FROM: Phyllis Schlafly

68 FAIRMOUNT, ALTON, ILLINOIS 62002 / (618) 462-5415

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THE FAIRNESS DOCTRINE

A rash of articles has appeared in recent months advocating the termination of the Fairness Doctrine which imposes an obligation of fairness on television and radio broadcasters. It's easy to see why the Dan Rathers of the electronic media world would like to see the Fairness Doctrine repealed, because they would then have no legal or moral obligation to be fair in their reporting. But it's difficult to see why any conservatives would support this position.

Does anyone think that the CBS, NBC, and ABC evening network newscasts would treat President Reagan and his policies more fairly if Congress officially proclaimed that "TV no longer has any obligation to be fair"? Does anyone think that abolition of the Fairness Doctrine would open up access to national television by non-liberals?

The trouble with the people who advocate repeal of the Fairness Doctrine is that they start from the assumption that the purpose of the First Amendment is to protect the people who own the commercially profitable media outlets. That isn't what the First Amendment is for. The American people have just as much right to the benefits of the First Amendment as those who own a television or radio station.

As an example of the emotional rhetoric used by opponents of the Fairness Doctrine, the general counsel of the F.C.C. recently wrote: "It is subversive of venerated American traditions to entrust to government officials the power to regulate the public's access to ideas." That's true, but it is irrelevant. The F.C.C. does not empower government to "regulate the public's access to ideas," and the government in fact has not done that. All the Fairness Doctrine is designed to do is to assure the public's access to different ideas and to prevent the broadcasters from trying to deny it.

It is as ridiculous to accuse the F.C.C. of regulating the public's access to ideas as it would be to accuse the anti-trust division of the Justice Department of regulating our access to telephones. The anti-trust laws are designed to promote competition and to prevent monopoly; they are not designed, nor have they been used, to force us to buy a particular product or to prevent new products from entering the market.

The American people deserve a free marketplace of ideas rather than merely competition among the commercial businesses making profits out of transmitting ideas. As the Supreme Court stated when it unanimously upheld the Fairness Doctrine in the famous case, Red Lion Broadcasting v. F.C.C. (1969): "It is the purpose of the First Amendment 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 by a private licensee."

The television monopoly is so powerful that it functions like a fourth branch of government, more powerful than any of the other three, and sometimes more powerful than all the other three. As Theodore H. White wrote in his book, "The Making of the President, 1972," "The power of the press in America is a primordial one. It sets the agenda of public discussion... It determines what people will talk and think about -- an authority that in other nations is reserved for tyrants, priests, parties and mandarins."

Those who say that TV and radio stations should not be subject to a fairness requirement any more than newspapers are out of touch with reality. When a newspaper treats you unfairly, you can exercise your First Amendment rights with a "print" remedy; you can at reasonable cost print and distribute your own newsletters or handbills.

It's a whole different ballgame with television or radio. You absolutely cannot exercise your First Amendment rights with an "airwaves" remedy unless the networks or the local broadcasters give or sell you the time. Individuals and businesses who believe that television treats their views unfairly have learned to their sorrow that they cannot buy reply time at any price if the electronic media refuse to give or sell it.

When those who object to the Fairness Doctrine talk emotionally about "timeworn rules that empower the F.C.C. to police the marketplace of ideas," they are misreading the law, the facts, the purpose and the reality of the Fairness Doctrine. The Fairness Doctrine is a time-tested and time-proven rule which empowers the F.C.C. to prevent the broadcasters from policing the marketplace of ideas.

The only thing the matter with the Fairness Doctrine is that it has never been enforced against the big TV networks who wield the biggest monopoly control.