

Call to reinstate fairness doctrine after Arizona shooting not likely to result in action

By [Amanda Carey](#) - The Daily Caller 12:16 AM 01/13/2011

Could the [fairness](#) doctrine be coming back?

Rep. Jim Clyburn of South Carolina, the third ranking Democrat in the House, and Democratic Rep. Louise Slaughter of New York have both suggested in the aftermath of the Tucson tragedy that it might be a good idea to revisit the contentious rule. Despite their standing in the halls of Congress, however, experts say the chances of the rule's revival are slim to none.

Practically speaking, bringing back the fairness doctrine could be done one of two ways: either by Congress passing [legislation](#) or by the commissioners of the Federal Communications Commission (FCC) voting on and passing a set of regulations.

"I'm very, very doubtful the FCC would reinstate it," Jim Harper, Director of Information Policy Studies at the Cato Institute, told The Daily Caller. "If the FCC tries to, it will be hit with lawsuit, and it will lose much of power it already has."

The day after the Tucson shooting that killed six people and injured 14, Clyburn called for new media standards to guarantee balanced coverage, along with the fairness doctrine. "Free speech is as free speech does," Clyburn [said](#). "You cannot yell 'fire' in a crowded theater and call it free speech and some of what I hear, and is being called free speech, is worse than that."

Clyburn's [office](#) did not return requests for comment.

Rep. Slaughter [promised](#) to look into ways to better control language on the airwaves, saying that the FCC just is "not working anymore."

"What I'd like to see is if we could all get together on both sides of the aisle, Democrats and Republicans, and really talk about what we can do to cool down the country," she said. "Part of that has to be what they're hearing over the airwaves."

Adam Thierer, senior research fellow at the Mercatus Center, pointed out that before the rule was repealed in 1987, it was already on a path to be overturned.

"It was eventually going to be overturned if the FCC had not essentially ended it itself," Thierer told The Daily Caller. "The FCC saw the writing on the wall."

"The reality is that the courts and FCC concluded it was not the case that the fairness doctrine encourages vibrant debate," he added.

Harper agreed, telling TheDC that today, the fairness doctrine would not pass constitutional muster because it violates the First Amendment. “There are no grounds for [government](#) to tell any media outlet what to say,” he said.

But Thierer added that it’s also an issue of pragmatism. “Even if one assumed the congressman was correct, how in the world would we begin to enforce it in the modern information age? I just don’t see how you put the information genie back in the bottle,” he said. “The best way to deal with bad speech is with more and better speech.”

The fairness doctrine’s roots go back to 1949. Its purpose was two-fold: to require broadcasters to devote airtime to news that is in the public interest, and to give equal time to contrasting views. But after decades of court challenges, including some that made it to the [Supreme Court](#), Reagan-appointed FCC Chairman Mark Fowler began rolling back the rules. Later, it was repealed by President Reagan in 1987 through an executive order.

“The fairness doctrine isn’t going to stop mentally deranged people from doing deranged things,” noted Thierer. “The only thing it will stop is the free flow of vibrant speech; it won’t stop violent, despicable acts by psychopaths.”

Thierer also added that while the doctrine was in place, the country still saw several assassination attempts on political leaders like John F. Kennedy and Martin Luther King.