



EDUCATOR'S COLUMN

Red Lion Becoming Endangered Species?

By Nancy Stillwell, Lead Instructor, Madison Media Institute

Ever since the Supreme Court's 1969 decision in *Red Lion Broadcasting v. FCC*, radio and television have had fewer First Amendment protections than other media outlets. In the past few years, many First Amendment lawyers have been saying that landmark case could be overturned and broadcasters could obtain rights near or equal to those of newspapers and magazines. I suggest that case just happened.

The recent Supreme Court decision *Citizens United v. FEC*, which struck down a campaign-finance reform law, opens the door to eliminate Red Lion. The court ruled that the government may not ban political spending by corporations to engage in public debate of political issues. What this says to me is that free speech is free speech regardless of the speaker.

Until now, Supreme Court precedent has consistently affirmed that the government can impose conditions on broadcast licensees pursuant to the goal of serving the public interest. But in the *Citizens United* case, the majority justices said the government restrictions interfered with the open marketplace of ideas rather than protected it. Justice Anthony Kennedy wrote, "By suppressing the speech of manifold corporations, both for-profit and non-profit, the government prevents their voices and viewpoints from reaching the public." His statement is clearly at odds with *Red Lion Broadcasting v. FCC's* assertion 41 years ago that differences in the characteristics of news media justify differences in the First Amendment standards applied to them.

The Supreme Court has long applied varying standards to airwaves and print. Perhaps soon we will see the end of this and, with any luck, a consistent First Amendment for the digital age.