NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

UNITED STATES ET AL. *v.* EDGE BROADCASTING CO., T/A POWER 94

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

No. 92–486. Argued April 21, 1993—Decided June 25, 1993

Congress has enacted federal lottery legislation to assist States in their efforts to control this form of gambling. Among other things, the scheme generally prohibits the broadcast of any lottery advertisements, 18 U. S. C. §1304, but allows broadcasters to advertise state-run lotteries on stations licensed to a State which conducts such lotteries, §1307. This exemption was enacted to accommodate the operation of legally authorized state-run lotteries consistent with continued federal protection to nonlottery States' policies. North Carolina is a nonlottery State, while Virginia sponsors a lottery. Respondent broadcaster (Edge) owns and operates a radio station licensed by the Federal Communications Commission to serve a North Carolina community, and it broadcasts from near the Virginia-North Carolina border. Over 90% of its listeners are in Virginia, but the remaining listeners live in nine North Carolina counties. Wishing to broadcast Virginia lottery advertisements, Edge filed this action, alleging that, as applied to it, the restriction violated the First Amendment and the Equal Protection Clause. The District Court assessed the restriction under the four-factor test for commercial speech set forth in *Central Hudson Gas & Electric Corp.* v. *Public Service Comm'n of New York,* 447 U. S. 557, 566—(1) whether the speech concerns lawful activity and is not misleading and (2) whether the asserted governmental interest is substantial; and if so, (3) whether the regulation directly advances the asserted interest and (4) whether it is not more extensive than is necessary to serve the interest—concluding that the statutes, as applied to Edge, did not directly advance the asserted governmental interest. The Court of Appeals affirmed.

Held: The judgment is reversed.

956 F. 2d 263, reversed.

JUSTICE WHITE delivered the opinion of the Court as to all but

Part III–D, concluding that the statutes regulate commercial speech in a manner that does not violate the First Amendment. Pp. 6–15; 16.

(a) Since the statutes are constitutional under *Central Hudson,* this Court will not consider the Government's argument that the Court need not proceed with a *Central Hudson* analysis because gambling implicates no constitutionally protected right and the greater power to prohibit it necessarily includes the lesser power to ban its advertisement. This Court assumes that *Central Hudson*'s first factor is met. As to the second factor, the Government has a substantial interest in supporting the policy of nonlottery States and not interfering in the policy of lottery States. Pp. 6–8.

(b) The question raised by the third *Central Hudson* factor cannot be answered by limiting the inquiry to whether the governmental interest is directly advanced as applied to a single entity, for even if it were not, there would remain the matter of a regulation's general application to others. Thus, the statutes' validity as applied to Edge, although relevant, is properly addressed under the fourth factor. The statutes directly advance the governmental interest at stake as required by the third factor. Rather than favoring lottery or nonlottery States, Congress chose to support nonlottery States' antigambling policy without unduly interfering with the policy of lottery States. Although Congress surely knew that stations in one State could be heard in another, it made a commonsense judgment that each North Carolina station would have an audience in that State, even if its signal reached elsewhere, and that enforcing the restriction would insulate each station's listeners from lottery advertising and advance the governmental purpose in supporting North Carolina's gambling laws. Pp. 8–9.

(c) Under the fourth *Central Hudson* factor, the statutes are valid as applied to Edge. The validity of commercial speech restrictions should be judged by standards no more stringent than those applied to expressive conduct entitled to full First Amendment protection or to relevant time, place, or manner restrictions, *Board of Trustees of State Univ. of New York* v. *Fox,* 492 U. S. 469, 477–478; the fit between the restriction and the government interest need only be reasonable, *id.,* at 480. Here, the fit is reasonable. Allowing Edge to carry the lottery advertisements to North Carolina counties would be in derogation of the federal interest in supporting the State's antilottery laws and would permit Virginia's lottery laws to dictate what stations in a neighboring State may air. The restriction's validity is judged by the relation it bears to the general problem of accommodating both lottery and nonlottery States, not by the extent to which it furthers the Government's interest in an individual case. *Ward* v. *Rock Against Racism,* 491 U. S. 781, 801. Nothing in *Edenfield* v. *Fane,* 507 U. S. ___,

suggested that an individual could challenge a commercial speech regulation as applied only to himself or his own acts. Pp. 9–12.

Syllabus

(d) The courts below also erred in holding that the restriction as applied to Edge was ineffective and gave only remote support to the Government's interest. The exclusion of gambling invitations from an estimated 11% of the radio listening time in the nine-county area could hardly be called ``ineffective,'' ``remote,'' or ``conditional.'' See *Central Hudson, supra,* at 564, 569. Nor could it be called only ``limited incremental support,'' *Bolger* v. *Youngs Drug Products Corp.,* 463 U. S. 60, 73, for the Goverment interest, or thought to furnish only speculative or marginal support. The restriction is not made ineffective by the fact that Virginia radio and television stations with lottery advertising can be heard in North Carolina. Many residents of the nine-county area will still be exposed to very few or no such advertisments. Moreover, the Government may be said to advance its purpose by substantially reducing lottery advertising, even where it is not wholly eradicated. Pp. 12–15.

WHITE, J., delivered the opinion of the Court with respect to Parts I, II, and IV, in which REHNQUIST, C. J., and O'CONNOR, SCALIA, KENNEDY, SOUTER, and THOMAS, JJ., joined, the opinion of the Court with respect to Parts III–A and III–B, in which REHNQUIST, C. J., and O'CONNOR, SCALIA, and THOMAS, JJ., joined, the opinion of the Court with respect to Part III–C, in which REHNQUIST, C. J., and KENNEDY, SOUTER, and THOMAS, JJ., joined, and an opinion with respect to Part III–D, in which REHNQUIST, C. J., and SCALIA and THOMAS, JJ., joined. SOUTER, J., filed an opinion concurring in part, in which KENNEDY, J., joined. STEVENS, J., filed a dissenting opinion, in which BLACKMUN, J., joined.