Fairness Doctrine: Little Agreement

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By Robert J. Samuelson

Broadcasters, public interest lawyers, ecologists, the Federal Communications Commission and the courts agree on one point: The "fairness doctrine," especially as applied to advertising has become a morass of conflicting and often unintelligible decisions.

But that is about all they agree on.

In the last five years, the FCC has:

- Decided that cigarette advertisements fall under the agency's "fairness doctrine" and, therefore, require balancing antismoking commercials.
- Rejected the appeal of a group of businessmen to buy spot advertisements against the Vietnam war on WTOP-TV on the grounds that the war had been adequately covered in the station's regular news coverage. The agency's ruling was reversed by the U.S. Court of Appeals and is now on appeal to the Supreme Court.
- Decided that advertisements run by oil companies in favor of the Trans Alaskan pipeline fell under the "fairness doctrine" and demanded free air time for the pipeline's opponents.
- Turned down a request by an environmental group that automobile and gas commercials raised "controversial issues"—and, therefore, involved the "fairness doctrine"—because automobiles contribute to pollution. The U.S. Court of Appeals reversed the ruling.

For the last three years, the public interest lawyers and their allies have been at war with advertisers and broadcasters, trying to convince the FCC—or the courts—to chip away at the dominance of commercial advertising on television.

Backed by environmentalists and the Federal Trade Commission, the public interest lawyers want the FCC to allow free "counteradvertising" and significantly expand the traditional "fairness doctrine," which requires broadcasters to give a "reasonable opportunity for the presentation of conflicting views" on controversial issues.

Such proposals aroused a sense of horror among broadcasters, who believe that free counteradvertising will make television unattractive to companies and drive their commercials into magazines and newspapers. By and large, the broadcasters and advertisers want the FCC to go back to the status quo before the 1967 cigarette decision: That is, not to apply the "fairness doctrine" to product advertisements at all.

These conflicting views emerged faithfully yesterday as the FCC finished its second day of hearings on the fairness doctrine—a day

See FCC, B5, Col. 3

FCC, From B1

devoted exclusively to advertising problems.

Geoffrey Cowan, a lawyer for the Center for Social Policy, urged that the definition of "fairness" be widened to give opponents an opportunity for free air time on issues implicity raised by commercials.

"If all advertising presents the image of women as housewives and none in the work force . . . that might raise (obligations) to show women in other roles," he said. Likewise, the Federal Trade Commission has proposed that broadcasters simply provide a half-an-hour a week for "consciousness-raising" counteradvertising.

If implemented, these proposals could lead to challenge of almost all commercials according to broadcasters. "How about the normal use of ice cream for people who have high cholesterol?" Jerome J. Shestack, an attorney, asked Cowan.