THE COALITION AND THE OPEN WINDOW: BREAKING THE BROADCASTING POLICY MONOPOLY IN ARGENTINA

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ABSTRACT

In 2009, Argentina's legislature passed a radical law that aims to democratize the country's media sector, enshrining a place for non-profit broadcasters and limiting the concentration of property. Until then, the close allegiance between state actors and media owners – the policy monopoly – had seen the country’s broadcasting legislation modified almost exclusively in the service of government regimes and large corporations. What changed in 2009? This thesis examines how a broad grassroots coalition, the Coalition for Democratic Broadcasting, achieved modest success in advocating for a new law, but was only able to attain reform after its project was elevated by the executive branch as its champion cause. The administration’s advocacy in favor of such a monopoly-busting law can be explained by its ensnarement in a battle with Grupo Clarín, the nation’s largest media conglomerate and a former administration ally. I argue that the break in longstanding state-media ties created an “open window” for the reform movement’s demands and provided the necessary political will to turn their civic proposals into an official policy. Whether or not the new law, in practice, will lead to a more democratic media environment in Argentina remains an open question.
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**INTRODUCTION**

In the age of information, control of mass media is tantamount to political power, whether in the hands of states or private corporations. If the fundamental battle in society is over the minds of people, then this battle increasingly takes place in the communications process (Castells 2007). It follows that state, corporate, and societal actors will seek political gain through control of media.

In Argentina, as in most of Latin America, a policy monopoly consisting of governing elites and media owners has dictated broadcasting policy throughout much of the last century. With scant participation from civil society in decision-making processes about or direct participation in the media sphere, control over the country’s communication has been in the hands of profit-seeking companies or under stringent state control. Collusion between state and market actors meant the press would seldom antagonize against the government. Instead, politicians often took advantage of easily manipulable oligopolistic media markets to ensure favorable coverage. In 2009, this relationship was altered in Argentina, leading to the passage of a broadcasting law that introduces sweeping changes to the country’s media sphere, including limits on ownership and guaranteed airspace for non-profit entities.

What changed in 2009 to make the passage of such a law possible? Through interviews with key actors of a coalition that formed in support of the law, this thesis aims to answer that question. The first part sets down the historical and theoretical foundations, with a particular focus on the factors that have influenced the development of broadcasting in Latin America. Early on, multinational companies and local entrepreneurs propelled growth in broadcasting systems in the region, followed by a maturation of national production and markets and the
expansion of cross-regional programming flows. Authoritarian governments and free market reforms deepened patterns of concentration in mass media ownership. Recently, several Latin American governments, including Venezuela, Bolivia, Ecuador, and Argentina, have taken a confrontational stance against traditional media powers in an attempt to “democratize” access to communication.

The second part looks specifically at the case of Argentina. It has long had “clientelistic” (Galperín 2002) ties between its media companies and the country’s leaders, whether authoritarian or democratically elected. Constant democratic interruptions have made media policy non-systematic. The overthrow of Perón’s highly regulated media environment in 1955 led to the foundation of private TV and its subsequent modernization through investments from U.S. companies. The re-nationalization of many TV channels in 1973 paved the road for those channels to be used for propaganda by the 1976-1983 military government as part of an oppressive media policy. In 1980, a media law was decreed which explicitly restricted participation in broadcasting to for-profit entities. Though the democratic spring of 1983 brought a repudiation of the dictatorship’s harsh media policies and renewed interest in broadcasting, with 2,000 community radios transmitting across the country by the late 80s, markets were nevertheless opened and cross-ownership laws eliminated during the free market reforms of the 1990s, allowing for the creation of multimedia conglomerates and a further concentration of media property.

Part three looks at the formation, starting in 2004, of the Coalición por una Radiodifusión Democrática, or the Coalition for Democratic Broadcasting, which eventually led to the approval of the new law. A wide-reaching civil society group consisting of community broadcasters,
human rights groups, press unions, neighborhood associations, and academics, among others, the Coalition began a nationwide campaign to replace the existing broadcasting law with a new one based on 21 principles they had elaborated collectively. At the outset, progress was limited. However, their project got a boost from the executive branch starting in 2008 when political conflicts between government and opposition entered a critical phase and media conglomerates took a decisive turn against government policies. Until then, Grupo Clarín, the country’s largest media conglomerate which led the attacks against the Kirchner administration, had enjoyed close ties to the government of Néstor Kirchner. The exact reasons for the conflict with Clarín have been the subject of some speculation, though in any case, the policy monopoly in support of the existing structure had splintered. Changes in the stability of a policy network create opportunities for advocacy to reach a wide audience, and the proposals of those on the margins no longer appear irrelevant (Tarrow 1998). I argue that this change in longstanding state-media dynamics created an “open window” (Kingdon 1995) for the reform movement’s demands and provided the necessary political will to turn their civic proposals into an official policy. The consequences of the resulting policy change are yet to be seen, as much of the law has not been implemented in full.
Chapter 1: Historical and Theoretical Foundations

Introduction:

Latin America, with some of the most concentrated markets for private broadcasting in the world (Becerra and Mastrini 2009), and weak or executive-controlled public media (Hawkins 2003, Mastrini 2010), has generated historic deficits in the media’s ability to guarantee plurality and the expression of diverse voices. Enabling access to media for individuals, social movements, political parties, and interest groups is particularly important because it allows them to participate in political debates and impact the public agenda. That broadcast media can provide a channel for communities to make visible their democratic demands is a core tenet of this thesis.

Since this thesis aims to give insight on the passage of a recent broadcasting law in Argentina, this chapter will review the existing historical-theoretical literature on the foundations and development of broadcasting in Latin America. The first part assesses the relationship between media and power with a specific focus on Latin America. Historically, control of mass media has been in the hands of a few family-owned companies, making it easy for politicians to grant favors in return for favorable coverage (Boas 2012). The second part explores the development of broadcasting in Latin America in a global context. Often, local entrepreneurs seeking profit through representation of multinational conglomerates drove developments in the early days of radio and television, with their presence molded by political leaders that were interested in enhancing their own communication power. The third part appraises the impact of big theories on broadcasting development in the region, from the national development paradigm to dependency theory to “globalization.” The fourth part briefly examines regional media trends
during the periods of authoritarianism and later, free market reforms. Finally, the populist style of 21st century progressive political coalitions in Latin America and the emergence of a global movement in support of access to communication will be examined. Some Latin American governments, elected in the wake of what was viewed as a failure of free market reforms and offering a more socially inclusive platform, have adopted a confrontational stance against the existing media order and made attempts to “democratize” media environments. Some of their arguments have rested on ideas of public-interest media and the communication rights of communities that have gained a more prominent place in theories on media reform and democracy in recent decades. Categorized by such terms as “media reform,” “media justice,” “communication rights,” and “media democracy,” the movement has been historically fragmented among a diverse array of actors, conceptual frameworks, strategies, and outcome goals, but is defined broadly as an attempt “to affect the structure and content of traditional mainstream media and communications systems as well as efforts to support and develop alternative media and communications systems” (Napoli 2007). The theoretical background presented here does not aim to reconcile the differences among reform initiatives or scholarly perspectives, but rather provide a scope as a means of understanding the Argentine case within a larger theoretical framework.

**Media and Power**

The importance of information and free expression in democracy has been widely studied (Dahl 1956, Mills 1956, Habermas 1970, Meyer 2002). In his classic definition, Robert Dahl laid out eight necessary conditions for democracy, or “polyarchy,” to exist, among them the requirement that during the pre-voting period that “all individuals possess identical information
about the alternatives.” This condition acknowledges the importance of an informed citizenry in making political decisions. By covering fraud and misconduct as well as good governance, the media can comply with their watchdog role in illuminating democratic choices, one of three societal functions along with gate-keeping and agenda-setting (Waisbord 2008). By giving voice to individuals and movements, or not, the media can help shape access to public discourse and the political agenda. And the media itself, through decisions about what to cover, determines the ideas that will gain prominence on the public agenda (McCombs and Shaw 1972).

In Latin America, though, liberal democracy remains a new concept, and many of its institutions, including press institutions, remain frail (Lugo-Ocando 2008). Though widespread since the second half of the 19th century, liberal democracy was unable to smoothly channel local conflicts and global pressures, remaining limited or unstable in most of the region until the end of the Cold War. Press freedom restrictions, as such, have been a double consequence of this institutional instability and media concentration. This concentration, finally, results from small, market economies that are vulnerable to monopolistic or oligopolistic arrangements by a limited number of players whose power derives from collusive strategies with political actors.

More concretely, a few dominant companies control the airwaves, such as Televisa in Mexico, Grupo Globo in Brazil, and Grupo Clarín in Argentina (Boas 2012). These companies grew and were strengthened through collusive ties with the state, meaning government and market actors held disproportionate strength while other groups, depending on relative position and power, were mostly marginalized (Dahlgren 2008, Curran 2002, Mastrini 2009). Since concentration of ownership in the hands of a few corporations is inimical to freedom of expression for its tendency to block plurality and diverse voices in the media sphere, then in
Latin America particularly, limited media options are more likely to influence public opinion in a certain way (Boas 2005, Lawson and McCann 2005). Collusion often appears as discretional government manipulation of media economics through legislation and favoritism, anti-press violence, and runaway commercialism (Boas 2012, Waisbord 2011, Hughes and Lawson 2005). A fundamental question facing policymakers in the media sphere today is how to break this cycle of influence between state power and concentrated media in order to guarantee access to the means of expression in societies characterized by diversity and persistent social disparities.

**Broadcasting in a Global Context**

Relations of media owners to power have historically shaped development in Latin American broadcasting systems (Sinclair 1999, Mastrini 2009, Fox and Waisbord 2002, Lugo-Ocando 2008). Local entrepreneurs seeking profit through representation of multinational conglomerates drove developments in the early days of radio and television, with their presence molded by political leaders interested in enhancing their own communication power. Though scholars have argued that the phases of media development in Latin America have direct ties to, and are in constant dialogue with, intellectual trends in the U.S. and Europe, the consequences of unequal distribution of media power and political instability in the region have been more sheer than in the U.S. and Western Europe, particularly in the second half of the 20th century. The factors influencing the region’s media development, instead, fall within a web of relations determined by national political and economic contexts (Waisbord 2000, Lugo-Ocando 2008). Sinclair (1999) points out three factors important to the development of media in Latin America: the influence of the U.S., specifically its networks, equipment manufacturers, and transnational advertisers; the role of the region’s governments, whose relationships with media groups varied
from hands-off to “zealous hands-on control”; and Latin American broadcast entrepreneurs and their ability to influence policy outcomes through collective action.

Relationships forged in the 1920s between U.S. radio networks and Latin American entrepreneurs led to the establishment of radio in that decade, though it didn’t become a popular medium until the 1930s (Sinclair 1999). The push by the U.S. government to defend its interests in the Western hemisphere during WWII led to the expansion of U.S. networks into the region along with increased programming flows in both Spanish and Portuguese (Fox 1997). Perhaps the emblematic example of U.S. network collaboration with a Latin American entrepreneur is that of NBC and Goar Mestre. Mestre, a Cuban, received investments from NBC, which at the time was the broadcasting arm of the equipment manufacturer RCA. Mestre went on to become the first president of the Inter-American Broadcasting Association (AIR), a trade group designed to formalize the links between NBC, CBS, and the region’s entrepreneurs. In its first meeting, the AIR resolved to advocate for the U.S. commercial television model based on advertising, rather than the European public-interest model (Sinclair 1999). Of all the debates on cultural imperialism, foreign ownership, and media dependency that would come, scholars believe the U.S.’s single most important impact on the development of media in Latin America was this implantation of the commercial model, which eventually became the universal norm (McAnany, 1984).

Nevertheless, the liberal, commercial model for media was unsuited for the limited liberal aspects of Latin American politics (Waisbord 2000, Lugo-Ocando 2008). Media owners lauded market principles but constantly courted tight relationships with state leaders, supported military coups, and only criticized government intervention when it harmed their own business interests.
Furthermore, the institutions of the press in Latin America never achieved independence from the state akin to those in the U.S. Instead, the commercial ambitions of the press remained attached to the state, largely because the state maintained control over resources that were important for press economics. State-owned companies, for example, were dominant for much of the media development period in Latin America, and thus were an important source of ad revenue. Similarly, governments used instruments such as state-backed loans, favorable exchange rates, taxes, or tariffs to influence editorial lines. “If the press recoiled from printing inconvenient news or cheered official messages, governments responded by canceling large debts with official financial institutions, offering special exchange rates to modernize news rooms, and granting broadcasting licenses,” writes Waisbord (2000: p. 51). Confrontations did emerge, but cooperation in pursuit of mutual benefits was more common.

**Big Theories: Communication and National Development**

Work by Daniel Lerner (1958), along with Rogers (1962) and Schramm (1964), among others, became the research and theoretical paradigms of the day, termed the “dominant” or “modernization paradigm of development,” with development beginning to be treated as a conceptual problem. This contributed to the laying of technical foundations for development programs formulated by such national and international agencies as the United States Aid for International Development (USAID), the United Nation’s Development Program (UNDP), and the United Nation’s Educational, Scientific, and Cultural Organization (UNESCO). This model of development embodied several assumptions that were widely unquestioned until the late 1960s and took as their reference point the Industrial Revolution and the corresponding growth in Western Europe and the United States in the 19th century. Development, following the
“stages” of industrial growth in the West and involving a “big push” or “takeoff” (Rostow, 1960) was based on centralized state planning, the introduction of capital-intensive technology, and quantification through such indicators as Gross National Product – a measure which critics said focused too heavily on growth rather than on the equal distribution of growth (Rogers 1976).

Such development could be facilitated by mass communication, these scholars said, for when the expected development failed to materialize – or only exacerbated existing inequalities – the proponents of modernization theory laid the blame on “traditional” values or ways of thinking. To overcome these barriers, mass media and communication could be used to “modernize” traditional societies, paving a smoother road to development. Specifically, Daniel Lerner (1958), concluded that mass media functions as a multiplier of contacts, creating familiarity with aspects of modernization, especially in rural communities. Through the diffusion of innovations, Rogers (1962) argued that mass media could boost the rate at which ideas and technology spread through cultures. “The route to modernization was to transform the people, to implant new values and beliefs” (Rogers 1976: p. 218). The top-down approach to development was thus mimicked in media systems, and was “often thought to be a very powerful and direct force for development” (Idem: p. 226).

This period of modernization in Latin America and subsequent thinking on foreign dependence and concentration perhaps has no better example than what took place in Argentina. Starting in the late 1950s, when Argentina’s three private television channels couldn’t garner sufficient funding for operations, each of the three U.S. networks moved in and paired off with Argentina’s broadcasters. Heavy investments from ABC, CBS, and NBC propelled Argentina’s three free-to-air channels – all based in Buenos Aires – to a technical and aesthetic
modernization. Throughout the 1960s, it was common to see American television shows and movies during prime time hours in Argentina (Varela 2006). Ownership of television sets soared. Channels, whose programming was purchased from producers in Buenos Aires, expanded across Argentina’s interior provinces thanks largely to an executive decree that sought to maximize radio and television waves throughout the country. Not only were Argentine broadcasters dependent on the U.S. for capital and technology, these investments deepened Argentina’s reliance on content from the U.S. and furthered the geographic concentration of production in Buenos Aires.

**Dependency Theory and Globalization**

By around 1970, the dominant paradigm of modernization was becoming the object of critique and revision. Critics of this development and communication model argued that it gave rise to a vertical and unidirectional approach driven by the North and orchestrated through local governments that targeted Latin American communities in order to instill culturally biased values. Others found fault in some the paradigm’s assumptions, saying it was ethnocentric, economistic, and the cause of further dependency on Western nations. When the “takeoff” expected of the first development decade didn’t occur, scholars began to explore alternative models of development.

Latin Americans such as Raúl Prebisch and Fernando Enrique Cardoso settled for a time on “dependency theory” – the idea that persistent social and economic problems in Latin America could be explained by a political and economic dependence, which was at the same time global and local, having internal expressions in concentrated power schemes. Cardoso argued that development under such dependency was possible, but largely to the benefit of multinational
corporations, state enterprises, and local elites – what he called the tripod of associated-dependent development (Cardoso 1973).

Dependency theory was given a cultural grounding through an association with Marxist/Gramscian ideas of ideology, usually referred to as “dominant ideology” or “cultural hegemony” – the most influential paradigm during the 1970s and 80s (Sinclair 1999). Its foundation was the idea that the class that owns the means of production – including the mass media – could instill its values and beliefs across diverse populations, thereby distorting reality and controlling society in its own interest. Dependency theorists such as Armand Mattelart and Ariel Dorfman (1975) argued that liberalism offered only a limited analysis of the question of power and media in Latin America. As long as media-power dynamics were organized around capitalist principles, they would only advance the economic and political interests of the ruling class, suppressing alternative views. Media systems concerned with profit-making rather than public information would hinder rather than promote democracy, they argued.

In many countries, however, the development of broadcasting systems took more complex turns than the view of dependency theorists. In Argentina, for example, Argentine President Juan Domingo Perón launched the country’s first television station to increase the propaganda power of his government in 1951 (though the technology was imported from the U.S., as we will see in the second chapter). Colombian dictator Gustavo Pinilla established television in the capital city of Bogotá in 1954 as a way to “consolidate his government, reach the population with his message, and give his regime a symbol of modernity” (Aparicio 2002: p. 92). And many countries pursued radio and television expansion in pursuit of educational goals and economic and cultural integration. Mexican President Lázaro Cárdenas (1934-40) donated radio receivers
to rural workers so they could listen to concerts and book reviews on the state radio station. The Uruguay government established a public radio service in 1929 that was later overwhelmed by the growth of commercial media (Fox and Waisbord 2002).

Thus, despite its many strengths, scholars have argued that dependency theory underestimated the independence of local politics in the region (Straubhaar 1991, Fejes 1981). Dependency theorists correctly brought power dynamics to the forefront, signaling that questions of power could illuminate media relations and behavior; and the influence of economics and foreign interests on the region’s media systems is undeniable. They nevertheless often left out the full set of interests that shape media dynamics. States were viewed as purveyors of elite domination, rather than as a space for political conflict.

Likewise, dependency theorists incorrectly interpreted U.S. dominance in the region as a permanent feature. In the 1970s, the U.S. presence began to dwindle and regional trade in locally produced television and radio began to flourish. A 1971 Federal Communications Commission ruling created the financial interest and syndication rules, whereby the Big 3 networks were not allowed to have a financial interest in programming or have a stake in the syndication of programs after their airing (Einstein 2004). U.S. networks, which had found their Latin American initiatives to be less profitable than expected, began withdrawing their direct investments. This period coincided with a significant maturing of local television markets and the growth of cross-regional trade, particularly in the Latin American telenovela, which emerged as a hybrid media form (Varis 1984, Tunstall 1977). Another analysis, from Pool (1977), argued that audiences were influenced by social context, and programming that had linguistic or cultural familiarity would be preferred over foreign content. An initial stage of dependence on U.S.
programs and investment followed by a maturation of local markets thus was characteristic of media system development across the region (Sinclair 1999).

The zero-sum dependency theory argument that said foreign cultures perforce pushed out local identities through media domination also missed the mark. More recent scholarship on globalization addresses questions of identity as characterized by heterogenization rather than homogenization, seeing culture as a “multi-layered phenomenon; the product of local, tribal, regional, or national dimensions, which is anything but a single national culture” (Richards and French 1996). Television has begun to address audiences at local, national, regional, and global levels. A viewer in Mendoza, Argentina, for example, can get local news from Channel 7 of Mendoza. The same viewer can get national programming from Buenos Aires-based channels. At the world-regional level, Mexican and Brazilian telenovelas and other scripted shows are available, as well as news channels like Telesur and CNN in Spanish. International programming from U.S. and European producers is also available, like CNN International, Fox News, and the BBC, as well as comedies and dramas like “30 Rock” and “Grey’s Anatomy.”

The rethinking of cultural identity as not simply being acted upon by external forces but rather as a “complex field of action” (Schlesinger and Morris 1997: 8-9) has several implications. On the one hand, some scholars argue that there’s still something to the cultural imperialism theses in that dominant media groups from core countries still privilege Western culture and politics by underlining the expansion of capitalism, not least through their partnerships with large intra-national corporations in Latin America (Boyd-Barrett 1997, Tomlinson 1999). In this sense, the impact of reverse programming flows and the rise of regional production houses have their limits. A company like TV Globo, for example, though it is a large
exporter of Brazilian content, has after all been heavily influenced by American commercial formats (Matos 2008).

Other scholars have pointed out that globalization and cross flows of programming have mutated culture into a multi-layered phenomenon, with the decline of Western imperialism creating a decentered and nebulous web of power structures (Matos 2008, Nederveen Pieterse 2004). Companies like TVB in Hong Kong, TV Globo and Televisa in Brazil and Mexico, respectively, and the Bollywood film industry in India have begun exporting content and are shaping regional channels and programming (Straubhaar 2007). Norris (2003) observes that the capacity of economic, political, and cultural globalization to bolster a “cosmopolitan orientation” by extending identities beyond national borders can – while local ties have not disappeared – push public opinion in a more “internationalist direction” (p. 287). Or as Tomlinson (1997) argues, a central cultural viewpoint of colonialism was underpinned by undisputed cultural assumptions, i.e. a superior European self-image that was maintained in binary opposition to those being colonized in part through geographical distance that allowed the West to project stereotypes on to a place, like Latin America, which reinforced their (European) superiority and gave grounds for their colonial project. But as expanded global communications collapses physical space, it brings marginalized cultures into closer proximity with the dominant ones, and the cultural isolation required to maintain the impression of a superior identity caves in. “It is as though the cultural pluralism which Western modernity exported to the rest of the world, and which destroyed the certainties of tradition, now returns to undermine its own certainties,” Tomlinson writes (1997: p. 184). At all events, global and national media landscapes have been transformed as a result of international television flows, with technologies and audiences
reaching across borders. It is perhaps most useful, then, as Matos (2008) points out, to understand globalization as a process in which global cultures come under the influence of a single Western culture, yet it is simultaneously more difficult to view the development of emerging societies as synonymous with Western thinking.

**Broadcasting Under Authoritarianism**

Even as new pathways of development were being surveyed, by the mid-1970s in Latin America a majority of countries had fallen under authoritarian governments – either part of the wave of authoritarian coalitions led by the military, most of which had direct U.S. support because of strategic Cold War considerations, such as Chile, Brazil, and Argentina, or long-standing one-party rule, such as Mexico. Often, dominant media groups directly supported military intervention and their economic recipes. Media groups stood to win economic benefits from military juntas if they remained silent on human rights abuses. State-controlled as well as private media acted as a sounding board for authoritarian governments across the region. In fact, two of the largest media conglomerates in the region – Mexico’s Televisa and Brazil’s TV Globo – grew hand in hand with authoritarian governments, the former under the long-standing Institutional Revolutionary Party (PRI) and the latter under the Brazilian military government that ruled from 1964-1985. Media control had the double objective of creating political legitimacy for authoritarian rule while limiting expressions of political and social critique, often though almost totalitarian communication strategies.

In Brazil, for example, a technologically advanced regime began a project to modernize television networks in order to reach all corners of the country’s vast territory. This goal was pursued in the interest of enhancing state power, promoting a national culture, and guaranteeing
public consent – but it also followed the regime’s pattern of favoring concentrated local and foreign business interests in a state-directed capitalism. In 1962, Globo signed an agreement with Time-Life for financial, technical, and management assistance, giving it a jump start on other media companies. Globo received television and radio licenses and access to technological infrastructure built by the state, allowing it to become a national network, reach a mass audience, and achieve economies of scale. In return, Globo accepted official censorship and cooperated with the government in the management of information (Sinclair 1999).

**Political Opening and Free Market Reforms**

Concerns over cultural hegemony gave rise to a new focus on the communication rights of communities, which eventually led to the 1980 MacBride Report. The report, issued under the auspices of the United Nations Educational, Scientific and Cultural Organization (UNESCO), is the product of an international debate on a New World Information and Communication Order (NWICO) in the 1970s and 1980s. The debate was primarily driven by the non-aligned countries that emerged from the Cold War polarity and that were preoccupied with growing income inequalities and the unequal information flows between the developed and developing world (Mowlana 1993). The resulting MacBride report was one of the first to recognize the role of local, plural, and decentralized media. It went as far as to recognize communication as “integral” for development:

> All nations have to make choices in investment priorities. In choosing between possible alternatives and often conflicting interests, developing countries, in particular, must give priority to satisfying their people's needs. Communication is not only a system of public information, but also an integral part of education and development. (MacBride Commission, 2004, p. 256)

The NWICO was subsequently defeated, however, after losing support from UNESCO when the
United States and Great Britain withdrew from that organization in the 1980s. The defeat was also attributed to the historical antagonism of the mainstream media to extending communication rights, “expressed most stridently in the World Press Freedom Committee’s (WPFC) response to initiatives aimed at enabling the project of communication rights” (Thomas 2006). Opponents of the NWICO in mainstream Western-based media outlets grouped together in the World Press Freedom Committee argued that efforts to implement government communications policies would infringe upon press freedoms, and they mounted a counterattack against UNESCO and the NWICO (Pickard 2007). The eventual thwarting of the NWICO by Western-dominated media interests began a push for a neoliberal model of global media development. Though the media-reform movement did not disappear during this period, the General Agreement on Tariffs and Trade (GATT) and later the World Trade Organization (WTO) emerged as key forums advocating for copyright industries and the liberalization of communication and culture, which followed a more generalized push to liberalize the region’s economies (Calabrese 2004).

Though the 1980s saw the return of democracy in many countries in Latin America, the political democratization did not correspond with a democratization of the media sphere (Fox and Waisbord 2002). Technological advances and political-economic changes generated pressure for governments to overhaul broadcast regulations. New technologies such as cable and satellite television led to a prodigious expansion of audiovisual media options, forging new coalitions for reform. Policymakers, many of whom were facing sovereign debt crises or deep fiscal deficits, viewed media reform as a potential source of new funds through privatizations and market liberalization (Galperin 2000), or as a way to gain political or economic favor by assuming the demands of media interests. Regional policy trends included the scaling back of limits on cross-
ownership and foreign investments, which helped to intensify patterns of concentration, increase foreign ownership, and create large multimedia groups. Television hours in Latin America tripled during the 1990s, not only for the benefit of producers in Hollywood but for local producers as well: production and trade of regional programs ballooned during this time (Waisbord 1997).

Brazil, for example, passed legislation to increase transparency and competition in broadcasting, but traditional actors such as Globo TV took advantage of the lack of cross-ownership restrictions to expand into new pay-TV cable markets, demonstrating the difficulty of rooting out old habits (Galperin 2000). In Bolivia starting in 1984, the government allowed private companies to own TV licenses for the first time. Chile allowed private owners to bid for TV licenses that had historically been in the hands of universities. In Colombia, private producers that had been limited to only providing content for state-controlled TV were permitted to own channels. Across the region, the appearance of cable and satellite TV greatly expanded the number of channels available. The liberalization of satellite TV transmissions in Argentina in 1986 allowed cable operators to downlink regional and international networks, and because of Argentina’s restrictive broadcasting law, these channels could only be accessed by for-profit companies (Galperin 2000). Venevisión, a dominant media company in Venezuela, is one of the largest Latin American companies to partner with DirectTV (Sinclair 1999). In fact, the vast majority of new radio and television frequencies resulting from the technological expansion of the electromagnetic spectrum were granted to private actors (Waisbord 2000).

Since Latin American media markets had traditionally been open to foreign capital and free market economics – notwithstanding the role of local politics – these policies were not exactly
new. They did, however, further tip the scales in favor of the market. Similarly, these media system reforms did not alter the long-existing quid pro quo dynamic between states and markets (Fox and Waisbord 2002).

**Left-of-Center Governments**

When free market economics didn’t bear the promised rewards – or, in some cases, lead to crisis – some Latin American societies responded by voting into office left-wing governments that strongly denounced the insufficiency of neoliberal strategies in favor of more widespread and effective social inclusion, starting with Hugo Chávez in Venezuela in 1998, and followed by Nestor Kirchner in Argentina (2003), Evo Morales in Bolivia (2006), and Rafael Correa in Ecuador (2007). These countries have been categorized as “leftist-populist,” in contrast to the “social democratic” governments of Brazil’s Lula, Chile’s Concertación governments, and Uruguay’s Frente Amplio ruling coalition (Arnson and Perales 2007). In all of these left-of-center governments, more aggressive inclusionary and distributive policies have contributed to a reduction of poverty and social inequality in the last decade (Lustig 2009, Cornia 2010).

Following Laclau’s conception of populism, the discursive approach of the leftist-populist governments adheres to a “political logic” that addresses the latent demands of marginalized social groups, pitting their struggle against an “institutionalized other,” such as notions of empire or oligarchy (Laclau 2005). Though some of the region’s leaders – in Brazil, Chile, Uruguay, and Mexico, for example – have not adopted policies to limit the interests of dominant media, these populist administrations have sought to make sweeping and polemical changes in media systems, including limits on the power of certain media companies, usually those that take an anti-government stance or are the source or critical reporting (Boas 2012).
Waisbord (2011) proposes a way to understand the consequences of this new type of media politics – one that helps us to understand the properties of paths to reform and its outcomes in Argentina. First, populism’s notion of the media mirrors its larger view of liberal democracy and its institutions, that is, with antagonism dividing the media between friend and foe, with those media that support the government characterized as legitimate or “popular,” and those opposing the government reduced to “anti-popular.”

Second, these populist leaders frequently inveigh against selected, oppositional media groups, accusing them of advancing the interests of the “oligarchy” or the “empire” at the expense of “the people.” Third, usually in the name of media democracy and in order to punish media groups that supported conservative politics in the past, populist governments use legal-technical instruments at their disposal – the granting of licenses and the shaping and approval of new laws – to reduce the power of the same selected media companies. Instead of overhauling the private media system, though, they intervene in favor of some companies and punish others. Fourth, through the acquisition of media companies and bountiful financing of allied media outlets, populist administrations aim to strengthen the communication power under the control of the executive branch. “This media infrastructure provides the backbone for unabashedly official reporting as well as unfiltered and frequent presidential speeches” (Waisbord 2011: p. 102). Fifth, they implement new laws that give the executive more power to regulate media content, usually with vague language that cedes arbitrary force to the presidency.

Similarly, academic interest in alternative media practices has increased along with policy change in favor of community or civil society-based media across Latin America. Hintz (2011) argues, however, that despite crucial advances in the legitimation and legalization of community
media through license allocation and new laws, these groups still face “serious obstacles”:

Little or no public funding is available, bureaucratic barriers often make the process of obtaining a legal license a daunting exercise, and various restrictions on their operations persist, such as those regarding coverage and content. The weakness of regulatory agencies and their lack of independence from the state are visible across all the exemplary cases. While there have been promising new laws and regulations, structural change has not kept pace, and media authorities continue to depend on executive power. If (or rather, when) the current community media–friendly governments leave office, regulatory practices may be changed or revoked (Hintz 2011: p. 156).

Indeed, evidence from the Argentine case will show that old habits die hard. This chapter has presented the main features of historical media foundations in Latin America through the eyes of its most important students. The persistence of the commercial model and the dependence of private companies on the state for press economics, and the inclination of politicians to use state resources to strengthen their own communication power still appear to be the greatest challenges to media democracy. As Milton (2001) observes, leaders who have been successful under a certain set of rules have little incentive to follow through on promises of reform. Doing so would effectively mean legislating away tools that serve to advance their own political power. The institutional setting allowing leaders to be electorally successful – the dependence of the media on the state, in this case – would be perpetuated, and reform put down. “Institutional relationships of media dependence have granted to political actors the opportunities to use the media to their advantage, and the actors have seized those opportunities” (Milton 2001: p. 519).

In Argentina, as we shall see, the tensions arising from the obvious difficulty of severing this relationship make the possibility of a freer and more independent media an open question.
Chapter 2: The Focus on Argentina

Introduction:

In this chapter, I elaborate on the media policy inertia created by the relationship between political elites and media owners in Argentina. A policy monopoly consisting of governing elites and media owners dictated communications policy throughout much of the last century. With scant participation from civil society either in decision-making processes or in direct participation in the media sphere, Argentina has long had “clientelistic” ties between its media companies and the country’s leaders, whether authoritarian or democratically elected. Constant democratic interruptions have made media policy – like the rest of the country’s policies – prone to constant conflict and change.

Radio Development:

Radio developed in Argentina in fits and starts as the country industrialized and millions of internal and external migrants made their way to the country’s urban centers. The first broadcast, in 1920, was received by 50 aficionados with radio receivers. In the subsequent decade, dozens of broadcasters came and went as they struggled to find a solid economic footing. By 1928, 23 stations were operating in Buenos Aires, and 16 were operating in the interior. The dominant political party, the Unión Cívica Radical, aside from setting loose guidelines on content and granting licenses, left the radio market to develop of its own volition. It wasn’t until the coup d’état of 1930 and the installation of a military government that the state began to play a stronger hand in the regulation of the radio environment (Agustí y Mastrini 2009). A 1933 decree, which
regulated media until 1946, gave more power to the state in the granting of licenses and control over content.\(^a\)

Even as the state asserted itself in the regulation of radio, broadcasters had consolidated their businesses and were rapidly expanding, making Buenos Aires the country’s center of content production. The economic uncertainty of radios in the less populated interior made competition with Buenos Aires producers impossible. To remain viable, they signed re-transmission agreements with more established broadcasters in the capital. Though the network system was consolidated in the 1937-41 period, a 1938 commission – called the most thorough study ever conducted on Argentine media – declared that gaping deficiencies and poor quality broadcasts remained features of the system. The 500-page report recommended a mixed public-private model. Argentina could neither support a public-service model based on public financing, nor would private broadcasters provide the impulse necessary to “catch up” to Europe and the U.S., where they were already beginning to experiment with television. The study concluded that more state fomentation was necessary. The commission’s verdict – also notable for its lack of input from users of radio – was never implemented (Agusti and Mastrini 2009).

The early development of radio in Argentina laid the groundwork for two lasting attributes of broadcast media in Argentina that would later influence the growth of television: the commercial model based on advertising, and the foundation of Buenos Aires as the production center from where programs were broadcast to the rest of the country. As Brenca and Lacroix (1985) point out:
In the 1930s, English culture held great prestige within Argentine society, at the same time that Great Britain was still outmaneuvering the United States in almost all the world. Radio activity in Argentina, however, was born and structured as a private company, with transmissions centralized in Buenos Aires and financed by advertising—a configuration that reproduced the U.S. experience. On the other hand, [radio] activity from the beginning was of great interest to large North American corporations in Argentina. As rules that allowed the state to regulate radio activity were implemented, the sectors that hoped to have a BBC-like configuration stopped insisting. At the beginning of the 1930s, the process of industrialization considerably expanded the publicity market, and the English model based on a national public-service entity without advertising was replaced by the U.S. variant, based on private networks financed by the sale of airtime (In Mastrini 2009: p. 44).

Furthermore, the pattern of collaboration between governments and media owners began in this period. Political leaders largely left the media market to develop on its own. Media owners responded by accepting limits on political content and refrained from criticizing the government (Mastrini and Agusti 2009, Korth 2009).

Perón and Television’s Foundations

The arrival of mythical strongman Juan Domingo Perón to power in 1946 brought sweeping changes not only to Argentina’s sociopolitical landscape, but also to its media system. Elected by a consolidated and organized working class, Perón sought quickly to use media messages to promote an ideological association with Peronist identity. His specialty was the acquisition of media groups through front organizations of businessmen aligned with his government. In one emblematic transaction, Radio Belgrano was suspended from the air and its content censored for one month after it issued strong criticism of Peron’s government. One year later, the station owner, Jaime Yankelivich, offered to sell his businesses to the state through the Ministry of Communications. On October 14, 1947, the Argentine Institute of Promotion and Exchange used
a credit from Banco Nación to acquire the companies, arguing it was for reasons of “national
defense and spiritual conception.” The government later designated Yankelivich to run the
stations, together with family members of the then-minister of communications (Arribá 2009).

By the end of his first government, Perón had gained control of the majority of mass media in
Argentina. As Nielson (2000) discerns: “The old owners largely turned into administrators or
directors of the broadcasters. In short, they went from being owners to state employees with big
salaries” (cited in Mastrini (ed.) 2009: p. 88). The Undersecretariat of Information and Press was
responsible for promulgating government information. As the Secretariat of Labor carried out
public works on a large scale, it was the role of the Undersecretariat of Information and Press to
make those works known to the public (Arribá 2009). Perón’s ability to control the media
extended into the restriction of public liberties, including

expropriation and limits on paper, in order to regulate the country’s main newspapers;
modification of the penal code, in order to avoid criticism of the government, and increasing
penalties for desacato, or defamation, to up to three years in prison; declaration of civil war
and a “state of siege,” in order to suspend constitutional liberties; raids, closures, and
expropriations of press groups, in order to limit competition and plurality; … and the creation
of the Bicameral Investigative Commission for Anti-Argentine Activities, in order to control

The foundation of television in Argentina was the result of a direct decision by Perón. He
sent the aforementioned Yankelivich to the U.S. to bring back cameras, a transmitter, and
roughly 2,000 receivers. The first broadcast of the public channel, Canal 7, took place on
October 17, 1951 – a political event for the Day of Peronist Loyalty in the Plaza de Mayo, from
where Perón and his wife Evita would give speeches from the balcony of the Government House
(Arribá 2009). Whereas the impetus for radio development was largely in private hands, the emergence of television was a state initiative designed to amplify its communication power.

Where Perón’s first government (1946-1951) achieved the consolidation and centralization of media in the hands of his administration, his second government (1952-1955) saw the passage of a sweeping legal structure to regulate media. An “extraordinary juridical, political, and economic regulation never before achieved,” was implemented (Arribá 2009: p. 102). Perón, in his frequent public appearances and large-scale propaganda efforts, also created a discursive dichotomy between the “people” (his followers) and the “anti-people” (his detractors), which was given the force of law through the Bicameral Investigative Commission for Anti-Argentine Activities. The commission was clearly used as a political tool for censorship and the closure of opposing news media outlets. Similarly, in order to combat the “misleading publicity of imperialism,” Perón set up his own propaganda arm that sought to enhance portrayals of the ongoing “revolution” and the harmony that the Argentine people were experiencing. To counteract the force of U.S. culture, Perón set quotas for live radio performances and movies with Argentine actors. He also enforced protective measures against the importation of American movies (Varela 2006). The cultural policies led to large growth in the audiovisual sector, developed media in marginalized areas of the country, and, above all, promoted Peronist identity (Arribá 2009).

The first – and only, until 2009 – media law ever sanctioned by a democratically elected government was passed in 1953. Until then, radio broadcasters had operated in an ad hoc
environment of minimal regulations due to the absence of a legal regulatory complex. The new law declared broadcasting to be in the “public interest,” giving power to the state over its organization, and subordinated particular interests to the “social, cultural, economic, and political interests of the Nation.” It limited the presence of foreign capital, gave directives for appropriate content (the defense of the “national spirit”), and aimed to limit oligopolies.

The law also called for broadcasting licenses on three national networks to be auctioned off within 90 days of its passage. Seven months later, a call for bids was made – a delay that would give the military dictatorship reason to suspend the licenses when it came to power in a coup in 1955. The three national networks, called “A,” “B,” and “C,” constituted the overwhelming majority of radio broadcasters in the country at the time, and all had received their operating licenses in an irregular manner. When the winners of the licenses were announced four months after the call for bids – the law stipulated 45 days – close allies of Perón won them all. “We can define the broadcasting system [during this period] as semi-public because it was all developed around the state, and the three networks functioned under government direction, including exhaustive control of content – but those that generated content were private actors close to the Perón government” (Arribá 2009: p. 100).

Military Coup, Private TV, and the Modernization of the 60s

A fiercely anti-Peronist political-military alliance took power in a coup d’etat in 1955. Amidst an effort to erase the presence of Perón, they nullified the broadcasting law and temporarily took over the networks. The 1956 Intervening and Investigative Commission for
Radio Broadcasters issued a harsh condemnation of Perón’s management of the media. A decree in 1957 referred to the possibility of television licenses for the first time, and a new broadcasting law prevented the accumulation of licenses and broke up the networks – a direct swipe at Perón, now exiled in Spain. A call for bids to begin private television operations was issued that same year, the licenses for which were given to allies of the military dictatorship. Though the military was in power for just three years – elections were held in February of 1958 – they laid the foundations for a privatized, commercial television model. The breaking up of the networks made difficult the development of broadcasting in the interior, and served to further centralize production in Buenos Aires. Instead of distributing content through affiliated networks, producers in Buenos Aires sold content to broadcasters in the rest of the country (Mastrini 2009). Three licenses were issued for television production: Canal 9, Canal 11, and Canal 13. The first private broadcast, however, would only come years later after investments from the Big 3 U.S. networks: ABC, CBS, and NBC. The introduction of North American capital and the imposition of new criteria for the economic workings of television represented a rupture with existing modes of administration and production. While the personage of the early days of state television was Jaime Yankelevich, the figure of the 1960s was Goar Mestre, a Cuban exile with close ties to North American broadcasters. Mestre made investments in Argentina’s Canal 13 on behalf of CBS and Time-Life, leading to an aesthetic and technical modernization, as well as increased competition in television (Varela 2005). Though foreigners were not allowed to hold broadcasting licenses during this period, they had de facto control over stations through heavy
investments in the production companies on which the channels depended. Television ownership ballooned up to 78% in urban areas by 1968, allowing for the consolidation of a publicity market (Muraro 1974). By the late 1960s, however, advertising revenues peaked, U.S. investors sought new opportunities in ventures like cable and satellite TV in the U.S., and their production companies were bought out by local entrepreneurs (Bulla 2009).

The first half of the 1960s was marked by a proliferation of private broadcasters in the interior of the country, fomented by an explicit policy of the government of Arturo Illia (1963–1966). In 1965, a decree implemented the communications law of the 1957 military government, and extended by several years the license period for existing broadcasters. At the time, the television market consisted of 26 channels – 22 privately owned and four in the hands of the state. A seven-year dictatorship, from 1966–73, oversaw the introduction of only one new private channel, and an additional 8 state-controlled channels (Bulla 2009). Muraro (1974) argues there were political and economic reasons for this. On the one hand, the government wanted to exercise strict societal control at a time of social rebellion and burgeoning political violence. On the other, advertising revenues were dropping, and the withdrawal of U.S. companies sapped the interest of local investors in new channels.

**The Return of Perón and TV Nationalization**

The return of Perón in 1974 brought the nationalization of TV channels and a courting of a public service model that would never materialize. As Raul Lastiri was serving as interim president before Perón returned from exile, in 1973, he sent government representatives to
intervene in the television networks (channels 9, 11, 13, and 7 in Mendoza and 8 in Mar del Plata). Perón had returned from Spain impressed by the European public service model, and wanted to put the media to work in service of the “national interest.” Later, after Perón’s death and prolonged quarrels between media workers’ unions and TV license holders, the government of Perón’s wife and successor, Isabel Martínez de Perón, fully nationalized the channels and their production companies. The five channels were put under the direction of the Secretariat of Press and Diffusion, operating within the executive branch (Morone and de Charras 2009).

Simultaneously, many media workers began advocating for a radical change in the broadcasting model. As Morone and de Charras (2009) point out, these efforts, in general terms, aspired to establish “a public service model … with increased participation from workers, the legislature and other entities, the reduction of advertising, more national production, and more cultural content” (p. 152). The clearest example, they write, came out of a study from the Center of Mass Communications, Art, and Technology (CICMAT), an organization dependent on the city government of Buenos Aires. In their proposal, they outlined four general principles for national broadcasting:

1) Radio and television are cultural phenomena before industrial; 2) Being cultural phenomena of great importance, they can’t be subjected to sectorial interests of any kind. They constitute a public service, integrated into the national patrimony; 3) They’re part of state patrimony, but they should be managed by legal workers’ organizations and those entities of public well-being that are dedicated to cultural action and the promotion of Argentine man; 4) Only advertising destined to inform about the characteristics or qualities of a specific good or service and its social utility will be allowed, displacing the use of motivations and patterns of alienating consumption (In Mastrini 2009: p 153)
The project was never implemented. The newly nationalized media were instead used to reflect the dominant ideology of the ruling party.

Military Rule, or ‘The Process’

A stagnant economy and growing social unrest would cut short the government’s term, and the recently nationalized media would be used for social control by the most oppressive military regime in Argentina’s history. The military junta that took power on March 24, 1976 issued a press release that same day that outlined the new limits that would be placed on media throughout the country:

Any media that diffuses, divulges, or propagates news, communications, or images with the purpose of disturbing, endangering, or degrading the activities of the police, security, or armed forces will be punished with up to 10 years in jail. 

Newspaper owners were called to the government house, the Casa Rosada, to go over the new guidelines for newspapers: they would be required to send their editions to the “Free Service of Previous Reading” for approval (Clarín, April 22, 1976). The military intervened in the TV channels that had previously been nationalized by the Peronist administration. This period of initial censorship was supplanted by one of self-censorship, whereby editors and journalists understood what could be said and fell in line. Each channel in Buenos Aires was given to a branch of the military: Canal 9 was given to the army; Canal 11 to the air force; and Canal 13 to the navy. The army controlled the public channel, Canal 7. As Postolski and Marino (2009) write, “various journalistic enterprises in distinct areas of the country were raided; directors, editors and reporters were detained and imprisoned; the Federation of Argentine Press Workers
was intervened militarily; specific magazines were closed down and prohibited; foreign correspondents were expelled; and numerous books and magazines were burned” (p. 166-167). Varela (2001) writes that there were two distinct phases within the dictatorship period: the first, from 1976-80, was marked by persecution and censorship; the second, from 1980-83, revealed cracks in the monolithic discourse of the dictatorship. Newspapers began criticizing the economic policies of the junta, for instance. Overall, Argentine society had been highly politicized, organized, and demanding rights, and was met with a systematic policy of repression and discipline from the military junta (Ivernizzi 2001, Bruchstein 2001).

An important transaction during this period contributed to the strengthening of Clarín, then just a newspaper. Clarín entered into a society with two other newspapers, La Nación and La Razón, to take over the only provider of newsprint in Argentina, Papel Prensa SA. The newspapers received a favorable loan from the military junta in order to finance the purchase, giving them monopolistic control over newsprint. The deal gave these newspapers further reason to not antagonize against the junta (Postolski and Marino 2009). The deal has since been investigated for its relation to human rights abuses, as Papel Prensa’s original owners allegedly agreed to the deal under conditions of torture (Mochkofsy 2011).

As Postolski and Marino (2009) point out, there were battling ideologies within the military government with respect to a new media law. On one side were the economic liberals, who wanted a private, commercial model. On the other side were the “hardliners,” who believed that privatizing broadcasters would mean giving up ideological control. This conflict led to delays in
the sanctioning of a new law, which didn’t occur until 1980. The law was designed with support from two private TV associations, the Association of Private Argentine Broadcasters (ARPA) and the Association of Tele-Radio Broadcasters (ATA), and reconciled the competing arms of the junta with a blueprint combining private ownership with strict state control. It also established property limits, stipulated the role of control organisms, and outlined a plan for the gradual privatization of state broadcasters and the re-organization of the spectrum, to be carried out over several decades. Postolski and Marino (2009) write that the clearest example of connivance between the military and private owners is in article 114 of the law, which automatically extended existing licenses for 15 years, with the possibility of extending for 10 more. By 1983, with growing pressure to return power to a democratically elected government, a deep economic recession, and the fallout from the defeat at the hands of Great Britain in the war over the Falklands-Malvinas, the military government was in its last throes, and attempted, with some success, to get media licenses in the hands of its allies (Postolski and Marino 2009).

The Return of Democracy, Reform Attempts, and the FM Radio Explosion

The period immediately following the military dictatorship was marked by policy stasis in the media sphere, though reform was on the 1983 campaign platform of Raul Alfonsin, who would take power that same year. He suspended the implementation of the military’s privatization process and ended censorship, but ideological differences and economic crisis would hinder the realization of his original goals.

By the time he took office, the military government had privatized only Channel 9 of Buenos
Aires, leaving Alfonsín with three large and highly indebted channels. Alfonsín’s campaign platform represented profound changes in the media system: it would divide Argentina’s airspace into three parts – private, state, and non-governmental; it called for the creation of a bi-cameral commission to oversee radio and television; and it would integrate distance education into radio and TV, along with a restructuring of COMFER, which depended on the executive and controlled media legislation. Despite these goals, contradictory legislative projects were developed. One that was pro-market and centralizing came from COMFER. The other, which advocated a larger role for state participation and other intermediate groups, was developed in the Secretariat of Information and Press (SIP) with input from the Commission for Democratic Consolidation (COCODE) (Com 2009). This later legislation was endorsed by the executive branch and made it through the commission phase with modifications in 1988, but an economic crisis precipitated the early exit of Alfonsín and his Radical government, and the bill never made it to the floor of Congress.

Waisbord (1993) points out several reasons why reform failed during the democratic spring. First, the conflict between pro-private and pro-state factions made agreement on a single policy impossible. Second, Radical officials at the time expressed the difficulty of privatizing in a way that was fair “in both political and entrepreneurial terms” (p. 7). Others believed that the Radicals’ ambivalence and negligence represented their feeling “ill at ease” with the media. And finally, political opponents charged that the Radical administration, like previous governments, could not resist keeping media under their control while in power and then privatizing in favor of
allies when leaving power.

Com (2009) notes that the bill endorsed by the executive received pro-market modifications that can only be explained by the lobbying presence of Clarín and the industry trade group, the Commission of Independent Media Enterprises (CEMCI). Alfonsín had asked COCODE for consultation on the broadcasting law, but later didn’t take their recommendations into account. One former official says the original COCODE project was met with such fierce resistant from industry groups that Alfonsín believed it would not pass Congress (Interview with the author 2012). Clarín and La Nación had both published editorials in favor of privatizing state-owned television channels, and Clarín was actively lobbying the government to overturn clause “e” of article 45 of the broadcasting law, which prohibited the owners of print media from obtaining a broadcasting license. It was widely known that Héctor Magnetto, the CEO of Clarín, wanted to turn his newspaper into a multimedia business (Mochkofsky 2011). Clarín had also published highly critical editorials of Alfonsín’s economic policy, leading Alfonsín to view them as a political enemy. On February 13, 1987, for example, Alfonsín gave an impassioned speech against Clarín for what he believed was skewed coverage of unemployment numbers, to which Clarín dedicated three days to respond. Alfonsín sent tax inspectors to Clarín to monitor their books for three years (Mochkofsky 2011).

Alfonsín’s suspension of the previous law closed off the legal process for acquiring broadcast licenses, and the so-called clandestine FM radios began to appear. Some were supported by local politicians and received publicity money from local and provincial governments. Others emerged
as a source of self-employment during a period of economic difficulty. They came together in 1985 as ARCO (later FARCO), which sought to give voice to silenced communities, and set as their principle goal the defense of community radio. At the same time, the Argentine Federation of Press Workers (FATPREN) presented new legislation in the communications commission of the lower house of congress with the idea of democratizing access to media (Busso 2011).

**Free Market Reforms of the 90s and the Birth of Multimedia Conglomerates**

The period of structural reforms in the 1990s, characterized by deregulation, privatization, and the opening of markets, was also reflected in Argentina’s media policy. Just as telecommunications worldwide were becoming globalized and consolidated (Castells 1996), the decade brought far-reaching changes to Argentina’s media sphere. Television channels were privatized, limits on cross-ownership were removed, and the opening of markets allowed domestic media groups to take advantage of foreign capital inflows to increase their media holdings, particularly in cable TV. By the end of the 1990s, two media groups – Telefónica, a Spanish multinational, and Grupo Clarín, a domestic firm – had established oligopolistic media control in Argentina, with dominant market shares in television, cable and Internet services, telephony, and radio.

All of the candidates for president in the 1989 elections had agreed to privatize the remaining state-owned television stations in a conference held by the private television trade group, CEMCI. As Rossi (2009) argues, regulations had to be updated to comply with the agreements that had already been made between Menem and the private television industry. It was also
widely known that Clarín had acquired a radio station through a front group in violation of the existing law (Mochkofsky 2011). The privatization of the remaining state channels was imminent, leading to worries of mass layoffs among press workers’ unions. The workers from eight unions (SAT, AATRA, SAL, FATPREN, SADEM, AAA, SUTEP, and SUP) called for an inter-syndicate protest against privatization and for more worker control of the television stations. They were met with stiff resistance, however, when the minister of Public Works, Roberto Dromi, told them that unless the channels were privatized, they would be shut down indefinitely. Thus COSIMETCOS, the Confederation of Unions of Social Media Workers, a grouping that would later form part of the 2004 coalition, was born (Baranchuk 2009).

Channel 11 and Channel 13 were auctioned off to local business groups, with Channel 11 going to Televisora Federal and Channel 13 to Clarín. The omnibus state reform law of 1989 paved the way for President Carlos Menem’s pro-market push, and revoked the ownership limitations of the existing media law. Baranchuk (2009) writes that in order to carry out the scope of state reform that he wanted, Menem needed to have “docile” public opinion, for which the connivance between his government and media owners was crucial. In the new framework, newspapers that had previously been proscribed from audiovisual media, like Clarín and La Nación, bought television channels (Clarín) and radio stations (La Nación and Clarín). Companies in sectors unrelated to media were able to purchase broadcasting licenses. An investment treaty with the U.S. allowed U.S. firms to invest in Argentine media. Clarín, for instance, received heavy investments from Citicorp in order to buy small mom-and-pop cable
providers throughout the country and establish MultiCanal, one of the country’s biggest cable operators. Its competitor, Cablevisión, was purchased by TCI, a U.S. hedge fund (Rossi 2009).

Meanwhile, legislation to replace the existing media law continued to stew. Congressional factions of Menem’s party, the Partido Justicialista, and the Radicals worked on the legal framework that had been put forward by Alfonsín. The executive branch, however, was not interested. As Rossi (2009) argues, the fact that congress was pressing to change the media law but lacked support from the executive demonstrated the weakness of congress in a “hyper-presidential” system, in which power is highly concentrated in the executive branch (O’Donnell 1994). A law was introduced in congress in August of 1993 but didn’t advance (Rossi 2009).

In 1989, the weak regulatory environment and virtual cessation of the licensing process meant up to 2,000 radio stations were operating illegally, while only 266 had licenses to broadcast legally. The state reform law of 1989 attempted to legalize these FM radio stations through a system of Provisional Precarious Permits (PPP) to broadcast, a bidding process, and a technical plan that would organize the spectrum, which had become chaotic, especially in large cities. Representatives of the private television industry continued to pressure for the closure of the oft-called clandestine radios through the Argentine Association of Private Broadcasters (ARPA) (Rossi 2009).

Albornoz and Hernandez (2009) break up the Menem era into two periods. The first, from 1989 to 1995, was characterized by “presence of national agents in an oligopolistic market, whose significant features were multimedia groups.” And the second, from 1995 to 2000, was
characterized by “an increase in the presence of foreign capital (telecommunications companies and other multinationals) upon acquiring the principal broadcasters of the country,” as well as foreign participation in satellite TV, and the “transnationalization” and consolidation of the cable TV market (p. 264-265).

Near the end of his second term, Menem aspired to seek election for a third time, but would have to change the constitution in order to do so. Seeing Clarín as a political foe, Menem forged an alliance with Citicorp Equity Investments (CEI) and Telefónica in order to create a media holding group bigger than Clarín that would defend his re-election project. Richard Handley and Raul Moneta, of CEI, started making offers on media properties across the country, and eventually acquired significant shares in open-air television, cable, radio, and publishing, which were then put at the service of Menem’s re-election (La Nación, March 16, 1998). The media, especially Clarín, was largely against the idea of a third term for Menem, and Clarín responded by selling 20% of its stock to the U.S. investment firm Goldman Sachs in order to have firepower for the counterattack (Mochkofsky 2011).

CEI’s acquisition of various media was irregular and in clear violation of the existing law, and Menem issued a decree at the end of his term to normalize the entity’s legal status. His bid to alter the constitution in order to permit a third term failed, however, and his media project came undone after the election of the Alianza government and President Fernando de la Rua (Albornoz and Hernández 2009).

De la Rua and More Failed Reform
The brief government of Fernando de la Rua (1999-2001) attempted to introduce transparency into COMFER, the media regulatory agency, and organize the chaotic airspace of Argentina’s cities, with limited success. Similarly, a media law was introduced, but never passed the commission phase because of the lobbying pressure of private media (RT-a 2001). As Garcia Leiva (2009) argues, the law would not have undone the framework that favored concentrated media interests under Menem. “On the contrary, it gave [these irregularities] the force of law. If [the law] had prospered it would have legalized de facto questions and given formal legal status to the maneuvers [of Menem]” (p. 302). In 2001, private broadcasters pushed a change in the penal code to penalize illegal radio and TV broadcasters, with the goal of “eliminating once and for all the broadcasters without a license and reducing competition to a minimum,” (Garcia Leiva 2009: p. 298) leading the De la Rua administration to decommission channels and radios. Perhaps a demonstration of the lobbying power of the private television industry during this period was the relative speed with which the measure was passed in legislative commission and the lower house of congress, while progress on a new broadcasting law and the normalization of the airspace was sluggish (idem). Furthermore, the Argentine Association of Private Television (ARPA) signed an agreement with the government under which it received tax benefits in exchange for promises of generating jobs in the sector and ceding airtime to raise awareness about tax evasion (Clarín November 27, 2001).

These measures, argues Garcia Leiva (2009), demonstrate that private broadcasters were actually dictating policy, and that the “closeness between the regulators and the regulated
achieved specific benefits for media owners…” (p. 304). De la Rua similarly continued the “lamentable tradition of making public media into an instrument of the government in power” (p. 305). De la Rua’s term was cut short in 2001 by an unraveling economy, and he famously fled the Casa Rosada in a helicopter as massive unrest and protests swept the country.

**Crisis and Kirchnerismo**

After a period of several weeks in which Argentina defaulted on a record $100 billion in sovereign debt and saw five presidents ushered through the halls of the Casa Rosada, Eduardo Duhalde, the Peronist candidate for the presidency in 1999 and the former governor of Buenos Aires, was finally chosen as interim president. Until then, the Argentine peso had been pegged to the dollar at a rate of one to one. Duhalde’s administration allowed the peso to float, and its value depreciated as much as 60%. Businesses that were indebted in dollars but whose income was in pesos were benefited by an asymmetric “pesoification,” whereby debts in dollars were paid back to creditors at one peso to one dollar, but bank deposits in dollars were automatically converted to pesos at the new devalued exchange rate. Industrial groups, including Clarín, which was heavily indebted in dollars, had lobbied for this measure and for the elimination of another that allowed the foreign takeover of distressed companies. When this law, known unofficially as “cram down,” was not revoked, Clarín managed to successfully pressure for another law that would protect the country’s cultural industries. The law, known officially as the Law for the Protection of Cultural Industries, has been referred to as the “Clarín Law.” It passed the Senate under the Duhalde presidency and the lower house of deputies under Néstor Kirchner, in 2003.
The law limited foreign ownership of media companies to 30% (Mochkofsky 2011, Levy Yeyati 2007). Additionally, in 2002, the Senate approved the changes to the penal code that had been pushed through by the organized private television industry during the De la Rua administration. Overall, the period of crisis and institutional weakness that characterized the Duhalde term brought a buttressing of the existing media structure (Baladrón 2009).

Néstor Kirchner was elected in 2003 with only 22% of the vote. A Peronist governor from the distant Patagonian province of Santa Cruz, Kirchner was a relative outsider to national politics. When Kirchner came in second place in the general election – behind former President Carlos Menem, who was allowed to run for another term because it wasn’t consecutive – a run-off election was scheduled. But opinion polls showed Kirchner leading by double-digits in the run-off election, and Menem dropped out in order to keep Kirchner from gaining political legitimacy. Kirchner thus was granted the presidency with a small share of the votes.

Argentina’s political and economic institutions had suffered a blow from several years of recession and the unraveling of one of the country’s worst economic crises. Kirchner, as governor of Santa Cruz, had been described as media-obsessed, and much of what he did there would later be applied at the national level. For instance, he facilitated transaction to put business allies at the front of media groups to keep them docile. He similarly relied on the widely used tactic of spending heavily on government advertising in order to engender press dependency on state finances (La Nacion Jan. 22, 2006).

It was no surprise, then, given his previous media governance and the dire economic and
political circumstances, that Kirchner worked quickly to consolidate power through, among other means, cultivating cordial ties with most media outlets. As previously mentioned, the Senate approved the Law for the Protection of Cultural Industries just days after he took office. It was just the first in a series of measures that would serve to prolong and deepen the concentration of Argentina’s media sphere. In 2004, the licenses granted by the Menem television privatizations were set to expire. Kirchner extended the licenses held by Channel 11 and Channel 13 by executive decree, with no review of complaints against the channels or their activities. In 2005, Kirchner took the extensions a step further: again by executive decree, he granted 10 more years to the license period of all broadcasters, with no evaluation of their performance. These licenses were extended under pressure from the private television industry. The language of a letter from industry trade groups sent to Cabinet Chief Alberto Fernandez was used in Kirchner’s executive decree. Using a decree to extend television licenses implies the absence of parliamentary debate and participation from social sectors, and “continues to obey a political logic in the ill-fated tradition of Argentine governments that implement broadcasting regulations unilaterally, in connivance with the private sector behind closed doors” (Califano 2009: p. 351).

The acquisition of Cablevisión by Multicanal, in 2007, made Grupo Clarín the biggest cable TV operator in the country. Kirchner overlooked the recommendations of the country’s anti-trust agency against the merger, and the Interior Commerce Secretariat approved the deal three days before Kirchner’s wife and successor in the presidency, Cristina Fernández de Kirchner, was to take office, saying that it “does not diminish, restrict, or distort competition in a way that could
result in harm to general economic interests.” In return, Kirchner expected reciprocity from *Clarín* through favorable headlines and scarce critical reporting (Mochkofsky 2011).

The continued validity of the existing media law meant its authoritarian characteristics remained in effect. A project in the Chamber of Deputies to revoke certain articles of the law that gave disproportional power to the executive branch over broadcasting was passed in 2004, but never made it out of the Senate. Kirchner also continued the pattern of stringent control over public media, while expanding its national reach and investing in new technology. Both Kirchner and President Cristina Fernández have made liberal use of official publicity money to reward political allies and punish foes in the media, using advertising space not to promote government services but largely for propagandistic purposes (Califano 2009).

Despite Kirchner’s pro-industry policies, advances in media pluralism were made in other areas. In September of 2003, for example, the Supreme Court ruled that article 45 of the existing media law, which limited access to broadcasting licenses to commercial enterprises, was unconstitutional. In 2005, Congress changed the first paragraph of the existing broadcasting law to revoke the for-profit requirement in force since 1980. That same year, COMFER ordered a census of AM and FM radios in the hands of non-commercial broadcasters, and issued licenses for 126 radios (Califano 2009). Advances in broadcasting policy would come in leaps and bounds starting in 2008, as the next chapter examines.
Chapter 3: The Coalition and the Open Window

Introduction:

As documented throughout the previous chapter, media legislation in Argentina historically has been decided by a small table of actors, or policy monopoly made up of government elites and private media owners. A policy monopoly is defined as “a network of groups and individuals operating inside and outside the government, linked by their mutual recognition as legitimate actors concerned with a particular set of policies” (Meyer 2003: p. 5). Negotiations and conflict among these actors have largely resulted in a policy stalemate, where only incremental change was possible, usually to the mutual benefit of those in the policy network. Reform endeavors from outside this monopoly have been easily ignored. The connivance between government and media leaders left many sectors of the population out of both the decision-making process about media and participation in media itself. Specifically, the 1980 broadcasting law denied any other than for-profit entities the right to broadcast. These limits led to a proliferation of “clandestine” radio and television broadcasters and a struggle for legal recognition and a more democratic model of broadcasting. Press workers’ unions, similarly, have pressured for media diversity and a larger state presence in broadcasting, and united in opposition against the television privatizations of 1989 through COSIMETCOS. Dozens of human rights groups, neighborhood associations, and other non-profit organizations have also been relegated to second-hand status when it comes to the right to freedom of expression in Argentina.

A Note on Methodology

In this chapter, I detail my argument for the appearance of the media law on the public agenda. My argument largely depends on insight gained through interviews with members of the
Coalición por una Radiodifusión Democrática, or the Coalition for Democratic Broadcasting, an organization that formed in 2004 and whose primary goal was to replace the military-era law. Many of these groups and individuals had been involved in previous attempts to change the law, but organized private media associations had systematically repressed these efforts. The Coalition was thus able to coalesce around actors’ grievances stemming from a historical lack of access to communication and engage in a nationwide campaign. The subjects chosen come from this subset of actors, i.e. community broadcasters, press unions, and pro-reform academics. Interviews were semi-structured, and generally aimed to examine the subordination of non-commercial voices in Argentina, the political opportunities that brought the Coalition together, their nationwide advocacy campaign, the response they got from more embedded political and mass media actors, and, finally, how they viewed the implementation of the law, three years after its passage. Néstor Busso, for example, is the founder of FARCO (Forum of Argentine Community Radio), and one of the leaders of the Coalition. Damián Loreti is a lawyer, professor of communications at the University of Buenos Aires, and the principal author of the new law. Pascual Callichio is the leader of a neighborhood association called Barrios de Pie (Neighborhoods on Their Feet), which participated in the elaboration of the law and Coalition campaigns. Rolando Conte is the spokesperson for COSITMECOS, the federation of press workers’ unions. And Ariel Tcach is a producer at Faro TV (Lighthouse TV), a Buenos Aires-based community television station. Subjects were interviewed over a period of weeks in 2012 in Buenos Aires.

The Coalition

My argument unfolds as follows. First, the decades-long legal proscription of certain entities
in the previous broadcasting law created a latent demand among a wide swath of society, including non-profit and community groups, academics, unions, and human rights organizations. This demand has been present since the early days of the democratic spring, in 1983, but reform efforts were lackluster or thwarted by organized and powerful mainstream media groups. Politicians balked at reform for fear of provoking the press in times of democratic transition and economic uncertainty. Second, the Kirchner administration brought with it a new sense of possibilities for long-ignored groups. Reform advocates viewed the existing media law as an undesirable and discriminatory relic of the last dictatorship, and members of the would-be coalition viewed President Néstor Kirchner’s push to overturn amnesty laws protecting human rights violators of the dictatorship as a key turning point, seeing it as a symbol of what was attainable in the new political context. Third, a broad coalition formed out of this new sense of possibilities, creating agreements across sectors on basic principles to be included in new legislation. Their nationwide advocacy gave popular legitimacy to the project and began implanting the notion of communication as a human right in the public mindset. Finally, after receiving lukewarm treatment from the executive branch until 2008, the administration of Cristina Fernández de Kirchner absorbed the Coalition’s project into new legislation. The heightened interest in media reform coincided with the public flare-up between the Kirchner administration and the mainstream media, specifically Grupo Clarín. I argue that this change in the media dynamics between the government and mainstream media actors created an opportunity for action for the reform movements initiatives, or an “open window” as defined by Kingdon (1995) which provided the necessary political will to turn their civic proposals into an official policy.
Stasis in Argentina’s media policy gave birth to grievances among a wide swath of society, and laid the groundwork on which a responsive strategy was formed. It is in this context that the Coalition for Democratic Broadcasting came together. The actions of Néstor Kirchner upon taking office in 2003 – the move to revoke amnesty laws and reform the Supreme Court – gave potential movement actors a perception of new possibilities (Calicchio 2012, Conte 2012, Loreti 2012). Defined as a “collective challenge based on common purposes, in sustained interaction with elites, opponents, and authorities” (Tarrow 1998), the circumstances had been created under which a large and challenging social movement could be built among groups and individuals who, until then, hadn’t acted in cooperation, or what social movement scholars have referred to as “political opportunity structure” (Tarrow 1998; Tilly 1978).

Internationally, multilateral agencies and forums continued to recognize the communication rights of communities. The 2003 Communication Rights in the Information Society helped to strengthen the presence of civil society at the World Summit on the Information Society (Busso 2011). Several members of the future Coalition participated in these forums, and the conclusions garnered shaped the Coalition’s stance on media democracy, job creation and domestic production, and the recognition of federalism and local actors in broadcasting (Córdoba 2011). Regional organizations had similarly assumed the mantle of media democracy.

In 2004, the Argentine Forum of Community Broadcasters (FARCO), and its President, Néstor Busso, called for different sectors of society to create a coalition with the goal of replacing the existing broadcasting law. The members of the Coalition recognized the difficulty of drafting legislation what would satisfy the diverse interests represented in the movement, and agreed to elaborate “21 points,” or principles they wanted to see embodied in the new law. The
General Confederation of Workers (CGT), and the Argentine Workers’ Central Union (CTA), for example, were rival workers’ unions, leading to tensions in some of the negotiations (Busso 2011). “With the 21 points, we could say that, of all the differences that existed in the popular field, the issue of communication was resolved” (Néstor Piccone, interviewed in Córdoba 2011: p. 146). Nationwide tours in support of new legislation ensued, and the Coalition sought linkages with leaders in the executive branch, both houses of Congress, and provincial and municipal governments. They achieved mild success. Members of the Coalition were behind the Supreme Court ruling that found article 45 of the broadcasting law to be unconstitutional. The congressional repeal of the for-profit broadcasting clause, in 2005, came after the Coalition lobbied the Chamber of Deputies. The Coalition similarly opened negotiations with COMFER, the media regulator, to allow non-profit groups to access licenses in 2006 (interview with Calicchio 2012). One of the main concerns of the Coalition, however, was to achieve visibility, which wouldn’t be granted to them by mainstream media. They were blocked from getting their message out in the very media market they were trying to reshape, as media conglomerates were staunchly anti-reform, and voices critical of the concentrated media environment were scarcely heard. Instead the Coalition advocated through town hall and university forums, radio broadcasts, and pamphleting (Busso 2011).

An executive branch that was seemingly only interested in currying favor with media groups additionally stymied the Coalition’s campaign. Néstor Kirchner’s automatic extension of television licenses through decree 527 were received as “a bucket of cold water” by the Coalition, according to Busso, and demoralized their sense of momentum. Similarly, in 2007, against the advice of the country’s anti-trust agency, Kirchner pushed through a merger of
Argentina’s two largest cable providers, giving *Grupo Clarín* the biggest share of the lucrative cable TV market. A request from the Coalition to meet with President Kirchner in 2005 was brushed aside, and were received instead by Kirchner’s secretary, the Secretary of Media, and the General Coordinator of COMFER. Busso, who went as a representative of the Coalition, was told that a new media law was a pending debt of democracy, but that “power relations” would keep the issue off the agenda. Likewise, they were told by officials that “the support of the citizenry” was necessary in order to sanction such a law. In 2007, the Coalition’s 21 points were received by Néstor Kirchner through Hebe Bonafini, one of the founders of the human rights group Madres de la Plaza de Mayo, who had direct access to the President (Busso 2011).

Members of the Coalition believed that support from the executive was vital. Of all the legislation presented since the return of democracy in 1983, not a single one made it to the floor of either house of congress. “We arrived at the conclusion that it was important that the executive branch promote the law because it had a greater capacity to resist the media lobby” (interview with Calicchio 2012). It wasn’t until 2008 that the Coalition’s project would receive the full attention of the executive branch, however, and that is when the Coalition’s fortunes began to change. That was the year – on March 11 – that the heavy-spending Kirchner administration, by this time led by Kirchner’s wife and successor, Cristina Fernández de Kirchner, attempted to implement a sliding-scale tax scheme on the country’s agricultural exports, provoking the ire of opposition politicians, the farm sector, and large portions of the Argentine middle class. Until then, as documented in the previous chapter, *Grupo Clarín* had enjoyed close ties to the Kirchner administration, and enriched its bottom line with the government as a chaperone. Nevertheless, growing tensions and opposition to the tax scheme
turned *Grupo Clarín* against the government during the agricultural conflict. What exactly caused the break-up has been the subject of speculation, ranging from the Kirchners’ disapproval of *Clarín*’s reportage on government corruption and statistics manipulation, to *Grupo Clarín*’s discontent with some of the Kirchners’ policies, and the fact that Néstor didn’t run for re-election and instead chose his wife as his successor. As Porto (2003) finds, dominant media groups, when confronted with an “organized and active” society, may lose audience and ratings, and be forced to abandon their previous alliances. Héctor Magnetto, the CEO of *Clarín*, has said it would have been unwise to continue to support the government in the face of such widespread protests against the Kirchner administration (Mochkofsky 2012).

At all events, *Clarín*’s editorial shift and opposition from the country’s large media groups during the agricultural conflict provoked a forceful response from the government. President Fernández de Kirchner gave a series of speeches in early April excoriating the mainstream media. Brutal public attacks between the government and *Grupo Clarín* have been frequent and sustained (see Mochkofsky 2011). Members of the Coalition viewed this moment as a key turning point (Calicchio 2012, Conte 2012). The President began giving frequent speeches that called attention to the Coalition’s 21 points, which was considered an important news-making resource that expanded the scope of the Coalition’s reach and ability to install their cause on the public agenda (Busso 2012).

The network in support of the existing policy structure was broken. Changes in the stability of a policy monopoly create opportunities for mobilization that can reach a broader audience, and the positions and criticisms of those on the margins no longer appear irrelevant (Tarrow 1998). Damián Loreti, the principal author of the law, was called to a meeting with Fernández de
Kirchner in early April, and soon after began writing the law (Loreti 2012). For the first time, members of the Coalition were solicited by the President for a meeting at the Casa Rosada, which took place on April 16. The demands of the Coalition were given the support and resources of the executive branch, which meant substantial exposure through presidential speeches and in media controlled directly or indirectly by the government. President Cristina Fernández de Kirchner began a series of meetings and inquiries with business leaders, politicians, and communications experts to analyze the viability of the new law. For the remainder of 2008, the Coalition continued to tour the country in support of the new law (Busso 2012).

A draft of the law was made public on March 18, 2009. The Coalition celebrated: All of their 21 points had been included in the introduction to the law along with an explanation of how they had been incorporated into the text of the law (Busso 2011, Loreti 2012). After the mid-term elections of June 2009, in which Fernández de Kirchner’s party lost badly, the law was signed by the President and sent to the Chamber of Deputies for approval. Fernández’s party still had legislative majorities and won additional support from opposition politicians to pass the law through the Chamber of Deputies on September 16, and through the Senate in the early morning hours of October 10. All the while, the Coalition maintained a prominent public presence, participating in street mobilizations in front of the congressional building, and in legislative commission debates (Busso 2011, Callichio 2012).

Following Waisbord (2010), several important lessons can be drawn from the experience of the Coalition. First, the Coalition brought together a broad range of civic interests to engage in advocacy and public dialogue. The agreement on shared goals among union workers,
communications experts, community broadcasters, and human rights groups ensured an extensive collective base. The expertise and reach of these different groups undergirded their social legitimacy and access to government officials. Second, the Coalition used advocacy and legal strategies to expand support. The use of a rights-based discourse illuminated the existing law’s discriminatory, outdated character and the need for reform. This expansion of the discursive frame allowed them to capture endorsements outside of the community of specialists and link the reforms to the practice of a healthy democracy. Instead of attacking the existing media order, they presented themselves as reformers (Cordoba 2011). Likewise, they were able to pressure judicial and legislative authorities to achieve modest reforms, such as the declaration of unconstitutionality of article 45 of the existing law and later the congressional overruling. And third, support from key allies in government was essential for expanding visibility through the government’s news-making power and for passing legislation. While the Coalition’s advocacy played an important role in implanting the issue of media reform on the public agenda – what Cordoba (2011) calls the “performative effect” – the support of the executive branch was pivotal in influencing news content and expanding the support base for new legislation – and also in passing legislation in a political system whose majority-party legislators rarely defy the wishes of the top-heavy presidency. The shift in political dynamics between the state and media broke the existing monopoly on media policy to create a window for reform, turned the government forcefully in favor of the pro-reform movement, and provided the political incentive to turn the Coalition’s demands into government policy. The probability that an item will arise on the decision agenda is increased if politics, policies, and problems are in alignment (idem). The politics (mainstream media and Kirchner showdown), policy (new law based on the 21 points),
and problem (outdated, discriminatory broadcasting law) all came together in the Argentine case. Whereas Waisbord and Peruzzotti (2009) find that the shifting of vaguely defined editorial interests may open opportunities for social movements to form alliances with the mainstream media, the findings here suggest that those shifting editorial interests can allow civic actors to find partners within the state in favor of reform. Governments that are skittish about taking up the cause of media reform for fear of tarnishing media alliances or provoking a media backlash may more readily do so if those media groups are oppositional or have already been irreversibly provoked. Resources provided through the executive branch are indispensable to coalitions that operate on the margins and strive to promote their civic proposals to a larger audience. The Coalition similarly provided an invaluable resource to the government that was seen by some sectors as waging a political battle against oppositional media. A highly mobilized, wide-reaching, and socially legitimate movement supported government action in public acts, congressional debates, and university forums.

The Law, Three Years On

The law finds itself, three years on, in a state of partial implementation. As in many Latin American countries where divisions in the citizenry are deepened in response to state actions over media (Waisbord 2010), Argentine civil society holds diverging views on the subject of the media law and its execution by the government. On the one hand, private media trade groups, journalists, and international press organizations have expressed concerns over the government’s increased direct or indirect control over the media. For these critics, government actions have only aggravated the existing problems in Argentina’s media system, such as the arbitrary use of public resources, irregularities in the implementation of broadcasting laws, and difficulties for
citizen access to public information. The Argentine government has only shown interest in building its own communications arsenal as a counterweight to the dominant media groups while many articles of the law that address historical deficits have lain dormant.

On the other hand, supporters of the law still view consolidated media groups and runaway commercialism as the biggest threat to freedom of expression in Argentina. The advance of media concentration in the last two decades has left a few corporations wielding enormous power. A few complicit judges and politicians have accompanied media groups in opposition to the law in order to detain its implementation. These supporters, though willing to admit errors and delays, believe that the Fernández de Kirchner administration offers the possibility to break the grip of private companies that have dominated Argentina’s media system and perpetuated inequalities in access to communications for decades.

**Skewed Resource Allocation**

Criticism of the government’s implementation of the law is varied. Most of the disapproval, however, is centered on the Fernández de Kirchner administration’s use of public resources and favoritism in license allocation to augment its communication power. Arbitrary distribution of advertising purchases across media is common, for example, and demonstrates the need for government impartiality in publicity spending. Rewarding media allies and punishing foes corrupts the economic dependency of certain media outlets by conditioning editorial lines, and it similarly jeopardizes the economic health of those organs chosen for exclusion. Growth in money used for this maneuver has boomed during the administrations of both Néstor Kirchner and Cristina Fernández de Kirchner, and has been denounced by journalists, watchdog NGOs, and international press organizations (Becerra 2012). The government has stripped Clarin of the
rights to broadcast the games of Argentina’s soccer league, one of the country’s most-watched events, for which it paid $1.4 billion pesos in 2012 and which it bombards with pro-government advertisements. As Califano (2009) points out, government advertising is supposed to function as a way to inform citizens about new programs. Instead, it’s used for government propaganda and proselytizing, which should be prohibited by law, according to article 13 of the Inter-American Commission on Human Rights’ Declaration of Principles on Freedom of Expression (see also La Nación, October 20, 2012). In addition, the government has placed key media holdings in the hands of political allies. Journalists in opposition press outfits point out that the Fernández de Kirchner administration has built an expansive network of media in the hands of businessman who refrain from antagonizing the government. And even as the government has expended billions of pesos to assemble a battery of favorable media, it has spent very little to help develop the community and non-profit broadcasters that advocated for 33% of airspace. Nor have many of these broadcasters received licenses to operate, despite repeated mobilizations in front of AFSCA, the new media regulator (Tcach 2012). Article 97 of the law stipulates that 10% of taxes collected from broadcast license holders will be allocated to “special audiovisual media projects and support to community, frontier and Native Peoples’ audiovisual media services, with a particular focus on cooperation in digitization projects,” but this article had not been implemented at the time of writing. President Cristina Fernández de Kirchner has made frequent use of the “cadena nacional,” or national simultaneous broadcasts, through which her speeches are emitted on free-to-air stations across the country. Article 75 of the new media law stipulates that the executive branch may do so “under serious or exceptional circumstances or instances of institutional significance,” but the president’s critics say these conditions don’t apply to her
speeches. Fernández de Kirchner uses her speeches to inveigh against media groups, specifically Clarín, and has called out journalists by name. Other government officials have referred to journalists in the opposition press as “Nazis” or “mafiosos.” All together, the conduct of the government fits Waisbord’s (2010) ideal type of populist media policies, i.e. antagonistic media politics, discursive attacks on select private media, the strengthening of state communication, and attempts to regulate media content.

**Deepening Freedom of Expression?**

Nevertheless, the government and its supporters continue to defend the law, saying important advances have been made in expanding access to freedom of expression. The term “freedom of expression,” they say, has taken on a different meaning after the process leading up to the passage of the new media law (*Pagina12* September 25, 2012). The nationwide advocacy and the wide penetration of the Coalition’s proposals implanted in the national consciousness a new idea of “freedom of expression,” whereby the term has come to mean greater access to communications and diversity in broadcasting which must be fomented by the state. In order to do so, the government must pare down the power of private corporations that have been preeminent in Argentine broadcasting and usually defended the “freedom of expression” as a way to keep the state at arms length when it came time to regulate. Similarly, these media groups have been put on notice for their eschewal of regulations and ability to dictate policy as well as their use of editorial power in favor of their own economic interests. This new conceptualization of freedom of expression alone has been an important advance towards media democracy, supporters say, but more tangible results are discernible. National universities and provincial and municipal governments have been granted licenses to broadcast. A bidding process for the new
digital television scheme was called but subsequently suspended to take into account the special needs of community broadcasters. Licenses for 687 FM radio stations have been made available and are currently being auctioned off, and more than 200 transmitters have been installed in high schools across the country (Pagina12, September 25, 2012).

**Resistance and Irregularities**

Meanwhile, judicial actions led by Clarín have slowed the divestment proceedings. A May 2012 ruling by the Supreme Court lifted Clarín’s injunction against the divestment clause, though Clarín continues to pursue legal avenues to avoid being dismantled. As of writing, a ruling from the Supreme Court is pending on the constitutionality of the divestment clause. Clarín claims the government has not held other media groups to account that exceed the law’s property limits and didn’t seek judicial protection, as did Clarín. The government has said that enforcing the investment clause on other groups while allowing Clarín to remain untouched would only further consolidate Clarín’s position in the market (Clarín, June 1, 2012). The government has thus allowed up to 25 groups to exist in violation of the law until Clarín is forced to comply (La Nación, November 11, 2012).

Similarly, for two years, the political opposition refused to form the bi-cameral commissions that would oversee the implementation of the law, leading to irregularities in implementation and the presence of exclusively pro-government bureaucrats on control organisms (La Nación, October 16, 2012). The principle regulatory agency, AFSCA is required by law to complete a census of the country’s existing media in order to begin organizing the spectrum, which it did in 2010. The results, however, were never made public. A technical plan for the arrangement of the country’s airspace stipulated by the law was likewise never completed. Article 14 of the law
stipulates that directors “shall be highly qualified professionals in social communication and have renown democratic and republican background, with a pluralist approach, [and] shall be open to debate and exchange of different viewpoints.” As of writing, Martin Sabbattella, the leader of a pro-Kirchner political party who has no apparent expertise in broadcasting, had been appointed by the executive branch as director of AFSCA.

**The State of the Coalition**

The Coalition remains intact but its members disagree on its power to mobilize. Certain factions of the Coalition have been accommodated by the government through a process of political institutionalization, which has co-opted particular members and reduced the Coalition’s autonomy vis-à-vis the state. Key members of the Coalition were pushed out and replaced by more militant actors in favor of the Kirchner administration. This co-optation similarly calls into question the journalistic autonomy of the media outlets that continue to carry the Coalition’s flag (Callichio 2012). Others say the Coalition continues to strive for the full implementation of the law following the vision of reform outlined on the first day. These tend to be the sectors that are most in line with the Kirchner government and have received benefits in the form of resources and leadership positions. Union members from the Coalition have been given positions of leadership in control organisms and commissions (Conte 2012). Néstor Busso, the leader of FARCO, was appointed to the Federal Audiovisual Communication Council, and had an office within AFSCA when consulted for an interview. He claimed his main goal was not to seek rents for his radio stations but to continue pressuring for the full implementation of the law. FARCO had received a $2 million peso grant for technological improvements at 47 radio stations from the government even as most other community broadcasters have received nothing. FARCO also
receives government publicity money. Some broadcasters that remain marginalized accuse FARCO of being “oficialista,” or government supporters. One of the community broadcasters, who said he was neither for nor against the government, but “progressive,” said he believed that if he were a government supporter, he would have a broadcasting license in a month (Tcach 2012).

Conclusions

The passage of the new broadcasting law and its implementation in Argentina teach us important lessons about the complex relations between the market, state, and society in Latin America. It shows us how aggrieved sectors can emerge as coalitions in favor of media reform, but that their success can be conditional on forging alliances with political powers, specifically the top-heavy executive branch. It also shows the danger of such associations, as political leaders can exploit popular support in order to justify the irregular enhancement of their communication power. The use of docile front groups to take over media companies and the continued utilization of public media as a partisan tool by the Fernández de Kirchner administration, even as it attempts to enforce the new law’s ownership limits on selected companies, do not bode well for freedom of expression in Argentina. The rupture of the previous existing policy monopoly between certain private companies and the government is in danger of not being entirely interrupted by the presence of civil society actors. At the time of writing, Clarín and 25 other companies were still operating in violation of the law’s ownership limits, while little has been done to foment development in the 33% of the airspace guaranteed for non-profit entities. Instead, private actors with close ties to the government, as well as oppositional groups, are still the prevailing force in Argentina’s media environment. As we have seen, Argentina’s
broadcasting legislation has suffered frequent policy ruptures. Public media organs have operated historically at the almost purely political behest of oft-changing executive powers. Private media groups have acted aggressively to stifle attempts to reform the broadcasting sphere, usually with the direct or indirect support of the country’s leaders. The breaking of this path dependency of state and private media control is a potential key to advancing media reform and progressing its society toward the Habermasian concept of rational public deliberation, unencumbered by government or private media. On paper, Argentina’s new media law is reminiscent of earlier debates on national communications policies that aim to promote diversity and foment participation from local actors. In practice, however, politicians in Argentina’s ruling party will likely be reluctant to relinquish control over the media sphere, which could set a worrying precedent for future governments. More research is required to determine exactly how coalitions can maintain autonomy from the powerful executive branch in Latin America in order to ensure compliance with legal limits on ownership and the banishment of irregularities in the implementation of new media laws. For now, it looks as though progress, if any, towards a new civil society-oriented public sphere will be slow, and Argentina’s state-media broadcasting monopoly runs the risk of not being broken, but reconfigured.
Notes:

a Article three of Decree 21.004 reads: “It will be prohibited to transmit without written authorization from the General Telegraph and Mail Office, conferences, dissertations, and propaganda that have a political or sociological character, whatever the purpose may be.”

b An analysis of the 1953 law from the University of La Plata can be found here: http://perio.unlp.edu.ar/ojs/index.php/question/article/view/602/513

c Comunicado Nº 19, 03/24/76: Se comunica a la población que la Junta de Comandantes Generales ha resuelto que sea reprimido con la pena de reclusión por tiempo indeterminado el que por cualquier medio difundiere, divulgare o propagare comunicados o imágenes provenientes o atribuidas a asociaciones ilícitas o personas o grupos notoriamente dedicados a actividades subversivas o al terrorismo. Será reprimido con reclusión de hasta diez años, el que por cualquier medio difundiere, divulgare o propagare noticias, comunicados o imágenes, con el propósito de perturbar, perjudicar o desprestigiar las actividades de las Fuerzas Armadas, de Seguridad o Policiales. (From newspaper "La Prensa", March 24th, 1976 – author’s own translation from Spanish).

d In Historia Secreta: devaluación y pesificación (2003) Alejandro Rodriguez Diez writes that, just 48 hours after Duhalde assumed the presidency, he and his Economy Minister held a private meeting with Hector Magnetto, the CEO of Clarín, about measures that would safeguard the cultural industry. In exchange, Magnetto offered support for the government from his media outlets.

e Comisión Nacional de Defensa de la Competencia, Ruling 637 www2.mecon.gov.ar/cnde/archivos_c/637.pdf

f Article 72 subordinated broadcasting services to the doctrine of national security. Article 96 required COMFER to be comprised of members of the armed forces.

g Argentine Supreme Court Ruling 9/1/2003: www.catedras.fsoc.uba.ar/loreti/.../mujica_carlos_rai...pdf

h Kirchner moved to overturn amnesty laws that had protected human rights violators from the 1976-83 dictatorship. He also reformed the Supreme Court that Carlos Menem had stacked with favorable judges in the 1990s.

i ALER, APC, AMARC, OCLACC, WACC, ALAL, IPS

j The coalition included over 300 organizations consisting of journalists, press workers, community broadcasters, artists, academics, students, neighborhood groups, and so on:
• Hebe Bonafini, Asociación Madres de Plaza de Mayo • Estela Carlotto, Abuelas de Plaza de Mayo • Adolfo Perez Esquivel, Premio Nobel de la Paz • Hugo Moyano, Secretario General y Julio Piumato, Secretario de Derechos Humanos, Confederación General del Trabajo, CGT, • Hugo Yasky, secretario General Central de Trabajadores Argentinos, CTA, • Foro Argentino de Radios Comunitarias, FARCO, Néstor Busso y Daniel Fosarolli • Centro de Estudios Legales y Sociales, CELS, Gaston Chillier, Director Ejecutivo • Confederación Sindicatos de Trabajadores de Medios de Comunicación, COSITMECOS - CGT, Horacio Arreceygor • Asociación Argentina de Actores (AAA) - Norberto Gonzalo • Asociación Argentina de Trabajadores de las Radiocomunicaciones (AATRAC) - Jorge Soria • Federación Argentina de Trabajadores de...
Prensa (FATPREN) • Gustavo Granero • Federación Argentina de Trabajadores de Imprenta, Diarios y Afines (FATIDA) • Enrique Marano • Sociedad Argentina de Locutores (SAL) • Enrique Pérez Nella • Sociedad Argentina de Músicos (SADEM) • José Alberto Giaimo • Sindicato Argentino de Televisión (SAT) • Horacio Arreceygor • Sindicato de la Industria Cinematográfica Argentina (SICA) • Luis Colazo • Sindicato Único de Publicidad (SUP) • Vicente Álvarez • Sindicato Único de Trabajadores del Espectáculo Público (SUTEP) • Miguel Paniagua • Federación de Trabajadores de la Comunicación, FETRACOM - CTA, Juan Carlos Giuliani • Círculo Sindical de la Prensa de Córdoba, CISPREN, Guido Dreizik, • Sindicato de Prensa de Rosario, Edgardo Carmona • Asociación de Prensa de Tucumán, Oscar Gijena • Sindicato de Prensa de Mar del Plata, Roberto Ferro • Foro de Comunicación de Santa Fe, FOCOS • Asociación Radios de Universidades Nacionales, ARUNA, Omar Turconi, Presidente. • Confederación de Trabajadores de la Educación República Argentina, CTERA, Stella Maldonado y Francisco Nenna • Movimiento Libres del Sur, Humberto Tuminí, Jorge Ceballos • Federación de Tierra y Vivienda, Walter Ferreiro • María C. Mata, Directora Maestria en Comunicación y Cultura Contemporánea, Universidad Nacional de Córdoba • Carrera de Ciencias de la Comunicación, Facultad de Ciencias Sociales, Universidad de Buenos Aires, Alejandro Kaufman, Director; Julio Moyano, Secretario Académico, Santiago Castellano, Coordinador Técnico • Guillermo Mastrini, Profesor Políticas y Planificación de la Comunicación, Univ. Nac. Buenos Aires • Los 100, Asociación de Periodistas, Enrique Maslorens • Miguel Julio Rodríguez Villafañe, Asociación Iberoamericana de Derecho a la Información y la Comunicación • Instituto Movilizador de Fondos Cooperativos, Segundo Luis Camuratti, Presidente, Edgardo Adrian Form, Gerente general, Roberto Gomez, • ARBIA, Asociación Radiodifusores bonaerenses y del Interior de la República Argentina, Osvaldo Francés • Federacion Argentina de Radiodifusores, Daniel Nievas, Fernando Tupac Amurdo • Asociación Mundial de Comunicadores Cristianos, WACC, Claudia Florentin y Marcela Gabioud, • Universidad Nacional de Córdoba, Miguel Rojo, Director de servicios Radio y TV U.N. Córdoba • Centro Nueva Tierra, Maria Pia Pawlowics, Presidenta • Dafne Plou, PARM LAC • Foro por una Comunicación Democrática y Popular, de la ciudad de Mar del Plata, Sergio Salinas Porto • Cecilia Merchán - Diputada de la Nación • Victoria Donda Perez - Diputada de la Nación • Roberto Baigorria - Movimiento Barrios de Pie • Laura Berardo- Diputada Pcia. de Buenos Aires • Paula Sánchez - Diputada Pcia. de Neuquén • Héctor Romano • Diputado Pcia. de Tucumán • Carlos Morello- Diputado Pcia. de Salta. • Daniel Ezcurra - ISEPCI • Pascual Calicchio - Coordinador Nacional Área de Comunicación Mov. Barrios de Pie - Daniel Fossaroli - FM Aire Libre • Ángel José Gutiérrez - FM San Pedro de Colalao • Corina Duarte - FM Radio Estación Sur • Mario Farías - FM Sur • Néstor Busso - Radio Encuentro • Daniel Ríos - FM Radio Chalet • Magín Páez - FM Comunidad Angelelli • Gustavo García - FM Comunitaria Bajo Flores • Carlos Pelolli - FM Radio Libre - BA • Esteban Tedesco - FM De la Azotea • Javier Daruich - FM Frecuencia Zero • Miguel Vidal - FM Compartiendo • René Caiconte - FM La Voz Del Cerro • Nelson Belmar - FM La Mosquitera • Alfredo Bustamante - FM Libertad • Valeriano Mesa - FM Radio del Barrio • Danilo Martínez - FM Radio del Pueblo • Juan Carlos Figueredo - INCUPO • Jorge Aguayo - FM La Buena Noticia • Ambrosio Tripailaf - FM Che • Silvio Bocchicchio - FM Radioactiva • Hugo Pan - FM La Nueva • Hernán Óroná -
The investigative journalist Graciela Mochkofsky (2011), examines all of these. In addition, even as the public brawl between the government and Grupo Clarín was taking place, the two parties were engaged in private negotiations over Clarín’s entrance into Telecom, one of the country’s dominant telecommunications firms.

A business goal of Clarín CEO Hector Magnetto was to offer triple play services – Internet, cable, and telephony – for which he needed the infrastructure of a telecommunications company. Mochkofsky writes that, around the mid-term election of 2009, Kirchner offered Magnetto the deal, if he would only cease the negative headlines and critical reporting. Magnetto said “no.”

At the time, these were the system of public media, and stations in the hands of Daniel Hadad: the TV channel C5N, radio stations “Mega” and “10”, and the webpage infobae.com. **Pagina 12** was also a large beneficiary of the government’s liberal spending on official advertising and was considered a supporter, or neutral at worst.
Bibliography:


*Clarín*, April 22nd 1976, p. 2, unsigned.


Mochkofsky, Graciela (2011). *Pecado Original: Clarín, Los Kirchner, y La Lucha por el Poder*. 70
Buenos Aires: Planeta.


Delhi.


