

Active Listening

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The active listening principle

Speech policy should
empower listeners to
make choices among
competing speakers

Theory

Free speech as a matching problem

- 49,000,000,000,000,000,000 possible speaker-listener pairs
- Who speaks to whom?
- *Who decides* who speaks to whom?
- Effectively unlimited transmission
- Limited attention

Who decides?

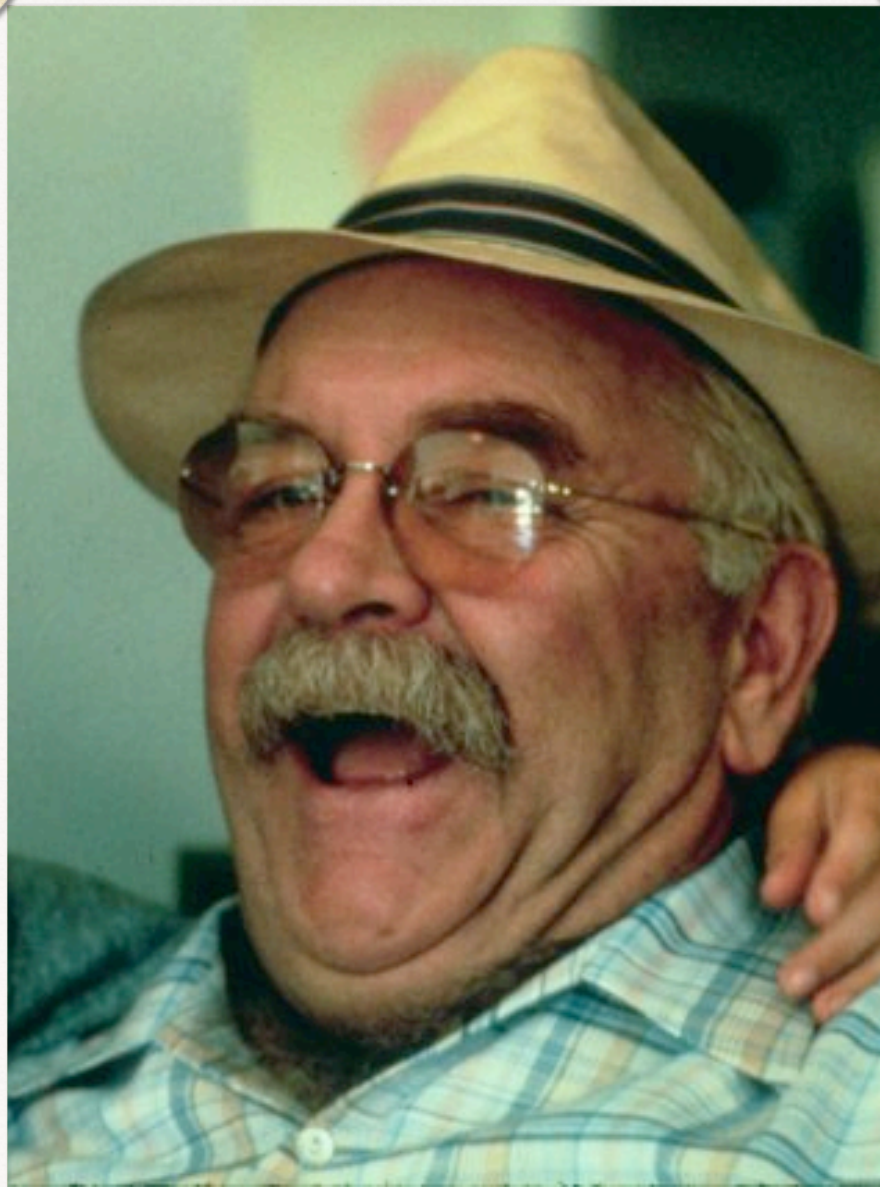
Limited capacity

Limited attention

The usual suspects

- *Autonomy*
- *Quality*
- *Participation*

Cocoons and bubbles



Doctrine

Willing listeners

- Listeners as speakers' mirror image
- Traction when speakers' rights are attenuated
- Overbreadth as a proxy for absent listeners

Unwilling listeners

- Victims of speech vs. censorious prudes
- Doctrine ascribes agency to listeners
 - Those who can ignore speech must do so
 - Those who cannot may call on the state

Media access

- Justified in the name of listeners
- But the state decides what they want to hear
 - (Or what they *should* want to hear)

Filtering

- Listeners' and speakers' choices are substitutes
- Listener filters as a less restrictive alternative
- Government may prohibit evasion of filters

Zoom out

False speech

- Commercial speech, fraud, defamation, etc.
- *Ex ante* choice of speech fails
- Rational consumers or defenseless dupes?

Right to know

- Embryonic future speakers
- Conscription of speakers is problematic

Discussion