POLITICAL INFLUENCE ON MEDIA

This chapter considers the influence of political forces on the media and explores questions about the appropriate role of government in regulating media. (Later, in Chapter 9, we will look at the media’s influence on society, including politics.) Our concern is not with the details of media legislation but rather with the general dynamics that characterize the relationship between government and media. We also address the more informal political pressure brought to bear on the media by media advocacy groups, public interest organizations, religious groups, and media critics.
MEDIA AND DEMOCRACY

The nonprofit watchdog group Reporters Without Borders listed three democratic countries—Norway, Sweden, and Finland—at the top of its 2017 annual Press Freedom Index, and three countries with authoritarian governments—Turkmenistan, Eritrea, and North Korea—at the bottom of the list. (The United States ranked 43rd of the 180 countries in the report.) The Index was constructed from several criteria, including the amount of violence against journalists, the nature of legislation governing media, and the degree of economic pressures on the media (Reporters Without Borders 2017).

Reporters Without Borders Secretary-General Christophe Deloire has noted that the Index “does not take direct account of the kind of political system but it is clear that democracies provide better protection for the freedom to produce and circulate accurate news and information than countries where human rights are flouted.” But being in a democracy does not mean the media are totally unconstrained. Deloire continued, “In dictatorships, news providers and their families are exposed to ruthless reprisals, while in democracies news providers have to cope with the media’s economic crises and conflicts of interest” (Reporters Without Borders 2013). These various types of pressure on the media differ widely, but they all have an effect.

As the Index rankings suggest, to better understand media—news and entertainment media alike—we need to consider the political environment in which they operate. Government in all nations serves as an organizing structure that can, to varying degrees, constrain or promote the free activity (or agency) of the media. This is the tension between structure and agency as it applies to media and the political world. State regulation of media can include policies aimed at influencing the ownership structure of media, the content being produced, and the technological infrastructure used to access and distribute content.

In totalitarian systems, the structural constraint of the state largely dominates the potential agency of the media. Sometimes state-owned news agencies, broadcast media, and film studios can act as propaganda arms of the state, promoting a narrow set of government-sanctioned images and messages. Even if media outlets are not state-owned, autocratic governments often impose both formal and informal ground rules for what can and can’t be said in the media. Indirect mechanisms supporting state interests can be used as well. For example, authoritarian regimes hire sympathetic bloggers and tweeters to spread their messages, while using censorship and surveillance technologies to monitor potential political threats. In extreme cases, journalists can be imprisoned or killed for challenging state polices.

Democratic societies, on the other hand, pride themselves on protecting freedom of the press and freedom of expression. That’s why it was so startling when President Trump referred to the New York Times and other mainstream media outlets as “the enemy of the American people,” gave “awards” for “fake news,” and routinely made disparaging remarks about the press (Flegenheimer and Grynbaum 2018; Grynbaum 2017). Such attacks are more commonly seen in autocratic societies. Critics—including some in his own party—argued that Trump’s words were giving cover to repressive leaders abroad (Sullivan 2018). The Committee to Protect Journalists (2017) reported a rise in attacks on journalists by repressive leaders and suggested that, “President Donald Trump’s nationalistic
rhetoric, fixation on Islamic extremism, and insistence on labeling critical media ‘fake news’ serves to reinforce the framework of accusations and legal charges that allow such leaders to pre-side over the jailing of journalists.”

Unlike repressive states, democratic societies are usually characterized by a more diverse mix of public and privately owned media outlets offering a variety of arts, news, information, and entertainment. The media in such societies are still subject to government regulation, but they are usually given much greater latitude to operate independently. However, in some democratic societies, the media are still largely controlled by a relatively small group of powerful interests—commercial corporations. In those cases, it is corporate domination of media rather than government control that is of most concern, and governments can use anti-trust laws to break up concentrated media ownership if it is deemed to be a threat to the public interest.

But democratic societies still regulate their media. The nature and extent of such regulations is a topic of ongoing debate.

FREE SPEECH TO FREE MARKETS: THE EVOLUTION OF U.S. REGULATORY POLICY

In the United States, debates about media regulation go back to the founding of the country. Most Americans are familiar with the First Amendment to the U.S. Constitution, which guarantees, among other things, freedom of the press. The amendment in its entirety reads as follows: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”

Because the amendment begins with “Congress shall make no law,” this “first freedom” suggests that the government should take a hands-off approach toward the media. The framers of the Constitution knew all too well how European governments had persecuted authors, printers, and publishers. Throughout Europe, governments limited the rights of printers through tactics such as requiring licenses, heavily taxing newsprint, censorship, and aggressively prosecuting libel (Eisenstein 1968). The U.S. legal and legislative system took a different route. It protected the freedom of the press in several key ways. First, it treated the licensing of the press as a case of illegal “prior restraint.” Second, it developed a tradition of opposing special taxes on the press. Third, it greatly restricted criminal libel suits. (In 2018, President Trump called the laws governing libel suits a “sham” and pledged to make it easier to sue news organizations and publishers [Grynbaum 2018].) This was the hands-off dimension of public policy embodied in the First Amendment.

But we do not have to go any further than the U.S. Constitution to see another dimension of the government’s relationship with the media. Section 8 of Article I lists the powers of Congress, among which is the power “to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their
respective writings and discoveries.” Here the Constitution explicitly gives Congress the right to intervene in the communications marketplace to defend the interests of authors and inventors. By protecting the incentivizing rewards authors and inventors receive for investing time, effort, and resources in creating new things, Congress promotes innovation in science and the arts and advances the public interest.

Thus, in various ways, the relationship between government and media in U.S. society involves balancing the protection of free expression by limiting government intervention with the protection of the public interest by using government intervention. In many ways, these competing demands have been at the heart of the long-standing debates about government regulation of the media.

Regulate or Deregulate?

With modern media, policy debates are largely about the balance between using the government to regulate versus allowing the “free market” to determine the fate of media through unregulated competition among privately owned companies. Supporters of deregulation generally assert that the “free market” system is adequate for accommodating the needs of both media producers and media consumers. They argue that consumers have the ultimate power to choose to tune into or buy media products and that there is no need for government interference in the form of media regulation. The marketplace serves as a quasi-democratic forum in which consumers, not government agencies, get to decide the fate of media. Furthermore, the absence of regulation empowers companies to experiment and innovate to meet changing consumer needs.

In its pure form, the deregulation approach is a negative prescription for policy. That is, deregulation advocates suggest what they are against (regulation), not what they favor. They clearly support the “free market” process, but there is little or no discussion about the undemocratic nature of a marketplace where more dollars mean more influence and where people are viewed as consumers rather than citizens. Nor is there much discussion of the outcome of this market process beyond the idea that media products would reflect changing market tastes. But what if an unregulated market results in monopoly control of a medium by a corporate giant, undermining the benefits of market competition? Should the government step in to regulate ownership? Or what if explicit sex, graphic violence, and endless trivia are what is popular—and profitable—in the marketplace? Should the government involve itself in the regulation of such content? And should the government support efforts to better meet the needs of a democracy for news and information that may not be profitable? These are among the dilemmas raised by the deregulation position.

In contrast to the deregulation approach, support for media regulation is usually based on a desired outcome. The most common standard for assessing this outcome is the “public interest,” a generalized concern for the well-being of the citizenry as a whole rather than individual private interests. This standard reaches beyond merely market concerns to include the overall health of a democratic society. In the modern era, the idea that media should serve the public interest was first explicitly articulated in the earliest days of radio broadcasting, when the government tied serving the public interest to the granting of licenses because broadcast media were using publicly owned airwaves. But what is the “public interest” and who decides? These are among the central dilemmas raised by the pro-regulation position. (For a more detailed comparison of the “free market” versus “public interest” models, see Croteau and Hoynes 2006.)
The FCC’s Variable Role

Many debates regarding media regulation involve the Federal Communications Commission (FCC), the independent U.S. government agency established in 1934. Comprising five commissioners, appointed by the president and confirmed by the Senate for five-year terms, the FCC regulates U.S. interstate and international communications by radio, television, wire, satellite, and cable, including the internet. The FCC is also responsible for the issuance of licenses, the setting of some charges, and the enforcement of communication rules (Zarkin and Zarkin 2006).

The FCC’s role has shifted over the years, as its appointees have reflected the political climate of different periods. In the broadest sense, the FCC’s role has evolved through three distinct eras: (1) pre-World War II, (2) World War II until the 1980s, and (3) the 1980s to today (van Cuilenburg and McQuail 2003). Prior to World War II, media policy was newly emerging and ad hoc in nature. As we saw in Chapter 2, for example, the United States had government-regulated private monopolies in the telegraph and telephone industries, whereas radio broadcasting moved from an unregulated to a regulated medium.

During the second era, after World War II until the 1980s, the notion of protecting the public interest by regulating for public service and social responsibility gained ground. As we’ll see in the next section of this chapter, this was especially true in Europe, where much of broadcasting was financed with public funds and so was more closely aligned with the public interest. European media producers generally retained editorial independence but were accountable to elected officials for maintaining diverse content in terms of political orientation, cultural tastes, and minority communities served.

In the United States, even though private ownership of media was the norm, a variety of reform initiatives and legal rulings around World War II solidified the idea that the media were a special resource for a democratic society. Consequently, they had social responsibilities and should be regulated for the public good (Pickard 2015):

- In 1943, concerned about monopolistic ownership of the media, an FCC ruling led NBC to sell off a radio network that became the American Broadcasting Company (ABC).
- In 1945, in an antitrust ruling against the Associated Press, the Supreme Court affirmed the duty of the government to promote media that includes “diverse and antagonistic voices.”
- In 1946, in response to public concern about the crass commercialization of the media, the FCC issued the “Blue Book” report that laid out the public service responsibilities of broadcasters, including providing programming that was local, discussed public issues of the day, included public service programs that could not be sustained by advertisers, and excluded “excess” advertising.
- In 1947, the “Hutchins” Commission on Freedom of the Press—formed at the request of Henry Luce, the influential publisher of Time and Life magazines—published a report that laid out recommendations for the role of government, the press, and the public in a modern democracy. It accepted the idea that the press “must be accountable to society for meeting the public need and maintaining the
rights of citizens and the almost forgotten rights of speakers who have no press” (Commission on Freedom of the Press 1947: 18).

- In 1949, the FCC implemented the Fairness Doctrine, which required broadcasters to cover public issues and to include a variety of views that fairly represented opposing viewpoints.

Communication scholar Victor Pickard (2015: 4) notes that all of these efforts “prioritized the collective rights of the public’s ‘freedom to read, see, and hear’ over the individual rights of media producers and owners. And, as important, they all assumed a proactive role for government to guarantee these rights affirmatively.” Even though the implementation of these initiatives varied considerably, with some never enforced, they still created a foundation upon which public interest advocates could build their case for socially responsible media. As a result, the climate of post-World War II America was permeated by a broad understanding that the government had a role to play in regulating media to protect the public interest—and that privately owned media had a public service duty.

Up until the 1980s, FCC policy makers generally expressed agreement with the importance of serving the “public interest,” and they shared some common ground in understanding the term (Krugman and Reid 1980). For example, policymakers commonly believed that the FCC served the public interest by attempting to balance the interests of various groups, suggesting that there is no single public interest. They also stressed that the government cannot write media regulation in stone for all eternity because technological and economic changes are constantly occurring. Finally, they believed that regulation that promotes diversity in programming and services is in the public interest.

All of that began to change in the 1980s when conservative forces—embodied in the election of President Ronald Reagan—advocated deregulation across all industries, including the media. Parts of the media industry were never happy with the efforts to hold them accountable to public interest standards, and now they increasingly found political allies in key positions of power. The Reagan-appointed chair of the FCC, Mark Fowler, even wrote that “broadcasters as community trustees should be replaced by a view of broadcasters as marketplace participants.” The FCC’s role, he argued was simply to “rely on the broadcasters’ ability to determine the wants of their audiences through the normal mechanisms of the marketplace. The public’s interest, then, defines the public interest” (Fowler and Brenner 1982: 209–210). The idea that media was simply another commodity in the marketplace, rather than a resource for a democratic society, was perhaps best summed up in Fowler’s notorious quip that “television is just another appliance—it’s a toaster with pictures” (Mueller 1981).

From the 1980s onward, “free market” advocates largely succeeded in dismantling public interest regulation. This included everything from abolishing the Fairness Doctrine in 1987, to making broadcast license renewals virtually automatic without review, to even eliminating requirements that broadcasters file program logs with the FCC so citizen groups—and the FCC itself—could monitor what was being broadcast. Without basic accountability, critics argued, children’s television became markedly more violent and commercialized, as with the introduction of children’s programs based on toys—essentially half-hour commercials. More generally, advertising increased on
all programming, and the pressures on broadcast journalism to make a profit grew dramatically. The FCC abolished rules that limited how quickly stations could be sold, paving the way for massive mergers in the media industry that helped convert broadcast journalism—once considered the public responsibility of media companies—into profit-making ventures just like entertainment programming.

Anti-regulation advocates usually argued for “promoting competition, removing artificial barriers to entry, [and] preventing any one firm from controlling price or eliminating its competitors” (Fowler and Brenner 1982: 210). Such an approach laid the foundation for breaking up the telephone monopoly, discussed in Chapter 2. But in broadcasting and other media, the argument was that new technologies—including cable and the early internet—had introduced substantial new competition, so old restrictions on ownership were unnecessary. Digital convergence meant companies were competing across media so older policies that made sharp distinctions between technologies and between forms of media no longer made sense. As a result of these beliefs, ownership regulations were severely relaxed, and single companies were allowed to become larger integrated media conglomerates, as we discussed in Chapter 3. However, in some cases, what were portrayed as opportunities for new competition instead became opportunities for growing concentration of ownership.

While the era of deregulation continues today, new regulatory challenges remain unresolved. The FCC and other regulatory bodies have struggled to keep up with technological changes and figure out how best to respond. The contentious debate about net neutrality—which we discuss later—is one example of the new regulatory issues. Developments such as the Russian intervention in the 2016 U.S. presidential election, mounting concerns about the impact of social media use, and the growing power of new technology companies have spotlighted new areas of concern. But in the absence of a consensus over policy goals, the general inclination toward deregulation typically continues to win the day.

REGULATION IN INTERNATIONAL PERSPECTIVE

All governments develop media regulations because they understand the media’s political and social importance. Of course, the method by which governments try to achieve such control varies. In the book’s final chapter, we explore some of the media’s global dynamics, including some of the unique regulatory issues raised by global media. Here, we only make some brief observations to contrast efforts of other countries with the U.S. approach.

As noted, some nations have taken direct authoritarian control of media through state ownership of broadcast outlets, bans on opposition media, and constraints on internet access. But most nations engage in media regulation that is nonauthoritarian in nature, combining government policies with market forces. These policies vary significantly based, in part, on the development level of the country. Wealthy Western democracies and developing nations have had differing regulatory concerns, both of which contrast with the U.S. experience.
Regulation in Western Democracies

The role of the U.S. government in regulating the media has always been much more limited than in many other Western democratic nations (Starr 2004). For example, the early days of radio in the United States were characterized by free market commercialism that produced considerable chaos. In contrast, European nations adopted an approach that involved government operation of the media as a technique to avoid signal interference. The result was a system that (1) emphasized public service, (2) was national in character, (3) was politicized, and (4) was noncommercial (McQuail, de Mateo, and Tapper 1992).

In many countries, this approach meant adopting a state monopoly system. The British Broadcasting Corporation (BBC), established in 1922, was the first such system. Within four years, Italy, Sweden, Ireland, Finland, and Denmark had copied the BBC model. Over time, more nations developed similar arrangements, and many variations developed. Most monopolies, for example, were nationwide. But in countries such as Belgium, where both Flemish and French were widely spoken, each linguistic group had a separate public broadcasting service. Also, countries with state systems have mostly adopted approaches that couple state-run with privately owned media.

In the post-World War II era, in most European countries, the purely commercial marketplace was not the dominant media approach. Although there was no single model, governments typically controlled the organization and financing of broadcast services, investing substantially in supporting the production of both news and entertainment. This made the government a central force in broadcasting even while producers outside the state-run system often created the actual programming. The point of government involvement was to ensure that broadcasting could deliver quality programming that served the public interest. As in the United States, the interpretation of “public interest” was debated in Europe. However, people generally considered the purpose of public service broadcasting to be to provide citizens with a diverse range of high-quality entertainment, information, and education, some of which might not be profitable (Donders 2011; Hills 1991).

Government media, however benignly run, present difficulties. In some countries, controversy regarding the political content of programs plagued public service broadcasting. In part because of such debates, in part because of changes in technology, and in part because of shifts in the political winds, European broadcasting, like its U.S. counterpart, has undergone dramatic changes since the 1980s. Governments significantly reduced regulations concerning the structure and financing of broadcasting, opening the way to more competition between public broadcasters and commercial stations. In some countries, such as Italy, the pressure to liberalize airwaves came from private companies and business leaders, who saw the profit potential inherent in television and radio stations and challenged the state by operating illegal stations, forcing the regulators to reconsider the state monopoly principle (Ginsborg 2005; Hibberd 2008). Thus regulators introduced advertising into many public stations (although not the BBC, which inside the UK remains advertising free) and added new commercial stations. The results were increases in advertising, increases in imported programming (which is often cheaper to air than original, domestically produced programming), and the consolidation of media companies into ever larger corporate conglomerates that bought up formerly independent producers (Hills 1991).
Ironically, deregulation in structure and finance was followed by increased regulation of media content. Free market competition led to more violent and sexually explicit programs as a way to attract audiences and to crasser commercialization to maximize profits. In response, governments introduced limits on programming and regulated the amount and frequency of advertising. For example, France, Great Britain, and Sweden (along with Canada and Australia) have restrictions against broadcasting violent programs during children's hours, with broadcasters subject to stiff fines for violations. In some European countries, governments required that news, public affairs, religious, and children's programming run for 30 minutes before a commercial break (Hirsch and Petersen 1992). Also, countries in the European Union limit the amount of advertising on commercial stations to 12 minutes an hour (20%). In 2016, at the behest of broadcasters facing competition from online streaming services, the European Commission began the process of relaxing the rules by retaining an overall daily limit on ads to 20 percent of airtime, while giving broadcasters flexibility in when they would air those ads (European Union 2017). Even relaxed rules go further than in the United States, where there are no such regulations at all. In 2017, U.S. broadcast networks aired more than 14 and half minutes of commercials each hour, whereas cable channels featured over 16 minutes an hour (Nielsen 2017c).

The rise of the internet posed new challenges and generated new responses from European nations. Here, too, European nations have been more proactive than the United States in regulating the internet in an attempt to protect citizen privacy, crack down on online hate speech, and pursue anti-monopoly cases against online giants like Google. We will consider examples of these efforts later in the chapter.

**Regulation in Developing Nations**

Regulation in developing countries has raised different issues from those in wealthier nations. In earlier years, the media industries in developing countries were typically smaller and less robust than their counterparts in wealthier nations, and so developing countries also tend to have more state-owned media (Djankov, McLiesch, Nenova, and Shleifer 2003). Well-financed Western media companies could provide developing countries with relatively low-cost media content, thereby undermining the development of private indigenous media industries. For example, Western wire services and major Western media outlets were often the source of news and information in such countries. Because revenues from international markets were sometimes a “bonus” for already profitable global conglomerates, Western firms could license their entertainment products for broadcast and exhibition in developing countries at low rates. This filled the airwaves and movie theaters of developing countries with Western-created media content. Such experiences raised concerns that local cultures could be eradicated in the face of a flood of foreign imports, a process sometimes referred as “cultural imperialism.” Thus some media regulation has involved the protection and promotion of fledgling indigenous media industries—both public and private—in the face of competition by global media giants. One simple mechanism has been requirements that broadcasters air a certain percentage of domestically created programming, carving out space for indigenous programming in the sea of international content.
In more recent years, internet use has exploded in developing countries, especially via smartphones and wireless broadband (Panday 2017). The voice and video services on internet-based platforms such as Skype and Facebook give users much lower-cost alternatives to the texting and voice services of traditional telecommunication companies. Similarly, online streaming services offer an alternative to traditional broadcast or cable media. These internet-based apps and services—often referred to as “over-the-top” or OTT services—have largely been unregulated, unlike their traditional counterparts that are often taxed, licensed, and subject to regulations. Now, though, governments in developing countries such as India, Thailand, and Indonesia are moving to create new regulations, such as requiring companies offering such services to have local offices and employees, mandating that they work with local network providers and use local IP addresses and payment services. In some cases, service providers would be required to pay bandwidth fees and be subjected to “throttling”—slowing down of traffic on their service—if they fail to comply with regulations. Some of these efforts aim to protect local traditional telecommunication companies from global competition, similar to how local content requirements aim to protect local media producers. Others seem thinly veiled efforts to censor internet usage by making sure traffic can be monitored and controlled, if necessary. Either way, they hint at some of the challenges raised by regulating a global internet.

COMPETING INTERESTS AND THE REGULATION DEBATE

So far, we have presented the regulation debate mostly in its simplest form—a free market deregulatory approach versus government regulation in the public interest. But in reality, the debate is more complicated. Despite simple rhetoric calling for “deregulation,” virtually everyone involved with the media wants government regulation. This includes liberal and conservative politicians, industry executives, and public interest advocates. What these groups disagree about is what kind of government regulation should exist.

For example, almost all calls for deregulating media are, in practice, calls for selective deregulation, leaving in place many of the laws and policies that benefit the media industry. Indeed, the media industry could not exist in its present form without active government regulation and control through broadcast licensing, copyright enforcement, and other provisions. In addition, different parts of the media industry favor regulations that protect them from competitors in other parts of the industry. In this way, the industry does not necessarily speak with one voice. But all media companies actively support some regulations, namely, those that benefit either the industry as a whole or their portion of it.

Meanwhile, supporters of press freedoms and increased media diversity often call for regulations that protect the interests of the public against the influence of the powerful media industry. The media industry usually cites the merits of deregulation when it is faced with such constraints. So, as we will see, the history of regulatory debates is not about whether or not the government should play a role in regulating the media. Instead, it is about how and to what extent government should act.
Industry Influence: Elections and Lobbying

Regulation debates reflect competing interests (Freedman 2008). Regulatory decisions create winners and losers, so it is important to ask, “Who benefits from such regulation?” as well as “Who is constrained?” This can explain a great deal about regulation debates. The media and telecommunications industry promotes its interests through a well-organized and powerful political arm that finances political candidates and lobbies elected officials (see Table 4.1). It is safe to assume that such efforts are aimed at promoting legislation in which the industry has an interest and at derailing efforts it deems threatening. And, of course, the media industry controls the biggest soapbox in society. One FCC official pointed out that one reason broadcasters are such a powerful Washington lobbying group is because they control the air time given to members of Congress on local stations (Hickey 1995). Politicians courting favorable media coverage for reelection are likely to be highly conscious of legislation that can affect the media industry.

On the other hand, in addition to electing officials who reflect their views, ordinary citizens can try to influence regulatory debates through their own advocacy groups and social movement organizations or by giving feedback to elected officials or the FCC when regulatory debates arise. Often, these struggles go back and forth for a long period of time as new regulations are introduced, a backlash ensues, and changes are implemented, only to be challenged. As we will see, many of the debates regarding specific forms of regulation have been going on for decades and continue to this day. A good example of such struggles is the campaign to permit low-power radio.

Citizen Action: The Case of Low-Power Radio

It was 6:30 a.m., says Doug Brewer (a.k.a. Craven Moorehead), when government agents burst into his Tampa Bay, Florida, home. The agents wore flak jackets and had their guns drawn. They made Brewer and his family lie on the floor while they searched the house. A police helicopter circled the neighborhood, and other officers with submachine guns stood outside. When they found what they had come for, the agents handcuffed Brewer to a chair while they removed thousands of dollars’ worth of contraband (Nesbitt 1998; Shiver 1998).

Brewer was not a drug dealer. He was a “radio pirate” whose unlicensed microstation—“Tampa’s Party Pirate”—broadcast “biker rock” music. The agents entering his home on that morning in November of 1997 included FCC officials who were enforcing federal regulations prohibiting unlicensed radio broadcasting. The raid was part of an FCC crackdown on “radio piracy.” The contraband they confiscated was electronic broadcasting equipment.

If Brewer had produced a magazine or a website, he would have been protected by the Constitution’s First Amendment. But government and the courts treat broadcast media differently because they use the public airwaves to reach an audience. There is a limited spectrum of available electromagnetic frequencies, and the government regulates who can use certain frequencies. (A radio station’s call number—e.g., 98.6 or 101—refers to the frequency at which the station broadcasts.) The government does this by issuing licenses, which “pirate” broadcasters do not have, to stations that seek to broadcast at certain frequencies.
The various sectors of the media and communications industry try to influence government policy by spending tens of millions of dollars a year on lobbying efforts and campaign contributions.

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<td>Electronics Manufacturing and Equipment (e.g., Apple, Intel, Oracle, Dell, Cisco, IBM)</td>
<td>$90,338,592</td>
<td>$107,914,723</td>
<td>$198,253,315</td>
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<td>TV, Movies, and Music (e.g., Disney, National Assoc. of Broadcasters)</td>
<td>$84,045,507</td>
<td>$45,651,093</td>
<td>$129,696,600</td>
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<tr>
<td>Computer Software (e.g., Adobe, Microsoft, Entertainment Software Assoc.)</td>
<td>$48,667,672</td>
<td>$34,443,959</td>
<td>$83,111,631</td>
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<td>Telecom Services (e.g., Comcast, Cox, Cellular Telecom. Industry Assoc.)</td>
<td>$26,037,716</td>
<td>$61,733,551</td>
<td>$87,771,267</td>
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<td>Internet (e.g., Alphabet/Google, Facebook, Amazon, Verizon)</td>
<td>$33,785,894</td>
<td>$50,016,850</td>
<td>$83,802,744</td>
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<tr>
<td>Printing and Publishing (e.g., NewsCorp, RELX Group, Assoc. of American Publishers)</td>
<td>$70,251,000</td>
<td>$7,865,443</td>
<td>$78,116,443</td>
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<td>Books, Magazines, and Newspapers (e.g., Thomson Reuters, Magazine Publishers of America)</td>
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<td>$6,681,443</td>
<td>$74,452,128</td>
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<td>Telephone Utilities (e.g., AT&amp;T, Verizon, CenturyLink, U.S. Telecom Assoc.)</td>
<td>$15,714,959</td>
<td>$26,260,925</td>
<td>$41,975,884</td>
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<td>Commercial TV and Radio Stations (e.g., National Assoc. of Broadcasters, Hubbard, Sinclair)</td>
<td>$9,313,054</td>
<td>$21,571,125</td>
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<td>TV Production (e.g., Bad Robot Prod., Liberty Media, Fuzzy Door Prod.)</td>
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<td>$200,000</td>
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<td>Motion Picture Production and Distribution (e.g., Sony, Time Warner, Motion Picture Assoc. of America)</td>
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<td>$3,060,000</td>
<td>$23,871,499</td>
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<td>Recorded Music and Music Production (e.g., Vivendi, Recording Industry Assoc. of America)</td>
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<td>$9,957,403</td>
<td>$16,079,555</td>
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<td>Cable, Satellite, and TV Production (e.g., 21st Century Fox, Time Warner)</td>
<td>$2,879,530</td>
<td>$3,928,843</td>
<td>$6,808,373</td>
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<tr>
<td><strong>Total</strong></td>
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<td><strong>$379,285,358</strong></td>
<td><strong>$878,869,710</strong></td>
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**Notes:** Election spending includes contributions from industry individuals, political action committees (PACs), and soft/outside money in 2016. Lobbying spending is from 2017 records through December 8. Individual companies are merely listed as examples of businesses in that industry sector; some companies operate in more than one sector.

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The argument for broadcast licenses is practical: An unlicensed radio signal can interfere with the signal of another station that is legally licensed to use the same, or a nearby, frequency. Or it may interfere with other wireless services—such as cellular phones, pagers, police walkie-talkies, digital television signals, or even air traffic control communication—all of which use the airwaves as well. The absence of government regulation of the airwaves might lead to chaos as multiple stations drowned each other out at the same frequencies and personal communications devices were interrupted. The result would be akin to a street and highway system with no lanes, signs, stoplights, or speed limits. In fact, fear of this sort of chaos in the early days of radio contributed to regulation and the practice of requiring broadcast licenses. The government, therefore, says it uses licensing requirements to protect the “public interest.”

But unlicensed “pirate” operators—who generally prefer the more neutral term micro-broadcaster—told a different story. They suggested it was commercial media corporations that were really behind the effort to keep them off the air, just as early commercial broadcasters helped push amateur radio enthusiasts off desirable spectrum space a century ago. They pointed out that low-power stations were just that—low-power—and posed virtually no interference threat to other stations. In addition, microbroadcasters went to great lengths to ensure that their signals didn’t interfere with other broadcasts or communications. Even so, their efforts were illegal at the time because the FCC simply did not grant licenses to small microstations, leaving radio to be dominated by larger, mostly commercial, interests. If the FCC is so concerned about chaos on the airwaves, radio activists asked, then why didn’t it simply allocate a section of the broadcast spectrum for microstations and then issue licenses?

That idea ran into stiff opposition from commercial broadcasters. The National Association of Broadcasters (NAB), the industry’s lobbying group, used the fear of widespread signal interference to oppose the creation of a new category of low-power FM radio stations. The NAB even distributed a CD to members of Congress supposedly documenting what such interference would sound like. However, the FCC’s own engineers said the audio simulation was fraudulent, and the FCC’s then-chair William E. Kennard accused the NAB of a “systematic campaign of misinformation and scare tactics” (Labaton 2000: C1). Later, an independent study commissioned by the FCC confirmed that low-power radio posed no significant interference issues (FCC 2004).

With the industry’s primary argument exposed as bogus, community radio activists finally achieved some limited success in 2000 when the FCC agreed to begin licensing low-power stations. At first, existing broadcasters, including both the NAB and National Public Radio (NPR), successfully lobbied Congress to make licensing so restrictive as to limit the number of such stations to just a few dozen instead of the thousands originally proposed. But community radio advocates continued to pressure for more. Finally, the Local Community Radio Act was signed into law in January 2011, giving the FCC a mandate to expand the broadcast spectrum allotted to community radio stations, marking a major victory for low-power radio advocates.

By early 2018, about 2,500 new stations had been, or were in the process of being, licensed. Over a third of those were held by religious organizations, whereas the remaining microstations served a wide variety of community needs. The stations, almost always run by amateur volunteers, have a reach of about three and a half miles depending on surrounding terrain and so are often focused on very local concerns. They broadcast everything from local news and high school sports to eclectic musical playlists that often
highlight local bands. Some stations serve local ethnic communities by broadcasting in their native language. What they all share is an interest in providing radio content that cannot be found on mainstream commercial stations. As Rebecca Webb, the founder of a microstation in Portland, Oregon, put it, “The fact that we have gathered ourselves up by our bootstraps and created a community radio station is in direct response to the ownership concentration of large media companies” (Johnson 2018).

The long road from “pirate radio” to legal microbroadcasting shows that policy is a product of political activity and that competing interests are at stake in such media policymaking. These will be recurring issues as we explore various policy debates.

**Left and Right: Diversity versus Property Rights**

In the everyday political world, calls for media regulation come from both liberals and conservatives. However, the intended target of the regulation differs based on political orientation. The sides do not always line up neatly, but conservatives and liberals generally tend to approach the topic of regulation differently.

Liberals and the left usually see the government’s role in media regulation as one of protecting the public against the domination of the private sector. (Conservatives see this as government meddling in the free market.) As we will see, this view manifests itself in liberal support for regulating ownership of media outlets, with the aim of protecting the public interest against monopolistic corporate practices. Inherent in this approach is the belief that the marketplace is not adequately self-regulating and that commercial interests can acquire undue power and influence.

Liberals and the left tend to support regulation that encourages diversity in media content, such as the Fairness Doctrine. Finally, liberals also back government financing for public media because such outlets can sometimes support important programming that may not be commercially viable. In the United States, such funding is quite modest—$445 million in 2016, that is, about 0.01 percent of the federal budget or $1.38 per American (Bump 2017). The largest source of public funding for non-commercial media is that allotted by Congress to the nonprofit Corporation for Public Broadcasting (CPB 2018). In turn, CPB uses this money to fund about 15 percent of the budget for Public Broadcasting Service (PBS) and National Public Radio (NPR); the remainder of their funding comes from corporate and foundation sponsors and viewer/listener fundraising (NPR 2018; PBS 2018).

Conservatives and the right tend to respond to such arguments with staunch support for property rights and the free market system. (Liberals see this as protecting corporate interests at the expense of the public interest.) When it comes to regulating ownership and control of media, conservatives tend to advocate a laissez-faire approach by government. They caution against the dangers of bureaucratic government intervention and the tyranny of “politically correct” calls for diversity. They are often enthusiasts for the ability of the profit motive to produce positive media outcomes for all. Conservatives generally
see the marketplace as the great equalizer, a place where ideas and products stand or fall based on the extent of their popularity. They often portray ideas like the Fairness Doctrine or public broadcasting as illegitimate attempts by those outside the American mainstream to gain access to the media.

Although conservatives abhor the idea of limiting, restricting, or regulating private property rights, they are often quite comfortable with restricting the content of media products, especially in the name of morality. A free market system for the media tends to lead to things such as graphic violence and misogynistic pornography; media images of sex and violence are popular and profitable (Dines 2010). However, nearly all observers agree that some restrictions on the content of media are necessary, especially to protect children and minors. In fact, it is conservatives who have often led the call to regulate material they deem unfit for minors. So while conservatives oppose government regulation that requires additional content for the sake of diversity, they are generally comfortable with regulations that restrict or prohibit the dissemination of material they deem unsuitable. The result, as we will see, has been both voluntary and mandatory regulation of media content.

Following this broad overview of the contest over media regulation, we turn now to some examples of media regulation and the sorts of debates they have generated. We group the issues into three broad categories: the regulation of (1) ownership, (2) content, and (3) access and distribution.

**REGULATING OWNERSHIP**

In this section, we review examples of the debates over regulating media ownership and technology in the United States (Doyle 2002; Freedman 2008; Noam 2009, 2016). We do not attempt to provide any sort of comprehensive review; rather, our goal is to show how debates about the relationship between politics and the media represent one kind of tension between agency and structure in the social world.

**Media Outlets**

When early government officials crafted the First Amendment, media ownership was largely a local, decentralized affair. As a result, the First Amendment closely links “freedom of speech or of the press” because, in colonial times, the two were very similar. Individual printers or shops employing just a couple of people created the media products of the day. The written word, therefore, was largely an extension of the spoken word. In this context, the issue of ownership was of little concern. The equipment needed to operate a press was relatively straightforward and affordable for purchase or lease to those with modest capital. In theory, there was no limit on the potential number of different presses.

Over time, however, communication media have changed in significant ways. First, media technology evolved in ways that have encouraged centralization and larger-scale operations. Beginning as early as the telegraph, some forms of media technology were most efficiently used when centrally controlled. Western Union’s “long lines” connected communities across the country, which meant a single owner was now influencing the flow of information on an unprecedented scale. Telephone lines, radio and television broadcast networks, and cable services all shared similar features.
Second, ownership patterns changed. With more centralized technology and larger-scale production, the amount of investment capital necessary to produce and promote major state-of-the-art media products grew. As the wry saying goes, freedom of the press exists only for those who can afford to own one; in the era of large-scale media production and distribution, most competitive media ownership is affordable only for those with substantial capital. Although the internet is often touted as creating an even playing field that allows small players to compete, in reality the start-up costs for major media websites now routinely run into the millions of dollars. As we saw in the previous chapter, most sectors of the media industry moved away long ago from the days of small, independent, local publishers to the era of centralized corporate conglomerates that often have global reach.

Finally, far-reaching technologies owned by large-scale corporate actors dramatically expanded the potential influence of media producers in society. They could now reach hundreds of millions of people through networked systems that blanketed the country and crisscrossed the globe. This ability transformed the nature of media and, as a result, ownership issues became more of a regulatory concern.

As these developments emerged, regulators had to grapple with how best to respond. One approach was to treat each medium differently, based on its unique characteristics. In general, the rules have historically differed among types of communication media:

- **Print** media are essentially unregulated.
- **Broadcast** media are regulated because they use the public airwaves, and the limited electromagnetic spectrum space creates scarcity by restricting the number of free broadcast stations that can operate in any market.
- **Common carriers** are monopolies or near monopolies that are regulated to provide equal access to their services because users have no practical alternative. Basic utilities, including telephone companies, have long been classified as common carriers. In recent years, as we will discuss later, there has been an ongoing “net neutrality” debate about whether or not internet service providers (ISPs) should be classified as common carriers.

These distinctions matter in the regulation of media ownership. For example, the FCC has long regulated the number of broadcast radio and television stations a single company can own. The aim was to limit the potential monopolistic power of a media conglomerate and to encourage diverse media ownership. However, deregulation advocates argued that with digital convergence—which enabled competition among producers who had previously been in separate media—and the internet—which lowered the hurdles to entry for new competitors—the media landscape was more competitive than ever. As a result, changes introduced in the 1996 Telecommunications Act eased restrictions on television and radio station ownership, leading to more concentrated ownership patterns (Aufderheide 1999). (See Figure 4.1.) For example, less than two years after the elimination of limits on radio ownership in 1996, there was a 12 percent decline in the number of radio station owners, even while the total number of stations increased by 3 percent. The FCC acknowledged that the regulatory changes had led to “consolidations of radio ownership [that] have reshaped the radio industry” (FCC 1998).
FIGURE 4.1  Examples of Ownership Regulation and Deregulation

FCC regulations on media ownership were relaxed significantly as part of the 1996 Telecommunication Act. Another round of deregulation took place in 2017 that eliminated some cross-ownership regulations. Overall, the trend has been to allow larger media conglomerates to operate. Critics are concerned about the increased power of media conglomerates. Deregulation advocates argue these changes reflect more realistically the competitive media landscape brought about by convergence and the internet.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Before 1996 Telecommunication Act</th>
<th>After the 1996 Telecommunication Act</th>
</tr>
</thead>
<tbody>
<tr>
<td>National TV</td>
<td>One company may own:• 12 stations• reaching up to 25% of U.S. TV households</td>
<td>One company may own:• stations reaching 35% of U.S. TV households</td>
</tr>
<tr>
<td>Local TV</td>
<td>One company may own:• one station in a market</td>
<td>One company may own:• two stations in a market with at least 8 other independently owned stations there</td>
</tr>
<tr>
<td>National Radio</td>
<td>One company may own:• 20 AM and 20 FM stations</td>
<td>Rule eliminated</td>
</tr>
<tr>
<td>Local Radio</td>
<td>One company may own:• 2 AM and 2 FM stations in a market• with 25% audience share or less</td>
<td>One company may own:• up to 8 stations [with no more than 5 FM or 5 AM], depending on market size</td>
</tr>
<tr>
<td>Sector</td>
<td>Before 2017 Changes</td>
<td>After 2017 changes</td>
</tr>
<tr>
<td>Local TV</td>
<td>One company may own:• two stations in a market if there are at least 8 other independently owned stations there</td>
<td>Rule eliminated</td>
</tr>
<tr>
<td>Radio/Television Cross-Ownership</td>
<td>One company may own:• 2 TV stations and 1 radio station in most markets</td>
<td>Rule eliminated</td>
</tr>
<tr>
<td>Newspaper/Broadcast Cross-Ownership</td>
<td>One company may NOT own:• a full-power broadcast station (AM, FM, or TV) and a daily newspaper in the same market</td>
<td>Rule eliminated</td>
</tr>
</tbody>
</table>

Sources: Aufderheide (1999); Federal Communications Commission (2017).

The FCC also restricted certain types of cross-ownership. Common ownership of a television broadcast station and a cable system in a single market is prohibited, for example. Also, a single company could not own both a daily newspaper and a broadcast outlet (radio or TV) in a single city—except in the 20 largest markets, where there were at least

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eight independent media outlets. The aim was to prevent monopolistic control of media in a local market. But this rule, too, was eliminated in 2017.

Media companies regularly work to have ownership limits relaxed, and they have plenty of opportunity to succeed: The 1996 Telecommunications Act requires that, every four years, the FCC reviews all of its broadcast ownership rules with an eye toward eliminating or modifying any that are no longer in the public interest due to increased media competition. Some observers have seen an unprecedented threat emerging from the consolidation of media ownership into fewer and fewer hands. As far back as 1995, Reuven Frank, former president of NBC News, suggested that

it is daily becoming more obvious that the biggest threat to a free press and the circulation of ideas is the steady absorption of newspapers, television networks and other vehicles of information into enormous corporations that know how to turn knowledge into profit—but are not equally committed to inquiry or debate or to the First Amendment. (quoted in Shales 1995: C1)

In the decades since that statement, the trend toward less regulation and more concentrated ownership has continued.

One clear way in which government can intervene in the media industry, then, is by regulating ownership of media outlets. By preventing monopoly ownership of media, the government attempts to act in the public interest because control of media information by a few companies may well be detrimental to the free flow of ideas. Through such regulations, the government prevents media giants from acquiring control of the media market.

Copyright and Intellectual Property

Rap music fans know Public Enemy’s 1990 album, *Fear of a Black Planet*, as an early classic in the genre. The album epitomized the group’s “wall of noise” approach that layered sound fragments cut from other recordings into a new and unique composition. Although Public Enemy’s use of nearly a hundred samples on the album was extreme, frequent sampling was a common practice during the “golden age of hip-hop” in the late 1980s. But that age was over in 1991 when a U.S. District Court ruled in *Grand Upright Music Ltd. v. Warner Bros. Records Inc.* that artists were breaking copyright laws if they sampled sounds from other people’s work without first obtaining permission from the copyright owners. The ruling changed music forever because bands could not afford to pay the permissions fees for so many different samples. Instead, contemporary recordings that use the technique typically sample only a few sounds to keep costs down.

In 2010, Benjamin Franzen directed a documentary film about music sampling and copyright law. In it, he used more than 400 unlicensed music samples. But despite the title of his film, he and his collaborators were not *Copyright Criminals*. That’s because their work is protected under the “fair use” provision of copyright law that allows creators to quote from copyrighted works without permission for the purposes of education, commentary, criticism, and other transformative uses (McLeod 2010). Ironically, the film is available for sale in a copyrighted DVD version.

The case of music sampling and the “fair use” exemptions illustrate the complicated world of copyright laws that have developed since the copyright clause of the Constitution
and the original 1790 Copyright Act. Those laws protect the sale and distribution of this book. If you flip to the beginning of this book, you will find a copyright page that includes the publication date of the book, the name and address of the publisher, and a statement of copyright. This copyright statement reads, “All rights reserved. No part of this book may be reproduced or utilized in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without permission in writing from the publisher.” This statement, enforced by government laws and regulations, makes it illegal for someone to simply copy and sell this book without permission from the publisher. Such regulations exist to protect both the publisher, who collects income from the sale of books, and the authors, who receive royalty payments from publishers for each new copy of the book that is sold. Because they have invested the time and money necessary to create the book you are holding, the law says that they should control the right to sell, distribute, and profit from such sales. If the copyright laws didn’t exist, there would be no way for publishers and authors to earn a return on their investment.

Over the years, the government and the courts have extended copyright laws to include a wide variety of visual, sound, and computer software products under the rubric of intellectual property rights. It is illegal to copy and sell music CDs, digital music files such as MP3s, movies, and computer software. Likewise, it is illegal to use a copyrighted photograph in a commercial publication. We had to acquire permission to use all the photographs you see in this book. The media industry may not want government regulation in some matters, but in this case, it certainly does want government intervention. The government’s protection of copyright is crucial to the continued functioning of the media industry. Without government enforcement of copyright laws, the for-profit media industry would be unable to survive.

Copyright laws were originally intended to provide incentives for people to invest the time, effort, and resources necessary to produce new creations, while ensuring the public benefited from these efforts. In the original 1790 Copyright Act, authors were given exclusive rights to their work for 14 years, renewable one time if they were still alive, for a maximum of 28 years. After that, copyrighted works became part of the public domain, freely available for anyone’s use. However, media companies have since successfully lobbied Congress to repeatedly extend the period covered by copyright. The “Copyright Term Extension Act” of 1998 is sometimes known as the “Mickey Mouse Protection Act” because of Disney’s key role in lobbying for its passage. It extended copyright to cover an individual creator’s lifetime plus 70 years or, in the case of corporate authorship, 120 years after creation or 95 years after publication, whichever is shorter. Advocates argue this allows creators to pass on the benefits of lucrative work to their heirs or profit reasonably from their creation. Critics argue this undermines the entire purpose of copyright

The FBI’s anti-piracy warning label can be used to accompany copyrighted content, including films, audio recordings, electronic media, software, books, and photographs. The language that accompanies the warning notes that “[t]he unauthorized reproduction or distribution of a copyrighted work is . . . punishable by up to five years in prison and a fine of $250,000.”
law to both incentivize creativity and also support a robust public domain while enriching media corporations that are often the holders of copyright.

In recent years, creators seeking to enrich the public domain have developed alternative approaches to copyright, such as Creative Commons licenses. Creative Commons is a nonprofit organization that offers free legal tools to protect the use of creative work while maximizing the amount of material that is available for free and legal sharing, use, repurposing, and remixing (Creative Commons 2018). Unlike traditional copyright, Creative Commons licenses allow creators to give users specific rights to use their work while giving the creators the option of having “some rights reserved” (Lessig 2005). (See Figure 4.2.)

REGULATING CONTENT

While the regulation of ownership raises fundamental questions about the relationship between government and media, a different set of issues is raised with respect to the regulation of media content itself. However, the basic dynamic of structure and agency remains. We consider a few examples.

Accuracy: Advertising

Perhaps the most widely accepted regulation of media content is the regulation against fraudulent or deceptive advertising by a variety of different agencies:

- The Federal Trade Commission (FTC) monitors ad industry practices and enforces truth-in-advertising laws across all media. It handles most cases of deceptive or fraudulent advertising, paying special attention to products that can have health consequences, such as over-the-counter drugs.
- The Food and Drug Administration (FDA) regulates advertising of prescription drugs.

Source: Creative Commons (2018).
• The Transportation Department oversees airline advertising, preventing hidden fees by requiring that any price advertised is the “full fare” that the customer would pay.

• The Treasury Department’s Bureau of Alcohol, Tobacco, and Firearms (ATF) regulates most tobacco and alcohol advertising.

• The FCC is responsible for overseeing children’s television ads.

Such regulations aim to ensure that advertising is truthful and transparent and that the products being promoted are safe.

The agencies’ efforts protect the public against fraudulent or deceptive advertising. Segments of the advertising industry have a reputation for hucksterism that involves, at best, the distortion of fact and, at worst, wild claims that echo turn-of-the-century patent medicine advertising. But misleading ads can be more subtle as well. On the internet, consumers can be deceived in covert ways. For example, about 15 percent of all customer reviews on sites like Yelp! and Amazon are fake, with many of them paid for by advertising and public relations (PR) firms (Weinberg 2016). Other companies provide free products to bloggers in exchange for a favorable mention in a post. Since 2009, though, anyone paid in cash or with free products to provide an online endorsement of a product must disclose this arrangement to readers; otherwise it is considered deceptive advertising. Although difficult to enforce, the FTC periodically cracks down in highly visible cases, including charging one PR firm with having their employees post video game reviews at the iTunes store while posing as satisfied customers (Sachdev 2010).

Advertising regulation is also intended to promote safety, especially when the ads are targeted at minors. For example, the ATF regulates advertising for products such as alcohol and tobacco. Cigarettes cannot be advertised on television, and tobacco company ads are banned at televised sporting events. Also, the FDA requires that ads for prescription drugs disclose potential side effects.

Although the government regulates advertising, it also helps the advertising industry in a variety of ways. Most advertising is a tax-deductible business expense, saving businesses millions of dollars annually and helping support the advertising industry. The Department of Agriculture provides subsidies for advertising particular commodities. Postage rates subsidize magazines and newspapers that are filled with advertisements. Each election cycle brings a windfall of political advertising to television and radio stations. Finally, the government is a direct purchaser of advertising, spending more than $945 million on advertiser services in 2010, including $545 million on military recruiting advertisements (Kosar 2012).

So in this area, too, fundamental issues of constraint and agency emerge as government seeks to protect the public from misleading sales pitches, and advertisers, in turn, seek to protect the benefits they receive from government.

Diversity: The Fairness Doctrine

Although media have tremendous potential to inform citizens about events and issues, they also have unparalleled potential for abuse by political partisans and commercial interests. The government once attempted to protect against abusive media domination
with the Fairness Doctrine, an example of media content regulation in the public interest (Auferheide 1990; Cronauer 1994; Simmons 1978).

In 1949, based on the idea that the airwaves were a scarce resource owned by the public, the FCC adopted a policy that broadcast licensees “devote a reasonable percentage of their broadcasting time to the discussion of public issues of interest in the community served by their stations” and, second, “that such programs be designed so that the public has a reasonable opportunity to hear different opposing positions on the public issues of interest and importance in the community” (13 FCC 1246 [1949] in Kahn 1978: 230). Although the specific dimensions of the Fairness Doctrine evolved over time, the two basic provisions—requiring broadcasters both to cover public issues and to provide opportunity for the presentation of contrasting points of view—remained intact. These criteria were considered a public service obligation and could be used in reviewing a station’s application for license renewal.

The goal of the doctrine was to promote serious coverage of public issues and to ensure diversity by preventing any single viewpoint from dominating coverage. The Fairness Doctrine never suppressed views, but it sometimes required additional speech to ensure vigorous debate and dissent. FCC involvement in any Fairness Doctrine case came only after someone filed a complaint. Over time, competing actors tried to use and, in some cases, abuse the Fairness Doctrine. The Kennedy, Johnson, and Nixon administrations, for example, harassed unsympathetic journalists by filing complaints under the Fairness Doctrine (Simmons 1978). But in many more cases, the doctrine enabled the airing of opposing views that the public would not otherwise have heard, thus fulfilling its intended purpose.

When the broadcast industry challenged the legality of the Fairness Doctrine in 1969, the Supreme Court unanimously upheld the policy based on the scarcity of broadcast frequencies. Two decades later, though, cable had arrived, bringing new media outlets that didn’t rely on the airwaves. As part of the Reagan-era push for broad deregulation, the FCC voted in 1987 to no longer enforce the Fairness Doctrine.

In the ensuing years, various attempts to revive the Doctrine occurred. In 2007, a study jointly issued by liberal/progressive media groups revealed that more than 90 percent of the political talk radio programming on the stations owned by the top five commercial companies was conservative leaning (Center for American Progress and Free Press 2007). The authors cited two related factors for this development. First, as we saw earlier, limits on radio station ownership had been eliminated in 1996, resulting in large, centrally owned radio networks that often aired cheap-to-produce, nationally syndicated programming. Second, the repeal of the Fairness Doctrine meant this programming could now feature just one viewpoint. Although they didn’t call for the Fairness Doctrine’s return per se, the authors did hope to encourage more diverse program content through the following:

- Restoring local and national limits on the ownership of commercial radio stations
- Ensuring greater local accountability over radio licensing
- Requiring commercial owners who fail to abide by enforceable public interest obligations to pay a fee to support public broadcasting
The effort not only failed; it helped spark a backlash from conservatives and the radio industry that led to the formal repeal of the Fairness Doctrine in 2011, which had been unenforced for a quarter century but was still on the books.

The saga of the Fairness Doctrine harkens back to a day when liberals hoped for mainstream democratic media that featured serious coverage and robust debate of current affairs. In fact, much of mainstream broadcast and cable media has evolved into more isolated pockets of programming with distinctly ideological slants: Fox News and talk radio for conservatives, MSNBC for liberals, and so on. The internet, too, facilitates content with a single viewpoint aimed at niche audiences rather than content with diverse views aimed at a general audience. As we will see in Chapter 9, such developments continue to raise serious concerns about the media’s impact on democracy.

**Morality: Obscene Materials**

The United States has a long history of regulating sexually explicit material on moral grounds. As early as 1711, the “government of Massachusetts prohibited publication of ‘wicked, profane, impure, filthy and obscene material’” (Clark 1991: 977). The debates that have ensued ever since often focus on the definition of obscenity.

Legally, obscene material is different from both pornography (sexually arousing material) and indecent material (material morally unfit for general distribution or broadcast). Pornography and indecent material are legal, although the government may regulate their broadcast or distribution. The government outlaws only obscene material. (The major exception is that the government also outlaws sexually explicit materials involving children, regardless of whether it judges such material to be obscene.) A 1973 Supreme Court decision set the standard for determining what is to be considered obscene—and thus beyond First Amendment protection. Material is deemed obscene if it fails a three-prong test that asks

1. whether the average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to prurient interest; (2) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by applicable state law; and (3) whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value. (in Clark 1991: 981)

The courts have used this definition to limit the production and distribution of printed materials, films, and computer-based material.

Various laws regulate materials that are sexually explicit but not obscene. For example, merchants cannot legally sell pornographic magazines and videos to minors. Laws also restrict what broadcasters can air on radio and television. Because children are likely to be tuned in, the FCC prohibits the broadcast of indecent material between 6:00 a.m. and 10:00 p.m. The idea in this situation is to protect children from being exposed to material that may be too mature for them (FCC 2017). Periodic attempts have been made to remove all indecent programming from the airwaves, but the courts have generally supported the position that the First Amendment protects indecent material.

The internet raised new questions about whether and how to limit sexually graphic material. Minors with access to a computer can easily obtain sexually explicit materials from online sites, which would be illegal for them to acquire in their print or video versions.
They can also take part in online discussion groups that involve sexually explicit material. Should the government ban such online material because it is available to minors? Should public libraries offering internet terminals install filtering software to prevent access to objectionable sites? Such questions continue to be debated.

Producers of sexually explicit material argue that the internet should be treated like print media and thus remain unregulated. Internet producers do not use the public airwaves and are not distributing or broadcasting the material; minors must take the initiative to access sexually explicit online sites. In addition, internet filter software is available if parents want to restrict their children's access to some types of internet sites and protect them from predators. Opponents argue that the internet should be treated more like a broadcast medium and thus that its content should be subject to government regulation. Accessing an internet site, they argue, is no different from tuning in to a particular television channel.

An initial pro-regulatory position was supported by the enactment of the Communications Decency Act (CDA)—a part of the 1996 Telecommunications Act—that outlawed the transmission of sexually explicit and other indecent material on the internet. However, before the year was up, free speech activists had sued, and the courts ruled the CDA to be unconstitutional. The 1998 Child Online Protection Act (COPA 1998), also popularly referred to as CDA II, was narrower than the original CDA in that it was limited to creating criminal penalties for any commercial distribution of material deemed “harmful to minors.” After years of court battles, though, that law was also struck down in 2009.

One of the problems with COPA was that it relied on the “community standards” clause of the legal obscenity definition to determine which material was inappropriate. Because material on the internet may originate in one place but be accessible worldwide, which community is supposed to set the standard? The notion of a self-contained community implicit in the Supreme Court's 1973 obscenity decision is not applicable to the internet. Today, pornographic materials—some of which would likely meet legal obscenity standards—are readily available online from sites both in and out of the United States, raising new challenges for regulation of any sort.

**Self-Regulation: Censorship and Ratings**

One way content is monitored is by industry self-regulation rather than formal government involvement. The rating and warning systems devised for different media fall into this category (Gentile 2009; Gentile and Murray 2014). These ratings typically alert parents to content that may not be appropriate for children.

**Movie Censorship and the Ratings System**

One well-known example of self-regulation is that used for the motion picture industry. Before 1934, Hollywood films could be surprisingly frank for their time. For example, women were sometimes portrayed as sexually forthright, as in 1933’s *I’m No Angel*, when a character played by Mae West—one of the most famous actresses of the day—quips suggestively, "Is that a gun in your pocket are you just happy to see me?" (in Wu 2011: 118).
That changed dramatically when a group of Catholic activists calling themselves The Legion of Decency lobbied the president of the Motion Picture Producers and Distributors of America (MPDA), William Hays, to adopt a strict code regulating movie content (Wu 2011). Concerned about a possible loss of profits at the box office if the Catholic group protested and about possible government regulation in response to the group’s concerns, Hays agreed to implement the code. From 1934 up to the 1960s, the “Hays Code,” as it came to be known, enabled the Legion of Decency and the MPDA (later renamed the Motion Picture Association of America [MPAA]) to work together to censor films without any government involvement.

Sometimes tinged with anti-Semitism, the Legion of Decency blamed “Hollywood Jews” for undermining morality in America. The code they created resulted in sanitized films. For example, dance could not be sexually suggestive, and married couples could not be shown in anything other than twin beds. But its most important impact was in dictating an entire approach to moviemaking that uncritically reaffirmed prevailing norms and values. Crime could occur in a movie, for example, but justice needed to prevail, and the audience could not be asked to sympathize with a criminal. The result was that Hollywood films in the 1930s, 1940s, and 1950s were largely simplistic morality tales that wrapped up in “Hollywood endings”—neat and unambiguous conclusions that reinforced respect for authority, confirmed that all was right with society, and excluded anything remotely critical of dominant social institutions, including marriage, government, the justice system, and religion.

Such comprehensive self-censorship was possible only because movie industry ownership was so centralized—a classic example of the dangers of a media industry monopoly. The Hollywood “studio system” featured single companies that owned both production studios (with writers, directors, and actors often under exclusive, long-term contracts) and the theater chains where films were exhibited. That centralized control began to erode in 1948, when the Supreme Court ruled that the Hollywood studio system was an illegal restraint of trade, and over the next few years, theater and studio ownership were separated. (We discuss additional details of this case below.)

Free now to show whatever films they wanted, some theaters began importing foreign films that were more cerebral and openly erotic than the sanitized, simplistic American movies. After seeing the popularity of these films, U.S. studios began to change in the 1960s, producing more complicated, countercultural, and challenging films. Some of these movies were controversial because of their sexuality, violence, explicit language, and mature themes. Such controversy led to public concern and calls for new controls. Congress seemed poised to require a rating system. To ward off government regulation, the MPAA in 1968 collaborated with theater owners and film distributors to develop a rating system that filmmakers would adopt voluntarily. An anonymous panel of citizens representing a national cross section of parents would implement the new system by a process of majority vote.

For years, the rating system used G to indicate material appropriate for general audiences, PG to suggest parental guidance because some material might not be suitable for young children, PG-13 to caution that some material might be inappropriate for pre-teenagers, R to restrict access to adults or to those under 17 accompanied by a parent or guardian, and X to indicate a film intended only for adults.
This system presented some problems. First, theaters were notoriously lax in enforcing the supposedly restricted access of R-rated films and the FTC even found that 80 percent of the R-rated movies it studied were being marketed to children under the age of 17. In 64 percent of the cases, the industry’s own marketing plans explicitly stated that the target audience included children under 17 (FTC 2000).

In addition, the public came to associate the X rating with hard-core pornography, even though some films—like the 1969 Academy Award winner for best picture, Midnight Cowboy—received the rating because of its adult themes. The X rating could mean the kiss of death for a mainstream film because many newspapers would not carry advertising for X-rated films, and many theater owners refused to show such films. The MPAA had failed to acquire trademark protection for their rating system, and pornographers exacerbated the confusion in the public’s mind by informally adopting the rating of XXX—unrelated to the MPAA’s ratings—as a selling point in their advertising. Finally, in 1990, the MPAA replaced the X rating with a new NC-17 rating, indicating that theater owners would not admit children under the age of 17 (see Figure 4.3). It also made sure to acquire a trademark for this new system. The development pleased artists and producers, who hoped it would lead to the possibility of more viable adult-oriented films. Some religious and conservative groups, though, denounced the move as an attempt to acquire mainstream legitimacy for sexually explicit material.

**Television Ratings**

Movie ratings are an example where possible government regulation was enough to spark industry self-regulation. TV ratings are an example where government-imposed requirements were coupled with industry self-regulation, this time taking advantage of new technology. The Telecommunications Act of 1996 required development of a rating system for television programming along with the establishment of standards for blocking programming based on those ratings. In 1997, the NAB, the National Cable Television Association (NCTA), and the MPAA collaborated in producing the ratings system. It designated programs aimed at a general audience as either TVG (general audience), TVPG (parental guidance suggested), TV14 (unsuitable for children under 14), or TVMA (intended for mature audiences). In addition, children’s programming was divided into TVY (suitable for all children) or TVY7 (intended for children 7 and above). (The system exempted news, sports, and unedited motion pictures on premium cable channels.)

Parents’ groups complained that these broad ratings were too vague, so in 1998, additional ratings were added to create the current “age-plus-content” system. These guidelines add the designation FV (fantasy violence) in the TVY7 category and S (sexual situations), V (violence), L (coarse language), and D (suggestive dialogue) in the remaining categories. In addition, since 2000, the FCC has required that all new television sets must be equipped with the V-chip, capable of blocking programming based on the ratings system. This rating system has also been voluntarily adopted by most television streaming services—including Netflix, Hulu, and Amazon—and video vendors like Google Play and the iTunes Store.

**Music Parental Advisory Labels and Video Games**

The labeling of music lyrics is yet another example of industry self-regulation (RIAA 2018). Responding to the increasingly graphic sexual language in popular music lyrics, a
The film rating system is an example of industry self-regulation. Established by the Motion Picture Association of America (MPAA), the ratings are meant primarily to help parents decide whether or not a film is appropriate for their family. Television also uses similar ratings (see tvguidelines.org).

**FIGURE 4.3  ■ Content Ratings and Warnings**

The film rating system is an example of industry self-regulation. Established by the Motion Picture Association of America (MPAA), the ratings are meant primarily to help parents decide whether or not a film is appropriate for their family. Television also uses similar ratings (see tvguidelines.org).

**Source:** Motion Picture Association of America [2018].

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A group of Washington, DC, parents formed the Parents’ Music Resource Center (PMRC) in 1985. These weren’t just any parents, however. Their founding ranks included the spouses of six U.S. representatives and 10 U.S. senators (most notably, Tipper Gore, wife of then-Senator Al Gore). After organizing a well-publicized congressional hearing—dubbed by the media the “Porn Rock” hearings—the PMRC persuaded the recording industry to adopt a system of voluntary parental-warning labels.

At first, each record company designed its own labels, but in 1990, the companies adopted a standardized label that read “Parental Advisory: Explicit Lyrics.” The label is affixed to CDs, and the advisory logo is used by most online music stores. In recent years, about 5 percent of releases have carried the advisory logo. The warnings’ impact is amplified by the refusal of some retailers—most notably Walmart—to carry CDs that have the advisory (Fox 2006). Many artists agree to record “clean” versions of their songs that remove objectionable lyrics, so they can be sold without the advisory label.

In 1994, in response to government pressure, the video game industry set up its own body, the Entertainment Software Rating Board, to assign ratings to video games. This voluntary rating system followed in the tradition of films and television. Video game ratings, though, were widely ignored, and California later enacted legislation preventing juveniles from renting or purchasing violent video games. However, in 2011 the Supreme Court struck down the legislation, ruling that video games are a form of art protected by the First Amendment.

The “National Interest”: Military Censorship

What constitutes the “national interest” is a debatable topic, but governments sometimes regulate media to protect or advance what they define as the national interest—the goals and ambitions of a nation. One important case of such regulation involves direct and indirect military censorship.

During the Civil War, Union generals regularly read Southern newspapers to gain information about troop strength and movement. Ever since then, a tension has existed between the media’s right to provide information to the public and the government’s need to protect sensitive information during times of war.

The nature of this tension has varied at different points in history. During World War II, for example, the media voluntarily complied with military restrictions on information and in many ways helped promote the Allied war effort. A dramatic change in this cordial relationship occurred during the Vietnam War. After the media followed the military’s lead in the early years of the war, they later began reporting more independently in ways that military leaders sometimes thought was irresponsible. From the media’s perspective, the military’s publicity apparatus lost credibility with the press and a significant portion of the U.S. public. Well-publicized incidents of the Pentagon lying to the press and the public contributed to a highly skeptical tone in the media. As the war in Vietnam dragged on, the press corps so distrusted the information being provided by the Pentagon that they dubbed the afternoon military press briefings the “Five O’clock Follies.” The Vietnam War was also the first to be given extensive television coverage. While the government repeatedly claimed that victory was near, network television images of dying American soldiers and dissenting American demonstrators revealed a different reality.
The decision by the *New York Times* and *Washington Post* to publish the “Pentagon Papers” solidified this antagonistic relationship. The Pentagon Papers was the name given to a secretly commissioned Pentagon report—leaked to the press—that reviewed the history of the U.S. role in the region. Among other things, the report documented that, contrary to government assertions, the United States had played an active role in the 1963 overthrow and assassination of the South Vietnamese president and that years of massive U.S. bombing campaigns had not been effective in deterring the enemy. In fact, the report showed that American presidents and Pentagon officials had repeatedly lied to Congress and the public about the U.S. role in the region.

The experience in Vietnam led the military to take the offensive on two separate fronts. First, it developed a massive PR machine to project a more positive image of the military. Ironically, part of this effort involved hiring press personnel (at officer status) to provide expertise on how to handle the media. Second, the military began developing a strategy for controlling the dissemination of information through the media to the public. The central element of this strategy was the press pool (see Cheney 1992 and critical views in Bennett and Paletz 1994; Denton 1993; Jeffords and Rabinovitz 1994; Mowlana, Gerbner, and Schiller 1992; Taylor 1992).

Tested in the invasions of Panama and Grenada and fully implemented during the 1990–1991 Persian Gulf War, the press pool system controlled the information that journalists would report during a conflict by choosing which media personnel would be included in the press pool, controlling their means of transportation in the field, and permitting access only to predetermined locations. Military press personnel even monitored interviews with soldiers and screened media dispatches before publication. As a result of the restrictions, much information about the war that might have been controversial—such as the high civilian death toll or the fact that the U.S. military used huge bulldozers to bury Iraqi troops alive in their trenches—did not reach the public until well after the end of the war. President George H. W. Bush even prohibited pictures of the flag-draped coffins of U.S. soldiers being unloaded from planes that had returned to the United States. (This ban was lifted in 2009 by President Barack Obama.) Journalists bristled at these new restrictions, but the major media complied, sometimes posting a notice on the front page of their newspapers stating that U.S. military censors had approved all information about the war. Many critics thought the military had gone too far in restricting the press, but the Pentagon argued it needed to limit access to protect journalists, and the majority of the public supported the restrictions.

Public support for press restrictions continued as George W. Bush launched a “war on terror” in the wake of the September 11, 2001, attacks on the World Trade Center and the Pentagon. In this case, however, the Pentagon simply banned press personnel from covering the fighting, citing the need for secrecy for special operations forces. The press was given limited access to U.S. military personnel on aircraft carriers and in other staging areas, but they were prevented from accompanying troops in battle zones. Once again, the Pentagon largely succeeded in providing a sanitized version of the war and in avoiding the full coverage that characterized the Vietnam era.

During the 2003 invasion of Iraq, the U.S. military sought a more cooperative relationship with journalists. The centerpiece of the military’s media management approach in the Iraq War (as well as the ongoing war in Afghanistan) was a program of embedding reporters with troops in the field under the Pentagon’s ground rules. Rather than formally
reviewing and censoring news coverage, the embedded reporter program gave journalists access to the front lines. Embedded reporters traveled and lived with a military unit for weeks or months, sharing regular meals and conversation with the troops that they relied upon for protection (Cortell, Eisinger, and Althaus 2009). Reporters agreed to get consent from individual soldiers to include their names or hometowns in their reports and to exclude from their stories any information on strategic issues, such as troop movements, specific locations, or future combat plans.

Pentagon officials saw the embed program as an opportunity to shape public perception of the war by emphasizing the stories and experiences of U.S. soldiers. Critics have argued that embedded reporters lose their independence, becoming too reliant on military sources with whom they come to identify and thus framing news reports from the perspective of U.S. soldiers rather than neutral observers (Goodman and Goodman 2004). Subsequent research on the content of news coverage of the Iraq War found that embeds were far less likely than “unilaterals”—reporters who were not affiliated with the U.S. or British military—to produce stories about the reconstruction of Iraq or civilian casualties and presented far fewer images of wounded or dead Iraqis in their reporting. And, just as the Pentagon had hoped, embedded reporters were much more likely than unilaterals to focus their stories on U.S. troops, including quotes from and pictures of U.S soldiers (Aday, Livingston, and Hebert 2005).

In recent years, the internet has been used to challenge the control of information by the military (Hindman and Thomas 2016). For example, in 2010, WikiLeaks released a classified video showing a 2007 U.S. airstrike in Baghdad, Iraq, in which U.S. troops killed two Reuters employees whose cameras were mistaken for weapons. The video had been leaked by U.S. Army Private Bradley (now Chelsea) Manning, along with more than a quarter million diplomatic cables. WikiLeaks later released more than 90,000 of the documents Manning had leaked, providing considerable insight into the workings of the U.S. government and its diplomatic corps (The Guardian 2010).

The basic tension between an active press and a constraining military has centered on how much information the military has a right to control and how much the media has a right to reveal. The press typically has no problem with restricting information that might directly endanger U.S. troops. History shows, though, that the government has sometimes invoked “national security” when restricting the media in an effort to hide embarrassing or controversial information from the public. As a result, debates about the role of government restrictions and the responsibilities of a free press—even in times of conflict—will certainly continue.

### REGULATING ACCESS AND DISTRIBUTION

Another category of regulations is those that limit—or protect—media access and distribution. A few examples are described here.

#### Net Neutrality

In 2000, America Online, an early dial-up internet service provider (ISP), merged with Time Warner, one of the largest traditional media conglomerates. A key idea behind the
blockbuster move was that AOL could deliver its internet users to a “walled garden” of mostly Time Warner content, providing benefits for both companies. The idea failed miserably, and the companies formally split up just eight years later. It turned out that internet users did not want to be confined or steered to content chosen by their ISP; they wanted to have easy access to the entire internet (Wu 2011).

The Concept of Net Neutrality
The idea that ISPs should simply offer access to the internet and be “neutral” in their handling of internet traffic became known as “net neutrality.” For the most part, net neutrality existed long before the term was coined. The internet was designed as a neutral platform upon which all sorts of data types could travel. Hobbyists and independent start-ups could create and post content right alongside major corporate players, available on an equal basis to anyone with internet access. Search engines gave the users power (although not complete control) to find whatever content they were looking for; the ISP merely provided access.

But as the AOL Time Warner example shows, there was always interest in creating a different sort of internet experience that would presumably be more profitable for ISPs. To prevent such efforts and to protect the open internet, public interest advocates began calling for the establishment of formal “net neutrality” regulations that would require ISPs to treat all internet traffic equally. They would not be able to limit or favor access to particular sites or speed up or slow down traffic from particular sites. The idea turned out to be controversial (Coldewey 2017; Free Press 2018; Madrigal and Lafrance 2014; Public Knowledge 2018; Reardon 2015; Wu 2017).

The Policy Battle
ISPs argued net neutrality was a solution in search of a problem. The marketplace, they assured the FCC, would take care of consumers without the need for government regulation. ISPs like Verizon and Comcast opposed net neutrality, whereas a wide variety of internet producers and tech giants who relied on an open web, like Google and Facebook, mostly supported it. The public overwhelmingly supported net neutrality regulation.

In 2010, the FCC issued an Open Internet Order that fell far short of true net neutrality because, among other things, it allowed cable and phone companies to charge for access to data-heavy websites and exempted wireless service providers. For the first time, this industry-friendly “compromise” created a two-tier internet where wireless service providers could discriminate against any site they chose (Karr 2010; Stelter 2010).

Despite the order’s limited reach, Verizon and other ISPs launched a legal challenge, and in 2014 they won their case on a question of technical classification that had been around ever since internet, cable TV, and telephone service converged in the 1990s. With the lines between those technologies largely erased, should broadband internet service be considered a cable service, a telecommunication service, or an information service? Each legal designation brought with it different types of regulation. Now the court’s ruling turned on this classification question, which affirmed that the FCC had the right to regulate internet access, but it could not do so without reclassifying the internet as a “common carrier” telecommunication service rather than the existing information service.
In the wake of the ruling, more debate and compromise proposals followed, with the FCC proposing an alternative that would allow “fast” and “slow” internet lanes. A public outcry ensued, including a highly visible online “Internet Slowdown Day” in September of 2014 in which a variety of public interest groups and internet producers urged opposition to the watered-down FCC proposals. Finally in 2015, on a 3–2 Democratic majority partisan vote, the FCC reclassified broadband providers as “common carriers” and issued an Open Internet Order that banned paid “fast lanes,” blocking, and “throttling” slowdowns on both wired and wireless services. ISPs challenged the order in court, but this time they lost.

The victory, though, was short-lived. With the inauguration of President Donald Trump in 2017, the new FCC majority tilted to the Republicans, and the new FCC chair announced plans to eliminate net neutrality regulations. Despite yet another public outcry and an online Day of Action, the FCC, in another 3–2 partisan vote, eliminated the Open Internet Order that mandated net neutrality. As of this writing in early 2018, legal challenges are pending, but net neutrality is no longer the law of the land.

The Implications

In the absence of net neutrality regulations, some ISPs have wanted a different, more profitable, internet system that favors some content providers over others, especially when delivering access to mobile devices. Although there are many hypothetical ways ISPs could gain advantages from doing this, there are existing practices that already violate the net neutrality principle, including the following:

- **Pay-for-play “zero-rating.”** AT&T’s “Sponsored Data” program and the “FreeBee Data” program from Verizon Wireless are arrangements that give preferential treatment to content providers who pay a fee to have their content “zero-rated”—that is, exempted from the data limits on users’ plans (Brodkin 2016). For example, if you are a video streaming service, by paying a fee to one of these ISPs, users can stream unlimited videos from your site without using up their data allotments; if you don’t pay, users eat up their available data every time they access your site. Such arrangements favor larger, more established content providers who can afford these fees while making it harder for new or smaller providers to be competitive. In early 2017, the FCC (2017) found that such plans violated net neutrality principles, but in the absence of net neutrality regulations, they are now legal.

- **Tiered access.** A different model can be found in Europe where sometimes “zero-rated” sites are paid for by the consumer directly, through tiered services that resemble cable packages. In one example, Portugal telecommunications service provider, MEO (2018), offered a basic plan with “free” access to their own generic services. To get access to better-known sites and services, users had to pay additional fees for each package such as “email and cloud” services (e.g., Gmail and iCloud); “messaging” (e.g., iMessage, WhatsApp, Skype, and Facetime); “social” (e.g., Facebook, Twitter, Pinterest, Snapchat, and Instagram); “music” (Spotify, Pandora, SoundCloud, and TuneIn.); and “video”
In such cases, not only is internet access tiered by price, but the ISP chooses which sites and services to include in their packages.

- **Unfair competition.** There are a number of other examples of ISPs using their technology to give themselves an unfair advantage (Karr 2017). For example, from 2007–2009, AT&T—then the exclusive carrier of the iPhone in the United States—had Apple block iPhone access to Skype and other internet-based phone products that competed with some of AT&T’s services. In 2013–2014, service slowdowns—known as “throttling”—from some data-heavy sites like Netflix were found to have been caused deliberately by major broadband providers by limiting the data transfer capacity at key interconnection points.

ISPs, though, continue to argue that net neutrality is an unnecessary regulation that interferes with innovation in the marketplace. As a result, the battle over net neutrality is ongoing.

### Vertical Integration: Movies, TV, and Streaming

We saw in Chapter 3 that vertical integration occurs when one owner acquires all aspects of production and distribution of a single type of media product. Such arrangements can lead to unfair competitive practices, have prompted regulatory intervention in the past, and are still a concern today.

#### The Hollywood Studio System

The biggest and best-known example of vertical integration involved the Hollywood “studio system” that emerged in the late 1910s through 1948 (Wu 2011). Fleeing the monopolistic domination of the early New York-based Film Trust (discussed in Chapter 2), early independent movie producers set up shop in southern California. They succeeded in reaching new urban ethnic audiences of the day and soon attracted major financing that enabled higher-quality productions that reached broader audiences. When the courts ordered the trust dissolved in 1915 due to its monopolistic practices, the movie industry became a competitive one.

Ironically, the growing Hollywood studios, led by Paramount, soon developed their own monopolistic practices. They had already inked star actors and writers to long-term contracts that shackled them to a single studio; now they combined film production with distribution, insisting that theaters pay for “block booking” deals up to a year in length.
Under “block booking,” if a theater wanted to show major movies featuring star actors of the day, it also had to pay and exhibit the studios’ less desirable films. Sometimes theaters had to sign such contracts before the films had even been produced. Theater owners tried resisting by collectively financing their own production efforts, but the major studios responded by buying up a critical mass of more than 1,000 theaters nationwide. Each studio’s theaters would only show films produced by the studio-owner. This was the fully integrated “studio system,” controlling creative talent, production, distribution, and exhibition.

Such an arrangement was in violation of the Sherman Antitrust Act. In 1921, the FTC began investigating Paramount for antitrust practices, but studios resisted, and the system remained in place until it was finally broken up by the Supreme Court in 1948, when the court ordered the studios to sell off their theater chains. A watered-down version of the “studio system” comprising a few major studios with creative talent under long-term contract continued to exist through the 1960s, but after the Supreme Court ruling, it never again included theater exhibiton.

Television’s Fyn-Syn Regulations

The lessons of the Hollywood studio case informed the FCC’s much less-known regulation of broadcast television programming. Although the medium was different, the concern again was preventing monopolistic practices by separating ownership of content from ownership of exhibition, thereby preventing vertical integration.

Through much of television history, the TV networks generally did not own the programs they broadcast. They merely bought the rights to broadcast programs produced by others. The “fin-syn” (financial interest and syndication) rules, established in 1970, limited the ability of the three major TV networks (ABC, CBS, and NBC) to acquire financial interests or syndication rights in television programming (Crawford 1993; Flint 1993; Freeman 1994a, 1994b; Jessell 1993). (In syndication, a producer sells the rights to rebroadcast a program.) The fear was that the three networks—which shared an oligopoly in television broadcasting in 1970—could also dominate programming industry-wide if they were able to own and control the creation and syndication of programming. Regulators theorized that they could encourage the emergence of a more competitive marketplace of program producers by forcing the networks to buy programming from independent producers.

For more than two decades, the fin-syn rules were the law of the land. During that period, though, the landscape of American television broadcasting changed dramatically. Finally, in 1993, a U.S. district court ruled that networks were not subject to many of the FCC’s fin-syn regulations because competing cable stations and the emergence of new networks and independent stations precluded them from monopolizing production and syndication. Again, changes in technology were a factor in changing how government regulates media.

The changed FCC rules meant that, among other things, networks could now acquire financial interests in and syndication rights to all network programming. This encouraged vertical integration and shifted power from studios and independent producers to television networks (Bielby and Bielby 2003). Before the changes, network production was limited to a maximum of 20 percent of a network’s prime-time programming. One
year after the changes in regulation, the “Big 3” networks either produced in-house or had financial interests in about half of all prime-time programming. By the 2007–2008 season, for example, in-house production accounted for two-thirds of prime-time programs on the four major networks. The major studios that own networks—Disney (ABC), Universal (NBC), 20th Century Fox (Fox), and Warner Brothers (CW)—produced about 90 percent of the series on the major networks (Kunz 2009). Independent producers were largely left out of this closed system of production. But the new rules were a very lucrative opportunity for networks to generate more revenue, at no additional cost, by licensing long-running programs they produced to appear in reruns on other stations. For example, NBC generated $130 million by selling syndication rights to its popular comedy *The Office* (Dempsey and Adalian 2007).

The fin-syn debates, in all their inside details, illustrate some of the basic tensions that exist in the media industry. The unbridled growth of major media conglomerates potentially threatens small media producers. In turn, major conglomerates argue that monopolistic control is no longer possible because we live in a diverse media world with many options. The question for policymakers is whether the government needs to use any regulatory constraint to control the actions of the large media corporations.

**Netflix and the Streaming Wars**

The issue of potential monopolistic practices reappeared when Netflix emerged as the market leader in streaming services, reaching more than 100 million subscribers in 2017 (Koblin 2017; Spangler 2017a). Once simply a distributor of others’ content via DVDs by mail and, later, by streaming, Netflix began investing its massive subscription revenues into producing original content with the release of *House of Cards* in 2013. It went on to produce dozens of original series, spending $8 billion on original programming in 2018 alone—much more than rival streaming services. A full quarter of Netflix spending on content was dedicated to original programs—including 80 films released in 2018—with the aim of making such original content half of its available catalog by 2019.

With Netflix prioritizing original programs, the number of titles by outside producers dropped by 50 percent between 2012 and 2016 (Feldman 2016). Netflix’s efforts prompted moves by competing streaming services aimed at attracting or retaining subscribers. The parent companies of streaming rival Hulu—including 21st Century Fox, Comcast, Disney, and Time Warner—signaled that their content would no longer be available to Netflix but would instead stream exclusively on Hulu. Disney even announced a 2019 launch of its own streaming service, focusing on its own productions. Consumers interested in seeing their favorite content—regardless of who produced it—were now faced with the expensive prospect of having to subscribe to multiple streaming services.

At this writing, the outcome of the streaming wars is still uncertain. Will Netflix subscribers miss having access to content from a variety of producers and begin abandoning the service? Or will Netflix be able to exploit its market dominance in distribution to continue financing exclusive hit shows that viewers are willing to pay for? Will the struggling cable industry intervene, perhaps negotiating to provide bundled streaming service from multiple providers, much like traditional cable television packages? Will regulators see a reason to intervene to limit vertical integration again? None of the answers to such questions are yet clear.
However they turn out, the streaming wars once again raise questions about the impact of vertical integration in the media industry, echoing the studio system and fin-syn debates. These debates are yet another illustration of the tension between structure and agency. Government intervention protects media producers’ copyright interests but also potentially limits how these producers can operate. They illustrate some of the ways that market forces can be subverted when the power of ownership is concentrated in a few hands. They also suggest that, in some cases, regulations can help to protect smaller producers and media users as well. Once again, regulations constrain some and benefit others.

Social Media Platforms

Every January, Facebook CEO Mark Zuckerberg announces a New Year’s project for himself, such as learning Mandarin, reading a book every two weeks, or taking a tour of the United States to meet someone from every state. In 2018, though, he announced something rather different: He would focus on trying to fix some of Facebook’s many problems, acknowledging that “we currently make too many errors enforcing our policies and preventing misuse of our tools.” Facebook would focus, he wrote, on “protecting our community from abuse and hate, defending against interference by nation states, [and] making sure that time spent on Facebook is time well spent” (Zuckerberg 2018).

The announcement came after a year of growing public backlash against Facebook and other social media platforms. The public learned that Russian interference in the 2016 U.S. presidential election involved spreading false and inflammatory advertising and messages via online platforms such as Facebook, Twitter, and Google. At the same time, incidents of online racist and misogynistic hatred, as well as the online promotion of terrorism, gained prominence on YouTube and social media sites. Finally, popular concerns about the negative impact of extensive smartphone and social media use by young people grabbed the headlines. (These are all topics we explore in Chapter 9.)

Any one of these issues could easily spark the interest of media regulators; together they were a potential tsunami heading straight for Facebook and other media and tech companies. During congressional hearings about Russian election interference, one Democratic senator bluntly cautioned executives from Facebook, Google, and Twitter, “You’ve created these platforms, and now they are being misused. And you have to be the ones to do something about it, or we will” (Timberg, Shaban, and Dwoskin 2017). “We take what happened on Facebook very seriously,” admitted Facebook’s lead attorney, Colin Stretch. “The foreign interference we saw was reprehensible” (Pierson 2017).
Such acknowledgements were new. Facebook, Twitter, Google, YouTube, and other online companies had earlier refused to take responsibility for how their sites were used. After misinformation was spread during the 2016 election, Twitter executives had proclaimed, “We, as a company, should not be the arbiter of truth” (Crowell 2017), and Zuckerberg had scoffed, “The idea that fake news on Facebook . . . influenced the election in any way I think is a pretty crazy idea” (Sullivan 2016). But just a few months later, Zuckerberg was apologizing in a Yom Kippur (the Jewish Day of Atonement) post, “For the ways my work was used to divide people rather than bring us together, I ask forgiveness and I will work to do better” (Zuckerberg 2017). Zuckerberg’s New Year’s announcement was another step in the turnaround and a not-so-subtle message that Facebook now took these issues seriously and intended to address them. It was squarely in the tradition of media companies hoping to stave off government regulation by taking actions to police themselves.

What Are Platforms?

Traditional print, broadcast, and cable media operate as gatekeepers and are responsible for deciding who and what to publish or air. The internet enables ordinary users to bypass gatekeepers and publish content on their own websites and blogs. Social media platforms are somewhere in the middle; they usually don’t generate original content, relying instead on user-generated material from amateurs and professionals, but they (along with search engines) operate with various algorithms that filter content and steer users toward “recommended” material.

These companies have long argued that, because they didn’t create the content, they are not media companies; they are merely technology “platforms” that host the work of others. Mark Zuckerberg once stated flatly, “We’re a technology company. We’re not a media company” (CNN 2016). One key reason for this position is that the 1995 Communications Decency Act protects computer service providers from liability for the content they carry if it is not produced by them (Electronic Frontier Foundation 2018). The provision was created before Facebook, Twitter, and YouTube existed and was meant to protect ISPs and web hosting services but could now be applied to social media platforms.

But social media platforms and search engines are different. Facebook’s News Feed has operated much like a traditional print newspaper’s front page, steering users to certain news of the day. Over 60 percent of Americans get news from social media sites, including two-thirds of Facebook users (Gottfried and Shearer 2016). Meanwhile, trending hashtags on Twitter flag breaking news for users, and Google search results steer users toward certain stories and media outlets. And the algorithms behind these services are not neutral; they intentionally steer particular users toward content they are likely to find most engaging, enticing them to return to the site again and again. As we will explore in Chapter 9, various users found ways to exploit these algorithms to steer their deceptive messages to receptive audiences, often out of sight of most users.

The 2017–2018 period seemed to be a turning point of sorts as public understanding grew of how these sites operate in ways that mimic media companies. As one business journalist put it in a column of the same name, “Facebook and the rest of Big Tech are now Big Media, and it’s time we start treating them that way” (Kovach 2017). Even the pronouncements of tech executives evolved. At the end of
2016, Zuckerberg signaled the coming shift, now acknowledging that “Facebook is a new kind of platform. It’s not a traditional technology company. It’s not a traditional media company” (Constine 2016). The backlash against Facebook for its role in the Russian interference in the 2016 election included a #DeleteFacebook campaign that helped reduce its stock price by more than 15 percent. When Zuckerberg was called to testify in 2018 Congressional hearings, his position had shifted again. “I agree that we’re responsible for the content,” he now said. “But we don’t produce the content” (Roose and Kang 2018).

So what are social media platforms, and should they be regulated? Those are questions that are yet to be fully resolved.

**Social Media Regulation**

Some steps toward regulating social media platforms and other internet companies have already taken place, especially regarding copyright enforcement. Courts in the United States and abroad have long held platform providers responsible for copyrighted content illegally posted on their sites. For example, by using specialized software to search each other’s hard drives, early peer-to-peer (P2P) platforms allowed users to share digital files—including copyrighted music, movies, and games. These platforms hoped to avoid enforcement of copyright laws because the illegally shared copyrighted material did not reside on their central servers. This logic, though, failed to convince the courts. In 2001 a federal court shut down one of the earliest successful P2P sites, the Napster music-sharing site, ruling that file sharing was an infringement of copyright laws. (Napster later reemerged as a legal music streaming site.)

Although P2P sites were different from today’s social media platforms, the precedent was set. For example, YouTube explicitly prevents users from posting copyright-protected content. Its “Content ID” system works by automatically checking uploaded content against a massive database of copyrighted material submitted by the copyright holders. If new user material matches an item in the database, YouTube responds in the way the copyright holder has asked—either by giving them their share of ad revenue generated from the content or by taking down the video (YouTube 2018).

The most significant regulation of internet companies has come from the European Union, which passed the General Data Protection Regulation (GDPR) in 2016. The regulation took effect in 2018 and applies to all companies doing business in Europe, including global giants Google and Facebook. Companies that fail to comply could face fines of up to 4 percent of their global revenue, potentially hundreds of millions of dollars for some firms. Aimed at protecting user privacy and reducing the risk of data breaches, the regulation establishes some basic rights and responsibilities for users and firms collecting data (European Union 2016; Trunomi 2018).

- **Right to Access.** Users have the right to receive an electronic copy of all personal data a company may have on them, along with an explanation of where and for what purpose the company is using the data.
- **Right to be Forgotten.** Users have the right to have their personal data erased and prevented from being distributed. Users’ requests must meet conditions
to qualify for erasure, including “the data no longer being relevant to original purposes for processing, or a data subjects withdrawing consent.” In addition, companies can weigh the users’ rights against “the public interest in the availability of the data” when considering such requests.

- **Privacy by Design.** Companies are required to incorporate data protection into their system designs from the beginning—not as an afterthought. This includes mechanisms to minimize the amount of time data are held and processed as well as limiting the access employees have to these data.

- **Data Protection Officers.** Companies are required to disclose their data processing and data protection activities through a designated data protection officer that reports directly to highest level of management.

- **Breach Notification.** Upon learning of a data breach, companies have 72 hours to notify affected users.

Some observers believe this could be a model for future regulation in the United States. A variety of other legal and regulatory actions have been taken against internet firms:

- In 1998, the Justice Department filed an antitrust lawsuit against Microsoft for engaging in illegal anticompetitive practices in bundling its internet browser (Explorer) with its monopoly operating system (Windows) and pressuring computer manufacturers to include this package on their computers. The suit was settled with relatively minor changes in Microsoft practices (Auletta 2001). However, in 2004, the European Commission—the executive body of the European Union—similarly found that Microsoft had abused its dominant position in the operating system software market by its bundling of the Windows Media Player with Windows, ordering Microsoft to release a version of Windows without its Media Player, so consumers would have a choice. It fined Microsoft US $655 million, and when Microsoft repeatedly failed to comply, it fined the company again, for $370 million in 2006 and $1.18 billion in 2008 (European Commission 2010).

- In 2017, the European Union fined Google US $2.7 billion (which Google appealed) for manipulating search results in a way that favored its own “shopping” comparison services. The finding indicated that Google had “abused its dominant position” in the search market (Vincent 2017).

- In the wake of Russian interference in the 2016 election, the Federal Election Commission (FEC) began requiring that online political ads include a disclaimer stating who paid for and authorized the ad. Political ads endorsing or opposing a candidate in traditional media already had this requirement. Internet companies like Facebook and Google had successfully resisted this regulation, arguing that online ads were often too small to have room for the information. In a compromise, the FEC’s new regulations narrowly applied to ads large enough to have an image or video (Glaser 2017).
Such diverse actions signal the growing concern regulators have about the influence that major internet and technology firms have on how the internet operates.

**Self-Policing**

In the face of possible regulation, there has been a flurry of self-policing by the social media platforms themselves. In 2018, Facebook announced a change in the newsfeed algorithm to prioritize content shared by friends and family over publisher content and viral videos (Isaac 2018). It vowed to show users all the ads that a particular Facebook page buys, so ads would receive more widespread scrutiny. Facebook also announced steps aimed at reducing the spread of fake election-related information. It shut down thousands of fake accounts, began requiring an authentication process for political advertisers, and started labeling political ads and listing who paid for them (Nicas 2018). Twitter, too, said it would add a special marker indicating a political ad, along with a dashboard feature to show who bought an ad and provide information on how long it has run and who was targeted.

Such actions were triggered by the Russian interference scandal. But issues of online hate and child safety have also led to changes. In 2017, several major advertisers stopped advertising on YouTube after they discovered their ads were appearing next to videos of children in various stages of undress that were generating comments from pedophiles. Shortly thereafter, YouTube began more actively policing its videos, taking down more than 150,000 videos featuring children that had been targeted by sexual predators in the comments section. They disabled comments on more than 625,000 videos, terminating the accounts of hundreds of users, and removed ads from nearly 2 million videos and more than 50,000 channels that it said were “masquerading as family-friendly content” (Spangler 2017b).

In 2017, the European Commission—the European Union’s legislative body—issued new guidelines for social media platforms “to increase the proactive prevention, detection and removal of illegal content inciting hatred, violence and terrorism online” (European Commission 2017). In essence, the guidelines require social media companies to provide the necessary resources and staff to adequately monitor content on their site and remove illegal content. Recommendations include clearly identifying a point of contact for law enforcement when illegal content is discovered, using qualified third-party “trusted flaggers” to monitor potentially illegal posts, and investing in better technologies to automatically detect potentially illegal posts and speech. Although somewhat symbolic, the guidelines put social media sites on notice that they can expect further regulation—and potentially huge fines—if they do not take more responsibility for the content that is posted on their sites (Kastrenakes 2017).

As the internet has taken center stage in today’s media, concerns about abuse by giant internet firms and other actors have followed. The nature of these concerns and the responses being developed are somewhat different than with earlier media debates. However, the broad questions they raise about the role of media in society—and the role of regulators in protecting the public interest—remain remarkably similar to those that have come before.
INFORMAL POLITICAL, SOCIAL, AND ECONOMIC PRESSURE

This chapter has focused on formal government regulation and informal government pressure on the media. However, it is important to remember the political role played by other actors in either directly influencing the media or prompting the government to act in relation to the media. This active role of nongovernment players is also a type of political influence on the media.

The most obvious players in the debates over the media are media critics and media-related think tanks that produce much of the information that forms the basis of popular criticism. Some of these critics are academics who specialize in studying the media. Others are affiliated with privately funded think tanks that produce analyses and policy recommendations relating to the media. Such critics span the political spectrum, and knowing a little about their funding sources can provide insight into their perspectives on the issues at hand.

More important than media critics are the citizen activists from across the political spectrum who write, educate, lobby, and agitate about the media. These groups need not focus exclusively on media issues. For example, among their many varied activities, religious groups sometimes pressure the media on moral grounds. In some cases, they have organized boycotts of advertisers that sponsor certain controversial programs or stores that carry controversial books and magazines. There are hundreds of local, regional, and national organizations that are exclusively devoted to media-related issues, ranging from violence in Hollywood films or political diversity in the news to children’s television or public access to the internet. These groups, too, span a wide spectrum of political orientation (see Figure 4.4).

In the United States, citizens’ groups have legal status when it comes to renewing broadcast licenses. In the early years of broadcasting, the government allowed only those with an economic stake in the outcome to significantly participate in FCC proceedings regarding radio and television licenses. This changed in the mid-1960s when the Office of Communication of the United Church of Christ won a court case allowing it to challenge the granting of a television license to a station in Jackson, MS. The Church of Christ contended that the station discriminated against black viewers. The U.S. Court of Appeals for the District of Columbia Circuit ruled that responsible community organizations, including civic associations, professional groups, unions, churches, and educational institutions, have a right to contest license renewals. Although ensuing challenges rarely succeeded, activists discovered that some broadcasters were willing to negotiate with community groups to avoid challenges to their license renewals (Longley, Terry, and Krasnow 1983). They also recognized that such challenges could sometimes spark public debate about the nature of the media.

In 2003, when the FCC, in response to a request from media firms that wanted media ownership rules abolished, tried to lift the remaining barriers against media consolidation, public interest groups organized to defend the policies that limit the size and reach of the major media companies. The Philadelphia-based Prometheus Radio Project sued...
A variety of organizations educate and advocate on media-related issues. Their sites often include extensive information on a broad array of media topics.

### About-Face. Combats negative and distorted images of women. [about-face.org](http://about-face.org)

### Accuracy in Media. Conservative/right media criticism. [aim.org](http://aim.org)

### Adbusters/Media Foundation. Liberal/left activism aimed at advertising and consumer culture. [adbusters.org](http://adbusters.org)

### Alliance for Community Media. Works to broaden access to electronic media. [allcommunitymedia.org](http://allcommunitymedia.org)

### Campaign for Commercial-Free Childhood. "Works to reclaim childhood from corporate marketers" and limit the impact of commercialism. [commercialfreechildhood.org](http://commercialfreechildhood.org)

### Center for Democracy and Technology. A nonprofit public policy organization that focuses on "public policies that will keep the Internet open, innovative, and free." [cdt.org](http://cdt.org)

### Center for Digital Democracy. Promotes open broadband networks, free universal internet access, and diverse ownership of new media outlets. [democraticmedia.org](http://democraticmedia.org)

### Center for Media and Public Affairs. Conservative/right studies media. [cmpa.com](http://cmpa.com)

### Center for Media Democracy. Focuses on the public relations (PR) industry, "exposing corporate spin and government propaganda." [prwatch.org](http://prwatch.org)

### Center for Media Literacy. Resources "to help citizens, especially the young, develop critical thinking and media production skills." [medialit.org](http://medialit.org)

### Commercial Alert. Helps people defend themselves against harmful, immoral, or intrusive advertising and marketing and the excesses of commercialism. [commercialalert.org](http://commercialalert.org)

### Committee to Protect Journalists. Monitors restrictions on press freedom worldwide. [cpj.org](http://cpj.org)

### Commonsense Media. Provides information, advice, and tools to help make media and technology a positive force in kids’ lives. [commonsensemedia.org](http://commonsensemedia.org)

### Electronic Frontier Foundation. Works to protect free speech, privacy, innovation, and consumer rights on the Internet. [eff.org](http://eff.org)

### Fairness & Accuracy In Reporting. Liberal/left media watch group. [fair.org](http://fair.org)

### Fight for the Future. Creates civic campaigns that empower people to demand internet and technology policies that serve the public good. [fightforthefuture.org](http://fightforthefuture.org)

### Free Press. Promotes media reform, independent media ownership, and universal access to communication. [freepress.net](http://freepress.net)

### GLAAD. Monitors and works directly with media to ensure that the stories of LGBT community are heard. [glaad.org](http://glaad.org)

### Media Action Network for Asian Americans. Works for accurate, balanced, and sensitive Asian American images. [mana.org](http://mana.org)

### Media Alliance. Media resource and advocacy center for media workers, nonprofit organizations, and social justice activists. [media-alliance.org](http://media-alliance.org)

### Media Research Center. Conservative/right group that aims to "expose and neutralize the propaganda arm of the Left: the national news media." [mrc.org](http://mrc.org)

### Parents Television Council. Conservative group advocating more family-friendly programming. [parentstv.org](http://parentstv.org)

### Progressive Media Project. Helps diverse communities who have been shut out of the mainstream media get op-eds published. [progressive.org/op-eds](http://progressive.org/op-eds)

### Prometheus Radio Project. Helps grassroots organizations to build community radio stations and advocates more low-power radio. [prometheusradio.org](http://prometheusradio.org)

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*Note: More educational and advocacy groups can be found on the website for this book, [http://edge.sagepub.com/croteau6e](http://edge.sagepub.com/croteau6e).*
the FCC in federal court. In the 2004 case, *Prometheus Radio Project v. FCC*, the court ruled in favor of Prometheus, deeming the FCC’s *diversity index* (a measure to weigh media cross-ownership) inconsistent.

The regulatory debates about net neutrality have generated an outpouring of public reaction and comments. In 2017, when the FCC announced it was considering scrapping net neutrality rules (which it subsequently did), more than 21 million comments were submitted electronically—more than all previous public comments across all government agencies combined. Although public opposition to the changes was clear, millions of the comments were subsequently shown to be falsified in some way, using temporary email addresses, fake names, or comments generated by bots, leading to a widespread call for revising the public comment system (Hitlin, Olmstead, Toor 2017; Laposky 2017a).

The action repertoire of citizen groups is diverse. Some, which have access and accept the institution as legitimate, adopt a cooperative attitude, such as lobbying the FCC to promote reform from the inside. When citizen groups have no access or do not consider the institution as legitimate, they can be confrontational, such as protesting the NAB for its opposition to low-power broadcast licenses, discussed earlier in this chapter. Public shaming through Twitter hashtag campaigns has also brought pressure on some media companies. Finally, rather than trying to change mainstream media, some groups promote reform from the grassroots, creating alternative media (Downing 2001; Lievrouw 2011; Milan and Hintz 2010). In practice, such strategies have translated into groups that have studied their local media and issued reports; testified before Congress on media matters; advised parents on teaching their children “media literacy” skills; organized consumers to communicate their concerns to media outlets; protested the FCC or major media headquarters using direct action and civil disobedience tactics; or developed alternative media.

Although various forms of activism have ebbed and flowed in response to changing media issues, citizen group pressures from both liberals and conservatives have been a constant in the media debate. They can constitute important, informal political pressure on the media industry.

**CONCLUSION**

Government regulation is important because it sets the ground rules within which media must operate. As this survey of regulatory types makes clear, forces outside the media have had significant impact on the development and direction of the media industry. When we consider the role of media in the social world, we must take into account the influence of these outside forces. The purpose, form, and content of media are all socially determined, as are the rules that regulate them. As a consequence, they vary over time and across cultures. The particular form our media system takes at any time is the result of a series of social processes reflecting competing interests.

Media organizations operate within a context that is shaped by economic and political forces at least partially beyond their control, but the production of media is not simply dictated by these structural constraints. Media professionals develop strategies for navigating through these economic and political forces, and media outlets have their own sets of norms and rules. In Chapter 5, we examine these media organizations and professionals.
Discussion Questions

1. Deregulation advocates generally suggest what they are against (regulation) but not what they favor. What are some of the potential problems with this position?

2. Advocates of regulation generally argue that government must intervene on behalf of the "public interest" to counter the influence of powerful media conglomerates. What are some of the potential problems with this position? How would you define the "public interest" in this context?

3. In what situations do you think the government has the right to regulate media content? Explain why you believe what you do.

4. Social media platforms are not public spaces; they are owned by commercial corporations. Do you think such companies should be responsible for the content posted on these sites? What difficulties are raised by such a requirement?