area, the Court reaffirmed that Congress may regulate in ways that would be impermissible in other contexts, but indicated that broadcasters are entitled to greater protection than may have been suggested by *Red Lion*. "[A]lthough the broadcasting industry plainly operates under restraints not imposed upon other media, the thrust of these restrictions has generally been to secure the public's First Amendment interest in receiving a balanced presentation of views on diverse matters of public concern. . . . [T]hese restrictions have been upheld only when we were satisfied that the restriction is narrowly tailored to further a substantial governmental interest." [1120] However, the earlier cases were distinguished. "[I]n sharp contrast to the restrictions upheld in *Red Lion* or in [*CBS v. FCC*], which left room for editorial discretion and simply required broadcast editors to grant others access to the microphone, § 399 directly prohibits the broadcaster from speaking out on public issues even in a balanced and fair manner." [1121] The ban on all editorializing was deemed too severe and restrictive a means of accomplishing the governmental purposes—protecting public broadcasting stations from being coerced, through threat or fear of withdrawal of public funding, into becoming "vehicles for governmental propagandizing," and also keeping the stations "from becoming convenient targets for capture by private interest groups wishing to express their own partisan viewpoints." [1122] Expression of editorial opinion was described as a "form of speech . . . that lies at the heart of First Amendment protection," [1123] and the ban was said to be "defined solely on the basis of . . . content," the assumption being that editorial speech is speech directed at "controversial issues of public importance." [1124] Moreover, the ban on editorializing was both overinclusive, applying to commentary on local issues of no likely interest to Congress, and underinclusive, not applying at all to expression of controversial opinion in the context of regular programming. Therefore, the Court concluded, the restriction was not narrowly enough tailored to fulfill the government's purposes.

Sustaining FCC discipline of a broadcaster who aired a record containing a series of repeated "barnyard" words, considered "indecent" but not obscene, the Court posited a new theory to explain why the broadcast industry is less entitled to full constitutional pro-

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[1120] 468 U.S. at 380. The Court rejected the suggestion that only a "compelling" rather than "substantial" governmental interest can justify restrictions.

[1121] 468 U.S. at 385.

[1122] 468 U.S. at 384–85. Dissenting Justice Stevens thought that the ban on editorializing served an important purpose of "maintaining government neutrality in the free marketplace of ideas." Id. at 409.

[1123] 468 U.S. at 381.

[1124] 468 U.S. at 383.