



Speech police should always be off duty

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OK, in the final days the campaign commercials did get a little outrageous. Who should have stepped in to sort out the truth? Nobody.

Or, more specifically, nobody presuming to act as supreme authority determining which statements are over the top and which aren't. I haven't seen a campaign commercial this season where one candidate fully and accurately described another. But nobody --- no committee, no news organization, no interest group and no "nonpartisan" organization --- has a mandate to police campaign speech.

Any individual, group or news organization is free to voice opinion about whether campaign speech --- purchased or free --- is misleading, as a self-appointed group of legal-industry speech police calling itself the Georgia Committee for Ethical Judicial Campaigns intends.

The problem is not that they voice opinion. It crosses the line, however, when the opinion is framed as authoritative, based on some expertise or standing, and it has free-speech consequence for the disfavored.

If I declare that one candidate's telling the truth and another's not, the reader is invited to any number of conclusions. One is that what I say is true. Another is that, based on my conservative point of view, I believe it to be true, but I am partially blinded by my ideology. Another is that there are personal relationships, unknown to the reader, and therefore a bias that colors my perspective.

Another possibility is that, in addition to ideology and friendship, I have an undeclared agenda. In the case of the judicial speech police, I believe that to be hostility to the idea of judicial campaigns.

Another possibility is that while my intentions are good, and I believe --- as most news organizations do --- that my analysis of campaign speech is a public service, the great risk is that I am unaware of my own bias, so therefore can't declare it, or that I'm inexplicably selective.

An example from elections past is a Democratic Party mailer sent to 300,000 black voters in the 2000 election. The message was this: "Georgia Republicans endorsed a candidate for state office named Tom Mills. Mills makes a living as the owner of a racist Web site that links to white supremacists spewing hate and the 'n' word. The site sells pictures of individuals like the founder of the Ku Klux Klan."

The subject of the mailing was a seventh grade history teacher who worshipped at an integrated church. He was a Civil War buff, an interest that grew largely from genealogy, from efforts to trace his family's roots and his discovery that some 30 ancestors had served on both sides. He was an artist who drew, and offered for sale, prints of Confederate generals, one of them being Nathan Bedford Forrest, a brilliant cavalry officer.

Mills lost the state Senate race by 656 votes.

To my knowledge, nobody, nor any organization, claiming the voice of authority rushed to denounce the mailing as misleading or to defend Mills. I can't say why. But one possible explanation is that he and his interests were politically incorrect, and therefore unworthy of intervention.

The point here is that we all have prejudices or blindnesses that make us ill-equipped to intervene as speech police.

One campaign ad misrepresented to this day is the 2002 Saxby Chambliss commercial commonly reported as questioning then-Sen. Max Cleland's patriotism. At issue were Cleland's votes on creating the Department of Homeland Security.

The ad had a factual basis --- Cleland's votes favoring organized labor in opposition to the president's desire to waive collective bargaining rules to hire, fire and assign workers in the proposed new department. Yet it's commonly reported, and always by partisans, as an attack on his patriotism. It never was.

A truth squad, you say, might have set the record straight. Maybe. But if the myth continues to be repeated --- mostly outside the state, admittedly --- what confidence is there that an objective truth could have been found in the midst of a fray involving a sympathetic figure who was also an incumbent U.S. senator?

Every commercial I've heard in this campaign, regardless of office or party, I believe to be misleading. But it's up to public opinion in the free market of political comment to determine the instances, the degree and what the assertion reveals about both candidates.

Voters have been turned off by this season's commercials, and a backlash is possible. But it is public opinion, and not speech police, that should decide when candidates have gone too far.