Australia. This mechanism, commonly referred to as a "link tax," requires social media platforms to pay some amount to Australian media outlets for links on the social media platform to content hosted by the Australian firms. As innovative as it may seem, Matzko argues that the link tax has an early twentieth-century forbear in the "hot news" doctrine. "Hot news" meant that news organizations could claim fresh scoops as their own exclusive quasi-property for short periods of time—and sue competitors who picked up the story too soon. This judicially-created doctrine secured some established news organizations' revenue against the technological disruption of the day (competitive entry in the telegraph market). But critics including Matzko have argued that hot news created entrenchment effects that negated whatever benefit to journalism courts claimed it would provide. The "link tax," Matzko argues, will do the same: "If redistribution of online revenue is a priority for policymakers, then almost any other mechanism for accomplishing that goal would be preferable."

Lee's and Matzko's chapters both focus on what could be considered business models that distribute revenues from one set of (profitable) stakeholders to another set of (unprofitable, or at least less-profitable) stakeholders though a regulatory mechanism. The final two papers go a step further, considering permutations of direct public support for uneconomic media platforms. It bears note that all four authors contributing to this discussion consider at least a minimal level of regulatory intervention in markets—even if Lee ponders whether it is necessary and Matzko urges caution against the dangers of the Australian link tax that he examines.

In his contribution, Professor Kyle Langvardt minces no words, starting with the clear statement that "The commercial market for local news in the United States has collapsed." Two-thirds of the United States, he tells us, have no local newspaper; those papers that still serve their communities are struggling. What is the remedy? Considering the unviability of private markets to provide a solution, at least outside of edge cases such as Substack and other idiosyncratic markets, Langvardt

looks to the clear alternative: public subsidies for traditional media institutions. Public funding of the press is traditionally disfavored in the United States—but, Langvardt notes, "[a]lmost all wealthy democracies [other than the United States] give substantial financial support to the news media." Why shouldn't we? Indeed, he notes that even in the United States there are various subsidies for media—such as discounted postage.

Professor Langvardt argues that American concerns about First Amendment rights and state control (or capture) of critical media institutions explain much of America's public stinginess toward the news. He considers a range of options that a public option for media may take, focusing on designs that may pass First Amendment muster. His discussion touches on several points, from the unresolved standing of government speech under the First Amendment (it may not be constitutionally problematic for the government itself to establish a media platform) to voucher-based programs directed through plebiscite.

Rounding out this section, and this volume, Professor Ramsi Woodcock also considers a model for traditional media businesses that involves more intervention in the market. Unlike Langvardt's argument for direct public subsidies to support traditional media, Woodcock proposes two indirect interventions, one aimed at newspapers' market for readers and the other at newspapers' market for advertisers.

On the reader side, Woodcock would use the postal service's letter-box monopoly to tax high-visibility social media posts. This would force lower-quality content out of the market, creating space for newspapers to shift resources back from the opinion reporting that has proliferated in recent years to the more fact-oriented reporting that characterized mid- and late-20th century journalism. He believes this would restore the moderating influence that newspapers once exerted over American politics.

On the advertiser side, Woodcock would raise advertising revenues for newspapers by restricting advertising on social media platforms, with the goal of pushing advertisers to spend more on advertising in traditional media. Unlike the link tax considered by Matzko, advertising restrictions would be more likely to restore newspapers' revenues because they would not depend on social media companies' demand for news, which Woodcock believes to be small. Both of Woodcock's proposals are grounded in a frank, unsparing recognition that social media is simply built for attention and advertising in a way that traditional journalism is not and

never can be—and that public policymakers will have to rebuild the playing field if they want journalism to survive competition in the digital economy.