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**News In the Public Interest:
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Panelists discussed a clear though complex question -
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A Study of Nonprofit Ownership of News Media

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Introduction

The conversation among news media executives for several years has been the search for new economic models for media success. Normally that means trying to find methods of building audiences for broadcast, print and online news, but the search for new economic models also takes another path. It also means models for the survival of independent news organizations. In this case the answers for future success might be found in models from the past. There are unusual ownership arrangements, experiments that failed, family efforts that faltered, and some ventures that survive.

In search of strong news media, owners created schools, developed community foundations, set up employee-ownerships, and devised trusts as means of keeping news organizations independent and locally focused. These non-traditional approaches are found in various geographical regions, in a range of organization sizes, and among ideological opposites. Some are recent efforts that aren't fully formed. Others have lasted for decades.

The best arrangements value community responsibility, commitment to local ownership, and a passion for quality journalism. Several names emerge as leaders in preserving nonprofit ownerships. Newspaper leaders include Theodore Bodenwein of the *New London (Conn) Day*; Nelson Poynter of the *St. Petersburg (FL) Times*; William and Nacky Loeb of the *Manchester (NH) Union Leader*; and more recently, Brandy Ayers of the *Austin (AL) Star*; and George McLean of the *Tupelo (MS) Northeast Mississippi Daily Journal*.

This study address the first of five proposals set forth by the Breaux Symposium. The proposal is: More media outlets should be operated by nonprofits and public policies should encourage and support this type of media ownership. It looks at the organizations named and others that model nonprofit ownership. It examines individual organizations' history, form of ownership, the intent of the owner, and challenges to the form of ownership. Using this analysis, the study also addresses four sets of questions raised: Is the method feasible, operable, desirable and measurable?

Models of Nonprofit Ownership

The New London Day

Gregory N. Stone published, in 2000, a history of *The Day* of New London, Connecticut. He had grown up with "The Day Paper" in his home, he delivered the newspaper as a boy, interned there, became a staff member, watched his son become a newspaper carrier, and moved to the position of deputy editorial page editor. *The Day* is a part of his life, but when he published his book, it was named, *The Day Paper: The Story of One of America's Last Independent Newspapers*.

The Day may be among the last independent newspapers in this nation, but it is also one of the first with a successful nonprofit ownership. The newspaper is owned by The Day Trust, an entity created by Theodore Bodenwein, who published the newspaper from 1891 to 1939. His will called for a small group to distribute the newspaper's profits to serve the community. Over a half-century after creation of the trust, and after two legal

challenges of the plan, the trust and the newspaper survive.

The nucleus of *The Day's* success rests in Theodore Bodenwein and his history in New London. The city is historic. It was laid out in 1646 on the Thames River by John Winthrop Jr. and named after the British city. The newspaper was founded in 1881 by John Tibbits and his cousins, the Chappell family. It was nearly bankrupt a decade later when the Chappells made a deal with Bodenwein, a 27-year-old newsman, to buy it. Bodenwein came to prominence in New London just as the city celebrated its 250th anniversary. He promoted the city in his newspaper by describing it as "halfway between New York and Boston."¹

Bodenwein said that over time he mastered every aspect of the newspaper business. Beginning as a pressman, and later reporter, he redesigned the nameplate, expanded the staff, modernized equipment, and attended to newspaper sales.² He built *The Day* into a respected newspaper and built his own stature. Between 1905 and 1909, he served two terms as Secretary of the State of Connecticut while others ran the newspaper.³

Newspaper publishers in the early 1900s had reasons to ponder the future of their newspapers and how they could influence the future, even after death. Joseph Pulitzer created one of the most meaningful wills in U.S. journalism. His bequest provided for the Pulitzer Prizes. A year after his death, the awards were established and continue as a standard of excellence. Another portion of his will was less successful. He forbade the sale of his newspaper, *The New York World*, but in 1931, with losses of \$2 million, the newspaper was sold. A court broke the will and Roy W. Howard of Scripps-Howard purchased the paper. Journalists and media owners took note of the fate of the *World*.

By 1938 Bodenwein's mind turned to a will that would preserve his newspaper. According to Stone's book:

The will was seventeen pages long. It began with a statement of Bodenwein's philosophy. He had clearly articulated the ideas expressed in it on many occasions: in speeches, in his columns, and in his writings in commemorative editions of *The Day*. It stated how he had spent nearly all his life building up a newspaper in New London that "should become a recognized institution in the community; a leading factor in the growth, development and improvement of the city and vicinity and the happiness and prosperity of the people."⁴

It asserted his belief that a newspaper should be "more than a business enterprise. It should also be the champion and protector of the public interest and defender of the people's rights." His will also noted that the *Day's* success had benefited from the confidence and support of the people of Eastern Connecticut. He wished "the profits of the large business I have created with their help should, except for the provisions I have made for my dear wife and for my children, be returned to the community...."

The will created The Day Trust, turning over to it Bodenwein's stock and the six hundred shares Edna had controlled. All of the newspaper's dividends were to go into a foundation, the Bodenwein Public Benevolent Foundation. As long as they

lived, (his wife) Edna, (children) Gordon and Elizabeth were to get ninety percent of the proceeds. Edna would get half of this, and Elizabeth and Gordon would split the other half. The rest was to be distributed to charities in the newspaper's circulation area. While there was no such provision for Gordon and Elizabeth, Edna was to receive \$1,000 a month from *The Day* while the will was being administered. Edna would also receive the balance of his personal property.

Five trustees were to preside over The Day Trust, and the directors of *The Day* at the time of Bodenwein's death would be the first trustees, as well as the executors of the estate. After that, the trustees would fill vacancies. There was to be one trustee from the National Bank of Commerce, which would administer the Bodenwein Foundation, and two employees from *The Day*. The trustees would be entitled to compensation as well as bonuses whenever they paid more than \$100,000 to the Bodenwein Fund. If The Day Trust failed to turn over \$25,000 to the Bodenwein Foundation for two consecutive years, the will instructed that the trust be liquidated and the proceeds turned over to the foundation. The Day Trust would govern the Day Publishing Company, but could dissolve the company and operate the newspaper directly if there were later tax advantages to such an arrangement. Finally, the will expressed the desire that Gordon someday become publisher, but it left that choice to the discretion of the trustees. That discretion, perhaps significantly, was the only loophole in a will that otherwise left little to chance.⁴

Less than three months after he signed the will, Bodenwein died. His son, Gordon Bodenwein, was not popular at the newspaper and had spent many years away from New London. The trustees did not name him publisher. Two months after his father's death, Gordon began a series of legal challenges against his stepmother, Edna, and against the newspaper directors. Three years later he agreed to a settlement that made some concessions to him, but did not break the will.

Edna Bodenwein also complained about the trust and challenged trustees. Gordon's sister, Elizabeth Bodenwein Miles, was the only survivor who did not raise problems for the trustees. Ironically, her death in 1978 led to the biggest challenge faced by the organization. As the last survivor, her death created "an usual and substantial windfall" for the community. (p.264) She left a personal estate that included \$1.7 million to *The Day's* Bodenwein Public Benevolence Foundation, and her share of *The Day's* dividends also was now available to the community.

Unfortunately, this occurred during a period in which Congress was taking a close look at private foundations. In May 1969 tax reform tightened the rules on private foundations.⁵ Among the questions raised were:

- Was the Trust serving the community with an independent newspaper and annual contributions or would it better serve the community by selling the newspaper and making a much larger contribution?
- Was The Day Trust a split interest trust designed to serve the family and the newspaper or a single trust designed to maximize returns to his family?

☐ Was the Trust hindering fair competition because of the provision in the will to provide "liberal compensation and various forms of assistance and rewards, such as insurance, bonuses, and pensions" to Day employees?

The case (Hammond et al. V.U.S., 584 F. Supp.163 (D.Conn 1984) went to federal court in Hartford on June 27,1983. The ruling was handed down on March 23, 1984. It was in favor of the *The Day*. The judgment was upheld on June 5, 1985.

Several lessons came out of the legal experience:

☐ The precision of Bodenweins will and the care taken by trustees in following it over the years were assets in the case.

☐ *The Day's* arrangement did not appear to open the door for others. *Day* lawyers argued successfully that the trust was a split-interest trust created prior to the May 1969 change in tax law.

☐ In both challenges, *The Day* benefited from committed lawyers invested in the Trust who sacrificed and argued on principle.

The Day continues service with a circulation of about 40,000 on weekdays.

When Reid MacCluggage retired as editor and publisher in 2001, he recalled the highlights of his 18-year tenure as winning a First Amendment fight against a local agency that refused to open records, and standing pat in the face of an advertising boycott as retaliation for a story in the newspaper.

The retirement story said:

In a parting message to *Day* employees this week, MacCluggage put *The Day's* preservation as one of the nation's last remaining independent newspapers at the top of a list of accomplishments during the last 18 years.

The St. Petersburg Times

In 1938, the year that Theodore Bodenwein wrote his will, another chapter in nonprofit ownership began. In St. Petersburg, Florida, Paul Nelson Poynter became general manager of his father's newspaper, *The St. Petersburg Times*. Poynter took the role after his father, mother and sister signed an agreement that included two provisions: Nelson would have the right to buy all of his father's stock; and he would not be a partner with any of his relatives.⁶

The Poynters were from Indiana and the father, Paul Poynter, bought 10 newspapers during his life.⁷ He bought the *Times* in 1912. Nelson was a graduate of Indiana University, where he edited the student newspaper when Ernie Pyle was one of the writers. Poynter earned an economics degree from Yale University at age 23, and then went to Florida to help his father who was in financial trouble with the *Times*. Nelson dealt with the problems and moved to buy his father's stock in the newspaper, over time, for \$100 per share. From the beginning, his sister opposed the sale.

In 1939, Poynter became editor of the newspaper. In 1947, he borrowed \$50,000 to buy all the stock, and became owner of the newspaper. At that point he issued his "Standards of Ownership" that became the significant document for the owner and his newspaper. In

it he valued community service, modern equipment, an above average staff, and steps to eliminate debt and reward employees. The first provision in the standards is the one most associated with him. He wrote:

Ownership or participation in ownership of a publication or broadcast property is a sacred trust and a great privilege.⁸

During three decades of ownership of the *Times*, Poynter led the nation in using color graphics and photos; in strengthening the news report and winning journalism awards, including the Pulitzer Prize; in raising a strong voice in the community, although his was generally more liberal than the community's. In 1945, he and his second wife, Henrietta, founded *Congressional Quarterly* and Poynter made frequent trips to Washington. He became better known nationally and raised the reputation of the *St. Petersburg Times*. It had passed the *Tampa Tribune* as the leading newspaper of Tampa Bay.

In 1978, he died of a cerebral hemorrhage shortly after groundbreaking for the University of South Florida, St. Petersburg campus. He had fought to bring the campus to his city. Upon his death, *The Times of London* described him as a man who had built "a remarkable newspaper in an unremarkable city."⁹

During his whole tenure of leadership at the *Times*, Nelson Poynter was at odds with his sister over ownership of the newspaper. Eleanor Poynter Jamison ran the family's newspaper in Sullivan, Indiana, but she felt her brother was depriving her of her inheritance at the *Times*. Two months after purchasing the newspaper, to pacify his mother, Nelson Poynter sold his sister 40 percent of the *Times* common voting stock. The sale included a provision for him to buy back the stock at a "fair price."¹⁰ It was a small move that had huge consequences during his life and after Poynter's death.

Poynter was adamant about not sharing ownership with family or leaving the newspaper as a family inheritance. According to his biographer, Poynter told his lawyer, "I've never met my great-grandchildren, and I might not like them." He sought to leave his newspaper to one successor as chief executive rather than a group. By the 1950's, he considered leaving the company to a foundation. In 1969, the political climate turned against foundations and limited the percent a foundation could own of a profit-making enterprise.¹¹ Poynter settled on creating a school. It would improve the state of journalism and preserve the independence of the *St. Petersburg Times*. He named the school the Modern Media Institute. In 1984, Trustees changed the name to The Poynter Institute.

Nelson had tried to buy back the stock he had sold to Eleanor. His successor, Gene Patterson, made the return of the stock a top priority, but didn't come to terms with Eleanor or with her daughters after her death in 1987. In 1988, two weeks before Patterson turned over leadership of the *Times* to Andrew Barnes, a Texas entrepreneur called to let the *Times* leaders know that he had bought the stock of the late Eleanor Poynter Jamison from her two daughters.

There followed a two-year battle in which leaders of the *Times* and The Poynter Institute took on Robert Bass and his group, called Poynter-Jamison Ventures Limited. By this time, the *Times* was a circulation leader in Florida, it was in a growing market, and

was often regarded as one of the top newspapers in the nation. It was a prime target for purchase or corporate take-over. The Poynter Institute had developed a reputation for outstanding mid-career development programs for journalists. The battle over stock drew national attention. It focused attention on Nelson Poynter's arrangement that left a well-regarded, but small, journalism school as owner of a prosperous newspaper. When a settlement was reached, the Institute still owned the *Times*.

Andy Barnes wrote a column in the *St. Petersburg Times*, December 26, 1999, page 1D, explaining the situation to readers:

As I wound up the year's work a few days ago, I signed a very big check, \$22.5 million. It was profit this newspaper publishing company has earned and set aside over the past few years, and it went to our owner, The Poynter Institute.

It was a pleasure to send the check off. A debt created nearly 10 years ago is paid. I've never burned a mortgage, but it must feel the same. Ownership is secure. It's time to turn to new challenges.

But we also savor the moment, and mark the importance of this newspaper's highly unusual ownership.

Nelson Poynter, a Hoosier who came to love St. Petersburg, owned the majority of the *St. Petersburg Times*, having bought it from his father, Paul Poynter. He created The Poynter Institute, which is a school for journalists now located on Third Street South in St. Petersburg.

The Institute had two purposes: to teach journalists, young and old, and to keep his newspaper independent and free to serve its communities. Newspaper publishing, he wrote, is a sacred trust and must always be carried out in the public's interest. Ownership by a distant corporation would make that impossible.

The problem was, he didn't own all of the stock. His sister, Eleanor Poynter Jamison, owned 200 shares. Poynter tried repeatedly to buy the shares. His successor, Eugene Patterson, tried to buy the shares from Mrs. Jamison, and after her death, from her daughters. They failed to do so.

Just as I came into this job in late 1988, we learned the stock was in the hands of a Texas financier named Robert M. Bass. He wanted somehow to parlay his stake into ownership of the whole paper and have us send him more money in the meantime.

Those of us running the paper fought back. Our loyalty was to the newspaper and its communities, and to the school, not to a financier's greater wealth. After two of the most challenging years of my life, a deal was struck that included the debt to Poynter, which was \$30-million until we paid \$7.5-million earlier this year. Now the debt is paid. The Poynter Institute owns all the stock. That stage is done.

The setup boils down to this: a profit-making, tax-paying publishing company owns the *St. Petersburg Times* and several magazines: *Florida Trend*, *Congressional Quarterly*, and *Governing*. The company's earning after taxes go to build the business and support the Poynter Institute.

That's not how it works at most newspapers. Corporate owners in distant cities all too often lack familiarity with local people and issues. They may not even know newspapers very well. As a result, the only thing that counts to the owners is dollars, and readers suffer.

Some of the differences:

If our owner demanded profits be twice as high as they are, it would inevitably cut into our ability to hire enough people and buy enough newsprint to really tell you what is going on in our communities. We run a nicely profitable business so we can be an excellent newspaper; all too many companies print newspapers so they can make a lot of money.

The price of our paper is low. We keep it that way so all citizens can be informed, not just the well-to-do. We believe our democracy depends on informed citizens.

Having a publishing company owned by a school raises questions of who's in charge. Poynter set it up so one person would have the command, not a committee, because he believed a committee might not make the necessary tough decisions. As CEO, I also vote the stock on behalf of the Poynter Institute. I was picked by Patterson, my predecessor, and in turn have named Paul Tash as my deputy and successor when the time comes.

I believe he would have smiled to see that the check with which we paid the \$22.5-million debt was imprinted "Barnet Bank," though the funds will actually come from the successor NationsBank, which is actually now Bank of America.

Banks have come and gone. His newspaper, and the school he created to own it, remain. Our commitment to serving the readers of Tampa Bay's communities remains undimmed.

The Manchester Union Leader

A number of newspaper publishers investigate the Poynter model of nonprofit ownership as they contemplate the future of their news organizations. Very few pursue this model. Andy Barnes said most seek other means after they face the major tenant of the arrangement: "It is predicated on giving away the newspaper," Barnes said.¹²

The family of Nackey Loeb is an exception. After she died in 2000, her daughters donated her controlling stock in the *New Hampshire Union Leader* and *Sunday News* to the Nackey Loeb School of Communications, Inc.¹³ Edith Tomasko and Nackey Scagliotti said they were following their mother's wish. The president and publisher of the *Union Leader Corporation*, Joseph W. McQuaid, said "if Mrs. Loeb had not been able to have ~~the stock transferred~~ to the school the federal inheritance tax burden would have been ~~overwhelming~~ effectively forcing the sale of the newspaper to a national chain."¹⁴

Mrs. Loeb was the granddaughter of publisher E. W. Scripps. She took leadership of the Manchester newspaper when her husband, William Loeb, died in 1981. He bought the newspaper in 1946 from the Knox estate. Col. Frank Knox and John Muehling founded the newspaper in 1912. Upon William Loeb's death "his half-interest in the newspaper

was effectively cut in half again in order to pay estate taxes.¹⁵ The William Loeb Union Leader Trust owns 28 percent of the voting stock, as well as nonvoting preferred shares. It is shared by employees and operated by six trustees. When the next to last trustee dies, "the trust will terminate and its stock will be distributed to" employees. In 1987 some employees who owned non-voting preferred shares formed a class action suit against the Trust. Estate taxes and the suit encouraged Mrs. Loeb to find another way to insure the newspaper's independence.

The Loeb school was designed after the Poynter model. It is "a private nonprofit school dedicated to fostering interest in journalism and other forms of communication." It offers "low-cost and free journalism courses to middle and high school students and adults."¹⁶ The school received its IRS approval as a tax-exempt, 501(c)(3) charitable and educational, 509(a)(1) organization.

The *Union Leader* is known as a powerful conservative voice, and the major newspaper of New Hampshire. It has a weekly circulation of 63,000 and a Sunday circulation of 85,000.

The Anniston Star

The Ayers family of Anniston has owned the *Star* for about a century. Thomas W. Ayers, a physician, bought a forerunner of the newspaper in the late 1800s. He sold it to concentrate on medicine and become a Southern Baptist Missionary in China, but by 1911, his son, Col. Harry Mell Ayers, returned the newspaper to family ownership.¹⁷ At one time it was named the *Hot Blast* for the steel ovens in town before it was named the *Anniston Star*. Col. Ayers was succeeded as publisher by his widow, Edell Y. Ayers, and then his son, the current publisher, H. Brandt (Brandy) Ayers.

The *Anniston Star*, with a circulation of about 28,000, is known as a fine training ground for young journalists. It is also known for attempting great journalism. In a recent review of its history, a staff writer Matthew Korade noted these milestones:¹⁸

- ☐ In the 1960s, The *Star* ran stories that caused the ouster of a mayor and a whole form of city government, stories that led to reform of the jury system, and stories that took aim at obstacles to black voters.
- ☐ When a black man was murdered by nightriders after a racist rally on the courthouse steps, a local doctor and H. Brandt Ayers raised a \$20,000 reward in one evening and persuaded donors to sign a full-page ad asserting "those who advocate and commit secret acts of violence will not control this community." The killer was found, tried and convicted by an all-white jury.

☐ The *Star* has weighed in carefully on the disposal of 2,254 tons of nerve agent at the Anniston Army Depot's chemical weapons incinerator. It wasn't until a National Academy of Science panel determined incineration to be the best alternative that the newspaper began backing the method.

In 2002, Brandy Ayers announced plans to follow the Poynter model of an independent, nonprofit ownership by establishing an institute with the University of Alabama. The plan is to create a newspaper lab for graduate journalism students interested in studying com-

munity journalism. The program is being developed.

Brandy and his wife, Josephine Ayers, and Phillip and Elise Ayers Sanguinetti, Brandy's sister, lead the newspaper. Plans call for a foundation to inherit or buy the holdings of Mr. Ayers and Mrs. Sanguinetti at their deaths. The foundation would apply for nonprofit status under another section of the tax code covering institutions that provide financial support to other nonprofit groups.

Last year the American Society of Newspaper Editors gave Brandy Ayers its Editorial Leadership Award. In accepting it, he spoke of his decision to donate his assets to independent journalism and education instead of selling it for about \$50 million.

"You've been to those expensive restaurants," he said. "You see the very wealthy, very rich, bored couple dining wordlessly. And they have nothing to say because they haven't done anything for 10, 20 years. I didn't want to be one of them, and neither did my wife."¹⁹

Northeast Mississippi Daily Journal

George McLean wanted to leave the people of Tupelo, Mississippi and vicinity his newspaper, the *Daily Journal*. McLean was publisher of the newspaper from June 1934 until his death in 1983. He wrote of his interest in an essay called, "A Locally Owned Newspaper Dedicated to the Service of God and Mankind."²⁰

The owners of the Journal Publishing Company are so committed to local ownership and responsible service to all the people of this area that plans have been put into effect to enable the *Northeast Mississippi Daily Journal* to be perpetually owned and operated by local people. We believe that a newspaper is a public trust and that it should constantly serve the people to the greatest possible extent. We feel that this service must include not only the contribution made through the printed word but also through the active involvement of members of its staff in every worthwhile civic undertaking.

We believe that locally owned newspapers can best reflect the values and serve the interests of the people of any community. We regard the increasing concentration of ownership of newspapers, radio, and television stations in the hands of a few big chains as potentially very dangerous to freedom of information in this country. Another serious problem with increasing outside control of the media is that the "bottom line," that is the desire for more and more profits, will take the place of service to readers, listeners or advertisers. We are not unaware of the fact that in some cases local ownership is just as biased and selfish as in the case of some chain operations. But in the majority of locally owned newspapers there is a sense of responsibility to the community and pride in its development that is lost or greatly diminished when the newspaper is sold to outside interests. We believe that the greatness of a newspaper should be judged not by its size or profitability, but by the quality of its news and advertising and particularly by the service it renders to all the people in the area it serves.

The status of his plan isn't clear. McLean also created a nonprofit CREATE

Foundation for community improvement. The newspaper has a circulation of about 35,000.

Others Models

The nonprofit newspaper models presented take two forms: ownership by a trust or foundation, and ownership by a school. In most cases the arrangement grew out of attempts to preserve independence. Other nonprofit ownerships have very different roots. Consider some of them.

The *Christian Science Monitor* was launched in 1908 by Mary Baker Eddy as an initiative of The First Church of Christ, Scientist. "Eddy wanted to establish a paper that would resist the sensational in favor of the meaningful."²¹ It has a circulation of about 71,000 and government leaders and others read it. The news executives welcome nonprofit ownership to avoid corporate allegiances.

National Public Radio is drawing an audience while most other news media face decline. NPR is "a private, self-supporting nonprofit media company with hundreds of independent radio stations as members."²² Funding comes from foundation grants, corporate grants and sponsorships, licensing fees and contributions from individuals. A large, recent grant from Mrs. Ray Kroc adds funds and status to the organization. Some television stations follow a similar model of funding.

University ownership of media is not unusual. Most news outlets are small and non-profit, but some universities own commercial media. The key difference from the newspaper models above is that the schools are not designed to uphold the news media. They usually use the news outlets as labs to train students.

A final model is news media established by a nonprofit. That means a very well financed nonprofit might attempt to create a news outlet, not unlike the church models. It would be hard to separate philosophical ties from the funder, but the aim could be for independent, mass audience.

Questions of Nonprofit Ownership

Feasible: What are the policy options here? What would be required for a policy to be implemented? What are economic and/or political obstacles to adoption?

Clearly ownership by a nonprofit is feasible. A few live and thriving examples exist.

Legal changes after creation of The Day Trust suggest that that mode is no longer viable, but examples of schools owning news media are available.

Policy exists to support them, but they are difficult to create and maintain. The law is narrow and must be carefully followed. The arrangements tend to draw a close inspection under tax law.

Operable: How likely is the proposal to result in changes in hard news production?

What types of changes in content would arise? Would changes in news content lead to changes in consumption?

Organizations with nonprofit owners tend to exhibit a greater commitment to serving

the community. They seem to take pride in their histories and unusual structures. They know that steps have been taken to guarantee their independence so they can serve communities. They tend to put news ahead of profits. In doing so, they appear to earn reasonable profits, though probably less than industry averages.

Desirable: What might the ultimate impacts be on voter knowledge, political debates, and policy outcomes? How could implementation go wrong?

These arrangements are desirable to produce a better news report, and thereby better engage the public. But they are difficult.

They require, first of all, an owner willing to give away a valuable possession, and one in which there is usually a long, personal relationship. Most owners aren't willing to give away their news organizations.

Second, they call for an accommodating family structure. Theodore Bodenwein was described as caring more about his newspaper than his family. In each case a certain peace had to have been made with the family or difficult, draining battles followed.

Finally these arrangements have to be carefully crafted and closely tended. Laws change. Political or business attacks threaten. Individuals change but the commitment has to remain. Paul Tash and Andy Barnes of the *St. Petersburg Times* agree that the ownership has to care about the journalism even if it is a nonprofit school.

Measurable: What indicators would you use to measure the effects of the proposal?

How would you know if it were working well?

The best measure is the success of the operation. Is it producing quality journalism at a reasonably profitable level?

Conclusions

Nonprofit ownership of media is a viable course to preserve media independence and local ownership. While it can work, it takes significant sacrifice and tending.

The sacrifice comes in giving away the news organization, in some cases. The tending comes in raising funds in some models, carefully guarding legal requirements, and nurturing relationships to keep the focus on preserving quality journalism. This will work well in some cases. A widespread turn to nonprofit ownership could be a real challenge.

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The Case For Local, Independent and Family Ownership of Newspapers and Other News and Journalistic Enterprises

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I. Introduction

A free, accessible, diverse and independent press is essential to democracy. A free, accessible, diverse and independent press is essential to the survival of American democracy.

It is easy to overlook that American democracy is a young, fragile experiment in self-government. Barely two centuries old, it has managed to survive numerous external and internal threats to maintain its place as the world's longest-running democracy.

But today, at the dawn of the twenty-first century, this great, young nation is in crisis. Its free press that gives voice to its people is in serious jeopardy.

This is a crisis of such great magnitude that failure to thwart it will likely mean our children and grandchildren will not grow up in the same America we did. Their America will be something less, substantially less. They will not enjoy the American democracy that has evolved and grown in its sophistication and in its inclusion. They will live under some other form of government than the most successful model of sustained self-government the world has ever seen.

The Crisis and Threat to our Free Press and to our Democracy.

The foundation of American democracy is self-government. Without the information necessary to exercise this special and fragile freedom, our democracy, any democracy, is doomed.

The free flow of essential information can only happen with a widely diverse press. One that connects and informs citizens on a local level as well as a national level.

The loss of variety - of our formerly accessible, diverse and independent press - is a direct threat to our self-governance. This is a crisis of epic proportions. A crisis which the American public and Congress are just beginning to learn about and comprehend.

The crisis is the result of unnecessary and undesirable ownership changes in the press, media and the conduits we employ to disseminate information. It is the concentration of ownership of our nation's newspapers, of our broadcast airwaves, of our cable providers and even our new Internet news providers. And it's the disinvestment and disconnection that has come with the rise of absentee owners.

Our nation's newsrooms, and the means of information delivery, are being controlled by an ever-smaller number of elite corporate entities. Absentee owners who are increasingly void of any value other than financial.

Journalism values vs. financial values.

To survive, a democracy must have a diverse press, whose foundation is the robust practice of three traditional journalistic values:

- ☒ Serving as our watchdog of the powerful.
- ☒ Connecting us to our communities and to our country.
- ☒ Giving us sufficient information to self-govern.

These values are so important that the press is the only business protected by the United States Constitution. We must always remember this protection is on behalf of the citizens and their need to learn, speak, debate and connect. Owners of the press are simply stewards of the public's First Amendment rights.

Public Policy:

Public policy should aggressively recognize the special role of the press in our democracy. Public policy should embrace concepts that encourage investment in journalism and in community connection. The public should be protected from ownership changes and singular financial values that destroy our press independence, accountability and localism. From a public policy standpoint, it is appropriate and necessary to craft policy which encourages a variety of independent journalism and news entities and which discourages the absence corporate and financial institutional takeover of the press.

News and information can both fulfill public responsibility and be a profitable business. Indeed, most newspapers, television stations, radio outlets and cable franchises are highly profitable.

Unfortunately, Wall Street has only one value - financial. This singular value is mutually exclusive with journalism, community and democracy.

Current levels of ownership concentration have already eroded America's ability to be sufficiently informed to effectively self-govern on either the local and national levels. The notion of our press being the public's watchdog is becoming a relic.

About 50 years ago journalist Walter Lippmann said he was secure in his belief that American democracy would endure precisely because "... there is, I believe, a fundamental reason why the American press is strong enough to remain free. That reason is that the American newspapers, large and small, and without exception, belong to a town, a city, at the most to a region." The secret of a truly free press, he said, is "that it should consist of many newspapers decentralized in their ownership and their management, and dependent for their support upon the communities where they are written, where they are edited and where they are read."

Lippmann concluded by saying, "There is safety in numbers, and in diversity, and in being spread out, and in having deep roots in many places. Only in variety is there freedom."

The state of America's press today would be Mr. Lippmann's worst nightmare.

Localism has been replaced by absenteeism. Many owners have been replaced by a few. Decentralized has been replaced by central control. Variety has been replaced by homogenization. High-end journalism has been replaced by low-brow entertainment. Local and regional accountability has been replaced by Wall Street accountability.

The security Lippmann felt for our democracy five decades ago would have faded in today's fear that our democracy, as we know it, will be gone 50 years from now.

Ownership matters.

The loss of localism is eroding our democracy as people become disconnected with their local communities and the local governmental process. The trivialization and sensationalism of news is disconnecting people from the public process. Disinvestment in investigative, complex and high-end journalism is allowing powerful organizations and individuals to abuse the American public in ways that might not be possible, or at least would be caught sooner with a robust watchdog.

One must ask if we would be experiencing the egregious abuses and criminal conduct of

publicly-traded, financially driven corporate leaders today if we still had an independent press and not one that avoids coverage that is expensive or which may offend advertisers or corporate business buddies or worse yet, that might be counter to the owner's financial and business interests.

We only need to look around the world to see how dictatorships rule through the control of information.

II. What Caused Such Rapid and Dangerous Press and Media Ownership Changes

Bad and insufficient public policy.

Public policy has eroded the will and financial ability for the local, independent and family press to survive.

Reasons fall into six broad categories:

- Bad tax policy
- Regulatory processes and agencies corrupted by big business, special interest groups and politics
- Insufficient regulation
- Inadequate laws
- The conglomeration of American business
- The domination of business by financial investors

Tom Rosenstiel, media critic and co-founder of the Committee of Concerned Journalists, recently said:

"Without journalism, democracy is not possible. Without democracy, journalism has no purpose other than profit. Journalism and democracy will rise and fall together."

This is a powerful message that reminds us we need to aggressively use public policy to return our nation's journalism back to its fundamental purpose - democracy.

We are in an era where the economy has become so big and complex that we have to question the will and the ability of our regulatory agencies and Congress to represent the public. Big businesses, financial institutions, unions and special interest groups bring overwhelming resources and pressure to bear behind closed doors in Washington, D.C., and in our state capitals.

America's most pressing new social problem is the phenomenon of monopolization and "bigness" in almost every line of business. Every day, we see our local businesses being liquidated and bought out by large absentee owners and public companies.

These huge conglomerates have no allegiance to local communities, only to the financial interests of their CEOs and Wall Street investors.

Thomas Jefferson/Rapacious Capitalism.

Founding father Thomas Jefferson, in his wisdom, saw that there would be inevitable conflicts between business interests and a free society. Jefferson once said we would see battles between "rapacious capitalists and democracy."

It doesn't appear that Jefferson was referring to the press specifically, but to the penchant for big business to abuse its size and market strength, not only against the consumer and other businesses but also against the interest of self-government.

If Jefferson had seen how this would one day connect with undermining the role of the press in our democracy, he would have been even more alarmed.

Democracy's survival is dependent on the press fulfilling its watchdog function of keeping powerful individuals, entities, business and government in check. It is our job to put them under the light of scrutiny on behalf of the public. It is our job to represent the public and provide them access to those who represent them. If we don't do these things, we forfeit our ability to govern ourselves.

How well and how long can the press do this critical work when the great majority of journalistic enterprises are now also owned by mega-conglomerates, the very powerful capitalists that we are to hold up to scrutiny and public accountability?

In community after community we are fast losing our investment in journalism and our local connection. Losing our sense of community at the same time we lose our mechanism to hold government and business accountable. This is a devastating combination.

Sadly, democracy is losing the battle with the rapacious capitalists.

III. Transformation from Localism and Accountability

The rapid loss of localism and accountability in our press has transformed the nation's news outlets into a shadow of their former selves.

Initially, some family newspapers did become better under corporate ownership. But it was temporary, as we have seen the quest for high profit margins and short-term stock price turn them into homogenous offerings, at best.

Too frequently, on a local or national level, we are no longer an effective watchdog of government, powerful business and powerful special interest groups. Today we are a lap-dog—the silent handmaiden of powerful entities and their special interest agendas.

This has come about through a combination of disinvestment in news and a chill on reporting important, complex public issues. What does it tell us that the media moguls' relentless and expensive quests to eliminate all FCC ownership and cross ownership protections have been so egregiously under reported?

About 30 years ago, there were approximately 1,750 daily newspapers in the United States. Almost all were privately owned and closely connected with, and accountable to, the cities or regions they served.

Today, we have about 1,480 daily newspapers, of which fewer than 280 are considered independent, most in small communities.

Fortunately for our country, the Washington Post, the New York Times and the Wall Street Journal, though publicly traded, continue to be family controlled and continue to pursue high-minded journalism and community service. Yet the vulnerability of an independent press is evidenced by the Los Angeles Times, which only recently was considered completely secure in family, local control, until its independent ownership recently gave way to a national conglomerate.

Until eight years ago, independent radio and television ownership fared better than independent newspaper ownership.

Unfortunately, the 1996 Telecommunications Deregulation Act resulted in the severe

unintended consequence of causing radio ownership concentration and the loss of localism and diverse voices.

In television, the FCC's hands-off approach to ownership limits has already allowed serious concentration in this industry. Unfortunately, even these limits are under siege by the media conglomerates. This bold and arrogant effort is in complete opposition to the public interest and democracy.

Preserving the FCC media ownership rules is a battle that, if lost, will shake the foundation of our democracy.

Accountability.

Simply being local or independently owned doesn't guarantee quality. What it does guarantee is accountability and community connection. In a democracy, when the people being served can identify the individuals who are delivering their news and information, they have the ability to hold them accountable.

The loss of localism in our news organizations has been a major blow to accountability. On a national level, the sheer size of the conglomerates removes the media's accountability to the public. Increasingly, media companies are becoming but a part of a much larger corporation with no history or grounding in journalism.

We have seen the consequence of this in the loss of high-end journalism, simplistic coverage of complex events, weak coverage of foreign affairs and the public pandering of cheap, titillating entertainment passing as news.

IV. Are Local, Independent and Family Owned Viable Business Models?

Local, independent and family owned news organizations are very viable business enterprises. Profits, cash flow and profit margins generated by newspapers, television stations, radio stations and cable franchises far exceed most other lines of business. That's one of the reasons they have attracted Wall Street.

Publicly traded companies extol newspaper profit margins of 25 to 35 percent or more. In television, they run margins of 50 percent. And the industry brags about news and information conduits, such as cable, being cash cows.

Democracy can be served best by creating public policy that protects and fosters local, independent ownership and encourages stewardship, rather than conglomerate profit margins.

The notion that news and media organizations need to go public or grow larger to survive is simply not consistent with economic reality and marketplace performance.

This is central to any public policy debate which strives to preserve and protect localism and accountability.

V. The Public Policy Solutions

There are public policy solutions that not only would preserve the few remaining independent and/or family-owned newspapers and broadcast houses but which would create an environment in which our nation could begin to return to the robust variety of ownership and voices of the past.

The solutions require bold initiative on the part of Congress. The public's grass roots

duty against the FCC media ownership rules debate needs to continue and come to understand and embrace these solutions.

Media moguls and their corporate conglomerates will fiercely attack the solutions. But we must remember that the fundamental purpose of a free, independent and robust press is to preserve democracy and have the courage to treat this industry differently.

Here is a public policy prescription that will not only encourage independent family ownership but will foster a variety of ownership forms and thus a robust variety of voices throughout the country.

1. Ban all cross ownership between radio, television, newspapers and cable.

Every one of these lines of business is very profitable. There is no economic or public policy reason to allow any media or information transmission cross ownership.

2. Preserve and reinforce all pre-June 2003 FCC ownership rules.

If we lose these rules, we will see the next great wave of media consolidation and journalism disinvestment. If we lose these rules, democracy is in peril.

3. Prohibit publicly traded stock ownership for daily newspapers, television stations and broadcast houses.

Absent ownership and financial institution ownership are in direct conflict with access, accountability, journalistic investment and journalistic values. Prohibiting public ownership will result in lower profit margins, greater chance for journalistic investment, and it will end "bidding up" of media property prices to encourage sale. This may seem an outrageously radical notion. But in the late 1940s, Americans recognized how important this separation is when we put this prohibition into the Japanese constitution. Today in Japan, newspapers are privately owned and operate at profit margins far less than those in the United States.

4. Establish a national cap on the number of newspapers or the total circulation any one entity or person can own.

It makes no sense to keep eliminating voices and encouraging disinvestment in journalism by absent owners. To protect and encourage more voices, we need to cap either or both the number of newspapers and the total circulation of a single owner.

5. Permanently repeal the federal death tax for owners of newspapers, radio and television stations.

Public interest and public policy should encourage investment in and perpetuation of independent and family ownership. The death tax works in direct opposition to this public policy value. This would lay the foundation for the future and take away the conglomerates' best acquisition opportunity — the "forced" seller.

6. Make news expenses for private owners tax exempt.

Encourage investment in news by making all news gathering expenses tax exempt, both at a local and a national level, i.e., federal income tax. Journalists and newsprint are the biggest expenses in a newspaper and are always under pressure in budget deliberations. Make these costs tax exempt and stimulate

investment in them.

7. Make equipment for news generation and production for private owners tax exempt.

Reward and encourage investment in news and information by encouraging investment in new, modern equipment, including presses and computer systems.

8. Replace the death tax with a capital gains sales penalty and eliminate the stepped up basis.

This creates a penalty if a private, independent, family company is sold, as a family would pay a higher capital gains tax if it sells. There would be no tax on death but much greater capital gains if sold.

9. Create incentives for private holding companies, which expressly creates in corporate governance a shareholder and director responsibility to perpetuate local ownership and independent journalism.

10. Restore all FCC radio ownership restrictions from pre-1996.

11. Review the charters and mission of our regulatory agencies, in particular the FCC and the FTC.

Determine what can and should be done to vigorously encourage a variety of voices. **12. Eliminate the tax benefits a news or and media company receives if it sells out for stock rather than cash.**

Conclusion.

These 12 items represent a package that could be realistically implemented and that would not only preserve our remaining independent voices but also create an environment for more to be created through time.

On the surface, these 12 steps may appear to be radical. Though upon careful examination, they are not.

Virtually every item on this list could be implemented within 12 months if there was public and congressional will. The benefits to the American public and to the preservation of democracy would be overwhelming.

The result would not only be more independent and family owned news organizations, but a structure where a variety of ownership forms and voices could grow and flourish.

That, in turn, would rejuvenate our connection to our communities, the flow of essential information, our ability to govern ourselves. It would preserve our democracy for generations to come.