
THE FATE OF PUBLIC BROADCASTING IN THE FACE OF FEDERAL FUNDING CUTS

Patricia M. Chuh

The 104th Congress has vowed to cut government funding for the arts and humanities.¹ The Corporation for Public Broadcasting ("CPB") which distributes federal funds to the Public Broadcasting Service, National Public Radio, and directly to local public broadcasting stations is a primary target.² Public broadcasting's funds were first threatened when the new Republican House Speaker, Newt Gingrich, announced his intentions to abolish federal funding of public broadcasting.³

The decision whether Congress will discontinue financing the CPB was first played out in the House of Representatives where the House approved budget cuts for the CPB for 1996 and 1997.⁴ The Senate restored some of the House's proposed budget cuts.⁵

Even though cuts in appropriations were not as devastating as feared, the final decision to slash the CPB funding could effect as many as 110 million people who watch public television.⁶ Nearly three hundred million dollars for the CPB, which finances over one thousand public television and radio sta-

tions, are at stake.⁷

This Comment examines the Congressional debate over whether to continue government funding of public broadcasting in today's economic and technological climate. Part I discusses public broadcasting's purpose. Part II sets forth an historical background of public broadcasting. Part III examines the primary arguments for cutting federal funding of public broadcasting and the counter-arguments asserted by the supporters of continued government subsidies. Part IV analyzes the results of funding cuts on the CPB as well as the effects on the small public broadcasting stations it supports. Finally, this Comment concludes that federal funding for the Corporation for Public Broadcasting should be continued due to the need for the educational and the cultural programming provided by public broadcasting.

I. PURPOSE OF PUBLIC BROADCASTING

The Public Broadcasting Act of 1967⁸ declares

¹ See Louise Freedberg, *S.F. Could Lose Major Arts Funding: GOP Raid on NEA Would Hit City Hard*, S.F. CHRON., Jan. 13, 1995, at A1.

² *Id.*; Karen De Witt, *Gingrich Foresees a World Without Public Broadcasting*, N.Y. TIMES, Dec. 17, 1994, at A9.

³ *Id.*; *Industry Reaction; Gingrich Announces Plan to 'Zero-Out' CPB*, COMM. DAILY, Dec. 9, 1994, at 3. Ironically, public broadcasting supports many mandates of the new Congress in the Republican Party's Contract With America. "Domino Effect" Feared, COMM. DAILY, Jan. 11, 1995, at 2. Public broadcasting furthers the strengthening of children's education, promotes anti-violence efforts, and encourages family values. *Id.*; See also *Text of Republican Contract With America*, U.S. NEWSWIRE, Nov. 30, 1994. For example, WGBY-TV in Springfield, Massachusetts broadcasts approximately forty-one hours per week of nonviolent preschool programming that prepares children for school. "Domino Effect" Feared, COMM. DAILY, Jan. 11, 1995, at 2. WGBY-TV's station manager said, "we'll be replacing Big Bird with The Power Rangers" if Congress succeeds in eradicating public television's endowment. *Id.* Representative Edward J. Markey (D-Ma.) says that the PBS is "the most family-oriented network on television, and there is no close second." De Witt, *supra* note 2, at A9.

⁴ Ellen Edwards, *Is Public TV a Purple Dinosaur?*, WASH. POST, Dec. 22, 1994, at D1; Nina J. Easton and Judith Michaelson, *PBS: Behind the Sound and Fury*, L.A. TIMES, Jan. 31, 1995, at A1; *Not as Bad as Feared*, COMM. DAILY, Feb. 24, 1995, at 2; Ellen Edwards, *Al Gore Speaks Out for Public Television; Veep Vows to Fight GOP 'Extremists'*, WASH. POST, Mar. 3, 1995, at B1; Judith Michaelson, *Public TV and Radio Face Their Budget Fate*, L.A. TIMES, Mar. 15, 1995, at F1; Rod Dreher, *Public Broadcasters Cringe as House Axes Budget; Small Stations Most Vulnerable to Cutbacks Over Next Two Years*, WASH. TIMES, Mar. 17, 1995, at A12; Dan Morgan, *House Approves \$17.1 Billion in Spending Cuts*, WASH. POST, Mar. 17, 1995, at A7.

⁵ David R. Sands, *Senate Panel Cuts Back on Cuts; Package of '95 Rescissions Falls Short of House Approval*, WASH. TIMES, Mar. 25, 1995, at A4; Dan Morgan, *Senate Panel Restores Key Spending Cuts; House Budget Plan Faces More Change*, WASH. POST, Mar. 25, 1995, at A1.

⁶ Easton and Michaelson, *supra* note 4, at A10.

⁷ Freedberg, *supra* note 1, at A1; De Witt, *supra* note 2, at A9. CPB funds 351 television stations and 629 radio stations. Easton and Michaelson, *supra* note 4, at A1.

⁸ Public Broadcasting Act of 1967, Pub. L. No. 90-129, 81

that the Corporation for Public Broadcasting was created to provide all citizens of the United States with access to noncommercial educational radio and television service.⁹ The public broadcasting services should be responsive to the interest of local communities and constitute an expression of diversity and excellence.¹⁰ The language in the 1967 Act states "that it is in the public interest to encourage the growth and development of noncommercial educational radio and television broadcasting, including the use of such media for instructional purposes."¹¹ Beth Courtney, Executive Director of Louisiana Educational Television, summarizes the findings of the bipartisan Carnegie Commission as stating that the good of the public broadcasting system are to provide quality programming for children, to promote discourse about important current issues, and to provide lifelong learning.¹² Therefore, the primary purpose of public broadcasting can be said to be the fulfillment of the void of cultural and educational programming left by commercial broadcasting.¹³ The CPB accomplishes these goals by distributing funds received from the federal government to the Public Broadcasting Service, National Public Radio, and local public broadcasting stations.¹⁴

The Public Broadcasting Service ("PBS") was chartered by the CPB for television in 1969.¹⁵ The PBS is a membership organization that supplies national programming services to local public television stations by coordinating the planning, funding, scheduling, and distribution of national programming for public television.¹⁶ The PBS is owned and operated by its own member stations, or public television licensees.¹⁷ The PBS is prohibited by law

from producing its own programs.¹⁸ The PBS does have a national schedule that is broadcast by member stations during prime and non-prime time.¹⁹

The National Public Radio ("NPR") was chartered in 1970 as public radio's counterpart to the PBS.²⁰ The NPR is also a membership organization that supplies national programming services to public radio stations.²¹ One fundamental difference between the PBS and the NPR is that NPR can produce its own programs.²²

II. HISTORICAL OVERVIEW

In order to analyze whether the federal government should continue the funding of public television with taxpayers' dollars, it is necessary to review the history and the organizational structure of public broadcasting.

A. Public Broadcasting: The Early Years

1. Educational Television

Government funded public broadcasting has its roots in providing the public with educational television.²³ The need for a national system of noncommercial broadcasting was first noted by the federal government in the Communications Act of 1934.²⁴ The Communications Act of 1934 gave licensing and regulatory powers to the Federal Communications Commission ("FCC").²⁵ In 1952, the FCC set aside 242 channels exclusively for noncommercial educational television,²⁶ and promulgated rules and regulations to govern the licensing and operation of non-

Stat. 365 (codified with revisions at 47 U.S.C. §390 et seq. (1988)).

⁹ 47 U.S.C. § 396(a)(5) (1988).

¹⁰ 47 U.S.C. § 396(a)(4).

¹¹ 47 U.S.C. § 396(a)(1).

¹² Statement of Beth Courtney before the House Appropriations Subcommittee on Labor, Health and Human Services, and Education on January 19, 1995, at 1 (on file with *CommLaw Conspectus*).

¹³ See Howard A. White, *Fine Tuning the Federal Government's Role in Public Broadcasting*, 46 FED. COMM. L.J. 491, 496-97 (1994).

¹⁴ De Witt, *supra* note 2, at A9; See *infra* Part II.D.

¹⁵ MARILYN LASHLEY, PUBLIC TELEVISION: PANACEA, PORK BARREL, OR PUBLIC TRUST? 18, 31 (Greenwood Press 1992).

¹⁶ *Id.* at 36, 48.

¹⁷ Willard D. Rowland, Jr., *Public Service Broadcasting in the United States: Its Mandate, Institutions, and Conflicts*, in THE ANNENBERG WASHINGTON PROGRAM, COMMUNICATIONS POLICY STUDIES NORTHWESTERN UNIVERSITY, PUBLIC SER-

VICE BROADCASTING IN A MULTICHANNEL ENVIRONMENT: THE HISTORY AND SURVIVAL OF AN IDEAL 160-61, 185 (Robert K. Avery ed., 1993).

¹⁸ *Id.* at 185-86. See *infra* Part II.E.

¹⁹ LASHLEY, *supra* note 15, at 48.

²⁰ *Id.* at 31.

²¹ Rowland, *supra* note 17, at 185-86.

²² *Id.* Another difference is that NPR has some institutional lobbying authority, while members of PBS have taken that power away from PBS and placed it in a separate organization, America's Public Television Stations (APTS). *Id.*

²³ *Id.* at 159-60. The FCC allocated frequencies for commercial use, provided the guidelines for licensing and regulations, and also authorized a study of reserving frequencies for public interest use. LASHLEY, *supra* note 15, at 18.

²⁴ *Id.*

²⁵ *Id.*

²⁶ LASHLEY, *supra* note 15, at 19. The channel assignments included both very high frequency (VHF) and ultra high frequency (UHF) bands. *Id.* The FCC has subsequently changed the number of channels set aside for educational television. *Id.*;

commercial educational television stations.²⁷

Later, under the Johnson Administration, Congress commissioned a task force on educational television, the Carnegie Commission on Educational Television ("Carnegie-I").²⁸ The Carnegie-I report recommended the establishment of "a well-financed and well-directed educational television system, substantially larger and far more pervasive and effective than that which now exists in the United States."²⁹ The 1960's brought about a change in policy which included more general programming.³⁰ The Carnegie Commission also adopted the term "public television" to replace "educational television."³¹ Congress and the President responded by enacting the Public Broadcasting Act of 1967.³²

2. The Public Broadcasting Act

The Public Broadcasting Act of 1967 ("1967 Act") created the Corporation for Public Broadcasting ("CPB") to develop and support noncommercial television and radio as a public service.³³ CPB is a government sponsored enterprise.³⁴ The CPB distributes federal funding and furnishes assistance to noncommercial telecommunications entities throughout the United States.³⁵

Under the 1967 Act, the CPB makes its budgetary

requests directly to Congress, since it is not a separate agency with a separate treasury account.³⁶ Funds are disbursed by the Department of Health, Education and Welfare's Office of Education (HEW-OE).³⁷ The CPB distributes monies to public television stations, PBS, NPR, and independent producers.³⁸ In addition, public television stations receive funding from the National Telecommunications and Information Administration ("NTIA"),³⁹ another government agency. Congress authorized the CPB to institute two entities to distribute programs and provide other services to enhance programming.⁴⁰ Acting within that authority, the CPB created the PBS in 1969 and the NPR in 1970.⁴¹ The 1967 Act also created a Board of Directors with fifteen members who were appointed by the president, with Senate confirmation, to govern the administration of a national public broadcasting system.⁴²

B. Restructuring of Public Broadcasting: A Partnership Agreement Between the CPB and the PBS

Restructuring of public broadcasting occurred in the early 1970's under the Nixon administration when the CPB and the PBS entered into a partnership agreement in order to secure long-term fund-

See also, Hyman H. Goldin, *The Federal Communications Commission and Educational Television Stations*, in CARNEGIE COMM'N ON EDUC. TV, PUBLIC TELEVISION: A PROGRAM FOR ACTION (1967).

²⁷ *Id.*

²⁸ LASHLEY, *supra* note 15, at 6.

²⁹ *Id.* at 30; CARNEGIE COMM'N ON EDUC. TV, PUBLIC TELEVISION: A PROGRAM FOR ACTION 3 (1967) [hereinafter CARNEGIE-I].

³⁰ Rowland, *supra* note 17, at 160-61.

³¹ *Id.* at 2. The change was probably for public relations purposes and to avoid confusion that public television would be limited to instructional or formal education. White, *supra* note 13, at 498.

³² Public Broadcasting Act of 1967, Pub. L. No. 90-129, 81 Stat. 365 (codified as amended at 47 U.S.C. §390 et seq (1988)).

³³ Public Broadcasting Act of 1967, Pub. L. No. 90-129, 81 Stat. 365 (codified with some differences in language at 47 U.S.C. § 396(g)(1) (1988)). The Public Broadcasting Act of 1967 provides, in pertinent part:

(g)(1) In order to achieve the objectives and to carry out the purposes of this subpart, as set out in subsection (a), the Corporation is authorized to—

(A) facilitate the full development of educational broadcasting in which programs of high quality, obtained from diverse sources, will be made available to noncommercial educational television or radio broadcast stations, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature;

(B) assist in the establishment and development of one or more systems of interconnection to be used for the distribution of educational television or radio programs so that all noncommercial educational television or radio broadcast stations that wish to may broadcast the programs at times chosen by the stations;

(C) assist in the establishment and development of one or more systems of noncommercial educational television or radio broadcast stations throughout the United States;

(D) carry out its purposes and functions and engage in its activities in ways that will most effectively assure the maximum freedom of the noncommercial educational television or radio broadcast systems and local stations from interference with or control of program content or other activities.

Id.

³⁴ *Id.* at §395 (6)(j).

³⁵ *Id.*

³⁶ 47 U.S.C. §396(b).

³⁷ LASHLEY, *supra* note 15, at 32.

³⁸ *Id.* at 31-33.

³⁹ *Id.* Funds for broadcasting facilities are provided directly to stations through the Public Telecommunications Facilities Program ("PTFP"). PTFP appropriates to the NTIA, which in turn funds local stations with monies as technical improvement grants. *Id.*

⁴⁰ *Id.* at 31.

⁴¹ *Id.*

⁴² 47 U.S.C. § 396(c).

ing.⁴³ The partnership agreement overhauled programming operations in the areas of interconnection, discretion, and distribution.⁴⁴ The partnership agreement gave more power to local public television stations and increased funding for public television.⁴⁵ Public television stations would receive financing for programming, promotion, public information, research, and representation from the PBS, while the CPB would finance technical operations through a contract with the PBS.⁴⁶

C. Further Changes

Public broadcasting experienced further changes during President Carter's Administration. The Administration transferred the CPB appropriation from the Department of Health, Education and Welfare's Office of Education to the House Committee on Communications Subcommittee on Telecommunications, Consumer Protection, and Finance.⁴⁷ In addition, the Administration established a trust fund with the United States Treasury, allowing monies to be advanced directly from the Treasury to the CPB.⁴⁸ The CPB's autonomy was thereby increased as a result.⁴⁹ The NTIA and the CPB disbursed even more funds directly to local stations, and the CPB continued dispensing monies to the PBS for interconnection⁵⁰ and program distribution.⁵¹

When President Reagan replaced Carter in the White House, the Reagan Administration implemented substantial changes to the CPB's Board of Directors.⁵² The Reagan Administration reduced

membership on the CPB board from fifteen members to ten, with a maximum of six members to be appointed by the President from the President's own political party.⁵³ In addition, local stations were represented for the first time on the Board, one member for television and one for radio.⁵⁴

D. Current Distribution of Funds by the CPB

The distribution of the CPB funds to public broadcasting entities are governed by statute.⁵⁵ The CPB can (1) make grants or contract with public broadcasting companies for the acquisition or production of programs for use by the public broadcasting stations, (2) make payments to public broadcasting companies to finance the production or acquisition of public telecommunications services, and (3) arrange for interconnection facilities for distribution and transmission of public broadcasting.⁵⁶ Federal money is distributed by the CPB to approximately one thousand public television and radio stations and groups including the PBS and the NPR.⁵⁷ The CPB money is used by broadcasters to buy equipment, to attract corporate financing for new programs, and to provide educational and training courses for local communities.⁵⁸ On average, public television stations receive from four percent to forty percent of their financing from the CPB.⁵⁹ An additional \$1.5 billion is raised by stations from corporations, individuals, foundations, universities, and some legislatures.⁶⁰ For example, public television stations

⁴³ LASHLEY, *supra* note 15, at 35.

⁴⁴ BROADCASTING, Aug. 13, 1973, at 23. The bill was signed on Aug. 6, 1973. *Id.*

⁴⁵ LASHLEY, *supra* note 15, at 35. The partnership agreement increased the CPB's community service grants to local public broadcasting stations. *Id.* This reduced the CPB's discretion over programming. *Id.*

⁴⁶ *Id.*

⁴⁷ LASHLEY, *supra* note 15, at 37-38.

⁴⁸ *Id.* at 38.

⁴⁹ *Id.*

⁵⁰ Interconnection is any system of relays which link broadcast stations with each other and with central broadcast distribution centers by electronic means for simultaneous broadcasting. CARNEGIE I, *supra* note 29, at 26, 53. The 1967 Act defines the term interconnection as "the use of microwave equipment, boosters, translators, repeaters, communication space satellites, or other apparatus or equipment for the transmission and distribution of television or radio programs to public telecommunications entities." 47 U.S.C. § 397(3).

⁵¹ *Id.*

⁵² LASHLEY, *supra* note 15, at 38-40.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ 47 U.S.C. §§ 396(g), (k).

⁵⁶ 47 U.S.C. § 396(g)(2). The statute further specifies the CPB's distribution powers. 47 U.S.C. § 396(k). For example, seventy-five percent of the CPB's monies, after administrative costs, are earmarked for distribution to public television stations in the form of basic grants. 47 U.S.C. § 396(k)(3)(A)(ii)(I). The CPB distributes the other twenty-five percent for national public television programming. 47 U.S.C. § 396(k)(3)(A)(ii)(II).

⁵⁷ De Witt, *supra* note 2, at A9. CPB funds 351 television stations and 629 radio stations. Easton and Michaelson, *supra* note 4, at A1.

⁵⁸ De Witt, *supra* note 2, at A9.

⁵⁹ *Id.* WTTW in Chicago receives a community service grant from CPB of six percent, San Francisco's KQED and KERA of Dallas receive seven percent, while WCTF in Waco, Texas gets fifty-four percent and KEET in Eureka, California thirty-eight percent. *See infra* note 230. *See also*, Statement of Jane Krutz on behalf of the Association of America's Public Television Stations before the House Appropriations Subcommittee on Labor, Health and Human Service, and Education on Jan. 19, 1995, at 3 (on file with *CommLaw Conspectus*).

⁶⁰ Easton and Michaelson, *supra* note 4, at A1. Since the

engage in ambitious fund-raising drives.⁶¹ Viewers become members of the public broadcasting station by pledging monetary support for the station.⁶²

E. National Public Television Programming

From 1974 to 1990, the Station Program Cooperative ("SPC") primarily supplied the national public television broadcast schedules.⁶³ The SPC was administered by the PBS.⁶⁴ The SPC provided a system which allowed public television stations to cooperatively choose and fund national programming which was distributed by the PBS.⁶⁵ The pooling of resources funded almost half of the National Program Service ("NPS"), the most visible public broadcasting service of that time.⁶⁶

In 1990, the financing and management of national programming was restructured by the PBS and the NPS completely replaced the SPC.⁶⁷ As a result, programming decisions are now made by a Chief Programming Executive of the NPS, with the advice of the PBS National Program Service Advisory Committee, which is comprised of public television programming professionals and independent producers.⁶⁸ Almost half of the funding for the NPS is provided by the CPB, with public broadcasting stations contributing the rest.⁶⁹ In addition, two thirds of local station's money from Community Service Grants ("CSG") is returned to national programming through the NPS.⁷⁰ Programs funded and distributed by SPC/NPS include *Sesame Street*,

Nova, *American Playhouse*, *Nature*, *The MacNeil/Lehrer Newshour*, and *Great Performances*.⁷¹

The national schedule is comprised of programs originating from a variety of production arrangements.⁷² These include commercial, local production, major public television production, foreign production, international co-production, and consortium production arrangements. Commercial arrangements consist of syndicated reruns.⁷³ When stations broadcast programs produced in their own facilities, the programs are described as local productions.⁷⁴ Major public television productions are programs produced by major public television stations such as Boston's WGBH and New York City's WNET.⁷⁵ Shows produced abroad are foreign productions, and international co-production are shows produced by a public television station and a foreign producer.⁷⁶ Consortium production includes multiple sponsors for a single production team or program.⁷⁷

Public television stations obtain programming by several means. Stations may purchase programs from the NPS, which are simultaneously broadcast throughout the public television system by the PBS.⁷⁸ Stations also obtain programming by purchasing broadcast programs procured from other producers or film houses, air reruns syndicated by commercial networks, or programming produced by another station, consortium of stations, or a station in cooperation with independent or foreign producers.⁷⁹

House Appropriations Subcommittee approved cuts in the CPB's budget, there has been some concern over whether the various states who contribute money to public broadcasting stations will follow the federal government's lead. *Not as Bad as Feared*, *supra* note 4, 225, at 2. For example, Louisiana's six educational public television stations receive forty-eight percent of their financing from the state. *Id.* The executive director and general manager of Louisiana Educational TV has been reassured that Louisiana would not target public broadcasting. *Id.*

⁶¹ Judith Michaelson, *Public TV Stations Cash in on Drives*, *Television*, L.A. TIMES, Mar. 23, 1995, at F2.

⁶² *Id.* For example, WPBA-TV in Atlanta raised \$104,000 in thirteen days of pledging. The record setting amount may be partially explained by House Speaker Newt Gingrich's thirty second advertisement challenging viewers to match his two thousand dollar contribution. *Id.*; *See also*, Kathey Alexander, *Gingrich's public broadcasting spots begin airing locally*, ATLANTA J. & CONST., Mar. 5, 1995, at C2.

⁶³ LASHLEY, *supra* note 15, at 89-91; CARNEGIE COMM'N ON THE FUTURE OF PUBLIC BROADCASTING, A PUBLIC TRUST, 323 (1979) [hereinafter CARNEGIE-II].

⁶⁴ LASHLEY, *supra* note 15, at 89.

⁶⁵ *Id.*

⁶⁶ *Id.* at 89, n.10. The NPS consisted of the prime time

schedule, the children's segment, Saturday's "How To" segment, and the fringe time feed of PBS. *Id.*

⁶⁷ *Id.* at 90. NPS is an effort to combine funding, lower costs, and avoid duplication of programming for the national schedule. *Id.*

⁶⁸ *Id.*

⁶⁹ "Domino Effect" *Feared*, *supra* note 3, at 3. Public broadcasting stations pay a fee to the NPS to air programs that are simultaneously transmitted throughout the public broadcasting system by PBS. LASHLEY, *supra* note 15, at 91.

⁷⁰ Kathy Coe, *Congress is Looking at a Dietary Change for Public Broadcasting Consumers*, NEWS & RECORD (Greensboro, NC), Jan. 13, 1995, at A8.

⁷¹ LASHLEY, *supra* note 15, at 89.

⁷² *Id.* at 90.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.* at 110, n. 11. Programs produced by all other public television stations were re-classified as local productions in 1986. *Id.*

⁷⁶ *Id.* at 90.

⁷⁷ *Id.*

⁷⁸ *Id.* at 91.

⁷⁹ *Id.*

III. 104TH CONGRESS' PLAN TO ELIMINATE FEDERAL FUNDING

Federal funding of public television has enjoyed bipartisan support in the past in spite of the appropriations process,⁸⁰ which makes the CPB vulnerable to executive and congressional pressure.⁸¹ Congressional leaders in the Republican dominated 104th Congress have framed an attack on government subsidies for public broadcasting in terms of financial constraints, citing efforts to balance the federal budget as a justification for the funding cuts.⁸² On December 6, 1994, House Speaker Newt Gingrich (R-Ga.) said that Congress should "zero-out" funding for the CPB in an effort to cut government spending.⁸³ Gingrich further stated that federal funding of the CPB has resulted in the public paying taxes "involuntarily" for biased television.⁸⁴

The debate over public broadcasting funds began on Capital Hill on January 19, 1995, when the House Appropriations Subcommittee on Labor, Health and Human Services, and Education heard testimony on whether federal funding for the CPB should continue.⁸⁵

On January 27, 1995, Senator Larry Pressler (R-

S.D.), Chairman of the Senate Commerce, Science and Transportation Committee, sent a letter to CPB Chairman Henry Cauthen requesting him to create a privatization plan for public broadcasting.⁸⁶ Pressler stated that "[i]n today's budget climate, [the CPB's] \$300 million annual subsidy simply cannot be justified. CPB officials must face this reality and reinvent their system."⁸⁷ Pressler attached a detailed list of questions to the letter to further request information about public broadcasting's financial structure, ideological balance of programming content, lobbying budget, and other issues.⁸⁸ The inquiry contained over 200 questions.⁸⁹

Pressler also wrote separately to President Clinton, praising the administration's proposals for the privatization of various government agencies.⁹⁰ Pressler indicated in his letter that he would like to work with the Clinton Administration in a bipartisan fashion to privatize the CPB.⁹¹

On February 10, 1995, the CPB responded to Pressler's questions, submitting charts, graphs, documents, and other data meant to clear up misconceptions about public television, but failing to answer many of the inquiries.⁹² PBS President Ervin Duggan told Pressler that the CPB's answers were

⁸⁰ *Id.* at 41.

⁸¹ *Id.* Some even contend that PBS may be better off without government financing because public broadcasting would be relieved from any political pressures. PBS has been criticized for being overly concerned about offending the powers that be. Warren Berger, *We Interrupt This Program. . . Forever?*, N.Y. TIMES, Jan. 29, 1995, at B1. The most often cited example is PBS's refusal to produce a sequel to *Tales of the City*, a highly acclaimed series that included homosexual characters. *Id.* Even though the series attracted good ratings, *Tales of the City* drew disapproval from Congress and some local PBS stations. *Id.* However, Jennifer Lawson, the head of programming at PBS, denied the charge and stated the decision not to do a sequel was because the co-producer wanted a budget that was three times the amount spent on *Tales of the City*. *Id.*

⁸² *Political Overtones Seen: Gingrich Modifies Stance on CPB Funding*, COMM. DAILY, Jan. 20, 1995, at 2.

⁸³ *Industry Reaction*, *supra* note 3, at 3; *see also*, De Witt, *supra* note 2, at 9. Subsequently, Gingrich backed off from his attack. *Political Overtones Seen*, *supra* note 82, at 2. Gingrich said that he would be interested in a proposal that would end federal funding for financially stable stations in big-city markets, while the funding for small-market stations would be continued. Easton and Michaelson, *supra* note 4, at A1.

⁸⁴ *Industry Reaction; Gingrich Announces Plan to 'Zero-Out' CPB*, *supra* note 3. Some even go as far as to state that government funding of "public broadcasting is immoral because it forces individuals to pay for the promotion of ideas and programs whether they agree with them or not." Michael J. Hurd, *The Crux of the CPB debate*, WASH. TIMES, Jan. 29, 1995, at B5.

⁸⁵ *See Political Overtones Seen*, *supra* note 82 at 2.

⁸⁶ Rod Dreher, *Public TV, Radio Urged to 'Reinvent'*, WASH. TIMES, Jan. 30, 1995, at A1.

⁸⁷ *Id.*

⁸⁸ *Id.* at A1, A6.

⁸⁹ *Id.* at A6. The inquiry included questions regarding whether taxpayer funds were used to lobby Congress. *Id.* Pressler also requested lists of on-air campaigns, mailings and programming guides, as well as transcripts of all news programs, and details of "efforts by recipients of CPB funds to generate congressional support for continued federal funding." *Id.* This inquiry was apparently prompted by an executive of a New Orleans public television station, WYES, who urged viewers to contact Louisiana Representative Bob Livingston, the Republican chairman of the House Appropriations Committee, to voice their support of continued federal funding of public broadcasting. *Id.* As a result of the action taken by WYES, Livingston has been receiving 300 - 400 calls per day. *Political Overtones Seen*, *supra*, note 82 at 2. In response to Pressler's questions, PBS stated that none of its CPB money was used to lobby support for continued federal funding of public broadcasting. *Duggan Cites 'Misconceptions'; Public Broadcasters Respond to Pressler's Questions*, COMM. DAILY, Feb. 15, 1995, at 3.

⁹⁰ *Senator urges public TV to draft privatization plan*, REUTERS BUSINESS REPORT, Jan. 29, 1995.

⁹¹ *Id.*

⁹² *Duggan cites 'misconceptions'*, *supra* note 89, at 3. The reply to Pressler's inquiry consisted of thousands of pages, and took approximately 1,800 man-hours to gather at a cost of about \$92,000. *Id.* \$15,000 of the \$92,000 was paid to law firms, for proprietary information review. Ellen Edwards, *The \$92,000 questions; CPB's voluminous reply to Sen. Pressler's query*, WASH. POST, Feb. 14, 1995, at B2.

meant to clear up any misconceptions about public television, some of which were reflected in Pressler's questions.⁹³ For example, Duggan cited the misconceived idea that PBS is thought of as a network like ABC, NBC, and CBS, as giving rise to Pressler's request for a comparison of programming and operational costs of the PBS and the NPR to commercial networks.⁹⁴ Duggan said it would be impossible to compare the costs since the PBS and the NPR are fundamentally different than commercial networks.⁹⁵

On February 23, 1995, the House Appropriations Subcommittee recommended cutting the CPB funding for fiscal years 1996 and 1997 as part of a \$6 billion rescission package.⁹⁶ The funding cut did not effect the \$285.6 million already allotted to the CPB for this fiscal year.⁹⁷ The reductions would decrease the CPB's funding from \$305 million to \$258 million for fiscal year 1996 — a fifteen percent cut that is equal to a savings of \$47 million.⁹⁸ The \$94 million cut from the CPB's budget for fiscal year 1997 would reduce the CPB's budget from \$315 million to \$221, a thirty percent decrease.⁹⁹ On March 2, 1995, the full House Appropriations Committee approved the Subcommittee's figures.¹⁰⁰ The House of Representatives voted on March 16, 1995 to approve the cuts as part of a \$17 billion rescission package.¹⁰¹

On March 24, 1995, the Senate modified some of the cuts made in the house.¹⁰² By a vote of twenty-

seven to one, the Senate Appropriations Committee approved a \$13.2 billion package of spending cuts,¹⁰³ resulting in a freeze in funding for the CPB at 1995 levels.¹⁰⁴ The \$13.2 billion package was significantly less than the \$17.1 billion approved by the House.¹⁰⁵ These spending cuts continued when the \$141 million cut by the House for the CPB's proposed budgets for 1996 and 1997 was reduced to \$55 million.¹⁰⁶

Although the cutbacks have not "zeroed-out" funding altogether, the topic of whether to continue federal financing of public broadcasting has become a hot partisan issue, symbolizing the Republican party's approach to balancing the budget by reducing government spending.¹⁰⁷ John Porter (R-Ill.), the Chairman of the House Appropriations Subcommittee on Labor, Health and Human Services, and Education, said he "would like to see [the public broadcasting] industry eventually weaned from dependence on [government] money."¹⁰⁸ In addition, many Republicans argue that public broadcasting continues to ask Congress for money, while producers of programs like *Barney and Friends* and *Sesame Street* are getting rich off merchandise bearing the likeness of a purple dinosaur and a big yellow bird.¹⁰⁹

On the other hand, Democratic party members generally support government funding for the CPB.¹¹⁰ For example, Representative David R.

⁹³ Edwards, *supra* note 92, at B2.

⁹⁴ *Id.*

⁹⁵ *Id.* PBS is not a network but a private, nonprofit corporation governed by public television stations. *Id.* Each station makes individual decisions about which programs to carry, while commercial network affiliates generally carry a complete program feed. *Id.* Business practice of PBS was also cited as an often misconceived area of public broadcasting. *Id.* PBS President Duggan said PBS could not respond to Pressler's many questions about public television stations' finances since PBS does not direct individual station finances nor control the stations. *Id.*

⁹⁶ *Not as Bad as Feared*, *supra* note 4, 225, at 2. The Republican package was authored by John Edward Porter of Illinois, who is the chairman of the House Appropriations Subcommittee on Labor, Health and Human Services, and Education. Representative Nita M. Lowey's (D-NY) proposed amendment to Porter's plan that would have voided the CPB cuts was defeated by the subcommittee on a party-line vote of 9 to 5. Ruth Larson, *Public TV, Radio Hit Hard in GOP Plan; Democrats Fail in Bid to Stop Cuts*, WASH. TIMES, Feb. 23, 1995, at A1.

⁹⁷ Larson, *supra* note 96, at A1.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ Edwards, *supra* note 4, at B1; Michaelson, *supra* note 4, at F1.

¹⁰¹ Michaelson, *supra* note 4, at F1; Dreher, *supra* note 4, at A12. The bill was passed by a vote of 227 to 200. Morgan,

supra note 4, at A7. Six Republican voted against the bill and six democrats voted for the rescission package. *Id.* The House also overwhelmingly defeated, by a vote of 72 to 350, an amendment proposed by Phil Crane (R-Ill.) which would further cut government funding for the CPB by one-third in 1996, two-thirds in 1997, and eliminate all support in 1998. *Barney, Sesame Street Survive Doubled Cut Attempt*, REUTERS, Mar. 15, 1995; Michaelson, *supra* note 4, at F1.

¹⁰² Sands, *supra* note 5, at A4; Morgan, *supra* note 5, at A1.

¹⁰³ Michael Ross, *Senate Offers its Version of Spending Cuts*, L.A. TIMES, Mar. 25, 1995, at A19.

¹⁰⁴ Sands, *supra* note 5, at A4; Morgan, *supra* note 5, at A1.

¹⁰⁵ Ross, *supra* note 103, at A19.

¹⁰⁶ Sands, *supra* note 5, at A4; Morgan, *supra* note 5, at A1.

¹⁰⁷ *Id.* See generally, *Political Overtones Seen*, *supra* note 82, at 2 (recapping January 19, 1995 hearing regarding cessation of CPB funding).

¹⁰⁸ Larson, *supra* note 96, at A1. Other subcommittee members, including Representative Istook (R-Okla.), voiced their support to cease federal financing of public broadcasting. *Id.* Representative Dana Rohrabacher (R-Huntington Beach) filed a proposed amendment to double the CPB cuts with the House Rules Committee on March 13, 1995. Michaelson, *supra* note 4, at F1. Representative Philip M. Crane (R-Ill.) also filed an amendment proposing annual cut of CPB funding each year, ultimately phasing out all government funding. *Id.*

¹⁰⁹ Easton and Michaelson, *supra* note 4, at A1.

¹¹⁰ See Michaelson, *supra* note 4, at F1; Edwards, *supra*

Obey (D-Wis.) proposed an amendment to restore ninety percent of the cuts for the CPB.¹¹¹ Further, on March 3, 1995, Vice President Al Gore warned that if Republicans tried to decrease funding for public broadcasting, the White House would fight every step of the way.¹¹² Essential to much of this support is the view that the attack on public broadcasting is a political strategy employed by the Republican party to ease the distaste for future Republican budget cuts.¹¹³ Furthermore, some Democratic strategists predict that the Republicans will point to the CPB as an example of a program for the rich that was cut, proving that programs for the poor were not the only programs hit in trimming the budget.¹¹⁴

A. The Clash Between Advocates of Federal Funding Cuts and Opponents of Budget Cuts

Advocates of federal funding cuts assert that there is no longer a need for public broadcasting and that public broadcasting is biased and elitist. Those who advocate federal funding cuts argue that public broadcasting should be privatized. On the other hand, opponents of budget cuts argue that there is still a need for public television. Those opposing budget cuts assert that public television is cost effective, and that federal funds are needed as necessary seed money. There are valid arguments on both sides of the debate.

note 4, at B1.

¹¹¹ Michaelson, *supra* note 4, at F1.

¹¹² *Id.*; Edwards, *supra* note 4, at B1.

¹¹³ *Id.*; see also, *Political Overtones Seen*, *supra* note 82, at 2.

¹¹⁴ Easton and Michaelson, *supra* note 4.

¹¹⁵ See generally, George Archibald, *Public broadcasters object to cuts in money already granted; House panel meets tomorrow to discuss \$315.4 million appropriated for '97*, WASH. TIMES, Feb. 21, 1995, at A10 (Burton Yale Pines, Vice-Chairman and Chief Operating Officer of National Empowerment Television, a private public affairs network that broadcasts to eleven million to eighteen million homes by cable and satellite, urged the House Appropriations Subcommittee to consider cuts for fiscal year 1997. Pines compared public broadcasting to "a longtime alcoholic," who is addicted to public subsidies. The only solution, Pines insisted, was for PBS to recognize its addiction and refuse future federal funding.)

¹¹⁶ "Assisted Suicide," *Not Reform; Privatization Equals Extinction, PBS's Duggan Tells Press Club*, COMM. DAILY, Jan. 18, 1995, at 2.

¹¹⁷ *Id.*; De Witt, *supra* note 2, at A9. When asked to provide

1. Privatization of the CPB

House Speaker Gingrich and Senator Pressler are the primary leaders in the move to privatize public broadcasting. The Republican leaders have strong allies in members of the cable industry, who would benefit from the discontinuation of government subsidies for public broadcasting.¹¹⁵ However, any attempt to eliminate funding and privatize the CPB will meet opposition from those in the public broadcasting industry as well as the general public.

a. Arguments in Support of Privatization

Supporters of privatization of the CPB argue that privatization will save tax dollars and improve public broadcasting.¹¹⁶ The main thrust of the argument is that the public broadcasting industry could support itself on merchandising revenues from popular shows such as *Barney and Friends* and *Sesame Street*.¹¹⁷ House Speaker Gingrich said that if the CPB were "simply run as a commercially rational enterprise," the CPB could be a self-sufficient institution.¹¹⁸ Gingrich pointed out that *Sesame Street* grosses \$1 billion per year and *Barney and Friends* grosses \$800 million per year.¹¹⁹ Gingrich went on to say that the PBS channels, which are similar to cable channels such as Arts & Entertainment, C-SPAN, ESPN, and History Channel, would remain viable even without government funding.¹²⁰

In addition, a Senate Commerce Committee analysis shows that government financing of public broadcasting far exceeds the appropriated amount to

total gross sales figures for goods and services related to public broadcasting in the inquiry submitted to CPB by Senator Pressler, CPB responded that such a figure "is not — and cannot be — known to CPB because its components are not known to any public broadcasting entity from which the information could be collected." Edwards, *supra* note 92, at B2.

¹¹⁸ COMM. DAILY, February 23, 1995, at 9. House Speaker Gingrich has even promised to personally contribute \$2,000 per year to finance a privately funded network for *Sesame Street* and *Barney and Friends*. *Gingrich pledges contribution if PBS network goes private*, BALTIMORE SUN, Jan. 3, 1995, at A6.

¹¹⁹ *Id.*; Representative Philip Crane (R-Ill.) also asserts that *Sesame Street* grosses \$1 billion a year in merchandising revenue. Edwards, *supra* note 4, at D1. Karen Raugust, executive editor of the *Licensing Letter*, an industry trade paper, says that *Sesame Street* made approximately \$800 million in retail sales of toys and other products last year. Sara Groves, *Put End to PBS Funding*, PLAIN DEALER (Cleveland), Mar. 20, 1995, at 1E. The share for the Children's Television Workshop, creators of *Sesame Street*, was \$20 million. *Id.*

¹²⁰ *Political Overtones Seen*, *supra* note 82.

the CPB.¹²¹ Public television and radio stations receive a monopoly of broadcast licenses worth approximately \$5 billion,¹²² studio and broadcast equipment grants worth hundreds of millions of dollars,¹²³ and additional funding from the National Endowment for the Arts and the National Endowment for the Humanities.¹²⁴ Further, public broadcasting's nonprofit tax exempt status is the catalyst for billions of dollars in donations.¹²⁵ Therefore, the advocates for the discontinuation of government financing claim that privatization of the public broadcasting industry will result in the saving of several hundreds of million dollars for the federal government.

b. Arguments Against Privatization

*Public television cannot serve the gods of education, culture and citizenship and also serve the god of commerce at the same time.*¹²⁶

Public broadcasting supporters argue that privatization is against the public interest. Ervin Duggan, the president of the PBS, says that the Republican party's plan to privatize the CPB is similar to "assisted suicide," not reform.¹²⁷ Duggan further stated that "[t]o remove 14 percent [of federal funding] is to remove the public from television."¹²⁸ The end of federal support would force public broadcasting sta-

tions to fund programming solely by other resources, including advertising revenues.¹²⁹ The result would be another commercial channel.¹³⁰ Commercialization of public broadcasting is against the public's interest because commercial television focuses most of its efforts on advertising and entertainment, specializing in professional sports and sensationalism.¹³¹ Public broadcasting would be forced to offer programming to appeal to the lowest common denominator in order to achieve the broadest appeal.¹³² Beth Courtney, Executive Director of Louisiana Educational Television, compares the differences between public television and commercial television to the differences between a public library and a bookstore.¹³³ While commercial broadcasting is driven by ratings and profits, public broadcasting aims to inform and educate its audience.¹³⁴ The PBS is a better alternative because, as PBS President Ervin Duggan points out, commercial television is "increasingly violent and exploitative."¹³⁵

Opponents of budget cuts for public broadcasting insist that contributions from business and industry, foundations, subscribers, public auctions, and state and local governments, will not be able to make up the financial gap left by Congress if federal support is discontinued.¹³⁶ For example, philanthropic and private sector contributions did not meet the expectations of Congress and the President during the Rea-

¹²¹ George Archibald, *Public Broadcasting's Federal Subsidy Far Exceeds Appropriation*, WASH. TIMES, Feb. 19, 1995, at A1.

¹²² *Id.* The Federal Communications Commission sets aside television channels for public television, including VHF (channels 2 to 13) stations in major markets like New York's WNET, Channel 13, Chicago's WTTW, Channel 11, St. Louis' KETC, Channel 9, and New Orleans' WYES, Channel 12. *Id.* The VHF channels in New York and Chicago are valued at \$500 million to \$700 million on the open market. *Id.* Public radio also has a similar set-aside system. *Id.*

¹²³ *Id.* The U.S. Commerce Department's National Telecommunications and Information Administration has dispersed more than \$500 million in grants for equipment and facilities under the Public Telecommunications Facilities Program. In addition, Congress paid \$198.4 million for CPB to replace satellites, and further financed for the development of a nationwide satellite interconnection system for public broadcasting. *Id.*

¹²⁴ *Id.*

¹²⁵ About \$6.4 billion, or 43%, of monies raised by public broadcasting stations are in the form of federal tax exempt contributions. *Id.*; but see *infra* Part III.B.

¹²⁶ Tom Feran, *A Child Leads PBS Countering of Gingrich*, PLAIN DEALER (Cleveland), Jan. 6, 1995, at 1E.

¹²⁷ "Assisted Suicide," *Not Reform*, *supra* note 116, at 2.

¹²⁸ Feran, *supra* note 126, at 1E.

¹²⁹ *Id.*

¹³⁰ *Id.* Steven Schwartz, an economist with National Eco-

nomics Research Associates, informed the CPB's board that "public broadcasting would likely become much more commercial" if federal funding was eliminated. Rod Dreher, *CPB Funding Called Pivotal; Study Envisions Little Revenue From Donations, Licensing*, WASH. TIMES, Mar. 15, 1995, at A11. But cf. Alan Bash, *The Public Battle Over Public Television: Congress' Budget Ax Aimed at PBS*, USA TODAY, Jan. 9, 1995, at D1 (arguing that the public television system is already highly commercial because public television depends on viewer support and corporate sponsors already get on-air advertisements before and after the programs).

¹³¹ William H. Helme, *The Need for Public TV*, WASH. POST, Feb. 11, 1995, at A22.

¹³² Manuel Mendoza, *Will D.C.'s New Powers-That-Be Pull the Plug on Public TV?*, SACRAMENTO BEE, Dec. 18, 1994, at EN4.

¹³³ Courtney, *supra* note 12, at 2.

¹³⁴ Bruce Ranes, *Think Before Slicing Public Radio's Funding*, BILLBOARD, Mar. 25, 1995, at 8.

¹³⁵ "Assisted Suicide," *Not Reform*, *supra* note 116, at 2.

¹³⁶ LASHLEY, *supra* note 15, at 77. *Not as Bad as Feared*, *supra*, 4, 225, at 2. The general manager of WGBY-TV of Springfield, Massachusetts, which obtains 14.5% of its annual budget from CPB, is confident that other sources of funding will compensate for the reduction in federal funds. Additionally, Massachusetts Governor William Weld has indicated that the state would seriously consider assisting public broadcasting stations if federal funds were eliminated. *Id.*

gan Administration, contrary to expectations.¹³⁷ Financial support from foundations and local and state governments also decreased in response to the decreased federal role in public broadcasting.¹³⁸

Furthermore, the public broadcasting industry could not support itself on revenues from popular shows.¹³⁹ As PBS President Duggan says, "the numbers just don't add up."¹⁴⁰ Even if the CPB obtained a portion of popular shows' revenues, the CPB's share would be meager since its contribution to the overall costs of the popular programs is typically small.¹⁴¹ Michael J. Schoenfeld, the CPB spokesman, argues that it would be unfair for the CPB to demand a portion of profits from a show that is greater than the CPB's initial investment in the show, since it is "[t]he people who produce these programs [who] take the risk."¹⁴² The money collected from popular shows would never equal the government's contribution.¹⁴³

2. Public Broadcasting's Purpose

a. No Longer a Need for Public Television

Those who favor funding cuts for public broadcasting argue that there is no longer a need for public broadcasting in today's marketplace¹⁴⁴ because advances in technology have made public broadcasting obsolete.¹⁴⁵ These advocates of government funding cuts say cable television is the answer to the new

PBS slogan "[i]f we don't do it, who will?"¹⁴⁶ Cable access makes available over 120 channels, soon to be 500 channels, of educational and cultural programming.¹⁴⁷ Jeff Jarvis, a critic for TV Guide says that "the cable channels now do what PBS has traditionally done."¹⁴⁸ Cable channels such as Arts & Entertainment, the Discovery Channel, the Learning Channel, and Bravo provide viewers with a significant amount of documentaries, news analyses, and other educational and cultural programming.¹⁴⁹ For example, Jones Education Networks, a subsidiary of Jones International cable company, uses satellite, and the broadcast and cable infrastructure to provide access to formal education for individuals in remote geographic areas and under-served urban areas, disabled individuals, and individuals whose life styles are such that conventional education is not an option.¹⁵⁰ This service is called "distance learning."¹⁵¹

b. Still a Need for Public Broadcasting

Opponents of budget cuts for public broadcasting argue that since cable television charges fees for access, cable is still inaccessible to many viewers, particularly low-income Americans.¹⁵² For instance, forty percent of American homes either do not receive multichannel service or cannot afford cable.¹⁵³ The CPB supplies certain segments of the population, especially rural areas, with irreplaceable services¹⁵⁴ through programming that would otherwise

¹³⁷ *Id.* at 81. In the past, funding from nonfederal sources generally increased when federal funding decreased. *Id.*

¹³⁸ *Id.*

¹³⁹ Mendoza, *supra* note 132, at 4.

¹⁴⁰ "Assisted Suicide," *Not Reform*, *supra*, note 116, at 2.

¹⁴¹ Easton and Michaelson, *supra* note 4, at A1. Although Sesame Street products generate approximately \$750 million per year, the nonprofit producers of Sesame Street, Children's Television Workshop, return the \$20 million profit back into the show. *Public Radio Bracing for Cuts; But NPR Chief Plans to Make Case for Subsidy*, WASH. POST, Jan. 28, 1995, at D1. Noting that Sesame Street itself does not receive federal funds, the proceeds from Sesame Street products could not aid in supporting the public broadcast industry. *Id.* This is even more clear for public radio. *Id.* As NPR President Delano Lewis points out, public radio does not have programs such as "Barney" or "Sesame Street," which could subsidize less popular radio programs. *Id.*

¹⁴² *Id.*

¹⁴³ Mendoza, *supra* note 132 at EN4. In addition, PBS is currently sharing in the proceeds made from *Barney & Friends* merchandise sales. *Id.* By the terms of their agreement with PBS, the creators of *Barney & Friends* are obligated to fully reimburse PBS for its outlay. Easton and Michaelson, *supra* note 4, at A10.

¹⁴⁴ "Domino Effect" *Feared*, *supra* note 3, at 2; Diane

Haithman, *1994/Year in Review; Arts and the Coming Storm*, L.A. TIMES, Dec. 25, 1994, at 6.

¹⁴⁵ Berger, *supra* note 81, at B1.

¹⁴⁶ "Domino Effect" *Feared*, *supra* note 3, at 2.

¹⁴⁷ *Id.*; Haithman, *supra* note 144, at 93.

¹⁴⁸ Berger, *supra* note 81 at 27.

¹⁴⁹ *Id.*; "Domino Effect" *Feared*, *supra* note 3, at 2; Haithman *supra* note 144, at 93. *But cf. Not as Bad as Feared*, *supra* note 4, 225, at 2. CPB Chairman Henry Cauthen agreed with CPB President Richard Carlson that educational services would be the "first and hardest" hit. *Id.*

¹⁵⁰ Statement of Dr. Bernard Luskin, President of Jones Education Networks, before the Labor, Health and Human Services & Education Subcommittee of the House Appropriations Committee on January 19, 1995, at 3-4 (on file with *CommLaw Conspectus*). In partnership with more than 100 Colleges and Universities, Jones Education Network carries courses for credit and degree programs. *Id.* at 4-5.

¹⁵¹ *Id.* at 3.

¹⁵² Bennett Roth, *Republican ax aimed at PBS could take slice out of Barney*, HOUSTON CHRONICLE, Dec. 24, 1994, at A1.

¹⁵³ Max Frankel, *Word & Image; PBS's Wheel of Fortune*, N.Y. TIMES MAGAZINE, Jan. 8, 1995, at 16.

¹⁵⁴ "Domino Effect" *Feared*, *supra* note 3, at 3.

be unavailable.¹⁵⁵ For instance, in Louisiana, where one third of the children live in poverty, public television supplies students with satellite-based distance learning and interactive classrooms.¹⁵⁶ The PBS covers almost 100% of the country, while cable reaches only sixty-six percent of America's homes.¹⁵⁷

Further, there remains a need for public broadcasting that is free from marketplace pressures and ratings.¹⁵⁸ Over 180 million people are served by public broadcasting each month.¹⁵⁹ Without assistance from the CPB, programming for minority audiences, which can not be easily found on commercial networks, will be lost.¹⁶⁰ For example, if KSJV-FM of Fresno, California lost its \$917,000 funding from the CPB (which is fifty-three percent of its annual budget), two million spanish speaking listeners would lose a major source of news and public affairs.¹⁶¹

The true value of public broadcasting is its willingness to create programs on the basis of educational value, and not just for their popularity or salability.¹⁶² Commercial networks have turned away from documentaries and other in-depth programming, leaving public broadcasting to become the principal source of humanities and science programming.¹⁶³ Altogether, commercial television has proved less willing than the CPB to take risks in developing ambitious programs because of its reliance on ratings.¹⁶⁴

¹⁵⁵ De Witt, *supra* note 2, at A9.

¹⁵⁶ "Domino Effect" Feared, *supra* note 3, at 3.

¹⁵⁷ Ann Hodges, *Public TV Takes Up Sword for Funds*, HOUSTON CHRONICLE, Jan. 6, 1995, at 3.

¹⁵⁸ Berger, *supra* note 81, at 27. There are others who have noted that ratings have become more important at PBS. Bill Moyers, PBS producer and host, comments "[i]f we start thinking of attracting an audience instead of serving constituencies, that's a problem. We must again ask ourselves, what is our mission?" *Id.*

¹⁵⁹ De Witt, *supra* note 2, at A9.

¹⁶⁰ Easton and Michaelson, *supra* note 4, at A9; De Witt *supra* note 2, at A9. Speaking for the public television stations that America's Public Television Stations represents, APTS President David Brugger said that APTS "do not believe . . . that the programs and services that public television stations have delivered . . . will continue without some federal funding." *Not as Bad as Feared*, *supra* note 4, 225, at 2.

¹⁶¹ Easton and Michaelson, *supra* note 4, at A9.

¹⁶² *Serving Elite Folks, and Common Ones Too*; *Public TV, a Valuable Cultural Tool, is on Gingrich Blacklist*, L.A. TIMES, Jan. 9, 1995, at B6.

¹⁶³ *Spare Public Broadcasting*, N.Y. TIMES, Dec. 25, 1994, at Sec. 4 page 8. New PBS titles will include *The American Cinema*, a series of ten one hour programs about the movies, *Inside the F.B.I.*, a four hour history program, *What Can We Do About Violence?*, a Bill Moyers special, *America's War on*

Public broadcasting is the major producer of programming for children.¹⁶⁵ Supporters of public television contend that only public stations have the latitude to run as many as three or four hours of *Sesame Street* each day, uninterrupted by commercials.¹⁶⁶ Opponents respond that public television stations broadcast several hours of *Sesame Street* because they have no other programming of interest to viewers.

Public broadcasting also provides a source of educational resources.¹⁶⁷ More than one million children in the state of Georgia as well as millions of other children across rural America attend school via public television.¹⁶⁸ In addition to offering educational shows like *Sesame Street* and *Reading Rainbow* for children, the PBS also televises college level courses for adults.¹⁶⁹ For example, Coastline Community College in Orange County, California, telecasts documentary-style classes on KOCE-TV, which serves about four thousand students.¹⁷⁰ The PBS also provides access to satellite-based distance learning and interactive classrooms.¹⁷¹

3. A Neutral Voice

a. Allegations of Bias

Conservatives have repeatedly accused public broadcasting of supporting a liberal agenda.¹⁷² In

Poverty, a five hour report on poverty in the 1960's, and *Messages From Moscow*, a four hour program on the cold war. *Id.*

¹⁶⁴ Leonard Garment, *Clinton & Congress; How Not to Fix Public Broadcasting*, N.Y. TIMES, Dec. 21, 1994, at A27.

¹⁶⁵ De Witt, *supra* note 2, at A9. James W. Carey, a professor of journalism at Columbia University, says that public broadcasting has been the major source of children's programs, including innovative entertainment as well as educational programs. *Id.* He says "[c]hildren are a minority audience, and no one has shown an interest, except a commercial one, in them except public broadcasting." *Id.*

¹⁶⁶ *Spare Public Broadcasting*, *supra* note 163, at Section 4 page 8.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ Berger, *supra* note 81, at 27. Assignments and quizzes are mailed or faxed to college telecourse instructors who are available for office or telephone hours. Tina Nguyen, *Cuts may mean bleak picture for TV courses*, L.A. TIMES, Feb. 12, 1995, at B1. Examinations are taken on the campus. *Id.* Telecourses range from Chinese brush painting, geology, or English literature. *Id.*

¹⁷⁰ Nguyen, *supra* note 169.

¹⁷¹ *Spare Public Broadcasting*, *supra* note 163, at Section 4 page 8.

¹⁷² Peter Johnson, *Gingrich Wants to Pull Plug on Public*

support of these allegation, advocates of federal funding cuts refer mainly to alleged biased news reporting. In one instance, NPR correspondent Nina Totenberg interjected her own liberal opinions during her coverage of the televised Clarence Thomas hearings on WFDD.¹⁷³ Another example of public broadcasting's biased news reporting is the on-air cheering of President Clinton's victory during Boston's WGBH's coverage of election night.¹⁷⁴ Other types of programming are also under attack. Armistead Maupin's *Tales of the City* has been reproached by conservative groups and lawmakers because it focused on life among a group of people living in an apartment house in the 1970's, including homosexual characters.¹⁷⁵

In his inquiry addressed to the CPB, Pressler specifically questioned *Frontline*, *The American Experience*, and *American Playhouse*, which have often been criticized as being biased.¹⁷⁶ Furthermore, the Center for Media and Public Affairs conducted a study in 1992, reporting that PBS documentaries lack "diversity and balance" and consistently favor liberal positions.¹⁷⁷

Public broadcasting is criticized for not following programming guidelines, established in 1946 by the Federal Communications Commission, which require balanced programming.¹⁷⁸ In addition, the Public Broadcasting Act mandates "strict adherence to objectivity and balance" in all programs or series of programs of a controversial nature.¹⁷⁹

b. Counter Arguments to Charges of Bias

Advocates of full federal funding of public television maintain that the cessation of financing to the CPB would not address the problem of bias in public broadcasting.¹⁸⁰ Under today's system, Public broad-

cast stations are accountable to public authorities because they receive public money.¹⁸¹ Ceasing the allocation of federal funds will remove officials' capacity to influence the system.¹⁸² As one reporter writes: "[i]f Congress gets out of the business of supporting public broadcasting, that sword of Damocles [the congressional appropriations process] is gone, and there is little to prevent public television and radio from becoming a genuinely liberal alternative to the conservative ideology now spreading through the commercial airwaves."¹⁸³

Criticisms of bias in public television have only been directed at a handful of shows, and not the bulk of public broadcast programming.¹⁸⁴ In the CPB's response to Pressler, PBS President Duggan said that only ten to twelve hours, the "tiniest fraction," of the total 3500 hours of public television's programming could be considered controversial.¹⁸⁵ The CPB President Richard Carlson points out that Congress should not "throw out the baby with the bath water."¹⁸⁶

4. Public Broadcasting Ideologically Based

a. Broadcasting for the Elite

PBS has also been denounced as elitist, catering to a highly educated audience.¹⁸⁷ House Speaker Gingrich calls public television a toy for "rich, upper-class people."¹⁸⁸ Public broadcast programming of classical music and British comedies and dramas are charged as catering exclusively to a highly educated, discriminating audience.¹⁸⁹ Republican consultant Steve Hofman says the move to cut public broadcasting's government funding originates from the belief that if Republicans do not deal with elite federal subsidies, then other spending cuts from the federal budget will not seem politically legitimate.¹⁹⁰

TV Funding, USA TODAY, Dec. 8, 1994, at D3.

¹⁷³ Coe, *supra* note 70, at A8.

¹⁷⁴ Dreher, *supra* note 86, at A1, A6.

¹⁷⁵ De Witt, *supra* note 2, at A9.

¹⁷⁶ Dreher, *supra* note 86, at A6. Pressler also wanted to know what disciplinary actions, if any, were taken against the Boston station WGBH when its on-air personality and staff "cheered" Bill Clinton's presidential victory during its coverage. *Id.* See *infra*, Part III.A.3.b.

¹⁷⁷ Roth, *supra* note 152, at A8.

¹⁷⁸ The FCC, in its publication *Public Service Responsibility of Broadcast Licensees*, made licensing contingent upon compliance with the "Fairness Doctrine," which required broadcasters to provide balanced programming. LASHLEY, *supra* note 15, at 18.

¹⁷⁹ 47 U.S.C. §396(g)(1)(A). *But see* Accuracy in Media, Inc. v. FCC, 521 F.2d 288, 297 (D.C. Cir. 1975) (holding that

the Public Broadcasting Act provision mandating objectivity and balance was not a substantive standard).

¹⁸⁰ Garment, *supra* note 164, at A27.

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ Judy Mann, *Keeping a Hand in Public Broadcasting*, WASH. POST, Feb. 24, 1995, at E3.

¹⁸⁴ Roth, *supra* note 152, at A1.

¹⁸⁵ Duggan cites 'misconceptions', *supra*, note 89, at 3.

¹⁸⁶ Kim McAvoy, *Public broadcasters go on offense*, BROADCASTING & CABLE, Dec. 19, 1994, at 48.

¹⁸⁷ Coe, *supra* note 70, at A8; Feran, *supra* note 126, at E1; *Serving Elite Folks*, *supra* note 162, at B6.

¹⁸⁸ *Serving Elite Folks*, *supra* note 162, at B6.

¹⁸⁹ Coe, *supra* note 70, at A8.

¹⁹⁰ Mann, *supra* note 183, at E3.

b. Defenders of Public Broadcasting Deny Charges of Elitism

To counter charges of elitism, advocates of public broadcasting point to Nielsen studies that show that PBS's audience reflects the American population.¹⁹¹ Public television brings cultural events such as the ballet and opera to many people who otherwise could not afford them.¹⁹² Jane Krutz, representing the Association of America's Public Television Stations, stated before the January 19, 1995 House Appropriations Subcommittee hearing that the fact that over four thousand adults are enrolled in the GED program in Arkansas alone, and that over 1.5 million adults obtained their high school diplomas through programs on public television, disposes of the idea that public broadcasting's viewership is composed of only the elite.¹⁹³ The Nielsen study also shows that the majority of PBS viewers (sixty percent), earn less than \$40,000 a year.¹⁹⁴ Further, sixty-three percent of the approximately 100 million PBS viewers have less than a college degree.¹⁹⁵

Some defenders of public broadcasting, such as Julia Child, who has been hosting a cooking show on PBS for 25 years, rebuts charges of elitism by commenting that it is "a very elitist remark to think that only rich, wealthy people can enjoy the opera, plays and culture."¹⁹⁶ Judy Mann, a writer for the Washington Post, asks if the millions of children who watch *Sesame Street* could be considered elitist.¹⁹⁷

¹⁹¹ Feran, *supra* note 126, at 1E.

¹⁹² Mann, *supra* note 183, at E3.

¹⁹³ Statement of Jane Krutz, on behalf of the Association of America's Public Television Stations before the House Appropriations Subcommittee on Labor, Health and Human Services, and Education hearing on January 19, 1995, at 2 (on file with *CommLaw Conspectus*).

¹⁹⁴ Bash, *supra* note 130, at D1; Easton and Michaelson, *supra* note 4, at A1; Hodges, *supra* note 157, at 3. Compare, Molly Ivins, *Privatizing PBS is about money - for investors*, HOUSTON POST, Feb. 8, 1995, at A19 (citing 56% as the percentage of PBS viewers who make less than \$40,000 per year).

¹⁹⁵ Ivins, *supra* note 194, at A19.

¹⁹⁶ Feran, *supra* note 126, at 1E.

¹⁹⁷ Mann, *supra* note 183, at E3.

¹⁹⁸ De Witt, *supra* note 2, at A9; Berger, *supra* note 81, at B1.

¹⁹⁹ Easton and Michaelson, *supra* note 4, at A1. For example, Puzzle Place, a PBS series that promotes racial harmony and self-esteem among preschoolers, would not have been produced without federal seed money. *Id.* CPB commissioned the project with a \$4.5 million grant to KCET, the producer of the program with Lancit Media. *Id.* William Kobin, president of KCET, says "we wouldn't have been able to go to Southern California Edison for (another) \$3.5 million." *Id.*

B. Additional Arguments Asserted by Those Opposing Budget Cuts

Federal funding provides necessary seed money.¹⁹⁸ The local stations and independent producers who generate new programs for public broadcasting rely on federal seed money to attract other investors.¹⁹⁹ Each dollar from the federal government is used to leverage additional dollars in public support.²⁰⁰ A new children's program called *Kratt's Creatures* illustrates public broadcasting's use of federal funds as seed money.²⁰¹ The show is being developed by MPT, the fourth largest producer of programming for PBS.²⁰² MPT received \$1.5 million from the government for the initial episodes.²⁰³ The \$1.5 million was used as leverage to raise another \$5 million from other sources to finance the show that cost \$6.5 million to make.²⁰⁴ *Sesame Street* is another public television program that started with seed money from the CPB.²⁰⁵ Once a fledgling show dependent on government financing, *Sesame Street* has turned into a \$1 billion a year success and is now completely self-sufficient.²⁰⁶

Public Broadcasting is also cost effective.²⁰⁷ Taxpayer contributions equal only about one dollar per person per year.²⁰⁸ As PBS personality Bill Moyers explains "[c]ompare that to the \$300 to \$500 that cable costs."²⁰⁹ In 1993, the \$253 million that the CPB received from the Federal Government generated more than \$1.5 billion in investment from membership contributions, matching grants and program

²⁰⁰ De Witt, *supra* note 2, at A9. PBS President Duggan has likened the 14% federal subsidy of public broadcasting to "money that a farmer spends on his seed. If you destroy the seed, the rest of the planting can't be done." Easton and Michaelson, *supra* note 4, at A1.

²⁰¹ David Zurawik, *Sound, Fury Rise Over PBS Funding*, BALTIMORE SUN, Jan. 6, 1995, at D1.

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ *Id.*

²⁰⁵ De Witt, *supra* note 2, at A9.

²⁰⁶ *Sesame Street* no longer receives any federal funding. Easton and Michaelson, *supra* note 4, at A10.

²⁰⁷ Hodges, *supra* note 157, at 3; De Witt, *supra* note 2, at 9. *But see*, Berger, *supra* note 81, at B1 (noting that even defenders of public broadcasting acknowledge the existence of shortcomings of the present system). Robert MacNeil of the *MacNeil-Lehrer Newshour*, believes that too little money has been spent on national programming and too much money spent on the operation of the 350 PBS stations, which overlap because one geographic area is served by more than one public broadcasting station. *Id.* For example, the New York market is served by six public stations. *Id.*

²⁰⁸ De Witt, *supra* note 2, at A9.

²⁰⁹ Hodges, *supra* note 157, at 3.

sponsorships.²¹⁰ Further, public broadcasting enjoys widespread public support.²¹¹ Polls conducted by Opinion Research Corporation for PBS and a CNN/USA Today poll indicate that a majority of those surveyed support the continued federal funding of public television.²¹² The PBS poll shows that 80% of Republicans, 86% of independents, and 90% of Democrats endorse continued federal subsidies of public broadcasting.²¹³

IV. THE RESULTS OF CONGRESS' THREAT TO SHUT-OUT FEDERAL FUNDING OF PUBLIC BROADCASTING

A. The Projected Budget Cuts of the CPB May Be a Mere Political Strategy

The federal subsidy of the CPB comprises of a minuscule portion of the federal budget.²¹⁴ Federal funds apportioned for the CPB amounted to 0.0003% of the 1996 federal budget.²¹⁵ The debate over the CPB funding may be an attempt by the Republicans to counter future criticism that the Republican Congress only cut programs for the poor in its effort to balance the federal budget.²¹⁶ The elimination or reduction of federal monies for the CPB could be hailed as an example of a program for the rich which was also cut.²¹⁷

The battle over whether to continue federal funding for the CPB simply may also be a way for the new congressional leaders to attract publicity.²¹⁸ America's Public Television Stations, (APTS), an organization which lobbies for PBS, received thirty telephone calls from reporters in a two-day period

since the CPB funding became an issue.²¹⁹ In fact, APTS President David Bruger has appeared on four television news programs when normal press inquiries total only two or three per year, all as a result of the debate over continuation of government subsidies for public broadcasting.²²⁰

It is also very interesting that House Speaker Gingrich chose his weekly television program on the National Empowerment Network, a conservative cable channel, to announce his intentions to "zero-out" government funding for the CPB.²²¹ This may be interpreted as evidence of his partnership with the cable industry to wipe out public broadcasting. In addition, as Bill Moyers, a producer and commentator for PBS, told television critics, it is also "intriguing that his [Gingrich's] second big attack on public broadcasting came in an interview with C-Span . . . which is a creature of the cable industry and is run by friends of the new speaker of the House."²²²

B. Negative Effects of Reduced or "Zero-ed Out" Federal Funding

More than one thousand public radio and television stations are in jeopardy if the reduction in federal funding of public broadcasting is ultimately approved in Congress.²²³ Top officials of public broadcasting forecast that one station in ten could be forced to cease operations.²²⁴ Smaller, rural stations would be affected most,²²⁵ since rural stations do not have the community resources at their disposal enjoyed by larger urban station, and depend heavily on federal stipends.²²⁶

Of the eighty-seven stations that receive twenty to

point to CPB as an example of a program for the 'rich' that was axed." Easton and Michaelson, *supra* note 4. *See also, supra* Part III.A.3.

²¹⁸ Mendoza, *supra* note 132, at EN5; Easton and Michaelson, *supra* note 4, at A1.

²¹⁹ Mendoza, *supra* note 132, at EN5.

²²⁰ *Id.*

²²¹ *Industry Reaction, supra* note 3, at 3; De Witt, *supra* note 2, at A9.

²²² Zurawik, *supra* note 201, at D1.

²²³ De Witt, *supra* note 2, at A9.

²²⁴ *Senator urges public TV to draft privatization plan, REUTER BUSINESS REPORT, Jan. 29, 1995.*

²²⁵ "Assisted Suicide," *Not Reform, supra* note 116, at 2; *see Not as Bad as Feared, supra* note 4, 225, at 2; Garment, *supra* note 164, at A27.

²²⁶ Easton and Michaelson, *supra* note 4, at A9; *Not as Bad as Feared, supra* note 4, 225, at 2. *But cf. Even Large Public TV Stations Can't Survive Proposed Cuts, N.Y. TIMES, Feb. 1, 1995, at A20.* William F. Baker, President of Channel Thirteen (WNET) in New York, stated "without [F]ederal financing,

²¹⁰ De Witt, *supra* note 2, at A9.

²¹¹ "Assisted Suicide," *Not Reform, supra* note 116, at 2; Easton and Michaelson, *supra* note 4, at A10.

²¹² "Assisted Suicide," *Not Reform, supra* note 116, at 2. *But see* Los Angeles Times poll that showed a bipartisan 63% affirmative answer in favor of cutting public broadcasting "in order to reduce the federal deficit." Easton and Michaelson, *supra* note 4, at A10.

²¹³ "Assisted Suicide," *Not Reform, supra* note 116, at 2. Note, challenger of the poll point out that those participating in the poll were not asked to compare funding of public broadcasting against funding other programs like welfare. *Id.*

²¹⁴ Easton and Michaelson, *supra* note 4, at A1.

²¹⁵ *Id.*

²¹⁶ *See Political Overtones Seen, supra* note 82, at 2; Easton and Michaelson, *supra* note 4.

²¹⁷ *Political Overtones Seen, supra* note 82, at 2. Reporters Nina J. Easton and Judith Michaelson say that Democratic lawmakers think that the Republican attack on public broadcasting is "a calculated political strategy: [w]hen budget-cutters come under attack for trimming programs for the poor, they can

fifty percent of their annual budgets from the CPB, about half of the stations could go off the air immediately.²²⁷ This would create a "domino effect."²²⁸ The shutdown of the eighty-seven stations would result in higher national programming fees for the remaining stations, since the smaller stations would not be in existence to pay their portion of the NPS fees.²²⁹

For example, experts speculate that KCTF of Waco, Texas, which receives thirty-nine percent²³⁰ of its total operating budget from the CPB, would be one of the first public television stations to go off the air.²³¹ Due to the loss of fees from stations such as KCTF, mid-range stations like WSBE-TV in Providence, Rhode Island, which gets ten percent of its budget from the CPB, would be in the next round of shut-downs because it would not be able to afford the rising national programming fees.²³²

In addition, the end of federal funding would also create a Catch-22 situation.²³³ The larger stations that produce programs would halt production in order to afford the rising NPS programming fees.²³⁴ But, a Catch-22 situation arises because the result would be no NPS programming, since the larger stations that produce programs had to halt production so that they could afford the rising NPS programming fees.²³⁵

Twenty-four national educational organizations that support government financing of public broadcasting advised that several educational programs

would go off the air without federal monies.²³⁶ These programs include courses offered via distance learning for college or high school credit, teaching services for thirty million students, noncommercial programming for off-air taping and classroom use, training and development programs for teachers, computer linked on-line educational networks, and courses to prepare for high school equivalency examinations.²³⁷ For example, Coastline Community College, (CCC), which broadcasts college courses on KOCE-TV, serving Orange County, California, may have to reduce class offerings if federal cuts reduce KOCE-TV's funding.²³⁸ CCC's President Leslie Purdy, who has made Coastline one of the nation's leading telecourse institutions, said that a decrease in government funding would be like "someone taking away a classroom site."²³⁹

C. A Reduction in Federal Funding Now May Be an Indicator of Total Elimination of Federal Funding for the CPB in the Future

Although the recent approval of decreases in appropriations for public broadcasting by the House Appropriations Subcommittee on Labor, Health and Human Services, and Education was only the first step of many in a lengthy process, the subcommittee's action indicates general support for House Speaker Gingrich's plan to end federal subsidies for public broadcasting.²⁴⁰ Federal funding of public

Channel 13 will have to change its nature forever." *Id.* Channel 13's community service grant from CPB supports only Channel 13 as a public television station, amounting to 15% of the station's budget. *Id.* CPB funds do not aid Channel 13's program production center, which produces about one-third of all the programs enjoyed by public television viewers. *Id.* The loss of federal funding cannot be diverted from Channel 13's program production center to support the production of a program are project specific. *Id.* Therefore, if Channel 13 loses its community service grant, Channel 13 as a local public television station will cease to exist as locals viewers knew it. *Id.* The 5.6 million viewers of Channel 13 will end up with a diminished Channel 13. *Id.*

²²⁷ "Domino Effect" Feared, *supra* note 3, at 2.

²²⁸ *Id.*

²²⁹ *Id.* CPB Chairman Henry Cauthen estimates one-third of public television stations would go under. Easton and Michaelson, *supra* note 4, at A10.

²³⁰ "Domino Effect" Feared, *supra* note 3, at 2. The Association of America's Public Television Stations cite WCTF's funding from CPB as 54%. See Krutz, *supra* note 193, at 3.

²³¹ "Domino Effect" Feared, *supra* note 3, at 2.

²³² *Id.*

²³³ *Id.*

²³⁴ *Id.* See also *Not as Bad as Feared*, *supra* note 4, 225, at 3. If the rescissions were adopted, public broadcasting's educa-

tional services would be destroyed first, with the rippling effect that would eventually wipe out PBS's National Programming Service, on which the public television system depends on for most of its programming. *Id.*

²³⁵ *Id.*

²³⁶ COMM. DAILY, February 23, 1995, at 9. A letter signed by 24 educational organizations supporting continued federal funding for CPB was distributed to members of Congress on February 22, 1995. *Id.* The American Federation of School Administrators, Center for Media Education, National Association of Elementary School Principals, National Association of School Psychologists, National Black Child Development Institute, National Education Association, and the National School Boards Association were among the signatories of the letter. *Id.*

²³⁷ *Id.*

²³⁸ Nguyen, *supra* note 169, at B1. Carolann Young, a 36-year old mother and homemaker, would be unable to finish her pursuit of a teaching certificate because telecourses are the only way Young can earn her degree. *Id.* Telecourses are a trend among adults who cannot afford to be on college campuses. *Id.*

²³⁹ *Id.*

²⁴⁰ Larson, *supra* note 96, at A1. *But see, Not as Bad as Feared*, *supra* note 4, 225, at 2. The fact that the plan approved by the House Appropriations Subcommittee on Labor, Health and Human Services, and Education did not eliminate federal funding for CPB gives hope for the 1998 budget. *Id.*

broadcasting will be difficult to justify in today's economic climate. There will be no exception for public broadcasting when Congress is also considering budget cuts for programs to combat homelessness, prevent drug and alcohol abuse, and programs for senior citizens.²⁴¹

D. The Bottom Line

Although the issue is an explosive one, there are persuasive arguments on both sides of the debate on whether federal funding for the CPB should be reduced, 'zero-ed out,' or left alone. Today, there is access to over 500 cable channels in addition to on-line computer networks of information, as well as other advances in technology that many argue have reduced the need for public broadcasting. Many of the services traditionally provided by public television are now also provided by commercial sources. Cultural and educational cable channels such as Arts & Entertainment, the Discovery Channel, the Learning Channel, and Bravo give viewers more documentaries, news analyses, and other educational and cultural programming. Private entities such as the Jones Education Networks, a subsidiary of a cable company, provides educational programming via distance learning. Further, and perhaps most influential, is the fact that the federal government faces a huge budget deficit. Politicians are struggling to find ways to cut the deficit, and to balance the federal budget.

On the other hand, there is still a void left by the commercial stations and the cable industry. Commercial stations and cable channels, for all of their programming variety, lack quality educational and cultural programming. Left only to market forces, the choice for children's programming is between

public broadcasting's *Sesame Street* versus the commercial alternative, the *Power Rangers*. Therefore, a shut down of public broadcasting will mean a great decline in educational programming. In addition, more than one million children in Georgia, as well as the millions of others across rural America, will no longer be able to attend school via public television.²⁴²

Further, public television still serves a vital public service by providing quality programming to the most remote areas of the United States. While PBS covers almost one hundred percent of the country, cable reaches only about sixty-six percent of households.²⁴³ Thus, a fair conclusion is that there is still a need for public broadcasting in the areas of educational programming and providing access to remote areas.

V. CONCLUSION

The examination of the debate between the advocates of federal funding cuts and those opposed to budget cuts, demonstrates that federal funding for the Corporation for Public Broadcasting is still needed to guarantee continued funding for educational public broadcast programming and to provide broadcast service to remote areas. The logical source for public broadcast funding is the federal government since public broadcasting's original purpose was to provide noncommercial educational, radio and television services to all citizens of the United States. Therefore, until the void left by the commercial stations and the cable industry with respect to providing quality educational programming and providing broadcast service to the most remote areas have been filled, the federal government should continue funding the Corporation for Public Broadcasting.

²⁴¹ Frederic M. Biddle, *WGBH; Public TV says federal budget ax imperils popular shows*, BOSTON GLOBE, Dec. 21, 1994, at 89.

²⁴² *Spare Public Broadcasting*, *supra* note 163, at 8.

²⁴³ Hodges, *supra* note 157, at 3.