

Clay T. Whitehead

From: ssarnika@gmu.edu
Sent: Friday, May 06, 2005 4:16 PM
To: Clay T. Whitehead
Subject: Re: research materials

Attachments: fairness doctrine-equal time.doc; cass sunstein_2000.doc; fairness doctrine_FCC docket.doc



fairness



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fairness

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Prof. Whitehead,

Please find attached a few articles on the fairness doctrine. I thought that your interest is not just in articles that may be assigned as reading for students but also to find out what literature is out there on these topics. So the articles I chose are varied in scope and length. Also attached are some cases and an FCC report on fairness doctrine. There are a lot of articles on equal time and first amendment issues related to broadcast media. I have tried to choose the ones that are comprehensive and present different perspectives.

If it would be of any use, below is a brief description of each file attached.

1. fairness doctrine-equal time.doc

This article is from the Indiana Law Review and traces the development of equal time and fairness doctrine to some extent. This is mostly a descriptive article with some conclusory statements but I thought it was a good introduction to the issues involved.

2. cass sunstein_2000.doc

Article from California law journal by Cass Sunstein. Discusses some applications of economic theory to the public interest obligations imposed on broadcast media.

3. fairness doctrine_FCC docket.doc

This is an FCC report from 1985-86 re-evaluating the constitutionality of the fairness doctrine.

Since GMU has limits on the size of attachments, please look for the rest of the files in the subsequent two e-mails.

best regards,
Supriya.

Clay T. Whitehead

From: ssarnika@gmu.edu
Sent: Friday, May 06, 2005 4:31 PM
To: Clay T. Whitehead
Subject: research materials part 2

Attachments: persistence of scarcity-berkeley tech lj.doc; fairness doctrine- first amendment.doc; recent developments.doc; defending the time culture.doc



persistence of
scarcity-berkel...



fairness doctrine-
first amend...



recent
developments.doc (31 k



defending the time
culture.doc...

Attached are the following files:

4. defending the time culture.doc

A 1991 article from the Federal Communications Law Journal. Though a little dated has a good discussion of how media ownership restrictions and public interest obligations imposed by the fairness doctrine compare with normal business and corporate law.

5. persistence of scarcity- berkeley tech lj.doc

A 2005 article that basically argues that deregulation of media ownership restrictions is bad because the scarcity doctrine still applies despite technological change. Contains mostly conclusory statements with very little analysis or empirical or anecdotal support but lays out the issues and may generate a good discussion.

6. fairness doctrine-first amendment.doc

A 2005 article has a long discussion of first amendment rulings related to the "right to receive information". A somewhat brief treatment of fairness doctrine but may be interesting nonetheless for first amendment issues.

7. recent developments.doc

A short 5 page article from the federal communications law journal discussing recent developments in program content regulation.

Clay T. Whitehead

From: ssarnika@gmu.edu
Sent: Friday, May 06, 2005 4:38 PM
To: Clay T. Whitehead
Subject: research materials part 3

Attachments: chilling effect of fairness doctrine_JLS_1997.pdf; red lion broadcasting.doc



chilling effect of
fairness do...



red lion
roadcasting.doc (204

Attached are the following files:

1. chilling effect of fairness doctrine_JLS_1997.pdf

An empirical article from the Journal of Legal Studies that tests whether the fairness doctrine indeed had a chilling effect on information provided by broadcast media.

2. red lion broadcasting.doc

The US supreme court's opinion from the rd lion broadcasting case of 1969 defining the fairness doctrine.

Hope you find these materials useful. I am looking forward to your comments and guidance on how to proceed further.

Have a great weekend!

Supriya.

List of cases in Communications law over the most recent 10 years in which the opinion was written by Judge Edwards of the Court of Appeals for the District of Columbia.

1. American Library Ass'n. v. F.C.C., --- F.3d ----, 2005 WL 1047587, 74 U.S.P.Q.2d 1545 (D.C.Cir., May 06, 2005)(NO. 04-1037)
This is the "broadcast flag" case. After initially holding that the American Library Association lacked standing to challenge this regulation in a March 2005 ruling, Judge Edwards wrote the opinion in this case and ruled that the FCC lacked authority to "regulate consumers' use of television receiver apparatus *after* the completion of broadcast transmissions."

2. PanAmSat Corporation v. F.C.C., 370 F.3d 1168, 361 U.S.App.D.C. 444, 32 Communications Reg. (P&F) 697 (D.C.Cir., Jun 08, 2004)(NO. 03-1133, 03-1134)
In this case PanAmSat demanded refund of satellite regulatory fees paid by PanAmSat for the years 1995, 1997, 1999 and 2000 because the FCC had exempted COMSAT from paying the fees and PanAmSat and other satellite companies had to pay COMSAT's share of the fee. The court of appeals had held in an earlier proceeding that FCC was not compelled by statute to exempt COMSAT from paying the fee for the year 1997. In this case, Judge Edwards held that the earlier ruling did not apply to the other fiscal years because the FCC order regarding the fees for 1995, 1997, 1999 and 2000 had already become final and so PanAmSat's challenge in court was time barred.

3. Vernal Enterprises, Inc. v. Federal Communications Com'n., 355 F.3d 650, 359 U.S.App.D.C. 355, 31 Communications Reg. (P&F) 640 (D.C.Cir., Jan 27, 2004)(NO. 02-1297)

4. KERM, Inc. v. F.C.C., 353 F.3d 57, 359 U.S.App.D.C. 200, 31 Communications Reg. (P&F) 468 (D.C.Cir., Jan 09, 2004)(NO. 03-1028)
Radio station alleged that a non-commercial competitor was airing illegal commercials. FCC ruled that no enforcement action was warranted and KERM petitioned the courts for review of the FCC decision. Judge Edwards wrote the opinion that KERM lacked standing and dismissed the case.

5. AT&T Corp. v. F.C.C., 349 F.3d 692, 358 U.S.App.D.C. 369, 33 Communications Reg. (P&F) 832 (D.C.Cir., Nov 25, 2003)(NO. 02-1221, 02-1275, 02-1240, 02-1263)

6. Cellular Telecommunications & Internet Ass'n v. F.C.C., 330 F.3d 502, 356 U.S.App.D.C. 238, 29 Communications Reg. (P&F) 323 (D.C.Cir., Jun 06, 2003)(NO. 02-1264)

7. Southern Co. Services, Inc. v. F.C.C., 313 F.3d 574, 354 U.S.App.D.C. 124 (D.C.Cir., Dec 20, 2002)(NO. 01-1326)

8. Motion Picture Ass'n of America, Inc. v. F.C.C., 309 F.3d 796, 353 U.S.App.D.C. 405, 31 Media

L. Rep. 1193, 24 NDLR P 289 (D.C.Cir., Nov 08, 2002)(NO. 01-1149, 01-1155)

9. Global NAPS, Inc. v. F.C.C., 291 F.3d 832, 351 U.S.App.D.C. 424 (D.C.Cir., Jun 04, 2002)(NO. 01-1192)
10. Teledesic LLC v. F.C.C., 275 F.3d 75, 348 U.S.App.D.C. 296 (D.C.Cir., Dec 28, 2001)(NO. 00-1466)
11. Verizon Telephone Companies v. F.C.C., 269 F.3d 1098, 348 U.S.App.D.C. 98 (D.C.Cir., Nov 09, 2001)(NO. 00-1207)
12. AT&T Corp. v. F.C.C., 236 F.3d 729, 344 U.S.App.D.C. 362 (D.C.Cir., Jan 23, 2001)(NO. 99-1535, 00-1090)
13. GTE Service Corp. v. F.C.C., 205 F.3d 416, 340 U.S.App.D.C. 308, 19 Communications Reg. (P&F) 1127 (D.C.Cir., Mar 17, 2000)(NO. 99-1176, 99-1201)
14. BellSouth Corp. v. F.C.C., 162 F.3d 678, 333 U.S.App.D.C. 253, 1998-2 Trade Cases P 72,381, 14 Communications Reg. (P&F) 770 (D.C.Cir., Dec 22, 1998)(NO. 98-1019)
15. Bell Atlantic Telephone Companies v. F.C.C., 131 F.3d 1044, 327 U.S.App.D.C. 390, 10 Communications Reg. (P&F) 494 (D.C.Cir., Dec 23, 1997)(NO. 97-1432)
16. COMSAT Corp. v. F.C.C., 114 F.3d 223, 324 U.S.App.D.C. 369, 8 Communications Reg. (P&F) 237 (D.C.Cir., May 30, 1997)(NO. 96-1325)
17. Southwestern Bell Corp v F.C.C., 43 F.3d 1515, 310 U.S.App.D.C. 90, (D.C. Cir., Jan. 20, 1995) (Nos. 93-1562, 93-1568, 93-1590 and 93-1624.)