America's Free Press and Monopoly

The Historical Role of Competition Policy in Protecting Independent Journalism in America

Discussion Paper
Open Markets Institute
June 2018

Where the press is free, and every man able to read, all is safe[1]
– Thomas Jefferson, 1816

The Internet has revolutionized how people communicate, making it vastly easier than ever before to connect within a community and across the world. But the wholesale shift of communications to the Internet has also unleashed a variety of challenges to existing institutional structures in the United States. Perhaps the most dramatic of these is the sudden sharp erosion in the independence and trustworthiness of our journalism and much of the information packaged as journalism. This is among the most serious and pressing challenges to democracy and to civil and political liberty in our time.

Over the last year, two problems have exploded into public debate. First was the realization that political actors abroad and in the United States had figured out how to exploit the Internet to distribute propaganda and misinformation – popularly called "fake news" – in ways that disrupted our electoral systems and our politics. Second was the realization that the advertising-dependent business models of corporations like Facebook and Google are based on an intimate surveillance of the actions and communications of hundreds of millions of individuals, and on the centralized storage and manipulation of this information.

But Americans also face a more subtle and slow-moving third problem that in many respects poses even greater dangers to American democracy and to the most fundamental liberties of the individual. This is the concentration of power over reporters and news publishers by giant "platform monopolists." These private corporations simultaneously have centralized control over the flow of information and news between reporters and readers, and diverted advertising revenue away from both traditional and Internet "native" publishers, at both the national and local levels, into their own coffers.

Wired Editor-in-Chief Nicholas Thompson and Fred Vogelstein recently published what may be the most concise description of today's relationship between reporters and publishers and the platform monopolists, a relationship characterized increasingly by dependence, exploitation, and fear.

> *"Every publisher knows that, at best, they are sharecroppers on Facebook's massive industrial farm... And journalists know that the man who owns the farm has the leverage. If Facebook wanted to, it could quietly turn any number of dials that would harm a publisher – by manipulating its traffic, its ad network, or its readers."* [2]

The same is equally true of Google. As Jim VandeHei of *Axios* wrote recently, "The media is obsessed with Facebook." But publishers and reporters are "exponentially more dependent on Google." The corporation, he wrote "is s gigantic octopus, with sprawling, growing tentacles reaching deep into every nook and crevice of media companies." [3]

To complicate matters, Americans are engaged in a fast-growing debate over whether anyone should censor content on the Internet. And if the answer is yes, whether it would be wise to use Google and Facebook to do so. We saw this most dramatically in the recent debate over Congress's passage of the FOSTA–SESTA (Fight Online Sex Trafficking Act, Stop Enabling Sex Traffickers Act) bill to fight sex trafficking online. [4]

To speed the discussion of how to address these extremely pressing and vitally important challenges, the Open Markets Institute and the Tow Center at Columbia School of Journalism convened a wide-ranging conference in Washington, on June 12, 2018. The immediate goal of the event was to better understand the nature, scope, and sources of the threat to America's free press and to the American right of free expression. This includes beginning to answer two questions. First, to what degree are the privacy and "fake news" scandals a result of the ways in which Facebook and Google have monopolized control over communications flows in America? And second, to what degree are Google and Facebook's monopolies responsible for the decline in trustworthy journalism?

The second, equally important goal of this conference is to help citizens understand that Americans have faced similar challenges before, with the rise of then-revolutionary new technologies such as the telegraph in the 19th century and of radio and television in the 20th Century. In each instance, we used government to ensure the independence and financial viability of the news media. Over the course of more than two centuries, Americans developed many regulatory and policy tools that can be of use to us today.

The purpose of this discussion paper is to reconnect us, at least briefly, with that past, to help us determine which tools to use to address today's challenges. What the paper shows, we believe, is that the history of American journalism is one of ceaseless private initiative and innovation, as individual citizens strive to figure out better ways and smarter business models to a) keep a check on government and private power, b) inform citizens, and specific communities within society, of the basic events and challenges of the day, and c) pay the costs of reporting, editing, and distributing the news.

What this discussion paper also shows is that, from even before the Declaration of Independence, Americans used government both to promote the building of technologically sophisticated infrastructures to distribute the news, and to directly address threats to the free press posed by either private monopolists or by government actors.

I. Creating the "American System" of Free Press

Nowadays, conventional understanding of the proper relationship between government and the news media focuses on the First Amendment's clear injunction against government censorship: "Congress shall make no law... abridging the freedom of speech, or of the press."[5]

We can trace this thinking to before the Founding itself. The Sons of Liberty and other colonists opposed the Stamp Act of 1765 not only because it represented "taxation without representation" but also because the law imposed taxes aimed specifically at the newspapers, magazines, and pamphlets of the people. Writing at the time, John Adams delivered – as part of an attack on the Stamp Tax –one of the earliest defenses of the Free Press in America. "None of the means of information are more sacred, or have been cherished with more tenderness and care by the settlers of America than the Press." [6]

Along with other Republican principles, America's founders articulated a belief in the concept of the open marketplace of ideas. Building on the work of Enlightenment thinkers including John Milton, America's founders took the position that suppressing false or heretical ideas would be unnecessary, so long as all ideas are were allowed to compete on equal terms. Thomas Jefferson evoked this principle during his First Inaugural address: "Error of opinion may be tolerated where reason is left free to combat it." Put another way, there's no need to use government to suppress false or seditious speech so long as we prevent anyone from cornering the marketplace of ideas. [8]

The Founders did not believe that this "marketplace of ideas" was in any respect self- regulating. On the contrary, they believed that positive government action was necessary to ensure that no actor – either in the private or public realm – ever gained the power to suppress the speech of others or distort the workings of a free and competitive press. We can trace this idea to the reaction against the Stamp Act of 1765. John Adams, in the sentence immediately following the one quoted above, defended the efforts of local governments to promote the development of a free press for the colonists. "Care has been taken," he wrote, "that the art of printing should be encouraged, and that it should be easy and cheap and safe for any person to communicate his thoughts to the public." [9]

Indeed, the Founders repeatedly made clear their commitment to using government to subsidize and directly manage systems for distributing the news and information, most importantly in their strong support for a nationwide postal service. They did so in the Articles of Confederation and later with the "Postal Clause" of the Constitution. They did so most dramatically in the Postal Act of 1792, which not only funded the postal system but set exceptionally low rates for the mailing of newspapers, magazines, and books. President Washington, in a 1791 address to Congress, specifically called for such subsidies, arguing that the distribution of trustworthy information "contributes to the security of the people, [and] serves also to guard them against the effects of misrepresentation and misconception." [10]

As a result of these policies, by the first decades of the 19th century a basic American model of

the Free Press had been shaped. The model had three main components:

- **Local ownership of newspapers**. Most towns of any consequence came to have at least one and often more, independent papers.

- **An advertising-based business model**. Although many early papers were supported in part by various forms of government and party patronage, by the early 19th century American newspapers were supported, crucially, by subscriptions and local advertising.

- **A politically neutral network for distributing the news**, strongly buttressed where necessary by government funding, initially in the form of the Post Office system.

This model was anything but perfect. One of the most notorious abuses of the neutrality of the Post Office took place during the administration of President Andrew Jackson, when Postmaster General Amos Kendall blocked the distribution of newspapers and pamphlets that promoted abolition of slavery across the southern United States. But overall, the system worked remarkably well at ensuring that American citizens were kept educated and informed about events in town, across the nation, and around the world. [12]

As Alexis De Tocqueville wrote in his 1835 *Democracy in America*:

> *The United States has no metropolis; the intelligence and the power of the people are disseminated through all the parts of this vast country, and instead of radiating from a common point they cross each other in every direction … it is owing to the laws of the Union that there are no licenses to be granted to printers, no securities demanded from editors, as in France, and no stamp duty, as in France and England. The consequence is that nothing is easier than to set up a newspaper.* [13]

II. Protecting the "American System" Against the First Tech Monopolies

The first great technological challenge to the basic balances of this "American System" of the free press came in the 1840s with the rise of the railroad and, especially, the telegraph. These technologies greatly sped the movement of news both in the form of the physical newspaper and in the form of the news story itself, which could now be distributed almost instantaneously across hundreds of miles by the telegraph. These technologies, however, also created chokepoints in the flow of information and ideas. During this period, the distribution of news became dependent on infrastructures developed and owned by rich and powerful private corporations that often enjoyed positions as *de facto* monopolies – over both communications and transportation – across large swaths of the nation.

In response, American legislatures and courts at all levels of government began enacting policies designed to ensure that the private ownership and operation of these crucial technologies did not privilege some people's speech while suppressing others. Although there were widespread calls simply to nationalize the telegraph system, and perhaps attach it to the Post Office (as many

European nations were then doing), Americans generally focused more on using other legal and policy tools to prevent these networks from discriminating in favor of, or against, any one person, party, or corporation, while leaving ownership and management of the networks in private hands.

Hence, perhaps the single most important action during this period was to impose various forms of common carriage rules, or common-carriage-like principles, to these new networks.

One of the first such efforts was New York State's Telegraph Act of 1848. Its goal was to check what one journalist at the time called the "stupendous power" of telegraph monopolies over the flow and content of news by making it easier for new competitors to join the market. The law did so by prohibiting telegraph operators from discriminating in favor of any one person's or company's messages, which it did by mandating that the operator carry messages on a first-come, first-served basis, and that it charge all senders the same price and terms. At the same time, New York legislators also made sure the new technology would serve the public interest in speedily delivered news, by allowing journalists to send messages of "general and public interest" ahead of regular dispatches. [14]

In 1866, Congress largely followed the principles of the New York legislation with the National Telegraph Act, one of the first efforts to use the authority of the U.S. government to directly regulate counter the power and regulate private communications networks. Designed to foster greater competition in the telegraph business, the law gave the Postmaster General the right to set rates for government traffic on the telegraph and asserted that the government had the right to buy out private telegraph companies at any time, if it chose to do so. [15]

The Interstate Commerce Act of 1888 and the Sherman Antitrust Act in 1890 marked the systematic federalization of antimonopoly law. These laws gave the American people clear authority and powerful new tools to protect the American System of free press. These powers – later buttressed by such legislation as the Mann Elkins Act of 1910 and the Clayton Antitrust Act of 1914 – empowered antitrust enforcers to limit horizontal consolidation and block vertical integration between the owners of networks and the content carried on those networks.

Histories of journalism at the turn of the last century often focus on the rise of newspaper chains such as that of William Randolph Hearst, and on the "yellow journalism" that Hearst himself supposedly wielded to provoke a war with Spain. Yet it was also a time of broad, healthy, and growing diversity in the news business. As historian Paul Starr notes, between 1870 and 1900, the number of dailies nearly quadrupled, from 574 to 2,226, and their average circulation increased by an even larger factor, from 2,600 to more than 15,000, with the largest newspapers exceeding half a million readers. American cities, meanwhile, went from having an average of 2.5 papers in 1870 to 4.1 in 1900.[16]

By the beginning of the 20th century, monopolists such as John D. Rockefeller and J.P. Morgan had captured control over great swaths of the American economy and American politics. Yet despite numerous attempts by the powerful to exploit the monopoly nature of the telecom and transportations networks of the day, Americans managed to protect and perpetuate the American System of the free press. If anything, during this period they actually added an important new

twist to the model that helped insulate it from abuse by the government. Whereas the national Post Office system had been open to abuse by actors within government, such as Amos Kendall, the new model – with its careful counterbalancing of private ownership and government regulation – greatly strengthened the systems of checks that prevented any monopolization over the news.

Indeed, it was America's magazines and newspapers which published the most powerful investigations and exposes of the Rockefellers and Morgans of the country, and of the politicians in Washington who served them, helping to catalyze public support for greater anti-monopoly action from the federal government.

III. Perpetuating the "American System" in the Era of Radio and Television

The next great challenge to the "American System of Free Press" came with the rise of wireless broadcast communications technologies, in the first decades of the 20th century.

The First World War, between 1914 and 1918, delivered many shocks to Americans' understanding of how the world worked. This included the first demonstration of the power of modern propaganda and the first sophisticated military use of the new technology of radio.

During and immediately after the war, Americans allowed the federal government to monopolize control over key communications and transportations systems, and over the use of the new wireless technologies. This included nationalization of America's railroad systems in December 1917 and of nationalization of most telecommunications systems in July 1918. It also included the government forcing the corporate owners of all key radio patents to pool their technologies in a new corporation, the Radio Corporation of America or RCA, in March 1919. [17]

But after the end of the war, Americans moved swiftly to return the telecommunications and transportation networks to private control. Despite the fact that radio (and later television) introduced entirely new ways to broadcast the news and sped up communications dramatically, Americans began to shape these technologies to make them fit with the American System of free press that had worked so well for so long.

Indeed, while other major nations moved to centralize communications and the news under the control of the government – as in the case of the United Kingdom's BBC – Americans took a directly opposite path, working to ensure that the new wireless networks would be as decentralized and democratic as possible, composed of thousands of local stations that would be locally owned, locally directed, and locally funded, mainly through local advertising. [18]

Within a few years, Americans had established policies that strictly limited the number of broadcast licenses a single person or corporation could control. They did so, for instance, by blocking any one corporation or individual from owning more than one TV or radio station in the same market, and by blocking corporations from owning more than seven TV stations, seven AM radio stations, and seven FM stations nationally. They also limited how many networks any

one independent broadcaster could affiliate with.[19]

Americans during these years established a “Fairness Doctrine” mandating that all TV and radio broadcasters devote some programming time to issues of public importance and that they air opposing views on those issues. This anti-monopoly provision helped to ensure diversity of speech and opinion in markets where a few companies (like the Big Three networks in television), controlled much of the airwaves. Simultaneously, American legislatures and courts also continued to promote and enforce "common carrier" rules that prohibited price discrimination in communication markets and that set rates and terms of services for networks deemed to be "natural monopolies.” This set of rules served to keep these networks open and neutral.

During this period, American courts strongly restated the idea that the First Amendment required the government not simply to refrain from engaging in censorship, but also to intervene actively in structuring media and communications markets so that private actors did not engage in censorship. In other words, courts recognized a threat of *private* censorship alongside that of public censorship. In a 1945 antitrust case challenging the monopoly power of the Associated Press, for example, Supreme Court Justice Hugo Black wrote for the majority in finding that "a command that the government itself shall not impede the free flow of ideas does not afford nongovernmental combinations a refuge if they impose restraints upon that constitutionally guaranteed freedom." In succinct summation of the relationship between monopoly and free speech, Black concluded: “Freedom to publish is guaranteed by the Constitution, but freedom to combine to keep others from publishing is not.” So too the Supreme Court in 1969, in a decision upholding the Fairness Doctrine. Justice White, speaking for a unanimous Court, wrote “The purpose of the First Amendment [is] to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market, whether it be by the Government itself or a private licensee.” [21]

By the 1950s, after two world wars, and in the tense early days of the Cold War with the Soviet Union, the American people had succeeded in ensuring that American journalism still adhered to the basic model established in the earliest years of the Republic. Even amid the rise of broadcasting technologies that allowed for the growth of large national networks, the political interests and economic power of coastal broadcasters was strongly limited and counterbalanced by structures designed to foster the political and financial independence of local broadcasters and local newspapers.

One result was that, at the height of the McCarthyite “Red Scare” in 1950, the philosopher Sidney Hook wrote in *The New York Times Magazine* that there was no need to fear Soviet agents in the United States or to suppress Americans’ ability to advocate for Soviet-style communism—so long as the U.S. news and communications systems were structured to make it hard for any organization to secretly conspire at a national level. In a direct echo of Jefferson, Hook wrote that there was no need to fear "heresy” so long as Americans continued to foster an open competition of ideas.[22]

IV. The American System in Crisis – Neoliberalism and the Internet

Over the last generation, the American System of Free Press has come under unprecedented pressure. Although many Americans only really began to focus on the state of the news media following the revelations about Russian meddling in the last general election, there has been a sharp and persistent decline in the number of American journalists working at the local, national, and international levels. This is true for the journalism that aims to keep a check on our governments. And it is true for the journalism that is designed to keep a check on large private enterprises, such as business corporations and financial institutions. The overall result is a grave and growing threat to American liberties and American democracy.

Two radical changes are largely responsible for the dangerous state of American journalism today.

The first is intellectual, in the form of a new philosophy of competition. From the founding, Americans used government to promote open markets and wide distribution of power and opportunity. This played out in policies that promoted independent farms, independent business, and local control of enterprise and finance, across the whole American political economy, in almost exactly the same way as Americans promoted wide distribution of ownership over the news media. To the extent there was an organizing concept behind this approach to political economy, it was to protect and promote the interests and rights of the American viewed as a thinking, acting, productive citizen.[*]

But a generation ago, in the late 1970s and early 1980s, an alliance of from across the political spectrum promoted the adoption of a new approach to competition policy. The new goal, they said, should be to promote more "efficient" forms of production, distribution, and business organization, in theory to create more material wealth to share across society. To the extent there was an organizing concept, it was to protect and promote the interests of the American as a "consumer." This movement is sometimes known as the "Chicago School," as many of its early promoters taught at the University of Chicago. It is also widely known as "neoliberalism."

This radical shift from a philosophy that promoted diversity and the distribution of power, to a philosophy that promoted efficiency—and hence the concentration and centralization of power—directly affected the American System of the free press in profound ways.

This new philosophy, by permitting extreme consolidation and concentration in almost every segment of the American political economy. This in turn contributed to a sharp decline in competition in many sectors, as well as a sharp decline in the need to advertise certain products and services. As Open Markets has documented extensively, including in this feature in the *Washington Monthly* [The Real Reason Middle America Should Be Angry, March/April/May 2016], the effects of this concentration were nowhere more extreme than on local retailers and service providers, which for two centuries had provided the bulk of the advertising revenue that

[*] The historical and political legacies of racism and sexism undoubtedly limit which Americans counted as thinking, acting, productive citizens. The Founders' understanding of "citizen" would differ from today's. However, the core principle – of the value of thinking, acting, and productive citizen – still holds.

supported local newspapers and later local radio and television stations. To name but one example, the executives who promoted the 2005 merger of the Federated and Mays department store chains promised investors that, just in the first year after the deal was struck, the combined corporations would save more than $450 million, with much of the savings in advertising. This in turn would have gone to support local newspapers. [23]

The new philosophy of competition, with its new focus on concentration and efficiency rather than distribution and diversity, also played out in a growing willingness by Congress, regulatory agencies, and the courts to apply this reasoning to regulation of the news media and communications in America. Following the insights of the Chicago School, antitrust enforcers permitted private actors to concentrate far greater control than ever before over American news and entertainment media. And policymakers made a series of decisions that actually made it easier for powerful actors to further centralize control over news and information flows. This includes the Telecommunications Act of 1996, the permanence of the safe harbor provisions built into Section 230 of the Communications Decency Act of 1996, and Obama Administration's swift approval of the Comcast takeover of NBC Universal.[*]

The second radical change over the last generation was the development and deployment of the Internet. Much in the same ways that the telegraph and the radio disrupted preexisting balances in the 19th and early 20th centuries, the rise of globe-spanning Internet-based communications corporations such as Facebook and Google similarly broke down existing structures and practices. These new tech platforms consolidated power over America's news system, controlling and manipulating the flow of news and information across the internet. And, closely related, these platforms developed a new system of automated advertising that depended on the intimate surveillance of individuals, and that – over the course of a few short years - allowed them to capture control over much if not most of the advertising market that once sustained America's independent press, and especially its local news media.

The result, in a remarkably short period of time, was the choke pointing of news across a few vital platforms, the creation of extreme or even complete dependency by journalists and publishers on these platforms, and the development by the platforms of ever more automated systems for controlling and manipulating news flows in ways that promote their own financial – and ultimately their own political – interests.

Google and Facebook erected a duopoly over online advertising. Because these companies command far more data than other advertising-based businesses can hope to bring in, Google and Facebook can offer ads that are more targeted, more precise, and which reach more people than those sold by newspapers, magazines, and other journalistic outlets. This is a significant change from the previous structure of the U.S. advertising market, under which news organizations drew in advertising revenue by creating products that attracted local audiences. But under the new system, it doesn't matter if newspapers attract local audiences or forge a strong connection with local readers. No matter what, advertisers can reach those audiences by going to Google or

[*] Section 230 sped the development of many Internet companies, and for that reason, can be credited with increasing competition on the internet in particular and across the American economy in general. But the policy has also helped big tech platforms by shielding them from liability for content – like pirated music – for which they ought to be responsible.

Facebook directly, bypassing local media entirely.

The rise of Facebook and Google's advertising businesses neatly coincides with the declining ad revenue of America's newspapers. Google launched its digital advertising business in 2001 and made its first billion from digital advertising in 2003. Facebook started its digital advertising business in 2009, after which it grew every single year. The two corporations in 2017 grossed just under $140 billion in advertising revenue, which represents 73% of the entire digital advertising market. Meanwhile, newspapers' aggregate revenue fell from the 2005 high of nearly $50 billion to less than $20 billion in 2017, when adjusted for inflation.[24]

The main difference in recent years from previous periods in American history is that for the first time ever, America's citizens – largely because they remain under the sway of neoliberal competition philosophy, and neoliberal "free market" ideology more generally – have not used government to neutralize the power of today's monopoly communications networks. As a result, the executives and financiers in charge of these corporations have been left almost entirely free to further increase their power through the buying of potential rivals, to manipulate the flow of news between reporters and readers through such practices as personalized ("first-degree") discrimination in pricing and terms, and to divert the great bulk of remaining advertising dollars away from local and even national news media into their own pockets.

At the Open Markets Institute, we believe the American people have both a right and a duty to use government to ensure the independence and financial viability of both national and locally based news organizations. Although it is by no means clear yet what specific regulatory actions and policy decisions Americans should take today, at OMI we believe that a close study of American history will help citizens identify a set of clear goals as to the type of journalism we want and need, and the principles by which to achieve those goals.

To that end, in the timeline below OMI highlights some of the main competition policies Americans have used through their history to preserve freedom of speech and of the press, and to create business models that support the sort of robust local and national journalism that is vital to the preservation of liberty and democracy in America.

V. A Timeline of Major U.S. Communications and Media Policies

1765: The British Parliament places a heavy tax on publications printed in the American colonies, including political pamphlets and newspapers. Objecting to this provision of the **Stamp Act**, John Adams articulates the founding generation's commitment to a free press accessible to all citizens. "The preservation of the means of knowledge, among the lowest ranks, is of more importance to the public," he argues, "than all the property of all the rich men in the country."[25]

1776: Shortly after declaring independence from Great Britain, Americans draft founding documents for their states that would ultimately inspire the U.S. Constitution. The new **Pennsylvania State Constitution** guarantees that "the people have a right to freedom of speech, and of writing, and publishing their sentiments; therefore the freedom of the press ought not to be restrained." This was, according to historian Paul Starr, "the first constitutional protections of free speech adopted anywhere."[26]

1789: The Founders seek to promote the free and open exchange of ideas among Americans by including the **Postal Clause** in the new United States Constitution. Benjamin Rush articulates the principle behind the measure by arguing that: “For the purpose of diffusing knowledge, as well as extending the living principle of government to every part of the united states—every state—city—county—village—and township in the union, should be tied together by means of the post-office ... It is the only means of conveying heat and light to every individual in the federal commonwealth.”[27]

1791: Americans adopt the First Amendment to the Bill of Rights, which forbids the government from “abridging the freedom of speech, or of the press.” In subsequent rulings, the courts have held that antitrust law and antimonopoly policy help to further the first amendment by ensuring that private monopolists do not suppress the speech of others. As Justice Hugo Black put it in *Associated Press v the United States* (1945), "a command that the government itself shall not impede the free flow of ideas does not afford nongovernmental combinations a refuge if they impose restraints upon that constitutionally guaranteed freedom."[28]

1792: Congress passes the **Post Office Act**, which encourages the growth of local media by setting a very low price for sending newspapers through the mail -- one cent for up to 100 miles, and one and a half cents for more than 100 miles. The act also allows printers to exchange newspapers for free, thereby facilitating the distribution of national and foreign news to remote areas. President Washington argues in favor of the passage of such a “liberal and comprehensive plan” during a 1791 address to Congress, writing: “While it contributes to the security of the people, serves also to guard them against the effects of misrepresentation and misconception.”[29]

1804: Anticipating the concept of an open marketplace of ideas, Thomas Jefferson writes: "No experiment can be more interesting than that we are now trying . . . that man may be governed by reason and truth. Our first object should therefore be, to leave open to him all the avenues to truth. The most effectual hitherto found, is the freedom of the press.”[30]

1835: Alexis de Tocqueville publishes ***Democracy in America***, in which he observes that “nothing is easier than to set up a newspaper,” as the robust advertising model means that only “a small number of subscribers suffices to defray the expense.” As a result, “In America there is scarcely a hamlet that has not its newspaper.” At the time Tocquville wrote, per capita circulation of newspapers among Americans was estimated to be three times greater than in Great Britain.[31]

1840: The U.S. Patent Office grants Samuel Morse a patent for his telegraph. In a report heralding the invention, Patent Commissioner Henry Ellsworth predicts: “Destined as it is to change as well as hasten transmission of intelligence, and so essentially to affect the welfare of society, all that concerns its further developments will be hailed with joy.”[32]

1844: Financed by a $30,000 grant from Congress, Morse builds a telegraph demonstration project consisting of a 40-mile telegraph line between Washington, DC and Baltimore, Maryland. In spring of that year, Morse proves his technology by using it to quickly transmit the famous biblical line, "What Hath God Wrought?" Furious competition ensues for control of crucial telegraphy patents and for ownership of the telegraph companies and wire services that become "the Victorian Internet."[33]

1845: Congress enacts the **Post Office Act of 1845**, transferring jurisdiction over Morse's demonstration to the Post Office Department. Thus, Congress made telegraph the first electrical communications network in the world to be open to the public on a fee-for-service basis..[34]

1848: The New York State Legislature enacted the **New York Telegraph Act**, a law that allowed anyone to start a corporation without special approval from the government. The measure was primarily aimed at preventing telegraph companies from using their political influence to keep potential rivals out the telegraph market. The measure was important, wrote Whig Journalist James Brooks, because a telegraph monopolist would have "stupendous power" over the transmission of important news and information. The law also creates a common-carriage like system to ensure fair and equal treatment of telegraph messages, under which telegraph operators were required: "to transmit all dispatches in the order in which they are received." But to ensure the speedy transmission of news, journalists were allowed to, as historian Richard John writes, "circumvent this first-come-first-served rule to transmit 'intelligence' of 'general and public interest.'"[35]

1851: The Post Office Department offers **free delivery** of newspapers within their county of publication, an effective subsidy for local news. This was a change from the previous system, which had allowed big city papers to send copies hundreds of miles for the same rate as it cost smaller papers to mail their issues forty or fifty miles.[36]

1852: The Post Office Department gives magazines the same low postage rates of newspapers, effectively cutting rates by 33-50 percent compared with 1850 prices.[37]

1860: Congress passes the **Pacific Telegraph Act**, granting $40,000 a year for ten years as well as free use of unoccupied land to support the creation of a transcontinental telegraph. This public subsidy helped guarantee access to the new technology for the Americans who moved and settled out west.[38]

1866: Congress enacts the **National Telegraph Act,** which is designed to further extend the telegraph and bring more competition to the industry. The act grants consenting telegraph companies access to rights of way including postal roads. In an early example of utility-like regulation of media networks, it empowers the Postmaster General to set telegraph rates for governmental departments and gives Congress a mechanism to buy out consenting telegraph businesses within five years of enactment. Despite the law's intentions, the law does not prevent increasing consolidation in the industry, but it does embolden reformers promoting nationalization of the new technology.[39]

1868: The British Parliament buys out the domestic U.K. telegraph network, further encouraging US reformers who sought to nationalize the new technology. President Ulysses S. Grant, for instance, proposes that the U.S. government should operate the new technology as a utility in 1871.[40]

1876: Western Union and the Associated Press have by this time become dominant players in their respective industries of telegraphy and wire news reporting. And during the election of 1876, they collude to help elect Republican Rutherford B. Hayes to the presidency. The AP distributes positive stories about Hayes, publicizes Hayes' campaign statements while muting

those of his rival, Democrat Sam Tilden, and aggressively discredits reporting that casts Hayes in a negative light. Underscoring the danger of communications monopolies to democracy, Western Union passes telegraph messages of Democrats working for Tilden along to AP operatives, who then pass them along to Hayes and the Republicans – giving Hayes a strategic edge to winning the presidency. The AP and Western Union's work to elect Hayes proved enormously politically influential, as Hayes would clinch the election as part of a compromise that ended Reconstruction and permitted the disenfranchisement of Black Americans all across the South.[41]

1881: The Wall Street speculator Jay Gould, armed with his own newspaper, *The New York World*, gains control of the Western Union telegraph monopoly and its closely aligned wire service, the Associated Press. Gould outrages the public by scanning telegraph traffic for inside information on rivals and using his control of the AP to manipulate newspaper coverage and stock prices..[42]

1885: Congress **cuts "second-class" mail rates** from two to one cent per pound, an enormous cost reduction that helps fuel the rise of magazines by making them more affordable for advertisers. Between 1885 and 1915 the volume of second-class mail increases by a factor of twelve, compared to a six- to seven-fold increase in the volume of first-class mail.[43]

1890: Congress passes the **Sherman Antitrust Act**. Speaking on the bill at the Washington Court House, Sen. Sherman says, "I introduced that bill to do away with trusts . . . now anybody that is injured by these contributions can obtain relief through the United States courts."[44]

1894. A Massachusetts court voids a microphone patent owned by American Bell, which had been granted to Emile Berliner. Independent and non-Bell telephone equipment manufacturers view this as an opening to establish independent telephone exchanges.[45]

1896: Congress introduces **Rural Free Delivery**, a system by which the Post Office delivers mail directly to rural farm families. This produces a boom in rural newspaper circulation, expanding subscription rates and encouraging small retailers to start advertising in local papers, thereby sustaining local, independent journalism.[46]

1898: In ***Richmond v. Southern Bell***, the Supreme Court excludes the telephone from the National Telegraph Act, which has the effect of expanding municipalities' power over telephone operating companies. The court also rules that "telegraphic communications between the several departments of the government of the United States and their officers and agents shall... have priority over all other business, and shall be sent at rates to be annually fixed by the postmaster general."[47] `

May 1906: The Massachusetts state legislature places all corporations that transmit "intelligence" by electricity under the purview of the state's highway commission.[48]

1908: President Teddy Roosevelt supports legislation that would designate telephone and telegraph companies as common carriers.[49]

1910: The New York legislature puts the telegraph and telephone under the regulatory jurisdiction of the state's public service commission.[50]

1910: Congress passes the **Mann Elkins Act**, a law designed to regulate the railroads as common carriers. But midway through the debate, lawmakers decide also to regulate telegraph and telephone companies as common carriers as well. As Rep. Oscar Underwood says during debate: "[W]e cannot afford to … refuse to bring the great telegraph and telephone lines in this country within the terms of the Interstate Commerce Act, so that they may be properly and fairly regulated in the interest of the great commercial life of the Nation." [51]

1912: In response to the placement of the telegraph and the telephone under the jurisdiction of the Interstate Commerce Commission, Bell President Theodore Vail commits the company to creating a "universal wire system" that would combine the telegraph and the telephone in a single interactive network. But, shortly thereafter, Woodrow Wilson wins the election of 1912 and his Attorney General, James McReynolds, sues Bell for **violating the Sherman Act**.[52]

1912: The **Radio Act of 1912** puts radio under the control of the Department of Commerce. It empowers the department to license all radio operators and requires all stations to broadcast over a specific wavelength. In part reacting to the erroneous radio reports surrounding the *Titanic's* sinking, the Act also requires stations to give priority to distress signals.[53]

1913: After suing AT&T for violating the Sherman Act, Attorney General James McReynolds and AT&T reach an agreement known as **The McReynolds Settlement or the Kingsbury Commitment. As part of the deal,** AT&T sells its ownership stake in the telephone equipment manufacturer Western Union, stops acquiring independent phone companies, and creates procedures for interconnecting AT&T's network with that of the independents. Independent companies call the settlement a "gift from Santa Claus Bell" and "the acceptance of the principle of competition in the conduct of [the telephone] business."[54]

July 1918: President Wilson nationalizes telephone and the telegraph companies and transfers their control to the Post Office Department as a wartime necessity. Surveying the behavior of other countries involved, Postmaster General Burleson concludes: "there is not a nation engaged in the war that [e]ntrusts its military or other communications to unofficial agencies." Congress gives control back to private owners at the conclusion of the war in 1919. "[56]

1919: In ***Schenck vs. United States***, the Supreme Court unanimously decides that there are circumstances in which the right to free speech can be abridged. "Words which, ordinarily and in many places, would be within the freedom of speech protected by the First Amendment may become subject to prohibition when of such a nature and used in such circumstances as to create a clear and present danger that they will bring about the substantive evils which Congress has a right to prevent," Chief Justice Oliver Wendell Holmes Jr. wrote. The decision comes amidst a growing hostility toward speech deemed to be subversive during and after the First World War.[58]

1919: In a celebrated dissent in the case of ***Abrams v. United States***, Justice Oliver Wendell Holmes Jr, declares his belief that "in the free trade of ideas... the test of truth is the power of thought to get itself accepted in the competition of the market." The analogy offers a direct comparison between the benefits of competition in political discourse and the benefits of competition in markets for tradable goods. An open marketplace of ideas makes it possible to avoid the censorship of harmful ideas.[59]

1921: Congress embraces the concept of natural monopolies by enacting the **Willis-Graham Act**. A House report for the law declares, "There is nothing to be gained by local competition in the telephone businesses." Under the law, acquisitions of local telephone companies are exempt from antitrust enforcement. This allows AT&T to begin acquiring independent telephone companies. The company reaches a 79 percent market share of the national market by 1932, but remains subject to tight government rate regulation.[60]

1927: Congress passes **The Radio Act of 1927**, creating the Federal Radio Commission (FRC). The FRC structures radio markets by controlling who receives broadcast licenses. The legislation also prohibits the dual ownership of a radio station and a telephone or telegraph company, which keeps AT&T from owning broadcast stations. Representative Luther Johnson of Texas argues in favor of the bill, saying: "Publicity is the most powerful weapon that can be wielded in a republic. And when such a weapon is placed in the hands of one person, or a single selfish group is permitted to either tacitly or otherwise acquire ownership or dominate these broadcasting stations throughout the country, then woe be to those who dare to differ with them. It will be impossible to compete with them in reaching the ears of the American people."[62]

1928: The FRC passes **General Order 40**, a rule that re-organizes the entire radio dial by reducing the number of channels from six hundred to forty nationwide. This helps create clearer channels, but also leads to the shuttering of small stations across the country.[63]

1929: The FRC finds, under a public interest doctrine, "that the tastes, needs, and desires of all substantial groups among the listening public should be met, in some fair proportion, by a well-rounded program." This doctrine provides the foundation for the FRC's commitment to the principle of non-discrimination in evaluating broadcasting stations.[64]

1932: After ***United States v. Radio Corp. of America***, the Justice Department requires General Electric and Westinghouse to divest their stock holdings in the Radio Corporation of America (RCA). RCA remains a dominant player in the radio business, but the company is required to freely license its radio patents.[65]

1934: Congress passes **The Communications Act,** which abolishes the Federal Radio Commission and replaces it with the Federal Communications Commission. The law also empowers the FCC to set rates for AT&T and other telephone operators. The Act also prohibits any joint operation of radio and wired systems.[66]

1940: Empowered by the Communications Act, the FCC adopts a "duopoly rule" barring any one person or group from owning two broadcast radio or TV stations in one market.[67]

1941: The FCC introduces the **Mayflower Doctrine**, which forbids station owners from political editorializing on any of their content and requires broadcasters to "provide full and equal opportunity for the presentation to the public of all sides of public issues," emphasizing the need for issues of public importance to be reported "fairly, objectively and without bias."[70]

1941: FCC enacts the "dual network rule," banning broadcasters from affiliating with any organization that maintains more than a single network. Initially applied to radio only, the FCC

expanded it to include television in 1946. The measure is aimed at NBC, the only radio station to own two networks.[71]

1943: In *NBC v. United States*, the Supreme Court rules in favor of the FCC's rules limiting the ownership of broadcasters. Following this ruling, the FCC requires NBC to sell off its Blue Network, which would become ABC."[73]

1945: In ***Associated Press v. United States***. the Supreme Court rules that the AP has violated the Sherman Act by forbidding AP members from selling or providing news to nonmember organizations. The Court notes that an essential goal of the First Amendment is to promote an open marketplace of ideas by achieving "the widest possible dissemination of information from diverse and antagonistic sources." In his concurring opinion, Justice Hugo Black states that "Freedom to publish is guaranteed by the Constitution, but freedom to combine to keep others from publishing is not."[74]

1947: **The Hutchins Commission**, an independent commission headed by the president of the University of Chicago, and funded by *Time* magazine, releases its final report on the media. The report declares freedom of the press to be in danger because of concentration, rising costs, and the media's interest in sensational news. As the commission stresses in its report: "no democracy will infinitely allow concentration of private power irresponsible and strong enough to thwart the democratic aspirations of the people."[75]

1948: In ***United States v. Paramount Pictures***, the Supreme Court rules that the country's movie studios must divest ownership of movie theaters, finding that the Big Five movie studios have colluded to fix prices and divert "the cream of the business to the large operators."[76] The Court's decision ultimately leads to the vertical break-up of the movie industry.[77]

1949: In another example of breaking up vertical integration in media, the Justice Department sues AT&T, alleging the company is violating the Sherman Act, and demanding that AT&T spin off its manufacturing company: Western Electric.[78]

1949: The FCC repeals the Mayflower Doctrine and adopts the **Fairness Doctrine**, which repeals the ban on editorializing but introduces a requirement for broadcasters to devote a portion of programming to issues of public import and to air opposing views. The move was generally viewed favorably by broadcasters, with Justin Miller, then President of the National Association of Broadcasters (NAB), praising the decision as "the greatest single victory on behalf of freedom of expression" in this century. [79]

1950: Congress strengthens anti-trust law by passing the **Celler-Kefauver Amendments** to the Clayton Act. Co-sponsor Congressman Emanuel Celler promises that the legislation will preclude "merging one newspaper with another where the effect would be only one newspaper." Celler warns: "In any community there should be clash of opinion. We should not have opinion all one-sided. There should be both sides submitted to the populace. Any community formerly supplied with two papers would be at a disadvantage if they combined."[80]

1951: In ***United States v. Lorain Journal Co***, The Supreme Court finds that the *Lorain Journal*, a small daily newspaper with a local monopoly over news and advertising, had violated the

Sherman Antitrust Act by refusing to do business with advertisers that also placed advertisements in a rival radio station.[81]

1952: The U.S. government launches an **antitrust suit against the American News Company,** a massive distributor of magazines and paperback books to newsstands. The government alleges that ANC used its railroad news division, the Union News Company, to extract unfair terms from other distributors. After the conclusion of the case in 1955, both companies were barred from making decisions about what to carry and display based on their own interests, and the two companies were blocked from tying their businesses together.[82]

1953: FCC adopts rules prohibiting any entity from owning more than 7 AM radio stations, 7 FM radio stations, and 7 television stations. This **"7-7-7 rule**" lasts until 1984 when the FCC replaces it with a 12-12-12 rule.[83]

1953: The Supreme Court in ***Times-Picayune Publishing Co. v. United States*** rules that the biggest newspaper in New Orleans did not violate the Sherman Act with a monopoly on advertising, as the government had argued.[84]

1955: Justice Department enters into consent decree with R. Hoe & Company, under which the business agrees to exit international agreements that allowed R. Hoe and others to divvy up markets and depress competition for the manufacture, sale, and distribution of printing presses..[85]

1956: **AT&T reaches a consent decree** ending the Justice Department lawsuit filed in 1949. AT&T agrees to engage only in common carrier communication services and government projects, as well as only make products the Bell System needs. Finally, AT&T agrees to make existing patents freely available.[86]

1956: In ***United States v. Storer Broadcasting Co,*** the Supreme Court upholds the FCC's broadcast ownership rules limiting the number of TV stations that any one entity could own. In his 7-2 majority decision, Justice Stanley Reed writes that the regulation is justified because "Congress sought to create regulation … to assure fair opportunity for open competition in the use of broadcasting facilities."[87]

1957: In ***Kansas City Star Co. v. US***, the Eighth Circuit Court of Appeals rules that the *Kansas City Star* – a dominant paper in the region – violated the Sherman Act by pressuring businesses to advertise exclusively with the *Star*. As the court writes in its opinion: "The Sherman Act aims at the evils of monopoly and monopolistic practices in interstate trade and commerce. That it can apply to the dissemination of news and advertising there can be no doubt."[88]

1959: Congress passes an amendment to the 1934 Communications Act intended to codify the FCC's **Fairness Doctrine** into law. Lawmakers write that broadcasters have an "obligation ... to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance."[89]

1966: The FCC **bans cable from the one hundred most populous largest cities and towns** in the US. This allows cable to expand to small towns, but stops it from becoming a mass service, demonstrating the FCC's favoritism to broadcasters.[91]

1969: **In *Red Lion Broadcasting Co. v. FCC***, the Supreme Court upholds the FCC's fairness doctrine and equal time rules, under which radio and television broadcasters must give equal time to each side of a dbate. In upholding the rules, the Supreme Court says the scarcity of radio licenses invites the government to put restraints on broadcasters. The court states: "the purpose of the First Amendment [is] to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market, whether it be by the Government itself or a private licensee."[94]

1970: The FCC seeks to reduce the monopoly power of the Big Three television networks by adopting Financial Interest and Syndication Rules, widely known as the **Fin-Syn rules**. These rules prevent the networks from owning any of the programming they air in prime time while also prohibiting them from airing syndicated programming in which they have a financial stake. The prohibition against this form of vertical integration lasts into the early 1990s.[95]

1970: The FCC **updates its cross-ownership rules to include cable**, prohibiting the same telephone companies, radio, and TV broadcasters from also owning cable systems. [96] These rules remain intact until the Telecommunications Act of 1996.[97]

1970: The Justice Department reaches a **consent decree with Times Printing Company**–the owner of *The Chattanooga Post* and *The Chattanooga Times*–after suing the company for trying to drive the *Chattanooga Times Free Press* out of business with "unreasonably low" advertising rates for its own papers.[98]

1970: Congress passes the **Newspaper Preservation Act**, which allows newspapers in the same city to combine business operations without running afoul of the antitrust laws.[99]

1971: The FCC releases **Computer Inquiry 1**, the first of several inquiries into the new computer industry, which bars big communicatons carriers – including AT&T – from entering the "data processing" and "online services" markets. However, owing to the 1956 consent decree, AT&T was already barred from entering markets not regulated by common carriage rules.[100]

1974: The Justice Department charges AT&T, Western Electric, and Bell Laboratories with "[engaging] in an unlawful combination and conspiracy to monopolize" under the Sherman Act. All twenty-two Bell Operating Companies are charged as subsidiaries and co-conspirators. But, the case will not be cleared to go to trial until 1978.[101]

1975: FCC **prohibits the same company from owning a newspaper and a television or broadcast station** in the same market.[102]

1978: The judge in the **AT&T case**, Harold H. Greene, calls for the trial to begin in 1980, saying, "the complaint alleges serious violations of the Sherman Act, and if the government is able to prove these allegations, it follows that a substantial violation of that fundamental charter of American economic life has occurred."[103]

1978: In ***FCC v. The National Citizens Committee for Broadcasting***, the Supreme Court upholds FCC regulations limiting the cross ownership of broadcast and print newspapers. In his unanimous opinion, Justice Thurgood Marshall argues that the Court's precedents "h[o]ld that

application of the antitrust laws to newspapers is not only consistent with, but is actually supportive of, the values underlying, the First Amendment."[104]

1982: Judge Harold Greene, overseeing the government's antitrust suit against AT&T, completes the **Modified Final Judgment Consent Decree**. The agreement releases AT&T from the 1956 decree that had barred it from entering new markets, but also requires it to divest of its twenty-two local operating companies and prevents it from vertically integrating into electronic publishing.[105] Judge Greene linked the antitrust case to freedom of speech, noting "as the Supreme Court has recognized, in promoting diversity in sources of information, the values underlying the First Amendment coincide with the policy of the antitrust laws."[106]

1984: The FCC votes to **replace the "7-7-7" rule,** expanding the number of FM, AM, and TV stations that one entity can own, from 7 of each to 12 of each. The Commission also decides that by 1990 it will remove all restrictions on broadcast ownership. In an editorial after the decision, the *New York Times* asks: "Could a concentration of ownership in television also concentrate political power? Why should the deregulation of scarce channel space, even if sensible, result in an economic windfall for station owners instead of the public?"[107]

1986: The US Court of Appeals for the DC Circuit rules that Congress did not codify the Fairness Doctrine in law. Rather, Judges Robert Bork and Antonin Scalia–writing for the majority–rule that Congress had "recognized and preserved … an administrative construction, not a binding statutory directive."[108]

1987: Enabled by Bork and Scalia's decision, the FCC decides that it will no longer enforce the **Fairness Doctrine**. The Commission argues that enforcing the doctrine "disserves both the public's right to diverse sources of information and the broadcaster's interest in free expression." Further, the FCC says that the "scarcity" rationale – the idea that because broadcaster waves are scarce, they thus require governmental curation to ensure a variety of perspectives – no longer applies to broadcasters because of new technologies including cable and satellite.[109]

1987: Following the three-year anniversary of the AT&T break-up, the Justice Department releases a report recommending that the Baby Bells be allowed to offer long distance service, electronic information services, and telephone equipment. In response, Judge Greene allows the Baby Bells to transmit electronic information services but still blocks them from providing content or the service itself. Explaining his decision to limit their business as such, Judge Greene argues that the Baby Bells could "use their local monopoly advantage as a means to decimate the competition in these markets."[110]

1988: After an appeal by the Baby Bells in the AT&T case, Greene lifts the ban on the Baby Bells providing information services such as e-mail and voice messaging. But, the Baby Bells are still barred from providing telephones, telecommunications productions, and information services content.[111]

1991: FCC decides to relax the **Fin-Syn rules** it had been enforcing since 1970 to contain the monopoly power of the Big Three television networks. White House Chief of Staff John Sununu articulates President George H.W. Bush's support for the measure, noting that "The President has repeatedly stated his aversion to unnecessary government interference with private markets

and his desire to continue to the deregulatory spin efforts he led in the Reagan-Bush administration." Faced with adverse court rulings, the FCC scraps its Fin-Syn rules entirely within two years.[112]

1992: The **FCC raises the media ownership cap further**, so that a single person or entity may own as many as 30 AM and 30 FM radio stations nationally. The commission also allows a single entity to own as many as three AM and three FM stations in a single city depending on the number of stations already in that city. The FCC cites ample competition from cable television and other forms of communication as its rationale. It also noted the need for money-losing stations to be able to sell their licenses to avoid bankruptcy.[114]

1994: In ***Turner Broadcasting v FCC***, the Supreme Court upholds provisions of the 1992 Cable Act that required cable systems to set aside up to one-third of their channels for local commercial broadcast stations. The Court finds that vertically integrated cable monopolies would undermine the marketplace of ideas if they were allowed to favor their own programming over that of independent producers. The majority concludes that "assuring that the public has access to a multiplicity of information sources is a governmental purpose of the highest order, for it promotes values central to the First Amendment."[115]

1996: Congress signs into law the **Telecommunications Act of 1996** which provides sweeping deregulation of the telecommunications sector. As part of its implementation the act removes caps on radio station ownership, further eases media cross-ownership restrictions and abolishes municipal franchise monopolies. The effects of deregulation were supposed to be offset by the effects of increased competition – yet due to lax anti-trust enforcement, incumbent carriers will wind up gaining market power.[116]

2003: The FCC **revisits and repeals several media ownership rules**. The Commission raises the national TV station ownership cap to 45 percent of US TV households, ends the ban on newspaper and broadcast station cross-ownership (allowing newspapers and TV stations in one city to be owned by the same entity), and relaxes rules governing local TV ownership, so that companies can more easily own multiple stations–up to three in the largest cities. Their decision comes after several court cases challenging various media ownership rules, including *Time Warner v. FCC* (2001) and *Sinclair Broadcast Group v. FCC* (2002).[117]

2010: The FCC passes its **Open Internet Order**, applying common carrier-style "net neutrality" principles to internet services providers, after several previous attempts to institute the rules. Although a positive step toward net neutrality, some internet activists argue that the rule "prioritize[s] the profits of corporations like AT&T over those of the general public, internet entrepreneurs and local businesses across the country."[118]

2014: In **Verizon Communications v FCC** the U.S. Court of Appeals for the D.C. Circuit rules the FCC cannot apply net neutrality principles to broadband companies as a result of the FCCs ambiguous definition of common carriers in their Open Internet rules, voiding the 2010 order. Although a loss for the FCC, the ruling preserves the FCC's opportunity to "act swiftly… … and adopt new Open Internet rules" to address this ambiguity.[119]

2015: The FCC designates Internet service providers as common carriers under Title II of the Telecommunications Act and applies **Net Neutrality** rules that prohibit blocking, throttling or paid prioritization of content, arguing that "the overwhelming consensus on the record, is that carefully-tailored rules to protect Internet openness will allow investment and innovation to continue to flourish."[120]

2017: The FCC votes to repeal the 2015 **Net Neutrality** rules under the leadership of newly appointed Chairman Ajit Pai. Pai states "returning to the legal framework that governed the Internet from President Clinton's pronouncement in 1996 until 2015 is not going to destroy the Internet. It is not going to end the Internet as we know it. It is not going to kill democracy. It is not going to stifle free expression online."[121]

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