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Addressing the decline of local news, rise of platforms, and spread of mis- and disinformation online: A summary of current research and policy proposals

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December 2020



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Center for Innovation and Sustainability in Local Media



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Executive Summary

Social scientists who study the impact of the Internet, social media, and other forms of digital information sharing paint an alarming picture of the health of American democracy. Our current media ecosystem produces too little high-quality information; we have a tendency to be attracted to information that confirms our existing biases about the world and to share this information with little regard for its veracity; and there are an increasing number of actors who seek to leverage these observations to distort public discourse and to undermine democratic decision-making.

Framing the Problems

The Decline of Local News

Technological and economic assaults have destroyed the for-profit business model that sustained local journalism in this country for two centuries. While the advertising-based model for local news has been under threat for many years, the COVID-19 pandemic and recession have created what some describe as an “extinction level” threat for local newspapers and other struggling news outlets. More than one-fourth of the country’s newspapers have disappeared, leaving residents in thousands of communities living in vast news deserts.

The latest report by Penny Abernathy, Knight Chair in Journalism and Digital Media Economics at the UNC Hussman School of Journalism and Media, titled *News Deserts and Ghost Newspaper: Will Local News Survive?* reveals an increasingly dire situation for local news. The economic fallout from the coronavirus has accelerated the decline in local newspapers – at least 30 newspapers closed or merged in April and May 2020, dozens of newspapers switched to online-only delivery, and thousands of journalists at legacy and digital news operations have been furloughed or laid off. All of this raises fears of the collapse of the country’s local news ecosystem.

Key takeaways related to the decline of local news:

- **The scope of the problem is far worse than most people realize.** In the U.S., 200 counties do not have a local newspaper, nearly 50% of counties only have one newspaper, usually a weekly, and more than 6% of counties have no dedicated news coverage at all. Other media sources have been unable so far to fill the gap. Digital startups are focused on population-dense communities rather than the

rural areas most often abandoned by local newspapers, while many subsidized public media outlets rely primarily on non-original content.

- **The issues facing the local news ecosystem are systemic.** The newspaper industry enjoyed prolonged success due to a stable business model, but the industry's inability to evolve in the face of financial adversity and technological change has rendered that model largely obsolete. Online platforms capture a significant portion of overall advertising spending by leveraging user data. Local news organizations cannot offer the same level of targeting and have been unable to attract the advertising revenue necessary to remain financially sustainable. Many local news sources have been forced to scale back their reporting efforts or rely on third-party content.
- **The information vacuum left when communities lose dedicated news coverage can have wide-ranging effects.** Local news outlets play an important role in informing community members about local government, elections, and other civic events. They also help to shape community views around common values and beliefs, creating a sense of shared purpose that can be a powerful uniting force within a town or county. Without a source for local news, community members get most of their news from social media, leaving them vulnerable to mis- and disinformation and exacerbating political polarization.

The Rise of Platforms and Growing Spread of Mis- and Disinformation

As local news sources decline, a growing proportion of Americans are getting their news and other information from social media. This raises serious concerns, including the spread of misinformation and the use of platform infrastructure to engage in disinformation campaigns. Platforms wield significant advantages over local news sources in the current information environment: the dominant platforms possess proprietary, detailed caches of user data, which the platforms use to force advertisers, users, and news outlets into asymmetrical relationships. In the vacuum left by the disappearance of local news sources, users are increasingly reliant on information sources that are incomplete, and may be misleading or deceptive.

Key takeaways related to the rise of platforms and growing spread of mis- and disinformation:

- **Platforms leverage user data as a key source of power over other actors.** Data collection gives platforms power over users, who are generally unaware of how platforms use data to manipulate their behavior, and advertisers, who need

access to a platform's proprietary data to target consumers. The use of micro-targeting is sidelining many traditional news sources, who no longer control the relationship between advertiser and consumer.

- **Platform dominance contributes to news outlets' inability to retain readers and attract advertisers.** Local news providers face challenges in having their content seen and monetized on online platforms. Platforms are able to offer their services to users without charging a fee. As a result, consumers have become increasingly unwilling to pay for news when they can access content on social media for free, creating a vicious cycle where a continued decrease in readers/subscribers leads to even less advertising income for news organizations. Moreover, because the market power of online platforms is concentrated and platforms enjoy varying types and degrees of network effects, consumers have limited incentive to switch to alternative platforms.
- **The decline in local news reporting has created an information vacuum where misinformation and disinformation have flourished.** Social media platforms are designed to disseminate content using algorithms that can modify patterns of individual exposure in opaque ways, often prioritizing content that provokes extreme reactions from users. Furthermore, users' self-selection of content can create homogeneous, polarized clusters and increase the diffusion of misinformation over social media. This problem is exacerbated when local news sources are unavailable to fill needed information gaps or to counteract the spread of misinformation.
- **Platforms want guidance as they struggle with content moderation practices and policies.** Although the platforms enjoy wide latitude to decide what content to allow on their services, they are ill-equipped to deal with the problem of mis- and disinformation on their own. Several platforms have explicitly acknowledged these difficulties, with Facebook and others calling for additional federal regulation combating election interference and addressing data privacy. Though platforms are working to respond to harmful content, they view themselves as lacking the legitimacy and capacity to serve as "arbiters of truth."

Regulatory and Policy Solutions

A number of regulatory and policy responses have been proposed to address the decline of local news, the rise of platforms, and the spread of mis- and disinformation. Some proposals focus on increasing the supply of – and demand for – local news, including

increased public education and expanded support for journalists and local news organizations. Other proposals focus on market-based reforms that address the growing power disparities between news producers and platform operators as well as between platforms and their users.

Recent regulatory and policy proposals include:

- **Educating the public to explain the work of journalists and the value of local news.** This is an obvious and important step to address the public's declining support for journalism. This means helping people to better understand the harms associated with the collapse of local news, and to develop strategies for evaluating the information sources they currently use.
- **Empowering journalists to serve the needs of local communities.** Rebuilding local news begins with ensuring that local news organizations have the resources to hire enough reporting staff and giving them the tools and training they need to succeed. This support can range from direct government funding to indirect support in the form of regulatory, tax, and other legal changes that strengthen journalism and allow local news organizations to thrive.
- **Reducing the power of the "data oligarchy" of Google, Facebook, and Amazon.** Platforms enjoy a significant competitive advantage stemming from their ability to collect and monetize user data. Multiple solutions have been offered to increase competition and alter the power dynamics between platforms and their users. One such approach is data portability and interoperability legislation, which would allow platform users to access their data and take it with them to another platform or use it cross-platform. A complimentary approach is comprehensive federal privacy legislation, which would establish stronger consumer protections, lessen pervasive data collection, and limit its uses.
- **Using antitrust and other competition laws to address the systemic advantages platforms currently possess.** The conclusion that platforms have a significant competitive advantage over news providers has prompted advocates for local news to look for ways to use existing antitrust and competition laws to level the playing field. A proposal that has recently gained traction in Congress is to create an antitrust exemption that would allow news organizations to negotiate jointly with the platforms over licensing fees for their content. Another proposal in Congress would instruct federal agencies to presume that some acquisitions and mergers by dominant platforms are anticompetitive.

- **Expanding antitrust law to deal with the monopoly power of platforms.** Many critics assert that new antitrust exemptions and stricter merger controls will not be enough to rein in the power of the dominant platforms and that more significant change is warranted. This includes extending the Sherman Act to prohibit abuses of dominance by online platforms; prohibiting the use of monopoly power in one market to harm competition in a second market; and reestablishing the “essential facilities” doctrine for platforms, which would impose a requirement that dominant platforms provide access to their data, infrastructure services, and facilities on a nondiscriminatory basis.
- **Breaking up dominant platforms by imposing structural separations and prohibiting platforms from entering adjacent lines of business.** Some experts assert that antitrust and competition laws are simply not up to the task of addressing the anticompetitive behaviors of platforms. They point to the explosive growth of Google in search and advertising, Facebook in social networking, and Amazon in online retailing as demonstrating that these digital markets have winner-take-all characteristics that tend to leave just one dominant player. Because dominant platforms enjoy durable market power, they argue that reliance on traditional antitrust remedies is misplaced and that the government should impose *ex ante* restructuring to limit anticompetitive practices.

While many of the proposals described above face significant industry and political opposition, recent congressional hearings directed at technology companies and the October 2020 report on Competition in Digital Markets by the Majority Staff of the House Judiciary Subcommittee on Antitrust, Commercial, and Administrative Law recommending significant changes to U.S. antitrust law may mark a turning point in terms of support for more significant government action to limit the power of online platforms. Indeed, the antitrust lawsuit against Google, which was filed by the U.S. Department of Justice and eleven state Attorneys General as we were finalizing this report, is further evidence of this shift to a more aggressive posture by the government.

Regardless of whether the government moves to limit the power of the platforms, many supporters of local news are optimistic that Congress – and state legislatures – will take action to address the dire situation local news organizations face. “It’s as if for the first time, people on the Hill care about newspapers,” Seattle Times publisher Frank Blethen recently told researchers at the UNC Hussman School of Journalism and Media. In *News Deserts and Ghost Newspapers*, Penny Abernathy wrote that the shift in support is apparent both in the number of concerned lawmakers and in the breadth of their proposals to

address the decline of local news. As 2020 ends, there are several serious proposals to direct funds to local media, and hundreds of lawmakers from both parties have written to House and Senate leadership expressing their support.

Next Steps

Solutions to the difficult problems we face will require a multifaceted, multi-disciplinary approach. No one lever within the market, law, or society will deliver a magic bullet. Instead, experts and policymakers will need to pull at multiple levers using a new vocabulary to talk across the different disciplines – a set of new propositions that recognize the legal, social, journalistic, and economic principles at stake, particularly the harm done to democracy if the status quo continues.

We are still in the early stages of understanding how technology is transforming our democracy and the ways we receive and engage with information. This work will require cross-disciplinary research and collaboration in order to develop a comprehensive understanding of information environments focused on the interaction of information and technology, particularly in the context of misinformation, partisanship, polarization, propaganda, and political institutions.

Workshop Description

In November 2019, the UNC Center for Media Law and Policy; UNC Center for Innovation and Sustainability in Local Media; and UNC Center for Information, Technology, and Public Life brought together experts on the decline of local news, the rise of online platforms, and the spread of mis- and disinformation for a workshop that was part of a two-day, interdisciplinary conference titled [“Fostering an Informed Society: The Role of the First Amendment in Strengthening Local News and Democracy.”](#) The conference began with a symposium at the UNC School of Law hosted by the *First Amendment Law Review*, which examined the role of the First Amendment in creating an informed society and explored whether the Constitution places affirmative obligations on the government to ensure that citizens are informed.

The workshop, which is the subject of this white paper, commenced on day two. The goal of the workshop was to convene a diverse group of media executives, economists, social scientists, lawyers, and others with expertise in journalism, media business models, antitrust, FCC policy, intellectual property, and constitutional law to discuss the problems facing local news organizations and to examine the regulatory and policy solutions that have been offered to address these problems. The workshop took place at the UNC Hussman School of Journalism and Media and was co-led by Philip Napoli, James R. Shepley Professor of Public Policy at the Sanford School of Public Policy at Duke University. A full list of workshop attendees is included in Appendix A.

What follows is a report of the day’s proceedings. It is organized in the same way we structured the workshop, starting with an overview of the decline of local news followed by a discussion of the rise of platforms and the spread of mis- and disinformation online. We then examine a number of regulatory and policy responses to the problems identified in the earlier sections and conclude by offering some suggestions for next steps. Throughout this report, we have included the affiliations of workshop participants when referring to their contributions to the workshop. In Appendix B we provide a list of recent research and resources available for those who wish to engage in more study of these important issues.

Acknowledgements

We are grateful to all of the participants at the November 2019 workshop and to members of the *First Amendment Law Review* who helped make the symposium and workshop possible, including Alyssa Leader, Alison Rossi, and Rachel Ann Stephens. We are also grateful to Kathryn Johnson and Isabela Palmieri for assistance in drafting this report and to Kathryn Peters and Joanna Burke for editing, formatting, and promotion. The Hearst Foundations provided funding for the workshop, and funding for the preparation of this report was provided by the Hearst Foundations and John S. and James L. Knight Foundation.

Part 1: The Decline of Local News

Over the past two decades, the United States has experienced a significant reduction in the number of local news organizations like newspapers and locally focused news websites. Penny Abernathy (Professor, Hussman School of Journalism and Media, University of North Carolina), a former executive at the Wall Street Journal and the New York Times, kicked off our workshop by describing her recent research on the rise of “news deserts”: counties and municipalities that lack access to a dedicated local news source. Her 2020 report, [News Deserts and Ghost Newspapers: Will Local News Survive](#), paints a bleak picture of an industry in crisis.¹ According to Abernathy, more than one-fourth of American newspapers shut down in the last 15 years, including many news outlets focused on local communities.² In that same time period, more than half of all local journalists were let go, leaving many remaining newsrooms staffed by a small number of reporters burdened by excessive workloads and unable to dedicate themselves to particular topics of local interest.³

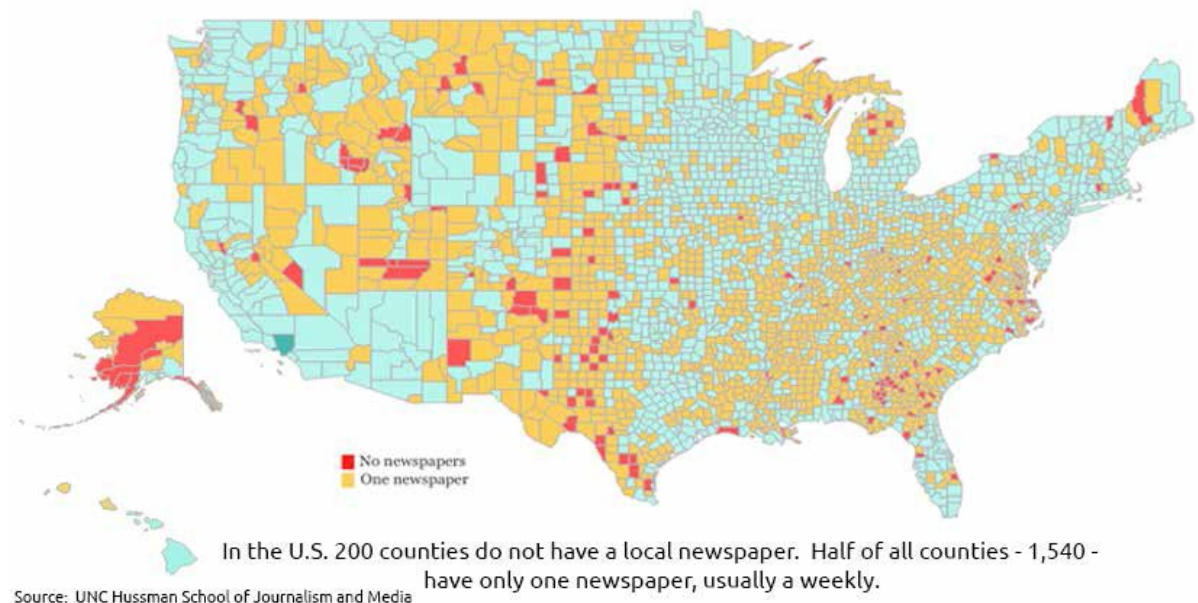
Ghost Newspapers and Disappearing Local Coverage

Abernathy refers to many remaining newspapers as “ghost newspapers,” operating as shadows of their former selves and lacking the financial resources and manpower to fully cover their communities.⁴ Though the industry was decimated by the 2008 economic recession, newspapers have continued to struggle even as the economy has improved; since fall 2018, more than 300 newspapers closed, with another 6,000 journalists fired and more than 5 million fewer print newspaper subscribers.⁵ The coronavirus pandemic and corresponding economic downturn has “turbo-charged” the decline of print journalism, with early data indicating that more than 30 newspapers have been forced to shut down or merge with other media outlets since COVID-19 began to spread in the United States.⁶ Even among newspapers that have survived, many that remain have been forced to reduce their circulation from daily to nondaily or weekly in an effort to cut costs.⁷

This decline in local newspapers has left many American communities without sufficient local news coverage or any available local news source. Abernathy stated at the workshop that more than 1,500 of 3,031 American counties have only one newspaper, usually a weekly, while more than 200 others have no newspaper at all. Of course, there is wide variation in population among U.S. counties, with more than half of all residents living in just 143 counties.⁸ Nevertheless, the residents of America’s emerging news deserts are often its most vulnerable citizens: they are generally poorer, older, and less educated than

the average American.⁹ The collapse of the newspaper industry, however, has not spared wealthier communities. The one million residents of Montgomery County, Maryland, a Washington, D.C. suburb and one of the 20 wealthiest counties in the United States, were left without a local newspaper when their last remaining local newspaper, The Sentinel, was shuttered in January 2020.¹⁰ Urban areas have also been affected. Youngstown, Ohio became the first city of any size without a local newspaper after its 150-year-old newspaper shut down in August 2019.¹¹

DO YOU LIVE IN A NEWS DESERT?



Although the loss of newspapers is widespread, participants at the workshop highlighted the connection between poorer communities and the lack of a local newspaper. Most of the counties in danger of losing a newspaper or without a newspaper altogether are in the American South and the average poverty rate is “substantially higher” in counties without newspapers than in counties with local news coverage.

Key Takeaway

Most of the attendees at the workshop were generally aware of the decline in local news sources. However, Abernathy's presentation and research offered statistics that revealed the true scope of the problem.

Nearly 50% of U.S. counties only have one newspaper, usually a weekly, and more than 6% of counties have no dedicated newspaper at all. More than 25% of American newspapers have shut down since 2004, while many more have cut back on their previous daily circulation by reducing their coverage reach or printing on a nondaily or weekly basis.

Abernathy noted that other media sources have been unable to fill the gap. Digital startups are focused on population-dense communities rather than the "flyover areas" most often abandoned by local newspapers, while many subsidized public media outlets rely primarily on non-original content. Abernathy also identified a correlation between counties without newspapers and a higher poverty rate, meaning that economically disadvantaged communities are especially vulnerable to the decline of local news.

Alternative media sources have been unable to fill the vacuum left by the disappearance of local newspapers. The lack of consistent broadband access in rural areas limits the ability of rural communities to get news in a digital format. Many communities that lack access to a local newspaper or to a reliable high-speed internet connection rely on either television or radio to provide local news. Though television stations remain on the air, broadcast journalism may not plug the local news gap left by the disappearance of local newspapers. Local television news typically focuses on either national stories or the local stories most likely to attract viewers, leading to extensive coverage of crime, car accidents, and natural disasters.¹²

The emphasis on maximizing viewership in order to bring in advertising dollars comes at the cost of local news stories. A 2018 [report](#) from the Knight Foundation refers to local television news as a "headline service with periodic forays into meaningful investigations,"¹³ and those at the workshop expressed concern that television news is not filling the void left behind when local news outlets disappear. At the workshop, Melanie Sill (Executive Director, NC Local News Workshop) depicted local news stations as covering ever-increasing markets and focusing on a few big stories, arguing that "any

domestic murder in America” would be considered a “local” story on the evening newscast. Workshop participants also identified the increasing time commitments for station staff as a barrier to community-level local news coverage. As television stations continue to add additional broadcasts and digital/social media responsibilities, journalists lack the time and resources to devote their attention to stories that, though informative to the community, might not guarantee maximum attention from viewers.

As the realities of commercial broadcast television limit its viability as a dedicated local news source, policymakers and others have cited public broadcasting as a potential mechanism to provide local news coverage to underserved communities.¹⁴ Congress allocates limited funds to the Corporation for Public Broadcasting, which subsidizes both PBS television stations and NPR radio stations, while most funding comes from contributions from individual viewers and listeners. However, Abernathy noted that less than one-fourth of public media outlets used any sort of originally created content, and that much of the original “local news” content came in the form of talk shows that featured moderators interviewing journalists from other outlets who had covered a local news story.¹⁵

Others have suggested that digital media startups can fill the need for local news. North Carolina has had some limited success with sector-specific nonprofit digital media outlets. During the workshop, Sill cited three NC-based nonprofit organizations as potential success stories: [NC Policy Watch](#), a daily news and commentary outlet run by a left-leaning think tank; [Carolina Journal](#), a similar outlet run by a right-leaning think tank; and [Coastal Review](#), an outlet operated by the North Carolina Coastal Federation dedicated to covering stories in North Carolina’s coastal regions. However, these startups are heavily reliant on social media to distribute stories and attract viewers, perpetuating a business model where platforms hold the advantage. [We discuss this in depth in Part 2.] Despite these limited successes, digital startups have struggled to fill the void on a national level. Abernathy noted that 95% of local digital startups are located in urban areas, meaning that even rural and less-populated communities with reliable internet access lack an online local news alternative. Ethnic media have faced similar difficulties, running mainly on shoestring budgets with small staffs unable to fully cover a particular region.

The decline of local news has several causes and it predates the rise of the Internet. As far back as the 1950s (and even earlier), newspapers were on the decline due to competitive challenges first from radio and then from television. But the Internet has accelerated the decline. As the changing demands of news consumers became apparent in the early 2000s, news organizations were initially reluctant to change what had largely

been a successful model, which led to a lack of innovation until the situation was already dire. In addition, news organizations and the digital start-ups that attempted to supplement or replace them failed to engage with audiences in new ways, limiting outreach to consumers who viewed newspapers as

anachronistic. While newspapers may have failed to evolve, a main cause of the decline of local news is the collapse of the advertising-driven for-profit business model that newspapers relied on for decades. In an era where few media sources existed, newspapers were able to position themselves as an effective way for advertisers to target consumers in a particular market. The rise of platforms like Facebook and Google has destroyed that model.

As discussed further in Part 3 of this paper, platforms can identify the users who will be most likely to purchase a particular product or service by collecting detailed data about an individual's browsing history, purchasing preferences, and other personal information. They can then offer advertisers a more efficient use of advertising money, allowing them to target only those who are ostensibly more likely to be interested in their product.

"Why is Google more successful than the News & Observer at selling advertising to [a business] in Chapel Hill? I think the answer is that Google can tell advertisers, much more credibly, 'If you advertise with us, we can find exactly the people you, Joe Advertiser, are looking for, and you won't have to waste any money reaching people that don't give a damn about what you sell or how you sell.'"

—Robert Kaiser, former Associate Editor and Senior Correspondent at *The Washington Post*

"[W]e have relied on a for-profit model for newspapers. What especially happened after 2008 is that the problems on Wall Street came down to Main Street so you lost the last of the retail advertising that was supporting the very small and midsize papers going forward."

—Penny Abernathy

Andrew Gavil (Professor, Howard University School of Law) argued that platforms are able to offer "higher value, higher quality targeted ads in a local community." Newspapers do not have the data, and thus cannot offer the same level of targeted advertising. As a result, businesses have diverted their advertising efforts from traditional local news sources to online platforms. According to Abernathy, in some markets

as much as 80% of advertising revenue goes to Google and Facebook, leaving television stations, newspapers and radio stations fighting over a fraction of the advertising revenue they once received.

Platforms are able to use their leverage in a two-sided market (with consumers on one side and advertisers on the other) to make advertising more effective while also undercutting other local news attempts to collect the revenue needed to stay afloat. The platforms are able to mediate the relationship between news consumer and news producer, forcing news outlets to use platform-based services to reach their audience and collecting the profits from advertisers. Consumers increasingly rely on social media as their source for news, enhancing revenue for platforms at the expense of news providers who are losing advertising income while they still bear the cost of reporting the news.

Key Takeaway

Speakers at the workshop emphasized the systemic nature of the issues facing the local news ecosystem. The newspaper industry enjoyed prolonged success due to a stable business model, but the industry's inability to evolve in the face of financial adversity and technological development has now rendered that model largely obsolete.

Online platforms capture a significant portion of overall advertising spending by leveraging user data. Local news organizations, which do not have the data, cannot offer the same level of targeted advertising and are unable to attract the advertising revenue necessary to remain financially sustainable. Many local news sources have been forced to scale back their reporting efforts or rely on third-party content.

Due in part to a decrease in media ownership restrictions, many newspapers have been purchased by large investor-backed conglomerates interested in cutting costs and turning profits by any means necessary.

Even relatively successful news outlets who operate using a traditional, subscription-based model struggle in a platform-driven news ecosystem. At the workshop, Deb Aikat (Professor, Hussman School of Journalism and Media, University of North Carolina) referred to an increasingly common situation where a subscription-based newspaper (in this case, the Wall Street Journal) devotes significant time and resources into breaking a

national news story. However, once the story is broken, platform-based outlets that are free for users to access report a nearly-identical story, with only a mere mention of it being “reported by the Wall Street Journal.” Those outlets siphon valuable user clicks and advertising money from the traditional media outlet, leaving the Journal holding the bill without reaping the corresponding financial benefit. This situation disincentivizes remaining news outlets from investing the time and energy necessary to cover news stories, an issue that is only exacerbated in local news environments where resources are tighter.

As their advertising revenue began declining, publishers took a number of steps to remain profitable. To cut distribution costs, newspapers in larger areas reduced their distribution area, leaving communities that once relied on metro newspapers without access to a print newspaper. For example, in 1996, the Atlanta Journal-Constitution sold 426,000 copies to people living in 124 Georgia counties; the paper now sells only 111,000 copies in only 32 counties.¹⁶ To offset lost subscription income, many newspapers raised their subscription rates, which only accelerated the decline of subscribers who had become accustomed to accessing news and information on social media for free.¹⁷

Newspapers also began laying off newsroom personnel. The number of newspaper newsroom employees dropped by 51% between 2008 and 2019, from about 71,000 workers to 35,000, according to a Pew Research Center analysis of Bureau of Labor Statistics data.¹⁸ Abernathy reported that the large regional dailies have shed the most journalists during that time period – an estimated 24,000 – or two-thirds of the total. Many large dailies, which often had several hundred journalists on staff in the late 1990s, today have only a few dozen.¹⁹

Consolidation and Decreased Quality

As newspaper and television media struggle to earn the revenue necessary to remain in operation, hundreds of news outlets have consolidated under the ownership of a handful of opportunistic investors. These mass acquisitions of media companies have been aided by a decline in regulations previously intended to diversify media ownership. At the workshop, Yosef Getachew (Media & Democracy Program Director, Common Cause) identified several regulatory changes that loosened restrictions on media ownership, including the elimination of the “main studio rule,” which required that broadcasters have full-time management and staff present during normal business hours and that television studios have the capability to originate content from their premises.²⁰ The removal of this rule makes it easier for broadcast television and radio stations to air in a community

without actually having a local studio, potentially reducing the ability of a media organization to effectively cover local news.²¹ The FCC also reinstated the UHF discount, a step that effectively raised the cap on how many television stations an individual conglomerate could own.²² Getachew suggested that, due to the easing of ownership restrictions, companies like Sinclair and Nextstar hold so much of the media marketplace that they can effectively drown out other voices in the marketplace.

Newspapers have also seen significant consolidation of ownership. Penny Abernathy's 2020 report finds that the largest 25 newspaper ownership chains own a third of the 6,700 surviving American newspapers, including 70 percent of the 1,260 newspapers that still circulate daily.²³ Many of these ownership chains are connected to hedge funds, venture capital, or other forms of private equity looking to acquire newspapers at a pittance and cut costs wherever possible in an effort to make money for investors.²⁴ In a [2016 report](#), Abernathy refers to these investment-backed newspaper publishers as "new media barons," motivated by a focus on profits over journalistic standards.²⁵ These newspapers have instituted drastic cost-cutting measures, reducing staff and eliminating expenses like employee benefits and editorial writers.

The prioritization of profit suggests that the journalistic quality of these newspapers has become less important, and scholars have confirmed a perceived decrease in quality of the remaining newspapers serving local markets. In 2018, Phil Napoli (Professor of Public Policy, Sanford School of Public Policy, Duke University) released a [study](#) analyzing news stories from local media outlets gathered over a week in 100 randomly sampled U.S. communities.²⁶ The study found that 8 of the 100 communities had no stories addressing "critical information needs," while 12 communities contained no original news stories and 20 communities contained no local news stories.²⁷ In addition, only 17 percent of the news stories provided to a community were "truly local," actually about or having taken place within the community.²⁸

At the workshop, Melanie Sill observed that local newspapers and media outlets owned by investor-backed chains have demonstrated an interest in focusing more on national stories in an effort to attract web traffic and consumers from a wider audience. By expanding their reach outside a local community, newspapers can pitch advertisers on huge, aggregated audiences and a wider advertising reach. Sill argued that, by targeting a national audience, newspapers tend to focus on drawing attention and clicks rather than effectively covering a local community.

One casualty of the decline in local news coverage has been coverage of local and state governments. Napoli's study finds that the presence of local government activity "fails to generate any increases in journalistic production," suggesting that local-level government no longer demands a commitment of journalistic resources.²⁹ Sill also suggested that a weakening press "lack clout" at the state level, noting that legislative leadership

at the North Carolina General Assembly moved the press room from the legislative building to a basement in an adjoining building, converting the existing press room into a members' lounge for legislators. This decline in dedicated coverage for civic matters of interest like government and education makes it harder for local newspapers to effectively cover their communities.

"What I'm starting to see happening with local content is... there's a big push on driving digital audience, driving page views, driving unique visitors, [and it] doesn't matter if they're in the market or not... So local newspaper news is becoming more like local television news: more crime, animal stories, things that drive traffic. And we're also seeing local reporters being mobilized to help supply national products."

—Melanie Sill

Consequences of Declining Local News

The removal of a dedicated local news source from a market can have significant negative effects on community engagement and issue knowledge. Participants at the workshop discussed several key functions that local news outlets serve in a community. First, a local newspaper serves an important agenda-setting role within a community, helping community members understand their stances on issues. Local newspapers historically set this agenda by choosing which stories are published and how those stories are presented in terms of length, tone, and depth.

Second, the editorial function of a local newspaper is crucial in helping community members express and understand their feelings on a topic or candidate. Abernathy used her personal experience to argue for the importance of newspaper editorials and endorsements, suggesting that she often relies on a newspaper to evaluate the credentials and policy positions of candidates for statewide races she may not know much about.

"I look at it from a very personal perspective. I cannot know in North Carolina what judges to vote for... I depend on an editorial staff to vet the judges. I depend on them to vet the Secretary of Agriculture. I mean, I don't know what makes a good Secretary of Agriculture and when we have the editorial staff stripped and not providing that, that provides a vacuum."

—Penny Abernathy

Acquisition of local television stations by large national conglomerates can have a similar effect on local election information. A 2019 study found that local television news stations by the Sinclair Broadcast Group shifted away from airtime previously spent on local politics, instead dedicating increased coverage to national politics.³⁰ This change in priorities emphasizes that nationally-owned television stations may struggle to fill the gap left when dedicated local newspapers cease operation.

Third, local newspapers encourage regional economic growth and development. While local and regional advertising dollars once helped the newspaper economy flourish, that money has now been shifted to platforms like Facebook and Google. The closure of local newspapers has further hindered any attempts by businesses to advertise locally through print media. Fourth, local newspapers foster a sense of social identity. A newspaper has traditionally served as a key source of information for communities, spreading awareness of local events and election. Workshop participants expressed concern that the disappearance of a local newspaper, which has historically informed readers about candidates in local elections, leads to a subsequent decrease in local election participation.

Studies have confirmed the fear that the decline of local news may negatively affect the ability of a community to engage in democratic self-governance. A [2010 study](#) found that respondents living in suburban Los Angeles County who had access to a daily local newspaper

"Part of our work is also going to local communities and talking to them about what they're seeing in the news and we held town halls in Dayton, Ohio, in Charlottesville, in Chicago... And time and time again we've heard that... 'we don't know what's going on with the legislature anymore or a school board or what's happening at town hall.'"

—Yosef Getachew

were more likely to vote regularly than those living in communities without one,³¹ while a [2019 report](#) shows that mayoral elections are less competitive in communities where newspaper staffing cuts are the most severe.³² Those who continue to participate in elections after the loss of a local newspaper are more susceptible to political polarization; a [2018 study](#) found that counties that lost a local newspaper had fewer split-ticket votes in the 2012 election than those counties with a dedicated local news source.³³

Key Takeaway

Workshop participants identified several consequences of the disappearance of local news sources, showing that the vacuum left when communities lose dedicated news coverage can have wide-ranging effects.

Local news outlets play an important role in informing community members about elections and other civic events, along with shaping community views around common values and beliefs. These news sources create a sense of shared purpose that can be a powerful uniting force within a town or county.

Without a source for local news, community members get most of their news from social media, leaving them vulnerable to mis- and disinformation and exacerbating political polarization.

The disappearance of local news not only leads to a less-informed society, it also creates an information “vacuum” that aids the spread of factually inaccurate information creating a misinformed society. Local news outlets play a key role in combating the spread of misinformation by reporting local factual information and expert opinions. Brian Southwell (Program Director of Science in the Public Sphere, Research Triangle Institute) stated at the workshop that, as local news sources have disappeared, people have largely lost the ability to understand what is happening in their own local communities and how they are related to people in other communities. A [recent analysis](#) conducted by the Brookings Institute highlights the coronavirus pandemic as a prime example of the importance of accurate, local information in emergencies.³⁴ According to the Institute, as of April 1, 2020, 57 percent of counties with COVID-19 cases lacked a daily newspaper, and that these communities “may be particularly vulnerable as a result of insufficient news coverage.”³⁵ As a way to combat the spread of misinformation online, Southwell argued that communities should build media and social infrastructures with an eye toward increasing understanding among neighbors.

The absence of these infrastructures can leave a gap filled by opportunistic actors. A [2020 report](#) from Napoli reveals the growth of partisan media outlets “masquerading” as local news sources.³⁶ The report identifies more than 400 partisan media outlets mostly owned and operated by a handful of conservative-leaning corporations or individuals. More than half of the sites identified in the report focus on local or hyperlocal communities, filling the space left behind by the disappearance of dedicated local news sources.³⁷ Napoli is skeptical that these “local” sites are actually operating within their purported communities, noting that one of the outlet owners was previously caught using content produced by Filipino writers under fake bylines.³⁸ The presentation of non-local, partisan media outlets as local news raises obvious concerns. A partisan slant on local news will likely increase the political polarization within communities, especially if opinion-laced coverage of local happenings is presented in a seemingly objective context. Inconsistent content moderation policies from platforms like Facebook and Google only exacerbate the problem. Mis- and disinformation can be difficult to differentiate from genuine news stories, and platforms are often incapable and unwilling to police the accuracy of content. In the absence of a dedicated local news source, an increasing number of consumers will rely on unreliable online or social media “news” to keep them informed.

Part 2: The Rise of Platforms and Growing Spread of Mis- and Disinformation

As local news sources have declined, a growing proportion of Americans are getting their news and other information from social media. This raises a number of concerns, including the spread of misinformation and the use of platform infrastructure to engage in disinformation campaigns. Platforms also wield a significant advantage over local news sources in the current information environment. The dominant platforms possess proprietary, detailed caches of user data. This information can be used to force advertisers, users, and news outlets into asymmetrical relationships favorable to the platform. In the vacuum left by the disappearance of local news sources, users are increasingly reliant on information sources that are incomplete, and may in fact be misleading or deceptive.

Platforms and Market Power

As a growing proportion of Americans get their news and other information from social media, market power has become more concentrated in online platforms like Facebook and Google. In 2019, the Pew Research Center found that over half of Americans (54%) either got their news “sometimes” or “often” from social media.³⁹ Pew also found that Facebook is far and away the social media site Americans use most commonly for news; more than half (52%) of all U.S. adults get news there. The next most popular social media site for news is YouTube [owned by Google] (28% of adults get news there), followed by Twitter (17%) and Instagram [owned by Facebook] (14%).⁴⁰ By 2018, social media had surpassed print newspapers as a news source for most Americans.⁴¹

Maurice Stucke (Professor, University of Tennessee College of Law) stated at the workshop that online platforms have captured two types of market power that are particularly relevant to the topic of fostering an informed society: a competitive advantage over traditional media outlets in harnessing advertising revenue and an information advantage over their users from whom they collect data.

Online platforms have a competitive advantage over traditional media outlets because they collect data from their users that the platform can use to disseminate targeted advertising while traditional media outlets, which do not have access to such data, cannot create that same personalized advertising experience. Advertisers view advertising with traditional media outlets, like newspapers, as a black box because there is no effective

way for them to determine who actually saw their advertisements or to precisely target specific audiences.

With their enormous user bases and sophisticated data collection practices, some online platforms are better positioned than others to capture these advertising dollars. A 2019 report on the market structure of digital platforms published by the Stigler Center at the University of Chicago Booth School of

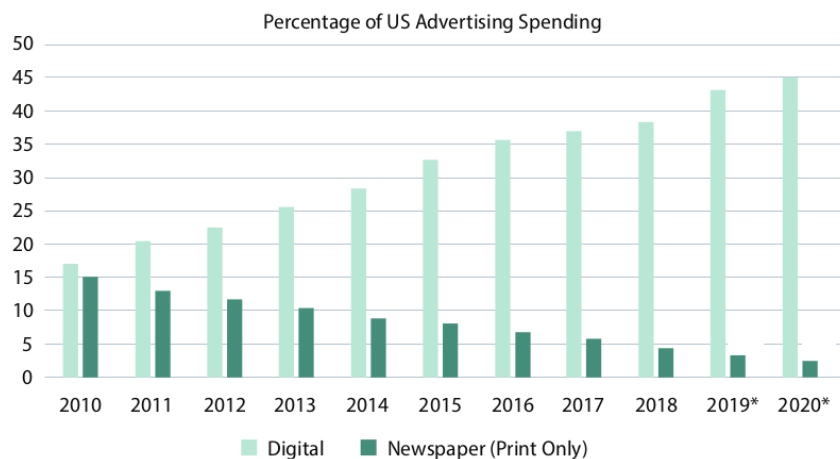
“The Philadelphia retailer John Wanamaker famously said 50% of my advertising dollars are wasted, I just don't know which ones. What Amazon and Google have extracted over the last decade and a half is really the ability to get that 50%.”

—Adam Candeub, Professor, Michigan State University School of Law

Business states that machine learning and big data have transformed the advertising industry to make advertising dollars work more efficiently for advertisers.⁴² In their 2019 report, eMarketer explains that digital advertising accounted for 50.1 percent of total media ad spending worldwide in 2019, and most of this digital ad revenue went to Google and Facebook who, together, account for about 60 percent of the digital advertising market.⁴³ The Stigler report explains that these large online platforms have powerful economies of scale and scope. Platforms “can apply machine learning to extensive data

THE RAPID DECLINE OF LEGACY MEDIA AND THE METEORIC RISE OF DIGITAL

Distribution of digital vs. newspaper advertising spending in the US from 2010 to 2020



Source: eMarketer, Statista 2020

sets to improve their products and expand their activities into new areas,” ultimately contributing to market concentration.⁴⁴

At the same time, what data platforms collect and how that data are used creates an information asymmetry between online platforms and their users. Charlotte Slaiman (Competition Policy Director, Public Knowledge) reminded participants at the workshop that users often do not understand what giving up their data to these companies truly entails. According to a [2019 Pew study](#), eight in ten American adults are at least a little concerned about the amount of personal information that social media companies collect about them and 75 percent of adults believe there should be more privacy regulation for companies in general.⁴⁵

Nor do users fully understand how these platforms use their data. To that point, a 2017 study, [My News Feed is Filtered?](#), reports that U.S. college students were generally unaware how Facebook and Google use algorithms to personalize what users see in their news feeds.⁴⁶ In the study, 37 percent of students thought that every post made by their friends appears on their Facebook news feed. The students who did understand that not every post appears in their news feed were still largely “unable to explain how personalization works on Facebook.”⁴⁷ When asked about how search results appear on Google, “[n]o one referenced an algorithm and just one participant used the term personalization.”⁴⁸ Accordingly, as policymakers debate how best to create increased privacy protections to adjust the balance of power between large platforms and their users – a subject we discuss in Part 3 of this paper – one concern is whether consumers understand enough to make informed decisions about what social media service to use and to effectively take ownership and control of their data.

In recent years, companies that operate online platforms have also grown in size and competitive advantage as the result of several mergers, which, as Andrew Gavil (Professor, Howard University School of Law) noted at the workshop, have not always fit the types of mergers that traditionally receive closer scrutiny under antitrust law. Gavil explained that the United States currently has robust guidelines for evaluating horizontal mergers, or mergers of companies that sell similar, competing products, and less robust guidelines for evaluating vertical mergers, or mergers of companies that sell complimentary products or mergers of companies along a supply chain. However, Gavil stated that recent mergers involving online platforms do not easily fit within the definitions of either horizontal or vertical mergers in many cases. For example, Amazon’s merger with Whole Foods was not challenged because the companies were not viewed as operating the same type of business. While Amazon operates a digital marketplace,

Whole Foods is in the grocery industry. Likewise, Facebook's acquisition of Instagram avoided serious antitrust scrutiny because, rather than viewing both platforms as providing social media services, Instagram was viewed as offering a differentiated service focused only on photos.

Most recently, Google's proposed acquisition of Fitbit is similarly being viewed as a merger between two firms offering very different types of products and services. Some organizations have questioned this reasoning. In a [recent blog post](#), the Electronic Frontier Foundation argued that Google's acquisition of Fitbit will decrease competition and "cement Google's data empire."⁴⁹ Though this merger may seem vertical, the effect on the market resembles a horizontal merger in the sense that Google can use the data acquired to increase their market dominance. This type of acquisition is designed to increase a major platform's control over data, allowing it to further capitalize on the market advantage user data provide. At the workshop, Gavil and others wondered whether the traditional horizontal/vertical conception of antitrust should be adapted or revisited to allow for greater scrutiny of data-driven mergers.

Despite concerns about the communication environment created by concentrated

"Do we need to deepen our thinking about what constitutes potential competition? Should we have viewed Instagram as a potential competitor of Facebook? Do we need to think about nascent competition?"

—Andrew Gavil

market power and mergers, Robert Picard (Senior Research Fellow, Reuters Institute, University of Oxford) told participants at the workshop that online platforms lack many of the inherent monopolistic structures that produce competitive imbalances in other areas of telecommunications. While wired

telephone service providers and internet service providers are concentrated based on physical infrastructure constraints, especially at the local level, digital media operations are not constrained by such barriers. Digital operations are much cheaper to operate than other forms of media. They also make it possible to serve niche audiences or small groups of people efficiently and promote competition more so than in an offline, non-digital environment. According to Picard, production of content is highly competitive. Though a large audience may not hear them, companies, institutions, and individuals alike can produce content without the barriers presented by other forms of communication.

Even if the structure of digital platforms may not be inherently monopolistic, several issues can lead to a lack of competition in online spaces, a point that Picard and other economists recognize. Network economics theory draws a direct connection between an entity's utility and the number of consumers using the technology, which can lead to increased

"There's nothing in digital platforms that make it tend to monopoly."

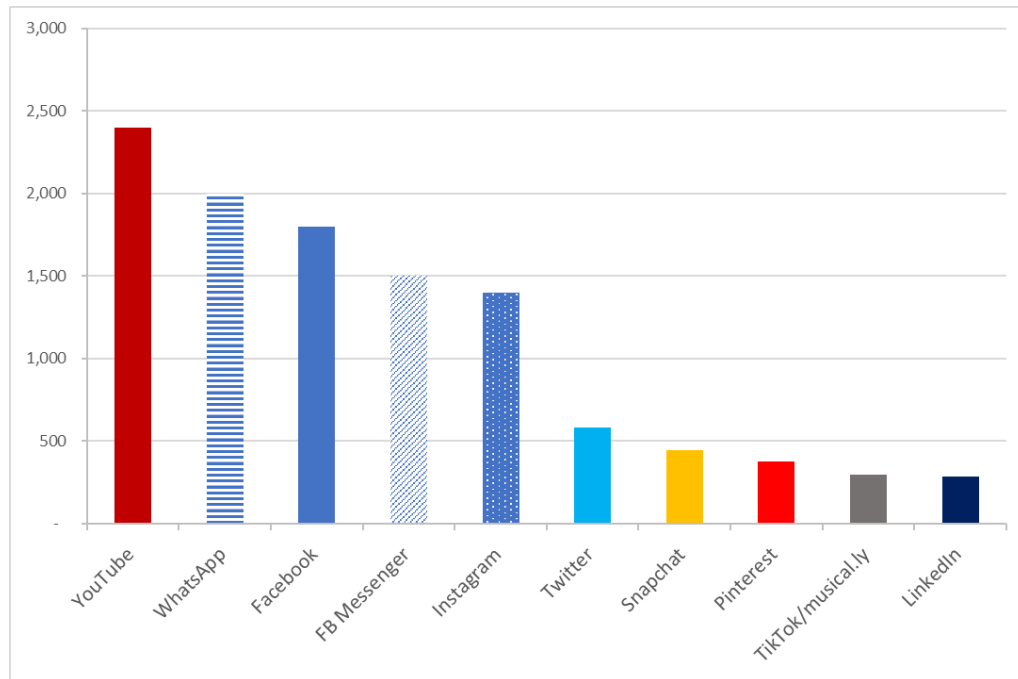
—Robert Picard

concentration and potential anticompetitive behavior.⁵⁰ In the same way that advertisers direct their advertising money to larger platforms like Google, Facebook, and Amazon due to their efficient, data-driven targeted advertising services, users prefer these larger platforms because they can offer more compelling and efficient services.

These platforms and the revenue streams they provide are also attractive to investors. According to a March 2020 [PricewaterhouseCoopers report](#), 7 of the top 10 global companies in terms of market capitalization (the total monetary value of a company's stock) have an online platform component: Microsoft (\$1.20 trillion) was second, Apple (\$1.13 trillion) third, Amazon (\$971 billion) fourth, Alphabet (\$799 billion) fifth, Alibaba (\$522 billion) sixth, Facebook (\$475 billion) seventh, and China-based platform Tencent (\$469 billion) eighth.⁵¹ Picard suggested that the nearly unmatched financial power wielded by these platforms enables them to buy out competitors and innovators in their field, allowing the platform to bring more users into their network and increase concentration.

While a concentrated market may provide fewer alternatives for consumers and users, concentration does not necessarily lead to monopoly power. In a 2019 report by the International Monetary Fund ("IMF") titled [The Economics and Implications of Data](#), the IMF notes that concentration in the online sphere can be "consistent with innovation and competitive pricing" as long as the market can still be contested.⁵² The IMF report suggests that a competitive market relies on the presence of "nonrival data," information collected from platform users that would be widely shared to assist innovation.⁵³ However, private companies operating digital platforms have little motivation to share their data with competitors, and the report admits that "data hoarding" may limit market contestability.⁵⁴ Platforms are increasingly reliant on the proprietary data collected from users to attract advertising revenue and stay afloat financially, with Alphabet's [most recent annual disclosure](#) to the SEC revealing that 83.9% of Google revenues came from advertising.⁵⁵

Social Media Companies by Monthly Active Persons (MAP) in Millions as of Dec. 2019⁵⁶



As platforms continue to develop new ways to use harvested user data to offer microtargeted advertising, the incentive to share data with competitors is unlikely to increase. At the workshop, Maurice Stucke echoed the IMF's concern that increased concentration among tech platforms is coupled with decreased innovation. In addition, he argued that an increase in profits among the top platforms may not be connected to an increase in efficiency, but rather a result of the platforms wielding their substantial market power to lessen competition and force parties that wish to use their services into terms favorable to the platform.

Key Takeaway

As user data take on increasing importance in terms of both revenue and services, platforms have used their collection of user data as a competitive advantage and key source of power over other actors in the platform economy. Generating substantial profits from advertising, Facebook and Google are able to offer their services to users without charging a subscription fee. Data collection also gives platforms negotiating leverage over advertisers, who need access to the platform's proprietary data hoard to efficiently reach the consumers interested in their products or services. The use of micro-targeting is forcing out many traditional news sources, who no longer control the relationship between advertiser and user in the way that they once did. Surviving local news outlets struggle to attract advertisers, who can target audiences more efficiently through platforms. Consumers are also increasingly unwilling to pay for news when they can access news content on social media for free, creating a vicious cycle where a continued decrease in subscribers leads to even less advertising income for news organizations.

Facebook, Google, and other online platforms operate what economists call a “multi-sided platform,” by providing services to users (generally without charge) and advertisers (for a fee). While platforms provide benefits to both ends of this two-sided market, they use their structure to create asymmetries that can be difficult to identify and control. In a 2016 paper, David Evans notes that multi-sided platforms defy typical market power and antitrust analyses, arguing that traditional economic models fail to account for the “interdependent demands” shared by users and advertisers utilizing online platforms.⁵⁷

Platforms have used this asymmetry to their advantage on both sides of the transaction, reaping the benefit of network effects from each market. By collecting huge amounts of personal data from their users, platforms are able to outcompete traditional media and other content providers for valuable advertising income through their ability to provide targeted advertising. This advertising advantage allows platforms to force news organizations and publishers to concede certain requirements in a market that would otherwise create fairer transactions for them.

The two-sided market supports an advertising-based income model, allowing most platforms to offer access to users for “free.” Though users are not forced to pay money

for the platform's services, they instead must share their personal information with the platform, often without full knowledge of what they are giving up. Even when a user objects to the information the platform collects, they have little option but to stop using the platform. The market power and network effects wielded by the platform enables increased market concentration, frequently leaving the user without a viable alternative.

Market Failures in the Marketplace of Ideas

Many participants at the workshop used the term “market failure” to describe the current media ecosystem. This term, however, has a very specific meaning for economists. According to Mankiw's Principles of Economics (Eighth Edition), market failure refers to a situation in which the market on its own fails to produce an efficient allocation of resources.⁵⁸ A market failure can be caused by several different factors, including externalities, barriers to entry, lack of property rights, market power, or the inability to monetize. A market failure can be a reason for government intervention, and many Chicago School economists view market failures as the sole justification for regulation.

According to Maurice Stucke, multiple characteristics of platforms might suggest a market failure worthy of recognition. Platforms like Facebook and Google have durable market power that allows them to accrue outsized profits. This market power allows platforms to exploit asymmetrical relationships with news organizations, publishers, and other content creators, along with creating an information and power asymmetry with users. At the workshop, Stucke specifically cited the incentive for platforms to collect data and use it to gain a competitive advantage on advertising, calling the advertising and data practices of the platforms “purposefully opaque.”

The differing uses of the term market failure by participants at the workshop expose an important disciplinary barrier among journalists, media scholars, and economists. This divide is important because it could harm interdisciplinary efforts to address the problems we are facing. While non-economists have used the term market failure broadly, economists use the term narrowly to refer to a specific set of market conditions. A misunderstanding around the term could lead to a lack of consensus around the challenges we are facing and potential solutions.

The First Amendment is often discussed using the analogy of a “marketplace of ideas,” a concept derived from the writings of John Milton and John Stuart Mill and developed by the jurisprudence of Justices Brandeis and Holmes. Under this framework, First Amendment scholars have used the term market failure expansively to describe failures

in public discourse. In his 1997 piece [How and Why the Marketplace of Ideas Fails](#), Paul Brietzke notes the possible utility of applying a market failure approach to free speech, claiming that “a badly-informed or misinformed public [is] a market failure itself” that may be worthy of government or judicial intervention.⁵⁹ He justifies his use of market failure by noting that the theory is not “well-developed,” adding that market failures “are literally matters of definition, of what we want markets to do that they are not doing.”⁶⁰

Phil Napoli (Professor, Sanford School of Public Policy, Duke University) wrote a [2018 article](#) identifying potential market failures in the marketplace of ideas stemming from the decreased effectiveness of counterspeech and imperfect competition of ideas.⁶¹ Napoli points to the 2016 election as possible evidence that the speech marketplace is not working, noting that analyses show an “unusual degree” of voters failing to vote in their own self-interest and suggesting the potential influence of misinformation and disinformation via fake news.⁶² Other media scholars have also used the term to refer to the state of journalism in the United States. A recent [article](#) in the Harvard Business Review refers to the market failure of local journalism as a “crisis for democracy” caused by the market’s inability to sustain the journalism required to operate an effective democracy.⁶³

“I read a lot of papers where people are saying, ‘Oh, this is occurring because the market’s failing.’ So, if that’s the case, we have to have certain things to understand about what market failure really means, and a lot of people are particularly nervous in communications right now about market failure with no understanding of the economics of market failure.”

—Robert Picard

Economists, on the other hand, view the term market failure more narrowly. At the workshop, Robert Picard was reticent to use the term market failure to describe the power of platforms, drawing a distinction between an environment in which privately owned platforms and companies are unable to give the public what they want (which would be a market failure) and one in which privately owned platforms and companies choose to provide certain kinds of content and not others (which

would not be a market failure).

Andrew Gavil, an antitrust expert, also warned about misuse of the term market failure, suggesting that the use of a specific term of art as part of the larger debate around local news and online platforms could be a distraction. He argued that the decline of the print news media has a long history that predates the rise of the internet and that the failure

of the traditional newspaper business model in the face of competitive challenges from radio, television, and now the Internet, should not be mischaracterized as a “market failure.” It may instead be a reflection of

“I think it’s a vocabulary problem... [I]f local journalism is declining because there’s no demand or need for it, is that a market failure? No.”

—Michelle Connolly

markets at work. Michelle Connolly also rejected the characterization of the local journalism crisis as a market failure. She suggested that the decline of local journalism due to lack of demand is not a market failure, expressing concern that inaccurate use of the term market failure could make the challenge of resurrecting local news even more difficult.

Key Takeaway

One of the key takeaways from the workshop was that there is a disciplinary language barrier between economists and non-economists overuse of the term “market failure.” Non-economists typically use the term broadly to describe the breakdown in public discourse and knowledge within the current media ecosystem, including the increasing growth of news deserts (described in Part I).

Economists at the workshop, however, cautioned against the use of the term market failure in such a general context, calling it a “very specific” economic concept describing a situation where a market is incapable of providing the desired results; market failure does not include a situation where private companies choose not to provide certain types of content.

A misunderstanding around the term could lead to a lack of consensus around the challenges we are facing and the availability of potential solutions.

Regardless of whether the current media ecosystem suffers from a market failure, the concentration of online platforms raises concerns about anticompetitive practices. The power of online platforms is significant because they act as walled gardens for public discussion online, which is governed by the algorithms and content moderation policies that platforms utilize. Because the market power of online platforms is concentrated and

platforms enjoy network effects where the quality of users' experience increases as the platform gains more users, consumers have limited incentive to switch to alternative platforms. Consumers are unlikely to leave Facebook if their friends and family are only on Facebook because other platforms cannot provide the same user experience.

Furthermore, online platforms also act as gatekeepers for content produced by traditional media outlets as more people get their news from these platforms. [A 2019 report](#) published by the Australian Competition and Consumer Commission found that while users get news produced by media organizations through online platforms, media organizations themselves are kept at a distance, lacking access to user data, control over how snippets of their stories appear, and information about how algorithms affect placement of their content.⁶⁴ As a result, at the same time that media organizations struggle to compete with online platforms over advertising revenue, they also face challenges in having their content seen and monetized on online platforms.⁶⁵

Key Takeaway

The rise of platforms has coincided with – and some participants at the workshop say it has caused – a precipitous decline in local news reporting. The power of online platforms is significant because they act as walled gardens for public discussion online, which is governed by the algorithms and content moderation policies the platforms employ. Because the market power of online platforms is concentrated and platforms enjoy network effects where the quality of users' experience increases as the platform gains more users, consumers have limited incentive to switch to alternative platforms. As a result, at the same time that local news providers struggle to compete with online platforms over advertising revenue, they also face challenges in having their content seen and monetized on online platforms.

The Spread of Mis- and Disinformation in Online Environments

The rise of platforms has coincided with – and some participants at the workshop say it has caused – a precipitous decline in local news reporting. This has created an information vacuum making it possible for misinformation and disinformation to flourish.

Although misinformation in media is not new, it spreads rapidly in today's speech environments on social media. According to a 2018 study, [The Spread of True and False News Online](#), researchers at the Massachusetts Institute of Technology found that false news stories on Twitter "diffused significantly farther, faster, deeper, and more broadly than the truth in all categories of information," including information about terrorism, natural disasters, urban legends, and political news.⁶⁶ Specifically, the researchers found that falsity traveled six times faster than the truth online, and, while accurate news stories rarely reached more than 1,000 people, false news stories "routinely diffused to between 1,000 and 100,000 people."⁶⁷ Similarly, a [2017 study](#) found that the lifecycle of political misinformation on social media was longer than that of facts, and political misinformation tended to reemerge multiple times.⁶⁸

"We've got to take more seriously the idea that in information processes emotions are really key."

—Brian Southwell

According to Brian Southwell, misinformation presents a significant public health challenge. He and other public health experts noted in [a recent paper](#) that social media platforms differ from traditional media platforms in key ways that make them more susceptible to the rapid spread of misinformation.⁶⁹ For example, while traditional media outlets are relatively contained and limited in authorship, social media platforms allow "a wider range of authors," are "less formally governed," and have "relatively few regulatory controls over false, misleading, incomplete, and false-equivalence information."⁷⁰ Moreover, social media platforms are designed to disseminate content through algorithms that "can modify patterns of individual exposure in opaque ways," causing different people to see and hear different content.⁷¹ Furthermore, according to a [2015 study](#), users' self-selection of content creates homogeneous, polarized clusters or echo chambers that drive content diffusion, including diffusion of misinformation, over social media networks.⁷² This problem is only heightened in an environment where local news sources are unavailable to counteract the misinformation spread on social media.

Other experts suggest, however, that we should be skeptical of claims that misinformation has a significant impact on political views, noting that there is little empirical evidence showing that misinformation has had large direct effects on voter's attitudes or behaviors.⁷³ Shannon McGregor and Daniel Kreiss (Professor, University of North Carolina Hussman School of Journalism and Media) have written that "[i]t's not misinformation or targeted advertising that directly drives the vast majority of citizens'

political attitudes and voting patterns”; misinformation is less effective than we might think because rather than being swayed by a particular factual narrative, voters “see themselves as members of social groups and then in turn choose the parties that best represent those groups.”⁷⁴ Nevertheless, McGregor and Kreiss caution that misinformation is still a problem, but efforts to address it would be better served by focusing less on specific factual elements and giving more attention to the motivations, content, and drivers of mis- and disinformation.

Southwell explained at the workshop that peoples’ reactions to misinformation are often driven by sociological and psychological factors. According to Southwell, humans are social beings who look toward a hopeful future. However, when faced with uncertainty about that future, people can fill information vacuums with misinformation in an attempt to find certainty.⁷⁵ He suggested that we will continue to encounter misinformation in our online environments for four reasons. First, we tend to accept new information at face value before evaluating whether it is true or false. Second, we tend to share information because it connects us with others and not necessarily because it is true. Third, although we can correct misperceptions, it is difficult to ensure that corrective information gets the same level of attention as the original misinformation. And fourth, our legal tradition preferences allowing the public to evaluate the accuracy of information after it has been

“Vacuums are really problematic because people need to try to reconcile and to provide certainty for themselves. This is a situation where news can quickly spread. Situations where, similarly, there's a lack of ... corrective information also can be problematic.”

—Brian Southwell

disseminated rather than preventing its distribution in the first place. Southwell proposed that understanding the psychological components of how people react to misinformation is an important aspect of learning how best to combat its spread, pointing to scholars like University of North Carolina professor Alice Marwick who have investigated why social media users share misinformation.⁷⁶

Key Takeaway

The decline in local news reporting has created an information vacuum, making it possible for misinformation and disinformation to flourish online.

Social media platforms are designed to disseminate content through algorithms that can modify patterns of individual exposure in opaque ways, causing different people to see and hear different content.

Furthermore, users' self-selection of content creates homogeneous, polarized clusters or echo chambers that can increase the diffusion of misinformation over social media. This problem is only heightened in an environment where local news sources are unavailable to counteract the misinformation spread on social media.

Misinformation is not the only platform-based threat to an informed public. Deen Freelon (Professor, University of North Carolina Hussman School of Journalism and Media) has focused his research on disinformation, a “sibling concept” to misinformation which he defines as attempts to sway public opinion by using morally questionable techniques. At the workshop, Freelon drew a distinction between disinformation and misinformation based on the relationship between the person spreading the content and the users or organizations that are intended to consume the content. While misinformation is spread unknowingly or without regard to its veracity, the party spreading disinformation knows that the information is false and has an intention to damage other people or organizations. Freelon referred to disinformation as “propaganda information operations” and calls it a subset of information warfare.

Disinformation is produced by both individual actors and state-backed organizations. One of the main producers of disinformation on social media platforms is Russia’s Internet Research Agency (IRA), an organization backed by the Russian government that was responsible for many of the targeted posts ahead of the 2016 U.S. election. A [2018 report](#) found that the IRA “leveraged social media to manufacture and spread junk news, manipulate public opinion, and subvert democratic processes.”⁷⁷ The state-sponsored disinformation campaign effectively reached millions of Americans, with more than 30 million Facebook users sharing IRA-created posts between 2015 and 2017.⁷⁸ The intention of disinformation to deceive and divide also means that disinformation content can target all sides of the ideological spectrum. The report’s identification of the top 20

most-liked Facebook pages managed by the IRA includes pages targeting veterans (Veterans Come First), liberals (Born Liberal), people of color (Brown Power), members of the LGBTQ community (LGBT United), and gun rights supporters (Defend the 2nd).⁷⁹

Other foreign governments have also engaged in a targeted social media disinformation campaigns in the United States. Freelon noted at the workshop that disinformation content has also come from organizations affiliated with the governments of Iran, China, and Venezuela. Disinformation can also originate domestically. A 2017 report co-authored by Alice Marwick, [Media Manipulation and Disinformation Online](#), identified online trolls, “alt-right” activists, men’s rights advocates, conspiracy theorists, influencers, hyper-partisan news outlets, and politicians as all playing a role in the spread of disinformation on social media platforms.⁸⁰

Another element of disinformation’s effectiveness on social media is the varying forms it can take in order to appeal to different audiences. Freelon identified visual-based disinformation posts showing images of left-wing billionaire and frequent alt-right target George Soros, while another post shows an image of Donald Trump and Hillary Clinton holding hands with messaging intended to suppress voting in the Black community. Other types of disinformation can resemble a legitimate news report. A 2019 [Buzzfeed article](#) uncovered an Iran-linked disinformation campaign that produced more than 100 false articles and published them on websites impersonating legitimate news outlets.⁸¹ The fake articles were convincing enough that one discussing the 2022 Qatar World Cup was covered by Reuters and subsequently spread by other legitimate news outlets.⁸² If a reputable news agency can be misled by the apparent veracity of state-sponsored disinformation, social media users are also at risk. This ability to mimic authentic news sources is especially concerning as, in the absence of local news outlets, more people continue to use social media as their primary news source.

Regardless of whether disinformation campaigns have actually succeeded in mobilizing activists or persuading voters – and here, again, researchers have pointed to the dearth of empirical studies showing a direct impact on elections – there is reason to be concerned that the spread of disinformation is a threat to the stability of American democracy. David Karpf, Associate Professor of Media and Public Affairs at George Washington University, has written that “disinformation and propaganda do not have to be particularly effective at duping voters or directly altering electoral outcomes in order to be fundamentally toxic to a well-functioning democracy.”⁸³ He notes that disinformation “undermines some of the essential governance norms that constrain the behavior of our political elites” and warns that “[i]t is entirely possible that the current

disinformation disorder will render the country ungovernable despite barely convincing any mass of voters to cast ballots that they would not otherwise have cast.”⁸⁴

Platform Governance in Flux

The power of Google and Facebook is accentuated by the American legal system, which grants online platforms significant latitude to moderate content as they see fit. [Section 230 of the Communications Decency Act](#), passed in 1996, provides legal protection for online intermediaries and websites that publish third-party content.⁸⁵ Specifically, § 230(c)(1) states that “[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content,” which protects platforms from being civilly liable for content posted or published by a third party.⁸⁶ § 230(c)(2) offers further protection for platforms by allowing them to restrict access to “objectionable” material, regardless of constitutional protection.⁸⁷

The Electronic Frontier Foundation has referred to the legislation as “one of the most valuable tools for protecting freedom of expression and innovation on the Internet.”⁸⁸ Without the protection Section 230 offers, platforms like Facebook, Amazon, and Google would be subject to potential liability for each individual piece of content posted on their sites, leading to enormous investments of time and resources to try and inspect each item in an attempt to avoid liability. Realistically, platforms would likely be forced to either eliminate many types of user postings entirely or impose stricter limits on wide swaths of content.

In a world where online entities are largely responsible for the policing of their user-created content with little government intervention or threat of liability, the self-governing role of platforms is a significant factor in shaping the online speech environment. Kate Klonick’s 2017 article, [The New Governors: The People, Rules, and Processes Governing Online Speech](#), argues that platforms like YouTube, Facebook, and Twitter have created content moderation systems resembling a formal governmental entity.⁸⁹ In the same way that governments create codified legal frameworks, platforms create a “detailed list of rules” dictating the limits of acceptable content on their site.⁹⁰ Trained decisionmakers serve in an adjudicatory function for the self-governed platform.

Platforms frequently alter their content guidelines based mainly on external factors and influences. Daniel Kreiss (Professor, University of North Carolina Hussman School of Journalism and Media) and Bridget Barrett have coined the term “[platform transience](#)” to

describe the rapid changes in a platform's policies and procedures that result from external social and political pressures.⁹¹ Kreiss and Barrett's use of "platform transience" emphasizes the fluid and unpredictable nature of platform self-governance. Platforms like [Facebook](#),⁹² [YouTube](#),⁹³ [Twitter](#),⁹⁴ and [Instagram](#)⁹⁵ each have their own content moderation guidelines, and though there is some cross-platform consistency in addressing clear societal harms like child pornography, the platforms often take very different approaches to other content. While Facebook has [repeatedly refused](#) to regulate political advertising on the site, including advertisements that contain false or misleading statements,⁹⁶ Twitter announced in November 2019 that it would ban all political advertising, a decision that Kreiss referred to at the workshop as "part business, part public relations, and part normative desire." Twitter's CFO disclosed in an [interview](#) that the platform made less than \$3 million in political ad revenue during the 2018 midterms, a total that would represent less than half a percent of Twitter's revenue (\$909 million) in the fourth quarter of 2018.⁹⁷

"There's a lot of interpretative flexibility in how these platforms have guidelines around content moderation."

—Daniel Kreiss

In addition to inconsistencies across social media platforms, platforms are also internally inconsistent in enforcing their own guidelines. Though most platforms prohibit "hate speech" on their sites, each set of guidelines defines

the term differently and the definitions themselves are extraordinarily difficult to apply consistently. For example, Facebook includes "statements of inferiority" as a category of prohibited hate speech in their terms of service, an extremely broad category that Kreiss suggested gives the platform "a ton of flexibility" when making content moderation decisions.

Moreover, media companies and users whose content has been removed by a platform during the content moderation process have little recourse to contest the platform's decisions. The decision to remove content is sometimes made by a proprietary algorithm, while in other cases, content moderators determine the acceptability of content through an adjudicative process that is closed to the public and generally lacking in transparency. The party whose content is removed is often unaware of the reasoning behind a content moderation decision. Facebook has attempted to address the process by establishing an independent oversight board that hears appeals of content moderation decisions and

publishes the results publicly, but the board will only examine a small fraction of the content moderation decisions made on a daily basis by the company.⁹⁸

Key Takeaway

While Section 230 of the Communications Decency Act gives platforms wide latitude to decide what content to allow on their services, platforms are anxiously seeking guidance as they continue to struggle with content moderation practices and policies for misinformation and disinformation. Several platforms have acknowledged the difficulties, with Facebook and others explicitly calling for additional federal regulation combating election interference and data privacy. Though platforms are already working to address harmful content, they view themselves as lacking the legitimacy and capacity to serve as “arbiters of truth.” Inconsistency between platforms and within individual platforms has led to a muddled information environment.

A recent flashpoint in platform content moderation was the 2016 U.S. presidential election, where state-sponsored misinformation and disinformation spread widely on platforms like Facebook and Twitter, sowing chaos and potentially affecting the election results. A [2019 report](#) identifies criticism after the 2016 election as the type of external pressure which Kreiss suggests leads to changes in social media platform guidelines.⁹⁹ Indeed, the report identified a “flurry of initiatives” announced by various platforms in response to election backlash, including changes to algorithms responsible for advertising and content moderation, partnerships with external fact-checkers, and support for “quality journalism.”¹⁰⁰

Attempts to ensure better platform governance practices are especially important as online platform users increasingly turn to social media as their primary news source. A [2017 study](#) analyzing the news consumption patterns of Facebook users found that increased polarization in online news consumption led social media users to focus on a small number of news sources and made the users more susceptible to fake news and misinformation.¹⁰¹ An increase in news polarization can cause division within communities, with individuals on opposing sides of the aisle obtaining their news through like-minded family, friends, and media outlets. This reliance on partisan-leaning information sources (both legitimate and illegitimate) exacerbated an already-tense political climate. Researchers who study mis- and disinformation argued that platforms

need to counter these affects by taking an active role in identifying and removing misinformation and disinformation from their sites. Without direct platform intervention, the information vacuum left by the disappearance of local news will only continue to grow.

Part 3: Regulatory and Policy Solutions

This part highlights the regulatory and policy responses that have been proposed to address the decline of local news, the rise of platforms, and the spread of mis- and disinformation online. Some proposals focus on increasing the supply of – and demand for – local news, including increased public education and expanded support for journalists and local news organizations. Other proposals focus on market-based reforms that address the growing power disparities between news producers and platform operators as well as between platforms and their users.

Public Education

Most Americans have no idea how badly local news providers are suffering. While the business model for local news has been weakening for many years, the COVID-19 pandemic and ensuing recession has further worsened the situation. As noted in Part 1, in the past two decades, more than one-fourth of the country's newspapers have disappeared, leaving residents in thousands of communities living in vast news deserts. Despite the efforts of other media to fill this void, including commercial television and online-only sites, they have failed to slow the spread of news deserts, especially in economically struggling regions of the country.

Yet the Pew Research Center reports that most Americans think their local news media are doing fine financially. About seven-in-ten say their local news media are doing either somewhat or very well financially (71%), while only about a quarter say their local news organizations are not doing well (24%).¹⁰² This disconnect – and corresponding complacency – needs to be addressed if local news organizations are going to survive.

In fact, most Americans still value the work of journalism. A recent Gallup/Knight Foundation survey reports that the vast majority of Americans (84%) say that the news media is “critical” (49%) or “very important” (35%) to democracy.¹⁰³ But Americans have increasingly polarized judgments about the work of media organizations and they described feeling overwhelmed by the volume and speed of news – in part because of the mix of news interspersed with non-news on the Internet, including social media. Moreover, nearly eight in 10 (78%) think misinformation online is the leading problem with news today.¹⁰⁴ In response to the abundance of information sources in the current media environment, a plurality of Americans (41%) say they only pay attention to one or two trusted news sources, while 1 in 3 (31%) try to consult a variety of sources to see

where they agree. About 1 in 6 Americans (17%) stopped paying attention to news altogether.¹⁰⁵

Public education to explain the work of journalists and the value of local news is an obvious and important step to address these findings. This means helping people to better understand the harms associated with the collapse of local news, but also helping them develop strategies for evaluating the information sources they currently use. Such efforts are aimed at creating more demand for high-quality journalism and developing better-informed consumers of news.

Media literacy is more important than ever in today's world of media saturation. A recent study by the Stanford History Education Group analyzed the ability of 8,000 students (from tweens to college age) to evaluate credible sources of news.¹⁰⁶ The study tested the capability of students to evaluate evidence online and assess claims made on social media. The report demonstrated students' inability to do either, noting that "[d]espite their fluency with social media, many students are unaware of basic conventions for indicating verified digital information."¹⁰⁷ In response to these disturbing findings, the researchers proposed exercises for educators to instill skepticism and train students to become more discerning consumers of online information.¹⁰⁸

Media literacy programs range from standard education programs to online games, like the "Bad News Game," an award-winning fake news intervention designed by researchers at the University of Cambridge "aimed at building psychological resistance against online misinformation."¹⁰⁹ The game teaches six different techniques used by fake news producers: impersonation, emotional exploitation, polarization, conspiracy, discredit and trolling. The game teaches users to recognize fake news tactics and become "inoculated" in their own media consumption.

Educators in public schools and institutions of higher education are also teaching their students to "read laterally" -- a tool for investigating unfamiliar online sources by leaving a webpage and opening a new browser tab to see what trusted websites say about the unknown source. Teachers demonstrate lateral reading and then students practice the strategy, determining who is behind a website and, ultimately, whether that website is trustworthy.¹¹⁰

These types of media literacy training are crucial. But equally important will be bringing back a well-supported and vibrant local news environment, a monumental task that will

likely take more creativity among public leaders, journalists, educators, public-private partnerships and journalism institutions.

Expanded Support for Journalists and Local News Organizations

Empowering journalists to serve the needs of local communities begins with ensuring that local news organizations have the resources to hire sufficient reporting staff and giving them the tools and training they need to succeed. This support can come in a number of different ways, ranging from direct government funding to indirect support in the form of regulatory, tax, and other legal changes that strengthen journalism and allow local news organizations to thrive.

Direct government support for local news organizations can take many different forms. Most Americans are familiar with the Corporation for Public Broadcasting (“CPB”). In fiscal year 2020, the CPB received an appropriation of \$445 million from the federal government. However, only a very small portion of the money that goes to the CPB has historically been used to fund local news reporting. About 67 percent of spending by the CPB is earmarked for public TV,¹¹¹ and a 2011 study by the Federal Communications Commission found that 68 percent of public TV stations provided no local news in the course of three weeks, and 94 percent provided 30 minutes or less per day.¹¹²

Many advocates for local news have argued that the CPB’s funding priorities should be changed to encourage more local news reporting. They point out that the CPB’s original mission is outdated, arguing that audiences need news about their communities, not reruns of “Downton Abbey.”¹¹³ Steven Waldman of Report for America, who helped author the FCC’s 2011 study, recently suggested that Congress should rewrite the statutory formula that governs the CPB’s funding decisions, directing more money to public radio stations trying to improve local news. He notes that “many local public radio stations are now pushing hard to cover their communities,” and that “[i]n many cases, radio stations have the business model (member support) and reach to deliver real impact.”¹¹⁴

Advocates for local news also say that both the state and federal governments should increase their financial support of local media. Free Press, a media reform advocacy organization, has argued that Congress should substantially increase federal spending on public-media institutions, including creating a \$1.5 billion emergency fund for local news jobs that the CPB should be permitted to distribute to both nonprofit and for-profit

newsrooms.¹¹⁵ Steven Waldman also argues that the CPB's mandate should be expanded to support all nonprofit news outlets, not just public broadcasters.¹¹⁶

While support for reforming and expanding the role of the CPB has been growing, researchers at the UNC Hussman School of Journalism and Media report that there has been no recent congressional action to amend the CPB's authorizing legislation and "amending the statute is perilous at the current time when journalism-bashing is a popular political tactic."¹¹⁷ They note, however, that the CPB can receive additional funding without an amendment of the law and that the CPB received an additional \$20 million for infrastructure in its FY 2020 budget as well as a \$75 million stimulus supplement.

Another way that government can provide direct financial support to local news organizations is through **increased public service advertising**. Government entities already purchase advertising across a wide array of media and many supporters of local journalism say that the government should focus its spending on local news organizations. On April 20, 2020, nearly 250 members of the House of Representatives wrote to the President, asking him to direct more of the government's \$1 billion ad budget to local media.¹¹⁸ Many industry supporters argue that the government should go even further and appropriate additional money for local media advertising.¹¹⁹ The News Media Alliance along with the National Association of Broadcasters and National Newspaper Association, for example, have asked Congress to allocate an additional \$5–\$10 billion in direct funding for local media advertising.¹²⁰

Some **state governments are also stepping in to support local journalism** and to combat the spread of news deserts. New Jersey became the first state to provide public funds for local news, outside of the traditional funding for PBS and NPR stations. This initiative began when legislators in New Jersey recognized that their local news outlets were "withering away."¹²¹ After acknowledging the growing crisis, they concluded that there was a role for state government to play in addressing the issues by allocating state money specifically to ensure that communities throughout the state could get the news and information they need to be informed about local issues. The final amount allocated towards rehabilitating local news in New Jersey was between \$1 million and \$2 million dollars, and will be distributed through grants to projects aimed at supporting the information needs of underserved New Jersey communities. A bipartisan "Civic Information Consortium," comprised of fifteen board members with a wide range of perspectives and experiences, will decide upon the allocation of funds.

Similarly, Canada implemented the “Local Journalism Initiative” in 2019 to increase Canadians’ access to informed reliable journalism.¹²² The Canadian government announced an investment of \$50 million dollars over five years to support local journalism with a focus on Canadians living in underserved communities. Media outlets that receive funding from the Local Journalism Initiative will use those funds to hire journalists to strengthen local news coverage. To continue to support Canadian journalism, the Canadian government also proposed permitting non-profit news organizations to receive charitable donations and issue official donation receipts; instituting a new refundable labor tax credit for news organizations; and creating a temporary, non-refundable tax credit for those who subscribe to Canadian digital news media.¹²³

Despite these efforts, direct government support for news organizations remains controversial. Many journalists oppose the idea, worrying that government funding will compromise editorial independence. Over the past few years, however, the financial situation for local news has become so dire that opposition to government funding appears to be softening. Even before the COVID-19 pandemic, the former dean of the Columbia Journalism School, Nicholas Lemann, argued that the local news crisis had become so severe that only direct government support could save it.¹²⁴ The impact of the pandemic and ensuing recession has brought further attention to the need for emergency financial assistance for news organization, including support through the government’s Paycheck Protection Program (“PPP”). After some journalists argued that newspapers should not take out PPP loans, Los Angeles Times correspondent Matt Pearce tweeted, “I appreciate the discussion, but if journalists don’t get their oxygen masks on first, we’re not gonna be around to help the people around us.”¹²⁵

Government can also provide **indirect support for local news organizations in the form of regulatory, tax, and other legal changes**. A number of ideas have been proposed, including changing bankruptcy and pension laws, offering tax credits for newsroom employment, making it easier for news organizations to receive IRS approval as nonprofits, and requiring that cable TV providers carry more news programming.

Many media companies, especially legacy media companies, are struggling with high debt loads and pension obligations, which make investing in additional newsroom personnel difficult. Lobbyists for news organizations have long argued for **changes in bankruptcy and pension laws** to help media companies reduce some of these financial obligations. Local news advocates have also begun making this argument as well, noting that better policies in these areas could profoundly help local news. For example, under current

bankruptcy law, the courts are permitted to put only minor emphasis on whether a proposed restructuring deal is good for the community (as opposed to the creditors). Steven Waldman writes that judges overseeing bankruptcy proceedings for newspapers should be allowed to give greater weight to whether the new owners intend to invest in local reporting.¹²⁶

Waldman and others make a similar argument with regard to reducing pension obligations. Due in part to its inability to make a \$125 million pension payment, the 160-year old McClatchy Co. filed for bankruptcy in early 2020. The country's second-largest newspaper chain had long struggled under the weight of its \$800 million pension debt. As researchers at the UNC Hussman School of Journalism and Media report, McClatchy is not the only paper to grapple with an underfunded pension plan. Like other businesses with legacy plans created when defined benefits were common, many have found it difficult to come up with the cash to cover pension shortfalls. Noting that the federal government will likely assume responsibility for McClatchy's underfunded plan, the researchers suggest that firms like McClatchy should have been allowed more time to rework their pension obligations if they committed to invest in local reporting.¹²⁷

The need to stem the tide of newsroom layoffs—and build back local reporting capacity—has also led to proposals to provide **tax credits to support the retention and expansion of newsroom staff**. In May 2020, Free Press issued a call to action arguing for a \$40,000 annual tax credit to local newspapers that retain currently employed reporters at market wages or hire new newsroom employees.¹²⁸ The NewsGuild labor union and the advocacy group PEN America have also written to congressional leadership asking for emergency funding to prevent more layoffs. So far Rep. Tim Ryan's (D-OH) Protect Local Media Act is the only congressional measure to contain a news-specific employment tax credit (up to \$20,000 for each new journalism hire), but Speaker Nancy Pelosi (D-CA) declined to include the provision in the recent HEROES Act.¹²⁹

Other changes in tax law could also support local news. One area that nearly all proponents of local news agree on is the need to **make it easier for commercial news organizations to convert to nonprofit status**. Structured as nonprofits, news organizations can more readily solicit financial support from charities, private foundations, and individual donors who receive beneficial tax treatment for donating to a nonprofit. In addition, tax-exempt nonprofits do not have to pay taxes on the income they generate from business activities that are substantially related to and further the organization's tax-exempt purpose, thus allowing for a stronger bottom line for news organizations that rely primarily on advertising.

Nonprofit news organizations have become an important part of the American media ecosystem. The Philadelphia Inquirer, Tampa Bay Times, and Salt Lake Tribune are just a few examples of newspaper nonprofits. The Pew Research Center reports that 172 digital nonprofit outlets launched between 1987 and 2012, with at least 71% being formed between 2008 and 2012.¹³⁰ Many of these digital nonprofits are members of the Institute for Nonprofit News, which provides much needed support to news startups. Some, like ProPublica, produce national news, but half of the institute's 250 members are state or local news sites.

Advocates for local news want Congress to make it easier for commercial news outlets to transform themselves into tax-exempt nonprofits. Rep. Mark DeSaulnier (D-CA), has sponsored the **Saving Local News Act**, which would amend the Internal Revenue Code to clarify that entities that are organized and operated exclusively for publishing written news articles can qualify to become tax-exempt organizations.¹³¹ The bill also exempts advertising revenues from taxation and requires the IRS to rule on news applications within 12 months.

Other legal changes would **provide additional opportunities for the distribution of local news**. A proposed New York bill would require all cable companies operating in the state to offer a local news channel with “news, weather and public affairs programming.”¹³² The legislation was proposed shortly after Verizon announced that it would shutter Fios1 News, its local news network that covers the Hudson Valley, Long Island and New Jersey. Under the proposed law, the programming would have to be independently produced; companies could not simply rebroadcast others’ existing news shows. This proposal has been met with some criticism, including concerns regarding the burden it would put on cable companies to run and staff local news operations, opposition to the passing of cost to consumers, and questions regarding First Amendment implications regarding compelled speech.

In summary, there is much that the government can do to support local news. In fact, many of the ideas mentioned above have been discussed for over a decade, and some have already been implemented, albeit on a more limited scale. Indeed, there is wide agreement that one of the core functions of government is to supply or subsidize “public goods” that markets either fail to provide or cannot provide efficiently. Local news is just such a public good, producing benefits that extend broadly throughout society.¹³³

The challenges facing local news, however, will require more than just increased government support. Many advocates for local news point to the need for market-based

reforms that address the growing power disparities between news producers and platform operators as well as between platforms and their users.

Market Based Interventions: Addressing the “Data Oligarchy”

As discussed extensively in Part 2 of this paper, the decline of local news is attributable to some extent to the rise of online platforms, which have leveraged their ability to amass and monetize data from their users. Platforms collect extensive personal data from those using their services, allowing the platform to create detailed profiles on individual users. Platforms use this information to influence the behavior of their users while at the same time promising to advertisers that these data-rich profiles can be utilized to microtarget those users who are most likely to purchase their products or services.

This data-driven advertising has several effects on the market for news. First, microtargeting allows advertisers to spend their money more efficiently on the platforms; accordingly, the money advertisers once spent on advertising through newspapers, television and radio is now directed to platforms. 2019 marked a major milestone as digital ad spending in the United States was expected to surpass advertising spending through traditional media.¹³⁴ The shift in advertising spending has been especially disastrous for newspapers, which saw advertising revenues decline 62% between 2008 and 2018 from \$37.8 billion to \$14.3 billion.¹³⁵

With a rich revenue stream from advertising, platforms are able to offer their services to users without charging a fee, giving platforms a significant advantage over subscription-based news entities in terms of acquiring users/viewers/readers. The network effects that arise from this increase in users further solidify a platform’s competitive advantage and the subsequent disappearance of local news sources, which have been starved for advertising dollars, leaves users without viable alternatives for finding local news and other information.

Multiple solutions have been offered to help break up what many observers call a “data oligarchy” (made up of Google, Facebook, and Amazon) that is undercutting the revenue streams for news organizations. One approach is **data portability and interoperability legislation**, which would allow platform users to access their user data and take it with them to another platform. At the workshop we held, Adam Candeub (Professor, Michigan State University College of Law) compared the idea of data portability to the concept of phone number portability, which allowed individuals to take their old phone number with them when they changed phone providers and significantly increased competition in

phone service. Charlotte Slaiman (Competition Policy Director, Public Knowledge) argued that to be effective, data portability must be combined with interoperability, which would allow users to communicate across platforms and networks rather than being locked in to a single platform's proprietary architecture. She suggested this will create additional competition among platforms, reducing market concentration and power among the top platforms and potentially helping the journalism industry.

The importance of data portability has been gaining acceptance across the world. In April 2016, the European Union passed the **General Data Protection Regulation (GDPR)**, which includes the right to data portability as one of eight rights enforced by the new law. It allows data subjects to obtain data related to them that is held by a "data controller" and to reuse it for their own purposes. Individuals are free to either store the data for personal use or to transmit it to another data controller. In addition, the GDPR requires that the data must be received "in a structured, commonly used and machine-readable format." Similarly, the **California Consumer Privacy Act (CCPA)**, which went into effect on January 1, 2020, provides for data portability for consumers in California. We are awaiting more details from the California Attorney General as to the precise requirements of the CCPA.

Although there is wide agreement that data portability will encourage competition among online platforms, workshop participants noted that data portability alone would not solve the power disparity between news producers and online platforms. Even if individual users have the ability to take their data with them to a new platform or provider, existing market concentration means that users still lack alternatives to the two top platforms: Facebook and Google. Nevertheless, data portability is a useful way to focus the conversation on the importance of user data, which is becoming the most valuable asset of the platform economy.

Many of the workshop participants suggested that data portability could be most effective as the first step towards **comprehensive federal privacy legislation**, which would lessen pervasive data collection and reduce the competitive advantage held by platforms. Over time, platforms have been able to collect more and more data due to improvements in technology and also because they require consumers to agree to terms of service that are widely regarded as confusing and frequently changing, which prevents consumers from understanding what personal data are being collected and how it is monetized.

Although state legislatures have been active in developing new privacy laws, including the recently enacted CCPA, the U.S. lacks comprehensive federal privacy rules. Instead, there

is a complex patchwork of sector-specific and medium-specific laws, including laws and regulations that address telecommunications, health information, credit information, financial institutions, and marketing. Though Congress is unlikely to pass privacy legislation before the end of the current term, there appears to be a growing consensus in both parties that federal consumer privacy legislation is necessary.¹³⁶ Several privacy bills are currently pending in Congress, including the **Setting an American Framework to Ensure Data Access, Transparency, and Accountability (SAFE DATA) Act**, which is sponsored by Senators Roger Wicker (R-MS), chairman of the Senate Committee on Commerce, Science, and Transportation, John Thune (R-SD), Deb Fischer (R-NE), and Marsha Blackburn (R-TN).¹³⁷ Among other things, the SAFE DATA Act would create rights to data transparency, access, deletion, correction, and portability. It would also require opt-in consent to process or transfer “sensitive covered data,” which includes a broad variety of identifiers, such as biometric information and geolocation data.

Unlike policies designed to directly support journalism, privacy legislation targets key parts of the business model of platforms. By limiting the data platforms and other online services can collect from their users, privacy law would lessen the effectiveness of microtargeting and potentially loosen the stranglehold data-rich platforms hold over the advertising market. Privacy legislation could allow users to place specific limits on data collection (for example, opting out of tracking across the Internet or tracking for behavioral advertising) without completely eliminating the ability of news organizations and platforms to monetize the data they collect. As a result, privacy legislation could redefine the relationships among advertisers, platforms, news organizations, and users.

Well-crafted privacy legislation can also limit the way platforms use algorithms, artificial intelligence, and user interface design to shape public discourse and manipulate users, further reducing their competitive advantage over news providers. For example, the SAFE DATA Act contains two key provisions that expand beyond traditional data privacy concerns. Section 205 would prohibit the use of “opaque algorithms” by covered internet platforms unless they (i) notify users of the opaque algorithm, and (ii) make available an “input-transparent algorithm” to which users can easily switch. The bill defines an “opaque algorithm” as “an algorithmic ranking system that determines the order or manner that information is furnished to a user on a covered internet platform based, in whole or part, on user-specific data that was not expressly provided by the user to the platform for such purpose.” This section draws heavily from the bipartisan **Filter Bubble Transparency Act** introduced in October 2019.¹³⁸ According to the earlier bill’s co-sponsors, it would “make it easier for internet platform users to understand the potential manipulation that

exists with secret algorithms and require large-scale platforms to allow those users to consume information outside of that potential manipulation zone or ‘filter bubble’.”¹³⁹ Section 206 of the SAFE DATA Act prohibits “large online operators” from, inter alia, “design[ing], modify[ing], or manipulat[ing] a user interface with the purpose or substantial effect of obscuring, subverting, or impairing user autonomy, decision-making, or choice to obtain consent or user data[.]” This section draws from the bipartisan **Deceptive Experiences To Online Users Reduction (DETOUR) Act** proposed by Sens. Mark R. Warner (D-VA) and Deb Fischer (R-NE),¹⁴⁰ which was designed to “prohibit large online platforms from using deceptive user interfaces, known as ‘dark patterns’ to trick consumers into handing over their personal data.”¹⁴¹

Some workshop participants, however, voiced skepticism about the ability of privacy legislation to fix the problem. Cal Lee (Professor, UNC School of Information and Library Science) wondered whether users would be willing to pay for online services that they have grown accustomed to receiving for free, whether that payment came in the form of a subscription or lessened performance from the platform. Mary-Rose Papandrea (Professor, UNC School of Law) expressed two related concerns about the utility of privacy legislation. First, she suggested that many users hold data privacy in lesser regard than the services offered by platforms, especially as the platforms expand their collection of data to Internet-of Things-connected devices. Those users may prefer the personally curated advertising and content they receive as a result of the data collected by platforms. Second, she asked how privacy legislation would actually help journalists and news organizations, stating that the legislation may have to be “draconian” to have enough of an effect to reach local journalism.

While not a panacea, privacy legislation could support local journalism by reducing the competitive advantage platforms have over news organizations, making it possible for these organizations to compete again for users and advertising dollars that have been increasingly going to platforms such as Facebook and Google. The journalistic business model was built on selling eyeballs to advertisers, and the appeal of news outlets is that they brought the relevant eyeballs together. By putting users in control of the information that platforms can collect about them, privacy legislation could help level the playing field and allow local news organizations to better compete with platforms that have used user data to corner the advertising market.

Policies to Increase Competition

The conclusion that platforms enjoy a significant competitive advantage over news providers has prompted advocates for local news to argue that antitrust and other forms of competition law should be adapted to address the systemic advantages platforms currently enjoy.

One proposal that has gained traction in Congress is to create an **antitrust exemption that would allow news organizations to jointly negotiate with the platforms** over licensing fees for their content. One of the reasons news organizations have struggled to maintain profitability is that Facebook and Google reportedly collect nearly three-quarters of all digital advertising dollars.¹⁴² According to industry advocates, these platforms share only a small fraction of their ad revenue with news organizations, which bear the cost of reporting the news. Part of the problem, they argue, is that individual news organizations simply do not have the power to negotiate with the platforms for better compensation.

In 2018, Rep. David Cicilline (D-RI), chairman of the House Judiciary Committee's Antitrust Subcommittee proposed the **Journalism Competition and Preservation Act (JCPA)** which would give news organization a four-year safe harbor to join together to negotiate licensing fees and terms with large platforms.¹⁴³ The bill has picked up a number of co-sponsors in the past year, including Doug Collins (R-GA), the Ranking Member of the Committee on the Judiciary. Amy Klobuchar (D-MN) filed a companion bill in the Senate and Senate Majority Leader Mitch McConnell has joined as co-sponsor.¹⁴⁴ The JCPA's antitrust exemption has some precedent in the Newspaper Preservation Act of 1970, which already provides limited antitrust immunity for joint operating agreements between newspapers that combine certain business operations so long as the newspapers maintain separate newsroom staffs and that their editorial policies are "independently determined."¹⁴⁵

Researchers at the UNC Hussman School of Journalism and Media report that support for the JCPA "has been buoyed by 'techlash,' the growing public sentiment that tech giants must be held responsible for privacy violations and disinformation as well as their impact on local media."¹⁴⁶ They also note that Rep. Cicilline's antitrust subcommittee, the Federal Trade Commission, state attorneys general and the U.S. Department of Justice are all conducting investigations of the platforms.

However, some industry analysts question whether allowing news organizations to negotiate as a group will actually result in better licensing terms because, they assert, publishers need the platforms more than the platforms need news. According to Nieman Lab's Joshua Benton, around 85 percent of publishers' external traffic comes from Google

or Facebook, but only about 1 in every 25 News Feed posts contains any “news,” defined broadly.¹⁴⁷ So even if news organizations threaten to withhold their content, it is unlikely to sway the platforms. Moreover, he notes that many newspapers, not to mention broadcasters and digital-only sites, will likely break ranks rather than lose out on the chance to get referrals through the platforms.

Nevertheless, the platforms are facing growing pressure to increase the amount of advertising revenue they pass along to news organizations, with regulators in Europe indicating they will force Google to pay mandatory licensing fees to publishers. France’s competition regulators recently ordered the company to negotiate with local publishers over content displayed in its news aggregation service or surfaced via Google Search. Australia is also reportedly closing in on a legal framework to force Facebook and Google to pay media companies for monetizing their news content.¹⁴⁸ Seeing the writing on the wall, Google announced in October 2020 that it is creating a \$1 billion licensing fund, which it has called the Google News Showcase, that would be paid to news publishers “to create and curate high-quality content” for new story panels to appear on Google News.¹⁴⁹

Advocates for local news also argue that **antitrust and competition laws should be used to effect broader, systemic change** in the American technology and media ecosystem. Proposals in this area take many forms, ranging from more vigorous application of existing laws to imposing structural separations and prohibiting dominant platforms from entering adjacent lines of business.

Since the 1980s, the federal government has generally taken the view that consolidation within the media and technology industries was fine as long as it did not result in an increase in prices or suppress competition in any given community. As a result, there has been a significant increase in concentration of media ownership over the past four decades. Many advocates for local media argue that in hindsight, the government’s hands-off approach has been highly detrimental for local news, resulting in the creation of publicly traded mega-chains, hedge funds, and private equity firms that have changed the incentive structure within media companies leading to steep cuts in newsroom personnel in an effort to meet short-term earnings targets. At the same time, they point to the remarkable concentration of power within the four largest online platforms, Apple, Amazon, Facebook and Google, which have largely replaced traditional media companies as the source for news and other information.

One response to the power disparities between news producers and platform operators as well as between platforms and their users is to **restrict acquisitions and mergers**

that reduce competition. The dominant positions that the largest platforms enjoy is due in part to their acquiring or merging with potential competitors, with some platforms having built entire lines of business through acquisitions while others used acquisitions to neutralize competitive threats. Because of rapid technological development in online services, competition can often come from innovative upstarts that may take several years to develop. In this context, acquisition by a dominant platform of a smaller firm could be very damaging to competition if, absent the acquisition, the smaller firm would develop into a major competitive threat or would lead to significant change in the nature of the market. In a concentrated market structure, potential competition from small entrants may be the most important source of competition faced by the incumbent firm.¹⁵⁰

Proponents of antitrust reform point to Facebook's purchase of Instagram and WhatsApp as examples of the company's elimination of competition through acquisition. With 27 million registered users on iOS alone, Instagram "was increasingly positioning itself as a social network in its own right—not just a photo-sharing app"—when Facebook acquired the company in 2012 and eliminated a nascent competitor.¹⁵¹ Two years later, Facebook's acquisition of the messaging service WhatsApp for \$19 billion left many industry observers scratching their heads, given the staggering price Facebook paid for an app that made little money. Based on confidential internal company emails and documents subsequently released by the United Kingdom Parliament's Digital, Culture, Media, and Sport Committee which investigated the acquisition, BuzzFeed News reported in 2018 that WhatsApp's rise came at a crucial moment—just as Facebook was attempting to transition to a mobile-first company with messaging as a core service: "WhatsApp was quickly demonstrating that it could compete with Facebook on its most important battleground," which drove Facebook to acquire the company behind the messaging app.¹⁵²

Section 7 of the Clayton Act of 1914 prohibits any transaction where "the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly."¹⁵³ In 1950, Congress passed the Celler-Kefauver Anti-Merger Act to broaden the types of transactions covered by the Clayton Act, specifically to include vertical mergers, conglomerate mergers, and purchases of assets.¹⁵⁴

In October 2020, the Majority Staff of the House Judiciary Subcommittee on Antitrust, Commercial, and Administrative Law ("Judiciary Subcommittee") released a report that found that "[a]lthough the dominant platforms collectively engaged in several hundred mergers and acquisitions between 2000-2019, antitrust enforcers did not block a single one of these transactions" under the Clayton Act.¹⁵⁵ The Judiciary Subcommittee

concluded that several of these acquisitions enabled platforms to block emerging rivals and undermine competition and that all four of the dominant platforms (Apple, Amazon, Facebook and Google) are currently focused on acquiring startups in the artificial intelligence and virtual reality space. The Subcommittee warned that ongoing acquisitions by the dominant platforms could entrench their existing positions and eliminate nascent competitors, thus strengthening their market power and potentially close off market entry.¹⁵⁶

In response to the perceived anticompetitive acquisition practices of the platforms, the Judiciary Subcommittee recently recommended that Congress instruct federal agencies to **presume that mergers by dominant platforms are anticompetitive**. Under this change in the law, any acquisition by a dominant platform would be considered anticompetitive “unless the merging parties could show that the transaction was necessary for serving the public interest and that similar benefits could not be achieved through internal growth and expansion.”¹⁵⁷ Steven Waldman has made a similar argument, albeit with a more direct focus on local news, suggesting that Congress should alter antitrust laws to restrict mergers that lead to less investment in local reporting.¹⁵⁸

However, many critics of the platforms assert that stricter merger controls will not be enough to address the durable monopoly power of the dominant platforms and that **antitrust and competition laws should be expanded** in order to deal with the challenges that platforms present for antitrust enforcement.

American antitrust law is largely focused on consumer harm that results from anticompetitive behavior that leads to increases in price, reductions in quality, or declines in innovation. With online platforms like Facebook and Google, however, it is often difficult to identify and quantify the harms that consumers and other market participants experience as a result of monopolies or near-monopolies, thus making antitrust enforcement difficult. For example, online platforms typically offer their services for “free.” In the language of economists, the platform has set a monetary price of zero yet the true “equilibrium price” may be negative because of the value of advertising. In other words, the user’s data may be so valuable that the platform would pay for it. This unusual negative price is difficult for regulators to observe and value with precision, potentially leaving consumers “overcharged.”¹⁵⁹

Online platforms can also harm quality of service in ways that are equally difficult to discern. For example, Facebook and Google have amassed enormous datasets that they use to create detailed profiles of their users; the platforms then leverage this information

to frame, nudge, and provide default settings that direct users to the choice that is most profitable for the platform. Platforms can also make real-time use of the data to determine when a user is in an emotional “hot state,” and can even trigger consumer frailty at an individual level.¹⁶⁰ By exploiting users in this fashion, platforms reduce the quality of the zero-price content the user experiences in very subtle ways, making it difficult to quantify a precise level of harm.¹⁶¹

In a report issued in July 2019 by the George J. Stigler Center for the Study of the Economy and the State (“Stigler Report”), a number of economists and antitrust experts concluded that online platforms present especially difficult challenges for antitrust enforcement and that antitrust law needs better analytical and regulatory tools to adequately deliver competition to consumers.¹⁶² They suggest that new legislation would not need to depart from the dual requirements of bad conduct and harm to competition in the market as a whole. Instead, regulators could implement a recalibration of the relative tolerance of antitrust law for the risk of over-enforcement and under-enforcement by prescribing rebuttable presumptions that would ease the high proof requirements currently imposed on antitrust plaintiffs and place on defendants a more rigorous burden of proving efficiencies.¹⁶³

The Judiciary Subcommittee recently issued a report that recommends that Congress **clarify and extend the Sherman Act to address the anticompetitive practices of platforms**.¹⁶⁴ Under Section 2 of the Sherman Act, it is illegal to “monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States.”¹⁶⁵ Over recent decades, courts have heightened the legal standards that plaintiffs must overcome in order to prove a violation of Section 2. As a result, U.S. antitrust authorities have not been active in policing allegedly anticompetitive conduct by online platforms; the government’s last monopolization case involving issues raised by platforms was the Microsoft case in 1998.

In its report, the Judiciary Subcommittee recommended that Congress restate existing antitrust laws, “clarifying that they are designed to protect not just consumers but also workers, entrepreneurs, independent businesses, open markets, a fair economy, and democratic ideals.”¹⁶⁶ The Judiciary Subcommittee offered a number specific reforms, including recommending that Congress **extend the Sherman Act to prohibit abuses of dominance by online platforms** and that it consider creating a statutory presumption that a market share of 30% or more constitutes a rebuttable presumption of dominance by a seller, and a market share of 25% or more constitutes a rebuttable presumption of dominance by a buyer. The Subcommittee also recommended that Congress prohibit the

use of monopoly power in one market to harm competition in a second market, even if the conduct does not result in monopolization of the second market.¹⁶⁷

In addition, the Judiciary Subcommittee recommended that Congress **apply the “essential facilities” doctrine to platforms**, which would impose a requirement that dominant platforms provide access to their infrastructural services or facilities on a nondiscriminatory basis.¹⁶⁸ Antitrust law prohibits unilateral refusals to deal only under very unusual circumstances, thus giving platforms substantial freedom to refuse to deal with other parties or to deal with them only on onerous terms (e.g., pricing, access to customer data, and interoperability) that raise the costs of rivals and enable the platforms to reinforce their dominant positions.¹⁶⁹ The Subcommittee’s investigation uncovered several instances in which a dominant platform used the threat of delisting or refusing service to a third party as leverage to extract greater value or more data or to secure an advantage in a distinct market. The Subcommittee concluded: “Because the dominant platforms do not face meaningful competition in their primary markets, their threat to refuse business with a third party is the equivalent of depriving a market participant of an essential input. This denial of access in one market can undermine competition across adjacent markets, undermining the ability of market participants to compete on the merits.”¹⁷⁰

It should be noted, however, that Republican lawmakers on the Judiciary Subcommittee refused at the last minute to sign the report with their Democratic colleagues.¹⁷¹ Instead, Rep. Ken Buck (R-CO) issued his own report, with support from Reps. Doug Collins (R-GA), Matt Gaetz (R-FL) and Andy Biggs (R-AZ). Rep. Buck’s report largely agrees with the Judiciary Subcommittee’s conclusion that Apple, Amazon, Facebook and Google have amassed too much power, but he was unwilling to endorse all of the legislative recommendations offered by the majority. Instead, Buck calls on Congress to fund and empower regulatory agencies like the Federal Trade Commission (FTC) and Department of Justice (DOJ) to increase enforcement under existing laws.¹⁷²

Indeed, not all antitrust experts agree that current antitrust law needs to be altered in order to deal with platforms or even that the current media ecosystem is in need of changing. Maurice Stucke noted at the workshop that some experts have called for what is known as the “Roosevelt approach,” which would leave the major platforms as is, but continue to use existing antitrust and competition law to investigate any anti-competitive behavior and enjoin specific conduct that violates antitrust law. The Stigler Report points out that there is a risk that antitrust reforms will not be enacted by experts committed to

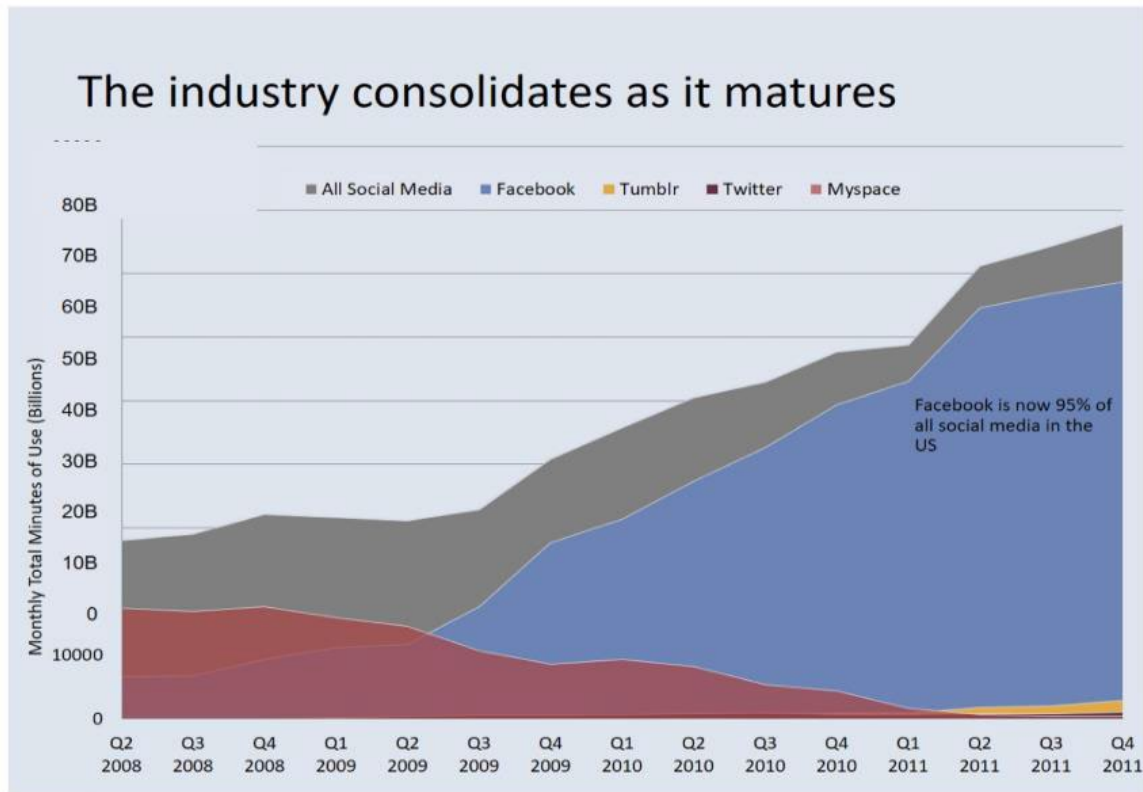
sound, economically-focused reforms, noting that in a politically charged environment this may not be the best time for Congress to enact major changes.¹⁷³

Breaking Up Dominant Platforms

Some experts argue that antitrust and competition laws are simply not up to the task of addressing the anticompetitive behaviors of platforms and that more aggressive solutions are necessary.

They point to the explosive growth of Google in search, Facebook in social networking, and Amazon in online retailing as demonstrating that these digital markets have winner-take-all characteristics that tend to leave just one dominant player.¹⁷⁴ Because the platforms enjoy strong economies of scale and economies of scope (due to their low marginal costs and revenue from control of data) and are characterized by strong network effects, potential competitors face significant barriers to entry. They also point to the fact that platforms can maintain their dominance by exercising complete control over the user relationship and positioning themselves as necessary bottlenecks between partners and users, further limiting the possibility for competing services to gain traction and challenge the platform's power.¹⁷⁵

In documents provided to the House Judiciary Subcommittee, Facebook boasted in 2012 that the firm controlled "95% of all social media" in the United States in terms of monthly minutes of use and noted that the "industry consolidates as it matures."¹⁷⁶ An investor presentation from that time period also described Facebook as having an "enduring competitive advantage" similar to other historically dominant firms.¹⁷⁷



One of the leading academic proponents of more aggressive government intervention has been Lena Khan, a fellow at Columbia Law School and counsel to the House Judiciary Subcommittee on Antitrust, Commercial, and Administrative Law. Khan points out that one feature the dominant digital platforms share is that they have integrated across business lines such that they operate both a platform and market their own goods and services on it. According to Kahn, “this structure places dominant platforms in direct competition with some of the businesses that depend on them, creating a conflict of interest that platforms can exploit to further entrench their dominance, thwart competition, and stifle innovation.”¹⁷⁹ Khan asserts that growing empirical research shows that dominant tech platforms enjoy uniquely durable market power and reliance on traditional antitrust remedies for anticompetitive conduct – which she characterizes as “highly enfeebled and impoverished” – is misplaced.¹⁸⁰

What Khan and others argue is that the government should **impose structural separations and prohibit dominant platforms from entering adjacent lines of business**. Separations differ from other regulatory tools in that separations are ex ante

rules whose application does not require continuous government intervention or constant monitoring. Responding to potential objections to this approach, Kahn says: “Insofar as a primary criticism of the public utility era is that many of the regulations proved too unwieldy for courts and enforcers to implement, structural separations appear far more appealing. Contrasted with other public utility tools, separations reduce regulatory burden and reflect humility about the capacity of public officials to manage business conduct.”¹⁸¹

Concentration, however, is associated with positive network effects. According to the Stigler Report, as the number of people who use online platforms increases and the amount of data collected from those users increases, online platforms are able to provide a richer user experience.¹⁸² As Stucke and Christopher Lee (Professor, UNC School of Information and Library Science) noted at the workshop, Google has been successful as a search service because the data that Google collects feeds back into their algorithm to produce better search results. If Google were to be separated into several smaller search engines, those network effects would not be present, and the quality of search results would likely suffer. Consequently, as policymakers determine how best to address the growing market power of online platforms, proposals to break up these technology companies risk losing the beneficial aspects of scale that help make them capable of providing desirable services in the first place and allows them to marshal the resources needed to combat mis- and disinformation.

In March 2019, Sen. Elizabeth Warren (D-MA) pushed the idea of structural separation to the forefront of the presidential campaign, proposing that Congress should pass legislation “that requires large tech platforms to be designated as ‘Platform Utilities’ and broken apart from any participant on that platform.”¹⁸³ Under Sen. Warren’s proposal, companies with an annual global revenue of \$25 billion or more and that offer to the public an online marketplace, an exchange, or a platform for connecting third parties would be prohibited from owning both the platform utility and any participants on that platform. They would also be required to meet a standard of fair, reasonable, and nondiscriminatory dealing with users and would not be allowed to transfer or share data with third parties. Smaller companies with annual global revenue of between \$90 million and \$25 billion would be required to meet the same standard of fair, reasonable, and nondiscriminatory dealing with users, but would not be required to structurally separate from any participant on the platform.¹⁸⁴

In its October 2020 report, the House Judiciary Subcommittee also came out in favor of structural separation and line of business restrictions for dominant platforms. In making

its recommendation, the Judiciary Subcommittee noted that Congress has relied on both policy tools as part of a standard remedy for dominant intermediaries in other network industries, including railroads and telecommunications services.¹⁸⁵ The Judiciary Subcommittee did not lay out a specific proposal in the same way that Sen. Warren did, remarking instead that “[t]he challenges of crafting and implementing structural solutions vary by market and market participants,” and that “some antitrust experts have cautioned that crafting separations can pose a major cost and challenge, especially in dynamic markets.”¹⁸⁶

As noted previously, Republicans on the Judiciary Subcommittee opposed some of the findings in the majority’s report, including the Subcommittee’s recommendation that Congress consider imposing structural separation on platforms. Rep. Buck calls such a proposal a “non-starter” for conservatives and writes, “We do not agree with the majority’s approach to pass a Big Tech Glass-Steagall Act,”¹⁸⁷ referring to the 1933 law that separated commercial and investment banking.

Nevertheless, recent congressional hearings directed at technology companies and the Judiciary Subcommittee’s October 2020 report appear to mark a **turning point in terms of support for more aggressive government action to limit the power of online platforms** through changes in antitrust law, increased antitrust enforcement, structural separation, or a combination of these approaches. Even in opposing the full set of proposals offered by the Judiciary Subcommittee, Rep. Buck stated to CNBC that “if I was one of the tech companies I would see this week of Democrat and Republican responses as very concerning because there is clearly a bipartisan conclusion that these companies are acting anticompetitively and that [there’s] bipartisan consensus on many of the reforms that are necessary.”¹⁸⁸

Indeed, the antitrust lawsuit against Google,¹⁸⁹ which was filed by the Department of Justice and eleven state Attorneys General as we were finalizing this whitepaper, is further evidence of this shift to a more aggressive posture by the government.

Next Steps

The two-day event we held in November 2019, titled “Fostering an Informed Society: The Role of the First Amendment in Strengthening Local News and Democracy,” made a number of key assumptions about Americans that today remain fluid and uncertain. A society that is informed is first and foremost one that wants to be informed. The rise and appeal of mis- and disinformation, as this report has explored, have challenged and distorted citizen understanding and public participation. To foster an informed society, people have to want access to reliable information for the purposes of governing themselves. They have to desire to understand more about the dangers of mis- and disinformation: how to identify it, but equally important, how it undermines democracy. We need all citizens to care about these issues as much as policymakers, activists and academics now do.

The problems we face will require a multifaceted, multi-disciplinary approach. No one lever within the market, law, or society will deliver a magic bullet. Instead, experts and policymakers will need to pull at multiple levers using a new vocabulary to talk across the different disciplines – a set of new propositions that recognize the legal, social, journalistic, and economic principles at stake, particularly the harm done to democracy if the status quo continues.

While there has been a growing and important focus on the causes of the decline of local news and the spread of mis- and disinformation online – as evidenced by the work of many of the participants in the workshop – we are still in the early stages of understanding how technology is transforming our democracy and the ways we receive and engage with information. This work will require cross-disciplinary research and collaboration in order to develop a comprehensive understanding of information environments focused on the interaction of information and technology, particularly in the context of misinformation, partisanship, polarization, propaganda, and political institutions.

The First Amendment came up many times in our discussions. But recent First Amendment jurisprudence speaks more to the government’s reduced role as a regulator of speech than as an affirmative proponent of speech that serves the public interest. Any role for the First Amendment that is more active in promoting journalism in the public interest will be subject to significant political headwinds. Such a change in thinking around the purpose of the First Amendment will require more exposition. Should the marketplace of ideas remain the only paradigmatic force fueling the production of news?

Or should the First Amendment more directly address the press' role as a critical fourth estate check on the power of government? When we lose a functioning and effective press, we lose a major part of our democracy. As new media law cases make their way through the courts, lawyers and scholars may need to rethink some of the theoretical underpinnings of the First Amendment to more actively support a vibrant local news ecosystem.

Finally, the notion of strengthening local news assumes consumer want such improvements. But consumers now seem satisfied with either free or reduced prices for news redistributed by powerful platforms who mostly reap what news providers sow, destroying the advertising backbone that used to support sustained news coverage. The Department of Justice and the Federal Trade Commission have begun to push back with antitrust claims against Google and Facebook. Whether those actions solve the problems of local journalism remains to be seen, and it may well be too late to change the media ecosystem in any way that regains what was lost. But re-establishing an appetite for strong journalistic competition will be vital, and markets will need nudging to bend toward a reinvigorated local news ecosystem. Some combination of antitrust lawsuits and policy incentives will be necessary to support meaningful and effective journalism enterprises.

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Appendix A: Workshop Participant Bios

Penny Abernathy

Knight Chair in Journalism and Digital Media Economics

University of North Carolina Hussman School of Journalism and Media

Penelope (Penny) Muse Abernathy, a former executive at The Wall Street Journal and The New York Times, is the Knight Chair in Journalism and Digital Media Economics at the University of North Carolina. A journalism professional with more than 30 years of experience as a reporter, editor and senior media business executive, she specializes in preserving quality journalism by helping news organizations succeed economically in the digital environment. Her research focuses on the implications of the digital revolution for news organizations, the information needs of communities and the emergence of news deserts in the United States.

Deb Aikat

Associate Professor

University of North Carolina Hussman School of Journalism and Media

A former journalist, Deb Aikat has been a faculty member since 1995 in the Hussman School of Journalism and Media at the University of North Carolina at Chapel Hill. An award-winning researcher and teacher, Aikat theorizes digital media in the global sphere. Aikat's research ranges across the media spectrum. In addition to teaching on-campus classes, Aikat has taught online courses since 1997 when he conceptualized UNC's first online course in journalism. He developed in 2003 a graduate-level online certificate program in "Technology and Communication" that was later expanded into the Online MA program. He has won fellowships from renowned research institutions such as the Institute for the Arts and Humanities (2000 & 2003) and the Journalism Leadership Institute in Diversity (2004-05).

David Ardia

Reef C. Ivey II Excellence Fund Term Professor of Law

University of North Carolina School of Law

David Ardia joined the Carolina Law faculty in 2011 and serves as the Reef C. Ivey II Excellence Fund Term Professor of Law and faculty co-director of the UNC Center for Media Law and Policy. He also holds a secondary appointment at the UNC School of Media and Journalism. His teaching and research interests include constitutional law,

media law, internet law, and torts. Before joining Carolina Law, Ardia was a fellow at the Berkman Klein Center for Internet & Society at Harvard University and was assistant counsel at The Washington Post, where he provided pre-publication review and legal advice on First Amendment, newsgathering, privacy, intellectual property, and general business issues.

Jerome Barron

Harold H. Greene Professor of Law Emeritus

The George Washington University Law School

Jerome Barron is the Harold H. Greene Professor Emeritus at George Washington University Law School. He joined the GW law faculty in 1965 and retired from the faculty in 2013. He has argued and participated in cases in the U.S. Supreme Court and served as a consultant to the Senate Committee on Presidential Campaign Activities (Watergate). Barron writes in the areas of constitutional law and communications law. In 2004, he was the Fulbright Distinguished Chair in Law at the University of Trento in Italy. His books include *Freedom of the Press for Whom?* (1973); *Constitutional Law: Principles and Policy* (8th ed. 2012); *Constitutional Law in a Nutshell* (9th ed. 2017); and *First Amendment Law in a Nutshell* (5th ed. 2018).

David Bralow

Legal Director

Press Freedom Defense Fund

As Legal Director of the Press Freedom Defense Fund, Bralow brings a wealth of experience in media law including First Amendment expertise, national security issues, FOIA prosecutions and appeals, defamation, and privacy law. Prior to joining First Look Media, Bralow was of counsel in the Media, Communication and Entertainment Practice Group of Pepper Hamilton LLP. He also served as Senior Vice President and General Counsel at Digital First Media, a multi-platform media company with the second largest newspaper circulation in the United States; and as Assistant General Counsel for 13 years at the Tribune Company, where he provided legal advice to their newspapers, websites, and television stations.

Adam Candeub

Professor of Law, and Director of the Intellectual Property, Information and Communications Law Program

Michigan State University College of Law

Adam Candeub joined the Michigan State University College of Law faculty in fall 2004. He is also a Fellow with MSU's Institute of Public Utilities, which is co-sponsored by MSU College of Law. Prior to this position, he was an attorney-advisor for the Federal Communications Commission (FCC) in the Media Bureau. His work at the FCC involved him in critical decisions in communications law. Candeub's scholarly interests focus on the intersection of regulation, economics, and communications law and policy. He also publishes in the area of criminal law and philosophy.

Michelle Connolly

Professor of the Practice of Economics

Duke University Trinity College of Arts & Sciences

Michelle Connolly is Professor of the Practice in the Economics Department at Duke University. She was the Economics Director of Duke in New York: Financial Markets and Institutions Program for 2007-2009 and the Director of EcoTeach for several years. Connolly's research and teaching focus specifically on international trade, telecommunications policy, media policy, education, growth, and development.

Walter Dellinger

Douglas B. Maggs Professor Emeritus of Law

Duke University School of Law

Walter Dellinger is the Douglas B. Maggs Professor Emeritus of Law at Duke University. He was a resident faculty member at Duke continuously from 1969 until 1993. He served as acting Solicitor General for the 1996-97 Term of the Supreme Court. Dellinger argued nine cases before the Court, the most by any Solicitor General in more than twenty years (including cases dealing with the cable television act and the Religious Freedom Restoration Act). After serving in early 1993 in the White House as an advisor to the President on constitutional issues, Dellinger was nominated by the President to be Assistant Attorney General and head of the Office of Legal Counsel (OLC) and was confirmed by the Senate for that position in October, 1993. During his three years as Assistant Attorney General he served as the Department's principal legal advisor to the Attorney General and the President.

Deborah Dwyer***Roy H. Park Fellow and doctoral student******University of North Carolina Hussman School of Journalism and Media***

Deborah Dwyer is a UNC Park Fellow and a former communications professional with more than 20 years of experience in journalism, public relations, corporate and nonprofit communications, and marketing. Deborah's scholarship relates to the practice of ethical and effective journalism at a time when the role of the press is threatened by corporate ownership, public distrust, emerging forms of censorship, political contentiousness, and an elusive definition of what constitutes journalism in modern society. Her recent work explores technological effects on the long tail of publishing and how cybersecurity concerns affect journalist/confidential source relationships.

Tori Ekstrand***Associate Professor******University of North Carolina Hussman School of Journalism and Media***

Tori Ekstrand teaches media law courses in the UNC Hussman School of Journalism and Media. Before coming to Carolina, she was an associate professor in the Bowling Green State University Department of Journalism and Public Relations and an affiliate faculty member of BGSU's American Cultural Studies department. Before teaching, Ekstrand worked for The Associated Press in their New York headquarters for nearly a decade. She served as AP's director of Corporate Communications, responsible for marketing, public relations and events for the worldwide news agency. Ekstrand's research explores conflicts between copyright law and the First Amendment, particularly as they arise in journalism and social media.

Deen Freelon***Associate Professor******University of North Carolina Hussman School of Journalism and Media***

Deen Freelon is an associate professor in the School of Media and Journalism. His research covers two major areas of scholarship: 1) political expression through digital media and 2) data science and computational methods for analyzing large digital datasets. He has authored or co-authored more than 30 journal articles, book chapters and public reports, in addition to co-editing one scholarly book. He has served as principal investigator on grants from the Knight Foundation, the Spencer Foundation and the U.S. Institute of Peace.

Amy Gajda
Class of 1937 Professor of Law
Tulane University Law School

Amy Gajda is recognized internationally for her expertise in privacy, media law, torts, and the law of higher education; her scholarship explores the tensions between social regulation and First Amendment values. Before joining Tulane's faculty in 2010, Gajda held faculty appointments in both the law and journalism schools at the University of Illinois and practiced law in Washington, D.C. She is a past winner of the Felix Frankfurter Award for Distinguished Teaching, Tulane Law School's highest teaching honor.

Andrew Gavil
Professor of Law
Howard University School of Law

Andy Gavil teaches antitrust law, civil procedure, complex litigation, and information privacy and data security at the Howard University School of Law, where he has been a member of the faculty since 1989. He has written and lectured extensively on various aspects of antitrust law, policy, and litigation and is an author of *Antitrust Law in Perspective: Cases Concepts and Problems in Competition Policy* (3d ed. 2017). He has been an active member of the Antitrust Section of the American Bar Association and currently serves as a Senior Editor on the Board of the *Antitrust Law Journal* and Chair of the Selection Committee for the Section's International Scholar-in-Residence Program.

Yosef Getachew
Media & Democracy Program Director
Common Cause

Yosef Getachew serves as the Media & Democracy Program Director at Common Cause. Prior to joining Common Cause, Getachew served as a Policy Fellow at Public Knowledge where he's worked on a variety of technology and communications issues. His work has focused on broadband privacy, broadband access and affordability, and other consumer issues. Prior to joining Public Knowledge, Getachew worked as a law clerk for several technology and communications organizations including the Federal Communications Commission, Comcast, Facebook, and the White House Office of Science and Technology Policy.

Wade Hargrove***Communications Attorney / Partner (Ret.)******Brooks, Pierce, McLendon, Humphrey & Leonard, LLP***

Wade Hargrove is widely known as one of the leading media and communications attorneys in the country. Hargrove spent his career representing many of the nation's largest corporations, media companies, and national and state trade associations, counseling them in corporate matters, mergers and acquisitions, FCC regulatory issues, contracts, antitrust, copyright issues, compliance, libel and slander, privacy, and legal issues involving the use of new technology. After a successful professional career of more than 50 years, Hargrove retired from practice in 2018. He served as partner at Brooks Pierce for over 20 years, helping to establish the firm's nationally-recognized media and communications practice.

Robert Kaiser***Journalist and former Associate Editor******The Washington Post***

Robert Kaiser is a former associate editor and senior correspondent of The Washington Post, where he worked from 1963 until 2014. He has served as a special correspondent in London (1964–67), a reporter on the city desk in Washington (1967–69), and foreign correspondent in Saigon (1969–70) and Moscow (1971–74). He returned to the national staff in Washington and worked as a reporter for seven years, covering labor, the U.S. Senate, the 1980 presidential campaign, and the first Reagan administration. He has been a commentator on NPR's All Things Considered, and has appeared on Meet the Press, NBC's Today, and other television programs. Kaiser is the author or co-author of eight books. The News About the News won Harvard University's Goldsmith prize for the best book of 2002 on politics and the news media.

Daniel Kreiss***Director, Ph.D. in Media and Communication and Associate Professor******University of North Carolina Hussman School of Journalism and Media***

Daniel Kreiss joined the UNC Hussman School of Journalism and Media faculty in July 2011 to teach courses in research methods and political communication. Kreiss' research explores the impact of technological change on the public sphere and political practice. In addition to this work on institutional electoral processes and political campaign and party organizations, Kreiss has published a number of articles and

chapters that analyze the effects of changing media environments on the organization and practice of journalism. In his 2012 book from Oxford University Press, *Taking Our Country Back: The Crafting of Networked Politics from Howard Dean to Barack Obama*, Kreiss presents the untold history of new media and Democratic political campaigning over the last decade.

Susan King

Dean and John Thomas Kerr Distinguished Professor

University of North Carolina Hussman School of Journalism and Media

Susan King became dean of the UNC School of Media and Journalism on Jan. 1, 2012. She is also the school's John Thomas Kerr Distinguished Professor. King's career has spanned the school's two major disciplines – journalism and strategic communication. After starting her broadcast journalism career in Buffalo, N.Y., she spent more than 20 years in Washington, D.C., as an anchor and reporter covering politics, including serving as a White House correspondent for ABC News. She also reported for CBS, NBC and CNN, and hosted the “Diane Rehm Show” and “Talk of the Nation” for National Public Radio. King then worked nearly five years in the U.S. Department of Labor as the assistant secretary for public affairs and as the executive director of the Family and Medical Leave Commission. In 1999 she joined Carnegie Corporation of New York as vice president for external affairs. She launched and led the Carnegie-Knight Initiative on the Future of Journalism Education in collaboration with the John S. and James L. Knight Foundation and 12 premier U.S. journalism schools including UNC.

Cal Lee

Professor

University of North Carolina School of Information and Library Science

Dr. Christopher (Cal) Lee is a Professor at the UNC School of Information and Library Science (SILS), a Fellow of the Society of American Archivists (SAA), and editor of *The American Archivist*. He teaches archival administration, records management, digital curation, understanding information technology for managing digital collections, and digital forensics. Dr. Lee's primary area of research is curation of digital collections. He is particularly interested in the professionalization of this work and the diffusion of existing tools and methods into professional practice.

Gregory Magarian
Thomas and Karole Green Professor of Law
Washington University School of Law

Gregory Magarian is the Thomas and Karole Greene Professor of Law at Washington University School of Law in St. Louis. He teaches and writes about U.S. constitutional law, with emphasis on the freedom of expression. His first book, *Managed Speech: The Roberts Court's First Amendment*, was published in 2017 by Oxford University Press. His research and writing also examine church and state, firearms regulation, and regulations of the media and the political process. He served as a law clerk for Justice John Paul Stevens of the U.S. Supreme Court and Judge Louis Oberdorfer of the U.S. District Court for the District of Columbia. He practiced law at Jenner and Block in Washington, D.C. and taught at Villanova University before joining the Washington University faculty in 2008.

Joshua McCrain
PhD Candidate in Political Science
Emory College of Arts & Sciences

Joshua McCrain is a doctoral student in the Department of Political Science at Emory College of Arts and Sciences. His focus includes lobbying, Congress, media and politics, and political methodology. McCrain is particularly interested in congressional staff, the revolving door, and the influence of private interests in public policy. Prior to coming to Emory McCrain spent three years in Washington DC, first working on Capitol Hill, then as a nonprofit lobbyist, and finally in online advocacy for nonprofit organizations.

Chris Meazell
Professor of Practice
Wake Forest School of Law

Chris Meazell is a Professor of Practice and Executive Director of the Innovation Hub at Wake Forest University Law School and is focused on the evolving nature of the media, start-up culture, and the legal profession. Once a professional musician, Meazell went on to become a partner at one of the largest and most diverse media and communications law practices in the United States, with expertise in areas such as intellectual property litigation, media and First Amendment, risk management and regulatory matters. Meazell also continues to actively practice law in Washington, D.C. with the Potomac Law Group.

Phil Napoli***James R. Shepley Professor of Public Policy******Duke University Sanford School of Public Policy***

Phil Napoli is a James R. Shepley Professor of Public Policy at Duke's Sanford School of Public Policy and a faculty affiliate of the DeWitt Wallace Center for Media and Democracy. His areas of expertise include media regulation and policy, the sustainability and further of local journalism, algorithms and news, media and democracy, politics of policy research, media institutions, and audience measurement.

Mary-Rose Papandrea***Samuel Ashe Distinguished Professor of Constitutional Law and Associate Dean for Academic Affairs******University of North Carolina School of Law***

Mary-Rose Papandrea is the Judge John J. Parker Distinguished Professor of Law and Associate Dean for Academic Affairs at the UNC School of Law. She came to the University from Boston College Law School in 2015. Her teaching and research interests include constitutional law, media law, torts, civil procedure, and national security and civil liberties. Papandrea has written extensively about government secrecy and national security leaks, the reporter's privilege, student speech rights, the First Amendment rights of public employees, and the U.S. Supreme Court and technology. Papandrea clerked for U.S. Supreme Court Justice David H. Souter and worked as an associate at Williams & Connolly LLP in Washington, D.C., where she specialized in First Amendment and media law litigation.

Matt Perault***Associate Professor of the Practice******Duke Science & Society***

Matt Perault is the director of the Center for Science & Technology Policy at Duke University. He served as a director of public policy at Facebook, where he led the company's global public policy planning efforts on issues such as competition, law enforcement, and human rights, and oversaw public policy for WhatsApp, Oculus, and Facebook Artificial Intelligence Research. Prior to joining Facebook, Matt was Counsel at the Congressional Oversight Panel.

Jonathan Peters***Assistant Professor of Journalism******University of Georgia Grady College of Journalism and Mass Communication***

Jonathan Peters is a media law professor at the University of Georgia, with appointments in the Grady College of Journalism and Mass Communication and the School of Law. He is the press freedom correspondent for the Columbia Journalism Review, and he has written about legal issues for Esquire, The Atlantic, Slate, Wired, and CNN. He participates regularly in the U.S. Department of State's Edward R. Murrow Program for Journalists, and last year he completed a project to develop legal guidelines for press rights at peaceful assemblies in Europe, working with the Organization for Security and Co-operation in Europe, based in Vienna, and the Office for Democratic Institutions and Human Rights, based in Warsaw.

Robert Picard***Senior Research Fellow******Reuters Institute at University of Oxford***

Robert G. Picard is a senior research fellow at the Reuters Institute at University of Oxford, a fellow of the Royal Society of Arts, and a fellow at the Information Society Project at Yale University Law School. Picard's research focuses on economics of media and government media policies. Picard was a member of the Annenberg Commission on the Press and conducted research for the Carnegie-Knight Task Force on Journalism, funded by the Carnegie Corporation and the Knight Foundation.

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Amanda Reid is an Assistant Professor at the UNC Hussman School of Journalism and Media. She also holds a secondary appointment at the UNC School of Law. Her scholarly works focus on the intersection of First Amendment and intellectual property topics, including copyright and trademark law. Prior to entering academia, she served as a commercial litigation associate with Holland & Knight, LLP and clerked for two federal judges. Before joining the UNC faculty, Reid was a professor of law and taught intellectual property, real property, trusts and estates, civil procedure, and legal research and writing courses. Reid's interest in intellectual property began with branding and trademark law, and she remains fascinated with symbols and semiotics.

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Laura Ruel is an associate professor of design, user experience and interactive media at the UNC Hussman School of Journalism and Media. Her research interests include examining user behavior and cognitive processes in the age of interactive media. Ruel uses eye tracking technologies to explore these issues, and is part of the FDA's Tobacco Centers of Regulatory Science research at UNC. In addition, she conducts practical usability and eye tracking research studies for the news media. She also was a project leader for the Poynter Institute's Eyetrack III research, a study that examined online news consumer behavior in the digital age. Before joining the academic world in fall of 2000, she worked for more than 15 years in the journalism industry as a reporter, editor, designer and manager at a number of newspapers and magazines including the South Florida Sun-Sentinel, the Omaha World-Herald and the Denver Rocky Mountain News.

Jared Schroeder***Assistant Professor of Journalism******Southern Methodist University Meadows School of the Arts***

Jared Schroeder is the teaching chair for the Law & Policy Division of the Association for Education in Journalism and Mass Communication at SMU Meadows School of the Arts. Schroeder's research is particularly concerned with First Amendment theory, free-expression rationales, and technological influences on individuals and community. Schroeder is the author of *The Press Clause and Digital Technology's Fourth Wave* and co-author of *Emma Goldman's No-Conscription League and the First Amendment*. He has published his research in the *First Amendment Law Review*, *Communication Law & Policy*, *The Review of Higher Education*, and *First Amendment Studies* and is a frequent contributor to popular and trade publications, such as *Columbia Journalism Review*.

Wendy Scott***Associate Dean for Academic Success and Professor of Law******Elon University School of Law***

Wendy Scott is the Associate Dean for Academic Success and Professor of Law at Elon. Scott is a nationally recognized scholar of constitutional theory and school desegregation. Scott graduated from Harvard University and New York University School

of Law. Her professional work included positions as a staff attorney at the Legal Action Center of the City of New York, as an associate at Vladeck, Waldman, Elias & Engelhard in New York City, and associate counsel for the Center for Law and Social Justice. Prior to joining the Elon Law faculty, Scott led Mississippi College School of Law, serving from 2014-2016 as the first African-American to guide the school as dean.

Melanie Sill

News Executive and former Editor at the News & Observer of Raleigh

Melanie Sill is an experienced news executive and change-maker who's led innovation aimed at strengthening journalism's public service and connection. Sills currently works as a news consultant with a focus on local news sustainability and audience connection. In prior roles she was the top editor and senior vice resident for news at the Sacramento Bee, News & Observer of Raleigh and KPCC – Southern California Public Radio in Los Angeles. She has worked actively in public interest journalism, content and staff diversity, open government and First Amendment issues.

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Senior Policy Counsel

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Charlotte Slaiman is Senior Policy Counsel for competition policy at Public Knowledge. Prior to joining Public Knowledge, Charlotte worked in the Anticompetitive Practices Division of the Federal Trade Commission, investigating and litigating antitrust conduct violations, including the 2017 case against 1-800 Contacts for manipulating Google search ad auctions. She previously worked as a Legislative Aide to Senator Al Franken, focusing on Judiciary Committee issues including competition, media, and consumer privacy.

Brian Southwell

Program Director of Science in the Public Sphere

Research Triangle Institute

Brian Southwell, PhD, is an expert in communication and human behavior and a senior research scientist in the Center for Communication Science at the Research Triangle Institute (also known as RTI International). His large-scale evaluation work has spanned behaviors and audiences, including cancer prevention and screening promotion efforts, national campaigns to discourage drug and tobacco use, efforts to bolster television

news coverage of science, and various state-level campaigns. He also has studied public understanding of energy and related topics, as well as social networks and popular understandings of health. In addition, he has served the University of North Carolina at Chapel Hill since 2011 as a research professor and lecturer at the University of North Carolina at Chapel Hill's Hussman School of Journalism and Media and as an adjunct associate professor with UNC's Gillings School of Global Public Health.

Maurice Stucke

Professor of Law

University of Tennessee College of Law

Maurice Stucke is a Professor of Law at the University of Tennessee. With twenty-five years of experience handling a range of policy issues in both private practice and as a prosecutor at the U.S. Department of Justice, he advises governments, law firms, consumer groups, and multinational firms on competition and privacy issues. Stucke serves as one of the United States' non-governmental advisors to the International Competition Network, and on the boards of the Institute for Consumer Antitrust Studies, the American Antitrust Institute, and the Academic Society for Competition Law.

Appendix B: Research and Resources

The Decline of Local News

Many local news organizations have vanished and those that remain face plummeting advertising revenues and changes in ownership. Regulatory changes also have exacerbated the trend toward national ownership and a move away from local news reporting. The following resources discuss the decline of local news and various policy proposals to address this decline.

Aaron, C., & Turner, S. D. (2020, May). [*What a Journalism-Recovery Package Should Look Like During the COVID-19 Crisis*](#). Free Press Action. Retrieved October 07, 2020.

Abernathy, P. M. (2014). *Saving community journalism: The path to profitability*. Chapel Hill, NC: The University of North Carolina Press.

Abernathy, P. M. (2016). [*The rise of a new media baron and the emerging threat of news deserts*](#). UNC Hussman School of Journalism and Media.

Abernathy, P. M. (2017). [*Thwarting the Emergence of News Deserts*](#). UNC Hussman School of Journalism and Media.

Abernathy, P. M. (2018). [*The Expanding News Desert*](#). UNC Hussman School of Journalism and Media.

Abernathy, P. M. (2020). [*News deserts and ghost newspapers: Will local news survive?*](#) UNC Hussman School of Journalism and Media.

Brietzke, P.H. (1997). [*How and Why the Marketplace of Ideas Fails*](#). *Valparaiso University Law Review*, 31(3), 951–969.

Darr, J. P., Hitt, M. P., & Dunaway, J. L. (2018). [*Newspaper closures polarize voting behavior*](#). *Journal of Communication*, 68(6), 1007–1028.

Downie, L., Jr., & Schudson, M. (2009, November/December). [*The Reconstruction of American Journalism*](#). *Columbia Journalism Review*. Retrieved October 07, 2020.

Filla, J., and Johnson, M. (2010). [*Local news outlets and political participation*](#). *Urban Affairs Review* 45, 679–92.

- Gavil, A.I. (2020), [Can Antitrust Protect the Fourth Estate from the Fourth Industrial Revolution?](#) *First Amendment Law Review*, 18(2), 25-59.
- Grieco, E. (2020, May 31). [U.S. newspapers have shed half of their newsroom employees since 2008](#). Pew Research Center. Retrieved October 07, 2020.
- Hendrickson, C. (2020). [Critical in a public health crisis, COVID-19 has hit local newsrooms hard](#). Brookings Institute.
- Jennings, J., and Rubado, M. (2019). [Newspaper decline and the effect on local government coverage](#). Annette Strauss Institute for Civic Life.
- Mahone, J., and Napoli, P.M. (July 13, 2020). [Hundreds of hyperpartisan sites are masquerading as local news. This map shows if there's one near you](#). Neiman Lab.
- Martin, G. J., and McCrain, J. (2019). [Local news and national politics](#). *American Political Science Review*, 113(2), 372–384.
- Murschetz, P.C. (2020). [State Aid for Independent News Journalism in the Public Interest? A Critical Debate of Government Funding Models and Principles, the Market Failure Paradigm, and Policy Efficacy](#). *Digital Journalism*, 8(6), 720–739.
- Napoli, P. M. (2018). [Assessing local journalism: News deserts, journalism divides, and the determinants of the robustness of local news](#). Dewitt Wallace Center for Media and Democracy.
- Pickard, V. (2020). [Journalism's Market Failure is a Crisis for Democracy](#). Harvard Business Review.
- Waldman, S. (2020, March). [Curing local news for good](#). Columbia Journalism Review. Retrieved October 07, 2020.
- Wenger, D. and Papper, B. (2018) [Local TV news and the new media landscape: The future of local TV news](#). Knight Foundation.

Platform Economics

Knowledge of the economics of platforms is critical to understanding how they operate. Facebook, Google, and other online platforms operate what economists call a “multi-sided platform” by providing services to users (generally without charge) and advertisers (for a fee). While platforms can provide benefits to both ends of this two-sided market,

they also use their structure to create asymmetries that can be difficult for regulators to identify and control. Today's dominant platforms are also characterized by strong network effects, which increase as their number of users increases. The following resources discuss the business model and economics of platforms.

Carriere-Swallow, Y., & Haksar, V. (2019). [The Economics and Implications of Data](#). *International Monetary Fund Departmental Paper No. 19/16*, 18(12). doi:10.5089/9781513511436.087

Committee for the Study of Digital Platforms. (2019). [Market structure and antitrust subcommittee](#). George J. Stigler Center for the Study of the Economy and the State.

Enberg, J. (2019). [Global Digital Ad Spending 2019](#). eMarketer. Retrieved October 07, 2020.

Evans, D. S. (2016). [Multisided Platforms, Dynamic Competition, and the Assessment of Market Power for Internet-Based Firms](#). *University of Chicago Coase-Sandor Institute for Law & Economics Research Paper No. 753*. doi:10.2139/ssrn.2746095

Furman, J. et al. (2019, March). [Unlocking digital competition: Report of the Digital Competition Expert Panel](#). Open Government License. Retrieved October 07, 2020.

Graef, I. (2015). [Market Definition and Market Power in Data: The Case of Online Platforms](#). *Law and Economics Review*, 38(4), 473–506.

Katz, M. L. (2019). [Platform economics and antitrust enforcement: A little knowledge is a dangerous thing](#). *Journal of Economics & Management Strategy*, 28(1), 138–152. doi:10.1111/jems.12304

Kenney, M., & Zysman, J. (2016). [The Rise of the Platform Economy](#). *Issues in Science & Technology*, 32(3), 61–69.

Picard, R.G. (2020). [Limits of the First Amendment and Antitrust Law in Platform Governance and Media Reform](#), *First Amendment Law Review*, 18(2), 94-122.

Pickard, V. (2014). [The Great Evasion: Confronting Market Failure in American Media Policy](#). *Critical Studies in Media Communication*, 31(2), 153–159.

PricewaterhouseCoopers. (2020). [Global Top 100 companies - June 2020 update](#). PricewaterhouseCoopers. Retrieved October 07, 2020.

Shy, O. (2011). [A Short Survey of Network Economics](#). *Review of Industrial Organization*, 38, 119-149. doi:10.2139/ssrn.1600783

Platforms and the Moderated Public Sphere

Platforms play an increasingly important role in providing a space for public discourse and democratic participation. Due in part to Section 230 of the Communications Decency Act, 47 USC § 230 (2018), online platforms have wide latitude to decide what content to allow on their services. The following resources examine the role that platforms play in moderating the public sphere.

Ardia, D. S. (2010). Free Speech Savior or Shield for Scoundrels: An Empirical Study of Intermediary Immunity Under Section 230 of the Communications Decency Act. *Loyola of Los Angeles Law Review*, 43(2), 373–506.

Australian Competition and Consumer Commission. (2019, June). [Digital platforms inquiry](#).

Auxier, B., Rainie, L., Anderson, M., Perrin, A., Kumar, M., & Turner, E. (2020, August 17). [Americans and Privacy: Concerned, Confused and Feeling Lack of Control Over Their Personal Information](#). Pew Research Center. Retrieved October 07, 2020.

Barrett, B., & Kreiss, D. (2019). [Platform transience: Changes in Facebook's policies, procedures, and affordances in global electoral politics](#). *Internet Policy Review*, 8(4). doi:10.14763/2019.4.1446

Denardis, L. (2020). *The Internet in Everything: Freedom and Security in a World with No Off Switch*. New Haven, CT: Yale University Press.

Gallup (2020, October 02). [Media Use and Evaluation](#). Retrieved October 07, 2020.

Gillespie, T. (2018). *Custodians of the internet: Platforms, content moderation, and the hidden decisions that shape social media*. New Haven, CT: Yale University Press.

Klonick, K. (2017). [The New Governors: The People, Rules and Processes Governing Online Speech](#). *Harvard Law Review* 131, 1598–1670.

Mullin, J., Harmon, E., & Mackey, A. [Section 230 of the Communications Decency Act](#). Electronic Frontier Foundation. Retrieved October 07, 2020.

Pasquale, F. A. (2017). [The Automated Public Sphere](#). *University of Maryland Legal Studies Research Paper No. 2017-31*.

Powers, E. (2017). [My News Feed is Filtered?](#) *Digital Journalism*, 5(10), 1315–1335. doi:10.1080/21670811.2017.1286943.

Roberts, S. T. (2019). *Behind the screen: Content moderation in the shadows of social media*. New Haven, CT: Yale University Press.

Taylor, E. & Hoffmann, S. (2019). [Industry responses to computational propaganda and social media manipulation](#). Computational Propaganda Research Project.

Tufekci, Z. (2014). [Engineering the Public: Big Data, Surveillance and Computational Politics](#). *First Monday* 19(7).

Weber, M., Andringa, P., & Napoli, P. M. (2019, September). [Local News on Facebook](#). Hubbard School of Journalism and Mass Communication. Retrieved October 07, 2020.

Misinformation and Disinformation

One of the core challenges that platforms are dealing with is the presence of misinformation and disinformation on their sites. Misinformation (false or misleading information spread unknowingly or without regard to its veracity) and disinformation (false information spread intentionally to damage other people or organizations) have spread with assistance from foreign actors, platform users, and even the platforms themselves. The following resources examine the problems associated with the spread of misinformation and disinformation, what contributes to the spread, and how platforms can respond to this growing issue.

Bradshaw, S., Howard, P. N., Kollanyi, B. & Lisa-Maria Neudert, L. (Oct. 26, 2019). [Sourcing and Automation of Political News and Information over Social Media in the United States](#), *Political Communication* 37(2), 173–193.

Del Vicario, M., Bessi, A., Zollo, F., Petroni, F., Scala, A., Caldarelli, G., Stanley, H. E., & Quattrociocchi, W. (2016). [The spreading of misinformation online](#). *PNAS Proceedings of the National Academy of Sciences of the United States of America*, 113(3), 554–559.

DiResta, R. et al. (2017). [The Tactics and Tropes of the Internet Research Agency](#), New Knowledge.

- Garrett, R. K., Weeks, B. E., & Neo, R. L. (2016). [Driving a Wedge Between Evidence and Beliefs: How Online Ideological News Exposure Promotes Political Misperceptions](#). *Journal of Computer-Mediated Communication* 21(5), 331–348.
- Howard, P.N., Ganesh, B., Liotsiou, D., Kelly, J., & François, C. (2018). [The IRA, social media and political polarization in the United States, 2012-2018](#). Computational Propaganda Research Project.
- Karpf, D. (2020). [On Digital Disinformation and Democratic Myths](#). Social Science Research Council Media Well.
- Marwick, Alice E. (2018). [Why Do People Share Fake News? A Sociotechnical Model of Media Effects](#). *Georgetown Law Technology Review* 2(2) 474–512.
- Marwick, A. & Lewis, B. (2017) [Media Manipulation and Disinformation Online](#), Data & Society Research Institute.
- Napoli, P. M. (2018). [What if more speech is no longer the solution? First amendment theory meets fake news and the filter bubble](#). *Federal Communications Law Journal*, 70(1), 55–104
- Schmidt, A. L., Zollo, F., Del Vicario, M., Bessi, A., Scala, A., Caldarelli, G., Stanley, H. E., & Quattrociocchi, W. (2017). [Anatomy of news consumption on Facebook](#). *PNAS Proceedings of the National Academy of Sciences of the United States of America*, 114(12), 3035–3039.
- Shin, J., Jian, L., Driscoll, K., & Bar, F. (2018). [The diffusion of misinformation on social media: Temporal pattern, message, and source](#). *Computers in Human Behavior*, 83, 278–287.
- Silverman, C. (2019, May 14). [An Iranian Disinformation Operation Impersonated Dozens Of Media Outlets To Spread Fake Articles](#). BuzzFeed. Retrieved October 07, 2020.
- Southwell, B. G., Niederdeppe, J., Cappella, J. N., Gaysynsky, A., Kelley, D. E., Oh, A., Peterson, E. B., & Chou, W.-Y. S. (2019). [Misinformation as a misunderstood challenge to public health](#). *American Journal of Preventive Medicine*, 57(2), 282–285.
- Southwell, B. G., Thorson, E. A., & Sheble, L. (2017). [The persistence and peril of misinformation](#). *American Scientist*, 105(6), 372-375.
- Taylor, E. & Hoffman, S. (2019). [Industry Responses To Computational Propaganda and Social Media Manipulation](#). Computational Propaganda Research Project.

Vosoughi, S., Roy, D., & Aral, S. (2018). [The spread of true and false news online](#). *Science*, 359(6380), 1146–1151.

Platform Policies

The following resources provide links to various online platforms' policies and content moderation practices.

- Facebook's [Community Standards](#) and [Oversight Board Charter](#).
- Google's [Community Guideline's Enforcement Report](#)
- YouTube's [Community Guidelines](#)
- Twitter's [Rules and Policies](#)
- Instagram's [Platform Policy](#)