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The Fairness Doctrine

The Supreme Court has given a broad sweep to the right of the Federal Communications Commission to require fairness on the airways. The alleged right of broadcasters to disseminate whatever they may choose and to exclude all others from expressing conflicting views over their facilities was flatly rejected. The 7-0 decision presented by Justice White is a heartening rededication of television and radio to free and fair public discussion.

In one case before the Court, radio station WGCB in Pennsylvania had denied Fred J. Cook time to reply to a personal attack upon him. The Court upheld the FCC order requiring the station to offer reply time whether or not Cook would pay for it. In another case the Supreme Court overturned a decision by the Seventh Circuit Court of Appeals which had ruled that the FCC's fairness doctrine abridged freedom of speech and press. Tracing the origin of broadcast legislation, the Court found that Congress had given the FCC an "expansive" mandate—not a "niggardly" one—to regulate the airways in the public interest.

The Court emphatically threw down the fallacy that broadcasters may be allowed complete freedom because of the great number of frequencies now available. The problem of interference requiring Federal regulation, it found, is a "massive reality." No man may be prohibited from saying or publishing what he thinks, but this right does not extend to sitting astride a broadcast frequency. Since there are not enough airways for everyone, "it is idle to posit an unbridgeable First Amendment right to broadcast comparable to the right of every individual to speak, write or publish."

It is not the right of the broadcaster but that of the viewers and listeners that is paramount. Congress has laid on every licensee in radio and television an obligation to operate in the public interest, and the FCC quite properly interpreted this to mean that both sides of controversial issues must be presented. The end in view is not unlimited monopoly for a few broadcasters but dedication of the limited airways to the marketplace of ideas. The fairness doctrine has been properly recognized as a safeguard to free speech—not an encroachment upon it.