

“THE ACCOUNTABLE GUARDIAN”

**Concepts in Tension: The Challenge of Ensuring both Objectivity and
Balance and Editorial Independence**

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Section 396(g)(1)(A) of the Communications Act of 1934, as amended, authorizes CPB to “facilitate the full development of public telecommunications in which programs of high quality, diversity, creativity, excellence, and innovation, which are obtained from diverse sources, will be made available to public telecommunications entities, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature”. As part of its efforts to carry out these duties, CPB commissioned several white papers to independently examine CPB’s objectivity and balance mandate and provide feedback on its efforts to meet those obligations. This document is one of those white papers. The views expressed herein are solely those of the author(s) of this paper and not of CPB. CPB did not contribute to the contents of this paper, does not express an opinion about the views presented herein, and does not endorse its findings.

The purpose of this paper is to explore the complex and evolving relationship between two key values that have been at the heart of public broadcasting in America. These values are objectivity and balance.

While there are almost as many definitions of these two values as there are citizens, scholars tend to agree on a number of qualities that are descriptive of these concepts. Objectivity in journalism can be defined as “the belief in objectivity (as) a faith in ‘facts,’ a distrust in ‘values,’ and a commitment to their segregation.”¹ Objectivity is still a well-regarded aspect of American journalism.

Journalistic balance has been defined as “a value that requires the reporter to appear to avoid any sense of editorial bias when writing a story. The reporter attempts to write about an issue in context, and particularly if it is a political issue with two or more sides in disagreement, the story is written in a way to lay out each side’s argument and facts supporting it.”² The respected former editor of the *Los Angeles Times*, John Carroll, said that journalistic balance can be defined as “... being open to ideas that aren’t necessarily shared by the crowd...”³ But as a value in American journalism, the concept of balance has not fared as well as the concept of objectivity. Indeed, Kovach and Rosenstiel have been critical of “balance” as an occasional impediment to journalism’s ultimate search for truth.⁴

¹ Schudson, Michael, *Discovering the News: A Social History of American Newspapers*, Basic Books, New York, 1978, p. 6.

² Diepenbrock, George, “Science Issues in Kansas,” William Allen White School of Journalism and Communications, University of Kansas, March 2, 2006, http://science.journalism.ku.edu/2006/03/what_is_journalistic_balance.html

³ Quoted in Mooney, Chris, “Blinded by Science: How ‘Balanced’ Coverage Lets the Scientific Fringe Hijack Reality,” *Columbia Journalism Review*, November/December, 2004.

⁴ Kovach, B, and Rosenstiel, T., *The Elements of Journalism*, Random House, New York, 2007, introduction.

American journalism in general, and American public broadcasting in particular, continue to hold these two concepts in high regard. Yet there have been a number of instances, especially over the past ten years, in which the quest for objectivity and balance has conflicted with another core value – that of editorial independence.

This paper is an attempt to show why these values have clashed and how they can be reconciled for the benefit of the listeners and viewers of public broadcasting.

Context for present concerns

Public attitudes toward journalism and journalists have gone through important transformational changes over the last quarter century. So too have the approaches of scholars who look at how news is gathered, edited and disseminated, and its impact on our society.

Contemporary journalism is marked by contradiction. Public trust in journalism and journalists continues to decline, with the credibility of news organizations overall in critical condition.⁵ At the same time, the number of people who look to the mass media in their various manifestations continues to grow. In particular, audiences for public radio in the United States experienced a dramatic growth spurt through the early and middle years of this decade while other audiences for commercial broadcasting continued to fragment. Paid newspaper readership and advertising revenue are in decline, yet the number of people who read newspapers, either in print or online, continues to grow. Studies of news credibility have shown a continual decline in how the public regards the

⁵ Pew Research Center for People and the Press, “News Audiences Increasingly Politicized,” V. Media Credibility Declines, June 8, 2004.

media overall, yet public belief in specific journalistic forms and niche components, such as are provided by public radio and television, remains strong.⁶

How can these contradictions (mass vs. niche, growth vs. stagnation, distrust vs. loyalty) be reconciled? Today's media landscape accommodates conflicting tendencies, as befits a culture as complex and as changeable as ours. As a result, questions about journalistic objectivity and balance have moved to the front as questions around the social relevance and economic viability of the media are debated.

Scholars have noted the change over the past quarter century in how society perceives journalism. It is probably important to note that questions about whether the media are doing an "effective" job have always been with us.⁷ But the important changes to the relationship between journalists and the public began to change during the past generation when a number of cultural, regulatory and economic factors intersected and produced a change in attitudes about journalism and its role in our society.

⁶ State of the News Media 2008, Project for Excellence in Journalism, Washington, DC. Available online at: www.journalism.org

⁷ Congress demonstrated its concerns about fairness beginning with the equal-time rule. It specified that U.S. radio and television broadcast stations must provide an equivalent opportunity to any opposing political candidates who might request it. This means, for example that if a station gives one free minute to a candidate on the prime time, it must do the same to another.

However, there are four exceptions: if the event was in a documentary, a bona fide news interview, a scheduled newscast or an on-the-spot news event, the equal-time rule is not valid. Since 1983, political debates not hosted by the media station are considered news events, thus may include only major-party candidates without having to offer air time to minor-party or independent candidates.

This rule originated in § 18 of the Radio Act of 1927[1]. It was later superseded by the Communications Act of 1934, where the Equal Time Rule is codified as § 315(a).

Another provision of § 315(a) prohibits stations from censoring campaign ads. A related provision, in § 315(b), requires that broadcasters offer time to candidates at the same rate as their "most favored advertiser".

The rule was created because FCC thought the stations could easily manipulate the outcome of the elections.

These factors, which will be addressed below, include:

- The rise and fall of the Fairness Doctrine
- The commodification of news
- The end of the Cold War
- The impact of digitization upon journalism, and the arrival of the Internet

Fairness Doctrine

The Fairness Doctrine was seen as setting benchmarks for how broadcasters must handle news and opinion. The Fairness Doctrine was introduced in an atmosphere of anti-Communist sentiment in the U.S. in 1949.⁸ The doctrine remained a matter of general policy, and was applied on a case-by-case basis until 1967, when certain provisions of the doctrine were incorporated into FCC regulations. It did not require equal time for opposing views, but required that contrasting viewpoints be presented. The Fairness Doctrine had two basic elements: it required broadcasters to devote some of their airtime to discussing controversial matters of public interest, and to air contrasting views regarding those matters. Stations were given wide latitude as to how to provide contrasting views: through news segments, public affairs shows or editorials.⁹ The elimination of the doctrine under the Reagan Administration FCC was seen as opening the door to ideologically driven talk radio (and later cable TV talk) programs.

⁸ Report on Editorializing by Broadcast Licensees, 13 F.C.C. 1246 [1949].

⁹ In Red Lion Broadcasting Co. v. FCC, 395 U.S. 367 (1969), the Supreme Court upheld the constitutionality of the Fairness Doctrine.

Commodification of News

Bill Buzenberg¹⁰ relates a telling anecdote involving CBS News President Richard S. Salant in 1986. In that year, CBS News, for the first time in its storied history, made a profit, albeit a small one. It had done so without the necessity of fiscal subsidy from other branches of CBS Inc., namely the sports division and the entertainment division. Salant made this announcement in 1986 to an all-staff meeting of the news department with the proviso that there was both “good news and bad news.” Good because it showed that CBS News was now able to deliver a mass and not an elite audience, as had been its practice. Bad because, as Salant anticipated, CBS News would be forced to commit to larger and larger returns of investment regardless of news value or programming content. In effect, Salant was presciently noticing (although he does not use this phraseology in his memoirs) that news would become just another media commodity, rather than the civic obligation that had been the assumption of most news organizations.

The commodification of news and information had enormous consequences to the culture of journalism through the 1980s and 90s. As news divisions garnered larger and larger audiences, the corporate goals and the editorial obligations for many news organizations became increasingly intertwined. Newsroom independence as a value came under assault, especially in the 1990s.

¹⁰ William Buzenberg, Executive Director of the Center for Public Integrity, former VP of News, NPR and co-editor with Susan Buzenberg of “Salant, CBS and the Battle for Soul of Broadcast Journalism. The Memoirs of Richard S. Salant , 1999,” in conversation, 1997.

By the mid 1990s, commercial news organizations set a pattern that was often followed by a number of non-United States public broadcasters (Canadian Broadcasting Corporation, British Broadcasting Corporation, Australian Broadcasting Corporation) to assess their procedures and operations, in order to streamline and eventually to monetize the value of their news operations. Commercial broadcasters such as NBC set the pattern. Through the 1980s, NBC engaged consultants (McKinsey Corporation and Frank N. Magid and Associates remain prominent in this effort) to make recommendations about the nature of the growing audiences and to analyze news content in order to capitalize on the new phenomenon of larger mass audiences for news.¹¹ Many newspaper organizations also engaged in this practice that, for a time, resulted in an economic boom for consulting organizations. Inside news organizations, the mood was less upbeat, and the consultants were often resisted by middle management and working journalists and dismissed as “news doctors.”

Impacts of Digitization

Engaging consultants had a certain economic legitimacy and urgency, especially in print media which, by the early 1980s, had begun to see a slackening of their readership because of the appeal of television news. But equally urgent was the introduction of new media forms, spearheaded by the arrival of digital delivery systems into newsrooms. The introduction of computers into newsrooms (began in the early 1980s, but a virtual flood by the end of the decade) changed not only the way information was transmitted, but also how the content itself was valued by practitioners and managers alike. As the flow of information increased, news organizations tried to take advantage

¹¹ “The Ubiquitous News Doctors,” *Time*, October 24, 1987.

of the increased options and sources. Some newsrooms were able to use their organization's increased profitability by hiring more journalists, especially editors who could handle the increased content. Audience numbers continued to grow but so did costs as new technology and staffing demands began to eat into profits. Commercial broadcasters saw themselves as being forced to choose between traditional notions of public service journalism and the market imperatives of greater profitability. In the end, the latter would win out.¹²

End of the Cold War

News organizations perceived the end of the generational competition between America and the Soviet Union to be a historic change. It was also seen as an opportunity to cut costs by scaling back international coverage – in effect, a “peace dividend” for news organizations. Prodded by consultants urging them to dispense with foreign news as expensive and irrelevant, many news organizations eagerly embraced cutbacks in overseas coverage as part of the overall financial readjustment of news operations to the new international reality.¹³

Free-market values spread even to once state-owned national “telcoms” that proceeded to gouge western news organizations by charging enormous access fees to their satellite ground stations. Emerging mobile digital technology would soon bypass them but, immediately after the fall of the Soviet Union, the high cost of doing business overseas was another pressure point on newsrooms to cut back on their foreign desks.

¹² Tucker, D.B.F., *Law, Liberalism and Free Speech*, Rowman and Littlefield, 1985, p. 156.

¹³ “Confessions of an Ex-McKinsey-ite,” unpublished paper (1999) by a former employee alleged that consultants frequently told their clients what they wanted to hear, i.e., that news organizations should dispense with the most expensive aspects of their news budget (foreign coverage) because the audiences weren't interested. In a private conversation, the author stated that McKinsey's own research indicated exactly the opposite.

Although mainstream use of computers for newsgathering did not become commonplace until the early and mid 1980s, smaller and less expensive personal computers became available at the same time that online resources began to expand. Proprietary online information services began to appear. Furthermore, computer-based information retrieval was determined to cost less than obtaining the information in person. Thus, a revolution in newsgathering began gradually to occur. As these desktop computers simultaneously grew more powerful and less expensive and software became increasingly user-friendly, applications in newsgathering expanded.

Journalism and the Internet

The stage was set for radical change in newsgathering in the early 1990s. Traditional in-person and library archive research began to give way to computer-based news reporting. Newsrooms were in the midst of this revolution by the late 1990s. Regardless of what computer newsgathering has been called -- from “computer-assisted reporting” to “database journalism” -- irreversible change in newsgathering was underway. Reporters and their editors became increasingly dependent on the Internet, while commercial online resources and other networked computers for information gathering grew rapidly. Internet use as a newsgathering tool was becoming universal. More significantly as the public began to embrace the World Wide Web in winter 1993-94, they became less dependent upon traditional platforms of news.¹⁴

The economic implications of this massive and permanent technological revolution were not hard to discern by senior management in news organizations around

¹⁴ Garrison, Bruce, “Computer-Assisted Reporting Near Complete Adoption,” *Newspaper Research Journal*, Winter, 2001.

the world. For commercial broadcasters and newspaper organizations, the goal was more straightforward: how to use new technologies and delivery systems to maximize audiences and increase profits. By the early 1990s, dealing with shifting audience behaviors and fragmentation, or de-massification, was a problem that would soon emerge to confront news organizations everywhere.

Commercial news organizations were quick to comprehend that the old ways of doing journalism had been permanently changed by the introduction of new technologies. A revolution had occurred that was as great, if not greater, than previous sea changes such as the invention of the printing press or the telegraph. Digital information forms had not only created new delivery systems, but they made available access to information systems and sources that called into question the ability of both journalism practitioners and the public to handle this new flow of information, a flow that has been likened to “drinking from a fire hose.”

But the Salant dilemma of how to balance and reconcile the economic opportunities of the so-called “new media” with the older civic and social obligations and commitment between journalism and citizens remains unresolved and an increasing point of tension.

The Challenge for Public Broadcasters

For public broadcasters, the challenges were similar, yet different. Public broadcasting, especially in the English-speaking world, was founded on some of the same principles that historically motivated commercial media: free speech, the marketplace of ideas, and an informed citizenry. Yet public broadcasting in the United States, the United Kingdom and Canada were conceived and nurtured as alternatives to commercial journalism in general, and commercial broadcasting in particular.

In the United Kingdom and Canada, public broadcasting was created in reaction to the new medium of radio and its commercial possibilities. Public broadcasting was to be an unabashedly elitist source of programming in an effort to counteract what the Conservative governments of the day in both countries viewed as crass commercialism. In the United Kingdom, the British Broadcasting Corporation was created in part to be a cultural counterweight to the popular press and the often anti-government party influences of British newspaper tycoons such as Rothermere, Beaverbrook and Northcliffe. In Canada, the CBC was created to counteract the commercial power of cross-border U.S. radio, which could be easily heard in cities like Toronto and Vancouver and which was presumed to have an implicitly republican and anti-monarchical influence on Canadian ears.¹⁵

Yet both the BBC and the CBC, while being funded by government, had strong legislative restrictions that addressed their ability to be partisan or commercial. Although some of the latter aspects have changed over the years, the presumption of an “arm’s length” relationship between public broadcaster and the government remains an important aspect of the self-image of public broadcasting in both countries. In effect, the government may fund the public broadcaster, but the public broadcaster must resist any attempt at political pressure or interference in programming and content.

While various governments have over the years attempted to shorten that “arm’s length” relationship by demanding changes to contentious programs or accusing the public broadcaster of bias, the principle of editorial independence remains intact (if occasionally bruised) at both the BBC and the CBC.

¹⁵ Nash, Knowlton, *The Microphone Wars*, McLelland and Stewart, 1994.

A greater challenge for public broadcasters (as for all broadcasters) will be in determining the appropriate use of the Internet to provide user-generated content that fits with the values of public broadcasting. An important step toward this has been accomplished by Minnesota Public Radio in developing a unique partnership with its listeners in “Public Insight Journalism.”¹⁶ The traditional function of CPB, PBS and NPR as “gatekeepers” of information becomes more difficult as the public is able to bypass so-called “old media” to obtain information directly. Yet CPB’s role as a facilitator of programming on new platforms is now more valuable than ever if it can fulfill this role for the benefit of the public and the public broadcasting community.

Mission versus Mass Audience

Public broadcasting in the U.S. shares many cultural assumptions and similarities with its English-speaking cousins.¹⁷ All believed in a public service model as a cultural and informational counterbalance to the more available and influential commercial broadcasters. Yet significant differences remain. Unlike the British or the Canadian model, public radio and public television in the U.S. were not created by conservative government fiat, with their openly elitist values. Public (then called *educational*) radio’s roots are in the early 20th century American bottom-up values of localism, community service and public education through public radio’s frequent affiliation with and support from land-grant universities and colleges.

This gave public broadcasting a clear mandate to provide alternative programming which, in radio at least, allowed the fledgling public radio system to set

¹⁶ <http://minnesota.publicradio.org/publicinsightjournalism/>

¹⁷ Harker, Don, “Aunty’s Angels: Made Possible By – The Decline and Fall of Public Service Broadcasting,” *Times Higher Education Supplement*, 10 April, 1998.

down roots in the communities they served. Often at the margins of the media landscape, public radio was able to survive as educational radio, serving small but loyal audiences through the so-called “golden age” of commercial radio in the 1930s and 1940s. Even the emergence of the new technology – television – in the late 1940’s and early 1950’s did little to dislodge public radio even as it had a powerful impact on commercial radio’s audiences.

The eventual challenge to public radio and television values was more economic and political, and it began in the Reagan years as Americans began to reevaluate their approaches and attitudes to government funding in all areas, including public broadcasting. This re-evaluation was not confined to the U.S. Similar discussions roiled the BBC and the CBC. Especially in the UK, the Thatcher years saw increasing and open hostility to BBC. Much of this antagonism came from the openly conservative newspapers that saw the BBC as their competition and waged an open ideological war on the value of publicly funded broadcasting as unnecessary in an age of unlimited informational access.¹⁸

Public broadcasting was also attacked as antithetical to the concept of free enterprise in a post-Cold War environment and in a newly globalized economy. The CBC came under similar attacks from that government’s allies in the Canadian newspaper industry. In the U.S., public broadcasting responded to these existential threats in a variety of ways. Much time and effort was spent in debating (usually as the now-defunct annual Public Radio Conferences and other similar industry gatherings) on the relative value of “mission” vs. “popularity.” If public radio and television were to

¹⁸ McChesney, Robert, “Public Broadcasting in the Age of Communications Revolution,” *Monthly Review*, December 1, 1995.

survive in this new environment, then they would have to adopt some of the values of the political culture. The values of the marketplace would have to be a more prominent part of the news and cultural offerings on both radio and television. Public broadcasters would increasingly adopt the metrics of their commercial colleagues in order to prove their relevance and value to their political allies and critics on Capitol Hill or in the media.¹⁹ In effect, this meant that ratings and market share became an increasingly important indicator of success in public broadcasting.²⁰ This approach caused (and continues to cause) much concern among public broadcasting's core supporters in their audiences, inside the public broadcasting workforce and among public broadcasting's critics on the left. It remains a source of tension that may lay dormant at times, but flares up whenever the editorial independence of public broadcasting seems to be questioned or when accusations of bias are directed at PBS and NPR.

Regulatory Pressure on Public Broadcasting

The obligation of CPB to oversee objectivity and balance in programming was written into the first Public Broadcasting Act of 1967. However, it was in the Public Telecommunication Act of 1992 that brought these tensions and contradictions into the open in a way they had not been before. CPB had always had responsibility for ensuring “objectivity and balance” in programming that it funded, but on June 2, 1992, the U.S. Senate amended the House bill including CPB's reauthorization (H.R. 2977) to add

¹⁹ Stavitsky, Alan G., “Guys in Suits with Charts: Audience Research in US Public Radio,” *Journal of Broadcasting & Electronic Media* 39, 1995, pp. 177-189.

²⁰ Other public broadcasters, notably the CBC developed a parallel method of audience measurement. Known as the “enjoyment index,” it measures audience approval of specific programs, as opposed to calculating sheer numbers. It meant that although news programs may have bigger rating and more listeners and viewers, the news audiences “enjoy” the news “less” than smaller audiences “enjoy” more niche programming, such as drama or music.

related responsibilities. Amendments were accepted by the House and signed by President George H.W. Bush in August 1992.

The significant part of the law for the purposes of this paper is Section 19 that states:

*SEC. 19. Pursuant to the existing responsibility of the Corporation for Public Broadcasting under section 396(g)(1)(A) of the Communications Act of 1934 (47 U.S.C. 396(g)(1)(A)) to facilitate the full development of public telecommunications in which programs of high quality, diversity, creativity, excellence, and innovation, which are obtained from diverse sources, will be made available to public telecommunications entities, with strict adherence to **objectivity and balance** (emphasis added) in all programs or series of programs of a controversial nature...²¹*

The 1992 law also, for the first time, insisted that CPB now had an affirmative obligation to actively monitor objectivity and balance. Opponents of public broadcasting saw the act as a way to restrain and even neutralize what some considered to be a prime source of liberal ideology in America.²² Within the public broadcasting community, many were suspicious of the legislation as a government attempt to discourage hard-hitting or controversial programming, but also saw it as an opportunity to deepen efforts at transparency and accountability.

Some stations created local mechanisms to allow for more public access of their internal operations and for a system of more open financial scrutiny.²³ Stations and journalists also looked for models to adopt that would create an ethical framework for public broadcasting. In 1993, CPB commissioned *Independence and Integrity: An*

²¹ Public Telecommunications Act of 1992, United States Congress.

²² Noonan, Peggy, "P is for Permanent: We need PBS but we can do without the politics," *Wall Street Journal*, June 16, 2005.

²³ Ramirez, Raul, "Foundations, Funding and Independence," *Poynter Online*, March 2, 2002.

Ethics Guide for Public Radio Journalism that became the basis for a public accountability model for all public broadcasting.²⁴

One of the by-products of this flurry of accountability to the legislators was an increased sense of self-scrutiny for and by public broadcasting audiences. While the ethical component was never far from any discussion among public broadcasters at their many and various gatherings, the ethics of public broadcasting in the mid-1990s assumed a new prominence.

As noted earlier, public broadcast journalists also saw this move to accountability as an attack on their prerogatives and their editorial independence. Journalistic independence became the watchword for many producers and reporters even as they acknowledged that they needed to find a balance with new demands for legislative and public accountability. Throughout this period, public radio also found that its audiences were growing while commercial radio's time-spent-listening figures began to shrink. Some of this was due to commercial radio's withdrawal, for economic reasons, from providing news and information as a local service.

Transparency as a Journalistic Value

By the early part of this decade, commercial broadcasters resisted the move to transparency even as public broadcasters were advocating it. CBS News, which pioneered the idea of journalistic standards, initially posted its standards and practices guidelines on its website and made hard copies available to journalism schools and to the public.

²⁴ Stavitsky, A., *Independence and Integrity: An Ethics Guide for Public Radio Journalism*, CPB, 1995.

But after Dan Rather's apparent lapse in following CBS News standards, CBS News' Senior VP for Standards and Special Projects Linda Mason announced in 2006 that CBS will no longer make its standards public. "This is a private, internal business," Mason said. "This is our internal way of working and it stays internal."²⁵

On the other end of the spectrum, *The New York Times* responded to its own lapses by appointing the first of three Readers' Editors (so far) and posting its internal ethics guide for its journalists on its website.²⁶

As public trust continued to decline, a few news organizations decided that transparency would be one approach to restoring public confidence. This included appointing ombudsmen and posting ethical guidelines on their websites. Fewer still in commercial broadcasting took this approach. As the economic pressures on all news organizations continued to deepen, the role of an internal ombudsman was a luxury that some struggling newspapers decided they could no longer afford. Today, the future of ombudsmen in the United States is less certain than ever while overseas, newspapers and broadcasters are increasingly appointing ombudsmen as a way to demonstrate that media can be self-regulatory and accountable.

Whether public broadcasting's growth was due in part to a new measure of public transparency or because of the quality of its informational and cultural programming is difficult to assess with any degree of certainty. All appeared to be factors contributing to the new prominence of public broadcasting. Even as the 1990s saw public broadcasting reach new heights of public acknowledgement and acclaim, that new prominence resulted

²⁵ <http://www.cbsnews.com/blogs/2006/10/06/publiceye/entry2071663.shtml>.

²⁶ <http://www.nytc.com/press/ethics.html>.

in greater scrutiny and even more frequent criticism from competitors and their allies in Congress. The next section of this paper will address some of the recent contentious episodes relating to issues of objectivity and balance.

Moyers: Icon and Lightning Rod

One of the most contentious and contradictory figures in public broadcasting is Bill Moyers, whom *The New York Times* describes as “an icon of the left and a lightning rod of the right.”²⁷ The Museum of Broadcast Communications describes Moyers as “one of the chief inheritors of the Edward R. Murrow tradition of ‘deep-think’ journalism.”²⁸ Moyers’ background and long connection with PBS are well known and there is no need to detail them at length here. It is useful, however, to highlight a few aspects of the specific controversy surrounding Moyers, his program and his reputation insofar as it affects public broadcasting.

In 2005 former CPB chairman Kenneth Tomlinson commissioned a study of the PBS program *NOW with Bill Moyers*. Tomlinson said that the study supported what he characterized as “the image of the left-wing bias of *NOW*.” Moyers replied by saying that his journalism showed “the actual experience of regular people is the missing link in a nation wired for everything but the truth.” Moyers characterized Tomlinson as “an ally of Karl Rove and the right-wing monopoly’s point man to keep tabs on public broadcasting.” Tomlinson, he said, “found kindred spirits at the right-wing editorial board of the Wall Street Journal where the ‘animal spirits of business’ are routinely

²⁷ Golway, Terry, “Treading in the Shadow of Bill Moyers,” *New York Times*, May 29, 2005.

²⁸ Timberg, Bernard, “Bill Moyers,” The Museum of Broadcast Communications, n.d.

celebrated.”²⁹ Moyers also responded to these accusations in a speech given to the National Conference for Media Reform in St. Louis, Missouri in 2005, pointing out that he had repeatedly invited Tomlinson to debate him on the subject, and had repeatedly been ignored.

Referring to a July 27, 2005 edition of *Bill Moyers' Journal* on which the possible impeachment of President George W. Bush was discussed, PBS Ombudsman Michael Getler praised Moyers for his initiative in highlighting different topics, but felt he could have used a more balanced approach. Moyers disagreed, and as quoted by Getler in his online column, Moyers said:

The journalist's job is not to achieve some mythical state of equilibrium between two opposing opinions out of some misshapen respect — sometimes, alas, reverence — for the prevailing consensus among the powers-that-be. The journalist's job is to seek out and offer the public the best thinking on an issue, event, or story.

Getler responded:

On the broad issue of balance, I don't disagree with Moyers ... It can create a false sense of equivalence among readers or viewers in cases where that is not justified.... [but that] while conventional, equal-time balance is frequently a false measure, the absence of any balance can undermine any program.³⁰

Moyers' program regularly and continuously evokes strong responses and frequent comments by the PBS Ombudsman, who most recently described Moyers' often controversial presence on PBS thus:

²⁹ Eggerton, John, “Moyers has his say: former Now host on media bias and his feud with Ken Tomlinson,” *Broadcasting & Cable*, November 17, 2005.

³⁰ Getler, M., The PBS Ombudsman Column, “On Balance: Bill Moyers Responds,” July 26, 2007. Available online at: www.pbs.org

Moyers poses a unique challenge to an ombudsman. That's because he is unique; an outspoken, judgmental, iconic force and figure unlike anyone else on the big three commercial television networks and within the public broadcasting service. On the one hand, he comes at issues, especially in his commentary, from a clearly liberal or center-left position, although he also at times reminds us of conservative support for some of those same themes. On the other hand, his reporting and interviewing is fact-based and he puts before the American public scores of important topics, explored in depth with interesting guests, that you would not have a prayer of learning about on commercial television.³¹

That seems to be as fair an assessment of Moyers as can be found among the countless words – pro and con – that have been written about him.

As Getler observes, Moyers remains a unique figure in American journalism because of his reputation and his presence on PBS. His unabashedly progressive approach and his high profile on PBS remains a journalistic force despite the critics, and that is a tribute to PBS' commitment to independent journalism – and to self-criticism through the lens of the Ombudsman.

PBS' Dilemma: Balancing Moyers?

PBS has, with varying degrees of success, tried to provide a similarly influential figure (William F. Buckley Jr., Ben Wattenberg, Tucker Carlson and Paul Gigot) to convey other disputatious ideas from a conservative perspective. None has proven satisfactory to conservative critics, who accuse PBS of insufficient balance as long as Moyers is on air. And critics from the left who accuse PBS of pandering to the right in an attempt to be seen as “even-handed” feel increasingly emboldened by media critics who abound in the blogosphere. Being attacked from the Right and the Left may not be a

³¹ Getler, M., The Ombudsman Column, “Ombudsman’s Mailbag,” June 20, 2008.

very sophisticated proof of even-handedness, but in this instance, there may be a kernel of truth.

But conservative critics may have a point in that this may also be an indication that Moyers has no analogue on the right in either public broadcasting or in journalism generally. Moyers may simply be *sui generis*, and removing him and his ideas from PBS, as his critics have demanded, would be to create a dilemma, detrimental to the values and reputation of PBS and would likely evoke allegations of censorship, while doing little to assuage the critics.

One consequence of the criticism of PBS over Bill Moyers is to make public broadcasting available to more conservative ideas. As William Kristol admitted to one of the authors of this study, Kristol doesn't think the media have a liberal bias at all, but simply saying they do serves the interests of the conservative movement by keeping the media on the defensive.³²

The Ombudsmen

On June 14, 2005, PBS published its editorial standards practices on its website. In November of that year, PBS appointed its first independent ombudsman. NPR had appointed its first Ombudsman in 2000 at a time when NPR was coming under similar criticism concerning allegations of political bias especially in connection with its extensive Middle East coverage.³³ At both PBS and NPR the impetus for hiring an ombudsman came from an identified internal need to make both organizations more transparent and accountable. Both organizations have been at different times and over

³² In conversation, March 8, 2004.

³³ Full disclosure: one of the authors was the first NPR Ombudsman.

different issues (Bill Moyers, the Palestine-Israel conflict) subject to enormous external pressure campaigns mounted by media watchdog groups.

PBS and NPR created the positions in line with how other news organizations, especially *The Washington Post*, have handled it. The Ombudsman reports directly to upper management, he/she is independent of management and the Ombudsman is free to comment on matters of concern to the public, whether identified by the listeners and viewers or by his/her own perception of a situation. The Ombudsman's credibility is assured by his/her independence and the Ombudsman has no managerial authority to correct perceived errors or omissions. The tenure of the Ombudsman is limited and may be renewed only by mutual agreement and may be dismissed only for cause.

The CPB Response to Accountability

CPB had been a pioneer in accountability when it was mandated by Congress in 1992 to create a mechanism to receive and consider public concerns and complaints. In 1993, CPB set up its "Open to the Public" platform. This allowed the public to air its questions and CPB responded with annual reports to Congress and to the public. "Open to the Public" was a dramatic step in media accountability, but too often it went unrecognized and under-appreciated by the public because the program appeared to operate without sufficient recognition by the public, the public broadcasting community or even by CPB itself.

The creation of two CPB Ombudsmen during the tenure of Kenneth Tomlinson in 2005 was also seen as a more controversial measure of accountability because of the

unclear mandate of the office and because it was perceived to be duplicating the functions of the PBS and NPR Ombudsmen. Indeed, then-PBS President Pat Mitchell was highly critical of the appointment as being politically motivated.³⁴

Ironically, Tomlinson's heavy-handed approach to determining balance and objectivity had some positive outcomes. PBS was forced to take the issue of accountability and fairness more seriously by appointing an Ombudsman of its own. Tomlinson never appeared to violate any editorial guidelines (he resigned because he violated CPB governance issues). But his efforts were seen as an implicit threat to public broadcasting's editorial integrity and independence. And he may have inadvertently weakened the ability of present and future CPB board members to comment in any legitimate way, on matters of objectivity and balance.

CPB appointed two Ombudsmen, William Shultz and Ken Bode, in 2005. But they and CPB were frequently criticized for being hired under unclear or possibly politically influenced circumstances.³⁵ Shultz resigned soon after his appointment while Bode remained to write occasional critiques and commentaries about PBS and NPR programs on the CPB website.

There were additional efforts by CPB and the public broadcasting community to address issues of concern around allegations of bias. These included the creation of an Editorial Standards Review Committee in February 2005 at PBS. This "blue ribbon" committee would look at the way in which editorial guidelines should be applied to all

³⁴ Everhart, Karen, "PBS aims for transparency, plans to hire Ombudsman," *Current*, June 27, 2005.

³⁵ Fahri, Paul, "'Two Big Thumbs Up for Public Radio, TV,'" *The Washington Post*, July 12, 2005.

produced and acquired programs in an effort to guarantee that a broader range of ideas and opinions be reflected on PBS.

Yet attempts by PBS and NPR to assure CPB that they were taking steps to address allegations of bias by broadening editorial approaches in programming were met with skepticism by some media critics amid further allegations of political interference.³⁶

Traditional supporters of public broadcasting, along with citizen groups and pro-public broadcasting advocates, rallied. They accused CPB, PBS and NPR of bending to conservative pressure around spurious allegations of bias.³⁷

The CPB Inspector General's Report

But those fears were confirmed when CPB chairman Tomlinson's activities were investigated by the Office of the Inspector General. Tomlinson, who resigned shortly after the investigation was completed, had engaged outside consultants to assess political bias in Bill Moyers programs. Inspector General Kenneth Konz found that although such an inquiry was well within the rights of CPB to conduct,

problems occurred when the former Chairman initiated such actions without informing the Board and signed the contract without Board authorization. Further, CPB has never developed a policy for how such reviews should be conducted and what would be acceptable criteria for evaluating program content. Had a policy been established and developed in conjunction with the public broadcasting community, the community would have understood the purpose and use of such a review to ensure accountability to Congress and the American people, as envisioned by the statutory requirement.³⁸

³⁶ Everhart, Karen, "As CPB watches, PBS panel debates balance policy," *Current*, May 5, 2005.

³⁷ Egner, Jeremy, "CPB's controversial moves prompt theories in press, calls for reform," *Current*, May 5, 2005.

³⁸ Corporation for Public Broadcasting, Office of the Inspector General, *REPORT OF REVIEW, Review of Alleged Actions Violating The Public Broadcasting Act of 1967, as Amended*, Report No. EPB503-602, Washington, DC, November 15, 2005.

CPB responded with a comprehensive reform of its governance and financial controls. Within a year, CPB released a report that satisfied the Inspector General, who reported to Congress on the corporation's progress in rehabilitating itself since the Kenneth Tomlinson affair.

“We are encouraged that [CPB leaders] have taken such a comprehensive approach, often exceeding the scope of our recommendations, to evaluate major CPB processes,” Konz wrote in his evaluation of the efforts.³⁹ Media watchdog groups such as the Center for Digital Democracy were less impressed, complaining that the reforms didn't go far enough – among other things, they want CPB to offer live video streams of its meetings and release board members conflict of interest statements and all background documents the board uses to arrive at specific decisions.

At the time of the Tomlinson Affair, there was much media conjecture over whether the public broadcasting system overall and CPB specifically would suffer serious long term consequences brought on by the crisis.⁴⁰ Yet, public broadcasting appeared to weather this storm, as it has done with others before, due largely to enormous public and legislative support for these unique American institutions. While public support should never be assumed to be inexhaustible, the robust presence of public broadcasting in the media landscape means that CPB, NPR and PBS have created something of abiding value that can withstand the pressures of any future Tomlinsons.

³⁹ Corporation for Public Broadcasting, Office of the Inspector General, EVALUATION OF CPB RESPONSE TO THE OIG REPORT OF REVIEW, Review of CPB Corrective Actions Related to Report No. EPB503-602, dated November 15, 2005, Review of Alleged Actions Violating The Public Broadcasting Act of 1967, as Amended , Report No. EPB503-606, Washington, DC, June 9, 2006.

⁴⁰ Labaton, Steven, “Lobbyists’ Role for Public TV is Investigated,” The New York Times, June 16, 2005.

CPB Mandates in Conflict?

On the question of objectivity and balance, the Corporation for Public Broadcasting's obligations are clearly stated:

From its advent almost four decades ago, the Corporation for Public Broadcasting has had a legal mandate to ensure "strict adherence to objectivity and balance in all programs or series of programs of a controversial nature." This principle is part of the bedrock of public broadcasting in America, a country built upon a foundation of lively and open political and social discourse.

CPB carries out its mandate by encouraging public comment on programming to individual stations and to CPB's own ombudsmen. By promoting diversity in programming, CPB also ensures that a wide range of perspectives is available to viewers and listeners. Annual Objectivity and Balance, Open to the Public reports, as required by Congress, offer extensive detail on this important goal.⁴¹

CPB's obligations as mandated by Congress have been complicated in recent years by the tendencies of the more passionate elements in the debate around public broadcasting to see CPB as failing to be sufficiently vigilant in defending "their" point of view. As the political landscape in Washington is shaped and defined by its more vocal partisans, CPB, PBS and NPR are often the unwilling players in a drama that is not of their choosing.

Historically, public broadcasting in Canada and the UK have experienced similar pressures. In the U.S., it is no less. Public broadcasting is seen as a "prize" for the partisans who expect it legitimate their positions and to convey their interests and concerns effectively on their behalf. But among the many roles that the CPB must assume, like its equivalents in Canada and the UK (the *CRTC*, Canadian Radio-television

⁴¹ CPB's Commitment to Objectivity and Balance, June 8, Preamble to the 2006, "open to the Public" Report, www.cpb.org, June 2006.

and Telecommunications Commission and *Ofcom*, Office of Communications, respectively), must be that of the “firewall,” ensuring that undue influence is resisted and allowing the public broadcaster to operate in what may appear to be contradictory ways – both independently and transparently.

This appears to be heart of the matter. It may also be considered as public broadcasting’s own “poison pill” because CPB is obliged by its congressional obligations to defend both program objectivity and editorial balance even when those two legitimate values may be in conflict. An example of when those two values came into conflict was during a PBS program on the Armenian genocide that assumed the event had historical veracity even when many viewers did not share that assumption.⁴²

An Internal Contradiction?

CPB is obliged by Congress to carry out two contradictory, but at the same time, equally valid ideas. In a mission statement adopted in 1999, the aim of CPB is clear:

The Corporation is **accountable** to the public for investing its funds in programs and services which are educational, innovative, locally relevant, and reflective of America’s common values and cultural diversity. The Corporation serves as a catalyst for innovation in the public broadcasting industry, and acts as a **guardian** of the mission and purposes for which public broadcasting was established (*emphases added*).⁴³

The question can be posed: can it be possible or even desirable for any media organization in the 21st century to be both entirely independent and entirely accountable?

Can the CPB be, in effect, an “accountable guardian” of the interest of public

⁴² The PBS Ombudsman devoted several columns to the contradictions inherent in questions of objectivity and balance on this matter. Compounding the discussion were questions about how this documentary had been funded, apparently from similar sources in the American-Armenian community.
http://www.pbs.org/ombudsman/2006/03/coming_soon_to_viewers_like_you_the_armenian.html.

⁴³ CPB: Mission Statement, www.cpb.org.

broadcasting, however that interest is defined? Because of Congressional requirements, CPB's obligation – and its conundrum – is that it must be both a guardian of public broadcasting while holding it to account.

Conclusion

Partisans in the debate over the future direction of public broadcasting in America have been powerful advocates for one or another of these valid ideas by defining their qualities in the narrowest of terms, while excluding, ignoring or dismissing the other. It is between these two concepts that public broadcasting finds itself caught and unable to extricate itself without seriously damaging its institutional credibility, its public and regulatory support, and even its prospects for long term survival.

Yet the ongoing tensions between objectivity and balance and the need for editorial independence are often indicators of the health of the public broadcasting system. A lack of debate and concern would be a worrisome and serious indicator of public broadcasting's potential irrelevance to the needs of the democracy. Yet, there may be ways in which the conflict between objectivity and balance – if not ultimately resolvable – may simply be clarified for the benefit of the public broadcasting system and the democracy that it serves. In that spirit, the following recommendations are offered:

- **Promote independent CPB directors:** The CPB Board of Directors should be made up of appointees whose commitment to public broadcasting and to public service are seen to be non-partisan and beyond political affiliation. The presence of partisans sets a tone for the public to question the motives of the Board. While the roles of the legislative and executive branch in appointing the Board must remain, the views of other

stakeholders such as stations, producers and concerned members of the public must be solicited and taken into account whenever the board's composition is changed. Public broadcasting organizations and media reform groups should actively promote candidates for board openings to their congressional representatives.

- **Expand the role of Ombudsmen:** The role and the resources available to the Ombudsmen at NPR and PBS should be expanded to assure greater public input and involvement, to heighten the concept of self-regulatory media that can be both accountable and independent. The roles and responsibilities of the CPB Ombudsmen need to be clarified and defined in terms of the other ombudsmen functions. The independence of the position needs to be clarified and maintained.
- **Promote Media Literacy:** CPB should support and encourage public broadcasters to engage with advocacy groups, concerned citizens, and journalism schools to raise public awareness about the role of the media in a democracy and to broaden media literacy. Greater clarity is required from the program and content producers to assist the public's understanding about the value of fact-based reporting and opinion – which are central to public broadcasting.
- **Promote continued ethics training:** CPB should continue to take the lead in creating institutions and mechanisms for ongoing, systematic journalistic training in ethics and public service values for public broadcasters. These may be in partnership with journalism schools and

professional organizations. One model that deserves further investigation is the BBC where significant resources are committed to inculcating and maintaining standards at all levels of the organization – and not just in the journalistic ranks.

- **Promote civic education:** CPB should encourage and deepen the citizen-oriented values of public broadcasting by supporting programming that enhances civic education. This is done to ensure that public broadcasting's function to sustain and educate an informed citizenry is its highest priority. Long-term, multi-year funding that supports program innovation across multiple platforms would do much to assure editorial and program independence. Further, this provides an opening for public broadcasters to encourage citizen-generated content that speaks to key civic issues, which serves a corollary imperative of attracting a new generation of audience members and experimenting with new program forms for emerging digital platforms.