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section 17a rather than as a section 14c objection to a discharge. This is, in effect, what the courts in *Kras* and *Smith* have done, and these two cases are an important step toward making the bankruptcy discharge the substantial debtor remedy it was intended to be.

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Communications—The Fairness Doctrine: A Continuing Advance into Product Advertising

The fairness doctrine, a product of administrative regulation and judicial decision, has long served to guarantee full discussion of public issues in the nation's communications media.[1] Briefly stated, the doctrine imposes an affirmative obligation upon licensed radio and television stations to present information advocating all points of view in the discussion of controversial issues of public importance.[2] A salient force for many years, the fairness doctrine has acquired increasing relevance and expanded meaning during the past decade.

In *Friends of the Earth v. FCC*[3] the Court of Appeals for the District of Columbia Circuit[4] recently continued this judicial trend by holding the fairness doctrine applicable to the presentation of television commercials advertising high-powered automobiles and leaded gasoline. The petitioning environmentalists[5] contended that the advertisements advanced the opinion that use of these products leads to a richer and more enjoyable life. Facing undisputed scientific evidence of the environmental dangers resulting from this use, the court overturned a decision of the Federal Communications Commission (FCC) and held that the commercials presented one point of view upon a controversial public issue and therefore called for application of the fairness doctrine. The case was then remanded to the Commission for a determination of whether the particular television station[6] under attack had met its

[1]See text accompanying notes 19-37 *infra*.

[2]Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 369, 380 (1969); Obligations of Broadcast Licensees Under the Fairness Doctrine, 23 F.C.C.2d 27 (1970); Editorializing Report, 13 F.C.C. 1246, 1251 (1949).

[3]449 F.2d 1164 (D.C. Cir. 1971).

[4]47 U.S.C. § 402(b) (1970) provides for the direct appeal of most decisions of the Federal Communications Commission to the District of Columbia Circuit.

[5]Petitioners included Friends of the Earth, a national organization dedicated to environmental protection, and its executive director. 449 F.2d at 1164.

[6]The station challenged in the action was New York City's WNBC-TV. 449 F.2d at 1164.

fairness-doctrine obligations.

In order to understand properly the significance of *Friends of the Earth*, it is necessary to survey the development of federal regulation of the communications media, the evolution of the fairness doctrine, and the applicability of that doctrine to commercial advertising. Before 1927 radio stations were largely unregulated and could broadcast at any frequency, power, or time desired.[7] The resulting chaos severely diminished the constructive value of the media.[8] In response to this situation, Congress enacted the Radio Act of 1927,[9] which created the Federal Radio Commission. Under the terms of the Act, the Commission was empowered to allocate frequencies among applicants in a manner promoting the "public convenience, interest, or necessity."[10] Seven years later Congress passed the Communications Act of 1934,[11] which was largely based on earlier legislation. The Act created the FCC and prohibited broadcasting without a license issued by that agency. It also established a comprehensive regulatory scheme which serves as the statutory basis for the Commission's activities today. As with the earlier Radio Act, the FCC's standard for action was stated to be the "public convenience, interest, or necessity."[12]

While the Communications Act is otherwise silent on the issue, this public-interest standard has provided the basis for the Commission's regulation of radio and television program content.[13] Although this power is limited to a degree by first amendment restrictions,[14] it has

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[7]The Radio Communications Act of 1912, ch. 287, 37 Stat. 302, which conferred upon the Secretary of Commerce the power to regulate frequencies and broadcast hours, was almost totally emasculated by judicial decision. Hoover v. Intercity Radio Co., 286 F. 1003 (D.D.C. 1923), *cert. dismissed*, 266 U.S. 636 (1924), held that the Secretary had no discretion in granting licenses. Three years later it was held that the Secretary also lacked the power to regulate frequencies, power, or broadcast hours. United States v. Zenith Radio Corp. 12 F.2d 614 (N.D. Ill. 1926).

[8]By 1927 almost 200 radio stations were in operation and "with everybody on the air, nobody could be heard." National Broadcasting Co. v. United States, 319 U.S. 190, 212 (1943). *See* Comment, *Fairness Doctrine: Personal Attacks and Public Controversies*, 56 GEO. L.J. 547, 547 n.1 (1968).

[9]Radio Act of 1927, ch. 169, 44 Stat. 1162.

[10]*Id.* § 4.

[11]Communications Act of 1934, ch. 652, 48 Stat. 1064, *as amended*, 47 U.S.C. §§ 151-609 (1970).

[12]47 U.S.C. § 307 (a) (1970).

[13]*See* National Broadcasting Co. v. United States, 319 U.S. 190, 217 (1943); Retail Store Employees Local 880 v. FCC, 436 F.2d 248, 256 (D.C. Cir. 1970). The FCC's regulation of program content is exercised through its power to grant and renew broadcast licenses. *See* FCC, PUBLIC SERVICE RESPONSIBILITIES OF BROADCAST LICENSEES 10 (1946).

[14]47 U.S.C. § 326 (1970) forbids censorship on the part of the FCC or interference with the first amendment rights of licensees. However, in National Broadcasting Co. v. United States, 319

been recognized to exist almost since the inception of the federal regulatory scheme.[15] In *National Broadcasting Co. v. United States*[16] the Supreme Court directly confronted a contention that the Commission's regulatory powers are statutorily limited to the technical aspects of the communications media, such as frequency allocation and the prevention of interference. In upholding the FCC's power to deal with program content, the Court noted: "The Commission's licensing function cannot be discharged . . . merely by finding that there are no technological objections to the granting of a license."[17] In addition, the Court emphasized that "the [Communications] Act does not restrict the Commission merely to supervision of the traffic. It puts upon the Commission the burden of determining the composition of that traffic."[18]

Almost as soon as control over program content was assumed, the fairness doctrine was born. As early as 1929 the Federal Radio Commission stated that the "public interest requires ample play for the free and fair competition of opposing views, and the Commission believes that the principle applies . . . to all discussions of issues of importance to the public."[19] Thus, although not yet expressly labeled, the fairness doctrine preceded the comprehensive regulatory scheme enacted by Congress in 1934. With the restatement of the "public interest standard"[20] in the Communications Act, the fairness doctrine experienced continuing development in the decisions of the FCC. In 1938 the Commission expressly approved the doctrine in *Young People's Association for the Propagation of the Gospel.*[21] The real strength of the fairness

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U.S. 190, 226-27 (1943), the Court upheld the FCC's reasonable regulation of programming content in the face of a first amendment attack. Since radio broadcasting was not available to all because of the limited number of available frequencies, it was reasoned that those possessing a license to broadcast must be subject to public regulation.

Notwithstanding the protection the first amendment affords television and radio licensees, it has been construed to guarantee certain rights to the viewing public that are paramount to those of broadcasters. Red Lion Broadcasting Co. v. FCC, 396 U.S. 367, 386-90 (1969). This principle was logically extended recently to strike down a licensee's flat refusal to broadcast paid announcements of an issue-oriented nature. Business Executives' Move for Vietnam Peace v. FCC, 450 F.2d 642 (D.C. Cir. 1971), *cert. granted*, 92 S. Ct. 1174 (1972) (No. 71-864).

[15]*See, e.g.*, FCC v. Pottsville Broadcasting Co., 309 U.S. 134, 137-39 (1940).

[16]319 U.S. 190 (1943).

[17]*Id.* at 216.

[18]*Id.* at 215-16.

[19]Great Lakes Broadcasting Co., 3 F.R.C. 32 (1929), *rev'd on other grounds*, 37 F.2d 993 (D.C. Cir.), *petition for cert. dismissed*, 281 U.S. 706 (1930).

[20]*See* note 12 and accompanying text *supra.*

[21]6 F.C.C. 178 (1938). Here the FCC denied an application for a station construction permit because the applicant allowed only those with views similar to his own to use the facilities.

principle was evidenced, however, in the 1941 *Mayflower Broadcasting Corp.*[22] ruling, which forbade licensees to editorialize or specifically endorse political candidates. Such practices were felt to violate the policies formulated by the Communications Act. Naturally, this holding was roundly criticized by licensed stations. Despite its earlier history, a number of authorities officially date the fairness doctrine from the *Mayflower* decision.[23]

The controversy precipitated by the holding in *Mayflower* resulted in a modified statement of policy on the part of the Commission. *Editorializing By Broadcast Licensees*,[24] a report released in 1949, was in fact the Commission's first definitive statement of the fairness doctrine. Noting that the doctrine was designed to foster "an informed public opinion through the public dissemination of news and ideas concerning the vital public issues of the day,"[25] the Commission approved editorial broadcasting but expressly subjected it to the restrictions of the fairness doctrine. This statement of policy currently stands as the Commission's basic description of the fairness doctrine.

As set forth by the Commission's 1949 report and developed in subsequent decisions, the fairness doctrine today actually imposes a dual obligation on broadcast licensees. "The broadcaster must give adequate coverage to public issues . . . and coverage must be fair in that it accurately reflects the opposing views."[26] If a sponsor cannot be found to finance the presentation of this differing viewpoint, the broadcast must be made at the licensee's expense.[27] Further, the programs advocating such opinion must be prepared by the licensee on his own initiative if unavailable from other sources.[28]

In addition to the general provisions of the fairness doctrine, specific variations of that principle have developed to provide equal air time for political candidates[29] and to deal with personal attacks broadcast by

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[22]8 F.C.C. 333 (1940).

[23]*See, e.g.*, Robinson, *The FCC and the First Amendment: Observations on 40 Years of Radio and Television Regulation*, 52 MINN. L. REV. 67 (1967).

[24]13 F.C.C. 1246 (1949).

[25]*Id.* at 1249.

[26]Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 377 (1969). Business Executives' Move for Vietnam Peace v. FCC, 450 F.2d 642 (D.C. Cir. 1971), *cert. granted*, 92 S. Ct. 1174 (1972) (No. 71-864), reaffirmed the recognized duty on the part of licensees to discuss controversial issues in holding that a station's flat ban on paid public-issue announcements violated the first amendment. *See* note 14 *supra.*

[27]Cullman Broadcasting Co., 40 F.C.C. 576 (1963).

[28]Governor John J. Dempsey, 40 F.C.C. 445 (1950).

[29]Section 315 (a) of the Communications Act, 47 U.S.C. § 315(a) (1970), requires broadcasters

licensed stations.[30] The constitutionality of the fairness doctrine and the personal attack rules was most recently challenged in *Red Lion Broadcasting Co. v. FCC*.[31] Noting the broad powers available to the Commission to assure protection of the public interest, the Supreme Court upheld the FCC's rule-making power. It also interpreted the 1959 amendment of the Communications Act's provision affording equal time to political candidates as embodying congressional acceptance and adoption of the fairness doctrine.[32]

While the fairness doctrine is thus sanctioned by Congress and the Supreme Court, the actual details of its application and implementation have never been delineated by the Federal Communications Commission. To a great extent, this has been left to the individual stations. As recently stated by the Commission, "it is within the discretion of the licensee, acting reasonably and in good faith, to choose the precise means of achieving fairness."[33] Prior to implementation of the doctrine, a decision must be made as to its applicability. Application, in turn, depends upon a finding that a controversial issue of public importance has been discussed by a station presentation. Although the Commission has yet to set forth a test to determine whether a given issue is "controversial," it has noted that such a finding is usually to be made by the licensee, who is to use "reasonable judgment in good faith on the facts in each situation."[34] Of course, this determination by the licensee

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to "afford equal opportunities" to all legally qualified political candidates for a given office if a single such candidate has been allowed to use the broadcaster's station. Specifically exempted from the section's coverage are appearances by candidates in bona fide newscasts, interviews, documentaries, and on-the-spot coverage of news events. *Id.*

[30]Regulations promulgated by the FCC require that in the event of a personal attack upon "an identified person or group," the station broadcasting such material must furnish the person or group attacked a transcript of the presentation. Further, it must make available to that individual or group "a reasonable opportunity to respond over the licensee's facilities." Bona fide newscasts, interviews, and on-the-spot coverage of news events are exempt from the regulation. 47 C.F.R. §§ 73.123, 73.300, 73.598, 73.679 (1971) (all identical).

[31]395 U.S. 367 (1969).

[32]The Court stated:

> In 1959 the Congress amended the statutory requirement of § 315 that equal time be accorded each political candidate to except certain appearances on news programs, but added that this constituted no exception "*from the obligation imposed upon* [stations] *under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.*" Act of September 14, 1959, § 1, 73 Stat. 557, amending 47 U.S.C. § 315 (a) . . . .

Id. at 380 (emphasis by the Court).

[33]Letter to Mid-Florida Television Corp., 40 F.C.C. 620, 621 (1964), *quoted with approval in* Obligations of Broadcast Licensees Under the Fairness Doctrine, 23 F.C.C.2d 27, 28 (1970).

[34]FCC Public Notice: Applicability of the Fairness Doctrine in the Handling of Controversial

is subject to review by the FCC. It has been held by the Commission that determination of whether an issue is "controversial" is not bound by the manner of its presentation,[35] the degree of coverage by other communications media,[36] or characterization of the issue as local rather than national in nature.[37]

The FCC has long recognized that product advertising, even though specialized programming in nature, can raise controversial public issues and thus precipitate application of the fairness doctrine. As a 1946 Commission decision expressly notes, "[t]he fact that the occasion for the controversy happens to be the advertising of a product cannot serve to diminish the duty of the broadcaster to treat it as such an issue."[38] Notwithstanding this recognition, the Commission has continuously expressed an unwillingness to extend the fairness doctrine to individual product commercials. *Television Station WCBS-TV*[39] marked the FCC's first actual decision so to apply the doctrine. This ruling held that cigarette commercials presenting a favorable view of smoking raised a controversial issue of public importance, voiced an opinion on the issue, and thus created a situation calling for application of the fairness doctrine.

This decision was bitterly fought,[40] but on appeal the Court of Appeals for the D.C. Circuit affirmed the Commission in *Banzhaf v. FCC*.[41] Although the court recognized that "public interest" was a vague criterion for FCC action, it nonetheless concluded that "the pub-

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Issues of Public Importance, 29 Fed. Reg. 10415, 10416, 40 F.C.C. 598, 599 (1964).

[35]Sam Morris, 11 F.C.C. 197 (1946).

[36]WSOC Broadcasting Co., 17 P & F Radio Reg. 548 (FCC 1968).

[37]*See* Note, *Regulation of Program Content by the FCC*, 77 HARV. L. REV. 701 (1964). The FCC has determined a number of issues to be controversial, thus calling for application of the fairness doctrine. These include civil rights, racial integration, the banning of nuclear testing, medical advice, and pay television. FCC Public Notice: Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance, 29 Fed. Reg. 10415, 40 F.C.C. 598 (1964).

[38]Sam Morris, 11 F.C.C. 197, 199 (1946). Here the Commission held that a radio station located in the temperance belt could not under the fairness doctrine advertise alcoholic beverages without accepting anti-liquor material from temperance organizations. The Commission noted: "[I]t can at least be said that the advertising of alcoholic beverages . . . can raise substantial issues of public importance." *Id. See also* Head v. New Mexico Bd. of Examiners in Optometry, 374 U.S. 424, 437-41 (1963).

[39]9 F.C.C.2d 921 (1967).

[40]Participants in the action included the American Tobacco Co., Liggett and Myers Tobacco Co., R.J. Reynolds Tobacco Co., American Broadcasting Co., National Broadcasting Co., The National Tuberculosis Association, and the Heart Disease Research Foundation. *See* Banzhaf v. FCC, 405 F.2d 1082 (D.C. Cir. 1968).

[41]405 F.2d 1082 (D.C. Cir. 1968).

lic interest indisputably includes the public health."[42] In short, protection of the public health more than justified heightened governmental involvement on the administrative level. Important to this result were three unique characteristics attributed to cigarettes by the court: the product threatens the health of a substantial part of the population, the danger arises from the normal use of the product, and the danger is statistically recognized by both governmental and independent research groups.[43]

Banzhaf, besides accepting unprecedented FCC action, was unique in another respect because it claimed to be self-limiting—the court agreed with the Commission that it was not aware of a comparable product warranting a similar ruling.[44] Yet not three years later the same circuit decided *Friends of the Earth* and based the decision primarily on *Banzhaf.* Developments in the interim, largely changes in the Commission's thinking, greatly shaped this result.

Following *Banzhaf,* the Commission showed initial reluctance to extend the cigarette decision's rationale to other situations. Thus in *WFMJ Broadcasting Co.*[45] it refused to hold the fairness doctrine applicable to commercials advocating the patronage of a department store that was the site of a strike and boycott. On appeal the D.C. Circuit reversed,[46] noting that a viewpoint set forth by an advertisement may be implicit rather than explicit, and held it irrelevant in respect to the fairness doctrine's application that the commercials in question failed to mention the pending strike. The court directed the FCC to consider more fully the charge that the commercials were primarily designed to serve as a weapon in a labor-management dispute rather than as advertising for standard purposes. The self-imposed restrictions of *Banzhaf* were deemed without force in the face of a commercial presenting what truly might be termed a controversial issue of public importance.[47]

Despite this hint from the Court of Appeals for the D.C. Circuit, the Commission's reluctance to extend the doctrine persisted in its initial treatment of the *Friends of the Earth* complaint. However, while this ruling was in the process of appeal, the FCC demonstrated growing awareness of the implications in *Banzhaf.* In a *National Broadcasting*

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[42] *Id.* at 1096 (footnote omitted).
[43] *Id.* at 1097.
[44] *Id.* at 1097 n.63.
[45] 14 F.C.C.2d 423 (1968).
[46] Retail Store Employees Local 880 v. FCC, 436 F.2d 248 (D.C. Cir. 1970).
[47] *Id.* at 258.

Co. ruling (*Chevron*),[48] it confronted the question of whether commercials claiming that a particular gasoline substantially reduced air pollution, when faced with contentions to the contrary, required application of the fairness doctrine. Although the FCC ruled that this was only a claim of product efficiency and did not raise a controversial issue of public importance, it did recognize the possibility that a product commercial could, under somewhat closely defined circumstances, raise controversial public issues.[49] Shortly after this first admission by the FCC that application of the fairness doctrine could extend to product advertising beyond cigarette commercials, another *National Broadcasting Co.*[50] decision (*Esso*) was handed down. In *Esso* the Commission studied commercials presented by an oil company advocating the development and transportation of Alaskan oil. Finding the presence of a controversial issue of public importance—the necessity of immediate development of Alaskan oil preserves and the capability of oil companies to pursue this development without environmental damage—the FCC directed the licensee to satisfy its obligations under the fairness doctrine.

Both *Chevron* and *Esso* were utilized by the court in *Friends of the Earth*, which marks the first judicial decision since *Banzhaf* to find definitely that an advertisement advocating the purchase of a given product raises a controversial public issue and merits application of the fairness doctrine. Although this perhaps was not unexpected in light of the new FCC thinking, it nonetheless stands as the first instance in which a court in construing the fairness doctrine has judicially recognized the controversial nature of an issue dealing with environmental protection. Perhaps most important of all, the decision evidences renewed recognition that a controversial public issue may be implicit in a product commercial and need not be explicit on the face thereof. Such action can be interpreted as a preview of the fairness principle's increasing utilization in the area of media advertising—notwithstanding advertising's financial importance to broadcasting.[51]

While in many respects *Friends of the Earth* clarifies what undoubtedly is an uncertain area of the law, it fails to provide specific

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[48]National Broadcasting Co., 29 F.C.C.2d 807, 21 P & F RADIO REG. 2d 1097 (1971).

[49]29 F.C.C.2d at ____, 21 P & F RADIO REG. 2d at 1103 (1971).

[50]National Broadcasting Co., 30 F.C.C.2d 643, 22 P & F RADIO Reg. 2d 407 (1971).

[51]Even with the current limited application of the fairness doctrine to commercial advertising, it appears that the doctrine has a weighty effect upon broadcasting revenue. One periodical recently reported that "major television networks have rejected over a million dollars in advertising revenue on no-fault insurance for fear of having the 'fairness doctrine' invoked . . . ." TRIAL, January-February 1972, at 3.

guidelines for the difficult task of identifying product commercials raising "controversial issues of public importance" and thus requiring resort to the fairness doctrine. Despite this shortcoming *Friends of the Earth,* as supplemented by several recent developments,[52] provides valuable assistance in formulating a rough test which can be utilized in resolving the question of the doctrine's applicability. The test can be stated as follows: Does a commercial explicitly or implicitly raise an issue (1) regarding which there currently are clearly recognized and contrasting substantiated viewpoints and (2) by which, or through the condition with which it deals, a relatively large number of people either on the national or local level are substantially affected?

In looking beyond the face of a commercial message and applying the fairness doctrine as a result of issues that are raised implicitly, this standard adopts the approach utilized in *Friends of the Earth.*[53] It is only through such a liberal construction that the fairness doctrine can serve its ultimate purpose, that of exposing the public to all viewpoints surrounding controversial issues. More narrowly to construe the doctrine would be to ignore the subtle means of communication available to our media.

The two inquiries proposed by the test seek to guarantee that an issue be both "controversial" and "public" in nature before demanding consideration of the fairness principle. In requiring that there be "sub-

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[52]During June, July, and August of 1971 no fewer than four decisions relevant to the fairness doctrine and commercial advertising were handed down by federal appellate courts in addition to *Friends of the Earth.* Green v. FCC, 447 F.2d 323 (D.C. Cir. 1971), and Neckritz v. FCC, 446 F.2d 501 (9th Cir. 1971), refused to hold the doctrine applicable to military recruitment advertisements. In both cases appellants were unsuccessful in urging that such commercials raise the admittedly controversial issues of the draft and the Vietnam War. Larus & Brother v. FCC, 447 F.2d 876 (4th Cir. 1971) affirmed an FCC ruling that certain anti-smoking messages did not raise fairness-doctrine considerations because "it would be reasonable for a broadcaster to determine that the health hazards of smoking no longer present a controversial issue." *Id.* at 878 (footnote omitted). Finally, the Court of Appeals for the D.C. Circuit in Business Executives' Move for Vietnam Peace v. FCC, 450 F.2d 642 (D.C. Cir. 1971), *cert. granted,* 92 S. Ct. 1174 (1972) (No. 71-864), overturned as violative of the first amendment a licensee's flat ban on commercial messages raising "controversial issues."

[53]This approach was also purportedly utilized by the Court of Appeals for the D.C. Circuit in Green v. FCC, 447 F.2d 323 (D.C. Cir. 1971), in which the court dealt with a claim that military recruitment advertisements raised controversial issues of public importance—namely the draft and the Vietnam War—and therefore required application of the fairness doctrine. The court noted that "the first issue, military manpower recruitment by voluntary means, is all that was implicit in virtually all the Armed Services recruitment announcements" and that this does not constitute a controversial issue. *Id.* at 329. The court, however, did find that as to both the draft and the Vietnam War fairness doctrine standards had been satisfied as a result of the numerous viewpoints broadcast on both issues. *Id.*

stantiated viewpoints currently surrounding the issue," the standard follows the reasoning of the Fourth Circuit Court of Appeals in *Larus & Brother v. FCC*.[54] In that decision the court expressly refused to hold the fairness doctrine applicable to certain anti-smoking messages for the reason that the detrimental effects of cigarette smoking are now clearly established beyond controversy. Such an application of the fairness doctrine avoids the required presentation of viewpoints totally lacking in present credibility although once perhaps strongly advocated. The test's second requirement, that the issue affect "a relatively large number of people," is designed to justify application of the fairness doctrine with its accompanying demands upon both licensees and the public.

In short, this analysis is designed to bring only those media commercials raising truly significant public issues within the ambit of the fairness doctrine. With this goal in mind, the proposed test is believed to satisfy both the demands of the public interest and the practical requirement that commercial advertising be sustained as a means of providing revenue for the broadcast industry. Simultaneously, the test recognizes the importance of bringing increased certainty to a crucially significant area of the law.

LACY H. REAVES

Constitutional Law—Due Process and Compliance with Processing Requirements for Welfare Applications

Judicial impetus to welfare reform has appeared recently as a potent force in the effort to resolve the complex problems surrounding welfare administration. The source of these problems is the conflict between the need to reconcile idealistically conceived welfare programs with the grass-roots practicalities of welfare administration.[1] In 1970 the

[54]447 F.2d 876 (4th Cir. 1971).

[1]The inability of the courts to establish workable guidelines in the area of welfare administration may be attributed to the fact that the protections of procedural due process have only recently been extended to welfare proceedings. The delay in instituting these safeguards into the framework of the welfare system can be traced to the attitude that welfare is synonymous with charity and to the ever present controversy over the "right-privilege" dichotomy.

Recent Developments, *Constitutional Law—Public Assistance—Due Process Clause Requires an Evidentiary Hearing to Precede the Termination of Benefits to Welfare Recipients*, 16 VILL. L. REV. 587, 589-90 (1971).