

## Topic Page: [Federal Communications Commission \(FCC\)](#)

Summary Article: **Federal Communications Commission**

from *Culture Wars in America: An Encyclopedia of Issues, Viewpoints, and Voices*

The Federal Communications Commission (FCC) is an independent U.S. agency responsible for regulating radio and television, telephone, cable, and satellite. The FCC is both quasi-legislative and quasi-judicial in that it develops policy, enforces regulations, and issues broadcasting permits and licenses. Since its five commissioners are appointed by the president and confirmed by the U.S. Senate, the FCC is a political body and thereby subject to partisanship and ideological manipulation. In the culture wars, the FCC has been variously criticized for overregulation and for not regulating enough.

The U.S. federal government has long declared the airways public property that must be leased prior to any use. In 1912, the Radio Communications Act required the Department of Commerce and Labor to issue radio licenses. In 1927, at the request of broadcasters, the Radio Act established the Federal Radio Communications (FRC) to bring order to the airwaves for improving the quality of transmissions by reducing the crowded conditions. In 1934, the FRC and relevant offices of the Interstate Commerce Commission and the Office of the Postmaster General responsible for telephone and telegraph regulations were consolidated, forming the FCC.

### **Red Scare Politics**

As a New Deal creation, the FCC sought to promote competition among broadcasters and foster a free marketplace of ideas by eliminating monopolistic control of the airwaves, reducing chain broadcasting, prohibiting newspaper ownership of stations, preventing broadcasters from using their stations for partisan purposes, and requiring the airing of dissenting views. This led to a conservative backlash, with New Deal foes depicting the FCC as a sinister instrument of big government. Some opposed the 1943 breakup of the National Broadcasting Company (NBC) into two networks, NBC and the American Broadcasting Company (ABC). In addition, conservatives accused the FCC commissioners of purposely awarding broadcasting licenses to liberals, some labeled “red.” At one point, Congressman Martin Dies (D-TX) denigrated the FCC as “the nastiest nest of rats in the country,” implying communist affiliation.

Political realignment on the FCC came when President Dwight D. Eisenhower appointed John Doerfer and Robert Lee as commissioners. Both were allies of Senator Joseph McCarthy (R-WI) and used their position to target broadcasters deemed too liberal by Republican Party standards. To that end, the FCC developed a cozy relationship with the Federal Bureau of Investigations (FBI) in order to learn the backgrounds of controversial broadcasters. The stated fear was that a “red network” of the airwaves, especially television, could be used by communists during a national emergency (such as a war between the United States and Soviet Union). In a highly publicized hearing spanning three years, the FCC considered revoking the radio and television licenses of Edward Lamb, a liberal Democrat, businessman, labor attorney, and Soviet sympathizer. Lamb, a resident of Toledo, Ohio, won his case in 1957 after several witnesses for the prosecution recanted their testimony, which they claimed had been “coached” by FCC officials.

Some suggested that the FCC joined in the Red Scare as a distraction from the task of regulating the airwaves. During the TV quiz show scandals of the 1950s, for example, the FCC remained largely confined to the sidelines. In March 1960, FCC chairman Doerfer, long regarded as a reluctant regulator,

was forced to resign following revelations that he had vacationed on a yacht owned by broadcaster George B. Storer.

## **Fairness Doctrine**

One of the most debated FCC regulations was the so-called fairness doctrine (1949–1987), which required broadcasters to devote “equal time” on the air to opposing viewpoints. Many broadcasters argued that “fairness” was an ambiguous standard and that any requirement for equity of opinion was a violation of the First Amendment. In one dramatic instance, the FCC in July 1973 revoked the broadcast license of fundamentalist preacher Carl McIntire (on radio station WXUR in Media, Pennsylvania) because of his refusal to comply with the fairness doctrine. Supporters of the doctrine believed that it fostered democracy and prevented stations from airing only one ideological perspective. Critics countered that the doctrine had a chilling effect by compelling broadcasters to avoid airing controversial ideas. The fairness doctrine also required that if air time was granted to a political candidate for campaign advertising, then equal time had to also be offered to the opposing candidate. However, stations were not required to invite lesser-known candidates to participate in televised debates.

In 1987, the FCC chose to abolish the fairness doctrine even though the U.S. Supreme Court in *Red Lion Broadcasting Company v. Federal Communications Commission* (1969) had ruled that the commission was legally authorized to regulate content because of the “scarcity” of available public frequencies. By the second half of the 1980s, the FCC had determined that the scarcity argument had been rendered invalid by the diversity of media options. Congress in 1987 attempted to reinstate the fairness doctrine, but the bill was vetoed by President Ronald Reagan. Although primarily opposed by political conservatives, the fairness doctrine was also criticized by William O. Douglas, one of the most liberal Supreme Court justices, who in 1973 argued, “The Fairness Doctrine... puts the head of the camel inside the tent that enables administration after administration to toy with TV or radio in order to serve its sordid or its benevolent ends.”

## **Telecommunications Act of 1996**

In 1984, the U.S. Justice Department broke up AT&T (“Ma Bell”) on the grounds that the telecommunications giant was a monopoly. As a result, local and long-distance phone services, as well as cable television, were separated. Out of this process emerged the seven so-called “Baby Bells,” each granted a regional monopoly. Upon passage of the Telecommunications Act of 1996, local telephone companies were required to open their markets to competitors but were permitted to offer long-distance service. Then, in a decision critics characterized as a return to monopolistic days, the FCC in December 2006 approved an \$85 billion merger between Bell South (one of the Baby Bells) and AT&T.

Perhaps most controversial, the 1996 law loosened broadcast ownership restrictions, enabling television corporations to increase their reach of the viewing public from 25 to 35 percent. In addition, radio groups were no longer limited to twenty AM and twenty FM stations. Thus, by 2000, Clear Channel Communications was in possession of 1,200 radio stations, constituting 9 percent of the American market. Critics viewed the corporate consolidation of the airwaves as a dangerous concentration of power.

In another decision viewed by critics as too pro-business, the FCC in 1997 chose to assign digital channels without charge. U.S. senators Bob Dole (R-KS) and John McCain (R-AZ), among others, believed that broadcasters should be required to pay \$70 billion to the federal government for the

assignment of spectrum for digital television.

## Indecency and Fines

Beginning with a 1946 report known as the *Blue Book* (officially titled *Public Service Responsibility for Broadcast Licensees*), the FCC has reminded broadcasters of their commitment to public service. On May 9, 1961, in an address before the National Association of Broadcasters Convention, FCC chairman Newton N. Minnow denounced the quality of television programming, describing it as “a vast wasteland.” The controversial and often-quoted speech annoyed producer Sherwood Schwartz (among many others in the industry), who christened the castaway ship on the television sitcom *Gilligan's Island* (1964–1967) the S.S. *Minnow*. While “public service” programming as originally defined by the FCC referred to broadcasts with informational content, as entertainment became a greater part of broadcasting, the issue of indecency became central to the debate over broadcaster responsibility.

In 1973, the comedian George Carlin tested the FCC by delivering a radio monologue called “Seven Words You Can Never Say on Television.” In the legal battle that ensued, the U.S. Supreme Court ultimately ruled in *FCC v. Pacifica* (1978) that the FCC has a right to impose decency standards on broadcasters because of considerations (such as the need to shield children from offensive material) beyond First Amendment protections. The Court added, however, that there is a “safe harbor” when indecency standards are not in effect, from 10 P.M. to 6 A.M., when children should be in bed. By 1987, the FCC expanded its definition of indecency from seven dirty words to include sexual innuendo, a decision largely impacting radio “shock jocks” such as Howard Stern.

Indecency fines imposed on broadcasters by the FCC remained relatively small during the 1990s. By 2004, however, with the general public lodging 1.4 million complaints about indecency, the FCC issued fines totaling \$7.9 million. That same year, CBS inadvertently televised the singer Janet Jackson exposing her breast during a Super Bowl halftime show, leading to a \$550,000 FCC fine. In an ironic legal twist, the U.S. Court of Appeals for the Second Circuit ruled in June 2007 that FCC fines for the broadcasting of “fleeting expletives” are unlawful since the same obscene words had been publicly blurted by President George W. Bush and Vice President Dick Cheney.

A provision of the Telecommunications Act of 1996 required cable companies broadcasting “sexually-oriented programming” to either scramble those channels or to limit their transmission during the “safe harbor” hours in order to protect children, but the Supreme Court in *United States v. Playboy Entertainment Group* (2000) overturned that regulation as too restrictive. Also in 1996, Congress mandated that television sets larger than thirteen inches (33 centimeters) be equipped with the V-chip, a blocking device capable of reading the program ratings in terms of sexual content and violence as established by the TV Parental Guidelines.

## Net Neutrality

Net neutrality, pertaining to the flow of content over the Internet or any other network, has been a major issue recently addressed by the FCC. Certain commercial Internet providers have argued that they should be able to prioritize traffic flow, providing faster service to those customers who pay more. But the founders of the Internet argue that the original idea was for the medium to operate in a nondiscriminatory manner. Following the 2005 merger between AT&T and SBC Communications, proposals were circulated that suggested the need of “tiering” the Internet for establishing a high-speed tier to guarantee reliable service. Phone companies have argued that rules imposing how they operate their broadband networks will stymie their ability to deliver quality service.

In December 2010, the FCC approved rules for net neutrality. The 5–3 vote followed strict party lines, with Democrats favoring the measure and Republicans opposing it. The regulations require that users of wired networks have access to all legal content, applications, and services. However, providers are allowed to manage the data and even stop the flow of spam, as long as there is full public disclosure of such practices. The compromise measure was criticized by those on both sides of the debate.

**See also:** Censorship; McCarthyism; Media Bias; New Deal; Shock Jocks.

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Roger Chapman

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