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". . . and money is the answer for all things":[1]

The News Corp.—Dow Jones Merger and the Separation of Editorial and Business Practices[2]

AMIT M. SCHEJTER
Penn State University
ROEI DAVIDSON
Netanya Academic College

The recent merger of News Corp. and Dow Jones highlights the latest threat to the integrity of business news in the United States and beyond. We argue that this threat comes from the mingling of journalistic and commercially motivated speech, and especially, from the latter masquerading as the former. Using the "speech transparency theory" framework, we recommend separating institutionally or editorially commercial and journalistic speech to create a more transparent environment for the consumption of business news. We also propose harnessing online tools to enhance the transparency of business news for the reading/viewing public.

Introduction

Rarely does a business transaction spark as much emotion in its media coverage as the acquisition of Dow Jones & Company (Dow Jones) by News Corporation (News Corp.) in the summer of 2007. The *Columbia Journalism Review* described the deal as one in which Dow Jones, "once the proud lion of financial news goes down instead like a jackrabbit shot while sprinting across the field" (Starkman, 2007; see also Reilly, 2007). Indeed, during the much-publicized negotiations between News Corp. and

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[1] Ecclesiastes 10:19

[2] We wish to thank Larry Gross and Arlene Luck for the guidance and input throughout the review of this paper and the two anonymous reviewers for their lengthy and detailed comments, which we believe have helped us focus our argument.

Amit M. Schejter: **schejter@psu.edu**
Roei Davidson: **roei.davidson@gmail.com**
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the Bancroft family, the majority stakeholders in Dow Jones, the traditional daily press, both in New York and across the United States, as well as the trade press, all framed the story in the following way: Will News Corp.'s controversial owner, Rupert Murdoch, intervene or not in the editorial policies of Dow Jones's prized publication, *The Wall Street Journal*? Indeed, once the deal was finalized in December 2007, the press uncovered evidence that may provide an answer to that question.

In light of the public outcry against the proposed deal which valued Dow Jones at 67% above its market value, and in order to overcome the objection of some of the shareholders, the Bancroft family signed an agreement with News Corp. hoping it would calm some of the above-mentioned fears. The agreement created a rather unique structure within Dow Jones—an independent board to serve as a "buffer" between the new owners and the editorial operations of *The Wall Street Journal*. Media reports published soon after the signing of the deal and the oversight agreement, however, alleged that even before the closing of the deal, Murdoch had begun intervening directly in the operations of *The Wall Street Journal* and when he gained control over the operations of the paper, his involvement only intensified.

This study describes the circumstances surrounding the News Corp.—Dow Jones merger, details of the merger agreement, and offers a fresh theoretical perspective for analyzing the deal as an empirical case study of how the integrity of the business press is threatened and what can be done to preserve it. The study starts out by describing the unique status and delicate responsibilities of the business media among the mass media, highlighting cases in recent years in which the business media failed to separate their business interests from their editorial functions. It then presents the current solutions adopted by different business media to overcome the inherent conflict of interest between business interests and editorial independence. After describing the circumstances of the News Corp.—Dow Jones merger, it focuses on the special arrangement reached by News Corp. and Dow Jones to address this problem. The paper then offers a different theoretical framework for analyzing such conflicts of interest, the theory of "speech transparency," concluding with a description of its practical implications both for the particular deal that is the focus of this study and for the relationship between business news and big business in general.

The Business Media: A Distinctive Mass Communicator

The business press performs an essential role in capitalist societies in helping individuals make economic decisions. The business press consists of publications and outlets that extensively cover finance and the economy at the macroeconomic and microeconomic levels and aim to guide economic behavior–be it work and management, investment or consumption. The core of this field is occupied by daily (e.g., *The Wall Street Journal*) and weekly publications (e.g., *BusinessWeek*) and electronic outlets (e.g., CNBC, marketwatch.com) that devote the majority of their resources to business issues. However, many prestige publications (e.g., *The New York Times*) and outlets devote significant resources to these issues as well and their output would also be sensitive to the problems we discuss below and relevant to the solutions we suggest. Publications focusing only on one industrial sector (e.g., *Broadcasting and Cable*) would be considered part of the trade press and not part of the business press. The business press has been an integral part of the market system since the dawn of capitalism, a system that is essentially one of information exchange (McCusker, 2005). More than what is generally attributed to other types of media,

the business press can have a direct and rapid effect on reader and viewer behavior. Business news, for example, impacts investment behavior, generating significant changes in the prices of securities and commodities (Huberman, 2003; Shiller, 2005), and in turn, affects the financial well-being of large constituencies. There is some preliminary evidence that the business press can affect political attitudes (Davidson, 2007a). And as recent corporate scandals have demonstrated, the press can play a critical role in exposing information on corporate wrongdoings, information that has a tangible effect on the working and investing public (e.g., Eichenwald, 2005). Beyond these effects, the business press also has to cope, more than other types of media, with a distinct institutional asymmetry between itself and its corporate sources, which makes it dependent on the very actors it is required to cover and criticize objectively. These corporate sources often have at their disposal highly developed corporate communication divisions that can be used to actively shape their public image. In addition, in democratic politics openness is considered essential to ensure the accountability of government to the public. In contrast, under capitalism it is frequently acceptable for firms to tightly control information in order to ensure a competitive advantage. Finally, a 'synergy bias' has been found to exist whereby media outlets tend to cover related corporate entities more extensively and positively than other actors (Williams, 2002). This suggests that business news could be especially sensitive to becoming a tool in advancing its owner's broader corporate interests.

Thus, even though "mainstream news and 'business news' have effectively morphed over the past two decades . . . [and T]he affairs of Wall Street, the pursuit of profitable investments and the joys of capitalism are now often taken to be the interests of the general population" (McChesney, 1999, xviii) we perceive the business press and the problematic that it raises, as a special and graver case of the growing culture of "MBA journalism" (Underwood, 1993) or "market journalism" (McManus, 1994), cultures that are driven by the acknowledgement that news in itself "is a commodity, not a mirror image of reality" (Hamilton, 2004, p. 7). While it is clear that the mingling of speech motivated by a commercial interest and journalism motivated by a desire to tell "all that's fit to print" is rampant in all news genres, we focus on business news because of the evidence cited above of the immediate impact business news can have on financial markets and thus on the well-being of large numbers of members of the public.

Business News Transgressions

A survey of the problems the business press suffers from must distinguish between transgressions committed by individual journalists and those in which a large number of journalists participate in a certain practice that is often sanctioned by management. In some cases, a behavior that used to be systematic becomes more individualistic. Such is the case with journalists manipulating coverage to benefit financially. In the early 20th century, many newspapers and journalists, including *The Wall Street Journal,* participated in such practices (Scharff, 1988). However, even in the past few decades, individual business journalists have been accused of touting certain stocks in their coverage and then benefiting from the impact of their coverage on financial markets (Norris, 1996). More recently, a prominent financial commentator on a financial news Web site settled a Securities and Exchange Commission (SEC) suit, in which he was accused of promoting stocks and then selling them for a profit. An SEC lawyer involved in the case highlighted the problematic nature of such actions saying: "This involves the core duties of a financial journalist. Readers have a right to know that when somebody's

recommending a stock to them, they do it because they believe in the company, not because they have a financial interest" (Egelko, 2005).

Cases such as these involve what is, at best, a digression from appropriate journalistic practices and, at worst, a blatant betrayal and exploitation of the audience's trust. A different type of problem arises when those who cover business develop loyalties not only to their audience, but also to other constituencies, even when these dual loyalties are not deliberately concealed. For example, professional investors are featured regularly in journalistic venues and sometimes play an important part in creating these venues. Although they enjoy a reputation for objectivity, it is only natural that they have a financial interest in furthering their investment position. Their immersion in the world of business can sometimes give business journalists an advantage in developing business ideas themselves. In one case, a columnist for a widely read financial news Web site worked simultaneously on her own business venture and as a journalist for the site. While this arrangement had obtained the approval of her employer, she ended up reporting in her column on her business partner and on companies that were clients of her business venture (although this had apparently been prohibited by her employer). She was eventually found to have violated the parent company's (Dow Jones) code of conduct and was forced to resign (Darlin, 2007).

Another practice that creates the potential for a conflict of interest is reliance on financial analysts as sources (Davidson, 2006; Doyle, 2006, p. 449; Kurtz, 2001). Analysts provide a constant stream of packaged financial information. They also have an interest in publicizing themselves. However, analysts are driven often not by the interests of the general public, but by the interests of their employer, their clients or their own personal interests, creating a "conflict of audience" (Mahar, 2004, p. 295)—a term that clearly highlights the mixed loyalties of investment analysts when serving as journalistic sources.

The direct impact of the business press on financial transactions can also lead business organizations to actively cultivate ties with journalists. In a highly publicized case, it emerged that a lead anchor of the American business news cable channel, CNBC, had a long-standing relationship with a senior executive at a large American bank. In the course of that relationship, the anchor participated in a number of events held by the bank and even flew on its corporate jet. The bank also invested significant sums of money in a program the anchor appeared in. The bank executive was said to have viewed the anchor as a "business-building tool" (Barnes & Langley, 2007). The anchor's employer defended her behavior (Thomas, 2007). In light of this, it can be argued that the financial expertise and social capital many business journalists acquire might make it more tempting for both their sources and their employers to use them as promotional tools.

Transgressions, however, are not necessarily limited to actions undertaken by individuals. The social and economic affinity between business news outlets and their sources, and the dependence of business news outlets on corporate information *and* advertising can in itself cause such outlets to be more supportive of corporate viewpoints. Indeed, in some cases, the blurred line between objective reporting and promotion results in coverage that is uncritical for months at a time. This was the case with the coverage of the Enron Corporation in the 1990s and early 2000s. The energy company, which was later found to be involved in many illegal actions, enjoyed positive coverage for years from journalists who

bought into the company's public relations narrative, according to which it represented a new type of company that had successfully "rewritten" the rules of capitalism. As a result, Enron's transgressions were disclosed publicly sometimes only years after they had taken place and only when market insiders had a direct financial interest in disclosing this information (Weaver, 2005). The editor of the *Financial Times* argued that "the press blindly accepted Enron as the epitome of a new post-deregulation corporate model, when it should have been much more interested in probing the company" (Gowers cited in Doyle, 2006). The press's failure was caused by an image manufactured by a company with clear commercial intent that is communicated by numerous media outlets as objective reporting. A lack of time and expertise all enable this problematic mingling of content (Doyle, 2006), among other things, by promoting frames that are episodic in scope (Iyengar, 1991), that is, narrow in their focus on a particular short-duration event (Davidson, 2007b). Public relations professionals easily supply content appropriate for this type of frame.

The case of Enron can also be analyzed as a particular example of a problem that plagues most journalists: dependence on official sources. News professionals work within a paradigm that treats official sources as legitimate (Schudson, 2003, p. 150). Some argue that this is the result of the organizational need to produce content on a constant basis (Tuchman, 1980; Bennett et al., 1985; Schudson, 1989). Others argue that it is a result of ideological bias (Herman & Chomsky, 2002). In the context of political coverage, the official sources are affiliated with the government or have the potential of being affiliated with the government. In the context of financial news, this tendency expresses itself in a dependence on corporate sources. One could argue that the asymmetry between journalists and their official sources is more pronounced in business journalism than in political journalism, given that corporate public relations efforts representing private interests, are not subject to the same ethical guidelines one would expect from government sources that one would hope to represent the public interest. In addition, firms have the capacity to protect the secrecy of their proprietary information through non-disclosure agreements with various parties who may have access to such information including employees, while governments are subject to freedom of information rules. This could make the dependence on firm-sanctioned information more acute than in other news genres and the need from a public interest standpoint to distinguish between commercial and journalistic speech more pressing.

Current Solutions to the Inherent Conflict

The remedies used to date to address these problems have been a mix of ethical codes designed to shape journalists' behavior and disclosure requirements designed to make the audience more informed about writers' interests. Another solution is anchored in corporate governance.

Ethics Codes

Different media outlets employ different models of ethical codes in order to overcome possible conflicts of interest on their business pages, most commonly focusing on avoiding conflict of interests between the journalists' private interests and the news outlets' commitment to editorial integrity.

The San Francisco Chronicle prohibits journalists from trading while using insider information, such as advance knowledge regarding a soon-to-be published article. It prohibits beat reporters from

investing in companies that operate in the industry they cover, but there is no blanket prohibition on investment, so long as a reporter discloses to his superiors a conflict of interest when assigned to a story. Public disclosure is not compulsory (Wallack, 2004).

A stricter ethics regime exists at *The New York Times*. Business writers and editors at the paper are barred from using short-term investment strategies or trading in options and some of them, in more sensitive positions, are completely barred from owning stock in any company aside from the newspaper's parent company. These rules come in addition to more general rules that prohibit *New York Times* journalists from consulting or otherwise enabling outside businesses, and from receiving gifts from entities they report on (*The New York Times*, 2004).[3]

Disclosure

In some cases, disclosure is used to alert the audience to the media personality's identity. This can be done in the form of a one-sentence biographical summary (e.g., Koza, 2007). Sometimes, the disclosure includes specific information regarding the writer and his relationship (or lack thereof) to the financial assets discussed in the article he has authored (e.g., Cramer, 2007). In some television programs, the disclosure appears fleetingly on the screen, and it is questionable whether viewers are able to absorb it. These disclosures emerge from either the need to protect intellectual property rights or as a way to protect the outlet's reputation. There is no reason to oppose disclosure in principle and when indicated saliently and sparingly it might alert some audience members to an author's external loyalties. However, we would question whether given the audience's general inattention, this device is sometimes nothing more than ethical boilerplate that legitimates the mingling of loyalties as we discuss further on.

Corporate Governance

While much of the public debate has focused on infractions by individual journalists, a broader challenge is introduced to the integrity of the business press, when the media outlet's owners attempt to influence its content. The conflict of interest in this case lies between the conflicting cultures of a business entity focused on the bottom line and a medium of mass communication embedded within a tradition of storytelling. A solution to institutional conflicts of interest rising from the stake a corporate owner of a medium has in the subject being reported on, has been to construct an ownership structure that protects editorial autonomy. At least two media organizations have embraced different versions of this solution—*The New York Times Company* and *Reuters*—two important providers of business news information worldwide. Dow Jones as well, has a unique corporate structure, as is discussed further on.

At *The New York Times*, one family retains control of the voting shares of the company but owns a minority of the common stock (Pfanner, 2007). This family has remained involved in the daily workings of the company, and one of its members sits at the head of the company acting, among other things, as a

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[3] The Society of American Business Writers and Editors (2002) endorses a similar ethics regime.

trustee of the company's journalistic output,[4] but the family's dominance has been challenged by some investors (Leonard, 2008). In addition, the family ownership structure has proven itself vulnerable to generational shifts at other media outlets (Picard, 1996, pp. 32-34): As time passes, the controlling family expands, making it difficult to develop a coherent business strategy. This state of affairs has been known to lead to business failure and sometimes to the sale of the company. Moreover, it is possible that beyond very specific cases, family ownership has never been a panacea to the commercial corruption of journalistic integrity. In large complex media corporations, some owners cede control to management and with it, the capacity to intervene in news operations with beneficial journalistic results. Thus, a study of American newspapers, found that newspapers that were controlled by managers rather than directly by owners were more technologically advanced and innovative, and journalists working in those newspapers felt they had more autonomy than in family-owned newspapers (Demers & Merskin, 2000).[5]

The information services company, *Reuters,* also operates according to a trustee model, albeit a more formal one established during the Second World War in an attempt to combat pressure from the British government and British press barons. When the trust was created, most of the British press shared in its ownership. The British press, through two central associations, was expected to regard its holdings "in the nature of a trust rather than as an investment" (Read, 1999, p. 288). In order to ensure this state of affairs, a board of trustees was established with the authority to prevent the company from being taken over by a specific interest and to ensure its independence and freedom from bias. The board was also responsible for ensuring

> "that Reuters shall supply unbiased and reliable news services to newspapers, news agencies, broadcasters and other media subscribers and to businesses, governments, institutions, individuals and others with whom Reuters has or may have contracts" (Reuters, 2007, p. 146).

These and a few others were known as the "Reuters Trust Principles." At the time of the trust's ratification, some commentators cautioned that the agreement was nothing more than a shareholders' agreement, and therefore, could be repudiated easily. Nonetheless, it seems that from the time of its establishment, it commanded moral authority.

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[4] *The New York Times'* company chairman and family member articulated his belief that family control was an essential safeguard of journalistic integrity: "One of the strongest value propositions of The New York Times Company lies in the clarity and sense of purpose that family control gives us." This form of control, he argued, was central in insuring that the company's digital ventures would "absorb our paper's traditional wisdom about journalism." (Sulzberger, 2001)

[5] Nevertheless, this position ignores the possibility that the corporate owners of a large media conglomerate with multiple specializations might decide to treat business news providers as "trophy" assets given their unique public influence. It is possible that they will devote an inordinate portion of their energy to maximizing the benefit the rest of their business will receive from owning such an influential asset.

In the early 1980s, the company became publicly traded (Read, 1999, pp. 404-436). As part of its floatation, Reuters established a separate entity (Reuters Founders Share Company), which could exercise a master share to outvote any shareholders who would attempt to violate the trust principles. This power also acted de facto as an anti-takeover provision (Reuters, 2007, p. 146). In 2007, Reuters agreed to be bought by the Canadian information company, Thomson. The new company took it upon itself to preserve the trust structure and the trustees' overruling authority to protect the trust principles (Reuters Founders Share Company, 2007), although some journalists and journalist organizations questioned its continuing authority after it had already allowed Thomson to bypass the trust principles (Pfanner, 2007).

Dow Jones—A Unique Business and Journalism Enterprise

Corporate Structure

The Wall Street Journal is part of the Dow Jones company, a group that has gained, over the years, a unique status among business publications (it is also the owner of the financial weekly, *Barron's*). In view of this, Dow Jones sought to design a unique structure that would serve as a bulwark against undue commercial and political influence. The owners, the Bancroft family, did not exercise direct daily control over the paper and its parent company, believing the paper had a mission that extended beyond profit making. Rather, they instituted a two-class share structure that should, in theory, have protected the company from hostile takeover attempts (Auletta, 2003). In 2003, *The Wall Street Journal*'s then-managing editor, Paul Steiger, believed that a crucial question regarding the fate of Dow Jones was whether the Bancroft family would continue to "believe in it as an institution that is more than just an income-producing business?" (Steiger cited in Auletta, 2003). Losing control of the company, it could be inferred from this, might mean that the company had become merely an income-producing business. Indeed, as time passed, one family member argued that in the family "there has absolutely never existed any kind of family-wide/cross-branch culture of teaching what it means to be an active, engaged owner and more crucially, a family director" (Hill, 2007).

Code of Ethics

Dow Jones subjects its employees to a unique code of conduct (Dow Jones, 2004), one that stipulates their ethical duties in terms rather different than those existing at *The New York Times*. According to this code, the readers must be able to assume that reporting is the product of the writers' and editors' judgment and not of their personal preferences or those of their sources, advertisers or information providers. To summarize, the code warns against publishing content that may reflect a conflict of loyalties in the author. It also spells out why these ethical precepts must be followed: "it is an essential prerequisite for success in the news and information business that our customers believe us to be telling them the truth." The main ethical motivation, therefore, is commercial in the long term. Ethical principles should be observed, not because of a civic duty to the newspaper's readers, but because of the "undivided" loyalty of the company's employees to Dow Jones and their commitment to its business success. Within this framework, it is not surprising that the code rarely distinguishes between the editorial and general staff, and in fact, frequently groups the editorial and advertising staff together. This opens up

the possibility that if the company's business model were to change and its route to business success rethought, the need to ensure that customers believe Dow Jones is telling the truth might be superseded by a more explicitly commercial imperative. A new owner could sanction the mingling of content loyalties without violating Dow Jones's own "categorical imperative"—namely—business success.

The most glaring difference between the Dow Jones code of conduct and *The New York Times* guidelines is the civic framework which the latter embraces: "In keeping with its solemn responsibilities under the First Amendment, *The Times* strives to maintain the highest standards of journalistic ethics" (*The New York Times*, 2004, p. 3). The relationship between the newspaper and its audience is not a service provider-customer relationship, but one between a paper and its reader ("*The Times* gathers information for the benefit of its readers").

The News Corp.—Dow Jones Merger

With the change in the business environment, the Bancroft family did not have the collective resources to maintain the family business (Hill, 2007). The news about News Corp.'s bid to acquire Dow Jones Corporation, and with it *The Wall Street Journal,* hit the newsstands May 2007 (Berman, Karnitschnig & Pulliam, 2007). The media angle and attention to the Dow Jones-News Corp. merger came as little surprise. In the last three decades, Mr. Murdoch, News Corp.'s major shareholder, chairman and CEO, who at the time of the deal was 76 years old, had acquired a reputation for turning the publications he purchased, as well as guiding the media operations he himself founded in the United States, into servants of his own business empire. As the British *Independent* put it, Murdoch "is more powerful than almost anybody without access to a nuclear button" and "[i]t was ever thus, in Murdoch's giant empire, where the news is tweaked in ways that suit his interests and keep his friends sweet" (Foley, 2007). Murdoch's name has, at the same time, been associated worldwide with sensationalist journalism. The fear (or hope, depending on one's point of view) that the WSJ will become either (or both) a servant of Murdoch's media empire and a sensationalist tabloid, motivated much of the media and public attention to the deal.

Aware that Murdoch's reputation for intervening in newsrooms was a major concern, News Corp. not only offered a price far beyond the market value of Dow Jones, but also offered to create special merger conditions that would ensure that *The Wall Street Journal*'s unique structural safeguards are maintained. Some commentators suggest, however, that the Bancrofts "failed their newspaper—not so much because they sold out, as because they did not prevent the conditions that made Murdoch's offer irrefutable. Their values may have been the right ones, but as a collective they lost focus, lacked vigor" (Coll, 2007).

The Merger Agreement and the Establishment of a Special Committee

The trustee model, which characterized Dow Jones, can also be decoupled from family ownership and instituted in its absence. To a degree, this was attempted following the sale of Dow Jones to News Corp. As part of the merger agreement, a "special committee" was established, which consists of "distinguished community or journalistic leaders who are independent" of both companies (News Corp.

and Dow Jones, 2007, Article 1.2a) and have the task of "ensuring the preservation of the integrity, editorial independence and freedom from bias of its publications and newsgathering services and the Dow Jones Publications" and protecting the code of conduct discussed above (News Corp. and Dow Jones, 2007, 2.1e). The three senior editors of the company can appeal company decisions to the special committee in cases pertaining to the appointment and removal of senior editors, changes in the authority of the editors with regards to human resources, and internal allocation of the budget and news decisions. The committee has the right to publish its decisions in a prominent location in *The Wall Street Journal*. However, the special committee cannot deal with external budget decisions affecting the paper's overall budget, nor does the committee or the managing editor of *The Wall Street Journal* have the capacity to prevent any co-branding use of the newspaper's name (News Corp. and Dow Jones, 2007, Article 1.4d). This latter limitation is especially pertinent, as co-branding is a practice that can produce content with conflicting loyalties. It is also problematic, in view of the fact that the new owners launched a business news cable channel around the same time the deal was debated that was designed to be "more business-friendly" than its competitor (Murdoch cited in Wyatt, 2007). A senior officer in the company, who was directing the launch, also noted that "many times . . . [the competitor] is not as friendly to corporations and profits as they should be" (Ailes cited in Wyatt, 2007). This new venture is exactly the type of venture, which might enjoy *The Wall Street Journal* co-branding in the future (Allen, 2007; see also Gough & Szalai, 2007). These limitations together with the questionable composition of the committee and the fact that some editors who have worked for the company have argued that News Corp. has ignored such committees in the past, suggest that the trustee structure is feeble (Folkenflik, 2007).

Early Problems with the Implementation of the Agreement

Just days after the merger agreement and the special conditions were signed, news reports emerged questioning the effectiveness of the special conditions, the integrity of the members of the "special committee," and naturally, Murdoch and his intentions (Editor and Publisher, 2007). It was disclosed that one of the members had received significant funding from News Corp. for a not-for-profit project he was running (Ellison & Karnitsching, 2007).

The *San Jose Mercury News'* Jerry Ceppos (2007) wrote on August 2 that "many reporters and editors at *The Wall Street Journal* think that the sky is falling" and concluded by saying that "I've decided that the worriers at *The Wall Street Journal* were right. The sky did fall . . . ." On August 9, the *Los Angeles Times* reported Murdoch's public comments regarding the purchase, in which he criticized his detractors for their distrust of his ethic, but acknowledged that he was involved in making editorial decisions, such as hiring more staff in Asia and Europe (Menn, 2007a).

Starting in July, the media began reporting that journalists were abandoning *The Wall Street Journal*, mostly framing the stories in the context of the upcoming merger. The *New York Observer* reported on July 23 that Peter Waldman, described as a 22-year veteran investigative reporter at *The Wall Street Journal*, was leaving the paper "at a time when many longtime *Journal* staffers are pondering their future at the paper," even though when asked whether his departure was tied to the merger, Waldman replied, "I don't think [Murdoch's] acquisition would change" *The Wall Street Journal* culture. The

Observer, however, continued to see a connection between journalist retention at *The Wall Street Journal* and the merger (Gillette, 2007a).

The skepticism about the merger agreement and the descriptions of weary journalists seeking a way out were soon followed by stories of Murdoch's interference in affairs at *The Wall Street Journal* even before the deal had been closed. The *Los Angeles Times* reported on August 24, in a story headlined "Murdoch's presence felt at Journal," that he had approached senior reporters who were considering leaving the newspaper and urged them to stay on (Menn, 2007b). Another report cited "staffers" at *The Wall Street Journal* saying that Murdoch had set up an office for himself on the Dow Jones executive floor and that his presence had affected plans for the expansion of the Washington newsroom and created stylistic pressure on journalists to adhere to his preferred "shorter, newsier, front page stories" (Gillette, 2007b). The *Financial Times* reported on October 8 that

> "in the corridors of [Dow Jones] News Corp. and its chief executive, Rupert Murdoch, are already making their presence felt. The television in the lobby, once regularly tuned to cable business network CNBC, now features News Corp.'s Fox News Channel. Meanwhile, Murdoch himself has become a regular visitor, setting up office in one of the conference rooms. During visits, he has met reporters and scrutinized everything from company strategy to the placement of specific photos in the Journal" (Chaffin & Van Duyn, 2007).

During the days leading to the closing of the deal, a *New York Times* report noted that Murdoch had "pushed the paper's editors for shorter articles and more hard news . . . and oversaw the replacement of top executives including *The Journal's* publisher with his own lieutenants. And he hasn't even bought the company yet" (Perez-Pena, 2007). Yet another report indicated that two Web sites owned by Dow Jones had replaced ads for NBC-Universal's cable business channel, CNBC, with ads for News Corp.'s new business channel, Fox Business Network, launched the previous day (Ellison & Dana, 2007; Carter, 2007). Soon after the merger was finalized in the winter of 2008, *The Journal* launched a sports page, using content created by a News Corp. holding (Stats Inc.), started integrating news video clips from Fox broadcast and cable properties, and was in the advanced planning stages of launching a glossy magazine supplement to be published quarterly and gearing its advertising effort at the upscale market of *Journal* readers. *Journal* reporters also suggested the staff was anticipating Murdoch's stated preference for shorter more "urgent" stories at the expense of longer original features. Finally, the new owner had also transferred executives from other branches of News Corp. to senior positions at *The Journal*, another indicator that a cultural shift in news values was well underway (Ahrens, 2008). The direct impact Murdoch has had on the paper's output is evident in a content analysis of *The Journal*'s front page before and after the purchase. This analysis found that the newspaper was placing greater stress on politics and foreign affairs and much less on business (Jurkowitz, 2008). While in itself this change in content mix does not indicate any impropriety, it does show that the special committee did not create an effective buffer that preserved editorial autonomy.

Instead of keeping the paper 'honest,' the increasing market pressures it is subjected to under the new ownership regime are making the newspaper conform to the less transparent journalism conventions practiced in other news outlets. By the end of April 2008, both *The Journal's* editor (Perez-

Pena, 2008) and its general counsel, described as a "tenacious defender of journalism who is regarded as a reporter's lawyer," (Carr, 2008) were working there no longer. A commentator in the *Columbia Journalism Review* described the committee formed to protect the newspaper's editorial integrity as "The WSJ's Little Committee That Failed" (Starkman, 2008).

Introducing: Speech Transparency

The speculation regarding Murdoch's motivation for acquiring Dow Jones, his behavior during the days following the agreement, the new practices and initiatives *The Journal* had embarked on since the takeover, and Murdoch's long-established reputation for meddling in the affairs of his news companies, all raise the question of whether the "buffer" committee created under the special agreement will, indeed, guarantee that *The Wall Street Journal* remains a reliable, authoritative and credible source on economic issues.

In this section, we offer a theoretical framework, based on "speech transparency theory" (Schejter, 2007), for adopting different policy solutions to the problems this case raises, as other measures including codes of ethics, disclosure and mostly corporate structure seem to have failed.

The Theory of Speech Transparency and its Philosophical Roots

The theory of speech transparency applies market theory to "the marketplace of ideas." While Napoli (1999) creates a useful dichotomy between the "economic" and "democratic" interpretations of the "marketplace of ideas" metaphor, the "speech transparency" theoretical perspective aims to utilize market theory in order to enhance the "democratic" interpretation of that market.

According to the "democratic" interpretation of the metaphor, a free exchange of ideas is linked directly to the attainment of political truth and the effective functioning of democracy. However, as Blumler (1989) argues, it would be wrong to approach the media only as a business, and therefore, assume that all "needs" are met. Entman and Wildman (1992), who find that promoting economic efficiency and social values at the same time, under the umbrella of the "marketplace of ideas" metaphor, results in bad policy and bad policy analysis, echo this view. At minimum, they say, a new metaphor is required whose contradictions are less apparent.

The theory of speech transparency, offers such a new (or reformulated) metaphor, concluding that introducing rules of fairness of the type that govern the marketplace of commodities to the marketplace of ideas may help bridge the "democratic" and "economic" interpretations of the metaphor. Using the "marketplace" metaphor, even in the economic sense, would not necessarily spell a deregulatory enhanced chaos, "since chaos is not the optimal prescription for a functioning marketplace" (Schejter, 2007, p. 1501). In commodity markets, once products are defined and restrictions are imposed on players dominating certain types of products, a market that treats its participants more fairly arises, and consumers are more likely to pay cost-related prices for the products. Beyond that, the separation of goods into distinct product markets helps prevent the power of the dominant players from spilling into and affecting other markets as it allows for "power in one locus [to] be checked by power in another"

(Sullivan, 1977, p. 1223) and helps combat "the concern over undue political influence that accompanies economic power" (MacLeod, 1981, p. 326). Thus, rules governing fair competition in commodity markets are not limited to creating a competitive market for the sake of reaching a competitive price structure, but also involve containing the power of emerging monopolies within the markets in which they operate.

The act of identifying the uniqueness of "products" for the sake of defining "markets" requires full **transparency** regarding the functionality of the product. Separation of markets aimed at generating fair competition among products and at blocking distortions in one product market from seeping to another, therefore, is a natural evolution of transparency. Separation is not only a condition for freedom of choice, but also a condition for equality (Walzer, 1984). When success in one "sphere" cannot be transferred to other "spheres," the fruits of that success are barred from contributing to the distortion of relations of power in those other "spheres." The safeguarding and development of "borders" across these "spheres" is, in itself, an important goal, for as history demonstrates, in societies with fewer boundaries, the existing boundaries are not guarded as successfully, allowing those in positions of power in certain "spheres" to migrate to other "spheres" (Walzer, 1995). Hence, separation among "spheres," achieved through the **transparency** attributed to "products" for the sake of diluting power, bears the potential of creating a more just society in this metaphorical "marketplace of ideas" just as it is expected to create a market based on principles of fairness in the market of commodities.

The theory of speech transparency uses market theory as a metaphor (and not literally) and applies it to the "marketplace of ideas," in order to contribute to a more egalitarian communication process, in particular with regard to the relationship between media and their consumers. In the context of this study it contends that there are distinct forms of speech—commercial information on the one hand, original journalistic output on the other—and advocates their separation. In the example that serves as the focus of this study, the content of business press in general and *The Wall Street Journal,* in particular, the news content of any medium should be separated from the content generated by interest bearers for the sake of financial gain (which we call "commercial content") for two reasons: first, in order for "news" to compete with "news" and commercial content to compete with its like; and second, in order to ensure that interests that have gained prominence in the commercial world are not transferred covertly into the "news" world in order to distort it.

The need for separation between commercial and news content is acute because there is evidence that media audiences tend to process information in an unconscious manner, influenced by media messages without being fully attentive to them (Taber, 2003; Kinder, 2003). Under such conditions, it is highly unlikely that many audience members will be able to fully distinguish between commercial and journalistic content on their own without speech transparency and formal separation.

But "transparency" and "separation" are not enough in "speech markets," (nor are they in material markets), as the "products," speech in this case, need to be transmitted in a process that lacks distortions as well. This requires that certain basic rules be maintained so as to create a space in which the formation of opinion is "governed neither by the intimacy of the family, the authority of the state, nor the exchange of the market." (Peters, 1993, p. 542)

In order to reach rational agreement in such a social setting, it makes sense to utilize theories such as Jurgen Habermas's theory of the "ideal speech situation." An ideal speech situation is one in which any attempt to reach a consensus based on undistorted communications is protected against constraints caused by extraneous motives and loyalties brought to the table by the discussants—motives that might otherwise be perceived as perfectly rational in their own right, but have no place in the specific "public," "sphere," or "locale" in which a distinctively defined communication is taking place (Blake, 1995). Transparency is therefore a prerequisite for an undistorted exchange of ideas as well.

The social role of separation, therefore, facilitates the realization of multiple goals: fairness, equality and dilution of excess power. Separation enables the creation of transparency that contributes to an honest exchange of communications, and separation through concrete and strict definitions allows for the development of undistorted competition. Hence, separation is a mechanism that can serve to promote both the social goals of the metaphorical marketplace; that is to say, allowing individuals to reach decisions based on a transparent process of fact-finding and deliberation, and the economic goals of that marketplace, namely, creating a truly honest competitive ground. Within this framework, it would be perfectly permissible for a media outlet to target a specific valuable demographic group. This would not be considered commercial information because, though motivated by profit, this strategy could owe its ultimate loyalty to the audience it wishes to target, and only by being fully loyal to that audience will it be able to maximize its profits. The transparency framework recognizes that media outlets have commercial goals and that they are first and foremost a business. It is this very nature of the dominant form of media that requires the separation. Indeed, speech transparency alone cannot resolve all the ills of a media system rooted in its commercial nature, as the form a media system takes affects the nature of messages transmitted within it (Turow, 1997). It can, however, attend to alleviating the social price created by that format.

From Theory to Practice: Transparency-based Solutions

Transparency-based solutions dictate full separation between "speech types" that are different. These will be applied below in the specific context of business news without denying that the mingling of speech types is rampant in all for-profit media outlets and not solely among providers of business news (e.g., McChesney, 1999; McManus, 1994; Underwood, 1993; & Hamilton, 2004). These solutions will also be applied with the recognition that among commercial outlets the public interest will be inevitably sacrificed sometimes at the altar of corporate self-interest. Transparency solutions applied under commercial ownership will not eradicate this problem (public media which we discuss below briefly would do a better job of that), but they will force the outlet to come clean regarding the compromises it has made.

Transparency solutions would focus on ensuring that information in which commercial interests are vested would be separated from information in which such interests are not vested. These solutions, however, are predicated on the notion that business news content is not all made of one cloth. Some content is almost purely the product of corporate information, frequently in the shape of press releases, while other content is the product of journalistic initiative. In some content, editorial or commercial, the

owners of the medium have a stake, while in other commercial content as defined in this study do not have a direct stake.

In order to achieve a transparency-based working model, an important element of the ideal situation in the case of *The Wall Street Journal* would be one in which the newspaper were not allowed to carry information regarding News Corp.'s interests. In this manner, when engaging the reader, the forum, based on the separation of external influences, would be more egalitarian. This type of solution, however, is impractical for two reasons: on the one hand, *The Wall Street Journal* would become a medium addressing only part of the market, and to a large extent, while it would maintain its credibility, it would lose relevance; on the other hand, it is probably impossible in the growing global economy, which is both widespread and increasingly more concentrated in the hands of fewer people, to identify the extent of News Corp.'s business interests. How far removed from the story should Murdoch's empire be in order to legitimately discuss it? And who would determine that? These are questions that cannot easily be answered.

Still, disclosure, while allowing these conflicting interests to co-exist, does not alleviate the problem, as it has been defined here, since it does not support the creation of "safe harbors" or "spheres" that are not dominated by the newspaper owners' interests.[6] In the absence of an ethical forum on the pages of *The Wall Street Journal*, it is better not to have the "buffer committee" at all and to allow *The Wall Street Journal* to do as it pleases: The appearance of transparency and separation is even worse than the transparent lack thereof. Public policy needs to develop alternative means of communication that are truly separate, and by definition, transparent and able to support undistorted communications in fair market conditions, even when it is the market that is the topic of discussion.

As mentioned above, this paper focuses on the case of business news. Outlets producing other types of news content could, of course, adopt the transparency framework as well.

Structural Separation

Potential conflicts between business and editorial interests have been dealt with over time in various ways, most prominently by establishing barriers between the editorial and business operations of media, particularly in newsrooms. However, these barriers have sometimes served little more than lip service. A case in point is the *Los Angeles Times*—Staples Center debacle: a report commissioned by the newspaper found that it had agreed to share advertising revenue from a supplement celebrating the sports arena's opening with the arena itself. This was done as part of a broader commercial relationship

[6] A pertinent recent example being a *Columbia Journalism Review* report (McLeary, 2007) that has recently pointed out that CBS news featured, on its Sunday morning show, an interview with the wife of Vice President of the United States about a book she had written, while the lawyer who had represented her in negotiations with the publisher was the spouse of the reporter interviewing her. Although this relationship was disclosed to the viewers, it did not make the behavior of the journalist any more ethical, since she stood to gain financially from the interview through her husband; she had a direct interest in promoting the book.

between the two entities without disclosing the nature of this relationship to the readers. It was an example of other attempts to circumvent the wall between editorial and advertising operations at the paper (Barringer, 1999). In a different case, a former advertising and PR executive, who headed a group of businessmen that took over the Philadelphia Inquirer and Philadelphia Daily News, stressed his wish to take advantage of synergies between advertising and editorial activities (Seelye, 2006). One marketing initiative was blocked after neighbors—not journalists—complained about a hanging giant inflatable bee and banners promoting the release of an animated motion picture from the newspaper group's landmark building (Joshi, 2007). This initiative illustrates how, in a time of increased financial pressure on the news industry, advertising can physically threaten to encroach on a paper's journalistic image and integrity. Although these examples involved general newspapers, there is no reason to believe that pressures exerted on business publications would be weaker.

Beyond specific cases, a survey of advertising directors in American newspapers found, even among medium- and large-sized dailies, some acceptance of editorial preference for the inclusion of advertisers as sources at the expense of non-advertisers (An & Bergen, 2007). Editors with responsibility over real estate supplements (which are of central importance in many business papers around the world) have noted that advertising considerations often impinge on editorial integrity (Williams, 1992). We shall return to this example below when we discuss practical transparency solutions. Finally, a more recent survey of newsroom managers leading change initiatives within newspapers indicated that they are aware that many of these initiatives involve the lowering of the internal wall, and while some embrace these developments, others are critical of these changes or are resigned to them, but none of them feel empowered to counteract this trend (Gade, 2002).

An extreme regulatory solution would entail banning business news in outlets that have business interests or banning advertising on news programs and in newspapers. Naturally, these type of bans are unconstitutional on several grounds, and rightly so. But a clear transparent division between news production and marketing teams that would not allow the news production teams to take commercial considerations of any sort into account when producing the news, forcing them to act behind a proverbial "veil of ignorance," in which they are completely unaware of the financial interests of their employer, if developed voluntarily by the news outlet would provide a definite step forward. This would require a structural separation between the news division and the sales and entertainment divisions of news outlets (as opposed to the current internal bureaucratic divisions, which are not transparent) or even the creation of a blind trust to govern the business investments of the media corporation. Although none of these options would necessarily be the choice of media moguls and corporations such as News Corp., should one or several respected media outlets decide to act on this challenge, one could hope that their promise of more independence from commercial pressures would enhance their readership and that market forces would then drive their competitors to adopt similar structural solutions.

Classification

Another solution could be to identify commercial newspapers and broadcasters as such, in the same way that broadcasters identify the ratings of programs inappropriate for children, by imposing a logo on the screen, again a voluntarily developed criteria system. Consumers reading a business newspaper

owned by a conglomerate with conflicting loyalties would be notified of its inherent bias to advertisers and could then make their own choices.

The difference between this proposal and current disclosure requirements is that according to this model, it is not the particular commercial relationship that is disclosed, but rather the classification of the medium. While this may not be the ideal way to attract more readers, it is clearly more transparent than the current situation in which viewers who watch commercial news programs or readers who purchase newspapers that have wide-ranging business interests have been led to do so through deceptive means, as it is often not news they are watching or reading, but commercially-motivated content that uses news as its editorial matter. We would hope that media outlets will self-regulate themselves and adopt such a classification system on their own should at least one outlet decide to act in such manner, thus setting a standard for transparency that will provide its business news coverage with an aura of respectability others would aspire to acquire as well. An industry body could manage this classification system, as is the case in the video-game industry (ESRB, 2008). Government intervention would be both unconstitutional and uncalled for, and limited only to ownership proceedings. Indeed, television ratings were adopted by the television industry with the knowledge that if it did *not* adopt such a system government intervention would be forthcoming (Price, 1998, p. xx), a "threat" newspapers do not face.

Content Separation

An even more practical variant of this solution would be to separate commercial and journalistic speech into clearly marked sections of the publication. This would further institutionalize the tendency of some business publications (e.g., *The Wall Street Journal*) to concentrate in one section much of its enterprise journalism, and in another section, spot news based on press releases.

This solution would not necessarily raise the cost of doing journalism. It might appeal to some editors, because it could lead to the development of sections that are wholly populated by (clearly marked) press releases. These sections would demand little in editorial resources and, therefore, free up much needed human resources for the reporting and vetting of original journalistic content published in a prestigious "flagship" (main news) section. While stories containing considerable journalistic initiative do sometimes originate in press releases they still would belong in the flagship section, and in those cases the commercial source of the information that was the germ for such journalism could be clearly indicated within the article, as would be the non-commercial source of the rest of the information. In the case of real estate supplements, they could be clearly and graphically marked as PR-based supplements, providing real estate buyers a commercial service. The philosophy behind their publication would be clearly enunciated on a regular basis and thus readers would be less likely to assume that the content was vetted editorially. Eventually some outlets might find it worthwhile to do away altogether with some PR only sections given that this type of information is now easily accessible in various online repositories such PR Newswire.

We would argue that a publication that separates clearly sponsored and editorial content could attract readership, gain respect and be economically viable (see *Consumer Reports* for example, that accepts no advertising dollars at all, and whose business model is based solely on the respect of its

readership). At the same time, separation could make outlets more efficient editorially while simultaneously attracting a broader audience. While it is true that most news providers would be loath to expose how little of their journalism is original, the potential for added efficiency and a broader audience attracted by the new ethical aura of the medium could convince at least a few competitors to walk down "separation road" in pursuit of a competitive advantage gained through a more ethical image thereby changing the dynamic in the news market and forcing additional outlets to adopt a separation framework. One recent example of a certain level of transparency would be the "public editor" section of newspapers such as *The New York Times*, a section that enjoys full editorial independence, critiques the paper in which it is published, and only contributes to its ethical image (Rosen, 2004).

Going Public

Still, the most effective institutional option that comes to mind is the pure non-commercial non-governmental "public service medium" that could be founded as a response to the challenge posed by the growing appetites of Murdoch and other media moguls and the conflicting interests that accompany them. Creating a form of "public journalism" not restricted to the electronic media was widely advocated in the 1990s (e.g., Glasser, 1999; Rosen, 2001). Perhaps the current crisis calls for its reassessment.

Online Tools

Yet another option that might not involve any direct intervention in the operation of media institutions would be to provide the audience with independent information regarding the nature of the news being consumed. News, in general, has become increasingly digitized and available online, as have the press releases that constitute a significant information subsidy to the former's creation (and appear on corporate websites and centralized depositories such as PR Newswire which are accessible on popular portals that do not demand registration or a specific organizational affiliation (e.g., Yahoo!, 2008)). The existence of both in digitized form means that automated tools could identify through textual comparison the extent to which a journalistic product, which should owe its loyalty to the audience and its creation to a journalist, in practice owes its loyalty to a corporate entity and its creation to public relations professionals. The extent of commercial dependence could then be signaled to media consumers (a computerized rating of sorts), enabling them to avoid or treat with more skepticism content that is highly dependent on commercial speech. This could be done in the way that many other services use a Web browser's toolbar, "widgets" or pop-up notifications to convey additional information about viewed content.[7] As these type of tools are already widely used in other contexts, using them for this purpose would not involve a steep learning curve though admittedly more sophisticated news consumers would be the main users of such a tool.

The actual programming of such tools could be financed by not-for-profit foundations or by the burgeoning American media reform movement. The latter already has a significant presence online (e.g.,

[7] One of the authors together with additional partners is investigating the development of such a tool. It might also be possible to repurpose computer applications that help identify plagiarism (e.g., Turnitin) to detect journalistic dependence on press releases in specific stories.

www.journalism.org) and could partner in developing and promoting such tools. These tools could also be developed without centralized funding. Open source programming has been adept at developing competitive software applications through collective effort, with little direct financial remuneration, and in direct competition with commercial developers. Pro-social motivations have been found to be an important force behind participation in open source projects (Osterloh & Rota, 2007). A software project that aims to empower audiences in the face of commercial news providers (that cover a topic of great interest for software developers—technology) would be compatible with the pro-social value system espoused in open source programming projects. This machine-based approach could complement a human-based approach such as the one employed by *newstrust.net* (2008), which aggregates news stories using its own editorial resources and then enables the user community to review those stories according to a checklist of journalistic criteria.

Conclusion

Our paper began with the challenge posed to the integrity of the business press, a media institution with a unique pervasive and influential role on the financial well-being of many. Indeed, the conflict inherent in the access to knowledge about markets and the gain that may be made from acquiring such knowledge or from controlling the access of others to it is a natural manifestation of human nature. We then introduced the ways in which the media industries have tried to confront this challenge on two levels: the individual journalist and the corporation that owns the medium. A description of journalist transgressions on the one hand, and a more detailed account of the failure of a structural resolution proposed for the merger of News Corp. and Dow Jones demonstrated that the existing solutions are not working. In light of this failure, we offered a brand new perspective—a theory based on the separation of "speech products," the theory of speech transparency. The theory of speech transparency claims that current solutions to the conflict of interest will not do. What *will* do is clear identification of all content in which there is a commercial stake in its production and a separation between such content and content that was generated independently by professional journalists who owe allegiance to no one but their readers. We contend that the attraction of a reliable medium resulting from the practice of separation will encourage more, and more media to adopt similar structures.

Should the integrity of business news concern more than those who read these publications on a regular basis? Most definitely yes, we argue, for a number of reasons.

First, although business news outlets do not always enjoy large audiences, these audiences are extremely affluent (Stelter, 2007 on business news television audiences) and as a result, politically and economically influential. The content that reaches them inevitably influences society beyond the elite circles in which these audiences run.

Second, discourse that uses free market metaphors has become increasingly salient in the so-called marketplace of ideas, often taking the form of "market populism," extolling the usefulness of market solutions in almost all societal domains (Frank, 2000). Policies that apply these solutions have been introduced in many countries under the ideological umbrella of neo-liberalism (Harvey, 2005).

Business news has the potential to be a prime vehicle for the dissemination of neo-liberal views and could foreclose the discussion of other approaches to political-economic issues.

The final proof that business news outlets are not merely a niche business lies in the business strategies being pursued by business news outlets. As this paper was being written, News Corp. was launching its aforementioned business news cable channel, Fox Business Network. In an attempt to distinguish it from the incumbent leader in the American market, CNBC, and as a reflection of the growing popular discursive dominance of market discourse, the new channel is trying to appeal to a broader audience. One commentator noted that: "Rupert Murdoch's News Corp. wants you to believe that Wall Street and Main Street are one, and it's creating a business news channel for the proverbial Everyman" (Britt, 2007). The result is pro-business content packaged with the authority of the business news specialization, but simplified to appeal to a non-specialized audience (Nocera, 2007), which suggests that business news content might be moving into the mainstream and growing in influence.

Bearing this in mind, we recommend adopting new transparency-enhancing policy frameworks and information tools. These could provide citizens, who are increasingly expected to manage their own financial destinies without the guiding and frequently forgiving hand of the state (Hacker, 2005), with transparent business information. The practical solutions we offer are: Structural separation of news and business operations of media; blind trusts to control media owners' assets; visible (at all times) identification of the commercial nature of media as well as the source of information within news stories; physical separation of commercially motivated information (such as press releases) from journalistic content; and online tools that can identify content that has been imported from another source, in particular, a PR source.

We are, indeed, living in an age where money is considered to be the answer to all things (Ecclesiastes 10:19). As the Bible warns: "curse not the rich in thy bedchamber: for a bird of the air shall carry the voice, and that which hath wings shall tell the matter." (Ecclesiastes 10:20). In the present day, this "bird of press" is beholden to the affluent and caters mostly to their needs. A more transparent framework could ensure that the business press reports in a clear voice on all who curse the public's economic well-being, be they rich or poor.

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