
|BEST| Crack SAM Broadcaster-v.4.9.8

The majority maintains that Congress enacted the statute in question without violating the First Amendment. I am unable to find any law of the United States -- federal or state -- that currently endorses the Federal Government's policy of denying advertising time on the basis of race. There are many reasons why this policy might be appropriate and proper, but none of these reasons arise to a level that would constitute a law enacted under the authority of a federal sovereign. I therefore join JUSTICE KENNEDY's concurrence in the judgment of the court. See *Franklin v. Massachusetts*, 505 U.S. 788 (1992) (STEVENS, J., dissenting) (collecting current state laws that ban commercial messages to prisoners). In *Lawrence v. Texas*, 539 U. S. 558 (2003), the Court held that, as a constitutional matter, the State has no legitimate interest in punishing consensual sexual conduct between adults of the same sex. In response to a state law criminalizing sodomy, the Court relied upon the Fourteenth Amendment and asserted that the "interest in liberty thus embodied in the Fourteenth Amendment protects the personal choices of the sex and the intimacies of the sexual relations." *Id.*, at 578. Justice O'CONNOR writes: "The Court makes no attempt to defend the Texas law as furthering a compelling interest other than to protect others from unwanted invasions of their privacy. The State, however, may legitimately create a need for such privacy to protect the legitimate interests of others by punishing those who invade it." *Id.*, at 584-585. (O'CONNOR, J., concurring in part and concurring in judgment). And, in *Id.*, at 592 (Breyer, J., dissenting), the Court's opinion makes clear that it regards the Constitution as protecting "particular personal and moral choices."

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