

Seth Grundmeyer

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Rackey

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### Solutions to Media Bias

Bias in the media has been a growing issue in the United States since the creation of print media. Writers attacking political competitors under pseudonyms just to gain advantages in popularity. As the country began to develop radio and television and brought forth the ability to instantly share opinions across the entire country the government attempted to make a regulatory body to control media bias. In 1949, the Federal Communications Commission(FCC) implemented the Fairness Doctrine to help quell the issue of media bias(Register, 1974). The main purpose of the Doctrine was to create a legal system of regulation on the media. Under the Doctrine the FCC had the ability to revoke the license of anyone who did not provide "fair and equal" representation to all arguments on a particular issue. This system faced scrutiny and in 1969 the case of *Red Lion Broadcasting Co. v. FCC* led to a ruling in favor of the FCC. This case ruled "It is permissible under the First Amendment to require media outlets to make broadcast time available for responses to personal attacks."(*Red Lion Broadcasting Co., Inc. v. FCC, 395 U.S. 367 (1969)*). This ruling was used in defending the Doctrine until 1987 when the FCC in a 4-0 vote abolished the Doctrine due to arguments in Congress regarding the Doctrine being a violation of the First Amendment. Although the FCC abolished the Doctrine two corollary rules remained in effect until 2001. The two corollary rules are as follows; when a person is being discussed on air they are to be notified and allowed to

speak as well to defend themselves. The other was whenever a station broadcasts editorials supporting or opposing candidates the opposing candidate must be notified and allowed to respond on air to the broadcast. These corollary rules were based on the *Red Lion v. FCC* decision in 1969. Remnants of these rules are still present in news outlet reporting today. Often we hear the phrase, “We reached out to person blank and were unable to get comments.”

There are disagreements about reinstating the Fairness Doctrine. When researching the issue I found that there seems to be agreement in placing some regulatory body over media, but the disagreement stems from the Fairness Doctrine itself. Under the name Restore the Fairness Doctrine Act, Democrats are supporting the reinstatement of the Fairness doctrine. The supporters of the Act are saying, “Unlike the print media, broadcasters have a license, something no one else can have.” Former Rep. Mike Synar (D-OK2) told the *Times* in that same article, “With that license comes responsibility.” A separate *Times* article of the time quoted advocate Ralph Nader as saying “News judgment will increasingly reflect a business orientation,” — he continued on, noting that “women’s rights, the health effects of smoking, and the safety of nuclear power plants would have come to far less public prominence had the fairness doctrine not been in effect.”(Rifkin, 2019). The Democratic party has taken a stance of support because they believe that the power of the media brings awareness to issues that might otherwise be overlooked in our capitalistic system. Democrats claim that the Fairness Doctrine stood for equality and brought forth honest and open discussion. The Act has been proposed under every president since Ronald Regan in the 80’s and has yet to pass. It is widely considered to be dead.

Those in opposition to the Act, the Republican party and the FCC, believe that the Act is a violation of the First Amendment and puts too much regulation on the free press. "I think you will find the current Commission to be a great partner in the effort to ensure a free press, primarily by not intervening in the area," Democrat-appointed FCC Commissioner Michael O'Rielly said in a speech at 2017 Media Institute Luncheon. "You are all likely familiar with the past, thankfully failed, attempts to insert the Commission as a watchdog to make sure news is being covered appropriately," O'Rielly continued. "Though it should not have to be said, let me make it clear that the Commission currently has no role in regulating news content, and I would be opposed to any effort to give it that authority, via a resurrected Fairness Doctrine or other, more seemingly innocuous efforts." He continues, "Count me in as a staunch defender of the First Amendment despite any drawbacks it may present. So you can rest assured that news content is safe from any potential FCC filter in the name of the public interest." (Rifkin, 2019)

Every president who has had the Act cross his desk has vetoed it opting instead for the protection of every American's First Amendment Constitutional rights.

There are other actors involved in the discussion of media regulation, namely the media and social media. The media has an odd stance in this discussion. They believe that the government and the FCC have no right to decide what can and cannot be said when discussing issues and policy. The media stands for their own version of a Fairness Doctrine where they control the regulation and have power over each other. I will go more in depth about this later. The other actor in all this, social media, has a mysterious future in this discussion. The Fairness Doctrine was created and repealed all before the creation of social media leading to the question of if it is going to be affected in any way. The Supreme Court in the past ruled that the

regulation of newspapers was unconstitutional due to it not being a limited resource. The reason that the FCC could regulate broadcast media was due to there being a limited number of spots available. This meant that all opinions had to be available in a limited number of spots leading to regulation. If this thinking is applied to social media that would mean that there is no way that regulation would be an option. However, there is an argument that completely dismantles the view that social media is an abundant resource. "one approach to justifying content-based regulation of social media platforms is to treat aggregate user data as a publicly held resource, collectively owned in the same way that the public 'owns the airwaves.'" (Napoli, 2020). With Napoli's explanation of how social media is a limited resource we can create a Doctrine that regulates both social media and broadcast media at the same time.

I want to discuss all of the possible options for media regulation. I want to look at the pros and cons of each along with the financial impacts to each. I have found five possible solutions; reinstate the Doctrine exactly as it was in 1949 to the FCC, follow the Reinstatement of the Fairness Doctrine Act and give the Fairness Doctrine to congress, reinstate the Fairness Doctrine to a new non-partisan organization, an all new system of regulation designed by me, and the final option would be to not regulate the media at all and leave it as it is now. These options are the five I have found during my research .

The first solution I am going to discuss is reinstating the Fairness Doctrine to the FCC exactly as it was in 1949. This would be a regulatory body watching broadcast and radio media. This would mean that social media and newspapers and magazines would not be regulated. All the FCC would be able to do is require that broadcast and radio media are covering news and politics in a fair and equitable way. This means discussing both arguments being made on a

particular issue. There are quite a few issues to overcome before we could choose to use this solution however. The biggest of these issues is that the FCC does not want to reinstate the Fairness Doctrine. The FCC is arguing that it is no longer necessary for two reasons. They believe that the Doctrine is both unconstitutional and unnecessary. The FCC states that with the advancement of technology and the introduction of more radio waves there is now more than enough stations to be used meaning that it is no longer a limited resource. Another issue with this solution is the question posed earlier. Do we include non-licensed political commentators like Ben Shapiro or Steven Crowder? These commentators use sites such as YouTube to post their opinions and thus would not be regulated by the original Fairness Doctrine. This creates an issue because millions of Americans get their daily news from commentators like this and there is now way to regulate if it is true or not.

The fiscal impact of this solution is minor in comparison to the other solutions. There are three main points that have an impact on the yearly budget. The first point is startup cost. The startup for reinstating the Fairness Doctrine is going to be little to none. The FCC is already a well established organization meaning no money would need to be provided to establish a new organization. The Doctrine is also already written meaning that no money would need to be used in writing and editing to create a new bill. The second impact is going to be the creation of a new sub division within the FCC Bureaucracy to oversee the proper regulation and enforcement of the Doctrine. This division is going to need employees to oversee all of the duties that are going to be bestowed upon them by the Fairness Doctrine. Most people do not like to work for free so they will need pay and benefits. The average salary of a member of the FCC is \$134,990.13 and assuming it will take 10 members to complete the daily duties the total

fiscal impact of Reinstating the Fairness doctrine to the FCC is going to come out around \$1.5 million per fiscal year. In relation to the federal budget \$1.5 million is a relatively miniscule amount of money.

The second solution is to pass an updated Fairness Doctrine. This updated Doctrine would solve an issue posed in the previous solution. The FCC is charged with regulating interstate and international communications by radio, television, wire, satellite, and cable. It licenses radio and television broadcast stations, assigns radio frequencies, and enforces regulations designed to ensure that cable rates are reasonable(FCC, 2019). Since the creation of internet and social media news media has been slowly transitioning toward online publication. Online newspapers and updates through social media have become the primary source of news for many young Americans. As such if a Fairness Doctrine was passed there would have to be an update to it to include regulation to internet based news media sites. This creates a very big issue however. In the past the FCC was not granted the ability to regulate newspapers due to mass availability and ease of production. There was not a limiting factor on the number of newspapers that could be produced. The same issue is here with internet news broadcasting. There is no limit to the number of sites that can publish news. Meaning if the FCC was to try and regulate the internet through an updated Fairness Doctrine the Supreme Court may argue that it is a violation of the first amendment. There is no easy solution to that problem.

The financial impact is going to be slightly increased from the previous solution due to the costs of updating and rewriting the Fairness Doctrine. For starters we will use the same \$1.5 million in staffing costs from the previous solution. Lawyers and representatives are going to spend time writing and reviewing the bill meaning that they will all have to be paid for their

time. The representative is going to get paid roughly \$530 per day (Brudnick, 2018). A lawyer is going to cost roughly \$1,800 per day (Thervo). Assuming it is going to take a month to write the bill, it will come out to a total of \$1.57 million. This is again such a small amount when compared to the national budget that it is hardly impacting the government in any major way.

Solution three is following a similar system to elections. The government wants people to vote in elections but still hands the power of conducting the election to the states because it would be too difficult for the government to have a national level election without the individual states helping. This solution would be that the national government will mandate that each state have its own version of the Fairness Doctrine, based on a sample, and leave them in charge of how to regulate and enforce the Doctrine. This solution creates a multitude of problems. First, there may be disparities between states. Letting the states choose how to regulate and what to regulate leaves a lot up for interpretation. An example of this is, suppose that a state has a lot of fracking happening and the media wants to better inform its states citizens of the process and any drawbacks it may have. The state government may be making money on the fracking business and may enforce regulations on the coverage of fracking because of the fact that money is being made. Thus restricting access to its citizens of knowledge that they would otherwise have access to leading to uninformed citizens. Another issue is that as you get farther from the national level it becomes easier to “gain access” to elected officials or people of power. The possibility for corruption is more likely than a national agency. This creates a predicament in regulation as well. The inability of enforcement is another possible issue. If a state has a sound regulatory system but no way to enforce it there is going to be issues. I will discuss this issue more in the fiscal section.

The fiscal impact to the national government is going to be miniscule. The federal government may provide some aid to each state but not enough to be discussed. Most of the impact is going to fall on the states, therefore, I will discuss the impact to each state. The biggest impact I see is going to come from this solution is litigation. Some companies may entirely ignore the new state acts and lead to citations being written. If the issue is not resolved there is going to be some sort of legal action taken. Court is an expensive place to end up. If a state or states have to go to court to make sure a company is following the regulations there is going to be a significant financial impact. A single case in the Supreme Court costs an average of roughly \$200,000. There is also the cost of employees to enforce the new act and the new agency that they would be working under. I estimate that roughly 500 people are going to be needed per state to enforce this act. Using California as an example they would be paid roughly \$50,000 a year, based on a job of similar position, and that comes out to a total yearly impact of \$25 million dollars. For a state government that is a fairly significant amount of money to use solely for the regulation of news media.

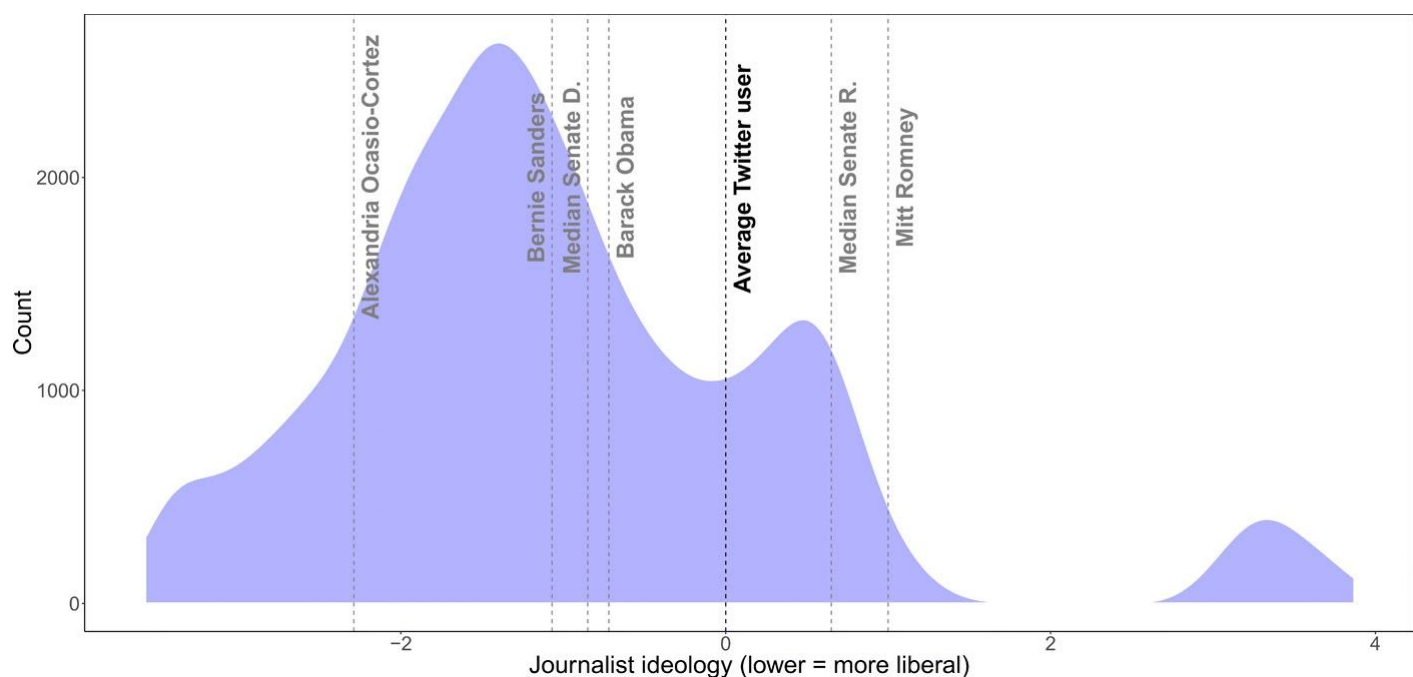
Solution four is a possible for profit organization providing unbiased news similar to a college library. Just as many college students use the libraries to find unbiased academic sources to use in papers this service would provide the same access to those articles but for the average American. This would be subscription based service for the American people who believe that the media bias is too much to overcome and want to hear information from researchers who are actually researching the problem for themselves. This service would provide academic sources to all interested citizens. The possible issues with the creation of this



service is that it will be quite expensive. Most of these articles are only accessed by students from college libraries and don't have an easily accessible version available to the public.

The fiscal impact of implementing a system like this is zero. There would be no fiscal impact to the state or federal governments. The burden would fall on the private sector, specifically a new company and the people who would choose to subscribe to the service.

Solution five is going to be the easiest to implement. This solution is to simply do nothing and let the media keep working exactly as it is now. There would be no regulation. There are a few problems with this solution. Media bias is moving in the wrong direction. Bias is becoming more and more partisan and it is widely known which stations lean to which side of the spectrum. CNN is widely considered to lean towards the liberal side of discussion and Fox News was widely believed to lean towards the conservative side until the most recent election. Although with the advancement of the internet providing more and more internet outlets it is still difficult to find an unbiased outlet.



The above graph shows journalist ideology and as you can see the graph is skewed to the liberal side of reporting. Most of the reporters are leaning to one side or the other leaving little to no articles that are not swayed whether consciously or unconsciously to one side or the other.

The fiscal impact is again going to be zero. The government is not going to have to devote any percent of the budget because there is no change from the current form.

I know that these five solutions may not be the only answers. These five, however, are the solutions that hold the most importance to me and have the best shot at solving the issue of media bias that we are facing today. When beginning this paper I believed that the only possible solution to media bias was the Fairness Doctrine and in researching and formulating my argument I found that the Fairness Doctrine was full of flaws and would need a major overhaul to reach the standards necessary to be a bill today. Thus the creation of my five possible solutions. I started from the basic idea of the Fairness Doctrine as my reference point and began formulating solutions from that basis. In doing this my five options are limited in the scope of possible solutions, however, I believe that these are the best possible solutions at this time.

In my opinion there are two solutions that provide good outcomes. I believe that solutions three and four pose good outcomes for the public. Solution three is the best in my opinion however. Solution three is the best for a few reasons. First is that it is going to be the easiest to regulate. It is most likely that the states are going to impose the act and push the responsibility of enforcement down onto the county level. When each county is responsible for enforcing the new act it is more likely to be noticed when a journalist publishes a work that may violate the new acts. The two problems I foresee in this approach however is the cost is much

bigger than the others and that there is not going to be one central regulation for broadcasters to follow. I believe that the possible solutions to this issue would be for the national government to propose a base act to be the guiding light for all of the states to follow and all the states to add on to this act. The solution to the cost issue would be to have a strong federal aid program in place to assist states that may not be able to cover the cost of their new regulatory body.

This solution would be creating this new regulatory body for all fifty states meaning they will have to report to some federal organization and that would be the FCC as the FCC is in charge of regulation of broadcast media and the internet. This means the FCC will provide assistance to states in understanding how to regulate these mediums and what to do if a problem arises. I believe that after a maximum of five years the states would be able to independently regulate all of the mediums covered in this updated version of the Fairness Doctrine.

I believe there to be one long term drawback to the implementation of this system as it will encompass all forms of media. In having each state regulate itself there is going to be an issue with how to regulate nationwide publications such as YouTube and online news sites. The simple solution I have for this would be that the state with jurisdiction over the parent company would have the responsibility for the enforcement and potential consequences for said company not meeting the regulations. For example, if CNN were to publish a nationwide broadcast not adhering to the base act that all states would be working from it would be the responsibility of Georgia to request CNN cease publication of the broadcast because CNN headquarters is located in Atlanta, Georgia. This simplifies the process because the company

would not be fined by all fifty states and the issue would be resolved in a more timely manner.

Creating a central bill that allows states to regulate the broadcast media and the internet is going to be in the best interest of the people and the government. It is going to create an immediate decrease in the bias in news media and allow the American people to have more faith in the reports they are hearing. Ultimately, all of this boils down to a famous quote from Thomas Jefferson that my mother has shared me quite often, "An educated citizenry is a vital requisite for our survival as a free people."

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