

25th ISOJ Social media regulation, copyright changes, government subsidies

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Anya Schiffrin [00:00:05] Everyone's having so much fun talking, they're forgetting to come up on stage. This is such a hot subject. Excellent. Thanks, everybody, for coming. I know this is the last session before the drinks party, and that policy might seem like a really intense subject. Before I explain to why it's so important and how August the panel is. I first wanted to thank Rosental for 25 incredible years. We've been having so many conversations in the hallway about everything that you've done. And I really you know, I was saying to Janine Warner, like, I came for Rosental I and I stayed for the network and the conversations, and she was talking about how many ideas and projects were born at this conference. And so now, you know, Teresa and to have Summer back. So I think you've created something fantastic. And I'm glad that we're going to keep celebrating you. So that was the first thing. The second thing I wanted to say is I think that we're all on the same team, which is we're all really worried about how we're going to keep journalism going. We know we're preaching to the choir. We know how important it is for democracy, for accountability. The previous panel spoke about how high the stakes are and the dangers of polarization. And we're in an election year. So I think we're all thinking about all of that all the time. And I think that a key part I teach at a policy school. And so I know that policy is a key part of how we're going to keep journalism going. And, this is something that many parts of the world have been working on for decades. This morning, I put out a report I wrote with, colleague Bree Alfter about journalism funds and how to set them up. And, of course, you know, Tanzania, Sierra Leone. And there are many countries around the world that have been experimenting, doing things. It's not just the Scandinavians, it's not just the Canadians. So I think there's a lot we can learn in the US. And I think this is, an astonishing panel. I was adding it up, and I think we probably have maybe 150 years of combined expertise on this topic. So even though Amy Mitchell's organization is new, the Center for News Technology and Innovation, she's been, you know, working on this for decades. Victor Pickard is somebody who I've read over and over again, not just because of your deep understanding of many of the European policies, but but your historical knowledge of legislation in the US and your more recent work with Free Press as well. Steve Waldman, I think, has taken on the sort of thankless but saintly task of trying to get different people with different ideas together and brokering compromises all the time. You've been coming up. I mean, we're on the phone every week talking about Bill 86 in California, which Jeff absolutely hates. And Steve is trying to think, are there other ways that we can work around this? So we're going to have a really, exciting discussion. I, of course, have a million opinions, but I'm going to try to hold back as the moderator and, I think we're going to begin with Steve, who's going to give us an overview. Jeff, in his huge report just listed, you know, a whole bunch of the things that we've all been talking about all the time, you know, tax credits, vouchers, journalism funds. But I think Steve has been really looking at the ins and outs of many of these. So I think we're starting with Steve. Sorry don't look so surprised. You don't have slides and then and then Victor and then

Amy and then Jeff. That's the I can tell you all read the prep email. So your this none of this comes as a surprise to you. Thank you very much. We'll start with Steve.

Steve Waldman [00:04:04] Right. What's this panel about? So, public policy actually includes a lot of different things. We, you know, the I think what comes into our head is, you know, subsidies. And that is part of it. But it's a broader landscape. And our view at Rebuild Local News, which is an organization that advocates public policy to help save local news. And we run a coalition of about 35 different groups that represent about 3000 local newsrooms. Is that public policy is a piece of the puzzle? It's certainly not the only one or even necessarily the main one. But given the severity of the crisis, the speed with which it's accelerating and the the consequences for democracy and for communities, we can no longer, not look at public policy as one of the solutions. You all know the scale, but just one way of looking at it is, you know, \$40 billion newspaper ad revenue went down 82%, \$40 billion over the course of of 20 years. Press forward, which is an amazing step forward is added 100 million a year. Maybe that's up to 300 million in philanthropy. The gaps are getting bigger and bigger and bigger. And frankly, you know, if we are serious about the idea that local news is a civic good. This is the one of the consequences of thinking of it that way is public information of civic value in communities is something very important to communities. And historically, what that has meant is a combination of of earned revenue, philanthropy and government support. We think that, about \$1 billion a year ought to ultimately come from public support between federal, state and local governments. Ten years out. It will take a long time to get there, but that's our goal. And yet, we also start off with a great deal of humility about how hard this is and how you really do have to be careful. Like, there are more as many examples, if not more, of government policy in this area making things worse as there are of government policy making things better. Now, we don't respond to that by going into paralysis and saying, therefore we shouldn't do anything. We respond by saying we have to be really thoughtful and careful about how we're going to do this. Unfortunately, it's the debate about how should government be involved or not is a bit misplaced. Government has always been involved in in shaping the media landscape in the United States as well as in other countries. You know, from literally the first days of the of the country, the postal subsidy, which gave very cheap postage to newspapers, in modern dollars would be about \$40 billion a year, about the size of the NASA budget. It's a massive subsidy. And one interesting thing for those of us who are anxious about the First Amendment, challenge is this is that, you know, the guy who wrote the First Amendment, James Madison, then went went like practically the next week and advocated for a massive subsidy for newspapers. So obviously they felt like it was if you constructed it in the right way, you can have government support. And it would be not only compatible with the First Amendment, but actually breathe life into the First Amendment by having a healthy local media system. So and then there are things that are not subsidies that are important part of public policy. This is, you know, things like, you know, the government decision to set aside 25% of its broadcast spectrum for noncommercial use had huge consequences in the creation of a public broadcasting system. The decision to require that all cable TV companies must air must carry the local TV station. Huge consequence. So there's a lot of things like that that are not direct subsidies. That also should be part of the conversation. So we have had a real blossoming of discussion about about public policy and local news in the last two years. And it's happening at the federal level and at the state and local level. And I'm just going to break this into two groups, the sort of subsidy proposals and what I'll call kind of rules of the road proposals. Actually, there's a third group, which is technology. Actually, they get their own group. So subsidies are things like, probably my favorite of the ideas is an employment tax credit this past the US House of Representatives. It would have provided \$1.7 billion, in support over five years, and basically as a subsidy to news organizations that hire or retain

local reporters. Another version that has passed the House of Representatives. It is now being considered to some degree in the New York Legislature and the California Legislature. Then there's another idea that is tax credits for small businesses that advertise in local news. That's a very creative bank shot. And you can kind of imagine in thinking about that, how it deals with some of these First Amendment problems. It's not a panel of government experts deciding who gets a grant. It's a restaurant or a or a grocery store, deciding where they're advertising to, but getting their buying power amplified. There's an idea kicking around in DC and in Seattle that is basically a kind of voucher concept. Coupons and residents would get a coupon that they could then assign to local news organizations that they like, and then the government would pay for it. Again, government is not making choices. Individuals are making the choices, and their choices are amplified by a grant program. New Jersey Information Collective. Hayden set it up in a smart way where they set it up as an independent, nonprofit, 500 and C3 independent organization, not as a government department. And then they got money and distributed out, kind of like a foundation. And then the last category are fellowships, which are kind of like report for America style program, but funded by the government. This is now happened in California, New Mexico and Washington state. And they essentially put money in and then they fund, reporters to go out into local newsrooms. And it's really very direct and again, it sort of solves the First Amendment problems because the coverage decisions are not made by anyone in the government. In the case of California and Washington, it's administered by journalism schools. And so those are all ideas that are really live right now in states. And, you know, in, in the federal government and which I think, do clear the bar of being policies that would help but would not undermine editorial independence in the rules of the road category. We have things like government advertising set aside. So the government already spends a lot of money on advertising for public health and other public purposes. And so New York City started had the idea of like, well, if you're going to do that, you should make sure that some meaningful portion of that goes to community news organizations, not just The New York Times and the daily news and social media platforms. So they did that, and it led to a shift of more than \$10 million towards community, small community newspapers. And there's now a real movement around this one. Chicago's looking at it. Connecticut is looking at a bill passed the Connecticut Assembly to do, say, half of the Connecticut's governments spending should be along those lines. So that's an interesting one. Antitrust, you know, we have argued that, well, you know, one of the problems of why we're here right now is that half the newspapers, half the daily newspaper circulation in America right now is owned by a hedge fund. And, that happened because of lack of action on the part of antitrust regulators. Now, it's may be hard to undo that, but at a minimum, we can have antitrust policy that is considering the effect of mergers on the information health of communities. So that's a rules of the road kind of, banking. We have proposed that, when banking regulators are looking at things like the Community Reinvestment Act, that one of the criteria that they ought to give community banks is whether or not they're helping publications that are serving low income communities, news organizations that are serving low income communities that can be part of banking policy. And there are a number of other things like that. The final category and most controversial, which is why I've set it up so that I run out of time before I can talk about it is, regulation of technology. So the biggest, you know, version of this is the what are called the bargaining code bills, sometimes referred to as the Australia model. And these are essentially policies that compel, Google and Facebook to compensate news organizations. This versions of this have happened in California and Canada and have been, kicking around in Congress, and is now a very live issue in, in California. A cousin of that is that a number of countries and one state in the United States has said, no, let's not do that. Let's be more direct and have a tax on, digital advertising or some other way of taxing tech companies. And let's just use

the money for good things like the employment tax credit or fund or journalism fund. So, and then AI is looming. There will most certainly be all sorts of interesting policy decisions about AI and local news, but that's a little not right. Not quite right. That hasn't so the the general message is that this, is bubbling up all over the place. That's good that there are actually now quite a number of ideas out there that at least we believe, can be both really helpful to the sustainability of local news in a very significant way, but in a way that is, preserves editorial independence. And that this must be and should be part of the discussion and a piece of the puzzle for how we solve local news. It is really important that we do it right. There are all sorts of ways this could make things worse, not better. But we now have seen enough, both historically and in other countries, to believe that it can be done in a way that meets those goals. Thank you.

Anya Schiffrin [00:15:10] Can I ask one follow up question? The city hall, New York City. I would argue that is actually a subsidy, because money is being given to outlets that have low circulation in order to support them. Does that not feel like a subsidy to you?

Steve Waldman [00:15:29] Well, I kept actually moving it from one bucket to another, so I'm happy to move it back to the subsidy. One the only reason I didn't put it as a subsidy is that it's indirect in the sense that you're creating rules of general behavior. 50% should go to communities, and then they're making decisions on the basis of where they need to advertise as opposed to news organizations need a subsidy. It's still at the end of the day. They have to place the ads in, you know, in the publication that's going to reach the community that they're targeting.

Anya Schiffrin [00:16:08] Yeah. Thank you very much. I have more questions, especially about banking, but we can hold it. Victor, come on up, please, and introduce yourself if you'd like. Thank you.

Victor Pickard [00:16:20] All right. Good evening. It's such an honor to be here. This is my first ISOJ, and I'm thrilled to be in conversation with you all about these very important issues. Typically, when I am in these discussions, I have to wear two different hats. One hat when I'm talking about policy, the other hat when I'm talking about journalism. So I'm grateful that on this panel I get to talk about both. And I think it's fair to say that journalism's future depends on smart policy interventions. And this will be a growing concern in the years ahead. So in my limited time up here and with some very basic crude slides, I'm going to try to share a few, points and go over some recent research. I want to make sure this, thing is working here. Yes it is. Excellent. So I'm going to start with four assumptions that undergird my policy. Analyzes the first two. Journalism and policy are inextricably linked in. Public policy is necessary for confronting journalism's systemic market failure. When I first started writing about these issues, like 15, 20 years ago, I would always have to fight over these first two points. But I think increasingly they're no longer controversial. Although it's fair to say that there is still, in many cases, a lingering we might call it market libertarianism. That continues to impede some of these discussions. So it's always worth reminding ourselves, as Steve did earlier, that the government has always been involved in our news and information infrastructures. The question really needs to be how it should be involved. It's we should say media subsidies are as American as apple pie. They're going to be part of our future if we want to have local journalism. So this is something that we'll have to continue discussing. Number three here, historical and international models of journalism policy can expand our regulatory imagination for what's possible. So if we look backwards, if we look around the world, we can gather creative ideas and best practices, to decide, you know what, what sort of policies we can implement. This is what I try to do in my own research. And then finally,

given the structural crises facing journalism today, these policies should be evaluated as to whether they work towards transformation. So it's not just shoring up, propping up failing commercial models. Again, I think increasingly it's becoming a consensus point that the market will not support certain kinds of journalism. There's simply not a commercial future for certain kinds of journalism. I would return to this point in a moment. But next I want to just go over quickly some comparative research. Since my last book came out a few years ago, I've moved more towards looking at these international models. And in one study with my coauthor, Tim Neff, we surveyed global initiatives around the world and were somewhat surprised to find still at least implicit optimism, that there were market corrections that could be made, that policies could focus on stopgap measures, that gradually this this would buy time so that we could gradually ease in new business models for sustainable journalism. But we also found in our research a number of public funded media initiatives, that we're not as dependent on the market. These fall into three very basic categories direct and indirect newspaper subsidies. And here I'm thinking of the classic Nordic plans. For example, in Sweden decades ago, they began subsidizing their newspaper industry, to enhance media diversity. A second category, public interest journalism funds. And you mentioned earlier, they're being experimented with all over the world. A couple that we looked at, in our, in our research, the Netherlands has a very interesting, finds. So does New Zealand, so does Canada. And then finally, old fashioned public broadcasting, public media systems face many challenges, especially here in the U.S, where they are relatively underfunded. I'm sure you've seen some of these graphs before, where the U.S is almost literally off the chart for how little we allocate towards our public broadcasting, especially at the federal level. This year's budget comes out to about a buck 58. Compare that to the Brits, who spend about \$100 per person per year for the BBC. And another comparative study, we looked at 33 countries and, looked not only at their public broadcasting expenditures, but also how these map on to the health of their democracies. And we found correlation between the strongest democracies on the planet and the most robust public broadcasting system. So they clearly were not sliding into totalitarianism, as is often, concern about public media subsidies, but a challenge facing many of these countries, even those with strong systems, is that in many cases, public broadcasting is discouraged or even prevented by law for allocating resources towards local journalism. Largely because there's concerns about, unfair competition with local commercial print outlets. But again, there are exceptions to this. And of course, there's growing emphasis on as the print media outlets retreat, there's a stronger case to be made that public media should be stepping into the vacuum to provide the local journalism that the market will no longer support. So two exceptions here. One, perhaps counterintuitively, here in the U.S, I'm sure some of you have heard of this growing number of partnerships between public broadcasting stations and local print media outlets. This typically happens in cities where there are ample resources, but recently one happened in central rural Pennsylvania. WITF merged with a major regional newspaper there, and they're already doing some really interesting things. So I think this is a growing area of interest and perhaps a sign of hope in an otherwise fairly dismal landscape. But I also want to talk about the BBC's local news partnership and in particular their Local Democracy Reporting service. This is a an experiment I like to to trot out. It's certainly not perfect, has many flaws that we can talk about, but it's doing a number of interesting things. One of them is that it assigns 165 reporters to local newsrooms around the UK, so that it covers every local authority areas of local councils and the like, basically going into what had become news deserts. And not only that, they're doing this on a fairly modest budget, and my math is correct, and it depends on the on the day and the exchange rate. But I think 8 million pounds comes out to just over \$10 million a year for this entire program. The most interesting aspect is that all the news that's produced by this program remains in the public domain, so anyone can use it. And at least in theory, it serves as a kind of informational

feed or a boost to the entire media ecosystem. Now, if we're evaluating these journalism policies as to how structural they are to degree of structural reform, and I use the wonky phrase non reformist media reforms. But if we refer to as the 3Ds, decommercialization, does it do these policies faster transition from profit to low, such as public benefit corporation or nonprofit institutions. Democratization, does it introduce new voices to all levels of media production? Does it remain accountable to local communities. And devolution, how do these policies encourage, and devolve ownership in local control, to local communities? So this is one way of looking at it. And we could also tease out, as I do in the conclusion of my last book, where I'm trying to think about a model we could use to look at all the layers of the stack and how we can democratize each layer. I don't have time, to go into all of them right now, but the layers are funding, governance, ascertainment. And I want to just underscore ascertainment because I think that's a policy area that deserves a lot more attention. Infrastructure, technology and engagement layers. And while this all might sound, fairly abstract, there are some institutional exemplars that I think approximate. This democratization project, at least on some of the levels, one little known but interesting experiment in Urbana-Champaign, I was involved with, when I was a graduate student at the Independent Media Center in downtown Urbana, in the middle of the Illinois cornfields nearly 20 years ago, some media activists bought the local post office, and now it serves as a community media center that produces various kinds of journalism, including low power FM radio, a monthly newspaper, and community internet services. It also serves as a makerspace where community members get together and create their own media together. So we might consider what policies could establish one of these public media centers in every, every community across the country. It sounds wildly utopian. But I think we should be asking, how can we guarantee that all members of society have access to local media and to tell their own stories and create their own journalism? And while we have to do what we must to support journalism and here and now, in the short term and during the short term, we also must keep more ambitious plans on our political horizons for the long term. So to echo Wendi Thomas from this morning, making new policies shouldn't be only about preserving the status quo. Policy should help us reinvent and reimagine what journalism could and should be. And on that cheerful note, I will end. Thank you.

Anya Schiffrin [00:27:04] Amy, I have to thank you because this is your second panel, and I think that's almost as bad as teaching two classes in a row. Thank you very much for stepping in previously and for preparing for today. Thank you.

Amy Mitchell [00:27:17] It is my pleasure. Yes. Thank you all for listening to me again. And hopefully my voice will, cooperate. So I'm going to build a little bit off of, I think actually a lot of what's been talked about today is, kind of reflective in, in the approach, in questions that CNTI is thinking about when it comes to the way that we, do the important, area of thinking around where is the right place for policy in our news media landscape? And I was asked to share just a little bit about CNTI to kick off because we are nice and brand new. We're about six months into our existence. It's been a terrifically, fun and, really satisfying start. And it's just been a wonderful experience. But we are an independent non advocacy global research center. We, launched officially this past fall, of 2023. We are established as a 501C3 here in the United States, but we do very much have a global, orientation to our work. And both in the way we built our board, our over two dozen advisors that are come from 17 plus countries at this point. And in the way that we think about the work and the questions at hand, the mission is to foster collaborative conversations that encourage an independent, sustainable news media and the public's access to a plurality of fact based news. And part of what really led me to want to launch and help launch this, with the terrific group that's involved is because I felt in the work that I

was doing. As much as I really enjoyed research, that we weren't making the kind of progress we needed to in these spaces around these particular questions, when we look at both challenges and the opportunities of our digital news environment. And so really at the core of. Oh, the wrong button, sorry. Of CNTI in addition to the collaborative cross-industry nature, which is, absolutely. At the fundamental core of this is research that we need to have these conversations around policy in a way that starts with research, and whether it's research CNTI is doing or to help synthesize that, we understand what the the facts tell us in the data, tell us about the situation and that we use that research then to have these collaborative, cross-industry convenings where there are some difficult conversations to be had about how we can all land in the place that we all want to land in, but may not agree on all of the challenges or the issues that are facing us and how to get there, and that that will help lead us to inform solutions. So using research and evidence to host these collaborative conversations. And I think when it comes to the topic for this panel, which is a terrific question of how can new policies affect journalism, what I would say CNTI would put to all of us, is that it is our responsibility to spend the time Steve was talking about earlier, really thinking hard about this and understanding this range of policies that are available that are possible, that are being talked about, or consider there's a lot of opportunity. There's also a lot of potential downside. And so how do we come together to think about that. And the questions I put forward, I'd say there are sort of six key areas to think about. When, again, this overarching question of a sustainable news system, what kind of sustainability does this policy that's being that I'm looking at now secure? Does it safeguard an independent, diverse and safe news media? Does it protect the public's access to a plurality of news? Does it protect against potential regime change and or global developments? We know as law gets passed, it stays. Even if a government structure or just government regime, an entity might change. How can we learn from the research that's out there? And how do the benefits that we can foresee through these questions balance up against potential harms? So where do we find that right balance? And I think the two of the most fundamental areas we can explore when we get into the nitty gritty of the policies themselves. And I think it was Andrew earlier when he was doing the book banning, work in the prisons. Describe some of the policies is just a muddle of confusing words. And they very much can be. So when we look at those, a couple of the really straightforward questions one can ask is, first, how is journalism, how is news, how is a journalist defined if it's defined at all? A lot of what came up in, I think at least half of the sessions today had to do with that very question. And the degree to which, as Courtney was saying in the very first session, we need to have it be expansive and use the word journalism. We've got a woman on Facebook who's got 10,000 followers. That's providing a lot of important community news. Does that person belong in the policy? Should that person involved be included in the policy? But that question around definitions is really important. And then the second part of that is who has the power to determine and arbitrate that definition. And what are the potential consequences in the outgrowth of where their law lands? And so we looked at 32 pieces of, what we're termed fake news policies that were pasture considered around the world in 31 different countries between 2020 and 2023. And here's a quick smattering of some of what we found. It's hard to see that full circle, but it does equal 100%, of them. So, most of them don't define fake news at all. Only seven actually had a definition for fake news. And I will say that about a dozen of these were in democracies. So these are not just in autocratic regimes. So what does what does that mean? Well, the definition of how to arbitrate that then falls to whoever's given that authority. That's the next question. Oversight authority was clearly labeled in 14 of them. When it was clearly labeled, it was almost always a government, the government itself or a part of the government when it wasn't labeled. It defaults to the government to be able to determine that. There were many that were topic of Covid legislation, which was interesting because those were the ones that tended were more likely to have a definition.

But what that then, offers a precedent for is opening up laws around any topic or orientation that would have information control over it, potentially in most cases here by the government. And then when we look at what the penalties are, almost all of them were consistent in that regard. They had very clear penalties for what going against this law would portend for journalists. And it was up to six years of prison. So this is an area where if you look for example Ethiopia and I'm going to go through these pretty quickly, it's a lot to read. But you can see the definition here is offers a lot of nuance to be determined. When it's being arbitrated. It is false that false is disseminated by a person who knew, or should have reasonably known that the falsity of the information is highly likely to cause a public disturbance, riot, violence, or conflict. And, you know, the government's control, excuse me. Around these broad definitions can be used to decrease press freedom, to increase government control, and also decrease individual freedoms. There's an example from Germany, and I will mention I was talking, earlier about this, that this was a part of a bill that will eventually be superseded, by the DSA, but it is still in effect now and was a part of our study before the Digital Services Act was passed. And this was one where there's a really good intention of moderating, illegal content, which they would describe as rabble rousing hate speech. But the questions and concerns around it where the degree to which it gave technology companies the power and actually instruction to moderate and make decisions around what fell into that category with very little government oversight. So there was questions there about when the power you give to technology companies and potential infringement on freedom of speech, media remuneration, which is a part of a bigger umbrella of media bargaining, that is the study that is in the works now. And I'm not going to spend a lot of time on it because I don't have a lot of time left anyway. But we are, looking at this now, it is important to consider. I know, Steve talked about a few of the options that are out there. So I'll just share a little bit of, kind of what's what is what has been passed, what is in consideration or inquiry. And one of the things that's important to consider with these, as we ask these questions together, is that many of them have different orientations or focus. Some are around sort of what is the what is the, media bargaining and sort of that compensation element from technology companies. There are some that are more focused on the users, how much usage there is of a link. So for example, the California version of the GCP act that's being talked about now is based on how many links a piece, how many hits a link gets. And there's concern around that, which is, you know, could that lead to gaming of the system or to clickbait kind of material? So those kinds of questions are ones that we all have to grapple with because they will eventually affect us and affect the news business. The definitions most have definitions of news entities. They're built around an entity as opposed to the journalists themselves. There's a lot of variance there. Difference in revenue, difference in the required size of the organization, level of interpretation of what original reporting is understanding of local, emphasis on specific topics. And here you can see that, again, there are just wide variations. And I point these out. Not that there's any perfect policy, but they all are going to have the pros, the benefits, the cons. But how do we get as close to good as we can in terms of the protections I talked about before? And what does it mean to give control to government and or to technology companies to make some of these decisions? And how can we minimize those kinds of risks in the sorts of policies that we end up putting forward? It is critical to understand and balance the potential benefits and risks of each policy. I will put forward these questions again. What kind of sustainability does it secure? And as we think about sustainability more broadly, which is a big part of our conversation today, I would just end with this thought, which is that what a sustainable news environment requires today. Is revenue to support journalistic reporting. Absolutely. Journalistic independence. Safety and diversity. Absolutely. Technology for production and dissemination. And technology to reach people where they are, as well as for people to reach the content they want to. And a public that sees journalism as relevant. We could

pass all the other policy we want to in the world, but if the public doesn't see it as relevant and decide to come to it, it doesn't matter. So I would put that on all of us to come together across lines. We were talking about polarization. Let's also talk about industry collaboration, cross-industry collaboration to work on these issues together. And that's what CNTI is hopeful to be helpful in. Thank you.

Anya Schiffrin [00:39:27] Amy. Thank you, and I. I have a follow up for you. You know, working at a policy school, I don't think we think that there's any perfect policy. Everything involves a trade off. So my question is, you know, Ethiopia has been mistreating journalists for decades. To what extent do we now say, you know, Europe can't regulate because it might get misused in Ethiopia or Singapore, Vietnam? Or to what extent do we say countries need to just design policy and not get paralyzed about the fact that it could be misused somewhere else in the world?

Amy Mitchell [00:40:04] Yeah. I think it's it's a good question. And I think it's really important to be. We can't sit hamstrung and do nothing because there is a autocratic regime that is looking to criminalize. And we certainly heard the just incredibly awful story about the Russian media, earlier today. But it is important to be aware of how law is being used because regimes can change. We've seen regime change in different, in many countries, right, where they say, oh, I thought we were just a democracy now we're not anymore. And that law can stay. So it is as we think we look in our own country, we may see a democratic regime. We may have somebody in who doesn't respect the news media. How does that law get carried out? So it doesn't mean to do nothing. But what it does mean is to be aware of the ways certain laws and I was having this conversation with somebody else, recently who was saying, yeah, we saw the law in our country get taken and applied in this other country in a horrible way. How could we come up with language that would help guard against that in our policy? And, you know, I don't have a perfect solution to that. But that's the kind of conversation we should at least be having.

Anya Schiffrin [00:41:24] Yeah, I don't want to eat into Jeff's time, but I think I'll say what we learned from the recent history is these when the bad guys get in, they'll take any law and destroy it, and then they'll pass their own laws. So, you know, that's the reality of what happens. I mean, I'm just thinking of Hungary, Poland, Turkey. Okay, Jeff, come on up. And, I think you're going to tell us your criticism of 886 in California. And, I would also love to hear about what you think would be a better idea as well.

Jeff Jarvis [00:41:58] So good day. I feel like I'm at mass and I have to bow to the host. Thank you for these 25 wonderful years of intelligent discussion about journalism. I am for ISOJ I was writing a paper and I wanted to release it at the, at this conference about the California Journalism Protection Act, which is a cousin of the federal JCPA. It is a 41 page paper. You can find it if you go to JeffJarvis.medium.com. I, for the fun of it, put the entire thing up in one post, and medium tells me there's a 79 minute read. I'll begin now. Fear not. I'm a fast talking New Yorker. So the, CCPA is an effort to, get money out of platforms to compensate journalism. A journalism usage fee. It's called, it's a link tax. And in the first big footnote in my paper, I described link tax and ancillary copyright and so on. All these laws go back in heritage to the light social threat. I love saying that in Germany in 2012, that led to the Spanish link tax that led to the EU's Copyright Directive, which led to the Australian bargaining code with Murdoch, that led to Canada C18. And we know, in my view, the disaster that has occurred in Canada as Meta pulled all news, links, news and supportive news out of the country. Jeff Elgie, who runs Village Media there, said, he might get a little more money out of it because Google did agree to pay 72 million US. However, he said, keep your damn money. I want the traffic. So. There are many. I have many

issues with CIPA and JCPA. First and foremost is that this is an effort, a long, continuing string of efforts by the news industry to diminish fair use and expand copyright for the exclusive privilege of the publishers. There are many other weaknesses in the bill, which I go into in my paper. Among them, that it violates fair use by having a must carry clause. That is to say that the platforms are not allowed to retaliate. It thus, in my view, violates the First Amendment because compelled speech is not free speech. A link tax breaks the web. As certain Berners-Lee himself has said, it benefits primarily hedge funds. 18 of the 25 biggest newspapers in California are owned by hedge funds, that's the last place we should be giving more money to do anything for news. It also benefits, in the case of California national and international media, because there are no standards, potentially extremist media as well. Really important is you have to have \$100,000 revenue to even qualify, which means that tons of community, black, Latino, LGBTQ start up media are left out entirely. And that's, I think, the design of this. It motivates clickbait because it compensates on the basis of how many links you get. There's no cap. There's no accountability. Very importantly, it does not value the other end of the transaction. It doesn't value the links that are provided by the publishers to the media outlets. It values only the content. And one thing we've learned in Canada is that when Facebook got rid of the links to news, Facebook traffic by two independent surveys did not suffer in the least. But news sites lost between 30 and 50% of their traffic. So which is more valuable, I would ask you? Also, these smaller sites, black and Latino media, particularly in California, still depend upon paper, good old newspaper. And that's not compensated in any way by CIPA. So, spoiler I can't stand it, but I also can't stand the fact that it was written by lobbyists on our behalf in journalism. I am offended by the idea that there are lobbyists hired by our trade and craft when it is our job to independently cover power, not be beholden to them, whether they're in government or platforms. But this is a very long history, and I think it's important to go through some of the context which I do in the paper. First, on copyright itself, it's important to say that the statute of an, which invented copyright in the 1710 and the U.S. copyright law in 1790, did not cover newspapers and magazines. They were not covered until the Copyright Act of 1909. And even then there was debate as to whether just plain news story should be included at all. Yes, the 1792 Postal Act did allow, cheap carriage of newspapers and magazines. But part of that was also to enable newspapers to share newspapers with each other for free, for the express purpose of sharing news. The job category that came up. But I love this, there were jobs. There were people who were scissors editors, and they were taken to take the stories out so they get reprinted. And if you read papers at the time, you see these stories all over. The only thing you were asked to do was to credit. So we've seen many efforts, again, for news to extend copyright and the history here. I think it's important to also look at how the newspaper industry particularly has created, new technologies and new competitors. They are immensely inhospitable to them. If you look at radio, Victor knows more about this history than I do. But there's a wonderful book by Gwenyth Jackaway called Media at War that goes through this, that when radio came in in the 20s, a century ago now, newspapers said, oh my God. At first it was cute and they thought it was a hobby. Then what a start to be a threat. They said, oh my God, we got to do something. They strongarm the two networks at the time, NBC and CBS, to kill their news organizations entirely, to run only news that was bought from the wire services owned by the newspapers to make them no longer than five minutes a piece twice a day, to write them in such a way that it encouraged reading of the newspaper to come out after the newspapers were off the press in the morning and evening to forbid advertising associated with news so that it couldn't succeed as a business, and to forbid on air commentators get this from commenting on any news of it until 12 hours afterwards. We are assholes. And it continued. The newspapers also tried not to print radio listings and hold them up. They did all kinds of, I think, awful things here. And, as Gwenyth Jackaway says, newspapers and

journalists hide behind what she calls sacred rhetoric. And if you look at the beginnings of Cjp, it's about how news is so important. We all bathe in this water. If you look at the New York Times suit against OpenAI, where there is another attempt to expand, copyright and diminish fair use, they talk about the sacredness of news. Well, a lot of people don't think we're so sacred. So I wanted to be very constructive at the end of this and try to present a bunch of alternatives, ideas that I hope that the legislators will be open to this. And Steve presented a lot of them. Many of them are authored by Steve. He's the most constructive person in our field. We don't always agree, but that's what makes it fun. So I just want to go through those pretty quickly. One is, I think it's vital that whatever is done must start with study and listening. This came from lobbyists, and I talked to black and Latino and small media who were not heard at all or were not consulted on this. Two, legal ads, government ads, I think is one opportunity indeed. And to answer your question, in the case of New York, it's not about the size of the audience. It's often about the community who is not otherwise reached. There are the possibilities of taxes. The CJPA is not a tax insofar as it expects money to go straight from Google. Better will be gone to, news publishers. But if we get over the barrier of taxes, there are the opportunities Steve presented of taxes to support the hiring of journalists. Let's know that small media don't tend to have full time people, subscriptions or contributions in advertising. But let's note that those are non-market interventions that may encourage more paywalls or may encourage, advertising that we may not want. One idea I have is that if the public is going to pay for news, then whatever that news is should be made public for the benefit of all. So we should be buying content out from behind the paywall to put it up for all. KQED, along with Dave, Gary and company, have started a really good new, news sharing network where they have a producer who is going to pick the best news in the state. And I think that's important. It's going to become the basis of an ad network. I think we could have ad networks of all sorts. There are support networks like Montclair State's News Commons, which full disclosure, I, I helped to start years ago. There are ad networks and there are granting opportunities of already heard about the New Jersey Civic Information Consortium, which is housed at Montclair State. Press forward, AJP and so on. Public media is taking a new role in all of this. Look at Laist now formerly KPCC, and how it's trying to work with others like, KQED. We need capital to grow new things, like can doctors effort in Santa Cruz? We need reparative journalism because it's not just that communities haven't been covered. They have been damaged by big old journalism. And we've got to start the conversation there. We need to involve education and universities and so on. So in conclusion, I think we've got to re ask the questions and go back to the drawing board and ask, number one, where's the money coming from? Should the entire value of the American news ecosystem fall on the back of one company once Meta leaves its Google? Two, where's the money go? We really want money to go to hedge funds. Shouldn't we be taxing those bastards? And three, how is that money distributed? Is it by these kinds of generalized rules that gives it to all, including extremist media, or is it like a New Jersey to quality? Finally, the question to me is this do we want to support news as it was or news as it should and could be sacred?

Anya Schiffrin [00:52:29] So, I've been working on the bargaining codes now for four years, and I'm not a panelist, so I'm not going to summarize four years of research, but I'll just add a couple of things. One is that in Australia, probably 250 million AUD have gone into journalism every year, and this has created jobs. So that's a fact.

Jeff Jarvis [00:52:54] Is there accountability to how much it has done?

Anya Schiffrin [00:52:58] And 90% of outlets have been covered, including the small ones. The Australian Treasury did a study of it. This was under the you know, it was a

conservative government that put it in, but the labor government that did the review and called it a success. So, I think that's part of why there's been interest all over the world in what happened there. A lot of us got together in South Africa last summer because we put out a global principles to address many of the points that you've made. There should be transparency. There should be redistribution. I mean, remember, by the way, we're doing a study right now for Steve on taxes. And every time I call an economist and say, have you heard of a good tax support journalism, they'll say, oh, the Australian code to an economist, it's a tax. Yeah. And you know when you're you can do pre subsidize or post. So you got the companies got big and now you're doing redistribution. So. So anyway that's that. But what I want to ask you, Jeff is I was just testifying to the South African Competition Commission about this law two weeks ago. And, they're doing their own market inquiry just as us as Australia did before their law. And obviously, what we're seeing, you know, as you pointed out, Google left Spain in 2014 for seven years because they didn't want to pay there, Facebook pulled out of Australia for a few days when the law was under consideration there. They pulled out of Canada. And now today, Google has said that they're testing removing news from search in parts of California. So as an academic, this is extremely exciting because this means natural experiment. So I immediately wrote to Richard Gingras and said, can we start getting dates and locations because there's so many interesting, academic papers that have come out. For example, there's a famous one on Rwanda and the parts of Rwanda that were too mountainous to get the Hutu radio, and as a result, the correlation is there was less genocide there. So when news gets yanked, all of a sudden you can do a lot of interesting research. And, I was wondering, Jeff, what do you think this testing that's happening in parts of California? What do you think Google will learn from that?

Jeff Jarvis [00:55:19] So Google did a similar thing in Canada, where it was a small proportion of people. I think it was 6% or so, less, that they did a test of seeing what would it look, what would the service look like if we pulled all these news links? And Richard and, the chief lawyer at Google were called to the carpet on Parliament Hill in Canada. I watched that testimony at the time. Today's news, put a firestorm of iPhones going like crazy, as I know Steve's as well. And I asked some questions of a colleague of Richard's, before this panel. The other thing that they said was that they would pause increases in GNI and News Showcase and so on. The belief in some quarters was that was all of America, I am told reliably that that's just in California. So this could go two ways. I think that, one way is that the politicians can use this as another, bludgeoning tool on big bad Google. But I also heard from somebody I know in California that there are publishers going up to Sacramento right now banging on the door saying, don't ruin this for us, because I think we have to look again at Canada, where it is a live test. We can see what happened with Facebook. We can see what happens. Jeff Elgy also says that it will be nearly impossible to start a new brand in Canada now because the way you got it was through social, got audience was through social traffic. That's gone now. The money is de minimis, in the long run. It's helpful. But there's also another subsidy in Canada. And, I think the damage to the overall news ecosystem would be permanent and devastating if Facebook pulled an Instagram pulled out, and if Google diminished even more. Facebook's almost gone with news. They've unfriended news in a lot of ways, but it's still possible to have a discussion about news on Facebook that could go away entirely.

Anya Schiffrin [00:57:10] So you think the main thing we're going to learn, from the test is that the publishers depend on these outlets for traffic.

Jeff Jarvis [00:57:17] We learned in Canada again that Facebook did not suffer at all. The publisher suffered. The links have value, and if we're going to talk about a fair exchange of value, you have to value the links, not only the headlines.

Anya Schiffrin [00:57:29] Yeah, I think also Cambodia, Bolivia. There's been other studies done, you know, years ago. And I think that what I've seen from those is that traffic does eventually recover. But I agree it's painful. Nobody loves.

Jeff Jarvis [00:57:43] It. It went down 8 to 14% in Spain. And it was mainly the small outlets that didn't have the raw brands that were hurt.

Anya Schiffrin [00:57:50] Yeah. There's different I mean, there's a bunch of studies about Spain. There's some, discussion about that. Anyway, Amy, I have questions from the floor, but I saw you were taking notes, so I bet you had something you wanted to say. Where did you have a response or I think, well, Jeff was speaking. I saw you scribbling, and I thought, okay, that means she wants to respond in some way.

Amy Mitchell [00:58:11] Not necessarily. I guess I would come back, I mean, and no, I did not have something to necessarily respond to Jeff on. I think that, I would come back to the question of definition and I think one of the things on the California on the CJPA is it does have one of the most extensive definitions as, as the JCPA of a news outlet. And CJPA mentions a journalist, which many of them actually don't. But again, coming back to the questions or a lot of today's conversation about how do we build forward, how do we plan forward in the ways that we, if we're going to create policies of some nature or the other, that we be sure they are inclusive as those who will be providers, important providers of news and information. And in that definition it talks about an individual, but they have to work 30 hours and they are at tied have to be working and employed by an eligible provider. So it does still sort of provide those limitations of who can actually be in these. And that is just something I would amplify as we all talk about different kinds of policies and who could be included and who could not, especially at the local levels.

Anya Schiffrin [00:59:30] Yeah. And I think the advantage to us coming so late to this is that we can learn from all the mistakes made by other people. So we have some questions that have come in on Slack and Zoom. And, Victor, here's one for you, which is something I hear about a lot, especially in Latin America. How do we think about a public media policy in country where media use by governments for propaganda? And the person who wrote the said, this happens in most Latin American countries.

Victor Pickard [01:00:00] Right? Yeah. This is excellent question. It comes up obviously every every time we have the discussion about subsidizing media or creating a public media system. We have lots of cautionary tales we can point to of state capture. And it's a very legitimate concern. But for every case of state capture, there are numerous cases of very robust, public broadcasting, systems that don't, lend themselves to propaganda. But I do when I whenever we are doing these analyzes, we are only looking at democratic nations and we're using the Economist, democracy index, of course, which qualifies us now for many years as a flawed democracy. But I do think that there is a kind of, you know, a correlation between having, you must have a democratic governance, in place in order to have a non, propagandistic public media system in place, that clearly there are safeguards and structural firewalls that can be put into place. And, you know, again, we have to, democratize that. We have to make sure which all of our public media systems, whether we're talking about the BBC or the one here in the States, is often not actually very democratic. So that needs to be part of the project as well.

Jeff Jarvis [01:01:14] Can I ask Victor a follow up question? So if you look at the New Jersey Civic Consortium and full disclosure, it's run by a friend of mine, Chris Daggett. It seems to be working pretty well, and I get hives about government support, but it's working pretty well. But what I say to Chris is I worry about whether you could what happens if you put that same structure in Florida or Texas, right. And, can you imagine safeguards from that kind of fund being misused, either to punish liberal media or to support extremist or right wing media?

Victor Pickard [01:01:50] There are safeguards. And, in full disclosure, the Civic Information Consortium was largely, or at least the grassroots efforts were led by Free Press. I've been involved with them for a long time, and their motto is to focus on, to focus on the grassroots, to really do community organizing, to build the groundwork, to put that from the ground up. So you have to make sure that government can not capture this. This needs to be devolved. Down again to local communities. Those. There are safeguards there. But on one hand, we do have to roll the dice on democracy at some level. So there might be if we're talking about local control, that means there might be, you know, systems that emerge that we don't all like, but that's that is part of democracy.

Anya Schiffrin [01:02:35] Yeah. I mean, the advantage to our 100 plus years of experience on this panel is we've all seen good systems go bad, and bad systems can go good, too. Lots of there's lots of examples around the world of funds that were misused and then fixed up, you know, fixed afterwards. Steve, here's a question for you. And it's a long question, so I'm going to try to summarize it. Could we make an economic development case that small business development and media technology that supports the news industry could, you know, could be supported, funded, develop, just like tech innovation is supported?

Steve Waldman [01:03:14] It's a great question. And, you know, the short answer is that case has not been adequately made and it desperately needs to be made. Anecdotally, it makes a lot of sense. There was, you know, an anecdote. Ogdensburg, New York, the newspaper shut down. It was the Chamber of Commerce that came begging to another newspaper chain to please start a newspaper in our town. We can't have a healthy economy and a healthy civic life in our community, without there being good local news. But this is a gap in the research, to be honest. It's, there's been a lot of research done on the effects of news contraction on civic life, and the results are really depressing, that, you know, the contraction of local news leads to less civic participation, more alienation from the community, lower voter turnouts, higher polarization, less split ticket voting, all sorts of things like that. There's been much, much less research done on the question of what the impact of healthy information is on the economic vibrancy of a community. One thing that the one really interesting study that is kind of at the intersection of this showed that when, local news contracted bond ratings went got worse, essentially the the cost of borrowing went up because everyone thought no one's minding the store government going to get more inefficient. Taxes actually went up, according to the study. When? When there was less local news so, and that that's an economic effect. And I guess the other thing I would say on this is it's not really an argument we tend to make very much, but if you spend money on helping to ensure that there's local journalism on a society wide level, it will pay for itself, as may not be precisely. But things like, these are like really mundane examples. So one is the bond rating thing. But there's things like tons of examples where journalistic enterprises led to hundreds of millions of dollars of fines against corporate malfeasance or, you know, instances, well, the MLK, the, the example that was given about MLK 50, but tens of millions of dollars of overbilling of consumers in Memphis that was exposed by

MLK 50 and they essentially that was forgiven. And you can go over and over again, there's all sorts of societal benefits in just not even democracy benefits, just cold, hard cash. That ought to make public policy, you know, lawmakers feel better about whatever money they're putting into subsidies to sustain local news.

Anya Schiffrin [01:06:00] And I think you're really thinking also of Jay Hamilton's book *Democracy's Detectives*, who did a cost benefit analysis which led so many people to call us up and say, hey, can you do a cost benefit analysis of journalism? Mostly you can't. But I think Rosenthal should be happy to know that so much. We have a policy brief with UNESCO coming out on Wednesday, which looks at all this literature, and Rosenthal will be happy to know how much of it comes out of Brazil. So they've really been, in the forefront. Jeff, you look like you wanted to say something. I wanted to ask one of the other questions, which is, what about antitrust? I think there's been a new, case open today with Google on ad tech. And, I was just wondering, one of the questions says, what about limiting the social media platform dominance, especially in digital advertising through antitrust cases? Anybody want to take that one, or do we not have any antitrust lawyers on the panel anyway?

Steve Waldman [01:06:55] I mean, that's never stop either of us from pontificating on this topic. I do think antitrust is an area that has been under discussed in this whole topic. I mentioned the example before, and there's two parts of it. There's the technology sector and there's the hedge fund ownership of newspapers. Both are important. You know, as I said, to have the daily newspaper circulation in America right now is owned by hedge fund or private equity. That is actually a major part of the story of what has happened. And that didn't have to happen that way. And so, we have argued, a number of different public policies, like we made a proposal to the Federal Communications Commission just a couple of weeks ago that said, any time they consider a merger, they should look at whether or not it is going to likely lead to an increase or decrease in the number of local reporters in the TV station. And if there is evidence that's going to lead to a decrease, they should reject the merger. And I think, you know, you can have similar philosophies about whether some whether mergers are going to, harm localism, as you say, as the concept is, and media policy. And that has just been off the table. Now, the reason it's been off the table or not doesn't really relate to our, you know the discussion of local news, antitrust has been sort of taken over by a particular philosophy that has a very narrow definition of consumer welfare. That really just has to do with prices. If prices and competition are aren't implicated, then it's fine. And we're making the case that no, actually, if you have a shortage of information of a really important sort, that is also a serious harm that ought to be dealt with by government antitrust regulators.

Anya Schiffrin [01:08:42] I think you're talking about the work of Andrea Pratt, the economist who's been working on this for decades. And his argument is precisely that, that you can't look at the price you have of the newspaper, that's really not the point. The point is the consolidation of information. Jeff. Come on. Oh, sorry. And then, Amy.

Jeff Jarvis [01:08:58] When you add it up, 100 years experience, my fear is that I'm half of that.

Anya Schiffrin [01:09:02] Well, I was going to put you as a making us into 150, Jeff.

Jeff Jarvis [01:09:07] But that means I am old enough to remember when Microsoft was going to destroy the world. I was part of an effort at Time Inc, with, and Conde Nast to buy AltaVista because it was going to be the next big thing. None of these companies is

forever. Yeah. And I think that there is a punitive desire here that isn't terribly, productive and doesn't really solve anything. The one area where I think Google is, and I've said this in my in my upcoming book, *The Web We Weave* on sale on October. Is that where I think Google is most vulnerable? Is in advertising has long been it wasn't in their sales. It wasn't in search. It wasn't in other areas. It's in having both ends of that transaction. So that warrants watching. But even if you find solutions to that, I don't think that that does anything for news. I don't think it does anything else.

Anya Schiffrin [01:09:59] Well, this argument that these companies will die so we can just relax and not do anything I would say is a classic University of Chicago argument about competition law and has certainly held sway in this country for decades. So you have a pedigree to your ideas.

Jeff Jarvis [01:10:13] I've never before been associated with University of Chicago.

Anya Schiffrin [01:10:16] So when it comes to competition, I think there's some. Anyway, Amy, go ahead.

Amy Mitchell [01:10:21] I was just going to add, that I think, Steve, you raise a really interesting, area of potential research and I think it is really quantifiable. And there's a lot of data if we think about, all of the data that's there that speaks to the degree to which the local connection to an individual journalist in that area. What we've seen in some, some research, I've been involved in that that speaks to almost half the population in the U.S. that said, the local news that they get isn't actually about their area. It's about another area. And one could put into, what had to be in a merger. And again, I think part of your point is we're kind of past it at this point because so much has already happened. But you could have language in that it did have to continue to support actual local reporting, which could really be a boom, for the business overall. Anyway, it's I think it's really, really interesting.

Anya Schiffrin [01:11:16] And else we're almost out of time and I know we have lots of celebration, so. Okay, Rosental's clapping so I won't even give anyone a last word. I'll just let Rosental lead the clapping. Thank you.