Public Policy and Administration Review
June 2019, Vol. 7, No. 1, pp. 1-6
ISSN: 2333-5823 (Print), 2333-5831 (Online)
Copyright © The Author(s). All Rights Reserved.
Published by American Research Institute for Policy Development
DOI: 10.15640/ppar.v7n1a1
URL: https://doi.org/10.15640/ppar.v7n1a1

Public Policies on Broadcast and the Fairness Doctrine: History, Effects, and Implications for the Future

Jonathan Andrew Stewart Honig[1]

Abstract

At its most root element, the media as an industry is founded on the principle of the exchange of information, whether it be a one-sided flow or a dialogue between sources. Public policy and its control over this information exchange is critical to the study of the views and opinions that shape our field of inquiry. To continue this line of reasoning would be to conjecture that how people view and interpret their world is the basis of how their everyday life interactions play out. To sum up this sort of abstract reasoning would be that the media wields an inordinate amount of influence on those it touches, connecting them to experiences far outside their realm of experience, while at the same time coloring their day to day interactions.Television itself is merely a different format in which to experience this informational exchange, one which continues to evolve. Originally known as "graphic radio," the television was the culmination of effort between a great many inventors, and one that took on several different types of amalgamations. But over the years, television has evolved from the black-and-white models, to an ever growing variety of sizes and varieties.

Keywords: Public Policy, Broadcast, Television, Media, Information

1. Introduction

As new technologies involving television evolve, the specter of whether or not to regulate rears its head. This device can be merely a tool for informational disbursement, and therefore a new organ of the media industry and policymakers from which to disseminate their broadcasts. But television and other sources of information can be used to teach, to inform, as a tool essentially. Whether to inform and educate, or to entertain and offer information based on its popular acceptance, can be construed as pitting a populist ideology against classic corporate capitalism, and the battlefront is drawn along the lines of media deregulation. According to W. Lance Bennet (2004): There is much debate about the effects of media market deregulation and the resulting growth of vast global media corporations. Some observers argue that deregulatory pressures have undermined public service broadcasting and media social-responsibility norms, resulting in deterioration of information quality and political disengagement of citizens in many nations. Others herald deregulatory trends as expanding information choices and enabling citizens to find their preferred levels of political engagement (p. 125).

Bennet (2004) continues on to elaborate that critics of deregulation of the media charge that effects of loosening regulations include: (*A)* Reduced corporate social responsibility to serve diverse political, cultural, and demographic audiences; (*B)* increasingly generic programming in both entertainment and public affairs; (*C)* a reconstructed political media space that excludes much of local politics, citizen activism, public policy analysis, and deliberation; (*D)* emphasis on low cost, attention-getting sensationalism that promotes discouraging antisocial and anti-political images; and (*E)* a public value shift associated with treating audiences purely as consumers, resulting in program content that is more compatible with advertising values and consumer lifestyles than with citizen engagement in public affairs (p. 126).

[1] Ph.D. Candidate, M.S., B.A. Department of Political Science, The University of Tennessee—Knoxville , 1001 McClung Tower ,Knoxville, TN, 37996-0410, USA, Office: (865)-974-2261, Fax: (865) 974-7037, Jhonig@vols.utk.edu

However, Bennet (2004) does note that there is another view in this argument, that "countering the view of rapacious corporate giants devouring civic cultures is the claim that media deregulation has greatly expanded the communication and information choices available to national audiences" (p. 126). But if one wants to understand the forces squaring off in this conundrum surrounding not just media, but television specifically, then one would need to understand what is known as the Fairness Doctrine.

2. The Fairness Doctrine and the Right to Be Informed

The Fairness Doctrine was the seminal construct for television regulations, and one of the most controversial content regulation that has ever been applied to television broadcasters in America by the Federal Communications Commission. The Federal Communications Commission was founded in 1934 to manage access to television's airwaves. According to Thomas W. Hazlett and David W. Sosa (1997), "In addition to developing a federal licensing system for broadcasters, the FCC identified certain types of speech as essential to upholding the public interest standard," and that in terms of priority "news and public affairs programming were considered especially important in the interest of maintaining an informed electorate" (p. 281-282). Hazlett and Sosa (1997) quote the Commission itself in 1949: It is axiomatic that one of the most vital questions of mass communication in a democracy is the development of an informed public opinion through the public dissemination of news and ideas concerning the vital issues of the day…The Commission has consequentially recognized the necessity for licensees to devote a reasonable percentage of their broadcast time to the presentation of news and programs devoted to the consideration and discussion of public issues of interest in the community served by the particular station. And we have recognized, with respect to such programs, the paramount right of the public in a free society to be informed and to have presented to it for acceptance or rejection the different attitudes and viewpoints concerning these vital and often controversial issues which are held by the various groups which make up the community (p. 282).

The public as a whole has a right to be informed and presented with information from "different attitudes and viewpoints," free of bias, that have been deemed as important. This seemingly trumps the rights of corporations to exude their own influence by means of invoking free-market capitalism. Patricia Aufderheide (1990) notes that the Fairness Doctrine "affected all aspects of information broadcasting, including public affairs and news programming, public service announcements, program-length commercials, advocacy advertising, appearances by politicians, and political commercials," and that crucially the Doctrine required "broadcasters to address all sides of a public controversy in the course of overall programming and, in the case of public service announcements and purchased air time to offer free time to groups with an opposing opinion who could not pay" (p. 47-48). To the end of maintaining this mandate of equal expression of dissenting opinions and provision of civic information, the Fairness Doctrine was imposed by the Federal Communications Commission in 1949. Hazlett and Sosa (1997) note that the "stated rationale for the Fairness Doctrine was to encourage more information to be aired by radio and TV stations, on the theory that private broadcasters would tend to underprovide a public good—news about important social issues" (p. 279).

The FCC abolished the policy of the Fairness Doctrine in August 1987 after decades of debate in the courts, law reviews, within the Commission itself, and Congress. But the battle is far from over. According to Patricia Aufderheide (1990), "Since the suspension, Congress has persistently tried to pass legislation reinstating the Doctrine," and that in the 100th Congress "it was vetoed by President Reagan and unable to garner votes for an override" (p. 47). Aufderheide (1990) goes on to note that in the 101st Congress "…legislation failed to pass, but supporters continue to promote it" (p. 47). But if the Fairness Doctrine policy had been such a positive thing, what could possibly be the arguments against it? Why was it allowed to lapse?

For the future of communications regulation, the battle over the Fairness Doctrine policy holds several crucial issues. Primarily, according to Aufderheide (1990), is the question of "whether public interest regulation of broadcasting continues to be necessary," and that public interest regulation is "grounded in the notion that broadcasters hold in trust a scarce public resource and must perform some public service and observe certain standards of responsible behavior in exchange for using it for their own benefit" (p. 48). However, this brings up notions of constitutionality and questions of scarcity itself. Aufderheide (1990) notes that "opponents of continued public interest regulation, who have taken up the Fairness Doctrine as the wedge in their campaign, argue that increased outlets for opinion—not only over the air but also on cable and in videocassette form make the scarcity argument irrelevant" (p. 48).

With the advent of social media, smart devices, and the internet itself, there seems to be a point to be made in this regard. Considering that Aufderheide's article was written in 1990, there seems to be some prescience in the deregulators' argument. However, this will be touched on later in the paper.

A second issue is whether public interest regulation is effective as it is designed to be. Broadcasters opposed to the Doctrine state that it is redundant, that the Doctrine just states what a good journalist would do anyway (provide a fair and balanced presentation of different viewpoints), and that enforcement can lead to two negative outcomes. Aufderheide (1990) presents these outcomes as such: One is arbitrary and financially punitive action, brought by quixotic or partisan complaints. Another is a decision by broadcasters to avoid the problem, simply by themselves censoring material that may be considered controversial. This is the so-called "Chilling Effect." The Doctrine's proponents argue that it has a history of mild and flexible enforcement, most notably evident in the fact that no broadcaster has ever lost a license for a Fairness Doctrine complaint alone, and also evident in the mere handful of complaints addressed in writing by the FCC each year it has enforced the regulation.They further point out that the Doctrine does not specify the content but merely requires balanced controversial coverage. They therefore dispute the claim that broadcasters avoid controversy because they fear the FCC, arguing that controversy is avoided typically because it is less lucrative than other formats (p. 48).

And that is one of the major arguments put forward by advocates of deregulation regarding the Fairness Doctrine policy, the "Chilling Effect," the self-censorship of private media providers in response to the heavy handed regulation put forth by the government. Since no one can really define what controversy is, the theory behind the Chilling Effect is that no media provider would want to touch anything considered remotely controversial, for fear of suffering from unpaid airtime by being required to give time to dissenting opinions by law. But, as noted, proponents of the Doctrine argue that media providers and broadcasters avoid controversy as there is not as much money behind it as, say, *Keeping up with the Kardashians.*

The former two issues were the main issues tossed around by Congress during its debate over the Fairness Doctrine policy. But there was a third, which according to Aufderheide (1990) was the "strong and ideological push of the Mark Fowler-era FCC to deregulate the industry," and that Fowler and his successor Dennis Patrick "profoundly believed that the marketplace could far better serve many of the needs that regulation had clumsily attempted to address in a less abundant past" (p. 48-49).

Here you can sense the general political attitude in 1987. Ronald Reagan's second term was nearing an end, and his entire administration tended to be anti-regulation in general. With the economy on the upswing and the Soviets on the run (the Soviets being the epitome of what Americans tended to believe would be the outcome of excessive regulation), the era was set for a slackening of regulations. Philip M. Napoli (2011) sums up the situation nicely; "The regulatory environment has a wide range of effects on the structure and behavior of media corporations, which in turn have a variety of effects on the nature of media work and the management of media organizations" (p. 73). And the repercussions were felt far and wide. According to Aufderheide (1990): The signals sent by such deregulation and FCC officials' public declarations made areas such as news, public affairs, community affairs, and equal employment opportunity offices prime targets for budget cuts. The effects on venues for controversial issues were marked. A 1987 study by the Radio-Television News Directors Association (RTNDA) showed that news staffs and air time had been cut in major markets, for both radio and television; many news directors linked the cuts with deregulation (p. 51).

So, if for no other reason, it would seem that the dropping of the Fairness Doctrine policy was pretty hard on those working intelevision news in general. This would cut no ice with those opposing regulation, laissez fare capitalists that they are. If staff are not needed than it is just slowing down the workings of the free market. What is especially notable is the loss of venues for controversial stories, confirming what proponents of the Doctrine had said regarding the "Chilling Effect." That it was the broadcasters themselves who were limiting their coverage of controversy in pursuit of profit. Aufderheide (1990) quotes a CBS affiliate public affairs director in North Carolina; "You can sell commercials on an hour of *Lifestyles of the Rich and Famous* a whole lot better than an hour of a public affairs show" (p. 51).

3. Post-Fairness Doctrine Policy and the Rise of News as Entertainment

The Fairness Doctrine lapsed back in 1987, and today there are many who do not remember a world where it wasn't purely up to the television broadcast provider to delineate news content. American hyper-capitalism is and has been the norm since the end of the Cold War(and depending on who you ask perhaps even before then). Napoli (2011) notes that "the overall trend internationally over the past 30 or so years has been one of gradual deregulation of the media sector" (p. 73). The subject of this paper is domestic deregulation, but that trend is still notable, as the U.S. has sought to cast its shadow upon the global television market at large for decades. Just to touch upon this phenomenon, Lisa Parks and Shanti Kumar (2003) attempt to imbue their readers with a brief history lesson:
The U.S. attempt to establish a global media system in its own image was aided by its influence over the postwar reconstruction of German, Italian, and Japanese media systems. U.S. officials pushed them as much as possible on the path to U.S.-style commercial systems. But the United States met with only partial success in this effort as strong public broadcasters emerged in all three of these occupied countries (p. 26).

So although again the subject of this paper is domestic deregulation, it is interesting to note how other countries escaped a similar fate by resisting the urge towards deregulation as far back as the late 1940's. As it stands now, we have the phenomenon of "news as entertainment" in this country. Whereas in Great Britain the BBC is still around and well respected, in the United States we have any number of news corporations custom-fit, content-wise, for whatever your political inclinations may be. And, as always, there is some news company pointing the finger at the other and accusing them of bias. According to Tim Groeling (2008): While accusations of media bias have long been a staple of partisan discourse, a number of issues have generally undermined their scholarly validity. While some have unearthed specific instances of biased story construction or patterns of bias in news content, these examples tend to be undermined by the inherent subjectivity of defining "bad" news (p. 631).

And it is this subjectivity with which the Fairness Doctrine policy did away with, as "bad" news could be construed as partial to one television broadcaster's opinion, but the idea of "controversy" and airing both sides neatly did away with that disparity for all involved. But there is not that anchor any more. Groeling's (2008) analysis regarded whether or not there was validity for politicians' protests regarding bias in the media during the 1992 presidential election, and here he explains his results: Across the different model specifications, only ABC's coverage of Bill Clinton failed to register at least marginal significance in any model specification. Further, in every case, the differences found were consistent with the partisan's stereotypes: ABC, CBS, and NBC all appeared to favor good news for Clinton and bad news for Bush, while Fox appeared to favor the reverse (even in the aggressively controlled fully specified model). ABC is also the only network that appeared to favor positive outside polls for both presidents (Fox favored mildly positive polls, but only for Bush) (p. 652).

His study was published in 2008, but even in the past seven years there have been staggering advances in technology and availability of information regarding news and current events. No longer are ABC, CBS, NBC, and Fox the only news outlets available, for with technology comes a multiplicity of new variables to this issue.

4. Technology and Deregulation

Earlier in this paper, Aufderheide (1990) notes that "opponents of continued public interest regulation, who have taken up the Fairness Doctrine as the wedge in their campaign, argue that increased outlets for opinion not only over the air but also on cable and in videocassette form make the scarcity argument irrelevant" (p. 48). There is very real reason to consider this argument, as technology has made it very easy to seek out new information and to arm yourself with the latest "facts," depending on if you can find them and if they are indeed factual. The argument would be that deregulation, if indeed it is a bad thing, would be offset and mitigated by this easy access to the "informational exchange" I mentioned in the beginning of the paper. But that is conditional upon the personal inclinations of the individual. Markus Prior (2005) elaborates: Despite dramatic increases in available political information through cable television and the Internet, political knowledge and turnout have not changed noticeably. To explain this seeming paradox, I argue that greater media choice makes it easier for people to find their preferred content. People who like news take advantage of abundant political information to become more knowledgeable and more likely to turn out. In contrast, people who prefer entertainment abandon the news and become less likely to learn about politics and go to the polls (p. 577).

This brings us back to one of the very beginning issues regarding television regulation and the Fairness Doctrine policy. The very reason the Doctrine was in place was to make sure that there was a spot for civic issues and dissenting opinions amongst the private broadcasters, as the assumption would be that due to profit-motivation that these issues would be marginalized in the way they have become. Indeed, as Prior (2005) notes, "as media choice increases, content preferences thus become the key to understanding political learning and participation," and that in the new "high-choice environment, politics constantly competes with entertainment" (p. 577). Granted that individuals should be allowed to make their own choice about what they want to watch. But if important civic issues are not broadcast to the population as a whole and the populace is left up to their own devicesto seek out the relevant information needed to be considered an active citizen, then a very large and largely unaware segment of the population has disenfranchised themselves from the American civic experience.

It is also important to note that despite the wide diffusion of smart phones, computers, tablets, etc. that there is still a vast income disparity between the classes in American society. According to Inequality.org, "between 1979 and 2012, the top 5 percent of American families saw their real incomes increase 74.9 percent, according to Census data. Over the same period, the lowest-income fifth saw a decrease in real income of 12.1 percent" (Income Inequality, 2015).Despite the seeming ubiquity of these technologies, and the access to information needed to counter the effects of deregulation and the now defunct Fairness Doctrine policy, this divide confounds the problems of those who are not linked into the informational exchange as much as their more affluent fellow citizens. Paul DiMaggio, Eszter Hargittai, W. Russell Neuman, and John P. Robinson (2001) note that "enthusiasts predicted that the Internet would reduce inequality by lowering the cost of information and thus enhancing the ability of low-income men and women to gain human capital, find and compete for good jobs and otherwise enhance their life chances" (p. 310). On the other hand, DiMaggio et al (2001) note that "cyber-skeptics suggest that the greatest benefits will accrue to high socioeconomic status persons, who may use their resources to employ the Internet sooner and more productively than their less privileged peers," and that this tendency would be "reinforced by better Internet connections and easier access to social support" (p. 310). This stands to reason. Although broadcasting is not quite the "scarce resource" it once was, not everybody has the same access to the same resources that have now become so much more common place. Deregulation has left no utopia for the worst off in America, prior to the loss of the Fairness Doctrine policy the very poor had the same access to information as the very rich (to a certain extent). DiMaggio et al (2001) elaborate on what they term the "Digital Divide:"

Anderson et al (1995) were among the first to highlight the potential of inequality in Internet access to limit people's opportunities to find jobs, obtain education, access government information, participate in political dialogue, and build networks of social support. By "digital divide," we refer to inequalities in access to the Internet, extent of use, knowledge of search strategies, quality of technical connections and social support, ability to evaluate the quality of information, and diversity of uses (p. 310).

5. Conclusions

So just because information is easier to access, and that there is more of it out there, doesn't mean that those naturally inclined to seek entertainment instead of news will become more knowledgeable about current affairs. Nor does it mean that the very poor will all of a sudden have the same access as their more affluent fellow citizens have (whether it be to the hardware, quality of connection, access to customer service, etc.). DiMaggio et al (2001) notes that "although some speculate that current intergroup differences will evaporate as the Internet diffuses (Compaine 2000), Schement (1999) points out that inequalities in access to information services (e.g. radio, television, VCRs) that reach near saturation relatively quickly" (p. 310). The loss of the Fairness Doctrine policy is just that, the loss of fairness. The arguments for deregulation are not without merit, there is a lot to say about the market theories behind it. But at the end of the day this is putting the market above civic discourse. The FCC was founded on the idea that access to the airwaves should be done according to public interest, convenience, and necessity. But deregulation has taken the same strings of power over information from government regulation into the hands of the corporate boardroom, with profit margin being the only real value in this setting. It sets a chilling precedent that our public discourse is orchestrated by private, unseen hands. As noted earlier, informational exchange is critical to influencing how people view and interpret their world.

Television may be being overshadowed by newer technologies, but for now the "electronic hearth," as it was once known, is still the focal point for intellectual digest of electronic information material. Whether it be entertainment, news, or news as entertainment, television is the wellspring with which we go to slake our thirst for information on something extraneous and outside of our current experience. Without something to hold together a semblance of actual discourse, something as available to everybody as the right to vote (and civically just as, if not more so, important), than we continue to veer into dangerous waters where one can become lost in the cacophony of newsbytes, advertisements, and overlapping bias-for-profit.

But what exactly at this point could possibly hold together the fragments of methods of communication that have spawned in television's image? How could one provide a uniform platform across the multiplicity of information-exchanging formats for a public discourse? At this juncture, the legislation needed would be massive and almost impossible to pass against the emboldened forces of deregulation. A meaningful and candid debate in the upper echelons of government, as unlikely as this would be, seems like it would be the only course of action that could yield results. But as technology evolves, any solution would need to be nimble enough to keep pace with the rapid-fire series of advances that we have seen over the recent years.

Biographical Note: Jonathan Honig is a current PhD candidate and Teaching Associate at the University of Tennessee in Knoxville. His research interests include public policy, propaganda, and global security. He received his Master's degree in Media and Communications, as well as his Bachelor's degree in Business Administration, both at Middle Tennessee State University.

Bibliography

Hazlett, T. W., and Sosa, D. W. (1997). Was the Fairness Doctrine a "Chilling Effect?" Evidence from the Post-Deregulation Radio Market. *The Journal of Legal Studies, 26*(1), 279-301.

Groeling, T. (2008). Who's the Fairest of them All? An Empirical Test for Partisan Bias on ABC, CBS, NBC, and Fox News. *Presidential Studies Quarterly, 38*(4), 631-657.

Aufderheide, P. (1990). After the Fairness Doctrine: Controversial Broadcast Programming and the Public Interest. *Journal of Communication, 40*(3), 47-71.

Prior, M. (2005). News vs. Entertainment: How Increasing Media Choice Widens Gaps in Political Knowledge and Turnout. *American Journal of Political Science, 49*(3), 577-592.

DiMaggio, P., Hargittai, E., Neuman, W. R., and Robinson, J. P. (2001). Social Implications of the Internet.*Annual Review of Sociology, 27,*307-336.

Bennett, W. L. (2004). Global Media and Politics: Transnational Communication Regimes and Civic Cultures. *Annual Review of Political Science, 7,* 125-148.

Parks, L., and Kumar, S. (2003). *Planet TV*. New York, NY: New York University Press.

Deuze, M. (2011). *Managing Media Work*. Thousand Oaks, CA: SAGE Publications, Inc.

Income Inequality (2015, December 1). Retrieved from http://inequality.org/income-inequality/