

Are investigative reporting and news literacy the new Fairness Doctrine?

We've talked about this ad nauseam: How did our once-upon-a-time era of "Walter Cronkite credibility" give way to current polarization perpetuated by rancorous social media? And where is our government in overseeing mass and social media? Why isn't it fixing this?

What ever happened to the Fairness Doctrine? Couldn't that be our guide in dealing with these platforms? Could we, as pundits discussed earlier this year, revive the Doctrine defunct for more than 30 years?



Illustration by Steve Edwards

In February, Victor Pickard, a professor at the University of Pennsylvania's Annenberg School for Communication who also co-directs the Media, Inequality & Change Center, wrote in the

Washington Post about the call to revive the Doctrine.

He said: “The long-departed Fairness Doctrine has returned—at least in the minds of many who love or hate it. Arguably the most famous—and most maligned and misunderstood—media policy ever enacted in the United States, its long, strange history is generally not well known. Yet it holds important implications for growing concerns about disinformation, ownership and control of our news and information systems, the rights of audiences and the future of our democracy.”

We are at an evolutionary moment in mass communication as we sort through divisive discourse especially on social media and look for an antidote to polarization.

In the past, we’ve looked to government to monitor and regulate complex communications issues and that is still the case. In March, congressional hearings looked into social media’s role in disinformation. In October, Congress considered the deleterious effects on children of such platforms as Facebook, Tik Tok, Instagram and Snapchat.

But history should show us as these hearings have, that government officials are far from the cutting edge about technology. Some of the questioning in this year’s hearings has been so ignorant as to be comical and worthy of the Saturday Night Life skewering it’s received. It seems Congress is waiting for a sign or an impetus to act on doing something about digital media.

The Fairness Doctrine

So, what exactly is the Fairness Doctrine and does it still carry inspiration for the conundrums of this era?

It was born as more of an implication for licensees nestled into the Telecommunications Act of 1934, which established the Federal Communications Commission (FCC) among other things, and later was codified into regulations in 1949. So, it is not

actually just one regulation, but several.

A 2011 report from the Congressional Research Service, explained it this way:

“The Fairness Doctrine consisted of two basic requirements: that every licensee devote a reasonable portion of broadcast time to the discussion and consideration of controversial issues of public importance; and that in doing so, [the broadcaster must be] fair – that is, [the broadcaster] must affirmatively endeavor to make ... facilities available for the expression of contrasting viewpoints held by responsible elements with respect to the controversial issues presented.”

“In 1949, they created this Doctrine that it was actually a broadcaster’s obligation,” explained Dom Caristi, professor of telecommunications at Ball State University in Muncie, Ind. Originally, the FCC had said that broadcasters could not editorialize but the pushback was so extreme, the FCC changed the ruling. “This was a statement saying you can editorialize and if you choose to do so, someone else has to present the other side.”

It was not just about presenting all sides of an issue, but it also asked broadcasters to go out and find key issues that concerned their community. Literally, to knock on doors and ask. The regulation was designed to ensure broadcasting, be it radio at first and then television, gave back to the public. After all, these broadcasting companies were making a profit from the public’s airwaves.

It was also to ensure a diversity of voices on the air as there were a paucity of radio stations at the time.

But the regulation confused people. (It still does as many people still believe it is in effect.)

“The whole house of cards of freedom of expression is built on the premise of a marketplace of ideas,” said Caristi. “In

theory, we protect free expression so voices can be heard and people can decide for themselves who they want to listen to. But that theory rests on the idea that people have access to the marketplace. If someone monopolizes the marketplace then that does not happen.”

The licensing process was also onerous, said David Stewart, a 40-year radio veteran—28 of those years spent at WGN-radio in Chicago—who in 2018 retired as a newscaster and political reporter.

He remembered: “I worked for Westinghouse and every station owner, every time the license came up, [the station] had to do surveys. It was called ‘community ascertainment.’ We talked to any and all citizen groups you could think of to determine what the issues were before them and what should go on the air.”

“The Fairness Doctrine required that stations provide balanced coverage of all controversial issues of public importance,” wrote David Oxenford, a media attorney, in his Broadcast Law Blog this past February. “In talk programs and news coverage, a station just had to make sure that both points of view were presented in such a way that the listener would get exposure to them. How that was done was left to the station’s discretion, and the FCC intervened in only the most egregious cases. It also was different from the Equal Time Rule which is still in effect for candidate appearances on broadcast stations.”

“It also blurred the lines between news and opinion,” Stewart said, many people outside of the news industry had (and have) trouble understanding the difference between news and opinion. It is even more confusing today, especially in the most visible broadcast medium, television, where the formula is reporters and anchors cover stories, but then they also lead the panel discussion that debates the information they have established as fact.

Eric Deggans, NPR's first television critic, talked about this during an August panel discussion at the Aspen Institute. "You watch an hour of cable news no matter what it is and you come away feeling worse about the world and you're more agitated because that's the formula they use to keep you engaged."

Deggans added: "We're also seeing (the conservative) Fox News tie itself in knots. There are parts of Fox News that try and report facts and there are parts that are devoted to perpetuating a (Republican) ideology ... saying things that are just not true."

Going back in history

The regulation of radio—the first wave in mass communications—provides a great historical lens to see how officials waited, watched and often did not step in until after the disaster.

The sinking of the *Titanic* is a perfect example. While many things failed on the *Titanic* the night the unsinkable ship went down, not everyone realized how unregulated technology also wreaked havoc.

The night of April 14, 1912, *Titanic* Senior Wireless Officer Jack Phillips was busy sending passengers' cables—one of the many luxuries this high end ship offered. An hour before the ship struck the iceberg that sank it, Phillips received a cable from the nearby steamer ship *Californian*, warning about an iceberg field. But Phillips had a backup of passenger cables to send out, so he tucked the warning under his elbow and did not alert the ship's officers.

When the *Titanic* hit the iceberg, Phillips cabled the *Californian*, but got no answer as the ship's only wireless operator was in bed.

An SOS was sent out but amateur radio operators flooded the airwaves, scrambling to help. The chatter clogged the airwaves

impeding rescue efforts. More than 1,500 people died that night, including Phillips. After the tragedy, government officials finally moved quickly:

- Congress passed the Radio Act of 1912, dividing the electromagnetic spectrum between amateur, government and commercial users and mandating licenses for all American operators. It also put aside a frequency for distress calls.

- In 1913, the first International Convention for the Safety of Life at Sea was held to produce regulations for ships including mandating lifeboat space for the entire manifest, lifeboat drills and 24-hour radio room staffing.

“Government is always going to be behind technology,” explained Caristi. “Technology will change and law has to race and catch up.”

On the other hand, there are cases where the government has stepped in and was then perceived as stepping on citizens' rights, which is exactly what happened with the Fairness Doctrine. As time went on and the regulations were tested, it went from a way to ensure fair coverage, according to the U.S. Supreme Court in 1969 to an erosion of the First Amendment right to free speech, according to the FCC. (A conclusion also cited in a federal appeals court ruling.) The latter being the most likely reason that the Doctrine will not be resuscitated as that argument is ready to be used before the U.S. Supreme Court.

The generalization often made is that abolishing the Fairness Doctrine gave rise to right wing talk radio. It elevated and unleashed showmen such as the late talk show host Rush Limbaugh as they no longer had to present opinions outside of their own.

But that is only partly true. “Rush Limbaugh could not have happened under the Fairness Doctrine but the elimination of it was not the reason he came into popularity,” said Caristi. “It

was a mix of things. ... I think it was a big milestone in polarization but it is part of evolution, not the only factor.”

“And to be clear, polarization is not new. It existed in newspapers in the 19th century even though we now think of newspapers as the bastion of objectivity.”

Other regulations were abolished along with the Doctrine in the 1980s as part of a sweeping deregulation era brought in by President Ronald Reagan. One of the changes was an expansion to the number of radio stations one company or person could own.

“Once that changed, companies [owned] large number of stations,” said Stewart. “And what they tended to do [was] take what worked in one station and run it in another. So, the localness of radio went away.”

It was about economics. Using one format (talk shows, news, top-40) and one DJ meant you could syndicate a show and save money. It essentially removed the local DJs, who had come to prominence in the 1960s and 70s.

Another regulation that was lifted was the annual licensing applications for stations, which were quite elaborate and expensive. But in the 1980s, that was extended to seven years and in some cases, requiring only a return postcard, according to Susan Douglas, professor at the University of Michigan’s Department of Communication and Media, who describes this in her 2004 book, “Listening In: Radio and the American Imagination.”

Yet, pundits who called for reinstating the Fairness Doctrine maintain it could be the key to the elusive goal of regulating online platforms.

From fairness to being fair

Again, so what is the answer here? Perhaps, what we need is nestled in something we already have – journalism.

“On its face, the Fairness Doctrine sounds like nothing more than a statement of sound journalistic principles – covering controversial issues of public importance in a balanced way,” Robert Corn-Revere, a First Amendment media lawyer, wrote earlier this year.

Perhaps, an early legislative attempt to embody some of what is now in the Society of Professional Journalists Code of Ethics.

This is a thought echoed by journalism professor Rosemary Armao, who said: “I talk about fairness, not just the Fairness Doctrine.”

Armao, who recently retired as an investigative editor with the Organized Crime Corruption Reporting Project in Amman, Jordan, now teaches at University at Albany, SUNY. Her classes include journalism law and ethics.

“I would say that the Fairness Doctrine lives on in good investigative reporting whether it is print or in broadcast,” Armao said, adding: “By that I mean, you never print an investigation that is one-sided. It is not fair to look at one side, when a reporter starts looking at all sides of an issue you are on the road to accuracy and that is the number one ethical and legal goal.

“And more opinions in a story means it also has greater credibility.”

But the key here is that it can't just be something you think is journalism, it actually has to be good, credible journalism with sources, attributions and transparency.

Today, people have more news sources than ever before, whether it is on the radio, on television or online. Essentially, we

are drowning in information and the lifeline is news literacy. It is vital in today's news ecosystem. Consumers have to know what to look for in a story to ensure it is verified information.

There are at almost 15,500 commercial radio stations in the United States as of 2020, according to Statista—more than double what was available in 1970. There are a total of 1,758 broadcast television stations in the U.S, according to the FCC. There are more than 200 streaming services as well. But none of these numbers accounts for websites, YouTube, Facebook, Instagram and all the other social media platforms.

True, this is another responsibility people need to shoulder. But the skills of news literacy serve people in all areas of their lives. When you listen or read something, you have to feel confident that you know where the information came from, how the information was obtained and who has what stake in this news getting out there.

News literacy is really the number one skill or tool our children and their parents need in this era. It ensures the information we are absorbing is credible. Without it, all of us are nothing more than clickbait. It is essential because individuals are emerging as the key delivery system of news and we need to make sure what we are passing on is accurate.

“We are right now as a society making some serious decisions,” said Caristi of Ball State University. “The Internet has the potential to connect all of us to ideas we never thought about. Yet, that is being thwarted by algorithms anticipating what they think you want to know.”

With a little time and attention, each of us can push for more responsible news coverage. But there are amazing places that can show us what we need to know about news literacy, such as the Poynter Institute, Stony Brook University's Center for News Literacy or the News Literacy Project.

So, does that mean we need a modern day Walter Cronkite?

“The problem with the Cronkite era is that people like me didn’t work in any of those newsrooms and our perspective was rarely reflected,” Deggans, NPR’s television critic and an African American man, addressed that as well.

There’s a lot of different ideas out there and a lot of different reporting. Part of this is on you, as an audience, in that you reject misinformation even when it is telling you what you want to hear. ... The power has gone from Walter Cronkite to you and now, what are you going to do with it?”

Susy Schultz, a journalist and educator, recently left the Museum of Broadcast Communications, serving as its executive director. She is the principal author of two exhibits, “GreatDebates.org: The Influence of broadcasting on the presidential elections” and “Ride the Wave: A Century of Radio.”