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First Amendment: *City of Cincinnati v. Discovery Network, Inc.*, No. 91-1200, 1993 U.S. LEXIS (U.S. Mar. 24, 1993)

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native avenues of expression. This is a constitutional question which by definition is a "fair ground for litigation" that presents serious questions of law. Therefore, the district court's grant of a preliminary injunction is affirmed, and Adult Businesses is awarded attorney fees. *Affirmed.*

L.A.

## FIRST AMENDMENT

CITY OF CINCINNATI V. DISCOVERY NETWORK, INC., No. 91-1200,  
1993 U.S. LEXIS (U.S. Mar. 24, 1993).

*City of Cincinnati, defendant, appeals a 6th Circuit Court of Appeals decision that its city ordinance prohibiting the distribution of "commercial handbills" in freestanding newsracks on public property, violated the First Amendment under the "reasonable fit" standard applied to the regulation of commercial speech. Plaintiff, Discovery Network, Inc., had received authorization from the City of Cincinnati to place freestanding newsracks on public property to distribute free magazines advertising its adult educational, recreational, and social programs. One year later the city revoked its permit arguing that the newsracks created unsafe areas and visual blight. The city supported their selective ban on commercial publications (not "regular" newspapers) by arguing that since the Constitution accords a lesser protection to commercial speech than to other constitutionally guaranteed expression, its preferential treatment of newspapers over commercial publications was a permissible method of serving its legitimate interest in ensuring safe streets and regulating visual blight.*

*Held:* The Court held that the City of Cincinnati's ordinance violated the First Amendment because the ordinance was not a permissible regulation of commercial speech. The city's interests are unrelated to any distinction between commercial handbills and newspapers. The city had not met its burden of establishing a "reasonable fit" between its legitimate interests in safety and aesthetics and the means it chose to serve those interests. Both commercial and non-commercial publications are equally responsible for the city's concern over safety and visual blight, yet only commercial publications were prohibited. Also, it is not a valid time, place or manner restriction on protected speech since it is not content neutral. *Affirmed.*

L.A.