

## FIRST AMENDMENT ASSIGNMENT

In the previous unit, we looked at trends in media regulation and how the laws are continually shifting in favor of big business. The First Amendment is another example of a law that has been redefined—it is now serving as a tool for industry. To recap, here's a quick list of...

### **Regulatory Trends Favoring Business**

- Ownership rules have been struck down, leading to the consolidation of media sources into fewer, larger companies
- Public Interest standard (including the Fairness Doctrine) has been struck down, giving way to the marketplace model
- The expansion of copyright law

*and now we'll look at:*

- Extending the First Amendment to cover advertising and other forms of commercial speech. In the past, “free speech” protection was not extended to commercial speech.

Over the next few days, I want you to think about how the First Amendment should be applied in day-to-day life. What kind of speech does the First Amendment support as “free”? Should all speech be equally free? If not, how does one determine what should be free speech and what shouldn't be? Also: what constitutes censorship? Is some censorship worse than others? Does censorship have any positive functions?

**Read the following situations below. How do you think these situations should be resolved to accommodate the rights of all parties? Keep in mind that the First Amendment doesn't work if you only allow people to say or write things that you agree with. There need to be general rules that guide its enforcement. Your job is to think about what these rules might be. Pick three of the four scenarios below and write a paper addressing the pros and cons of restricting speech. In your paper, compare and contrast these situations: What do they have in common? How are they different? Can you think of any dilemmas similar to these where free speech potentially interfered with others' rights? If so, include them in your discussion.**

Matthew Sheppard was a young man who, in 1998, was murdered (pistol-whipped, and tied to a fence) for being gay. At his funeral, the Rev. Fred Phelps led a group of anti-homosexuality protesters outside the church; they carried large picket signs and shouted things like, “God hates fags.” Should Phelps et al. have been allowed to shout at the funeral attendees? To carry large signs? Should Phelps have been allowed near the church or required to stand some distance away? Would your answer be different if, instead of shouting “God hates fags,” Phelps handed out flyers with that phrase? How do you think this situation should have been resolved?

Last year, after September 11, editors of the *Blotter* put up a poster that read “WANTED: Bin Laden — Dead or Alive” on the staff bulletin board here at BCS. Mr. Webster promptly asked them to take it down on the grounds that a call for someone's murder—ANYONE's murder—was an inappropriate message for school walls. The *Blotter* responded by publishing an editorial criticizing Webster for censorship. (See attached article.) What do you think was the right thing to do in this case? Would your answer change if, instead of being a WANTED: DEAD OR ALIVE poster, the *Blotter* hung up a pornographic poster? Or a sign with a racist message (“black people go home”?) Would your answer change if the poster were on the inside of someone's locker instead of in the hallway? What general rule do you think should govern situations like this?

I used to work at a record company, Matador, and one of my jobs was monitoring the online bulletin board for fans. The bulletin board was focused on Matador artists; anyone who had a question or comment about our bands was free to post. Often, the posts would be answered by one of us on staff; it was a pretty good way for fans to find information that they wouldn't be able to get elsewhere. However, several visitors to the bulletin board would post offtopic—or idiotic—remarks that had nothing to do with the discussion. It became harder for visitors to find real information because there were so many irrelevant, hare-brained posts. So my job was to regularly monitor the bulletin board and delete offtopic or otherwise unsubstantial posts. By doing this, was I abridging fans' free speech? Is this sort of censorship helpful or harmful?

Imagine that a huge, tacky billboard was just erected across the street from you house. You want to organize your neighbors to complain and have it removed. The company that owns the billboard, however, argues that its “free speech” rights should allow it to advertise whatever and however it likes. The company says that if you take down the billboard, you are abridging its First Amendment rights. Who is right? If you demand to have a billboard removed, does that make you a censor?