

theme (pp. 15-16);¹⁹ and the "bonus" theme, which includes promoting longer cigarettes at popular prices as well as coupon promotions (pp. 22-23).²⁰ We note also the FTC's comment²¹ (Report, p. 18):

"There is in all of the array of positive images an element of escape from actuality. Some cigarette advertising transcends mere image association and projects its own separate and unique world. Examples include "Salem Country," a land in which romantic couples romp and preen through shifting, sylvan settings; the "Night People," whose post evening encounters can lead to smoking Parliament filters; and "Marlboro Country," where there daily unfolds the simple male heroic virtues of the "Old West." Worry over health has been vanished from these Shangri-las."

38. It comes down, we think, to a simple controversial issue: the cigarette commercials are conveying any number of reasons why it appears desirable to smoke but understandably do not set forth the reasons why it is not desirable to commence or continue smoking. It is the affirmative presentation of smoking as a desirable habit which constitutes the viewpoint others desire to oppose. We see no inequity in the circumstances that cigarette advertisers are precluded by various codes from making affirmative health claims in the advertising programming.²² The Fairness Doctrine affords an avenue for presenting in regular program time the viewpoint of responsible spokesmen for the cigarette advertisers in rebuttal to any health hazard claims made in opposition to cigarette commercials. And, finally, we fail to see any merit in the argument that no controversial issue of public importance can be presented where a lawful business is advertising a lawful product.²³ While an unlawful business advertising an unlawful product over the air waves might well raise some controversial issue of public importance, we do not regard that element as essential. The claim that no controversial issue of public importance is presented by cigarette advertising is neither realistic nor persuasive.

E. THE CONTENTION AS TO A SUBSTITUTION OF "COMMISSION FIAT" FOR LICENSEE JUDGMENT

39. Petitioners also argue that the ruling, by requiring that a significant amount of time be allocated each week to cover the viewpoint of the health hazard posed by cigarette smoking and by suggesting that a licensee might, among other things, present a number of public service announcements of the

¹⁹ See Report (p. 22). Underlying these "loyalty" theme examples is, of course, the promise that the particular cigarette gives great satisfaction (e.g., "Change to Winston and change for good").

²⁰ The Report states (p. 23): "The purchase of Raleigh cigarettes has long been rewarded with coupons redeemable for goods. Today, Belair menthols, Old Gold filters, York filters, Spring menthols, and Domino filters also carry coupons redeemable for goods. Menthol and filter Chesterfields and Philip Morris carry coupons redeemable for more cigarettes." The report also gives examples of 100 millimeter cigarette advertising (Benson & Hedges, Lucky Strike, Winston, and Pall Mall), and states (ibid.): "With a definite relationship having been established between amount of cigarette smoking and incidence of lung cancer and other diseases, a fitting motto for the 100 millimeter cigarette campaign might be 'extra health hazard at no extra cost'" (footnotes omitted).

²¹ While we have, as petitioners point out, distinguished between explicit and implicit raising of controversial issues in broadcast material where health was not involved (e.g., atheists and agnostics versus the broadcast of religious services), we do not regard those cases as pertinent here in view of the nature of the controversial issue.

²² We recognize also (as set forth in par. 29 above and Appendix A) that the tobacco and broadcasting industries have endeavored in their codes to prescribe cigarette advertising standards aimed at reducing the appeal to youth. But the conclusions of the FTC Report (par. 37 above) and the statistics and other matters set forth in pars. 33-34 and 60-61 would seem to indicate that the standards are either not being followed or are not effective in discouraging new teenage smoking. Moreover, it occurs to us that teenagers on the verge of adulthood may be more influenced by a portrayal of the attractiveness and desirability of adult conduct than by one connoting childhood or youthful behavior. As the FTC Report notes (p. 8): "They tend to view cigarette smoking as a visible mark of maturity, a passport to adulthood. Because the health dangers of cigarette smoking are not brought home to them in an effective and meaningful way, many teenagers take up the smoking habit."

²³ NBC, in urging that licensees could reasonably and in good faith conclude that no controversial issue of public importance is presented by cigarette advertising, notes that the FTC advertising guides permit presentation of enjoyment since they state:

"Nothing contained in these guides is intended to prohibit the use of any representation, claim or illustration relating solely to taste, flavor, aroma, or enjoyment."

Our ruling is consistent. It, too, does not in any way prohibit the presentation of enjoyment in cigarette commercials. It merely requires the licensee adequately to inform the public of the potential hazard, as found by Congress and Government reports, entailed in commencing or continuing this habit.