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A podcast series on the business of writing and publishing

Interview with Victor Pickard **Author, *America's Battle for Media Democracy***

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KENNEALLY: Under the United States Constitution, the First Amendment protects free speech from government restriction or interference, yet government has a significant oversight role for a variety of media. In his new book, *America's Battle for Media Democracy*, Victor Pickard asks how well public policy has served the public interest, or if it only has protected private business.

Welcome to Copyright Clearance Center's podcast series. I'm Christopher Kenneally for Beyond the Book. In 2014, the so-called net neutrality debate has focused attention on ways that government, specifically the Federal Communications Commission, can or should regulate media companies and their business practices.

In the 1940s, the FCC similarly weighed in on the future direction for radio, the dominant broadcast media of that era. The policy decisions made then, says Professor Pickard of the Annenberg School for Communications at the University of Pennsylvania, not only shaped what America heard over the air, but also forged a path favoring property rights over the right to free access of information. And Professor Pickard joins me now from his office in Philadelphia. And welcome back to Beyond the Book, Victor Pickard.

PICKARD: Thank you for inviting me back on the show, Chris.

KENNEALLY: Well, we're delighted to have you join us. We'll just remind our audience that Victor Pickard was on the program about two and a half years ago, taking a look at what was then the real roiling debate around the future of newspapers. And in an op-ed for the *Philadelphia Enquirer*, he argued that a concern for the future of newspapers was really about a concern for the future of journalism.

And you are someone, Professor Pickard, who really does concern himself with what the First Amendment means in practice as much as in principle. And in your new book, *America's Battle for Media Democracy: The Triumph of Corporate Libertarianism and the Future of Media Reform*, you really make a case for understanding that the media landscape that we know isn't natural. It's not part of nature the way the landscape is in the Poconos, but it is formed by policy.



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PICKARD: Yes. That's absolutely correct. I think it's part of human psychology to assume whatever the state of affairs are today was an inevitable, natural development, and what I'm trying to do in my book focusing on the American media system is to show that the way our media system developed traces back to these policy decisions, especially policy debates that took place in the 1940s.

KENNEALLY: Well, it's fascinating, because the debates are fairly familiar to anyone who is following the net neutrality debate of today. We'll talk about that just a little bit later, but before we get into the specifics of the media debate in the 1940s, let's talk about the issues here. One of them is what you call collective rights versus individual rights, and perhaps another way to put it is the rights of the public versus the rights of a private person or organization. So talk about the tension that goes on there when it comes to the media business.

PICKARD: Sure. So I think we should begin by saying that there are different interpretations, different ways of seeing the First Amendment. And what is often in tension is this idea, as you just noted, that there are individual rights and then there are also collective rights. And this is fairly straightforward, but what I try to show what has happened historically over the last 70 years or so is that those individual rights, those kinds of protections that are sometimes referred to as negative rights – so protections that protect us from things, from government, usually it is assumed – that those rights have attached themselves to the rights of corporations.

So an easier way of understanding that is that we see this notion of corporations being treated as individuals, especially media corporations that are protected by the First Amendment. And what that means is that any time there is a regulation that might be meant to protect the public is seen as an infringement by government onto media corporations' individual rights. And we see this now happening with net neutrality, but we could see this happening in the 1940s around radio and around these larger debates about what is the role of radio in a democratic society.

KENNEALLY: Right. And if those assertions of public rights are rejected, the way that we come out is to allow the media businesses to, in effect, regulate themselves.

PICKARD: That's absolutely right, and that's largely what came out of the 1940s, what I refer to as a post-war settlement for American media, that US corporations were able to use the First Amendment as a kind of shield against any kind of government regulation, even fairly light, innocuous regulation that was simply meant to keep media corporations socially responsible, that they had public interest obligations – basic things like, for example, they were meant to cover public affairs or local issues on their radio programming. These are debates that the commercial broadcasters were largely able to win on their terms, that basically made it so that they were now regulating themselves. There was very little governmental oversight. And we're seeing that happen again with the internet.

KENNEALLY: Right. And the case in the United States really does contrast with much of the rest of the world – the UK, certainly, as well as around Europe and throughout the rest of the world. Of course, the First Amendment is a very characteristically American notion, and so that may be something that does trump everything else. But tell the listeners a bit about how regulation is an accepted form of the media landscape in other countries.

PICKARD: Yes, well, I think in other countries, other democracies, in particular, it's fair to say that there is a better ingrained notion that media have public service responsibilities, that media have a special role within a democratic society, and there's a kind of social contract in effect where media firms – and of course, we need to remember also that most democratic nations have very strong public media systems – that is, media systems that are not run for profit, that are not commercialized. There's generally this assumption that the media system has to deliver on particular public service responsibilities, that a democracy depends on this.

And I think in the US, again, over time – I don't think this was inevitable. I don't think it had to develop this way, but basically, we've lost that understanding, and instead, we often think of our media system as a business commodity, that it gives us products and business commodities. And we don't really see it outside of this profit-making role. We often forget – the academic term for it is the normative mission, what a media system is supposed to do, what it ought to do within a democratic society. So I think in other democratic nations, it's understood that a commercial media system cannot provide for all of a democratic society's communication needs.

KENNEALLY: Well, your new book from Cambridge University Press, *America's Battle for Media Democracy* – I've got a copy of it right in front of me, and the illustration shows Franklin Roosevelt seated before the microphones of CBS and NBC – the radio microphones for those networks. And I think it's important, before we go into the specifics of the debate in the 1940s, to remember that of course FDR was the author of the New Deal, and many of the arguments regarding the regulation of media are related to New Deal principles and to what were then prevailing so-called liberal ideals.

PICKARD: That's absolutely right. And I meant for that photograph to be seen as kind of a symbolic confrontation between the New Deal's social democratic mission versus these commercial media monopolies and duopolies. And I think you see this confrontation really come to a head in the 1940s. And I think the resolutions that came out of those policy battles is basically what's given us this particular kind of media system that we have today.



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KENNEALLY: Well, it was not all in one direction. There were some victories in the fight for the public interest in the 1940s. For example, the NBC network was broken up. But give us a sense of how things worked their way through that decade when it came to FCC regulation of the radio industry.

PICKARD: Sure. So what was really interesting is that the New Deal arrived later and stayed longer at the Federal Communications Commission – that is the major regulatory body over much of the American media system – and it arrived in the form of James Lawrence Fly, who was better known as Larry Fly. He was the FCC chairman.

And for a number of years in the 1940s, there was this critical mass of liberal, progressive commissioners on the FCC. And so you saw this flurry of progressive policy initiatives beginning with what you noted just a moment ago, that the – and this is pretty inconceivable today – but the FCC chairman, Larry Fly, was able to essentially trust bust NBC to break up this enormous radio monopoly and break it into two parts. That’s actually how we got ABC, which is often thought of as the third of the three big networks.

And then from there, it kind of progressed from this anti-monopoly approach to focusing more on programming issues. And this is where another FCC commissioner, Clifford Durr, sort of picked up the baton and tried to advance this progressive media policy agenda up into the late 1940s. And the final initiative that they were able to get through – it was a little bit of a mixed bag. Today it’s thought of as sort of the high water mark for progressive media policy making. At the time, it was seen as kind of a consolation prize. But it became known as the Fairness Doctrine. It’s something that many people are still familiar with today.

So that’s sort of where we ended at the end of the 1940s. However, that was seen as a fairly weak regulatory measure, where they were trying to get broadcasters to report on important issues in a balanced manner. That was quite a weak regulation compared to the earlier trust busting in the beginning of the decade.

KENNEALLY: Indeed. And so for certain points along the way, the activists, the reformers did see some success, but as we noted in the opening of our discussion, the landscape we recognize today is rather lacking in that kind of public-minded regulation and oversight. Indeed, the Fairness Doctrine, which I am old enough to recall, really sort of withered away in the 1980s. And so I guess what I need to ask you is what happened? How was it that the media businesses were able to wrestle back control from the FCC and from the public reformers?

PICKARD: Well, it certainly didn’t happen without a very large fight. There were these constant policy battles throughout the 1940s. You also had a lot of social movement groups, labor unions, civil rights groups. There were a lot of African-

American groups, especially returning veterans from World War II, who were enraged by a lot of the racist programming that they heard. And there was this general consensus among these various activist groups, and also just average listeners in the public, that they needed to change the media policy in order to change the media system.

So you saw these various policy battles that took place, but essentially what happened was that in the 1940s with the rise of the anti-communist hysteria, that basically pro-industry groups were able to say that any attempt, no matter how innocuous or reasonable it might seem in other contexts – any attempt by the government to intervene in media markets was seen as a kind of communist plot. It was seen as a socialist agenda.

And so you saw this kind of red-baiting that really de-legitimated any sort of public interest policy program. It made it very difficult in the 1940s as this political landscape shifted so far to the right – it made it very difficult to advance any kind of progressive policy agenda. And of course, this is what derailed the entire New Deal program in many ways.

KENNEALLY: Well, indeed, and it's fascinating to think about how the Cold War shaped our media landscape in ways that seem today kind of hidden from view. Fascinating. Your concern in the book and in the op-ed columns that we have read in the past is really about the future of media, the future of democracy. And you rather explicitly state that you sympathize if not side with these reformers. And I guess I want to ask you today, Victor Pickard, just how all of this looks to you in 2014? Obviously very familiar from what went on in the 1940s. But does it leave you with concern for the future of media and the future of journalism?

PICKARD: Well, certainly I am concerned, but I'm also, probably just by nature, cautiously optimistic. I do see many forms of media reform activism happening today. I feel like in some ways, it's a continuation of this earlier tradition of media reform activism that you see in the 1940s. We're at another critical juncture. Today, it's more about the future of broadband, although I would say that many of the questions around the future of journalism are also still very relevant and have a lot of parallels with what was taking place in the 1940s.

And I do think that there is this growing awareness that we can't just leave the internet to the market, that we can't just trust that the market will solve all of the future of journalism questions that are very much of concern today. So yes, I think you can look in many different areas and see this vibrant media activism that's happening. I think people are becoming increasingly more engaged around these policy issues. So I hope that we'll see even more engagement, because I think right now, there's a lot at stake, especially around net neutrality.



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KENNEALLY: Well, indeed. And while you reminded us that the Cold War had its influences, it really seems to me that the shape of the media landscape today isn't only about the businesses that own it, but about the very sharply divided political landscape we live in. And so notions of liberal democratic ideals, all of which are lowercase, probably would really shake things up on a debate program on a cable show. People would really have a problem with the idea of liberal democratic ideals having any place in government actions regarding the media.

PICKARD: Yeah, I agree, and that's what I'm referring to when I talk about this triumph of corporate libertarianism. It again gets back to this notion that corporations in general, and I would say media corporations in particular, have these First Amendment rights. And it's becoming now sort of an ideological assumption, especially on the right, that any kind of attempt through government for the public to try to reign in these media corporations is seen as big government, as a government out of control.

You're not hearing the – although I guess you do hear some accusations of socialism, and so there is a little bit of red-baiting going on today, but more it's seeped into this mainstream consciousness, again, especially on the right, where it's assumed that there is no legitimate role for a government intervention especially in our media system. And this is a big problem, because until we start questioning those assumptions, it's going to be very difficult to create a more democratic media system.

KENNEALLY: Well, Victor Pickard, author of *America's Battle for Media Democracy: The Triumph of Corporate Libertarianism and the Future of Media Reform*, just out from Cambridge University Press, thanks so much for the analysis and for joining us today on Beyond the Book.

PICKARD: Thank you very much. I've really enjoyed talking to you today.

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Our engineer and co-producer is Jeremy Brieske of Burst Marketing. My name is Christopher Kenneally. For all of us at Copyright Clearance Center, thanks for listening to Beyond the Book.

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