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ASIAN AMERICANS IN THE TELEVISION MEDIA: CREATING INCENTIVE FOR CHANGE

AUDREY KWAK*

RACE AND PLACE: EQUITY ISSUES IN URBAN AMERICA. By John W. Frazier, Florence M. Margai, and Eugene Tettey-Fio. Boulder and Oxford: Westview Press 2003. Pp. 274.

Abstract: The authors of *Race and Place: Equity Issues in Urban America* argue the existence of a significant link between race and urban geography. They contend that white racism and domination, rather than a lack of individual motivation or ability, created the concentrated populations of socioeconomically disadvantaged minorities that characterize today's American urban landscape. This Book Review explores in detail one cause and enabler of inequity that the authors cursorily implicate: the entertainment media's capacity to manipulate societal norms. After discussing the powerful role of television media to shape and influence perceptions and behavior, this Review examines the current paucity of Asian-American portrayals in news and entertainment television, and the stereotyped, harmful, and inaccurate nature of those portrayals that do exist. This Book Review concludes that television's widespread influence can reduce social inequity and should be exploited, and proposes a system of tax incentives designed to compel, rather than dictate, positive change.

INTRODUCTION

In American society, backlash against the standard of political correctness has made racism increasingly subtle and difficult to define.¹ Allegations of racism often meet with claims of oversensitivity.² In Feb-

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¹ See Patrick J. Buchanan, *Political Correctness v. National Security*, ¶¶ 1–3 (Jan. 2, 2002) (implying that charges of racial profiling against Attorney General John Ashcroft illustrate political correctness taken to intolerable extremes), at http://www.iconservative.com/political_correctness_vs_national.htm. See generally *PC Primer* (lampooning political correctness standards by giving “instructions” as to how to be politically correct), at <http://www.personal.umd.umich.edu/~nhughes/htmldocs/pc.html> (last visited Nov. 20, 2003).

² See, e.g., *Lawmakers Blast Pledge Ruling*, ¶¶ 6–8 (June 27, 2002) (describing a 2002 ruling, *Newdow v. U.S. Congress*, 292 F.3d 597 (9th Cir. 2002), cert. granted in part, Elk Grove

ruary of 2003, “Tonight Show” host Jay Leno joked that the average American elevating his dog or cat from “pet” to “companion” status was analogous to North Korean dictator Kim Jong II elevating the same from “appetizer” to “entrée.”³ Upon requests by Asian-American groups for an apology, Leno and NBC refused, characterizing the statements as satirical rather than demeaning.⁴ Depending on one’s political leanings and personal perspective, both characterizations have merit.⁵ Leno’s “satirical” comments ridiculed a cultural practice of an ethnic minority living in the United States.⁶ Is this best branded cultural insensitivity, satire, or outright bigotry?

Leno’s remarks illustrate the most fundamental obstacle to eliminating racism—identifying it.⁷ Racist words and actions, when not explicitly offensive, are judged subjectively; in an age and society where prejudice is couched in “satirical” remarks mocking the cultural practices that deviate from white America’s norms, comments that subjugate and discriminate easily fall under the guise of satire.⁸

Unified Sch. Dist. v. Newdow, 124 S. Ct. 384 (2003), that found requiring recitation of the Pledge of Allegiance to be unconstitutional, as “political correctness run amok”), at <http://www.cnn.com/2002/LAW/06/26/pledge.allegiance/>; *PC Primer*, *supra* note 1 (“It’s important to know when someone is saying something insensitive so you can have that person removed from society . . . [if the confrontation is not between two white people] . . . [t]he white person is oppressing the ethnic person.”).

³ See *MANAA Protest Against Fox and NBC*, ¶ 19 (July 9, 2003) [hereinafter *ACTIVISM*], at <http://groups.yahoo.com/group/asianamericanartistry/message/2122>.

⁴ See *Fur Flies as Korean Americans Protest Dog-Eating Jokes on Top US TV Show* (Apr. 14, 2003) [hereinafter *Fur Flies*], at [http://www.ethnicmajority.com/media_news.htm#Fur flies as Korean Americans protest dog-eating jokes on top US TV show](http://www.ethnicmajority.com/media_news.htm#Fur%20flies%20as%20Korean%20Americans%20protest%20dog-eating%20jokes%20on%20top%20US%20TV%20show); *NBC Disrespects Asian Americans, Daring Us to Take Action*, ¶ 5 (Feb. 13, 2003), at <http://www.asianscomingtogether.com/news/banzai/NBC-Lenocalltoarms.pdf>; Press Release, Charles Chang, Protest Coordinator, Protest: Call to Action!!! (Aug. 7, 2003), at <http://forums.yellowworld.org/showthread.php?t=8715> (last visited Feb. 2, 2004). One letter from the Korean American Coalition National (KAC National) protesting the incident is available online. See Letter from KAC National, to Jay Leno (Mar. 5, 2003) [hereinafter Letter to Jay Leno], available at http://www.kacdc.org/news/kac_03052003.html.

⁵ See JOHN W. FRAZIER ET AL., *RACE AND PLACE: EQUITY ISSUES IN URBAN AMERICA* 7 (2003).

⁶ See John Feffer, *The Politics of Dog*, ¶¶ 3–7 (June 14, 2002), at <http://www.alternet.org/story.html?StoryID=13387>.

⁷ See FRAZIER ET AL., *supra* note 5, at 8; see also Richard Delgado & Jean Stefancic, *Images of the Outsider in American Law and Culture: Can Free Expression Remedy Systemic Social Ills?*, 77 CORNELL L. REV. 1258, 1288 (1992) (“Racism is often a matter of interpretation; when an interpretation renders one uncomfortable and another does not, which will a person often make?”).

⁸ See FRAZIER ET AL., *supra* note 5, at 7.

For ethnic minorities in America, racism is a familiar, if not routine, aspect of daily life.⁹ Although few would deny its existence, its prevalence and causes are disputed vigorously.¹⁰ While many race theorists blame white racism for ethnic minorities' past and continuing failure to achieve the success of the white majority, an equal number vehemently opposes this view.¹¹ Current public sentiment often favors America's historical emphasis on individual responsibility, attributing poverty and welfare needs to a lack of initiative rather than assigning blame to existing social and economic structures.¹²

In *Race and Place: Equity Issues in Urban America*, John Frazier, Florence Margai, and Eugene Tettey-Fio conclude the opposite, arguing that white racism and domination created "Areas of Minority Concentrations" (AOMCs)¹³ found in America's largest urban centers.¹⁴ Through meticulous research, the authors critically assess the origins of minority failure to achieve the white majority's success in order to explain the current status of American minority populations.¹⁵ They ascribe racism's origin and perpetuation to society's political environment and its abuse of science and the media, concluding that legislative interference is crucial to rectify the situation.¹⁶ Although the authors suggest a remedy, it fails to posit substantive measures for change.¹⁷

Television media, one source of social inequity the authors address briefly, can temper greatly such racial and urban segregation by lessening fatalistic attitudes of minority youth and public misconceptions.¹⁸

⁹ *See id.* (describing racism as "the practice of segregation, discrimination, and dominance of one race by another").

¹⁰ *See generally id.* at 55–79 (discussing diverse perspectives on racism in America).

¹¹ *See id.* at 7–8.

¹² *See id.* at 59.

¹³ *See* FRAZIER ET AL., *supra* note 5, at 11–12 (using the Fair Housing Division of the U.S. Department of Housing and Urban Development's (HUD) concept of an AOMC as a place "containing high proportions of minorities, independent of economic class"; more particularly, an AOMC is "any census tract containing more than 50 percent minorities").

¹⁴ *See id.* at 23, 47, 139, 176.

¹⁵ *See id.* at 7–8.

¹⁶ *See id.* at 256, 268.

¹⁷ *See generally id.* at 261–74 (making suggestions for social changes).

¹⁸ *See* FRAZIER ET AL., *supra* note 5, at 87–92. Professor Patricia M. Worthy specifically examines data pertaining to black versus white children:

Children are more vulnerable to media images because they lack real world experience and therefore lack the necessary basis for comparison. What is disturbing is the empirical data which confirms that black children use television to acquire values, beliefs, concepts, attitudes, and basic socialization patterns.

By examining the effects of television on the often-overlooked Asian-American minority population, this Book Review illustrates television's impact on social misperceptions and suggests a way to correct these misperceptions.¹⁹ To execute such reform, this Book Review proposes a system of tax incentives for networks in exchange for multi-dimensional coverage of ethnic minorities.

Part I reviews *Race and Place's* compilation of empirical studies.²⁰ It then explores analyses of media influence in *Race and Place* and in independent research.²¹ Part I also describes in brief the two genres of television media explored in this Book Review, news and reality TV.²² Part II examines past and current Asian-American representations in both genres.²³ By appraising televised disseminations of Asian-American stereotypes, Part II discusses their impact on the public and on Asian Americans.²⁴ Accepting Frazier's conclusion that public internalization of media images perpetuates segregation, Part III argues that Congress must actively counter stereotyping and the absence of Asian Americans and other minorities in television.²⁵ Finally, Part III

. . . [S]ocial scientists have found that 'the exclusion of Blacks from television is destructive to Black children's self-concept because it minimizes the importance of their existence.'

Moreover, television has been identified as the primary contributor to negative stereotypes.

Patricia M. Worthy, *Diversity and Minority Stereotyping in the Television Media: The Unsettled First Amendment Issue*, 18 HASTINGS COMM. & ENT. L.J. 509, 534-35 (1996) (stating that the prevalence of whites in the media allows whites to "experience their identity not merely as self-same but as diverse") (citations omitted). Further studies indicate the specific impact of media imagery on minority children. See, e.g., VIRGINIA MANSFIELD-RICHARDSON, *ASIAN AMERICANS AND THE MASS MEDIA: A CONTENT ANALYSIS OF TWENTY UNITED STATES NEWSPAPERS AND A SURVEY OF ASIAN AMERICAN JOURNALISTS* 79 (2000) (citing a 1988 study that found television "plays a role in shaping ethnic images for some ethnic minorities, but not for others"); CLINT C. WILSON II & FÉLIX GUTIÉRREZ, *MINORITIES AND MEDIA: DIVERSITY AND THE END OF MASS COMMUNICATION* 51-53 (1985) (discussing several studies demonstrating that "media portrayals may have a greater influence on the development of minority children than on White children").

¹⁹ See FRAZIER ET AL., *supra* note 5, at 272; Bob H. Suzuki, *Revisiting the Model Minority Stereotype: Implications for Student Affairs Practice and Higher Education*, in *NEW DIRECTIONS FOR STUDENT SERVICES*: NO. 97, *WORKING WITH ASIAN AMERICAN COLLEGE STUDENTS* 21, 24 (Marylu K. McEwen et al. eds., 2002).

²⁰ See *infra* Part I.

²¹ See *infra* Part I.

²² See *infra* Part I.

²³ See *infra* Part II.

²⁴ See *infra* Part II.

²⁵ See *infra* Part III.

suggests a system of tax incentives to offset the dearth of even-handed and multi-dimensional portrayals of minorities.²⁶

I. TELEVISION MEDIA: ITS ABILITY TO INFLUENCE AMERICAN POPULAR CULTURE

A. *The Perspective of Race and Place*

Empirical research leads Frazier and his coauthors to their primary deduction, that race significantly predicts both urban environment and available social resources.²⁷ Racial minorities have been habitually concentrated in urban environments possessing significantly inferior resources compared to environments with white majority populations.²⁸ Analyses of differences between black, Hispanic, and Asian neighborhood concentrations demonstrate persistent and drastic disparities in the living conditions of white-majority areas and areas of minority concentrations in a given urban center.²⁹

As to cause, the authors assert that America's socioeconomic-political environment and its abuse of science and the media first created and now perpetuate racism.³⁰ According to a 1999 media study, white prejudice creates an "oppressive system of cultural messages and institutional policies and practices" that shapes the self-identities of children.³¹ The media, a tool of this oppressive system, shapes and

²⁶ See, e.g., FRANK M. OPPENHEIM & HELEN C. SWIFT, *BEHIND THE BITS: MANAGING THE MEDIA MAZE* 131 (1998); see also MANSFIELD-RICHARDSON, *supra* note 18, at 21–22 (commending past media reforms, but noting their minimal impact on Asian Americans).

²⁷ See FRAZIER ET AL., *supra* note 5, at 93, 253. Large disparities in housing quality, pollution, employment opportunities, and retail services have revealed a "widespread distribution of racial inequalities in urban America." *Id.* at 261. The authors present three theories of the genesis of urban geographic segmentation and its impact on minorities: the free-market technological perspective, a Marxist view, and a postmodern departure. *See id.* at 99, 112, 120. The free-market technological view argues that the rapidly expanding U.S. economy enabled immigrants and minorities to settle in urban areas, but that increasingly complex and capitalized urbanization combined with government forces led to segregation and uneven development. *See id.* at 110–11. The Marxist view blames capitalism, contending that the government is merely the tool of the elite; it argues that policies claiming to assist the disadvantaged were truly designed to benefit the elite and merely displaced the disadvantaged, accompanied by the inequalities the policy was designed to eradicate. *See id.* at 118–19. The postmodernist departure agrees with Marxist philosophies as to origins but advises empirical research advocated by free-market thinkers to inform theories and policies. *See id.* at 121, 124.

²⁸ *See id.* at 261.

²⁹ *See id.* at 259.

³⁰ *See id.* at 256, 258.

³¹ *See id.* at 273–74.

reinforces flawed self-identification with either the oppressor (whites) or the oppressed (ethnic minorities).³²

To remedy these inequities, the authors recommend policies that allocate benefits and services based on geographic region rather than race.³³ To achieve truly significant change, however, the authors stress the need for education and improved understanding of others' cultural experiences, attainable via "engagement."³⁴ Engagement—that is, discourse among diverse racial groups in neighborhoods, churches, schools, and social clubs—is an admirable proposition; the authors, however, posit no means of realizing it other than to recommend a committed and informed leadership.³⁵

A possible remedy to America's equity problem, mentioned cursorily by the authors, is the powerful role the television media can play in both creating and erasing racial and social inequity. The authors' brief discussion of media's influence mentions damage done by the news media to Hispanic Americans during the "Zoot-Suit Riots" of the early 1940s and false images of black-white racial harmony perpetuated in film, but they ignore the media's take on Asian Americans.³⁶ Furthermore, though the authors' solutions of geographically apportioned benefits and active engagement establish a basis for change, a more concrete proposal is needed. This Book Review attempts to remedy these deficiencies by examining the television media's ability to influence—and alter—racial stereotypes and inequitable practices.

B. *Media's Influence on Popular Culture*

As capitalist entities originally established for the public interest, the media are forums through which public concerns, interests, and ideals are voiced.³⁷ Of all the forms of American mass media, televi-

³² See FRAZIER ET AL., *supra* note 5, at 273–74.

³³ See *id.* at 261. The authors provide an example of one such policy: promoting employment via federal spending for training and jobs when unemployment levels exceed an established threshold in a certain geographic area. See *id.* Thus, funding would be based on objective financial inequity rather than any subjective racial determinations. See *id.*

³⁴ See *id.* at 272–73. Changes in educational content alone, or "curricular modifications," will not enact the desired change; society must become more critically aware of the purposes and impact of cultural messages, especially those sent by all media. *Id.* at 272.

³⁵ See *id.* at 273–74.

³⁶ See *id.* at 87, 88.

³⁷ See Brian M. Rowland, *Media Fairness: Regulation, Diversity, Reality*, 3 FLA. COASTAL L.J. 67, 75 (2001); see also WILSON & GUTIÉRREZ, *supra* note 18, at 36 (asserting that "as originally envisioned by the framers of the U.S. Constitution, media in the United States were

sion is arguably the most prevalent.³⁸ Its accessibility and popularity enable it to affect vastly feelings, attitudes, and beliefs.³⁹ Just as it reflects society, television shapes cultural identities and mores.⁴⁰

Television critics have attempted to catalog television's impact, variously characterizing the media as misleading, destructive of debate, instructive of societal norms, and a promoter of consumerism.⁴¹ Most significantly, media industry observers claim that television teaches models of behavior by documenting, scrutinizing, and satirizing our manners of friendship, family relationships, romance, and animosity, ultimately "informing" the culture on how to act in given situations.⁴² However they articulate it, media scholars agree that television dramatically impacts the educational and attitudinal makeup of American society.⁴³

supposed to operate in a free marketplace of ideas in which . . . anyone . . . with the wherewithal and motivation would be able to print and disseminate newspapers").

³⁸ OPPENHEIM & SWIFT, *supra* note 26, at 5. Media scholars Frank Oppenheim and Helen Swift label television "today's most influential media." *Id.*; see Worthy, *supra* note 18, at 533–34.

³⁹ See OPPENHEIM & SWIFT, *supra* note 26, at 17 (stating that Americans watch an average of three to four hours of television a day).

⁴⁰ See *id.* at 5, 17. Oppenheim and Swift claim that TV images of American society:

[G]ive vivid concrete embodiment to some of the intangible beliefs of our culture. For example, much of the prime time programming presents drama and comedy against a background of luxury and wealth, re-enforcing the belief that more is better. These images thus provide a basis for a knowledge of our beliefs and motivation to implement those beliefs.

Id. at 5.

⁴¹ See *id.* at 125. Media critic Neil Postman asserts that the media "leaves people unrefreshed, supplies misleading bits of information, devastates political discourse in America, anesthetizes viewers to a sense of history, and fosters a phoney sense of religion as entertainment and of education as amusement." *Id.* Oppenheim and Swift claim that media: "1) implant values or fixations, 2) expand or narrow minds and hearts of their audiences, 3) exploit violence and sex, 4) lure to rash judgment and snap decisions, 5) and promote consumerism." *Id.*

⁴² See *id.* at 133 (quoting KENNETH GERGEN, *THE SATURATED SELF* 224 (1991)). As demonstrated by sitcoms featuring unconventional families, like "Roseanne," "The Brady Bunch," and "Full House," these shows have "taught," through illustration and humor, "how to watch television (media literacy); and how to live in families with tolerant mutual accommodation . . . (life skills)." Brett Mills, *Studying Comedy*, in *THE TELEVISION GENRE BOOK* 61, 66 (Glen Creeber et al. eds., 2001).

⁴³ See MANSFIELD-RICHARDSON, *supra* note 18, at 81–82 ("[M]ass media messages are the primary conduits through which . . . minorities . . . are taught dominant values and philosophies since the mass media reflects the values and philosophies of the majority within a given society."); OPPENHEIM & SWIFT, *supra* note 26, at 5, 13, 17.

Within the television medium is a multitude of genres—categories of programming that share certain conventions, features, and norms.⁴⁴ Two of the most ubiquitous—news and reality television—are also two of the most influential. Audiences often perceive news programming as a “window on the world,” and assume that images and stories are unadulterated transmissions of daily events.⁴⁵ News is “not merely seen as *like* reality but as unmediated reality itself.”⁴⁶ Absolute objectivity is impossible, however, because news producers simultaneously construct the news as they transmit it, choosing what to show and how.⁴⁷ Television news thus reflects the biases, however subtle or unintended, of those communicating it.⁴⁸ Nevertheless, its purported objectivity imparts it with great power to influence attitudes and values.⁴⁹

The dominant function of entertainment programming, in contrast, is to divert rather than inform. One recent phenomenon in entertainment television is reality-based television, a merger of entertainment and reality.⁵⁰ Although relatively unscripted and featuring no actors, reality-based television still implicates selectivity issues of presentation and casting.⁵¹ Further, reality-based television’s influence, based in its authenticity and “reality,” surpasses that of news and conventional entertainment television because of its tremendous popularity.⁵² Re-

⁴⁴ Steve Neale, *Studying Genre*, in *THE TELEVISION GENRE BOOK*, *supra* note 42, at 1, 1.

⁴⁵ Justin Lewis, *Studying Television News*, in *THE TELEVISION GENRE BOOK*, *supra* note 42, at 108, 108.

⁴⁶ *See id.*

⁴⁷ *See* OPPENHEIM & SWIFT, *supra* note 26, at 125 (quoting Gregor T. Goethals, *TV’s Iconic Imagery in a Secular Society*, *NEW THEOLOGY DIG.*, Feb. 1993, at 44); Barry C. Feld, *Race, Politics, and Juvenile Justice: The Warren Court and the Conservative “Backlash,”* 87 *MINN. L. REV.* 1447, 1528 n.363 (2003); Lili Levi, *Reporting the Official Truth: The Revival of the FCC’s News Distortion Policy*, 78 *WASH. U. L.Q.* 1005, 1129 (2000).

⁴⁸ *See* Lewis, *supra* note 45, at 109.

⁴⁹ OPPENHEIM & SWIFT, *supra* note 26, at 125. A number of audience studies demonstrate that audiences echo the news’ agendas of priorities and opinions. *See* Lewis, *supra* note 45, at 110. Justin Lewis states that “television news can be important in creating or reinforcing fairly simple associations (such as Saddam Hussein with Hitler or striking workers with violence) that stick in people’s minds.” *Id.*

⁵⁰ *See* Jon Dovey, *Reality TV*, in *THE TELEVISION GENRE BOOK*, *supra* note 42, at 134, 134–35. “Reality TV” refers here to any “factual programme based on an aesthetic style of apparent ‘zero-degree realism’—in other words a direct, unmediated account of events, often associated with the use of video and surveillance-imaging technologies.” *See id.* at 135–37.

⁵¹ *See* William J. Woodward, Jr., *Neoformalism in a Real World of Forms*, 2001 *WIS. L. REV.* 971, 971 (2001).

⁵² *See id.*; *see generally* Mandira Banerjee, *Reality TV—Real Enough?*, ¶ 1 (discussing under-representation of Asian Americans in entertainment), at http://www.ewwoman.com/june03/ew_hollywood.htm (last modified June 2003). Reality TV producers market it as more “real” than sitcoms or movies. *See* Woodward, *supra* note 51, at 971. Reality TV’s

ardless of the constructive or destructive nature of television's influence, given the extensive research attesting to television's power to manipulate social constructions of reality, it is critical to examine television's treatment of ethnic minorities.⁵³

II. MEDIA REPRESENTATION OF ASIAN AMERICANS

The Asian-American presence in the United States is a rich yet oddly invisible one.⁵⁴ As recently as thirty years ago, Asian Americans lived under second-rate conditions, serving as "worker bees" and vilified in times of economic duress.⁵⁵ Although integral to a complete picture of the multiracial and multicultural American experience, the mainstream news and mass media have been slow to recognize Asian Americans' role.⁵⁶ While other commonly marginalized minority populations like Latinos are "beginning to gain some notice to alter the old black-and-white paradigm," discussions of minority issues still commonly overlook Asian Americans.⁵⁷

One reason for this inattention is the Asian-American "model minority" stereotype. Socioeconomically, the average Asian American validates America's capitalist philosophy, which espouses the notion that the individual alone is responsible for his or her economic success or failure.⁵⁸ Even setting aside the fact that few Asian Americans hold positions of political or social power, this generalization still fails to account for the socioeconomic disparities among Asian-American subgroups.⁵⁹

seeming authenticity, moreover, appeals to a younger, more vulnerable, and more receptive audience. *See* Dovey, *supra* note 50, at 134.

⁵³ *See* FRAZIER ET AL., *supra* note 5, at 90; OPPENHEIM & SWIFT, *supra* note 26, at 125; Lewis, *supra* note 45, at 110.

⁵⁴ WILLIAM WONG, *YELLOW JOURNALIST: DISPATCHES FROM ASIAN AMERICA* 8 (2001).

⁵⁵ *See id.*; *see also* FRAZIER ET AL., *supra* note 5, at 35 (asserting that Asian and white cultures first clashed when Asian migrants began competing for employment in urban economies, and, while they were "received initially as acceptable hard workers, later were rebuffed").

⁵⁶ WONG, *supra* note 54, at 9.

⁵⁷ WONG, *supra* note 56, at 249. For example, public opinion polls notoriously omit Asian American views. *Id.* Wong points out that the inability to gather a "statistically significant sampling" of Asian ethnic groups could have been a barrier in the past, but that polls of regions with an "increasing Asian American presence" should boost efforts to include Asians. *See id.*

⁵⁸ *See* FRAZIER ET AL., *supra* note 5, at 59; DARRELL Y. HAMAMOTO, *MONITORED PERIL: ASIAN AMERICANS AND THE POLITICS OF TV REPRESENTATION* 234 (1994).

⁵⁹ *See* *Culture, Race, and Ethnicity, Fact Sheets, Asian Americans/Pacific Islanders*, ¶ 5, at <http://www.surgeongeneral.gov/library/mentalhealth/cre/fact2.asp> (last visited Feb. 20, 2004).

Among the approximately forty-three different subgroups, income and educational levels vary drastically.⁶⁰

Unfortunately, the illusory belief that all Asian Americans are socioeconomically successful feeds public complacency about the existence of anti-Asian discrimination.⁶¹ Thus, the American media tends to disseminate stereotypes through its limited Asian-American characters or discussions of Asian-American issues.⁶² The chief danger of these portrayals lies in their effects on youth of all ethnicities, where the lack of Asians visibly functioning as cognizable members of American society is potentially damaging to development and Asian-American self-identification.⁶³ Since the 1980s, television producers and writers increasingly have targeted a demographically younger audience.⁶⁴ More than adults, youth self-identify with televised images, and television can either damage self-identity by negative stereotypes or improve the same with positive, diverse imagery.⁶⁵

⁶⁰ *Id.* ¶¶ 2, 5. Statistics attest to a tremendous diversity in education and per capita income levels. *Id.* In a 1990 survey of Asian Americans and Pacific Islanders (AA/PI), 78% of Asian American adults were high-school graduates. *Id.* ¶ 4. However, 88% of Japanese Americans were high school graduates, compared to only 31% of Hmong Americans. *See id.* Furthermore, while the average family income for AA/Pis is higher than the national average, AA/Pis still have a lower per capita income and higher poverty rate than non-Hispanic white Americans. *See id.* ¶ 5. In 1990, about 14% of all AA/Pis were living in poverty, compared to 13.5% of all Americans, and 9% of non-Hispanic whites. *Id.* Poverty rates within the ethnic category of Asian Americans range from a low of 6% for Filipino Americans to a high of 64% among Hmong Americans. *Id.*

⁶¹ *See, e.g.,* WONG, *supra* note 56, at 249; FRANK H. WU, *YELLOW: RACE IN AMERICA BEYOND BLACK AND WHITE* 139–40 (2002). Wu advocates the introduction of Asian Americans “into the dialogue about civil rights” to enhance discussion of “the merits of racial possibilities,” implying their current exclusion from this debate. *See* WU, *supra*, at 139.

⁶² *See* WONG, *supra* note 56, at 115.

⁶³ *See Asian-American Identity Problems*, ¶ 54, at <http://www.laze.net/papers/asianamident.shtml> (last visited Feb. 20, 2004); *see also* MANSFIELD-RICHARDSON, *supra* note 18, at 81 (noting that a 1990 study argued that the “lack of opportunities for minorities in newsrooms coupled with poor images of minorities in the press literally has a cognitive effect on minorities in that they ‘learn’ what they cannot achieve in life”).

⁶⁴ *See* Rachel Moseley, *The Teen Series*, in *THE TELEVISION GENRE BOOK*, *supra* note 42, at 41, 41.

⁶⁵ *See* Leonard M. Baynes, *White Out: The Absence and Stereotyping of People of Color by the Broadcast Networks in Prime Time Entertainment Programming*, 45 *ARIZ. L. REV.* 293, 326 (2003).

A. Asian Americans in the News

News directors, anchors, and other personnel are seldom Asian American, and Asian-American males are especially absent.⁶⁶ Although media observers in no way claim that Asian-American females are commonplace in the news, they criticize the invisibility of Asian-American male counterparts.⁶⁷ One critic characterizes this trend as another example of “the fantasy-ideal of the Asian woman . . . at the side of the Euro-American conqueror as war bride, as mail-order wife . . . as TV news anchor.”⁶⁸

⁶⁶ See Press Release, Asian American Journalists Association (AAJA), AAJA Statement On The 2002 Radio-Television News Directors Association Employment Survey (July 18, 2002), ¶¶ 1, 2, at http://www.aaja.org/html/news_html/press_releases/news_pr_020718.html (last visited Nov. 19, 2003). A recent survey of minorities in the television news industry found roughly 9% of news directors were minorities; of these, less than 0.5% were Asian American. See *id.* ¶ 7. Overall, according to a 2003 survey, Asian-American newscasters and newsroom staff comprise only 2.7% of the industry. See HAMAMOTO, *supra* note 58, at 245; Press Release, Asian American Journalists Association (AAJA), AAJA Calls for Immediate Action to Address the Problem of Declining Numbers of Asian Americans in Broadcast Newsrooms, ¶ 12 (July 31, 2003) (citing statistics from the Radio-Television News Directors Association/Ball State University Annual Survey of women and minorities), at http://www.aaja.org/html/news_html/press_releases/news_pr_030731.html (last visited Feb. 2, 2004); Soyoung Ho, *Asian Men Find Television Anchor Jobs Elusive*, ¶ 10 (Apr. 3, 2002), at <http://www.jrn.columbia.edu/studentwork/cns/2002-04-03/syndication/sho-asiananchor.txt>.

⁶⁷ See HAMAMOTO, *supra* note 58, at 246.

⁶⁸ See *id.*; see also Ho, *supra* note 66, ¶¶ 6–8 (blaming stereotypes of Asian men as effeminate and passive, and Asian women as exotic and submissive for disparate hiring practices).

Television bosses have apparently decided that the least offensive combination of anchoring talent—at least in the incredibly diverse Bay Area—is a white man with a woman, white or Asian usually. It’s a cozy, non-threatening combination. Asian women are seen as exotic, or as objects of libidinous desires . . . [whereas] Asian men . . . [are] threatening or, worse . . . non-entities.

WONG, *supra* note 56, at 228. Asian-American talk show hosts are also virtually nonexistent. See NBC News on Cable 24/7, *Lisa Ling: Host, National Geographic Ultimate Explorer*, ¶ 15, at <http://www.msnbc.com/news/910546.asp> (last visited Nov. 20, 2003). With the exception of Lisa Ling, who co-hosted ABC’s “The View” before departing to host travelogue “National Geographic Ultimate Explorer,” few other nationally known Asian-American talk show hosts can be identified. *Id.* Only two Asian Americans come to mind: Julie Chen, a Chinese-American CBS anchorwoman and host of reality TV show “Big Brother,” and Dean Cain, a quarter-Japanese actor, host of “Ripley’s Believe It Or Not.” See Goldsea Asian Am. Supersite, *Julie Chen to Host CBS’s Big Brother*, ¶ 1 (June 22, 2000), at <http://goldsea.com/Personalities/00/chenj.html>; Internet Movie Database, *Biography for Dean Cain*, at <http://www.imdb.com/name/nm0001002/bio> (last visited Nov. 20, 2003); Ripley’s Believe It or Not!, *About the Show*, ¶ 1, at <http://www.sonypictures.com/tv/shows/ripleys/about.html> (last visited Nov. 20, 2003). Minority youth “learn” what they cannot achieve in life” via media images, so this lack of prominent Asian-American media figures may weaken greatly their ambitions. See MANSFIELD-RICHARDSON, *supra* note 18, at 81.

The mere absence of Asian Americans, however, is not the only problem with television news. Its content, driven by cost concerns and the desire to appease the public's appetite for excitement, hampers social change by encouraging misperceptions that overlook social issues underlying crime and poverty.⁶⁹ By simplifying or sensationalizing crime, television news often promotes societal rushes to judgment.⁷⁰ Because it is market-driven and preoccupied with high ratings, television produces superficial programming that caters to collective fears, anxieties, and interests.⁷¹ Consequently, the viewing public acquires skewed notions of minorities.⁷²

Television news coverage of Asian Americans predominantly presents two types of images: Asians as generic model minorities who excel academically or as disreputable, perpetually foreign characters.⁷³ Despite complaints by Asian-American activists, the news media continues to characterize Asian Americans as eternal outsiders.⁷⁴ In January 2003, for instance, Asian-American journalists protested the absence of media coverage when basketball player Shaquille O'Neal, referring to a Chinese-born professional basketball player, said to a reporter, "Tell Yao Ming, 'ching-chong-yang-wah-ah-soh.'"⁷⁵ The media's silence on this

Mansfield-Richardson's research asserts that the media greatly influences "Asian Americans' perception of their own place within a society, and the value that society places on them as a minority." *Id.* at 233.

⁶⁹ See Levi, *supra* note 47, at 1129.

⁷⁰ See MANSFIELD-RICHARDSON, *supra* note 18, at 37 (asserting that news coverage of the looting of Korean businesses in African-American communities during the 1992 Los Angeles riots was overly "simplistic . . . with little effort given to explaining the economic complexities that place Koreans and many Arab immigrants in low income neighborhoods that just happen to be predominantly African American [P]ositive Korean/African American relations [that existed] don't often make the news"); Rachel F. Moran, *Race, Representation, and Remembering*, 49 UCLA L. REV. 1513, 1550 (2002).

⁷¹ See Moran, *supra* note 70, at 1550.

⁷² See, e.g., FRAZIER ET AL., *supra* note 5, at 88 (discussing the troubling tendency of 1990s filmmakers to produce generalized images of black and white "harmony" and other media to broadcast "messages of comfort" detracting from racism's objective reality).

⁷³ See HAMAMOTO, *supra* note 58, at 127 (citing news stories depicting Asian Americans as "bad guys like gangsters, influence-peddling political contributors, and spies for China"); MANSFIELD-RICHARDSON, *supra* note 18, at 28–29, 218; Wu, *supra* note 61, at 228.

⁷⁴ See, e.g., Wu, *supra* note 61, at 94–95 (describing press coverage of Ohio-born Maya Lin's winning design for the Vietnam War Memorial that included Ross Perot's comments calling Lin "eggroll" and saying he "hated that she was Asian").

⁷⁵ See *Tall Tale? Shaq Says Yao Comments Were Said in Jest*, ¶ 2 (Jan. 10, 2003), at http://sportsillustrated.cnn.com/basketball/news/2003/01/10/shaq_yao_ap/.

issue effectively condoned his words and the treatment of Asian Americans as outsiders.⁷⁶

More serious issues arise when news broadcasts oversimplify issues to enhance ratings and inadvertently exacerbate racial tensions.⁷⁷ Recent examples include coverage of Muslim Americans following September 11, the African-American-Korean conflicts during the 1992 Los Angeles Riots and, more infamously, the 1982 murder of Vincent Chin.⁷⁸ Television's ability to provoke and check racist sentiments and hate crimes confers upon the media a duty to provide multi-dimensional minority coverage.

B. Asian Americans in Entertainment Television

Asian-American representations in entertainment television are equally inadequate. Television shows seldom depict Asian Americans as everyday Americans.⁷⁹ Asian-American characters are typically passive, scholarly foreigners who cannot assimilate, or characters restricted to clichéd occupations and marginalized with comical accents and mannerisms.⁸⁰ One Asian actor's experience is particularly telling: in a 2003

⁷⁶ See Transcript: "Talk Back Live" (CNN), ¶ 10 (posted Jan. 23, 2003) (segment on O'Neal/Ming controversy), at http://www.aaja.org/html/news_html/news_030123.html. Asian American Journalist Association (AAJA) President Mae Cheng argued that media silence condoned O'Neal's words and the treatment of Asian Americans in sports as outsiders, also citing to the media's treatment of figure skater Michelle Kwan. See *id.*

⁷⁷ See MANSFIELD-RICHARDSON, *supra* note 18, at 37.

⁷⁸ *Id.*; WONG, *supra* note 56, at 110–13. Two recently unemployed white autoworkers mistook the Chinese American for a "Jap," blamed him for their unemployment, and bludgeoned him to death. See Ronald Takaki, *Who Killed Vincent Chin?*, in *A LOOK BEYOND THE MODEL MINORITY IMAGE: CRITICAL ISSUES IN ASIAN AMERICA* 23, 23 (Grace Yun ed., 1989). Widespread coverage of the incident was rare until the trial judge's sentencing—three years probation and a \$3,000 fine per defendant—inspired outrage and shock. See WONG, *supra* note 56, at 112; Takaki, *supra*, at 23. Only then, with the efforts of a coalition of members of Detroit's Asian-American community, did the story garner national attention. See WONG, *supra* note 56, at 112; see also Nat'l Asian Pac. Am. Legal Consortium (NAPALC), *Backlash: When American Turned on Its Own: Executive Summary*, ¶ 7 (describing simplistic media coverage in the wake of 9/11 that led some to conflate beards and turbans, often worn by Sikh-American men, with terrorism), at http://www.napalc.org/literature/annual_report/9-11_report.htm (last visited Feb. 20, 2004).

⁷⁹ See, e.g., Andrew Chow, *APAs on Public T.V.*, *ASIANWEEK*, Jan. 25–31, 2002, at http://www.asianweek.com/2002_01_25/news_public_tv.html.

⁸⁰ See Ethen Lieser, *Pushing for Yellow Entertainment*, *ASIANWEEK*, July 13–19, 2001, ¶ 12, at http://www.asianweek.com/2001_07_13/news05_yellentertain.htm. One example includes B.D. Wong's small role as Dr. George Huang on "Law & Order SVU." See Press Release, Asian Pacific America Media Coalition, Statement on Television Network Diversity (Oct. 13, 2003), ¶¶ 14, 32 (reflecting on the progress of the four major networks (ABC, CBS, FOX, NBC) in diversity efforts relating to Asian Pacific Americans in their prime time

survey of Asian Americans in primetime TV, he disclosed that he had played “a dry cleaner and a Chinese take out delivery man in 21 different prime-time shows” in the span of a few years.⁸¹

Reality-based television, however, has attempted to counter the current paucity of Asian-American representation.⁸² In its formative stages, reality-based television featured few Asians on shows like “The Real World” and “Survivor,” but recent efforts by producers and casting directors to cast more minorities have led to greater Asian-American representation.⁸³ Nevertheless, these portrayals are often of dubious substance, encountering the incendiary or simplistic problems characteristic of news programming.⁸⁴ Moreover, network and public indifference to racist images and epithets exacerbates the damage that stereotyped depictions cause.⁸⁵ One recent incident, FOX’s proposed game show “Banzai,” illustrates the disquietingly obscure nature of such indifference.⁸⁶

programming for the fall 2003–04 season), available at http://www.napalc.org/programs/TV%20Diversity/2003_10_13_Coalition_Comments.pdf (last visited Feb. 3, 2004).

⁸¹ See *Asian-American Representation in Primetime Increases 33%*, ¶ 18 (Sept. 15, 2003), at http://datelinehollywood.com/showarticle_friendly.php?articleID=42. Recently, only Margaret Cho’s “All-American Girl” featured an Asian-American family, and was cancelled after one season due to low ratings and largely negative reception. See Baynes, *supra* note 65, at 322. Although the show’s portrayals were often one-dimensional and stereotyped, networks since have produced few shows featuring Asian Americans in major roles, much less shows highlighting the Asian-American experience. See *id.* at 322–23. Baynes identifies CBS’s “Mystery Files of Shelby Woo” and “Marshall Law,” and FOX’s “Ally McBeal” as the only programs of the late 1990s to feature Asian-American characters; one 1970s show, “Kung Fu: The Legend Continues” was revived, featuring “the same white actor playing the lead [Asian] character.” See *id.* at 322, 323.

⁸² See Banerjee, *supra* note 52, ¶ 3.

⁸³ See *id.* “Survivor: Thailand” producer Mark Burnett “vowed to cast an Asian minority,” casting Shii-Ann Huang as the first Asian American in the series. See *id.* ¶ 4.

⁸⁴ See MANSFIELD-RICHARDSON, *supra* note 18, at 28–29, 37; Toby Miller, *The Populist Debate*, in *THE TELEVISION GENRE BOOK*, *supra* note 42, at 76, 76.

⁸⁵ See Worthy, *supra* note 18, at 561.

⁸⁶ See Jeff Kuo, *Boycott FOX to Stop “Banzai”: Your Help Needed*, ¶ 2 (July 15, 2003), at <http://modelminority.com/article464.html>. Another disturbing incident occurred in the 2003 season of “Big Brother,” when several houseguests used racial slurs and innuendo to refer to Asian-American and Cuban-American houseguests. See Elites TV, *For the Best in Reality, Is Julie Chen a Rhinoceros? On-Air Racism in “Big Brother” House Goes Unchecked*, ¶¶ 1, 5, 13, 15 [hereinafter *Chen*], at <http://www.elitestv.com/NewsPub/2003/Jul/ETV3f209a104a2a5.html>. In this season and others, cast members made jokes about not only Asians, but also blacks, gays, Puerto Ricans, and the Irish. See *id.* ¶ 9. Although minority groups protested the offensive language, network executives scarcely acknowledged their objections, and offending cast members offered no explanation or apology. See *id.* ¶ 2.

As examples from news and reality-based television reveal, television programming fails to illustrate existing racial conditions.⁸⁷ Furthermore, the sheer lack of Asian Americans in television increases the emblematic, and therefore problematic, nature of these stereotypes.⁸⁸ Few exceptions exist to counter stereotypes presented on television; thus, the consequences of limited Asian-American representation in television are serious.⁸⁹ For children, the visual absence of Asian Americans on television establishes subconscious conclusions of what one can and cannot be—actors, anchormen, and women—and perceptions of what one is—studious, exotic, nerdy.⁹⁰

III. POLICY AND CHANGE

Television's impact on youth self-perception and development is tremendous.⁹¹ Experts have found that for children, inclusion in television is a "major signal of acceptance, respect and recognition."⁹² Consequently, the absence of cognizable cultural images and characters disturbs children and affects their aspirations.⁹³ Minorities in particular internalize negative imagery seen on television, "imped[ing]

⁸⁷ See Baynes, *supra* note 65, at 312 ("[C]asting decisions appear to eliminate actors of color . . . How can a television show occurring in New York City, like *Friends* or *Seinfeld*, have an all-white cast? Since New York City has a majority minority population, the casting decisions in *Seinfeld* and *Friends* are not reflective of New York's reality.")

⁸⁸ See *id.*

⁸⁹ See Letter from David S. Kim, to Gail Berman, President of FOX Broadcasting Company. (May 14, 2002), ¶¶ 2–4, available at http://www.kacdc.org/news/pr_05142002.html; see also Baynes, *supra* note 65, at 312 (claiming that "the absence of racial and ethnic groups from the media becomes a problem to the extent it suggests the excluded groups do not matter or do not exist . . . larger society relies upon [stereotypical] images [of people of color] to define the group"). Baynes's research supports television's unique influence on children:

[T]elevision is so pervasive [that] it is very difficult for viewers to prevent negative stereotypes from entering their homes . . . [Y]oung children identify with television characters of their race. In addition, white children often have very little exposure to people of color except through what they see on television. What is portrayed on television is critically important to . . . the concept of group identity.

Baynes, *supra* note 65, at 367.

⁹⁰ See MANSFIELD-RICHARDSON, *supra* note 18, at 81; see also Baynes, *supra* note 65, at 367 (calling the media's stereotyping of people of color a problem "akin to that in *Brown v. Board of Education* where . . . segregation led young black children to have low self-esteem").

⁹¹ See Amber McGovern, *Neutralizing Media Bias Through the FCC*, 12 DEPAUL-LCA J. ART & ENT. L. & POL'Y 217, 241–42 (2002).

⁹² *Id.* at 241.

⁹³ See *id.*

their ability to realize their personal and academic potential in American society."⁹⁴ Great incentive exists, therefore, to strengthen the presence and diversity of Asian-American media portrayals, which can diminish appreciably the negative thought constructs that perpetuate urban inequity.⁹⁵ As one media critic has noted:

Increasing the number of Asian-Americans in positions of role-models frequently found in the entertainment industry has the potential to give Asian-American children a chance to identify with someone like themselves that's famous. One important part of having a good self-image is having a goal in life, and for many children, their goal is to be like their role model on television.⁹⁶

Because viewers rarely consider that networks' desire for profit skews their programming decisions, television imagery imperceptibly interferes with the ability to understand others in our society.⁹⁷ As a society that prioritizes racial harmony and equity, we must exploit television's great potential to maximize both. Although the neglect of Asian Americans is especially noticeable, media representations of all underserved minorities must improve.⁹⁸

A. Engagement: A Promising but Incomplete Solution

In practice, the solution proffered by the authors of *Race and Place*, the active "engagement" of committed and informed leaders, such as the Asian American Journalists Association (AAJA), the National Association for the Advancement of Colored People (NAACP), and Media Action Network for Asian Americans (MANAA), has little impact. The AAJA and MANAA frequently voice concerns of inequitable or stereotyped coverage to network executives.⁹⁹ Unfortunately, large networks

⁹⁴ *Id.* at 242–43.

⁹⁵ *See, e.g.,* Worthy, *supra* note 18, at 560–61. Children are easily influenced by who they see on television or in the movies or who they hear on the radio. Unfortunately, aside from Kung-Fu movies, Asians and Asian-Americans have traditionally been all but absent from American pop culture. *Asian-American Identity Problems*, *supra* note 63, ¶ 49.

⁹⁶ *Asian-American Identity Problems*, *supra* note 63, ¶ 49.

⁹⁷ *See* McGovern, *supra* note 91, at 217–18.

⁹⁸ *See, e.g.,* Lynn Elber, *Networks' Efforts at Ethnic Diversity Noted*, ¶¶ 15, 16, 21 (Oct. 13, 2003) (noting underrepresentation of Hispanics, Asian Americans, and American Indians in broadcast network television), at <http://www.sacticket.com/24hour/entertainment/tv/news/story/1027441p-7208598c.html>.

⁹⁹ *See, e.g.,* *ACTIVISM*, *supra* note 3, ¶ 19; *Fur Flies*, *supra* note 4; Letter to Jay Leno, *supra* note 5.

routinely disregard or dismiss these considerations and continue to feature stereotyped, familiar representations, or exclude Asian-American portrayals altogether.¹⁰⁰ Similarly, networks meet NAACP protests with disingenuous comments asserting their commitment to diversity.¹⁰¹ The futility of “engagement” alone thus renders legislative action imperative to quash television media’s stereotyping of minorities.

B. *Financial Incentives: A Pragmatic Approach to Content Modification*

Although the impetus for media reform is often rooted in idealistic and hazy notions of utopian equality, the most likely solution may be one rooted in practicality. Letters and protests from the Asian-American community have effected little tangible change.¹⁰² Predictably, as networks are profit-driven corporations, finances exert the greatest influence over casting and programming decisions.¹⁰³ Short of bribing networks to present more diverse programming, the most viable alternative is regulation on the federal or state level.¹⁰⁴ Two commonly employed methods of increasing media diversity are diversification of media ownership and direct regulation of broadcast content.¹⁰⁵ Due to recent regulatory modifications, however, the former suggestion seems unlikely at best, and perhaps even abortive.¹⁰⁶

¹⁰⁰ See WONG, *supra* note 56, at 245; Elber, *supra* note 98, ¶ 3. According to a 2003 survey conducted by the Multi-Ethnic Media Coalition, network employment of Asian Americans as actors, writers, and producers “still lag[s] at all the networks [ABC, NBC, CBS, and FOX],” despite improvements in Hispanic employment. See WONG, *supra* note 56, at 245; Elber, *supra* note 98, ¶ 3.

¹⁰¹ WONG, *supra* note 56, at 243–44.

¹⁰² See, e.g., Kuo, *supra* note 86, ¶ 2 (declaring that FOX television network’s decision to broadcast and promote “Banzai” despite protests as evincing “blatant disregard for the consequences and power of racial media stereotypes”).

¹⁰³ WONG, *supra* note 56, at 241–42, 245.

¹⁰⁴ See McGovern, *supra* note 91, at 231.

¹⁰⁵ See *id.* at 223 (“To comply with [the ‘public interest, convenience, and necessity’] standard, the FCC imposes content-neutral regulations upon broadcasters.”); James E. Michel, *Embarking on Its Most Extensive Review of Media Ownership: The FCC’s Endeavor to Create a Happy Medium*, 15 LOY. CONSUMER L. REV. 249, 251 (2003) (the FCC “has traditionally relied on its ownership policy as a means of promoting diversity, competition, and localism”).

¹⁰⁶ See Michel, *supra* note 105, at 251. Before 1995, FCC regulations limited one entity to owning seven FM, AM, and TV stations. See Rowland, *supra* note 37, at 79. In 2002, pursuant to the Telecommunications Act of 1996, 47 U.S.C. §§ 151–176, the FCC relaxed restrictions on media ownership policies, which will likely result in mergers that “threaten to weaken democratic principles and public interest obligations.” See *id.* at 250. Such changes historically foster consolidation and homogenization, contravening the FCC’s goals of furthering First Amendment principles advocated by the Supreme Court, namely achieving the “widest dissemination of information from diverse and antagonistic sources . . . essential to the welfare of the public.” Michel, *supra* note 105, at 251 (quoting Associated

Ostensibly, imposing direct constraints on broadcast content appears more controversial and equally unrealistic.¹⁰⁷ Attempts by both Congress and the Federal Communications Commission (FCC) to regulate content often conflict appreciably with First Amendment values and confront vigorous corporate media resistance.¹⁰⁸ Moreover, the dissolution of the fairness doctrine in 1987 has degraded further any public duty formerly imposed upon the media to afford reasonable discussion of contrasting views on controversial issues.¹⁰⁹

Beyond allowing restrictions on indecent and violent programming and obscene speech,¹¹⁰ courts rarely reject First Amendment attacks on regulatory constraints on media content.¹¹¹ The Supreme Court, however, has held select categories of speech to be unprotected

Press v. United States, 326 U.S. 1, 20 (1945)). The new rules allow broadcast networks to own television stations reaching up to 45% of households, up from 35%, although in January of 2004, Congress passed the Senate's Appropriations bill, which included a "bargained-down" cap of 39%. See Consolidated Appropriations Act, H.R. 2673, 108th Cong. (2004). Regardless, recent FCC proceedings question "whether current media ownership rules are still viable tools in the industry." Michel, *supra* note 105, at 252; see also Worthy, *supra* note 18, at 528 (citing the Court's inability to find a "direct correlation between minority ownership and enhanced diversity of viewpoint" in *Metro Broad., Inc. v. FCC*, 497 U.S. 547, 579 (1990)).

¹⁰⁷ See, e.g., *United States v. Playboy Entm't Group, Inc.*, 529 U.S. 803, 804 (2000). The Court held unconstitutional the FCC's "signal bleed" provision under the 1996 Telecommunications Act, which mandated that a cable television programmer block or limit sexually explicit programming during the day. See *id.* The majority found the content-based regulation was not the least restrictive means of preventing children from seeing such programming. See *id.* A dissenting opinion in the five-to-four decision noted that "laws that burden speech, say, by making it less profitable, may create serious First Amendment issues, but they are not the equivalent of an *absolute ban* on speech itself." *Id.* at 838 (Breyer, J., dissenting) (emphasis added); see also *Sable Communications of Cal., Inc. v. FCC*, 492 U.S. 115, 130-31 (1989) (invalidating a complete statutory ban on "dial-a-porn" messages).

¹⁰⁸ See U.S. CONST. amend. I ("Congress shall make no laws . . . abridging the freedom of speech, or of the press."); McGovern, *supra* note 91, at 227-28. James Michel describes the attempts of two networks, FOX TV Stations, Inc. and Sinclair Broadcasting Group, Inc., to overturn FCC limits imposed in 1986. See Michel, *supra* note 105, at 259-63.

¹⁰⁹ See WAYNE OVERBECK, MAJOR PRINCIPLES OF MEDIA LAW 421 (2000).

¹¹⁰ See Worthy, *supra* note 18, at 540.

¹¹¹ See, e.g., *Playboy Entm't Group, Inc.*, 529 U.S. at 804 (striking down a regulation that limited sexually explicit programming in the interests of children); *Erznoznik v. Jacksonville*, 422 U.S. 205, 213 (1975) (striking down an ordinance banning films containing nudity shown at a theater with a screen visible from a public street; more than a mere vague showing of a general threat to the welfare of children was required); *Miller v. California*, 413 U.S. 15, 24 (1973) (confining state regulation of obscene materials to those portraying sexual conduct in a "patently offensive way, and, which, taken as a whole, do not have serious literary, artistic, political, or scientific value"); *Am. Booksellers Ass'n v. Hudnut*, 771 F.2d 323, 331-32 (7th Cir. 1985) (invalidating a city ordinance that prohibited pornography as discriminating on the basis of gender).

by the First Amendment, among them, hate speech.¹¹² Televised stereotyping can directly incite hate speech and crimes by creating misperceptions, exemplified by the recent violence on Arab Americans.¹¹³ The potential to prevent hate speech should outweigh constitutional objections to media regulation. This association may be attenuated, but television's capacity to educate and mold children's values and attitudes renders it significant.¹¹⁴ The courts and Congress have found both diversity and the interests of children to be compelling state interests subject to the "exercise of legislative powers."¹¹⁵ Diversity in television media, not unlike diversity in education, is a social priority that can and should be encouraged by legislation on both state and federal levels.¹¹⁶

One recent legislative proposal, suggested by Congressman Eliot Engel of New York, reflects increasing unease with the current state of media diversity.¹¹⁷ In his proposal, Representative Engle recommended the formation of a committee to supervise media content ultimately to

¹¹² See Worthy, *supra* note 18, at 540, 549. Other media regulations upheld include restrictions on obscene speech and indecent and violent programming. See *id.* at 549.

¹¹³ See NAPALC, *supra* note 78, ¶¶ 2, 7.

¹¹⁴ See Worthy, *supra* note 18, at 561. Worthy analogizes "requiring accurate and positive programming relating to individuals of different ethnic and racial backgrounds [to] the congressional mandate to provide children with informational and educational programming." *Id.* at 560–61.

¹¹⁵ See *Grutter v. Bollinger*, 123 S. Ct. 2325, 2345–46 (2003); Worthy, *supra* note 18, at 555. By enacting the Children's Television Act of 1990, 47 U.S.C. §§ 303(a)–303(b), 393(a), 394 (Supp. III 1991), Congress acknowledged that broadcasters have a unique obligation to serve children's needs. See Worthy, *supra* note 18, at 555, 563. The Act imposed programming responsibilities on the broadcasting industry, asserting that "the use of television in furtherance of the development of America's children was an integral part of a licensee's obligation to operate in the public interest." *Id.* at 564 (quotations omitted). Children's uniquely trusting natures reduced their ability to "distinguish conceptually between programming and commercial messages," meriting increased media accountability. *Id.* at 556 (quotations omitted).

¹¹⁶ See *Grutter*, 123 S. Ct. at 2345–46. The Court held that a law school admissions policy, utilizing race as an admissions criteria, did not violate the Fourteenth Amendment's Equal Protection Clause. See *id.* at 2347. The Court found that the "narrowly tailored use of race in admissions decisions" furthered a "compelling interest in obtaining the educational benefits that flow from a diverse student body." *Id.* at 2347.

¹¹⁷ See McGovern, *supra* note 91, at 218. In August of 2001, Congressman Eliot Engel introduced H.R. 2700, entitled "Ethnic, Minority, and Gender Bias Clearinghouse Act of 2001," suggesting the creation of an FCC office to "field complaints about the media industry's depiction and employment of 'victims of media bias.'" See *id.* Such "victims" include "persons or groups who have been or may be discriminated against in their depiction or employment in broadcasting based on . . . race, ethnicity, religion, sex, sexual orientation, disability, age or other characteristic." *Id.* The office arguably would not encumber First Amendment rights, as it would "not attempt to place any mandates upon broadcasters." See *id.* at 220 (quoting Rep. Engel).

minimize media distortions and minority stereotyping.¹¹⁸ Although laudable in sentiment, in practice, the proposal is more symbolic than it is pragmatic.¹¹⁹ One practical aspect of the proposal, however, is its tactic of encouragement of programming diversification, which avoids many of the First Amendment conflicts inherent in media content regulation.¹²⁰ Rather than policing media diversity, compelling it via direct monetary incentives will more likely be tolerated by mainstream media, as financial incentives impose no additional duties upon networks.¹²¹ Instead, offering material gain in exchange for equitable representation targets networks' most fundamental purpose—turning a profit.¹²² While requiring racial fairness and evenhanded representation is infeasible and constitutionally unsound, promoting the same is not only permissible, but also a fundamental element of the media and FCC's public interest standard.¹²³

C. A Case Study: "Hollywood North"

In the mid-1980s, Canada established a system of labor-based tax incentives to streamline domestic productions and encourage foreign media production within its borders, endeavors designed to increase and improve domestic jobs and profits.¹²⁴ Today, two Canadian tax credits apply to foreign film production: the British Columbia (BC)

¹¹⁸ See *id.*

¹¹⁹ See *id.* at 249.

¹²⁰ See *id.* at 220.

¹²¹ See *id.*; Rowland, *supra* note 37, at 73 (describing the fairness doctrine's requirement that broadcasters "devote reasonable time to the coverage of public issues"). Moreover, imposing burdens upon the media, while suspect, is not unconstitutional per se. See *United States v. Playboy Entm't, Inc.*, 529 U.S. 803, 838 (2000) (Breyer, J., dissenting).

¹²² See WONG, *supra* note 56, at 242, 245.

¹²³ See Rowland, *supra* note 37, at 82–83. The FCC's 1978 Policy Statement offered tax certificates to broadcasters selling properties to organizations with a minority ownership share of over 50%. See *id.* at 83. Found unconstitutional in *Adarand Constructors, Inc. v. Peña*, the policy pursued media reform from the media ownership standpoint, an approach rejected here. See 515 U.S. 200, 231 (1995); McGovern, *supra* note 91, at 224 (citing *Associated Press v. United States*, 326 U.S. 1, 20 (1945), upholding antitrust laws' application to commercial practices in the media over a First Amendment objection). Judge Learned Hand articulated the public's need for diversity in the media: "[The First] Amendment rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the public welfare . . . Freedom of the press from governmental interference under the First Amendment does not sanction repression of that freedom by private means." *Associated Press*, 326 U.S. at 20.

¹²⁴ See *Questions and Answers About Film Tax Credit Programs, Canada Customs and Revenue Agency*, Q. 3 [hereinafter *Questions and Answers*], at <http://www.ccradrc.gc.ca/taxcredit/ftc/questions-e.html> (updated May 16, 2002).

Film Production Services Tax Credit (PSTC) and the Canadian Production Services Tax Credit (Canadian PSTC).¹²⁵ Both provide refundable, capless tax credits to Canadian or international film and television production companies incurring costs in BC or Canada.¹²⁶

Increasingly, Hollywood production companies have filmed in Canada to lower production costs.¹²⁷ In conjunction with sponsored training programs for workers and support in constructing state-of-the-art production facilities, the generous tax incentives provide much of the impetus to relocate.¹²⁸ As of 1999, the popularity of these financial incentives had cost the U.S. economy approximately \$10 billion annually, five times its loss in 1990.¹²⁹ The success of the Canadian tax incentives illustrates the draw of financial incentives for the media industry, whose producers have modified without hesitation their hiring practices to comply with Canadian standards.¹³⁰ Formerly favored film locations such as California, Texas, and Illinois have suffered tremendous losses in revenue, while the Canadian economy has benefited considerably.¹³¹ While no policy can guarantee results, the demonstrated abil-

¹²⁵ See Andrew Pollack, *Vancouver Profits as Colder, Cheaper Hollywood*, ¶ 34 (May 10, 1999), at <http://www.ftacusa.org/html/2-nyt051099.html>; *Production Services Tax Credit, British Columbia Film*, ¶ 1 [hereinafter *Production Services Tax Credit*], at <http://bcfilm.bc.ca/pstc.html> (last visited Feb. 27, 2004); *Questions and Answers*, *supra* note 124, Q. 1.

¹²⁶ See *Production Services Tax Credit*, *supra* note 125, ¶ 1; *Questions and Answers*, *supra* note 124, Q. 3. The capless credits are calculated by multiplying a fixed percentage by the amount of qualified Canadian labor expenditures. See *Income Tax Act*, R.S.B.C. ch. 215, § 82.1 (1996) (Can.); *Income Tax Act*, R.S.C. ch. 1, § 125.5 (5th Supp. 1985) (Can.); Heidi Sarah Wicker, *Making a Run for the Border: Should the United States Stem Runaway Film and Television Production Through Tax and Other Financial Incentives?*, 35 *GEO. WASH. INT'L L. REV.* 461, 473 (2003). Qualified expenditures are "salaries or wages paid with respect to services rendered on the production in Canada and paid to . . . a resident of Canada, a taxable Canadian corporation, or partnership." See Wicker, *supra*, at 473.

¹²⁷ See Pollack, *supra* note 125, ¶ 4.

¹²⁸ See Wicker, *supra* note 126, at 461.

¹²⁹ See *id.*; *Entertainment Hollywood's Moving Movies*, BBC NEWS, Aug. 31, 1999, ¶ 11, at <http://news.bbc.co.uk/1/hi/entertainment/434462.stm>. Seattle-based producer Rick Stevenson explains that he chose to film in Canada over Seattle because Vancouver is "cheaper and easier. Specifically, on this film . . . we were able to add another 15% on the budget by going through a Vancouver company that's tapping into all the government tax sources." Kathleen McInnis, *Is Seattle Asleep at the Reel?*, *MOVIE MAKER MAG.*, May 1994, ¶ 14, at <http://www.moviemaker.com/issues/06/seattle.html>.

¹³⁰ See Wicker, *supra* note 126, at 473, 476-77 (describing employment qualifications for Canada's Film or Video Production Services Tax Credit and British Columbia's four main incentive and financing programs).

¹³¹ See *Entertainment Hollywood's Moving Movies*, *supra* note 129, ¶¶ 8-10. The tremendously negative impact of these incentives on local economies has concerned the legislature as well. See *id.* ¶¶ 17-18. In 1998, Illinois Congressman Jerry Weller lobbied for local incentives to encourage filmmakers to stay in the United States. See *id.*

ity of tax incentives to induce desired behavior makes such incentives a plausible remedy that falls within First Amendment boundaries.¹³²

D. *Diversifying Content: Administering and Structuring a Tax Incentive Program*

Tax incentives utilize the tax system to encourage favored forms of business enterprise.¹³³ The success of Canadian and British Columbian tax credit systems illustrates tax incentives' viability to stimulate desired change.¹³⁴ Just as Hollywood movie moguls have relocated to Vancouver, exploiting Canada's proffered tax credits, reducing production costs, and maximizing profits, tax incentives can induce television network executives to increase and improve diverse minority coverage to enhance profits.¹³⁵ While some argue that tax incentives designed to improve social welfare are ineffective and that their claimed advantages are illusory, these criticisms are inapposite here.¹³⁶

To construct a sound, consistently enforced policy, the legislature must consider three principal issues: the methods for calculating the amount of the credits, the standards for qualification for credits by number of minorities portrayed, and the standards for qualification by quality of minority representation. The most straightforward of these—

¹³² See Rowland, *supra* note 37, at 79.

¹³³ See Dan T. Coenen, *Commerce Clause Restraints on State Business Development Incentives*, 81 CORNELL L. REV. 789, 802 (1996). Other critics favor direct government expenditures over incentives to encourage private corporate actions. See Stanley S. Surrey, *Tax Incentives as a Device for Implementing Government Policy: A Comparison with Direct Government Expenditures*, 83 HARV. L. REV. 705, 727-32 (1970). Direct expenditures, however, require predetermined caps. See *id.* at 730. Aside from the complexities of establishing a cap and securing direct governmental assistance, an expenditure cap is tantamount to a constraint on equitable minority coverage, directly contravening its purpose—to boost minority representation without restriction. See Wicker, *supra* note 126, at 491.

¹³⁴ See Wicker, *supra* note 126, at 468.

¹³⁵ See Surrey, *supra* note 133, at 733.

¹³⁶ See *id.* at 726-32. For example, Professor Stanley Surrey claims that tax incentives are wasteful, inefficient, and inequitable, and that their alleged advantages of greater reliance on private decision-making and simplicity are illusory. See *id.* at 726, 727. His criticisms, however, vary in merit according to the type of social welfare involved, and in the context of media reform, they are largely irrelevant. See *id.* Although many tax incentives designed for social welfare purposes prove inequitable when converted into tax shelters by wealthy private investors, this proposal is protected from that consequence. See Janet Stearns, *The Low-Income Housing Tax Credit: A Poor Solution to the Housing Crisis*, 6 YALE L. & POL'Y REV. 203, 207 (1988). This incentive forestalls such abuse by requiring no additional affirmative acts by the ultimate beneficiaries—the viewing public. See *id.* Unlike tax credits for low-income housing, which prove inefficient when low-income tenants cannot afford subsidized housing, networks must increase minority coverage before they receive credits; public gain is thus a condition, not the expected result, of the tax benefits. See *id.* at 213.

though not necessarily the least contentious—is the calculation itself. One possibility is to parallel the Canadian PSTC in its focus on labor costs.¹³⁷ A small fixed percentage of labor costs directly related to the production or casting of diverse programming could be credited to the network.¹³⁸ To maximize multi-dimensional coverage and employment and realize fully the benefits of legislation, the tax incentives should be capless.¹³⁹

To qualify for any credits, networks would need to meet a predetermined minimum of substantial minority representation, or “critical mass,”¹⁴⁰ defined by the legislature or a similarly approved administrative body.¹⁴¹ Beyond this floor, networks could earn additional credits consistent with the number and quality of non-stereotypical representations of ethnic minorities they feature.

The language of any standard—here, “critical mass”—however, could generate considerable argument as to how best to define and quantify it.¹⁴² One objective and straightforward option derives from an aspect of television media that minority media watch groups often criticize: featuring casts and personnel that reflect the ethnic realities of the network’s geographic reach.¹⁴³ Television production and programs could attain a “critical mass” by employing and featuring ethnic minorities proportionate to their local audience’s demographic makeup.¹⁴⁴ Thus, a reality-based television show based in Hartford, Connecticut, would encompass a different critical mass of a given minority population than one set in Fresno, California.¹⁴⁵ Such proportionality incor-

¹³⁷ See *supra* note 126.

¹³⁸ See *supra* note 126.

¹³⁹ See *supra* note 133.

¹⁴⁰ See *Grutter v. Bollinger*, 123 S. Ct. 2325, 2333 (2003) (arguing that the University of Michigan Law School’s affirmative action policy aimed to achieve a “critical mass” of minority students, meaning “meaningful numbers” or “meaningful representation”).

¹⁴¹ An additional criticism of the use of tax incentives is its shifting of expertise from a legislative body possessing specialized knowledge to tax committees possessing little knowledge of the regulated practice, causing confusion and inefficiency. See *Surrey*, *supra* note 133, at 728. In this situation, however, no such legislative body exists with a specialized interest in the media; the FCC is the applicable administrative body that, alone, seems to have exhausted its remedies. See *id.*

¹⁴² See, e.g., *Grutter*, 123 S. Ct. at 2348 (Scalia, J., dissenting) (characterizing the term critical mass as “mystical”).

¹⁴³ See Ed Diokno, *Perspective*, CONTRACOSTA TIMES, Nov. 1, 2003, ¶¶ 4, 11, at <http://www.contracostatimes.com/mld/cctimes/news/columnists/perspective/7157427.htm>.

¹⁴⁴ See *id.*; see also Elber, *supra* note 98, ¶¶ 15–18 (criticizing casts in popular programming that fail to reflect actual demographics).

¹⁴⁵ See *Fresno County QuickFacts from the U.S. Census Bureau* (2000) (citing statistics from the 2000 U.S. Census of white, black, Asian, and Hispanic populations in Fresno County as

porates Frazier's and his coauthors' recommendations for regional apportionment of services into a legislative policy targeted towards media reform.¹⁴⁶ Basing qualifications for tax benefits in the ethnic demographics of a given region would provide the standard with a measure of objectivity.¹⁴⁷

Given their inherent ambiguity, however, assigning a numeric value to the terms "critical mass" or "substantial minority representation" assuredly will be contentious. This proposal offers no definite answer, but advises a flexible policy allowing for future accommodations as needs change. Although the legislature would be the ultimate arbiter of these policies, federal and state legislatures could minimize dissension and maximize utility by employing the specialized knowledge of both the FCC and those media activist organizations that criticize the current television media condition.¹⁴⁸

An additional challenge to a tax incentive policy is determining the substance of multi-dimensional representations. Again, the legislature should draw on the specialized knowledge of minority media organizations to define these measures; the organizations could compile their perceptions of the misleading stereotypes networks disseminate, accompanied by suggested tactics to counter them.¹⁴⁹ Additionally, the policy should provide for the continuing feedback of minority media organizations on new portrayals and characters, akin to an ongoing consultancy, rather than a one-time, *ex ante* report.¹⁵⁰

54.3%, 5.3%, 8.1%, and 44.0%, respectively), available at <http://quickfacts.census.gov/qfd/states/06/06019.html> (last modified July 15, 2003); *Hartford County QuickFacts from the U.S. Census Bureau* (2000) (citing statistics from the 2000 U.S. Census of white, black, Asian, and Hispanic populations in Hartford County as 76.9%, 11.7%, 2.4%, and 11.5%, respectively), available at <http://quickfacts.census.gov/qfd/states/09/09003.html> (last modified July 15, 2003); Moreover, if Congress decided against federal legislation, this proposal's focus on regional demographics is easily adaptable to particular state and local needs.

¹⁴⁶ See FRAZIER ET AL., *supra* note 5, at 261.

¹⁴⁷ See *id.*

¹⁴⁸ See WONG, *supra* note 56, at 243-44; *ACTIVISM*, *supra* note 3, ¶ 19; *Fur Flies*, *supra* note 4. Unlike HUD's role in constructing social welfare policies like the low-income housing credit, no legislative committee exists to manage the television media. See Stearns, *supra* note 136, at 206. Absent such a legislative body, combining the expertise of the FCC and independent media organizations with legislative expertise in tax policy achieves the most comprehensive and administratively efficient policy practicable. See Daniel Lubetzky, *Incentives for Peace and Profits: Federal Legislation to Encourage U.S. Enterprises to Invest in Arab-Israeli Joint Ventures*, 15 MICH. J. INT'L L. 405, 441 (1994).

¹⁴⁹ See WILSON & GUTIÉRREZ, *supra* note 18, at 202-210 (describing the evolution of minority media advocacy groups).

¹⁵⁰ One example of this is a set of FCC rules, adopted in 1996, requiring all commercial television stations to offer at least three hours a week of regular programming to meet children's educational and informational needs. See 47 C.F.R. § 73.671 (2002); see also

Further benefits of a tax incentive program include immediate enactment and administrative ease that typical regulatory programs cannot boast.¹⁵¹ To enact this policy, the legislature could establish a structure in which networks file evidence of diverse programming to qualify for and cash in on the tax benefits, parallel to the Canadian tax credits.¹⁵² As a matter of administrative convenience, no regulatory body (other than the pre-existing Internal Revenue Service) need be formed to provide for this policy measure. Congress has traditionally created incentives in the form of tax expenditures to enact policy measures it considers to be in the national interest.¹⁵³ For example, tax benefits and incentives encourage investment in low-income housing, higher education, manpower training, and business investment in central cities or rural areas.¹⁵⁴ This proposal simply reflects another, equally worthy objective attainable via tax legislation.

Although structuring the incentive program recommended here will generate difficulties of definition and minimum requirements, these are minor impediments in comparison with the impositions on free speech that hamper other regulatory solutions.¹⁵⁵ Moreover, in an incentive-based system that encourages rather than constrains content,

Children's Television Act of 1990, 47 U.S.C. §§ 303(a), 303(b), 394 (2004); OVERBECK, *supra* note 109, at 434. The rules require a station to have a staff member acting as a "children's educational programming liaison . . . [and] file quarterly reports with the FCC to explain how the children's requirements are being met." See 47 U.S.C. §§ 303(a), 303(b), 394. Similarly, the 1996 TV content rating system, mandated by the Telecommunications Act of 1996 and developed by a committee of broadcast and cable television industry representatives, was modified in 1997 to accommodate demands for program ratings specifically indicating potentially offensive conduct or language. See OVERBECK, *supra* note 109, at 437; Telecommunications Act of 1996, Pub. L. No. 104-104 § 551, 110 Stat. 56, 139-141 (1996).

¹⁵¹ See Lubetzky, *supra* note 148, at 419-20. "Incentives skip the corruption and bureaucracy with which centralized public funding would probably be riddled. Incentives foster the participation of private investors, thus avoiding middlemen. Investors, guided by market forces, add their own expertise, tools, and capital to the economy, magnifying the effect of foreign aid." *Id.* at 448. Professor and critic Stanley Surrey claims tax credits are just as inefficient as direct expenditures, and equally costly to the government, but acknowledges that alternatives to tax credits are often unnecessarily complex. See Surrey, *supra* note 133, at 716-17. Here, government expenditures are unsuitable, for they would require a minimum governmental expense while simultaneously capping the total diverse portrayals to those affordable. See *id.* at 732-33.

¹⁵² See Income Tax Act, R.S.B.C. ch. 215, § 82.1 (1996) (Can.); Income Tax Act, R.S.C. ch. 1, § 125.5 (5th Supp. 1985) (Can.).

¹⁵³ See Surrey, *supra* note 133, at 711.

¹⁵⁴ See Stearns, *supra* note 136, at 204; Surrey, *supra* note 133, at 713.

¹⁵⁵ See *Erznoznik v. Jacksonville*, 422 U.S. 205, 213 (1975); *Miller v. California*, 413 U.S. 15, 24 (1973); *Am. Booksellers Ass'n v. Hudnut*, 771 F.2d 323, 331-32 (7th Cir. 1985).

these issues should be less contentious.¹⁵⁶ By deriving standards from objective statistics, this proposal offers a standard to which networks can conform as desired. Instead of being penalized for an absence of accommodating representations, network can avail themselves of tax savings by increasing non-stereotyped minority presences in the media.

CONCLUSION

In addition to proposing tax incentives to accomplish media reform and mediate social inequity, Asian Americans, other ethnic minorities, and the general public must exert their influence as market consumers. Ultimately, public desires and necessities drive profits and ratings, and consequentially, network programming.¹⁵⁷ If consumers demand multi-dimensional television representations of Asian Americans and other underrepresented minorities, the prospect of higher ratings will prompt corporate executives to create more diverse representations to further increase profits.¹⁵⁸

As John Frazier and his coauthors note in *Race and Place*, the television media's impact on American society has been a great source of social and urban inequity.¹⁵⁹ Their solution for change, however, parallels legislative proposals that forgo specific measures in favor of generalized recommendations.¹⁶⁰ In contrast, this proposal explicitly employs the tax structure to manipulate America's free-market system. Based on the success of similar labor-based policies in attracting Hollywood media to foreign locales, these monetary incentives promise swift and direct revisions of programming content.

The significant damage to minority self-perceptions of television's dissemination of minority stereotypes mandates action. By promising to increase the profit gains that motivate broadcast networks' conduct, the legislature, FCC, and ethnic minority organizations can curtail these disseminations. Thus, this system can appreciably contribute to realizing the racial equity and harmony that *Race and Place* envisions.¹⁶¹

¹⁵⁶ For example, the V-chip rules made optional to networks the inclusion of letter ratings. See OVERBECK, *supra* note 109, at 437; Telecommunications Act of 1996, § 551. Despite criticisms of the ratings system on First Amendment grounds, no formal challenges were made on these bases. See OVERBECK, *supra* note 109, at 437.

¹⁵⁷ See WONG, *supra* note 56, at 241-42, 245.

¹⁵⁸ See OPPENHEIM & SWIFT, *supra* note 26, at 49 ("[T]he audience itself exerts its own selectivity. Television producers have to engage and keep a large audience, otherwise they cannot stay in business.").

¹⁵⁹ See FRAZIER ET AL., *supra* note 5, at 88.

¹⁶⁰ See *id.* at 261, 273; McGovern, *supra* note 91, at 218.

¹⁶¹ See FRAZIER ET AL., *supra* note 5, at 274.