

The digital revolution is an opportunity to rebuild, reshape, and rewire today's powerful media empires. This book asks: What kind of communication system could be built on the value of individual voices and the needs of democracy?

If Every Voice is Sacred: A Truth and Reconciliation Path to Communication Justice

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If Every Voice is Sacred  
A Truth and Reconciliation Path to Communication  
Justice

By Bart Preecs

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## Part One: Birth of a Top-Down Media system

The United States was founded in large part as a revolt against a king's right to control information by requiring licenses for printing presses and official stamps for publications. Today, we have an infinitely more complex media and communication system, which includes massive commercial enterprises engaged in broadcasting, publishing, movies, music and the electronic delivery of digital information.

I call these information-distributing, culture-creating industries "Top-Down Media," because despite all the hype about interactivity and personalization, they are largely based on an industrial production model. Our broadcast and cable TV networks, news magazines, movie studios, and national newspapers still largely follow a one-size-fits-all strategy, reminiscent of Henry Ford's dictum that the Model T came in any color you wanted, as long as you wanted black.

Historically, the printing, publishing, and communication industries were granted significant protections and privileges because their proper functioning was considered essential for the growth of the economy and the practice of democratic self-government. These privileges and protections, from the First Amendment, to postal subsidies, to exclusive broadcast licenses, gave Top-Down Media significant power to shape public opinion and influence the political process.

Through a slow, predictable process of regulatory capture, Top-Down Media gained control of the legal and regulatory framework that guides and controls its operations. Sadly, Top-Down Media

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companies have used this power to shape that framework in ways that benefit their self-interest, largely at the expense of the historic, constitutional responsibilities to the larger public good.

In Chapter 1, I briefly summarize the history of communication in the United States and introduce the crucial concept of regulatory capture, how unequal distribution of resources and incentives creates the conditions that lead inevitably to regulatory capture.

Chapter 2 explores a crucial example of regulatory capture, in the earliest days of broadcasting, and how questionable decisions made in the 1920s have ripple effects that touch our lives today.

Chapter 3 discusses how today's media and communication system has turned the practice of democratic self-government upside down, giving enormous leverage to people and institutions with financial power.

Chapter 4 describes how the multibillion marketing industry works against the interests and values of the American people, and the impact this power has on our daily lives.

Chapter 5 argues that challenging the dominance of today's media and communication system requires the moral and spiritual energies that motivated historic battles for the abolition of slavery, suffrage for women, and civil rights for African Americans

## Chapter 1. How First Amendment nation lost its way

*The Congress shall have power ...To establish post offices and post roads;*

*Article 1, Section 8  
United States Constitution*

Article 1, Section 8 is where the drafters of the Constitution, the architects of the new government, set out to define the responsibilities of the new Congress.

Most of the items on the list are predictable. There are paragraphs authorizing the creation of an army and a navy. Another authorizes Congress to coin money and regulate commerce among the states.

But there's one item on the list of key government functions that deserves special attention in the 21<sup>st</sup> Century. That's the brief paragraph that requires the new government to create and maintain a system of post offices and post roads.

We should pause for a moment perhaps to remember that in the late 18<sup>th</sup> Century, when the new government was establishing a new country to deliver on the promise of the Declaration of Independence and the Revolutionary War that followed, the only means of long-distance communication was printed paper delivered on horse-powered carriages.

The call for a U.S. Post Office was the recognition that effective communication among the original 13 states was essential to the prosperity, even the survival of the new country. Communication policy in the U.S. did not begin with the First Amendment.

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In *The Creation of the Media*, historian Paul Starr describes the debate that occurred during the earliest days of the new nation. Congress passed the Post Office Act in 1792. During the debate, Benjamin Rush and George Washington argued that newspapers should be delivered by the new post offices for free. James Madison argued that a minimal charge would encourage faster delivery, and Madison won. Newspapers were charged 1 penny for delivery within 100 miles and 1.5 cents for longer distances.

This policy of subsidized communication was followed for more than 100 years after the nation's birth, and it paid huge dividends for the new country. By 1828, Starr reports there were 74 post offices per 100,000 people in the U.S, compared to 17 in Great Britain and 4 in France. Other historians calculate that by 1835, the volume of newspaper circulation in the U.S. was two or three times larger than in Great Britain. This flow of subsidized information brought the new nation together both politically and commercially.

The pattern of support for communication was continued during the rest of the 19<sup>th</sup> Century as government provided important support of both railroads and the telegraph networks that made railroads manageable.

One hundred years after the first Post Office Act, another experience demonstrated the power of new forms of communication. Starr describes how advances in photoengraving in the late 1880s made it technologically possible to deliver brightly illustrated magazines. The new technology was not the only reason why magazines became popular, however. The industrialization of consumer products created a need for national advertising to reach nationwide markets, a need the new magazines were happy to accommodate. But the final piece was a

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change in the postal rates that made national distribution economical. Between 1874 and 1885, Congress reformed postal rates to lower the costs to the new national medium, and a key reform in 1874 reserved the lower, second class postage rates for publications that carried “information of a public character” or supported literature, the arts or sciences.

The consequence of these changes resulted in the invention of “muckraking.” Theodore Roosevelt invented the term and intended it to be disparaging, but journalists look back at the series of articles about Standard Oil that were published in McClure’s, and call it a golden age of investigative journalism. Historians look at the list of reforms that date back to this era—including the Sherman Antitrust law and the Pure Food and Drug Act—and call it the Progressive Era.

We’ll come back to the concept of government support for public interest communication, but for now let’s note that there are three elements needed for a significant change in communication capability.

**Technology.** Obviously, technology affects how we communicate with each other. Our tools of communication have grown exponentially since the days of hand-printed newspapers delivered by stagecoach over unpaved postal roads. From the telegraph, to the telephone, to radio broadcasting, to e-mail and the World Wide Web, communication technology has exploded, with no end in sight.

**Business models.** Equally obviously, communication technology has an economic component, and we have a many ways to finance a flow of information and entertainment, from newspaper and magazine subscriptions, supported by local or national advertising.

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We have radio in our cars or homes ad-supported for free, or commercial-free from a satellite. We can TV free over the air or pay for a cable service. Some movies are included in our cable bill or we can go to a video store or get Netflix in the mail. We use free Internet search engines with keyword auctions and free e-mail supported by banner ads or pay-per-click sidebar ads. New technologies of communication frequently create new ways to make profits and reward investors.

**Public Policy.** Although technology and new business models get much of the attention, public policy is frequently plays an equally crucial role. Political decisions supporting or hindering new communication methods have often played a key role in the evolution of communication.

We've seen the support for 19<sup>th</sup> Century post offices. Government policies support the rapid rise of both telegraph and telephone service. Decisions granting exclusive rights to radio and TV channels in exchange for promises of "public service" created broadcasting empires. Later, government policies first opposed, then supported, cable television to provide competition for broadcasters. Many other advances in communication, such as satellite broadcasting or the Internet itself were a direct result of government-sponsored research and development funding.

But policies and regulation related to communication have changed in recent years, from supporting, even subsidizing communications in the name of the public interest, to relying on market competition.

For example, Richard Nixon changed the U.S. Post Office into the U.S. Postal Service, which has a sort of a hybrid between public service and for-profit management styles. Recent postage rate

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changes reward the direct mail industry and large publishers at the expense of exactly the kind of small, independent publications that earlier regulations were intended to support.

What happened?

Partly this is a result in changes in public attitudes, which began to shift in the 1970s when President Carter de-regulated the trucking and shipping industries. The accelerated when President Reagan declared that “government is not the solution, government is the problem.”

But the process of undermining support for public service communication goes beyond a few presidential pronouncements. The process of weakening public service requirements actually has a name. The technical name for this process is called “regulatory capture,” and a man from my neighborhood won a Nobel Prize in Economics for discovering the process.

George Stigler graduated from my alma mater, the University of Washington. He went on to get a PhD in economics and taught of the University of Chicago. The principle that Stigler discovered and documented can best be illustrated with an old joke.

What does it take to make a ham and egg breakfast? Well, to make a ham and egg breakfast, you need to get the chicken to make a big sacrifice. But you’ve got to get a real commitment from the pig.

That’s not exactly Jay Leno material, but the point is clear. If a government regulation or decision affects your livelihood, you’re going to pay close attention to the body that makes that decision.

Here’s how Stigler described regulatory capture.

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Elected officials see a problem; say railroads using their monopoly power force tax breaks or other concessions from rural communities that have no shipping alternatives.

The elected officials pass a law and appoint an Interstate Commerce Commission to solve the problem. Things might go well for a while, Stigler says, as the new commissioners zealously enforce and interpret the laws designed to protect the public. But then something happens.

The people who benefit from the new regulations, the farmers in the little towns scattered across the Midwest and their elected representatives think the problem is solved. They go back to their busy lives or move on to the next problem.

The people who are being regulated, the railroad people on the other hand, don't have other lives to go back to. They continue to pay very close attention to what the regulators are doing. After all, it's their livelihood that's being controlled.

The people doing the regulating, the board members and the staff that support them, spend a lot of their time with the people being regulated. They're all nice people, and they share some common interests—in the nuts and bolts of railroad traffic.

The people on the regulator side notice that the people being regulated usually make a lot more money than they do. Sooner or later, one of the board members or a senior staffer makes the switch. Now things are even more congenial because they're former colleagues, although the fact that the former colleague has doubled or tripled their salary sometimes causes a bit of tension.

Put yourself in the shoes of a GS-12 business analyst at the old Interstate Commerce Commission. Suppose you have a choice

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between interpreting some obscure paragraph of fine print in a way that might benefit—in a small way—thousand of people you'll never meet. Or you could write the paragraph in a way that would mean the nice railroad people would owe you a big favor.

Now suppose one of those nice railroad people told you on the golf course last week there's an opening coming up in their department in a few months. That job opening might double or triple your salary. The question Stigler asked is simple. How hard are people going to look out for the broader public interest under these circumstances?

Now Stigler was a University of Chicago economist, and he got his morning cup of coffee from the same pot in the faculty room that Milton Friedman got his. So Stigler's conclusion was that all attempts at regulation were doomed to fail, because eventually the regulators all come to care more about the needs of the regulated industry, which always focuses attention and money on the regulators, than on the general public, whose resources and energies are always spread over a number of causes and concerns.

And there's support for this theory. The Interstate Commerce Commission and the Civil Aeronautics Board, where you used to go to get a license if you wanted to launch a trucking business or start an airline, were abolished long ago. Abundant evidence convinced policymakers that the two boards served mainly to reduce competition and keep prices high in the two industries.

The revolving doors between the ICC and the CAB and the industries they regulated are gone. But one agency remains a poster child for Stigler's theories. That agency is the Federal Communications Commission.

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At a media reform seminar I attended in Seattle a few years ago, a white-haired retired radio industry veteran said bitterly that “the license renewal process started OK, but it turned into a joke.” He’s right. Broadcast licenses used to be issued every three years and require an extensive “ascertainment” process to prove licensees were meeting serious public interest requirements. Today, a broadcast license is renewed for eight years and the form required is not much more than a postcard.

Well, now we know why it turned out that way.

Stigler’s Nobel Prize is the main reason I can’t get very optimistic when current FCC Commissioner Michael Copps goes on TV with Bill Moyers or tells a media reform gathering that the solution to the problems of the media is to “get back to license renewal with real teeth.” Copps says that putting license renewal information on the Internet would help communities compare the public service track records of local stations. And he may be right.

Making that information easily available would make it easier to gather the information needed to challenge a license renewal. But community people tracking a license renewal will almost always be unpaid volunteers. The stations with licenses up for renewal will have well-paid, full-time employees working to game whatever new system we come up with.

Ask yourself this question. Suppose a really liberal Democrat got in the White House and appointed a really liberal FCC majority, or got a Democratic Congress to restore “license renewal with real teeth.” What would the lobbyists and lawyers now working with the National Association of Broadcaster and hundreds of local stations do? Would they all resign their 6- and 7-figure jobs in disgrace?

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Maybe take jobs in the nonprofit sector working as mentors for at-risk high school students?

No, they would not. As any Washington hand could tell you, the answer is simple. They'd raise their rates. They'd hire a bunch of Democrats and go back to work the next day trying to weaken the new rules. And you know what? Eventually they'd win, again.

But that doesn't have to be the outcome. We can disagree with Stigler's conclusion that regulation is worthless even if we admire his research into why it fails so often. We'll take a look at some ways to overcome Stigler's dismal diagnosis in Part Two.

*Suggestions for further study:*

*The Creation of the Media: Political Origins of Modern Communications*, by Paul Starr, Basic Books, 2004

*Digital Destiny: New Media and the Future of Democracy*, Jeff Chester, New Press, 2007

## Chapter 2. Regulatory capture in action: How Herbert Hoover changed the world

*The ideas of economists and political philosophers, both when they are right and when they are wrong, are more powerful than is commonly understood. Indeed the world is ruled by little else. Practical men, who believe themselves to be quite exempt from any intellectual influence, are usually the slaves of some defunct economist*

John Maynard Keynes

Herbert Hoover, when he's remembered at all, is generally thought of as the man in the high, starched collar who failed to stop the Great Depression. Whether or not this is a fair assessment of Hoover's presidency, it overlooks Hoover's most significant contribution to our nation.

Most surveys show that Americans spend 6 to 8 hours a day watching television or listening to the radio (although DVDs, iPods, and Internet browsing are starting to make a dent in the numbers). Strong majorities of Americans still get most of their local and national news from television. Given the importance of broadcasting in American life even today, it's possible that Herbert Hoover was one of the most influential men ever to set foot in the White House. Notice I didn't say influential president. Hoover left his mark on 21<sup>st</sup> century America long before he was elected president.

It happened like this.

Hoover was the Secretary of Commerce, serving under Warren Harding when the commercial potential of radio began to dawn on American businessmen (and in those days, they were almost all men). For most of the first two decades of the 20<sup>th</sup> century, radio

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was like the Internet in the years before the Netscape IPO. Radio was a plaything of hobbyists and enthusiasts, explorers and do-gooders. The earliest radio stations were frequently run by colleges, churches, or farm bureaus passing on weather reports. Early radio had all the enthusiasm and rapidly advancing technology it needed ... it just didn't quite have a business model. Does that sound familiar? The Internet went through a similar phase in the early 1990s.

***Preecs's Principle of Communication Power***

*A lifelong study of technology and communication leads me to this fundamental conclusion: New forms of communication almost always threaten people in power. From Martin Luther and the Gutenberg Bible to FDR using radio to bypass anti-New Deal newspapers, changes in communication always threaten the existing arrangements that keep some people in positions of power over others.*

*That may sound cheerful, but the punch line isn't. Existing power structures almost always find ways to convert new forms of communication into tools for better control. From Congress deciding that radio stations needed government licenses in the 1920s to today's efforts by telephone and cable companies to exclude the Internet from historic common carrier obligations, the powers that be always try to find ways to incorporate new technology into their arsenal of domination.*

*The Internet may be the biggest challenge to Preecs's Principle. Whether the Internet will ultimately become yet another corporate media venue or a genuinely revolutionary tool for democracy, community, and justice may be one of the most important questions of our time.*

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The following story is a work of imagination, not to be confused with scholarship or investigative reporting. But subsequent events make it clear that something very much like this must have taken place.

A group of tired businessmen gathered in the back room of one of those ornate, gilded age hotels that were the center of social life in Washington, DC in the 1920s. It was blustery cold day in February, 1922, and the dozen or so men had spent the day listening to speeches and reports during a “Radio Conference” called by Secretary Hoover to help him sort out the issues of who would get radio licenses and what they might be allowed to do with those licenses.

Everyone in the room was a practical man of business, no do-gooder professors or crazy preachers, no Navy men who wanted to keep radio transmitters under government control, the way they were during the war that ended in 1918. After a careful look around, someone probably broke out a bottle of bathtub gin.

As the men lit cigars and passed the bootleg bottle around the room, one of the men stood up. “This problem of interference is getting really serious, he said with a meaningful look at his audience.

Now, if there had been an electrical engineer in the room, he might have corrected the speaker. Radio waves don’t actually “interfere” with each other, we just don’t have receivers good enough to tell one signal from another. We don’t even have transmitters that stay on their assigned frequency, the engineer might have explained. But we can solve both those problems fairly easily, he could have assured them, and there’ll be lots of room on the radio dial for anyone with a transmitter.

If there had been an attorney in the room, he might have told the businessmen that the courts were working on the problem,

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applying ancient precedents of common law, giving priority to broadcasters, of any sort, who first began using a particular frequency. The attorney might have encouraged the businessmen to let the engineers work with the attorneys, sorting out the issues over power levels, again opening up opportunities for new stations while giving pioneers the right to continue broadcasting on the frequencies they'd pioneered.

But there were no attorneys, no engineers in the room...or maybe there were, and one of the businessmen grabbed them by the collar and shoved them out the door.

In any event, the speaker raised his hand for emphasis. "What we need is government regulation to protect our listeners from unscrupulous competitors causing this harmful interference."

This must have come as a shock to some of his listeners. "What, you want some pencil pusher from Uncle Sam to..." one of them started to say. But the speaker leaned over and put a hand over the listener's mouth. And he gave the listener a big wink.

"What we need is government regulation to PROTECT our listeners from COMPETITORS who cause interference, he said, with a new emphasis. The listening man's eyes grew wide and he removed the speaker's hand from his mouth. "Oh, right...we really do need the government to step in...to protect our listeners from competition... I mean from interference." And he winked back.

Hoover probably wasn't in the room when the big wink was passed around. All we know for sure is that after his First Radio Conference, Hoover said "this is the first time that an industry is unanimously calling for government regulation." And we know that Hoover worked tirelessly for government regulation of the airwaves from that day forward.

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We also know that members of Congress had their own agenda when they passed the 1927 Radio Act, which created the first Federal Radio Commission.

Members of Congress in the 1920s knew as much about electromagnetic spectrum propagation characteristics as today's members of Congress know about packet-switching network topologies. But they knew what the practical application of unregulated radio broadcasting might mean for members of Congress. They knew what a microphone could be used for.

Examining the Senate and House debate over the 1927 Radio Act, author Jonathan Emord found ample evidence that members of Congress were worried about the impact of the new communication tool on political campaigns. In his book *Freedom, Technology and the First Amendment*, Emord quotes one Congressman's concerns: "[Broadcasters] can permit one candidate to be heard through their broadcasting stations and refuse to grant the same privilege to his opponent."

Emord and other property rights advocates, such as Thomas Hazlett, have long argued that the 1927 Radio Act was an implicit bargain, grandfathering existing broadcasters in return for limited licenses, which meant that broadcasters would always be beholden to politically powerful members of Congress. Other scholars from different perspectives, like Robert McChesney and Hugh Sloten, argue that the 1927 act and subsequent regulation by the new Federal Radio Commission favored commercial broadcasters over stations operated by educational institutions or other nonprofit organizations.

That's regulatory capture, the slow, steady tilting of the regulatory process in favor of the supposedly regulated industry. The brand new Federal Radio Commission, in its first months, issued a regulation that became a classic example of regulatory capture at work.

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It's not possible to understand modern American media system by just looking at the laws passed in 1927 or 1934. That just gives you the pleasant sounding theory about how things are supposed to be done. To understand how today's media moguls got the power they enjoy, you have to study carefully the monumental hypocrisy, the absolute injustice perpetrated by the Federal Radio Commission as General Order No. 40.

General Order No. 40 was supposedly a solution to the problem of interference, but it was designed to solve the problem in just exactly the way the boys in the back room in 1922 would have wanted it solved.

Recall that the early pioneers of broadcasting were just as likely to be colleges, churches, labor unions, or farm bureaus as they were commercial businesses people. Note that most of the technical experts used by the new commission were radio engineers employed by Westinghouse, AT&T, or RCA, the largest proponents of commercial broadcasting.

What the "technical experts" came up with was a plan to "re-allocate" all the frequency and power assignments given to stations before the creation of the FRC. The plan came with a description that George Orwell himself would have considered a masterpiece of political doubletalk.

The FRC decided that stations that were offering commercial broadcasting, that is programming supported by advertising, would be classified as "general public interest stations" because commercial advertising, their business model of choice, depended on attracting the largest possible audience. Stations that had a noncommercial mission, of any kind, were classified as "propaganda stations."

Think about that for a moment. Stations whose sole purpose was to make money for their owners got assigned the warm fuzzy label

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of “general public interest.” That’s not all they got, either. These stations got better frequency assignments, higher power allocations, and longer operating hours.

If a station was licensed to a college or university on the other hand, with funds allocated by a democratically elected state legislature to offer educational services or to help farmers with weather reports, it carried the burden of being labeled a propaganda station.

Nor was that the only burden. Broadcast historians Hugh Sloten and Erik Barnouw describe the devastating effect FRC regulations caused educational broadcasters. Sloten describes how one 500-watt college station in Connecticut suffered. “The commission reduced WCAS’s power to 250 watts, shifted its frequency, and ordered it to divide time with more stations.” Eventually the station folded. Another educational station finally sold out to a commercial broadcaster after repeatedly being denied a power increase. The commercial station got the power increase a month later without a hearing.

Historians are clear that the reason for this one-sided treatment was that most of the members of the new commission as well as the key technical advisors were employees or consultants to Westinghouse, RCA, or AT&T, members of the Radio Trust that controlled patents and dominated the early days of commercial broadcasting.

Today, this blatant conflict of interest might at least raise an eyebrow or two. In a more skeptical era, the commissioners might have said, “thank you very much, Mr. Engineer, it’s always good to understand the views of industry...now let’s hear from the head of educational broadcasting at Iowa State University.”

But of course this was the 1920s, when the business of America was business and the general presumptions in favor of centralized

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control and top-down management were part of the DNA of the Industrial Revolution.

It may be hard to appreciate how General Order 40 and other pro-industry rulings changed the character of modern broadcasting.

Imagine for a moment, how today's Internet would be different if Google, Yahoo, and Craigslist had been ordered to stay off the internet except on late evenings or weekends because they were being operated out of college dorm rooms or apartment bedrooms. Imagine that a Federal Internet Commission had given favorable treatment to the GEnie dialup service because it was part of General Electric, while forcing newcomer AOL to operate at half speed.

Of course the unstructured nature of the Internet makes such regulation difficult, but the debate over "network neutrality" clearly shows that large corporations are happy to turn to Washington to seek a regulatory climate that will limit competition and slow down innovation.

The ripple effects of a government-licensed broadcasting system echo all the way from the 1920s to today. It's probably just a curious coincidence that Colin Powell was pushing the idea that Saddam Hussein had weapons of mass destruction about the same time that his son, FCC chair Michael Powell, was pushing his idea that giving TV networks power to own a lot more local television stations would be good for America.

It may have been just a coincidence, but several people have written books about the failure of American journalism in general and TV news in particular to question government claims about the coming war in Iraq more skeptically.

A study by the media activist group Fairness & Accuracy in Reporting (FAIR) found that in the months leading up to the

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invasion of Iraq, PBS and four commercial broadcast networks interviewed nearly 300 people for their opinions on the upcoming hostilities. Of those 300 experts, a grand total of four people were opposed to the war.

This at a time when around 40% of the American people told pollsters they opposed the war and tens of thousands were willing to march in the streets to prove it.

Would that imbalance have been different if broadcasters were not utterly dependent on government licenses and lobbying hard in Washington for changes in regulations that would strengthen their hold on the communication marketplace?

We may never know, but the question points us in the direction of a communication policy that would give us an answer.

*Suggestions for further study:*

*Telecommunications, Mass Media, & Democracy: The Battle for Control of U.S. Broadcasting 1928-1935*, by Robert McChesney, Oxford University Press, 1993

*So Wrong for So Long: How the Press, the Pundits, and the President Failed on Iraq*, by Greg Mitchell, Union Square Press, 2008

*Lapdogs: How the Press Rolled Over for Bush*, by Eric Boehlert, Free Press, 2006

The digital revolution is an opportunity to rebuild, reshape, and rewire today's powerful media empires. This book asks: What kind of communication system could be built on the value of individual voices and the needs of democracy?

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