

The Digital Dilemma: Ten Challenges Facing Minority-Owned New Media Ventures

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I. INTRODUCTION

Every morning in Africa, a gazelle awakens knowing that it must outrun the fastest lion if it wants to stay alive. Every morning, a lion wakes up knowing it must run faster than the slowest gazelle, or it will starve to death. It makes no difference whether you are a lion or a gazelle. When the sun comes up, you'd better be running.

—*An Old African Proverb*

Since the beginning of the print publishing, radio, broadcast television, cable, and telecommunications industries, minorities have had to compete against well-funded mainstream media companies to own a piece of the media and communications pie. Minority-owned companies competing in these industries have had no shortage of vision, creativity, or motivation. They have also had no shortage of challenges, setbacks, and failures. Those who have succeeded have managed their growth, adapted to change, overcome market failures, and fought hard against the bias inherent in the industry. However, the financial, regulatory, and competitive challenges that minority-owned media companies have faced over the last fifteen years have become overwhelming.¹

Many people of color in the print, radio, broadcast television, cable, or communications industry believe that the Internet may be the last frontier for minority-owned media participation. The advent of the Information Superhighway, the digital convergence of communications, entertainment, and media on the Internet, and the emergence of “new media” on the World Wide

1. In 1978, the Federal Communications Commission launched a program to promote ownership of broadcast facilities by offering tax certificates to companies that voluntarily sold such facilities, in stocks or assets, to minority-owned or controlled entities. The Minority Tax Certificate Program was repeatedly challenged by the courts and consistently disagreed over by both academia and industry. It was repealed in 1995 and was up for review in 1998. Civil rights leaders, regulators, politicians, industry professionals, viewers, and listeners all agree that there is a state of emergency in America today over the lack of minority ownership in media. Moreover, the Telecommunications Act of 1996, which aimed to promote competition and deregulation, has added to the fear. The amount of deregulation and consolidation in broadcast television and radio today has become a critical problem in the area of diversity in media ownership.

Web (Web) have led many to take a serious look at the Web as a viable media opportunity.² Given the enormous barriers to entry in traditional media, it is only natural for minority visionaries to see the emerging new media industry as an avenue of ownership for the future. Whether the area is entertainment or education, communications or commerce, analysts, educators, industry professionals, laypersons, regulators, politicians, and technologists all agree that the Internet has the potential to change the way individuals are entertained, communicate, conduct business, learn, and think.

However, there are many challenges facing minorities who want to create a thriving media presence on the Web. Collectively, these challenges can be thought of as the “Digital Dilemma,” which today affects the creation and participation of minority-owned new media ventures (MNVs) in this emerging industry.

The purpose of this Article is to identify and discuss ten challenges affecting minority participation and ownership of for-profit new media outlets on the Web.³ While many of these challenges affect for-profit new media companies regardless of ownership, mission, financing, target market, or race, some are very unique to minority-owned companies and their target audiences. The ultimate goal here is to present a wide range of relevant issues and problems affecting minority ownership of media outlets on the Web as a step toward stimulating thought and encouraging discussion of strategies to overcome these challenges.

Before discussing these challenges, it is important to understand how the Internet evolved into what it is today. The Pentagon’s Advanced Research Projects Agency (ARPA) began funding the work of scientists and engineers on ARPAnet, the forerunner of the Internet, in 1969.⁴ “Their mandate was to link distant computers into a national computer network system. One of their main achievements was developing packet-switching network technology so the ARPAnet could work like a phone network rather than like a mainframe system dependent on a single link.”⁵ An initial network was established between the University of California Los Angeles and SRI International in late 1969.⁶ Within two years, more than twenty sites were hooked

2. The term “new media” has been defined by some as a digital amalgamation of communications, education, entertainment, commerce, and information on an interactive network.

3. The challenges presented in this Article are not ranked in any particular order of significance.

4. RED HERRING, *THE RED HERRING GUIDE TO THE DIGITAL UNIVERSE: THE INSIDE LOOK AT TECHNOLOGY BUSINESS—FROM SILICON VALLEY TO HOLLYWOOD* 50 (1996).

5. *Id.*

6. *Id.*

up, and the first e-mail message was sent.⁷ “In 1988 the ARPAnet was officially decommissioned in favor of what is now known as the Internet.”⁸

“[T]he transformation of the Internet from an academic forum into a global service accessible and useful to mainstream businesses and consumers” has been one of its bigger commercial and technical challenges.⁹ To meet this challenge, the high-tech industry has been striving to meet two major needs: infrastructure and applications.¹⁰

“The infrastructure needed includes those technologies necessary to make the Internet functional for the mainstream—access provision, security systems, browsers and interfaces, search engines, server software, pipelines, and hardware.”¹¹ Applications are as diverse as electronic mail, news services, multi-player games, and other types of content.

Many consumers and businesses access the Internet through a relatively newer part of the Net called the World Wide Web. The Web is a collection of linked onscreen documents (or pages) that provide information that can include words, pictures, audio snippets, and video clips. Clicking on highlighted words—which represent links to other Web pages—allows users to jump easily to related information, even if the computer (server) storing the data is many miles away. The Web lets general users and businesses bypass the arcane procedures of the Internet’s older avenues, such as typing in long, abstruse commands . . .

The Web provides easy access to desired content. Many businesses set up Web pages that offer packaged and frequently updated sets of information that users can access on a regular basis.

“The first companies to profit from the Internet were the hardware providers—the makers of servers and connectivity devices.”¹³ Internet access or service providers (ISPs) were the next group of companies to capitalize on the Internet.¹⁴ These ISPs served individual users and organizations, “offering a combination of hardware, software, and communications facilities that provide[d] value-added services such as electronic mail and access to newsgroups, bulletin boards, and directory services.”¹⁵ In 1994, browser companies started to gain momentum. Browsers, the “graphical,

7. *Id.*

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.* at 50-51.

13. *Id.* at 51. (referencing such companies as Cisco Systems, Hewlett-Packard, DEC, IBM, and Sun Microsystems).

14. *Id.* (referencing such companies as NETCOM, PSI, and UUNET Technologies).

15. *Id.*

point-and-click navigational tools that [made] it easier for non-technical users to move around the Internet, in particular the World Wide Web," were made available to the public via free downloads.¹⁶ This was Netscape's strategy. In the business market, Netscape created an installed base for the browser by offering it for little or no cost. It then created feature-rich, higher-priced server software to sell to businesses.¹⁷

II. CHALLENGE 1: THE BANDWIDTH BOTTLENECK¹⁸

If there's any area I have a concern for the industry . . . it's in the area of high-speed connections to the Internet.¹⁹

—Bill Gates

For most ordinary consumers, the small office/home office (SOHO) market, and for many schools, libraries, hospitals, and rural areas, there is a dramatic difference between the speed at which their computers process and exchange information with local devices and the speed at which they can connect to the Internet backbone network with all of its high-speed digital capacity. Some observers have analogized the situation: It is like turning off the interstate highway system in a sports car onto a narrow, two-lane gravel road.

In terms of accessing the Internet, this lack of adequate bandwidth to the home or office contributes significantly to what is increasingly referred to as the "World Wide Wait." Bandwidth constraints cause pages, many color pictures, and other graphic material to download slowly. It also limits video clip presentations to the size of a postage stamp, so they are sent slowly. Thus, the motion in the video appears jerky rather than fluid and continuous. This has serious implications for the development of dynamic content by MNVs. In the early stages of Web development, bandwidth constraints were merely frustrating and inconvenient. But with the growth of the Web as a serious new medium for entertainment, education, and communications, and more recently, as a tool for electronic commerce, this bandwidth bottleneck may also have serious consequences for the continued growth of the economy. In terms of the connectivity for underserved Americans, the bandwidth bottleneck will have a serious impact in the battle (1) to empower all Americans to participate in the communications marketplace; and (2) to

16. *Id.*

17. *Id.* ("On the consumer side, Netscape [sold] its browser as an off-the-shelf product.")

18. "Bandwidth" is a term usually used to describe the rated throughput capacity of a given medium or protocol. In telecommunications, bandwidth is the width of a communications channel. In analog communications, bandwidth is typically measured in Hertz—cycles per second. In digital communications, bandwidth is typically measured in bits per second (bps).

19. Bill Gates, *Microsoft Corporation WinHEC '98, Mar. 26, 1998*, Orlando, Florida (visited Mar. 15, 1999) <<http://www.microsoft.com/billgates/speeches/winhec3-26-98.htm>>.

ensure that the nation does not devolve into a nation of “haves” and “have nots.” Many feel that the foremost bandwidth constraint issues in the nation’s telecommunications infrastructure are: (1) access to the information superhighway for the mass market, that is, the “last mile to the home” issue; and (2) connectivity to the high bandwidth Internet backbone by the nation’s small to medium-sized towns and communities. Thus, today’s bandwidth constraints create one of the most important issues to be addressed in the area of telecommunications policy and regulation.²⁰

The quest for more bandwidth capacity is leading many to believe that the Internet is steadily approaching a transitional moment, especially on the consumer side. Momentum is building to bring super-fast broadband²¹ Internet connections to urban and rural households, schools, libraries, hospitals, reservations, as well as to other places. It will come through cable modems, digital boxes attached to television sets, through satellite or terrestrial wireless devices, or through phone company technology such as digital subscriber lines (DSL).

A. *Bandwidth Policy and the Telecommunications Act of 1996*

Section 706 of the Telecommunications Act of 1996 addresses the need to increase the incentives for deployment of advanced telecommunication capabilities for all Americans.²² It defines advanced telecommunications capability “without regard to any transmission media or technology, as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.”²³ It also provides that the

[Federal Communications Commission (FCC)] and each State commission with regulatory jurisdiction over telecommunications services [should] encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Ameri-

20. The principles of policy making should encourage competition and increase the public welfare through decreased prices, increased outputs, and market participation. The goal is that efficiency will be maximized when consumers have choice. If there is a failure in creating competition in a market, the sources of failure should be targeted, and policies should be implemented to fix the failure. Policies should be designed and implemented that have the least cost in terms of efficiency.

21. “Broadband” is defined as a transmission system that multiplexes multiple independent signals onto one cable. Such a transmission system—typically coaxial cable—may carry numerous voice, video, and data channels simultaneously. Each channel will take up a different frequency on the cable. There will be “guardbands” (empty spaces) between the channels to make sure each channel does not interfere with its neighbor. A coaxial CATV cable is the “classic” broadband channel. It carries many television channels simultaneously. This transmission system typically has a bandwidth capacity greater than a voice grade line of three or four KHz.

22. Pub. L. No. 104-104, § 706, 110 Stat. 56, 153 (1996).

23. *Id.* § 706(c)(1).

cans (including, in particular, elementary and secondary schools and classrooms) by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment.²⁴

The FCC has undertaken extensive analysis of the national supply and growing demand for bandwidth.²⁵ According to FCC Chairman William E.

24. *Id.* § 706(a).

25. On January 28, 1999, the FCC issued a *Report* on the deployment of advanced telecommunications capability to all Americans. *See* Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, *Report*, CC Docket No. 98-146, 1999 FCC LEXIS 407 (Feb. 2, 1999). The Commission prepared this *Report* pursuant to section 706 of the Telecommunications Act of 1996, which directed the FCC to examine whether advanced telecommunications capability, or broadband, is being made available to all Americans on a reasonable and timely basis, and to report its findings by the third anniversary of the Telecommunications Act of 1996. *Id.*

The Commission concluded that the consumer broadband market is in the early stages of development, and that, while it is too early to reach definitive conclusions, aggregate data suggests that broadband is being deployed in a reasonable and timely fashion. *Id.* para. 16. The Commission based its conclusion, in part, on the actual deployment of advanced telecommunications capability in this nascent market. The Commission found that at least 370,000 residential consumers are purchasing broadband services, and that substantially more have access to broadband capability. *Id.* para. 92. The Commission compared broadband to other communications-related technologies, such as black-and-white and color television and cellular services. The Commission found that, in terms of actual users, deployment of broadband is exceeding the rollout of these other technologies at a similar point in their deployment. *Id.*

The Commission noted, however, that deployment of these other technologies accelerated after the first two years. The Commission stated that it anticipates that broadband deployment will similarly accelerate in the coming years. *Id.* para. 98.

The Commission further noted that there is significant initial consumer demand for broadband capability and stated that it expects demand will grow substantially in the near future. *Id.* para. 95. The Commission was encouraged by the large investments in broadband technology that numerous companies in virtually all segments of the telecommunications industry are making. *Id.* para. 6. The Commission stated that it expects that these investments will lead, in the near future, to greater competition in the broadband market and to greater deployment of this capability in a manner that is more efficient and more inclusive. *Id.*

The Commission also examined the deployment of broadband capability to specific segments of the population, including people in rural and low-income areas, and schools and classrooms, in order to ensure that broadband is being deployed to all Americans. The Commission found that some companies are starting to build and deploy broadband facilities to serve numerous rural and low-income areas. *Id.* para. 68. The Commission concluded that, although much of the evidence is anecdotal, specific examples indicate that the areas do not appear to present an intractable barrier to deployment. *Id.* para. 69. Regarding schools and classrooms, the Commission stated its expectation that, as the implementation of the universal service support mechanism for schools and classroom continues,

Kennard, the key to satisfying this expectation will be providing sufficient processing power and transmission capacity to meet the demand of consuming applications. This includes creating the right conditions for companies to compete in delivering high bandwidth services over the "last mile to the home" as well as increasing the capacity and speed of high capacity Internet backbone networks.

One of the driving forces behind section 706 of the Telecommunications Act of 1996 is to facilitate more bandwidth to keep up with the advances in information technology that are driving demand. Similarly, one of the main drivers of the digital revolution has been the extraordinary and steady advances in chip technology quantified in "Moore's Law." This is Gordon Moore's empirical observation that the number of transistors that manufacturers can place on a chip doubles about every eighteen months.²⁶ A corollary of Moore's Law—that the cost of transistors on a chip decreases by 50 percent every eighteen months—has been remarkably accurate for more than thirty years. Moreover, similar dramatic reductions in the cost of data storage are also occurring. With the advent of real competition throughout the telecommunications sector, it is possible that the cost of advanced, data-friendly telecommunications services will also begin to follow a similar trajectory.

Current computer processing units, like those installed in PCs purchased by consumers, have clock speeds on the order of 300 MHz.²⁷ Moreover, the internal buses²⁸ used to transfer information within the PC

deployment of advanced telecommunications capability will become even more widespread. *Id.* para. 84. The Commission stated, however, that if the potential for broadband deployment in these areas is not realized, it would take immediate steps to accelerate deployment of broadband capability. *Id.*

The Commission further stated its intention to continue to closely monitor the deployment of broadband capability to all Americans and to issue an annual report on this topic. *Id.* para. 98. The Commission also indicated that, where necessary, it would not hesitate to reduce barriers to competition and infrastructure investment to ensure that market conditions are conducive to investment, innovation, and meeting the needs of all consumers. *Id.*

26. In 1965, Gordon Moore, then head of research at Fairchild Semiconductor, observed that the young chip industry's rapidly improving technology was enabling it to double each year the number of transistors manufacturers could place on a chip. In 1975, as industry advances slowed, Moore reviewed the data and found that chip density was doubling every two years. More than three decades of accumulating data have solidified—while adjusting—what is now known as "Moore's Law": Chip count doubles about every eighteen months. See Otis Port, *Gordon Moore's Crystal Ball*, BUS. WK., June 23, 1997, at 120; Michael R. Nelson, *Sovereignty in the Networked World*, in THE EMERGING INTERNET 1, 4 (Institute for Information Studies 1998).

27. Some of the newest PCs being delivered for the corporate and even the Small-Office, Home-Office (SOHO) market have clock speeds of 500 MHz.

28. A "bus" is a "[c]ommon physical signal path composed of wires or other media across which signals can be sent from one part of a computer to another. Sometimes called highway."

have increased to the 100 MHz range. New buses used by PCs to communicate with attached peripherals, such as scanners, printers, digital cameras, and DVD devices, now operate at blazing speeds. This means that today's PCs can process incoming and outgoing information at high speeds and exchange information at high speeds with locally attached peripherals and other devices.²⁹

Meanwhile, in the long haul, backbone portion of the network, the use of fiber optic systems has pushed data rates over individual fibers to faster speeds. In the downtown and selected other parts of some medium-to-large urban areas, high-speed, fiber optic based, metropolitan area networks (MANs) have been constructed by incumbent local exchange carriers (ILECs), competitive local exchange carriers (CLECs), and others. These MANs allow the connection of the high-speed local area networks (LANs) to the long haul, Internet backbone networks.

Except for a few lucky customers who are served either by (1) emerging DSL technologies that allow high-speed data communications over ordinary twisted-pair copper wire, or (2) emerging cable modem technology that allows high-speed connections over coaxial cables, residential consumers and most small businesses must contend with ordinary dial-up modem connections to access the high-speed Internet backbone network. Typically these operate at 28.8 Kbps or, with the latest analog modem technology, at speeds on the order of 50 Kbps. More modern digital services are available (e.g., Integrated Service Digital Network—ISDN), but are often expensive, hard to configure, and were channelized with voice services, not data, in mind. Moreover, dial-up connections, whether analog or digital, have the disadvantage that the customer's PC is

continuously connected to the data network as is true with PCs that are connected via LANs and MANs to the Internet backbone network.

B. *The Bright Future of Broadband*

Broadband will allow MNVs and their Web sites to add video, rich sound, motion, and 3-D effects to Web content. It could be as dramatic as adding pictures to radio to get television. Years ago, radio producers did not comprehend what they could do with pictures. Today's Internet content producers do not seem to fully comprehend what they can do with broadband.

Cisco Systems, *Internetworking Terms and Acronyms* (visited Mar. 15, 1999) <<http://www.cisco.com/cpress/cc/td/doc/cisintwk/ita/index.htm>>.

29. In larger offices, not only PCs and their peripherals may be involved, but also faster work stations, file servers, high speed printers, and similar devices. Personal computers and other devices such as these in the corporate environment typically communicate over short ranges using local area networks (LANs) that have steadily increased in speed from 10 Mbps, to 100 Mbps, and more recently to 1 Gbps (Gigabit Ethernet).

This should not be thought of as a shortcoming; it is merely what happens during transitional stages. Content producers have visions and ideas, but until the technology becomes familiar, the real breakthroughs in dynamic interactive content will not come. Once broadband to the home becomes a mass market, content providers will abandon the "assembly line" approach of putting up static, two-dimensional images one screen at a time. Instead, they will pour their energies into inventing new ways of entertaining and informing that look nothing like today's media.

If one takes a critical look at today's static Internet, it is not difficult to see that it is not personality driven like broadcast television, radio, cable, or film. It does not produce stars with household name appeal. The vision behind broadband-enabled content should change that. It should enable the end-user to make a connection to the creative energies and personalities of the producer. In fact, one start-up company, Broadcast.com Inc., is making its broadband-based dreams a reality. Its mission is to offer audio and video programming on the Web. In July of 1998, it became one of the most successful initial public offerings ever, rising nearly 250 percent on its first day of trading.

III. CHALLENGE 2: THE DIGITAL DIVIDE

In the final analysis, the essence of technology ought to be service.³⁰

—*Excerpt from* Black Futurists in the Information Age

However, the rate at which information technology is adopted by the masses is quite unpredictable. If a person's education, salary, neighborhood, and station in life dictate whether or not he or she can utilize information technology as a tool, then the vision behind the promise of this technology is inherently flawed.

Minority-owned new media ventures cannot survive if their target audience does not have access to the required information technology. Time and money are usually pointed to as the two most important factors affecting people's ability to get connected to the Internet. Personal computers and connections to the Internet cost money. For the average consumer, it takes time to configure hardware, install software, and figure out the basics of "surfing" the Web. If one is lucky enough to have access to the Internet from work, or from a library, church, friend's house, or community center, then time and money are obviously less of an issue. Regardless of where one can gain access, proper training and adequate hardware and software maintenance are crucial to participating in the digital information age.

30. KHAFRA K. OM-RA-SETI & TIMOTHY L. JENKINS, BLACK FUTURISTS IN THE INFORMATION AGE 5 (1997).

Given the well-publicized gap between those who are connected to the Internet and those who are not, MNVs whose initial target audience includes disadvantaged or underrepresented consumers are constantly faced with the challenge of convincing investors, advertisers, and sponsors that there are people of color online. Some thought that the creation of these ventures and their Web sites would be the software that drove the purchase of the hardware—in other words, minorities now had a reason to go online because there was now content that was being developed with them in mind. The creation and promotion of minority community and affinity group Web sites played an important part in getting early adopters of information technology involved in the Web. Similarly, the ability to connect with others with similar interests and ideas via electronic mail, message boards, and instant messaging has also fueled the desire for minorities to get connected to the Internet.

The lack of ethnic programming available in traditional media has not made minorities lose their appetite for content in general. Minorities still purchase and use televisions, radios, digital broadcast satellite systems, magazines, newspapers, and PCs on a regular basis (1) regardless of the amount of available ethnic programming; (2) regardless of who produces the ethnic programming; and (3) regardless of who owns or has editorial control over the programming. Similarly, it can be argued that more minorities will get connected to the Internet and surf the Web regardless of how many MNVs succeed or fail. They might not connect as quickly as most would like, but eventually it will happen. Either way, MNVs maintaining media outlets on the Web need millions of viewers to stay in business. The challenge for minority and mainstream leadership is to make sure that the number of minorities connected to the Internet grows at a favorable rate in comparison to the mainstream. Progress must be made in closing the digital divide that separates minorities from the nation as a whole.

A. *Hispanic/Latino Online Demographics*³¹

Nearly one in eight Hispanic households possessed a computer in 1994; the figure was just over one household in four for the nation as a

31. By 2005, the Census Bureau projects that Hispanics will overtake African Americans as the largest minority group in the United States, and some predict the balance will tip by the year 2000 count. By 2050, there should be more Hispanics than all other minorities combined. Laura Meckler, *Hispanic Children Now Outnumber Black Kids: The Slight Advantage in Numbers Is an Indicator of the U.S. Population Picture to Come*, DAYTON DAILY NEWS, July 15, 1998, at 8A.

whole.³² More recent studies now show that 43 percent of U.S. households own a computer—a 17 percent increase.³³

The Hispanic Computer and Internet Study (HCIS), conducted in February 1998 by the [Tomás Rivera Policy Institute (TRPI)], reveals that 30 percent of Hispanic households now possess a computer, an increase of 17 percent since 1994, the same as the increase for the nation as a whole. Taken as a proportion, however, between 1994 and 1998 the rate of increase in Hispanic computer-owning households is twice that for all U.S. households. Unlike the decade preceding 1994, in which the “digital divide” separating Hispanics from the nation as a whole widened, the last several years, as TRPI’s HCIS demonstrates, have witnessed a closing of this gap.³⁴

Approximately 5 percent of Latinos owned a modem and approximately 2 percent used their modem to communicate with others and to seek information, according to the 1994 census.³⁵ Four years later, TRPI’s survey shows that at least 1.2 million Hispanic households are regularly using the Internet.³⁶

This survey also shows that the pace of computer ownership among Hispanics is now exceeding that for the nation as a whole. Reasons for this include (1) the improved socioeconomic status of Hispanics reporting the greatest computer ownership; (2) the proportion of PCs sold for less than \$1,000 has increased dramatically in the past two years; and (3) more widespread experience with and exposure to computers has decreased negative attitudes toward computers and Internet use.³⁷

The dynamic middle class is one of the principal reasons Hispanic households have made dramatic increases in computer penetration over the past five years. “Among college-educated Hispanics, computer ownership has risen from 39 percent of households in 1994 to 66 percent in 1998. Among managers and professionals, computer ownership has almost doubled, from 29 to 52 percent, over the same time.”³⁸ Among those households with incomes above \$75,000, ownership has gone up from 58.5 percent in 1994 to 63.2 percent in 1998.³⁹ “In other words, the Hispanic middle and

32. TOMÁS RIVERA POLICY INSTITUTE, CLOSING THE DIGITAL DIVIDE: ENHANCING HISPANIC PARTICIPATION IN THE INFORMATION AGE I (1996).

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.* at 12.

39. *Id.*

upper classes have capitalized on the benefits which the information and communication age offers.”⁴⁰

Unfortunately, according to TRPI’s surveys, 31 percent of Hispanic adults nationally have never used a computer.⁴¹

If there is a definition of an information or technology “have not,” then it surely includes those who are unconnected from advanced telecommunications and computer technologies. Not surprisingly, 71 percent of these “have nots” in the [survey’s] national sample have a household income below \$25,000, and 84 percent have not gone to college.

Examining fully wired households exposes the digital divide which continues to segment the information and communication “haves” from the “have nots.” Only 20 percent of Internet-connected households earn less than \$25,000 and 23 percent have not spent time in college.⁴²

B. African-American Online Demographics

On February 2, 1998, two university professors, Donna Hoffman and Thomas Novak, released a working paper on the impact of race on computer access and Internet use.⁴³ These results received a great deal of attention from educators, politicians, civil rights leaders, and the like. While the article raised the level of consciousness surrounding the disparities in access by race, income, and education, it did not plow any new ground. Critics consistently point out that the Hoffman and Novak study was based on primary data from the Spring 1997 CommerceNet/Nielsen Internet Demographic Study (IDS), conducted in December 1996/January 1997. As of April 1, 1999, the data is at least twenty-five months old. While their analysis examines the troubling disparities existing between age groups, income levels, and educational attainment, many sociologists and Internet experts feel that the differences have narrowed in every category Hoffman and Novak reviewed. As a result, the age of the data raises serious questions due to the fast-changing nature of the Internet.

The authors are, however, quick to point out that there are more African Americans online than one might think. In fact, they maintained that over five million African Americans had used the Web in the United States

40. *Id.* (“This is in sharp contrast to 1996, when TRPI’s report *Latinos and Information Technology* found that middleclass Hispanics were much less likely to own computers than were their non-Hispanic counterparts.”).

41. *Id.*

42. *Id.*

43. See Thomas P. Novak & Donna L. Hoffman, *Bridging the Digital Divide: The Impact of Race on Computer Access and Internet Use* (visited Mar. 15, 1999) <<http://www2000.ogsm.vanderbilt.edu/papers/race/science.html>>.

as of January 1997.⁴⁴ They surmised that among those who used the Web in the week prior to the release of their paper, 1.4 million were African Americans. This means that African Americans are already online in impressive numbers. Continued efforts to develop online content targeted to African Americans, commercial or otherwise, are likely to be met with success. Hoffman and Novak also suggest that, not surprisingly, African Americans are among the newest Web users.⁴⁵ They expect that the few observed race differences in online search and purchase behavior will disappear as African Americans spend more time on the Web.⁴⁶

The good news is that recent studies have shown that there has been a huge surge in the number of African Americans getting online.⁴⁷ This can be attributed to a variety of factors. For example, the rush of African Americans to the online world "is being driven partly by a hunger to find replacements for news and programming that have vanished during a decade of buyouts of minority broadcast outlets by huge [media] conglomerates"⁴⁸ "African American families are spending more than twice as much per household for online services as their white counterparts. That contributed to a total of \$751 million in high-tech purchases by Blacks in 1996—nearly a fivefold increase since 1993."⁴⁹

The bad news is that there is a real need to be concerned about low-income households and their ability to gain access to information technology. "The U.S. Department of Education recommends that the ratio of students to computers in schools be 5 to 1, but in schools where minority enrollment is more than 90 percent, that ratio is a dismal 17 to 1, and 30 to 1 for [multimedia-ready systems] with enhanced graphics and video capabilities."⁵⁰ Even researchers from the Educational Testing Service (ETS) have noted that "[t]he students with the most needs are getting the least access."⁵¹

For sales and marketing professionals employed by MNVs, perhaps the biggest challenge is to figure out how many people within their target demographic are using the Web. This is especially difficult when trying to figure out how many African Americans are online on a somewhat regular

44. *Id.*

45. *Id.*

46. *Id.*

47. Steve Silberman, *Black Flight to the Net* (visited Mar. 15, 1999) <http://www.hotwired.com/synapse/feature/97/37/silberman3a_text.html>.

48. *Id.*

49. *Id.* (citing Ken Smikle, president of Target Market News).

50. *Id.*

51. *Id.* (quoting Rene Sanchez, *Poor, Minority Students Lack Access to Computers*, WASH. POST, May 15, 1997, at A13 (quoting Richard Coley, a researcher for the Educational Testing Service)).

basis. A majority of the studies conducted since January 1997 cite figures that are a percentage of the total Web-user population, rather than offering a simple number (albeit an estimate) of how many African-American Web users exist in the United States today. These percentages often differ. A Baruch College/Harris Poll reported in May 1997 that African Americans and Hispanics each account for 6 percent of all Web users, up only slightly from 1996.⁵² The poll also noted that the Internet population is skewed toward the affluent: 42 percent of Web users have a household income of more than \$50,000 a year while only 18 percent earn \$25,000 or less. But since the lower-income category probably includes many students who have minimal income, it may overstate Internet participation by the poorest households.⁵³

The Wirthlin Report of March 1998 estimates that 3 percent of the adult Web-user population is African American, 3 percent is Hispanic, and 3 percent is Asian.⁵⁴ It also estimates that there are 43.1 million Americans surfing the Web from their homes.⁵⁵ Thus, the Wirthlin Report implies that there are 1,293,000 African-American adults using the Web.

Reports on the total number of online Americans also vary. As the following table shows, there are many different estimates:

Additional Reports for the United States⁵⁶

<u>Date</u>	<u>Number</u>	<u>Source</u>
June-98	55.00 million	IDC Research and RelevantKnowledge
May-98	44.00 million	Mediamark Research Inc. (MRI)
May-98	57.04 million	RelevantKnowledge
Mar.-98	43.10 million	The Wirthlin Report
Mar.-98	38.74 million	IDC Research

52. Amy Cortese, *A Census in Cyberspace*, BUS. WK., May 5, 1997, at 84.

53. *Id.*

54. The Wirthlin Report, *Who's Online? A Profile of U.S. Internet Users* (visited Mar. 15, 1999) <<http://www.wirthlin.com/publicns/report/wr9803.htm>>.

55. *Id.*

56. International Communications' headcount.com, *Who's Online by Country* (visited Mar. 15, 1999) <<http://www.headcount.com/count/morereports.htm?choice=country&choicev=The+US>>.

Feb.-98	62.00 million	Intelliquest
Jan.-98	41.50 million	ZDNet
Dec.-97	43.00 million	America Online
Nov.-97	56.00 million	Business Wire
Aug.-97	31.30 million	Find/SVP
June-97	29.20 million	IDC Research

The analysis and auditing of Web-site traffic on the Internet has evolved into an emerging industry. There are more than a handful of companies whose mission is to track Web usage and gather demographic data on the Internet. As statistical sampling techniques and data mining systems advance, agreement on Web auditing standards occurs, and surveys ascertain better social and economic information, more reliable estimates will be available.

IV. CHALLENGE 3: EDUCATION

By definition digital technology is a mass technology rather than class technology. It has the potential for universal relevance to every living human being regardless of language, religion, race, geography or economic circumstance. And it has the capacity to improve upon the model of current communication systems serving universal needs in education, medicine, information, culture, government and debate. But to accomplish this, one must be a part of the design process that is still at work.⁵⁷

—*Excerpt from Black Futurists in the Information Age*

There are many people who think that the digital divide poses no cause for alarm. They argue that since today's Internet is so new, the majority of Americans, regardless of color, are not even online yet. They feel it is simply a matter of time before millions and millions of minorities start to regularly access the Internet. While time is a factor, there is still much cause for alarm. In order to participate fully in this new medium, minorities must be a part of its development from its inception. If they do not actively take part in this process as users, developers, manufacturers, owners, or visionaries, they will have no impact on the evolution of the Web as a mainstream media source. That is why education, access, curriculum, and leadership in the classroom are of the utmost importance. Minorities lacking adequate educational opportunities will always be steps behind those whose educational experience provided them with the opportunity to learn to use the Internet as a tool.

57. OM-RA-SETI & JENKINS, *supra* note 30, at x.

School boards, local governments, and state and federal agencies across America are trying to find the dollars to provide curriculum, computer hardware and software, connectivity, and teacher training to schools, libraries, community centers, nonprofit organizations, reservations, and other access points in an attempt to provide the nation's youth with Internet access and computer skills. Many of these efforts have been successful, and many have faced tremendous challenges and funding problems. The important point is that these efforts must continue to increase the level of participation by the nation's underserved youth. Studies have shown that increasing levels of education positively influence both computer access and Web use. More education can lead to a higher paying job, which increases the likelihood of being able to purchase a computer, modem, and Internet access account. More education can also lead to a higher probability of work-related Internet access. In the crusade to ensure the participation of all Americans on the Web, the challenge is to improve the educational opportunities of minorities.

Minority-owned new media ventures stand to benefit greatly from the success of this crusade. As the number of minorities surfing the Web increases, MNVs will begin to attract larger audiences. This will lead to more revenues, especially from advertisers ready to tap into this segment of the online market.

V. CHALLENGE 4: ACCESS TO CAPITAL

Minority-owned new media ventures maintaining a media outlet on the Web need money to fund their business plans. The number of new ventures seeking early-stage funding in general has increased drastically over the last twenty years, forcing venture capital firms (VCs) to concentrate their efforts.⁵⁸ More and more they are sinking larger dollar amounts in fewer investments. They are significantly less involved in new companies looking for seed capital in the \$100,000 to \$2 million range.⁵⁹ In fact, the median size of VC deals reached \$5 million in the first quarter of 1998, dramatically higher than the first quarters of 1997 and 1996, when medians were \$3 to \$5 million and \$3 million, respectively.⁶⁰

Venture capital firms' decreased involvement in the smaller capital placements has created opportunities for different investors. Minority-owned new media ventures looking for investors have expanded their searches to include angel investors, incubators, and venture catalysts.

58. Nicole Shotland, *Funding Your New Web Empire*, INTERNET COMPUTING, Aug. 1998, at 55.

59. *Id.*

60. *Id.* at 56.

Angel investors are usually high net worth individuals who invest anywhere from \$10,000 to \$200,000 in various start-up companies. An angel investor can add significant value to an MNV if he or she has business, technology, or media contacts that can help increase the chances of success. Depending on the circumstances, an angel investor is sometimes not the best source of funding if he or she views the venture as a hobby rather than a legitimate business undertaking. This belief can sometimes create a dynamic that is not always in the best interests of the MNV. Also, most angels do not have the deep pockets that other financing entities have, so they cannot get the company through the various stages or rounds of financing on their own.⁶¹

Venture catalysts tend to involve themselves with MNVs that have a small team of founders and a business plan, but may need help in various areas including business development, marketing, and so forth.⁶² Venture catalysts often receive referrals of business plans from VCs that are interested in a start-up but find it not quite ready for the VC's level of financing. A venture catalyst brings key variables to the start-up equation—namely hands-on help, which could be in almost any functional area. Hands-on assistance often includes providing an introduction for the start-up to the venture community when it is ready for that level of financing. It can also assist in the recruitment of key personnel for full-time employment. For the MNV that needs to refine its business plan, the pre-screening efforts of the venture catalyst can provide the finishing touch that is needed to get on the VC's radar screen.

Minority-owned new media ventures experiencing growing pains can utilize incubators to get their companies off the ground. Incubators work with these ventures by providing affordable physical space. They can also provide seed funding, technical and operational advice, general clerical assistance, and administrative support.

A. *"Here Is the Money . . . Show Me the Deal"*

One thing is certain—there does not seem to be a shortage of capital. Companies backed by VCs "received \$12.2 billion in financing during 1997, a 20 percent increase over the previous all-time high in 1996, and 83 percent

61. Angels often do not provide enough money at the initial stages because of underestimated need articulated in the proposed business plan. This can have the adverse effect of handicapping a minority-owned new media venture because it does not have the financial resources to hire key members for the team, acquire necessary equipment, develop a marketing strategy, produce content, and so forth. *Id.*

62. *Id.* at 57.

higher than 1995.”⁶³ The Coopers & Lybrand L.L.P. Money Tree Report (Report) found that surveyed VCs participated in 2,706 deals during 1997, a 25 percent increase over the previous year.⁶⁴

The Report found that VCs “raised more than \$10 billion in newly committed capital from pension funds, corporations, and endowment funds in 1997. Of the \$12.2 billion invested in high-growth enterprises during the year, between \$5 and \$6 billion came from [VCs], with the remainder coming from corporations, leveraged buyout firms, and individuals.”⁶⁵

The Report also noted that “from an industry standpoint in 1997, technology-based companies received approximately 62 percent of total [VC] investment, of which software companies received the most venture-led financing with \$2.6 billion.”⁶⁶ Networking equipment and communications companies were in the next highest category, capturing 19 percent of total invested dollars, followed by healthcare service companies. Internet start-ups gathered \$2.1 billion in 495 financings.⁶⁷

From a geographic standpoint, the Report noted that California received the lion’s share of VC funding in 1997—\$4.6 billion, a 42 percent increase over 1996 and a 111 percent increase over 1995. Massachusetts, second only to California as a recipient of venture capital, received more than \$1.2 billion, a 14 percent increase. Texas retained its third position for a second consecutive year, with \$809 million, and gained ground on Massachusetts in 1997. New York, Florida, Illinois, and Colorado followed these leading states.

B. *The Risk Factor*

With respect to MNVs maintaining media outlets on the Web, most VCs that invest in these content companies are quick to admit that there is an enormous amount of risk involved in this segment of the industry. However, a few of these VCs will also admit “off the record” that they can acquire a big chunk of equity and a seat on the board of directors of a new media venture without having to pay through the nose. Most VCs have not invested in MNVs because of the large amount of uncertainty. Uncertainty lies in the fact that investors are not accustomed to evaluating Web-based media projects that often integrate content, technology, and communications into one business plan. To safeguard against risk, savvy investors are getting better at creating a business development strategy for their funded ventures.

63. COOPERS & LYBRAND L.L.P., MONEY TREE REPORT: 1997 RESULTS 1 (1998).

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.*

It is also in the best interests of ventures seeking financing to go after strategic-minded investors. These investors add money and value to the strategic partnering process.

C. How Does an MNV Attract Investors?

The question of how an MNV attracts investors is difficult to answer, given all the quirks and preferences of each VC. The key for the fledgling company is to make itself more attractive to the VC. Perhaps the best way to do this is to come to the table with (1) a business plan containing elements crucial to reducing inherent risk; (2) a well-rehearsed business pitch that acknowledges that the proposed investment is a long-term play yet convinces the VC that the market is worth pursuing; and (3) an unfettered desire to make all parties concerned a lot of money. Often, MNVs can experience excruciating negotiations that seem way out of proportion to the amount of money involved. These types of deals can be characterized as "hoop deals" because MNVs have to jump through hoops just to attract early-stage capital.⁶⁸ Minority-owned new media ventures often turn to minority-owned or controlled VCs for capital. However, these VCs often find themselves struggling during their fundraising efforts to generate their own investment funds. "While minority-controlled investment companies nationwide have nearly \$1.4 billion in estimated assets under management, that's still less than 3% of the \$54 billion raised last year alone by all private equity firms."⁶⁹ How much more flows to minority-oriented funds will depend on the returns registered by the portfolio companies over the next few years.⁷⁰

Venture capitalists routinely conduct their due diligence, assessing the strength of the management team and its prior experience. They scrutinize business plans and question the reality of anticipated revenue streams. They focus on the business model and figure out whether it is a business of scale. They look for beneficial strategic partnerships that have been forged before a dollar is ever invested. They figure out whether there is a good fit between their existing portfolio of companies and the new media venture, and whether relationships can be leveraged to develop a brand name. They also conduct a thorough risk and return analysis, evaluate competitors, and review available exit strategies.

Minority-owned new media ventures must realize that VCs get to ask the tough questions in order to satisfy their comfort level. Venture capital

68. The term "hoop deals" was used by Herbert Wilkins, Sr., of Syncom, in a *Wall Street Journal* article. Jeffrey A. Tannenbaum, *Where the Money Isn't*, WALL ST. J., May 21, 1998, at R20.

69. *Id.*

70. *Id.*

firms propose or impose budgets, strategies, policies, and analytical tasks on new ventures in order to develop the discipline needed to manage a business during a time of innovation and technological change. They also do so to safeguard their investments.

Ultimately, the challenge for MNVs is to acquire funding from true strategic partners with deep pockets. These partners can include traditional media companies, large Internet companies, or the VCs themselves who have the clout and ability to use their portfolios as strategic weapons.

VI. CHALLENGE 5: DISTRIBUTION

There is more content by, for and about the [minority] community on the Net than there is in probably any other medium⁷¹

—Larry Irving

The big challenge for MNVs is to be noticed. While the low barriers to entry on the Web are part of its attraction, it also creates a problem. Because anybody can create a site on the Internet, everybody finds it hard to get noticed. It is like standing in the middle of a dense, remote forest, and trying to get a human ear to hear a voice. It does not happen easily or overnight.

Large traditional media companies have big brands⁷² that already have an enormous advantage, particularly among people coming online for the first time who tend to turn to names familiar from the offline world. More importantly, because of their established brand and distribution muscle, the large traditional media companies can promote their Web presence through the other media channels they control or even through disintermediation (i.e., cutting out the middleman). However, having a well-known brand name in the traditional media world does not guarantee success either. The fact that the large traditional media companies have this advantage does not mean that all of their Web properties are working well. These large media companies move much slower, have bottom-line oriented management, have impatient shareholders, and frequently view their interactive, Internet, or new media divisions as experiments rather than start-ups. They take fewer creative

71. Amy Harmon, *Racial Divide Found on Information Highway*, N.Y. TIMES, Apr. 17, 1998, at A1 (quoting Larry Irving, Assistant Secretary of Commerce).

72. "Brand" has been defined as "the commercial equivalent of reputation."

Brands are guideposts for consumers wandering through the new economy's ever more bewildering blizzard of choices. Long associated with ho-hum consumer products, branding is an antidote to commoditized production and brutal price competition. . . . [S]ome management theorists argue that brands should be valued as an asset on corporate balance sheets—although none have yet been able to answer the all-important question of exactly how to place a value on this asset.

John Browning & Spencer Reiss, *Encyclopedia of the New Economy*, WIRED, Mar. 1998, at 105, 108.

risks and find themselves competing head-to-head with young, renegade new media companies short on cash, but long on motivation and loaded with a loyal audience.

Because the Web is so new, there are many uncertainties. At issue is how the growing number of mergers in traditional media and colonization by the old brands will affect mainstream and ethnic content distribution on the Web. The big portal sites on the Web are partnering with large traditional media companies.⁷³ These heavily used sites are increasingly offering more niche-oriented content as a way to attract a more diverse audience and develop online communities on their sites. Will they strike exclusive content relationships with smaller MNVs to provide specialized content? How will they promote branded ethnic content? How will it be positioned within the larger site? Instead of exclusive arrangements, will they take all comers? Of those MNVs that survive the shakeout, how long will they retain managerial and creative control? New names have been created on the Web, but the old names are making considerable ground against them. Will there be any more new, Web-based brands distributed on the Web? Only time will tell.

VII. CHALLENGE 6: HOW TO MAKE MONEY

How do MNVs make money? It is a fair question, considering minorities are being encouraged to look to new media as a business opportunity. There are many proposed sources of revenue. Advertising, electronic commerce, subscriptions, and value-added network/production services are the ones commonly mentioned in most business plans.

However, one must look to the drivers of revenue to get a true sense of the potential for making money. With respect to advertising, some sort of an average fee or cost per thousand (CPM) as a function of Web traffic usually drives the dollar amount charged for banner advertisements on Web sites. For electronic commerce, it depends on whether the Web site is selling its own items or those of a third party vendor. In the case of third-party vendors, Web sites usually receive flat merchant fees or commission fees per transaction. Some sites have tried charging subscription fees for accessed premium content. In this case, revenue drivers are the number of monthly subscribers, subscriber access speed, usage, and fees charged.

Some new media companies, because of their in-house expertise, have seized the opportunity to provide value-added network/production services

73. With respect to Web deals, NBC, CBS, and Disney (which owns ABC/Cap Cities) "know that right now they have leverage." An analysis of "their Web ventures shows that, time and again, the networks have structured accords that have given them opportunities for profit at very little cost." Mark Gimein, *Art of the Deal: TV Shows Web How It's Done*, INDUS. STANDARD, June 29, 1998, at 19-20.

to traditional media companies, small businesses, and other clients. For a monthly fee, these companies will provide Web-site hosting services. The revenue drivers for these services are fees, storage space usage, and access speed. To compete in the marketplace, many of these companies will also provide Web-site design and maintenance services, which generate one-time and recurring fees. These fees are based, in part, on the number and complexity of the developed Web pages.

Many MNVs provide value-added network/production services, and some charge subscription fees to access premium content. Minority-owned new media ventures, which rely solely on advertising and electronic commerce as their main sources of revenue, face the same challenges that are affecting the entire new media industry in general.

A. Advertising

Most minority-owned Web sites that operate as a media outlet employ a business model, which is based heavily on advertising as a source of income. These sites are at a tremendous disadvantage because they attract considerably fewer viewers than minority-owned print publications, broadcast television and radio stations, and cable channels. This is the case even though these Web sites have a larger potential international user base than their traditional media counterparts. Anyone in the world with a PC, a Web browser, and a connection to the Internet can view Web sites. The challenge for MNVs maintaining Web sites is to convince minority-owned and mainstream advertising agencies that dollars spent on MNV Web sites can add value to the advertiser.

This reiterates the need for MNVs to develop their businesses into a brand—a consumer-oriented media product that increasingly attracts advertisers. To date, one of the most successful new media brand building companies is America Online (AOL). On a somewhat regular basis, AOL has been announcing advertising deals with blue-chip companies. Intuit agreed to pay AOL \$30 million over three years. Barnes & Noble will be paying AOL \$40 million to be AOL's exclusive bookseller for four years. American Greetings cut an \$18 million deal to provide online greeting cards through AOL.⁷⁴ Telesave is paying AOL \$100 million for the right to market its long-distance phone service to AOL's subscribers.

The total market for online advertising is experiencing tremendous growth. Advertisers are starting to spend more money on advertising on the

74. "Companies wanting a mass audience only have a few places to go," and AOL delivers that audience. Janet Kornblum, *AOL Gambles on Big Ad Deals* (visited Mar. 15, 1999) <<http://www.news.com/News/Item/Textonly/0,25,19264,00.html?pfv>>.

Web. In fact, the total advertising revenue for 1997 was almost \$907 million, which is up 240 percent from 1996's figure of \$267 million.⁷⁵

However, advertisers have quickly realized that they have to invest their dollars more wisely when it comes to Web spending. According to a Forrester Research poll of Web advertisers, a mere 16 percent of the advertisers polled said they would spend more than \$1 million each on Web advertising in 1997. Yet, 42 percent said they would spend that much or more to develop their own Web sites.⁷⁶

In the quest for reaching mainstream Web consumers, there is still a noticeable level of frustration in the media buying community. There is still no universal consensus that Web advertising is really driving sales, despite varied examples of such success. There is no universal consensus on how best to measure Web-site activity, despite the Web's unique ability to monitor user traffic.

Thus, it should come as no surprise that the foremost question is where to invest advertising dollars to reach online consumers, regardless of race or income level. Does the advertiser invest money on popular content sites, or does the advertiser invest in its own Web site and publicize its Web address through its offline advertising efforts? Should advertisers spend their resources developing information and entertainment content that is not directly related to their marketing objectives? Should they piggyback on big content providers, which are starting to deliver bigger white and non-white online audiences? Studies show that exposure to banner advertising on the Web is responsible for 96 percent of advertisement awareness. Click-throughs to an advertiser's Web site, on the other hand, contributed to a mere 4 percent of advertisement awareness.⁷⁷

Minority-owned advertising agencies play a key role in the quest for MNVs to attract advertising dollars from blue-chip advertisers with deep pockets. Even though minority-owned advertising agencies face fierce competition from mainstream agencies, they are determined to continue their role as major players in advertising and marketing efforts toward the minority and mainstream consumer market. Studies show that these consumer markets are either online now or will be online in the not-too-distant future.

Minority-owned advertising agencies have faced many challenges, survived many battles, and had major triumphs in the advertising industry.

75. COOPERS & LYBRAND, IAB INTERNET ADVERTISING REVENUE REPORT 12 (Apr. 1998).

76. Contrast this spending behavior with current print and broadcast television buying models, which recommend that advertisers spend about 15 times more money on placement than they do on creative execution.

77. Such findings are recorded in a survey conducted by MBinteractive for the Internet Advertising Bureau (IAB). See Kate Maddox, *IAB Study: Click-Throughs Not as Effective as Banners*, ADVER. AGE, Sept. 29, 1997, at 41.

While much has changed for them over the past twenty-five years, much is still the same.⁷⁸ They are still being muscled aside by mainstream agencies in the frantic race for ethnic market business. For example, in 1990, \$743 million was spent on advertising to African-American consumers.⁷⁹ Of that amount, only \$247 million in billings were allocated to black-owned advertising agencies.⁸⁰ In 1994, the amount spent on advertising to African Americans jumped to \$834 million, yet the amount of billings allocated to minority-owned advertising agencies only increased \$49 million to \$296 million.⁸¹ Some feel that

the black [advertising] agency has been a victim of its own success It sold white advertisers on the potential of the African American consumer market, and now these companies are turning to their white agencies to help [drive sales]. Black agencies are fighting for the right to market to the very market they helped create.⁸²

Arguably, tomorrow's battle will be in the new media arena. Thus, minority-owned agencies must embrace new media and technology today in order to compete in the high-tech arena for the online-savvy advertiser's billable account. Many analysts feel that to create growth, minority-owned agencies should convince industries that are not currently advertising to minority consumers that it is in their best interests to do so, and to use minority-owned agencies' expertise.⁸³ They should continue their efforts to compete for business in industries that have significant growth potential, such as information technology, telecommunications, and new media. Agencies, their clients, and content providers need to work together better in order to take advantage of the growing opportunities available to reach a growing ethnic online market. The potential here is that well-positioned Web advertising strategies can increase brand awareness and product identification with consumers in this growing media segment. These agencies cannot just look at themselves as creators of advertisements or commercials. They have "to help . . . clients solve problems as marketing advisors who can help them get at the billions of dollars in the ethnic market."⁸⁴

78. The American Advertising Federation in Washington, D.C. reports that "fewer than 3% of advertising, marketing and public relations managers are African American, and most of them work for black companies." Roz Ayers Williams, *A Battle for Billings*, BLACK ENTER., June 1998, at 154.

79. Only dollars allocated by major national advertisers are included in this figure. *Id.*

80. *Id.*

81. *Id.*

82. *Id.* (quoting Ken Smikle, president of Target Market News).

83. *Id.* at 156 (quoting Ken Smikle, president of Target Market News).

84. *Id.* (quoting Sam Chisholm, Chisholm-Mingo Group).

B. *Electronic Commerce*

Businesses began using the Internet for commercial transactions with their business partners around 1995. Early users reported significant benefits from using the Internet to provide customer service and create, purchase, distribute, and sell goods and services. For example, Cisco Systems closed in 1996 after booking just over \$100 million in sales on the Internet. By the end of 1997, its Internet sales were running at a \$3.2 billion annual rate. "By 2002, the Internet may be used for more than \$300 billion worth of commerce between businesses."⁸⁵

Many believe that "the big money is not in consumer shopping but in business-to-business commerce."⁸⁶ Businesses have flocked to the Web because of its efficiency. "[M]ost business transactions [are] already done at a distance, whether by fax, telephone, post, or private electronic links. Moving that process to the Internet makes it cheaper, faster and easier."⁸⁷

The business-to-consumer market is starting to see progress in the area of online shopping. In 1996, Amazon.com, the first Internet-based bookstore, recorded sales of less than \$16 million. In 1997, it sold \$148 million worth of books to Web customers. Barnes & Noble launched its own online bookstore in 1997 to compete with Amazon.com for this rapidly growing online market. In 1998, varsitybooks.com will use a similar online strategy to sell textbooks to college and university students.

A recent Web study predicted that online shopping would increase dramatically in the residential and consumer market.⁸⁸ Fueling this shopping boom is an anticipated explosion in home Internet usage. The study also noted that the percentage of those users making online purchases should rise to 50 percent by 2002.⁸⁹ It also found that the purchasing power of these shoppers is considerable. It found 23 percent of online adult users who use the Web for entertainment earn \$75,000 or more annually, and 25 percent of online consumers engaging in electronic commerce make at least \$75,000 annually.⁹⁰

Given the higher income demographics of the average Web user, many MNVs realize that electronic commerce must be a part of their strategy for making money. To rely solely on an advertising model is risky and impracti-

85. U.S. DEP'T OF COMMERCE, *THE EMERGING DIGITAL ECONOMY* 7 (Apr. 1998).

86. Christopher Anderson, *Electronic Commerce: In Search of the Perfect Market*, *ECONOMIST*, May 10, 1997, at 4.

87. *Id.*

88. *Internetnews.com: Shopping Bonanza Coming Online* (visited Mar. 15, 1999) <http://www.nua.ie./surveys/?f=VS&art_id=899120940&rel=true>.

89. *Id.*

90. *Id.*

cal given the growing number of Web users looking to shop online. There are, however, many challenges associated with selling products online. Merchandise, vendors, inventory, merchant accounts, electronic payment systems, security, encryption, privacy, sales taxes, distribution and fulfillment, database programs, and customer satisfaction are a few of the issues and challenges facing MNVs that create online stores or virtual shopping malls. Moreover, MNVs have to streamline their electronic commerce operations in order to keep the costs associated with selling products online to a minimum.

VIII. CHALLENGE 7: BURN RATE

Minority-owned new media ventures face a series of very real challenges that can make the costs and barriers associated with creating a lucrative and viable Web presence very high. The costs associated with developing and maintaining a Web site vary depending on the purpose, design, scalability, and intended user base. More and more local and national ISPs are offering reasonably priced Web-hosting services in addition to connectivity. This makes it easier for many ventures to get started on the Web.

The challenge is to manage effectively cash flow by not burning or spending too much cash each month. Increasing costs and expenses drain cash reserves, yet revenue seems just to trickle in slowly. This is due to a rapidly changing Internet environment where the costs of acquiring, digitizing, and promoting branded content are not cheap. Monthly revenues rarely keep up with monthly expenses. A company starts out with a vision, a business plan, and a marketing strategy. If it is one of the chosen few, it attracts enough seed funding to develop its business and launch an online presence. However, the Web is in a state of evolution. The company must constantly rework the business plan and alter its strategy. Overhead, marketing plans, hiring needs, equipment costs, and database and software upgrades become major line-item expenses. The seed funding runs out and the company needs more money to survive. Even if it attracts more venture capital, it is still faced with trying to fund all the different strategies, projects, and initiatives articulated in the business plan. Without a good balance of fiscal discipline and managerial flexibility, the fast-paced nature of the Web can turn an MNV into roadkill on the Information Superhighway.

IX. CHALLENGE 8: CONTENT/PROGRAMMING MIX

Just as programmers of broadcast television, radio, and cable struggle with what selection of programs and music to offer their viewers and listeners, and editors of newspapers and magazines agonize over what articles to place in their next editions, MNVs are faced with the challenge of what content to offer to users of their Web sites. With respect to those MNVs maintaining Web sites as media outlets, some have experimented with vari-

ous programming strategies. What makes this a real challenge is that the Web is a medium that allows a Web site to have many interactive content alternatives. This entices some MNVs to try to appeal to everyone. In 1994 and most of 1995, many Web sites started out as "digazines" or online magazines. They offered frequently updated articles and stories with pictures. The costs associated with digital publishing caused many to either vanish or change their strategy as more applications, development tools, and software became available. Many started to offer "threaded chat" or message boards, feedback mechanisms, and eventually live chat on their Web sites. Some offered multiplayer games and downloadable audio or video clips that the end-user could access and play using the appropriate plug-in. Some realized that a better strategy was to create an online community where the loyal user or new user felt welcome and among friends. Content was tailored to their needs and interests, and offline friendships and relationships were facilitated. Many MNVs realized that interactive sites tended to get more viewers, so they created daily polls on different topics to give the user an opportunity to interact and contribute. Hyperlinks to other Web sites with similar interests were added. Some even took this process a step further and developed a directory of these sites, categorized by interest and subject matter, and created a searchable function for those who wanted to search by typing in a word or phrase.

Today, the challenge for MNVs is to remain on the cutting edge of Web design and development without sacrificing content and originality. Competition for viewers on the Web is fierce. The key is to offer the right mix of content on the Web. A site can create and publish its own content, publish its member's content or other third-party content, or offer up some mix of proprietary and shared content.

Soon, broadband services will be available in the home. While MNVs have ideas about broadband, the discoveries about how to make something new out of the mix of audio, video, interactivity, community, and all the other aspects of the Web are still a long way off. That is mainly because few MNVs are actively working on such content now. Many in the business think it is too far away, and as a result, content producers see those predictions and delay allocating funds for research and development.

X. CHALLENGE 9: GROWING INTERNATIONAL WEB AUDIENCE

The Web gives MNVs the opportunity to reach an international audience at a huge fraction of what it would cost to do so in traditional media. Never before have minorities had this kind of real opportunity to reach new and emerging international media markets. The potential here is so enormous that it can seem almost too good to be true. Once an MNV launches a media outlet on the Web, it is faced with the challenge of trying to program

branded content for an international audience. It is also faced with the challenge of trying to conduct online transactions with users all over the globe. Some sites have attempted to cater to potential non-English speaking users by publishing portions of their content in Spanish or French. This can be costly because out-sourced translation fees can add up for sites that refresh their content on an hourly or daily basis. Some mainstream new media companies have created international divisions or forged strategic alliances with new media ventures overseas. This has allowed these companies to push their branded content into Asia, Europe, Australia, and Africa.

The art of estimating how many people around the world have accessed the Internet is an inexact one at best. Surveys abound, using all sorts of measurement parameters. However, from observing many of the published surveys over the last two years, one source has quoted an estimate as of July 1999 of 153 million.⁹¹ Of this number, 1.1 million have logged on from Africa, 26.6 million have logged on from the Asian-Pacific rim, 33.4 million have logged on from Europe, 780,000 have logged on from the Middle East, 87 million have logged on in North America, and 4.5 million in South America have accessed the Internet.⁹²

XI. CHALLENGE 10: OLD SHERIFFS IN THE NEW (DIGITAL) FRONTIER

[Entertainment moguls] are the largest copyright holders in the world, and the value of those copyrights continues to increase.⁹³

—Paul Noglows

It appears that the beginnings of consolidation and alliance building in the new media industry are well underway. Nineteen ninety-eight may go

91. *How Many Online?* (visited Mar. 15, 1999) <http://www.nua.ie/surveys/how_many_online/index.html>. According to Nua Internet Surveys, these figures

represent both adults and children who have accessed the Internet at least once during the 3 months prior to being surveyed. An Internet User represents a person with access to the Internet and is not specific to Internet Account holders. When the figure for Internet Account holders is the only information available, this figure is multiplied by a factor of 3 to give the number of Internet users. The figure for "Asia/Pacific" includes Australia and New Zealand. When more than one survey is available on a country's demographics, Nua will take the mean of the two surveys or, in the case where Nua feels one study may be more comprehensive/reliable than the other, Nua will quote this figure over the other.

How Many Online? Methodology (visited Mar. 15, 1999) <http://www.nua.ie/surveys/how_many_online/methodology.html>.

92. *How Many Online?* (visited Mar. 15, 1999) <http://www.nua.ie/surveys/how_many_online/index.html>.

93. Alex Lash, *Net Not Ready for Showbiz* (visited Mar. 15, 1999) <<http://www.news.com/News/Item/0,4,19903,00.html>> (quoting Paul Noglows, speaking on a panel discussing "Hollywood on the 'Net'" at Spring Internet World '98, Los Angeles, March 1998).

down in history as the beginning of serious attention being directed at the Web by traditional media giants. Since 1994, new media has stymied traditional media companies, eager to have their sites among the top ten visited on the Web. Now conglomerates are realizing that they can get left behind if the Web lives up to its hype. They are now, in effect, hedging their bets on the Web's future by not only developing their own sites, but also buying into the medium with cash to gain early market share advantage.

In June 1998, Disney agreed to buy 43 percent of Infoseek, which attracts more than thirteen million visitors, in a deal valued at \$473 million. Almost a week before this purchase, NBC decided to pay \$32 million for a minority interest in Snap! Online, CNET's new service that purports to have about two million visitors. Even AT&T tried to acquire Internet heavyweight AOL for a reported \$19 billion, but was turned down. Microsoft and strategic partner NBC established their Internet and cable presence with MSNBC. Even in 1998, Netscape has altered its business strategy to become a major portal or gateway for new Web users.

Many analysts believe it is just a matter of time before other major players make announcements. These recent deals seem to make sense for these media companies from a risk and return point of view. The cash outlay for portals is relatively small by big media standards.⁹⁴ The payoff here could be big for portals and their partners that attract the most viewers. Many analysts feel that users are very loyal to the sites on which they start out or are most familiar. Companies like Yahoo! and AOL have spent millions on advertising, marketing, and brand development to make themselves a household name. This makes Yahoo! and AOL attractive to advertisers eager to snag their users' attention. It should come as no surprise that these two companies (1) earn more advertising revenue than other Web companies; (2) have more visitors or paying subscribers than any other Web company; (3) have forged hundreds of strategic relationships with other companies; and (4) have made their early-stage investors and shareholders a lot of money.

If traditional media conglomerates flock to the Web, garner control of the big brand portal sites, funnel their broadband-ready Web content through these sites, and spend millions of dollars on offline and online marketing and promotional campaigns, how will MNVs and their Web sites compete for viewers? Does the future of the Web as a for-profit media outlet include similar trials and tribulations experienced by minorities in the world of traditional media? Will the concept of strategic partnering be engulfed by sheer

94. For example, NBC purchased an equity interest in CNET's Snap! Online for practically the amount it costs to produce three episodes of NBC's primetime drama *ER* or purchase a small radio station.

consolidation in a new medium devoid of regulation? How does an MNV prepare for the uncertain future of a new media that is barely six years old? It will take time to see how these issues play out in the new media marketplace.

XII. CONCLUSION

Minority-owned new media ventures are struggling to stake a claim in the new media frontier. Some challenges they face are unique to the underlying technology, uncertainty, and international reach of the Web. Others are due to the inequities, disparities, and lack of diversity in the traditional media, advertising, financial, and educational sectors, which adversely affect minorities. These challenges place MNVs at a tremendous disadvantage as they try to compete in the new media marketplace.

However, more and more minorities are viewing the Web as possibly the last media frontier where one can stake a claim on a somewhat level playing field. The opportunity to control one's destiny and to create a substantial media presence with real value is a notion that is becoming a reality for those with the right plans and tools for success.

The Web has the potential to change the rules and to change the way one lives life. Those involved in the new media industry often say that every month or so that passes on the Web is almost like a year passing in most other industries. It is this fast-paced nature that provides this new frontier its uncertainty. However, one thing is certain. When one gets home from school or work, he now has another option for spending his time. He can log on to the Internet and access the Web.

There should be a sense of urgency with respect to minority participation on the Web. If the promise of broadband leads to new media outlets that are profitable and more dynamic than traditional media, then minorities cannot afford to be left out. The traditional media companies are investing big money in new media. Minorities must rise above the challenges of the Web with a clear vision, strong support, and a growing user base in order to compete.