

# Local TV News Archives as a Public Good

*James H. Snider*

It is well established that political information shares the characteristics of a public good (Downs 1957; Popkin 1991). People won't acquire the socially optimal amount of political information because they can't reap the full benefit of their investment. Recognizing that a well-informed populace is essential to a healthy democracy, the government grants major media substantial public subsidies and special legal protections (Cook 1998). In return, the media take on the costs of monitoring the government that individual members of the public are unwilling and unable to bear.

Analogously, a role of the political communication scholar is to keep the media accountable to the public. But just as the media have great difficulty keeping the government accountable without accessible and affordable government records, political communication scholars have the same difficulty in regard to the media without accessible and affordable media records.

Both government archives (e.g., the National Archives) and news archives are forms of political information vital to keeping democratic intermediaries—whether public officials or the press—accountable to the public. As such, they are both public goods: The marketplace, left purely to its own devices, will not supply the public with optimal access to these types of archives.

Although other mass media news archives, such as daily newspaper archives, have serious flaws (Snider and Janda 1998), local TV news archives remain the most serious problem. Local TV news has become a vital democratic intermediary—and, for many Americans, a primary source of political information—but its archives are, for practical purposes, inaccessible to scholars. By far the least expensive record of local news to archive is the closed-captioned feed that accompanies TV programs. Closed captioning is a synchronized transcript of news, usually appearing on the bottom of the screen. The failure to archive closed captions of local news, despite the trivial cost of doing so and the great value of an easily searchable news database, vividly illustrates the need to update public policy toward news archives.

Thanks to the lobbying of the hearing-impaired community, the Telecommunications Act of 1996 mandated closed captioning on most programming in the United States. As implemented by the Federal Communications Commission on August 7, 1997, with major revisions on September 17, 1998, all TV stations must have 100 percent of their new, nonexempt programming, including news programs, closed-captioned by January 1, 2006. This requirement is to be phased in, with key intermediary benchmarks on January 1 of the years 2000, 2002, and 2004.

Even before the Telecommunications Act was implemented, closed captioning was widespread. According to a 1996 National Association of Broadcasters study (Fratrirk 1996), 57.1 percent of local TV stations regularly provided closed-captioned local news programming. These stations provided 22.3 hours of local news per week, of which 19.5 hours (87.4 percent of the total news hours) were closed-captioned. Over two-thirds (67.1 percent) of the stations providing closed captions in their local news had a sponsor for this service.

The closed-captioning provisions of the Telecommunications Act suggest that an economic feasibility analysis of local TV news archives can ignore the costs of transcription, digitalization, and synchronization. These are sunk costs that local TV stations must pay whether or not they provide archives.

Nor are there any marginal costs that should inhibit the production of local TV news archives. The most frequently mentioned contender is storage cost, but contemporary computing power trivializes these costs. A typical commercial TV station generates approximately four hours of local news daily. Even at several hundred words per minute, this requires less than 200 megabytes of storage capacity per year. Removable storage media now sell for well under 1 cent per megabyte. Thus, the storage cost to record local TV transcripts digitally is under \$1 a year per station. Multiplying that number by the roughly 1,000 commercial TV stations in the United States gives \$1,000 a year. Of course, this calculation ignores many potential archival costs. For example, every archive needs a backup and a backup of a backup. But even if these calculations are off by several orders of magnitude, clearly cost per se is not a major obstacle to the creation of transcript archives.

Even if TV stations refused for reasons of cost to serve as repositories for archiving and accessing news transcripts, many major libraries would almost certainly be more than happy to take on this role if policies encouraging them to do so were in place. After all, for decades, libraries—at much greater expense—have done this for daily newspapers. Indeed, since libraries can pick up closed-captioned text in real-time via either conventional TV or an Internet closed-captioned simulcast, it's possible to imagine library archives created at zero additional storage and distribution cost to TV stations.

Admittedly, this analysis has overlooked two important costs that drive up the total potential cost of archiving. The first of these is the cost of intellectual property. TV stations do not own the copyright to much of the material they broadcast but purchase rights to air news and other programming from copyright holders, such as the Associated Press, Reuters, and Metro Networks. These rights allow broadcasters to air programs for only a limited number of times over a limited geographic area. If they archived and widely sold the content of their news programs, broadcasters would have to either pay more or violate others' intellectual property rights.

The second genuine cost of archiving comes from increased libel costs. There is a difference between an error aired once in a local market and the same error widely and permanently available over the Internet. The more widely distributed an error, the greater the liability. A major problem with closed captions of news and public-affairs programs is that they are full of errors, a byproduct of being created in real time without opportunity for review. The current cost of correcting these mistakes is prohibitive.

Assuming that archives of local TV news are recognized as a public good, however, even these genuine cost problems could be overcome rather simply through restricted access, a guiding principle behind the fair-use exemption in copyright law. If access were restricted to libraries, for example, potential damage to intellectual property and reputation would be relatively minor. As a precedent, consider newspaper archives. Most newspapers only own the copyright to a fraction of the news they print. Newswire material, syndicated columns, special inserts, and other non-staff-produced material are usually secured on a limited-use basis. Nevertheless, the Library of Congress and other libraries may save copies of newspapers, often on microfiche, and make them available to the public. Similarly, errors in closed-captioned material are already distributed to millions of people on a one-time basis. Adding a few more who will look at the material in a library seems like a reasonable extension of fair use.

U.S. copyright law stipulates that a quid pro quo for receiving a copyright is depositing a copy of the work in the Library of Congress for public use (U.S.C. Title 17, Section 407). But local TV broadcasts are partially exempt from this law; blanket demands for TV news records are illegal. If, as argued, news archives are a public good, Congress should eliminate this exemption and give the Librarian of Congress the right to request Internet deposit of news, including closed captions. Internet deposit would reduce postage, handling, and many other costs. Congress should also specify that other libraries can pick up and archive a closed-captioned feed.

The closed-captioning rules of the Federal Communications Commission (FCC) exclude an important category of information of interest to political communication scholars: political ads. At its next review of its closed-captioning rules, the FCC should make politicians and advocacy groups responsible for inserting closed captions into their ads. Since the ads are prepared ahead of time, the closed captions should bear the same burden of accuracy as the spoken text. Presidential candidates already cannot get federal campaign money unless they caption their commercials, but all other political ads are exempt (U.S.C. Title 26, Section 2006[e]).

The FCC should also clarify rules concerning video description contained within closed captions. For example, most closed-captioned text identifies a change of speaker but is not required to do so. This omission is less significant

when the speaker can be seen; it becomes of much greater concern when the only record is a text.

In the long term, of course, news archives would be most useful to scholars if they included both audio-video and synchronized transcripts. Already, tens of thousands of hours of news and public-affairs programming are available through streaming media on the Internet. Washington State, for example, has a public-affairs channel that has archived and made available on the Web either an audio or an audio-video record of every public meeting of its state legislature and supreme court going back to 1997.

The major barrier to audio-video archives may still be their relatively high storage and access cost. Audio-video archives are at least one thousand times as expensive as transcript archives. For just the videotape alone—excluding the costs of physical space and access—a complete VHS-quality audio-video archive of a local TV station's news programs costs about \$1,000 a year. About twice that amount is needed for a low-quality audio-video transcript archive stored digitally and available via the Internet. Audio-transcript news archives, which eliminate the video but can be used to ensure 100-percent accuracy of quoted transcripts, reduce storage costs to about \$600 a year with today's technology. This figure may drop to \$100 a year within the next few years due to rapid declines in the cost of storing audio. In other words, the cost to store a year of audio transcripts could soon be less than the revenue from one second of prime-time advertising in a major TV market. Once storage costs reach such low levels, public policy considerations inhibiting scholarly access to audio-video archives become as important as they are for closed-captioned archives.

In short, legally mandated news archives would not put an unreasonable burden on news providers. In addition to their special First Amendment privileges, most providers have received rights of way and other special privileges from the government. In particular, during the 1990s, local TV broadcasters received free spectrum, discounted land, exclusive zoning rights, tax exemptions, and numerous other governmental perks worth tens of billions of dollars. Most Americans do not want elected officials dictating content-based quid pro quos to news providers, but they do want the media to be accountable. A news archive is a way to empower the private sector to keep news providers accountable for their public largesse and their public trust.

Compared to current proposals to mandate free TV as the quid pro quo for the TV broadcasters' free spectrum, I believe the archival proposals above would do far more to enhance democratic accountability. Moreover, the free TV proposals would cost broadcasters on average more than \$250 million per year (the amount of money federal candidates spend on political ads). The archival proposals suggested here would cost them a small fraction of that.

Political communication scholars must be key players in setting these archival proposals into motion. The history of the Vanderbilt Television News Archive is a precedent for scholarly involvement in the public policy of news archives (Adams and Schreiber 1978; Rawley-Saldich 1976; Simpson 1995). The Copyright Act of 1976 legalized television news archives. The need for the law became apparent when CBS sued the Vanderbilt Archive for copyright infringement. The first television news archive in the United States, the Vanderbilt Archive, videotaped the evening news broadcasts of the three major national TV networks and made these videotapes available to scholars. If the copyright law had not been changed in 1976, a generation of scholars would probably not have been able to study network TV news.

Despite this public policy triumph, however, political communication scholars suffer from a collective action problem in the public policy arena. Scholars played a minor role in the creation of this precious resource, hardly surprising given the enormous effort required of any one individual to do so. The archive was the brainchild of Paul Simpson, an insurance executive nearing retirement—and scholars were the serendipitous beneficiaries.

Clearly, however, waiting for sporadic sugar daddies to appear is a risky strategy. If we are to preach democratic accountability for the media but are unwilling, collectively, to take even the most basic steps to pursue it, we do not deserve to be taken seriously. Good initial steps might involve the political communication section of the American Political Science Association in 1) formulating specific policy objectives, 2) enlisting the financial and organizational support of a major foundation such as Markle, Benton, Ford, or Pew, and 3) submitting comments to the Federal Communication Commission's rule-making activities concerning the public interest obligations of digital television broadcasters.

As a starting point, I recommend the following five policy objectives. Some clarify current ambiguities in the law; others are fundamentally new.

1. *Library of Congress News Collection.* Recipients of copyrights for electronic and print news should *both* be required to submit a copy to the Library of Congress, delivered via the Internet. TV news copies should include closed-captioned text, audio, and video. Newspaper copies should include a Web page replica of the printed page with the embedded text in a searchable form. Web-based news should include a periodic snapshot of the entire site. The Library of Congress should be given discretion to choose whether to store the copyrighted work, the type of information within the work to store, and the compression rate (resolution) at which to store the information. Such a recommendation is hardly unprecedented. The Library of Congress, at its own

discretion, stores only about three hundred of the country's more than one thousand daily newspapers and ignores many Sunday supplements. Similarly, under this proposal the Library of Congress might decide not to archive every TV broadcast for smaller markets or to archive these at relatively lower resolution.

2. *Other Libraries' News Collections.* The types of television news that libraries can legally archive should be extended, explicitly, from hard news (fact-based news) to soft news (opinion-based news). Currently, it is illegal for libraries to archive soft news, such as Sunday morning talk shows, or hard news shows that intermix opinion. The form of news record that libraries can preserve should be extended from analog to digital and from video to closed-captioned text. Interlibrary loan should be extended from physical to digital delivery of news records. New digital copyright technologies should be exploited so that restrictions on copying for physical and digital copyrighted works can be made comparable.
3. *Closed-Captioned Audio Description.* No political candidate for federal office who does not caption campaign ads should be eligible for the lowest discounted ad rate and other TV privileges, all of which the FCC mandates. Similarly, a nonprofit that engages in advocacy should lose its tax exemption unless it captions its commercials.
4. *Closed-Captioned Video Description.* Captions should include video description, notably the name of the person speaking. Any electronically coded information provided by a TV news program to help either (1) anchors and reporters know when to speak or (2) viewers identify who is speaking, by name and position, should be included in a separate video description field in the closed-captioned text.
5. *Closed-Captioned Source Description.* Captions should be integrated with source descriptions, commonly referred to as "digital watermarks." These watermarks, currently used to identify and protect owners of intellectual property, could also be used to assist scholarly research. Source description categories could include content distributor (e.g., name of TV station licensee or cable franchisee), content owner (e.g., name of newswire or political candidate), type of property (e.g., ad or news), and type of property owner (e.g., for-profit or nonprofit).

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### **Biographical Note**

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