

be controversial issues of public importance so as to require adherence to the Fairness Doctrine. *Report on "Living Should be Fun" Inquiry*.¹²

The "cigarette" decision has already been mentioned. The FCC held that the Fairness Doctrine is applicable to advertising, but stressed that its ruling in this case was limited to cigarette advertising.¹³ The 1946 decision in *Petition of Sam Morris*,¹⁴ suggests that the doctrine might also be applied to advertising for alcoholic beverages. The licensee in this case had refused to sell time for abstinence broadcasts despite the fact that it carried advertisements for alcoholic beverages. The FCC rejected the licensee's assertion that the advertising of goods and services is not "controversial." The Commission stated that the advertising of alcoholic beverages over radio can raise "substantial issues of public importance." The FCC declined to act on the complaint, however, noting that the problem was industrywide and not restricted to the single licensee involved in this case.¹⁵ This case, which predated the 1949 *Editorializing Report*, did not make specific reference to the Fairness Doctrine. The underlying rationale of the opinion, however, is substantially identical to the Doctrine.

A program entitled "Communist Encirclement" discussed the alleged transitory nature of socialist forms of government and their evolution to communism, shortcomings in this country's foreign policy, moral weakening in the home, and the like. The FCC noted that licenses would not be required to present the Communist viewpoint, but indicated that contrasting viewpoints on the best methods of combating communism should be presented.¹⁶

In a more recent case, the Commission held that a broadcast editorial constituted an expression of a viewpoint on a controversial issue of public importance, and a personal attack. The editorial contained the following language:

The Communist Party of the United States is waging an intensive campaign to subvert the minds of American youth. Foremost among the activities currently directed against our young people is the new Marxist youth organization known as the DuBois Clubs of America founded at a special meeting in California dominated and controlled by American Communists.

The Commission held that the question of whether the DuBois Clubs is used by the Communist Party to subvert the minds of American youth is a controversial issue of public importance. The Commission also held that inasmuch as the editorial characterized the DuBois Clubs as a Communist organization, against which the American public should be on guard, it constituted a personal attack. This required that the DuBois Clubs be notified and given a chance to respond.¹⁷

The Fairness Doctrine has been held not to require that broadcasters balance expressions of religious programs with contrasting viewpoints from atheists or the adherents of "freethought" (defined as "the total antithesis of religion").¹⁸

¹² 33 FCC 101, 107; 23 R.R. 1599, 1606 (1962).

¹³ 11 R.R. 2d 1901, 1929 (1967).

¹⁴ 11 FCC 197 (1946).

¹⁵ *Id.*, page 198: "It is the Commission's view that the problem raised by the petition is of industrywide proportions and is not restricted solely to KRLD. Therefore, the petition involving, as it does, issues of such extensive scope should not be granted as to one particular station, when there is no urgent ground for selecting it rather than another."

¹⁶ Letter to Tri-State Broadcasting Co., 3 R.R. 2d 175 (1962).

¹⁷ Letter to Storer Broadcasting Corp., 12 R.R. 2d 184 (1968); see also Letter to Station KUHT, 12 R.R. 2d 179 (1968) (attack on John Birch Society requires offer of reply time).

¹⁸ Mrs. Madalyn Murray, 5 R.R. 2d 263 (1965); Robert Harold Scott, 3 R.R. 259 (1946).