

Measuring Quality Television

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I have read Newton Minow's famous speech, "Television and the Public Interest,"¹ and I decided to assess how (or indeed, whether) the United States's broadcasting industry successfully responded to his challenge to improve the "vast wasteland" that was television in 1961. It is easy enough to insert television programming schedules into a computer and tabulate the number of hours dedicated to situation comedies, public affairs, drama, education, news, sports, etc. I could also perform a wide array of more granular content analyses, such as tabulating the number of acts of violence we see during prime-time viewing, or describing the number of beer commercials aired during weekend sports programming, or specifying the percentage of Latinos in desirable professional roles in dramas. Finally, I could discuss the enormous amount of specialized programming now available via terrestrial and satellite multi-channel networks. Empirically, we can learn a lot about how television has changed since 1961.

So I did all this. Along with some trusted colleagues, I spent the past six months in computer and media laboratories (usually wearing a white lab coat) exhaustively measuring and assessing America's television output since 1961. We scanned and coded millions of programming hours of television, including advertisements and public service announcements. My team employed a complex computer algorithm to study this material, factoring in America's broad diversity, yet also accounting for certain

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1. Newton N. Minow, Television and the Public Interest, Speech Before the National Association of Broadcasters (May 9, 1961) [hereinafter Vast Wasteland Speech].

common social values. Also, we were able to input 1500 audience personality prototypes to ensure that even idiosyncratic viewers' experiences were not overlooked. Moreover, we particularly focused on certain social ills (violence, low educational attainment, etc.) for which everyone knows the media are responsible. Finally, unlike those other media studies you will no doubt read, my team was able to use live test subjects to account for remote-control channel surfing behavior and late-night semi-conscious viewing habits.

Based on my research, I conclude that American television slowly improved during the 1960s after Minow's speech, eventually crossing from a "vast wasteland" to a "lush rainforest" in late 1972, with the debut of *The Waltons*; crossing briefly back into the "vast wasteland" during portions of 1983-84 (due mostly to nauseating televised displays of American narcissism during the 1984 Los Angeles Olympics). Since 1984, however, television has made a steady climb into the lush, teeming tropics, although data for the surprisingly poor period of 2001-02 (*The Bachelor?*) has not yet been fully tabulated. So, based on my research, I have cracked the mysteries of American television and firmly established the quality levels that viewers do or do not experience. Further details of my findings will be published in the near future, replete with numerous charts and tables.² Until then, you should just trust me because I'm an expert, with solid credentials.

Something tells me that I have not convinced you. If you remain skeptical about my findings, then maybe you will be sympathetic to other concerns I have. When Newton Minow suggested that television was a vast wasteland, that was really a comparison, wasn't it? It was a comparison to something "lush," something teeming with diversity and life—a rainforest springs to mind as the obvious comparison. His comparison could have been with another media form, such as the movies or the book industry, but I think a fair reading of his speech is that it was a comparison to what television could be. The challenge Minow made was for broadcasters to live up to the promise of television. Similar sentiments were expressed in the earlier days of television;³ we want the "best" out of our new media.

2. No doubt some future researcher will take my data and attempt to correlate the quality levels I specify with the stock market, etc.

3. I'm particularly fond of E.B. White's reported reaction to television in 1938:

I believe television is going to be the test of the modern world, and that in this new opportunity to see beyond the range of our vision, we shall discover either a new and unbearable disturbance of the general peace or a saving radiance in the sky. We shall stand or fall by television—of that I am sure.

See John P. Murray, *Children and Television Violence*, 4 KAN. J.L. & PUB. POL'Y 7, 7 (1995).

It is, perhaps, a natural human tendency to attempt to ordinally rank things we encounter. In television, we constantly specify the quality of programming. We have numerous award ceremonies covering television quality, such as the Emmys or the Golden Globes. These award ceremonies are usually televised, and have as their central premise the concept that the *best* comedy series or the *best* miniseries is capable of being specified. For most of these awards, especially the most prestigious awards, the viewer usually does not select the winner. The winner is typically selected by “experts,” often called “academy members” or something similarly important-sounding. We typically don’t trust the average viewer.⁴ If we did, we would simply award the best miniseries award to the miniseries that garnered the highest audience share, or commanded the highest advertising rates. But no, we leave those quality decisions to experts. Similar to a critic of modern art masterpieces, they apparently can sniff out important elements of quality television that elude the average viewer. Through their awards, the experts suggest that, during a particular year (or perhaps every year) *The West Wing* was of a higher quality than *The District*. These same experts will also often criticize networks that cancel a particular show for low ratings, when that show is otherwise a critical success, emblematic of the “best” in television.

But we have a media measurement problem—a significant one. Compare our ordinal ranking of television programming to measurements in the physical sciences. If a radio station reports the outside temperature as 20 degrees Fahrenheit, that measurement has meaning to me because I am familiar with the exact nature of the measurement intervals for temperature. Fahrenheit is an interval scale, and each unit higher or lower expresses the same difference in value. Our study of the media is not similar. The content of a television program cannot be reliably measured in any precise manner. Sadly, there is no Fahrenheit scale for television. For example, while we can perhaps label a program “violent” because it depicts two killings in one program, the precise interval/ratio common in the physical sciences is missing: It is not necessarily true that a program depicting two killings is twice as violent as a program that depicts one killing. Modern media studies generally tell us that each viewer contextualizes media content. So, to return to my example, if our media-measurement abilities were translated to temperature, about the most we could say would be that it would be “cold” today—and maybe not everyone would agree!⁵

4. *But see* Jump the Shark, at <http://www.jumptheshark.com> (viewer-input Web site chronicling particular television programs’ demise in quality) (last visited Mar. 4, 2003).

5. Ironically, the only reliable measurement in media studies is audience measurement—“ratings.” But audience ratings are typically rejected by elites, who

Examples abound, but the important point is this: There is no common measurement scheme we can employ whereby our society can agree on televised levels of violence or sex;⁶ educational content; diversity; humor; newsworthiness and fairness, etc. So, what do we do to ameliorate our measurement problem? We use proxies. We intellectually create broad genres of programming. Policymakers and the public alike assign social values to those genres, and to the shows within those genres. These social values, however, often clash. So, if we can empirically establish that the average amount of public-affairs programming aired during prime time has increased since 1961, is that a good thing? Is television better because of that development? I'm not sure. I suppose it depends on whether you like public-affairs programming. Certainly there are no Westerns aired during prime time these days. Apparently there were too many, at least from Minow's perspective, in 1961. I would like to see more Westerns, but that is just my opinion.

If you read Minow's speech, you will note that he does not refer to the measurement scale he employed to assign levels of quality to the genres mentioned therein, including "formula comedies about totally unbelievable families."⁷ No such measurement scales exist. Rupert Murdoch, in his seminal 1989 MacTaggart lecture at the Edinburgh International Television Festival, questioned what we mean by "quality television." He famously concluded that, for Britain, what passed for quality television was simply that programming which was "a reflection of the values of the narrow elite which controls it and which has always thought that its tastes are synonymous with quality."⁸ Is the same true for America? Is our cultural elites' assignment of certain "higher" social values for some shows, such as *Nightline*, and "lower" social values for other shows, such as *Late Show with David Letterman*, rational?⁹ And who decides?

sometimes refer to them as promoting the "lowest common denominator" or a "race to the bottom." For example, one FCC Commissioner recently labeled ratings-focused television programming "tunnelvision." Michael J. Copps, Speech to National Association of Television Program Executives 2003 Family Programming Forum 3 (Jan. 22, 2003), available at <http://www.fcc.gov/commissioners/copps/speeches2003.html>.

6. Not only can we not agree on the levels of certain types of programming, we also cannot agree on the *effects* (whether good or ill) of certain types of programming. Further, regulators bring their personal biases into play. For example, regulators may completely ignore media effects such as consumerism or racism that may prove more harmful to society than violent or sexual programming.

7. Vast Wasteland Speech, *supra* note 1.

8. Rupert Murdoch, MacTaggart Lecture Delivered at Edinburgh International Television Festival 5 (Aug. 25, 1989).

9. Ted Koppel, *Network News Is Still Serious Business*, N.Y. TIMES, Mar. 5, 2002, at A23 (claiming "broadcasts like our five-part series on Congo have no outlet anywhere else on television").

If no reliable measurement criteria for quality television exists, was it improper for Minow to make his case for a particular type of “quality” television—a case he makes to this day? Certainly not; that was his role and nothing in his tenure overstepped the boundaries set by Congress. But we are a democracy, with guaranteed rights to free speech, so the role of the Federal Communications Commission (“FCC”) in determining media quality should be kept in perspective. Moreover, despite all of its experience and expertise, there is no robust social science ability at the FCC that is capable of ascertaining what is quality television. I know the agency well—it has many brilliant lawyers, engineers, and economists, but very few, if any, cultural historians, ethnographers, child psychologists, media effects researchers, sociologists, etc. Media quality is an area of study largely left abandoned by the FCC. Even Michael Copps, perhaps the most outspoken member of the current Commission with respect to media quality issues, has no discernible record of study or scholarship in these areas. Copps’s views are well-publicized certainly, but should they be accorded any more legitimacy than mine . . . or yours?

Consider the following comparison to the role of the FCC in ensuring and promoting quality television. Most Americans would not know the identity of Tessa Jowell, but in the United Kingdom, she plays a critical role in establishing the “quality” of television programming. Jowell serves as the United Kingdom’s Secretary of State for Culture, Media and Sport. She, among other people in the U.K. government, oversees the British Broadcasting Corp. (“BBC”), a public corporation that controls a commanding 38.4% of the British television marketplace, and 50.2% of the radio marketplace.¹⁰ Stunningly, according to the BBC, the average person in the U.K. spends more than a fifth of his or her leisure time listening to or watching the BBC.¹¹ So, Tessa Jowell has a considerable amount of influence on British television. While there exists a certain degree of editorial independence for the BBC, Jowell nevertheless has a wide range of formal and informal powers to influence the BBC’s programming, especially with regard to new business ventures, such as digital television.¹²

The BBC, unlike its three commercial U.K. rivals, does not rely on advertising revenue. Instead, the BBC receives its funding from a special

10. BRITISH BRDCST. CORP., BBC 2001/2002 ANNUAL REPORT 109, available at <http://www.bbc.co.uk/info/report2002/> (last visited Mar. 4, 2003).

11. *Id.* at 10.

12. See generally Department for Culture, Media and Sport: Creative, Media & Arts Web site, at <http://www.culture.gov.uk/creative/index.html> (last visited Mar. 10, 2003).

yearly £116 tax on all U.K. viewers, the much-maligned “licensing fee.”¹³ In return, as part of its special “remit” with the U.K. government, the BBC is obligated to be all things to all people—delivering creative, multicultural entertainment; unbiased news; sports; and educational programming. The BBC, perhaps rightly so, believes itself to be the custodian for diverse and quality television. Its most recent annual report specifies the 169 awards it received in 26 different award schemes, ranging from the Golden Globe Awards to the British Soap Awards.¹⁴ The BBC officially disdains commercial advertising, claiming that such arrangements affect the quality of television, diverting a broadcaster’s attention from the public interest.¹⁵

So does the BBC deliver on its public service remit? The results are certainly mixed, and there are as many opinions as there are television viewers.¹⁶ But what is the most common criticism of the BBC? Ironically, the most common criticism is that the BBC tries too hard to compete with its less-successful commercial counterparts.¹⁷ This desire to compete is evident from even a casual review of the BBC’s programming schedule: pub-centered soap operas, slick newscasts, popular music, reality TV,¹⁸ trendy “do-it-yourself” home improvement shows, nightly reruns of *The Simpsons*, and—reliably—sports on the weekend. Apart from the lack of commercials, and perhaps the obvious trans-Atlantic cultural differences (and resulting viewing preferences), it has the look and feel of a typical U.S. broadcasting network.

13. *Id.*

14. BBC 2001/2002 ANNUAL REPORT, *supra* note 10, at 11.

15. See British Broadcasting Corp., About the BBC, at http://www.bbc.co.uk/info/bbc/lic_advert.shtml (last visited Mar. 4, 2003) (“If the BBC carried adverts or sponsorship, commercial pressures would dictate its priorities instead of the general public interest.”).

16. The BBC’s former head of television (and now head of a competing U.K. commercial broadcaster), Mark Thompson, believes that “when you’re looking for ambitious, complex and above all modern TV, you find yourself watching not British, but American pieces.” Mark Thompson, MacTaggart Lecture at Edinburgh International Television Festival (Aug. 23, 2002), available at <http://media.guardian.co.uk/edinburghfestival/story/0%2C7523%2C779827%2C00.html>.

17. Matt Wells, *Tessa’s Test for Greg*, THE GUARDIAN (London), Jan. 20, 2003, at 4-5 (criticizing BBC’s “almost-nightly” pub-centered soap operas); Jessica Hodgson, *BBC Radio Slammed by DJs for Dumbing Down*, EVENING STANDARD (London), Jan. 21, 2003, at 9.

18. The BBC purchases reality TV shows from some of the same producers that make them for the American market. One European company in particular, Endemol, produces these popular shows, including *Big Brother* and *Fear Factor*. Elisabeth Jensen, *Formats that Know No Borders*, L.A. TIMES, Nov. 10, 2002, at E28; Richard Foster, *BBC ‘Fails Quota Spirit,’* THE STAGE, Feb. 27, 2003, at 3 (describing how the BBC’s purchases of programming from Endemol, a non-U.K. company, causes the BBC to fail production quotas established by the U.K. government).

Whether or not the BBC is considered to deliver quality programming, one thing is certain: The BBC is a political football. Because it has an exclusive position at the heart of the nation's media culture and uses public funds, nothing the BBC does is free from scathing scrutiny from political and cultural elites. As it prepares for the renewal of its exclusive charter in 2006, the BBC is currently undergoing what might be called a landslide of critical analysis. For example, Barry Cox, an influential friend of current U.K. Prime Minister Tony Blair, recently called the BBC "a cultural tyranny—a largely benevolent one, admittedly, but a tyranny none the less."¹⁹ Defending the BBC, at least recently in the trade press, was Jana Bennett, the BBC's current Director of Television (and an American), urging a different view: "There should be a sense of mission about this. It's not all a consumer-driven thing or all about ratings. It's about social value."²⁰ But whose values?

So why is my diversion addressing the BBC's structure and recent experiences relevant to Newton Minow's 1961 speech? As an initial matter, it makes sense to consider the BBC and other public-service broadcasting systems around the globe because the issue of quality television is not simply an American one. Minow anticipated the increasingly global reach of the medium, but the FCC has not seriously studied television schemes that exist outside the United States. Why not? The BBC also represents the role of government action Minow discussed in 1961—the government's active involvement in promoting or ensuring quality television:

Clearly, at the heart of the FCC's authority lies its power to license, to renew or fail to renew, or to revoke a license. As you know, when your license comes up for renewal, your performance is compared with your promises. I understand that many people feel that in the past licenses were often renewed *pro forma*. I say to you now: renewal will not be *pro forma* in the future. There is nothing permanent or sacred about a broadcast license.²¹

Minow's message to broadcasters is clear: Deliver quality television, or the government will use its licensing power to take away broadcasting licenses. But doesn't the BBC example of a huge and committed government involvement in ensuring quality television demonstrate that governments, just like the broadcasters themselves, are largely incapable of producing a television product that can be measured to a universal quality standard? Or, put another way, is America ready to have a "minister of culture"? Or a BBC?

19. Barry Cox, *Time to Axe the BBC's Poll Tax*, THE GUARDIAN (London), Jan. 27, 2003, at 2.

20. Maggie Brown, *The New Lord Reith*, THE GUARDIAN (London), Feb. 3, 2003, at 2.

21. Vast Wasteland Speech, *supra* note 1.

Based on the foregoing, I question Newton Minow's underlying premise that regulators can define what constitutes quality television, much less deliver it. This does not mean, however, that I advocate some form of Dadaist approach to media policy. The media is an area worthy of empirical study and critique, and we can certainly find common grounds for policymaking. We should continue to learn more about how television affects our society and regulate where appropriate. But at the same time, we should also challenge cultural and political elites who attempt to tell us what constitutes quality television; *they should explain their measurement criteria, or confess that they are simply specifying their personal tastes*. My final caution is that we should be more intellectually rigorous and recognize our limited measurement abilities, and broaden our area of study to include alternative schemes that promote "quality" television. Simply bemoaning the quality of American television disservices us all.

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