

Into the Third Century
of Free Speech

Eli M. Noam

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Into the Third Century of Free Speech

A Proposal to Dr. Leonard Tow

Draft

By

Eli M. Noam

Center for Telecommunications and Information Studies

Graduate School of Business

Columbia University

April 4, 1991

1. OVERVIEW AND BACKGROUND

We seek your support for a multi-disciplinary, long-term project to advance the academic and public understanding of free speech in the evolving media environment, and to develop policy approaches geared toward infusing these new media with First Amendment freedoms. We will build on the strengths of a core group of Columbia scholars — led by a person with a research, policy and administrative track record in the field — to create an ongoing program in the media capital of the country. We will be a catalyst for theorists and practitioners to develop a future-oriented First Amendment analysis, an appropriate endeavor for the 200th anniversary of the Bill of Rights.

When the drafters of the Bill of Rights guaranteed Americans freedom of speech, they could not foresee the many electronic means through which information would be carried and extended. As those media developed, different treatments of speech emerged. Broadcasting, cable television, telephony, video recordings, satellites, computer communication, and other technologies came to operate under separate regulatory regimes.

But today, as we celebrate the bicentennial of the Bill of Rights, we are in the midst of a technological convergence in which individualized media (the telephone), mass media (cable TV, broadcasting, film, and video recordings), and data media (computer networks and electronic bulletin boards) are increasingly overlapping. As Ithiel de Sola Pool noted, "the one-to-one relationship that used to exist between a medium and its use is eroding." Media that traditionally operated under one set of regulations will soon be carrying traffic normally associated with other regulatory schemes, while new "hybrid" media, with aspects drawn from many sources, will proliferate. For example:

- Cable companies will soon carry voice and data traffic normally associated with telephone regulation over a combination of stationary and mobile communication networks;
- Telephone companies are pressing to deliver video programming, creating the likelihood that video signals in the future will be sent over upgraded telephone lines;
- The success of cellular and development of other "tetherless" telephony is leading a growing portion of local voice traffic onto the air;
- The various previously separated forms of networks will increasingly interconnect into a "network of networks" through access policies such as open network architecture;
- National and global networks create new forms of non-territorial communities linked electronically rather than physically;
- Computer-based videotex, audiotex, as well as broadcast electronic mail and broadcast fax services provide telecommunications networks with mass media functions;
- Personal computers and CD-ROMs are now being developed that will integrate video and text, putting "television" through computer networks, and permitting new forms of informational roaming;
- Video-by-demand, based on video libraries and switched service, will make some of television into an individualized medium;
- Infant media, based on interactive computers and video, create "virtual realities," total media tailored to the individual user;
- Libraries move from traditional concepts of storage to those of access and networks;
- Books and documents move from static and individualistic concepts to those of

dynamic update and group interaction

- Computers, tele- and video-conferencing become new forms of public fora;
- Individualized fax-newsletters based on an individual's particular interests fragment the concept of the mass newspaper audience;
- In fast-packet networks, information travels across multiple simultaneous pathways, routing itself and recombining itself at the destination, thus putting into question the very concept of a communications conduit.

In a world of integrated digital networks, where voice, data and video are multiplexed streams of bits that interact in an electronic realm created by the network without physical location, the different regulations now associated with different media will be unworkable. Indeed, in such a network system, traditional concepts of speech, property, community and location may be obsolete.

This new environment demands that the communications sphere be understood as a whole, that its evolution be anticipated, and that its free speech issues be identified early, in advance of regulatory realities that will be hard to change later. In the past, most research on free speech in mass media, telecommunications, and computer networks has been on discrete projects and discrete media (primarily print). In contrast, our aim is to examine the key issues that cut across the areas and into the future. This requires knowledge and understanding of the various aspects of the evolving electronic landscape. We have, over the past several years, created the foundation of such work in the Center for Telecommunications and Information Studies. We have policy understanding, technical expertise, and a wide network of contacts in the free speech community. With your help, we can make a difference.

2. ISSUES TO BE EXPLORED (Preliminary)

The following list illustrates the types of issues we believe require analysis and discussion.

2.1 Reconciling distinct regulatory traditions in the integrated network.

- **The changing role of common carriage in an interconnected network environment composed of public and private network segments.**

In telecommunications, what used to be one monopoly network for basic voice service to all users end-to-end is now an interconnected series of partial public and private networks. Soon, video distribution networks such as cable TV may also be integrated into this "network of networks". Private networks do not have common carrier obligations. As networks include interconnected public and private segments, one will need to think through principles to permit their coexistence for a mixed system, such as common carriage "rights of way" or leased access.

- **Content and operational access to telecommunications networks through Open Network Architecture.**

Federal and state regulators have been pushing the local telephone companies to offer non-discriminatory interconnection to the phone network for information providers of all kinds. This Open Network Architecture (ONA) creates new possibilities for using the network, including by cable operators. What free speech issues arise?

- **Franchising video distributors in the integrated network.**

Under current law, cable operators must have a franchise to provide cable service. Can governments constitutionally limit who gets a franchise to engage in electronic speech? If telephone companies, who already have rights of way to wire communities, are allowed to provide cable service, will they be obligated to seek a franchise? When cable operators can interconnect to the telecommunications network, will there be any legal rationale for

franchising? Should local and other governments be able to impose any regulatory and tax barriers to entering the video distribution market?

2.2 Restrictions on speech in an integrated network.

- **Can public network operators police information services and maintain their role as common carriers.**

Telephone companies, which have traditionally operated as common carriers without discriminating among users based on the content of their messages, have begun to screen messages carried over their conduit based on maintaining their "business reputation." For example, some telephone companies, both local and long distance, have chosen not to provide billing and collection services for certain "900" services, thereby raising the cost of doing business to providers that offer controversial speech. U.S. Sprint has a staff of 22 enforcing its dozens of guidelines. Forty percent of all "900" applications are rejected by Sprint, based on its advertising, content, etc. guidelines. (It does not permit calls to children under 13, services involving giveaways, or any service that the company, in its sole discretion, believes does not "provide value [in] proportion to its price.") AT&T previews the programs of service applicants, for example, of dial-a-joke programs. Ethnic or off-color jokes need not apply. Governments, in response to some abuse, have weighed in with a heavy hand, for example setting maximum prices that can be charged by such information providers and setting bars to lawful "adult" messages.

- **Restrictions on users in private telecommunications networks.**

In recent years, there has been a surge in the growth of private telecommunications networks. But as users switch off the public network, their rights and access to information can be limited. For example, institutions such as universities with private telephone networks could limit access based on political considerations; a private computer network may create rules against discussing certain issues on the network, and legally deny access to

users who seek to express themselves in this fashion over the network; employers may restrict the numbers their employees' office phones will reach, which blocks access to dial-it services today, but may block access to unions, competitors, political groups or other "undesirable" parties in the future. At least one of these scenarios has already happened: Prodigy, the large private videotex network owned by IBM and Sears, recently expelled customers who used the system to discuss subjects Prodigy did not wish to have discussed. The controversy over Prodigy suggests the increasing potential for the right of free speech to be blocked as technology allows new, private networks to develop. However, the right to form such networks reflects the equally fundamental right of free association, creating a new electronic type of constitutional conflict.

- **Electronic Mail: Content controls and privacy protections in electronic mail.**

Electronic mail, which carries personal messages over computer networks linked by telephone lines, suggests a number of issues. For example:

- Do employers who own the electronic mail system have property rights to messages sent and received by their employees? Do employees?
- Can the system owner exclude certain types of personal communication?

- **Discerning "speech" from "action" in an electronic environment.**

Some forms of controversial electronic speech may be interpreted as an act, such as programs that gain access to computers and networks. How and to what degree do protections from trespass cover computer speech?

- **The government's right to enforce access of information in private data networks and regulate their display.**

The U.S. Department of Transportation has recently proposed interconnection and access rules to stimulate competitiveness on four of the country's largest private information networks: the computerized airline reservation systems. The Department's proposal would

mandate, for example, that all computer reservation systems would have to be available from a single terminal, and that system vendors could not prevent users from adding their own compatible software or hardware designed to manipulate the information. What is the extent of the government's rights to impose such rules on private information networks?

- **Restrictions on indecency in converging media.**

Indecency regulations have long operated in the mass media to shield children from messages deemed inappropriate to their development. However, the pace at which technology outstrips policy has created troubling anomalies. In 1987, the FCC developed broad guidelines to regulate indecency on broadcast television, but they do not apply to cable channels, which are available in 60% of U.S. television homes. There, lock boxes must be made available. In Britain, the government imposed the Video Recordings Act, which established an index of prohibited acts that may not be shown on videos sold for home viewing. These rules (which could be interpreted to prohibit any realistic depiction of war) do not apply to broadcast or film production, but are expected to affect them because of the growing importance of home video distribution. In telecommunications, as "900" numbers have become more widely used, regulators have sought to impose restrictions on "adult" services. Blocking or unblocking are frequently required. The unevenness of these restrictions cannot be maintained or justified as media become increasingly overlapping.

- **How networks are affected by disparate community standards.**

Transmission technologies allow content to be distributed simultaneously over a continent. Yet indecency definitions are based on local community standards. Thus, a cable program distributor originating in New York was recently driven out of business by criminal charges for material found objectionable in Alabama.

Networks are creating "virtual communities" of geographically disparate individuals, some of whom may even live in separate countries under different legal systems entirely. The legal character of these electronic communities is still unclear, and no one has yet

developed a means to assess community standards in this environment.

2.3 Defining editors, publishers and message originators in the new media environment.

Computer-based communications now move through decentralized systems facilitated by universities, the Federal government, companies and individuals, none of which may be aware of any particular message on the system. No body of law yet exists to ascertain standards of editorial liability under these conditions: the traditional notions of message originator, publisher, secondary publisher and republisher become obsolete.

For example, the FCC recently fined a number of ham radio operators whose facilities were part of an automatic "store and forward" network, in which equipment automatically receives and retransmits hundreds or thousands of messages. Unbeknownst to the hams, their equipment transmitted information in contravention of FCC rules, for which the FCC held them responsible, raising the prospect that all node operators on such a packet radio network are responsible for the content of each message sent through it. With over 500,000 ham operators operating today, such a network would either create uncontrollable liability or would be forced to become a network of checkpoints and border guards.

- **Editorial responsibilities of system operators**

Electronic bulletin boards, "gab lines" and video conferences are administered by a system operator (or "sysop"). There are at present no guidelines for the sysop's responsibility for traffic on the network linked through his or her computer. Are sysops akin to editors, with both editorial discretion and editorial liability, or are they more like highway or transportation officials, responsible for ensuring the integrity and safety of the system and ensuring that the basic traffic rules are enforced?

- **Protections for journalists in the all-electronic newsroom.**

As newsrooms become electronic, the traditional distinctions between news sources

(which may be electronic databases or networks), newsroom files (which are already overwhelmingly electronic), and printing presses (which may soon be replaced by electronic delivery systems) become blurry. Even laws such as the Privacy Protection Act of 1980, which provides special protections against searches and seizures for newsrooms and journalists, may not be adequate to the rapidly changing new media environment. Similarly, as news sources, stories, and subscribers become integrated through electronic networks, the very distinction between media and non-media entities, which is crucial for defamation law, for example, becomes ambiguous.

2.4 Market constraints and free expression in a multi-media network of networks.

A competitive marketplace, with a diversity of speakers and fair access to both programming and audiences, has been widely discussed as a crucial economic foundation for free expression within the mass media field. Similar analysis must be extended to an environment that integrates telecommunications and data media with mass media delivery systems.

- **Claims to preferential access (e.g., Must-carry rules).**

Today, more people receive their television signals over cable than over the air. Broadcasters argue that because of their traditional role as public trustees, they should be guaranteed carriage rights on cable systems in order to be guaranteed access to the audience they were licensed to serve. Can one class of video packagers be entitled to preferential or guaranteed access to the transmission media of their choice? How can this be balanced with the editorial rights of the operator of the transmission media, if provided on a non-common carrier basis?

- **Compulsory licenses or other rights of access to programming.**

As cable developed alongside broadcasting, cable operators had access to broadcast signals through a compulsory license system with a standardized system of royalties. Can

one class of video distributors be entitled to preferential access to the programming of its choice?

- **Access to cable programs.**

MMDS and other multichannel competitors to cable have raised claims that cable's vertically integrated structure has made cable programming unavailable to them. As a result, recent attempts by Congress to pass cable legislation have included program access provisions in response to these claims. Should rival distributors be guaranteed access to programs? If rights to programming are given, what is the principle of compensation?

- **Vertical and horizontal integration.**

When large program distributors and exhibitors become integrated with program suppliers, or become large enough to dominate their market, they can distort the market for programming in a number of ways: large distributors can exercise monopsony power and dictate terms to suppliers; vertically integrated production/distribution/exhibition firms can favor their own product and refuse to make their programming available to other distributors; suppliers integrated with distributors and exhibitors can rely on outlets to recoup expenses in ways that unaffiliated producers can not match, etc. Such conditions led to anti-trust actions against the major Hollywood studios in the 1940s, and the prospect for similar conditions in broadcasting led to the financial interest and syndication rules. (In both cases, the rules have either been repealed or are under review.) Similar concerns have been expressed about vertically and horizontally integrated cable operators and the possibility that the Baby Bells may become video providers creates similar prospects. What are the free speech considerations in a broadband network environment?

2.5 First Amendment: Local Ordinance or Global Principle?

As networks become global, the First Amendment might become little more than a "local ordinance," and in conflict with speech principles of other countries. New

telecommunications technology allows groups with shared communications needs to break off from the public network and form their own associations. Many of these new communities of interest transcend national frontiers. Global, integrated networks create their own First Amendment issues. In "cyberspace," where electronic interactions occur without physical location, how will nationality be determined? What is the difference between a foreign and domestic source in a transborder network?

- **Rights of network access in the U.S. for international information providers.**

Will information providers based abroad enjoy the same First Amendment and access rights that domestic suppliers do?

- **International trade barriers and free speech: Rights of network access for U.S. information providers/program suppliers abroad.**

Many nations, including the European Community, have imposed quotas on U.S. program production and media ownership. What rights do U.S. information providers and program suppliers have to gain access to foreign consumers?

3. ORGANIZATION OF PROJECT

3.1 Participants

A multidisciplinary research team will be assembled for this project. At its core, we will draw on the talent and resources available at Columbia University: professors and researchers at Columbia's Schools of Business, Law, Journalism, International Affairs, and its Department of Political Science. Members of that core group, led by Eli Noam and the Center for Telecommunications and Information Studies with Barry Cole, might include Vincent Blasi, Kent Greenawalt, and Jane Ginsburg of the Law School; Fred Friendly, Stephen Isaacs, and Stephen Ross of the Journalism School; Everette Dennis of the Gannett Center for Media Studies; Robert Shapiro and Alan Westin of the Political Science Department; and Herbert Gans of Sociology.

It is our intention to encourage a new generation of scholars to become involved with these issues, both at Columbia and at other academic institutions. To that purpose we will draw on others across the country and the world.

A third group whose participation will be sought are professionals from the media and telecommunications industries, lawyers, judges, regulators, and journalists. Here, too, we will seek an international orientation.

Among the experts we have already identified are:

Academics

Ben Bagdikian Univ. of California, Berkeley	Oscar Gandy Univ. of Pennsylvania
C. Edwin Baker Univ. of Pennsylvania Law School	Vartan Gregorian Brown
Jerome Barron George Washington University	Gerald Gunther Stanford
James Benniger University of Southern California	Frank Haiman Northwestern, School of Communications
Lee Bollinger Dean, Univ. of Michigan Law School	Al Hammond New York Law School
Michael Botein New York Law School	Thomas Hazlett Univ. of California, Davis
Nolan Bowie Temple Univ.	Masao Horibe Hitotubashi University, Japan
Timothy Brennan Univ of Maryland, Baltimore	Hudson Janisch Univ. of Toronto
Daniel Brenner UCLA Communications Law Program	Lilly Levy Univ. of Miami
Stephan Calabresi Northwestern Univ. Law School	Caroline Marvin Annenberg School, Univ. of Pennsylvania
Wilhemina Reuben Cooke Univ. of Syracuse Law School	Hans-Joachim Mestmäcker Univ. of Hamburg
Donna Demac NYU Interactive Telecommunications Program	Michael Meyerson Baltimore Law School
Dorothy Denning Georgetown University	Burt Neuborne NYU
Alan Dershowitz Harvard Law	Russell Neumann MIT
Martin Elton NYU	Robert O'Neil Univ. of Virginia
David Farber Univ. of Pennsylvania	Bruce Owen Stanford Univ.

Everett C. Parker
Donald McGannon Center, Fordham Univ.

Robert Post
Boalt Hall

Lucas Powe
Univ. of Texas, Austin, Law School

Monroe Price
Cardozo Law School

James Rule
SUNY, Stony Brook

Fred Schauer
Harvard, Kennedy School

Benno Schmidt, Jr.
Yale

Anthony Smith
Oxford University

Rodney Smolla
William & Mary

Matthew Spritzer
Univ. of Southern California

Geoffrey Stone
Univ. of Chicago

Nadine Strossen
New York Law School and ACLU

Laurence Tribe
Harvard Law School

Mark Yudof
Univ. of Texas

William Van Alstyne
Duke

Harvey Zuckman
Catholic University

Media Industry

John Abel
National Association of Broadcasters

Ellen Agress
NBC

Ken Allen
Information Industry Association

Gary Arlen
Arlen Communications

David Bartlett
Radio Television News Directors Assoc.

Henry Baumann
National Association of Broadcasters

Howard Bell
American Advertising Federation

Joel Chaseman
Assoc. of Maximum Service Telecasters

Walter Ciciora
ATC

Terry Davis
TCI

Harriett Dorsen
Bantam

Stephen Effros
Community Antenna Television Association

Brenda Fox
National Cable Television Association

George Freeman
New York Times

Frank Gibson
Society of Professional Journalists

Ralph Goldberg
CBS

Paula Hawthorn
Assoc. for Computing Machinery

Christine Hefner
Playboy

Thomas P. Hester
Ameritech

Mitchell Kapor
Lotus

Terry Maguire
American Newspaper Publishers Assoc.

Richard Munro
Time-Warner

David Nicoll
National Cable Television Association

Martin Nisenholtz
Videotex Industry Assoc.

Marcia Paley
Penthouse

George Perry
Prodigy Services

James Popham
Assoc. of Independent TV Stations

John Redpath
HBO

Robert Sachs
Continental Cablevision

Robert Schmidt
Wireless Cable Assoc.

Ivan Seidenberg
NYNEX

Burton Staniar
Westinghouse Broadcasting

Paul Symczak
Corporation for Public Broadcasting

John Thorne
Bell Atlantic

George Vradenburg
CBS

Gilbert Weil
Assoc. of National Advertisers

Stephen Weiswasser
Capital Cities/ABC

Law

Floyd Abrams
Cahill, Gordon & Reindel

Robert Bork

Anne Branscomb
Raven Group

Kenneth A. Cox
Haley Bader & Potts

John Crigler
Haley Bader & Potts

P. Cameron DeVore
Davis Wright & Tremaine

Timothy Dyk
Jones, Day, Reavis & Pogue

Richard Emery
Lankenau & Bickford

Harold Farrow
Farrow, Schildhouse & Wilson

Victor Ferrall
Crowell & Moring

Charles Ferris
Mintz, Levin, Cohn

Paul Glist
Cole, Raywid & Braverman

Jim Goodale
Debevoise & Plimpton

Albert Kramer
Wood Lucksinger & Epstein

Erwin Krasnow
Verner, Liipfert

Henry Levine
Morrison & Foerster

Nicholas Miller
Miller & Holbrooke

Newton Minow
Sidley & Austin

Henry Rivera
Dow, Lohnes & Albertson

Bruce Sanford
Baker & Hostetler

Richard Schmidt, Jr.
Cohn & Marks

George Shapiro
Arent, Fox

Charles Sims
Skadden, Arps

Norman Sinel
Arnold & Porter

Phillip Spector
Spector & Goldberg

Victor Toth
Victor Toth, P.C.

Joe Van Eaton
Spiegel & McDiarmid

Philip Verveer
Wilkie, Farr & Gallagher

Richard Wiley
Wiley Rein & Fielding

Susan Wing
Hogan & Hartson

Non-Profit

Walter Baer
RAND

John Perry Barlow
Electronic Frontier Foundation

Jerry Berman
ACLU Information Technology Project

Les Brown
Center for Communication

Lee Burdick
Media Institute New Technology Project

George Conklin
Media Ethics and Advocacy,
National Council of Churches

Robert Crandall
Brookings Institution

Jonathan Emord
Pacific Research Institute

Bruce Fein
Heritage Foundation

Charles Firestone
Aspen Institute

Henry Geller
Washington Center for Public Policy Research

Leanne Katz
National Coalition Against Censorship

Henry Kaufman
Libel Defense Resource Center

Larry Kirkman
Charles Benton Foundation

Judith Krug
American Library Association

Gara LaMarche
Fund for Free Expression

Lawrence Lindblom
J. Roderick MacArthur Foundation

Patrick Maines
The Media Institute

Elliot Minzberg
People for the American Way

Anthony Pharr
United Church of Christ

Roger Pilon
Cato Institute, Center for Constitutional Studies

Joseph Riley
Morality in Media

Marc Rotenberg
Computer Professionals for Social Responsibility

Andrew Schwartzman
Media Access Project

Sam Simon
Alliance for Public Technology

Craig Smith
Freedom of Expression Foundation

Richard Stallman
GNU Project

Government

Vary Coates
Office of Technology Assessment

Antoinette Cook
Senate Communications Subcommittee

Judge Frank Easterbrook
Seventh Circuit Court of Appeals

Richard Firestone
Common Carrier Bureau

Linda Garcia
Office of Technology Assessment

Terry Haines
Minority Counsel, House Energy & Commerce
Committee

Larry Irving
House Telecommunications Subcommittee

Regina Keeney
Minority Counsel, Senate Communications
Subcommittee

Judge Alex Kozinski
Ninth Circuit Court of Appeals

David Leach
House Energy and Commerce Committee

Lee Liberman
White House

Mark Nadel
FCC, Industry Analysis Division

Mike Nelson
Senate Science Committee

Sharon Nelson
Washington Public Service Commission/NARUC

Judge Abner Mikva
D.C. Circuit Court of Appeals

Robert Pepper
FCC, Office of Plans and Policy

Robert Pettit
FCC, General Counsel

Judge Richard Posner
Seventh Circuit Court of Appeals

Alfred Sikes
Chair, Federal Communications Commission

Gerry Salemme
House Telecommunications Subcommittee

William Squadron
New York Department of Telecommunications
and Energy

Judge Ralph Winter
Second Circuit Court of Appeals

Journalists

Ellen Goodman
Boston Globe

Jeff Greenfield
ABC

Nat Hentoff
Village Voice

Gary Kim
Multichannel News

Anthony Lewis
New York Times

Rick MacArthur
Harper's

John Markoff
New York Times

Bill Moyers

Victor Navasky
The Nation

Russell Pipe
Transborder Data Reports

Howard Rosenberg
Los Angeles Times

Sydney Schanberg
Newsday

Robert Ellis Smith
Privacy Journal

James Warren
Chicago Tribune

Len Zeidenberg
Broadcasting

3.2 Implementation

Scope of the Project

The original intent when we first drafted this document was to propose running this project through two or three annual cycles. However, as we proceeded to think about the project, several points became clear:

(a) The task is a massive one; new issues are emerging continuously with new technology and applications. There is no end in sight.

(b) The creation of organized expertise require major upfront intellectual and organizational investments; it would be wasteful to discontinue their use after 2 - 3 years.

(c) Because the subject of free speech in electronic media is hard fought, research credibility is enhanced by the independence which continuous funding signifies.

(d) For a long-term project to be effective, it requires a long-term time commitment by a senior academic, and some certainty of continuity by a junior faculty member.

For these reasons, we encourage you to think more ambitiously beyond a 2 - 3 year time horizon, and to join with us in the planning and realization of an ongoing institutional base for free speech in electronic media, based on an ongoing, i.e. endowed, center, with a respected senior professor in an endowed chair, and assisted by a capable junior professor who intends to make the subject the focus of his academic career.

Activities

The project will have, on an annual basis, the following research activities and events, including:

- Brainstorming sessions to include various leaders in the field, among them representatives from the media, the legal profession, government and industry. This would help in the identification of issues and potential authors. The brainstorming sessions would be followed by:

- Selection of authors.
- Commissioning of research.

- Workshops to discuss the research as it progresses. The intended audience for the workshops would be academic, industry, media, and legal professionals and opinion leaders. Some of these sessions could be chaired by Vartan Gregorian, President of Brown University. Several events should be held in Europe or Asia, to elicit international participation in the project and to reflect the importance of these perspectives as communications become global.

- A major annual national conference to formally present the research to a broader audience for discussion and feedback. We might also tape these sessions for broadcast as part of C-SPAN's public policy programming, or use other outlets.

- A book volume The work from the conference, as well as other important research will be compiled into a university press book. Some of the authors may also publish their work in journals, law reviews and the general press.

- A post-publication session to disseminate the research and findings to the legal community, media, government, regulators, etc.

- Visiting Fellows would conduct independent research and participate in workshops and conferences. The fellows would secure their own funding for salaries and living expenses, but would conduct their work at Columbia.

3.3 Administration

Administration of the project would be lodged in the Columbia Business School's Center for Telecommunications and Information Studies. The Center has an extensive track record as the leading interdisciplinary research facility analysis on communications internationally, dedicated to free speech and free markets. The Center has produced a significant body of research, including over 450 working papers, 11 books published and nine more forthcoming.

Eli Noam, founder and director of the Center and a professor at Columbia's Graduate School of Business, has published and lectured widely in the field. With degrees in law and economics, he has applied these disciplines in highly respected volumes such as International Trade in Film and Television; The Cost Of Libel: Economic and Policy Implication; Video Media Competition; Telecommunications Regulation Today and Tomorrow; and the forthcoming Television in Europe, due from Oxford University Press later this year. Professor Noam is nationally known as an expert on the subjects of this proposal. He has served for three years as a Commissioner with the New York State Public Service Commission, and has also taught at Princeton University and Columbia Law School. As a policy maker, he is noted for work on open network architecture, network interconnection, and privacy, among others. (Curriculum vitae enclosed)

3.4 Budget per Year

This budget is configured for annual expenses.

A. ENDOWED FACULTY:

Senior Faculty	80,000
Junior Faculty	60,000
Faculty Total	140,000

B. ADMINISTRATION:

Administrator	10,000
Secretarial Assistance	5,000
(fringe)	4,050
Supplies and Materials	1,000
Postage	1,000
Telephone	2,000
Contribution to Center Overhead	15,000
Administration Total	38,050

C. RESEARCH:

1) General Research

7 Faculty research stipends for projects @ 1000	7,000
7 Research Assistants for projects (part time Columbia Grad Student @ 2000)	14,000
Books, etc	1,500
Travel	1,000
Subtotal	23,500

2) Visiting Fellows (2)

Secretarial/assistance for Fellows Assistant	6,000
(fringe)	1,620
Supplies and Materials	500
Telephone	1,000
Research Assistance (Grad Student)	4,000
Subtotal	13,120

3) Annual Conference:

Administrative Assistant	1,000
(fringe)	270
Travel	3,500
Accommodations (room and board)	2,000
Lunch	2,000
Telephone/postage	1,000
Brochure	1,000
Papers	1,000
Facilities	2,000
On site materials and supplies	500
Videotaping Costs	2,000
Subtotal	16,270

4) Workshops: (three workshops)

Four Speakers and/or Discussants	
Travel	2000
Accommodations	1000
Mailing	750
Facilities	1000
AV Equipment	500
Seminar and Workshop Subtotal	5,250
(3x)	15,750
Added Expense for International Workshop	2,000
Subtotal	17,750

5) **Publication Expense** (annually)

Manuscript Editor	1,500
Research Assistant	1,500
Production Costs	2,000
Subtotal	y 5,000
Research Total	75,640



Annual Total Summary

FACULTY TOTAL	140,000
RESEARCH AND ACTIVITIES TOTAL	75,640
ADMINISTRATION TOTAL	38,050 =====
TOTAL ANNUAL BUDGET	253,690

On a permanent basis, at the university's 5% rate, this supplies a \$5 million endowment. This is a substantial sum; but as Thomas Jefferson said, "The price of liberty is eternal vigilance."

4. Conclusion: Preserving the underlying purpose of the First Amendment.

Decisions being made today will have long-term effects on how free speech will be extended. The potential to secure the full range of First Amendment benefits in the newly integrated, multi-media network of the future depends on a comprehensive analysis, discussion and dissemination. This project aims to provide the basic research, policy analysis, and public education necessary to advance the principles of free speech that have served us so well for the past two hundred years into the next century.

[ab.andrew.4/4/91]