

Converging Mass Media and Public Records Media

The Case of Government Access TV via the Internet

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Since the early 1970s, government-subsidized and -controlled public meeting television (TV) has been expanding gradually across the United States. This type of TV, which I refer to as "government access TV," usually features coverage of legislative bodies such as the U.S. Congress, state legislatures, school boards, and city councils. It often is described by drawing an analogy to C-SPAN (e.g., the programming is "C-SPAN-like").¹ By the end of 1997, 19 out of 50 states and approximately 2,800 out of more than 20,000 communities offered government access TV. C-SPAN, 12 of the 19 states, and a handful of local communities also provided at least some government access TV (or radio) via the Internet.

The public policy implications of this convergence of government access TV and the Internet have yet to be appreciated. The Internet enhances access to traditional types of government information. But it also changes the types of information that are desirable to create and transmit.

CONVERGING MEDIA

Of great importance for the future design of government information systems, the production of mass media and media archives tends to be developing economies of scope. In other words, the technologies and institutions of record keeping and mass media tend to be converging (Figure 1). Until now, there has been a natural separation of the two spheres. For example, video was primarily used for mass distribution and not thought to be practical for convenient and affordable records access. The advent of the Internet and "video-on-demand" changes the economics of video and makes the creation of easily accessible records integral to the production of TV broadcast media. Similarly, newspaper companies primarily provided newspapers for mass distribution and let libraries serve as newspaper archives. With the development of electronic newsrooms, the Internet, and online news services such as Nexis and Dow Jones Interactive, newspapers have become full-service providers of both mass and archival media.

Corresponding with the convergence in technologies is the need for convergence in institutional structures. Government access TV, which cannot readily separate its mass media functions from its record-keeping functions, is an example of this convergence. But compared to commercial media, government access TV might be slow to exploit this convergence for two reasons.

First, government media tend to have more institutional inertia than do commercial media. For-profit newspapers and broadcast media have strong commercial incentives to exploit economies of scope and set up web sites that integrate with their traditional mass

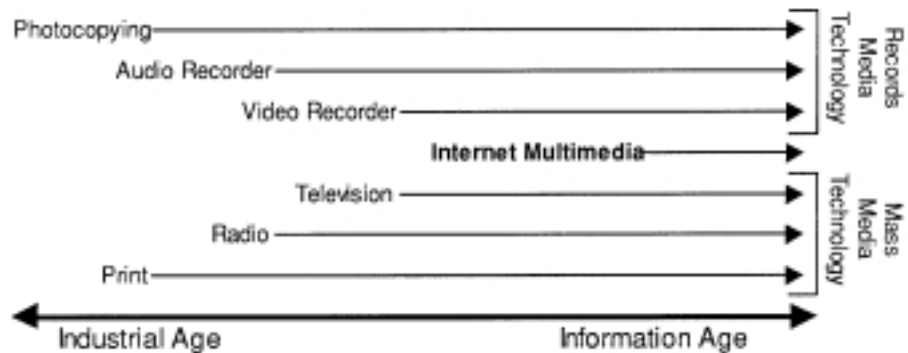


Figure 1: The Evolution and Convergence of Records Media and Mass Media Technologies

media the interactive and archival potentialities of the new media. These incentives are lacking for government media.

Second, and most important, is the strong political opposition to this convergence. Politicians like visibility, but they do not like giving opponents a record they can easily comb through and attack (Arnold, 1990). Accordingly, members of legislatures tend to strongly oppose efforts to make video records readily accessible.

For example, getting a videotape of the proceedings of the U.S. House of Representatives involves signing a contract that includes the following language: "The use of tape duplication of broadcast coverage of House proceedings for political or commercial purposes is expressly prohibited by the rules of the House of Representatives." The contract adds that any violation of these terms is a criminal offense and that violators must indemnify the Library of Congress for all attorney fees necessary for enforcement.

What about circumventing the contract by taping directly off C-SPAN? Congress solves this problem by granting C-SPAN a copyright to its coverage. C-SPAN, eager to avoid the wrath of Congress, obliges by copying congressional contract language prohibiting its broadcasts from being used for political purposes. State legislatures have largely mimicked Congress. City councils and school boards often solve the problem by simply not recording tapes in the first place or by destroying them soon afterward.

PUBLIC POLICY RECOMMENDATIONS

The format of the public meeting was developed during a different era, when much of the populace could not read or write, telecommunications consisted of the human voice, the computer had not been invented, and anonymous speech was a technological impossibility. Perhaps the most common meeting format, the public hearing, developed because much of the public was illiterate and relied on voice communication (hence the term *hearing*). For the most part, government access has been superimposed over this ancient form of democratic deliberation. Some public bodies have allowed new forms of speech to be included as part of their public meetings, but this has happened mostly in small towns.

To date, public meeting TV, including Internet distribution, has had little impact on the design of the public meeting. One reason for this is that the philosophy of public meeting TV

coverage propagated by C-SPAN's president, Brian Lamb, and widely adopted by other public meeting TV managers is that public meeting TV coverage should be a "mirror" of a public body. The mirror theory, often stated with a sanctimonious concern for truth (C-SPAN often is described as video vérité), is in practice used as a code for assuring to public officials that "we won't assuring disturb present power relations that favor you, the incumbent; we'll show you in all your glory." The mirror theory, by implying that technology should not reshape the public meeting, has stymied creative thought about meeting design. The possibility of creating a new type of public meeting to enhance diversity of opinion and democratic accountability has barely been considered. What follows are some ideas for a well-designed public meeting for the information age.

Meeting location. Not all parts of the public meeting should have to take place in a single location. The current transportation-based attendance requirement disenfranchises the poor, elderly, disabled, and parents with young children, among others. For example, public meetings should supplement communication via the spoken word delivered in person with other forms of widely available telecommunications including the telephone call, e-mail, and the videoconference. Complete access to public meetings for both viewing and comments should be available from the convenience of the home. In general, public meetings should offer forums in both physical and virtual space.

Meeting duration. Not all parts of public meetings should have to take place at a single time. The current time-bound system disenfranchises those who work or otherwise have hectic schedules. For example, the public comments section could take place anytime between the time an agenda is posted and the time the legislators actually vote on the agenda. This period of time could span several weeks.

Meeting coverage. All public meetings should be covered from beginning to end. The lesser standard of gavel-to-gavel coverage, which simply means unedited coverage, is inadequate because it allows public officials to choose which meetings or segments of meetings they do not want the public to see. With the gavel-to-gavel standard, votes and debates on controversial issues can easily be avoided, thus turning public meeting coverage into yet another public relations device.

Anonymous viewing. The public meeting should preserve anonymous viewing. One of the greatest benefits of television is the opportunity for anonymous viewing. Many people like to keep their political beliefs private and do not want to be associated with controversial views. Just the act of attending a meeting often will reveal information that people would prefer to keep private. The interactivity of digital TV and the Internet threatens to destroy this anonymity. Already, Internet sites routinely use "cookies" that allow them to keep track of who is visiting them. Many sites will not allow access if the automated cookies are not enabled. Other sites, even if they are free, require users to log on and identify themselves. In the future, public officials can be expected to want to use the new technology to identify their audience. This should not be allowed. Moreover, the new technology should be used to eliminate the current restrictions on anonymous viewing. Currently, public officials usually require disclosure for access to public meeting records. In the future, people should have the option to access public records without having to sign a form identifying themselves.

Anonymous speech. The public meeting should create an opportunity for anonymous speech, something not possible during an era of face-to-face public meetings. Informal forums for

public deliberation such as newspapers (anonymous sources and editorials), talk shows (anonymous call-in viewers), and Internet chat rooms (where assumed names often prevail) already are full of anonymous speech. The U.S. Supreme Court has stated that the existence of anonymous speech has been crucial to the progress of humankind (*McIntyre v. Ohio Election Commission*, 1995, 514 U.S. 334). Anonymous speech can greatly increase the quality of democratic deliberation, providing much useful information that otherwise would not be made public. Anonymous speech can achieve these wonders by encouraging citizens to contribute useful information that they otherwise would keep private. Anonymity does not mean unaccountability; it simply means that the organization that vets the anonymous speech provides a buffer between the speaker and the public.

Quantity of speech. The number of voices able to participate in formal public deliberation should not be limited. Time and space on the floor of a legislature are inherently limited and must be apportioned. But time and space for supplementary written comments in an Internet database/forum are substantially less costly and should be available to all citizens affected by the decisions of a public body. This new lack of scarcity means that the government no longer has a compelling interest in granting legislators a blanket veto of public free speech. In such a circumstance, First Amendment considerations should dominate. Government should be prevented from limiting which citizens can (a) submit information for the public record and (b) participate in a public body's formal public debate so long as legislators and other citizens can easily bypass those comments.

Information agents. Information agents such as political parties, "think tanks," journalists, interest groups, and Internet portals (e.g., Yahoo!, Excite) need to be able to create an efficient gateway for citizens to access and make sense of the public record. For this purpose, they need to be able to (a) download the complete public record at no cost, (b) be given the right to reformat the public record into a form easily accessible for the average citizen, and (c) create links to and from the public record.

Audience submeetings. Every public meeting, from the meetings of the village aldermen to those of the U.S. Congress, should create a mechanism for audience members to get together in informal submeetings to discuss what they are watching. Many online services, such as America Online, already provide such a service. But it also should be incorporated into the structure of the formal public meeting.

Right of reply. All individuals and organizations mentioned in a public meeting should be given a direct and automated right of reply via a web link.

Public versus collegial deliberation. It should be recognized that publicity fosters public deliberation but is incompatible with collegial deliberation. Because both forms of democratic deliberation are important to the well-being of democracy, public officials should be given expanded opportunities to engage in collegial deliberation outside the glare of publicity. All legislative votes and notices of such votes need to be made public. Beyond that, the critical feature of a well-designed meeting is not openness per se but rather the *opportunity* for the opposition and opposing views to gain expression. Given that a clear agenda is made public well before a vote is taken, this requires the opportunity for convenient and ample public comment on that agenda. This includes the opportunity for legislators in the minority to express their positions and, by the force of their arguments, to force those in the majority to justify their votes and agendas.

Search costs. Public meeting records delivered via the Internet have the characteristics of what economists call *public goods*. Accordingly, they should be available either for free or at marginal cost. Libraries, schools, and other public buildings should provide free use of terminals with access to such public records.

Duration of archives. All the information that is part of a public meeting should be preserved for at least 10 years. If a form of speech cannot be preserved, for whatever reason, then it should not be allowed as part of a public meeting.

Seamless multimedia records. Today, public meeting records generally come in two separate forms: print and audio/video. Print records usually consist only of basic information such as agendas, names of those present, and descriptions of motions passed. With the advent of the Internet and digital TV, the two types of information should be tightly integrated together, making possible convenient searches on audio/video records.

Administration. The central dilemma in the administration of government access is the conflict between political information as a public good and elected officials' conflict of interest in providing political information. A classic approach to solving this dilemma is to create a separate entity with interests representative of the public. One novel variation on this idea, following the works of Dahl (1989) and Fishkin (1991), is to randomly choose several hundred members of the public. Random selection provides democratic legitimacy. This public body, which could be called, say, the "Committee of Public Information," would be brought together in a trial-like setting to propose policies to improve our system of formal democratic deliberation. It would have the power to bypass the legislature's agenda-setting system by submitting its proposals directly to the floors of the House and Senate for votes. Alternatively, this public body could have the power to put a referendum on the ballot, a method of passing legislation currently available only at the state and local levels of government.

Accountability standard. Government access TV should be evaluated primarily for its ability to convey potential rather than actual information. Just as a public opinion poll given to 1 million people might be inferior to a public opinion poll given to 1,000 randomly selected individuals, a government access program should not be evaluated by its actual audience size. A program watched by a large audience might make less of a contribution to democracy than can a program watched by a handful of key intermediaries including journalists, opposition candidates, and activists. Easy access to meetings and records should be justified not because large numbers of people use such services but rather because such access (often described as "the public's right to know") creates a socially beneficial deterrence effect.

Just because today's public meeting is an anachronism does not mean that tomorrow's public meeting might not be even worse. Legislators have an inherent conflict of interest in using new technologies to redesign the public meeting. The attempt to improve government access could well backfire and lead legislators to find excuses to curtail the gains that already have been made. As the saying goes, "The best is often the enemy of the good." Without fear of public retribution, legislators undoubtedly will misuse the new technologies. The public probably will have to decide that well-designed meetings are important before legislators will be willing to make significant improvements in meeting design. The alternative solution

of abolishing the public meeting and completely replacing it with private mechanisms of deliberation is neither practical nor desirable.

CONCLUSION

The economies of scope of government access technology are changing to include both mass media and records media. This media convergence necessitates a fundamental rethinking of government information systems.

In light of the new information technologies, the public meeting needs to be fundamentally redesigned to serve as a better forum for democratic deliberation. A well-designed public meeting system must be centered around creating a forum for opposing views to those of the majority. It also must facilitate low-cost viewing and participation by the public.

NOTE

1. C-SPAN differs from most other government access TV in its low level of government subsidy and control.

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