



## Content Neutrality in Post-Reed v. Gilbert Era

Julian Grant  
Senior Legal Editor  
Thomson Reuters Practical Law  
Government Practice Service

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### *Reed v. Town of Gilbert*

- 135 S.Ct. 2218 (2015)
- A case about signs
- But really about speech
- Decision has been applied to other types of speech regulations
  - But with mixed results
  - Will continue to evolve

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## Reed v. Town of Gilbert – the ordinance

- Different rules for different types of temporary signs
- Size/location/duration requirements differed for:
  - Ideological signs
  - Political signs
  - Temporary directional signs
  - 20 other categories



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## Reed v. Town of Gilbert – what it changed

- Supreme Court adopted a new way for determining whether speech regs are:
  - Content neutral
  - Content based

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## Reed v. Town of Gilbert – the holding

- Content based includes restrictions aimed at:
  - Viewpoints
  - Topics
- Town's distinctions were content based, even if:
  - Intent was innocuous
  - They didn't target viewpoints
- Now, if you had to read sign, content based

## Content neutral vs. content based

### • *Content neutral:*

- Gets **intermediate** scrutiny
- Requires **significant** government interest

### • *Content based:*

- Gets **strict** scrutiny
- Requires **compelling** government interest
- With a few exceptions

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"Signs and Other Forms of Expression: Content Neutrality in the Post-Reed Era"