

## BRIEFLY NOTED

## Defanging the FCC

BY PAUL MATZKO

This March, the *Washington Post*'s editorial board called for the abolition of the Federal Communications Commission (FCC) after its chairman, Brendan Carr, threatened to repeal the licenses of broadcast stations that aired news reflecting negatively on the Trump administration's conduct of the Iran war. To Carr,

such reporting is "news distortion" and a sign that these stations are not operating in the "public interest," unlike stations that praise the administration.

**Public interest** / In making its case, the *Post* editorial board cited my work as a historian of broadcasting policy. Unlike other forms of speech, broadcasters require a license to operate, which is granted by the FCC according to the "public interest, convenience, or necessity." The vagueness of this public interest standard has functioned since its inception as an open invitation to executive abuse, petty corruption, and partisan weaponization. The list of sordid examples is far too long to fully unpack here. Suffice it to say that the standard has been invoked to kick a diverse swath of Americans off the airwaves, including immigrants, pacifists, fundamentalists, African-Americans, conservatives, Jehovah's Witnesses, anti-New Dealers, and socialists.

For example, when the *Kansas City American*, a black-owned newspaper in Kansas City, MO, applied for a radio station license in 1930, the application was rejected because the agency believed that only a station serving the "general population" (i.e., white people) could truly operate in the public interest. The agency was a vital tool for extending white supremacy to the airwaves, suppressing an initial minority ownership boom in the pre-regulation 1920s and

ultimately segregating broadcasting for the next half-century.

Other popular targets of public interest enforcement were radio stations that served immigrant communities, especially those that included non-English programming. Thus, in 1933, stations WIBO (Polish) and WPCC (German) in Chicago lost their licenses and had their spectrum given to station WJKS because its programs were in English, "stress[ed] loyalty to the community and Nation," and "instruct[ed] in citizenship and American ideals and responsibilities." In New York City, only a bitter fight prevented the FCC from revoking a license for station WEVD, which included Yiddish language and pro-socialist programming. (The call sign letters referenced Eugene V. Debs, the Socialist Party presidential candidate in 1920 who had been imprisoned for protesting World War I.)

The public interest standard has also frequently been weaponized to suppress political dissent by multiple presidential administrations, including the Roosevelt, Kennedy, Johnson, Nixon, and now Trump administrations. For instance, in 1964 when the US Navy fired on North Vietnamese vessels in the Gulf of Tonkin, a conservative radio broadcaster named Dan Smoot accused President Lyndon Johnson of using the incident as a pretext to escalate the conflict in order to generate a "rally 'round the flag" effect that would boost his election chances later that year. Historians now know that Smoot was correct, but at the time the Johnson administration was able to smother Smoot's critique with a public interest-based

rule called the Fairness Doctrine that forced stations to air an administration response for free, ultimately chilling future anti-Johnson programming.

In 1964 it was a Democrat suppressing criticism of the Gulf of Tonkin incident, while in 2026 a Republican is doing the same over the closure of the Strait of Hormuz. Besides, oddly, sharing a maritime theme, both situations involve presidents weaponizing the FCC's public interest standard to suppress journalistic critiques of their ill-advised wars.

**Reform** / Though the *Post* editorial board called for the FCC's abolition, it is possible to overhaul the agency in a way that preserves its useful functions—registering stations and adjudicating spectrum disputes—while stripping it of its abusive powers and corrupt habits. Reform should happen at three distinct levels: the procedural, structural, and fundamental.

On the procedural level, the FCC should immediately repeal the "news distortion" rule, which ostensibly exists to combat deliberate false reporting by broadcasters. Carr has repeatedly threatened to use it against news reports that he claims are "hoaxes" and "fake news." The rule was wholly created by the FCC, not by Congress, and was instituted in 1968 to chill coverage of anti-Vietnam War student protestors at the Democratic National Convention. In other words, the news distortion rule was created to distort the news.

Of course, the FCC under Carr is unlikely to voluntarily repeal such a useful tool for censorship. But the rule is newly vulnerable to legal challenge after the US Supreme Court's 2024 *Loper Bright* decision ended the principle of judicial deference to federal agencies. And Carr's threats to various news outlets for painting the administration in a negative light, such as his warning to ABC that license renewals for its station affiliates can go "the easy way, or the hard way," would boost any broadcaster's legal challenge on First Amendment grounds.

On the structural level, Congress

should act to ensure the statutory independence of the FCC, which Carr has denied in defiance of long precedent (and his own prior statements). Congress should take a page from the design of the Federal Reserve, which is currently proving how smart institutional design can stymie or at least slow executive abuse. That could mean lengthening the term of FCC commissioners from its current five years to 10, which would prevent even a two-term president from completely replacing its membership. And the naming of the FCC chair should be subject to the advice and consent power of the Senate; it is the only major agency head that is exempted from that constitutional mechanism, letting presidents put a loyalist in charge of broadcast media on day one.

Better procedures and an independent structure would be an improvement, but

there is one fundamental reform that is guaranteed to eliminate the FCC's abuse problem: Sell off the broadcast spectrum.

If stations owned their own slice of the spectrum, then no FCC chair could use the threat of license non-renewal as a backdoor for censorship. That would put broadcast speech—long denied the same degree of First Amendment protection as print and digital speech—on equal footing with the other communications media. It would also be a return to the original vision of the Founders, who were vehemently opposed to the idea of licensing the press, reminiscent as it was of the old royal censors of *Ancien Régime* Europe. As one newspaper put it in 1786 during the constitutional ratification debates, “A licensed press is worse than none.”

Furthermore, a “spectrum rush,” like the land rushes and land grants of the 19th century, could raise immense sums

of money for the public good, unlock technological innovation via new uses for underutilized spectrum, and potentially save public media by giving struggling stations a financial asset they could borrow against. After all, the partial spectrum auctions of the 1990s made both wireless network technology and 5G cellular service possible while garnering nearly a quarter of a trillion dollars in revenue. That is merely a taste of the public good that could be unlocked by privatizing the spectrum.

Defenders of free speech may actually owe Chairman Carr a debt. By repeatedly abusing the FCC's authority and doing so explicitly to control speech, he has both exposed the necessity for root-and-branch reform at the agency and potentially sparked a bipartisan movement to extend full First Amendment rights to broadcasting. R

## Did Trump's Blockade Make Iran Great?

BY PIERRE LEMIEUX

**C**losing the Strait of Hormuz, either by the Iranian government or the US Navy, was a good thing, at least for the Iranians—so goes a certain logic. Stopping the export of oil from Iran (and other Gulf countries) may seem bad for them, but lower exports means they will ultimately import less. The reason is that foreign

currency (whether dollars or Chinese yuan) is used to buy foreign products or invest in foreign ventures or debt, and fewer dollars and yuan flowing in from export sales means fewer dollars and yuan flowing out for those goods or investments. (American and European sanctions on dealings with Iranians mean that the value of the rial is very low, but this does not change the argument.)

Imports, we're told (ad nauseam) by President Trump and his nationalist sup-

porters, “rip off” the importing country. They substitute for domestic production and destroy domestic jobs—again, according to this line of thinking. And, if we follow this nationalist-protectionist viewpoint to its logical conclusion, exports are also bad because they use domestic resources to produce goods for foreigners.

We should therefore conclude that blockading Iran is helping Iranians—making Iran great again, so to speak. It delivers them from the curse of imports. In addition, because foreign trade is generally bad, blockading Iranian oil exports

is also good for everybody else in the world. The reduction of oil trade partly delivers “us” from the curse of imports, if only because of the higher price of the stuff. (Note that a blockade, contrary to an embargo, directly hits both exports and imports of the targeted country, and needs to be imposed militarily.) A global golden age is coming, apparently.

At least, that's what a protectionist should claim. So, what is, or was, all the fuss about closing the Strait of Hormuz?

**Liberals strike back** / Economics takes a decidedly different view: Free international trade is beneficial for the same reasons that free domestic trade is. Voluntary exchange is good.

Worldwide mercantilism is, of course, an impossibility. (Protectionism is the belief that imports must be restrained; mercantilism adds that exports must be promoted.) All countries cannot *only* export. Perhaps the mercantilists believe, in a sort of Marxist way, that importers and buyers are exploited by capitalist exporters and sellers, and the mercantilists want to be on the side of the

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exploiters. Ultimately, they would want to produce all the oil that consumers want. Under those conditions, it is true, blockading Gulf oil is good for the blockader's oil producers, who might gain new customers and, more importantly in a world market, get a higher price for their own product. But the exploitation argument is difficult to justify morally and is certainly not an argument for peace in the world. ("There goes my Nobel Peace Prize," could say a believer in the exploitation argument.)

A clear analysis of these issues requires an understanding that *countries* do not trade. Those who trade are individuals and the private entities that act as their intermediaries (as merchants or as purchasers of inputs in production). Of course, public bodies can also legitimately trade, but they are often illegitimate traders that have coercively closed trading opportunities to private actors except for their cronies.

Free-market exporters are those producers who have a comparative advantage in the sense that they can produce some goods (or services) at lower cost than producers in other countries. A blockade of oil exports from Iran thus harms both exporters there *and* foreign consumers. Importers are those who buy some goods because their fellow countrymen cannot offer them on better terms. A blockade

harms would-be importers because prices of the blockaded goods will be bid up on world markets. Autarky and bans (total or partial) are detrimental to nearly everybody because everybody must pay more and suffer a lower standard of living as a result, except government cronies protected from competition.

The monopolization of oil production and export in a country like Iran throws a wrench in trade, but the wrench hits primarily the subjects of such a state. Other private parties in the world can continue trading.

**War and peace** / Outside the case of war, it is true that domestic producers who try to produce goods or services that their countrymen can get at lower cost elsewhere are harmed by free trade, although they are otherwise benefited as consumers. It is possible that some producers—individuals too old to switch jobs or shareholders who have invested in inefficient industries—lose more as producers than they gain as consumers. But rare are those who do not—in general and over their whole lives—benefit from living in a free society, which necessarily includes free trade. With rare exceptions, the only ones who lose from living in a free society are those who, with the help of their protectionist government, would have exploited their fellow citizens.

War, of course, throws a wrench in free trade. But this is not a reason to throw the same wrench in peacetime. As Henry George noted, protectionism teaches us "to do to ourselves in time of peace what enemies seek to do to us in time of war." Except if one is a collectivist or believes that individuals are merely cells in big state organisms, it is very difficult to be a coherent protectionist or mercantilist.

All that seems impossible to understand for interventionist and protectionist governments of the left or the right. Public choice theory explains why the rulers don't try to understand: The concentrated and organized interests of producers provide more support to politicians than the dispersed and less vocal interests of consumers. Said differently, control of the economy personally benefits the rulers. As Lord Acton wrote, "Power tends to corrupt and absolute power corrupts absolutely." R

## READINGS

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