

Getting to Trustworthiness (but Not Necessarily to Trust)

*Helen Norton**

2.1 INTRODUCTION

Political scientist and ethicist Russell Hardin observed that “trust depends on two quite different dimensions: the motivation of the potentially trusted person to attend to the truster’s interests and his or her competence to do so.”¹ Our willingness to trust an actor thus generally turns on inductive reasoning: our perceptions of that actor’s motives and competence, based on our own experiences with that actor.² Trust and distrust are also both episodic and comparative concepts, as whether we trust a particular actor depends in part on when we are asked – and to whom we are comparing them.³ And depending on our experience, distrust is sometimes wise: “[D]istrust is sometimes the only credible implication of the evidence. Indeed, distrust is sometimes not merely a rational assessment but it is also benign, in that it protects against harms rather than causing them.”⁴

* Thanks to Erin Carroll, Ash Bhagwat, and Jane Bambauer for thoughtful comments and questions, and to Kyle Langvardt for leading this effort.

¹ Russell Hardin, *Distrust: Manifestations and Management*, in *DISTRUST* 8 (Russell Hardin ed., 2004); see also RUSSELL HARDIN, *TRUST & TRUSTWORTHINESS* 1 (2002) (“To say that I trust you in some context means that I think you are or will be trustworthy toward me in that context.”).

² See HARDIN, *TRUST & TRUSTWORTHINESS*, *supra* note 1, at 89 (“If the evidence sometimes leads to trust, then it can also sometimes lead to distrust. Indeed, on the cognitive account of trust as a category of knowledge, we can go further to say the following: If, on your own knowledge, I seem to be trustworthy to some degree with respect to some matter, then you do trust me with respect to that matter. Similarly, if I seem to be untrustworthy, then you do distrust me. There is no act of choosing to trust or distrust, your knowledge or beliefs about me constitute your degree of trust or distrust of me.”).

³ See Vincent Blasi, *Toward a Theory of Prior Restraint: The Central Linkage*, 66 *MINN. L. REV.* 11, 73–74 (1981) (describing distrust as “a comparative notion”).

⁴ HARDIN, *TRUST & TRUSTWORTHINESS*, *supra* note 1, at 89.

Actors and institutions thus cannot control whether others trust them.⁵ So in this chapter, I focus not on how to encourage the public to trust the media, but instead on how to encourage the media to do what it *can* control – in other words, to behave in ways that demonstrate its trustworthy motives and competence.⁶

To be sure, different communities find different behaviors indicative of trustworthiness, and thus the media's choice to behave in ways that some communities find trustworthy may simultaneously inspire other communities' distrust. For example, as demonstrated by an exhaustive study conducted by information and technology scholars Yochai Benkler, Robert Faris, and Hal Roberts, some contemporary media cultures value, and thus trust, media institutions that privilege truth-seeking – while others trust those that simply confirm identity:

Media and politicians have the option to serve their audiences and followers by exclusively delivering messages that confirm the prior inclinations of their constituents, or by also including true but disconfirming news when the actual state of the world does not conform to partisan beliefs. For media, this is the key distinction between partisan media and objective media.⁷

In other words, different media ecosystems confer, and receive, trust for different behaviors and different end goals.⁸

This chapter addresses media behaviors that are likely considered trustworthy in media cultures that reward truth-seeking rather than identity confirmation.⁹ It thus

⁵ See *id.* at 9 (“A central problem with trust and distrust is that they are essentially cognitive assessments of the trustworthiness of the other party and may therefore be mistaken.”); Deborah Welch Larson, *Distrust: Prudent, If Not Always Wise*, in *DISTRUST*, *supra* note 1, at 34 (same).

⁶ In using the term “media,” I acknowledge (but do not resolve) the important and difficult problem of whether and when to characterize social media as part of the “press,” or news media. See PETER COE, *MEDIA FREEDOM IN THE AGE OF CITIZEN JOURNALISM* 60 (2021) (“In addition to changing the way in which we consume news, whether some social media platforms have altered the media ecology and disrupted the paradigm in another way – by becoming media companies in their own right, and therefore subject to the enhanced right to media freedom and the obligations and responsibilities that this brings – is the source of ongoing debate.”); Erin Carroll, *A Free Press without Democracy*, 56 U.C. DAVIS L. REV. 289, 304 (2022) (distinguishing “a truth-based, free press” from a broader concept of the “media” that includes those broadcasters and publishers less focused on truth).

⁷ YOCHAI BENKLER, ROBERT FARIS & HAL ROBERTS, *NETWORK PROPAGANDA: MANIPULATION, DISINFORMATION, AND RADICALIZATION IN AMERICAN POLITICS* 76–77 (2018).

⁸ See *id.* at 78 (describing some media outlets' strategy of “emphasizing partisan-confirming news over truth and helping segments of the public reduce their discomfort by telling them that the outlets providing disconfirming news are not trustworthy” and describing outlets that “compete by policing each other for deviance from identity confirmation, not truth”).

⁹ See *id.* at 80 (“[A] media ecosystem that operates under the reality-check dynamic will tend to be more robust to disinformation operation because each outlet in this system gains from exposing the untruth and loses by being caught in the lie or error. Its audiences are less likely to trust any media source in particular, and more likely to check across different media to see whether a story is, in fact, true.”); *id.* at 359 (“The good news is that the mainstream media continues to perform an enormously important role for most Americans” – that is, those outside the 25–30 percent that rely on identity-confirming media).

leaves aside the even more difficult problem of how to encourage other ecosystems to reward truth-seeking even when truth disconfirms identity.¹⁰

To start, consider how the media's self-interest and incompetence (both real and perceived) create barriers to its trustworthiness. More specifically, self-interest is among the motives that trigger distrust: We find it hard to trust self-interested actors to act in ways attentive to our own interests.¹¹ The media's potential for self-interest thus often fuels the public's distrust, just as governmental actors' self-interest also often triggers the public's distrust.

When I speak of the media's potential for self-interest, I refer to the media's need to do whatever it takes to survive financially, especially in today's destabilized media environment. Concerns about the media's motives include perceptions that it is all too willing to invade privacy, oversensationalize, or cater to advertisers' preferences for self-gain – in other words, to exploit others to capture users' attention and engagement to protect its economic bottom line.¹²

Self-interested (and thus untrustworthy) media behaviors include the deployment of platform designs and interfaces that collect, aggregate, and analyze data about us in ways that enable them to influence our choices.¹³ To be sure, sometimes such designs and interfaces give us more of what we want. But too often they manipulate us – in other words, they influence our behavior in ways that we would resist if we were aware of these efforts. Nobody wants to be manipulated, especially when we understand manipulation (as a number of ethicists do¹⁴) to mean a hidden effort to target and exploit our vulnerabilities. Yet the contemporary speech environment enables that sort of manipulation in unprecedented ways.¹⁵ The news media is by no means immune, as press law scholar Erin Carroll has documented the substantial extent to which news organizations collect – and allow others to collect – data about

¹⁰ See *id.* at 387 (“Breathing new life into the truth-seeking institutions that operate on reason and evidence would require a revival of the idea that science, scholarship, journalism, law, and professionalism more generally offer real constraints on what one can say and do, and that they are not all simply modes of legitimating power. . . . The former is unlikely without the latter. These political and cultural developments will have to overcome not only right-wing propaganda, but also decades of left-wing criticism of objectivity and truth-seeking institutions. Developing such a framework without falling into high modernist nostalgia is the real answer to the threat of a post-truth era.”).

¹¹ See Hardin, *Distrust*, *supra* note 1, at 8 (explaining trust as depending in great part on “the motivation of the potentially trusted person to attend to the truster’s interests” rather than simply to her own interests).

¹² See Carroll, *supra* note 6, at 339 (describing the press’s growing “tendency to preference the commercial imperative of satisfying consumer desire over the mission of promoting democracy”).

¹³ See Helen Norton, *Manipulation and the First Amendment*, 30 WM. & MARY BILL RTS. J. 221, 221–30 (2021).

¹⁴ See Daniel Susser, Beate Roessler & Helen Nissenbaum, *Online Manipulation: Hidden Influences in a Digital World*, 4 GEO. L. TECH. REV. 1, 26 (2019) (defining manipulation).

¹⁵ See Norton, *supra* note 13, at 224–30.

their online readers.¹⁶ Indeed, some news organizations “are even trying to predict how a particular piece of news might make a reader feel and to target advertising accordingly.”¹⁷

These manipulative technologies also enable microtargeting that increases the likelihood that certain speech will cause harm, because “it is not subject to regulatory scrutiny, not subject to meaningful widespread public scrutiny and because [] false claims in such political ads are likely to be spread farther, faster, deeper, and more broadly than true claims in political ads.”¹⁸ So too does the amplification enabled by new technologies increase the likelihood that falsehoods or similarly destructive expressive choices will spread farther, faster, and more effectively.¹⁹

The media’s failure to demonstrate “respect for and knowledge of their readers and communities” also triggers suspicion of its motives and competence.²⁰ Consider, for instance, how public perceptions (accurate or not) that the media is arrogant toward, or disinterested in, its audience cast doubt on its willingness and ability to invest in and engage with that audience.²¹ Those who are less powerful cannot afford to trust those who are more powerful without meaningful constraints in place. (To be sure, those perceived as more powerful do not always perceive themselves as such; nevertheless, perceptions of relative power contribute to dynamics of trust and distrust.)

What does it mean for an actor to behave in trustworthy ways? Constitutional law often asks this question with respect to *the government*, devising doctrinal rules more suspicious of the government in contexts where courts perceive the government as untrustworthy.²² In the First Amendment context, for instance, experience suggests that the government is least likely to behave in trustworthy ways in settings where it may be self-interested, intolerant, or clumsy (as can be the case where it draws

¹⁶ Erin C. Carroll, *News as Surveillance*, 59 WASHBURN L.J. 431, 431 (2020).

¹⁷ *Id.* at 432.

¹⁸ Dawn Carla Nunziato, *Misinformation Mayhem: Social Media Platforms’ Efforts to Combat Medical and Political Information*, 19 FIRST AMEND. L. REV. 32, 60–61 (2020).

¹⁹ See Soroush Vosoughi, Deb Roy & Sinan Aral, *The Spread of True and False News Online*, 359 SCIENCE 1146 (2018) (concluding that online falsehoods spread farther and faster than truth); see also DANIEL KAHNEMAN, THINKING, FAST AND SLOW 62 (2011) (summarizing cognitive psychology findings that repeating a falsehood is an effective way to get listeners to believe it).

²⁰ ROY L. MOORE, MICHAEL D. MURRAY & KYU HO YOUM, MEDIA LAW AND ETHICS 55 (6th ed. 2022).

²¹ See Doron Taussig & Anthony M. Nadler, *Conservatives Feel Blamed, Shamed and Ostracized by the Media*, THE CONVERSATION (Apr. 13, 2022) (describing a study that found that conservatives distrusted the mainstream media because they found it “disdainful of conservatives and their communities”).

²² See JAMAL GREENE, HOW RIGHTS WENT WRONG: WHY OUR OBSESSION WITH RIGHTS IS TEARING AMERICA APART 66 (2021) (“In Professor John Hart Ely’s later influential description of this standard, the Court would resort to heightened review when it found that the political process was undeserving of trust.”).

malleable lines absent adequate information or expertise).²³ Conversely, the government is more likely to behave in trustworthy ways in settings where its discretion is limited, where we do not see evidence of a self-interested or intolerant motive, or where the setting leaves us even more distrustful of powerful and unrestrained private actors than we are of the government.²⁴

This may also be the case for the media. The remainder of this chapter seeks to spur additional thinking about what it means for the media to behave in trustworthy ways. In so doing, it flags a handful of possibilities for checking the media's potential to act in its own self-interest and for demonstrating its competence – sketching a menu of options (rather than detailing or exhausting them) that variously rely on markets, norms and architecture, and law.²⁵

2.2 ENCOURAGING TRUSTWORTHY MEDIA BEHAVIOR THROUGH ALTERNATE FINANCING AND BUSINESS MODELS

Proposals for new financial models seek to relieve the economic pressure on media to capture eyeballs at the expense of truth. Along these lines, some thoughtful commentators urge the government to provide financial support for news media through taxes on digital advertising and on platforms' collection of user data.²⁶ Others emphasize the value of citizen journalists who are beholden neither to media owners' nor to advertisers' preferences and pressures.²⁷ Either way, the objective is to reduce or remove media's financial dependence on satisfying others' tastes and agendas, thus freeing it to choose more trustworthy behaviors.

2.3 DEMONSTRATING TRUSTWORTHY MEDIA BEHAVIOR THROUGH NORMS AND DESIGN

The media can also demonstrate trustworthiness by rejecting manipulation, micro-targeting, and similarly self-interested practices (to be sure, it's easier to make such

²³ See Helen Norton, *Distrust, Negative First Amendment Theory, and the Regulation of Lies*, KNIGHT FIRST AMEND. INST. (Oct. 19, 2022), <https://perma.cc/RJA9-X454>.

²⁴ *Id.*

²⁵ See Lawrence Lessig, *The New Chicago School*, 27 J. LEGAL STUD. 661, 662–64 (1998) (describing how law, social norms, markets, and architecture provide different means of regulating human behavior).

²⁶ See, e.g., AM. ACAD. OF ARTS & SCI., COMM'N ON THE PRACTICE OF DEMOCRATIC CITIZENSHIP, OUR COMMON PURPOSE: REINVENTING AMERICAN DEMOCRACY FOR THE 21ST CENTURY 53 (2020) (proposing “a tax on digital advertising that could be deployed in a public media fund that would support experimental approaches to public social media platforms as well as local and regional investigative journalism”); MARTHA MINOW, SAVING THE NEWS: WHY THE CONSTITUTION CALLS FOR GOVERNMENT ACTION TO PRESERVE FREEDOM OF SPEECH 103 (2021) (proposing that government tax platforms' use of our data, and then amplify and support various local, regional, and national public interest news sources).

²⁷ COE, *supra* note 6, at 90.

choices when accompanied by the sorts of changes in financial models discussed in Section 2.2).²⁸ More specifically, the media can choose designs, interfaces, and practices that encourage and enable curiosity (and thus truth-seeking) over those that manipulate user attention and engagement through outrage and identity confirmation.

Along these lines, Taylor Dotson, who studies the culture and politics of science and technology, recommends that the press offer not only fact-checks but “disagreement checks . . . that highlight the complicated sub-issues involved.”²⁹ In support, Dotson describes studies concluding that difficult conversations “aren’t constructive when participants think of them in terms of truth and falsehood or pro and con positions, which tend to spur feelings of contempt. . . . Simply reading an essay highlighting the contradictions and ambiguities in an issue leads people to argue less and converse more.”³⁰

Similarly, organizational psychologist Adam Grant recommends “complexifying: showcasing the range of perspectives on a given topic.”³¹ The related technique of motivational interviewing asks interviewees not only what they think, but how they came to think that and to identify their values; in other words, motivational interviewing focuses first on “finding out what someone knows and cares about rather than trying to convince them about something.”³²

And when journalistic practices themselves pose barriers to the media’s trustworthiness, trustworthy behavior includes reforming or abandoning those practices. As one illustration, the media can choose not to amplify, and thus reward, destructive behavior. Media scholars Joan Donovan and danah boyd recommend that the

²⁸ See MINOW, *supra* note 26, at 24 (describing users’ vulnerability to frauds and hoaxes “enabled by ‘dark posts’ – ads that are invisible to all but those targeted and that do not reveal who paid for or is behind them,” and to “[c]lickbait’ – arresting headlines and attention-drawing ads – [that] enables a surprising amount of disinformation”).

²⁹ Taylor Dotson, *Fact-Checking May Be Important, but It Won’t Help Americans Learn to Disagree Better*, THE CONVERSATION (Jan. 18, 2022), <https://perma.cc/XUM9-ZYFS>.

³⁰ *Id.*; see also Elizabeth F. Emens, *On Trust, Law, and Expecting the Worst*, 133 HARV. L. REV. 1963, 1997 (2020) (“[T]he overarching rubric of epistemic curiosity, like cognitive distrust, suggests an orientation toward learning rather than assuming.”); *id.* at 2002 (“[A] knowledge gap that appears more difficult or impossible to resolve may lead to anxiety and diminished curiosity. Making information more readily available may not only enable, but also enhance, curiosity.”).

³¹ ADAM GRANT, THINK AGAIN: THE POWER OF KNOWING WHAT YOU DO NOT KNOW 164–65 (2021) (“A dose of complexity can disrupt overconfidence cycles and spur rethinking cycles. It gives us more humility about our knowledge and more doubts about our opinions, and it can make us curious enough to discover information we were lacking.”); see also *id.* at 171 (“New research suggests that when journalists acknowledge the uncertainties around facts on complex issues like climate change and immigration, it does not undermine their readers’ trust. And multiple experiments have shown that when experts express doubt, they become more persuasive. When someone knowledgeable admits uncertainty, it surprises people, and they end up paying more attention to the substance of the argument.”).

³² SARA E. GORMAN & JACK M. GORMAN, DENYING TO THE GRAVE: WHY WE IGNORE THE FACTS THAT WILL SAVE US 264 (2017).

media intentionally engage in “strategic amplification,” urging the media to recognize “that amplifying information is never neutral” and thus to consider amplification’s costs along with any benefit it provides.³³ This means that news media at times should engage in strategic silence by declining to amplify coverage of certain behaviors, like high-profile suicides.³⁴

Relatedly, the media can choose to privilege truth over neutrality. Concluding that professional journalists “are subject to a persistent propaganda campaign trying to lure them into amplifying and accrediting propaganda,”³⁵ Benkler, Faris, and Roberts urge that journalists privilege “transparent, accountable verifiability” over “demonstrative neutrality” by providing enhanced public access to its underlying materials and sources and by encouraging sources’ independent verification.³⁶

Trustworthy behavior also includes demonstrated humility. This includes acknowledging one’s own limitations and one’s potential to harm others.³⁷ It also demands sensitivity to and empathy for our human cognitive and emotional frailties:³⁸ “[U]ndergirding our efforts to reach people should always be understanding and composure. No one is immune from bias, heuristics, or emotional decisionmaking.”³⁹ Demonstrated humility thus embraces the need for feedback, scrutiny, and (where appropriate) correction.⁴⁰ So too does the media’s demonstrated humility require its ongoing commitment to education and improvement. For instance, public-health experts Sara Gorman and Jack Gorman urge members of the media to invest in self-education about the nature of the scientific process (including what scientific evidence is and is not contestable) along with the cognitive science

³³ Joan Donovan & danah boyd, *Stop the Presses? Moving from Strategic Silence to Strategic Amplification in a Networked Media Ecosystem*, 65 AM. BEHAV. SCIENTIST 333, 346, 333–34 (2021).

³⁴ *Id.* at 343–44 (“In cases of extremism and suicide, it is imperative for journalists and news organizations to be silent until they can be strategic, speaking only when raising the issue is in the public interest. This is not a departure from current best practices so much as an update to meet the challenges of networked media.”).

³⁵ BENKLER, FARIS & ROBERTS, *supra* note 7, at 358; *see also id.* at 359 (“As long as the media ecosystem is highly asymmetric structurally and in its flow of propaganda, balance and neutrality amplify disinformation rather than combat it.”).

³⁶ *Id.* at 357.

³⁷ *See* SOPHIA ROSENFELD, *DEMOCRACY AND TRUTH: A SHORT HISTORY* 31 (2018) (“Just as ordinary citizens have to have confidence in experts as well as one another to a considerable degree, believing these authorities to be honestly conveying the most accurate and objective information they have available, experts need to show themselves to be responsive to public feedback, abiding by popular mandates and subjecting themselves to scrutiny, for the whole system to work.”).

³⁸ GORMAN & GORMAN, *supra* note 32, at 262.

³⁹ *Id.* at 256–64; *see also id.* at 8 (“[B]elittling people who come to believe in false conspiracy theories as ignorant or mean-spirited is perhaps the surest route to reinforcing an anti-science position.”).

⁴⁰ *See* JONATHAN RAUCH, *THE CONSTITUTION OF KNOWLEDGE: A DEFENSE OF TRUTH* 109 (2021) (recommending that truth-seeking institutions subject themselves to scrutiny and the possibility of self-correction).

illuminating the challenges in communicating about these matters to a public uncomfortable with uncertainty.⁴¹

2.4 ENCOURAGING TRUSTWORTHY BEHAVIOR THROUGH LAW

As legal scholar, Martha Minow observes, law sometimes enables the media's untrustworthy behavior.⁴² Indeed, Professor Minow identifies the government's passivity as an additional barrier to a healthy news environment: "The critical and ongoing role of government in American media exposes as false any claim that the First Amendment bars government action now. The disruptive dimensions of the digital revolution are distinctive only in the relative passivity of government in attending to effects on markets, quality, and democracy."⁴³

Just as law can be a barrier to trustworthy behavior, so too can law encourage – and even require – trustworthy behavior. As I've discussed elsewhere, differences in power and information sometimes matter to First Amendment law, allowing the government's interventions that protect comparatively vulnerable listeners from comparatively powerful speakers.⁴⁴ The same can – and, in my view, should – be true of the government's interventions in certain settings to protect listeners from speakers' manipulative efforts (i.e., speakers' efforts to target and exploit users' vulnerabilities in ways hidden from those users).⁴⁵

More specifically, law can empower and protect audiences by requiring the media's (and other powerful actors') transparency about the data they collect from us and what they do with it.⁴⁶ Minow, for instance, urges courts to adopt an "awareness doctrine" to "improve users' knowledge of the sources and nature of what they receive and also the patterns of their own engagement" – for example, by "involv[ing] content distributors in devising labels to distinguish news reports from opinion or unverified claims."⁴⁷ Others propose that constitutional and other legal advantages be made available only to media actors that commit to behave in trustworthy ways. Along these lines, Peter Coe suggests that constitutional

⁴¹ GORMAN & GORMAN, *supra* note 32, at 257–58.

⁴² MINOW, *supra* note 26, at 23 (observing that social media is not mediated by "the norms of professional journalists [to] test and filter out misinformation and propaganda. How much does the insulation for civil liability that is presently afforded to digital platforms lead to insufficient precautions against such exploitation and misuse?"); *see also* Julie E. Cohen, *Tailoring Election Regulation: The Platform Is the Frame*, 4 GEO. L. TECH. REV. 641, 655 (2020) ("In the context of platform-based, massively intermediated environments, the legal system should be . . . more concerned with a deliberate design orientation that privileges automatic, habitual response and reflexive amplification.").

⁴³ MINOW, *supra* note 26, at 37.

⁴⁴ *See* Norton, *supra* note 13, at 230–31.

⁴⁵ *See id.* at 232–42 (discussing possible interventions and their constitutionality).

⁴⁶ *See* Carroll, *supra* note 16, at 442 ("To the extent the press continues to surveil, it should be clearer that it is doing so.").

⁴⁷ MINOW, *supra* note 26, at 126.

protections from the government's interference with newsgathering activities should be available to media that "act[] ethically and in good faith and publish[] or broadcast[] material that is based on reasonable research to verify the provenance of it and its sources."⁴⁸

2.5 CONCLUSION

The elephant in the room, of course, is that the media's choice to engage in some of these trustworthy behaviors may undermine its ability to survive financially in a twenty-first-century speech environment rife with competition for listeners' increasingly scarce time and attention. By "trustworthy behaviors," I mean rejecting microtargeting, manipulation, and other profit-maximizing yet destructive practices. Declining to amplify destructive behavior. Disclosing data sources, evidence sets, the personal data that the media collects from its users and what it does with it. Demonstrating epistemic humility. Seeking out and responding to public feedback and scrutiny. Investing in self-education about scientific and other technical matters.

Indeed, our own oh-so-human cognitive and emotional vulnerabilities (that are themselves so often truth-resisting) contribute to the public's distrust of the media in ways that are difficult for the media to address. For a variety of cognitive, social, and biological reasons, we often prefer the succor of identity confirmation over the discomfort of complexity and truth.⁴⁹ These frailties, in turn, may threaten the financial survival of media that refuse to cater to them.⁵⁰

In other words, as Guy-Uriel Charles explains, we have not only a supply-side problem when it comes to media outputs, but also a demand-side problem when we

⁴⁸ COE, *supra* note 6, at 168; *see also id.* at 174 (describing socially responsible media behaviors as acknowledging "the inherent flaws in our nature" and our vulnerability "to sensationalized stories, false news and its regurgitation, entrenchment of views by virtue of preconceived schemas, the fact that we are often unable to assess the veracity of anonymous and pseudonymous speakers and that we are largely unaware of the machinations of online platforms, and, as a result of all of this, our inability to rationally assess the marketplace"). Perhaps more trustworthy media behavior might lead to greater legal protections for the media through more robust application of the Press Clause. *See* RonNell Andersen Jones & Sonja R. West, *Presuming Trustworthiness*, KNIGHT FIRST AMEND. INST. (Nov. 18, 2022), <https://perma.cc/3HJ8-BHVG> (reporting on their empirical findings that the Supreme Court has largely abandoned its traditional presumption that press speakers are trustworthy).

⁴⁹ *See* GORMAN & GORMAN, *supra* note 32, at 246 ("[T]he ability to understand facts is not the driving force. Rather, the need to belong to a group that maintains its identity no matter what facts are presented is the fuel for these contradictory beliefs. This need is characteristic of people from every race, income level, intellectual capacity, and country."); *id.* at 252 ("Science demands that we be open to changing our minds constantly, but human biology and psychology insist that we hold onto our beliefs with as much conviction as we possibly can. This conflict is fundamental to our reluctance to accept new scientific findings.").

⁵⁰ *See* COE, *supra* note 6, at 1 ("These pressures encourage journalists operating within this structure to publish content that appeals to mass audiences and attracts advertisers, rather than engage in high-quality, yet expensive and time-consuming, diverse public interest journalism.").

are reluctant to reward the media's truth-seeking outputs.⁵¹ Even so, Erin Carroll focuses on the supply side when she calls on the press to develop new "practices of freedom."⁵² And I too focus on the supply side in asking what it means for the media to behave in ways that demonstrate trustworthy motives and competence.

Easier said than done, I know.

⁵¹ See Guy-Uriel Charles, *Giving the People What They Want: Supplying the Demand for Disinformation*, BALKINIZATION (Apr. 13, 2022), <https://perma.cc/4TLR-9EH2> ("If the problem of misinformation presents a demand-side problem, or to the extent that there is both a demand-side and supply-side problem, supply-side only solutions are not likely to resolve the problem.").

⁵² Carroll, *supra* note 6 ("Just as our form of government impacts our degree of press freedom, press freedom impacts how we are governed. Consequently, press action will protect far more than just the press."); see also MOORE, MURRAY & YOUM, *supra* note 20, at 71–72 (describing media's other-regarding responsibilities to include the responsibility to be accurate, competent, just, fair, and humane – that is, attentive to one's effects on, including one's potential to harm, others).