# Seminar Transcript: Who's Interested in the Public Interest

April 3, 1986

Edited Remarks of Speakers

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c April 3, 1986. Columbia Institute for Tele-Information

Columbia Institute for Tele-Information
Graduate School of Business
809 Uris Hall
Columbia University
New York, New York 10027
(212) 854-4222

Albert Kramer

Founder
Citizens Communications Center

Partner
Wood, Lucksinger & Epstein

I've been asked to talk tonight on why _nobody_ seems to be interested in the public interest anymore. What happened to that wonderful period in the late '60's and early 70's that we now look back on as the Golden Age of the public interest movement? What went wrong? What should we have done, what did we do right, what did we do wrong, what do we need to do now?

Let me begin by defining what I think that movement was about. First of all, although we called it "public interest" and that was the name given to it by the press, a lot of us didn't feel that this was properly the name that should have been given. What the movement was about, at least from my perspective, was making sure that people who were otherwise unrepresented, people who would otherwise not be paid attention, had their voices heard. There was (and we realized this at the time) a certain arrogance in wrapping ourselves in the public interest banner and we didn't really attempt to do that. What we did attempt to do was to say that we were trying to get voices heard that would otherwise not be.

Now for the most part these people turned out to be those who did not have any direct economic leverage over whatever

debate it was in which they were trying to be heard. Clearly, economic power determines who gets heard in our society; very, very few people who don't have it are in a position to participate in policy debates. And even where there are issues that have long-term consequences for these people, if they don't see a direct, economic stake for themselves in the outcome, it's very hard to get them interested. One of the things that I learned in private law practice, for example, is that it's very hard to get businesses to buy futures. They're not worried about what's going to happen twenty years from now because they've got to show quarterly earnings. Therefore, if you go to them and say "this is important because it could potentially affect where your business will be in 20 years," they say "yeah, but what does it do for me in the next 20 months?" That means, inevitably, that policy processes tend to be dominated by immediate economic interests.

Now I should hasten to add that once you see what the public interest is, as I've defined it, you have something of a hint as to why the public interest movement might seem to be in such disarray at the moment. We are presently in a period in our history when the prevailing philosophy is that of free enterprise, and concomitant to this is the feeling that the major obligation of government is to get out of the way of business, not to step in and make sure that society is working, but instead to let the free market function on its own. This philosophy is a major reason why you're seeing a lack of involvement in the

public interest movement. You've basically had a fundamental shift in government's views on its own obligations.

What's happened to the public interest movement? It has a lot of problems, but it is not dead. There's no question it's not as visible as it once was, though, and the issue of why it is not so must be addressed. In addition, we must address the fact that there are so many indications of problems in the movement. Why are some groups such as TRAG, the Telecommunications Research Action Group, and the Citizens' Communications Center folding, why do citizens' movements seem to be losing battles in the courts, winning at best only sporadic, limited victories? What did those of us who were active in the 60's and 70's do wrong, what did we omit to do, what should we have done? That in turn raises obvious questions about what we should do to turn it around now or when the next opportunity arises. I don't think there's any one thing--I think there's a variety of things, and I think they come together in some ways. There is a combination of errors and omissions, or perhaps more charitably, `learning experiences,' we had that now we need to try to cash in on. I'll discuss several of them, though not necessarily in their order of importance, that I regard as providing key lessons if we're going to have a public interest movement down the road, if we're going to try to rebuild.

First of all, we need to recognize our failures to focus on existing institutions and our failure to build institutions. One of my colleagues who preferred to work through the processes of

government put it to me quite bluntly. "You guys were enamored of chasing issues, you loved to chase around substantive issues and you got confused because you thought that by doing this you were reforming and changing things. But all you were doing was winning temporary victories. And there was further confusion. You confused the process with building institutions: opening up the process doesn't mean that you're building institutions. Furthermore, you focused on getting the process opened up, and on the process issues, by chasing the same substantive issues that you were worried about."

Let me draw your attention to the following as an example of the way the system worked and as our failure to focus on it. One of the things we always cite as a landmark victory was the United Church of Christ decision, which gave standing to citizens' movements by allowing them to participate in proceedings before the FCC. This was a case that arose out of an issue we were chasing. A right issue, to be sure, in the cause of winning civil rights for Blacks in the South, a right issue, opening up the process. We got standing, we opened up the process around an issue that was important. We were not focusing on building an institution, a communications advocacy agency, for example. Ralph Nader was talking about a consumer protection agency, he had his eye on the institutions, on putting something inside the institutional structure that would act as a counterweight to those forces that otherwise were all pushing in one direction, to act as a mouthpiece for the voices that otherwise would not be

heard, interests that otherwise would not be represented.

This is a prime example of one of the first areas where we have to learn from our experiences. We need to say that in the next round we must focus on institutions rather than chasing issues, rather than chasing the process.

I must say as well that it's important to recognize that it was very easy to do what we did because the level of injustice we were attacking was so much more visible and so much easier to focus on than anything we might find today. And furthermore, it was very, very easy to get confused between the process and institutions at the time because essentially we stepped into a vacuum. Basically, if you think about the government we were dealing with, there was a 40-year legacy of Democratic domination of the process, a legacy of people who believed in regulation, a legacy of people inside the FCC, inside a number of departments of government, who had been frustrated by their inability to respond to a lot of these issues and who were looking for somebody from the outside to come along and give them a reason to go to their superiors and say "you have to act." So we had the benefit of a very favorable environment that very easily let us confuse process and chasing substantive issues with building institutional reform.

Closely related to our failure to build institutional reform was our failure to concentrate more on building constituencies. I want to emphasize that this is not necessarily the right way to go all the time, but it does give one a base of support. It's a

way of "institutionalizing," if you will, because if you build your own constituencies, they come to have a vested interest in your own success. And to the extent you are building up a body of forces within society that have such an interest in you, you are institutionalizing yourself. We began with an institutional focus and we kept it for several years, but as we got more and more involved in the substantive issues, some of us didn't pay enough attention to the issue of making sure that we were continuing to build and maintain our contacts with our constituencies. As an example of this, I'd like to focus on the public-interest law firm that I started, which started out as a largely constituency-based organization.

There was virtually no major city in the United States where, if we saw that a television or radio station was being transferred from owner to owner, there was nobody we were able to tell about it. We watched those transfer sheets because people we knew all around the country were affected and, conversely, they called us with things that were going on in their communities. So that when it came to seek somebody, when it came time to go to the FCC and say that we had standing to speak for someone, we could easily muster up an array of people who would readily say, "yes, this organization speaks for me and represents me." Furthermore, we went beyond this. We reached out into the associational network within Washington, DC, which is a substitute way of institutionalizing yourself. To the extent that you're not directly involved in the various communities

you're dealing with you can reach out and become a support organization for other parts of the associational network in Washington that do deal directly with them. Civil rights, civil liberties, labor, and environmental groups were all very active at the time. Whole series of associational networks were built up in the late 60s and 70s.

But again, as the years went by, and as we began to focus on substantive issues, we lost contact with our constituencies; there was a failure of mutual reinforcement, to all of our detriment. And this is an important point, because one of the things going on _now_ is the recognition that we failed in another way: we didn't use the institution that we were dealing with the most intimately, namely the media. We didn't understand how to use it. When groups came to us about using the media, we neglected to do so for our own purposes while actually helping them to use it for theirs, and therefore we ourselves failed to give the media an institutional interest, albeit an adversarial one, in seeing us around.

In Washington, a group is now being developed that is attempting to do what we failed to do back then. They will eventually function as a support group that will recognize that the way you accomplish public policy reform goes beyond the relatively narrow image of it that we had in the late 60s and early 70s, when we believed that in order to get something done you manipulated the processes of government--you jerked a lot of chains. If you'd have asked us about this at the time, I think

we would have said we had a "broad view." We knew how to play Congress off against the White House, we knew how to use the White House to divide two different wings of the same party within Congress, we knew how to get the White House's goat by using the FCC and vice versa, we knew how to get into the various White House departments that were overseeing media and make them jerk Congress's chain--we knew how to play it all and so it seemed to us like we really were playing to broad, broad game. But in fact we weren't. What we were really focusing on was how you make public policy by pulling strings in Washington and <u>not</u> how you make public policy by pulling strings with constituents and having true popular support, by making your own issue into a mass issue.

This is the role that this new group hopes to play. They are beginning by saying that we need to move beyond our old image of how you make public policy, and take on a new view recognizing that the media and politics itself is a part of the policymaking process, and that they in turn play a role in the constituency-building and institutionalization processes. This is particularly important because the issue of using the media is itself, of course, a process issue. When you go out and you're trying to help garbage strikers in Atlanta, as we were in the early 70s, you find that they don't care about the media in the abstract. They care about the media only because it's on the shitty side. And once they've gotten their message across, they're not interested in controlling the media, because once

they've won the strike, that's what they wanted to do and they're done with it. But it becomes very important when you're dealing with such a case to recognize that it's essentially a process issue itself, that is, a question of who controls the means of getting something done, of who can use it for their own purposes. You've got to focus on making sure that you're using it as well, and that you're institutionalizing at that end.

A related issue is what I will call, for lack of a better term, our lack of "ideology." It's a related issue because you build constituencies around ideologies. An ideology is supposed to tell you what you're committed to and what exactly it is that you want. Besides the process, besides the institutionalizing, what is it that we were really trying to accomplish? Were we really only committed to process, to institutionalizing in the abstract? Or did we have an agenda? What were the specific social objectives?

I'll try to illustrate this by telling you a little anecdote. The other night I was listening to the radio and George McGovern was on the Larry King Show. King asked McGovern what he thought of the current political scene, and he answered "Well, I think it's just terrible." King asked, "Who do you regard as worse, the Democrats or the Republicans?" And McGovern's answer was essentially, although he didn't say it in as many words, that the Democrats are worse. Why? Because the Republicans are so bad and the best the Democrats can do is try to imitate them. They're trying to "out-Reagan" Reagan. They're

trying to be more like the Republicans than the Republicans. McGovern pointed out that in 1964, Goldwater was absolutely blasted by Lyndon Johnson--I recall sitting in the living room and hearing Chet Huntley and David Brinkley essentially pronounce the death of the Republican Party, asking if the Republicans could survive. But, McGovern pointed out, four years later the Republicans were back in the White House. Then Nixon was ignominiously chased from office, and again there was the question of whether or not the Republicans would be able to survive. And six years later, they were back in the White House.

Now contrast what Ronald Reagan was doing during that period with what the Democrats are doing now. In 1976 you had Barry Goldwater, the guy who'd gotten beaten up in 1964 because he was so far to the right, saying "We can't have Reagan, he's a nut. He's way out there on the right." But you didn't hear Reagan saying "I'm going to behave like a Democrat." Instead, he stuck to his guns and by 1980, he was in the White House. McGovern made a very simple point about this: Reagan had a philosophy. He had a consistent ideology, he had a framework from which he operated, no matter what came along. If that meant that he had to play the role of the cowboy drawing his "six-gun," taking a shot at Muammar Khadafy, he would do it. Whatever happened, he stuck to his ideology, so that he'd have an "intellectual" framework, if one can dignify it by calling it that, from which to operate, from which to make decisions, to which he could retreat. And indeed he did, as McGovern pointed out. People

like consistency.

On the issues, Mondale had the support of more of the American people than Ronald Reagan did. The polls show that people voted for Reagan because they liked the fact that he stuck to his guns--little did they know what a literal term that was going to turn out to be. There were, of course, a whole variety of other reasons; I don't want to oversimplify. But I think you see the point I'm trying to make.

George McGovern said that movements like liberalism and conservatism each have their place in history and they each have their ebb and flow. And you don't revive liberalism by trying to make it look like conservatism, you say "I'm a liberal" and stick to your guns. I would like to think that all of us are people who believe in the public interest movement as I've defined it, and believe also that we're not dead, we're only in an "ebb" stage. The problem now is for us to begin anew, to think for the long run. We have to focus on ideologies, we have to focus on constituencies, we have to focus on institutionalizing.

I want to end by saying that even if we do all of that, it is no substitute for constant activity and constant vigilance. Even if you get the decisions made, if you don't keep control of the ideology you've built, of the institutions you've created, they will turn on you. All of the civil right's gains that were made in the 60s and 70s are potentially about to be reversed by the Reagan administration. The Department of Justice in the hands of the wrong people becomes a "Department of Injustice."

When you put institutions in place, when you put decision-making processes in place, they can fall into the wrong hands. So while I've tried to focus on some of the things I think we can learn, some of the things that we can learn from what we did in the past, I also believe that even had we done it all right, had we done everything correctly, had we built institutions, had we had an ideology, had we maintained our constituencies, it would still be important for us to have people who hang in there over the long haul, such as Everett Parker and Ralph Nader. Whether you agree or don't agree with each and every thing they do, they are the people that really make it go.

Dr. Everett Parker

Senior Research Associate
Fordham University

I come to this from another side. Albert Kramer has spoken from a political power base, which I think is perfectly justified, but the base from which I have operated has an indirect kind of political power; the churches, by definition, are not involved directly in activity of the type that he was talking about. Furthermore, on the matter of agency development, while I can understand the reasoning behind it, I don't accept the scenario that Al outlines, in which if you get the agency you get what you want. I have no faith that any government agency is going to protect the interests of the people. The people have to protect their own, all the time. And when they fail to protect their own interests they get what we have now. The fact is that during all this period we've been dealing, in the communication field, with an interest that most of the public doesn't even know it has. When you realize that ever since 1927--going back to the Federal Radio Act--we have had a single government agency that has oversight over both broadcasters (leaving out the new technologies) and common carriers, and that the people of the country have deliberately never been informed about these elements and about what might be done about them, you see the reason for the general public ignorance of goings-on in the field of communications. Even today, with the exorbitant telephone

bills that we're getting and the fact that people have some kind of vague idea that they're really being robbed, they have no way of knowing what to do about it.

We in the United Church of Christ started to fight this battle way back in 1944 and 1945, when we started the monitoring that led to hearings--hearings that the FCC was not about to hold on its own--on whether or not there should be television frequencies set aside for education. So we've been at it a long time and we have had a consistent theory and a consistent ideology. I believe that having that and having a constituency, as the church has had, gives you another track to operate on than that which a political power base provides, although I certainly don't argue that this is unimportant.

We in the churches--not just the United Church of Christ, but a wide variety of Catholic, Protestant, and, as of late, Jewish groups--have sought simply to tell people about these issues and to get them to do something about them. Our philosophy has been to try to find a way to make it possible for groups to handle their own affairs. We haven't attempted to be a central institution to which everybody has to turn. Whether this approach is better than Al's, I don't know. But we have worked very hard on opening up the system so that Black and women's organizations are able to take care of their own affairs, so that they don't have to have a front group act on their behalf.

One of the places where we in the churches have failed, unfortunately, is in being able to build a constituency outside

our own organizations so that we could have an amalgam of powerful groups that could work together. During our heyday, the only real cooperation that the Office of Communication had was from private citizens. We went to the Leadership Conference, for example, we supported a number of its member organizations with a lot of money, we paid them to get into the communications field, but if they did so they did so individually, on a competitive basis. Because communications is such a sexy field, when you do finally wake some group up they say, "that's for _me_, never mind operating with you." This, it seems to me, has been a really big problem for the public interest communications groups. With environmental and anti-nuclear groups, on the other hand, by golly, everybody gets together because we're all going to die together. But in our field groups say, "hey, there's some money in it for us." Look, now Jesse Jackson has moved into it. Because of this type of thing, it's been very hard to get the kind of cooperation that we would like.

I think that one of things that we can do on our own, and that we should be most interested in, is to provide an educational center; we thought we were on track on this once, and we could still recreate it. There are issues that we need to deal with in this capacity; certainly one of these is the question of what's going to happen to public broadcasting. I'm on John Wickline's side on this; I hope some of you read his article in the Columbia Journalism Review. There are still public interest organizations that have their own constituencies:

labor the churches, many civil rights organizations. They're in disarray now but will come back, and when they do, I believe that they can best be served by our educational efforts.

Richard Neustadt

Senior Vice President
Private Satellite Network

I'd like to go back over some of the points Al made and make some suggestions on how to look at the last 20 years. The first of these is historical. To understand why the map of communications policy looks so much different today than it did 20 years ago, you have to remember that the field of communications doesn't exist in a vacuum, that it has been influenced by an overall change in governmental and public attitudes towards the role of the state. The case that Everett led 20-plus years ago was a civil rights case, and it came at a time when the civil rights movement in this country was the central, fundamental public interest group, one that after 10 years of fighting the government had finally acquired allies within in. In this context, it was possible to secure that victory. Both in terms of the response of the courts and of the general public support for the idea, the Civil Rights Act was created. The public interest movement in communications, meanwhile, became very much part of the consumer movement, and if you think back to the late 60s and early 70s, you'll remember that there was a tremendous amount of interest in Washington and around the country in pro-consumer activities. The kind of debates that were taking place both before and within the Federal Communications Commission were mirrored at the Federal Trade

Commission in the creation of the Consumer Products Safety Commission, and so on.

It's within that context that you have to look at the deregulation movement. If you want to understand why communications has become a competitive and increasingly unregulated industry, part of the answer lies, of course, with the changes in technology; but I think a large part lies in the confluence of Vietnam, Watergate, and the push to deregulate the airline, and subsequently the trucking and securities industries. And of course, the evolution from deregulation to unregulation--and I'll return to what I think the distinction is--has been very much a part of the movement from a Democratic administration to a Republican one, and part of a change from questioning the role of government to trying to shut to down. Within this context, the future of the communications public interest movement, whatever that means, is going to be very much tied to the future of other public interest movements. If you want to see where this discussion is going, try to figure out what the country as a whole may be thinking of in terms of what kind of an economy they want to have in the next 10 or 15 years. Because what happens in communications is going to flow out of that.

My second point deals with institutions. I agree that there was little focus on institution-building among those who were the leaders of the communications public interest movement. But I disagree that this was a bad thing. Because the kind of

institution that Al referred to, was an advocacy group within government. And it seems to me that if you look at the track record of organizations like that, you'll find that they've generally failed. They get in the way, they don't do much good. If you look at the Civil Rights Commission or the Council on Environmental Quality, which were given an advocacy role but no power, you discover--and this isn't really terribly surprising--that their effectiveness depends on which administration happens to have appointed their members. The Civil Rights Commission has not achieved a heck of a lot in the last few years. By contrast, institution-building succeeds within government when it creates organizations that have something to <u>do</u>. The Environmental Protection Agency, even in this administration, has been a powerful force because it's charged with carrying out a set of laws. And regardless of who's at the top, there's an institutional momentum that can't really be stopped. And thus, for all the trouble the environment is in today, we'd be much worse off if there was no EPA. Its creation, and the enactment of the laws that underly it, were the environmental movement's most important accomplishment during the late 60s and 70s. I think that the failure of the public interest movement in communications was the failure to focus on <u>that</u> kind of institution. In fact, there are some very important and successful institutions that were created by people who, to some degree, were part of the communications "public interest" movement, and those institutions, National Public Radio and the

Public Broadcasting Service, were created with the goal of making the media better. They had a mandate, they had money, they had specific functions to perform, they have acquired constituencies of their own and are now contributing in important ways.

My third point deals with constituency building. Clearly that's been a huge practical problem for the communications public interest movement. Again, compare it to the environmental movement and you'll see how far behind communications is. But I think that this shouldn't be surprising, in view of the ideology problem. That is, if you don't have a clearly defined ideology that a lot of people can relate to, it's very hard to build a constituency that sticks around. And an ideology that says "let other voices speak" ain't real exciting. I don't think you can get tens of thousands people marching through chanting, "let's let other voices speak!" It isn't like civil rights or "let's have clean air" or "let's stop war" or "let's end poverty". There are a lot of other voices speaking about all kinds of things and you probably disagree with half of them; there are plenty of voices I'm not particularly interested in having speak. When you really get down to it, we'd all disagree about which voices we want to hear from anyway.

It seems to me that what's happened in the communications industry is that there have been three visions on the table in the last 10 or 15 years: the public trustee vision, the competition vision, and--forgive me for being partisan--the abdication vision. According to the first, in both broadcasting

and in common carriage that you take a for-profit commercial entity and somehow get it to do things which really aren't very profitable but are good for people. It's obvious what this concept means for broadcasting. But a lot of the traditional thinking about common carriage, as defined by the way that AT&T, for example, has historically interpreted its mandate, has included the belief that the business involves a sort of "public goodness mission," not just making money. The second concept states that the public trusteeship idea doesn't work, that it's mostly a shell game. You may get a few gains here and there, but the incentive to maximize shareholder earnings, or if you want to be more cynical, maximize their own salaries, is too powerful to induce CEOs to do anything much more than maximize returns. And so, according to this paradigm, instead of banking on public trusteeship, instead of trying to change the private enterprise incentive, the market ought to be allowed to work. And competition should be promoted wherever possible. This is the philosophy that's motivated everything from airline deregulation to letting MCI compete in the telephone business. In fact, there have been times, when as a practical political matter, matters have come down to this choice: do you say to an organization such as the NAD, "all right, we're serious about this public trusteeship and in return we'll protect you from cable," or do you say to them, "yeah, we realize that this public trusteeship doesn't matter so much, maybe there'll be some deregulation of radio and eventually of television, but, by God, there's going to

be competition in cable, you'd better learn to live with it"? Now it seems to me that the third philosophy, which the current chairman of the FCC calls "unregulation," is quite different intellectually. I think the attitude today is "it doesn't really matter whether there's competition or not, what matters is getting the government out of the area completely." Promoting competition often can mean a very activist government. So it really is quite a different way of looking at the world. And looking ahead at what a public interest movement in communications might want to chew on, what issues are worth really thinking about, my bet is that public trusteeship is dead, for better or for worse, it's history. The choice that we face now is between the deregulation and the unregulation approaches. We'll get ourselves in awful trouble if we continue to follow this path of assuming that in communications the government really has no role at all. We'll get ourselves into trouble because we'll lose some diversity, we'll lose public broadcasting. But that's the logic of that path: "leave it all to the marketplace." We'll fail to set the kind of technical standards that may be necessary to allow us to compete in an environment where everybody else in the world has a government playing a role in setting standards, we'll screw up spectrum allocation, we'll sit on new services.

These are the kinds of issues at stake in the choice between an interventionist, or activist, public interest role for government with competition as an objective, and government

abdication. Now how you turn that debate into a clearly framed, exciting, ideological argument that will get thousands of people to march through the streets, I don't know. I wish I could figure it out, and I think that's what we have to try to do.