9

PROPOSALS

A well-functioning democratic order would be compromised by a fragmented system of communications. To some extent, democratic nations have already been compromised by such fragmentation. Having urged these points, I do not intend to offer any kind of blueprint for the future; this is not a policy manual. Recall too that some problems lack solutions. But surely things can be made better rather than worse. In thinking about what might be done by either private or public institutions, we need to have some sense of the problems that we aim to address, and of some possible ways of dealing with them.[1]

It is important to offer three clarifications. First, we are speaking of problems, not catastrophes, and the problems are accompanied by compensating benefits. Twitter and Facebook challenge but do not endanger democracy; on balance, they are good for it, and we should not wish them away. Second, the modern communications market should be taken as a whole, and I will explore some proposals that would apply to radio and television, not to websites or social media. Third, any improvements are likely to be incremental, and many of them will be quite modest—positive steps, not magic bullets, which are in any case in short supply. My main goal here is to explore the risks of polarization and fragmentation, not to say that with one or two steps, or ten, we can make those risks disappear.

If the discussion thus far is correct, there are three fundamental concerns from the democratic point of view:

- the value of exposure to materials, topics, and positions that people would not have chosen in advance, or at least enough exposure to produce a degree of understanding and curiosity about the truth
- the importance of a range of common experiences
- the need for attention to substantive questions of policy and principle, combined with a range of positions

on such questions

Of course, it would be ideal if citizens were demanding and private providers were creating a range of initiatives designed to alleviate the underlying concerns. To a significant extent, they are; you can find evidence to that effect with just a little time online. In a free society, our emphasis should not be on government mandates but instead on purely private solutions. Current communications technologies create extraordinary and ever-growing opportunities for exposure to diverse points of view, and indeed increased opportunities for shared experiences and substantive discussions of both policy and principle. Private choices can lead to far more, not less, in the way of exposure to new topics and viewpoints, and also to more, not less, in the way of shared experiences. But to the degree that they fail to do so, it is worthwhile to consider how self-conscious efforts by private institutions, and perhaps public ones as well, might pick up the slack.

Any ideas about how to handle the situation require an understanding of how people are likely to react to topics and points of view that they have not selected. If people cannot develop an interest in unchosen topics, then exposure to those topics is unlikely to be worthwhile. If people will never listen to points of view with which they disagree, or if hearing them will simply increase polarization, there would be little point in exposing them to those points of view. If people would never learn from exposure to unchosen views and topics, we might as well build on the emerging capacity of companies to discern and predict tastes, and just allow people to see, hear, and get what they already like.

It is true that if you feel strongly, you might not learn anything from being exposed to contrary opinions. It is nonetheless realistic to say that most people are willing to listen to points of view that they have not selected. Many of us are fully prepared to develop an interest in topics that we have not chosen and in fact know nothing about. That is how we learn, and we are entirely aware of that fact. To work well, a deliberative democracy had better have many such people. It cannot possibly function without them. And if many people are able to benefit from wider exposure, it is worthwhile to think about ways to improve the communications market to their and our advantage.

I briefly discuss several possibilities here, including:

- deliberative domains
- disclosure of relevant conduct by networks and other large producers of communications

- voluntary self-regulation
- economic subsidies, including publicly subsidized programming and websites
- "must-carry" policies, designed to promote education and attention to public issues
- the creative use of links to draw people's attention to multiple views
- opposing viewpoint and serendipity buttons, designed particularly for Facebook, and perhaps suitable elsewhere as well

Different proposals would work better for some communications outlets than for others. Disclosure of public affairs programming is sensible for television and radio broadcasters, but not for websites. I will be examining must-carry requirements for television stations, but with respect to the Internet, such requirements would be hard to justify—and would almost certainly be unconstitutional. I will be arguing for the creative use of links on the Internet, although I will not suggest, and do not believe, that the government should require any links. Most important, the goals of the proposals could be implemented through private action, which (I reiterate) is the preferred approach by far.

DELIBERATIVE DOMAINS

It would be extremely valuable to have several widely publicized deliberative domains on the Internet, ensuring opportunities for discussion among people with diverse views. In chapter 4, we encountered Fishkin's deliberative opinion poll, attempting to describe public opinion not after telephone calls to people in their homes yield unreflective responses but as a result of extended conversations in groups of heterogeneous people. Fishkin has created a website with a great deal of valuable and fascinating material.[a] Along with many others, Fishkin has been engaged in a process of creating deliberative opportunities on the Internet—spaces where people with different views can meet and exchange reasons, and have a chance to understand, at least a bit, the point of view of those who disagree with them.

The hope is that citizen engagement, mutual understanding, and better thinking will emerge as a result.

We can envision many variations on this theme, both real and online. Imagine a new website, deliberativedemocracy.com—or if you wish, deliberativedemocracy.org. (Neither name is yet taken; I've checked.) The site could easily be created by the private sector. When you come to the site, you might find a general description of goals and contents. Everyone would understand that this is a place where people of divergent views are invited to listen and speak. And once you're there, you would be able to read and (if you wish) participate in discussions of a topic of your choice by clicking on icons representing, for example, national security, relevant wars, civil rights, the environment, unemployment, foreign affairs, poverty, the stock market, children, gun control, labor unions, and much more. Many of these topics might have icons with smaller subtopics—under environment, there might be discussions of global warming, genetically engineered food, water pollution, and hazardous waste sites.

Each topic and subtopic could provide brief descriptions of agreed-on facts and competing points of view as an introduction and frame for the discussion. Private creativity on the part of users would undoubtedly take things in boundless unanticipated directions. Private managers of such sites would have their own norms about how people should interact with one another; deliberativedemocracy.com for example, might encourage norms of civility.

Many experiments in deliberative democracy are now emerging, sometimes self-consciously, and sometimes through the kinds of spontaneous developments that occur on e-mail and e-lists. The Deliberative Democracy Consortium is noteworthy here. It offers a range of references, links, and materials.[3] For obvious reasons, there would be many advantages to a situation in which a few deliberative sites were especially prominent. If this were the case, deliberativedemocracy.org, for example, would have a special salience for many citizens, supplying a forum in which hundreds of thousands or even millions could participate, if only through occasional reading. But we should hardly be alarmed if a large number of deliberative websites were to emerge and compete with one another—a plausible description of what is starting to happen.

A VERY BRIEF NOTE ON CIVILITY

Speaking of civility, it is worthwhile to ponder in that connection the so-called Rapoport rules, which read:[4]

1. You should attempt to express your target position so clearly, vividly, and fairly that your target says, "Thanks, I wish I'd thought of putting it that way"
2. You should list any points of agreement (especially if they are not matters of general or widespread agreement)
3. You should mention anything you have learned from your target
4. Only then are you permitted to say so much as a word of rebuttal or criticism

The Rapoport rules are not exactly well-respected on social media or in political discussion generally. One reason is that life is short, and it can be time-consuming to follow the first three steps; you want to get on with it. Another reason is that if you're mad or even just charged up, you might not be in the best frame of mind to describe your target's position in a way that produces gratitude. On Facebook and Twitter, targets often react, reasonably enough, by insisting, "I never said anything like that!" And they didn't. The Rapoport rules are a bit fussy, but it would be terrific if people would move a bit more in their direction.

SUNLIGHT AS DISINFECTANT

The last decades have seen an extraordinary growth in the use of a simple regulatory tool: the requirement that people disclose what they are doing. In the environmental area, this has been an exceptionally effective strategy. Probably the most striking example is the Emergency Planning and Community Right-to-Know Act. Under this statute, firms and individuals must report to state and local government the quantities of potentially hazardous chemicals that have been stored or released into the environment. This has been an amazing and unanticipated success story. Mere disclosure, or the threat of it, has resulted in voluntary, low-cost reductions in toxic releases.[5]

Building on the basic idea, the Environmental Protection Agency has also created a public inventory for greenhouse gases, hoping and expecting that by itself, disclosure will have a beneficial effect. Right on its opening web page, the Occupational Safety and Health Administration prominently discloses every workplace death in the United States, promptly after it occurs, and it names names in the hope that publicity will increase safety.[6] (No employer wants to be named in that way on this site.) There is far more in

this vein. Dozens of nations have joined the Open Government Partnership, which attempts to use openness as a spur to improving the performance of government (not least by reducing corruption).[7]

It should be no wonder that disclosure has become a popular approach to dealing with pollution. When polluters are required to disclose their actions, political or market pressures will lead to reductions, without any need for actual government mandates. Ideally, no requirements need to be imposed. People will disclose on their own—in part because of the public demand for relevant information. In the area of communications, voluntary disclosure should be preferred. Commendably, several of the leading information technology companies publish transparency reports. Twitter, for instance, discloses the number of government requests for information, requests for content takedown, and more.[8] Others such as Verizon and WhatsApp seem to disclose less information than their peers.[9] To the extent that important information is not forthcoming, disclosure requirements deserve consideration.

Consider the case of television. Suppose, for example, that certain programming might be harmful to children, and that certain other programming might be beneficial to society. Is there a way to discourage the bad and encourage the good without regulating speech directly? Disclosure policies suggest a promising approach, at least if it is possible to specify what is being disclosed. Thus the mandatory V-chip is intended to permit parents to block programming that they want to exclude from their homes; the V-chip is supposed to work hand in hand with a ratings system giving information about the suitability of programming for children of various ages.

Similarly, a provision of the 1996 Telecommunications Act imposes three relevant requirements. First, television manufacturers must include technology capable of reading a program-rating mechanism. Second, the Federal Communications Commission must create a ratings methodology if the industry does not produce an acceptable ratings plan within a year. Third, broadcasters must include a rating in their signals if the relevant program is rated. The ratings system has now been in place for many years, and it seems to have been, at the very least, a modest success, making it far simpler and easier for parents to monitor what children are seeing.

A chief advantage of disclosure policies is their comparative flexibility. Most important, they allow viewers to do as they wish. If viewers know the nature of programming in advance, they can impose market pressures by watching more or less; broadcasters are responsive to those pressures. People can also impose political pressures by complaining to stations or elected representatives, and here too it is possible to induce changes. From the democratic point of view, disclosure also has substantial virtues. A well-

functioning system of deliberative democracy requires a certain degree of information, so that citizens can engage in their monitoring and deliberative tasks. A good way to enable citizens to oversee private or public action—and also assess the need for less, more, or different regulation—is to inform them of both private and public activity. The very fact that the public will be in a position to engage in general monitoring may well spur better choices on the part of those who provide television and radio programming.

Disclosure could be used in many different ways, suitable for different communications media. Television and radio broadcasters, cable television stations, information technology companies, and social media companies might, for example, voluntarily adopt disclosure policies of various sorts. The idea here, associated with Justice Brandeis, is that "sunlight is the best of disinfectants." And if such policies are not adopted voluntarily, modest legal requirements might be considered. The idea would be to ensure that anyone who is engaging in a practice that might produce harm, or do less good than might be done, should be required to disclose that fact to the public.[19] The disclosure might or might not alter behavior. If it does not alter behavior, we have reason to believe that the public is not much concerned about it. If the behavior does change, the public was, in all likelihood, sufficiently exercised to demand it.

As an illustration, consider a simple proposal: *television and radio broadcasters should be required to disclose, in some detail and on a quarterly basis, all their public service and public interest activities*. The disclosure might include an accounting of any free airtime provided to candidates, opportunities to speak for those addressing public issues, rights of reply, educational programming, charitable activities, programming designed for traditionally underserved communities, closed captioning for the hearing impaired, local programming, and public service announcements.

Astonishingly, most radio and television broadcasters have yet to disclose this information to the public, though the National Association of Broadcasters has done some information gathering. A hope, vindicated by similar approaches in environmental law, is that a disclosure requirement will by itself trigger improved performance by creating a kind of competition to do more and better, and enlisting various social pressures in the direction of improved performance.

I have referred several times to the old fairness doctrine, which required broadcasters to cover public issues and allow a right of reply for dissenting views. We have seen that this doctrine was repealed largely on the ground that it chilled coverage of public issues in the first instance. We have also seen that while the repeal was amply justified, it has had a downside insofar as it has increased fragmentation and hence polarization. But whether

or not we think the old fairness doctrine was defensible, a disclosure requirement—tied to coverage of public issues and diversity of views—would be a far less intrusive way of accomplishing the most appealing goals of that doctrine. Such a requirement might well produce some movement toward more coverage of public issues and more attention to diverse perspectives. It is even possible that such a requirement would help to address the three problems identified at the beginning of this chapter.

It is also possible that any disclosure requirement would produce no movement at all. But notice that people did not anticipate that the Environmental Protection Agency's Toxic Release Inventory would by itself spur reductions in toxic releases, as it emphatically did. In order for voluntary improvements to occur, the disclosure requirements must be accompanied by economic or political pressure of some kind, perhaps from external monitors, or at least a degree of conscience on the part of producers. Disclosure is likely to do some good if there are external monitors, and if those monitors are able to impose costs on those with bad records.

The external monitors might include public interest groups seeking to "shame" badly performing broadcasters. They might include rivals who seek to create a kind of "race to the top" in the form of better performance. They might include newspaper reporters and websites. If public interest organizations and viewers who favor certain programming are able to mobilize, perhaps in concert with certain members of the mass media, substantial improvements might be expected. It is even possible that a disclosure requirement would help create its own monitors. And in view of the relative unintrusiveness of a disclosure requirement and the flexibility of any private responses, this approach is certainly worth trying.

At worst, little will be lost. At most, something will be gained, probably in the form of better programming and greater information about the actual performance of the industry. In light of the aspirations of most viewers, the possible result of disclosure will be to improve the quality and quantity of both educational and civic programming in a way that promotes the goals of a well-functioning deliberative democracy.

My emphasis here has been on the application of disclosure requirements to television and radio broadcasters. I do not suggest that such requirements should be imposed on websites. In view of the remarkable range and diversity of websites, no such requirements would make sense. What, exactly, would be disclosed by Amazon.com, startrek.com, foxsports.com, columbia.edu, or republic.com? Of course some disclosures and warnings might be provided voluntarily. For example, many websites already inform people of content unsuitable for children. Other disclosure practices could undoubtedly help both consumers and citizens. But for the

purposes of my concerns here, those practices should not be compelled.

VOLUNTARY SELF-REGULATION AND BEST PRACTICES

A somewhat more ambitious approach, going beyond mere disclosure, would involve voluntary self-regulation by those who provide information. One of the most noteworthy trends of the last two decades, inside and outside the world of communications, has been in the direction of such self-regulation, which is designed to protect a range of social goals.[11] In the area of occupational safety, many employers follow agreed-on "best practices," designed to reduce the level of accidents and disease. Similar approaches are followed in the environmental area. The same idea might easily be adopted for democratic purposes. For example, television and radio stations might agree, perhaps via some kind of code of conduct, to attempt to provide a wide range of views on public issues so as to ensure that listeners encounter something other than a loud version of what they already think.

One of the motivating ideas behind voluntary self-regulation is that competition among producers, while usually wonderful, can sometimes be harmful from the viewpoint of the public as a whole.[12] Endless efforts to get people's attention may do long-term damage. Everyone knows that there has been an increasing trend toward "tabloidization," with mainstream newspapers and broadcasters emphasizing scandals and sensationalism. This trend predated the Internet, but it seems to have been accelerated by it. Often the news seems not to involve news at all. Sometimes it seems to be a continuation of the fictional drama that preceded it with detailed discussion of the "real-life events" mirrored in the fiction. Many journalists worry about this problem. As Robert Frank and Phillip Cook warn, with reference to the effects of market forces:

> Increasingly impoverished political debate is yet another cost of our current cultural trajectory. Complex modern societies generate complex economic and social problems, and the task of choosing the best course is difficult under the best of circumstances. And yet, as in-depth analysis and commentary give way to sound bites in which rival journalists and politicians mercilessly ravage one another, we become an increasingly ill-informed and ill-tempered electorate.[13]

But an agreement among producers can break (or brake) this competition and hence perform some of the valuable functions of law—without intruding

law into the domain of speech regulation.

With respect to television, consider the possibility of promoting democratic goals through voluntary approaches, as through a code of conduct to be issued and promoted by the National Association of Broadcasters, or perhaps by a wider range of those who produce television for the public. For many decades, in fact, the association did administer such a code. It did so partly to promote its economic interests (by raising the price of advertising), partly to fend off regulation (by showing that the industry was engaged in beneficial self-regulation, making government efforts unnecessary), and partly to carry out the moral commitments of broadcasters themselves. Notably, voluntary self-regulation has played a role in numerous areas of media policy, including, for example, cigarette advertising, children's advertising, family viewing, advertising of hard liquor, and fairness in news reporting.

In the 1980s, congressional concern about televised violence led to an intriguing new law creating an antitrust exemption for networks, broadcasters, cable operators and programmers, and trade associations, precisely in order to permit them to generate standards to reduce the amount of violence on television. As we have seen, a ratings system for television is now in place, and it should be treated as an instructive illustration of voluntary self-regulation—perhaps not wholly successful, but giving parents a general sense of the appropriateness of programming.

Even if any such new code did not apply to social media or websites (and in view of their nature and diversity, it certainly should not), it might address some of the problems discussed thus far. In light of the intensity of market pressures, it might be pie in the sky, but signatories could agree to cover substantive issues in a serious way, avoid sensationalistic treatment of politics, give extended coverage to public issues, and allow diverse voices to be heard. In fact, ideas of this kind long played a role in the television industry until the abandonment of the broadcasters' code in 1979. In view of the increasing range of options and the declining centrality of television broadcasters, there are undoubtedly limits to how much can be done through this route. But in many contexts, voluntary self-regulation of this kind has produced considerable good, and a code of some kind could provide a sort of quality assurance to the public.

If formal codes of conduct are not feasible—and they probably are not—we could imagine less formal efforts to establish and follow best practices. For providers of television and radio, such practices might deal with programming for children, emergency situations, and perhaps coverage of elections. It is also possible to imagine informal agreements or understandings among some websites, designed to protect children, ensure

privacy, and promote attention to diverse views. If market forces are producing serious problems, we have every reason to encourage creative thinking in this vein.

SUBSIDIES

An additional possibility, also with an established history, would involve government subsidies. With respect to television and radio, many nations, including the United States, have relied on a combination of private and public funding. In the United States, PBS is designed to offer programming, including educational shows for children, that (it is believed) will find insufficient funding in the private domain. Interestingly, and contrary to common belief, most of PBS's funding comes from private sources, but the government does provide significant help. This is a genuine public–private partnership. And in many domains, taxpayer resources are given to assist those who produce artistic, cultural, and historical works of many different kinds.

The traditional rationale for a separate public broadcasting network has been weakened by the massive proliferation of options, including many, on both television and the Internet, that provide discussion of public issues and educational programming for children. This is not to say that the rationale has been eliminated. Tens of millions of Americans continue to rely on over-the-air broadcasting, and many of them benefit from and depend on PBS. Nor do I mean to suggest that in all respects, the situation is better now than it was when the universe of options was so much smaller. In a system with four channels, PBS had a kind of salience that it now lacks, and it is by no means clear that the current situation, with dozens or hundreds of available stations, is in every way an improvement for all children or adults. Public broadcasting continues to supply important services. But with many private outlets doing the same kind of thing, it does seem clear that the rationale for PBS in its current form is weaker than it once was.

What, if anything, might be done in addition or instead? One possibility is to use modest levels of taxpayer money to assist high-quality efforts in nonprofit, nongovernmental spaces on the Internet. Such spaces are now proliferating, and they are adding a great deal to our culture. Taxpayer funds are limited, of course, and there are claims on government resources with higher priority. My only point it that it is worth rethinking the PBS model. It is past time to consider new initiatives that make better sense in the new communications environment.

MUST CARRY: CONSTITUTIONAL DEBATES

Some of the most interesting developments in the law of speech involve "access rights," or must-carry rules. In fact, the public forum doctrine creates a kind of must-carry rule for streets and parks. These sites must be opened up for speech. You and I are entitled to have access to them. Is there any place for must-carry rules on television or radio, or is the whole idea a relic of the past?

To answer these questions, it is necessary to have some sense of the legal background. In the 1970s, the Supreme Court held that government has the authority to subject television and radio broadcasters to a kind of must-carry rule in the form of the old fairness doctrine, requiring attention to public issues and an opportunity for diverse views to speak.[14] At the same time, the Court firmly rejected the idea that private newspapers may be treated as public forums and subject to must-carry rules.[15] In the Court's view, the government could not force newspapers to give a "right of reply" to those who sought to combat a controversial statement of opinion or fact. The apparent difference between broadcasters and newspapers—fragile even in the 1970s, and fragile to the breaking point today—is that the former are "scarce," largely for technological reasons, and hence are more properly subject to governmental controls.

Now that the scarcity rationale is so much weaker, the continued viability of the fairness doctrine is exceedingly doubtful. If the Federal Communications Commission tried to reinstate the doctrine, the Court would probably strike it down. The Court has nonetheless upheld legislation that imposes must-carry rules on cable television providers.[16]

The relevant legislation, still on the books, requires cable providers to set aside a number of their channels for both "local commercial television stations" and "noncommercial educational television stations." Congress defended these requirements as a way of ensuring the economic viability of broadcasters, on whom many millions of Americans continue to rely. In finding the must-carry requirements constitutional, the Court noted, "Assuring that the public has access to a multiplicity of information sources is a governmental purpose of the highest order, for it promotes values central to the First Amendment." The Court also emphasized the "potential for abuse of ... private power over a central avenue of communication," and stressed that the Constitution "does not disable the government from taking steps to ensure that private interests not restrict, through physical control of a critical pathway of communication, the free flow of information and ideas."[17]

In so saying, the Court was recalling Justice Brandeis's emphatically republican conception of the First Amendment. Indeed, Justice Stephen

Breyer, in a separate opinion, made the link with Justice Brandeis explicit: the statute's "policy, in turn, seeks to facilitate the public discussion and informed deliberation, which, as Justice Brandeis pointed out many years ago, democratic government presupposes and the First Amendment seeks to achieve."[18]

Here, then, is an unambiguous endorsement of the idea that government has the power to regulate communications technologies in order to promote goals associated with deliberative democracy. Notably, Justice Breyer's general approach to the Constitution is in this vein; he reads the Constitution as a whole in terms of deliberative democracy.[19]

So far, so good. But for those interested in thinking about the implications of the Court's decision, there are many questions. How crucial was it to the Court's reasoning that the cable provider controlled access to cable stations? Suppose that government imposed must-carry rules on cbs.com, cnn.com, or foxnews.com—arguing that one or the other of these must ensure sufficient diversity of view, or cover issues of importance to local communities.

We might imagine a law requiring foxnews.com to give more attention to "liberal" positions—or that cnn.com ensure that when New Yorkers click on its site, they see stories that bear on New York in particular. I hope that everyone would agree that no such requirements would be sensible, and if they were imposed, they should be struck down (immediately) as unconstitutional. The sheer range of views on the Internet would make it impermissibly selective to single out foxnews.com for special obligations, and a general requirement, imposed on all sites, would be far too intrusive to be justifiable. Coverage of local issues is important, but the massive increase in options means that such coverage is readily available. It may take a few seconds to find it, but is that a serious problem?

"Must carry" has no legitimate role on the Internet. But it remains true that providers, including cnn.com and foxnews.com, do best if they give sympathetic and substantive attention to a number of views, not only one.

THE SCARCE COMMODITY OF ATTENTION

I have emphasized that one of the most important of all commodities is people's attention. This is what companies are endlessly competing to obtain. Much activity on the Internet by those interested in profits and other goods is designed to produce greater attention, even if only for a moment. If a company, or a political candidate, can get attention from three hundred thousand people for as little as two seconds, it will have accomplished a great

deal.

As almost everyone has noticed, many Internet sites do not, and need not, charge a fee for users. You can get the content of many magazines and newspapers without paying a penny. Nor is the phenomenon limited to magazines and newspapers. If you want to learn about cancer, you can find out a great deal from numerous sources, entirely free of charge. Google.com charges nothing for its search service. Why is this? In most of these cases, advertisers are willing to foot the bill. What advertisers are buying is access, and usually brief access at that, to people's eyes—a small period of attention.

Here again we can see that those who use websites are commodities at least as much as they are consumers. They are what websites are selling to advertisers for a fee, and sometimes a large one. Targeting and customization are playing a large role here, as advertisers come to learn, with precision, how many and which people visit which sites, and from which advertisements.

Of course advertisements cannot guarantee sales. Most people who see an icon for Bloomingdales.com, Amazon.com, or Netflix.com will simply ignore it. But some will not; they will be curious and see what there is to see. Or they will file it away in some part of their minds for future use. If we combine an understanding of access rights and must-carry rules with an appreciation of the crucial role of attention, we might enlist advertisers' practices in the service of public interest goals. In other words, public-spirited actors, knowing that attention is valuable, might think of ways to capture that attention, not to coerce people, but to trigger their interest in material that might produce individual and social benefits. Links among sites are the obvious strategy here; I am focusing on voluntary linking decisions, not on government mandates.

Consider in this light a proposal: providers of material with a certain point of view might also provide links to sites with a dramatically different point of view. The *Nation*, a liberal magazine whose site features left-of-center opinions, might agree to display icons for the *Weekly Standard*, a conservative magazine, in return for an informal agreement from the *Weekly Standard* to display icons for the *Nation*. The icon itself would not require anyone to read anything. It would merely provide a signal to the viewer that there is a place where a different perspective might be consulted.

Of the thousands or millions of people who choose any particular site, not most, but undoubtedly a few would be sufficiently interested to look further. Best of all, this form of "carriage" would replicate many features of the public street and the general-interest intermediary. It would alert people to the existence of materials other than those that they usually read. We have seen that some sites do this already. The problem is that the practice remains unusual.

We could even foresee a situation in which many partisan sites offer links implicitly saying something like this: "We have a clear point of view, and we hope that more people will come to believe what we do. But we are also committed to democratic debate and discussion among people who think differently. To that end, we are offering links to other sites, in the interest of affording genuine debate on these issues." If many sites would agree to do this, the problem of fragmentation would be reduced.

In the current context, textual references to organizations or institutions are often hyperlinks, so that when a magazine such as the *National Review* refers to the World Wildlife Fund or the Environmental Defense Fund, it also allows readers instant access to their sites. As compared to icons, the advantage of the hyperlink approach is that it is less trouble for the owner and less intrusive on the owner's prerogatives—indeed, it is barely an intrusion at all.

In a similar vein, public-spirited bloggers would do well to offer links to those whose views are quite different from their own. Liberal blogs could more regularly link to conservative ones, and vice versa. Many bloggers offer "blogrolls" in which they list other blogs that they like or otherwise seek to publicize. As it turns out, liberal bloggers seem to list mostly or only liberal bloggers on their blog-rolls, and conservative bloggers show the same pattern. It would be good to show greater diversity, through a norm by which both liberals and conservatives include at least a few high-quality blogs from people with whom they do not agree. We could easily imagine explicit or implicit "deals" among bloggers with competing opinions, producing mutual linking. Such arrangements would increase the likelihood that people would be exposed to different perspectives; they would also reflect a healthy degree of mutual respect.

I certainly do not suggest or believe that government should require anything of this kind. Some constitutional questions are hard, but this one is easy: any such requirements would violate the First Amendment. If site owners and bloggers do not want to provide icons or links, they are entitled to refuse to do so. What is most important is that we could easily imagine a situation in which icons and links are more standard practices, in a way that would promote the goals of both consumers and citizens, and do so without compromising the legitimate interests of authors or site owners.

OPPOSING VIEWPOINT AND SERENDIPITY BUTTONS

Social media are constantly changing, and what's important today might not be so tomorrow. There is some evidence of decentralization, as younger

people sort themselves into diverse media. Nonetheless, Facebook does have a special role, not only in the United States, but also worldwide. As of 2016, it had 1.6 billion active users—a significant percentage of the 7.4 billion people in the world. I have said some negative things about the News Feed, but like most of those 1.6 billion, I really like Facebook. It has a unique function in connecting people to people and also in connecting people to news. If its own conception of "core values" is not entirely right, at least it deserves immense credit for focusing on the issue of core values. How might Facebook do better?

In an intriguing essay, Geoffrey Fowler argues that Facebook should create opposing viewpoint buttons, allowing people to click on them and receive uncongenial perspectives. Fowler remarks, "Imagine if you could flip a switch on Facebook, and turn all the conservative viewpoints that you see liberal, or vice versa. You'd realize your news might look nothing like your neighbor's." He adds, "What I see is a missed opportunity for technology to break down walls during this particularly divided moment. With access to more information than ever online, how could other points of view be so alien?"[22] That's a terrific question.

The beauty of the opposing viewpoint button is that it would not force anything on anyone. You would push it if you like; you don't have to do so. Many people no doubt would decline. But options can be attractive—and they can also shape people's conception of what social media and information sources are for. With an opposing viewpoint button, Facebook, or any other provider, would be saying, *There are other positions out there. Want to have a look?* Many people would say yes.

We can imagine variations on this theme. Instead of opposing viewpoint buttons, Facebook might offer "serendipity buttons," exposing people to unanticipated, unchosen material on their News Feed. Perhaps the material could draw from news stories from prominent outlets, such as the *New York Times* and the *Wall Street Journal*. On a random basis, perhaps they could provide material on events in countries other than one's own. With serendipity buttons, Facebook users could think, I am here in large part to learn. What can I find out?

We could imagine serendipity buttons of many different types. Experimentation is the watchword here. An aggressive idea would be that users would receive serendipity or opposing viewpoints by default, subject to the right to opt out. With such a system, your News Feed might contain all sorts of surprises. Sure, you would see things from your friends, but you would also see other things; your News Feed would be a bit like a great city or a genuine newspaper. True, some users would not love that, and so Facebook might not love it either—but people could easily opt out. We could easily

imagine a system of opposing viewpoints by default, with an opportunity to opt out as well. Facebook might not think that that is the best business model, but perhaps someone will give something like this a try. (Count me in.)

THE TYRANNY OF THE STATUS QUO

The tyranny of the status quo has many sources. Sometimes it is based on a fear of unintended consequences, as in the economists' plea, "The perfect is the enemy of the good"—a mantra of resignation to which we should respond, with Dewey, that "the better is the enemy of the still better." Sometimes it is grounded in a belief, widespread though palpably false, that things cannot be different from what they now are. (Things were different yesterday, and they will be different tomorrow.) Sometimes proposed changes seem to be hopelessly utopian, far too much so to be realistic. And sometimes they seem small and incremental, even silly, and do nothing large enough to solve the underlying problems.

The suggestions I have offered here are modest and incremental. They are designed to give some glimpses of the possibilities and do at least a little bit of good. Some of them merely build on existing practices. What is especially important in the current era is that we retain a sense of the grounds on which we can evaluate them. To those skeptical of the ideas outlined here, it makes sense to ask: If we seek to enlist current technologies in the service of democratic ideals, what kinds of practices would be better?