

In his path-breaking 1977 article, *Advertising and Free Speech*, Ronald Coase challenged the conventional wisdom in an important area of First Amendment law. What especially interested Coase was the sharp divergence between the profound commitment to the free market in the realm of speech and the lack of confidence in the free market in the realm of goods and services. Invoking Justice Holmes's claim that "the best test of truth is the power of the thought to get itself accepted in the competition of the market," Coase noted that First Amendment doctrine is largely premised on "an extreme faith in the efficiency of competitive markets and a profound distrust of government regulation." But in the realm of "goods and services," the same "intellectual community" that celebrates the marketplace of ideas demands ever-more extensive government regulation. Coase suggested that this disparity "calls for an explanation," but lamented that such an explanation "is not easy to find."

In the market for ideas, he noted, people "are assumed to be able to choose appropriately between what they are offered without serious difficulty," but in the market for goods and services, "it is deemed necessary to regulate producers with regard to what they tell consumers . . . lest consumers make the wrong choices." Even more remarkable, Coase observed, "is the difference in the view held about the government and its competence and motivation." In dealing with the marketplace for ideas, the government is assumed to be "inefficient and wrongly motivated." Advocates of a robust First Amendment fear that, left to its own devices, the government "would suppress ideas that should be put into circulation." But in the marketplace for goods and services, those same individuals insist that the government is "competent in action and pure in motivation." Coase then expressed puzzlement how the government could be "regarded as incompetent and untrustworthy in the one market and efficient and reliable in the other."

Perhaps, Coase speculated, the realm of ideas is more important to people than the realm of commodities. If that were so, then individuals might plausibly demand greater freedom from regulation in the realm of ideas. But, quoting Aaron Director, Coase rejected this distinction, noting that for most people freedom of choice on matters of consumption, production and employment "is fully as important as freedom of discussion." Moreover, if the marketplace for ideas is in fact more important to people than the marketplace for goods and services, and the assumptions about government regulation in the economic marketplace are correct, then it would logically follow that we would want more rather than less regulation of the marketplace for ideas. In sum, Coase concluded, the then-prevailing "attitude toward the market for goods and the market for ideas is a mass of contradictions."

In the remainder of his article, Coase argued, among other things, that these two markets are more similar than defenders of the two-market approach recognized, that the basic premises of the First Amendment model should therefore be embraced more fully in the economic context, and more specifically that the Supreme Court should abandon the then-prevailing First Amendment doctrine that commercial advertising is not protected by the First Amendment. In this essay, I will comment on Coase's arguments, with particular attention to his views about commercial speech.