

Ready, Fire, Aim: Why Digital Platforms are Not Media Companies and What to Do About Them

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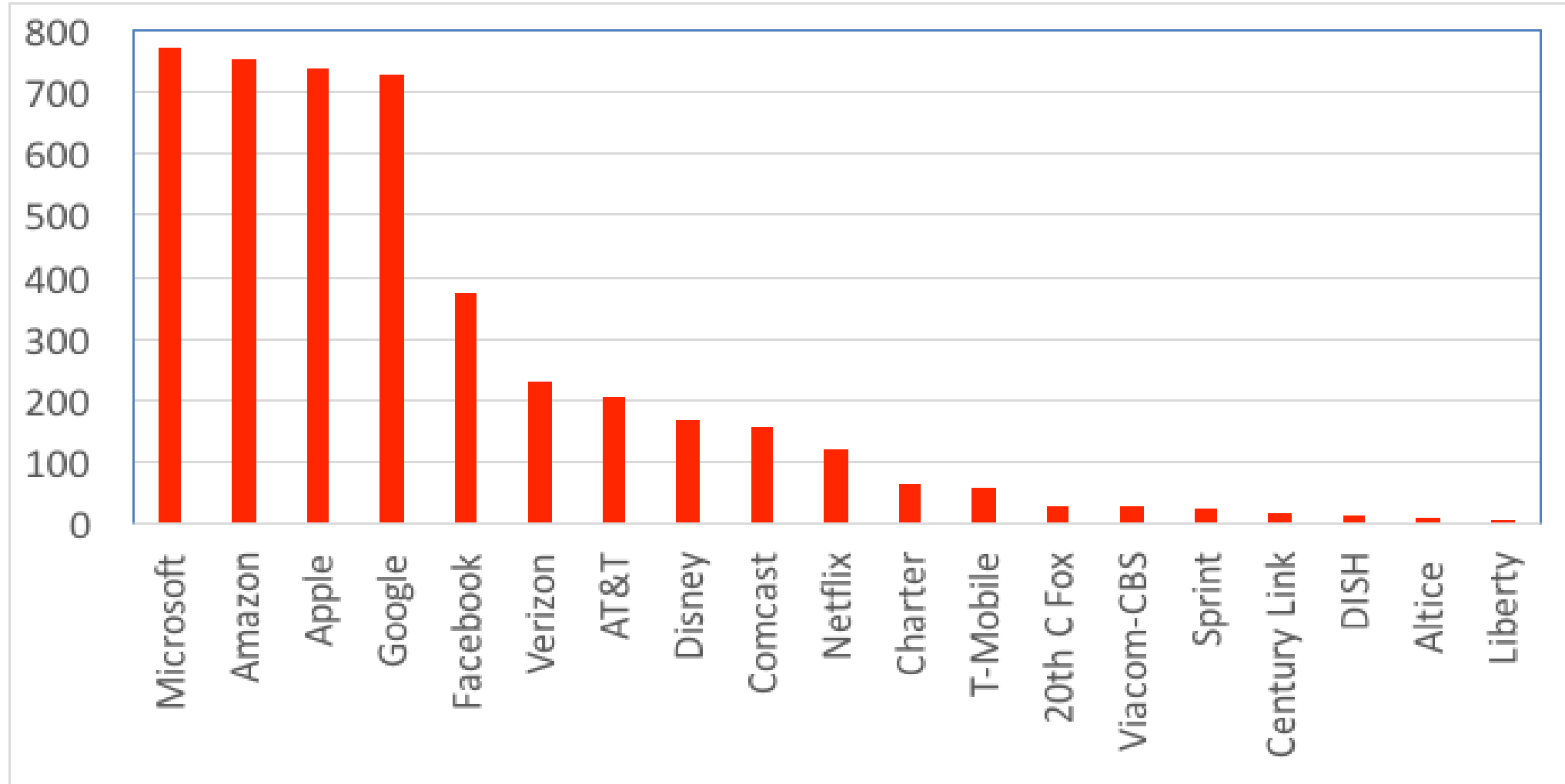
Using data from US as the main point of reference, outline general criticisms being mounted against GAFAM+, ie. Google, Apple, Facebook, Amazon, Microsoft, and critically examine Netflix and Twitter

1. enormous market capitalization & massive global scale puts them into a league of their own;
2. destructive impact on journalism + media;
3. threat to markets, society, personal + democracy;
4. digital platforms embody a new form of Platform Capitalism (Srnicek, 2015)/Surveillance Capitalism (Zuboff, 2019);
5. Platforms are basically media companies & should be regulated as such but currently mostly unregulated.

Respond with **qualified acceptance** of points 1 (scale) & 3 (threats to autonomy, society & democracy) but **reject** points 2 (negative impact on journalism & media), 4 (platform/surveillance capitalism) & 5 (“platforms are media companies” because historically & sociologically misleading (Hesmondhalgh, 2019) & based on superficial analogies:

1. Nearly all modern media—i.e. press, recorded music, radio, film & TV, computing + internet—have developed in close proximity to much larger telecoms, electrical & banking firms for 150 years (Miege, 1989; 2011; Garnham, 1990; Hesmondhalgh & Meier, 2017)
2. Different starting points for platform regulation based on telecoms & antitrust regulation history vs media policy: divestiture, line of business restrictions, common carriage, non-discrimination, privacy & data protection; speech rights for “end users/speakers” not network owners; carriers have legal obligations to block and disable access to “illegal” (but not “harmful”) speech + sector-specific regulation.
3. Content regulation should be tool of last resort. When societies have a Nazi problem, or hate, racist, misogynist, fraud, insider trader, etc. speech problem, governments should use existing laws or create new ones to fill the gaps vs delegating authority to intermediaries to regulate speech via ToS, community standards (content moderation), “voluntary codes” or social media councils.

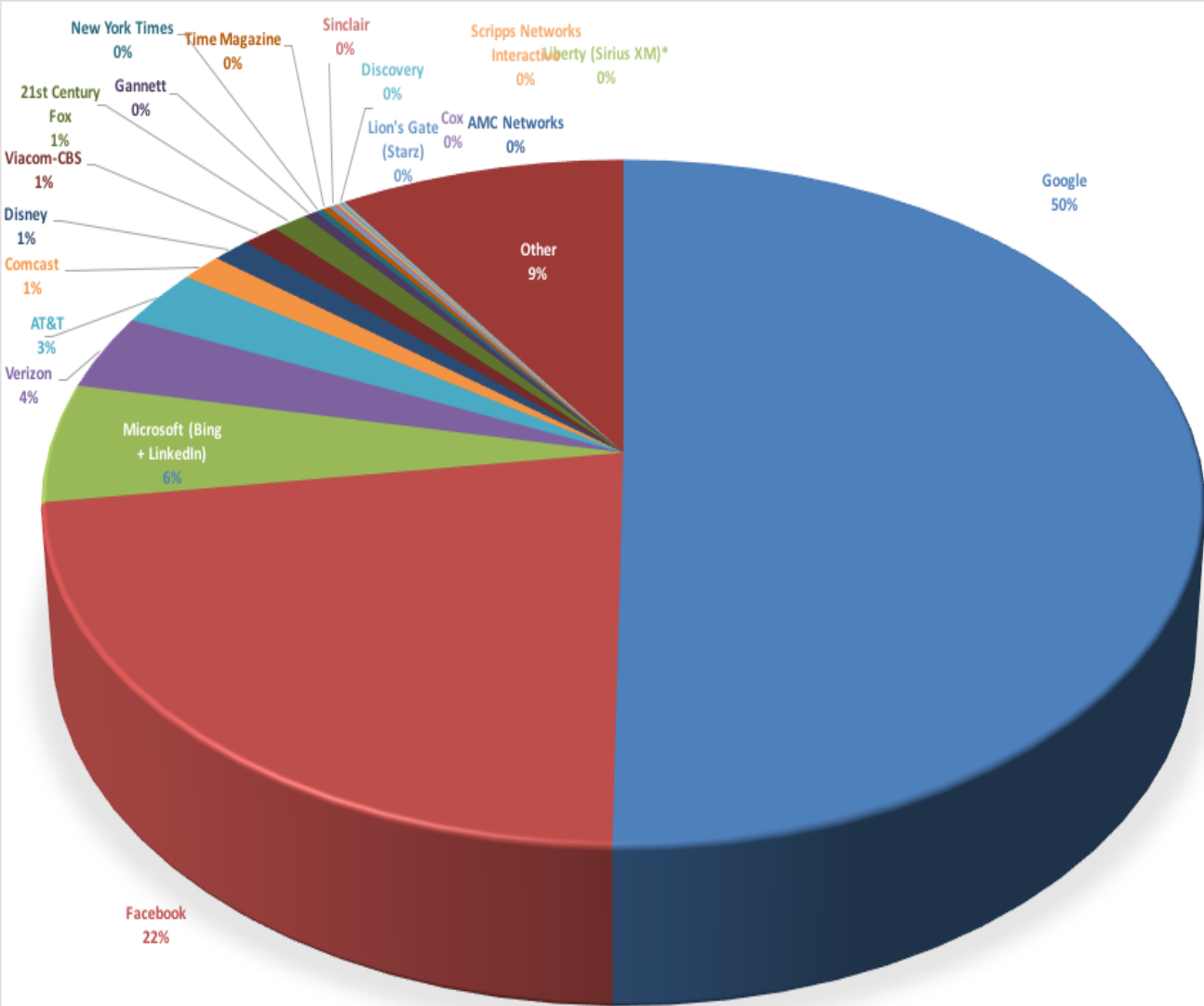
Massive Market Capitalization of GAFAM+ (Billions USD, December 31, 2018)



Digital Duopoly: Google and Facebook Dominate Internet Advertising

United States Online Advertising Market: Top Player Revenue & Market Shares, 2018

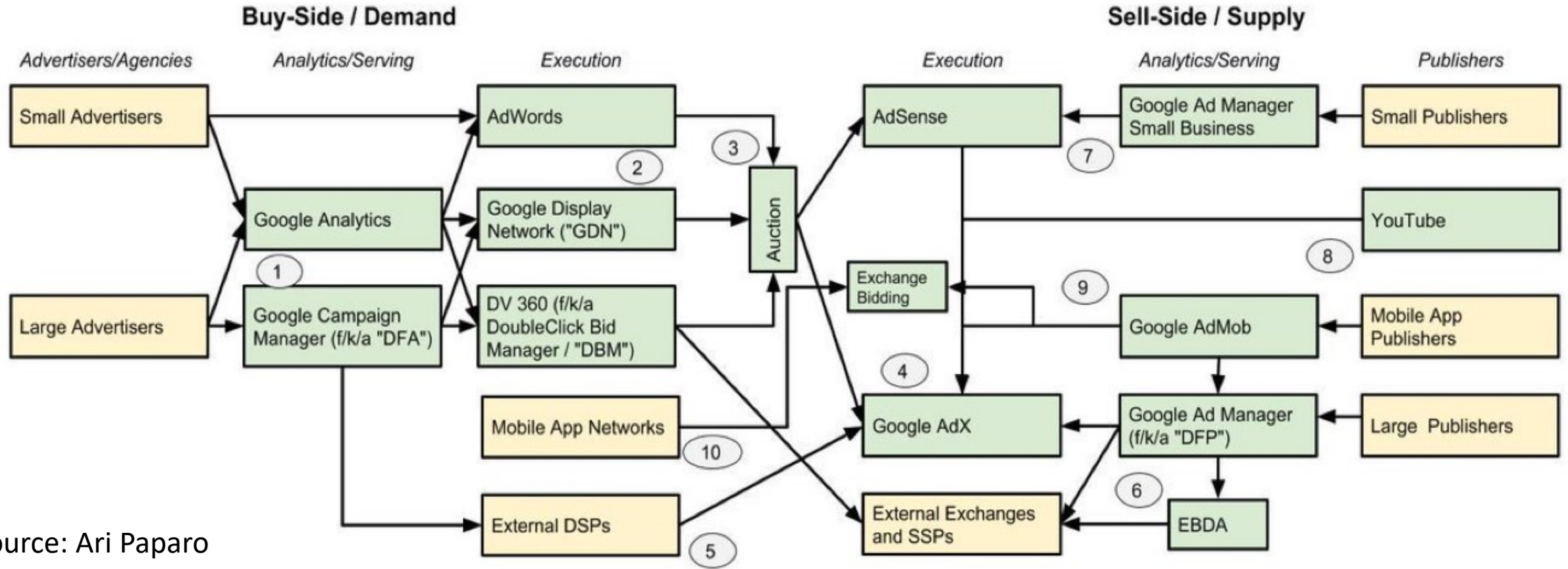
	Online Adv\$	Market Share
Google	54031.7	50
Facebook	24100	22
Microsoft (Bing + LinkedIn)	6050	5
Verizon	3850.0	3
AT&T	2918.9	2
Comcast	1417.3	1
Disney	1282.7	1
Viacom-CBS	1246.7	1
21st Century Fox	1214.6	1
Gannett	438.8	0
New York Times	262.3	0
Time Magazine	259.8	0
Lion's Gate (Starz)	157.0	0
Sinclair	129.6	0
Liberty (Sirius XM)*	94.0	0
Cox	68.5	0
Discovery	68.5	0
Scripps Networks Interactive	51.5	0
AMC Networks	41.1	0
Other	9817.2	9
Total (Millions \$)	107500.0	
Google & Facebook Share		72
CR4		81
HHI		3086



United States Online Advertising Market: Top Player Revenues & Market Shares, 2018

Figure 1: Google's Vertically-Integrated Digital Advertising and Ad Tech Stack

Google's Display Advertising Stack (simplified)



Source: Ari Paparo

- Google, Facebook, Microsoft, Amazon, AT&T + Verizon have vertically-integrated down the internet stack to own their own digital ad exchanges.

- They control the currency upon which those exchanges operate: user/audience data.
- They own the proprietary “measurement and rating systems” governing trade on these digital ad exchanges.
- They are establishing rival proprietary ad tech protocol standards.
- Nobody except “digital duopoly” is happy with the “dirty web” based on fraud, deception, caveat emptor all the way through.
- Target of UK ICO scathing [*Update Report into Ad Tech and Real Time Ad Bidding*](#): an entire system based on fraud and not compliant with GDPR, 6 months to clean up then ICO will decide how—not if—to regulate.
- GAFAM+ and other participants in “online advertising” have rewired the internet for surveillance and hyper-targeted messaging—originally for commercial purposes but those capabilities have been hijacked for disinformation and misinformation operations that now threaten democracy itself (Ghosh & Scott, 2018a and 2018b; McKelvey, Tenove & Tworek, 2018; UK ICO, 2019).

GAFAM+ are destroying journalism and the media, it is often alleged

Taplin, *Move Fast, Break Things: How Amazon, Facebook and Google Cornered Culture and are Destroying Democracy*, generalizes such claims to US media by repeatedly asserting that over the past decade or so “\$50 billion per year . . . has moved from the creators of content to the owners of monopoly platforms” (p. 7).

- revenue for the “recorded music” sector, down \$12.6 billion per year;
- “home video”, down by \$3.6 billion per year;
- “newspaper advertising”, down by \$42.2 billion over the past decade or so.

Napoli and Caplan (2017) state: “the digital media platforms are proving increasingly effective at siphoning off advertising revenues from these other media sectors” (p. 5).

This is now conventional wisdom in much of the field and I think it is wrong.

Communication & media scholars criticisms of digital platforms & recommendations for platform regulation:

- corrosive impact on democracy and public culture (Bell & Owen, 2017; Flew, 2018; Gillespie, 2018; Moore & Tambini, 2018; Napoli & Caplan, 2017).
- GAFAM+ look like media companies so should be regulated as such: algorithms and content moderation are not value free but similar to editorial judgement, sell advertising, aggregate large audiences + commission original TV, film and other media content.
- they are unregulated—a hold-over from the 1990s era of Internet exceptionalism and neoliberal deregulation.
- GAFAM+ have amassed great wealth and power but with very little responsibility.
- Media policy should be our North Star with respect to what platform regulation should entail because of historical & normative commitments to regulation of media concentration & promotion of media diversity, freedom of expression & the public interest (Napoli & Caplan, 2017; Flew, Martin & Suzor, 2019; Flew, 2018; Gillespie, 2018).

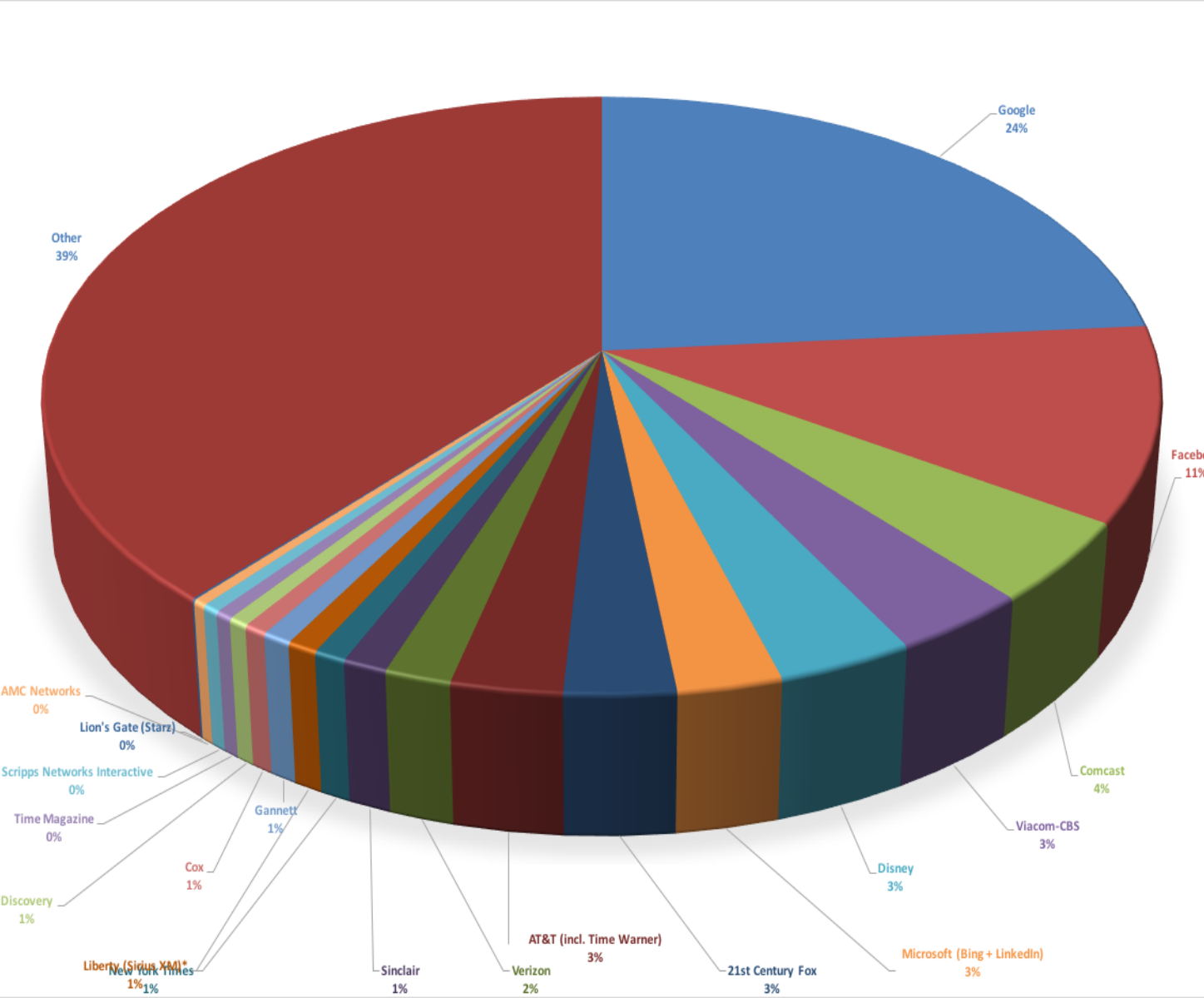
Policy makers around the world have also seized on to these issues:

1. data-polies and market consolidation;
2. the impact of the digital platforms on journalism and the media;
3. privacy and data protection;
4. “illegal” and “harmful” content;
5. the intersection of the preceding issues pose an existential threats to democracy;
6. What—if anything—should be done to bring them under effective regulatory control (ACCC, 2018; EC, 2017; ETHI, 2018; UK DCMS, 2018; UK DCMS & IGC, 2018; UK ICO, 2018; UK, ICO, 2019; UK, House of Lords, 2018; US, 2018).
7. Formation of the “International Grand Committee” in late 2018 amidst ongoing parliamentary investigations into the Facebook/Cambridge Analytica data scandal consisting of Argentina, Belgium, Brazil, Canada, Ireland, France, Latvia, Singapore and the UK

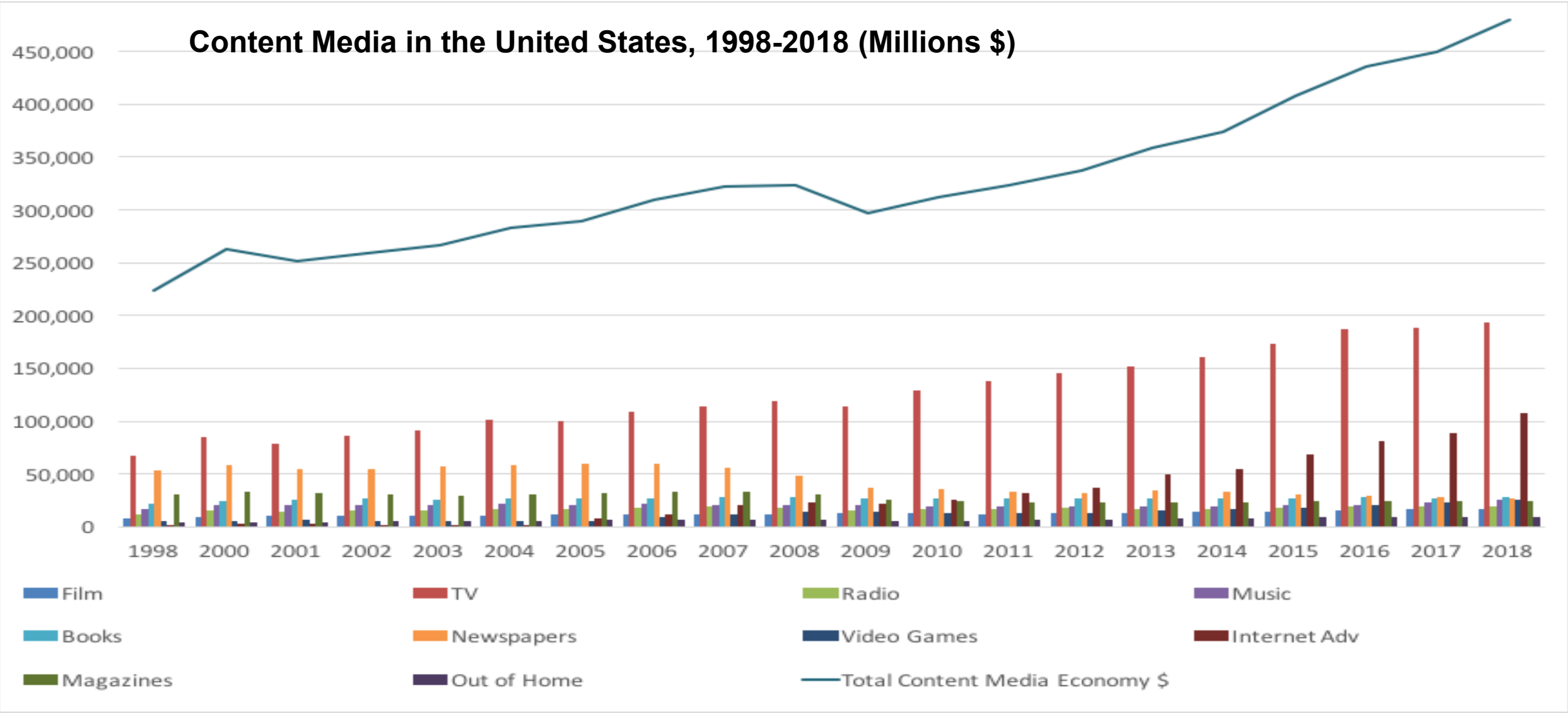
A Critique of the Conventional Case Against GAFAM+ and Some Critical Alternative Possibilities

1. The extent of their dominance is overdrawn.

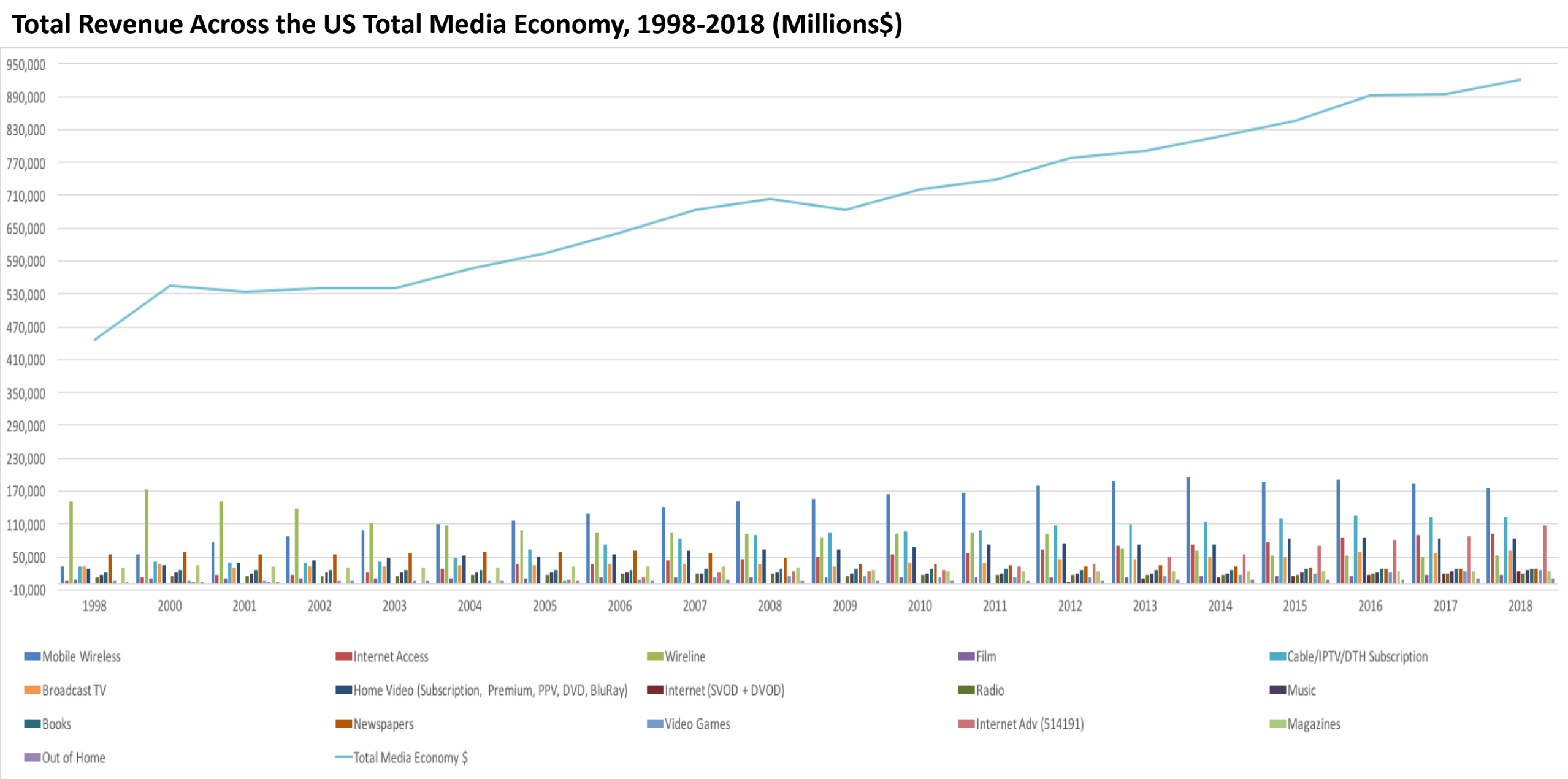
United States Advertising Revenue Across All Media: Top Player Revenues & Market Shares, 2018		
	Revenue (Millions \$)	Market Share
Google	54031.7	23.6
Facebook	24100	10.5
Comcast	10067.7	4.4
Viacom-CBS	7977.6	3.5
Disney	7870.5	3.4
Microsoft (Bing + LinkedIn)	6050	2.6
21st Century Fox	6415.7	2.8
AT&T (incl. Time Warner)	6440.1	2.8
Verizon	3850.0	1.7
Sinclair	2591.0	1.1
New York Times	1879.8	0.8
Liberty (Sirius XM)*	1790.3	0.8
Gannett	1711.3	0.7
Cox	1369.2	0.6
Discovery	1189.9	0.5
Time Magazine	1039.2	0.5
Scripps Networks Interactive	1031.7	0.5
AMC Networks	820.4	0.4
Lion's Gate (Starz)	157.0	0.1
Other	88279.0	38.6
Total (Millions \$)	228662.0	
Google & Facebook Share		34.2
CR4		42.1
HHI		742.8



2. Claims about their destructive impact on journalism and the media and cultural industries do not stand up to scrutiny. #s cherry-picked to show losses but growth areas ignored. Most media are growing.

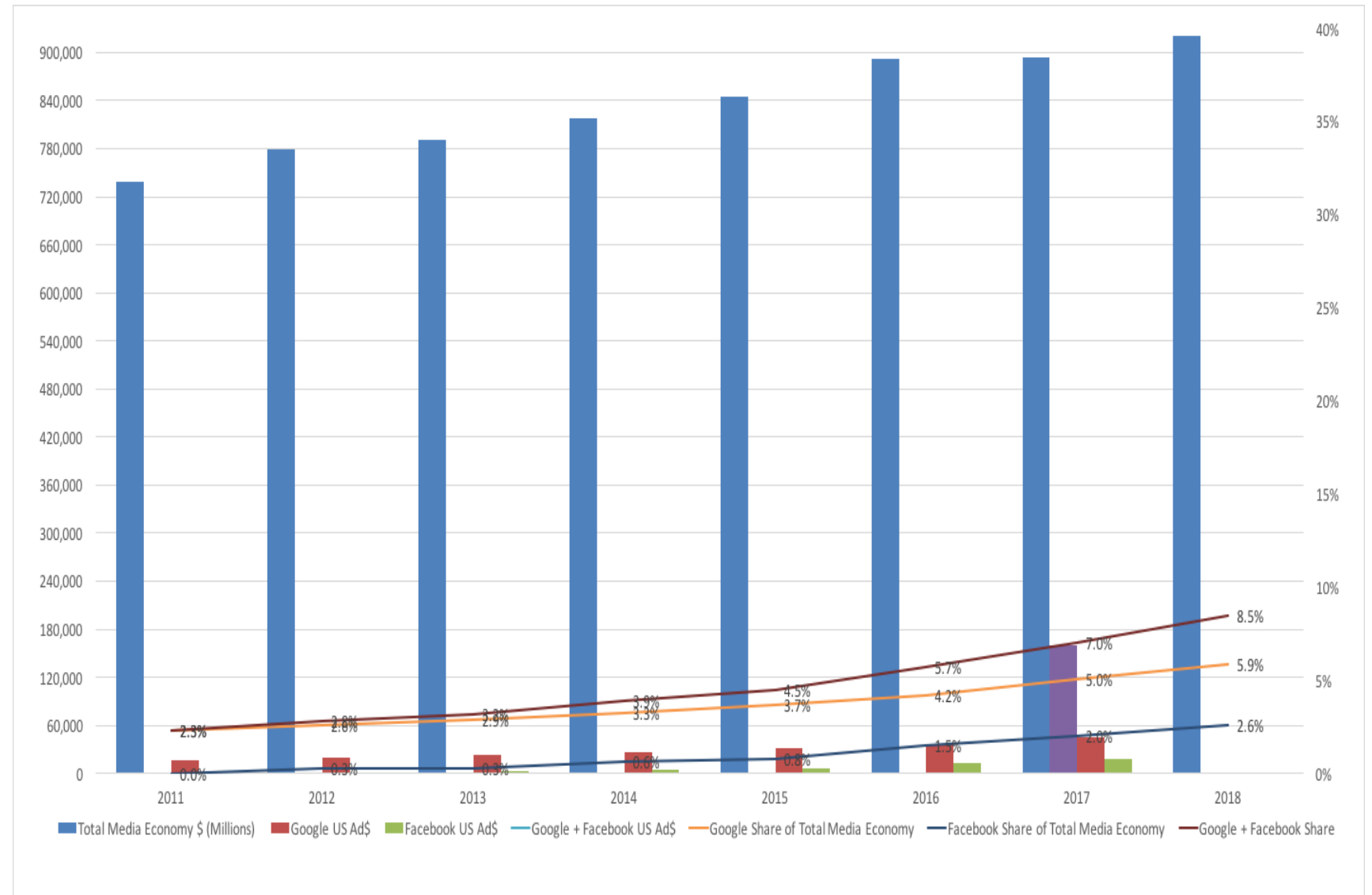


US Census Bureau (2019). Service Annual Survey Latest Data (NAICS-basis).



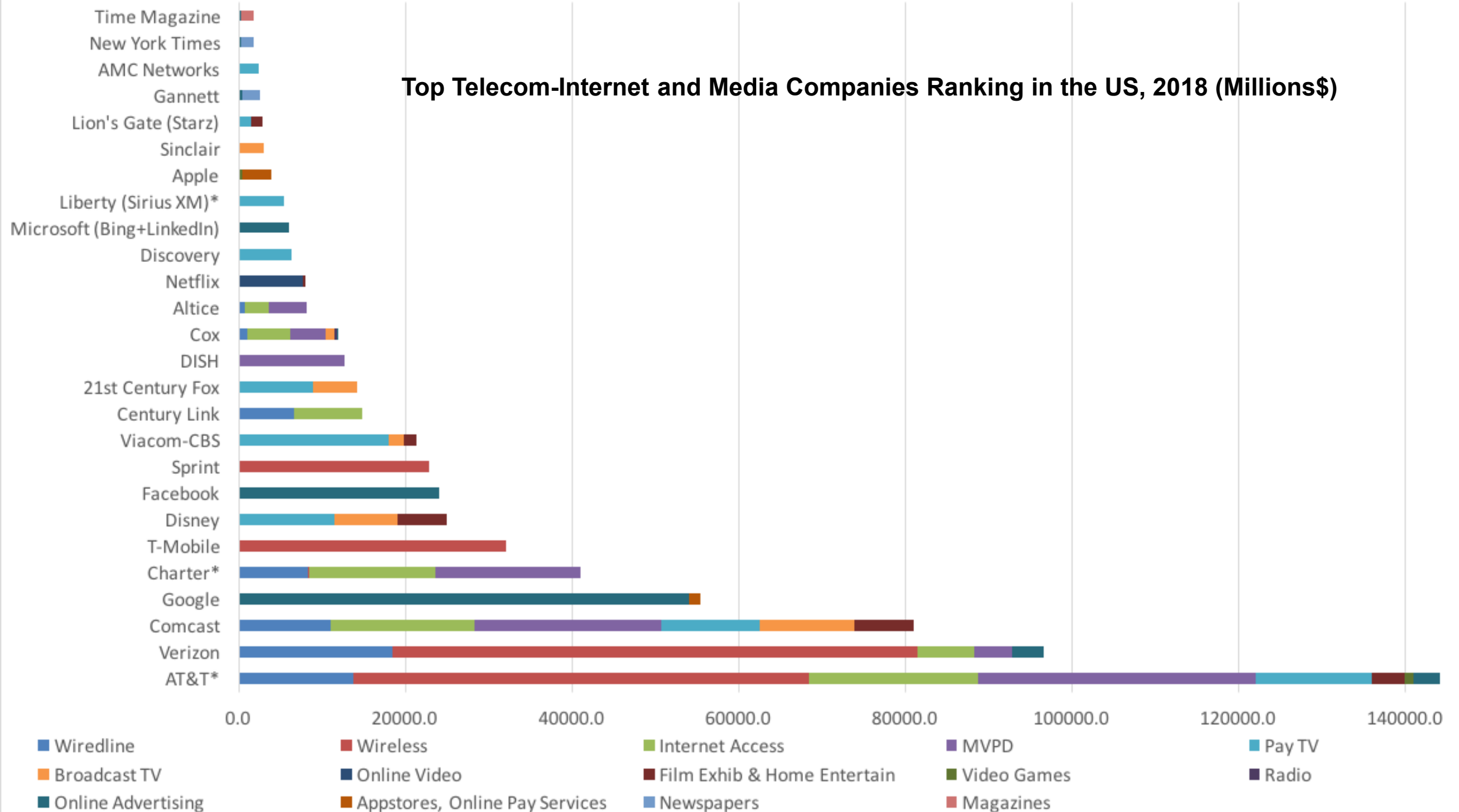
US media economy (and others has grown greatly over time, contra critics' assertions

Google + Facebook's Share of Total US Media Economy, 2011-2018

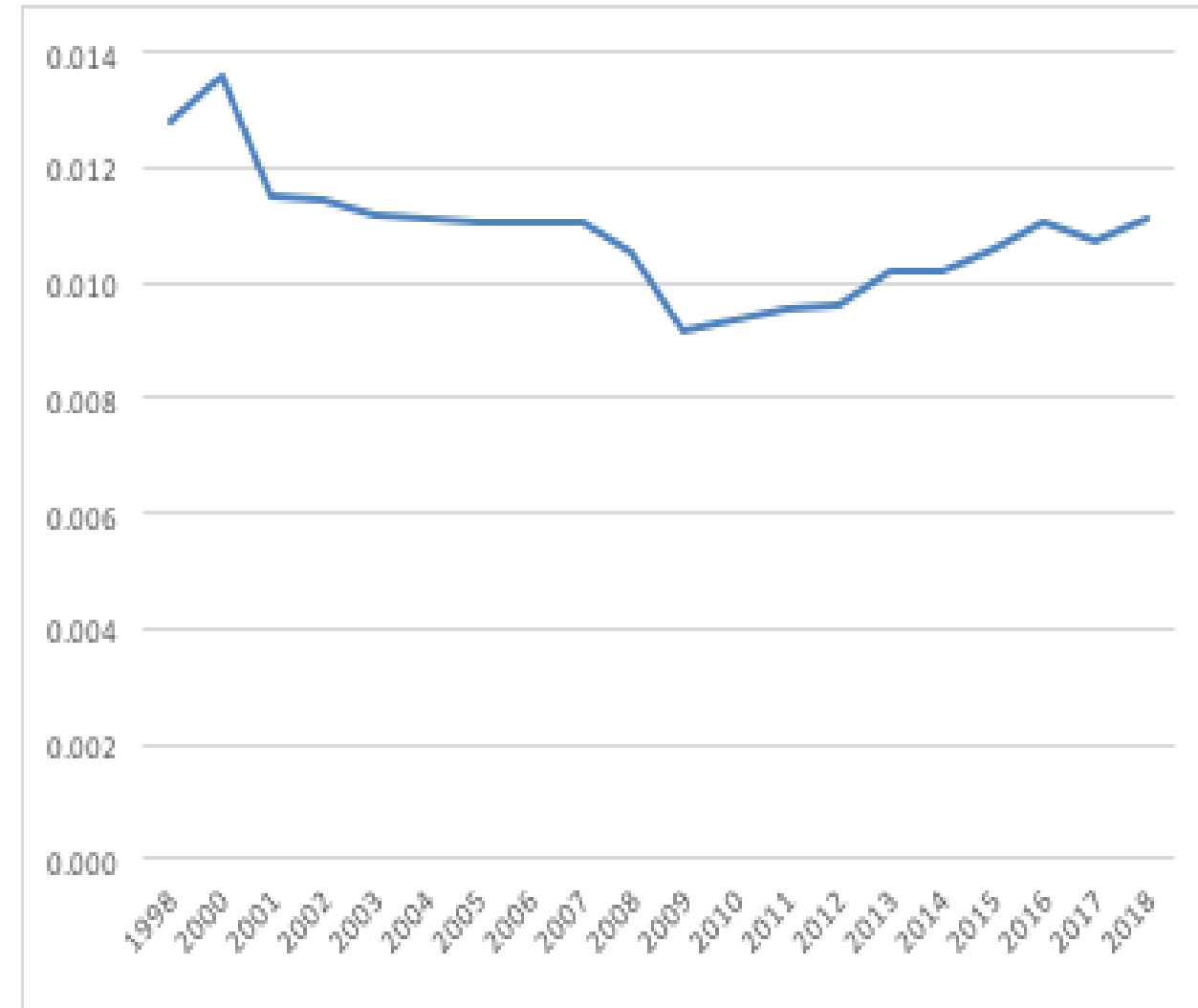
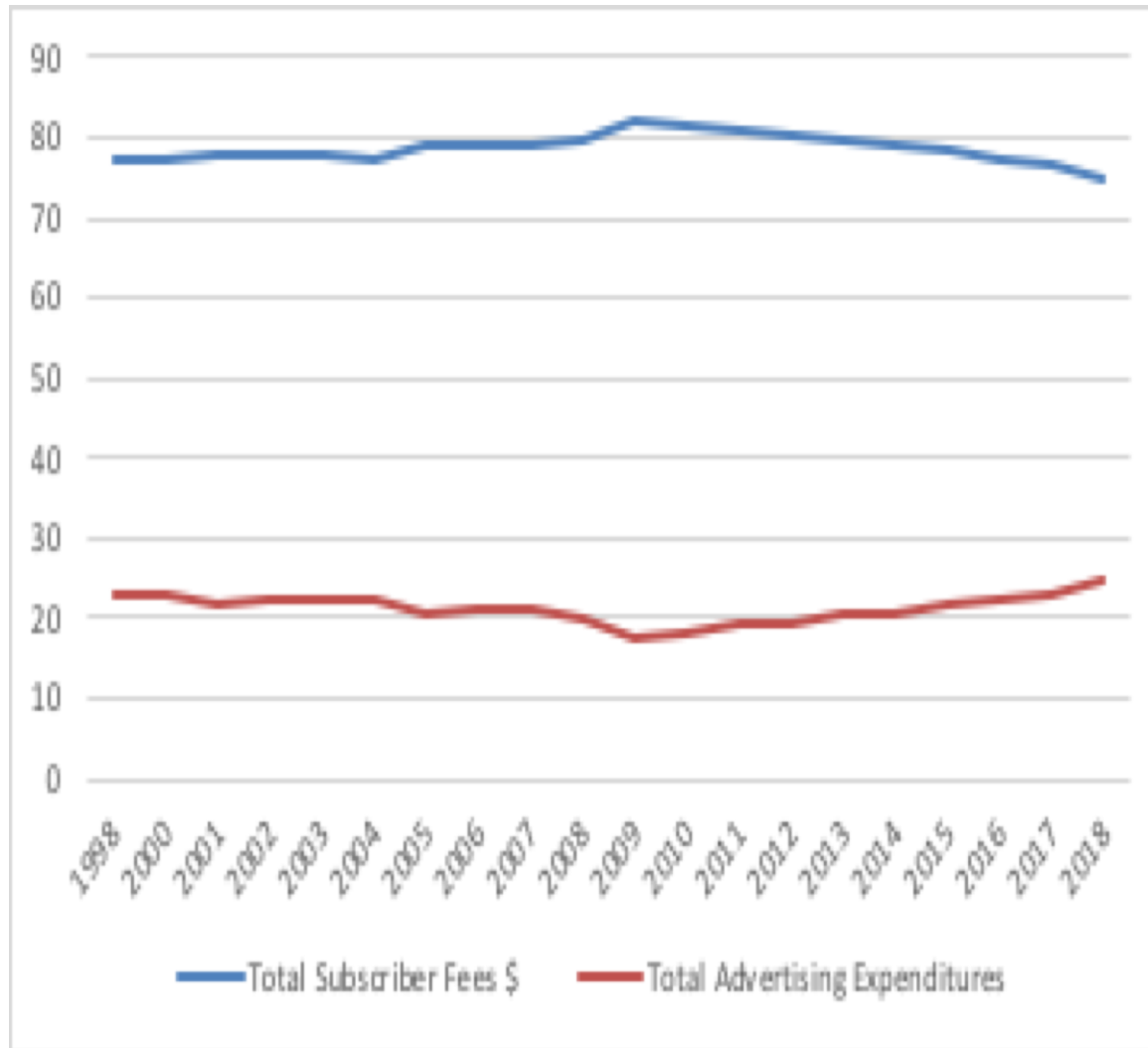


Source: Compiled by author from Annual Reports and sector revenues US Census Bureau (2019). Service Annual Survey Latest Data (NAICS-basis).

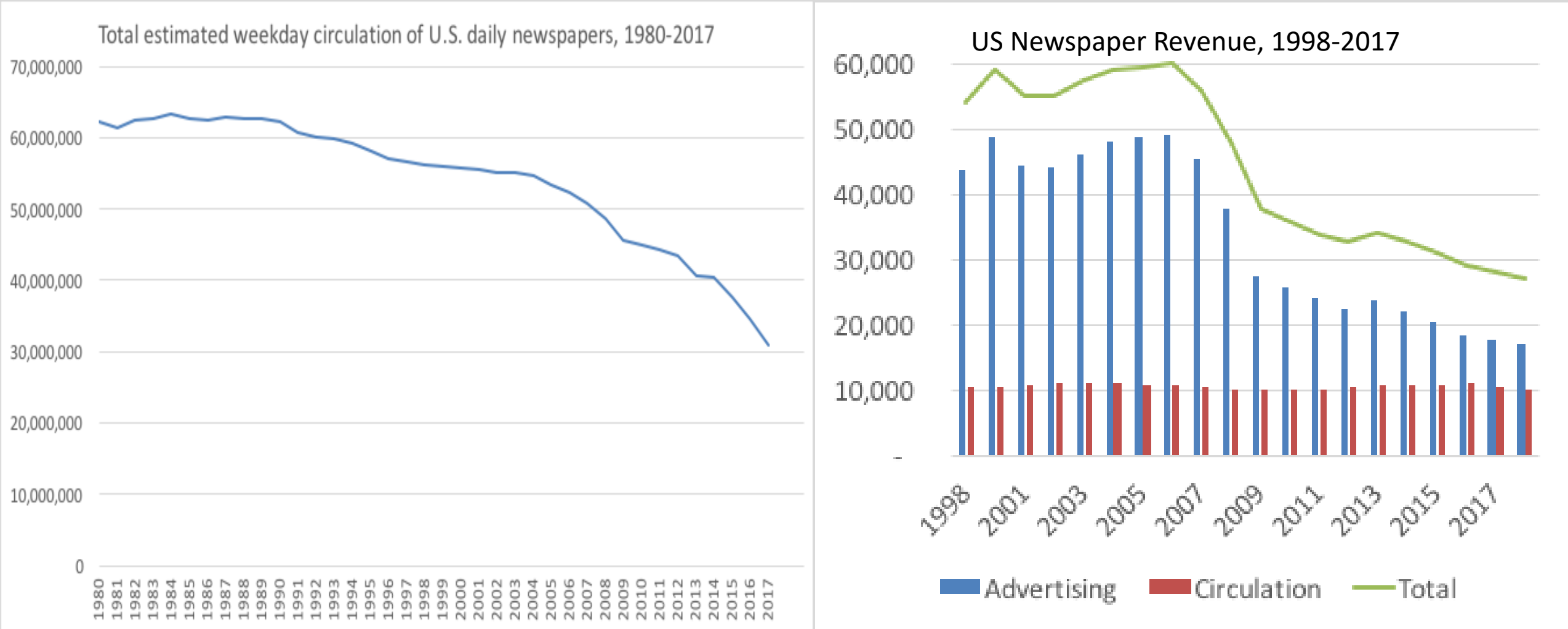
Top Telecom-Internet and Media Companies Ranking in the US, 2018 (Millions\$)



3. Centre of the media economy is subscription fees and direct purchases (e.g. pay and internet-based TV, mobile phone service, internet access, movie tickets, books, etc.) **not** advertising. Advertising is a tiny part of US economy



Established **advertising-supported media** are competing with the online behemoths for a slice of a "fixed pie" stagnates or, worse, one that has been declining in terms of spending per capita in Real \$ (inflation-adjusted) terms.



Source: Pew (2018). State of the News.

Newspapers circulation began to fall in 1980s, while revenue—subscription fees + ad\$ plateaued in 2000s, then fell 2007-2008.

Contributing causes: 1. self-inflicted wounds via excessive consolidation & bloated debt & hyper-commercialization; 2. stagnation of ad spending & spread thinner across more media; 3. financial crises--2001 (dot com) & 2008 (global financial crisis).

4. Platforms are media companies claim based on superficial analogies:

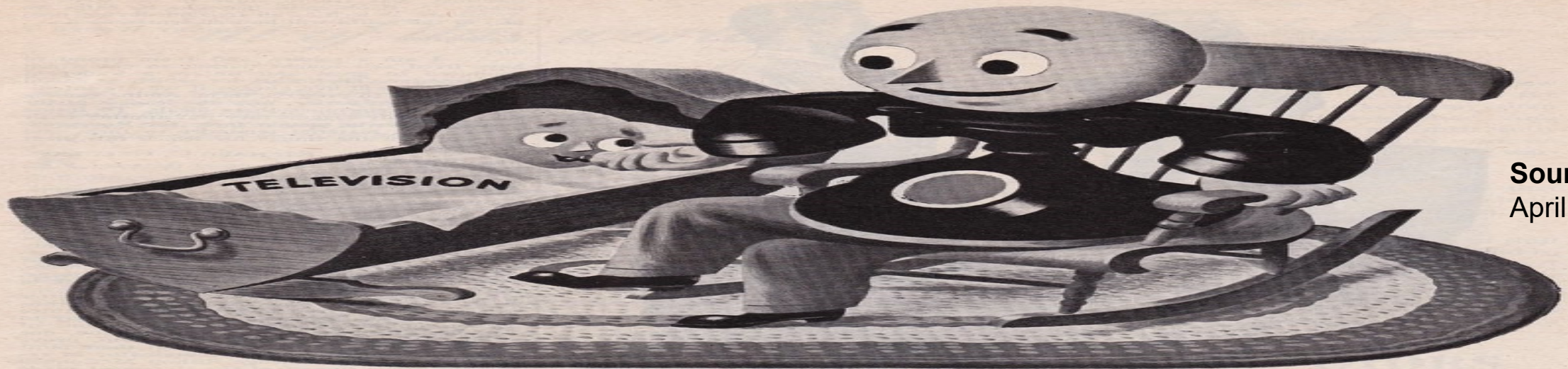
- *all* technologies are political artefacts, not just platforms and algorithms (Winner, 1977);
- Content moderation is not equal to journalistic or editorial work—sociologically, characteristics of these occupations are radically different. Compare “sociology of media professions/production” and Cultural Industries School’s view of distinctive labour conditions in “flow” and “catalogue” models of media versus commercial content moderation (Roberts, 2019).
- “Extent of involvement in original content creation and editorial selection is limited” (ARCEP, 2019)—only 4% of Facebook content is news (Facebook, 2019).
- With the exception of Netflix, GAFAM+ do not own the rights to a large catalogue of content, at least not in a way that is core to their business, and they do not exchange rights for products of cultural production.
- “While the analogy can be drawn it cannot be the basis for changing the legal status of platforms into that of a publisher” (ARCEP, 2019, p. 9).

Platforms are an “information organization system” (ARCEP, 2019, p. 9)

4. The Critique cont'd: Media History tightly intertwined with Tech Giants—Lessons for Platform Regulation

Newspapers, recorded music, the radio, film & TV, computing + internet have *all* developed in close relation to much larger telecoms, electrical & banking firms for 150 years (Miege, 1989; 2011; Garnham, 1990; Hesmondhalgh & Meier, 2017).

Hesmondhalgh (2019): while “conflating the cultural industries with the IT sector might assist in a worthwhile battle for greater regulation of online content, . . . it would also be sociologically and historically inaccurate and misleading, downplaying important tensions between the different sets of corporations and their varying interests”



Source: *Time*,
April 1945.

“TELEVISION”

“We helped television get born and we’ve helped it grow.

“We made television sending and receiving apparatus back in 1927 and worked it by wire between Washington and New York City and by radio between Whippany, New Jersey, and New York.

“We can transmit television over wire lines and by radio. We produced the coaxial cable, which is particularly adapted to television. We have some coaxial installed now

and are installing more. We are also setting up a micro-wave radio-relay circuit.

“Whatever television needs from us for transmission, we’ll be prepared. It might be a network of cables or radio beams or both.

“We explore the field in order to do our part — which is the transmission of television from place to place, just as we furnish transmission for the radio networks now.

“We’re going to keep on studying all methods—and use the best.”

BELL TELEPHONE SYSTEM



Listen to “THE TELEPHONE HOUR”
every Monday evening over NBC

The Critique cont'd: Media History in the Shadow of Tech Giants—eliminating patent monopolies

- **Eliminating patent monopolies to promote competition:** the elimination of patent monopolies over telegraph equipment in the 1860s → 1880s fostered competition in telegraph and in 1890s did same for telephony.
- fierce Goliath vs Goliath rivalry between Western Union (Edison & Elisha Gray + New York banks) and the Bell telephone system (eg. Bell & Boston Banks) circa 1878-1882 led to major advances in telegraphy and telephony but also indirectly, by way of Edison Labs, to recorded music and motion picture industries in the United States.
- between 1860 and 1900, Congress struggled endlessly with how to respond to the scale, complexity, consolidation and clout of the telegraph and telephone industries—origins of communications regulation in US (Blondheim, 2004).
- **Eliminating patent monopolies:** US Supreme Court 1916 Motion Picture Patents Corporation ruling annulled the basis of the “old” movie system that had been organized around the control of the Edison patents by a group of eight companies, opening the door to the emergence of the “new Hollywood” shortly thereafter.

The Critique cont'd: Media History in the Shadow of Tech Giants, Key Principles—Divestitures/break-ups, structural separation and sector regulation

- **Divestitures, break-us and the structural separations principle:** AT&T's acquisition of Western Union in 1909 **reversed** in 1911—laying bare a cornerstone of what was to become the “natural monopoly regulatory regime”: the telephone company could have a regulated monopoly in one line of business but not in others outside it.
- 1923 FTC Report on the Radio Industry recommends antitrust suit but held off as Radio Conferences, circa 1920-26, lays groundwork to break up communications and broadcasting industries into mutually exclusive areas, with USG blessing, between: AT&T (telephone service), Western Electric (telephone equipment), RCA (radio stations and networks), General Electric and Westinghouse (radio equipment) and Western Union (telegraphy).
- UK: “big six” manufacturing companies form British Broadcasting *Company* in 1922-- Marconi, Metropolitan-Vickers, Radio Communication Company, British Thomson-Houston, General Electric and Western Electric—but vacate broadcasting when the British Broadcasting *Corporation* formed in 1926, yet still supply equipment, etc.
- **Quid pro quo:** industry consolidation but “**structural separation**” between equipment manufacturers, backhaul transmission providers (carriers) and broadcast services + **sector specific regulation**

The Critique cont'd: Media as Antimonopoly History

- AT&T rewires film theatres & Hollywood studios for sound in late 1920s, early 1930s, moves deeper into financing of films but Ma Bell forced out of film business in the face of a far-reaching FCC investigation (Danielian, 1939).
- 1943, US Supreme Court upholds FCC decision requiring NBC to divest either Red or Blue networks (it chose the latter, which becomes ABC).
- 1945, US Supreme Court annuls AP monopoly newswire service contracts. Rejects AP's claim the 1st Am prevents govt from regulating the structure of the media industry: "The First Amendment affords not the slightest support for the contention that a combination to restrain trade in news and views has any constitutional immunity" (p. 20).
- 1948 US Supreme Court Paramount Decision: Hollywood majors, ie. Paramount, Warner Bros, Columbia, 20th C Fox, Universal)—must divest theatres they own, stop block booking & unlock film stars from exclusive contracts
- 1956 Consent Decree prevents AT&T from entering the computer hardware, software and processing industries. By this time, AT&T kept out of or forced to sell off its interests in telegraphy, radio, film and computing.
- 1956 Consent Decree: IBM must license access to its hardware, stay out of software+computer processing sectors.

The Critique cont'd: Media History in the Shadow of Tech Giants—Structural Separation, Line of Business Restrictions, Common Carriage and Antimonopoly Rulings

- Trilogy of FCC *Computer Inquiries*, circa mid-1960s-1980s apply **structural separation** principle to, initially, keep AT&T out of new information services and computer processing industries (**line of business restriction**) (Comp Inquiry I) before allowing it to enter but via separate subsidiary and on **non-discriminatory** terms **audited** by FCC (**structural separation**)(Comp Inquiries, II and III).
- Robert Cannon (2003): Computer Inquiries' **line of business restriction** + **structural separation** key to emergence of the Internet because it limited AT&T monopoly control of it.
- **Break-up** of AT&T leads to divestiture of local phone operating companies and equipment manufacturing and **line of business** restrictions on its ability to enter into new information and media markets until viable competition emerged.

The Critique cont'd: Media History in the Shadow of Tech Giants—Lessons for Platform Regulation

Lesson #1: Don't mistake the part for the whole:

1. AT&T *in toto* was not treated or regulated as a broadcaster when it was deeply involved in radio in the 1920s or as a movie company when it rewired Hollywood for sound in the 1920s + even deeper in the 1930s (Danelian, 1939);
2. Nor was General Electric a broadcaster when it organized the Radio Corporation of America and most of the US radio industry in league with telecoms & electrical giants—with USG blessing
3. Nor were Marconi, Metropolitan-Vickers, the Radio Communication Company, British Thomson-Houston, General Electric and Western Electric swept under the broadcasting label when they set up the BBC

Lesson #2: Media policy does not have a monopoly on normative values, politics and power

1. Nothing could be further from the truth: all technologies are political artefacts (Winner, 1977). May be new to platform politics, but not telecoms scholars (Melody, 1987; Smythe, 1977; Babe, 1990; Mansell, 1993).
2. Common carriage (aka network neutrality) and the carrier/content separation does not assume that carriers are “mere conduits” and value free by nature but **exactly the opposite**: they are **powerful** tools that must be constrained to maximize their benefits to the economy, society and people in general.
3. Common carriage: constrains the role of gatekeepers to maximize the rights of users to seek, receive and impart information while blocking/disabling access to “illegal” content (**note: *not* “harmful”**) *and* doubles down on data and privacy protection regulation (i.e. protecting the secrecy of correspondence).

Lesson #3: History of telecoms and anti-trust is coterminous with history of communications and offers many regulatory principles the could/should form the pillars of platform regulation

1. divestitures/break-ups;
2. structural separation;
3. Common technical standards, protocol interoperability and interconnection;
4. privacy and data protection;
5. data interoperability and portability (number portability);
6. non-discrimination;
7. right to seek, receive and impart information belongs to speakers not network owners;
8. Carriers have a legal obligation to block and disable access to “illegal” (but not “harmful”) speech;
9. Carriers have a legal obligation to cooperation with govts for law enforcement and national security, ie. lawful access, but governed by rule of law not voluntary codes, etc.
10. Sectoral-specific regulation.

Lesson #4: Rely on Structural + Behavioural Regulation

1. **GDPR.** Functionally equivalent data and privacy protection rules across all layers and players in the internet stack: carriers, digital platforms, audiovisual media services, etc.
2. **Regulated Algorithm Audits + Algorithmic Transparency:** Human + algorithmic decision-making + gatekeeping should be transparent—on/off switch for personalization (Pasquale & Bracha, 2008; Helberger, 2015; Lynsky, 2017);
3. Similar to banks, digital platforms should have **information fiduciary obligations**;
4. Similar to **international banking system**, perhaps multinational digital platforms should set up local branches accountable to both domestic and international banking regulations;
5. **Advertising "white lists"**: top 10 to 100 advertisers could be required to use regularly updated "whitelists" of URLs to determine where their ad dollars go instead of relinquishing control to Facebook and Google's algorithms, eg. Vodafone.

The principle of “functional equivalencies”

3 areas where the same principles should apply across the board, with the latter two drawn from media policy:

1. data and privacy protection;
2. election campaign spending limits and disclosure rules apply.
3. professional, audiovisual media services, with EU’s *Audiovisual Media Services Directive* as a guide but fully alert to
 - alleged crisis of the media is largely a fiction beyond advertising-based journalism and media;
 - Very real prospect of regulatory capture
 - noble garb of cultural policy will be used by those hell-bent on harnessing the entire internet—a general purpose information, communications and media infrastructure—to protect their own vested interests that have been deeply entrenched during the industrial era media over the course of the last 150 years. This will have retrograde effects.

Content Regulation: Should be the Last Tool in the Toolkit

1. Should be last resort but media policy seems to put first while neglecting structural and behavioural regulations.
2. The problem of regulating “illegal **and** harmful speech”, with UK Minister for Department of Culture, Media and Sport, leading a crusade to make the UK an “international leader” in this regard. AUS “Abhorrent Content Law” another example of very bad policy and what can go very, very wrong.
3. Corporate self-regulation, government-imposed “voluntary codes” and social media councils, etc. also seem to sit well with the advocates of the “media policy” framing of platform policy. Instead, should be flashing warning lights because they turn over the regulation of speech to private multinational corporations.
4. When society has a Nazi problem, or a hate, racist, misogynist, \fraud, insider trader, anti-vaxxer, etc. speech problem, governments should bring down the hammer of existing laws or create new ones to fill the gaps.
5. Rule of law consistent with domestic and international human rights standards vs rule by Terms of Service and corporate interests.