

and the adoption of a special rule dealing with the personal attack aspect of fairness.

The letter suggested, however, that the rules as drafted raised possible problems that might be minimized by some revision of the rules. After further consideration, the parties have filed a motion in the Seventh Circuit asking that the cases be held in abeyance so that the Commission might hold expeditious rulemaking proceedings, looking toward revision of the personal attack portions of the rules.

Since these cases are still pending and no ruling on the motion has been made by the court, it would not be appropriate to go further into the merits of the litigation.

It is relevant, however, to note that a case called *Red Lion Broadcasting Co. v. Federal Communications Commission*, dealing with a specific Commission ruling in a personal attack situation prior to the adoption of the rules, is now pending in the Supreme Court. The Supreme Court has postponed oral argument in the *Red Lion* case pending further proceedings in the Seventh Circuit cases.

The further process of the *Red Lion* case will, of course, have to be determined in the light of the present circumstances. All that can be said now is that the nature of any revision of the rules might affect that question.

Since the Solicitor General will determine our position here, and since this is also a matter pending in court, further speculation on the nature of any pleadings to be filed in the Supreme Court in *Red Lion* would not be appropriate.

The Commission has considered the nature of revision of the personal attack rules to be proposed if the Seventh Circuit holds the cases there in abeyance to permit further proceedings by the Commission.

The essential purpose of revision would be to retain the principle of maximum opportunity for the public to be informed on public issues, with a minimum of any possible effect upon the initial presentation of any form of personal attack.

In short, our purpose, as always, is to maximize debate. I would supply for the record a copy of the letter which we received from Mr. Turner, Assistant Attorney General, and a copy of the motion itself.

(The documents referred to follow:)

DEPARTMENT OF JUSTICE,
Washington, February 29, 1968.

Re Columbia Broadcasting System, Inc. v. U.S. & F.C.C. (7th Circuit, No. 16498) ; National Broadcasting Co. v. U.S. & F.C.C. (7th Circuit, No. 16499) ; Radio Television News Directors Assn. v. U.S. & F.C.C. (7th Circuit, No. 16369)

Hon. ROSEL H. HYDE,
Chairman, Federal Communications Commission,
Washington, D.C.

DEAR MR. CHAIRMAN: In our consideration as a party respondent of the issues raised by petitioners in the above-entitled matters, we are fully prepared to support the Commission's position that the "fairness doctrine" is constitutional and within the Commission's statutory powers, and that, as a general proposition, some special rule with regard to personal attack is a valid facet of that doctrine. However, we have some concern that the rule, as drafted, raises possible problems that might be minimized by appropriate revisions in the rule without materially interfering with the public interest objectives that the rule is intended to serve. In discussions with members of your staff some possibilities along this line have been considered.