



Written by [Jack Kenny](#) on February 21, 2014

Opposition Grows to FCC Media Probe

A planned Federal Communications Commission [probe into media news coverage](#) has “bestirred the sleeping media to the threat to life as we know it,” according to an [editorial](#) in Thursday’s *Washington Times*. The commission will “be on a hunt for signs of bias,” the *Times* warned. “Someone should tell these worthies that the First Amendment provides a wall of separation between newsrooms and the state.”



The coming FCC study will ostensibly be aimed at finding barriers to entry into the news markets, as well as determining how news media throughout the nation are meeting the public’s “Critical Information Needs,” especially the needs of segments of the population that may be underserved or disadvantaged in receiving news of public policies or events that affect their lives. In the process, the agency will be, according to its blueprint for the study, looking at “the process by which stories are selected,” how often station covers what the FCC has determined to be “critical information needs,” issues of “perceived station bias” and “perceived responsiveness to underserved populations.” The FCC has chosen eight categories, including “environment” and “economic opportunity,” to use in assessing stations’ collection and dissemination of “critical information.” To examine the policies and “news philosophy” of a broadcast outlet, “the agency plans to send researchers to grill reporters, editors and station owners about how they decide which stories to run,” FCC Commissioner Agit Pai [wrote](#) in an opinion piece that appeared last week in the *Wall Street Journal*. Pai, who opposes the planned study, said:

The FCC also wants to wade into office politics. One question for reporters is: “Have you ever suggested coverage of what you consider a story with critical information for your customers that was rejected by management?” Follow-up questions ask for specifics about how editorial discretion is exercised, as well as the reasoning behind the decisions.

While participation in the survey, is voluntary in theory, Pai wrote, “the FCC’s queries may be hard for the broadcasters to ignore. They would be out of business without an FCC license, which must be renewed every eight years.” The agency can “bully organizations that don’t cooperate by threatening broadcast licenses,” warned the *Times* editorial, adding ominously, “It’s not clear what the government has in mind for newspapers.”

“During Watergate, Richard Nixon’s FCC challenged two TV licenses of stations owned by the Washington Post,” Fox News commentator Howard Kurtz reminded readers on the cable channel’s website Thursday. Kurtz described the coming FCC study as “a Trojan horse that puts federal officials in the newsroom, precisely where they shouldn’t be.”

“It’s hard to imagine a project more at odds with the First Amendment,” wrote Byron York, chief political correspondent for the *Washington Examiner*.

News of the project brought a sharp rebuke from the chairman and 15 Republican members of the



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House Energy and Commerce Committee, which has oversight of the FCC. “It is wrong,” committee chairman Fred Upton (R-Mich.) wrote to FCC Chairman Tom Wheeler, “it is unconstitutional, and we urge you to put a stop to this most recent attempt to engage the FCC as the ‘news police.’” Wheeler on Thursday released to the news media the February 14 letter he sent in reply, stating in part:

The Commission has no intention of regulating political or other speech of journalists or broadcasters by way of this Research Design, any resulting study, or through any other means. The development of the Research Design was intended to aid the Commission in meeting its obligations under Section 257 of the Communications Act. Section 257 directs the Commission to identify and eliminate “market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications services and information services.” The statutory provision expressly links our obligation to identify market barriers with the responsibility to “promote the policies and purposes of this chapter favoring diversity of media voices.” Finally, Section 257 requires the Commission to review and report to Congress on “any regulations prescribed to eliminate barriers within its jurisdiction ... that can be prescribed consistent with the public interest, convenience, and necessity.”

What remains unexplained, however, is what a station’s “news philosophy,” “the process by which stories are selected,” or a “perceived station bias” has to do with “market entry barriers.” And why, asked Commissioner Pai in his *Wall Street Journal* article, “does the CIN study include newspapers when the FCC has no authority to regulate print media?” Pai and others have suggested that the emphasis on “diversity” in the news media may be an attempt to resurrect under a different name the “Fairness Doctrine” that was adopted 1949, fell into disuse in the 1980s, and was rescinded in 2011. Under the Fairness Doctrine, stations were required to provide equal time to opposing points of view. In addition to interfering with broadcast freedom, the requirement also imposed an economic burden on stations that sold time for viewpoint programming. If, for example, a religious broadcaster used his purchased time to preach against homosexuality, stations that carried that message could be required to make an equal amount of time available for free to a “gay rights” group that wished to reply.

“Though the Fairness Doctrine ostensibly aimed to increase the diversity of thought on the airwaves,” wrote Pai, “many stations simply chose to ignore controversial topics altogether, rather than air unwanted content that might cause listeners to change the channel.” As for diversity in news reporting, Pai argues that it already exists among broadcast and cable news channels.

“MSNBC, for example, apparently believes that traffic in Fort Lee, N.J., is the crisis of our time,” he wrote. “Fox News, on the other hand, chooses to cover the September 2012 attacks on the U.S. diplomatic compound in Benghazi more heavily than other networks. The American people, for their part, disagree about what they want to watch.” Amid that disagreement, however, there might be a consensus in favor of the point stated in blunt, unequivocal terms by Kurtz at Fox News:

“The last thing we need is the government mucking around with news content.”



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