

tion. The example most uniformly cited is auto safety. But the governmental and private reports on this matter do not urge the public to refrain from "normal use" of automobiles in the interest of public safety; rather, the emphasis is on increased safety features in the manufacture of automobiles and increased care by drivers. Moreover, we know of no widespread contention by governmental or private authorities that the "normal use" of any of the other products cited by petitioners poses a serious health hazard to millions of persons who otherwise enjoy good health.

47. We adhere to our view that cigarette advertising presents a unique situation. As to whether there are other comparable products whose normal use has been found by Congressional and other Government action to pose such a serious threat to general public health that advertising promoting such use would raise a substantial controversial issue of public importance, bringing into play the Fairness Doctrine, we can only state that we do not now know of such an advertised product, and that we do not find such circumstances present in petitioners' contentions about the advertised products upon which they rely. Thus, to say the least, instances of extension of the ruling to other products upon consideration of future complaints would be rare, if indeed they ever occurred. In short, our ruling applies only to cigarette advertising, and imposes no Fairness Doctrine obligation upon petitioners with respect to other product advertising.

G. THE CLAIM AS TO ADVERSE FINANCIAL IMPACT UPON THE BROADCASTING AND TOBACCO INDUSTRIES

48. Petitioners further assert that the ruling will seriously undermine the commercial structure of broadcasting, cause a substantial reduction in or the elimination of cigarette advertising to the severe detriment of these stations and their ability to serve the public interest, require a major change in the operation of broadcast stations by necessitating the acquisition and presentation of new program material and the keeping of additional records to document compliance with the Fairness Doctrine, limit the ability of cigarette manufacturers and advertisers to obtain advertising time on broadcast media, and adversely affect the sale of cigarettes, all of which will impose an unlawful burden on interstate commerce and conflict with the Congressional intent underlying the Cigarette Labeling Act.

49. The contention that our ruling will seriously undermine the commercial structure of broadcasting is pressed principally by the Association of National Advertisers, Inc., an association composed of leading manufacturers and service concerns that use advertising, seven of whom market cigarettes. Their concern appears to rest principally on the fear that the ruling will be extended to many other products which are subject to controversy in one form or another. However, as set forth in the preceding section of this opinion (*supra.* pars. 44-47), we believe that this fear is groundless. The only real question here is the impact of our ruling on cigarette advertising on broadcast media and the sale of cigarettes.

50. We have no reason to think, and petitioners have proffered nothing concrete in support of their claim, that the ruling will cause any substantial reduction in or the elimination of cigarette advertising on broadcast media or adversely affect the ability of broadcast licensees to serve the public interest. As we have stated, we shall tailor the requirement that a station which carries cigarette commercials provide a significant amount of time for the other viewpoint, so as not to preclude or curtail presentation by stations of cigarette advertising that they choose to carry.

51. Nor do we think it realistic to assume that the requirement will cause cigarette advertisers and manufacturers to turn to other advertising media. The attractiveness of the broadcast media, particularly television, as a means of effectively reaching the vast majority of the American public with advertising, as well as other, messages is without equal.²⁶ We find it difficult to believe that cigarette manufacturers and advertisers would abandon or make substantially less use of a medium of this nature merely because our ruling may require an increase in the programming on the smoking-health issue which broadcast licensees are already presenting in the exercise of their judgment under the Fairness Doctrine and pursuant to their obligation to operate in the public interest.²⁷

²⁶ The FTC Report states (p. 10) that more of the money spent for cigarette advertising in the year 1966 was spent on television advertising than on all other media combined (66.6 percent in 1966). The Report also states (*ibid.*) that "in 1966, cigarette advertising accounted for approximately 7.2 percent of total television advertising expenditures."

²⁷ In this connection, we note that many stations and the television networks (e.g., CBS's efforts as detailed in this case) have given coverage to the smoking-health issue and that they also continue to air numerous cigarette commercials.