

Follow the Money, Back to Front

Yochai Benkler

From: Social Media, Freedom of Speech, and the Future of Democracy (L.C. Bollinger, G.R. Stone eds. 2022) (Chapter 15)

“In the words of Chesterton, a journalist became one who wrote on the back of advertisements.”
Harold Innis.¹

Social media is not the problem

American democracy does not have a social media problem. American democracy has an institutional and political-cultural problem manifested in and reinforced by media market imperatives since the 1980s. Beginning with televangelism and Rush Limbaugh in the 1980s and supercharged by Fox News since the 1990s a large and discrete media audience comprised of white identity and Christian voters presented a lucrative business opportunity for outlets in a changing technological, regulatory, and business media environment. The new multichannel environment offered rich rewards for those willing to sell vitriol, outrage, and alienation from Black Americans, immigrants, and women claiming their independence, as well as from the professional and managerial class that held the high ground of what Limbaugh called “the Four Corners of Deceit:” government, academia, science, and the media. Since the late 1980s selling right wing outrage has been big business, and its commercial success enabled it to take over the conservative media ecosystem.²

The present epistemic crisis is the product of the interaction between the political strategy of Richard Nixon and Ronald Reagan and the economics of media markets no longer dominated by one-newspaper towns and three broadcast networks. The former forged a distinctive, relatively homogenous media audience, alienated by the victories of the Civil Rights movement and the Women’s Movement, and reacting to the transposition of the New Left into the Me Generation with its focus on self-actualization and career success as a measure of worth. Nixon’s Southern Strategy combined with Reagan’s racialized attack on “the Welfare Queen,” and his embrace of the Moral Majority harnessed these alienated voters to the chariot funded by the 1970s emergence of Organized Business.³ For forty years, until 2016, the business wing of the

¹ Harold Adams Innis, *The Bias of Communication*, xviii, 226 p. ([Toronto, Ont.]: University of Toronto Press, 1984), 186, //catalog.hathitrust.org/Record/007064891.

² Yochai Benkler, Rob Faris, and Hal Roberts, *Network Propaganda: Manipulation, Disinformation, and Radicalization in American Politics* (New York, NY: Oxford University Press, 2018), chap. 11; Jeffrey M. Berry and Sarah Sobieraj, *The Outrage Industry: Political Opinion Media and the New Incivility* (New York: Oxford University Press, 2014); Kathleen Hall Jamieson and Joseph N. Cappella, *Echo Chamber: Rush Limbaugh and the Conservative Media Establishment* (Oxford ; New York: Oxford University Press, 2008); Nicole Hemmer, *Messengers of the Right: Conservative Media and the Transformation of American Politics*, Politics and Culture in Modern America (Philadelphia: University of Pennsylvania Press, 2016).

³ Jacob S. Hacker and Paul Pierson, *Winner-Take-All Politics: How Washington Made the Rich Richer-and Turned Its Back on the Middle Class*, 1st Simon & Schuster hardcover ed (New York: Simon & Schuster, 2010); Kevin Michael Kruse, *One Nation under God: How Corporate America Invented Christian America* (New York: Basic Books, 2015);

Republican Party successfully leveraged the outrage and fear of white and Christian identity voters to keep the base turning out for elections, but kept control over actual government, repeatedly electing presidents who knew how to blow the dog whistle that kept the mass of voters turning out, but who were members and loyal servants of the business wing of the party. Their strategy was only “new” on the background of the unusually controlled media environment typified by one-newspaper towns and three television networks that marked the height of “high modernism” in American media. The audience that Pat Robertson and Rush Limbaugh had rediscovered, and the paranoid style that Limbaugh bequeathed to Hannity, Carlson, and others, has a long and deep history in American political culture.⁴ And the politics of hatred they stoke today is weak tea by comparison to its antecedents, from the conspiracies of treason undergirding the Alien and Sedition Act, through the exhortations to Civil War and later lynching in the South, to the justification of industrialists shooting workers demanding an eight hour workday and later yet Southern resistance to desegregation in the 1950s. All that has happened in the past thirty years is that these deeply anti-democratic streams in American political culture were harnessed by one part of the professional and managerial class against another, and that part of the elite lost control over its populist base as the business dynamic fed by this old-new audience spun out of control.

The business opportunity that alienated white identity and Christian identity voters presented emerged when a combination of new technologies and anti-regulatory ideologies made targeting discrete, large specialty audiences the dominant business strategy relative to the strategy of targeting broad, centrist, content that had typified media markets when readers and viewers had nowhere else to go. Changes started with UHF stations and the All Receivers Act in the 1960s, combined with deregulation of public interest obligations that allowed Evangelical Christian broadcasters to outbid mainline Protestant broadcasters. These formed the foundation of televangelism. These initial changes were complemented by dramatic technical improvements in cable systems channel capacity and ground-to-satellite retransmission that underwrote the first superstations and the Christian Broadcasting Network (CBN), coupled with significant cable deregulation, and crystallized with the emergence of FM radio to its full potential in the 1970s leaving AM radio looking for a low-audio-quality, low-cost format, for which Rush Limbaugh and talk radio were the answer. In a one-newspaper, three TV network market, the dominant business strategy had been to broadcast inoffensive materials to the center and aim for a share of the whole.⁵ It allowed elites to more-or-less limit what the population at large considered acceptable beliefs for well-socialized people to what elites themselves, for all their internal divisions, considered acceptable for a well-socialized member of the professional and managerial class to believe. In a multichannel environment, identifying a particular large-enough audience

Andrew L. Whitehead and Samuel L. Perry, *Taking America Back for God: Christian Nationalism in the United States* (New York, NY: Oxford University Press, 2020).

⁴ Richard Hofstadter, “The Paranoid Style in American Politics,” *Harper’s Magazine* 229, no. 1374 (1964): 77–86.

⁵ C. Edwin Baker, *Media, Markets, and Democracy*, Communication, Society, and Politics (Cambridge ; New York: Cambridge University Press, 2002).

that desired unique content became the dominant strategy. And Pat Robertson and Rush Limbaugh road-tested and proved the strategy that could leverage the audience that Nixon and Reagan had assembled, the business strategy that Rupert Murdoch and Roger Ailes would then perfect in Fox News.

The outrage industry, once so forged, became a catalyst of increasingly asymmetric polarization in American politics. It is important not to misunderstand my focus on larger and longer-term political and cultural dynamics to imply that media did not, and are not, playing a critical part in the conflagration engulfing American democracy, even if media was not the initial accelerant. By supplying and competing on serving outrage, the media ecosystem created an ever-more-detached-from-reality audience demanding and rewarding increasingly strident, hate-filled media personalities and politicians. The result was a propaganda feedback loop: Media drew audiences with stronger identity-confirming assertions, and brought them out to the polls to reward politicians who were present on these media,⁶ and competed for audience share by policing each other and the politicians for identity consistency, not for truth. It became consistently harder for conservative media that sought to continue to be anchored in some semblance of reality and a shared polity to survive, as the demise of the *Weekly Standard* exhibited, and harder yet for conservative politicians to survive without toeing the increasingly unhinged line. Senator Richard Luger, who joined the Senate as a conservative Republican and left it as a moderate without changing his own votes, marked the long-term transition. Senator Pat Toomey, who replaced the avid but not-unhinged conservative Arlen Specter as Tea Party darling in 2010, marks the continuation of the same process as he became the measured voice on his way out the door as the Tea Party was succeeded as the right-wing marker by the Q Shaman of 2021.

Social media came into being long after the propaganda feedback loop had already taken hold of the right wing media ecosystem. In the first few years of the blogosphere, it was the left wing of the blogosphere that was more mobilized, but the asymmetry manifested in organizational forms and technology deployment, not in political extremism.⁷ When social media arose to integrate decentralized authoring with a platform for delivering advertising and making money from decentralized authorship, it opened opportunities for new entrepreneurs seeking to take advantage of the same strategy that talk radio and Fox had already exploited effectively for twenty years. It was then that asymmetric polarization online aligned with the already asymmetric polarization on mass media.⁸ The highest quality data studies published in the past few years converge on the finding that most social media sharing of false and hyper partisan news is concentrated in a small minority of mostly over 65 year-olds with mostly conservative

⁶ Stefano DellaVigna and Ethan Kaplan, "The Fox News Effect: Media Bias and Voting," *The Quarterly Journal of Economics* 122, no. 3 (2007): 1187–1234.

⁷ Aaron Shaw and Yochai Benkler, "A Tale of Two Blogospheres: Discursive Practices on the Left and Right," *American Behavioral Scientist* 56, no. 4 (April 2012): 459–87, <https://doi.org/10.1177/0002764211433793>.

⁸ Benkler, Faris, and Roberts, *Network Propaganda*, chap. 11.

ideology⁹—that is, in the typical Fox News demographic—and that they do so because they seek reinforcement of their already existing views, rather than that they innocently surf social media and are exposed to false or extremist information.¹⁰ Consistent with these scientific studies, a May, 2021 survey by the PRRI found that consumption of far right television sources: Newsmax and One American Network, followed by Fox News, was more highly associated with holding core beliefs of the QAnon conspiracy theorists than was true of people who did not rely on television news.¹¹

The drivers of the worst forms of epistemic crisis in America, then, are not politically neutral, technologically-mediated processes hitting unsuspecting citizens. Nor are they Russian operatives, though they gladly take advantage of the unbalanced American media ecosystem to project the appearance of more power than Russian efforts have ever been actually shown to exercise. Rather, the drivers are a combination of profit seeking and political opportunism, taking advantage of the particular historical confluence of political culture and market structure that has characterized the United States in the past forty years, to harness a large, socially alienated population to an advertising-supported business model that relies on intense engagement through identity confirmation and hatred of racial and gender minorities, on the one hand, and expert elites, on the other hand.

There is no empirical evidence supporting the proposition that regulatory solutions that require platforms to monitor and suppress discrete illegal posts or statements on social media have had a measurable impact on dissemination of disinformation and hatred.¹² There is evidence that sustained efforts by platforms at “deplatforming” some of the worst offenders do reduce the visibility of those specific speakers on social media,¹³ but no study to date has shown that the kinds of speech and hatred as a whole are depressed as a result of these individualized decisions with respect to individual items of speech, or even broader decisions to exclude a particularly harmful individual speaker from social media platforms more generally.

⁹ Nir Grinberg et al., “Fake News on Twitter during the 2016 U.S. Presidential Election,” *Science* 363, no. 6425 (January 25, 2019): 374–78, <https://doi.org/10.1126/science.aau2706>; Andrew Guess, Jonathan Nagler, and Joshua Tucker, “Less than You Think: Prevalence and Predictors of Fake News Dissemination on Facebook,” *Science Advances* 5, no. 1 (January 2019): eaau4586, <https://doi.org/10.1126/sciadv.aau4586>; Jennifer Allen et al., “Evaluating the Fake News Problem at the Scale of the Information Ecosystem,” *Science Advances* 6, no. 14 (April 1, 2020): eaay3539, <https://doi.org/10.1126/sciadv.aay3539>.

¹⁰ Christopher A. Bail et al., “Assessing the Russian Internet Research Agency’s Impact on the Political Attitudes and Behaviors of American Twitter Users in Late 2017,” *Proceedings of the National Academy of Sciences* 117, no. 1 (January 7, 2020): 243–50, <https://doi.org/10.1073/pnas.1906420116>.

¹¹ “Understanding QAnon’s Connection to American Politics, Religion, and Media Consumption,” *PRRI* (blog), accessed June 10, 2021, <https://www.prrri.org/research/qanon-conspiracy-american-politics-report/>.

¹² Heidi Tworek and Paddy Leerssen, “An Analysis of Germany’s NetzDG Law” (Transatlantic Working Group, April 15, 2019), https://www.ivir.nl/publicaties/download/NetzDG_Tworek_Leerssen_April_2019.pdf.

¹³ Adrian Rauchfleisch and Jonas Kaiser, “Deplatforming the Far-Right: An Analysis of YouTube and BitChute,” SSRN Scholarly Paper (Rochester, NY: Social Science Research Network, June 15, 2021), <https://papers.ssrn.com/abstract=3867818>.

The lack of evidence is hardly surprising if one understands the problem of hate speech and disinformation not as a problem of discrete bad actors, or as a problem of technologically-mediated confusion for users who are good-faith truth-seekers, but as a problem driven by media market dynamics with deeper and longer-term sources and drivers. Just as the fast food and packaged foods industries optimize the fat, salt, and sugar contents of their products to keep customers buying more of their products, damned the obesity epidemic, and the tobacco industry packed addictive nicotine to make consumers dependent, killing millions, so too it is the profitability of stoking anger and providing easy, identity-confirming outrage that underwrites much of the disinformation and polarization that pervade American media. On the background of that understanding, solutions must focus not on the whack-a-mole process of batting down falsehoods as they arise, or periodically deplatforming a bad actor, but on changing the payoffs to selling outrage and hatred as a business model.

Below I outline two approaches aimed to cause the outrage industry to internalize the externalities of its business model. The first, a reconsideration of defamation law, is limited and likely to be somewhat effective, but is very much of a double edged sword that may do more harm than good, particularly when applied by a politically-appointed judiciary such as the United States has in the early twenty-first century. The second, is a hybrid regulatory-civil society approach, one that uses the power of the state to impose meaningful transparency on market actors, but relies on decentralized peer production or on civil society organizations to harness that transparency to impose meaningful costs on the outrage industry. Like the first approach, this hybrid approach is far from a silver bullet, and it too has potential to go wrong. But it does have the benefit of harnessing more democratic processes to contain the worst abuses, and offers an example of an approach designed to avoid the inevitable fallibility of not only the state, but also the market.

Did New York Times v. Sullivan give us Alex Jones, Sean Hannity, and QAnon?

Alex Jones of InfoWars is a snake oil salesman who draws buyers to his online store by feeding them outrageous rhetoric and hate-filled narratives. In the past few years, he has claimed that Hillary Clinton ran a pedophilia ring out of the basement of Comet Pizza in Washington D.C.;¹⁴ that a DNC staffer named Seth Rich, who had been the victim of a murder robbery in Washington D.C., had in fact been murdered because he, not Russian operatives, had leaked the DNC emails to Wikileaks in 2016;¹⁵ that the Sandy Hook murders were a “false flag” hoax, and the grieving parents were lying about their loss;¹⁶ etc. According to Similarweb, the site received about 8 million visits a month as of the middle of 2021, and about one-tenth of that numbers enters the Infowars store through which Jones sells various twenty-first century “cures” with names like “X-3 Bio-True Selenium Combo” or “Survival Shield X-3.”

Sean Hannity makes millions of dollars as both the host of the show with the highest or second-highest rating on cable television (he shares that position with Tucker Carlson who offers a similar show on Fox News) and as one of the leading stars of talk radio. His draw is an aggressive presentation style, often in long monologues, sometimes through the selection of interviewees, that draws audiences by reinforcing their deeply held beliefs and fears about “others:” the media, academia, the elites, or immigrants, “the left,” or the deep state. These broader narratives are sometimes punctuated by false stories that make diverse inflammatory statements about specific people—from claims associating John Podesta, then Hillary Clinton’s campaign manager, with a “spirit cooking” ritual, through aggressive promotion of the Seth Rich conspiracy even after Fox News network itself had retracted its hyped-up version of the story, to assertions that top prosecutors involved in the Mueller investigation had conspired to sell 20% of U.S. uranium to Russia,¹⁷ or that Dominion Voting Systems, Inc. altered the election results in the 2020 U.S. presidential elections. Indeed, Dominion is now pursuing defamation suits against several public figures who made such allegations, including attorney Sydney Powell, MyPillow CEO Mike Lindell, and Fox News, whose various personalities named in the complaint: Tucker Carlson, Sean Hannity, Lou Dobbs, Maria Bartiromo and Jeanine Pirro spread the falsehoods about Dominion up and down Fox News’s broadcasting schedule.¹⁸

¹⁴ James Doubek, “Conspiracy Theorist Alex Jones Apologizes For Promoting ‘Pizzagate,’” NPR, March 26, 2017, <https://www.npr.org/sections/thetwo-way/2017/03/26/521545788/conspiracy-theorist-alex-jones-apologizes-for-promoting-pizzagate>.

¹⁵ “Analysis | Don’t Blame the Seth Rich Conspiracy on Russians. Blame Americans.,” *Washington Post*, accessed June 20, 2021, <https://www.washingtonpost.com/politics/2019/07/09/dont-blame-seth-rich-conspiracy-russians-blame-americans/>.

¹⁶ “Alex Jones, Infowars, and the Sandy Hook Defamation Suits,” First Amendment Watch, accessed June 20, 2021, <https://firstamendmentwatch.org/deep-dive/alex-jones-infowars-and-the-sandy-hook-defamation-suits/>; Elizabeth Williamson, “Lawyers for Neo-Nazi to Defend Alex Jones in Sandy Hook Case,” *The New York Times*, July 3, 2018, sec. U.S., <https://www.nytimes.com/2018/07/02/us/politics/sandy-hook-alex-jones-lawyers.html>.

¹⁷ Benkler, Faris, and Roberts, *Network Propaganda*.

¹⁸ “Legal Updates: Learn How We Are Defending Dominion,” *Dominion Voting Systems* (blog), accessed June 20, 2021, <https://www.dominionvoting.com/legal-updates-learn-how-we-are-defending-dominion/>.

Much of the time, these programs offer pure opinion or vague references to “the mainstream media” as a whole, or “the left” or “critical race theory” or similarly abstract objects of hate and derision. But I picked the handful of examples in the prior paragraph because they did, or could, result in defamation or other tort lawsuits as the more abstract exhortations were interwoven with specific, concrete narratives making derogatory and inflammatory statements about concrete individuals. Often these are general purpose public figures. Indeed, Donald Trump’s rise to political prominence was largely built on the strength of being the most prominent celebrity to embrace the false claim that President Obama was constitutionally ineligible to be president because he was not born in the United States. Sometimes—as were the cases of the owner of Comet Pizza, Seth Rich, or Chobani yogurt¹⁹—the victims are simply unlucky enough to be the wrong person (or business) in the wrong place so that they become a target of convenience in the quest for more money.

Even QAnon, often thought of as the clearest example of online conspiracy theory spinning out of control and infecting millions of people, is itself fan fiction of a narrative spun by Fox News, propagated by diverse sources and personalities such as former National Security Adviser Michael Flynn, or Blackwater Founder Erik Prince in support of Donald Trump’s 2016 election.²⁰ If QAnon is fan fiction,²¹ it is fan fiction of a mass media, elite-driven narrative originating in reporting by Fox News reporter Malia Zimmerman, using flight logs from billionaire pedophile Jeffery Epstein’s private plane, and asserting that Bill Clinton had flown to Epstein’s “pedophilia island.” That story, picked up and amplified for several days in the Spring of 2016 was Fox News’s ticket back to the hearts of Trump devotees after the network lost online prominence during the primaries to more strident pro-Trump platforms like Breitbart. It became Fox’s most Facebook-shared story in the entire 2016 election cycle.²²

Ever since *New York Times v. Sullivan* publishers of such hate-filled drivel are quite safe from suits in torts, particularly defamation.²³ The standard that plaintiffs have to fulfill, showing that the publisher acted with actual malice, including reckless disregard of the truth, has been applied strictly. One particular line of the progeny of *New York Times v. Sullivan* that is applicable to the outrage industry has been courts’ willingness to rely on the very outrageous nature of the speaker or speech to find that no reasonable person could believe that what was being said was an assertion of fact, rather than frothing-at-the-mouth invective. To be defamatory, a statement has to have been a provably false assertion of fact,²⁴ and even a specific accusation that a person has committed a crime is not defamatory if the context suggests that the statement is “rhetorical

¹⁹ Christine Hauser, “Alex Jones Retracts Chobani Claims to Resolve Lawsuit,” *The New York Times*, May 17, 2017, sec. U.S., <https://www.nytimes.com/2017/05/17/us/alex-jones-chobani-lawsuit.html>; Rocky Barker, “Breitbart’s Chobani Coverage Is a Reminder of Idaho’s Experience with the Alt-Right,” *Idaho Statesman*, November 16, 2016, <http://www.idahostatesman.com/news/local/news-columns-blogs/letters-from-the-west/article115283313.html>.

²⁰ Benkler, Faris, and Roberts, *Network Propaganda*, chap. 5.

²¹ Ethan Zuckerman, “QAnon and the Emergence of the Unreal,” *Journal of Design and Science*, no. 6 (July 15, 2019), <https://doi.org/10.21428/7808da6b.6b8a82b9>.

²² Benkler, Faris, and Roberts, *Network Propaganda*, chap. 3.

²³ *New York Times v. Sullivan*, 376 U.S. 254 (1964).

²⁴ *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 19-21 (1990).

hyperbole.”²⁵ Indeed, as Judge Vyskocil of the Southern District of New York wrote when she dismissed Karen McDougal’s lawsuit against Fox News, “the ‘rhetorical hyperbole’ normally associated with politics and public discourse in the United States” means that immunity from defamation for “rhetorical hyperbole” “is especially true in the context of commentary talk shows like the one at issue here, which often use ‘increasingly barbed’ language to address issues in the news.” Judge Vyskocil was referring to Tucker Carlson’s statements that Ms. McDougal was guilty of “extortion” when she “approached Donald Trump and threatened to ruin his career and humiliate his family if he doesn’t give [her] money”)²⁶. In an ironic inversion of the common law maxim attributed to Lord Mansfield that “the greater the truth, the greater the libel,” contemporary American first amendment defamation law seems to have gravitated towards a rule where “the greater the liar, the lesser the libel.”

This particular logic seems to get the incentives exactly backwards. The more hyperbolic and untrustworthy a source, the less liable it is in defamation; and the more careful and trustworthy a publication is normally, the more liable it will be on those rare occasions that it does allow a defamatory falsehood through its editorial filters. One can understand the sources of the logic. At least since *Cohen v. California*,²⁷ American first amendment law has respected Justice Harlan’s assertion that “one man’s vulgarity is another man’s lyric.” One may well be wary of policing tone, particularly in political news commentary. And yet, in repeated surveys, viewers and listeners of outrage media report that they believe as true various assertions of fact that are false and defamatory. Forty-six percent of Trump voters reported in a December 2016 Economist/YouGov poll that they believed that emails from the Clinton campaign talked about pedophilia and human trafficking.²⁸ Forty percent of respondents who watch Newsmax or One America News Network surveyed in May of 2021 reported that they believed that “the government, media, and financial world in the U.S. is controlled by a group of Satan-worshipping pedophiles who run a global sex-trafficking operation.”²⁹ The distance between Cohen’s jacket slogan “Fuck the Draft,” and Hannity’s detailed monologues alleging that the leading Justice Department officials Robert Mueller, Rod Rosenstein, and Andrew McCabe worked with Hilary Clinton to get the Obama White House to sell 20% of American uranium to Russia in exchange for donations to the Clinton Foundation is vast. The fact that a reasonable person who is *not* a consumer of outrage media would obviously understand that these assertions are political rhetorical hyperbole is irrelevant when the primary target audience that listens to these words is also the audience that consistently reports that it ranks Sean Hannity and Rush Limbaugh (when he was still alive) as its most trusted sources of news behind Fox News more generally.³⁰ What

²⁵ *Greenbelt Coop. Pub. Ass’n v. Bressler*, 398 U.S. 6, 14 (1970).

²⁶ *McDougal v. Fox News Network*, Case 1:19-cv-11161-MKV (9/24/2020), citing RODNEY A. SMOLLA, 1 LAW OF DEFAMATION § 6:92 (2d ed.).

²⁷ 403 U.S. 15 (1971) (holding that wearing a jacket stating “Fuck the Draft” in a courtroom was protected speech).

²⁸ “Belief in Conspiracies Largely Depends on Political Identity | YouGov,” accessed June 20, 2021, <https://today.yougov.com/topics/politics/articles-reports/2016/12/27/belief-conspiracies-largely-depends-political-iden>.

²⁹ “Understanding QAnon’s Connection to American Politics, Religion, and Media Consumption.”

³⁰ Michael Dimock et al., “Political Polarization in the American Public” (Pew Research Center, June 12, 2014), <http://www.people-press.org/2014/06/12/political-polarization-in-the-american-public/>; Mark Jurkowitz et al., “U.S. Media Polarization and the 2020 Election: A Nation Divided,” *Pew Research Center’s Journalism Project*

seems like political hyperbole to the reasonable person who does not watch outrage media is received as trustworthy factual news by the audiences that consume those media outlets and commentators. And as the lone gunman who walked into Comet Pizza to investigate “Pizzagate” makes clear, the consequences to the victims of the business model of outrage media can be dire.

Several instances of outrage, particularly when directed at non-public figures, did result in meaningful settlements. Fox News settled with the bereaved family of Seth Rich for its defamatory statements about the murdered young man.³¹ Alex Jones was forced to retract or settle statements he made about Comet Pizza and the shooting in Sandy Hook. But these are relatively rare events in the normal course of the business of selling outrage.

It is difficult to evaluate how much of an impact such a doctrinal change would have. At the broadest level, the United Kingdom has a lower standard of care, more friendly to plaintiffs, and its tabloids yet thrive. More generally, even if the standard I propose does make direct, personal attacks on prominent politicians a touch harder, it may simply shift the content of the outrage-stoking media to more diffuse, abstract targets. It would be more of “these liberal elites want your son to marry a man,” or “the FDA is lying to you, and hiding the successful use of Hydroxychloroquine or Ivermectin to treat Covid-19,” than “Hillary Clinton procured 33 Haitian children for Bill’s pleasure.” And yet, many of the most prominent and politically-targeted attacks, particularly in a political system where individual candidates and actors, rather than parties, are central, a rule that makes it easier to sue habitual, repeat offenders for defamation may offer some remedy to the dynamic. A wholesale overturning of *New York Times v. Sullivan*, abandoning the reckless disregard standard altogether along the lines Justice Thomas proposed in his concurrence from denial of certiorari in *McKee v. Cosby*,³² may, however, chill too much speech. Peter Thiel’s funding of Hulk Hogan’s lawsuit against Gawker offers one recent example of how such a broad reassessment could be used by the growing number of American billionaires, many with strong political orientations, to suppress media they dislike.³³ But a more narrowly tailored revision of the rules within that line of cases, one that takes into consideration the reality of outrage media and the actual false beliefs and hatred it instills in the minds of millions of people could be administrable: for example, introducing survey evidence about audience beliefs, rather than making bright line judicial rules of what a well-educated legal professional would believe. Whether one is willing to entrust that kind of power to the McConnell Court and a

(blog), January 24, 2020, <https://www.journalism.org/2020/01/24/u-s-media-polarization-and-the-2020-election-a-nation-divided/>.

³¹ Ben Smith, “Fox Settled a Lawsuit Over Its Lies. But It Insisted on One Unusual Condition.,” *The New York Times*, January 18, 2021, sec. Business, <https://www.nytimes.com/2021/01/17/business/media/fox-news-seth-rich-settlement.html>; Michael Isikoff, “Fox Paid Seven Figures to Settle Lawsuit over Bogus Seth Rich Conspiracy Story,” Yahoo News, November 24, 2020, <https://www.yahoo.com/entertainment/fox-paid-seven-figures-to-settle-lawsuit-over-bogus-seth-rich-conspiracy-story-003236858.html>.

³² *McKee v. Cosby*, 586 U.S. ____ (2019) (Thomas J., concurring).

³³ “Review | A Sex Tape, a Conspiracy and an Empty Victory over Gawker,” *Washington Post*, accessed June 21, 2021, https://www.washingtonpost.com/outlook/a-sex-tape-a-conspiracy-and-an-empty-victory-over-gawker/2018/02/23/ca60164a-069d-11e8-b48c-b07fea957bd5_story.html.

judiciary that is the product of an ever-more politicized appointment process in an increasingly dysfunctional political system, is another matter.

Creating transparency regarding the profitability of selling alienation and hate-mongering

A major challenge for any regulatory efforts designed to contain disinformation and propaganda that are fundamentally political speech and reflect a political perspective is the fallibility of both state and market institutions. Before we get to the question of how one might design a regulatory framework based on content (falsehood) that could resist first amendment scrutiny, there is the question of how anyone who values democracy could take the risk of passing such regulation in the aftermath of the 2016 and 2020 elections. Any currently-proposed design must assume at least in the 2020s and possibly into the 2030s, episodic control of the federal government by a party that has been taken over by an anti-democratic, illiberal faction willing to deny facts and peddle lies, suppress opposition voting, and change the rules of democratic elections and governance to maintain minority rule whenever it reaches power in a state or in the federal government. It is precisely for times such as these that a robust first amendment is most critical.

The “solution” of relying on commercial platforms to censor disinformation and propaganda is neither available nor desirable. It is unavailable because the worst abuses, with the largest influence, are the core product of the most influential platforms—Fox News, Newsmax, OANN, iHeart Radio’s talk-radio coast-to-coast bile. Even on social media, keeping the eyeballs and engagement drawn by the hate-filled rhetoric are directly in the interest of the social media companies, such that the efforts of these companies will always be governed by a tension between the desire to contain the dissatisfaction of consumers upset by the outrage, and the profit-driven need to keep this attractive-to-many content on the platform. The interests of the social media firms are less clearly aligned with selling outrage than are the incentives of the mass media platforms, but the bad incentives are there nonetheless given the actual structure of the audience for American political media. Moreover, the asymmetric architecture of outrage media in the United States leaves social media companies with the unappetizing prospect of regulating media in ways that will be perceived as pro-Democratic Party, and we have seen examples of social media dealing with that political risk by intentionally tweaking their algorithm to downgrade left-leaning outlets that do not propagate outrage or falsehoods, simply so they can point to their own neutrality when challenged by Republican politicians.³⁴ Moreover, in an era of high concentration of wealth, after decades of increasing concentration in markets, legitimating the intensive engagement of commercial platforms in regulating political speech would be to leap

³⁴ Deepa Seetharaman and Emily Glazer, “How Mark Zuckerberg Learned Politics,” *Wall Street Journal*, October 16, 2020, sec. Tech, <https://www.wsj.com/articles/how-mark-zuckerberg-learned-politics-11602853200>. (describing Facebook “Engineers redesigned their intended changes so that left-leaning sites like Mother Jones were affected more than previously planned” in response to outrage about the politically asymmetric impact of efforts to change the newsfeed algorithms to downgrade outlets that engaged in falsehoods.)

out of the frying pan and into the fire, as far as preserving a democratic speech environment. Beginning at least with the National Association of Manufacturers in the 1930s,³⁵ American companies have invested in sowing doubt and propagating falsehoods that serve their bottom line: from lies with global effects like denying climate change, to whole industries distorting public health research, like the carcinogenic effects of tobacco, to confounding discrete profit-threatening effects like the role of sugared soft drinks in the obesity epidemic.³⁶ The idea that Big Tech will be systematically better-behaved than Big Oil, Big Tobacco, or Big Sugar requires a significant leap of faith.

One alternative proposed is a revival of the regulatory power of the Federal Communications Commission to contain the worst of the abuses—in particular the fairness doctrine. At one level, the fact that the primary sources of disinformation and media polarization are mass media—television and radio—makes that option more available than commonly recognized in debates that focus solely on social media platforms. Such a revival of direct federal regulation would be neither feasible nor advisable. It would be infeasible because first amendment doctrine has become more robust in its defense of business. As a purely predictive matter, efforts to reinstate the fairness doctrine would more likely result in overturning the exceptional treatment of over-the-air broadcast under the first amendment, and its assimilation to cable broadcast. *Red Lion* was a product of its time, the tail end of high modernism and its belief in enlightened regulation in the name of the public interest, a time when it seemed possible that the first amendment permitted, perhaps even required, newspapers too to come under right-of-reply regulations.³⁷ It's original logic was as much based on a non-technology-specific conception of a first amendment designed to protect speech "from diverse and antagonistic sources" as it was narrowly specific to spectrum scarcity.³⁸ When *Miami Herald v. Tornillo* didn't even bother to cite *Red Lion*, it left it to later decisions, beginning with *League of Women Voters*, to reify the "spectrum scarcity" rationale of regulation of over-the-air television in a fundamentally more invasive manner than the courts permitted for cable, telephone, or later the Internet. That distinction was barely a fig leaf in the 1980s, as cable TV penetration began to grow, much less in an era of the Internet and over-the-top apps on digital TVs. Even without the Lochnerization

³⁵ Naomi Oreskes, Erik M. Conway, and Charlie Tyson, "How American Businessmen Made Us Believe That Free Enterprise Was Indivisible from American Democracy: The National Association of Manufacturers' Propaganda Campaign 1935–1940," in *The Disinformation Age*, ed. W. Lance Bennett and Steven Livingston, 1st ed. (Cambridge University Press, 2020), 95–119, <https://doi.org/10.1017/9781108914628.004>.

³⁶ Naomi Oreskes and Erik M. Conway, *Merchants of Doubt: How a Handful of Scientists Obscured the Truth on Issues from Tobacco Smoke to Global Warming*, Paperback edition (New York, NY: Bloomsbury Press, 2011); Anahad O'Connor, "Coca-Cola Funds Scientists Who Shift Blame for Obesity Away From Bad Diets," *Well* (blog), August 9, 2015, <https://well.blogs.nytimes.com/2015/08/09/coca-cola-funds-scientists-who-shift-blame-for-obesity-away-from-bad-diets/>.

³⁷ Jerome A Barron, *Freedom of the Press for Whom? The Right of Access to Mass Media* (Bloomington: Indiana University Press, 1973).

³⁸ Yochai Benkler, "Free As the Air to Common Use: First Amendment Constraints on Enclosure of the Public Domain," *New York University Law Review* 74, no. 2 (May 1999): 366–81; Marvin Ammori, "Another Worthy Tradition: How the Free Speech Curriculum Ignores Electronic Media and Distorts Free Speech Doctrine," *Missouri Law Review* 70 (2005): 59–123.

of the first amendment of the past thirty years any current Supreme Court pressed to justify broadcast exceptionalism when over-the-air TV is just one of many channels available to all, and when the technical “reality” of spectrum scarcity has long been bypassed as a technological matter.

Worse, there is no reason to trust the FCC to be a well-functioning, independent regulator. Different agencies have different institutional structures and cultures. The Bureau of Labor Statistics produces some of the most politically charged information of any government agency; and yet has succeeded in maintaining its political independence throughout its existence. The Federal Drug Administration affects billions of dollars of company values, and yet has succeeded in preserving its independence from industry. The FCC, by contrast, has a long and sustained history of both politicization and a remarkably well-oiled revolving door to industry. In the 1920s and 1930s, under a still-nascent and limited modern first amendment doctrine, the FCC clamped down on socialists (WEVD) and labor (WCFL), and on supporters of Hitler objecting to U.S. support of Britain (Father Coughlin). As the 1970s and 1980s saw more robust constitutional constraints placed on the commission, its enforcement of those areas where it still had power to regulate—non-obscene sexual content—mostly followed the election returns, with enforcement of the loose *Pacifica* standard ramping up during Republican administrations as cheap signals to the Christian fundamentalist base, and ramping down during Democratic administrations. The record on revolving door is no better. Michael Powell, son of then-serving Secretary of State Colin Powell, gutted the open access provisions of the Telecommunications Act of the 1996 Act by reclassifying broadband as information, not telecommunications service. He later became the chief lobbyist for the cable industry. Meredith Atwell Baker, James Baker III’s daughter-in-law, became NBC Universal’s chief lobbyist four months after voting as FCC commissioner to approve the Comcast NBC merger, and later became the chief lobbyist for the wireless industry. Of the six chairs of the FCC appointed to a full term since 1992 other than Powell, three (two Democrats and one Republican) moved on to private equity firms, one (Wheeler) had already been chief lobbyist for both the cable and the wireless industries, and could afford to be aggressive against industry interests, and two, Reed Hundt (a Democrat) and Kevin Martin (a Republican), who had taken aggressive positions in regulating industry, did not move on to positions in business. Hundt, Martin, and Wheeler all saw their temporary victories reversed. Hundt’s efforts on open access to telecommunications infrastructure were reversed by Kennard (a Democrat; Carlyle Group; now Chairman of the Board of AT&T) and Powell; Martin saw his efforts to impose net neutrality obligations on the cable companies nullified by the courts based on Powell’s reclassification; and Wheeler saw his effort to fix the constraint Powell had created by reclassifying broadband as telecommunications approved by the courts, but reversed by his Trump-appointed successor. The FCC’s entire institutional structure and culture would likely need to be revised to turn it into a genuinely independent agency (independent both from political parties and from the industries it regulates) before one could reasonably rely on it to regulate misinformation and propaganda. Such a restructuring, however, is only likely to follow

statutory changes that could themselves only be the result of an already-transformed U.S. political system.

An alternative would be to leverage the newly-possible decentralized social action, both peer production and civil society organizations, in partnership with a state whose role is limited to enabling social production rather than taking on the regulatory role itself.³⁹ Rather than seeking to regulate hate speech and disinformation on social media, regulatory efforts should be aimed to leverage the new affordances that undergird surveillance capitalism toward providing broad and deep transparency about the money flows associated with selling hatred and outrage. Rather than working against the powerful technological forces of surveillance and ubiquitous data collection and analysis, the regulatory framework should focus on turning those capabilities into a publicly curated database that makes transparent which companies advertise on, and which companies profit from, advertising associated with hateful content. While this approach will not contain hatred and disinformation on its own, it will provide a platform for consumers and shareholders to hold the brands they identify with and the companies they own to account for the outrage their advertising dollars support. And this approach could apply not only online, but actually to the outlets that are the most effective disseminators of outrage and disinformation—on television.

The objective would be to construct a system of accountability for advertisers who support false and radicalizing content. It should be designed to be neutral as among competing judgments as to what is false, and what is true; as well as to what is radicalizing, as opposed to informing or mobilizing. The government's role would not include deciding whether Black Lives Matter online protests are "mobilization," while white supremacist bile is "radicalizing." We simply cannot trust American politics in the coming decade or two to deliver governments that can be trusted to make such choices in ways that support, rather than undermine, democracy. Rather, the government's role should be limited to requiring disclosure, collecting and managing the database, and making it freely accessible to the public. It would be up to networks of peer volunteers, civil society organizations, activist shareholders, academics, or journalists to develop the insights from the data, and to mobilize to put economic pressure on outlets and advertisers they deem to be supporting falsehood and radicalization. This system would be far from foolproof. It would be equally available to right-wing consumers or shareholders who want to prevent advertisers from advertising on the New York Times (much less the Rachel Maddow show), as it would be for those who wish to boycott advertisers who support the most popular providers of hate and outrage, Tucker Carlson or Sean Hannity. It should cover social media platforms, but also online sites that receive most of their traffic from direct access, rather than through social media referrals, like Alex Jones's Infowars. Because it is neutral, and because there is a large and willing audience that seeks out and is gratified by the outrage industry, it is entirely

³⁹ On "the partner state" see Pazaitis, A., & Drechsler, W. (2021). Peer Production and State Theory: Envisioning a Cooperative Partner State. In M. O'Neil, C. Pentzold, & S. Toupin (Eds.), *The Handbook of Peer Production* (pp. 359–370). Hoboken, NJ: Wiley & Sons, Inc.

possible that such a transparency regime, even if perfectly implemented, will have no impact on the profitability of selling outrage. Instead, there will be sorting, with advertisers (like MyPillow) whose core audience aligns with the audience segments that pay attention to outrage industry sources supporting those programs, while advertisers aiming for broader market segments do not.

The natural home for designing a comprehensive database of advertising and its relationship to content is the Federal Trade Commission, which has tended to be less of a captured agency than the FCC. While the FTC's Division of Advertising Practices focuses its enforcement on misleading advertising, it is a reasonable application of that jurisdiction that the FTC may collect information about who is advertising what on which channels and programs. As technology has evolved to make finer-grained distinctions, such pervasive transparency requirements can be implemented in fine-grained increments, such as tying the advertising to specific stories in online media alongside which the advertisements appeared, or specific timestamps in television programs to enable data analysis to pin down what specific stories on television the advertising supported. It is entirely possible, for example, that an advertisement that by itself does not claim that it can cure a particular condition may carry that implication if run during and after a news segment on that condition. Or an advertisement that does not directly address children may nonetheless merit review under rules applicable to advertisements to children if it runs in a program, or on a website, that carries children's programming.

In substance, transparency rules could be addressed to advertising delivery systems: websites, social media platforms, search engine advertising tools, online ad exchanges, but also mass media: television channels, radio stations, and newspapers. Rules could, in the alternative or additionally, be imposed on advertisers themselves, who would be required to report monthly to the FTC where their advertising appears—a requirement that would require them to contract with advertisement delivery systems to provide them that information. Most advertising online is not necessarily matched to content, but to specific users or rather, user profiles. To preserve individual user privacy, no information about the specific characteristics of the user may be included in the disclosure, but purely the final piece of content, usually in the form of a URL when it is online, that was associated with a given advertisement. For mass media audiences in mass media formats that do not personalize advertising (on paper, or on televisions that do not provide addressable advertising capabilities), the reporting would simply be the advertisement, advertiser, name of the program, and time stamp, to the minute, of when during the program the advertisement aired. While such requirements would have imposed insurmountable administrative and technical burdens in the past, today these data are collected in online media regularly, as a normal part of the operations of the data-informed preference manipulation industry (a.k.a. "behavioral" or "persuasive" advertising), and by television and radio outlets, who necessarily must record data on which advertisements they ran at what times for billing purposes. To add additional bits of data, such as the specific minute of airing in what is already a digital video stream on television should be relatively trivial as a technical matter given that all television is, at this point, digital streams.

It is important to emphasize that such a requirement would not permit disclosure of any individual's reading and viewing patterns; and would insist that any possible personally identifying information be stripped from the data included in the advertising dataset. Websites have long inserted personally identifiable information into the specific URLs they return to users, in order to circumvent users' efforts to preserve their privacy. To avoid returning personally identifiable information, content providers would be required to return "canonicalized" URLs, those stripped to the bare minimum necessary to access the content to which the advertising was attached, but without any of the added codes websites use to track their readers. Moreover, such a requirement neither prohibits nor regulates any expression. It is applied neutrally to all content and all advertising, and prevents no content, whether editorial, entertainment, or advertising, from reaching its intended willing audience.

Creating such a database would help consumers hold the brands they buy, often associating their identity with that of the brand, accountable for the social and ecological impact of their products. It would help advertisers hold the advertising delivery systems they use accountable to place their advertisements in contexts of which the advertiser approves. And it would help shareholders hold the companies they own to account for the kinds of content the company supports with its advertising dollars. It would not help government or private parties identify who is reading or watching which programs. It would not help government censor any content. The database would not be associated with a government-run program designed to assert that this or that program published truth or falsehood. It would not help social media platforms gain any information they do not already have to the extent they want it. It would not, in other words, exacerbate risks of either public or private censorship, online or in mass media, nor would it require collection and curation of any data that might compromise user privacy beyond what companies already collect, nor make any such identifiable personal data available to parties that do not already have legal access to such data.

Instead, the database would be available to the public through published application programming interfaces (APIs) to be developed with the expected community of user organizations—particularly academics and civil society organizations. This would allow both individual users, using publicly developed tools, to seek out advertising information, and organizations who seek to act as trusted sources to publish the information for users who trust them. A journalistic truth-oriented organization, say, the Poynter Institute's PolitiFact, might take its own individual story fact checking approach of giving sources and individual media and political personalities "Truth-O-Meter" scores, and attach to those stories or media personalities a list of the advertisers who were aired or shown alongside the identifiable falsehood. Advertisers could subscribe to such a Truth-O-Meter service, and insist that their advertising not be aired next to false information that could tarnish their brand. Businesses, such as NewsGuard, who sell a service through a browser plug-in to rate the reliability of websites subscribers visit, could extend their offerings to rate advertisers based on the relationship amount of advertising an advertiser does on sites that the company rates as unreliable. Consumer or other civil society organizations could develop rankings and ratings for companies, similar to those that various sites provide for adherence to

fair trade practices, or ecological sustainability, or some index of a range of ethical commitments consumers may support.

A system that would be sufficiently neutral to resist abuse by an anti-democratic administration, however, would necessarily be neutral as among the organizations that publish ratings of advertisers. It could, therefore, be misused to mobilize political boycotts for purely political purposes, further entrenching the polarization dynamic. A politically oriented organization could look for politically oriented content and publish a list of advertisers who advertise on programs known to support the opposing party—the Republican Party could publish a list of advertisers who advertise on MSNBC generally, or on the Rachel Maddow show in particular; while the Democratic Party could do so for One America Network, Newsmax, or Fox News. Viewers or readers with well-defined and active political identities could subscribe to such lists and choose to support only brands that do not advertise on the opponents’ networks or websites. While this may make advertising on any such networks undesirable, and therefore lead to reduction in the commercial incentives to publish outrage-stoking content, it would be impossible to limit the judgment of what counts as “political outrage mongering.” Right wing media does not have a monopoly on hyper partisan content, though it does operate under a different economic dynamic, with a pronounced propaganda feedback loop. PolitiFact rates Rachel Maddow stories as not fundamentally less likely to make mostly false or false statements than those of Sean Hannity. But there is no reason to think that partisans will boycott only hyperpartisan opposing programming. Survey evidence from Pew suggests that viewers who trust Sean Hannity distrust CNN more than they distrust MSNBC, and distrust the New York Times not much less than MSNBC.⁴⁰ A fully decentralized approach that was designed to facilitate collective economic tools against the opponents of truth could well be repurposed to facilitate collective economic tools against any opponents.

How likely is such a database to address and contain the incentives to publish disinformation and stoke anger? While there are broad claims within the marketing literature about the increasing importance to consumers, particularly younger consumers, of incorporating ethical choices into their consumption patterns, sustained studies of the actual impact are lacking, and research recognizes a gap between survey responses that state intent to consume ethically and actual consumption habits.⁴¹ Organic food sales make up no more than 6% of all food purchases, and possibly as much as 15% of fruit and vegetables.⁴² This overall share of market is similar to the

⁴⁰ Jurkowitz et al., “U.S. Media Polarization and the 2020 Election.”

⁴¹ Michal Carrington et al., “Consumption Ethics: A Review and Analysis of Future Directions for Interdisciplinary Research,” *Journal of Business Ethics* 168, no. 2 (January 2021): 215–38, <https://doi.org/10.1007/s10551-020-04425-4>; Jeffery Bray, Nick Johns, and David Kilburn, “An Exploratory Study into the Factors Impeding Ethical Consumption,” *Journal of Business Ethics* 98, no. 4 (2011): 597–608.

⁴² “U.S. Annual Organic Food Sales near \$48 Billion,” accessed June 15, 2021, <https://www.foodbusinessnews.net/articles/13805-us-organic-food-sales-near-48-billion>; “Organic Food Sales Jump Nearly 13% to Record High in 2020,” Supermarket News, May 25, 2021, <https://www.supermarketnews.com/consumer-trends/organic-food-sales-jump-nearly-13-record-high-2020>.

market share of fair trade coffee,⁴³ while nationalistic ethical consumption, like “Buy American,” appears to suffer a similar “intention gap” between popularity of the policy in survey responses and actual change in consumption habits.⁴⁴ There is, therefore, a significant risk that developing a system to render transparent the flow of funds that support outrage will not, in fact, lead to any consumer action that would impact the profitability of stoking hatred. On the other hand, unlike other ethical consumption choices, such as fair trade or organic, there is no systematic reason to believe that brands that advertise on sites that disseminate falsehoods and hatred are systematically cheaper than brands that refuse to publish on such sites. Focusing one’s consumption patterns on brands that do not financially benefit the outrage industry need not, systematically, involve an ethics/price tradeoff in the way that many other ethical consumption efforts do. Moreover, while as a media market the consumers of outrage media are a relatively large market segment, they are still a minority of consumers in the economy as a whole. Furthermore, conversion rates on television (the conversion of exposure to marketing and actual purchase) are not high, and online are practically unmeasurable.⁴⁵ The negative impact of consumer boycotts need not be large to outweigh the small and uncertain gain advertisers can expect to gain from continuing to advertise on outrage media.

Another potential vector of influence is socialization and elite cultural pressures. The broad target audience of outrage media is older white users, and to some extent with a high proportion who have high school education or less.⁴⁶ Executives at firms that buy advertising are more likely to be influenced by elite attitudes of others in the professional and managerial class and, to the extent that the transparency can put a spotlight on the complicity of certain firms in financing outrage media, these executives may be subject to some within-class social pressure. While such social pressure is unlikely to affect executives at the companies that themselves sell outrage, for others in the same class, who have no particular economic interest in selling outrage, shaming campaigns within the professional and managerial class may outweigh the uncertain gains from marketing on outrage media. More formal than merely social cultural pressure, one might imagine shareholders raising objections to harmful advertisement investments that may prove costlier to deal with than the advertising choices are worth.

* * *

⁴³ “The Competitiveness of Fair Trade and Organic versus Conventional Coffee Based on Consumer Panel Data | Elsevier Enhanced Reader,” accessed June 15, 2021, <https://doi.org/10.1016/j.econ.2021.106986>.

⁴⁴ Jeffrey Kucik and Krzysztof Pelc, “Political Rhetoric as Trade Barrier: Trump’s ‘Buy American’ Campaign and US Demand for Imports,” *SSRN Electronic Journal*, 2017, <https://doi.org/10.2139/ssrn.3067518>.

⁴⁵ Randall Aaron Lewis and Justin M. Rao, “On the Near Impossibility of Measuring the Returns to Advertising,” *SSRN Electronic Journal*, 2013, <https://doi.org/10.2139/ssrn.2367103>; Brett R. Gordon et al., “A Comparison of Approaches to Advertising Measurement: Evidence from Big Field Experiments at Facebook,” *Marketing Science* 38, no. 2 (March 2019): 193–225, <https://doi.org/10.1287/mksc.2018.1135>.

⁴⁶ “Section 4: Demographics and Political Views of News Audiences,” *Pew Research Center - U.S. Politics & Policy* (blog), September 27, 2012, <https://www.pewresearch.org/politics/2012/09/27/section-4-demographics-and-political-views-of-news-audiences/>.

Media outlets that sell outrage are not the driver of epistemic crisis or the prevalence of hate-filled public discourse in America in the twenty-first century. But commercial media are caught up in a competitive dynamic created by the political-cultural dynamic that undergirded the Reagan revolution, and have, over the past forty years, substantially reinforced and amplified the alienation and hatred that resulted in the takeover of the Republican Party by its Trump wing. What started as a business opportunity for Pat Robertson and Rush Limbaugh, became a market imperative strictly enforced by the competitive pressures of the lucrative market in selling outrage to a large minority of Americans. In the long term, fundamental solutions will have to address the legitimate underlying pain of middle- and working class, often less educated audiences who have borne the brunt of the alliance between the neoliberal business wing of the Republican Party, which rendered them economically powerless, and the neoliberal Clinton wing of the Democratic Party, who traded victories against identity-based domination in exchange for embracing neoliberal economic extraction. But in the shorter term, efforts to contain the propaganda feedback loop and contain outrage, falsehood, and hatred in media should focus on the market dynamic that makes selling outrage so profitable, and kills any efforts to reach the audience of these media with truth-seeking, rather than identity-confirming, programming.