

The order was issued by the Commission at the conclusion of a rule-making proceeding and adopted regulations imposing specified obligations upon radio and television licensees in connection with their programming on controversial issues.

The Commission's order and regulations, we submit, violate the first amendment to the U.S. Constitution and also exceed the authority granted to the Commission by Congress under the Communications Act of 1934.

The proponents of the Fairness Doctrine often fall back on the argument that broadcasters enjoy a licensed monopoly. They are granted the right to operate communications channels which use publicly owned avenues.

However, the granting of a broadcast license does not grant the issuing agency the authority to determine what can and cannot be presented to the public so long as a clear and present danger issue is not involved.

The U.S. Supreme Court has held that the Government may not abridge or limit the freedom of expression by granting a privilege or benefit.

The Supreme Court has postponed oral argument in the *Red Lion Broadcasting Co. v. United States* case pending the seventh circuit decision in the case of the *Radio Television News Directors Association et al. v. United States*.

Our counsel views that order as constituting a major procedural victory for RTNDA and a further sign of the Supreme Court's serious concern about this issue.

Our counsel feels further that RTNDA, together with other petitioners in the pending Fairness Doctrine appeal in the seventh circuit, will apparently be given the opportunity to argue fully the constitutionality of the new FCC rules on personal attacks and political editorials—not only in the court of appeals but also in the Supreme Court—before the latter Court rules on a similar question presented in the *Red Lion* case.

It is sometimes argued that broadcasters occupy a special status. This argument holds that they operate stations which are scarce. The implied thought is that a special burden should be placed on broadcasters because of the unique franchise granted them.

As far as I know, no responsible official has seriously suggested that a similar restraint be placed on the activities of newspaper publishers. Yet a check of the record shows that daily newspapers are becoming the scarce commodity while broadcasting outlets are becoming more plentiful.

I do not believe it can be disputed that we are still on the threshold of the importance of broadcast journalism. Further, it cannot be disputed that our future course of development could be drastically affected unless broadcast news finally establishes itself on a par with print media as far as journalistic freedoms are concerned.

The Founding Fathers could not have foreseen the development of broadcast journalism as we know it today when they drafted the first amendment. The line of reasoning that applies the first amendment only to print media and excludes broadcast journalism loses merit in light of today's communication technology.