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## <i>FCC v. Fox Television Stations</i>: Supreme Court Upholds an Agency's Right to Change Course

**Date:** 05/12/09

On April 28, 2009, the U.S. Supreme Court issued a 5-4 decision in *FCC v. Fox Television Stations, Inc.*, holding that the Federal Communications Commission's (FCC) policy shift banning "fleeting" expletives in broadcasts was not arbitrary or capricious, and was thus acceptable under the Administrative Procedure Act ("APA"). In doing so, the Supreme Court declined to address the underlying First Amendment issue, citing the absence of a lower court opinion. The case was remanded to the Second Circuit for further proceedings.

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### Attorney

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