

**Crowd Sourcing Enforcement:
Building a Platform for Participatory Regulation
in the Digital Information Age**

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MARKET IMPERFECTIONS LEADING TO THE FAILURE OF PRIVACY PROTECTION IN CYBERSPACE

Societal: Situations where important values are not well reflected in market transactions

Externalities: Trust is undermined¹

Non-economic Values: Concern,² Fear of Being Monitored,³ and Exposed,⁴ Reputational Harm,⁵ Unwanted Intrusion,⁶ Physical Security,⁷

Structural: Conditions that result in inefficient outcomes

Insufficient Competition: Incomprehensible Privacy Policies,⁸ Inadequate Choice⁹

Economic Harm: Bad Purchase Decisions,¹⁰ Security Breaches,¹¹ Identity theft¹²

Endemic: Tendencies of economic relations that undermine key market functions

Perverse Incentives: Incomprehensible Privacy Policies,¹³ Slow to React¹⁴

Asymmetric Information: Speed of Technological Change¹⁵ v. Slowness to React,¹⁶ Difficulty of Detecting Harm,¹⁷ Invisibility of Transactions and 3rd Party Relations¹⁸

Transaction costs: Frictions that impose costs and constrain exchange

Search and Information Costs: Lack of Simple and Clear Information,¹⁹ Cost of Interrupting Transactions to Find, Evaluate and Act to Protect Privacy,²⁰ Invisibility of Transactions and 3rd party Relations to Consumers²¹

Bargaining Costs: Lack of Alternatives,²² Inability to Define²³

Policing and Enforcement Costs: Difficulty of Detecting Harm,²⁴ Complexity, Level and Amount of Information Gathered,²⁵ Rapid Technological Change,²⁶ Third Party Relationships²⁷

Behavioral: Psychological and other human traits that bound “maximizing” actions

Motivation: Concerns,²⁸ Fear of Being Monitored²⁹

Perception: Reputational Harm³⁰

Calculation: Failure to Understand,³¹ Failure to Appreciate Risk,³² Lack of Awareness³³

Execution: Struggle to Keep Pace,³⁴ Do Not Read³⁵

Crowding Sourcing Enforcement

A Digital Crowd is not a Mob. it is a Community with shared interests and durable relationships created by a purpose and sustained by rich communications that can be focused on the enforcement of rules.

Why it should happen: People should participate in enforcing the rules under which they live.

Why it must happen: The ability of government to police bad acts and actors on its own has collapsed.

Why it could happen: Digital technologies make direct, real time involvement feasible.

What it would take to make it happen: Structure must transform viral communications into effective participation.

Journalism as Non-governmental Oversight

Relationship

Role

Function

Mediated

Fourth Estate

Monitorial

Direct

Fifth Estate

Participatory

Participatory Democracy's Ideal Media

Pluralist

Support Interest Group Formation

Mobilize interests

Convey public opinion to policymakers

Communal – Promoting agreement on the common good

Inclusive

Thoughtfully discursive

Self-Reflective

Informing public about itself

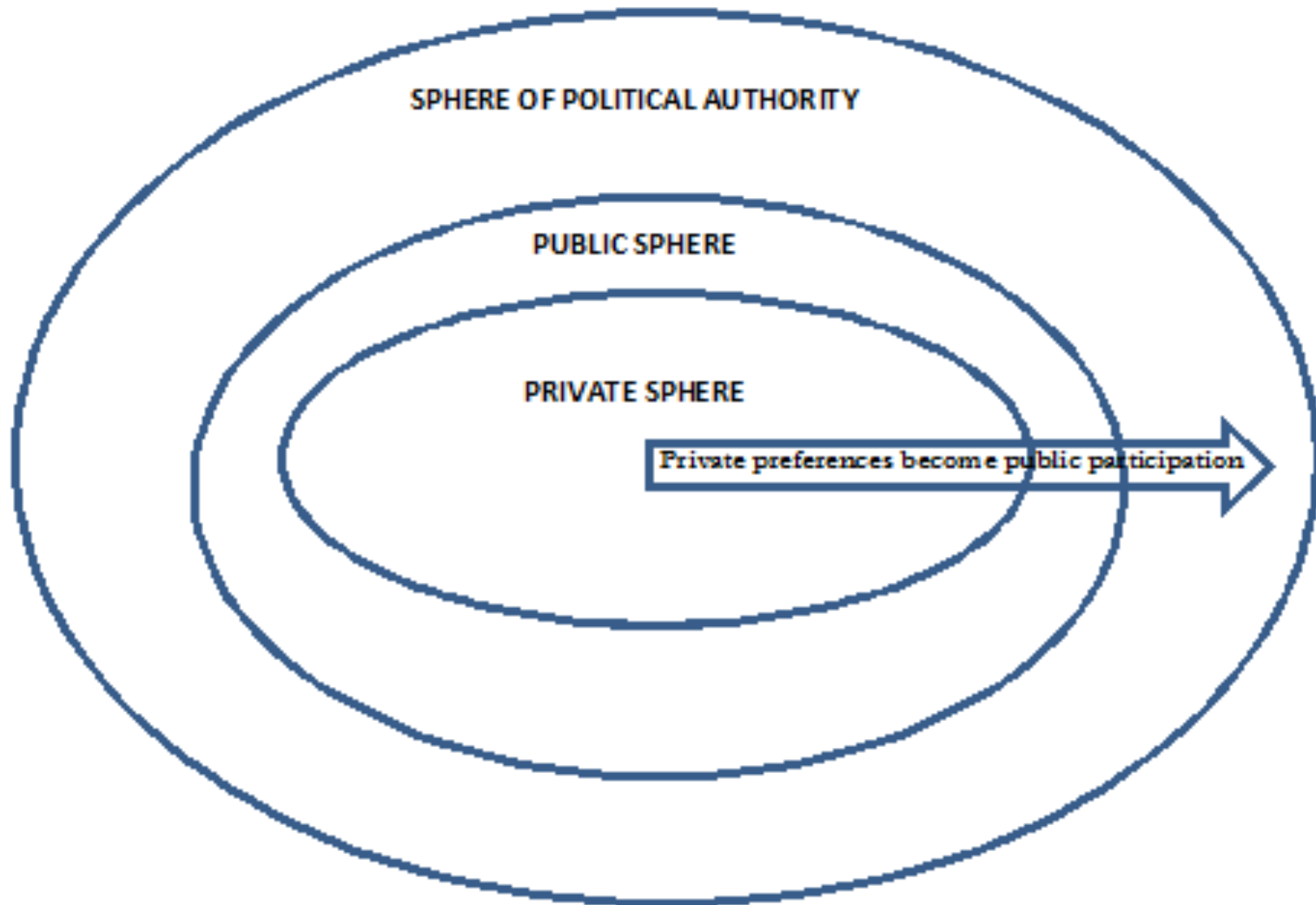
Contest dominant opinion

Criterion to measure government responsiveness

Participatory Enforcement Enriches Democracy

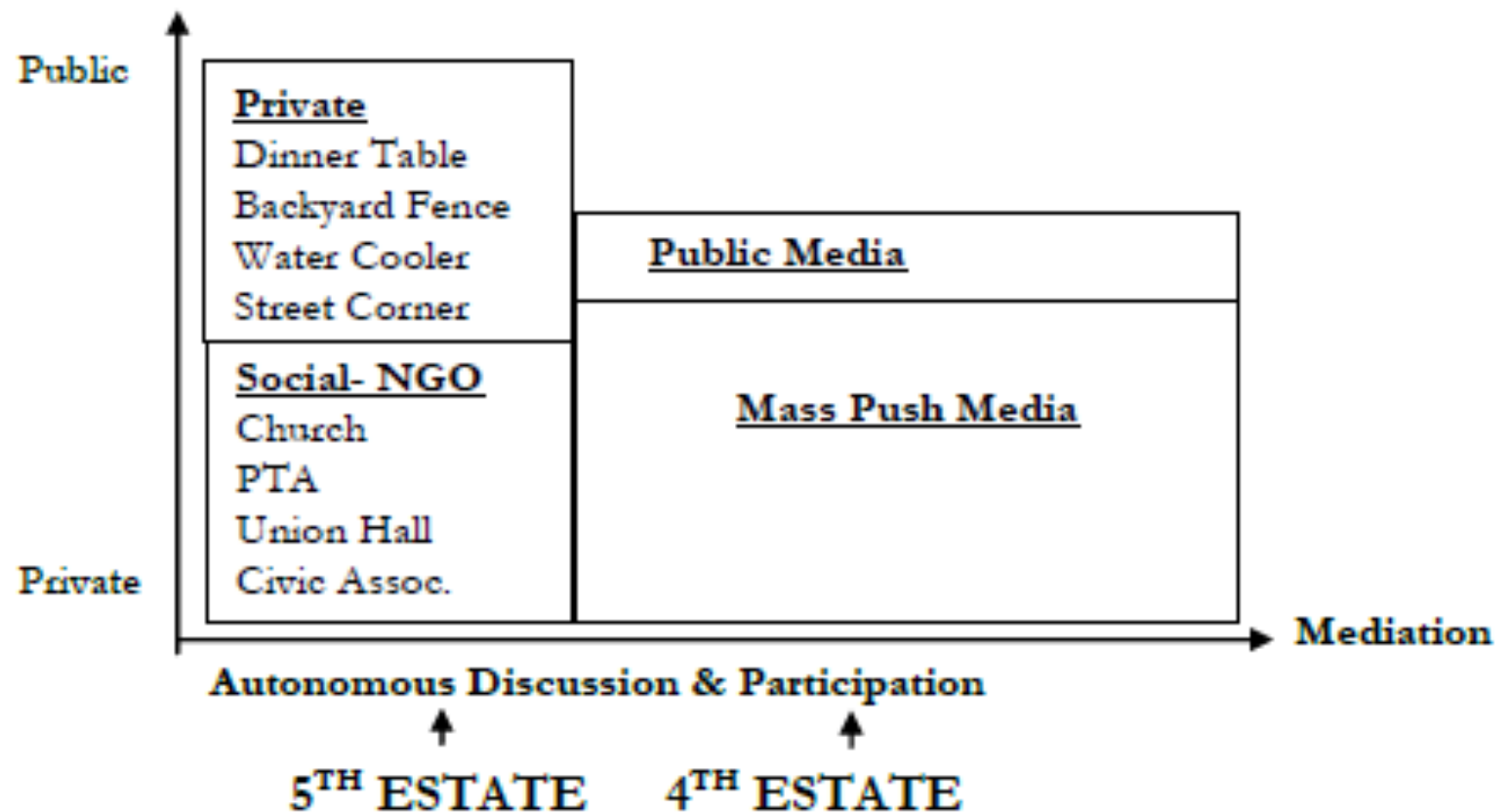
Relationship	Role	Function
Mediated	Legislative	People participate in writing the rule under which they live
Direct	Regulatory	People participate in enforcing the rules under which they live

**THE PUBLIC SPHERE MEDIATES BETWEEN THE PRIVATE SPHERE
AND SPHERE OF POLITICAL AUTHORITY**

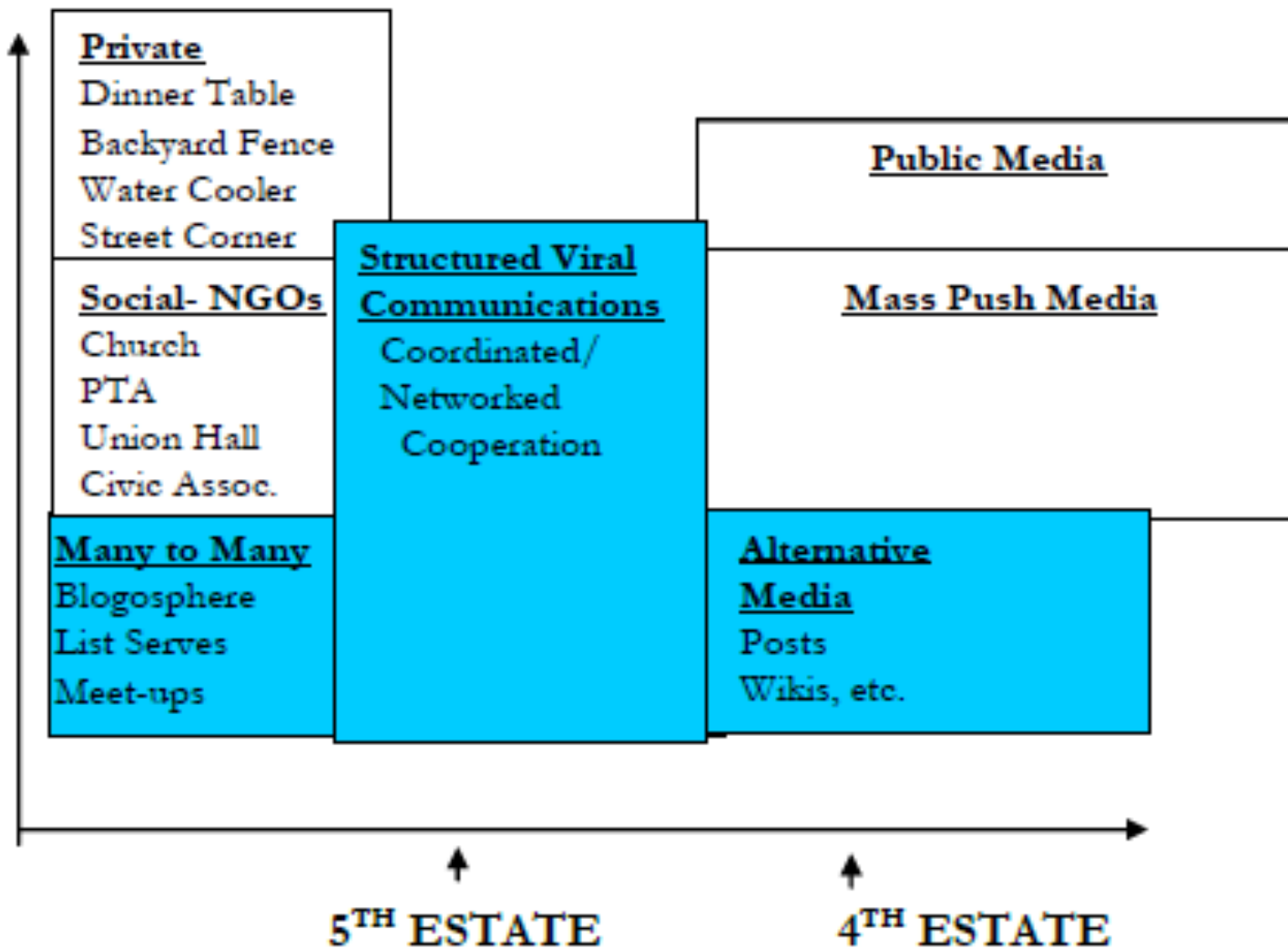


Crowd Sourcing and the Expansion of the Public Sphere

20th Century Public Sphere



21st Century Public Sphere



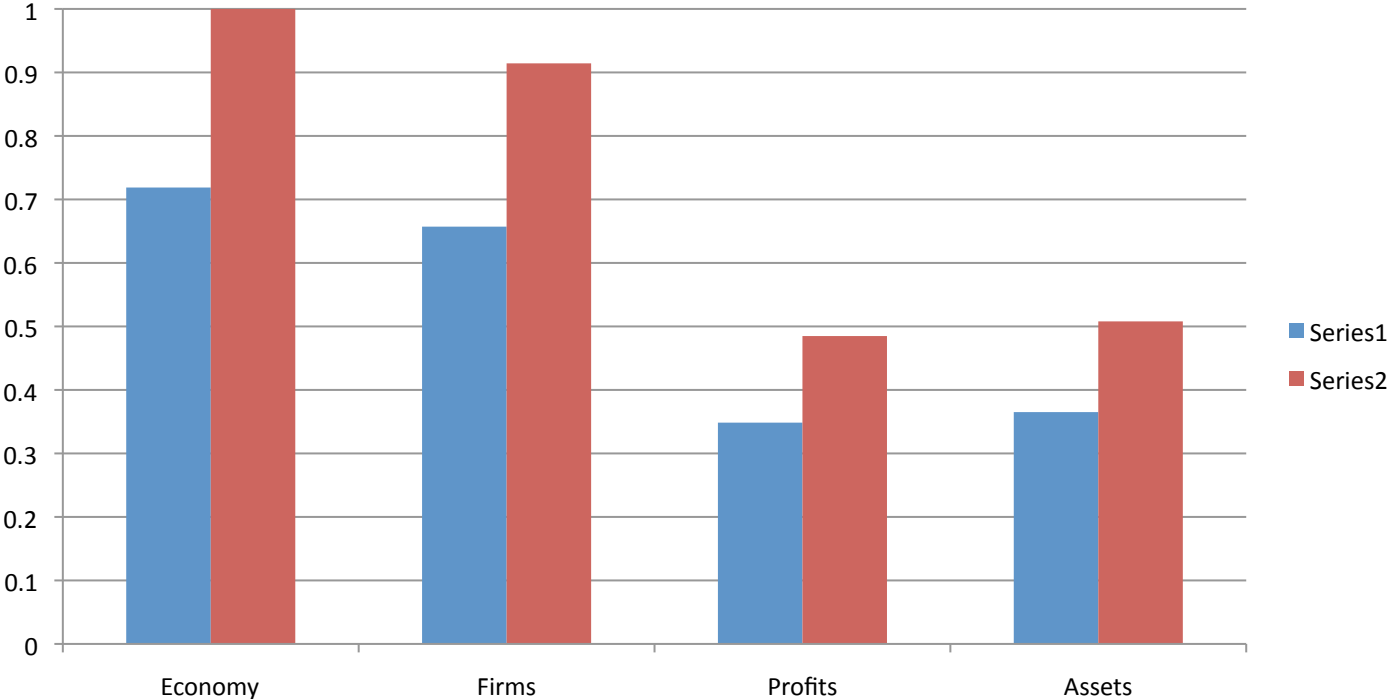
Over 40 years (from Nixon to Bush II) market fundamentalists have set out to undermine the ability of government to oversee the economy. They have succeeded at 3 levels.

Embedding the anti-government, deregulatory meme in the public psyche

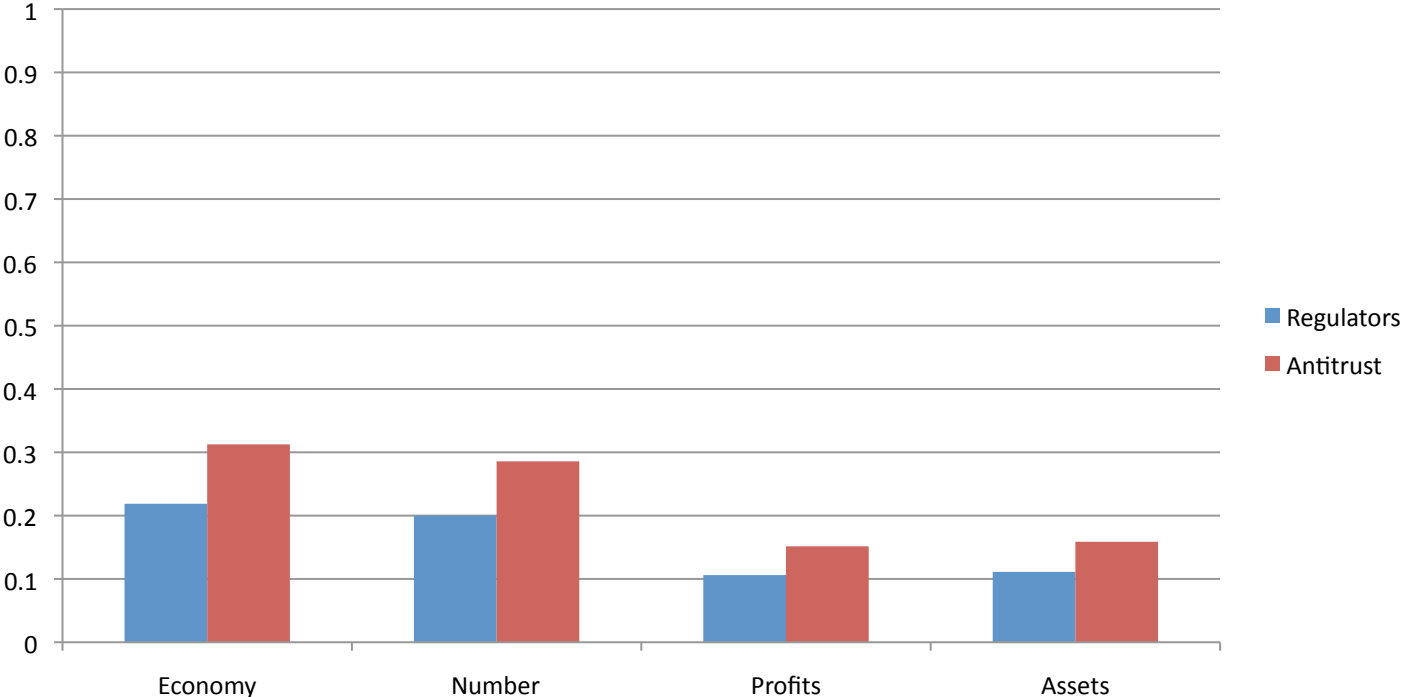
Underfunding and under-staffing oversight activities.

Creating a vicious circle in which underfunding impairs the ability of government to do its job, which reinforces the anti-government meme

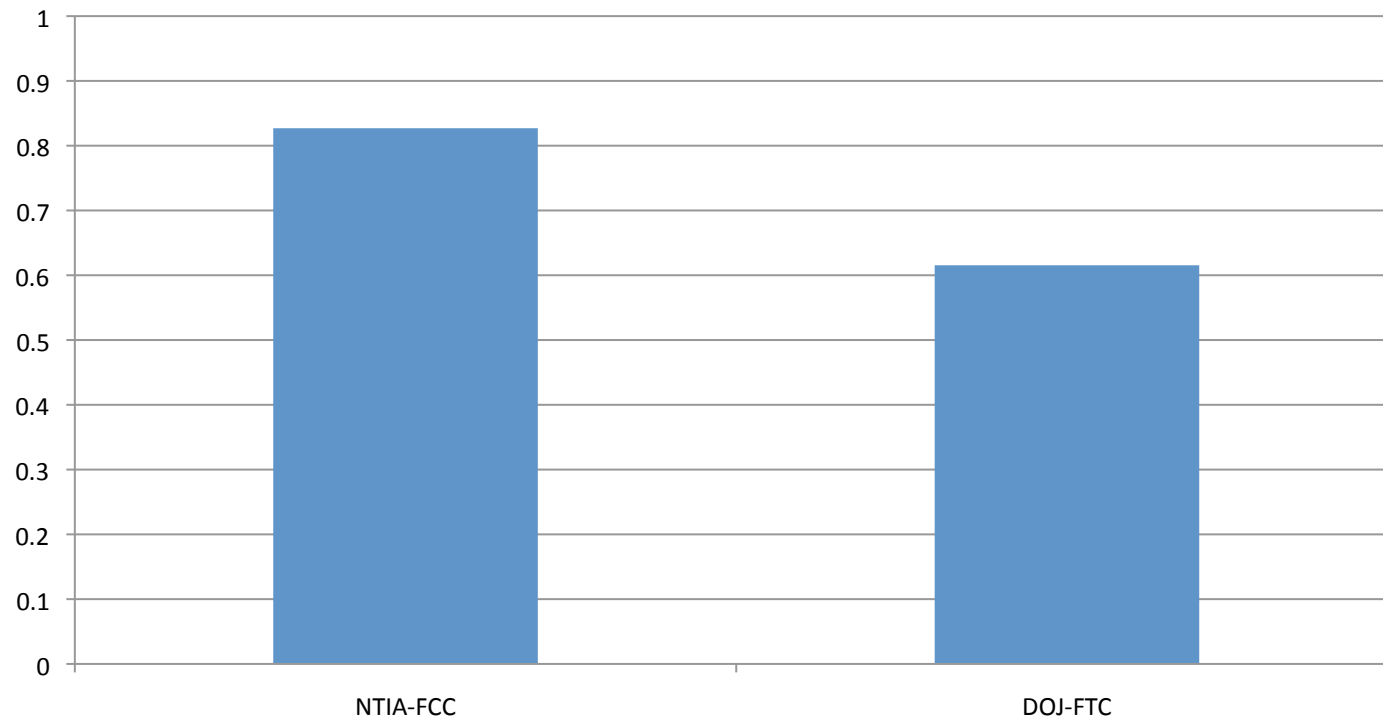
**Oversight Agency Budgets/Real \$ Value of Activity:
2008 v. 1970 (1970 = 1)**



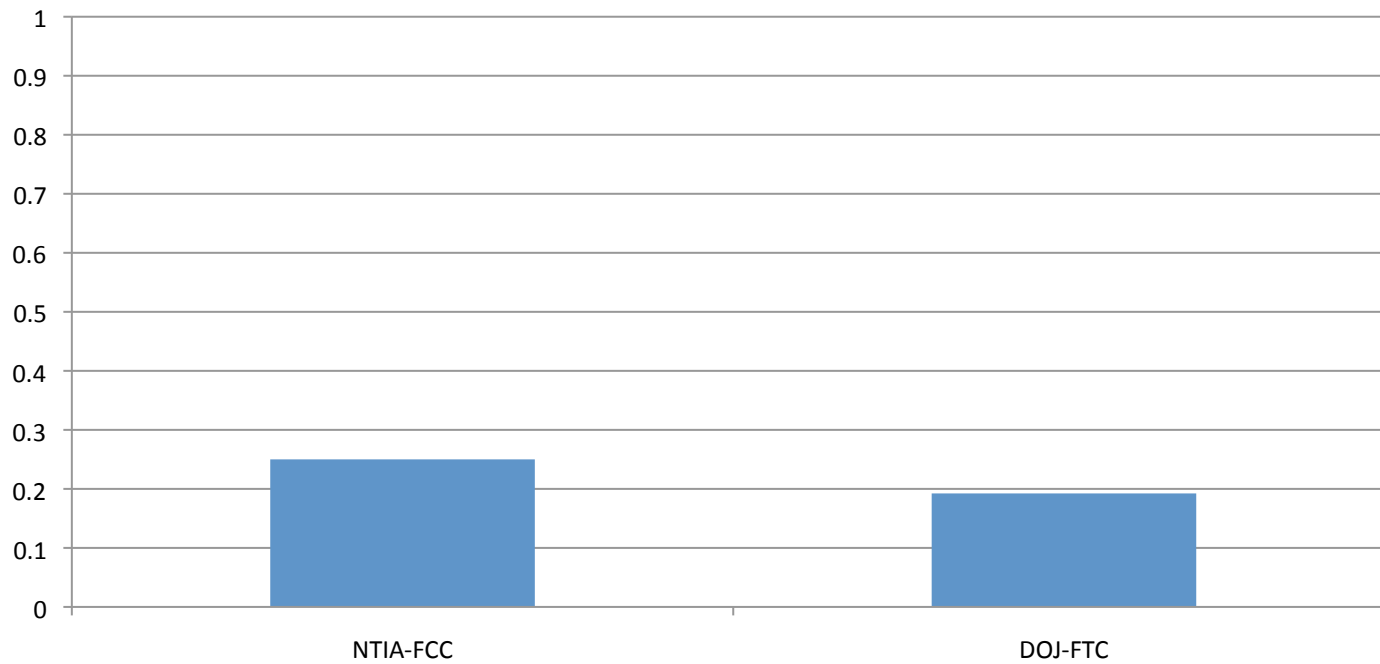
**Number of Oversight Enforcers/Real \$ Value of Activity:
2008 v. 1970 (1970 = 1)**



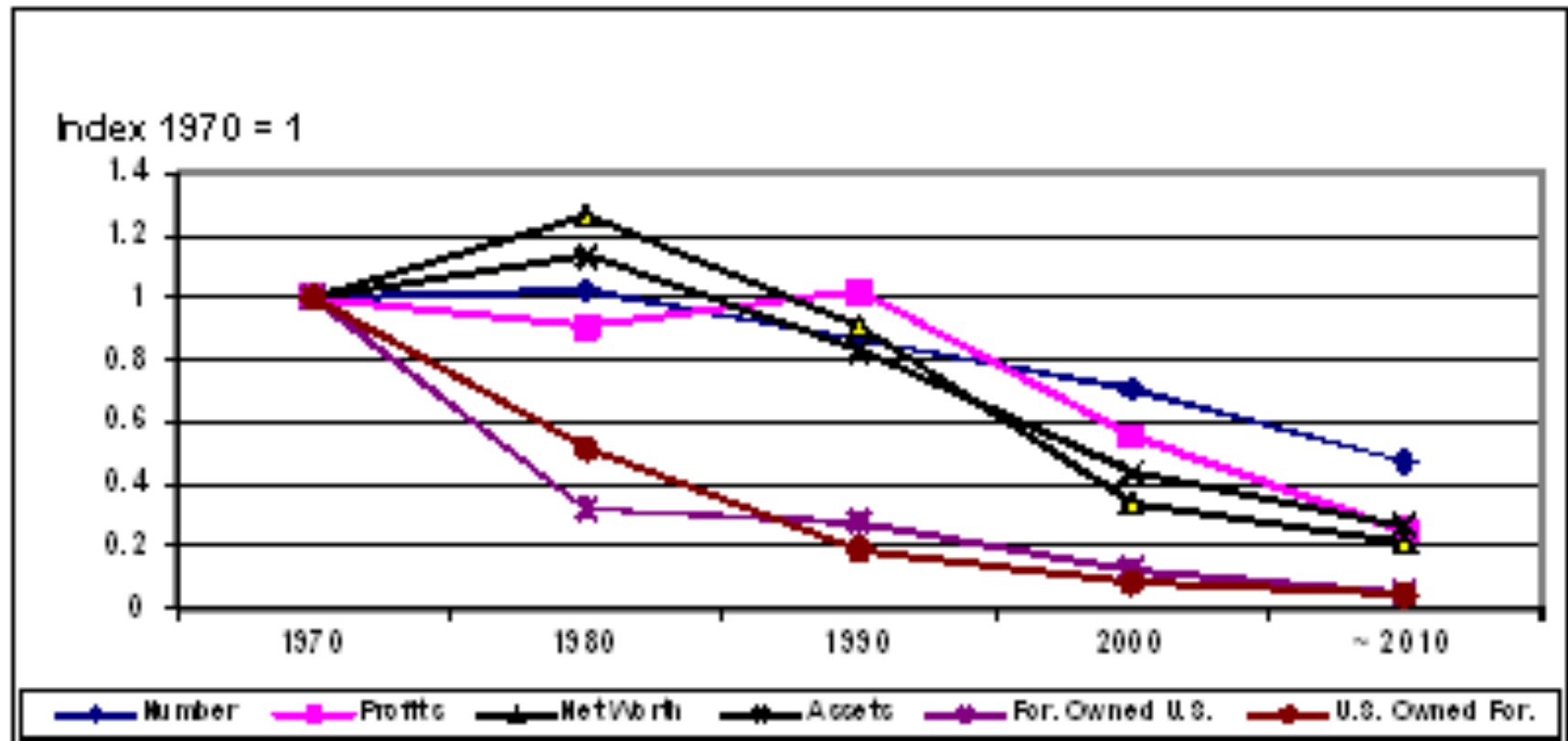
**Communications Oversight Enforcement Budgets/Real \$ Value of Activity:
2008 v. 1970 (1970 = 1)**



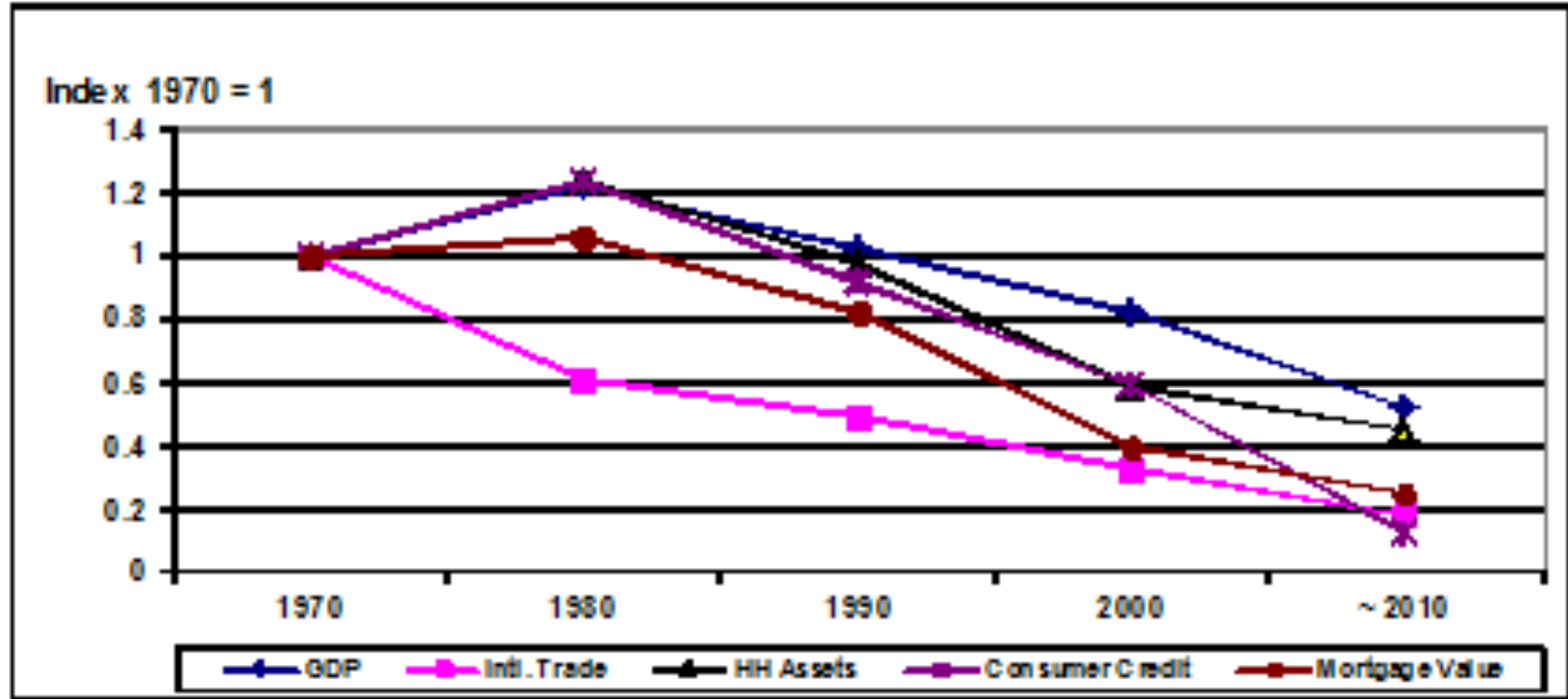
**Ratio of Number of Communications Oversight Enforcers
to Real \$ Value of Communications Activity:
1970 = 1**



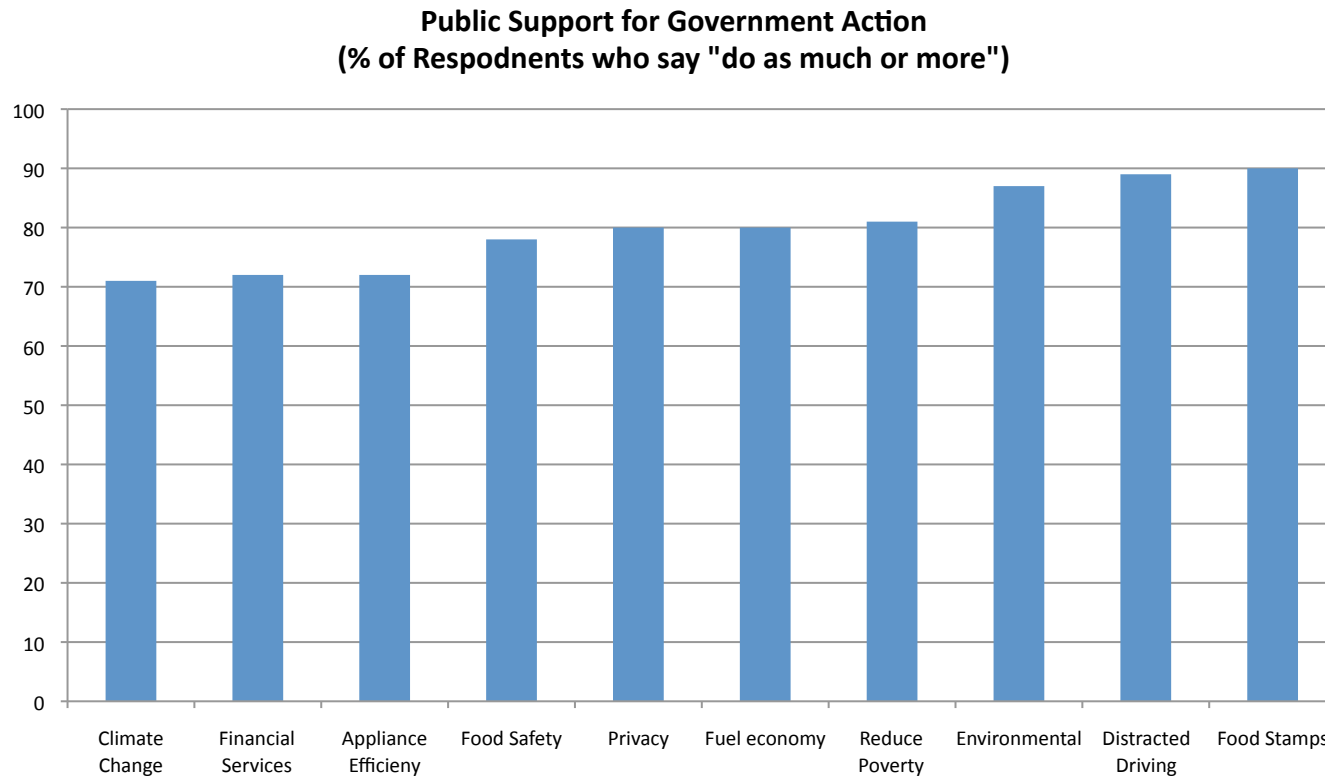
Ratio of Journalists to Corporate Activity (Real Values)



Ratio of Journalists to Economic Activity (Real Values)



- **The public supports specific government action**



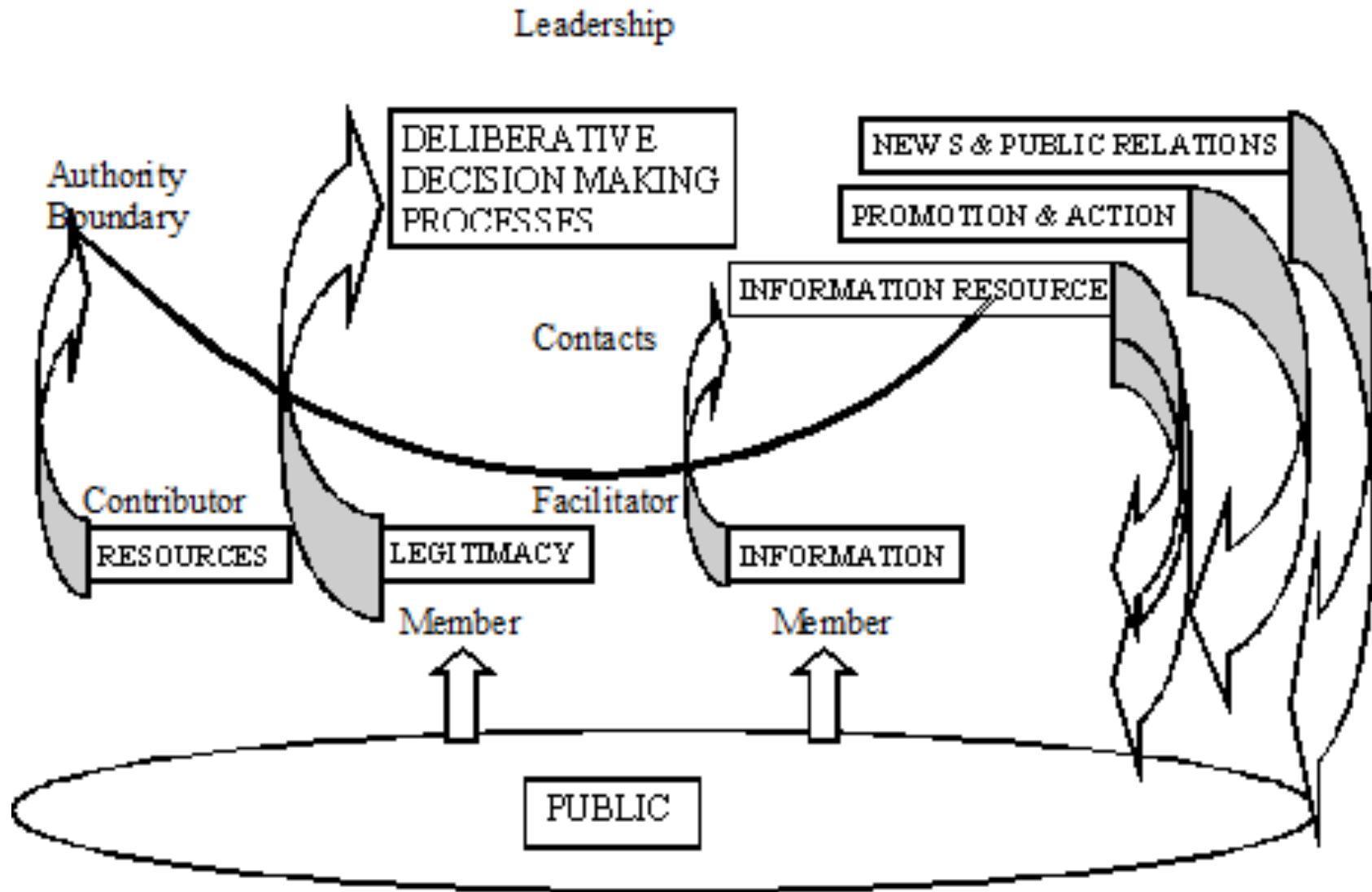
and the pubic is right, market failure is pervasive

COMPREHENSIVE LIST OF IMPERFECTIONS THAT CAUSE MARKETS TO FAIL

INDUSTRY STRUCTURE	SOCIETAL FLAWS	ENDEMIC TENDENCIES	TRANSACTION COST FRICTION	BEHAVIORAL FACTORS
Imperfect Competition Concentration Barriers to Entry Scale Vertical Leverage Collusion ICE problems Price discrimination Entry barrier Bargaining Technology R&D/Investment Marketing Bundling: Multi-attribute Product Differentiation Go B Flating Inseparability Purchase Method Advertising Cost-Price Level Structure Product cycle Disaggregated Mkt. Elasticity Own-price Cross-price Income Availability Backward bending supply Lack Emergency replacement Poor Quality Regulation Price Distortion Avg-cost Permitting Other Distortions	Traditional Externalities Positive Negative Public Goods Basic research Information Learning-by-doing Learning-by-using Network Effects Direct User Nonuser Indirect Cross platform Innovation Economics General Purpose Tech. Producer surplus Consumer surplus Prosumers Productivity Applications Non-economic Values	Asymmetric Information Agency Moral Hazard Adverse Selection Reverse Incentives Conflict of Interest Ownership Control Transfer Limited payback Lack of premium Inequality Physical Capital Malthusian Insufficiency Human Capital Health Education Macroeconomic Imbalances Income/ Insufficient Demand Investment Instability	Search and Information Imperfect Information Availability Accuracy Search Cost Bargaining Risk & Uncertainty Technology Marketplace Policy Financial Liability Enforcement Switching costs Sunk costs Monitoring Costs	Motivation Values & Commitment Bounded Selfness /wants Morality Fairness/reciprocity Altruism Preference Custom Social group & status Perception Bounded Vision/Attention Prospect Framing Loss Avoidance Status Quo Salience Self-fulfilling Prophecy Social Influence Awareness Attention Low priority Calculation Bounded rationality Ability to process info Limited understanding Heuristic Decision Making Rules of thumb Information Discounting Low Probability Events Long-Term Small Outcomes Execution Bounded Willpower Innumeracy
	POWER Legal Framework Property Contract Policy Taxation Subsidies Protectionism Trade Antitrust Enforcement Toward Structure Market Dominance Merger Toward Behavior Regulatory Capture			

Building a Participatory Alternative

ORGANIZATIONAL ROLES, FUNCTIONS AND ACTIVITIES



Organizational Challenges

Why do people cooperate?

Who gets to participate according to the rules of entry?

Where are the positions located?

What are they allowed to do in those position?

How are they motivated, monitored and disciplined?

THE NATURE OF A CROWD

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A Crowd is not a Mob, it is a Community where

shared Interest bring people together

in different roles and durable relationships: Innovator

Trend Spotter, Evangelist, Spreader, Skeptic, Member

to contribute resources to produce output

and derive a reputational reward

THE IMPORTANCE OF A PARTICIPATORY RULE

Create an identity

identify a task

define roles

build durable relations

focus effort on a task

provide a conclusion

“Film School: Crowd Accelerated Innovation,” *Wired, January 2011*

In the privacy space we are seeking a government mandate to create tools that could enable better consumer protection, with a mechanism like a “do not track” requirement.

Once we have that, we can crowd source enforcement, with participatory creation of lists and policing of list violators.

I have argued that we can take the same approach to enforcement of network neutrality. With the recent FCC order, we have the rules part, now we need to make the enforcement part effective.