6.2: Government Regulation of Media

Learning Objectives

- Describe the role of the FTC.
- Explain the major duties of the Federal Communications Commission (FCC).
- Describe deregulation and its effect on the media landscape.

The U.S. federal government has long had its hand in media regulation. Media in all their forms have been under governmental jurisdiction since the early 1900s. Since that time, regulatory efforts have transformed as new forms of media have emerged and expanded their markets to larger audiences.

Major Regulatory Agencies

Throughout the 20th century, three important U.S. regulatory agencies appeared. Under the auspices of the federal government, these agencies—the FTC, the Federal Radio Commission (FRC), and the FCC—have shaped American media and their interactions with both the government and audiences.

Federal Trade Commission

The first stirrings of the FTC date from 1903, when President Theodore Roosevelt created the Bureau of Corporations to investigate the practices of increasingly larger American businesses. In time, authorities determined that an agency with more sweeping powers was necessary. Founded on September 26, 1914, the FTC came into being when President Woodrow Wilson signed the FTC Act into law, creating an agency designed to "prevent unfair methods of competition in commerce." Federal Trade Commission, “About the Federal Trade Commission,” [http://ftc.gov/ftc/about.shtm](http://ftc.gov/ftc/about.shtm). From the
beginning, the FTC absorbed the work and staff of the Bureau of Corporations, operating in a similar manner, but with additional regulatory authorization. In the words of the FTC,

Like the Bureau of Corporations, the FTC could conduct investigations, gather information, and publish reports. The early Commission reported on export trade, resale price maintenance, and other general issues, as well as meat packing and other specific industries. Unlike the Bureau, though, the Commission could … challenge “unfair methods of competition” under Section 5 of the FTC Act, and it could enforce … more specific prohibitions against certain price discriminations, vertical arrangements, interlocking directorships, and stock acquisitions. “A Brief History of the Federal Trade Commission,” program notes, Federal Trade Commission 90th Anniversary Symposium, 6.

Although its primary focus was on the prevention of anticompetitive business practices, in its early years, the FTC also provided oversight on wartime economic practices. During World War I, for example, President Wilson frequently turned to the FTC for advice on exports and trading with foreign nations, resulting in the Trading with the Enemy Act, which restricted trade with countries in conflict with the United States.

Federal Radio Commission

First established with the passage of the Radio Act of 1927, the FRC was intended to “bring order to the chaotic situation that developed as a result of the breakdown of earlier wireless acts passed during the formative years of wireless radio communication.” Fritz Messere, “The Federal Radio Commission Archives,” http://www.oswego.edu/~messere/FRCpage.html. The FRC comprised five employees who were authorized to grant and deny broadcasting licenses and assign frequency ranges and power levels to each radio station.

In its early years, the FRC struggled to find its role and responsibility in regulating the radio airwaves. With no clear breakdown of what could or could not be aired, nearly everything was allowed to play. As you learned in Chapter 7 “Radio”, the FRC lasted only until 1934, when it was engulfed by the FCC.

Federal Communications Commission

The responsibilities of the FCC are broad, and throughout its long history the agency has enforced several laws that regulate media. A selection of these laws include the 1941 National TV Ownership Rule, which states that a broadcaster cannot own television stations that reach more than 35 percent of the nation’s homes; the 1970 Radio/TV Cross-Ownership Restriction, which prohibits a broadcaster from owning a radio station and a TV station in the same market; and the 1975 Newspaper/Broadcast Cross-Ownership Prohibition, which discourages ownership of a newspaper and a television station in the same market. “Media Regulation Timeline,” [NOW With Bill Moyers, PBS, January 30, 2004, http://www.pbs.org/now/politics/mediatimeline.html](http://www.pbs.org/now/politics/mediatimeline.html). All of these acts and more have undergone changes in the modern media marketplace.

**Regulation Today**

Today, the FCC continues to hold the primary responsibility for regulating media outlets, with the FTC taking on a
smaller role. Although each commission holds different roles and duties, the overall purpose of governmental control remains to establish and bring order to the media industry while ensuring the promulgation of the public good. This section examines the modern duties of both commissions.

The Structure and Purposes of the FCC

The FCC contains three major divisions: broadcast, telegraph, and telephone. Within these branches, subdivisions allow the agency to more efficiently carry out its tasks. Presently, the FCC houses seven operating bureaus and 10 staff offices. Although the bureaus and offices have varying specialties, the bureaus’ general responsibilities include “processing applications for licenses and other filings; analyzing complaints; conducting investigations; developing and implementing regulatory programs; and taking part in hearings.”Federal Communications Commission, “About the FCC,” http://www.fcc.gov/aboutus.html. Four key bureaus are the Media Bureau, the Wireline Competition Bureau, the Wireless Telecommunications Bureau, and the International Bureau.

The Media Bureau oversees licensing and regulation of broadcasting services. Specifically, the Media Bureau “develops, recommends and administers the policy and licensing programs relating to electronic media, including cable television, broadcast television, and radio in the United States and its territories.”Federal Communications Commission, “Media Bureau,” http://www.fcc.gov/mb/. Because it aids the FCC in its decisions to grant or withhold licenses from broadcast stations, the Media Bureau plays a particularly important role within the organization. Such decisions are based on the “commission’s own evaluation of whether the station has served in the public interest,” and come primarily from the Media Bureau’s recommendations.Museum of Broadcast Communications, “Federal Communications Commission.” The Media Bureau has been central to rulings on children’s programming and mandatory closed captioning.

The Wireline Competition Bureau (WCB) is primarily responsible for “rules and policies concerning telephone companies that provide interstate—and, under certain circumstances, intrastate—telecommunications services to the public through the use of wire-based transmission facilities (i.e. corded/cordless telephones).”Federal Communications Commission, “About the FCC,” http://www.fcc.gov/aboutus.html. Despite the increasing market for wireless-based communications in the United States, the WCB maintains its large presence in the FCC by “ensuring choice, opportunity, and fairness in the development of wireline telecommunications services and markets.”Federal Communications Commission, “Wireline Competition Bureau,” http://www.fcc.gov/wcb/. In addition to this primary goal, the bureau’s objectives include “developing deregulatory initiatives; promoting economically efficient investment in wireline telecommunications services; and fostering economic growth.”Federal Communications Commission, “Wireline Competition Bureau,” http://www.fcc.gov/wcb/. The WCB recently ruled against Comcast regarding blocked online content to the public, causing many to question the amount of authority that the government has over the public and big businesses.

Another prominent bureau within the FCC is the Wireless Telecommunications Bureau (WTB). The rough counterpart of the WCB, this bureau oversees mobile phones, pagers, and two-way radios, handling “all FCC domestic wireless telecommunications programs and policies, except those involving public safety, satellite communications or broadcasting, including licensing, enforcement, and regulatory functions.”Federal Communications Commission, “About the WTB,” http://wireless.fcc.gov/index.htm?job=about. The WTB balances the expansion and limitation of wireless networks, registers antenna and broadband use, and manages the radio frequencies for airplane, ship, and land communication. As U.S. wireless communication continues to grow, this bureau seems likely to continue to increase in...
both scope and importance.

Finally, the International Bureau is responsible for representing the FCC in all satellite and international matters. A larger organization, the International Bureau’s goal is to “connect the globe for the good of consumers through prompt authorizations, innovative spectrum management and responsible global leadership.” Federal Communications Commission, “International Bureau,” http://www.fcc.gov/ib/. In an effort to avoid international interference, the International Bureau coordinates with partners around the globe regarding frequency allocation and orbital assignments. It also concerns itself with foreign investment in the United States, ruling that outside governments, individuals, or corporations cannot own more than 20 percent of stock in a U.S. broadcast, telephone, or radio company.

### The Structure and Purposes of the FTC

Although the FCC provides most of the nation’s media regulations, the FTC also has a hand in the media industry. As previously discussed, the FTC primarily dedicates itself to eliminating unfair business practices; however, in the course of those duties it has limited contact with media outlets.

One example of the FTC’s media regulatory responsibility is the National Do Not Call Registry. In 2004, the agency created this registry to prevent most telemarketing phone calls, exempting such groups as nonprofit charities and businesses with which a consumer has an existing relationship. Although originally intended for landline phones, the Do Not Call Registry allows individuals to register wireless telephones along with traditional wire-based numbers.

### Role of Antitrust Legislation

As discussed in Chapter 13 "Economics of Mass Media", the federal government has long regulated companies’ business practices. Over the years, several antitrust acts (law discouraging the formation of monopolies) have been passed into law.

During the 1880s, Standard Oil was the first company to form a trust (a unit of business made up of a board of trustees, formed to monopolize an industry), an “arrangement by which stockholders … transferred their shares to a single set of trustees.” Sherman Antitrust Act (1890), http://www.ourdocuments.gov/doc.php?flash=old&doc=51. With corporate trustees receiving profits from the component companies, Standard Oil functioned as a monopoly (a business that economically controls a product or a service). The Sherman Antitrust Act was put into place in 1890 to dissolve trusts such as these. The Act stated that any combination “in the form of trust or otherwise that was in restraint of trade or commerce among the several states, or with foreign nations” was illegal. Sherman Antitrust Act (1890), http://www.ourdocuments.gov/doc.php?flash=old&doc=51.

The Sherman Antitrust Act served as a precedent for future antitrust regulation. As discussed in Chapter 13 "Economics of Mass Media”, the 1914 Clayton Antitrust Act and the 1950 Celler-Kefauver Act expanded on the principles laid out in the Sherman Act. The Clayton Act helped establish the foundation for many of today’s business and media competition regulatory practices. Although the Sherman Act established regulations in the United States, the Clayton Act further developed the rules surrounding antitrust, giving businesses a “fair warning” about the dangers of anticompetitive practice. Brian Gongol, “The Clayton Antitrust Act,” February 18, 2005, http://www.gongol.com/research/economics/claytonact/. Specifically, the Clayton Act prohibits actions that may “substantially lessen competition or tend to create a

The problem with the Clayton Act was that, while it prohibited mergers, it offered a loophole in that companies were allowed to buy individual assets of competitors (such as stocks or patents), which could still lead to monopolies. Established in 1950 and often referred to as the Antimerger Act, the Cellar-Kefauver Act closed that loophole by giving the government the power to stop vertical mergers. (Vertical mergers happen when two companies in the same business but on different levels—such as a tire company and a car company—combine.) The act also banned asset acquisitions that reduced competition.” Cellar-Kefauver Antimerger Act,” http://financial-dictionary.thefreedictionary.com/Celler-Kefauver+Antimerger+Act.

These laws reflected growing concerns in the early and mid-20th century that the trend toward monopolization could lead to the extinction of competition, thus leading to less choice and potentially higher prices. Government regulation of businesses increased until the 1980s, when the United States experienced a shift in mind-set and citizens called for less governmental power. The U.S. government responded as deregulation became the norm.

Move Toward Deregulation

Media deregulation actually began during the 1970s as the FCC shifted its approach to radio and television regulation. Begun as a way of clearing laws to make the FCC run more efficiently and cost effectively, deregulation truly took off with the arrival of the Reagan administration and its new FCC chairman, Mark Fowler, in 1981. The FCC began overturning existing rules and experienced “an overall reduction in FCC oversight of station and network operations.” Museum of Broadcast Communications, “Deregulation,” http://www.museum.tv/eotvsection.php?entrycode=deregulation. Between 1981 and 1985, lawmakers dramatically altered laws and regulation to give more power to media licensees and to reduce that of the FCC. Television licenses were expanded from three years to five, and corporations were now allowed to own up to 12 separate television stations.

The shift in regulatory control had a powerful effect on the media landscape. Whereas initially laws had prohibited companies from owning media entities in more than one medium, consolidation created large mass-media companies that increasingly dominated the U.S. and global media system. Before the increase in deregulation, eight major companies controlled phone services to different regions of the United States. Today, however, there are four. Gene Kimmelman, “Deregulation of Media: Dangerous to Democracy,” Consumers Union, http://www.consumersunion.org/telecom/kimmel-303.htm. Companies such as Viacom and Disney own television stations, record companies, and magazines. Bertelsmann alone owns more than 30 radio stations, 280 publishing outlets, and 15 record companies. Columbia Journalism Review, “Resources: Who Owns What,” http://www.cjr.org/resources/?c=bertelsmann. Due to this rapid consolidation, Congress grew concerned about the costs of deregulation, and by the late 1980s, it began to slow the FCC’s release of control.

Today, deregulation remains a hotly debated topic. Some favor deregulation, believing that the public benefits from less governmental control. Others, however, argue that excessive consolidation of media ownership threatens the system of checks and balances. Gene Kimmelman, “Deregulation of Media: Dangerous to Democracy,” Consumers Union, http://www.consumersunion.org/telecom/kimmel-303.htm. Proponents on both sides of the argument are equally vocal, and it is likely that regulation of media will ebb and flow over the years, as it has since regulation first came into practice.
Internet Censorship Around the World

Is what you see on the Internet being censored? In Chapter 11 "The Internet and Social Media", you read about the debate between the search engine Google and China. However, Internet censorship is much more widespread, affecting people from Germany to Thailand to the United States. And now, thanks to a new online service, you can see for yourself.

In September 2010, Google launched its new web tool, Google Transparency. This program allows users to see a map of online censorship around the world. With this tool, people can view the number of times a country requests data to be removed, what kind of data they request be removed, and the percentage of requests that Google complies with. In some cases, the content is minor—YouTube videos that violate copyright, for example, are frequent offenders. In other cases, the requests are more formidable; Iran blocked all of YouTube after the disputed 2009 elections, and Pakistan blocked the site for more than a week in response to a 2010 online protest. Perhaps most surprising is the amount of requests from countries not normally associated with strict censorship. Germany, for example, has banned content it deems to be affiliated with neo-Nazism, and Thailand refuses to allow videos of its king that it finds offensive. Between January and June 2010, the United States asked Google 4,287 times for information regarding its users, and sent 128 requests to the search engine to remove data. Eighty percent of the time, Google complied with the requests for data removal. John D. Sutter, “Google: Internet freedom is declining,” CNN, September 21, 2010, http://articles.cnn.com/2010-09-21/tech/google.transparency_1_internet-censorship-google-maps-internet-freedom?_s=PM:TECH.

What is the general trend in Internet censorship? According to Google, it’s becoming more and more commonplace every year. However, the search engine hopes that its new tool will combat this trend. A spokesperson for the company said, “The openness and freedom that have shaped the internet as a powerful tool has come under threats from governments who want to control that technology.” By giving users access to censorship numbers, Google allows them to witness the amount of Internet censorship that they are subject to in their everyday lives. As censorship increases, many predict that citizen outrage will increase as well. The future of Internet censorship may be unsure, but for now, at least, the numbers are visible to all.John D. Sutter, “Google: Internet freedom is declining,” CNN, September 21, 2010, http://articles.cnn.com/2010-09-21/tech/google.transparency_1_internet-censorship-google-maps-internet-freedom?_s=PM:TECH.

Key Takeaways

- The FTC was established in 1914 and is designed to "protect America’s consumers" and "prevent unfair methods of competition in commerce."
- Established in 1934 as part of President Franklin D. Roosevelt’s New Deal, the FCC is charged with regulating interstate and international communications.
- During the 1980s, the U.S. government began the process of deregulating many existing FCC radio and television laws, allowing the FCC to run more effectively but also setting the stage for increased media consolidation.

Exercise \(\text{PageIndex}(1)\)

Visit the FCC’s web page (http://www.fcc.gov/) and explore some of the regulations that currently exist. Think about television or radio programs that you watch or listen to. Then write a one-page paper addressing the following:

1. Describe the role of the FTC.
2. Explain the major duties of the FCC.
3. Describe deregulation and its effect on the media landscape.