

Dean BARROW. I would like, if I could, to get one or two other comments from people whose hands have been up for some time.

Dr. Goldin?

Dr. GOLDIN. As I understood Professor Jaffee, one of his criticisms of the Fairness Doctrine was from what he calls the functional approach. As I understand the functional approach, it means that you have to make some factual determinations. That is what I understand functional means in this case. What I fear is a problem is that the thrust of his position would be that in considering fairness the Commission now would have to make a factual determination as to how many people really knew Fred Cook in terms of the service area of any particular station, that is to say what he says in effect is that everybody knows about Mr. Cook.

That is a factual question, does everybody know about Mr. Cook? Does everybody know about "X," the particular individual attacked who may not be Mr. Cook?

It seems to me that the Commission then would have to make some factual determination that everybody knows about Mr. Cook and the argument about Mr. Cook and, therefore, there is no reason to put on Mr. Cook.

I find that position untenable for the Commission or for any agency to attempt to do.

Dean BARROW. Chairman Hyde, do you have any comment on this?

Mr. HYDE. The suggestion has been made here several times that cigarette advertising cannot be distinguished from advertising of other products. The Commission opinion in the cigarette matter states a distinction very cogently and one of these distinctions is the finding by Congress, itself. Evidence of congressional attitude about it can be found printed on the cigarette package.

There is no such congressional finding as to any of these other products that have been mentioned. I would rather leave this matter to the Commission's opinion itself which is being litigated.

Mr. ADAMS. Could I ask some questions?

Dean BARROW. Mr. Adams.

Mr. ADAMS. I assume we have some type of regulation which in advertising products by TV requires on all labels that if in any way any product is dangerous that the advertiser must so state on television.

For example, in the description of drugs if you have somebody take too many tablespoons of it, it will kill you, you have to state that, don't you?

Mr. HYDE. I believe the only regulation we have about the advertising form is this in the cigarette ruling but we do refer any questions regarding whether the advertising is fraudulent or whether it offends public policy to the Federal Trade Commission with which we do have a close liaison.

Mr. ADAMS. If the FDA or the FTC says you must have this label on this product in order for it to be sold in public, you would require it, would you not, that if the advertiser puts it on television he would have to show it on the label?

Mr. PORTER. The answer is no.

Mr. ADAMS. You mean there is nothing—

Mr. JAFFE. On drugs.