7.0 | The Media and Democracy

This chapter examines the media’s role in politics and government. It includes beliefs about the relationship between democracy and freedom of the press, changes in the media communication landscape, and the power problem with the media—specifically the problem of media bias.

Freedom of the press is considered essential for democracy. Freedom House is a non-government organization that issues annual reports on the state of global democracy. Its 2017 report on freedom in the world “Populists and Autocrats: the Dual Threat to Global Democracy” concluded that 2016 “marked the 11th consecutive year of decline in global freedom.” Freedom of expression is an important component of Freedom House’s measure of how democratic a country is. The Report explains that a country’s scores on freedom of expression are determined by, among other things, the following factors:
The existence of a “free and independent media and other forms of cultural expression;”
• Protection for “open and free private discussions” using social media platforms;
• Media freedom to report on government corruption; and
• The existence of free and fair elections that provide candidates for office access to the media to communicate with the electorate.

7.1 | The Media Roles

In the U.S., the media have four main roles. The economic role is to provide consumers with goods and services. In this sense, the media are just like any other for-profit companies in the business sector: some make cars or household appliance like toasters; some create intellectual property like films or television programming; some provide legal, financial, or medical services; all offer their products to the public for purchase. But the media are a special kind of business. The press is the only business that is given constitutional protection. The First Amendment guarantees freedom of the press because of the belief that democracy—self-government—requires an informed and educated citizenry. This is the media’s educative role. The media are expected to provide information about public affairs and current events so that voters can make good political decisions. Reporters report politics. The television and radio broadcast media are even required by law to perform this educative role as one of the conditions for the government to issue broadcast licenses. The media also play a watchdog role. The institutional media are part of the system of checks and balances. The media coverage of public affairs includes investigative reporting on government affairs. The mass media also play a socialization role. Their news and public affairs programming and their entertainment programming shape the way media consumers think about politics and government. This is why television is watched so closely to determine the “profound” effects it has on the psychosocial development of children and youth; how family values are portrayed; how religion is portrayed; how the criminal justice system is portrayed; and the portrayal of wars and threats to national security.
7.2 | The Power Problem with the Media: Bias

Mass communication scholars have developed framing theory to explain “the media effect.” Framing refers to the context that the media provide for the information that they provide or the stories they tell. Framing influences the consumer’s thinking about the topic. The media effect is central to the power problem with the media. The power problem with the media is bias. The solution is not free press because a free press is not necessarily a fair press. Determining the media effect is important because the media play such a large and growing role in American life. The media are integrated into American society in the sense that they occupy a significant share of an individual’s daily life. The media are an important sector of the American economy. The media are an important source of information about, and analysis of, politics. The media also report on government.

The media are frequently charged with bias. The media have biases. One media bias is economic: the pursuit of profits. Most media are private, for-profit corporations whose business model depends on profitability to be successful. They make money by providing entertainment and information (news) programming that the public and advertisers will pay for. Therefore, the economic role is the primary function of most media and the educative, watchdog, and socialization roles are secondary.

A second media bias is ideological. This is the most frequent charge of media bias—and the media are most frequently charged with having a liberal, progressive, or leftwing bias. This is reflected in the promotion of values such as equality, tolerance, and pluralism or diversity. A third bias is the bias toward action and conflict and drama. Stories about nothing happening are not compelling and therefore do not attract eyeballs, ears, or money. The action bias is reflected in the slogan that when it comes to news reports, “If it bleeds, it leads!” The conflict and drama bias is reflected in negative political campaign coverage—but also feel good news stories about individuals overcoming hardship or kittens being rescued from trees. A fourth bias is partisanship. Media partisanship has changed a great deal over time. During the founding era, the press was not just political; it was an overtly partisan press. Handbills and flyers and papers were distributed to convince readers to support candidates, government officials, and political parties. Over time, however, political culture changed with the development of journalism as a profession. The media kept their distance from political parties partly because an overtly partisan media seemed to conflict with the American belief in the free market of ideas from which the public could choose.

Professionalism, technology, changes in mass communications law have changed the way we communicate, but claims of media bias have remained fairly constant. There are, however, periods of heightened concern about bias. The emergence of large corporations in the railroad, banking, manufacturing, and oil sectors of the economy resulted in Progressive Era support for big government to act as a countervailing force to big business. The institutional press was also assigned an investigative or watchdog role to report on both big business and big government abuses of power. This is the media’s role in the system of institutional checks and balances. Technological developments are changing this role. Technology has increased opportunities for unfiltered political communication. Compared to the mass media, the new social media provide greater opportunities for unfiltered communication between the public, candidates for office, and
government officials. The media mediate less than they used to. This technological change has diminished the mass media’s socialization role. New technologies have enabled film and television producers to target a niche audience with edgier or more ideological programming rather than offering middle of the road programming that appeals to the largest national audience. This is related to a third change. Although the mainstream media and professional journalism have been less overtly committed to specific movements or political parties than when the country was founded, this is changing as advocacy journalism enters the media mainstream. Conservatives and Republicans have been supporting economic deregulation of the broadcast media since the 1980s when the Federal Communications Commission (FCC) abolished the Fairness Doctrine. Since then the FCC has allowed more concentrations of corporate media ownership in local media markets. Most recently, the FCC has begun deregulating the Internet by ending net neutrality rules and privacy rule that prohibited Internet service providers (ISPs) from selling an individual’s browser history.

These professional, technological, and legal changes have resulted in more ideological and partisan perspectives in coverage of public affairs. Fox News is a company that is closely aligned with the Republican Party. The Sinclair Group is closely aligned with conservative perspectives on public affairs, and NBC’s cable and satellite television network MSNBC presents a liberal perspective or framing of public affairs. Taken together, these professional, technological, and legal developments make the power problem even more central to understanding the media effect on politics and government. One of the politically interesting developments in television business is the emergence of ideological and partisan television networks and media companies. Fox News and the Sinclair Broadcast Group are competitors, but they both are right-leaning companies. Fox News is the established company. Roger Ailes, the former head of Fox News, realized that there was a large audience of conservatives and Republicans who wanted more ideological (i.e., conservative) and partisan (i.e., Republican) news. He built the network into an extremely successful political business model.

Sinclair has 72 local TV stations and plans to add 42 more by acquiring Tribune Media. Sinclair requires its local stations to air its conservative content such as Terrorism Alert Desk updates and criticism of Democrats. Fox News is best understood as partisan rather than ideological because it consistently supports Republican positions rather than conservative views or principles. This is evident in how the network frames budget deficits and presidential power. Budget deficits, and an imperial president are framed as problems when a Democrat is in the White House but not when a Republican is in the White House. During the Obama administration a recurring theme of Fox News stories was the threat of an imperial president and a weak president who compromised national security. Fox ended this media frame when President Trump was inaugurated. The network’s coverage of the Russia-Trump scandal also reveals partisanship rather than ideology. Its coverage frames the story as Democratic hysteria rather than whether Russia was undermining democracy and U.S. national security.

7.21 | A Love-Hate Relationship

The media may be essential for democracy but Americans do not have a love affair with the press. The relationship with the press is more of a love-hate relationship. Which of
the two Thomas Jefferson quotes about the press do you think was made before he became president, and which do you think was made after he became president? A politician’s attitudes toward the press do seem to depend on whether a person is in office or not. When Donald Trump Tweeted that elements of the media were “fake news” and “the enemy of the American people” he was running a familiar play in the playbook of conservatives and Republicans. The Nixon administration had strained relations with the press. In the latter 1960s, President Nixon and Vice-president Spiro Agnew attacked the press for being “nattering nabobs of negativism.” One of Nixon’s speechwriters, Patrick Buchanan still delights in charging the mainstream media with bias. Conservative organizations such as *Human Events* still echo these complaints about media bias. After the 2008 presidential election, a senior adviser for John McCain, the Republican presidential candidate, said that the *New York Times* “is today not by any standard a journalistic organization.”

### 7.22 | The Founding Era

Freedom of the press played an important role in the founding of the American republic. The *Trial of John Peter Zenger* established the media’s role in holding the government accountable. In 1735, Zenger, the editor and publisher of a newspaper called *The New York Weekly Journal*, was arrested for sedition and libel for publishing articles that criticized William Cosby, the governor of New York. The outcome of the case strengthened the colonists’ commitment to two important concepts in American political culture: The first concept is that trial by jury is an important check on government power; the second concept is that the media are an important check on government power.

The First Amendment provides that “Congress shall make no law.... abridging the freedom.... of the press....” This special status is why the press is sometimes called “the fourth estate”—a reference to the fact that the press is a political institution like Congress, the president, and the judiciary. The early press focused on scandals and salacious stories in order to sell papers. The early press, which was sometimes called “the penny press” because the papers were very cheap, was both political and partisan. A paper was identified with a particular point of view: it openly and explicitly and strongly either supported or opposed a political party; it took strong stands on political issues, candidates, or government officials. Neither the reading public nor public officials expected a newspaper to strive for objectivity or neutrality. One of the insights that made Fox News so successful was the realization that there was a large conservative market for more opinion and less reporting. Its marketing slogan, “Fair and Balanced,” slyly references objectivity.
7.23 | Libel Laws

Despite the absolutist language of the First Amendment prohibiting Congress from passing any law restricting freedom of speech or press, the First Amendment has never been interpreted to mean people can say or write whatever they want. In the early days of the republic, the free press was not even expected to be a fair press. Influential or prominent individuals and government officials who were upset by newspaper stories about them could sue for defamation. Libel and slander are false spoken or written statements that injure a person. The Alien and Sedition Acts of 1798 made it a crime (seditious libel) to publish false or scandalous statements that tended to bring government into disrepute. The Federalist Party was the majority in Congress. Members of the Federalist Party did not like what Thomas Jefferson and other anti-federalists were saying about them, so they passed the Acts. The Sedition Act was repealed when Jefferson became president and the Democratic-Republican Party became the dominant political party. The Acts are evidence that American political culture supporting a press that was free to criticize government officials was accompanied by criticism of the press for not being fair.

7.24 | Commercial Media

In the 1830s, the partisan press changed to a commercial press with the emergence of came to be called the penny press. Advances in printing technology allowed newspapers to be produced at a far cheaper rate (one cent rather than 6 cents). The reduced cost of producing newspapers made news profitable. Papers made money by printing sensationalized accounts of crimes and disasters and scandals. This was yellow journalism, a pejorative reference to journalism that features scandal mongering, sensationalism, jingoism, or other unprofessional practices and coverage.

Newspaper circulation battles between Joseph Pulitzer’s New York World and William Randolph Hearst’s New York Journal produced sensational stories about rising tensions in Cuba, which was a Spanish colony. When the U.S. ship The Maine exploded in Havana harbor, Hearst and Pulitzer blamed the Spanish and urged military retaliation. The Spanish-American war is considered the first press-driven war.
The development of a professional press began around 1900 when Joseph Pulitzer started a school of journalism at Columbia University. Journalism schools trained journalists to be objective, to separate facts from opinion, and to avoid biased coverage of public affairs. The idea of an objective press was based on a belief that facts were distinct from values: objective journalists should have “faith in facts” and skepticism toward values; objective journalists should segregate facts and opinions/values. This professional ethic encouraged journalists to consider the reporter separate from the news they reported and take pride in presenting the news (the facts) as objectively or neutrally as possible. The ideal of an objective professional press contributed to the belief that the institutional press should assume a watchdog role investigating and publicizing wrongdoing in business and government.

The New York Times investigative reporting on The Pentagon Papers in 1971 and the Washington Post investigation reporting on the Watergate Scandal in 1972 are two prominent examples of the press watchdogging the government. The investigate reporting sharpened President Nixon’s already famous press hostility. Listen to the following audio recording of a December 14, 1972 conversation between President Nixon and Henry Kissinger, his Secretary of State. What does President Nixon’s advice about press relations, after discussing how to handle press coverage of the Vietnam War, reveal about his attitudes toward the press?
Think About It!
In the Nixon Tape “Nixon, Kissinger on ‘Christmas Bombing’” President Nixon says to Kissinger:
“Also, never forget. The press is the enemy. The press is the enemy. The press is the enemy. The establishment is the enemy. The professors are the enemy. The professors are the enemy. Write that on the blackboard 100 times. And never forget it.”
http://www.youtube.com/watch?v=h0vi2l0WxO8

7.3 | The Mass, New, and Social Media

The term mass media refers to media that are specifically designed to reach a large (that is, mass) audience such as the entire population of a nation or state. The term was coined in the 1920s with the development of nationwide radio networks and mass-circulation newspapers and magazines. The classic examples of mass media are the three television networks—ABC, CBS, and NBC—before the emergence of cable television networks (CNN and ESPN began in the late 1970s) and the Internet. The programming of the three broadcast television networks was clearly intended to appeal to a national audience. The broadcast networks and the major newspapers (e.g., The New York Times, Washington Post, Chicago Tribune, and Los Angeles Times) are sometimes referred to as the “MSM” or mainstream media. Conservative critics of the media adapted this term by labeling the liberal mainstream media the lamestream media.

Government officials, politicians, and the general public have been quite critical of the power of the mass media. In the 1976 film Network, the fictional character Howard Beale is the evening news anchor for the UBS network. His famous, award-winning rant during a television broadcast resonated with the public. Beale told viewers to go to a window, open it, and shout “I’m mad as hell and I’m not going to take it anymore!” Beale’s outburst voiced public frustration with big media in an era when three broadcast networks—ABC, CBS, and NBC—dominated the airwaves. The proliferation of media outlets has changed the media landscape but it hasn’t ended worries about the power problem and media bias.
Although it seems a paradox, the media are now both more consolidated (in terms of ownership) and more fragmented (in terms of the types of media). In 1940, 83% of newspapers were independently owned. Now less than 20% of newspapers are not a part of a chain or media conglomerate. But there are now more ways to get information: 24 hour cable and satellite news programs and the Internet. The increase in the number of outlets, and the fragmentation of the media, enable consumers to seek out sources that reinforce their views.

7.31 | The Social Media

Developments in communication technology have changed the media landscape. Social media present alternatives to the traditional mass media (radio, television, newspapers and magazines). The term social media describes a broad range of Web-based devices for sharing information. The social media allow for more user-generated content, so the distinction between producers and consumers is diminished. This blurs the distinction between professional and amateur journalism. It also erodes the traditional mass media role as one of the “mediating” institutions. In a mass society of 300 million people, for example, the institutional press mediated between big government and the individual citizen. The effects of the social media revolution are just being assessed. As with all revolutions, there are positives and negatives. The expanded control over distribution of information is a positive development but one that also includes concerns about the changed nature of political communications.

The new forms of media have had a major impact on the way people get information and the way campaigns communicate with the electorate. A survey by the Pew Center for Internet & American Life found that nearly three quarters of (74%) of internet users (55% of the general population) went online in 2008 to get involved in the
political process or to get news and information about the election. 45% of internet users used the internet to watch a video related to the campaign and a third forwarded political content to others. These findings explain why campaigns increasingly rely on the new media to reach people.

Think About it!
Are the social media ruining politics?

7.32 | The End of Institutional Press?

The social media contributed to long-term declines in newspaper subscriptions. The trend raised serious questions about the future of newspapers. In “The Report on the State of the News Media in 2007,” Arthur Ochs Sulzberger Jr, the publisher and chairman of The New York Times Company, responded to questions about the impact of technological changes on print journalism. He said, “I really don’t know whether we’ll be printing The Times in five years, and you know what? I don’t care.” This is a surprising statement for a newspaperman to make about the future of the print press.

The Report noted that technology was transforming the media in ways that may be as important the development of the television and radio, and perhaps even as important as the development of the printing press itself. Information technology changes the way people get information, but more important, it changes the relationship that people have with institutions such as government, schools, and the media. According to the Report, “Technology is redefining the role of the citizen—endowing the individual with more responsibility and command over how he or she consumes information—and that new role is only beginning to be understood.” Information technology has empowered individuals by making them less dependent on the institutional media to mediate. Mediating refers to what institutions in mass societies do when they function as intermediaries between big government and individuals. As the scale of government expands—as government gets bigger and bigger—the distance between a single individual and the government increases. Mediating institutions solve some of the problems of scale, where larger scale organizations make the individual seem less important. The owners of newspaper,
television, and Internet companies, and the editors who work for them, filter, edit, or otherwise decide what is newsworthy and merits reporting. Information technology is making this traditional “mediating” role less important. But eliminating the mediating institutions leaves the individual citizen or consumer with more responsibility for determining the accuracy of the electronic information that is now so widely available and either free or cheap. These new or non-institutional media are part of trend toward “de-intermediation” that includes Wikipedia, We Media, YouTube, and the blogosphere.

7.33 | Journalism as a Profession

The development of an independent, professional journalism began after the Civil War when newspapers were no longer as likely to be closely allied with a political party. The fact the newspapers became less partisan did not mean that the press became less political, however. Newspapers in the latter part of the 19th Century became very political during the Progressive Era (roughly the 1890s until World War I), but they tended to be political in the sense that they criticized political machines and political party bosses, or advocated on behalf of causes such as public corruption. As journalism became a profession, reporters were less partisan but still political. Investigative reporting of scandals or working conditions redefined the role of the press from a partisan press to an institutional press with the power to set the political agenda by calling public attention to an issue than needed political attention.

7.4 | Media and the Political System

The media—organizations and individuals working as reporters, editors, and producers—have a great deal of control over what the American public sees as the news. This includes what the media decide to report, how the information in framed, and what the media decide not to report. This is the essence of the power problem with the media.

7.41 | Reporting Political News

Reporting political news and public affairs information is one of the core functions of media outlets, particularly those with a national focus. Washington, D.C. has the largest concentration of news professionals in the United States. There are more than 8,000 reporters with Congressional press passes in Washington, covering political news for the American public.\(^5\) Presidents hold press conferences to shape public opinion and to explain their actions. The number of formal press conferences is actually rather low. President G. W. Bush held 210 (26 per year) and President Obama held 164 (21 per year).\(^6\) However, the White House press secretary generally meets the press daily.

Press conferences appear to be an opportunity for the media to directly ask the president a question and get an answer from the president rather than from advisers or spokespersons. But press conferences are actually carefully staged events. Government officials provide answers that they have scripted and rehearsed before the conference. As the figure below shows, presidents in the early 1900s gave many more press conferences than modern presidents.\(^7\) Richard Nixon and Ronald Reagan gave very few press conferences; Nixon’s low numbers were partially due to the fact that he had bad previous
experiences with the press and partially due to the scandal of Watergate. Reagan’s low numbers were largely due to the fact that he preferred alternate venues for communicating with the press. These included one-on-one interviews, answering questions on his way to or from the presidential helicopter, during a photo session, or brief interviews with local or regional television stations as a way to avoid the Washington press corp. Sam Donaldson, White House reporter for ABC News said, “The reason we yell at Reagan in the Rose Garden is that’s the only place we see him.”

The George W. Bush administration exerted fairly strong control over information by not saying very much, by requiring prior approval to make media comments, and by limiting White House leaks. The limited press access frustrated the media. Obama preferred informal, off-the-cuff style interactions with the press and he limited the number of formal press conferences.

Media coverage of Congress is different than the coverage of the President. Congress has 535 members and is a decentralized institution. Public awareness of what Congress is doing and how it operates is rather low. Media coverage focuses on the leadership—the Speaker and majority and minority leaders. The chairs of committees engaged in reviewing important policies may get some attention from local stations and papers that report on local representatives.

The media does cover congressional committee hearings, particularly committee hearings called to investigate scandals. This kind of media coverage of Congress, the Administration, or business tends to be negative. It frames the story as institutional failures or inappropriate if not illegal behavior. The coverage is also often framed as partisan fights or highly ritualized theater more than serious attempts to solve a problem. The negative coverage is partly responsible for the public’s negative perceptions of Congress as an ineffective branch of government. Media coverage of congressional committees doing their work, or federal bureaucrats doing their jobs, is not usually considered newsworthy. In fact watching committees and bureaucracies at work is considered as exciting as watching paint dry. This is, in fact, an example of a media bias for action or the drama of scandal rather than routine workings of government.
7.5 | The Media and Communications Law

There is an extensive body of law governing the media. The legal regime includes the U.S. Constitution; statutory law (federal and state legislation); regulatory law (the administrative rulings and orders promulgated by agencies such as the Federal Communications Commission); and case law (primarily federal court rulings) interpreting the First Amendment.

7.51 | You can’t always say (or post) what you want

Perhaps the most important thing to know about freedom of the press is that you are not free to publish whatever you want to. The Supreme Court has never said that the First Amendment gives an individual the right to say anything that he or she wants to say. For instance, the First Amendment does not protect libel and slander. Libel is writing something that is false and injures another person. A person can be held responsible (financial or otherwise) for publishing something libelous and the government can punish individuals who publish factual information that is deemed harmful to national security. During the World War I era the Court upheld laws that punished individuals for criticizing U.S. participation in the war. The Supreme Court developed the Clear and Present Danger Test as a way to explain what kinds of political expression can be punished without violating the First Amendment. The government can punish individuals for saying or publishing things that raise a “clear and present danger” of causing actions that the government has the power to prevent. The application of this old doctrine is being challenged by counterterrorism policies that target Internet posts, terrorist websites, and blogging.

Think About It!
What kinds of Internet activities are terroristic?

7.52 | Constitutional Law

The First Amendment is the primary source of Constitutional protections for the media in the United States. It states that the “Congress shall make no law... abridging the freedom of speech, or of the press.” The Court has generally interpreted this right broadly and struck down attempted by the government to regulate the media. Freedom of the press has largely taken the form of protection from prior restraint, or the government banning expression of ideas prior to their publication. The most famous case upholding the press right to publish what it thinks is newsworthy is New York Times v. United States (1971). This is the Pentagon Papers case.
The *New York Times* and the *Washington Post* had published excerpts of classified Department of Defense documents (the Pentagon Papers) examining the conduct of the War in Vietnam, and the papers planned additional publications. The Nixon administration sought an injunction against the publication of the documents, contending that the documents would prolong the war and embarrass the government. The Supreme Court explained that the First Amendment freedom of the press placed a heavy burden of proof on the government to explain why “prior restraint” (that is, an injunction that prohibiting publication) was necessary. And the Court ruled that the government had not met the burden of proof because it did not explain why publication of the documents would lead to immediate, inevitable, and irreparable harm to national security or other interests. As a result of the Court’s rulings, the U.S. has one of the freest presses in the world.

The government can limit freedom of the press if publication threatens national security interests. The government can legally prevent publication of certain strategic information such as the movement of troops during wartime. It can also legally censor publication of instructions on how to build nuclear bombs. However, information technology has made such efforts to prevent publication practically difficult or even impossible. Information is now freely available on the Internet—even real time images of military actions. The War in Iraq illustrates how media technology has changed coverage of wars. The Pentagon adopted a policy of embedding journalists in military units. And soldiers with smartphones have repeatedly taken photos that exposed inappropriate or illegal behavior.

**7.53 | Statutory Laws**

The statutory basis for the federal government’s media and telecommunications policy has its roots in two congressional acts, the *Communications Act of 1934* and the *Telecommunications Act of 1996*. The Communications Act of 1934 established the Federal Communications Commission (FCC) to oversee “interstate and foreign commerce in wire and radio communication.” The FCC is considered one of the independent commissions because its members serve terms of office, can be removed only through impeachment, and no more than three of its five members can be from one political party.

The Communications Act went through a major overhaul when Congress passed the Telecommunications Act of 1996. The primary purpose of the Telecommunications Act was to deregulate the telecommunications industry. Prior to the 1996 Act, much of the telecommunications industry resembled a monopoly. People did not have a choice as to where they purchased their telephone service. The 1996 Act also relaxed laws on media ownership. Prior to the 1996 Act, a single company could not own more than twelve television stations or forty radio stations. The 1996 Act greatly relaxed this regulation, instead putting the cap of ownership at 35% of the national market for television and removing the cap entirely for radio ownership. As a result, major media
companies like CBS, Fox, and Clear Channel greatly increased their shares of the media markets.

7.54 | Administrative Regulations: The Fairness Doctrine

In addition to the Constitution, statutes, and case law, the legal regime governing communications include administrative regulations promulgated by the FCC. The Federal Communications Commission is the primary source of these regulations, orders and policies. These regulations include the day-to-day actions of the FCC and the 1,899 employees that work for the FCC. This might include the approval of a merger of two telecommunications companies, fining companies for indecency, licensing amateur radio operators, and regulating some aspects of the internet.

The Fairness Doctrine is one of the rules or regulations that the Federal Communications Commission promulgated. The Fairness Doctrine required radio and television broadcast license holders to present controversial issues of public importance in a fair and balanced manner. The Fairness Doctrine is a good example of an administrative regulation or “law” created by an administrative agency. It is a law in the generic sense that it is an official, binding policy that individuals or organizations are not free to decide whether to comply with it. The FCC’s authority to issue regulations was upheld by the Supreme Court in Red Lion Broadcasting Co. v. FCC (1969). Red Lion Broadcasting aired on a Pennsylvania radio station a 15-minute broadcast by Reverend Billy James Hargis as part of a Christian Crusade series. The broadcast accused an author, Fred Cook, of being a Communist and of writing a book to “smear and destroy Barry Goldwater.” Cook demanded free time to reply under the Fairness Doctrine. Red Lion refused. The FCC ruled that the broadcast was a personal attack that violated the Fairness Doctrine. Red Lion challenged the Fairness Doctrine in court.

The Supreme Court upheld the constitutionality of the Fairness Doctrine on the grounds that Congress had the authority to regulate broadcast media because of the scarcity doctrine. According to the scarcity doctrine, the airwaves are public and the government can regulate them by licensing to prevent signal overlap. The scarcity doctrine is what differentiates the print media, which are not licensed by the government, from the broadcast media, which are. Cable TV is not subject to the same kinds of government licensing and regulation. According to the Court, Congress had the power to regulate the airwaves and it could authorize the FCC to issue regulations such as the Fairness Doctrine.

The FCC repealed the Fairness Doctrine in 1987. Presidents nominate and the Senate confirms the five appointed commissioners who run the FCC. President Reagan appointed Republican commissioners who supported deregulating business. President Reagan appointed Mark S. Fowler as a member of the FCC. Fowler served from 1981 until 1987, including as chair of the FCC. Fowler served as FCC commissioner from 1981 until 1987. This was early in the modern era of government deregulation of various sectors of the economy. President Carter began the deregulation in energy (especially natural gas) and transportation (especially the airlines). President Reagan continued it with the deregulation of labor (e.g., collective bargaining laws) and the telecommunications industry. Fowler was a former broadcast industry lawyer who
wondered why the broadcast media were treated so different than the film industry. The traditional arguments included

- The scarcity doctrine. There is a limited number of broadcast airwaves so the government licenses them to allocate the scarce resources to bring order to the airwaves.
- The public service. The broadcast media were considered a private industry that served a public purpose so government regulation was necessary.
- The protection and promotion of good civic values. The FCC regulated the broadcast industry to ensure that the licensees served “the public interest.” This was part of the social responsibility to be considered when deciding whether to issue or renew a broadcast license.

Read Fowler’s November 1981 interview with Reason magazine where he justifies deregulation of the broadcast media: “Television is just another appliance. It’s just a toaster with pictures.” Do you agree with him? Why would Fowler’s views be of interest to Reason magazine? Does it have an ideological perspective? What does his claim imply about government regulation of any media devices such as smart phones or platforms or the Internet? Should government deregulate all aspects of media communication? The economic or business regulation currently includes anti-trust law which limits media consolidation and cross ownership of press, television, radio in a single media market. What about Net Neutrality? Should the government have any power to regulate mass or social media to maintain morals, to limit violence, or to police radical speech?

The FCC commissioners concluded that the Fairness Doctrine was limiting rather than enhancing public debate because the technology revolution that increased the media voices in the information marketplace made the Fairness Doctrine unnecessary. In fact, conservatives argued that the Fairness Doctrine and other government regulations, such as campaign finance laws, were unconstitutional limits on freedom of expression. Ending the Fairness Doctrine gave rise to conservative radio and television programs hosted by prominent conservative figures including Rush Limbaugh and Bill O’Reilly. Conservatives were taking to the airwaves using a style of ideological and partisan advocacy that would not have been possible under the regulatory schemes of the Fairness Doctrine. Fairness would have required broadcasters to provide airtime for the other side to reply anytime a network took a side on a controversial matter of public interest.

The current FCC continues this economic (that is, business) deregulatory policy and political (that is, ideological) deregulatory policy. It allows media mergers in the communications industry despite anti-trust laws: the FCC’s position is that emerging technology and marketplace competition is preferable to government regulation of this rapidly changing sector of the American economy. Congress reflected the business deregulation perspective in the Telecommunications Act of 1996.

### 7.6 | Mass Media Re-regulation: Moral Regulatory policy and ‘air’ pollution

Media policy has traditionally divided the ideological left and right in American politics. It is not a matter of one side supporting government regulation and the other side opposing government regulation. The left and right are often divided over the purposes of government regulation. Liberals are generally more concerned about violence;
conservatives are generally more concerned about sex. During the 1960s and 1970s, the liberals on the Supreme Court began deregulating morality with civil libertarian rulings. The Court’s First Amendment rulings limited the government’s power to restrict access to sexually explicit materials or otherwise regulate behavior to promote morality. The deregulation was one of the reasons for the conservative backlash called the culture war over values.

The following are some of the federal statutes that attempted to re-regulate communications, particularly to protect minors.

7.61 | The Communications Decency Act of 1996

This law criminalized the “knowing” transmission of “obscene or indecent messages” to any person who was under 18 years of age. It defined obscene or indecent as any message “that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs.” The Supreme Court declared these provisions of the Act unconstitutional in *Reno v. American Civil Liberties Union* (1997). Justice Stevens explained that the Act restricted the ability of adults to engage in communication that is appropriate for them so much that the Act’s costs outweighed its benefits.

7.62 | The Child Online Protection Act of 1998 (The “Son of CDA”)

This Act required commercial Web site operators to take actions to prevent persons under 18 from seeing material harmful to children by demanding proof of age from computer users. The Act provided a fine of $50,000 and 6 month prison term for allowing minors to view harmful content, which it defined as harmful using “contemporary community standards.” The law was challenged in court. In *Ashcroft v. American Civil Liberties Union* (2004), the Supreme Court ruled that the law was unconstitutional because it unduly limited adults’ right to freedom of expression. In 2007, U.S. District Judge Lowell A. Reed explained why he thought it was not a good idea to try to protect minors by limiting their rights as adults: “perhaps we do the minors of this country harm if First Amendment protections, which they will with age inherit fully, are chipped away in the name of their protection.”

7.63 | The Children’s Internet Protection Act of 2000

This Act required public libraries to and public schools to take measures to limit computer access to certain Web sites in order to protect children. The law was challenged by the American Library Association on the account that it required libraries
to block access to constitutionally protected information. In *United States et al. v. American Library Association* (2003), the Supreme Court ruled that the law did not violate the First Amendment because the law did not require libraries to block access to information but simply made the government provision of financial assistance for obtaining Internet service dependent on compliance with the law.

7.62 | The FCC
Congress has authorized the FCC to enforce federal laws concerning obscenity, indecency, and profanity, as well as a broad range of illegal actions by telecommunications companies, such as “mystery fees”\(^\text{16}\) or “pay-to-play” programs.\(^\text{17}\) The FCC’s Enforcement Bureau reviews public complaints and investigates to determine whether the facts warrant government action.\(^\text{18}\) These investigations can result in fines, other sanctions, or even the loss of broadcast license. The difficulty determining what constitutes programming that warrants fines or other legal actions is illustrated by Michael Powell, the former Chair of the FCC, who stated the FCC’s position on a television network broadcast of the popular film, *Saving Private Ryan* without censoring the soldiers’ cursing. In response to public complaints about the primetime broadcast, and in an attempt to ease broadcasting company concerns about whether they would be subject to FCC disciplinary actions (fines or broadcast licensure revocation), Powell provided the following explanation of FCC policy.
STATEMENT OF MICHAEL K. POWELL, CHAIR
FEDERAL COMMUNICATION COMMISSION

Re: Complaints Against Various Licensees Regarding Their Broadcast on
November 11, 2004, of ABC Television Network’s Presentation of the Film
“Saving Private Ryan,”

Today, we reaffirm that content cannot be evaluated without careful
consideration of context. Saving Private Ryan is filled with expletives and material
arguably unsuitable for some audiences, but it is not indecent in the unanimous view of
the Commission.

This film is a critically acclaimed artwork that tells a gritty story—one of
bloody battles and supreme heroism. The horror of war and the enormous personal
sacrifice it draws on cannot be painted in airy pastels. The true colors are muddy brown
and fire red and any accurate depiction of this significant historical tale could not be
told properly without bringing that sense to the screen. It is for these reasons that the
FCC has previously declined to rule this film indecent.

This, of course, is not to suggest that legal content is not otherwise objectionable
to many Americans. Recognizing that fact, it is the responsible broadcaster that will
provide full and wide disclosure of what viewers are likely to see and hear, to allow
individuals and families to make their own well-informed decisions whether to watch or
not. I believe ABC and its affiliated stations made a responsible effort to do just that in
this case.

Fair warning is appropriately an important consideration in indecency cases. In
complaints you often find that Americans are not excessively prudish, only that they are
fed up with being ambushed with content at times and places they least expect it. It is
insufficient to tell consumers not to watch objectionable content, if the “shock” value is
dependent on the element of surprise. This is particularly true in broadcast television,
where viewers are accustomed and encouraged to order their viewing by parts of the
day—morning shows, daytime TV and late night have long been the zones in which
expectations are set. When those lines are blurred, the consumer loses a degree of
control, a degree of choice.

Context remains vital to any consideration of whether profanity or sexual
content constitutes legally actionable indecency. The Commission must stay faithful to
considering complaints within their setting and temper any movement toward stricter
liability if it hopes to give full effect to the confines of the First Amendment.”
Since the 1980s, communication law and policy leads have been moving in two different directions at the same time. One direction supported by conservatives and Republicans is toward deregulation of the business side of communications. They support less government. But they also support more regulation to protect traditional social or moral values and national security. This is a good example of how ideological debates are usually about the use of government power not the size of government. Conservatives worry more about sex over the airwaves while liberals worry more about violence.

The conflict between economic deregulation and social re-regulation/regulation is apparent in a proposal made by the Chair of the FCC to extend the FCC’s regulatory authority to cable television. Interest groups such as the Parents Television Council support the proposal to give the FCC authority to regulate explicit sex and violence and indecency. Tim Winter, the President of the PTC tried to put telecommunications in proper perspective when he stated that, except for the Pentagon, the FCC has “the most important role in our nation.” His argument echoed some of the earliest founding statements about the relationship between the media and democracy, particularly his claim that the way we communicate (the public airwaves, electronic communication, cable, satellite, telephone) is “the essence of our democracy.”

Advocates of expanding FCC authority over the communications sector by authorizing it to regulate cable as well as broadcast companies have encountered strong opposition. Opponents of expanding the FCC’s regulatory authority include the national Cable and Telecommunications Association. The Association believes that the best way to regulate the industry is to rely on the intensely competitive marketplace, not government intervention. In fact, despite the politics supporting increased government regulation of programming, the law is likely to present a significant hurdle. Blair Levin, the former chief of staff to former FCC Chairman Reed Hundt, thinks that the effort to extend the FCC’s reach to include cable companies would ultimately lose in the courts. He also wryly comments that efforts to adopt a la carte service subscriptions to protect family values was likely doomed: “Every chairman of the FCC comes to realize there is a conflict between family values and market values.”

Today’s claims of media bias reflect 1) the perception that journalism is not living up to the high standards of professional objectivity; 2) the proliferation of media forms and outlets; and 3) the importance in daily personal, work, and entertainment lives. The increase in media consumption attracts scrutiny of the media effect on values, attitudes, behavior, and American culture. This includes studying ideological and partisan bias in the coverage of public affairs.
7.72 | Sitcom TV Family Values

Television families provide popular cultural commentary on contemporary American values. *Father Knows Best* (1954–1960) was about the idealized American domestic life: a father with a stable, upper-middle class white-collar job and a stay-at-home mother parenting their children. Subsequent television family sitcoms showed realistic blue-collar working class families that were ideologically divided by current events such as the Vietnam War (*All in the Family*) and struggling to make ends meet during a recession (*Roseanne*). Roseanne Barr described *Roseanne* as a sitcom with an economic populist message about “the end of the working class in America.” Then *The Simpsons* brought a punk music sensibility to an animated satire that poked mostly gentle fun at almost all conventional American values.

Good satire is taken seriously. *The Simpsons* was actually got into the heads in the White House. In a 1990 *People* magazine interview, First Lady Barbara Bush called *The Simpsons* “the dumbest thing I had ever seen.” So the writers had the character Marge Simpson write a letter to the First Lady defending her television family. The First Lady wrote back with a pleasant letter conceding she may have been too critical of the fictional family. But then things got serious. The Republican Party was the party of traditional family values. Republican President George Herbert Walker Bush pledged at a Convention of Religious Broadcasters to continue working to strengthen American families, to make American families more like *The Waltons* and less like *The Simpsons*. This only encouraged the show’s writers who incorporated the back-and-forth into episodes. Jim Brooks, one of the co-developers and executive producers of *The Simpsons* explains the running dialogue in the clip, *Bush v. Simpsons*.

Finally, the mockumentary-style sitcom *Modern Family* (2009–present) could have been titled *Postmodern Family*. Its portrayal of a father’s gradual and begrudging acceptance of his gay son, husband, and adopted Asian child is a commentary on who seems to have won the culture wars over homosexuality and diversity.

**Think About It!**

*The Simpsons* Predicted President Trump?

Those who are in positions of power are likely to think the media are biased because the institutional press has historically played a watchdog role. The press does investigative reporting on those in positions of power. This includes the private for-profit sector (e.g., corporate CEOs and union officials), the private not-for-profit sector (e.g., the management of charities such as the Red Cross or Wounded Warriors), and the public sector (government officials). The media’s government watchdog role makes it the opposition in the sense that journalists investigate whatever administration is in control of government in order to hold public power accountable.

Societies have multiple power centers. They include business (of which the media is one part), education, religion, and government. Government is not the only power center. It is merely the elected power center. The relationship between the media, as a
business, and politics has always been complicated but the digital revolution has raised new promises and threats for political communication. In a 2009 TED talk, Clay Shirky, a scholar of interactive telecommunications, described three ways the digital revolution has changed communication. The first change was the interactive forms of mass communication. The telephone expanded one-to-one communication. Then television and radio expanded “one-to-many” communication. Now the Internet has expanded the many-to-many communications as new interactive form of mass communications. The second change is the digitization of all media. Digitization makes the Internet a platform for all other media as telephone calls, newspapers and magazines, and television and film all migrate to the Internet. The fact that consumers can now access information at any of their linked platforms is transforming the media from businesses that produced information or content into sites that coordinate the distribution of information. This technology may ultimately enrich politics by enabling more people to access more information and to interact with others to discuss it. However, the current concern is that it has enabled individuals to self-select information and interactions that reinforce preconceived ideas and beliefs, thereby creating even louder political echo chambers.

The third effect of the digital revolution is to make it easier for consumers or audiences to also be producers and speakers. This can increase civic engagement in ways that are good for the health of a democracy. But it can also increase cynicism in ways that undermine the health of a democracy. Digital technology and technological convergence make democratic politics vulnerable in the same way the globalism makes people, animals and plants more vulnerable to viruses. Information and misinformation can go viral because technology has made the information landscape open and fluid while also weakening the links between voters’ perceptions and reality precisely at a time when the news we consume is based on emotion and identity as much as it is based on facts.

7.8 | Summary

The media have played an important role in American politics and government since the founding of the republic. Today, the media have an economic, educative, watchdog, and socialization role. The power problem with the mass media in particular is media bias. Knowledge is power, and the general public traditionally relied heavily on the mass media for information about government and politics. The digital revolution has changed power relations. Social media, for example, have created new capabilities for direct and interactive relations among the general public and between citizens and government officials.

7.9 | Additional Resources

The Center for Media and Public Affairs at http://www.cmpa.com/ provides information about the public role of the media.

One useful source of information about the modern media is http://journalism.org/

One example of the new media is the fake news shows have blurred some of the distinctions between news and entertainment (Infotainment). http://www.colbertnation.com/the-colbert-report-videos/252013/october-08-2009/bend-it-like-beck

The Annenberg Public Policy Center at the University of Pennsylvania conducts content analysis on TV coverage of politics: www.appcpenn.org

Newseum.org provides information about the history of news and media. Topics include coverage of the terrorist attacks of September 11, 2001, war correspondents, editorial cartoonists, women photographers, and front-page stories from around the country. www.newseum.org

7.91 | In the Library


Fritz, Ben et al. 2004. All the President’s Spin: George W. Bush, the Media, and the Truth. Simon and Schuster Trade.


### Key Terms
- Educative Role
- Watchdog Role
- Commercial Media
- Framing
- Bias

### Study Questions

1. When covering Congress, who tends to be the focus of media coverage? Why?
2. Leonard Downie, Jr., the former executive editor of the Washington Post, does not vote because he thinks voting might lead to questions about his neutrality. Explain whether you think journalists can be neutral and also vote in elections?
3. Compare and contrast the print press and electronic media.
4. How much confidence does the public have in the media? Is this level of confidence sufficient to ensure a vibrant democracy?
5. What are the major periods of the media?
6. What is the media’s relationship with the president?

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1. [http://www.trumptwitterarchive.com/archive](http://www.trumptwitterarchive.com/archive)
3. [http://www.pewinternet.org](http://www.pewinternet.org)
A congressional press pass allows reporters to sit in the House and Senate press galleries, as well as providing some access to presidential press briefings. The process to get a congressional press pass is available here: [http://www.senate.gov/galleries/daily/rules2.htm](http://www.senate.gov/galleries/daily/rules2.htm)


[http://www.ftc.gov/ogc/coppa1.htm](http://www.ftc.gov/ogc/coppa1.htm)

[http://www.gseis.ucla.edu/iclp/coppa.htm](http://www.gseis.ucla.edu/iclp/coppa.htm)


