

Regulating Aesthetics in the Coastal Zone: The Case for Floating Billboards

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Advertising is a multi-billion dollar industry, and billboards account for a significant part of that revenue. In our society, billboards clutter up our downtowns and are placed as near to major roadways as is legal. As of recently, we are seeing a new form of the billboard, and it's not looming near a highway, it is gliding effortlessly across our oceans; it is the floating billboards. General feelings of ill-will from the public have recently brought into question the regulatory abilities of either state or federal government to regulate these floating billboards. This presentation addresses possible regulatory considerations for floating billboards. When considering the regulation of floating billboards, we first look at the billboard as an act of speech and the special protections given, to various degrees, to both commercial and noncommercial speech. Next we mire through the vague, tenuous, though already established realm of billboard regulation on land. Though it is questionable as to whether or not the Supreme Court opinions established in *Metromedia Inc. v. City of San Diego* (1981) leave us with any guidelines. While this is largely an unexplored regulatory regime, we look at arguments under the Public Trust Doctrine and the Coastal Zone Management Act offered by McCarthy and Nixon in their paper "Floating Billboards: Can Advertising in the Coastal Zone Be Regulated?" (2002). Ultimately rejecting those arguments we finally consider (1) that the government has a vested right in navigation and ensuring navigational safety and (2) amending the definition of "structure" in terms of advertising so that the billboard is not considered an extension of the vessel, but rather the vessel is considered an extension of the billboard.