

***Media Today* 6th Edition**
Chapter Recaps & Study Guide

**Chapter 5: Controls on Media Content:
 Government Regulation, Self-Regulation, and Ethics**

This chapter provides an overview of the different ways that the government regulates media industries and the media industries regulate themselves, as well as the questions of ethics that arise in both cases.

Chapter Objectives:

1. Explain the reasons for and the theories underlying media regulation.
2. Identify and describe different types of media regulation.
3. Analyze the struggles between citizens and regulatory agencies in the search for information.
4. Discuss the ways in which media organizations self-regulate.
5. Identify and evaluate ethical dilemmas facing media practitioners today.
6. Harness your media literacy skills to comprehend how media regulation affects you as a consumer.

Why Do Media Firms Care about What Government Does?

Government laws and guidelines affect the ways in which media companies produce, distribute, and exhibit content, and they cover a wide range of territory.

Three key arguments shape the media laws in the United States: how to define freedom of the press, what a good media system means, and how much government should guide it. (125)

- Even though the First Amendment of the U.S. Constitution says “make no law” about “the freedom of speech, or of the press,” the reality of this situation is much more complicated, and has often been raised in the U.S. Supreme Court. Questions center on determining who is making the law, what exactly defines “the press,” and what is meant by “abridging.” (125-128)
- The Supreme Court has often approved government restrictions to abridge speech of the press that places limits on the time, place, and manner of expression. (127) Such restrictions are legal if they
 - are applicable to everyone;

- are without political bias;
- serve a significant governmental interest; and
- leave ample alternative ways for the communication to take place.

More Allowable Government Control over Media Content

Government regulation of media falls into three categories: regulation of content before it is distributed, regulation of content after it is distributed, and economic regulation. (128)

- Prior restraint is involved in regulating content before it is distributed. (128)
- Several areas that warrant prior restraint include obscenity, military operations, and copyright. See table 5.1 on p. 129.
 - Obscenity means something that is offensive to standards of decency and modesty. Determining whether material is obscene involves whether it is shown in clearly offensive manner, applies to the whole text, and is measured by the average, reasonable person. Determining what is offensive and why is a challenging undertaking because of people's differing standards and the shifting of these standards over time. (128-130)
 - The U.S. Supreme Court has consistently ruled that the government has a right to censorship via prior restraint when the national security of the United States is at risk, but the Court has made it clear that national security is defined quite narrowly. (130-131)
 - The regulation and control of media content prior to publication during wartime military operations has occurred since the Civil War.
 - The military has developed strategies to control and shape wartime reporting, using pool reporting and embedded reporting.
 - According to the U.S. Constitution, the purpose of copyright is "to promote the progress of science and the useful arts." (131)
 - The hesitancy of government agencies to stop the press from circulating content through prior restraint does not apply to copyright violations. (131)
 - The Copyright Act of 1976 lays out the basic rules of copyright law as they exist in the U.S. today. (131-132)

- Fair use regulations allow writers and academics to use small portions of copyrighted material without permission. (132)
- Fair use is typically supportive of nonprofit, educational uses of copyrighted material, and of uses that do no harm to the original work, or that significantly transform the original work to include added interpretations, including parodies of the original work. (132-133)
- Regulation of content *after* it is distributed:
 - Defamation is a highly disreputable or false statement about a living person or an organization that causes injury to the reputation that a substantial group of people hold for that person or entity. (134)
 - Libel is a form of published defamation, including libel per se (so-called “red flag” words) and libel per quod (words that become libelous because of their context). (134)
 - Slander is a form of spoken defamation. (134)
 - There are two categories of libel plaintiffs: public figures, such as politicians and other people in the spotlight, and private persons, such as everyday people who have an expectation of privacy. (135)
 - The U.S. Supreme Court has defined actual malice as reckless disregard for truth or knowledge of falsity; the Court has defined simple malice as ill will toward another person. (136)
 - The Court has defined simple negligence as lack of reasonable care by media organizations. (136)
 - Privacy is the right to be protected from unwanted intrusion and disclosures. Invasion of privacy activities include false light, appropriation, intrusion, and public disclosure. (Table 5.3, p. 137)
 - Databases of consumer information from online activities raise questions about whether the gathering

and selling of such information is a violation of privacy or just doing business.

- Economic regulations are rules that determine how firms are allowed to compete with each other. (139)
 - Antitrust laws prevent one company from controlling an entire market, which is called a monopoly. A few companies controlling a market is called an oligopoly. (139)
 - Antitrust policies are carried out through the passage of laws, the enforcement of laws, and through Federal court decisions. (139-140)
 - Two government agencies are important in the regulating of the mass media: the Federal Trade Commission (FTC) and the Federal Communications Commission (FCC). (140; see Figure 5.1 on p. 140). These agencies are responsible for creating technical order, encouraging competition, and protecting consumers. (141-143)

Media Self-Regulation

Self-regulation regimes are codes created by companies that define ethical codes of conduct within them. (143)

- While self-regulation pressures do come from the government, external pressures to self-regulate also come from members of the public, advocacy organizations or pressure groups, and advertisers. (143-145)
- Self-regulation practices include editorial standards, or written statements of policy and conduct (page 146), and ombudspersons, or those who act as intermediaries in conflict situations. (146)
- Professional codes of ethics are created by members of professions, spelling out what practitioners should and should not do.
- Journalism reviews are publications, such as *Quill* and *Columbia Journalism Review*, that report on and analyze examples of ethical and unethical journalism.
- Content ratings and advisories offers guides for determining the age-appropriate nature of the film, television show, or video games. See Table

5.4 for video games (147), Table 5.5 for movies (148), and Table 5.6 for television shows (148).

The Role of Ethics

Ethics are systems of right and wrong that guide people's actions. (149) Bob Steele, a faculty member with the Poynter Institute, suggests 10 questions to ask yourself when considering ethical questions while working in media. (149-150)

- What do I know? What do I need to know?
- What are my ethical concerns?
- What is my journalistic (or informational, entertainment, advertising, or educational) purpose?
- What organizational policies and professional guidelines should I consider?
- How can I include other people, with different perspectives and diverse ideas, in the decision-making process?
- Who are the stakeholders—those affected by my decision? What are their motivations? Which are legitimate?
- What if the roles were reversed? How would I feel if I were in the shoes of one of the stakeholders?
- What are the possible consequences of my actions in the short term? In the long run?
- What are my alternatives to maximize my truth-telling responsibility and minimize harm?
- Can I clearly and fully justify my thinking and my decision to my colleagues? To the stakeholders? To the public?

Ethical duties are related to different constituencies, including self, audience, employer, profession, promise-holders, and society. (150-151) Ethical standards occur at three levels: person, professional, and societal. Values, ideals, and principles cut across these levels. (151)

Media Literacy, Regulation, and Ethics

- Sometimes people who work in mass media organizations might feel strong conflicts among the various duties they have and among the various ethical standards to which they try to subscribe. (152-153)
- Even if you're not a media practitioner, thinking seriously about the formal and informal controls on the media content you see and hear each day is crucial to your role as a critical consumer of media. (153)