

Regulating Broadcasting and the New Media

Terms:

Indecency

Fairness Doctrine

Assigned Cases:

Red Lion v. FCC; *FCC v. Pacifica*; *DATC v. FCC*; *Reno v. ACLU*

Questions for Reading Assigned Cases:

What is indecency and how does it differ from either obscenity or pornography? What does it mean to attempt to protect children from harmful material while allowing for adult access to material appropriate to adults?

If the airwaves are the public's property, should all have access to them? To what extent should we make use of public property contingent on service as a public forum?

Additional Cases:

National Broadcasting Co. v. US (1943). Because the broadcast spectrum is a scarce commodity and requires regulation, government may both license and attach conditions to those licenses. Broadcasting is a privilege, not a right, and violation of conditions may lead to penalties or loss of license.

Columbia Broadcasting Co. v. Democratic Nat'l Committee (1973). Supreme Court upheld FCC policy allowing broadcasters to refuse to sell advertising.

Miami Herald Publishing v. Tornillo (1974). The Supreme Court found that a Florida "right to reply" law similar to the Fairness Doctrine was unconstitutional as applied to newspapers.

FCC v. League of Women Voters (1984). Supreme Court struck down law prohibiting public broadcasting stations receiving federal funds from editorializing. Decision includes use of intermediate scrutiny in examining broadcasting regulations.

Arkansas Educational Television v. Forbes (1998). Supreme Court upheld ability of public broadcaster to exclude a minor candidate for political office from a televised debate.

American Library Assn v. United States (2002). Supreme Court held that Congress could require libraries receiving federal funds to install filtering software on public terminals to prevent viewing of pornography. The majority was contingent upon librarians' ability to disable such software where it interfered with adult patrons access to appropriate material (e.g., breast cancer information).