

The Legal Needs of Local Media Reform Organizations

Report of a National Survey

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INTRODUCTION

The American mass media today are controlled by a relatively few corporations that have enormous power over the information and ideas that many Americans receive. Consequently, independent media sources and divergent viewpoints are often marginalized. To counter these trends, a media democracy movement has emerged, and its members are voicing concerns that the existing system stifles the free and open exchange of information that is necessary in any successful democracy.

The media democracy – or media reform – movement is vibrant and growing, but it faces tremendous hurdles. The media and telecommunications industry is one of the largest and most powerful in America, with many allies in Congress and at the regulatory agencies – primarily the Federal Communications Commission – that are supposed to assure that the industry operates in the public interest. Both national and local media reform organizations are greatly in need of additional resources – financial, managerial, political, and legal.

This report summarizes the results of a survey conducted by the Brennan Center for Justice in 2005-2006 which focuses on the legal needs of local media reform organizations. Consolidation of media ownership and other developments over the past few decades have had profound effects on local communities. They affect both the amount and type of information these communities can access through the mass media and the opportunities that local citizens have to communicate with each other. As a result, the media democracy movement has been fueled as much by local grassroots activism as by national advocacy on federal policies. Local communities across the country are organizing to demand responsiveness from their media providers and to seek alternative mediums for information exchange.

I. BACKGROUND AND PURPOSE OF THE SURVEY

The Brennan Center for Justice at NYU School of Law (the “Center”) is a public interest law firm and policy center with experience in legal analysis and counseling. In the past, the Center has allied itself with grassroots organizations advocating at the state level for campaign finance reform and voting rights restoration.¹ The Center has assisted local groups by providing

¹ For more information about the Brennan Center’s state counseling work, see the Right to Vote Project page, http://www.brennancenter.org/programs/dem_vr_fvr.html (visited 4/13/05) and the Campaign Finance Reform Analysis page, <http://www.brennancenter.org/resources/analysis.html#cf> (visited 4/13/06).

legislative counseling and drafting, consultation on litigation, and public education support. At the same time, the local organizations have brought to the Center an intimate knowledge of the political and social situations in their states, and are able to coordinate and energize support for reform on the ground.

Based on this model, the Center decided, in 2005, to examine whether national legal advocacy organizations could expand their work on media democracy and reform by partnering with local groups that have the state-specific knowledge that national groups lack. In return, national advocates could provide their local partners with legal counseling and analysis. Given the past success of this partnership model, the Center sought to gauge the need for, and interest in, national legal support for the movement as a whole, and specifically, at a local level. It thus set out to conduct a survey of local media reform advocacy groups to assess whether there is a need for legal support, and if so, by which groups, and on what issues.

The survey was timely, given the heightened need for activism on media-related issues in the next few years. At the national level, Congress is working on major revisions to the 1996 Telecommunications Act, and is also considering legislation on low power FM radio (“LPFM”), municipally-provided broadband Internet service (including “Wi-Fi”), cable TV franchising, and “Net Neutrality” (the issue of whether Internet service providers can discriminate in the speed and ease of access to different websites).² The Federal Communications Commission (“FCC”) will also be engaged in rulemakings on a variety of salient issues, including LPFM and local cable franchising.³

At the state level, new policies are being debated which have the potential to diminish the voices of independent media and local communities in decisions surrounding the provision of media services. For instance, succumbing to pressure from the cable and telecommunications lobby, several states have passed laws that bar municipalities from providing broadband services

² <http://www.fepproject.org/factsheets/mediademocracy.pdf>, at 14, 16-18, 21 (visited 6/1/06). For a news item on the issues at stake in the 2006 Telecommunications Act rewrite, see “Senate Preps Telecom Rewrite,” by John Eggerton, *Broadcasting & Cable*, <http://www.broadcastingcable.com/article/CA6329734.html?display=News> (visited 6/1/06).

³ FCC Docket No. 99-25, Proposed Rule as summarized in the *Federal Register*, available at: <http://www.fcc.gov/mb/audio/decdoc/pdf/fr07jy05-21.pdf> (visited 6/1/06); FCC Docket No. 05-311, Notice of Proposed Rulemaking, available at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-05-189A1.pdf (visited 6/1/06).

to their residents.⁴ States are also considering legislation that would take from municipalities the authority to grant cable franchises.⁵ Doing so would preempt the negotiation process that currently occurs between municipalities and cable companies on how the companies can best serve the needs of these communities.

Amid this debate over the media and their responsibility for promoting the public interest, local groups have been galvanized on a variety of fronts. They have mobilized their members to contact legislators and have engaged in public education efforts to draw attention to such issues as cable franchising, media ownership, and Wi-Fi. However, for the most part, the groups do not have in-house counsel and cannot afford to pay for legal services. While advocates on other reform issues generally can obtain pro bono legal assistance from private firms, media reform advocates often face obstacles. Many large law firms represent major media or telecommunications companies, and due to ethical conflicts, cannot also represent advocacy groups challenging the interests of the firms' own clients.

In surveying local groups about their legal needs, the Center also considered the role of advocates in *national* media reform battles, to learn more about legal support for media reform at the federal level in Congress, in the courts, and with the FCC. National public interest media law organizations such as the Media Access Project⁶ ("MAP") and the Institute for Public Representation⁷ ("IPR") at Georgetown Law School are already providing expert legal representation at the national level. For instance, MAP partnered with a local Philadelphia-based group, the Prometheus Radio Project, to challenge the FCC's rules on media ownership,⁸ and both MAP and IPR regularly file detailed Comments in FCC proceedings on behalf of coalitions of media reform groups, including Common Cause, Consumers' Union, and Free Press.

These partnerships have been well recognized and admired in the media reform community as models for future advocacy work. Although more lawyers are certainly needed at the national level, there already exists a structure of public interest representation. The Center

⁴ <http://www.freepress.net/communityinternet/=states> (visited 6/1/06).

⁵ <http://www.freepress.net/defendlocalaccess/=threat2> (visited 6/1/06).

⁶ <http://www.mediaaccess.org/> (visited 4/13/06).

⁷ <http://www.law.georgetown.edu/clinics/ipr/> (visited 4/13/06).

⁸ *Prometheus Radio Project v. FCC*, 373 F.3d 372 (3d Cir. 2004).

wanted to determine if national legal advocacy organizations could extrapolate from that model, by similarly partnering with local groups to tackle state and local, as opposed to national, issues. The purpose of the survey, then, was to find out if local groups did indeed have unmet legal needs and if so, if they would be receptive to working with national legal organizations to address those needs.

II. THE ISSUES

In our survey questions, we highlighted five issue areas that are central to the media reform movement: cable franchising and public access cable, media ownership, public broadcasting, low power FM radio, and municipal broadband. The following provides a brief overview of each topic, with an emphasis on current legislative activity at the state and national levels.

Cable/video Franchising and Public Access Cable

In most states, localities have the ability to negotiate franchise agreements with cable providers. Under this system, a municipality can grant cable companies the right to use public resources to conduct their business in exchange for a commitment from those companies to pay franchise fees and to meet the needs of local residents. It is through the franchise negotiation process that local communities can secure much-needed public interest provisions, such as available bandwidth for public, educational, and governmental (“PEG”) access channels.⁹

Local media democracy groups can sometimes influence the negotiation process and encourage local officials to put public interest-friendly provisions in their cities’ franchise agreements. For instance, groups can ensure that a portion of their local cable company’s revenues is allocated to help finance the operating costs of PEG access channels.¹⁰ Franchise agreements can also stipulate the cost of cable services, customer service and consumer protection standards, the amount of bandwidth set aside for public access, financial support for

⁹ <http://www.freepress.net/defendlocalaccess/> (visited 6/1/06).

¹⁰ Under Section 622 of the federal Cable Act, “municipalities are entitled to a maximum of 5% of gross revenues derived from the operation of the cable system for the provision of cable services.” While the federal law places a cap on franchise fees, it sets no minimum amount that cable companies must pay. As a result, municipalities can end up with less than 5% of the company’s revenue; in fact, some legislative proposals that strip municipalities of franchising authority eliminate franchise fees altogether.

independent and public access media production, and even provision of high-speed Internet access to public institutions.¹¹

New legislation in several states threatens to undermine this system by stripping municipalities of their franchising authority. Where this legislation passes, states can grant franchises directly, cutting municipalities out of the process. The result is a one-size-fits-all cable plan that ignores the particular needs of each locality. Under the new system, cable companies are no longer accountable to the communities they serve. Other legislation threatens local access by undermining funding for existing access facilities or by imposing limitations on localities in the franchise negotiation process. For instance, some states have limited the total number of public access stations that can exist in any locality or have essentially barred municipalities from receiving franchise fees from cable companies that could help support PEG access in the community. As of May 2006, eleven states – Arizona, Hawaii, Indiana, Kansas, Kentucky, Louisiana, New York, South Carolina, South Dakota, Texas, and Virginia – had enacted legislation that will adversely affect local control of cable access, and another seven states had pending legislation.¹²

Nationally, the FCC has begun two proceedings dealing with cable media – the first will consider the role of localities in the franchise negotiation process and the second focuses on increased consolidation of ownership in the cable industry.¹³ In Congress, local access and franchising control is also under attack. As of June 2006, there were several pieces of legislation under consideration: BITS II (a not-yet numbered House Bill)¹⁴, the Broadband Investment and Consumer Choice Act (S. 1504)¹⁵, and the Video Choice Acts of 2005 (S. 1349/HR. 3146).¹⁶ To

¹¹ <http://www.freepress.net/defendlocalaccess/=benefits> (visited 6/1/06).

¹² <http://www.freepress.net/defendlocalaccess/=threat2> (visited 6/1/06).

¹³ FCC Docket No. 05-311, Notice of Proposed Rulemaking, *available at*: http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-05-189A1.pdf (visited 6/1/06); FCC Docket No. 92-264, Second Further Notice of Proposed Rulemaking, *available at*: http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-05-96A1.pdf (visited 6/1/06).

¹⁴ BITS II November 3, 2005 Draft Bill, *available at*: http://www.natoa.org/public/articles/BITS_Staff_Draft_110305.pdf (visited 6/1/06).

¹⁵ US Senate Bill No. 1504, *available at*: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:s1504is.txt.pdf (visited 6/1/06).

¹⁶ US Senate Bill No. 1349, *available at*: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:s1349is.txt.pdf; US House Bill No. 3146, *available at*:

varying extents, these bills preempt federal, state, or local regulation of video/cable services. They either significantly streamline local franchising or cut out localities altogether by granting companies national franchises.

This type of structure, where video providers need not negotiate with local communities, could lead to decreased PEG access requirements by limiting the number of channels available for public access in any cable market and undermining the funding of those channels. For instance, BITS II defines “gross revenues” as any revenue “collected from the subscriber and attributable to the video programming package.” This definition, as opposed to that included in an earlier version of BITS, excludes any revenue deriving from advertising or home shopping, which constitutes 15-20% of the companies’ total revenues. The legislation thus significantly limits the amount of funding localities can receive from franchise fees, which are capped at 5% of the company’s gross revenues.¹⁷

Any protections the bills do offer, such as a guarantee that unprofitable regions will not be left without cable services or processes for filing complaints against cable companies, are vague and contain weak enforcement provisions.¹⁸ If passed, these pro-industry bills could preempt any substantial consideration of local needs in the cable franchising process.

Media Ownership

Independent media sources are essential to democracy. Yet in recent decades, ownership and control of the major mass media have become increasingly concentrated. Consolidated ownership threatens the availability of divergent viewpoints. Increased consolidation has particularly jeopardized media owned and operated by communities of color because these often-

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:h3146ih.txt.pdf (both visited 6/1/06).

¹⁷ <http://www.mnn.org/saveaccess/bitswhat.html> (visited 5/1/06). An omnibus bill introduced in April 2006 - the “Communications Opportunity, Promotion, and Enhancement Act,” or “COPE” (HR 5252) - would establish national cable franchising while retaining PEG requirements in some circumstances. Where there is no other cable operator in the franchise area that is required to provide PEG access, however, it would be up to the FCC, under COPE, to decide whether to require PEG or not. COPE, unlike BITS, defines “gross revenues” to include monies from home shopping channels and advertising. The COPE bill is available at: <http://www.isen.com/docs/BartonApr12.PDF> (visited 6/1/06).

¹⁸ <http://www.freepress.net/defendlocalaccess/=threat4> (visited 6/1/06).

smaller operations are unable to compete with larger, investor-backed media conglomerates.¹⁹ Convergence of media industries – broadcast, cable, telephone, and Internet – has further strengthened the political and financial clout of media companies in Congress, in state legislatures, and at the FCC.

The FCC, whose function is to assure that our mass media system operates in the public interest, has been pursuing a deregulatory agenda since the Reagan years (with the ironic exception of regulating “indecent” content in broadcasting). In 2003, the U.S. Court of Appeals for the 3rd Circuit struck down new FCC rules that would have relaxed limits on media ownership even further.²⁰ The FCC must now begin new rulemaking proceedings relating to newspaper/broadcast cross-ownership, multiple ownership of radio stations in a single market, and multiple ownership of TV stations in a single market. The new FCC chair, Kevin Martin, has already announced his intention to eliminate longstanding rules against cross-ownership. In these upcoming rulemaking proceedings, media democracy advocates will need support from legal, technical, and economics experts in countering the claims of the industry that more media consolidation is good for America.²¹

Public Broadcasting

Public broadcasting television and radio stations – primarily the Public Broadcasting Service (PBS) and National Public Radio (NPR) – are increasingly funded through private donations and corporate sponsorships. As a result, the independence that used to characterize public broadcasting and distinguish it from other programming is narrowing. In order to attract affluent funders and corporations, public broadcasting stations may have to alter their programming to highlight only “safe” or uncontroversial topics. Attacks from Congress and a general reluctance to provide adequate public funds have also limited the independence of public broadcasting.²²

¹⁹ http://www.freepress.net/issues/cc_ownership and <http://www.freepress.net/issues/ownership> (visited 6/1/06).

²⁰ *Prometheus Radio Project v. FCC*, 373 F.3d 372 (3d Cir. 2004).

²¹ <http://www.fepproject.org/factsheets/mediademocracy.pdf>, at 6-9 (visited 6/1/06).

²² The respondents we spoke with did not mention this as a primary concern for their organizations. For this reason, the explanation of the reform battles surrounding this issue is limited in this report. For a more in-depth description of the difficulties facing public broadcasting stations, see the Free Press Public Broadcasting issue page, *at*

Low Power FM Radio

Low power FM radio stations operate at minimal power levels (10 to 100 watts) and reach a broadcast area of at most a few miles. Because of their limited reach, these nonprofit stations pose little threat of interference with stronger broadcast signals, and they can offer truly community-driven programming focusing on local issues that are often overlooked by dominant, commercial media sources. In 2000, the FCC recognized low power FM as a way to “create opportunities for new voices on the airwaves” and to promote programming responsive to local needs.²³

Since that time, major radio and television corporations have lobbied against LPFMs, contending they interfere with other programming offered on nearby broadcast spectrum. Because of these concerns, Congress has limited the FCC’s ability to license LPFM stations, and the agency has only granted about 600 of the more than 1300 applications for LPFM licenses it has received from religious groups, social service organizations, youth and seniors clubs, and other community organizations.²⁴

At a national level, advocates are encouraging the FCC to reserve a larger portion of the unlicensed broadband spectrum for LPFMs and to begin granting more licenses to community organizations looking to set up low power stations. Media democracy groups are also lobbying for the passage of the “Enhance and Protect Local Community Radio Act of 2005” (HR. 3731) and the “Local Community Radio Act of 2005” (S. 312). Both bills would protect existing stations from being bumped off the air by larger radio stations and would encourage the proliferation of new LPFM stations. The bills would repeal a law that essentially outlaws low power stations in larger radio markets by prohibiting them from broadcasting within three “adjacent channels” of any full power signal.²⁵ Apart from these advocacy efforts at the national

<http://www.freepress.net/issues/publicbroadcasting> (visited 6/1/06) and the Free Expression Policy Project’s Media Democracy Fact Sheets, <http://www.fepproject.org/factsheets/mediademocracy.pdf>, at 22 (visited 6/1/06).

²³ Quoted at <http://www.freepress.net/lpfm/> (visited 6/1/06).

²⁴ http://www.prometheusradio.org/low_power_radio/background/some_facts_about_low_power_fm.html (visited 6/1/06).

²⁵ US House Bill No. 3731, available at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:h3731ih.txt.pdf and US Senate Bill No. 312, available at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:s312is.txt.pdf (both visited 6/1/06). See also <http://www.freepress.net/congress/billinfo.php?id=111> and <http://www.freepress.net/congress/billinfo.php?id=161> (both visited 6/1/06).

level, local organizations are using grassroots strategies to encourage community groups and nonprofits to set up their own LPFM stations.

Municipal Broadband

Reliable Internet access – and increasingly, high-speed access – has become a necessity for American citizens, and yet large portions of the populace cannot afford high-speed broadband Internet services. Incumbent cable and telecommunications providers build infrastructure where the profit is, and that often leaves out large sections of rural America, where creating broadband networks is costly and unjustified by profit incentives alone.

In addition, in some parts of the country, there is only one monopoly high-speed provider. Municipalities, public power companies, and other public authorities have recognized this need and begun to offer broadband services to their residents on a nonprofit basis, or have undertaken plans to do so, sometimes in collaboration with private Internet service providers such as Earthlink. Most of the plans involve wireless, or “Wi-Fi” systems; a few involve fiber optic cable or broadband over power lines (BPL). Some larger cities, including San Francisco and Philadelphia, have declared their intent to deploy municipal wireless networks.²⁶

Incumbent providers, although often unwilling to deploy widely affordable services themselves, feel threatened by this movement and have pushed for state legislation to bar municipalities from providing broadband services. In response, fifteen states²⁷ to date have passed laws restricting the provision of retail broadband services by municipalities. At least one other state has pending legislation that would erect barriers as well.²⁸ There are also three bills being considered at the federal level that would impact the rights of municipalities to create and operate broadband networks:

- 1) Senate Bill No. 1294, or the McCain-Lautenberg bill, would specifically allow municipalities to offer affordable broadband service and would preempt any state legislation that bars municipalities from doing so.

²⁶ <http://www.fepproject.org/factsheets/mediademocracy.pdf>, at 17-18 (visited 6/1/06).

²⁷ Arkansas, Colorado, Florida, Louisiana, Michigan, Minnesota, Missouri, Nebraska, Nevada, Pennsylvania, South Carolina, Tennessee, Utah, Washington, & Wisconsin, from <http://www.freepress.net/communityinternet/=states> (visited 2/27/06).

²⁸ Ohio, *Id.*

- 2) Senate Bill No. 1504 would prohibit any future municipal broadband projects unless the municipalities get permission from their regions' private providers.
- 3) House Bill No. 2726 would prevent any city from providing its residents with broadband access if any private company offers service in the area.²⁹

Despite persistent legislative challenges, hundreds of U.S. cities are either planning or operating municipal broadband networks. Additionally, seven states – Illinois, Indiana, Iowa, Oregon, Texas, Virginia, and West Virginia – have fended off anti-municipal broadband bills.³⁰ Advocates in several states are anticipating further anti-municipal broadband legislation and are ready to oppose any attempt to stifle emergent community broadband networks.

III. METHODOLOGY

We began our survey work in mid-2005 by conducting initial research to create a list of over fifty groups throughout the country working for media reform. By conducting general Internet searches and by tapping into existing networks in this field, we were able to find both larger and smaller groups working on these issues. We were already familiar with the Seattle-based Reclaim the Media and the San Francisco-based Media Alliance. On the websites of these two groups,³¹ we found links to sites operated by smaller local organizations. We also consulted the contact lists developed by umbrella groups such as Free Press and the Center for International Media Action (“CIMA”).³²

After compiling a list of 51 organizations, we conducted further research to determine if each group was in fact working at a local level on media democracy and reform issues. From a

²⁹ US Senate Bill No. 1294, available at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:s1294is.txt.pdf; US Senate Bill No. 1504, available at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:s1504is.txt.pdf; US House Bill No. 2726, available at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:h2726ih.txt.pdf (all visited 6/1/06). See also <http://www.freepress.net/communityinternet/=US> (visited 6/1/06).

³⁰ <http://www.freepress.net/communityinternet/=states> (visited 6/1/06).

³¹ www.reclaimthemedialia.org (visited 4/13/06) and www.media-alliance.org (visited 6/1/06).

³² The Free Press organization directory is available online, at <http://www.freepress.net/content/orgs> (visited 6/1/06). CIMA's Media Policy Action Directory can be downloaded from <http://www.mediaactioncenter.org/?q=printdirectory&PHPSESSID=da2ab291882a8b19e51fb8aa151a6bc9> (visited 6/1/06).

group's website, we culled background information, including contact information for staff members, the group's mission or purpose, and descriptions of two to five concrete projects that the group is currently engaged in.

Using this background information, three surveyors at the Center began calling the primary contacts at each organization, which in most cases were the groups' executive directors. Six groups were either no longer in operation when we called or had incorrect or disconnected contact information listed on their websites. Five organizations had no interest in participating in the survey. For fourteen others, we left two or more messages or sent two or more e-mails but were never able to survey members of the group. Despite these difficulties, we successfully conducted phone interviews with representatives of 26 organizations. The organizations are geographically dispersed: seven are located in the Midwest, four in the South, seven in the Northeast, and eight on the West Coast. For a list of organizations surveyed and the contact information for each, see Appendix A.

The survey instrument was developed by attorneys on staff at the Center and asked a range of questions dealing with the nature of the group's work, the areas in which the group could find legal assistance useful, and the ability of the group to find legal help. For the full survey instrument, see Appendix B.

For the purposes of this survey, we defined "legal needs" in three broad categories – litigation, legislative advocacy, and participation in regulatory proceedings. These are three major forums in which legal issues surrounding media reform play out, and in which national legal organizations could provide effective expertise and assistance. In several portions of the survey, we prompted respondents by listing specific issue areas, including cable franchising, public access cable, media ownership, public broadcasting, low power FM radio, and municipal broadband. However, the questions were open-ended and allowed individuals to express legal needs beyond the three primary categories and beyond the six issue areas we delineated.

While conducting the survey, our researchers often followed up on responses with further questioning in order to obtain the most detailed information possible. To that same end, some groups offered to send us information via e-mail that would elaborate upon their oral responses. The findings presented in this report summarize both the oral responses and any additional written submissions from group representatives.

IV. FINDINGS

The following section describes the respondents' answers to our questions regarding the nature of their organization's work and their current and future legal needs. Appendix C contains charts summarizing these responses.

A. Nature of the Organization's work

As mentioned above, before conducting the surveys, we did background research to determine each organization's primary areas of work. We asked respondents to confirm the information we had found through that research and to elaborate on the nature of their work.

Nine of the organizations we surveyed are primarily engaged in advocacy surrounding the media reform issues discussed above – Chittenden Community Television Center for Media & Democracy (“CCTV”) of Burlington, Vermont, Citizens for Media Literacy of Asheville, North Carolina, Latino Issues Forum (“LIF”) of San Francisco, California, Media Alliance of Oakland, California, New Media Alliance in upstate New York, Philadelphia Community Access Coalition (“PCAC”), Prometheus Radio Project (“Prometheus”) of Philadelphia, Pennsylvania, Public Access of Indianapolis, and Reclaim the Media of Seattle, Washington. Other organizations are peripherally involved in these advocacy battles but not to the same extent as those listed here.

Three of the organizations – CCTV, Seattle Community Access Network (“SCAN”) and Grand Rapids Community Media Center (“GRCMC”) of Grand Rapids, Michigan – operate cable access channels, and GRCMC also operates a full-power radio station.

Five of the groups are primarily involved in efforts to increase media literacy or to demand accountability from traditional media sources through serving as media watchdogs – Chicago Media Watch, Grand Rapids Institute for Information Democracy (“GRIID”)³³, Just Think of San Francisco, California, Fair Media Council of Long Island, New York, and Media Democracy Chicago.

Nearly half of the groups are working to increase access to technology services and to provide support for independent media producers – Austin Free-Net, Downtown Community Television Center (“DCTV”) of New York, New York, Fight Big Media-North Carolina,

³³ GRIID is an affiliate organization of the Grand Rapids Community Media Center.

GRCMC, CCTV, Just Think, Los Angeles Freewaves, New York City Grassroots Media Coalition, Public Access of Indianapolis, San Diego Independent Media Center, SCAN, and Video Machete of Chicago, Illinois. These groups are providing skills training, production equipment, distribution services, media placement services, or other resources to independent media producers, community groups, and nonprofit organizations.

Two groups – California Public Interest Research Group Cable (“CALPIRG”) and Kansas City Ad Hoc Coalition, – are disbanded. One group – the Southern Media Justice Coalition of Atlanta, Georgia – has shifted its focus to assisting victims of Hurricane Katrina, but retains an interest in media reform and has cultivated relationships with alternative media such as community radio, Pacifica, and public access television. In the future, this group would like to participate in national advocacy on such issues as the fairness doctrine, access to the Internet, and public interest-oriented appointees to the FCC.

B. Sufficiency of Current Legal Representation

Thirteen of the groups surveyed stated that the legal representation available to them is not sufficient to cover their current legal needs and that they would welcome additional pro bono legal assistance – Austin Free-Net, CCTV, Citizens for Media Literacy, DCTV, Just Think, LA Freewaves, LIF, Media Alliance, New Media Alliance, Prometheus, Public Access of Indianapolis, Reclaim the Media, and SCAN.

In describing her group’s need for legal support in cable franchise negotiations, Lauren-Glenn Davitian of CCTV noted that there was a disparity between the legal resources available to them and to cable companies: “We need more resources, but we can’t afford them. When we walk into the hearing rooms, the media companies have three or four lawyers, and we only have one.”

Jon Alpert of DCTV expressed concern that while the organization has been able to find ad hoc legal assistance on various issues, it does not have the “continuity of care” it desires. Alpert did say, however, that one large private law firm has been very helpful with a wide range of legal matters. But due to staff turnover at the firm, it is difficult to maintain the level of speed and continuity that DCTV’s legal issues require. On the other hand, because the group is at such a steep disadvantage in negotiations with major broadcast corporations, Alpert often feels that having legal help will make no substantial difference: “I recognize that an important factor in our

broadcast contracts is leverage. And if we don't have any leverage — which is most of the time — it doesn't matter who we use as a lawyer, so I don't bother with one.”

Two organizations expressed interest in getting legal help from a national public interest law firm but were uncertain of how such an arrangement would work. Ana Montes of Latino Issues Forum articulated that it might be logistically difficult to work with an organization based in New York since LIF is in California. Jonathan Lawson of Reclaim the Media stated, “It's difficult for me to envision what that would like, so we'd have to discuss it. But I will say that you're definitely the only organization that's ever approached us even with the question. And it's definitely a need.”

Ten groups said that their current legal needs are sufficiently met – Chicago Media Watch, Fight Big Media-NC, GRCMC, GRIID, Fair Media Council, Media Democracy Chicago, NYC Grassroots Media Coalition, PCAC, San Diego Independent Media Center, and Video Machete. However, of those ten, eight stated that they would welcome additional legal help, either now or in the future. Given the changing nature of their organizations, they feel that their future legal needs may surpass the representation currently available.

C. Access to Legal Assistance

We asked a series of questions to determine whether the organizations surveyed had access to either pro bono or paid legal assistance. Eight groups – CCTV, Chicago Media Watch, DCTV, GRCMC, Just Think, LA Freewaves, Media Alliance, and SCAN – have at some point paid for legal assistance. Yet, many groups stated that sustained legal support was too expensive. For instance, LA Freewaves only paid for one initial consultation with a local “Lawyers for the Arts” organization but could not afford further assistance. Additionally, Media Alliance could afford to pay for legal assistance only because one of its members offered legal consultations at drastically reduced rates.

Elana Rosen of Just Think noted that it became too expensive to continue paying a law firm for its legal services. Instead, the organization got templates for Memos of Understanding from the firm and adapted them each time they needed to draft an agreement with a distributor or publishing company. They now pay smaller consultation fees to have lawyers review these adapted documents.

Often due to these types of budgetary constraints, many grassroots organizations seek pro bono assistance. Sixteen have attempted to find pro bono legal help – Austin Free-Net, CCTV, Citizens for Media Literacy, DCTV, GRCMC, Just Think, LA Freewaves, LIF, Media Alliance, New Media Alliance, NYC Grassroots Media Coalition, PCAC, Prometheus, Public Access of Indianapolis, SCAN, and Video Machete.

A separate set of sixteen groups felt they had access to local pro bono legal services and had at some point obtained free assistance from local lawyers, law firms or legal organizations. But six of them – Austin Free-Net, GRIID, Just Think, LIF, Media Alliance, and Reclaim the Media – emphasized that they have had only partial or limited pro bono support. Austin Free-Net, for instance, receives regular legal help from the Texas Rio Grande Legal Aid, but the assistance is limited to general nonprofit legal issues. Hence, Austin Free-Net has no legal support for its legislative advocacy and media reform efforts. Respondents from the other five groups also had no consistent support for their legal needs. By contrast, CCTV has worked with the same local law firm in Vermont for over ten years. After receiving pro bono assistance for ten years, CCTV started paying the firm for its legal services.

Eleven organizations have received pro bono assistance from national law firms or legal organizations – CCTV, DCTV, GRCMC, GRIID, Just Think, Fair Media Council, Media Alliance, New Media Alliance, NYC Grassroots Media Coalition, Prometheus, and SCAN. Three of these groups – GRIID, Just Think, and New Media Alliance – had only limited or sporadic legal help.

Some groups reported that they receive information about important state and federal legislation from larger national groups such as the Alliance for Community Media and Consumers' Union. Though these information exchanges do not constitute formal pro bono relationships (and are thus not included in the number above), they have proved useful for groups attempting to advocate around pending legislation. For instance, Consumers' Unions provided information to Austin Free-Net and other technology, social justice, and community media groups about relevant legislation and the legislative process as a whole.

Ten organizations have found it difficult to obtain competent and sustained pro bono legal assistance – Citizens for Media Literacy, DCTV, Just Think, LA Freewaves, LIF, Media Alliance, New Media Alliance, Prometheus, Public Access of Indianapolis, and SCAN. Problems listed by respondents ranged from the inability to find lawyers with expertise in the

highly technical issues surrounding media reform to the unwillingness of local firms to offer advice on a pro bono basis.

For example, Latino Issues Forum has encountered many obstacles in its efforts to find free legal help. Ana Montes, LIF's Director of Technology and Consumer Education, said the group has recently embarked on a mission to develop a list of attorneys who will work on a pro bono basis. She has found that even conducting the search can be difficult because it requires a concerted investment of time and energy on the part of already over-burdened staff members. Additionally, most lawyers who do offer pro bono legal support are not trained in the complex and technical issues that often arise in telecommunications and technology law. Jeff Perlstein of Media Alliance echoed the latter concern, noting that media law often requires specific expertise and training that most lawyers do not have.

Steve Pierce at New Media Alliance, located in upstate New York, has mostly been working with national law firms based in New York City. He says that the arrangement is not ideal because there is only so much a firm can do if it does not have an office in the same location as its client. However, Pierce feels there is no alternative: "There isn't anyone locally on these issues. It's very specialized, and there's no economy for this sort of legal work in upstate New York."

Anne Bray from LA Freewaves believes the organization's size prevents it from finding reliable pro bono support. "Because we are so small, we seem unimpressive," she said.

Public Access of Indianapolis reported that it had been approached by two lawyers seeking to challenge the city's decision to allow educational and governmental access without offering public access. However, their firm had represented the city of Indianapolis in the past, and due to the conflict of interest, it was unable to represent the organization against the city.

Between the difficulties involved in even engaging in a search for pro bono lawyers and then in finding firms with expertise in media law, organizations are often left without pro bono legal options. Given that more than one-third of groups surveyed stated that they had encountered obstacles getting much-needed free legal help, it is clear that there is a need for legal organizations and independent lawyers to provide pro bono services to media reform groups. We now address more specifically what type of legal needs are left unmet and in what ways national law firms and legal organizations can offer pro bono support to the grassroots media reform movement.

D. Description of Specific Legal Needs

The organizations articulated legal needs that, for the most part, fall into one of three categories: assistance with local media reform efforts, assistance with national media reform efforts, and support for non-media reform issues. Local media reform efforts range from drafting objections to the renewal of licenses for local television stations³⁴ to advocating against state legislation that bans municipalities from offering broadband services. National media reform efforts include, among other things, submitting comments to the FCC and opposing federal legislation that strips localities of their video franchising authority. The third category encompasses all legal needs that do not directly relate to media reform, including but not limited to general nonprofit legal advice, contracts between media producers and distributors, and defense against claims of copyright or trademark violation.

1) Local Media Reform Efforts

Seventeen groups, or 65%, felt that they require legal assistance for their local media reform efforts. We have further categorized these legal needs as (1) general education about legal issues in media reform, (2) legislative counseling and drafting, (3) assistance with litigation, or (4) help with franchise negotiations, LPFM licenses, license renewal challenges and other regulatory proceedings and filings.

Five organizations stated that it would be helpful for a lawyer to provide general education and advice on various aspects of local media reform and democracy:

- Dale Thompson at **Austin Free-Net** said that the organization's board is very concerned about a pending bill that would bar municipalities from providing broadband Internet for their residents. In addition, Texas recently passed a law that allows local telecommunications and cable companies to bypass the municipal franchise negotiation process and obtain their franchises directly from the state. The group is unsure how the new law will affect local communities but fears it will endanger PEG access requirements, consumer protections, and system build-out requirements. Thompson feels the group could benefit from a legal organization offering information on the impact of state legislation.

³⁴ Under Sections 203 and 204 of the 1996 Telecommunications Act, television and radio stations must submit license renewal requests to the FCC every eight years. Groups or individuals can file informal comments or formal objections with the FCC, to challenge license renewals for stations they find to be unresponsive to the public's needs. Many groups use this mechanism to demand accountability from local media providers.

- Jeff Smith at **GRID** said, “In general, with all the issues, including wireless broadband, LPFM, and cable franchise agreements, if there were...user-friendly resources on the legal requirements of these issues and what legal strategies could be pursued, that would be helpful.”
- Because of the changing nature of telecommunications law, Steve Pierce at **New Media Alliance** said there has been “a lot of need lately for policy advice.” The group “doesn’t always understand the implications of the policy language” and believes that pro bono lawyers could be helpful in analyzing changing telecommunications laws.
- **SCAN** feels that it needs legal representation on a more consistent basis to provide ongoing advice on a variety of issues. According to respondent Ann Suter, the group would “love to have someone just to talk to, in a legal context, without a vested interest.”
- Cesar Sanchez at **Video Machete** stated that a public interest law firm could assist local organizations like Video Machete by conducting educational workshops on media policy, including cable franchising, rights of access, and other such issues.

Fourteen groups, or 54%, are involved in legislative advocacy, in which there could be a role for a pro bono legal organization or firm to provide counseling or drafting support:

- **Austin Free-Net** has been involved in opposing HB 789, a bill that would prevent municipalities from offering broadband to their residents. The group was most troubled by a provision of the bill that said that any new telecommunications system would need to be driven by free market principles. Given that a major goal of the group is to ensure that rural and low income communities in Texas have access to the Internet, Thompson was concerned by the bill because free market principles “don’t care about Dimebox, Texas.” Indeed, one of the major reasons for supporting municipal broadband is that municipalities are able to operate outside of a profit-driven framework to provide necessary services to less profitable areas.

Thompson noted that a California law would allow the state to collect a fee from telecommunications companies and use the revenues to create a fund for community technology groups. California also passed legislation that would give nonprofit organizations a 50% discount on high-speed Internet service. Austin Free-Net would like to advocate for similar legislation in Texas.

In fact, the 1995 Texas Legislature did pass a law similar to California’s, but it has since been amended, retaining telecom levies but redirecting the funds to general revenue. Advocates are concerned that the funds collected from telecommunications subscribers are not being used as they were intended, to promote community technology centers. Thompson added that the legislation “did not provide funding for community technology organizations as a whole. It created the Telecommunications Infrastructure Fund (TIF) which gave grants only to schools, libraries and public health entities. California’s legislation went much farther with their funding.” Because Austin Free-Net works with a multiplicity of organizations (including senior centers, shelters, churches, and low

income housing groups) to provide access and training to low income technology users, the limited scope of TIF does not suffice.

Currently, the group partners with public entities to advocate for E-rates, a program that subsidizes telecommunications costs for schools, libraries and hospitals. With subsidies, those entities pay only about 30% of what it regularly costs to get Internet access. Thompson said, “There are rumors that E-rates will go away. It has been very helpful on a community level, not to us specifically, but to the folks providing access.” The group would like to block any legislative attempt to reduce the availability of the E-rate in Texas because “the E-rate program and Universal Service Funding in general, which are currently under great political pressure, are vital for ensuring people in underserved areas have telecommunications access.”

- Wally Bowen of **Citizens for Media Literacy** said the group is interested in opposing legislation that would strip localities of their franchising authority. He feels state-based franchising would give cable companies too much leeway and would reduce the fees they must pay in exchange for the use of public property.
- **Fight Big Media-NC** would like to oppose pending legislation that would strip localities of their franchising authority. Rhonda Strickland said the bill would essentially free telecommunications and cable companies of existing public access requirements. According to her, “the role of the city as a broker” between the industry and the public prevents cable companies from charging exorbitant fees for public access airtime. She further noted, “If this law goes through and cable companies aren’t required to give some channels to the public, they could decide to keep all channels but charge for use.” That would limit access to only those who can afford it.
- **GRIID** is also fighting proposed legislation that would limit local control over telecommunications and cable services. Jeff Smith said, “The state legislature is threatening to take away local franchise control. If it passes, Comcast wouldn’t have to give part of the money it gets from cable subscriptions to municipalities to give to us to run public access channels.” GRIID is also opposing a bill that would prohibit municipalities from offering broadband service. The group would welcome help with its lobbying and public education efforts on both bills.
- **Just Think** is expanding its involvement in the legislative arena. Elana Rosen said that the group is particularly interested in supporting bills that would increase funding to teach media arts in California public schools. Rosen testified in favor of the “Digital Arts Studio Partnership Act” (AB 252), which would “reinstate dollars and require the integration of media arts in public schools in the state of California.” According to Rosen, many schools have dropped their arts programs, and this legislation would “supply both the teeth and the money to reinstate them.” The group is also supporting AB 1582, which would explore the possibility of having the communications industry provide funding for media arts education. As Just Think increases its involvement in legislative advocacy, it will need more assistance from legal experts.

- Ana Montes at **LIF** has been working on proposed changes to California’s “Telecomm Bill of Rights.” If the proposed reforms are not implemented by the state’s Public Utilities Commission, the group has queued up its own legislation to address the needs of the Latino community. SB 1068, sponsored by Senator Martha Escutia, would protect consumer education and would take into account varying levels of English proficiency among California’s Latino population.

LIF has regularly participated in legislative debates on the “digital divide.” Specifically, the group aims to enhance the discussion with perspectives from the Latino community on the need for access to technology and media sources. LIF advocated for legislative changes to the Public Utilities Code that would increase funding for community-based technology organizations. The organization also supported legislation that would compensate community groups organizing and intervening at Public Utilities Commission proceedings.

LIF also worked with other advocates to oppose a “Verizon bill” that would have allowed video franchising at a state level. Since the group is small, however, Montes finds it more effective to merely advise other groups in the network than to do direct lobbying themselves. Despite the limited people power of the organization, she feels LIF “really needs to get involved” to oppose the legislation.

- **Media Alliance** and other advocates were able to halt the California “Verizon bill.” The group’s director Jeff Perlstein said, “We are going to keep our eyes on that, and we will need some legal help. We were really ad hoc last time to try to stonewall the thing. Last time, we basically convinced the sponsor and the committee chair not to move the bill out of committee, but with the caveat that they’d go back to the drawing board. So it will definitely be back because Verizon is really pushing it forward.” If this bill re-surfaces, Media Alliance would welcome legislative counseling and lobbying assistance.

The group actively lobbied local officials to build a municipal wireless network. Thus far, the state has not seen any anti-broadband legislation, but Perlstein remarked, “We won’t be surprised if we do see it.” He said that if “any anti-muni legislation pops at the state level,” they will definitely want to oppose it. Proactively on this issue, Perlstein is interested in exploring whether Iowa’s municipal broadband network, “Opportunity Iowa,” could be duplicated in California: “They got a referendum in 27 cities or towns to create a municipal utility. We’re interested to see if it’s something we should do in California.”

- The Illinois Telecommunications Act is up for renewal this year. **Media Democracy Chicago** will be advocating against industry-proposed provisions that would eliminate local franchising. Telecommunications and cable companies have attempted to insert such provisions in the past, but Media Democracy Chicago fears they may be successful this time. The group would like assistance fighting these sorts of policy proposals that aim at deregulation and decreased local control.

- **New Media Alliance** is also involved in legislative efforts to fight the deregulation of the cable and telecommunications industries. The group is trying to keep abreast of all state-wide policy changes. Pierce said, “There is nobody lobbying on media issues in Albany. We need to build from the ground up.” They are currently trying to block any legislation that would eliminate municipal franchising. New Media Alliance wants local communities to pay more attention to the value of their franchising authority and to position themselves better in negotiations with cable and telephone companies.
- **Philadelphia Community Access Coalition** played an active role in efforts to block state legislation that prevented Pennsylvania cities from building and operating municipal broadband networks. The group is also fighting legislation that would allow the cable industry to bypass the regular local franchising process and secure franchises from the state.

Apart from opposing proposed laws, the group supports measures to create institutions that are charged with enforcing existing laws. Specifically, PCAC advocates for the establishment of a citizen oversight board “with teeth that can really make a difference” and ensure that cable companies meet their public access requirements.

- **Prometheus** was also active in opposing the Pennsylvania law that essentially prevents the state’s municipalities from building community broadband networks. The law requires municipalities to give private incumbents the opportunity to offer services first. Philadelphia was able to secure an exemption for its network, but other Pennsylvania cities are still prevented from providing broadband services to their residents.

The group has attempted to draft legislation in the past but finds it difficult to do so without access to Lexis-Nexis, Westlaw, or another legal resource service.

- In Indianapolis, public access channels were eliminated and replaced by “Local Community Interest” channels, which charge fees for usage and show programming produced by for-profit networks. **Public Access of Indianapolis** is advocating for the restoration of public access and would like to see the city code amended to once again require that some channels be reserved for public access programming.

Indiana recently passed HB 1279, which provides for a statewide video franchising system. Advocates are struggling to figure out what the new system will look like and how public access will figure in the new framework. Public Access of Indianapolis may need counseling and drafting support as it proceeds with strategies to advance public access under the new structure.

- **Reclaim the Media** anticipates legislation that would effectively ban municipal franchising. Jonathan Lawson said, “It’s happening elsewhere, and it seems likely that it will happen in Washington” and surrounding states. “If it does,” he continues, “all hands on deck to stop it in Washington, Oregon, Alaska, or Idaho.” Lawson feels there may also be potential to introduce reform legislation that would shore up the state’s public media infrastructure: “We have strong enough relationships with state legislators that

we'd consider pushing for additional pieces of legislation" promoting public broadcasting, establishing municipal communications utilities, and securing other public interest-friendly institutions. The group could benefit from legal assistance in drafting this legislation.

- **SCAN** Director Ann Suter stated that a master cable ordinance would be proposed soon to govern the provision of cable media services in Seattle. The group will need to review the ordinance carefully and could use legal assistance in doing so.

Three groups would like assistance with litigation:

- **LIF** was involved in litigation against ClearWorld, a local telecommunications company that was accused of "slamming and cramming the limited English population with unauthorized charges" and of committing other consumer abuses. According to Montes, "We were dissatisfied with the results [of the lawsuit] because the company got only a slap on the wrist. If we had the staff, we could take it a step further and challenge the decision and the policy." Montes stated that if pro bono counsel were available, the organization would consider appealing the decision.

Additionally, the group continues to file complaints against telecommunications and cable companies with the California Public Utilities Commission. However, if those complaints of marketing and consumer abuses do not get resolved at the regulatory level, the group will consider filing litigation and would need legal assistance.

- **PCAC** is currently engaged in a mediation and negotiation process with the city of Philadelphia. In 1984, the city passed a law that required that funds be allocated to set up and operate public access channels. The city has collected franchise fees for this fund but has not allocated the revenues. As a result, public access still lacks the necessary funding. PCAC is hopeful that, through the mediation process, the city will agree to enforce its own public access requirements. If negotiations break down, however, PCAC will likely file an enforcement lawsuit in the Court of Common Pleas to force the city to adequately fund its public access channels. If they do engage in such a lawsuit, they would need pro bono legal assistance.
- In Indianapolis, advocates would like to know if it was lawful for the city to eliminate public access channels and replace them with local interest programming. As noted earlier, **Public Access of Indianapolis** was approached by lawyers interested in challenging the city's denial of public access; but their firm had a conflict and so was unable to represent the group. Public Access of Indianapolis would consider being a plaintiff if any firm were willing to litigate this question pro bono.

Nine groups stated they would welcome legal help with franchise negotiations, LPFM licenses, license renewal challenges, and other regulatory proceedings and filings:

- While in most states, cable is regulated at a municipal level, in Vermont, it is regulated at the state level. **CCTV** and other members of the public have standing in proceedings at the State Utility Commission, which controls the allocation of resources for PEG access. CCTV also intervenes with the Public Service Board, the state’s regulatory body that engages in cable franchise negotiations and grants permissions to cable companies seeking to provide service to Vermont residents.

Executive Director Lauren-Glenn Davitian said Comcast, the area’s primary cable provider, may not comply with the fee requirements and other public interest provisions of its franchise agreement. If that is the case, CCTV will re-approach the Public Service Board and urge it to enforce its agreement with Comcast. As noted earlier, Glenn-Davitian expressed the need for more legal representation, because in disputes and negotiations with cable providers, the private companies inevitably have more legal resources at their disposal than do CCTV and other community groups.

- **Citizens for Media Literacy’s** Mountain Area Information Network is currently transitioning to broadband wireless, and Wally Bowen said it is critical that legal assistance is found soon, because the group is currently prohibited from reselling wireless spectrum due to federal law, South Carolina decisions, and the FCC. (Because this is mostly an issue of federal law, it will be addressed in section (2) below.)
- **GRIID** stated there may be a need for legal assistance in the future depending on what happens with pending federal legislation that would expand LPFM radio. According to Jeff Smith, if progressive legislation passes, “and if they indeed open up new opportunities for people to get LPFM licenses from the FCC, there will be a group of people that will need legal counsel when doing the license applications.”

The organization filed informal comments against the local NBC, ABC, and FOX affiliates during the city’s license renewal debates. They were able to generate 1200 letters condemning the affiliates’ coverage, and encouraged 150 people to offer testimony on the stations’ failure to serve the public interest. However, Smith thinks it would have been helpful to have legal guidance throughout the process. Advocates were confused about how to challenge license renewal requests and what it meant to file an informal comment versus a formal objection. Smith said he wished that GRIID had a better understanding of the regulations, and of how advocates can best navigate the regulatory framework.

The city is also involved in ongoing cable franchise negotiations with Comcast, and GRIID has been fighting to ensure resulting agreements have the necessary public interest requirements. About Comcast, Smith noted, “There’s always a level of hostility; they’d rather we just go away.”

- At **Media Alliance** in Northern California, advocates are campaigning for municipal wireless projects. In 2005, they were primarily working to set up a wireless network in San Francisco, though they were considering expanding their efforts to Oakland and other cities in the Bay Area. Media Alliance also held a community wireless summit to

support community-based organizations in other cities that are urging officials to build wireless networks.

The group encountered reticence from San Francisco officials who were worried that the area's major incumbents – Comcast for cable, SBC for telephone, and Verizon, which is trying to break into the market to offer multimedia services – will sue the city if it proceeds with its wireless plans. Media Alliance's Jeff Perlstein said, "It's not that local officials are unjustified in those concerns, because it is a possibility [a lawsuit], but they keep putting it out there as a justification for why they are not taking certain actions. If there was a public interest law firm saying [the city] could do certain things, it might embolden them to take action." Perlstein elaborated: "We've heard the city saying that 'if we put forth a municipal program, the incumbents will sue us.' It's pretty chilling. It'd be great to have resources for municipalities, asking 'is that really a valid threat?' or 'what can we do to avoid litigation?'"

The threat of litigation also played a major role in the city's dealings with Comcast during the most recent round of cable franchise negotiations. "The city rolled over and settled even though [it] had the support of a robust community-driven coalition and [of] city council members," Perlstein noted. He found it disappointing that because Comcast threatened to stop negotiations with the city, local officials were willing to bow to the company's terms.

Media Alliance hopes to expand its work in cable franchising by assisting cities in the area with their franchise negotiations. Recently, the group was approached by the City of Walnut Creek to help with its cable franchise agreements, but was unable to help due to a lack of resources.

The organization, in conjunction with the Youth Media Council, also filed license renewal challenges against four ClearChannel radio stations in 2005. Local television stations are up for renewal in 2006, so the group needs to assess what they can take on in the coming year. "Radio monitoring maxed us out. We were scrambling for legal help," Perlstein stated. A local lawyer was able to help them file some quick license challenges in the radio campaign. Now, they need to follow-up on those challenges and gear up for the television license renewal debates, but they cannot do so without adequate legal assistance.

- Advocates in New York are engaged in contract disputes with Time Warner, the state's major cable provider. The company has stopped paying some franchise fees. **New Media Alliance** would like legal support in efforts to compel Time Warner to resume paying franchise fees.
- If **PCAC** convinces the city of Philadelphia, through the mediation process highlighted above, to enforce the laws funding public access, the city will engage in franchise negotiations with Comcast with a focus on promoting public access. PCAC will participate in the franchise negotiation process, and they would "be happy to have legal counsel at that point."

- **Reclaim the Media** has been heavily engaged in cable franchising negotiations in Washington State. “We are basically targeting local populations and municipal officials in Seattle and King County,” said Executive Director Jonathan Lawson. Reclaim the Media helps examine the record of the cable provider (Comcast in Seattle) to determine how well it has fulfilled the requirements of its existing contract. The group also analyzes how well the municipality handles the negotiation process. Once an agreement is completed, the organization reviews it to identify where the city may have given up too much to the cable provider.

In the past, with King County, Reclaim the Media obtained expert assistance to help research the legal language in the proposed franchise agreement. Lawson explained that the lawyers “did a comparative analysis of our agreement versus those proposed in other places.” The comparisons highlighted what was lacking in the King County agreement, and the group was able to use that information in their communications and advocacy with the city and the public at large. In a more recent round of negotiations with Seattle, the group did not have access to legal assistance, and Lawson feels the campaign suffered because of it. In their future campaigns in other cities in the region, Reclaim the Media would welcome legal help in reviewing and comparing cable franchise agreements. The group is also interested in figuring out what role community groups can play in monitoring enforcement of franchise agreements.

- **San Diego Independent Media Center** mostly acts as a web resource for independent media outlets in the region. However, it also represents two pirate radio stations in San Diego, Free Radio San Diego 96.9 and 106.9. Pirate stations are not eligible for low power licenses and thus operate without FCC approval. As a result, the FCC attempts to shut them down. In San Diego, the FCC seized the equipment of 96.9 and threatened 106.9 with a \$10,000 fine. The Media Center would like pro bono counsel to represent these and other pirate radio stations in disputes with the FCC.
- **SCAN** has also been involved in cable franchise negotiations with Comcast and the City of Seattle. At stake in the negotiations is whether Comcast will fund SCAN’s public access channel at equal levels to the requirements of the previous agreement. According to SCAN Executive Director Ann Suter, the cable company stated that it was not obligated by law to provide for the channel’s operating costs. SCAN has requested a substantial amount of funding in the franchise negotiations. It is likely that legal representation would strengthen its position.

2) National legal needs

Eleven groups reported that legal assistance would benefit their media reform efforts at the national level:

- **Austin Free-Net’s** Dale Thompson said the group would especially find legal help useful in understanding issues being debated at the federal level, including municipal broadband and video franchising. In addition, the group is concerned about ‘Net Neutrality – the principle that all websites should get equal treatment from Internet service providers

(ISPs). Proposed federal legislation would allow ISPs to discriminate in the speed and ease of access to different websites. According to the group's representatives, "In other words, the Austin Free-Net site wouldn't load as fast as, say, Dell.com, unless we were willing to pay SBC a fee. There would be a class system for online content."

- Lauren-Glenn Davitian at **CCTV** stated that much of the group's future work depends on media reform debates in Congress and at the FCC: "It depends on what Congress does in its 2006 revision of the 1934 telecommunications law and how the FCC enforces those laws. So, right now there is a huge need for national level advocacy to influence that process." The group wants to ensure that any changes to the law maintain public interest provisions, specifically requiring cable companies to set aside bandwidth and revenue for public access.

In 2005, the Media Access Project filed Comments with the FCC on behalf of CCTV and other groups, in a proceeding on cable ownership limits. In addition to MAP's support, however, Glenn-Davitian said the group could use more help. Pro bono counsel could be instrumental in drafting public interest-friendly language that could be inserted in any federal legislation regulating the cable and telecommunications sectors. In her view, "The most pressing issue is the national legislation. Let's apply your limited resources to the national front."

- **Citizens for Media Literacy** is worried about the large-scale impact of federal legislation that would strip localities of their franchising authority. For this reason, the group is closely watching proposals that provide for nationwide or statewide video franchising.

They also would like to propose legislation to increase the amount of spectrum available for wireless broadband and LPFM radio. Currently, the group offers wireless broadband service to smaller communities through its "Mountain Area Information Network." However, because of federal laws and FCC regulations that prevent it from reselling broadband spectrum, CML is forced to operate its service network on unlicensed spectrum. This leaves the group more vulnerable to interference from commercial providers, forcing it to continually defend its service area. Similar difficulties exist for LPFM stations – due to commercial radio stations, LPFMs are forced to limit their broadcast signal.

- In answer to a question about anticipated legal needs in the next two years, **GRCMC's** Acting Executive Director, Chuck Peterson,³⁵ mentioned advocacy efforts around the 2006 revisions to the Telecommunications Act. Peterson stated, "It could have a devastating effect on us if the right of cities to have local franchises with cable companies is compromised. We get franchise fees from the city-cable company agreements and that is the main way we are funded. If this legislation does away with franchise fees, it'd be a devastating law. We are working with the Alliance for Community Media and our

³⁵ By the time of publication, GRCMC had hired a new Executive Director, Laurie Cirivello, whose contact information is listed below in Appendix A.

legislators to make sure any legislation that is passed would factor in public service requirements.”

- **GRIID** would like legal assistance in lobbying against bills at the federal level. Jeff Smith commented, “There’s plenty of legislation I’d like to oppose.” He mentioned specifically the need to block bills that restrict municipal broadband or that transfer franchising authority to the state or national level. He also noted that the group would like more information on the details of the proposed 2006 Telecommunications Act.
- **LIF’s** Ana Montes said that the group needs additional legal assistance with advocacy around federal telecommunications legislation and FCC proceedings. Montes is part of a working policy group that feels it needs a partner to assist on the federal level: “For us, the best thing is having someone who is working with us at a federal level, interpreting rulings, filing comments, based on conversations with us. Because that impacts our ability to do things on a state level, which we can do on our own. And what happens at the state level would also affect what happens at the federal level. I would view that as a successful relationship.”

Montes is well aware of the broad implications of federal decision-making. She believes that “with the creation of mega-monopolies and because of any changes that might occur from the 2006 revision of the Telecommunications Act,” there will definitely be more consumer abuses and hence more legal work needed to address those abuses.

The group also advocates for increased consumer protection regulations from the FCC. LIF is predominantly concerned with the impact of telecommunications abuses on Latino communities. Montes stated, “We feel that telecommunications carriers market to limited English speakers in-language, but they don’t offer their terms and conditions in-language.” She articulated this as one example of how the regulatory framework is weak in relation to the needs of limited English communities.

- **Media Alliance** served as one of the plaintiffs in *Prometheus Radio Project v. FCC*, a successful legal challenge to the Commission’s 2003 media ownership rules, which greatly relaxed ownership limits. Media Alliance was approached by the Media Access Project (MAP) and Georgetown Law School’s Institute for Public Representation (IPR), which eventually served as the group’s counsel in the case. Since the 3rd Circuit Court of Appeals invalidated most of the 2003 rules, the FCC will now have to schedule a new rulemaking on the subject. Media Alliance would like to once again play a role in the debate, “or even be more proactive in fighting the relaxation of ownership rules.” The group will probably continue to be represented by MAP or IPR..
- **New Media Alliance** would like legal counsel to analyze notices of proposed rulemakings issued by the FCC. With a firmer understanding of what issues are at stake, the group can better decide if and how it will be involved.
- **Prometheus** was the named plaintiff in *Prometheus Radio Project v. FCC*, the legal challenge to the FCC’s 2003 media ownership rules. The group was represented by

MAP, which, as Pete Tridish said, “did great work,” and “were helped by Georgetown,” but “certainly could have used other help as well.”

In addition, Prometheus advocates at the FCC for spectrum reform and expanded licensing for LPFM. Tridish notes that “what is lacking is legal clinic sort of work.” Prometheus is well-represented for policy work at the national level, but individual radio stations “are represented far worse. The stations can often find a local lawyer for local nonprofit stuff,” but communications and broadcasting law are highly technical and complicated, “and more difficult to find help with.”

When stations change their frequencies or are challenged by a full-power station, they often need legal assistance, and Prometheus feels it cannot do enough to support them. “Certain applicants for licenses do not have the skills needed to properly represent themselves before the FCC....They don’t understand how business gets done in Washington.” For these reasons, Tridish feels the biggest need “is for a communications lawyer, especially for the low power stations.”

- **Reclaim the Media** has participated in selected national reform efforts, including the FCC’s 2003 media ownership proceedings. However, because involvement can drain the group of its scarce resources, its participation has been limited. Jonathan Lawson stated that it would help to have an ongoing dialogue with a law firm because it would further his organization’s participation in national debates.

In particular, Reclaim the Media is interested in seeing if LPFM will be reauthorized and expanded through federal legislation. They are in conversations with federal lawmakers from the Northwest region in order to articulate why it is in their constituents’ interests to reauthorize LPFM. The group has a strong relationship with Senator Maria Cantwell, Democrat of Washington State, but has found it very difficult to reach out to Republican legislators on this and other media reform issues. Lawson noted that the group has been ineffective with the Republican camp, and it thus needs help figuring out how to “speak their language” and how to approach and effectively lobby them on these issues.

The group is active in broadcast license renewal proceedings, but Lawson said, “We’ve been filing Comments without the benefit of legal assistance, which may limit the impact of our Comments.” Reclaim the Media would welcome legal help in filing Comments in both congressional and FCC proceedings.

Lawson expressed interest in getting involved in the federal debates surrounding the 2006 revisions to the Telecommunications Act. He’s particularly concerned about the potential for a merging of the cable and telecommunications industries: “Telecomm companies are going to start offering cable over telephone lines. The walls between cable and phone companies are vanishing. So, the two previously separate regulatory areas are going to merge, and we have to wait and see if it will be a terrible or a good merge. It will probably be terrible. At the moment, we’re mostly involved in public education around this issue, using our website as an information resource. Plus, any time we’re talking to officials or community members, we bring it up.” Reclaim the Media discussed the

legislation with a local congressman who has traditionally been helpful in media reform debates but was less than receptive on this particular issue. Lawson commented that Reclaim the Media does not have the resources to produce materials that, through facts and statistics, indicate the need for reform. He believes that having legal help to create these materials would inevitably prove invaluable in their lobbying efforts.

Lawson stated that it is difficult for Reclaim the Media to work on national reform efforts since it is located on the West Coast. The group feels removed: “Things that happen in the DC Beltway are a different world than out here. It takes an inordinate amount of resources to figure out how to think strategically about the DC issues, to learn the legislative calendars, etcetera.” Lawson cited the Prometheus/MAP relationship as a good model for future grassroots-national group collaboration because MAP was able to help Prometheus think strategically about its legislative work: “It’s a really successful model for how groups with good legal resources can work with grassroots organizers like us.”

- **SCAN’s Ann Suter** foresees a need for legal assistance in advocating against federal legislation that could take away local jurisdictional protections for public access. She believes that video franchising at the state or national level threatens not only access to bandwidth that would, under a municipal franchise agreement, be set aside for public use, but also the funding mechanism that allows public entities to use the available bandwidth. Suter said, “This is a larger issue than cable franchising alone. It has to do with whether broadband is [considered] private or public.”

3) General legal support for non-media reform issues

Eight groups would like legal assistance on issues that do not directly pertain to media reform and advocacy.

- **Downtown Community Television Center** needs help in its contract negotiations with broadcast outlets like HBO and the Discovery Channel. Jon Alpert, the group’s co-director, stated, “The actual formulation of the contracts is a significant hassle due to our lack of legal experience.” The group also needs entertainment lawyers to deal with occasional intellectual property issues. A large private firm has handled a few trademark violation claims for the center, and HBO’s legal counsel has helped them with their errors & omissions insurance applications.

DCTV is also starting a media arts school. Alpert foresees a significant need for legal assistance in that venture.

- **Just Think** finds outlets and distributors for its own media literacy materials as well as its youth membership’s media arts projects. In doing so, it needs help drafting legal agreements with various distributors. Elana Rosen stated that Just Think especially needs assistance in settling publishing disputes. For instance, the group had a deal with an educational publisher for a book in its media literacy curriculum. As the book has sold

out, Just Think would like to re-acquire the rights. In the future, the group will require help in negotiating publishing deals for its print media literacy training kits.

The group also has Memos of Understanding (“MOUs”) with various distributors and partners. However, Rosen now realizes that they need a lawyer to review the documents and make them contractually binding. Additionally, the group received a grant from the U.S. Department of Education in conjunction with three other organizations. Moving forward, Rosen would like to have a legal expert on hand who could review the contractual issues surrounding this and other partnership agreements.

- Anne Bray of **LA Freewaves** anticipates legal conflicts over the use of trademarked and copyrighted material by artists in its network. Bray commented, “Our big challenge is we want to show artists’ videos that appropriate corporate materials on the Internet, but we don’t want to get sued.” The group has not encountered problems with this thus far but believes it to be a real possibility in the future. They would thus welcome legal assistance from a firm with intellectual property (“IP”) experience, and would like to see more progressive IP policies that clearly allow artists to appropriate copyrighted material in their work.
- **Media Democracy Chicago** would like pro bono counsel to research why political advertisements are exempt from “Truth in Advertising” laws. They would also like legal assistance in submitting Freedom of Information Act (“FOIA”) requests to learn more about the government’s involvement in placing pro-U.S. propaganda in media outlets domestically and internationally. Lastly, the group has engaged in protests and rallies that often lead to the arrest of members. They would like pro bono legal support in defending their members against any resulting charges.
- **NYC Grassroots Media Coalition’s** Denise Andrade said that the group’s members often face legal disputes involving alleged copyright or trademark violations. She thinks the membership could benefit from legal assistance on these matters. Other legal needs include 501(c)(3) status and issues relating to the use of coalition members’ videotapes as evidence in legal proceedings that arose from arrests during protests of the Republican National Convention.
- Although MAP provides legal representation on national media reform issues, **Prometheus** also needs help with “day-to-day, bread and butter” legal work. For instance, it recently finished filing to become a 501(c)(3) tax-exempt organization, and could have used legal help throughout the application process. Prometheus has a significant need for individualized, nonprofit legal support.
- **Public Access of Indianapolis** anticipates that if the city concedes the need for public access, the group will be involved in the implementation and operation of new public access channels. Andrea Price, president of the organization, said, “There is a great deal of public support for public access in Indianapolis, [but] the cable company and the city are definitely not responding to the community here. If the two sides move in any direction on this, Public Access of Indianapolis will need legal assistance with contracts,

producers' agreements, etc." She also expressed a need for counsel on censorship issues, since the cable company pointed to nudity on one program as a reason to eliminate public access.

- **SCAN** has an Appeals Committee, which handles complaints leveled against its public access channel. **SCAN** programming cannot be commercial, violate copyright protections, or be slanderous. Complaints of violations of these and other rules are referred to the Appeals Committee. The group could benefit from the expertise of a communications lawyer to help it negotiate content-based disputes stemming from incoming complaints.

SCAN faces another freedom of expression issue in which legal counsel would be helpful. Suter noted that the organization's board was considering new policy language that would bar the broadcast of hard-core pornography. She is concerned that one producer whose programming has sexual content might sue.

Other notes from the survey

One group, the **Fair Media Council**, is involved with media reform advocacy at both the local and national level. The group works with local media outlets to lobby for more resources; issues opinions on how local media are performing; joins campaigns to save public broadcasting at a national level; and challenges broadcast license renewal requests made by networks with irresponsible local news coverage. They may need assistance to challenge any changes in the legal arena that would negatively impact the freedom of the press. However, the group's Executive Director, Jaci Clement, stated they would not want help from the Brennan Center because it has "the appearance of a political bias" based on previous Brennan Center work. It was unclear to our interviewers whether Ms. Clement was familiar with the work of the Brennan Center or discerned a bias given the questions asked. The interviewer responded by clarifying that the Brennan Center was a nonpartisan organization, at which point she asked for materials describing the nature of the Center's work. Clement maintained, however, that the group did not have legal needs that could be met by the Center at this time. It is possible that she would be open to receiving help from other national legal organizations, so long as they do not appear to have a political bias. But Clement also reported that the group already has sufficient legal support from major New York area law firms.

CONCLUSIONS

Seventeen groups expressed a need for legal assistance with media reform efforts at the local level, and eleven expressed a need for legal help with national campaigns. In addition, eight groups identified a need for legal aid in non-media reform-related areas. Although at first glance, these more “bread and butter” needs may seem unrelated to media reform, without legal assistance in meeting those needs, the grassroots organizations that are so important to the media reform movement will not be able to function very well.

Overall, more than half of the groups we interviewed find their current legal representation insufficient to meet their needs. The survey results confirm our belief that the grassroots media reform movement is in need of pro bono legal support. Legal needs articulated range from assistance with litigation to legislative counseling to contracts negotiations.

Several of the larger and more established groups, such as Reclaim the Media and CCTV, specifically expressed a need for support at the federal level, given the large potential impact of policies being debated in Congress and at the FCC. As stated by the respondent from Latino Issues Forum, local groups often have more experience with state-level advocacy but are less familiar with how to push effectively for reform at the national level. They need pro bono legal counsel to help them interpret FCC rules, file Comments with the FCC, and fight detrimental legislation currently under debate. Through collaboration with grassroots organizations, national legal firms can inform the debate by highlighting the potential impact of national policy proposals on local communities.

Yet many struggles in this field occur locally and require local expertise. For instance, cable franchise negotiations require familiarity with each city’s specific needs. Similarly, broadcast license renewal challenges require the knowledge of local advocates who can assert which stations should be denied new licenses. For these battles, pro bono counsel can provide legal expertise but would be unsuccessful without the valuable knowledge of local advocates.

We recommend that nonprofit organizations with expertise in media law begin reaching out to local groups and conducting individualized needs assessments. As is apparent from our survey, each group has specific needs and could benefit from legal support in different ways. A successful partnership depends on ongoing conversation between the local and national groups.

Given the number of proposals that could negatively impact the public’s access to diverse media sources, the media reform movement is largely reactive. Advocates challenge existing

broadcast stations, fight legislation that blocks municipal broadband, battle proposals to strip localities of franchising authority, and so forth. The national media reform community could provide support to groups in these reactive efforts. However, the national legal community is also well-placed, with information from local groups, to begin thinking strategically about how to proceed proactively. With a better idea of how policies impact local communities, national legal groups can draft model legislation that would promote the public interest and support local coalitions as they push that legislation in their respective states. At the federal level, national advocates can support legislation which reauthorizes and expands LPFM and which forbids states from banning municipal broadband. These proactive measures work to advance the goals of media democracy and provide more avenues for independent media.

From our survey, we have determined that there is a role for national legal organizations to play at the local level and a role that local groups can play in national debates. We thus recommend that these mutually beneficial partnerships be further explored by national groups with the expertise to support the grassroots media reform movement, and that additional legal resources to assist local groups be created.

Appendix A:
Organization Names & Contact Information

Organization Names & Contact Information

Organization Name	Location	Website	Contact Information
Austin Free-Net	Austin, TX	www.austinfreenet.net	Name: Dale Thompson E-mail: dale@austinfreenet.net Phone: (512) 236-8225 x13
CALPIRG	Los Angeles, CA	www.calpirg.org/cable	Name: Jeannette Gayer; E-mail: jgayer@calpirg.org Phone: (213) 251-3680 x333
CCTV Center for Media & Democracy	Burlington, VT	www.cctv.org	Name: Lauren-Glenn Davitian E-mail: davitian@cctv.org Phone: (802) 862-1645 x10
Chicago Media Watch	Chicago, IL	www.chicagomediawatch.org	Name: Liane C. Casten E-mail: cmw@chicagomediawatch.org Phone: (773) 604-1910
Citizens for Media Literacy	Asheville, NC	www.main.nc.us/cml	Name: Wally Bowen E-mail: cml@main.nc.us Phone: (828) 255-0182 x8
Downtown Community Television Center	New York, NY	www.dctvny.org	Name: Jon Alpert E-mail: jonny@dctvny.org Phone: (212) 966-4510
Fight Big Media-NC	Raleigh-Durham, NC	http://fightbigmedia.meetup.com/cities/us/nc/raleigh/	Name: Rhonda Strickland E-mail: rhndstr@aol.com Phone: (919) 789-0898
Grand Rapids Community Media Center	Grand Rapids, MI	www.grcmc.org	Name: Laurie Ciriavello E-mail: laurie@grcmc.org Phone: (616) 459-4788 x101
Grand Rapids Institute for Information Democracy	Grand Rapids, MI	www.griid.org	Name: Jeff Smith E-mail: jsmith@grcmc.org Phone: (616) 459-4788 x122
Just Think	San Francisco, CA	www.justthink.org	Name: Elana Rosen E-mail: elana@justthink.org Phone: (415) 561-2900
Kansas City Ad Hoc Coalition	Kansas City, MO	N/A	Name: Thomas Klammer E-mail: thklammer@bucon.com Phone: (816) 333-3113
Los Angeles Freewaves	Los Angeles, CA	www.freewaves.org	Name: Anne Bray E-mail: anne@freewaves.org Phone: (323) 664-1510
Latino Issues Forum	San Francisco, CA	www.lif.org/technology/tnt.html	Name: Ana Montes E-mail: anamontes@lif.org Phone: (415) 284-7208
Fair Media Council	Bethpage, NY	www.fairmediacouncil.org	Name: Jaci Clement E-mail: jaci@fairmediacouncil.org Phone: (516) 224-1860 x101
Media Alliance	Oakland, CA	www.media-alliance.org	Name: Jeff Perlstein E-mail: jeff@media-alliance.org Phone: (415) 225-6673
Media Democracy Chicago	Chicago, IL	www.mediademocracychicago.org	Name: Karen Young E-mail: info@mediademocracychicago.org Phone: (773) 517-6433
New Media Alliance	Upstate NY	www.newmediaalliance.org	Name: Steve Pierce E-mail: pierce@NewMediaAlliance.org Phone: (518) 766-6095

Organization Name	Location	Website	Contact Information
NYC Grassroots Media Coalition	New York, NY	www.nycgrassrootsmedia.org	Name: Denise Andrade E-mail: info@nycgrassrootsmedia.org Phone: (212) 420-9045
Philadelphia Community Access Coalition	Philadelphia, PA	www.phillyaccess.org	Name: Wendy Hiatt E-mail: pcac@phillyaccess.org Phone: (215) 563-1090
Prometheus Radio Project	Philadelphia, PA	www.prometheusradio.org	Name: Pete Tridish E-mail: petri@prometheusradio.org Phone: (215) 727-9620
Public Access of Indianapolis	Indianapolis, IN	www.indyaccess.org	Name: Andrea Price E-mail: aprice@indyaccess.org Phone: (317) 335-5272
Reclaim the Media	Seattle, WA	www.reclaimthedia.org	Name: Jonathan Lawson E-mail: jonathan@reclaimthedia.org Phone: (206) 709-0558
San Diego Independent Media Center	San Diego, CA	www.sdime.org	Name: Michael E-mail: lotus@indymedia.org Phone: (619) 665-2040
Seattle Community Access Network	Seattle, WA	www.scantv.org	Name: Ann Suter E-mail: anns@scantv.org Phone: (206) 522-4758 x103
Southern Media Justice Coalition	Atlanta, GA	N/A	Name: Jeanette Foreman E-mail: jfc1220@bellsouth.net Phone: (404) 577-1047
Video Machete	Chicago, IL	www.videomachete.org	Name: Cesar Sanchez E-mail: cesar@videomachete.org Phone: (773) 645-1272

Appendix B:
Survey Instrument

BRENNAN CENTER FOR JUSTICE

LEGAL NEEDS SURVEY OF LOCAL MEDIA DEMOCRACY GROUPS

DATE: _____ ORGANIZATION NAME: _____

NAME OF INTERVIEWEE: _____

Title: _____

Phone number: _____ email address: _____

NAME OF INTERVIEWER: _____

Intro (NB: This is the basic outline of what we need to say/ask. Best not to read it, though; rather, give the essence of it conversationally.)

Hello, my name is _____. I'm calling from the Free Expression Policy Project at the Brennan Center for Justice in New York. As you may know, the Brennan Center is conducting a survey of local media reform groups, to learn what needs you might have for legal assistance. Legal assistance can include FCC filings, legislative counseling and drafting, and litigation. We are a public interest law firm affiliated with NYU Law School, which has provided legal support to advocacy groups in areas like campaign finance reform and voting rights. We want to expand our work to help on media reform issues such as cable franchising, public access cable, media ownership, public broadcasting, low power FM, and local WiFi. Do you have 15 minutes to speak with me right now?

If yes, continue. If no: "Is there a better time at which I can reach you?"

One disclaimer before we start: I am not a lawyer, so I cannot give you legal advice. Thanks for taking the time to help us with the survey.

Also, we're going to prepare a report on the findings of this survey. It will only be for the use of the Brennan Center and some of the organizations we're working with, but if there's anything you say that should be kept confidential, please let me know.

1. a. We can see from your web site that you work in the following areas, _____, _____, and _____ . [To be filled out by the interviewer before the call.] Are these still your primary areas of work? Is there anything important that we've missed?

1. b. [If they do not have a web site, ask:] Can you describe the nature of your organization's work?

[If they don't mention it, ask specifically about cable franchising, public access cable, media ownership, public broadcasting, low power FM, and local WiFi]

2.a. Are you currently facing any legal issues in any of these areas where a lawyer's assistance would be helpful?

[If yes, ask follow-up questions to get a better sense of what the legal issues/problems are. Use extra pages if needed to describe.]

2. b. [If interviewee has nothing to say, prompt them with the following list of issues.] Have you dealt with any issues revolving around cable franchising? public access cable? broadcast license renewals? local WiFi? Low power FM? any censorship issues?

3. What sort of legal needs do you anticipate in the next two years?

4. Have you been involved in fighting any proposed legislation, or a law already enacted, in your state, city or town? If so, what was it about? Did you have legal help?

5. Have you been involved in proposing any legislation in your state, city or town? If so, what was it about? Did you have legal help?

6. Is there any proposed legislation now in your state, city or town that you would like to oppose? Legislation that you would like to support, or introduce? Can you foresee a need for legal help with either of these?

7. Do you have access to pro bono legal help locally in your community? _____

Nationally? _____

Paid legal help? _____

[If they answer no to #7]

8a. Have you ever attempted to find pro bono legal help? What were the obstacles, if any?

[If they answer yes, and they seem comfortable identifying the lawyers]

8.b Can you tell us who has provided legal help?

9.a. Do you think your organization would be interested in pro bono legal help from the Brennan Center? [As a caveat: We have limited resources. The purpose of this survey is to determine the legal needs of organizations like yours. We may be able to match you up with someone who can help you, if we can't do so directly.]

9.b. [If they currently have a lawyer] Do you think your current legal representation is sufficient to cover your needs? Would you welcome additional legal help, and if so on what matters?

10. Has your organization ever filed (or joined in) Comments or other proceedings at the FCC?

 If yes, in what proceeding / on what topic?

11. Has your organization ever been involved in any lawsuits that you can tell us about?

12. Is there anything else you would like to add? Do you have any questions for us?

Conclusion

Thank you so much for your time; we'll be back in touch.

FOLLOW-UP QUESTIONS

LAWSUITS

- What was the issue?
- Who were the parties?
- Which court?
- What was the decision?
- Is there an appeal pending?

LEGISLATION

- What was the issue?
- Which body was the legislation introduced to, and when?
- Did your organization help draft it?
- What is the current status?

FCC FILING

- What was the issue?
- Was the objection formal or informal?
- Did you draft it on your own, or with legal help?
- What is the current status of the rule?
 - What is the rule proposed?
- What is the status of the license renewal?
 - What were your objections?

LEGAL ASSISTANCE

- Who/ What/ When/ Where?
- Local or National?
- Pro Bono or not?
- If no legal assistance, did you seek it out?
 - What were the obstacles?

Appendix C:
Charts Summarizing Survey Findings

Appendix C
Table 1: Nature of Organization's Work

Organization name	Primarily engaged in media reform and advocacy	Operates radio station or public access channel	Primarily working on media literacy or serving as watchdog	Provides technical support and services for independent media producers and organizations	Disbanded or no longer working primarily on media reform
Austin Free-Net				X	
CALPIRG					X
CCTV Center for Media and Democracy	X	X			
Chicago Media Watch			X		
Citizens for Media Literacy	X				
Downtown Community Television Center				X	
Fight Big Media NC				X	
Grand Rapids Community Media Center		X		X	
Grand Rapids Institute for Information Democracy			X		
Just Think			X	X	
Kansas City Ad Hoc Coalition					X
LA Freewaves				X	
Latino Issues Forum	X				
Long Island Coalition for Fair Broadcasting			X		
Media Alliance	X				
Media Democracy Chicago			X		
New Media Alliance	X				
NYC Grassroots Media Coalition					
Philadelphia Community Access Coalition	X				
Prometheus Radio Project	X				
Public Access of Indianapolis	X			X	
Reclaim the Media	X				
San Diego Independent Media Center				X	
Seattle Community Access Network		X		X	
Southern Media Justice Coalition					X
Video Machete				X	

Appendix C
Table 2: Sufficiency of Current Legal Representation

Organization name	Current legal representation <i>INSUFFICIENT</i> to meet legal needs	Current legal representation <i>SUFFICIENT</i> to meet legal needs	Would welcome additional legal help from pro bono law firm currently or in the future
Austin Free-Net	X		X
CALPIRG			
CCTV Center for Media and Democracy	X		X
Chicago Media Watch		X	
Citizens for Media Literacy	X		X
Downtown Community Television Center	X		X
Fight Big Media NC		X	X
Grand Rapids Community Media Center		X	X
Grand Rapids Institute for Information Democracy		X	X
Just Think	X		X
Kansas City Ad Hoc Coalition			
LA Freewaves	X		X
Latino Issues Forum	X		X
Long Island Coalition for Fair Broadcasting		X	
Media Alliance	X		X
Media Democracy Chicago		X	X
New Media Alliance	X		X
NYC Grassroots Media Coalition		X	X
Philadelphia Community Access Coalition		X	X
Prometheus Radio Project	X		X
Public Access of Indianapolis	X		X
Reclaim the Media	X		X
San Diego Independent Media Center		X	X
Seattle Community Access Network	X		X
Southern Media Justice Coalition			
Video Machete		X	X

Appendix C

Table 3: Access to Legal Assistance

Organization name	Has access to pro bono legal assistance locally	Has access to pro bono legal assistance nationally	Has access to paid legal assistance	Has no access to legal assistance	Has attempted to find pro bono legal assistance	Expressed concern about difficulty of finding competent and consistent pro bono legal help
Austin Free-Net	X*				X	
CALPIRG						
CCTV Center for Media and Democracy	X**	X	X		X	
Chicago Media Watch	X		X			
Citizens for Media Literacy				X	X	X
Downtown Community Television Center	X	X	X***		X	X
Fight Big Media NC				X		
Grand Rapids Community Media Center	X	X	X		X	
Grand Rapids Institute for Information Democracy	X***	X***				
Just Think	X***	X***	X		X	X
Kansas City Ad Hoc Coalition						
LA Freewaves	X		X****		X	X
Latino Issues Forum	X***				X	X
Long Island Coalition for Fair Broadcasting	X	X				
Media Alliance	X***	X	X*****		X	X
Media Democracy Chicago				X		
New Media Alliance		X***			X	X
NYC Grassroots Media Coalition		X			X	
Philadelphia Community Access Coalition	X				X	
Prometheus Radio Project		X			X	X
Public Access of Indianapolis				X	X	X
Reclaim the Media	X***					
San Diego Independent Media Center	X					
Seattle Community Access Network	X	X	X		X	X
Southern Media Justice Coalition						
Video Machete	X				X	

NOTES:
 * Austin Free-Net receives general non-profit legal assistance but does not have any assistance for its legislative advocacy work.
 ** CCTV used to receive pro bono legal assistance from a firm. However, recently, they have started to pay that firm because they have already received 10 years of free help.
 *** These groups have had only very limited or ad hoc assistance from lawyers locally or nationally.
 **** LA Freewaves paid for an initial consultation with a local Lawyers for the Arts organization but could not afford further assistance.
 ***** Media-Alliance received paid legal help from one of their members at reduced rates. They received pro bono support from that lawyer as well.

Appendix C
Table 4: Description of specific legal needs

Organization name	Has need for legal assistance on LOCAL media reform issues	Has need for legal assistance on NATIONAL media reform issues	Has day-to-day legal needs; not related to media reform advocacy	Has no substantial need for legal assistance on media reform issues
Austin Free-Net	X	X		
CALPIRG				
CCTV Center for Media and Democracy	X*	X		
Chicago Media Watch				X
Citizens for Media Literacy	X	X*		
Downtown Community Television Center			X	X
Fight Big Media NC	X**			X
Grand Rapids Community Media Center		X		
Grand Rapids Institute for Information Democracy	X	X		
Just Think	X		X	
Kansas City Ad Hoc Coalition				
LA Freewaves			X	X
Latino Issues Forum	X	X		
Fair Media Council	X***	X***	X***	
Media Alliance	X	X		
Media Democracy Chicago	X		X	
New Media Alliance	X	X*		
NYC Grassroots Media Coalition			X	
Philadelphia Community Access Coalition	X			
Prometheus Radio Project	X	X****	X	
Public Access of Indianapolis	X		X**	
Reclaim the Media	X	X		
San Diego Independent Media Center	X			
Seattle Community Access Network	X	X	X	
Southern Media Justice Coalition				
Video Machete	X*			X

Notes:

* These groups only somewhat need legal assistance at this level. In some cases, the minimal assistance needed is for more information or education about the issues. In other cases, like CCTV, respondents suggested they need more help with their national work but do have local needs.

** Fight Big Media-NC stated they may have future legal needs in this arena but do not currently require assistance. Similarly, Public Access of Indianapolis will only need other legal assistance if they are successful in securing a public access channel.

*** Fair Media Council has legal needs but does not want assistance from the Brennan Center. We do not know if they would be interested in legal help from other national legal organizations.

**** Prometheus Radio Project receives legal assistance from the Media Access Project so their legal needs are sufficiently met at the national level, but they may need additional help in the future.