

EX PARTE OR LATE FILED

June 18, 1998



Magalie Roman-Salas  
Secretary  
Federal Communications Commission  
1919 M Street, NW  
Room 222  
Washington, DC 20554

JUN 18 1998

Re: Notice of *Ex Parte* Presentation in MM Docket No. 83-484

Dear Ms. Salas,

On June 15, 1998, in a conversation with Christopher Wright, General Counsel of the FCC, and on June 16, in a conversation with Mary Beth Murphy, Special Counsel to the General Counsel, Andrew Jay Schwartzman of Media Access Project engaged in *ex parte* communications via telephone.

These communications related to points which previously had been made in written comments and reply comments in the above-referenced docket. However, reference was made to an article, which as it turns out, was not cited in those comments. That article is "After the Fairness Doctrine: Controversial Broadcast Programming and the Public Interest," *Journal of Communication*, 40: 3 (Summer 1990), 47-71 and is attached.

Sincerely,

Gigi B. Sohn  
Executive Director

cc. Christopher Wright  
Mary Beth Murphy  
Victoria Phillips

No. of Copies rec'd  
List A B C D E

024



MM 83-484

EX PARTE OR LATE FILED

JUN 18 1998

Communication, Vienna:

1973.

New York: Vintage Books.

in Small Countries

The Interviews, 1969-

ain Books, 1972.

Film as Aesthetic Dis-  
pp 23-44.

## After the Fairness Doctrine: Controversial Broadcast Programming and the Public Interest

by Patricia Aufderheide

*The record of broadcasters following the FCC's August 1987 decision to suspend the Fairness Doctrine shows no evidence that controversial programming has increased, and non-enforcement may in fact have limited the airing of controversy.*

The Fairness Doctrine has become a site of major controversy over the future of public interest regulation in the United States. The Doctrine, which requires broadcasters to air controversy and to air it fairly, has been in suspended animation since August 1987, when the Federal Communications Commission announced it would no longer enforce it (*FCC Report No. MM-263*, August 4, 1987).<sup>1</sup> Since the suspension, Congress has persistently tried to pass legislation reinstating the Doctrine. In the 100th Congress, it was vetoed by President Reagan and unable to garner votes for an override (16, p. 13). In the 101st Congress, legislation failed to pass, but supporters continue to promote it. Although major broadcast interests continue to condemn it, broadcast industry interests have backed off their original fierce opposition to the Doctrine, hoping to trade compliance for congressional favor in other legislative battles.<sup>2</sup>

The Doctrine and its corollaries had evolved through regulation and legislative language, implicitly from the 1934 Communications Act and explicitly from the 1959 revision of that act and later court actions (56, pp. 29-49). It affected all aspects of informational broadcasting, including public affairs and news programming, public service announcements (PSAs), program-length commercials, advocacy advertising, appearances by politicians, and political commercials. It required broadcasters to address all sides of a public controversy in the course of overall programming and, in the case of PSAs and purchased air time, to

<sup>1</sup> The history of Fairness Doctrine regulation until the FCC opened a docket to reconsider it in 1984 is well summarized in Rowan (56).

<sup>2</sup> A *Broadcasting* editorial (1) lambasted this position with irony: "Let the Congress whittle away as it will with editorial discretion so long as it grants a quid pro quo."

Patricia Aufderheide is Assistant Professor in the School of Communication, American University, Washington, D.C. The research reported in this article was supported by a grant from the Donald McGannon Communication Research Center at Fordham University.

Copyright © 1990 *Journal of Communication* 40(3), Summer. 0021-9916/90/\$0.0+ .05

offer free air time to groups with an opposing opinion who could not pay. Its corollaries also required broadcasters to notify individuals or groups who had been personally attacked and to offer response time, as well as to provide equal opportunities to political candidates. The suspension affected the central tenets of the Doctrine but did not affect the corollary rules on equal opportunities for political candidates, on balanced coverage of ballot issues, and on personal attack.

Behind the battle over the Fairness Doctrine are several crucial issues for the future of communications regulation, some of them obscured by the battle itself. Primary is the question of whether public interest regulation of broadcasting continues to be necessary. Public interest regulation is grounded in the notion that broadcasters hold in trust a scarce public resource and must perform some public service and observe certain standards of responsible behavior in exchange for using it for their own benefit. Questions of scarcity—a presupposition of the 1969 *Red Lion* decision (*Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367)—and questions of constitutionality mix in this question. Opponents of continued public interest regulation, who have taken up the Fairness Doctrine as the wedge in their campaign, argue that increased outlets for opinion—not only over the air but also on cable and in videocassette form—make the scarcity argument irrelevant. They point to the lack of such regulation for print media (although most cities are now one-newspaper towns) and call for an extension of the First Amendment to the expanding broadcast medium. Proponents of public interest regulation argue that broadcasting is, from its origins, a public trust. If the term is not to be purely vacuous, they argue, it needs concrete and enforceable measures of public service and responsibility, of which the Fairness Doctrine is one.

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

A third issue is the question of authority to change policy direction. Although the former issues have been used extensively in the congressional debate over the Fairness Doctrine, the propelling force behind the campaign was the strong and ideological push of the Mark Fowler-era FCC to deregulate

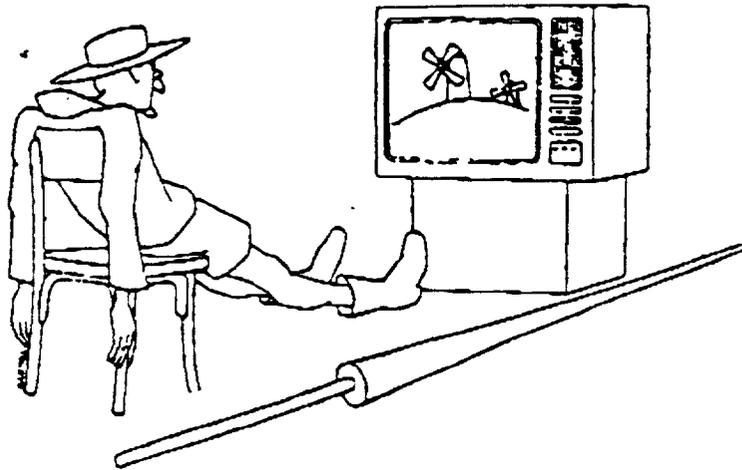


the ir  
profo  
needs  
past.

For  
the d  
its co.  
other  
as an  
of por  
hearir  
"defie  
gover.  
wider  
win. F  
contr  
broad  
decisi  
as an  
that e:

The de  
resourc  
licenst  
these br  
of this  
Fowler.  
strongly  
trust ob

After the Fairness Doctrine



... who could not pay. Its  
 ... duals or groups who had  
 ... as well as to provide equal  
 ... affected the central tenets  
 ... on equal opportunities for  
 ... issues, and on personal

... eral crucial issues for the  
 ... scured by the battle  
 ... regulation of broad-  
 ... ation is grounded in the  
 ... source and must per-  
 ... of responsible behavior  
 ... s of scarcity—a presump-  
 ... *casting Co. v. FCC*, 395  
 ... question. Opponents  
 ... up the Fairness Doc-  
 ... d outlets for opin-  
 ... cassette form—make  
 ... f such regulation for  
 ... r towns) and call for  
 ... oadcast medium. Pro-  
 ... ng is, from its origins,  
 ... argue, it needs  
 ... responsibility, of

... fective as designed.  
 ... es what good jour-  
 ... gative effects. One is  
 ... or partisan com-  
 ... roblem, simply by  
 ... oversial. This is the  
 ... that it has a history  
 ... e fact that no  
 ... mplaint alone, and  
 ... writing by the  
 ... irt out that the  
 ... lanced controver-  
 ... ers avoid contro-  
 ... roided typically

... rection.  
 ... congressional  
 ... the campaign  
 ... C to deregulate

the industry (see 28). Fowler, and his protégé and successor Dennis Patrick, profoundly believed that the marketplace could far better serve many of the needs that regulation had clumsily attempted to address in a less abundant past.

Fowler's and Patrick's inquiries and decisions frequently pushed policy in the direction of deregulation. However, the FCC is not empowered to change its congressional mandate on its own. The FCC's actions, on the Doctrine as on other issues, set up a counterreaction in Congress, where they were perceived as an ideological assault on the public trustee concept and an aggrandizement of power.<sup>3</sup> Congressman Al Swift (D-Wa.) put it succinctly when he said, at a hearing on the recodification bill, that the real issue was that the FCC had "defied Congress. The jurisdictional issue has to be dealt with" (61). For both governmental entities, the Fairness Doctrine became the battleground for this wider issue, because both parties perceived the Doctrine as an issue they could win. Fowler saw the Doctrine as constitutionally fragile, as verging on content control of broadcasters; and he correctly perceived a strong interest among broadcasters to support a campaign to drop the Doctrine, as a precedent-setting decision in the trend to deregulate public interest regulation. Legislators saw it as an issue that had explicit advantages to politicians (particularly in corollaries that ensure equal opportunities for campaigning politicians, and balance for

<sup>3</sup> "The debate on the Fairness Doctrine is, at its roots, a debate over government control over a public resource, the spectrum. . . . To balance the limited number of opportunities the public has to become licensees and to provide the public with a greater number of voices, the Commission has required these broadcast licensees to act as public trustees. The Fairness Doctrine is a fundamental requirement of this public trust. . . . The committee does not agree with the Chairman of the Commission, Mr. Fowler, that broadcast stations should be treated like 'roasters'. . . the Committee continues to believe strongly that the broadcast marketplace is not so competitive as to relieve broadcasters of their public trust obligations" (66, pp. 32-33).

opinions expressed in advocacy advertising), that constituents could see as fair, and that had explicit backing in previous legislation. Even those who opposed the Doctrine in Congress could be lobbied on the grounds that if it were to be changed, it should be changed by Congress and not the FCC.

Thus the Fairness Doctrine, long a minor aspect of public interest regulation, has become a crucial test case of the future of public interest regulation in broadcasting. Leaving aside constitutional issues and the question of authority, the controversy over the Doctrine provides one way to assess the effectiveness and necessity of standing public interest regulation that was designed for an earlier broadcast era. The debate itself exposes the most powerful arguments grounded in experience that have been put forward so far for and against the Doctrine. The suspension offers a chance to look at the state of controversial programming in broadcasting in the Doctrine's absence.

In addressing the effectiveness and necessity of such regulation as seen through the Doctrine, this study thus focuses on experiential evidence on the "chilling effect." The "chilling effect" has been the major evidence that the rule was counterproductive regulation; the claim has been the most decisive in arguing that the Doctrine, rather than fostering controversy, had in fact limited it. This study first looks closely at the experiential arguments made both for and against the Doctrine, particularly regarding the "chilling effect," in the FCC's Fairness Doctrine Inquiry, opened in 1984 and completed in 1985. This was where the battle was joined between proponents and opponents of the Doctrine and where they can be considered to have made their strongest arguments. The study then considers the record for controversial programming since August 1987, including a survey of stations whose personnel were prominent in the Inquiry. Such a record ought to reveal whether the absence of the "chilling effect" has in fact fostered broadcasters' appetite for controversial programming.

In considering this question, it is important to realize that other, related changes in the broadcast industry have also conditioned choices for or against controversial programming. Deregulation has had both direct and indirect impact on the aspects of broadcast operation that affect controversial programming. The FCC lifted or diluted many rules delineating how stations were to serve the public trustee function that they assume in trade for their station licenses. License periods for radio and TV were extended; commercial time limits and regulations regarding children's television were abolished; guidelines for the amount of news and public affairs coverage, and the requirements to keep program logs open to the public, were lifted.

Perhaps of most wide-ranging impact was the lifting of the rule requiring stations to be owned for three years before being sold. Lifting this rule created a boom market in broadcast stations. Within three years, half the stations in the United States had been traded, a quarter of those more than once (27). Station trading brought in managers without the traditional grounding in broadcasting's public service tradition. "The only difference they see between their license and a hamburger franchise," noted public interest lawyer Andrew

Schw  
merg  
and ;

Th  
made  
ment  
for c  
News  
been  
linke  
staffs  
and ;

"Sho  
(23).

publ:  
(Its e  
the s  
evant  
Inde-  
entra  
logic  
direc  
on ar  
of a j  
rial c  
Assoc  
large

Th  
well  
work  
has s  
sugg  
even  
has l  
tainr

\* The r  
station  
to doc  
chang

\* Denes  
at the  
who s  
chang  
that v  
domain  
(p. 3)

*After the Fairness Doctrine*

s could see as fair,  
 ose who opposed  
 at if it were to be

ic interest regu-  
 ublic interest  
 ues and the ques-  
 one way to assess  
 ulation that was  
 s the most pow-  
 orward so far for  
 ok at the state of  
 bsence.

tion as seen  
 evidence on the  
 lence that the  
 most decisive in  
 id in fact limited  
 made both for  
 ffect," in the  
 ed in 1985. This  
 onents of the  
 ir strongest argu-  
 rogramming  
 nel were promi-  
 absence of the  
 controversial pro-

ther, related  
 es for or against  
 und indirect  
 ersial program-  
 zations were to  
 heir station  
 mercial time  
 ished; guide-  
 he requirements

ile requiring  
 his rule created  
 e stations in the  
 ce (27). Station  
 in broadcast-  
 ween their  
 er Andrew

Schwartzman acidly, "is that the one from Burger King isn't free" (59). The mergers-and-acquisitions furor also affected the networks, increasing debt loads and precipitating a wave of budget cuts.

The signals sent by such deregulation and FCC officials' public declarations made areas such as news, public affairs, community affairs, and equal employment opportunity offices prime targets for budget cuts. The effects on venues for controversial issues were marked. A 1987 study by the Radio-Television News Directors Association (RTNDA) showed that news staffs and air time had been cut in major markets, for both radio and television; many news directors linked the cuts with deregulation (22). A 1988 RTNDA study showed that news staffs at many television stations in the fifty largest markets had been trimmed, and nearly half the independent stations had no one working in news (60). "Shortchanging the Viewers," a study by the Nader group Essential Information (23), found that while total news programming had increased since 1975, local public affairs programming had decreased, perhaps by 39 percent, since 1979. (Its assessment probably overestimated current public affairs coverage, since the study was forced, in the absence of regulation requiring open books or relevant FCC studies to match previous ones, to rely on *TV Guide* listings.) Indeed, 15 percent of all stations had no news on the air at all in 1988; newer entrants to the TV marketplace carried the least news and public affairs. The logic of such choices is indicated by the remark of a CBS affiliate public affairs director in North Carolina to Essential Information: "You can sell commercials on an hour of *Lifestyles of the Rich and Famous* a whole lot better than an hour of a public affairs show." Also slashed have been positions for broadcast editorial directors, reflected in the membership of the National Broadcast Editorial Association, which declined from 104 paid members in 1986 to 79 in 1988, largely due to many stations closing down their editorial functions (24).<sup>5</sup>

The major networks have all undergone cutbacks in news departments, as well as in standards and practices and in minority-related affairs. At NBC, whose workforce was reduced from 1,400 to 1,000 (37), network president Bob Wright has set profit-making goals for the money-losing news department. Wright has suggested charging guests on the "Today" show for their appearances and has even suggested, perhaps hypothetically, abolishing the "Nightly News." NBC has launched a prime-time news show produced in conjunction with its entertainment division (15, 39).

<sup>5</sup> The study compares FCC reports from 1979 with local *TV Guide* reports for a sample of 217 TV stations from 1988. The study was harshly criticized by RTNDA, correctly insofar as the study claimed to document the effects of removal of the Fairness Doctrine. However, RTNDA charged that the changes in programming related to market conditions, which are of course affected by deregulation.

<sup>6</sup> Denterlein (21) notes that editorial writers "know that our survival is inexorably linked to the person at the top. Without a general manager or owner who upholds a station's commitment to editorials, who stands behind us in the face of criticism, and who continues to support editorials despite the changing economics of television, we are vulnerable. The diminished ranks of the NBEA suggest that this breed of manager is harder to find these days. As television enters a stage of maturity dominated by tight fiscal management, the editorial position is often squeezed out of the picture" (p. 3). The NBEA, by the way, had strongly supported the revocation of the Fairness Doctrine.

*After the Fairness Doctrine*

versy is the rising  
o commercials for  
al Information  
l the 1980s, now  
into time once

native obligation  
sual tone and oth-  
tising Council  
s such as the  
ing that it consid-  
ociation-pro-  
production  
ers (NAHB) has  
for homeowners.  
image builder.  
on ourselves as a  
San Francisco's  
issues, has  
SAs for their  
nse even to  
ert Chao Gun-

with corporate  
of Broadcasters  
stations link up  
s and campaigns  
e, and appeal to  
may be of  
one. In Port-  
bines PSAs with  
ge. The signifi-  
ming and crea-  
y-service dol-

ity in this  
ched a multi-  
nd spots on  
as well as docu-  
each allows the  
PSAs through-  
, of concern to  
er than "some  
1" (20). This  
ady interested  
public—such

as nuclear waste—but about which only a minority is already well informed and organized.

Changing trends and styles in news and public affairs coverage alarm some in the industry, particularly in radio, which has long distinguished itself in the informational marketplace with its relationship with the community. Robert Benson, vice-president for radio news at ABC News, recently decried the short-term thinking that leads some radio station owners and operators "in this era of broadcast deregulation" to reduce news and information "in favor of less costly music and entertainment scheduling" (9).

Assessing changes in coverage of controversial issues has been otherwise complicated by deregulation, particularly the relaxation of the requirement to keep program logs open to the public (although many broadcasters still keep such logs for business purposes). When *Essential Information* asked stations and networks for their program logs in 1988, 97 percent of the 1,017 stations refused to open their logs. One Fox affiliate news and public affairs director said, "What's in it for me besides wasting my time?" (23, p. 14).

Even using rough measures, however, it is clear that the marketplace for controversial programming has changed substantially with broad, deregulation-led changes in the marketplace. Nonetheless, the fierce debate over the Doctrine is itself evidence that both broadcasters and public interest advocates have seen it as an important conditioning factor on controversy. The reason may lie in the simple fact that the Doctrine, while only one small piece of the public interest regulatory structure, provided a unique tool for the public to gain access to and influence broadcast programming.

The Fairness Doctrine Inquiry opened by the FCC in 1984 showcased the arguments pro and con, and offered concrete evidence specifically for and against the "chilling effect." It is important to note that the FCC itself launched the Inquiry with a sharply ideological edge. In 1981 the FCC had called for legislation to repeal the Doctrine,<sup>6</sup> but in the intervening years, proposed legislation (e.g., S.1917, sponsored by Sen. Bob Packwood; 65) had only strengthened congressional support for it (see 7). The Notice of Inquiry announced the FCC's intent to "reassess the wisdom of applying general fairness doctrine obligations to broadcast licensees." In an extended argument, the Notice of Inquiry detailed its assertion that "a preliminary analysis" indicated that "continued adherence to the doctrine might be contrary to the public interest and constitutional principles." It further asserted that the Commission would take an advocate's role: "We have set forth what we believe are some of the strongest arguments *against* retention of the fairness doctrine in the hope that, by proceeding in this fashion, this will in turn generate submissions of the most compelling reasons *for* its retention" (25, pp. 1-2). The Notice of Inquiry alone stirred the ire of Congressman John Dingell (D-Mich.), who said imme-

<sup>6</sup> Chairman Mark Fowler said, "This is the time to strike down the government's role in determining what people see and hear" (*FCC Report No. 5068*, September 17, 1981).

diately. "If the Commission is looking closely at the Fairness Doctrine, I'm looking closely at the Commission" (40).<sup>7</sup>

The Notice did in fact draw a wide range of responses, especially in the broadcast industry, where the issue was seen as a precedent for creating eventual parity with print media (and thus abolishing the public trustee concept). Comments drew 25 filings against the Doctrine (two qualified, calling for relaxing of Doctrine corollaries on the grounds that the FCC did not have power to repeal) and 31 in support (one qualified, calling for relaxing of a corollary). Reply comments drew five filings against the Doctrine. Twenty-one organizations and groups of individuals filed reply comments in support of the Doctrine—one filing alone consisting of 66 nonprofit, labor, educational, and broadcasting organizations—and there were 22 individual filings by law students.<sup>8</sup>

Thus, the majority of comments supported the Doctrine. Most of those opposed were broadcast industry interests, both commercial and public (although not all supported revoking the Doctrine, and Group W—a longtime supporter of the public trustee concept and the Fairness Doctrine—endorsed it). Supporting the Doctrine were public interest groups and nonprofits ranging from the National Rifle Association to the National Coalition for Handgun Control, mainstream religious organizations, partisan political organizations such as the Democratic National Committee, conservative organizations such as the American Legal Foundation and Accuracy in Media, and corporate voices such as Mobil Oil and the Glass Packaging Institute.

Although the hardest case against the Doctrine was the "chilling effect," the concrete, anecdotal evidence—as opposed to opinion surveys—that broadcasters produced to demonstrate that effect was sparse and repetitive throughout the filings. The NAB's comments included a study that incorporated most of the examples cited. It anthologized 45 examples of the "chilling effect" garnered from interviews, congressional testimony, legal proceedings, and published accounts (49). Although it was the most complete record to date of broadcasters' documented complaints about the Doctrine, the NAB study had inherent weaknesses, acknowledged in the study itself. It was put under scrutiny in reply comments as well.

The total number of cases was really 39, not 45, since several dealt with the same case. Examples were drawn over a period of 20 years; only 11 had not been previously considered and rejected as evidence of the "chilling effect" in other forums. Eleven of the examples merely asserted, without demonstrating, the "chilling effect," and some examples demonstrated caution not necessarily attributable to the Doctrine (43, pp. 27–29). For instance, an anonymous broadcaster said, "There have been times here and at other stations where I've worked, when we have been very careful of how we handled an issue" (49,

<sup>7</sup> See also an extended interview with Dingell (6) in which he said, "Repeal of fairness and equal time is not a matter which is subject to negotiation."

<sup>8</sup> This count is taken from the FCC's public records of the docket, which appear to be complete but whose internal organization is confused enough to leave room for doubt.

example  
effect."  
aired ca  
placed a  
30–43).  
controversy  
effects,"  
sonal an

In the  
responsi  
that offe  
broadcas  
Curtis B.  
in a floo  
pany and

Broadca  
with co  
ctrine. M  
public in  
Those w  
Sound in  
the great  
on contr  
lic intere

Broadc  
another p  
gested th  
ented act  
ing; *Colu*  
U.S. 94 [1  
tion, the  
issue adv  
obviously  
the ads in  
99 F.C.C.  
munity as  
Doctrine  
A membe  
Inquiry fi  
Persons o  
stations, v  
side" (49,

Broadc  
For instan  
the air (th

*After the Fairness Doctrine*

Fairness Doctrine, I'm

s, especially in the  
 lent for creating even-  
 blic trustee concept).  
 lified, calling for relax-  
 did not have power to  
 xing of a corollary).  
 wenty-one organiza-  
 support of the Doc-  
 educational, and  
 l filings by law stu-

e. Most of those  
 tial and public  
 group W—a longtime .  
 Doctrine—endorsed  
 and nonprofits ranging  
 on for Handgun Con-  
 organizations such as  
 ations such as the  
 orporate voices such

"chilling effect," the  
 eys—that broadcast-  
 xetive throughout  
 orporated most of  
 hilling effect" gar-  
 eedings, and pub-  
 ecord to date of  
 the NAB study had  
 as put under scru-

eral dealt with the  
 only 11 had not  
 "chilling effect" in  
 out demonstrating,  
 tion not necessarily  
 n anonymous broad-  
 ns where I've  
 d an issue" (49,

f fairness and equal time

near to be complete but

example no. 6, p. 7). Some examples demonstrated the opposite of a "chilling effect." For instance, in the NAB's second example, WCCO-AM in Minneapolis aired call-in shows at the urging of environmentalists, after a power company placed ads promoting the construction of a power line (10, pp. 56-59; 43, pp. 30-43). Thus, the Fairness Doctrine in that case encouraged the airing of controversy. Finally, in several cases where broadcasters demonstrated "chilling effects," it was not the Fairness Doctrine but rather such regulations as the personal attack or political editorial rule that had intimidated them.

In the NAB's study, broadcasters did demonstrate that dealing with public responsiveness to controversial programming could be time-consuming and that offering response time (one of several options, under the Doctrine, for a broadcaster to provide balance) could impinge on editorial control. WCCO's Curtis Beckmann, for instance, complained that airing industry ads had resulted in a flood of calls. "We were out of control," Beckmann said. "The power company and environmentalists were in control" (49, example no. 2, p. 3).

**Broadcasters' complaints inadvertently reflected an endemic problem with controversy in commercial broadcasting, with or without the Doctrine.** Most people rarely have an informed opinion on a controversial issue of public importance, especially until it has been widely aired in the mass media. Those who do, however, usually are intensely invested in their viewpoint. Sound marketplace logic argues for airing programming of greatest appeal to the greatest numbers. This is precisely why marketplace-corrective regulation on controversial programming had so long been considered important by public interest advocates and by those concerned with controversial issues.

Broadcasters also demonstrated, when they dealt with issue advertising, another problem that exists with or without the Doctrine. Broadcasters suggested that the Fairness Doctrine inhibited them from freely airing issue-oriented advertising. (They are not and were not required to carry issue advertising; *Columbia Broadcasting Systems v. Democratic National Committee*, 412 U.S. 94 [1973].) Indeed, in a 1984 FCC decision against the Meredith Corporation, the FCC found a station in violation of the Fairness Doctrine for accepting issue advertising on nuclear power without providing response time, although obviously the station had not been inhibited by the Doctrine from accepting the ads in the first place (*Syracuse Peace Council v. Television Station WTVH*, 99 F.C.C.2d 1389). (This decision was widely seen in the public interest community as a calculated choice, in order to provide a court test of the Fairness Doctrine that its opponents—including FCC head Mark Fowler—would win.) A member of a public relations firm told the NAB, in remarks included in its Inquiry filing, that issue ads produced for the American Association of Retired Persons on the subject of the rising cost of health care had been refused by stations, who, the advertiser believed, feared they would have to air "the other side" (49, p. 10).

Broadcaster resistance, however, was not necessarily driven by the Doctrine. For instance, Mobil offered to pay for response time in order to get its ads on the air (thus undercutting the station's motive to reject it under the Doctrine).

and broadcasters still refused. They also rejected ads about the national debt, sponsored by Peter Grace, without calling the Fairness Doctrine into play (14). Broadcasters have strong market-related motives to steer away from controversial issue advertising, with or without the Doctrine. When a broadcaster chooses to air issue advertising, the content is outside journalistic control but may be perceived by audiences as part of the station's public affairs agenda. This fact leads some market-savvy broadcasters to shy away from issue advertising on particularly inflammatory issues.

Therefore, some of the broadcasters' complaints, while addressing incidents upon which the Doctrine impinged, also dealt with problems that plague responsible broadcasters who also must carefully consider the bottom line and audience habits. The evidence presented by the NAB to the FCC demonstrating a "chilling effect" did not distinguish enduring marketplace pressures against airing controversy from the pressures broadcasters felt from the Doctrine.

Broadcasters also demonstrated, in the NAB study, a casual and often erroneous understanding of the Doctrine. Karen Maas, vice-president and general manager of KIUP-AM and KRSJ-FM in Durango, Colorado, "believes," noted the study, "that many broadcasters are confused by the Fairness Doctrine and the way it is enforced, and so they avoid covering any issues that may be controversial that might cause trouble with viewers or the FCC" (49, example no. 7, p. 8). Other examples merely demonstrated ignorance, sometimes at high levels. The study quoted congressional testimony by Jay Crouse, president of the Radio-TV News Directors Association, in which he cited a decision against covering a controversial open housing issue: "The emotion of the issue, coupled with the number of groups with varying viewpoints that sprang up to participate just militated against opening the doors of our studios to the parade of groups and individuals who would be demanding a 'fair' hearing under the Fairness Doctrine" (49, example no. 29, p. 43). The emotion aroused by a controversial issue in which many organized groups are invested is, of course, likely to provoke a strong community reaction with or without the Doctrine. Other broadcasters confused the equal opportunities and political editorial rules, both corollaries of the Doctrine (63, pp. 35-36).

This loose understanding of the Fairness Doctrine accords with Goldoff's study of broadcasters in New York City in mid-1988 (33). Most, she found, did not know that the "first prong" of the Fairness Doctrine mandated the coverage of controversial issues, not merely the balanced coverage that the "second prong" requires. A third were vague or wrong in their definition of fairness. Thirty-six percent confused fairness with the equal opportunities requirement applicable to political candidates. More than one-third did not know that the Doctrine applied to public affairs programs.

Many broadcasters in the Inquiry filings also protested the legal and financial burden of the Fairness Doctrine, citing, especially, the case of NBC, which had spent \$100,000 defending itself in the 1972 "Pensions" case (*National Broadcasting Co., Inc. v. FCC*, 516 F.2d). However, no quantitative evidence for the industry as a whole was provided. The "Pensions" case itself was highly unusual because NBC had used a high-risk legal strategy and had chosen to

oppose the issue the FCC's in notices complaints in less than tion (56, surveyed tioned ev

Broadc: sometime that carry separate c placing fu strated co. the financ

Public in the Fairn larly who the Maine Groups, C ment, the bama all a their view Doctrine, trine] will ming that which we

The mo by the Put which con casters to the examp firmed in usually arc time typic did, and u issue adver appropriate one-sided tions Reser time on ra alternative shows on t

Other no

*After the Fairness Doctrine*

national debt,  
be into play (14).  
from controver-  
broadcaster  
stic control but  
affairs agenda.  
m issue advertis-

essing incidents  
that plague  
bottom line and  
CC demonstrating  
ressures against  
e Doctrine.

and often errone-  
and general

lieves," noted  
s Doctrine and  
that may be con-  
49. example no.  
etimes at high  
e, president of  
decision against  
the issue, cou-  
prang up to par-  
to the parade of  
ing under the  
roused by a con-  
s. of course,

the Doctrine.  
ical editorial

with Goldoff's  
e, she found, did  
ated the coverage  
the "second  
on of fairness.  
ies requirement  
know that the

egal and financial  
NBC, which had  
National Broad-  
vidence for the  
was highly unu-  
chosen to

oppose the FCC's attempt to terminate the litigation. (The FCC had argued that the issue was moot [*NBC v. FCC*, p. 1130; see also 63, pp. 17-19.]) By contrast, the FCC's own records show that few Fairness Doctrine complaints result even in notifications to stations. Out of some ten thousand Fairness Doctrine complaints in an election year, eight to nine thousand of which were phone calls, less than ten complaints typically were referred back to stations for consideration (56, pp. 51-53). Goldoff's survey found that for 91 percent of the stations surveyed the Doctrine had cost little or nothing and that only two stations mentioned even the potential costs of Doctrine-related complaints (33, p. 13).

Broadcasters thus made an eloquent case that airing controversy involved sometimes-unpleasant entanglement with cross-currents of public opinion and that carrying issue advertising in particular entailed special risks. They did not separate out the marketplace elements of such problems, however, typically placing full-square blame on the Fairness Doctrine. They furthermore demonstrated confusion over the elements of the regulation, and they usually argued the financial and legal burden in the abstract or by one atypical example.

Public interest groups, on the other hand, showed that in specific cases the Fairness Doctrine had been a unique tool to widen debate, particularly when issue advertising was aired. Public interest groups including the Maine Nuclear Referendum Committee, the U.S. Public Interest Research Groups, Common Cause, Asheville Musicians and Artists for a Sane Environment, the Kentucky Fair Tax Coalition, and the Safe Energy Alliance of Alabama all testified that the Fairness Doctrine had enhanced their ability to get their viewpoints on the air. The American Heart Association, in support of the Doctrine, noted, "We are also concerned that the potential [without the Doctrine] will exist for television and radio stations to stay away from any programming that might adversely [affect their advertising sponsors. This is something which we have noted occurring in the print media" (5, pp. 7-8).

The most complete anecdotal record for public interest groups was provided by the Public Media Center. It drew on its resource book, *Talking Back* (54), which contains some twenty examples of successful citizen pressure on broadcasters to widen debate on controversial issues of public importance. Most of the examples deal with ballot issues (which still fall under regulation, as confirmed in 51), such as rent control, utilities investments, and smoking bans, and usually arose in response to issue advertising. Groups pressuring for response time typically knew more about the Fairness Doctrine than the broadcasters did, and used it strategically. In several cases, groups worked either to block issue advertising from the other side or to get response time. Either result was appropriate for the issue group's interests, and in either result the airing of one-sided views of controversy was avoided (55, p. 96). The Telecommunications Research and Action Center (TRAC) cited its success gaining response time on radio when a telephone company placed advertising promoting an alternative billing method. TRAC had also spurred stations to produce news shows on the issue (62, p. 9).

Other nonbroadcast interests also cited the utility of the Doctrine. Mobil's

comments urged the preservation of the Doctrine because broadcasters "have not only determined to be the judge of what Mobil could or could not say, but they have also exercised their extraordinary power arbitrarily, without regard to either balance or fairness." The filing noted, "Mobil has been able to exert limited pressure on the broadcasters who, in some instances, Mobil believes, have responded with better coverage of specific issues—better because of the presentation of conflicting viewpoints—and better because they have made available to the public more, and more varied, information." Mobil criticized the frailty of the Doctrine but said it "is certainly better than nothing" (46, p. 5). The National Rifle Association declared its interest in preserving the Doctrine on the basis of its active involvement in ballot issues: "In all of the cited instances, NRA and its affiliates found that broadcasters' willingness or unwillingness to address the pending ballot issues was strongly affected by the dictates of the fairness doctrine and its ancillary doctrines, rules and policies" (50, p. 3). People for the American Way noted that during its 1981 Media Fairness Project response time was repeatedly won for views opposing those of religious broadcasters on issues such as the nuclear freeze (52, pp. 1-2).

Other Fairness Doctrine advocates argued from other premises against the "chilling effect." Some argued from the absence of evidence, saying that the burden of proof was on the FCC (4, p. 14). Henry Geller and Donna Lampert, whose Washington Center on Public Policy Research has acted as *pro bono* legal service to many public interest groups, argued that examples of government attempts to use the Doctrine to "chill" critical journalism were not persuasive, in comparison with the positive effects of the Doctrine, since the government, by controlling licenses, had many other effective means of "chilling" such endeavors. Thus, they argued, removing the Doctrine would not remove the threat of government manipulation, but only the Doctrine's beneficial aspects.<sup>9</sup>

The FCC's *Report and Order* (26), while judiciously argued, boldly confirmed the ideological tone of the Notice of Inquiry. The FCC accepted without qualification individual anecdotal comments of complainants in the NAB study, but either dismissed or regarded as evidence of a "chilling effect" anecdotal arguments in its favor from nonbroadcasters. It also dismissed pro-Fairness Doctrine testimony from broadcasters as not indicative of conditions in the industry as a whole, while regarding scattered anecdotal evidence over a twenty-year period against it as typical. It found strategic use of the Doctrine, such as practiced by the Public Media Center, to be censorship, because broadcasters may have decided not to carry one-sided issue advertising for fear of having to offer the other side (26, p. 35425). It sanctioned ignorance of the law

<sup>9</sup> "So long as the public interest licensing/regulatory scheme is maintained along the current line, elimination of the Fairness Doctrine will not insulate broadcast journalism from the possibility of improper Government activity, and the egregious case of public trustee failure such as WLBT-TV [the case of the Jackson, Miss., station that eventually lost its license in 1966 under the Doctrine because of racial and religious discrimination in its news and public affairs] will be left without a remedy" (32, note 4, p. 10).

by saying  
sented de

The FC  
for balan-  
expenses  
ciples (2t  
operating  
dismissed  
fact be a  
However,  
were gen  
of routine  
at other st  
we handle  
space for  
station, cc  
suppresse  
FCC also  
because o  
in fact are

The inc  
ests—broa  
of anecdot  
gress, to h

One test  
records o  
Doctrine.  
ers release  
in the Inq

To comp  
Doctrine, I  
AM, FM, ar  
directors ar  
1985 filing.  
reasons. So  
by ex-nerw  
were excer  
ownership  
tion (KOL  
tainment. A

<sup>10</sup> "The failure of  
has created co  
speech added  
finding" (64, p

*After the Fairness Doctrine*

broadcasters "have or could not say, but only, without regard to their ability to exert limitations. Mobil believes, however, because of the press have made available. Mobil criticized the "nothing" (46, p. 5). Regarding the Doctrine, all of the cited findings or unwillingness or unwillingness by the decisions and policies" (50, 81 Media Fairness regarding those of religious -2):

misuses against the station, saying that the said Donna Lampert, cited as *pro bono* examples of governmentism were not pertinent, since the government means of "chilling" would not remove the station's beneficial

and, boldly concluded, accepted without question in the NAB study, "fact" anecdotal and pro-Fairness conditions in the station since over a decade of the Doctrine, and, because of broadening for fear of ignorance of the law

along the current line, from the possibility of stations such as WLBT-TV 5 under the Doctrine will be left without a

by saying that "broadcasters are not lawyers" and found that the evidence presented demonstrated that "the fairness doctrine chills speech."

The FCC appeared to believe that the costs of dealing with public demand for balance in such situations were above and beyond the station's legitimate expenses, and argued that the financial burden could thwart constitutional principles (26, p. 35426). Arguments that these costs may be seen as legitimate operating expenses for a public trustee in a community-oriented service were dismissed. The FCC read the NAB's study as showing that "these costs can in fact be a significant inhibiting factor in the presentation of controversial issues." However, of the NAB examples the FCC report used to illustrate this point, two were general statements ("His news staff avoids controversial issues as a matter of routine because of the Fairness Doctrine"; "There have been times here and at other stations where I've worked, when we have been very careful of how we handled an issue") given anonymously. One was an example of expanded space for controversial issues; and another was hearsay evidence from another station, combined with complaints about paperwork but no direct evidence of suppressed speech or financial constraint (49, example nos. 4, 6, 18, 20). The FCC also cited as examples of constraint on controversial programming, because of fear of governmental sanction, two cases in which broadcasters had in fact aired controversial programming (26, p. 35426).

The Inquiry thus showcased the partisan opinions of two opposing interests—broadcasters and public interest advocates—who displayed similar kinds of anecdotal evidence. It appeared, certainly to an angry majority group in Congress, to have resulted in a partisan reading of the evidence.<sup>10</sup>

One test of the validity of the FCC interpretation would be to compare records of broadcast activity before and after the suspension of the Doctrine. If the Report's interpretation is correct, one might expect broadcasters released from an onerous regulatory burden—particularly broadcasters vocal in the Inquiry—to air controversy previously "chilled."

To compare broadcasters' performance before and after the suspension of the Doctrine, I contacted 17 broadcasters from 14 broadcasting stations—including AM, FM, and TV stations, in large, medium, and small markets—where news directors and general managers had made specific personal claims in the NAB's 1985 filing. Other examples from the NAB study were ineligible, for various reasons. Some comments were anonymous; others were hearsay, or comments by ex-network officials or general statements by network broadcasters; some were excerpts from FCC proceedings. All but one station was under continuous ownership since the original complaint documented by the NAB, and that station (KOLN-TV, Lincoln, Nebraska) had vigorously pursued community ascertainment. Although in some cases the original complainant had left the sta-

<sup>10</sup> "The failure of the Commission to appreciate that formal and informal use of the Fairness Doctrine has created countless opportunities for expression, as well as its failure to take into account the speech added by uncontroverted compliance with the Doctrine, totally undermines the Commission's finding" (64, p. 20; similar language occurs in 66, pp. 27-28).

tion—seven respondents were the original complainant, six had worked with the complainant, and four were their immediate successors—all the interviewees had continuous experience in broadcasting (most at the same place) within the last four years.<sup>11</sup>

These broadcasters were asked if they could provide a single example of controversial programming they had aired since the Doctrine's suspension that they would have avoided before, if they had personally found the Doctrine to have a "chilling effect," and what their stations' current policy on issue advertising was. All but one were unable to provide a single example of controversial programming they would have been unable or unwilling to do before. Thirteen of the 17 broadcasters said that they had not found the Doctrine to have a "chilling effect"; one other abstained, and another said he thought "we might have been a little more cautious" under the Doctrine but was unable to demonstrate how that caution had been exercised in practice. Issue advertising policies varied widely, responding to market forces.

Only in one case could a broadcaster name a single program that had been aired since August 1987 that would not have been when the Doctrine was in force. J. T. Whitlock, president and general manager of Lebanon-Springfield Broadcasting in Lebanon, Kentucky, had submitted in congressional testimony that his station had avoided editorializing on a "very unhealthy situation" because "I simply could not afford to put my stockholders in the position of having to spend huge sums of money to prove we were right" (49, example no. 22, p. 29). Since the 1987 FCC decision, he said, an open-mike program on one of his radio stations was able to address a controversy surrounding the resignation of Lebanon's mayor, precipitated by a letter the mayor had written to the city council. Whitlock got a copy of the letter, read it on the air after calling the mayor for comments, and solicited comments; he followed it with on-air talk about the city council's refusal to accede to the mayor's demands. "Before the end of the Fairness Doctrine, I would not have run this, even though it was in the public interest," he said.

Whitlock also noted, however, that his disagreement was never with the Doctrine itself but with "the general public's perception of their rights and our obligations." The listening public in the Lebanon area is now aware that the Doctrine is no longer enforced, said Whitlock, because "we've seen to it that they knew it—we gave plenty of news coverage" to the FCC's decision. "Now

<sup>11</sup> Interviewed were Paul Davis (19), Ed Hinshaw (38), J. T. Whitlock (70), Don Gale (30), Raymond Saeedi (57), and Dean Mell (44), all NAB complainants who continue to work in broadcast stations; Rich Cowan (17), Jim Kokesh (41), Bob Warfield (69), John Morris (47), John Nactley (48), and Bob Brenner (13), all present or past colleagues of NAB complainants and successors to them; John Denney (20), Bill Polish (53), Tim Williams (71), and William Cummings (18), all successors to NAB complainants; and Curtis Beckmann (8), a complainant who has left station management. Of these people, only Whitlock was able to give an example of programming that might not have been possible under the Fairness Doctrine. (Bob Brenner said the question was unanswerable, because it would be self-indicting under the former regulation.) Only two people said they had personally experienced a "chilling effect": Whitlock and Beckmann. (Brenner again abstained, for the same reason.)

John Q. ...  
more bec  
Whitlo  
fied in ge  
absence  
manager  
sial progr  
caution  
Doctrine,  
ence in c  
town mee  
ings has,  
they have  
aired thos  
we woult  
particular  
therefore  
fer.

At KHA  
Doctrine  
sons (49,  
(the statu  
the Doctr  
story, but  
expense t

Ed Hin  
fied in Se  
the Milwa  
the mayor  
21-22). H  
concern r  
we suffere

Broadcas  
from the  
support  
WCCO-AM  
cern after  
Doctrine  
learned o  
waves, yo  
think you  
things" (8  
different a  
public tru  
cated new

*After the Fairness Doctrine*

John Q. Public says, "There's no point in harassing this poor broadcaster any more because there's nothing we can do to him," he said (70).

Whitlock's example was the only concrete case, but other broadcasters qualified in generalities their remarks about the lack of expanded controversy in the absence of the "chilling effect." Raymond Saadi, vice-president and general manager of KHOM-FM and KTTV-AM in Houma, Louisiana, said that controversial programming was once done at his station "with a certain cautionary air—caution was the operating word." However, "I don't think the absence of the Doctrine, as far as community, local or public affairs has made a great difference in our behavior." Programming—particularly a live interview program and town meetings aired live—has not changed since. The substance of town meetings has, though: "We would cover some town meetings before, but of late they have had some very lively meetings." When asked if he would have not aired those meetings when the Doctrine was in force, he said, "I don't think we would have handled it any differently under the Fairness Doctrine in that particular issue, because we saw it as an important community issue" (57). It is therefore difficult to see how Saadi's previous caution and current behavior differ.

At KHAS-AM in Hastings, Nebraska, John Powell had endorsed anti-Fairness Doctrine legislation as cited in the NAB study but had been vague in his reasons (49, example no. 37, p. 54). Jim Kokesh, who had worked under Powell (the station has been under the same ownership since 1940), said: "The end of the Doctrine has not changed our viewpoint, as far as airing both sides of the story, but it means we don't have to spend so much energy and time and expense to uncover a viewpoint that is not prevalent in the area" (41).

Ed Hinshaw, manager of public affairs at WTMJ-AM in Milwaukee, had testified in Senate hearings in 1984, recalling a Fairness Doctrine complaint filed by the Milwaukee mayor after three local stations broadcast editorials critical of the mayor, city officials, and local labor union leaders (49, example no. 18, pp. 21-22). He now said that programming had not changed, but "we do have less concern now that we'll have to pay money for the kind of frivolous complaint we suffered in that case" (38).

Broadcasters who were unable to point to opportunities that release from the "chilling effect" had provided for them were not necessarily supportive of the Doctrine either. For instance, Curtis Beckmann, who as WCCO-AM's news director had weathered a barrage of environmentalist concern after airing a utility company's ads (49, example no. 9, p. 2), felt that the Doctrine "had its desired effect. It pistol-whipped an entire profession, and we learned over the years not to make waves, by and large; if you're going to make waves, you'd better have a big company and a couple of lawyers. And I don't think you'll perceive much change at all; we don't know another way of doing things" (8). He also noted, however, that broadcasting newcomers may have a different attitude. (Beckmann himself is no longer directly concerned with public trustee responsibilities, as the president of a company that sells syndicated news programming.)

worked with  
the interview  
place)

ample of  
permission that  
Doctrine to  
issue adver-  
controversy  
before.  
Doctrine to  
ought "we  
unable to  
advertising

had been  
e was in  
ngfield  
testimony  
ion"  
ition of  
sample  
rogram on  
g the res-  
ritten to  
ter calling  
on-air  
"Before  
gh it was

the Doc-  
our  
at the  
it that  
"Now

Raymond  
stations;  
(48), and  
em: John  
essors to  
ment. Of  
ve been  
because  
tionally  
ve same

Some broadcasters suggested that it might be impossible to demonstrate expanded controversy as a result of the August 1987 decision, because of fear of self-indictment for the period when it was enforced and because of continuing uncertainty about the Doctrine's fate. In Charleston, West Virginia, WSAZ-TV executive news editor and past chairman of RTNDA Bob Brenner said that specifics would always be hard to find, because "nobody wants to stand up and say, I didn't want to cover this issue because I was afraid someone would complain. . . . It's no easier to answer what we are now doing, because you almost confirm that yeah, you were chilled out of the story in the past." In his capacity as RTNDA chair, he said, he had heard "stories from a lot of small- and medium-market news directors about issues that they chose not to cover in depth in the past, at least partly because they feared one side or the other would make a Fairness Doctrine complaint and they would end up costing their stations a lot of money." But he was unwilling or unable to provide any concrete examples (13). In two cases broadcasters suggested that the unresolved state of the Doctrine, given congressional action, may make broadcasters wary.<sup>12</sup>

Most of the respondents denied personally suffering the "chilling effect" when the Doctrine was in force. Typical was the comment of Bonneville International's Don Gale in Salt Lake City: "The Fairness Doctrine never inhibited us from any subject" (30). Dean Mell, news director at KHQ in Spokane, Washington, had filed a statement during 1983 legislative debate, saying that the many FCC documents interpreting the Doctrine were "self-defeating because they may inhibit me from vigorous journalism" and citing the costs to a competing station that suffered a license challenge (49, example no. 20, pp. 25-26). "I can't tell any difference in the newscasts [since suspension], but then we never shied away from controversy," Mell now said (44). At WCCO-AM, which had weathered protests by environmental groups after carrying a utility company's issue advertising, current news director Bill Polish, who came from long experience at KCBS in San Francisco, said: "I don't think I've ever seen a chilling effect on a controversial topic, and there's no effect that I can see here at WCCO. In a philosophical sense I applaud the demise because my newspaper brethren don't have to deal with it, but I personally have never felt the chilling effect" (53). The broadcasters' opinion that the Doctrine did not inhibit them accords with the TV news directors at Group W, who in a 1989 internal survey responded that "none was ever inhibited by the fairness doctrine in covering news and public affairs" (34).

Several believed that the Doctrine did not have a "chilling effect" generally and may even have been useful. News director Bob Warfield at Detroit's WDIV-TV said, "It was a fine doctrine and document and served us well. . . . Some people maybe used to hide behind it when it was in force, and may be hiding

<sup>12</sup>John Nackle (48) said, "Per se it's lifted but then it's really not—the Congress under Congressman Dingell and others have attempted during the Reagan administration to codify the Fairness Doctrine, so even though it has been lifted, most broadcasters still consider the Doctrine to be in force." Rich Cowan (17) said, "We're not sure but the pendulum might shift back."

now, not FM in Du in effect. tion from them to U from airing, trine, but law, althou

Business: in program Spokane, V decision, b future" (17 of the com the Doctri lemaucal u

For insta NAB study, trine, they stations do control; "W

At WDIV after the sta Detroit City reply becau field, news ( azions (Kon: "These issue whenever ar (69).

KTIV's Ra air time whe no. 31, p. 46 programs, "t who is so far

At WINZ-A ceeded a ger rate-hike pet 21, pp. 27-28 "We were ou calling the dr is directed ne organizations Foundation. 3 tion is a class. motions that i

After the Fairness Doctrine

possible to demonstrate  
decision, because of fear  
ced and because of contin-  
ston, West Virginia, WSAZ.  
VDA Bob Brenner said that  
body wants to stand up and  
afraid someone would com-  
doing, because you almost  
in the past." In his capac-  
om a lot of small- and  
y chose not to cover in  
one side or the other  
would end up costing  
or unable to provide any  
ggested that the unre-  
on, may make broadcasters

the "chilling effect"  
ment of Bonneville Inter-  
ctrine never inhibited  
KHQ in Spokane, Wash-  
ebate, saying that the  
self-defeating because  
ng the costs to a com-  
mple no. 20, pp. 25-  
suspension), but then we  
). At WCCO-AM, which  
arrying a utility com-  
h, who came from long  
k I've ever seen a chill-  
hat I can see here at  
ecause my newspaper  
never felt the chilling  
did not inhibit them  
1989 internal survey  
ctrine in covering

ing effect" generally  
ld at Detroit's WDIV.  
us well. . . . Some  
. and may be hiding

gress under Congressman  
lify the Fairness Doctrine,  
rine to be in force." Rich

now, not to do what is responsible" (69). John Nackley of KIUP-AM and KRSJ-FM in Durango, Colorado, in fact, continues to act as if the Doctrine were still in effect. A 16-year veteran there, he had taken over the general manager position from Karen Maas, who had told the NAB the "Fairness Doctrine causes them to think twice." He said, "It does not hinder me, and didn't before, from airing controversial programs. . . . I don't hide under the Fairness Doctrine, but I don't need it. The laws are made for those who can't abide by the law, although this is a great profession" (48).

Business reasons seemed to overshadow regulatory restrictions or relaxation in programming choices. Rich Cowan, community affairs director at KHQ in Spokane, Washington, said, "We're expanding community service, as a business decision, because it's the only way local stations are going to survive in the future" (17). In several cases, these broadcasters commented on the substance of the complaint registered in the NAB study. In no case had the absence of the Doctrine facilitated programming of a kind discussed in the study as problematical under the Doctrine; reasons were related to the marketplace.

For instance, KSL-AM in Salt Lake City had, according to Don Gale in the NAB study, decided against guest editorials because, with the Fairness Doctrine, they would "lose control" (49, example no. 11, p. 12). But Bonneville's stations do not now air guest editorials, said Gale, because they would still lose control: "We would have an endless debate. . . the same problem persists" (30).

At WDIV-TV, Detroit, editorial director Beth Konrad had told the NAB that after the station had aired an editorial critical of Louis Farrakhan and the Detroit City Council for honoring him, the station had been forced to air a reply because of the personal attack rule (49, example no. 5, p. 6). Bob Warfield, news director and vice-president for news and director of broadcast operations (Konrad has left), said that the station maintains an editorial position. "These issues [of complaints about imbalance] are always gonna come up, whenever an editorial attacks an individual or a group of individuals," he said (69).

KTIV's Raymond Saadi had complained about having to honor demands for air time when he carried Ronald Reagan's syndicated radio show (49, example no. 31, p. 46). He says that the station does not now carry such syndicated programs, "because we don't want to defend anyone else's views, someone who is so far removed from us that we don't know who they are" (57).

At WINZ-AM (Miami, Florida), general manager Tim Williams, who succeeded a general manager who complained that a station-sponsored anti-utility rate-hike petition drive had resulted in a fairness challenge (49, example no. 21, pp. 27-28), said the station would not attempt such a petition drive now. "We were out of synch with the natural process [of decision making]," he said, calling the drive an "ill thought-out" strategy. Community affairs programming is directed now toward "more locally oriented community events and local organizations," such as the Miami Children's Hospital and the Artificial Reef Foundation. The decision was basically a business decision; since their FM station is a classic rock station targeting 25- to 40-year-olds, they search out promotions that raise issues appealing to that audience (71).

Herbert Hobler of Nassau Broadcasting in Princeton, New Jersey, had complained that an attempt to endorse electoral candidates had resulted in giving away much free time (49, example no. 31, p. 46). Hobler has left, and the company has taken on a new major stockholder but has not changed its operation. John Morris, the current general manager, president, and chief executive officer, said that the stations do not endorse candidates now, as a business policy, because the area served by the radio stations is too large to target local candidates (47).

Issue advertising is another area in which to test the consequences of relaxing the Doctrine and its so-called "chilling effect." Among the broadcasters I interviewed, the current policy on accepting issue advertising varied widely. Their policies appeared unrelated to the suspension of the Doctrine, although several noted that in electoral issues the Doctrine's corollaries were still in force and affected issue advertising for ballot issues. The policies did appear to be related to whether the issue would generate complaints to the station. Ed Hinshaw noted, "Originally we didn't [carry issue advertising] because of the Fairness Doctrine implications, but we've maintained the policy because we genuinely don't believe that public policy should be decided by the largest waller" (38). Other stations accept issue advertising on a case by case basis and assume that response time may be necessary—not necessarily because of the Doctrine, where its corollaries still apply, but for sound business practice and the station's image in the community.

Abortion is one often-cited example of an issue "chilled" by the Doctrine, one that illustrates the problems for these broadcasters. WINZ-AM's Tim Williams said that abortion would be a "real problem"; "anything of a controversial and ethical nature, we'd have to take a look at," because "no matter how you couch it, when you run an ad you're implying endorsement" (71). John Denny, news director and vice-president for news at KOLN-TV (Lincoln, Nebraska), and Bob Warfield, director of broadcast operations at WDIV-TV (Detroit), both cited abortion as a subject their stations were unlikely to air issue advertising on, because of the strong passions on both sides (20, 69). In Charleston, West Virginia, WSAZ-TV's Brenner said the stations would not accept abortion advertising at this point because it would be covered adequately in the news (13). John Nackley, general manager of KIUP-AM and KRSJ-FM in Durango, Colorado, was an exception (48). He would in theory accept paid ads on the abortion issue and, as with all issue advertising he accepts, would call the opposing side, alert it, and offer paid air time (with free air time granted if they could not pay). It appears, then, that broadcasters' willingness or unwillingness to accept issue advertising is, in general, strongly related to marketplace questions.

Although most of the broadcasters surveyed did not personally experience a "chilling effect," and all but one had not programmed what they would regard as previously "chilled" controversy, the majority supported revoking the Doctrine. Broadcasters bridled at the notion that the government could be what Paul Davis at WGN-TV in Chicago called a "hindsight editor" and that they

would be  
of professio  
situation at  
insisted on  
3, p. 4). He  
versial prog  
always don  
our own in  
Cummings  
ders. . . . I  
They objec  
because the  
potential fir  
response, n  
off-the-reco  
a "constitue  
plain, the le

The broa  
lock, to det  
choices for  
gested that  
choices anc  
ties for a co  
Doctrine, w  
essary remi  
journalist sh  
nant theme  
ous local gr  
impinge on

This follo  
the FCC Re  
among some  
also suggest  
sional judgr  
iences rathe  
comment of  
harassing th  
him' "—is n  
ber (70).

The experie  
that have u  
the validity  
lifting the I  
not significat

*After the Fairness Doctrine*

1, New Jersey, had com-  
s had resulted in giving  
ler has left, and the com-  
r changed its operation.  
nd chief executive offi-  
w, as a business policy,  
re to target local candi-

he consequences of  
fect." Among the  
ing issue advertising  
suspension of the Doc-  
Doctrine's corollaries  
r issues. The policies  
erate complaints to the  
ssue advertising]  
maintained the policy  
ould be decided by  
ising on a case by  
ry—not necessarily  
but for sound busi-

1" by the Doctrine,  
TNZ-AM's Tim Wil-  
ing of a controversial  
no matter how you  
x" (71). John Den-  
v (Lincoln,  
ons at WDIV-TV  
re unlikely to air  
h sides (20, 69). In  
ons would not  
e covered ade-  
KIUP-AM and  
would in theory  
advertising he  
l air time (with free  
broadcasters' will-  
neral, strongly

ally experience a  
they would regard  
voking the Doc-  
could be what  
and that they

would be required by the FCC to do what their print colleagues do as a matter of professionalism. In an interview with the NAB in 1984 Davis had recalled a situation at another station where he had worked, where a single individual insisted on air time, although he represented no constituency (49, example no. 3, p. 4). He now said, "I haven't come in and said, 'Hey guys, let's do controversial programming,' but much of our programming is controversial. We've always done controversial programming. Now we know we're on the merits of our own integrity, and not on government hindsight" (19). WSAZ-TV's William Cummings said, "I certainly don't want someone looking over our shoulders. . . . I don't want to be misrepresented as supporting the Doctrine" (18). They objected to keeping records showing that they had been balanced, mostly because they saw it as an unnecessary chore, and they occasionally cited the potential financial costs of the Doctrine. WSAZ-TV's Bob Brenner, in a typical response, regarded the Doctrine as a time-consuming charade. He recalled an off-the-record conversation with a congressman who described the Doctrine as a "constituent service" (13). Should anyone write the congressman and complain, the legislator could forward the complaint to the FCC.

The broadcasters I surveyed were unable, with the exception of J. T. Whitlock, to demonstrate that the absence of the Doctrine has enhanced their actual choices for controversial programming. Indeed, their responses generally suggested that the Doctrine had not seriously affected their earlier programming choices and that now, as then, their decisions were based on marketplace realities for a community broadcaster. Nonetheless, they were widely hostile to the Doctrine, which they tended to see as a bureaucratic inconvenience, an unnecessary reminder of journalistic standards they thought any responsible broadcast journalist should observe, and a potential legal and financial threat. A subdominant theme to their resentment of the FCC was their resentment of obstreperous local groups that they saw as gaining power, through the Doctrine, to impinge on a journalist's judgment.

This follow-up survey to the NAB study thus suggests that the conclusions of the FCC *Report and Order* in regard to the "chilling effect" have not, at least among some of the most interested parties in the Inquiry, been sustained. It also suggests that broadcast journalists, while priding themselves on professional judgment, also frequently regard contentious social groups as inconveniences rather than sources to stimulate coverage of controversy. Indeed, one comment of J. T. Whitlock—"Now John Q. Public says, 'There's no point in harassing this poor broadcaster any more because there's nothing we can do to him'"—is revealing in its antagonistic portrayal of the involved audience member (70).

The experiences of public interest groups and public relations firms that have used the Doctrine and issue advertising also can shed light on the validity of the Doctrine's "chilling effect" and the consequences of lifting the Doctrine. These experiences suggest that broadcast policies have not significantly amplified opportunities for controversial debate in the absence

of the Doctrine, reinforcing the conclusion that the Doctrine was not so much the obstacle to airing controversy as marketplace pressures were and are.

Some representatives of public relations firms that use issue advertising feel that it is at least as difficult now to get issue advertising placed as it was before. Nick Allen, a consultant with Fenton Communications, a public relations firm that primarily takes on liberal causes, said, "It's just the same—the ones who want the money still take it, but most don't" (3). At major public relations firm Hill and Knowlton, Frank Manciewicz said, "There's even less receptivity to carry issue advertising now, because they don't have to do any [coverage of controversial issues]. Issue advertising is always distasteful to advertisers because it's real and someone will object somewhere" (42). At the Public Media Center, which long used the Fairness Doctrine aggressively, director Herb Gunther has found that broadcasters are less likely to air controversial issue advertising than they were under the Doctrine. His client Planned Parenthood had won response time to Right to Life spots at a ratio of one to four when the Doctrine was in effect; recently, however, stations had refused the Right to Life Committee air time. Networks have also refused Planned Parenthood's AIDS-education spots that mention condoms (36).

The experience of public interest and advocacy groups in placing issue advertising directly also appears not to be significantly improved post-Doctrine. Some argue that the Doctrine was merely used as a cover for marketplace reasons to avoid carrying the issue advertising. When People for the American Way attempted to place an advocacy ad against the nomination of Judge Robert Bork for the Supreme Court in autumn 1987, most stations and all the networks refused to carry it. This response was not significantly different from PFAW's experience under the Doctrine with placement of controversial ads. Since then it has remained as difficult as before to place such ads, according to PFAW's director of public policy Melanne Verveer (68). At the National Rifle Association, state and local legislative director Richard Gardner said, "We haven't seen any change one way or the other. [Broadcasters'] prejudices are still very apparent. It wasn't really the Fairness Doctrine that affected their decisions—they just used it as an excuse" (31). Some groups that once produced issue advertising are choosing not to bother. For instance, the Public Media Center recently advised the National Abortion Rights Action League not to make TV ads, because they might not be aired (36).

Public interest and advocacy groups, which have used the leverage of the Doctrine in the past to influence programming without resorting to issue advertising, have encountered some difficulties in securing air time—often in response to issue advertising—for their side of the story. (As stated earlier, such response need not be in the form of free air time for the complaining group, but, for instance, in public affairs coverage of the issue.) Phyllis Schlafly's Eagle Forum group opposed a child-care bill in Congress in 1989. "Over the ten-year period of the Equal Rights Amendment," Schlafly said, "we got about one-twentieth of the total time devoted to the subject, in my informed estimate. But that one-twentieth is more than we are getting on the child-care issue now." Absent the Doctrine, Schlafly argued, her group's viewpoint was

shut out: "We wall. . . . They

Philadelph difficulty in g longer finds i no more prot was before, al the issue thro union, involv period, in wh about the sar for response r Doctrine, the stations (45). sensitivities cr the Doctrine.

In other cas Doctrine, avoi be used ideol the California companies on both by phon tions, howeve sultant Andy E

Just as the r broadcasters' appear to have a controversia Broadcasting l by the argume 'chills' the cov that they wou complaint of Sya appears borne

Thus far, ev sustain, either judging from l appear to have from their per the negative "

But does the recent nationa troversial issue est Research C that during the

*After the Fairness Doctrine*

Doctrine was not so much  
 sures were and are.

use issue advertising feel  
 ng placed as it was before.  
 a, a public relations firm  
 e same—the ones who  
 a major public relations firm  
 ven less receptivity to  
 o do any [coverage of  
 eful to advertisers

(42). At the Public  
 aggressively, director  
 ly to air controversial  
 is client Planned Parent-  
 ratio of one to four  
 ions had refused the  
 -fused Planned Parent-  
 5).

as in placing issue  
 mproved post-Doctrine.  
 or for marketplace rea-  
 e for the American Way  
 on of Judge Robert  
 ns and all the networks  
 ferent from PFAW's  
 versial ads. Since then  
 rording to PFAW's  
 ational Rifle Associa-  
 said, "We haven't seen  
 es are still very appar-  
 ir decisions—they  
 oduced issue advertis-  
 edia Center recently  
 make TV ads,

re leverage of the  
 orting to issue adver-  
 me—often in  
 is stated earlier,  
 the complaining  
 ue.) Phyllis Schlaf-  
 ss in 1989. "Over  
 fly said, "we got  
 , in my informed  
 ; on the child-care  
 's viewpoint was

shut out: "We've attempted to call stations and have been greeted by a stone wall. . . . They choose not to present our point of view" (58).

Philadelphia Lesbian and Gay Task Force coordinator Rita Adessa described difficulty in getting her group's perspective on the air, but also said that she no longer finds it worth her time to make a complaint to a station because there is no more protection from the Doctrine. Experience is not always worse than it was before, although this fact may have to do with broadcasters' education on the issue through the Doctrine (2). For the United Paperworkers International union, involved in a Maine strike straddling the pre- and post-non-enforcement period, in which the company had placed issue advertising, experience was about the same before and after August 1987. Having received some air time for response to International Paper's paid broadcast ads before the end of the Doctrine, the union again asked for response time and received it from two TV stations (45). This success may have been related to community and media sensitivities created in the first round of demands, done under the protection of the Doctrine.

In other cases, groups have been cautious in their use of corollaries to the Doctrine, avoiding complaints to the FCC for fear that a formal judgment might be used ideologically at the Commission to further gut their options. In 1988, the California group Voter Revolt, fighting heavy investment from insurance companies on a ballot proposition, contacted California radio and TV stations both by phone and by letter, receiving generally positive responses. Some stations, however, "virtually dared us to complain to the FCC," said media consultant Andy Boehm, an option the group refused to pursue (11).

Just as the relaxation of the "chilling effect" appears not to have stimulated broadcasters' appetite for controversy, neither does the Doctrine's suspension appear to have enhanced opportunities for groups concerned with one side of a controversial issue, especially for groups without funds to buy air time. Fisher Broadcasting had, in another issue before the FCC, professed itself "disturbed by the argument of some that the Doctrine should be abolished because it 'chills' the coverage of issues. For those who hold that position, it is not likely that they would cover those issues in the absence of the Doctrine" (in *re Complaint of Syracuse Peace Council*, cited in 64, p. 24). Fisher's prediction appears borne out by experience.

Thus far, evidence suggests that claims for the "chilling effect" are difficult to sustain, either in anecdotal evidence during the FCC's Inquiry or after the fact, judging from broadcasters' performance in its absence. Nor does its absence appear to have aided access by public interest and advocacy groups to air time, from their perspective. This suggests that the Fairness Doctrine did not have the negative "chilling effect" claimed by its opponents.

But does the absence of the Doctrine create any negative effects? A recent national study suggests that the perceived absence of regulation on controversial issues actually leads to a limiting of viewpoints. The U.S. Public Interest Research Group and the Safe Energy Communication Council have shown that during the 1988 election many stations refused to provide time to air con-

roversy on ballot issues, even though ballot issue fairness is still enforced. Such refusal not only affects the groups involved but directly affects voter decision making on public issues in clear-cut controversy. Issues in the study included insurance rates, nuclear power, and recycling, in California, Massachusetts, Montana, New Jersey, and Washington.

Of 432 stations surveyed, all of which had sold advertising time to one side on a ballot issue, 31 percent initially refused to accept that they had an obligation to present another view. Of that group, 44 percent refused to present it once informed of their obligation. By contrast, nearly all—98 percent—of the stations that accepted an obligation did agree to present opposing points of view, almost all on first contact (67). In other words, through its still-viable ballot-issue corollary, the Doctrine made a difference in broadcasters' decisions to air more than one side of a controversial issue during elections in 1988.

Thus, the record of broadcasters' airing of controversial issues since the FCC's August 1987 decision does not support the FCC's contention that the Doctrine constrained broadcasters from airing controversy and airing it fairly. Most broadcasters from stations cited in the NAB study as demonstrating the "chilling effect" themselves say that programming has not changed as a result, and most deny that the Doctrine inhibited their programming when it was in force. Issue advertising appears to be no more widely acceptable than it was under the Doctrine. Activist groups have not found new opportunities to present their views. And in the case of ballot issues, broadcasters who knew that the Doctrine's corollaries were still in force were more likely to grant air time to opposing views than those who did not.

Therefore, the Doctrine does not appear to have limited airing of controversy in the past. But non-enforcement, in combination with changing market conditions fostered by deregulation, tends to limit controversy.

These results are not surprising in light of the fragility of evidence presented in the FCC's Fairness Doctrine Inquiry. There, the record purportedly demonstrating a "chilling effect" demonstrated instead a paucity of evidence for such an effect. The FCC's ideological pursuit of its goal in contravention of the evidence resulted in a political counterattack, one that continues.

The Fairness Doctrine must be understood in the context of industry conditions and the wider regulatory net under them. The pressures on broadcasters to avoid controversy altogether, in the search for programming that most cheaply appeals to the broadest number, have increased with economic pressures brought on by deregulation generally. Meanwhile, journalists among broadcasters appear eager to have the status of, and to perform as, their professional print colleagues. Many broadcast journalists resent the implication that they need to be told how to do a professional job, and some resent the special burdens of their public trustee function, which continues to make them a different kind of journalist than print journalists, with a different relationship to the public.

However, the journalists among broadcasters are not in charge of the industry, which continues to be pushed by market pressures away from the journalistic standards they may prize. Those broadcast journalists who resent the con-

straints in order to professionalize public government worked.

Reference

1. "The Actor"
2. Adessa, Ric 28, 1989.
3. Allen, Nick
4. American C 282. Adopte
5. American H released Mr
6. "At Large: T 52-55.
7. Aufderheide 142.
8. Beckmann, C phone interv-
9. Benson, Rob
10. Black Citizen. 1984. releaser
11. Boehm, Andy
12. Bollier, David tant Social Iss
13. Brenner, Bob July 10, 1989.
14. Brown, Les. T
15. Carter, Bill. 2
16. Congressional Session, 1987.
17. Cowan, Rich. C view, July 5, 19
18. Cummings, Wil July 10, 1989.
19. Davis, Paul. Net
20. Denney, John. interview, July 3

*After the Fairness Doctrine*

straints of the Fairness Doctrine may ultimately need public interest regulation in order to be permitted by their own industry to pursue controversy according to professional journalistic standards. And until the public trustee concept is abandoned, broadcasters will continue to have a special relationship with the public they serve. Regulations clarifying that relationship are a function of good government, and in the case of the Fairness Doctrine, they appear to have worked.

*References*

1. "The Accommodators." *Broadcasting* July 10, 1989, p. 74.
2. Adessa, Rita. Coordinator, Philadelphia Lesbian and Gay Task Force. Telephone interview, March 28, 1989.
3. Allen, Nick. Consultant, Fenton Communications, New York. Telephone interview, July 3, 1989.
4. American Civil Liberties Union. Reply comments, November 8, 1984, in FCC Gen. Docket No. 84-282. Adopted April 11, 1984, released May 8, 1984.
5. American Heart Association. Comments in FCC Gen. Docket No. 84-282. Adopted April 11, 1984, released May 8, 1984.
6. "At Large: The No Uncertain Terms of John D. Dingell." *Broadcasting*, March 5, 1984, pp. 46, 47, 52-55.
7. Aufderheide, Pat. "Free Speech for Broadcasters Only." *The Nation*, September 1, 1984, pp. 140-142.
8. Beckmann, Curtis. President, Radio City News and ex-WCCO-AM news director, Minneapolis. Telephone interview, July 10, 1989.
9. Benson, Robert. "Monday Memo." *Broadcasting*, June 5, 1989, p. 23.
10. Black Citizens for a Fair Media. Comments in FCC Gen. Docket No. 84-282. Adopted April 11, 1984, released May 8, 1984.
11. Boehm, Andy. Media consultant, Los Angeles. Telephone interview, July 22, 1989.
12. Bollier, David. "Raise the Halo High: Public Service TV Has Plenty of Clout. But Too Often Important Social Issues Are Glossed Over." *Channels*, April 1989, pp. 32-38.
13. Brenner, Bob. Executive news editor, WSAZ-TV, Charleston, West Virginia. Telephone interview, July 10, 1989.
14. Brown, Lee. "The Trouble with Liberman's Idea." *Channels*, July 1989, p. 17.

ness is still enforced.  
irectly affects voter deci-  
issues in the study  
in California, Massachu-

tising time to one side  
hat they had an obliga-  
refused to present it  
—98 percent—of the  
opposing points of  
ough its still-viable  
broadcasters' decisions  
elections in 1988.  
I issues since the  
contention that the  
and airing it fairly.  
demonstrating the  
t changed as a result,  
ning when it was in  
eptable than it was  
pportunities to pre-  
tters who knew that  
ely to grant air time

airing of controversy  
nging market condi-

evidence presented  
urportedly demon-  
f evidence for such  
vention of the evi-  
es.

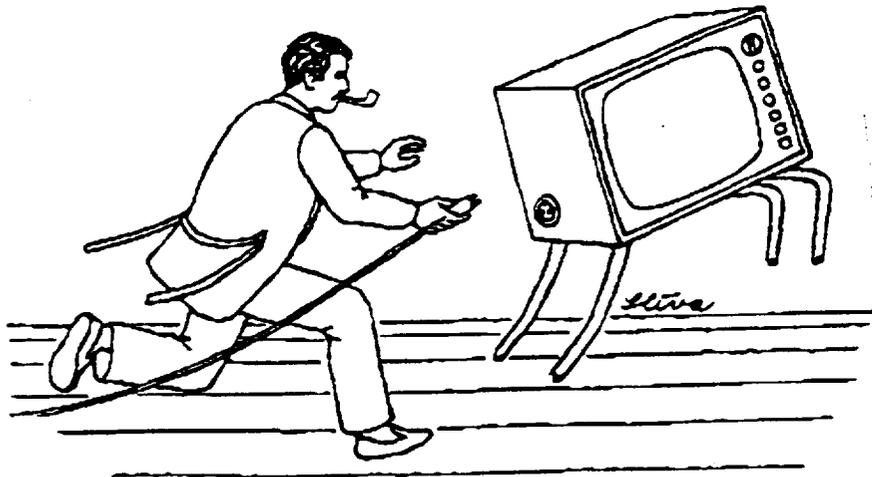
of industry condi-  
s on broadcasters  
ng that most

21. Denierlein, Gen. "The Role of General Managers in Editorializing." *The Editorialisist*, November-December 1988.
22. "Deregulation Felt Mainly in Large-Market Radio and Independent TV." *RTNDA Communicator*, April 1987, pp. 9-12.
23. Donahue, Jim. "Shortchanging the Viewers: Broadcasters' Neglect of Public Interest Programming." Study by Essential Information, Washington, D.C., 1989.
24. Everett, Cora B. Staff director, National Broadcast Editorial Association, Washington, D.C. office. Telephone interview, July 11, 1989.
25. Federal Communications Commission. "Inquiry into Section 73.1910 of the Commission's Rules and Regulations Concerning the General Fairness Doctrine Obligations of Broadcast Licensees" (Fairness Doctrine Inquiry). Gen. Docket No. 84-282. Adopted April 11, 1984, released May 8, 1984.
26. Federal Communications Commission. *General Fairness Doctrine Obligations of Broadcast Licensees*. *Federal Register* 50(169), August 30, 1985, pp. 35418-35455.
27. Federal Communications Commission. Memorandum. Rodenick K. Porter, Deputy Chief, Mass Media Bureau, to Jerald N. Fritz, Chief of Staff, Re: Sales of Broadcast Stations Held for Three Years or More. Washington, D.C., July 23, 1986.
28. Fowler, Mark and Daniel Brenner. "A Marketplace Approach to Broadcast Deregulation." *Texas Law Review* 60, 1982, pp. 207-257.
29. Freeman, Pamela. Director of Public Relations, Advertising Council, New York City. Telephone interview, June 27, 1989.
30. Gale, Don. Vice-president, news and public affairs, Bonneville International, at KSL-AM, Salt Lake City. Telephone interview, July 5, 1989.
31. Gardner, Richard. State and local legislative director, National Rifle Association, Washington, D.C. Telephone interview, June 29, 1989.
32. Geller, Henry and Donna Lampert (as individuals). Comments in FCC Gen. Docket No. 84-282. Adopted April 11, 1984, released May 8, 1984.
33. Goldoff, Ana. "The Federal Communications Commission's Fairness Doctrine: Impact and Implementation." Unpublished manuscript, Department of Public Administration, John Jay College of Criminal Justice, New York, 1988.
34. Goodgame, Thomas. "Why Westinghouse Supports the Fairness Doctrine." *RTNDA Communicator*, April 1989, p. 47.
35. "Growing Use of Audio Handouts." *Broadcasting* July 3, 1989, p. 42.
36. Gunther, Herbert Chao. Director, Public Media Center, San Francisco. Telephone interview, June 26, 1989.
37. Herwood, Doug. "NBC: The GE Broadcasting Co." *Extra* May-June 1989, p. 8.
38. Hinshaw, Ed. Manager of public affairs, WTMJ-AM, Milwaukee. Telephone interview, July 3, 1989.
39. "Introspection at NBC: Is No News Good News?" *Variety*, April 5, 1989, p. 1.
40. Klaus, David. Staff aide to Congressman John Dingell, Washington, D.C. Personal interview, March 1984.
41. Kolkesh, Jim. General manager, KHAS-AM, Hastings, Nebraska. Telephone interview, July 3, 1989.
42. Manciewicz, Frank. Hill and Knowlton, Washington, D.C. Telephone interview, July 7, 1989.
43. Media Access Project and Telecommunications Research and Action Center. Reply Comments in FCC Gen. Docket No. 84-282. Adopted April 11, 1984, released May 8, 1984.
44. Mell, Dean. N. 1989.
45. Meserve, Bill. interview, Janu
46. Mobil Oil. Co. 1984.
47. Morris, John. (WHFH-AM, July 5, 1989.
48. Nackle, John. July 7, 1989.
49. National Assoc. Doctrine." Pre Gen. Docket 2
50. National Rifle released May 8
51. Patrick, Dennis. Subcomm
52. People for the released May 8
53. Polish, Bill. N.
54. Public Media
55. Public Media. May 8, 1984.
56. Rowan, Ford.
57. Saadi, Raymon. Telephone int
58. Schlafly, Phyllis
59. Schwartzman. mitee, U.S. Se June 22, 1989
60. Stone, Vernon. *Communicat*
61. Swift, Al. Hear utions and Fina
62. Telecommun: Adopted April
63. United Church *al v. FCC* and August 12, 198
64. U.S. Congress, 1987." Report
65. U.S. Congress, *Committee on*

*After the Fairness Doctrine*

18. "The Editorialisist, November-  
1989. RTNDA Communicator.
19. "The Fairness Doctrine: A Study  
of Public Interest Programming."  
Washington, D.C. office.
20. "The Commission's Rules  
and Regulations of Broadcast Licensees"  
July 11, 1984, released May 8, 1984.  
Obligations of Broadcast Licensees.
21. Porter, Deputy Chief, Mass  
Media Stations Held for Three Years  
Broadcast Deregulation." Texas  
New York City Telephone  
International at KSL-AM, Salt Lake  
City Association, Washington, D.C.  
FCC Gen. Docket No. 84-282.  
Fairness Doctrine: Impact and Imple-  
mentation. John Jay College of  
Education. RTNDA Communicator.  
Telephone interview, June  
1989, p. 8.  
Telephone interview, July 3, 1989,  
p. 1.  
Personal interview, March  
1989, p. 8.  
Telephone interview, July 3, 1989.  
Telephone interview, July 7, 1989.  
Telephone interview. Reply Comments in  
FCC Gen. Docket No. 84-282.
44. Mell, Dean. News director, KHQ AM-FM-TV, Spokane, Washington. Telephone interview, July 3, 1989.
45. Meserve, Bill. President of Local 14, United Paperworkers International, Jay, Maine. Telephone interview, January 31, 1989.
46. Mobil Oil. Comments in FCC Gen. Docket No. 84-282. Adopted April 11, 1984, released May 8, 1984.
47. Morris, John. General manager, president, and chief executive officer, Nassau Broadcasting (WPHH-AM, Princeton, New Jersey, and WPST-FM, Trenton, New Jersey). Telephone interview, July 5, 1989.
48. Nackley, John. General manager, KIUP-AM and KRSJ-FM, Durango, Colorado. Telephone interview, July 7, 1989.
49. National Association of Broadcasters. Appendix D, "Examples of the 'Chilling Effect' of the Fairness Doctrine." Prepared by Whitney Suckland, NAB Faculty Intern, August 1984. Comments in FCC Gen. Docket No. 84-282. Adopted April 11, 1984, released May 8, 1984.
50. National Rifle Association. Comments in FCC Gen. Docket No. 84-282. Adopted April 11, 1984, released May 8, 1984.
51. Patrick, Dennis. Chairman, Federal Communications Commission. Letter to Congressman John Dingell, Subcommittee on Telecommunications and Finance, September 22, 1987.
52. People for the American Way. Comments in FCC Gen. Docket No. 84-282. Adopted April 11, 1984, released May 8, 1984.
53. Polish, Bill. News director, WCCO-AM, Minneapolis. Telephone interview, July 5, 1989.
54. Public Media Center. *Talking Back*. San Francisco: Public Media Center, 1983.
55. Public Media Center. Comments in FCC Gen. Docket No. 84-282. Adopted April 11, 1984, released May 8, 1984.
56. Rowan, Ford. *Broadcast Fairness: Doctrine, Practice, Prospects*. New York: Longman, 1984.
57. Saadi, Raymond. Vice-president and general manager, KHOM-FM, KTTV-AM, Houma, Louisiana. Telephone interview, July 7, 1989.
58. Schialbly, Phyllis. President, Eagle Forum, Alton, Illinois. Telephone interview, June 30, 1989.
59. Schwartzman, Andrew Jay. Testimony in hearings on media ownership. Communications Subcommittee, U.S. Senate Committee on Commerce, Science and Transportation, 102d Cong., 1st Sess., June 22, 1989.
60. Stone, Vernon A. "News Staffs Change Little in Radio, Take Cuts in Major-Market TV." *RTNDA Communicator*, March 1988, pp. 30-32.
61. Swift, Al. Hearings, H.R. 315, U.S. House of Representatives, Subcommittee on Telecommunications and Finance, Committee on Energy and Commerce, February 9, 1989.
62. Telecommunications Research and Action Center. Comments in FCC Gen. Docket No. 84-282. Adopted April 11, 1984, released May 8, 1984.
63. United Church of Christ, Office of Communication. Brief for petitioner, *Syracuse Peace Council, et al. v. FCC and Meredith Corporation*, U.S. Court of Appeals (D.C. Cir.), Nos. 87-1516, 87-1544, August 12, 1988.
64. U.S. Congress, House of Representatives. 100th Cong., 1st Sess. "Fairness in Broadcasting Act of 1987." Report 100-108.
65. U.S. Congress, Senate. 97th Cong., 2d Sess. *Freedom of Expression: Hearings before the Senate Committee on Commerce, Science, and Transportation*, 1982.

- 66. U.S. Congress, Senate, 100th Cong., 1st Sess. "Fairness in Broadcasting Act of 1987." Report 100-34.
- 67. U.S. Public Interest Research Group and the Safe Energy Communication Council. "Widespread Confusion: Why Congress Must Codify the Fairness Doctrine." Washington, D.C., February 1988.
- 68. Verveer, Melanne. Vice-president and director of public policy, People for the American Way, Washington, D.C. Telephone interview, July 17, 1989.
- 69. Warfield, Bob. News director, vice-president for news, and director of broadcast operations, WDIV-TV, Detroit. Telephone interview, July 3, 1989.
- 70. Whitlock, J. T. President and general manager, Lebanon-Springfield Broadcasting Company (WLBN-AM, WLSK-FM), Lebanon, Kentucky. Telephone interview, July 3, 1989.
- 71. Williams, Tim. General manager, WINZ-AM and WZTA-FM, Miami, Florida. Telephone interview, July 10, 1989.



# Regula A Publ

by Margaret I

*Contrary to  
strongly than  
on interpers  
more opposi*

Antipomograp  
political tradit  
feminist group  
highly profitab  
lence with sex  
movements as  
utes defining  
women's civil

Arguments f  
about commur  
however, have  
The 1970 Repc  
for example, c  
organized crim  
with at least so  
it ought to be  
those surveyed  
tighter than the  
sexually violent  
comes under Fi  
prevailed (exce  
offense in many

Margaret E. Thompe  
of Denver, Steven H.  
University, Hayg H.  
of Michigan at Ann  
political behavior in  
Madison, taught by  
authors would like  
interviewing and oth  
Copyright © 1990 /