

The same reasoning cited here by the Commission to support this policy could easily be applied to advertisements for many other products which some may consider to be, now or in the future, of a controversial nature, such as aspirin, beer, wine, insecticides, lead-base paints, caffeine products, vitamins, fluoridated toothpaste, and automobiles.

There is no legal barrier to such extension despite the expression of current Commission intentions. It has been reported, for example, that the president of the Women's Christian Temperance Union, when asked whether the FCC would be petitioned to decree that temperance messages must be broadcast by stations accepting beer and wine accounts, replied, "We have something like that in mind."

Irrespective of the legal and jurisdictional questions raised by the FCC's cigarette advertising ruling, there are practical policy reasons why the Commission's order should be rescinded.

To place in any regulatory agency the power to decide that the advertising of any legal product is per se "controversial" is to impose a life-or-death power over advertising itself. Such a burden on advertising becomes a burden on commerce itself and erodes the principle of free choice in the marketplace.

And, if a requirement can be imposed to present contrary views to those contained in an advertising message, the ultimate and disastrous extension is to require the advertisement itself to state affirmatively reasons why the public might not wish to purchase the product or service.

The very essence of advertising is its use in informing the buyer about a product or service and seeking to persuade the buyer to select one product or service over another. This, too, is the essence of competition itself, on which our whole free enterprise system is based.

This power of persuasion is the means by which the demand for goods or services is created and stimulated, thereby creating mass markets and mass economies. It is this process which makes the whole economic system tick, and grow, and flourish.

Now a Government edict opens the door for a policy of dissuasion which could offset or negate the traditional role of advertising and competitive enterprise in our economy. Such a precedent, however limited in scope, should not be allowed to stand.

So long as advertising is truthful and otherwise consistent with public policy, there should be no governmental restrictions interfering with its freedom to perform its legitimate and traditional function in the marketplace.

In the case of cigarettes it is argued that there are public policy issues and controversies involved. However, the public policy issues and controversies involved with cigarettes relate to the product itself and not to its advertising. These are matters beyond the purview of competence of the FCC.

Several years ago, the FCC sought to regulate another aspect of advertising by proposing adoption of the commercial time standards of the radio and television codes of the National Association of Broadcasters.