

# **UNDERSTANDING BROADCASTING**

**EUGENE S. FOSTER**

- 1913 Armstrong invented regenerative “feed back” circuit.
- 1915 Sarnoff wrote “radio music box” memo.  
Marconi visited GE to see Alexanderson alternator.
- 1917 Alexanderson’s new alternator promised to revolutionize radio.
- 1919 RCA formed and bought out American Marconi.
- 1920 Frank Conrad’s radio concerts popular in Pittsburgh, Pa.  
Westinghouse started station KDKA.
- 1921 Secretary of Commerce Hoover assigned frequency for broadcasting.
- 1922 First commercial aired on WEAJ, New York City.  
Hoover convened first Annual Radio Conference.
- 1923 First regular network between New York City and Boston.  
Intercity case eroded Hoover’s regulatory authority.
- 1924 AT&T network carried “Eveready Hour.”
- 1926 *Zenith* case ended effective regulation under Law of 1912.  
RCA formed subsidiary NBC to operate Red and Blue networks.
- 1927 Congress enacted the Radio Act of 1927.  
Parliament approved British Broadcasting Corporation.
- 1928 William S. Paley bought CBS and became president.  
Vladimir Zworykin perfected the iconoscope tube.
- 1932 Use of radio helped Franklin D. Roosevelt win presidential election.
- 1933 Roosevelt broadcast first fireside chats.  
Biltmore agreement signaled end of press-radio war.
- 1934 Congress enacted the Communications Act of 1934.  
Four stations started the cooperative Mutual network.
- 1935 Edwin Armstrong demonstrated FM.  
FCC recommended no educational radio reservations.
- 1936 BBC started television service.
- 1938 “War of the Worlds” broadcast on CBS.  
Edward R. Murrow started building CBS European news staff.
- 1939 RCA demonstrated television at New York World’s Fair.
- 1940 *Sanders Brothers* case ruled out economic injury.
- 1941 FM stations started commercial broadcasting.  
FCC authorized commercial television.  
FCC passed Chain Regulations limiting network power.  
In *Mayflower* case FCC forbade editorializing.
- 1942 United States started Voice of America.
- 1943 Supreme Court upheld the Chain Regulations.
- 1945 RCA demonstrated image-orthicon tube.  
FCC moved FM upstairs and reserved frequencies for education.

- 1946 FCC issued the Blue Book.  
CBS petitioned FCC to approve color television.
- 1947 FCC denied CBS color television petition.
- 1948 “Stop the Music” dominated ratings on ABC.  
CBS conducted talent raid on NBC.  
FCC deleted Channel 1 from telecasting.  
FCC imposed Television Freeze.
- 1949 Sylvester “Pat” Weaver chosen to head NBC television.  
FCC issued original Fairness Doctrine in revised *Mayflower*.
- 1950 FCC approved CBS system of color.  
NBC-TV started Saturday Night Review.  
Educators formed JCET and hired Telford Taylor as counsel.  
CATV born in Lansford, Pa.
- 1951 Supreme Court upheld FCC color award to CBS.  
ABC and United Paramount Theaters agreed to merge.  
Renewal of WBAL marked end of the Blue Book.  
CBS color halted by Korean wartime shortages.  
NTSC offered to develop new color system with pooled patents.
- 1952 FCC ended the TV Freeze and gave assignments to educators.
- 1953 FCC approved NTSC system of color television.  
First ETV stations came on the air.  
Ford Foundation funded NET as a program source for ETV.  
Congress approved the United States Information Agency.
- 1954 FCC changed multiple-ownership rules to help UHF.  
Edward R. Murrow attacked Senator McCarthy in “See It Now.”  
NBC evicted the Voice of Firestone.  
ABC presented first Walt Disney program.  
British Parliament formed Independent Television Authority.
- 1955 NBC bought UHF station in Buffalo, N.Y.  
FCC announced deintermixture proposals.  
CBS achieved parity with NBC in television ratings.
- 1956 Ampex demonstrated videotape recorder.  
Stations petitioned FCC to regulate CATV.  
ODM denied FCC request for more VHF channels.
- 1957 FCC awarded Channel 5 in Boston to Herald Traveler.
- 1958 FCC refused to assert jurisdiction over CATV.  
*Carroll* case decision on economic injury and service to public.
- 1959 Quiz scandals over rigged television programs.  
Payola scandals over payments to disc jockeys.  
*WDAY* case said station not liable for political speech.  
Congress amended Section 315 to exempt news.  
NET bicycle network started circulating programs on videotape.  
FCC asked Congress for authority to regulate cable.

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OF THE CITY UNIVERSITY  
OF NEW YORK



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**To Esther, without whose encouragement and assistance this book  
would not have been completed.**

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# PREFACE

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The decision to write this book was made in June 1974 during a telephone call from the National Broadcasting Company. Ms. Judy Friedman, NBC librarian, explained that due to a shortage of shelf space, a complete set of *Broadcasting* from Volume I, Issue 1 in 1931 had been transferred to microfilm and offered the author the originals. During nearly thirty years of teaching broadcasting at Syracuse University and Brooklyn College he had assigned *Broadcasting* both as a text and as supplementary reading. The NBC offer constituted an unparalleled opportunity to house in his office the most extensive collection of reports available on day-to-day events in the field over more than forty years. With this resource to check dates and factual information, supplemented by many other sources and years of study in the field, a long-delayed effort to write a text was under way.

*Understanding Broadcasting* was designed as a text for a one-semester beginning course in broadcasting. Its purposes are:

1. To describe American broadcasting as it currently exists with emphasis on interrelationships among its structural elements.
2. To examine the processes by which current principles and practices evolved so there can be a better understanding of the present and an intelligent anticipation of events which might occur in the future.
3. To serve as a basis for evaluation and criticism of broadcasting in our society.

It is assumed that the great majority of Americans have an intimate relationship with radio and television. Some are participants in the broadcasting industry; most are consumers; and a few are or may become advocates for the interests of parents, minority groups, and others seeking improvement in broadcasting through public criticism and pressure brought to bear on the leaders of broadcasting and government. Perhaps the most common characteristic (one which applies to many participants in the industry as well as the general public) is a failure to understand fully how the various elements of the media operate and interrelate and to appreciate sufficiently the points of view of others. Until such understanding and appreciation are gained, participants will find it more difficult to achieve success in the field and advocates of change will find it impossible to engage in the kind of meaningful dialogue which can result in constructive changes.

This book has been written and organized to provide this understanding and to prepare you for meaningful analysis and dialogue. As such, it attempts to combine factual and theoretical essentials with pedagogical soundness.

**Topical/  
Conceptual  
Integration**

The organization of the text provides an integration of concepts and topics within an historical, practical, and descriptive framework. Most instructors hope that by the end of the course, students will have a grasp of concepts like “the public interest,” “freedom of speech,” and “the role of broadcasting in our society.” It has been observed that most beginning students more easily comprehend and learn how to apply such concepts if they are treated as they naturally arise in the discussion of different specific topics. For example, the concept of freedom of speech is first discussed in the Prologue as one of the national priorities which shaped the media. It is then related to Secretary Hoover’s regulatory philosophy in the early 1920s on which the Radio Act of 1927 was based. It is still a key issue in the FCC’s regulatory problems in radio. The concept also is discussed in the chapter on Section 315 and the Fairness Doctrine, which highlights the conflict between the literalist and functionalist approaches to free speech. The functionalist right of the public to hear is a key point in the controversy over the Commission’s antisiphoning rules on pay cable. When discussing the systems of broadcasting around the world, the differences are related to the concept of what various governments wish their people to see and hear. In the Epilogue the need to accommodate conflicting interpretations of freedom of speech is considered critical to the improvement of the media.

## Historical Perspective

Closely tied to the framework of a topical/conceptual integration is the historical perspective that looks at the interrelatedness of developments, issues, and concepts within society and broadcasting. This perspective helps students understand how broadcasting arrived at its present philosophy, complexity, and methods of operation. The book attempts, therefore, to place the institution, concept, or situation in its historical framework and then to weave its development throughout the book. Economics, politics, social trends and structures, technological developments, personalities and tastes—all have contributed to the growth of the industry and to the processes in which broadcasters, regulators, and the public seek solutions to problems.

## Descriptive Approach

This approach seeks to enable students first to understand the history, development, and current operations of broadcasting in order to understand the issues and controversies surrounding the field. Such an approach follows not only the historical trends of a developing industry but the critical issues of a maturing industry. Certainly there is room for controversy and criticism. If the criticism is to be constructive, it must be based on a solid knowledge of what is being criticized. Hence, the priority is on description with the expectation that students will subsequently see for themselves the criticisms which are most important to them and that they will have acquired the significant grounds on which to base their arguments.

To assist the student in mastering the material in this text, the author has included a number of special features.

1. At the beginning of each chapter is a one-paragraph *preview* of the material to be covered in the following pages. It will alert the reader to certain key points which are critical to understanding.

2. For those chapters where the historical approach is most obvious, there are *chronologs* listing key events which occurred in given years. They will be helpful in summarizing the sequence of changes.

3. At the end of most chapters is a list of words and phrases which are defined in the *glossary* following the body of the text. As students encounter a word or phrase for the first time, they will find it helpful to look it up in the glossary to be sure they know precisely what it means.

4. To personalize the development of broadcasting there are *biographical sketches* of eight persons who were singularly important to some aspect of the media.

5. Because broadcasters are inclined to refer to various concepts and groups by initials and rarely use the full names, the text includes an *index of initials* which are frequently used.

6. *Marginal notes* identify important concepts and topics and can be used for previewing and reviewing a section or chapter.

So many have contributed to the preparation of this book that it is not possible to list all who gave of their time to share their experiences, knowledge, and points of view. Many were former students or guest professors in graduate seminars. The number who contributed to background understanding over the years is beyond calculation. Suffice it to say that the writer realizes how dependent he has been on numerous visits and phone calls to people in the field. He is also indebted to the reviewers listed earlier whose comments were most helpful. One who must be especially cited is Dr. Frank Kahn of Herbert H. Lehman College of the City University of New York. His criticism of the work at various stages and his provision of materials and understanding have been invaluable.

*Brooklyn, New York*  
*September 1977*

E.S.F.

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# CONTENTS

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## 1

### PROLOGUE 1

#### 1.1 “Seeing” vs. “Understanding” Broadcasting 3

#### 1.2 The National Context of American Broadcasting 6

The Free Enterprise System. The Need to Ration Scarce Resources. The Commitment to Freedom of Speech. The Use of Compromise to Resolve Differences.

#### 1.3 Aids to Understanding Broadcasting 12

Seeing Historical Evolution. Finding Interrelationships. Coping with the Tendency to Exaggerate.

#### 1.4 The Steps in Understanding Broadcasting 14

## 2

### BASIC TECHNICAL INFORMATION 15

#### 2.1 Waves and the Radio Spectrum 16

Designation of Waves by Length and Frequency. Divisions of the Radio Spectrum. Broadcasting’s Channels and Modulation of Carrier Waves. Ground, Sky, and Direct Waves.

#### 2.2 Use of Energy Patterns 21

Transportation of Programs from Studio to Home. Recording of Programs.

- 2.3 Types of Broadcasting 26**  
 AM Radio. Short-Wave Radio. FM Radio and Multiplexing.  
 Television Broadcasting—Creating the Program.
- 2.4 Distribution of Television Programs 33**  
 Co-Axial Cable. Microwave Relays. Fiber Optics. Satellites.  
 Closed-Circuit Television.



**HISTORICAL PERSPECTIVES I 1890–1945 with Emphasis on Radio 40**

- 3.1 1890–1920 Point-to-Point Radio 41**  
 Marconi's Discoveries. Sinking of the *Titanic*. Formation of RCA.  
 Development of Radiotelephony.
- 3.2 1920–1927 Beginnings of Radiobroadcasting 50**  
 Frank Conrad and Station KDKA. Regulation by Herbert Hoover.  
 A Period of "Firsts." The Start of Radio Advertising. End of  
 Effective Regulation Under the Act of 1912.
- 3.3 1927–1937 Radio's Adolescence 55**  
 Development of Networks. Advertising. News and Programming.  
 Regulating the Traffic.
- 3.4 1937–1945 Radio's Maturity 64**  
 Radio and World War II. Radio as an Art Form. Regulatory  
 Activism. The Birth and Trials of Frequency Modulation.
- 3.5 Looking Ahead 69**



**HISTORICAL PERSPECTIVES II 1945–1976 with Emphasis on Radio 72**

- 4.1 1945–1960 Changing Patterns 74**  
 In AM Radio and Dollar Flow. In Commercial FM. In Program  
 Patterns (the Beginnings of Format Radio). In Listening. "Payola."  
 Increased Attractiveness of Independent (Nonnetwork) Operations.
- 4.2 1960–1970 Steady Growth and the Successful Emergence of FM 86**  
 Increased Emphasis on Formats. Growth of FM.
- 4.3 1970–1976 Dominance of Format Programming 89**  
 Waiting for the FM Breakthrough. Dominant Formats. Format  
 Stations and Advertisers. Radio Networks Adjust. Syndicated Radio  
 Scheduling. Regulation of Formats. Questions about Indecency.

# 5

## **HISTORICAL PERSPECTIVES III 1920–1976 with Emphasis on Television 102**

### **5.1 1920–1945 Experimental Beginnings and Wartime Hiatus 103**

Shift from Mechanical to Electronic TV. RCA Demonstrations at 1939 World's Fair. FCC Approval of TV Broadcasting. Lack of Growth in World War II.

### **5.2 1945–1952 Slow Growth and the Freeze 103**

Color Confusion. Start of the Freeze in 1948. Four Problems to Be Solved: (1) Utilization of the UHF, (2) City-by-City Channel Assignments, (3) Selection of a Color System, (4) Educational Reservations. End of the Freeze in 1952.

### **5.3 1952–1960 Television's Adolescence 114**

Blacklisting and the Murrow-McCarthy Confrontation. Color TV. The UHF Problem (Changing the Multiple-Ownership Rules, Deintermixture). CATV. Pay TV. Educational TV. Emergence of Regulatory Issues. The "Quiz Scandals."

### **5.4 1960–1970 Television's Maturity 126**

The UHF "Solution." The Color Breakthrough. Educational TV. Pay TV. Regulatory Confusion in CATV, Fairness Doctrine, and License Renewal.

### **5.5 1970–1976 Changes in Direction and Emphasis 131**

Continued Growth in Financial Prospects. New Phases of Cable and Public Television. Confrontations with the Nixon Administration and Concerned Mothers.

# 6

## **THE FEDERAL COMMUNICATIONS COMMISSION AND THE REGULATORY PROCESS 141**

### **6.1 A Diagrammatic Overview 142**

### **6.2 The End of Early Regulation 143**

### **6.3 Highlights of the Communications Act 144**

### **6.4 FCC Implementation of the Communications Act 149**

Issuing and Renewing Licenses. Formulating and Enforcing Rules. Issuing Policy Statements. Regulation by Negotiation. A Final Complication.

### **6.5 Congressional Participation in the Regulatory Process 154**

Amending the Communications Act. Congressional Hearings.

### **6.6 Precedents Set by Earlier Commissions 157**

- 6.7 Potential Review by the Courts** 158
- 6.8 Outside Pressures on the FCC** 158  
By Other Governmental Agencies, the Public, and Regulated Agencies.
- 6.9 A Case in Point—License Renewal** 161  
The Status Quo in 1945. The “Blue Book.” The 1960 Programming Policy Statement. WHDH-TV. WLBT (TV). Summary of the Situation in 1969. The 1970 Renewal Policy Statement. Petitions to Deny Renewal. WMAL-TV. Limits on Licensee Concessions. The Alabama Educational Television Commission.
- 6.10 Another Attempt at Renewal Legislation** 177



## **THE STATION AND LOCAL ADVERTISING** 184

- 7.1 Definition of a Station** 185  
Licensee, Equipment, Staff, and Contracts with Outside Organizations.
- 7.2 Preliminary Station Analysis** 185  
Channel Number. Network Status. Size of Markets.
- 7.3 The Licensee** 189  
Individual vs. Company. Group Owners. Cross Ownership.
- 7.4 Television Station Equipment** 191
- 7.5 The Television Station Staff** 192  
Management. Engineering. Programming. News. Sales.
- 7.6 Local Advertising** 199  
Control of Rates. The Rate Card. Working with Advertising Agencies. Servicing the Account.
- 7.7 Station Contracts with Outside Organizations** 207
- 7.8 Unique Characteristics of Radio Stations** 208



## **THE NETWORK** 211

- 8.1 The Theory** 212  
The Advertiser’s and Group Owner’s Points of View. Network-Station Relations.
- 8.2 Criticism of the Networks** 218  
1941 Chain Regulations.
- 8.3 The Traditional Radio Networks** 222  
Agencies and the Programming Role.

- 8.4 1948–1955 Network Control of Programming 223**
- 8.5 Emergence of the Television Networks 226**  
 The Status in 1949. Dominance of NBC. Sponsorship vs. Participation Advertising. The Specials. ABC Merger with Paramount Theaters. CBS Gains Momentum. Program Evictions. Network Studies by FCC and Congress.
- 8.6 1955–1960 Growth of Program Packagers 239**  
 Problems of Producing and Selling Pilots. The “Step” Process.
- 8.7 FCC Attempts to Diversify Network Program Sources 244**  
 The 1970 Chain Regulations (Network Ownership of Packaged Programs. Domestic Syndication. The Prime Time Access Rule.)
- 8.8 Network Pricing Practices 245**  
 Programs to Commercial Minutes and Thirties.
- 8.9 Network-Affiliate Compensation 246**  
 The NBC Contracts. Barter Arrangements. Comparison of Traditional Radio and Modern Television Network Practices.



**NATIONAL SPOT ADVERTISING AND PROGRAM SYNDICATION 253**

- 9.1 Overview of National Advertising 254**  
 Campaign for Each Brand. Selecting the Advertising Agency. Setting the Budget. Dividing the Dollars Among the Media. The Television Campaign. Limitations of Network Advertising.
- 9.2 Television National Spot Advertising 259**  
 The Station Representative.
- 9.3 Radio National Spot Advertising 264**
- 9.4 Television Program Syndication 264**  
 Off-Network, Original. The Prime Access Rule. Barter.
- 9.5 Radio Syndication 273**



**RATINGS 274**

- 10.1 Basic Measurements 275**  
 Homes Using Television (HUT). Share of Audience. Rating.
- 10.2 Sampling 279**  
 Questions about Sample: Is the Sample Large Enough?—Nielsen Response, Sample Size a Compromise, the Broadcast Ratings Council (BRC). Is the Sample Representative? Nonsampling

Errors—Are the Data Accurate? Are the Data Correctly Interpreted? Importance of Consistency.

- 10.3 Measuring the Television Audiences** 287  
TV Network Ratings. TV Station Ratings.
- 10.4 Measuring the Radio Audiences** 291  
Radio Network Ratings. Radio Station Ratings.
- 10.5 How Advertisers Use Ratings** 292  
Cumulative Audience (CUME). Demographics. A Hypothetical Illustration.

## **11**

### **SECTION 315 AND THE FAIRNESS DOCTRINE** 301

- 11.1 Broadcasting and the Electoral Process** 302  
Section 315 and the Electoral Process. The “Equal Time” Law.
- 11.2 The Original Law, Key Amendments, and Interpretations** 303  
Broadcaster’s Discretion. Definition of Candidate. Definition of “Use.” Definition of “Equal Opportunity.” Prohibition of Censorship.
- 11.3 Continued Controversy about Section 315** 317
- 11.4 The Fairness Concept Leads to the Fairness Doctrine** 319  
The *Mayflower* Decision. *Mayflower* Revised. The Original Fairness Doctrine. Slow Growth of Editorializing.
- 11.5 Expansion of the Fairness Doctrine** 323  
The 1963 Advisory. Free Response to Paid Program. The 1964 Fairness Primer. The *Red Lion* and *RTNDA* Cases. Counter Commercials.
- 11.6 The 1970s Questions** 331  
Must Broadcasters Sell Time to Initiate Controversy? Must the Opposition Be Given Time to Respond to a Response? When do Commercials Violate the Fairness Doctrine? When Do Documentaries Violate the Fairness Doctrine?
- 11.7 The 1974 Fairness Doctrine Report** 339
- 11.8 The “Forgotten” Half of the Fairness Doctrine** 340

## **12**

### **CABLE TELEVISION** 345

- 12.1 Community Antenna Television (CATV)** 346  
CATV Becomes Cable. Lack of Early Regulation. The Regulatory Dilemma. Cable Optimism (Early 1960s).

- 12.2 Intermediate Regulation 352**  
 The *Carter Mountain* Case. Cable Regulations of 1965 and 1966. The *Southwestern* Case. The *Fortnightly* Case. The FCC Search for Accord (1968–1971).
- 12.3 The 1972 Cable Regulations as the Basis for Future Controversy 359**  
 Certificate of Compliance. Carriage of Local Signals. Importation. Origination. Pay Cable. Minimum Channel Capacity. Access Channels. Cross-Ownership. Effective Dates.
- 12.4 Disappointing Growth of Cable 364**  
 Easing of Cable Restrictions. The Pay Cable Controversy. The Copyright-Legislation Controversy.
- 12.5 What of the Future? 368**

## **13**

### **PUBLIC (EDUCATIONAL) BROADCASTING 372**

- 13.1 1920–1935 The Beginnings 373**
- 13.2 1935–1945 Educators on Commercial Stations 374**
- 13.3 1945–1950 Growth of Educational FM 375**
- 13.4 1950–1952 Assignments for Educational Television 375**
- 13.5 1952–1960 Laying the Groundwork 379**  
 Patterns of Ownership. The First Stations. National Educational Television.
- 13.6 1960–1970 Great Expectations 382**  
 An ETV Station for New York City. NET Programming Changes. Educational TV Facilities Act of 1962. Ford's Domestic Satellite Proposal. Carnegie Commission on ETV. Public Broadcasting Act of 1967. Children's Television Workshop.
- 13.7 1970–1976 Confrontations 388**  
 The "Great American Dream Machine." Whitehead's NAEB Speech. Budgeting by Congress. Changes in CPB Leadership. Control of the Interconnection.
- 13.8 The Station Program Cooperative 396**
- 13.9 Funding Sources for Programming on the Interconnection 396**
- 13.10 The Public Broadcasting Act of 1975 397**
- 13.11 National Public Radio 398**
- 13.12 Issues and Problems in Public Broadcasting 399**

What Is Public Television's Identity? Which Comes First—  
Programming or Dollars? Can Federal Dollars Be Separated from  
Politics? Who Will Provide Leadership for Public Television?

## **14**

### **AMERICA AND BROADCASTING AROUND THE WORLD 405**

#### **14.1 Systems of Broadcasting 406**

The Government-Owned-and-Operated System. The Government-Chartered Monopoly System in England. Combinations of Systems.

#### **14.2 International Radio 410**

The World War II Battle for People's Minds. International Radio by New Nations. The United States and International Broadcasting—USIA and USIS Operations, the Voice of America, USIA (Television), USIA (Radio in the American Sector), Radio Free Europe and Radio Liberty, American Forces Radio Television Services.

#### **14.3 The United States and Domestic Broadcasting in Foreign Countries 422**

The Department of State. The Agency for International Development.

## **15**

### **EPILOGUE: CONTROVERSY AND COMPROMISE 426**

#### **15.1 Broadcasting and Society 427**

#### **15.2 Entertainment vs. Purposive Broadcasting 428**

#### **15.3 Controversies about Broadcasting 429**

Television News. Broadcasting in Politics. Television Advertising. Entertainment Programming and Stereotypes. Violence on Television.

#### **15.4 Understanding People 439**

#### **15.5 Rights and Responsibilities 440**

Of Free Enterprise. Of Consumerism. Of Free Speech.

#### **15.6 The Need for Compromise 444**

#### **15.7 In Retrospect and in Prospect 445**

### **APPENDIX A**

#### **Excerpts of the Communications Act of 1934 as Originally Enacted 447**

<b>APPENDIX B</b>	
<b>Selected Amendments to the Communications Act of 1934</b>	452
<b>Glossary</b>	454
<b>Index of Initials</b>	466
<b>Bibliography</b>	469
<b>Index</b>	487

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# 1

## PROLOGUE

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### Preview

The goal of this book is to help the student “understand broadcasting” —what it is, how it works, and how it interacts with society. An important first step is realizing that broadcasting has evolved as part of society and that its structure and purposes are determined by such national priorities as:

1. the free enterprise system,
2. the need to ration scarce resources,
3. the commitment to free speech, and
4. the use of compromise to resolve differences.

It will help if the reader seeks the logic of the media today by seeing responses to problems and circumstances in various historical periods. Especially important are the interrelationships among the units of broadcasting. Finally, one must make allowance for the fact that in any controversy both sides tend to exaggerate and one must expect to find the truth between the extremes.

There were six men of Indostan  
To learning much inclined  
Who went to see the elephant  
(Though all of them were blind)  
That each by observation  
Might satisfy his mind.

As each of the six feels a portion of the elephant, he “sees” the animal is a wall, or a spear, or a snake, or a tree, or a fan or a rope. The fable concludes:

And so these men of Indostan  
Disputed loud and long  
Each in his own opinion  
Exceeding stiff and strong  
Though each was partly in the right  
And all were in the wrong.\*

John Godfrey Saxe, “The Blind Men and the Elephant”

In our sympathy for the blind men, it is easy to overlook the fact that the sighted, also, are greatly limited in comprehending what they encounter. When it comes to “understanding” the elephant as opposed to simply “seeing” it, there can be as much confusion among those with twenty-twenty vision as there was among the blind men.

Even the mahout who spends a lifetime in the teak forest with his Indian elephant is limited in “understanding.” He may know nothing about the prehistoric ancestor to his elephant and the characteristics which enabled it to survive while other species perished. He cannot visualize the intricate musculature of his animal and how it is applied to provide leverage to move not only his own bulk but also the load he is asked to carry. He probably knows little of the economic impact of elephant labor and does not understand the role the elephant plays in his country’s cultural heritage. In short, even the mahout (like the blind man) is limited in understanding his elephant despite his intensive experience with it.

There is a parallel between the blind men (or the mahout) and the elephant and the failure of many Americans to understand their most ubiquitous media of communication. All of us have “seen” television

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\* Verses one and eight, in *Poems*. Reprinted by permission of Houghton Mifflin Company.

and know enough about it for our particular interests, but few understand either its inner workings or how it has sought to solve its problems.

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## 1.1 “SEEING” VS. “UNDERSTANDING” BROADCASTING

For the average viewer, an evening with television is a rather uncomplicated experience. We know that when we turn on the set we can receive a number of stations which we identify by channel numbers and call letters, by the names of favorite programs, and, possibly, by the network with which each may be affiliated. We assume stations receive their revenues from advertisers. We are so accustomed to commercials that pauses “for this important message” seem normal to us and are a source of little or no irritation. We may know a great deal about the talent on the programs and we have expectations about the story lines we will see. Beyond that we have little interest in or information about American broadcasting. It is a very complex system which has many different facets, depending on your perspective. What you “see” when you consider broadcasting is related to where you stand in relation to it, and probably is only a part of the whole.

### **The Stockholders**

For the stockholders, broadcasting is an investment from which they hope to earn a high annual yield and an increase in the value of the stock for possible future sale. Some stockholders may be extremely wealthy while others may have invested part of their limited life savings in broadcasting because a broker or friend so advised. They may watch the ratings, since the fortunes of networks and stations reflect viewing popularity, but they know little about the details of government regulation which may have an important bearing on their stocks.

### **The Station Manager**

For the station manager, broadcasting is economics. Success is determined by the profit-and-loss statement furnished by the accountants. The manager is at the center of an intricate pattern of program purveyors, sales efforts, and personnel decisions as well as regulatory activities which each year seem to require more of his or her attention. The manager has little time to be critical of the program schedule and may fail to grasp the philosophical grounds on which the Federal Communications Commission (FCC) and the courts stand when insisting that the public has a stake in his business.

### **The Network Executive**

For the network executive, broadcasting is a chain of some 200 stations through which programs are circulated. The schedule is designed to

compete with the other networks for the attention of the audience and for advertising dollars. Tools of the trade are ratings figures and budgets showing above-the-line and below-the-line costs. The executive knows that most station managers are concerned with “ascertaining” in preparation for license renewal but has probably had no experience with it.

### **The Advertiser**

For the advertiser who pays the bills, broadcasting is a highly efficient medium for delivering sales messages into nearly every American home. It incorporates both sight and sound, an ideal combination for many products. It may be used as a primary advertising vehicle or as a supplement to advertising in print or direct mail. Television time may be purchased simultaneously on 200 network stations or it may be spread among 500 stations in a national spot campaign. The small retailer will often buy time on a single station to inform local residents about services and products offered for sale. Whether national or local, the advertiser is not concerned with and may not understand Section 315 or the Fairness Doctrine.

### **The Talent**

For the talent, broadcasting is an opportunity to receive good pay to perform for more people at one moment than traditional stage actors could have reached in a lifetime. They know it is a high-risk area where the supply is greater than the demand. For many it can be a long time between jobs, and they know the experience of waiting on tables or washing dishes to tide them over. In their search for successful auditions, they have little time to worry about the details of the network contract with affiliates.

### **The Program Syndicator**

For the program syndicator, broadcasting is 700 commercial stations throughout the country that need more programming than they can produce for themselves or want to obtain from networks and Hollywood movie companies. The program syndicator is constantly on the road dealing with station managers and program directors, wining and dining them and preparing brochures which, it is hoped, will be on the right desks at the moment program-purchasing decisions are made. Income is earned only as programs are sold, and the syndicator is unconcerned about the relationship between station managers and their congressional representatives.

### **The Time Salesperson**

For the time salesperson, broadcasting is a business where one seeks to sell in a profitable transaction bits of time available for commercials. The salesperson needs to be thoroughly conversant with ratings and

demographic data detailing the breakdown of the audience by age, sex, education, and other characteristics, but has no need to know or care about the science of electromagnetic propagation or the problems of the FCC in interpreting freedom of speech.

### **The News Reporter**

For the news reporter, broadcasting is our most important news medium because it is the source from which most people get most of their information about what is going on in the world. He or she brings to broadcasting a long heritage of press freedom and journalistic integrity. The news reporter knows well the intricacies of the complex organization whereby news comes into homes with incredible speed from all corners of the globe. It is no reflection on the news person that he or she knows little about the workings of syndicated programming (off-network, original, or barter) which may adjoin the news or the function of the station rep through whom the advertiser may be paying the reporter's salary.

### **The Federal Communications Commissioners**

For members of the FCC, broadcasting is a medium for which they have regulatory responsibility. It is a focal point of pressures applied by people seeking to influence the development of the medium. Commissioners are expected to be responsive to legitimate needs and demands of broadcasters, legislators, viewers, and representatives of those aggrieved by lack of programming or employment opportunities. Television is so ubiquitous and so controversial that there is no hope of pleasing everyone. Most members of the FCC have no occasion to become conversant with the efforts of the many who are involved in the sale of television time.

### **The Parents**

To some parents, television is the ideal "baby sitter" which makes it possible to work around the house without interference from the youngsters. To other parents, television is a monster which inculcates violence and exploits children with commercials against which they have no defenses. They little realize how low ratings for a single time segment can affect sales for a whole morning, afternoon, or evening.

### **The Minorities**

To members of ethnic and other minorities, broadcasting is a highly visible and discriminatory medium. Their goal is to get "a piece of the action" in better employment opportunities and programming addressed to their particular needs. It is of little importance to them that stations try to keep a healthy balance among local, network, and national spot business.

Ask any of those listed or others who have a more or less intimate association with television to explain the American system of broadcasting and its important interrelationships and we return to our opening analogy of the blind men and the elephant where “each is partly in the right and all are in the wrong.”

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## **1.2 THE NATIONAL CONTEXT OF AMERICAN BROADCASTING**

Broadcasting is “as American as apple pie.” Its financing is consistent with American economic principles, its regulation is an outgrowth of American political philosophy, and its programming is a reflection of American values and desires. American broadcasting has been shaped by four elements of American tradition:

1. the free enterprise economic system,
2. the need to ration scarce resources,
3. the commitment to freedom of speech and its implications, and
4. the use of compromise to resolve differences.

### **The Free Enterprise System**

It is the American tradition to depend on the private sector, motivated by free enterprise incentives (profits), for everything it is able to accomplish satisfactorily. We have turned to government only when private companies have proven inadequate to a given task. For example, at one time postal companies were private enterprises with each competing for business. As the nation grew, it was necessary to have a postal service which would reach every section and serve every community and hamlet. Since no private company had the resources for such expansion or the incentive to serve where it was unprofitable, the government had to take over. At one time, fire-fighting companies were also privately run. The spectacle of competing companies watching homes burn with no attempt to help owners who had not signed up for protection made it obvious we needed a better way to cope with fire hazards. We started our social security system when it became clear that Americans were unable through private insurance companies to provide adequately for their retirement needs.

It was natural in this country that broadcasting should develop in the free enterprise tradition and that stations which are licensed by the FCC should remain privately owned in the absence of a clear need to change the system. We have about 8,000 commercial stations—some

4,500 AM, 3,000 FM, and 750 TV—in the mid-1970s. All are privately owned by companies and individuals hoping to make a profit on their operations. Because there are needs which commercial stations cannot meet, we also have over a thousand noncommercial or public stations—800 FM and 250 TV.

The 8,000 commercial stations are the heart of the American system. Associated with them are networks, advertising agencies, station representatives, program packagers, and others. As one seeks to understand why certain principles and practices dominate the system, one should consider what is most likely to be profitable. This is most obvious in an analysis of the commercial program schedules. A characteristic of free enterprise is that each member tries to achieve maximum profit; this frequently means appealing to the largest number of potential customers. Airlines schedule the largest number of flights where most people want to travel. Stores stock the goods which most people will want to buy. Manufacturers produce the cars which will be in the greatest demand. It can be difficult to find plane schedules to places visited by few or to buy products desired only by a small minority.

Similarly, most television stations schedule the programs they think most people want to see and they subscribe to ratings organizations to learn what is most popular. Since the majority of Americans are fairly homogeneous in their entertainment tastes, this means the schedules of most stations and networks appear to be copies of each other. This is a source of concern to some critics. They feel that the networks have somehow achieved the power to dominate the stations and to control their schedules against their wishes. But networks exist and prosper only because some 600 of the most powerful stations have decided that a network affiliation is good business just as a dealer in any product might decide it would be profitable to become associated with one of the big manufacturers. This may appear paradoxical when it is shown that affiliated stations carry network programs for well over half of their schedules but receive less than ten percent of their income from their affiliation. However, it will also be clear that the affiliation is more profitable than being an “independent.”

As with the rest of our free enterprise economy, there are prohibitions against monopolistic practices which would take away the independence of the individual stations. By FCC rules no more than twenty-one stations (seven AM, seven FM, and seven TV) can be owned by a single licensee. In practice, most group owners have fewer than the maximum and each gives the managers of individual stations leeway to make decisions responding to local problems and conditions. In addi-

tion, the FCC requires each licensee to demonstrate familiarity with his or her community and relate the program schedule to the needs and interests of the local audiences. When it appeared from time to time that networks were in a contractual position to force their wills upon the affiliated stations, the FCC passed various regulations removing that power. The fact that the stations frequently continued the same practices on a voluntary basis is an indication that the free enterprise system with its emphasis on profits is the dominating factor in most broadcasting decisions.

Service to small groups in the population is provided by the free enterprise system at that point where the large number of suppliers makes it unprofitable for all to seek a fraction of the majority of people who form a homogeneous center of the population. For example, there were fewer than 1,000 radio stations in the late 1930s and early 1940s and the medium was subject to the same criticism leveled at television today—too little variety in programming. As the number of radio stations rose into the thousands and as viewing largely supplanted listening in the majority of homes, AM and FM broadcasters started specializing in programming for smaller segments of the audience. There is now programming (music, news, and dialogue) on the radio dial for almost everyone who seeks it. There seems to be little possibility that the number of television stations can increase to the degree seen in radio. Some who would like to see as much diversity in television look to cable with its potential of bringing twenty or forty or more channels into each home. They feel that after three or four channels are devoted to majority interests, the minorities will have a chance to see what they want. Whether or not they are correct will depend upon the workings of the free enterprise system and whether it is profitable to spend the money for programs which only a few will want to see.

### **The Need to Ration Scarce Resources**

So long as our natural resources appeared to be inexhaustible, private companies were free to exploit them without regulation. But when it became clear that a vital resource was or soon would be in short supply, the government assumed a degree of control over its use. For example, private individuals or companies have never been permitted to own or control vital and limited means of transportation. In each area of the country there are only a few rivers and streams, and it has been assumed that they belonged to the people. Even ownership of the land on both banks of a river at a given point did not give one the automatic right to build a dam which would interfere with navigation. When the government granted a franchise to operate a ferry across the river, there

were limitations with respect to the rates which might be charged and a requirement that it be a common carrier offering service to all without discrimination.

When the first legislation broadly regulating radio was passed in 1912, there was a realization that the airwaves were limited in extent and that their ownership should not pass to private individuals. The need for radio frequencies has surpassed the number available even as over the years knowledge and technology have expanded our capacity to use them. It was the limitation or scarcity of the airwaves which provided the underpinning for all radio (and television) regulation.

Since the start of modern radio regulation in 1927, broadcasters have complained because they were subject to more restrictions than were newspaper publishers. In response it was pointed out that there were many more daily papers than there were stations. After World War II, when the number of stations far exceeded the number of papers, broadcasters claimed that the scarcity-of-the-airwaves argument was no longer tenable. Nevertheless, according to the FCC, with the concurrence of the courts, it is not the comparative number of print and broadcast outlets which is the most significant factor. The limitation on publishing is the result of the operation of the law of supply and demand. But the number of stations is limited by the space on the radio spectrum—there are many who would join the ranks of broadcasters if frequencies were available. Because those who do have stations are a privileged group, there must be regulation. The scarcity argument will lose its validity on the day that anyone who wants to broadcast and has enough money can find a frequency to use. Until that day regulation will be a fact of life for broadcasters and controversy will continue over both philosophy and details.

## **The Commitment to Freedom of Speech**

In the final analysis, nearly all of our broadcast regulations stem from the concept of free speech stated in the First Amendment to the Constitution. At the same time, nearly all the controversy in the field of broadcast regulation stems from conflicting views on the meaning, intent, and implications of the concept. The broadcaster and the regulator tend to approach the problem from points of view of the “literalist” and the “functionalist.”

*Freedom to Speak*—The *literalist* argues that free speech means the absence of all restrictions under ordinary circumstances. He or she agrees that freedom is not guaranteed to the person who would falsely yell “Fire!” in a crowded theater, or to one who would incite a mob

to violence, or to one who would slander the good name of another. But, aside from those few exceptions, the literalist argues that free speech is an inherent right of citizens and an end in itself. To broadcasters, free speech means that they can program their stations as they wish and that when they are forbidden to engage in certain practices or required to use their facilities in a given way, their freedom has been unconstitutionally abridged or impaired. Their concern goes far beyond overt censorship in which government might have the right to review material in advance and force the excision of parts or of the whole.

*Freedom to Hear*—The *functionalist* argues that freedom of speech is only a means to the more important end of guaranteeing that ideas and information will be permitted to circulate whether or not they are popular, and that in matters of controversy people will be able to hear all points of view. The functionalist points out that the First Amendment was written by those who had just emerged from colonial status, people who had not been permitted to circulate their ideas freely either among the colonies or within a city or area. The colonists were so distrustful of government that they wanted to ensure that their successors would never again have to live under such restrictions. Therefore, they legislated against any governmental limitation on circulation of ideas—against infringement of free speech, free press, or the right to gather and to talk openly and freely about government or any other topic. By extension, the functionalists argue, the guarantee that ideas can circulate must be paramount when there is a scarcity of the means of communication. The private ownership of a transmitter can no more be permitted to stifle the free flow of information and ideas than the ownership of riverbanks can justify impeding navigation between them.

The right of the people to have access to all points of view has led to FCC regulations designed to support the independence of the individual stations. In the free enterprise system there is a tendency for a few powerful participants to extend their ownership as widely as possible. It has been noted that no single licensee may own more than seven stations in one category (AM, FM, and TV), thus making it impossible for one person to impose his or her ideas too widely. There are also cross-ownership rules demonstrating the Commission's concern that the owner of a local newspaper should not be a broadcaster in a small community where there is only one station. There is a series of Chain Regulations which prevent the network from having an undue amount of influence over its affiliates by virtue of contractual strength, although there are few restrictions on how much network programming stations can voluntarily carry.

At the same time, both Congress and the Commission have enunciated a “fairness concept” which requires that once a broadcaster enters the field of controversy differing points of view must be carried by the station. For example, Section 315 of the Communications Act requires that all candidates for a given office have equal opportunity to use a station in a campaign. The Fairness Doctrine requires that if one point of view is expressed on the station in a campaign spot announcement, or in editorials, or in discussion, the other side must be heard.

Most broadcasters feel that the Commission unreasonably interprets freedom of speech and that it violates the section of the Communication Act which ensures there shall be no interference with their freedom. Still, television licensees applaud the Commission’s point of view that television must be protected against the economic pressures of cable television, which might deprive the public of its right to continue seeing over the air its favorite programs. The Commission has taken the stand that until cable has the capacity to serve everyone, broadcasting must be protected against the loss of some of its programming. Paradoxically, many broadcasters may not even realize that freedom to hear, against which they argue so strenuously in other situations, may be their best protection against cable for the next few years.

### **The Use of Compromise to Resolve Differences**

American politics has been defined as the “art of the possible,” and regulation in all fields has consisted of seeking to steer a middle course between extremes. For example, we are committed to free enterprise but if the system were to be maintained without restrictions, there would be no child labor laws, no safety requirements for factories and mines, no municipal fire departments, no limit on rates charged for electricity and telephone services, no antitrust laws, no food and drug laws to ensure the quality of what we eat and drink, and no social security system. In all these instances some citizens feel we have gone too far while others feel we have not gone far enough. Conflict exists between supporters of extremes, and compromise is the accepted method of conflict resolution.

There is the same conflict in broadcast regulation and the same resort to compromise which frequently fails to satisfy anyone fully. There is an inevitable conflict between our desire to serve the largest number of potential homes and our concern that minorities have the right to hear programs which will meet some of their needs. There is a conflict between requiring that broadcasters be fair when entering the field of controversy and ensuring that they have the necessary freedom

to seek out and report the news some government officials would like to keep secret. There is a conflict between the belief that licensees should be permitted to control their own operations within the free enterprise system and the concept that those who are privileged to use scarce natural resources must have somewhat less freedom than those who engage in other kinds of business.

The history of broadcast regulation is the story of conflicts which have emerged between important priorities. In some instances two significant priorities come into direct conflict. In a free enterprise system one should be able to hire as one pleases. Yet how does this affect the rights of minorities to employment in scarce publicly licensed frequencies? In other instances two very different interpretations of a commonly accepted concept may exist. Is freedom of speech primarily freedom to speak or freedom to hear? Sometimes the philosophical differences are subordinated to pragmatic interests—for example, in trying to plan for cable we have to consider the American commitment to using advanced technology at the same time that we are concerned for the rights of viewers to continue receiving what they have come to expect.

By seeking to resolve these conflicts through compromise, government must at one time or another displease everyone. The losers will never be convinced that their priorities were less important than those which were chosen in a given instance. If the time ever comes when some people feel that our system is perfect, we can be assured that it has failed and that compromise has been abandoned in favor of some other method of resolving conflicting ideas and concepts.

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### **1.3 AIDS TO UNDERSTANDING BROADCASTING**

American broadcasting dates back to 1920 and has evolved into a fairly complicated structure. Discussion of national traditions gives insight into the philosophy underlying our system but still leaves unanswered many specific questions about practices and problems. Why are six out of seven commercial television stations owned by or affiliated with networks and how does the nonnetwork station survive? What are syndication and national spot business? Why have the advertising agencies which once dominated radio programming become so much less important in television scheduling today? What are the roles of the station salespeople, the network salespeople, and the rep salespeople in the profitability of the industry? How does one evaluate the ratings on which so many programming and advertising decisions are made?

Where do the approximately 250 noncommercial television stations get their money and where do they fit into our system? Why have Section 315 and the Fairness Doctrine generated so much controversy? The answers to these and other questions will come more easily as one notes the following circumstances.

### **Seeing Historical Evolution**

Today's broadcasting has evolved from the past. At first, in the early 1920s, it was more simple, with people exploring something that was new and that grew with a minimum of government intervention. Networks came into existence in response to the needs of certain advertisers and broadcasters for a medium which was, from their points of view, more efficient. Modern regulation, which began in 1927, was the result of certain concerns which were inherent in our society. Succeeding steps in business practices and in regulation were seen as simple extensions of what had been done earlier. Most topics in this book will be treated historically by going back far enough to find the simple and logical practices which form the basis for evolution which can be traced to the present.

### **Finding Interrelationships**

Broadcasting today is largely a matter of complex interrelationships, and learning about it is like learning about an automobile. The description of a single unit like the spark plug of a car or the station representative selling broadcast time on a distant station becomes meaningful when one sees how it interacts with other components to make the whole an operable unit. The description of either the station or the network is complete only with an understanding of how they affect each other.

### **Coping with the Tendency to Exaggerate**

Broadcasting is characterized by rhetorical hyperbole. It is natural and expected that people will overstate their opinions when seeking to make a point. The more they are personally involved, the greater the overstatement or rhetorical hyperbole is apt to be. When the opposition seems to be more strongly entrenched and immune to criticism, the pitch is raised.

Those who feel broadcasting is shortchanging the public and who see little response to their demands raise the intensity of their criticism to the point where it bears little resemblance to reality. They would have us believe that broadcasters are evil and appreciate nothing but profits and that the broadcast schedules contain nothing but pap at the best and deliberate attempts to destroy society at the worst.

Broadcasters respond by implying that radio and television are the greatest contributors to our society since the writing of the Constitution.

Obviously the truth lies somewhere in between and those who would understand must learn enough facts to have confidence in their own judgment.

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## **1.4 THE STEPS IN UNDERSTANDING BROADCASTING**

This book seeks to aid in the understanding of broadcasting by approaching the subject from several points of view. Chapter 2 provides the basic technical information needed to understand how the media work and how they are limited by physical characteristics. A historical perspective of the growth of broadcasting is presented in Chapters 3 through 5 to enable the reader to better see the crosscurrents between different topics. Chapters 6 through 10 are primarily descriptive of the way the industry is regulated and works. Chapter 11 is devoted to two topics where the free-speech controversy has been greatest—Section 315 and the Fairness Doctrine. Two major topics of current interest are covered in Chapters 12 and 13—Cable Television and Public Broadcasting. Chapter 14 treats radio and television around the world from an American perspective. Finally, the Epilogue reports on the controversy arising from criticism of the media and looks ahead to the hopes for better broadcasting in light of the understanding at which this book is aimed.

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# 2

## **BASIC TECHNICAL INFORMATION**

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### **Preview**

Understanding broadcasting requires familiarity with a few engineering concepts which make possible and limit our use of the airwaves. Visualizing the individual radio wave and its characteristics helps one grasp the concept of the radio spectrum, small portions of which are used for broadcasting. Radio and television programs are “transported” from studio into home receiver by imposing patterns on electrical and radio energy. Modern recording techniques involve the imposition of magnetic impressions on plastic tape or discs. Broadcasting is divided into four categories—AM, Short Wave, and FM radio and television—which have many similarities and a few significant differences. Creating the program involves integrating patterns of energy from several sources. There are several methods of distributing programs around the country and the world. All are variations on the same basic theme of working with energy patterns.

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## 2.1 WAVES AND THE RADIO SPECTRUM

Radio and television programs are conveyed on certain electromagnetic waves. The entire electromagnetic spectrum covers many forms of energy ranging from the electricity which lights our homes and runs our appliances through radio waves, visible light waves, ultra-violet rays, X-rays, gamma rays, and cosmic rays. Within that spectrum, radio waves have unique characteristics which enhance their capacity to carry signals under a variety of conditions.

Radio waves travel at a constant speed of approximately 186,000 miles per second. For our purposes, a single wave, as shown in Fig. 2.1, has two important characteristics. The *length* of the wave is the distance (in inches, meters, miles, or any other unit) between the crests as indicated by "A" to "B" or "B" to "C." The *frequency* of the wave is the number of cycles in a given period of time, usually one second. (A cycle occurs when the entire wave from crest to crest passes a given point.)

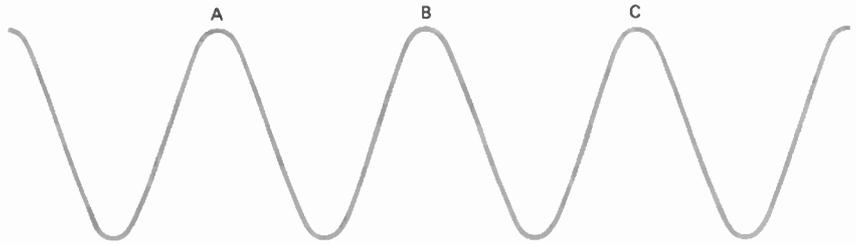


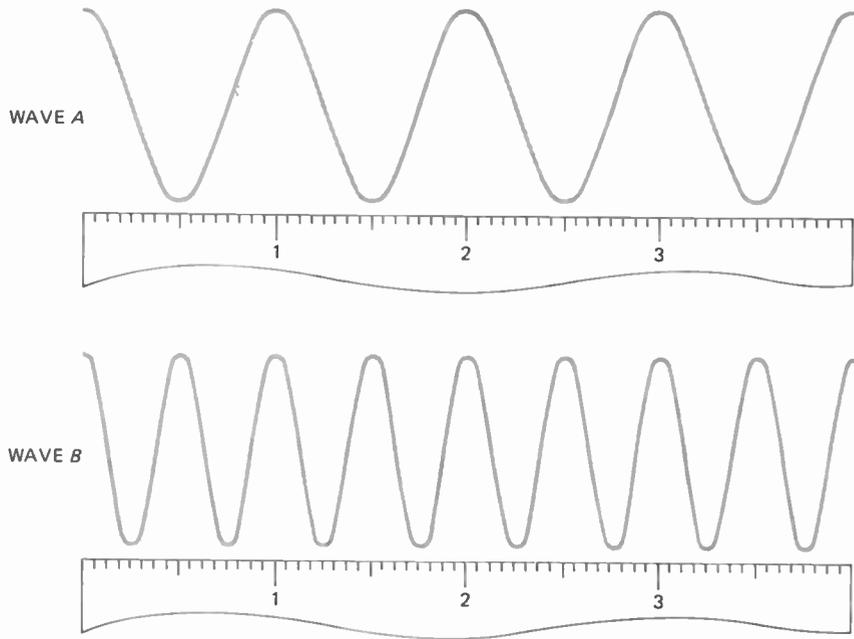
Fig. 2.1 A single radio wave.

Consider an analogy in which two imaginary waves (Fig. 2.2) travel at a speed of four inches per second. We now have two equally valid bases for comparing the two waves.

1. Wave *A* has a *length* of one inch, while Wave *B* is one-half inch long.
2. Wave *A* has a *frequency* of four cycles per second, while wave *B* has a frequency of eight cycles per second.

(Note the inverse relationship of the two characteristics. As the wave length increases, the frequency decreases and vice versa.)

Radio waves are designated in precisely the same manner, although the lengths will vary from several miles down to a fraction of a centi-



**Fig. 2.2** Two radio waves.

meter and the frequencies are in the order of thousands, millions, and billions of cycles per second. A visualization or chart of all the radio waves is called the “radio spectrum.”

### **Designations of Radio Waves**

For many years radio waves were described in “kilocycles” (kcs), or thousands of cycles per second. As an honor to Heinrich Rudolph Hertz, a nineteenth-century German physicist who laid the theoretical framework for the development of radio, the “cycle per second” is now called a “Hertz” and the basic unit for designating lower radio frequencies is the “kiloHertz” (kHz). (The change in nomenclature is fairly recent and one still encounters the “kilocycle” on occasion.)

To give a number of kiloHertz is to describe a position on the spectrum. A radio station at 880 on the dial is located at 880 kHz on the spectrum. Saying a television is on Channel 4 means it occupies the space between 66,000 kHz and 72,000 kHz.

When the number of kiloHertz gets too large for easy manipulation, we change from thousands of Hertz to millions. One thousand thousand Hertz (1,000 kHz) is the same as one million Hertz or one megaHertz

(mHz). The use of megaHertz is illustrated by noting that Channel 4 is the space on the spectrum between 66,000 kHz and 72,000 kHz, or between 66 mHz and 72 mHz.

## **Division of the Radio Spectrum**

The radio spectrum is so extensive that it is necessary to divide it into portions which can be labeled for purposes of discussion. At first the length of the waves was chosen as the basis for differentiation. The radio pioneers divided the spectrum as they knew it into “long waves,” “medium waves,” and “short waves.” Although today we tend to label portions of the spectrum in terms of frequency, it is still customary to refer to the first three divisions by the comparative lengths of the waves.

30 to 300 kHz	the long waves
300 to 3,000 kHz	the medium waves
3,000 to 30,000 kHz	the short waves

Note that each portion of the spectrum is ten times as extensive as the portion which precedes it. Since there are at least seven portions, the number of frequencies is very great. Also note the short-wave portion might be described as the space between 3 mHz and 30 mHz instead of between 3,000 kHz and 30,000 kHz.

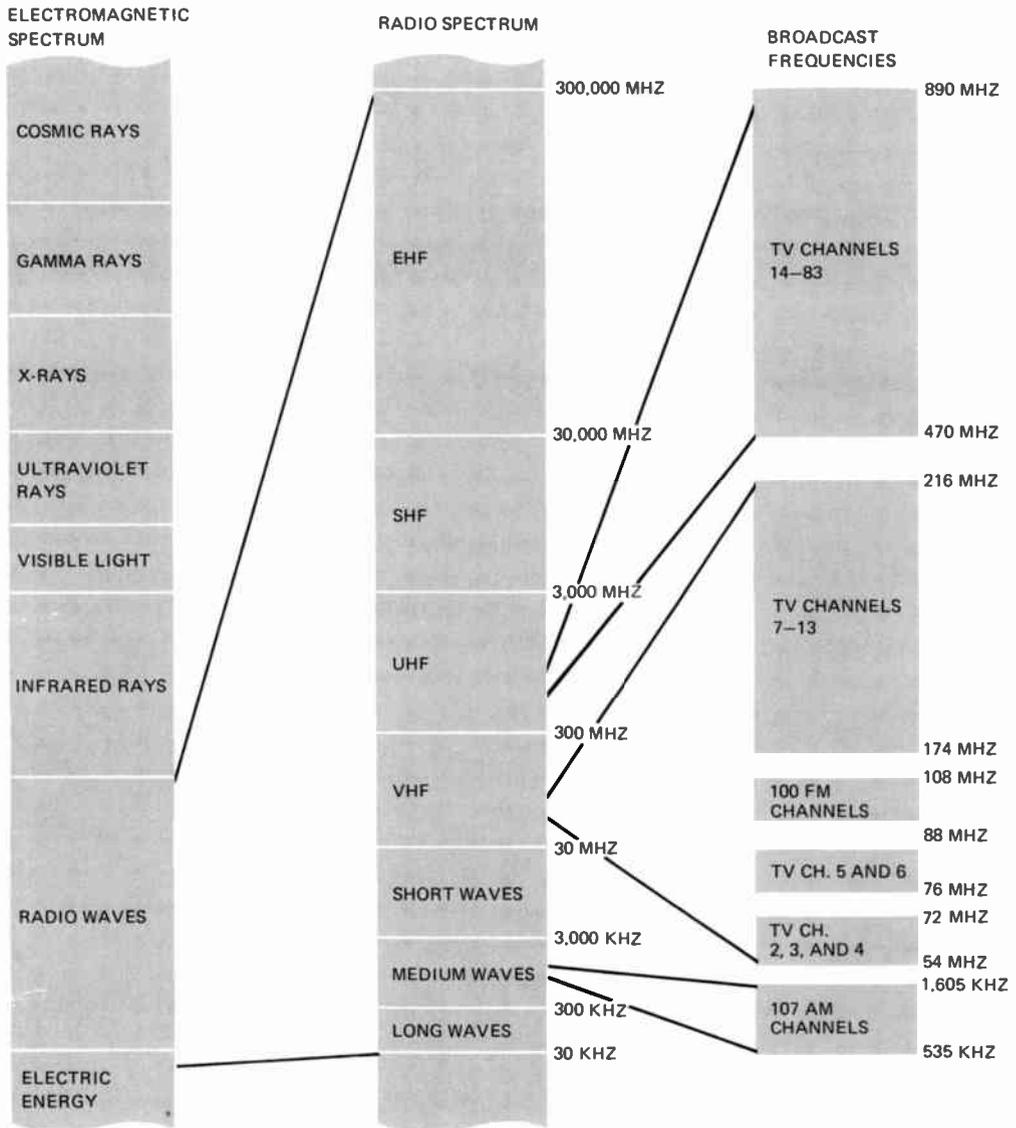
As scientists learned about more of the spectrum beyond 30 mHz, it became necessary to continue dividing it and labeling the portions. At first they tried using adjectives like “shorter” “shortest” and “super short.” Since that was awkward, they described the frequencies (Hertz) of the waves instead of the lengths. All the newly discovered portions of the spectrum consisted of waves with higher frequencies so they were designated by different adverbs modifying the word “high.”

30 to 300 mHz	Very High Frequencies (VHF)
300 to 3,000 mHz	Ultra High Frequencies (UHF)
3,000 to 30,000 mHz	Super High Frequencies (SHF)
30,000 to 300,000 mHz	Extremely High Frequencies (EHF)

This represents the end of the radio spectrum for all practical purposes.

## **Broadcasting**

Broadcasting, by definition, is the transmission of radio and television signals to the public wherever people may be—in homes, in offices, in automobiles, on picnics, etc. Nonbroadcast transmissions are called “point-to-point” and are intended for a limited number of specific receivers. Broadcast stations in the United States are authorized to use less than one-fifth of one percent of the 300,000 mHz in the spectrum. (See Fig. 2.3.)



**Fig. 2.3** Diagram of the spectrum.

1.07 mHz are assigned to standard AM radio broadcasting  
 20.00 mHz are assigned to FM radio broadcasting  
 492.00 mHz are assigned to television broadcasting

The rest of the spectrum is used for point-to-point communications and for medical, industrial, and experimental purposes. Among the point-to-point communications assignments are bands for police and fire de-

partments, for taxis and ambulances, for airplanes and space satellites, for forest rangers and amateur operators, for citizens' band and the military, etc.

## **Channels**

A "channel" is the segment of the spectrum assigned to a station. Channels are of different widths. The wider channels can convey more complicated signals than the narrow ones.

Consider an analogy in which sand is to be moved by conveyor belt from a beach to a field a short distance away. If the belt is one inch wide, it can move a small amount of sand in a given time. If it is twenty inches wide, more sand can be moved. Finally, if the belt is 600 inches (50 feet) wide, it can transport a vastly increased amount. The three illustrative widths of the belts were selected because they represent the ratio between the three channel widths used for broadcasting.

10 kHz channels are assigned for AM radio

200 kHz channels are assigned for FM radio

6,000 kHz (6 MHz) channels are assigned for television

## **Modulation of Carrier Waves**

Within its channel the station transmits a "carrier wave" on which program material is "imposed." Pioneer transmissions in radio-telegraphy were simply a matter of turning the carrier wave on and off for short (dot) and long (dash) durations. Later it was learned that carrier waves had several characteristics and a program might be imposed on them by altering or "modulating" one of the features. Early transmission of voice and music involved modulating the "amplitude" or strength of the carrier wave and were called "amplitude modulation" (AM). For example, if a station is transmitting with a power of 5,000 watts, that figure represents the average power around which the actual power varies. The strength of the carrier wave changes almost instantaneously from zero and intermediate points up to more than 10,000 watts. In the receiver the variations in carrier-wave power are translated into variations in electrical energy which can cause a speaker to reproduce sound or a screen to reproduce sight.

Many radio stations now modulate the "frequency" of the carrier wave and are called "frequency modulation" (FM). In FM the power of the carrier wave remains constant while its frequency ranges up and down within the confines of the assigned channel. The variation in frequency is then used, as is the variation in AM power, to vary electrical energy which will in turn cause reproduction of studio sound.

## Ground, Sky, and Direct Waves

Transmitters send out “ground waves,” “sky waves,” and “direct waves.” All three are present in all transmissions but there are major differences in the efficiency of each in various portions of the spectrum.

The *ground wave* travels along the contours of the earth—over and around mountains and other terrain features. It is most efficient in the medium-wave portion of the spectrum.

The *sky wave* goes upward from the transmitter and will either go out into space or strike against a portion of the ionosphere called the Kennelly-Heaviside layer and bounce back to earth at a distant point which may be several hundreds or thousands of miles away. The sky wave is most efficient in the short-wave portion of the spectrum all the time and in the medium waves at night .

The *direct wave* travels by line of sight from the transmitting antenna to the receiving antenna. Its distance is limited by antenna heights, by the curvature of the earth, and by mountains or other terrain features. It is most efficient in the higher portions of the spectrum starting with the VHF.

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## 2.2 USE OF ENERGY PATTERNS

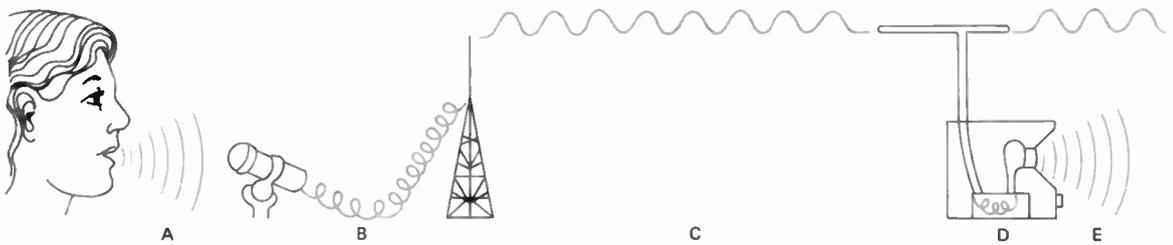
### “Transportation” of Programs from Studio to Home

Before sound can be heard on the radio or television receiver or a television picture seen on the home screen there must be modulation of various kinds of energy. Patterns existing in sound waves and light waves are imposed on electrical and radio waves. An analogous situation would be the archaeologist in the field who finds a ceramic artifact of unusual shape which she cannot remove from the country but which she wants her colleagues at home to study in exact similarity. She could make a plaster cast and send it on its way by messenger. The messenger arrives at a border between countries and is told he can take the plaster no further, so he makes a wax impression which is identical with the shape of the original artifact. At a further point he knows the wax will melt, so a plaster impression is made from it. The second plaster cast reaches the home museum where a ceramic copy is made. The transportation of the pattern has involved the original ceramic, then plaster, wax, and plaster with a final reconversion to ceramic. If care has been taken along the way, the ceramic copy will be a faithful replica of the original.

The “transportation” of sound waves from the studio to the home also involves imposing patterns on different media. The pattern in the

sound waves in the studio is imposed on electrical energy, then on radio energy, back to electrical energy, and, finally, it emerges in sound waves nearly identical to those in the studio.

As a singer performs in the studio her song consists of sound waves which strike against a microphone through which steady electrical current is passing. The vibrations of the sound waves cause fluctuation (modulation) of the electrical energy. The fluctuation in electrical energy then causes modulation in the carrier wave from the transmitter. As the modulated carrier wave strikes the antenna of a receiver, it imposes its pattern upon electrical energy in the receiver which will then cause a speaker to emit sound waves similar to those in the studio. (See Fig. 2.4.)



**Fig. 2.4**

- A. Sound waves travel from the singer to the microphone.
- B. Varying electrical current comes from the microphone and goes to the transmitter.
- C. The fluctuations of the electrical current are imposed on the transmitted radio carrier wave.
- D. The modulated carrier wave causes fluctuations in electrical current in the receiver.
- E. The fluctuations in electrical energy cause sound waves to come from the speaker.

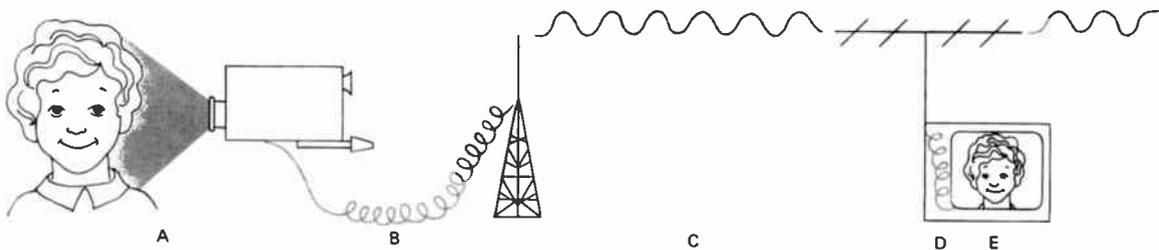
Similarly, as the singer performs in the studio, light waves are reflected from her face, hair, costume, and the background. The function of the television camera is to create fluctuations in (modulation of) electrical energy which correspond to the pattern of light waves reflected in the studio. (See Fig. 2.5.)

When the light waves enter the television camera they fall upon thousands of light-sensitive elements, each of which reacts to the amount of light it “perceives.” As each element is the target of a stream of electrons from an electron gun, a greater or lesser quantity of electrons will be reflected depending on the amount of light hitting the element. The quantity of the reflected electrons from an element will in turn determine the flow of electrical energy from the camera.

The electron gun is a scanning device which focuses on each element in a row before going to the elements in the next row. There are 525 lines or rows of elements in one television picture and the electron gun scans each of the rows 30 times each second. The result is a flow of electrical energy from the camera which is fluctuating precisely as the flow of electrons fluctuated when they were reflected from the scanned individual elements.

In color television the elements in the camera are composed of three cells each. Each of the three is sensitive to light waves in one of the three primary colors—red, green, and blue. As electron guns scan the elements, one is focused on the red cells, the second on the green cells, and the third on the blue cells. Again, the critical result is that from each of the cells there is a reflection of differing amounts of electrons which will, in turn, cause fluctuations in the flow of electrical energy from the camera.

The fluctuating (modulated) electrical energy from the camera is amplified and sent to a transmitter where the carrier wave is modulated by imposing on it the patterns in the fluctuating electricity. As the modulated radio waves strike the antenna and are led to the receiver in the home, they impose on the set's electrical energy the patterns of the electrical energy which came from the camera. As the fluctuating electrical energy reaches a "kinescope," or picture tube, electrons sweep back and forth across the face causing phosphorescent material to glow and reproduce the light waves reflected from the singer in the studio.



**Fig. 2.5**

- A. Light waves reflected in the studio enter the television camera.
- B. Fluctuating electrical energy emerging from the camera and sent to the transmitter.
- C. Radio energy on which the fluctuations have been imposed leave the transmitter and enter the receiver through the antenna.
- D. Electrical energy in the receiver fluctuates in the same pattern as the electricity coming from the camera.
- E. Light waves coming from the picture tube have the same pattern as those which entered the camera in the studio.

It should be noted there was never a picture taken in the studio in the conventional sense of the word. There was only the transportation of patterns (fluctuations) through various media.

From a semitechnical point of view, radio and television can be defined as transporting modulation patterns through several energy media.

### **Recording of Programs**

Until the late 1940s radio programs could be recorded only on “electrical transcriptions” (ET’s). This involved sending the fluctuating electrical energy from a microphone to a stylus which would cut a groove in a sixteen-inch disk. When a playback needle was placed in the groove, the irregularities made by the recording stylus caused the needle to vibrate and recreate the fluctuations in the electrical current.

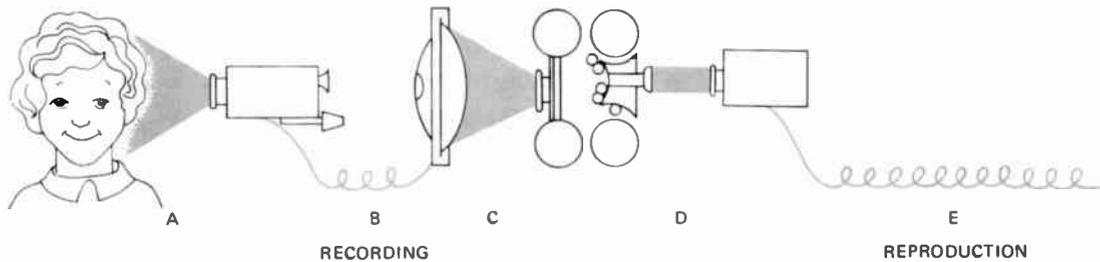
During World War II there was the development of wire recorders to make an indestructible record of voices in combat flight and other situations which might be subject to disaster. As fine wire went from one reel to another through a recording head, a magnetic impression was imposed. When the wire with the magnetic impression was subsequently passed through a playing head (or a recording head with a playback capacity) it would reproduce the fluctuating electrical current caused by sound waves striking a microphone. By 1950 we had progressed from wire through paper to the current plastic tape familiar to most in portable recorders.

### *Video Kinescope Recording*

Until 1956 TV recordings could be made only by the “kinescope” method. The fluctuating electrical energy from the camera went directly to a kinescope (picture) tube where light waves were created corresponding to those in the studio. Directly in front of the picture tube was a 16mm camera which simply made a movie of the picture on the screen. (It was necessary to take into account the fact that the television picture consisted of 30 frames per second while the motion-picture film had 24 frames per second.)

After the 16mm film was developed, it could be run through a projector focused on a television camera which would emit fluctuating electrical current similar to that which originally came from the studio camera. (See Fig. 2.6.)

Unfortunately, there are many inherent limitations in the quality of kinescope recordings as the modulation pattern is transported among so many media. The viewers at home immediately knew they were seeing a kinescope recording because the picture quality was so much poorer than that of the live program and the sound was frequently distorted to the point of being annoying.



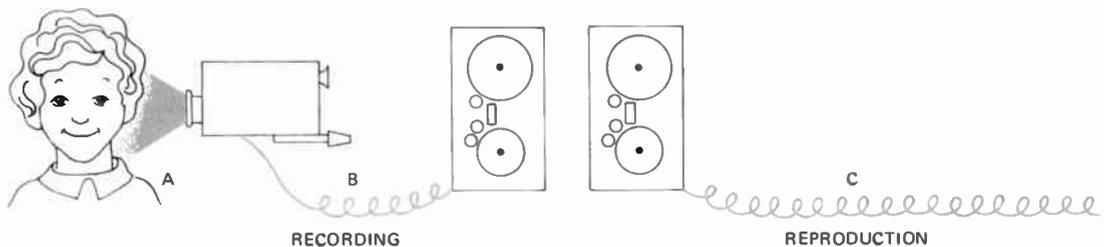
**Fig. 2.6**

- A. Light waves in studio enter television camera.
- B. Fluctuating electrical energy from camera to kinescope tube.
- C. Light waves from kinescope tube enter motion-picture camera.
- D. Light waves from motion-picture projector enter television-film camera.
- E. Fluctuating electrical energy from television-film camera to transmitter or other destination.

### *Videotape Recording*

In 1956 the Ampex Company demonstrated a videotape recorder (VTR) at the annual convention of the National Association of Broadcasters. The networks and largest stations immediately placed their orders and in a few short years the VTR had replaced the kinescope recorder and had revolutionized station and network operations. (See Fig. 2.7.)

Not only can the VTR provide a playback instantaneously (as contrasted with kinescope film which has to be developed), it can also reproduce perfectly the electrical modulation from the camera. It is impossible for the average viewer to tell if a program is live or on videotape. The evening news on any of the networks is usually a videotape recording of the newscast which was sent across the country earlier. Most "specials" and some series are also prerecorded on videotape.



**Fig. 2.7**

- A. Light waves from the studio enter the television camera.
- B. Fluctuating electrical current goes to VTR where magnetic impression is made on the tape.
- C. During the playback the magnetic impression on the tape recreates the fluctuations in electrical energy which came from the camera.

Most viewers are also familiar with the “instant replays” of sporting events. Instead of working with tape, the magnetic impression is laid on a disk and the electrical modulation can be recreated by moving the “stylus” back to the starting point.

VTR’s which can tape programs of broadcast quality are quite expensive—about \$75,000 each—and use tape which is two inches wide. There are also less expensive recorders, costing from \$1,000 up, capable of capturing images and sounds on tape well enough for distribution by cable.

Between the two extremes are three-quarter-inch machines which are used in electronic news gathering (ENG). For about \$20,000 a network or station can buy equipment to record events outside the studio which can then be integrated into news programs.

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## 2.3 TYPES OF BROADCASTING

### AM Radio

The radio stations found on the dial between 540 kHz and 1600 kHz (some receivers drop the final zero and show only 54 to 160) are known by three names. *AM* (amplitude modulation—referring to the method used to impose the program on the carrier wave), *Medium wave* (referring to the portion of the spectrum where it is found), and *Standard* (referring to the fact that it was for many years the only radiobroadcasting known).

AM stations are assigned to 10 kHz channels. The carrier wave is 5 kHz in width, leaving 2.5 kHz on either side unused to minimize interference between stations. The human ear can normally detect sounds up to a pitch of about 20,000 cycles per second. Since AM radio can carry only 5,000 cycles per second, it is lacking in fidelity or faithfulness in bringing all the sound from the studio. It might be called “low fidelity” in contrast to the “high fidelity” of FM which can accommodate all the pitches the ear can discern.

Most AM reception is accomplished by picking up the ground waves transmitted by the stations. During the hours of sunlight the sky waves go into space because the Kennelly-Heaviside layer reflective power is weakened by the sun’s rays. After nightfall the layer, in the absence of the sun, will cause the AM skywaves to bounce back, sometimes so efficiently that a receiver several hundred miles away can pick up the signal as well as one within ten or fifteen miles of the transmitter. It was reception of the AM sky wave that was so exciting in the 1920s

as people “dial-twisted” at night to see how many signals they might pull in from distant points.

It has been possible to authorize approximately 4,500 AM stations on 107 medium-wave channels in the United States by creating a very intricate pattern of channels accommodating transmitters varying in three respects: power, directionalized antennae, and hours of operation.

The channels are divided into three major categories: clear, regional, and local. The early clear-channel stations had power of 50,000 watts and were intended to serve large rural areas. The regional stations were authorized to use power of 1,000 to 5,000 watts in serving metropolitan areas. The local stations were the least powerful—250 watts—and were licensed to smaller communities.

As pressure for additional stations mounted in the 1940s and 1950s, more transmitters were placed on each channel. The clear channel today normally has one 50,000-watt station plus from two to a couple dozen more medium- and low-power outlets located in distant areas where they will not interfere with the dominant station. The regional channel accommodates 30 to 50 stations with power allocations from 1,000 to 5,000 watts, while the local channel may have well over a hundred of the 250-watt stations. Thus, the designation of channels today is important primarily as an indication of the maximum power permitted on each.

If a broadcast station (AM, FM, or TV) uses a simple antenna arrangement with a single tower, its signal will radiate in a circle with equal strength in all directions. To minimize interference among AM stations, most are required to directionalize their antennae so signal power is concentrated in some directions and diminished in others.

To further lessen night-time interference some AM stations are authorized to operate only during the hours of sunlight when the sky waves will not bounce back from the Kennelly-Heaviside layer of the ionosphere. Others are required to use less power at night or to directionalize their antennae differently.

It is generally true throughout the radio spectrum that the lower frequencies are more efficient than the higher ones. This is especially important in the medium waves, and the stations at the lower end of the dial cover substantially more area than they would with the same power on a higher frequency. At one time the 50,000-watt station on the lower frequencies commanded far more audience than did the regional and local stations which might have higher assignments. The difference in coverage is now less significant as the number of stations

has become so great that most listeners tune in to local broadcasts which are available almost everywhere.

### **Short-Wave Radio**

About 3,000 kHz have been set aside in nine bands of the short-wave portion of the spectrum (between 3 MHz and 30 MHz) for long-distance broadcasting. Neither the ground wave nor the direct wave is very efficient for short-wave stations, but the sky wave is particularly strong during both day and night hours. There is no standard channel width which all countries are required to use, but the accepted figure for most nations is 5 kHz. Throughout most of the world short-wave stations are used for international transmissions. Through proper selection from the short-wave bands and directionalizing the antennae, it is possible to aim programs at given distant areas.

Aside from a few stations with religious affiliations, all short-wave transmitters in this country are operated by the Voice of America (VOA) to relay programs to other United States short-wave transmitters overseas. Many countries beam programs to the United States, but because Americans have never been accustomed to tuning in foreign stations their impact is negligible.

### **FM Radio and Multiplexing**

FM was developed in the 1930s by Major Edwin Armstrong, who pioneered its growth to the point where it was authorized for broadcast purposes in 1940.

FM held great promise of technical superiority over AM since the United States was committed to the 10 kHz AM channels with no prospects of change. It was assumed from the beginning that FM would be placed in a portion of the spectrum which was then comparatively uncrowded and that much wider channels would be provided. The greater channel width would make possible high-fidelity broadcasting of all the pitches the ear could perceive. Since FM reception is primarily from the direct waves (the sky waves go out into space and the ground waves are comparatively inefficient) there would be much less danger of interference among stations. The signal of each would go only to the line-of-sight horizon. If a listener were between two distant stations, the stronger signal would override the weaker and there would not be the "jamming" which occurs in a similar situation with AM stations.

When the FCC authorized FM broadcasting in 1940, space was allocated in the VHF between 42 and 50 MHz. There were 40 channels, each 200 kHz in width. In 1945 the FM band was moved on the spectrum to provide 100 channels between 88 MHz and 108 MHz which, it will be noted, are between television Channels 6 and 7.

A significant difference between our AM and FM systems is that in the latter there are no great discrepancies between facilities. There are no important differences among the FM frequencies and practically all commercial FM stations are permitted sufficient power to reach the horizon. Some educational FM stations operate with only 10 watts of power (compared with approximately 100,000 watts for commercial stations) but are still able to enjoy significant coverage of their areas.

As the frequency of the FM carrier wave varies, it has the capacity to carry far more than the approximately 20,000 cycles per second of sound which are audible to the human ear. It is possible to add a second program on the carrier by transposing it from audible sound to the inaudible range. In the receiver the second program is transposed back to audible sound and fed to a separate speaker or speakers from those reproducing the sound of the first program. This is called "multiplexing."

A multiplexed service familiar to many is stereophonic broadcasting, which is the simultaneous transmission and reception of two aspects of a single program. If it is a live orchestra pickup, one program would consist of the music as captured by microphones on one side of the hall while the second program would carry the music as heard on the other side. When the multiplexed stereophonic programs are received, one is fed to one set of speakers while the second is heard through another set usually located in another part of the room. The sound thus reaches the ears of the listener much as it would if he or she were in the hall listening to the live orchestra. The broadcasting of a stereo record also separates the recording into two parts which are then sent by the receiver to different speakers.

Quadraphonic FM is multiplexing so that four signals are being transmitted on a channel. Each is a different version of the program—for example, music picked up by microphones in four different locations. When the four programs are received in the home, each is sent to a different speaker and the effect of the sound from four locations gives an even greater sense of reality than does stereo broadcasting.

Other multiplexed programs cannot be picked up by receivers purchased in the stores, thus providing a "private" service available only to those who have the proper sets. There is functional music for doctors' and dentists' offices. There is "storecasting," which consists of background music and commercials intended for shoppers, in the supermarkets. For a while there was "transitcasting"—a special program service for people riding in public transportation. In Philadelphia there is a multiplexed service available only to blind persons who have been provided with receivers by the Radio Information Center for the Blind.

## Television Broadcasting

When television broadcasting was authorized in 1941, the FCC set aside eighteen VHF channels, each of which had a width of 6,000 kHz, or 6 MHz. Thus one television channel had space equivalent to 600 AM channels or 30 FM channels. The great width is required to transmit both the picture (AM) and the sound (FM) of the television program.

During the Second World War five of the original eighteen channels (14 through 18) were taken by the government for military purposes. Later, in 1948, the FCC decided it was necessary to use Channel 1 for purposes other than television. There are twelve remaining VHF television channels.

Channels 2, 3, and 4	54 mHz to 72 mHz
Channels 5 and 6	76 mHz to 88 mHz
Channels 7 through 13	174 mHz to 216 mHz

When channels were being assigned to specific communities the FCC had to make allowance for co-channel and adjacent-channel separation. There must be a minimum distance between two stations on the same channel and a lesser separation between stations on adjacent channels. It should be noted that two channels may have consecutive numbers without being adjacent. There is a 4 mHz space between Channels 4 and 5, and an 86 mHz gap between Channels 6 and 7. As a consequence, a community can be assigned Channels 4 and 5 or 6 and 7 simultaneously.

In 1952 the FCC added 70 more 6 mHz television channels numbered 14 through 83 between 470 mHz and 890 mHz in the UHF. As there was a failure to make full use of the UHF channels, the FCC is withdrawing Channels 71 through 83 from general broadcast use on a selective basis.

There is the same difference in the efficiency of television channels that one finds in AM radio. The lower numbered channels are more effective than the higher ones. However, the FCC authorizes more power for those in the higher channels so that all are theoretically able to send strong signals to the horizon.

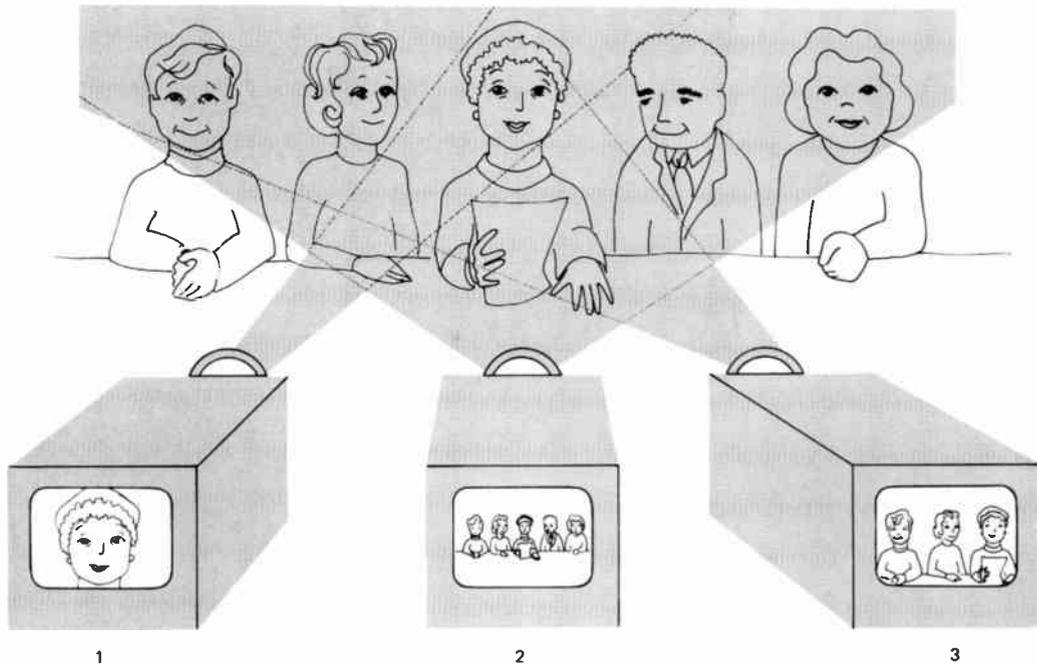
Since direct waves of the television transmission (like FM) are the most effective, reception is best when there is line of sight between the receiver and the transmitter. For this reason the television transmitting antennae are placed in the highest possible spots, and it is not unusual to find all the stations in a community sending out their signals from the same location. In New York City, for example, all VHF television transmitters are in the Empire State Building and are expected to be moved to the World Trade Center.

## “Creating” the Television Program

The program seen on the home screen is usually a succession of segments taken from different sources: from cameras in the studio, from cameras on a “remote” (out-of-studio) location, from “film” cameras, and from videotape recorders.

The camera used in the studio can also serve on remote locations. The TV camera used for slides and motion pictures is smaller and less expensive than the others because its source of light waves can be so closely controlled and is so intense. It is called the film-chain camera. Focused into the film-chain cameras will be motion-picture and slide projectors which are only a few inches away. The function of the film camera (and the others) is to emit electrical energy fluctuating with reference to light waves from the film or slides.

In the average program there may be three studio cameras which are placed in different positions (see Fig. 2.8) and which can adjust their



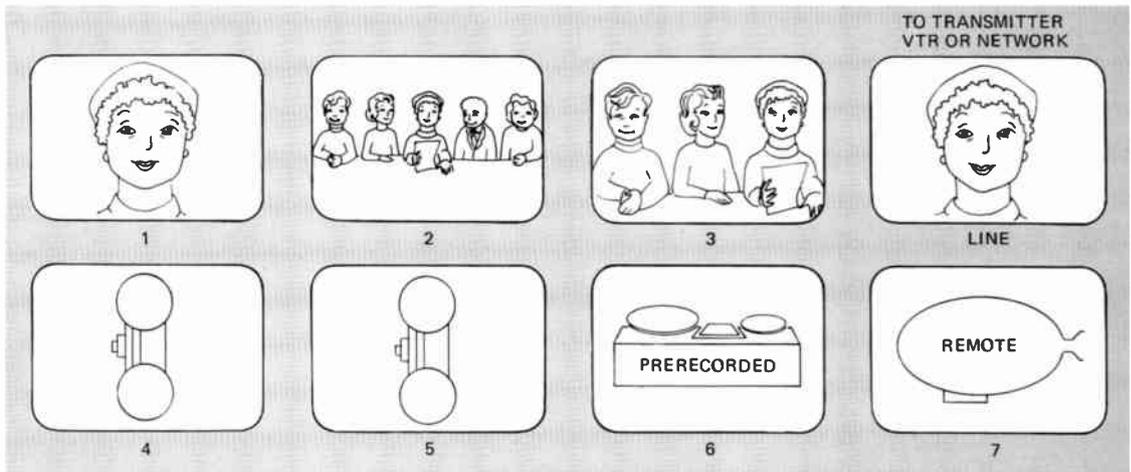
**Fig. 2.8** A typical studio setup for televising a panel discussion. Camera 1 has a “closeup” of the moderator’s face only. Camera 2 has a “long” shot which includes the whole panel. Camera 3 is covering the moderator and the two participants on her right. The setup is designed to give the director maximum flexibility in telling the camera operators how to move and change their focal lengths to cover all the possible shots they might want to use.

lenses to different focal lengths, thus making possible “closeup” shots in which a person’s face may fill the whole screen or “long” shots in which a person may be a part of a larger picture. As each camera picks up the scene from different angles and with different focal lengths, the director in the control room chooses the one which will make up the program at a given moment. He or she can add variety to what the viewer sees, and direct the viewer’s attention to the more important parts of the action.

The setup for network coverage of a football game would be far more complicated, but would be designed for the same flexibility. If six cameras were to be used, they might be located as follows: one high up above the stands at the 50-yard line, one in each end zone, two half-way up in the stands at the 30-yard lines, and one a few feet above field level which could move with the plays.

In either the simple studio program or the complicated remote from a football game the director is positioned in a control room where he or she can see a monitor for each picture source and select the one which will make up the program at the moment. (See Fig. 2.9.)

As the director decides which particular scene should be sent over



**Fig. 2.9** A typical set of monitors in front of the director in the control room. Monitors 1, 2, and 3 show what is being televised by the studio cameras bearing the same numbers. Monitors 4 and 5 are for two film cameras with motion-picture film and slides. Monitor 6 is for prerecorded material on the VTR. Monitor 7 is for a remote camera in another location. The “line” monitor shows which picture from one of the other seven has been selected to constitute the program at any moment.

the air, a member of the production staff pushes a button so the desired picture is sent to the transmitter or VTR. The selected image shows up on the "line" monitor also. Thus, the line monitor shows the succession of pictures going to the home receivers.

There is almost no end to the technical capacity of a television program to use material from different sources. A network might do a program which would involve instantaneously switching between pictures taken by cameras in a studio in Chicago, at a football game in Los Angeles, at a political convention in St. Louis, at a gathering in St. Peter's Square in Rome, and in a spacecraft circling the earth.

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## 2.4 DISTRIBUTION OF TELEVISION PROGRAMS

To this point the discussion has assumed that a program is either sent directly from the control room to the transmitter or that it is tape recorded for later broadcast. However, most television programs (aside from local news) are carried by more than one station so they must be distributed from the point of origin to distant station transmitters. If a program is on film or on videotape, it may be circulated to stations on a "bicycle-network" basis. The film or tape is sent to a station which airs it and then mails the copy to another station for use at a later time. This is appropriate only for the comparatively "timeless" program which loses none of its value if it is seen several months apart at different stations.

Since the bicycle network is extremely cumbersome, involving much duplication of film or tape, bookkeeping, and remailing, most national network programs are carried simultaneously by stations in at least two time zones and later by stations in the rest of the country. When a network wishes to feed a program to its affiliates, it will contract with the American Telephone and Telegraph Company for the distribution. AT&T will use its own facilities and handle all the details so the network has no concern once the program has been fed to a line going to the telephone company center. Technically, AT&T uses two methods for sending programs around the country.

### Co-axial Cable

The program is imposed on a radio carrier wave which is then sent out by cable instead of to a transmitting antenna which would broadcast it through the air. The co-axial cable is a combination of wires within a shield which makes possible transmission of more signals for much greater distances than would be possible with ordinary wire connections.

The cable is buried (“installed”) underground with amplifiers (two or more per mile) to strengthen the signal. Simple co-axial cable may be built comparatively inexpensively to carry signals a few feet—for example, it is used in some apartments to connect TV receivers to a master antenna. AT&T cable, which may be two or more inches in diameter, has a capacity for carrying several television programs, plus radio programs, plus telephone conversations, plus computer data.

### **Microwave Relays**

In mountains and other terrain where it was difficult to install co-axial cable, AT&T used microwave relays which have a capacity comparable with the co-axial cables. The relays use radio waves in the UHF and SHF portions of the spectrum and beam the signals as one concentrates the narrow ray from a flashlight on a target. One relay will consist of a transmitter located on a mountain or tall building or tower focused on a receiver on another high point as far distant as possible within line of sight. When there is a series of relays, each location on a high spot will be occupied by a receiver which picks up the incoming signal and a transmitter which sends it on to the next receiver. Under normal circumstances a relay will cover about thirty miles. A program from New York City to the West Coast once went part of the way by co-axial cable and part of the way by microwave relay. The methods were interchangeable. Now microwave relays are used exclusively for long distances and co-axial cable is used within cities.

### **Fiber Optics**

The most important innovation since the transistor and solid-state technology has been the use of fiber optics to distribute television programming. The fluctuating electrical energy from the television camera is sent to a light-emitting diode which imposes the modulation pattern on light beams which are then sent through an optic strand less than a hundredth of an inch in diameter. The strand is a glass core surrounded by a material called “cladding” which prevents the light beams from leaving the core. Around the cladding is a polyester jacket for protection. At the other end of the core a photo diode transforms the modulation of light energy back into modulations of electrical energy.

The importance of fiber optics lies in its low cost, the flexibility of the cable, the decreased need for amplifiers or repeaters, and the increased resistance to electromagnetic interference. While co-axial cable is made of copper and other shielding materials which may some day be in short supply, the fibers are made of glass, whose primary component is sand, one of the most abundant materials on earth. While

co-axial cable may be up to several inches in diameter and comparatively inflexible, the fibers can be laid in almost any pattern to accommodate the conduit in which it travels. The light rays are not affected by electrical interference from machinery or static and require only about half as many repeater units in a given distance as does co-axial cable. As the new technology progresses, it is anticipated that six optic strands in a quarter-inch plastic tube will, by use of a laser, be able to carry up to a thousand television programs simultaneously.

In the summer of 1976 Teleprompter started using fiber optics to carry its pay cable programs from a receiving point on the roof of a building in Manhattan some 800 feet to its headend equipment on the lower floors. From its first use Teleprompter reported "the picture is coming in razor sharp." As fiber optics come into general use it may so change the economic conditions of long-distance transmission and of extending cable television through communities that it will make obsolete nearly any prediction which might be made at the present time.

### **Satellite Services**

Until the early 1960s there was no way of sending live television programs across the oceans between continents. It was not practical to lay co-axial cable on the ocean floors and there were not enough islands for line-of-sight microwave relays. When there was an event of special interest such as the Coronation of Queen Elizabeth in London, motion-picture film would be shot and then sped by jet plane across the Atlantic to a point where the program could be delivered to AT&T facilities.

The first satellites to carry transponders (*transmitter and responder*) which could receive and retransmit television programs were orbiting the earth approximately every hour and a half. There were only a few minutes at a time when a satellite would be in line-of-sight position with both Europe and North America. A program could be relayed for about fifteen minutes and then it was necessary to wait a little more than an hour for another short transmission.

In 1962 Congress enacted the Communications Satellite Act under which COMSAT, a privately-owned corporation, was authorized to launch and operate a satellite system which would serve the world. In 1965 the first satellite was placed in "synchronous" orbit about 22,300 miles above the equator. At that altitude it circled the center of the Earth at the same rate that the Earth was rotating—once in 24 hours. This meant it was "parked" in space and would remain above a single spot on the equator and could be used for communications between given spots all the time.



**Fig. 2.10** Map of world shows three satellite positions over Atlantic, Pacific, and Indian Oceans. Signals from Tokyo and Beirut coming to the United States via the Pacific satellite to the West Coast and via the Atlantic satellite to the East Coast.

*Courtesy: COMSAT*

There are three primary satellite positions (all at the equator) above the Atlantic, the Indian, and the Pacific Oceans. In those positions three satellites can receive from and transmit to almost all points on the globe. (See Fig. 2.10.)

Satellites are powered by solar energy captured from the sun and transmit with comparatively little power—less than 100 watts as compared with 100,000 for a low-channel VHF broadcasting station. Consequently, it was necessary that the signals be received by “Earth stations” which have very large receiving antennae focused on the satellite and especially sensitive equipment. They had to be located at a distance from large cities and other areas where there would be electrical interference. The first two Earth stations in the continental United States were at Andover, Maine, and Etam, West Virginia. From each of those locations, programs from the Atlantic Ocean satellite are delivered to

AT&T for distribution. The major Earth stations also operate transmitting equipment beamed at the satellites.

The most common television use of satellites has been the transmission of news coverage from overseas correspondents to the three national networks. The first COMSAT satellite in 1965 linked only those countries around the Atlantic Ocean position. In 1967 two satellites were launched—one over the Atlantic and the other over the Pacific—which made it possible for American networks to get material from two-thirds of the world. From that point on satellite segments became more common in the newscasts.

The satellite use with which Americans are most familiar is the coverage of the Olympic Games every four years. The sports events are covered with many cameras and the programs of the events and other materials are sent by microwave relay to the nearest Earth station which beams it to the satellite system for transmission to Earth stations in the United States and in many other countries.

In the mid-1970s satellite use was initiated for circulation of television material throughout the United States, thus reducing the need for AT&T's microwave relays. In 1976 Home Box Office started distribution of pay cable programs to systems by satellite. Receiving Earth stations were built in key locations where they could not only feed the nearest cable system but could also send it to others by microwave relay. The commercial networks are using satellites to deliver a remote event like a football game in Texas back to the home studio in New York from which it is sent to the affiliated stations by AT&T facilities. The Corporation for Public Broadcasting and the Public Broadcasting System have made a commitment to use a satellite for distributing their programs to affiliated stations. Three channels on the satellite will be used so there will be three programs from which the stations can choose depending on their zones and the interests they have in different kinds of material.

Even in its early stages the use of satellite transmissions to cover the United States is as inexpensive as the conventional facilities. PBS estimates that the installation and first ten years of satellite three-program operations will cost just about what conventional distribution of a single service would cost for the same length of time. More important is the fact that eliminating the many repeater stations required in normal microwave distribution means the signal delivered to the stations will be better.

As larger satellites are launched which can draw more energy from the sun, transponders will have enough power so their signals can be

picked up directly by home receivers. This development, like fiber optics, may make our electronic communications of the future quite unrecognizable.

### **Closed-Circuit Television (CCTV)**

In the 1950s “closed-circuit” was used as a phrase to contrast with “open-circuit” broadcasting available to anyone in the area who had a receiver. CCTV was primarily wired television most commonly used to deliver programs to classrooms in a college or school system. As the potential of CCTV became more evident there were other educational and industrial uses. For example, CCTV could carry signals from cameras focused on dials in high-risk nuclear areas. Police departments use it to monitor high-crime areas or prison cell blocks; apartment houses to provide surveillance over entrances, elevators, and corridors; hospitals to permit students and doctors to observe operations at close range; and stores to monitor shoppers.

CCTV might also involve a nationwide “sales meeting” such as an automobile company might provide for its dealers when introducing a new model. The “program” showing the new car and talking about its sales features might be produced in a studio or in space at corporate headquarters and delivered to AT&T for distribution around the country. In each city it would be seen on monitors in various convenient places where dealers and their salespersons were gathered.

In some respects, any transmission of point-to-point television signals not intended for off-the-air reception might be considered closed circuit. The microwave relays and satellite transmissions fall into this category. Various combinations of radio and wire transmission are used—for example, in theatervision. It is possible to televise a prizefight in Africa, send the signal by microwave to a nearby Earth station and then up to a satellite. An Earth station in the United States could receive the signal and deliver it to AT&T for distribution to theaters around the country where it is viewed on large screens by those who have paid for tickets.

Another variation on the wired closed-circuit concept in schools and colleges is the Instructional Television Fixed Services (ITFS) established by the FCC. Frequencies are set aside in the 2,500 MHz (UHF) range for distributing programs from a central point to buildings on a campus or in a school system. From receivers on the roofs the signals are carried by cable to individual classrooms in the buildings.

The fastest growing use of CCTV is cable television, which is described in detail in Chapter 12.

*In summary*, radio and television programs reach homes via waves from very limited and crowded portions of the radio spectrum. While an AM channel uses only a few kiloHertz, the FM and TV channels have to be very extensive to carry high-fidelity sound and video. Between studio sound and pictures and their reproduction in the home are patterns of modulation in different energy media. It is the expanding ability to transmit these modulations of energy which has made possible the diversity broadcasting has today.

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## **GLOSSARY ITEMS**

The following words and phrases used in Chapter 2 are defined in the Glossary:

Adjacent Channel	High Fidelity
Amplitude Modulation (AM)	Instructional Television Fixed Services (ITFS)
Bicycle Network	Jamming
Broadcast Channel	Kennelly-Heaviside Layer
Broadcasting	Kilocycle (KC)
Carrier Wave	Kinescope
Channel Separation Factor	Magnetic Impression
Closed Circuit Television (CCTV)	Microwave Relay
Co-axial Cable	Monitor
Direct Wave	Quadrasonic Broadcasting
Directionalized Antenna	Radio Spectrum
Earth Station	Radio Wave Frequency
Electromagnetic Spectrum	Radio Wave Length
Electron Gun	Satellite Relay
Electronic News Gathering (ENG)	Sky Wave
Fiber Optics	Stereophonic Broadcasting
Frequency Modulation (FM)	Transponder
FM Multiplexing	Videotape Recorder (VTR)
Ground Wave	
Hertz	



# **HISTORICAL PERSPECTIVES I**

**1890–1945 with Emphasis on Radio**

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## **Preview**

By 1945 radio had achieved a dominant role in American society it would never again enjoy. Its history to that date falls into four fairly discrete periods. In the years until 1920 radio was discovered and the foundations were laid for radiobroadcasting. In the early 1920s radio quickly passed through its infancy and established its claim on the attention of Americans. In the ten years ending in 1937 radio emerged in a form very similar to that of television in the 1970s with dominance of the networks and advertising and a reputation for giving the people what they wanted. Throughout World War II radio was the primary source of the latest news. As the war came to an end the trials and tribulations of FM began.

In the closing years of the 1880s Heinrich Rudolph Hertz demonstrated that energy could be sent between two points without the use of connecting wires. The transmission was by “Hertzian waves,” which are now known as radio or electromagnetic energy. The trail from the Hertz laboratory in Germany to modern broadcasting is long and replete with details. For our purposes, however, the main steps can be rapidly traced.

## **AN OUTLINE HISTORY OF BROADCASTING**

### **I. Radio**

- 1890–1920 Point-to-point radio
- 1920–1927 Beginnings of radiobroadcasting\*
- 1927–1937 Radio’s adolescence
- 1937–1945 Radio’s maturity
- 1945–1960 Changing patterns of radio
- 1960–1970 Steady growth and successful emergence of FM
- 1970–1976 Dominance of format programming

### **II. Television**

- 1920–1945 Experimental beginnings, wartime hiatus
- 1945–1952 Accelerating growth and the Freeze
- 1952–1960 Television’s adolescence
- 1960–1970 Television’s maturity
- 1970–1976 Changes in direction and emphasis

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### **3.1 1890–1920 POINT-TO-POINT RADIO**

#### **Marconi and the Beginnings**

Of all those who were intrigued by Hertz’s experiments, none was more enthusiastic or more successful in advancing the knowledge of radio than the Italian youth, Guglielmo Marconi. He saw radio as a potential means of supplementing telegraphy, the most important long-distance communications medium of the late nineteenth century. He worked on the transmission of long and short bursts of energy which in various combinations might serve as substitutes for letters of the alphabet when sending messages.

When the Italian government showed no interest in his experiments, he and his Irish mother traveled to London where the English, because

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\* After 1920 “radiobroadcasting” will simply be called radio.

## Guglielmo Marconi 1874–1937



Guglielmo Marconi (right) and David Sarnoff at RCA transmitting center in 1933  
Courtesy: NBC

*“Few great inventors have lived to see such great results from their first modest efforts and fewer yet have been honored in life and death as Marconi was honored.” \**

*Born in 1874, Marconi was a thoughtful and shy lad who grew up on his father's estate in Italy. He was very close to his Irish-born mother who was sympathetic to his*

*scientific interests, but he felt rather distant from his father who could be dictatorial and who discouraged all his efforts until after his experiments had succeeded. When he was twenty he read about Hertz and developed an interest in wireless which lasted the rest of his life. In the third-floor space of his home he first sent radio energy across the room and then gradually increased the distance until his signals were being received some two miles away. Two years later as a resident of England he was the cofounder of the Marconi Wireless and Signal Company which was to dominate world-wide radio communication for several decades.*

*His daughter has suggested it was unfortunate that by his twenty-third birthday in 1897 he had completed his basic experimentation, had been accepted by the world as a great inventor and was being inundated with honors which would continue to flow until after his death. At a time when most men were just getting started, he had achieved a pinnacle of success and found it increasingly difficult to lead a normal happy life.*

*In 1905 he married the daughter of an Irish peer. His home was in England but he was constantly traveling around the world overseeing his companies and interests. After the births of his children his wife was unable to continue traveling with him and they gradually lost rapport with each other. In 1924 they were divorced, and three years later*

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\* *Broadcasting*, August 1, 1937, p. 14.

*he married a much younger woman from Italy. Most of his last ten years were spent in that country where he was honored and encouraged in his work by Mussolini, who was especially interested in Marconi's pioneering efforts in radar. His death in 1937 followed a succession of heart attacks.*

*One of his great strengths was his ability to recruit and supervise the work of an excellent staff. Some engineers contend that he made no significant inventions after 1902, although there is no attempt to denigrate the importance of what he did in the years before. He is distin-*

*guished as one of the few inventors in history who from the beginning thought primarily of the practical applications of his work. While experimenting in his father's home, he was thinking about the use of wireless to send messages. He had a knack of finding dramatic demonstrations of his equipment and in 1899 received great attention when he reported by radio on an international ship race between the Columbia and the Shamrock near New York City. It was a combination of inventiveness, utilitarianism, business acumen, and good public relations which made him a giant of his time.*

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of their world-wide colonial system and maritime tradition, were greatly interested in new developments in communications. In 1897 he demonstrated his equipment, secured basic patents, and joined with wealthy and powerful Englishmen in forming the Marconi Wireless and Signal Company. Two years later they formed the subsidiary Marconi Wireless Company of America. By insisting on contracts to lease equipment rather than making outright sales the Marconi companies dominated the early development of radio throughout the world.

The Marconi Company first used radio to replace the telegraph in areas where it was impossible to lay wires: from islands to the coast, from ships at sea, and over mountainous terrain. Success and world-wide enthusiasm were almost instantaneous. Other nations signed contracts to lease from Marconi the equipment which would fill an obvious void in their communications capacity. In less than five years it became evident that if all countries were to enjoy the potential benefits of radio they would have to enter a new and unprecedented era of cooperation. The first international radio conference was among European countries in Berlin, Germany in 1903. A subsequent Berlin conference in 1906 laid the foundation for the international cooperation which extends to this day.

The first American legislation to mention radio was the Wireless Ship Act of 1910 which provided that passenger ships carrying 50 or more persons might not leave a port of this country unless it had "efficient apparatus for radio-communication, in good working order." The Secretary of Commerce and Labor was charged with enforcing the Act.

The third international radio conference, held in London in 1912, was attended for the first time by United States representatives. We agreed with other signatories to abide by the basic principle that each nation should regulate the use of radio within its jurisdiction. To implement the agreement reached at the conference, Congress passed the Radio Act of 1912 requiring that anyone wishing to use radio must obtain a license from the Secretary of Commerce and Labor.

### **The Sinking of the *Titanic***

One of the most dramatic tragedies of all time occurred in 1912; it made many people aware for the first time of the new communications device called radio. The *Titanic*, safest and most modern ship ever constructed, was on its maiden voyage from Europe to New York City carrying many of the world's famous people. It was built with a system of water-tight compartments on the theory that if the hull were pierced at one point, the ship would remain afloat. As the Captain was racing through the night trying to establish a new speed record, the ship struck a giant iceberg which ripped the hull from bow to stern. The water-tight compartments, built with such care to make the *Titanic* unsinkable, were nullified in a matter of seconds.

What impressed the world, aside from the magnitude of the disaster in which over a thousand lives were lost, was the subsequent knowledge that the ship had received radio signals from others in the area telling of the unusual number of icebergs. The radio operator of the *Titanic* refused to make note of the warnings and finally told the other operators to "clear the air" so he could get caught up on all the messages he was supposed to transmit from the passengers to friends in Europe and America. Had the Captain received and heeded the warnings, he could have proceeded at a speed which would have enabled him to avoid the collision.

It was also later learned there were other ships almost in sight of the *Titanic* which could have arrived in ample time to save many more than the 700 who were rescued. However, their radio operators had "signed off" for the night and gone to bed. They never received the SOS signals the *Titanic* operator was sending so feverishly shortly after midnight. As it was, those who were saved owed their lives to the fact

that more-distant ships heard the distress calls and steamed many miles to pick up the survivors.

This was the first time in history that people knew about a distant tragedy of this magnitude at the moment it was taking place. The distress messages were being picked up in London and New York by the Marconi operators who had been decoding the messages from the passengers. Receiving the signals in New York was a young man named David Sarnoff who was to play a most important role in the development of American broadcasting. As the messages came from the *Titanic*, he was one of the first to know (even before some who would go down with the ship a few hours later) that it had struck an iceberg. He followed the transmission of distress signals and the responses of other ships speeding to the rescue. Sarnoff passed the word to bystanders and to the newspapers. During that fateful April night and the following days people suddenly realized that radio existed and could dramatically serve as a lifesaving device and as an information medium to speed news to the public through the newspapers.

*From David Sarnoff's 1915 Memorandum to the General Manager of the Marconi Wireless Telegraph Company of America:*

I have in mind a plan of development which would make a radio a "household utility" in the same sense as the piano or phonograph. The idea is to bring music into the home by wireless.

While this has been tried in the past by wires, it has been a failure because wires do not lend themselves to this scheme. With radio, however, it would seem to be entirely feasible. For example, a radio telephone transmitter having a range of say 25 to 50 miles can be installed at a fixed point where instrumental or vocal music or both are produced. The problem of transmitting music has already been solved in principle and therefore all the receivers attuned to the transmitting wave length should be capable of receiving such music. The receivers can be designed in the form of a simple "Radio Music Box" and arranged for several different wave lengths, which should be changeable with the throwing of a single switch or pressing of a single button.

## Brigadier General David Sarnoff 1891–1971



*Courtesy: NBC*

*David Sarnoff was a man of vision as well as accomplishment. His 1915 memorandum foreseeing a “radio music box” is famous. Less known is his 1923 statement to the RCA Board of Directors:*

*I believe that television, which is the technical name for seeing as well as hearing by radio, will come to pass in due course. . . . It may be that every broadcast receiver for home use in the future will also be equipped with a television adjunct by which the instrument will make it possible for those at home to see as well as hear what is going on at the broadcast station.*

*Born near Minsk, Russia in 1891, he was brought to the United*

*States at the age of nine. After the death of his father he became the main support of his family. Selling newspapers, working as a delivery boy and a messenger, he saved money to study Morse code and wireless telegraphy. Starting as an office boy with the American Marconi Company, he became an operator a year later at the age of 17. After serving on ships and in shore stations, he was on duty in New York City in 1912 when he received word of the Titanic disaster. He remained at his post for 72 hours, receiving and passing on messages to relatives of the passengers and relaying news of the rescue operations to the world.*

*As Assistant Traffic Manager of the American Marconi Company, he worked very closely with the American military forces in World War I on their communications capabilities. By 1917 he was Commercial Manager, and kept the same title with RCA when, in 1919, it bought out Marconi’s American operations. He became General Manager in 1921, and it was his decision that RCA should buy WEAf and form the National Broadcasting Company in 1926. In 1930 he became the President of RCA, and in 1947 he became Chairman of the Board, a title he held until his retirement in 1969.*

*Throughout the 1930s he had a consuming interest in the development of television and its introduction to the American people. In 1944 the Television Broadcasters Association honored him as the “Father of American Television.”*

*He was appointed a Lieutenant*

*Colonel in the U.S. Army in 1924 and then promoted to Colonel. In World War II he became a major leader in the field of military communications. He was appointed special consultant to General Eisenhower and was promoted to Brigadier General in 1944.*

*In the postwar years he was not as close to broadcasting as he had been in the earlier days when he personally arranged for Dr. Walter Damrosch to conduct the "Music*

*Appreciation Hour" and brought the Metropolitan Opera to the nationwide network he had founded. He did, however, make the overall decision that NBC should subsidize its color programming for some ten years before the other networks joined in a full-color service. Without his vision it is likely that color television and many other developments in the field would have been delayed for many years.*

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### **Formation of the Radio Corporation of America (RCA)**

The earliest radio experimentation in America was carried on by individuals who later became associated with large companies like General Electric (GE), Westinghouse Electric, and Western Electric, a subsidiary of American Telephone and Telegraph Company (AT&T). No American company could compete with American Marconi, which was virtually the only source of most radio equipment in this country. During World War I (1914–1918) radio became indispensable to military communications, particularly for units at sea. The United States Navy considered it unthinkable that our vital communications in the future should depend on equipment leased from a company whose home was in a foreign country.

During the War, the Navy Secretary had persuaded American companies to pool their patents for military use. In 1919 the American Marconi Company was negotiating with GE for exclusive world-wide rights to the Alexanderson alternator, which was expected to revolutionize long-distance radio communications. Under urging from the United States Government, GE Board Chairman Owen D. Young proposed the formation of a new corporation which would hold all American patents and be a service organization for American companies. GE set up a \$2.5 million fund to buy out shareholders of American Marconi and shortly joined with AT&T and Westinghouse Electric in ownership of the new Radio Corporation of America (RCA). RCA continued under joint ownership until the government forced its separation from the parent companies in the 1930s. There was a division of labor whereby GE and Westinghouse would use pooled patents to manufacture receivers which RCA would sell. Western Electric was to specialize in making transmitters.

## **The Development of Radiotelephony**

For the first twenty years the most practical use of radio was in wireless telegraphy—using the new medium to send messages in dot-dash code where it was impractical to have telegraph wire connections. The essential intermediate step to broadcasting was radiotelephony in which the sounds of voice (and music) could be transmitted and received. By 1910 the pioneers Lee DeForest and Reginald Fessenden had completed the first steps, and by 1920 many were focusing their attention on development of radio to the point where it would have practical uses far beyond supplementing the telegraph. The period of point-to-point radio was about to give way to a new era in which the public would become most intimately involved.

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### **Prebroadcasting Chronolog to 1920**

- 1844 Morse telegraph circuit operating between Washington, D.C., and Baltimore, Md.
- 1864 James Clerk-Maxwell published “Dynamical Theory of the Electro-Magnetic Field.”
- 1875 Alexander Graham Bell invented the telephone.
- 1877 Thomas A. Edison succeeded in audible reproduction of recorded sound.
- 1888 Heinrich Hertz published “Electro-Magnetic Waves and Their Reflection.”
- 1895 Marconi’s experimentation in Italy.
- 1897 Marconi made first official demonstration of ship-to-shore wireless in England.  
Formation of Marconi Wireless Telegraph and Signal Company in England.
- 1898 First commercial wireless message.
- 1899 Marconi sent wireless signals across the English Channel.  
Formation of Marconi Wireless Company in America.
- 1900 Oliver Heaviside and Arthur Kennelly suggested mirror theory whereby radio waves would be reflected from layer in ionosphere later called “Kennelly-Heaviside Layer.”
- 1901 Marconi succeeded in first transatlantic signals.

- 1903 First international Radio Conference in Berlin.
- 1904 Lee DeForest received patent on “Phonofilm” to make movies with sound.
- 1905 Ernest F. W. Alexanderson built alternator for use in radio telephony experimentation by Reginald Fessenden.
- 1906 Lee DeForest invented three-element (triode) tube called the “audion.”  
Second international Radio Conference in Berlin.  
Fessenden broadcast Christmas Eve program of speech and music received by ships at sea.
- 1908 DeForest broadcast music from Eiffel Tower in Paris.
- 1910 Passage of the Wireless Ship Act of 1910.
- 1912 Sinking of the *Titanic*.  
United States represented at international Radio Conference in London.  
Passage of the Radio Act of 1912.
- 1913 Edwin H. Armstrong invented the regenerative “feedback” circuit.
- 1915 David Sarnoff wrote memorandum proposing a “radio music box.”  
Marconi visited General Electric to see latest Alexanderson alternators. War delayed negotiations to secure exclusive use.
- 1917 Alexanderson designed 200 kilowatt high-frequency alternator which would revolutionize long-distance radio.
- 1918 End of World War I found technology ready for radiotelephony.
- 1919 Formation of Radio Corporation of America.

Note: The Alexanderson alternator, the Armstrong regenerative circuit, and the DeForest audion tube were all important in the development of radio telephony and broadcasting.

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### 3.2 1920–1927 BEGINNINGS OF RADIOBROADCASTING

#### Frank Conrad and Station KDKA

In 1920 Frank Conrad, a Westinghouse engineer, was experimenting with radio telephony. He had a transmitter in the garage of his home in a Pittsburgh suburb and an assistant had a receiver in his home a few miles away. Because it was both tiring and inconvenient to talk all the time during the experiments, Mr. Conrad brought out his phonograph and connected it to the transmitter so music was being sent by radio.

Amateur radio operators (“hams”) had been growing in great numbers since 1912 when radio had been so prominent in the news of the *Titanic* disaster. Those living in the Pittsburgh area quickly learned that if they built their sets to receive the proper frequency, they could pick up Mr. Conrad’s music. The word circulated, and in September the Joseph Horne Department Store advertised kits (from \$10 up) which people could use to make their own sets to hear this new phenomenon.

Mr. Conrad received cards and calls—some wanting to hear favorite records and others protesting that some of the disks were getting too “scratchy” from overuse. He began putting his transmitter on the air for a couple hours in the evening to meet the demand. When Westinghouse saw what was happening, the decision was made to build a special transmitter for the listeners as a means of stimulating demand for the receivers it was preparing to produce.

On November 2, 1920 Westinghouse inaugurated station KDKA by giving the results of the Harding-Cox presidential election as provided by a newspaper from its telegraphed reports. There is controversy as to whether KDKA was clearly the first broadcasting station in the country. WHA in Madison, Wisconsin, and WWJ in Detroit, Michigan, also lay claim to the honor. However, it is the consensus that KDKA has an extremely strong case. We do know it was the first station to receive a license specifically for broadcasting. Thus, America entered a new age in which radio signals were broadcast—transmitted for the purpose of reaching as many listeners as possible. There were and are many applications of point-to-point radio where signals are sent to a few specific receivers but, for our purposes, the word “radio” will be used to designate broadcasting only.

#### Hoover’s Regulatory Philosophy

The man most clearly associated with the beginning of broadcast regulation is Herbert Hoover, who was to be elected President of the

HORNE DA



5 Weeks Starting Tomorrow  
in Stock Patterns of  
rware--25% Off

... if in low are for complete sets of  
... and single pieces may be  
... at the same reduction.

The Kiddie-Koop

\$23.00 and \$25.00

Ending Chairs  
44c Each

Air Concert  
"Picked Up"  
By Radio Here



## Air Concert "Picked Up" By Radio Here

Victrola music, played into the air over a wireless telephone, was "picked up" by listeners on the wireless receiving station which was recently installed here for patrons interested in wireless experiments. The concert was heard Thursday night about 10 o'clock, and continued 20 minutes. Two orchestra numbers, a soprano solo—which rang particularly high, and clear through the air—and a juvenile "talking piece" constituted the program.

The music was from a Victrola pulled up close to the transmitter of a wireless telephone in the home of Frank Conrad, Penn and Peebles avenues, Wilkinsburg. Mr. Conrad is a wireless enthusiast and "puts on" the wireless concerts periodically for the entertainment of the many people in this district who have wireless sets.

Amateur Wireless Sets, made by the maker of the Set which is in operation in our store, are on sale here \$10.00 up.

—West Basement

Foresighted advertising. This famous advertisement, placed by the Joseph Horne Company in the Pittsburgh *Sun*, stimulated public interest in Dr. Conrad's early radio broadcasts. To Horne's, radios meant a new item for sale. To H. P. Davis, Westinghouse Vice President, the ad was an inspiration. He reasoned that the real radio industry lay in manufacturing home receivers and broadcasting programs.

*Courtesy: Westinghouse Broadcasting Company*

United States in 1928. *Broadcasting*, in its obituary story about Mr. Hoover, said, "He was, more than anyone else, the father of the American system of broadcasting."

As Secretary of Commerce (the Labor Department had been separately established since the Radio Act of 1912) Mr. Hoover was charged with issuing licenses to those who wished to use radio. He later recalled that when he took office in 1921 there were 2 stations on the air and about 400,000 receivers; a year later there were 300 stations and over 2 million receivers.

Had a lesser man been in Hoover's position, it is likely that total confusion might have emerged as our system of broadcasting grew under a law which had been written only for point-to-point radio. As it was, the system developed during four to five critical years with a sense of order. When a court finally ruled the Radio Act of 1912 did not provide a sufficient basis for effective regulation, Congress had a starting point for corrective legislation. In 1927 it wrote into law many of the principles by which Hoover had been proceeding.

Mr. Hoover believed that radio should be used primarily for the benefit of the public, and his philosophy of regulation under the Act of 1912 centered around three points.

1. He conceived of broadcasting as a part of the private enterprise system in which operators would own their facilities.
2. He wanted to keep government from having any control over the content of programming.
3. He thought the most effective way of avoiding government control was self-regulation whereby the broadcasters themselves would agree on their responsibilities. The National Association of Broadcasters (NAB) was formed in 1923 to speak for all radio operators in a confrontation with the American Society of Composers, Authors, and Publishers (ASCAP) over permission to broadcast copyrighted music. The NAB expanded its concern to other broadcast problems and was instrumental in working out "standards of good practice" as a vital part of self-regulation.

In 1922 Hoover called the first of four annual national radio conferences to discuss the problems of broadcasting and other uses of the radio spectrum. Through the conferences he was successful in persuading operators to share the limited frequencies and to pursue his concepts of how the new medium should evolve.

It is impossible to give accurate statistics on the numbers of stations existing in the early 1920s. We do know there were 2 stations on the

air in 1921 and more than 500 in 1925. However, these figures and all others should be considered minimal because there were many who built their own five- and ten-watt stations and operated them sporadically and without authorization from the government. There have been estimates that the actual numbers were three or four times as large as the official figures.

Mr. Hoover first assigned one frequency (830 kHz) for broadcasting. A year later he added another—750 kHz. In 1925 the spectrum between 550 kHz and 1350 kHz was reserved for this new use of radio.

Because there were so many operators and so few frequencies, it was necessary for Mr. Hoover to issue licenses whereby a place on the dial would be shared by several stations in a community throughout the week. This was reasonably satisfactory, but it was inevitable there should be an occasional conflict. In New York City the broadcaster who used a frequency for the early part of the evening liked opera; the one who followed preferred jazz. The opera fan went to great trouble and expense to get some artists to do a live broadcast which was not accurately timed in advance. Just as the company reached the finale, the other operator started airing the jazz program. When the opera listeners called to protest, they were told to call the person who put on the jazz. The number of complaints was so great that the second operator agreed to postpone programming when there was live opera on the air until the earlier performance was completed.

### **Listening to Many “Firsts”**

Much of the listening in the early 1920s was “dial-twisting” to see what distant stations might be picked up. This was such a popular pastime that it became customary for all the stations in each city to observe a “Silent Night” one evening a week. On that night all local stations would refrain from broadcasting so listeners might concentrate on bringing in the sky waves of distant stations.

In the first half of the 1920s there were many examples of what was to become commonplace in broadcast radio. There was the first coverage of sporting events, the first live orchestras, the first opera, the first church service, the first drama, etc.

### **Finding a Financial Base**

There was little consensus in the early years about how radio should be financed. Some thought stations, like libraries, should be endowed by wealthy philanthropists. Others felt subscribers should pay “dues” to cover the expenses of the programs they enjoyed. Some manufacturers, like Westinghouse and GE, operated stations to stimulate demand for the receivers they made. A large number of colleges and

universities tried to justify operating radio stations as a way to provide continuing education to the public.

Probably the most influential broadcaster in the early 1920s was AT&T. Drawing on its telephone experience, it built WEAF in New York City as a “toll” station to sell time to those who wanted to communicate with the public. (Other stations saw this as logical for AT&T but did not relate the concept to advertising which they also might adopt.) The first true commercial was probably a ten-minute talk by a real estate dealer in Queens who purchased the time for \$50 on WEAF on August 28, 1922. There had been from the beginning pseudo-commercials in the “swap deals” whereby station operators received products or services in return for mentioning a manufacturer or dealer on the air. (When Mr. Conrad put his transmitter on the air in the evenings as a service to listeners, he used phonograph records donated by a local music store in return for telling who had provided them.)

It was not until the mid-1920s that there was general agreement on advertising as the best way to finance stations. Even then, the practice was far different from the advertising with which we are familiar today. It was expected that companies would pay for time and programs and only their names would be mentioned at the beginning and end of the presentations. The hope was that people would patronize their stores or buy their products out of gratitude for the programs they had provided. In many ways the institutional advertising of those days resembled the “patron plan” of public television today in which a company donates money to make a program available and is mentioned only by name before and after the telecast. Technically, this is not now considered advertising.

The early advertisers on WEAF were pleased with the results of their program sponsorship and wanted to extend the effort. Because AT&T had telephone lines connecting various cities, it was feasible to make arrangements for other stations to carry some WEAF programs and advertising. The first commercial network of “two or more stations carrying the same program simultaneously” consisted of WEAF and WNAC in Boston. As other stations joined from other cities, the AT&T network soon extended from coast to coast for certain special events.

RCA also operated a station in New York City and was interested in building a network. However, AT&T refused to lease its lines to RCA so the latter was forced to use telegraph lines which were much less satisfactory. The RCA network remained smaller and less effective than the AT&T network. Because AT&T had a clear commitment to

accept advertising and because it had the only satisfactory network connections, it dominated the growth of broadcasting in the mid-1920s.

## Regulatory Breakdown

There had been an initial erosion of Hoover's regulatory authority in the 1923 *Intercity* case.\* The Intercity Radio Company had engaged in wireless telegraphy, but Hoover refused to renew its license in 1921 because of anticipated interference with other operators. A court ruled that he might not refuse a license to qualified applicants but must assign to them a frequency on which they might transmit. In 1926 Hoover's authority was almost completely eliminated. He had been able to arrange a reasonably satisfactory use of the limited broadcast frequencies by licensing each operator to use limited power during certain specified hours of the week. In the *Zenith*† case it was ruled that once a person met the qualifications of the Act of 1912, that person must be licensed and might broadcast full time on any frequency designated for such use. This amounted to a full elimination of discretionary power to issue the restricted broadcast permissions which had been the basis of the whole system.

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### 3.3 1927–1937 RADIO'S ADOLESCENCE

The next year Congress passed the Radio Act of 1927. Seven years later it acted to bring regulation to all electronic communications under one agency, and the Radio Act of 1927 became Title III of the Communications Act of 1934. There were slight differences in language between the two but there was no substantive alteration in the regulatory pattern established in 1927. Both provided that broadcasting should be conducted "in the public interest, convenience, and necessity."

During the next ten years radio passed through its adolescence by improvising and then formalizing many of the practices which still characterize television.

## Development of the Networks

The networks which dominated radio in the early 1940s as they now dominate television started to assume familiar form just as the new law was being drawn up. AT&T had earlier decided it would give up station operation and concentrate on the telephone industry and long-distance

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\* *Hoover v. Intercity Radio Co., Inc.*, 286 F. 1003 (D.C. Cir.) February 5, 1923.

† *United States v. Zenith Radio Corporation et al.*, 12 F. 2d. 614 (N.D. Ill.) April 16, 1926.

interconnection of radio stations. RCA purchased WEAJ for \$1 million (an astounding price in those days) and took over the AT&T network to be operated by the National Broadcasting Company (NBC), a wholly-owned subsidiary formed for that purpose in 1926. Because RCA already had its own minor network, it identified the old and the new by colors. The AT&T network became NBC Red and the RCA network became NBC Blue. The latter never did achieve the stature of the Red. In the late 1930s NBC was accused of keeping the Blue network in operation only to prevent competitive new networks from getting started.

The third network (if we count NBC Red and Blue as the first and second chronologically) grew from a confusing and shaky beginning. In 1927 a program service put together a network with sixteen affiliates to be called United Independent Broadcasters. The network agreed to buy ten hours of time a week from each affiliate at a price of \$50 per station per hour. When it became difficult to sell the time, the Columbia Phonograph Company took over the ten hours. It used some of them to advertise its own records and sold some to other advertisers. The name of the network was changed to the Columbia Phonograph Broadcasting System and then to the Columbia Broadcasting System (CBS).

One of the few early advertisers on CBS was the Congress Cigar Company of Philadelphia. In one year sales of its "La Palina Smoker" rose from 400,000 per day to over a million. This intrigued the advertising manager of the Congress Company, William Paley, son of the owner. When he learned the phonograph company's contract for ten hours a week on the network was for sale, he persuaded his relatives to help him buy it. On September 2, 1928, the sale was consummated and he took a three-month leave of absence from the cigar company to get the new enterprise started. He very quickly decided the job was more than he could handle part-time and too interesting to leave. He devoted all his energies to broadcasting and the story of CBS from that day on is the story of Mr. Paley who five decades later was still Chairman of the Board.

The fourth network came into being in 1934. There were four stations in New York City, Chicago, Detroit, and Cincinnati that wanted to give advertisers more exposure on the most popular programs which had been developed in each city. The key program was "The Lone Ranger" on WXYZ in Detroit. Because the four stations were banding together for their mutual benefit, they called the network the Mutual Broadcasting System (MBS). They saw it only as a sales

## William S. Paley b. 1901



Courtesy: CBS

**CBS** Board Chairman William S. Paley has placed his stamp on CBS to a degree which few founders of other large corporations can match. He saw his network grow from two or three hundred employees in the late 1920s to a giant whose four groups employ some 30,000 persons in the mid-1970s. Through most of the intervening years it was decisions which he made personally which shaped not only his own network but also much of the industry.

Born in 1901 in Chicago, Paley received his BS degree from the University of Pennsylvania in 1922. For the next six years he was Vice President, Secretary, and Advertising Manager of the Congress Cigar Company, a family-owned business in Philadelphia which was one of the

early successful sponsors on radio. Upon purchasing the CBS network contracts, he assumed the Presidency and has been the leader of the company ever since.

In the 1930s his program decisions affected the style of the networks for years to come. Because CBS was smaller and more flexible than the established NBC networks, Paley was able to move more quickly and to exploit his conviction that it was stars who made successful programs. While on an ocean liner going to Europe, he heard a recording of Bing Crosby, radioed instructions to sign him up, and gave him his first national showcase on CBS. He missed a luncheon date one day to hear the Mills Brothers in their first major audition, then hired them and saw them rise to become among America's top entertainers on his network. His interest in news dates back to the early 1930s when he thought CBS should start its own news organization because the press associations resisted selling their services to radio. It was he who decided that CBS should buy Columbia Records at a time when most thought radio had ruined the record business.

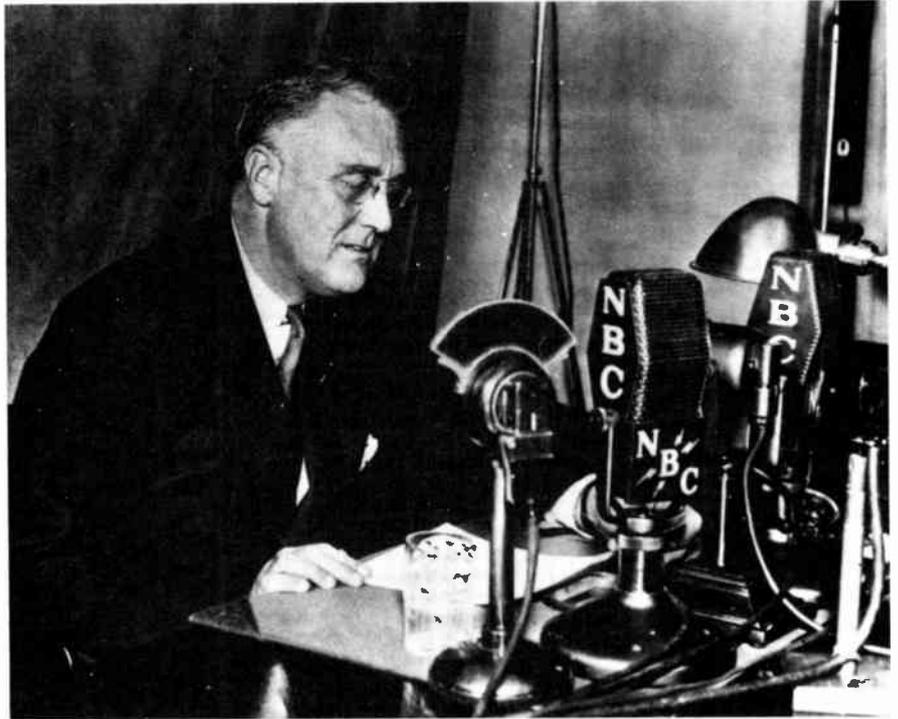
During World War II Paley was Deputy Chief of Psychological Warfare for the European Theater under General Eisenhower. Subsequent to the war his service to the nation included the Chairmanship of President Truman's Materials Policy Commission studying the long-range problems of our natural resources. The Commission's report has been called a landmark in the field.

*In the immediate postwar years Paley moved to acquire for his network first a parity in radio with NBC and then to move ahead to number one in television in the 1950s. He took personal charge of the talent*

*raids which saw Jack Benny and other stars move to CBS under capital-gains arrangements. It was also his decision that CBS should invest many millions of deficit radio dollars getting started in television.*

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organization. Unlike NBC and CBS, MBS owned no stations. Each affiliated station was to be paid according to its published list of charges after the network kept 15 percent to cover its expenses. By the end of 1936 there were 39 affiliated stations and five years later there were 160, making it the largest network in the country in number of outlets. Its coverage was less than might have been expected since many of its stations were comparatively weak in power.



President Franklin D. Roosevelt delivering “fireside chat” during the Depression  
*Courtesy: NBC*

The importance of the networks became evident in the 1932 presidential election in which Franklin D. Roosevelt owed much to radio. He was overwhelmingly opposed by publishers who controlled the news and editorial comments of the press. Before radio, newspapers had been the only windows through which citizens could see and get to know their candidates. Publishers tended to come from the “establishment.” Most were at least fairly wealthy and primarily concerned with preserving the status quo. Radio owners differed little from publishers in that respect. But it was not editorial support from licensees that FDR needed in the election—he needed the use of their facilities to talk directly to the people. Those facilities would have done little good if they had not been tied into networks and into millions of homes. Roosevelt could no more go around giving speeches on individual stations than he could argue with individual editors throughout the country trying to enlist their support. By going directly to the people with his message, FDR was elected.

Four months after the 1932 election, there was more evidence of the impact radio could have on society. It is impossible to describe adequately the hopelessness and despair which prevailed in this nation in 1932 and 1933. There was a psychological depression fully as deep as the financial decline—both hit a low this country had not known before. It is quite likely that only those who lived through the period can fully appreciate the lift that came on March 4, 1933, when in his inaugural address broadcast coast to coast, President Roosevelt ringingly declared, “The only thing we have to fear is fear itself.” This speech was followed by “fireside chats,” a series of radio talks in which FDR took America into his confidence in discussing the situation and explaining the solutions. While his policies were subjects of great controversy, there is little doubt that the people rallied behind him and were lifted from their despair by his speeches. Without his ability to speak to them in their homes through network radio, the history of our country might have been quite different.

Mutual was a pioneer in “cooperative programming” whereby the network would distribute a program with open times for commercials but with no national sponsors. The individual stations could sell the open time in the network program to local sponsors who were thus able to insert their advertising in programs of high quality.

As MBS got larger, it started providing more of the functions (public service sustaining programs, for example) that the other networks had undertaken.

## **Development of Advertising**

During the early 1930s radio developed many of the commercial practices which are characteristic of television today. It was not coincidental that this happened as the Depression deepened and radio stations found it necessary to concentrate on maintaining their revenues.

In 1930 all companies were beginning to feel the Depression and thought they should be more cautious in allocating their advertising dollars. For years newspapers had been able to give advertisers certified figures on how many copies were sold. There was additional research to estimate the number of people who would read an advertisement in each copy and the number who would remember it at a later point. It was natural that advertisers should seek comparable data concerning the effectiveness of radio.

The national advertisers sought to answer the questions about radio by setting up the Cooperative Analysis of Broadcasting under the direction of researcher Archibald Crossley to ascertain the listenership to programs on which advertising was placed. He hired interviewers across the country who called homes inquiring about listening for the past several hours (telephone-recall method). This was the beginning of the ratings which today play such an important role in television and advertising.

The early 1930s also saw a movement from institutional advertising into the era of "hard sell." At first the advertisers mentioned specific prices of their products in a tentative way, not certain that the people would accept the commercials. When there were no objections from listeners, the practice spread. In subsequent years many listeners and viewers have said they like the way products are advertised on broadcasting because it gives them an opportunity to learn about new items and to do comparative shopping in the comfort of their homes.

## **Development of News**

It was not until the approach of World War II that radio became an important news medium. In its earliest days it had been customary for stations to buy the morning and evening papers and to summarize them in newscasts. Then they started purchasing news directly from two of the three principal news agencies—United Press (UP) and International News Service (INS). The Associated Press (AP) was owned by the newspapers it served and refused to sell its services to radio stations.

As the Depression deepened, newspapers were concerned about losses of advertising dollars to radio. Publishers were especially upset to see sponsorship of network newscasts and commentators. Because newspapers were still the biggest customers of UP and INS, the publishers brought pressure on them to discontinue selling news to broad-

casters. CBS started its own news service and NBC made plans to enter the field also.

In December 1933 a meeting was held in the Biltmore Hotel in New York City to hammer out the “Biltmore Agreement” between publishers, networks, and press associations. It was agreed that the networks would receive from the press associations enough news items to present two five-minute summaries a day. The morning news was not to be given before 9:30 A.M. and the evening news had to come after 9:00 P.M. Thus, there was to be no competition to the newspapers during the hours when they were “hitting the streets.” There could be no advertising on the newscasts. CBS agreed to give up its news organization and NBC agreed not to enter the field.

The Biltmore Agreement lasted only a few months. A new organization, Trans Radio Press, began selling news to stations that gave newscasts whenever they wished and with sponsorship. The publishers reached the point where their first concern was to drive Trans Radio Press out of business. The most effective means was for the established organizations to sell news to the stations, and they proceeded to do just that. The networks also were soon back in the scheduling of news.

Through the mid-1930s the network news consisted mostly of commentators who gave the background of stories and interpreted the news. Some, like Lowell Thomas and H. V. Kaltenborn, were household names with large followings. As the situation in Europe moved closer to open hostilities, networks started gathering their own news and by 1941 radio became the first source to which people turned for the latest developments in the war.

## **Development of Programming**

Following the beginnings in the early 1920s, the first “major” radio program was the “Eveready Hour,” sponsored by the National Carbon Company on the WEAf network starting in 1924. As the networks grew, the most popular programs were the “Hour,” presented by different products—Eveready, Palmolive, and Atwater Kent. Aside from sports and the coverage of special events such as the 1927 Lindbergh ticker-tape parade in New York City, the one program which dominated America’s attention in the late 1920s was “Amos ’n Andy,” which was so popular that President Coolidge would not miss an episode for any reason. Theaters delayed their evening openings so people could hear “Amos ’n Andy” before going to the movies.

By the late 1930s radio had developed a wide spectrum of entertainment programming comparable with television 30 and 40 years later. Most spectacular were the big bands with the singers and come-

dians who rounded out the variety hours. Some became as well known to postwar generations as they were to the listeners of the thirties—Kate Smith, Jack Benny, Burns and Allen, Edgar Bergen and Charlie McCarthy, Eddie Cantor, and Ed Wynn. For the children there were programs like “Little Orphan Annie” and “Jack Armstrong, the all-American boy.” For drama and suspense America tuned to “Inner Sanctum,” “The Shadow,” “Gangbusters,” and “Mr. District Attorney.”

One of the most important developments of the early 1930s was the birth of the daytime serial. Advertisers were searching for inexpensive programming to put in the daytime hours. They devised serials in which the stories of people in trouble moved slowly from one crisis to another. Because so many of the serials were sponsored by makers of soap products, they became known as “soap operas.” The serials probably evoked more loyalty among their listeners than any other program form. The heroines of “Portia Faces Life,” “Our Gal Sunday,” “The Romance of Helen Trent,” “Stella Dallas,” and others were very much members of a listener’s family. When a baby was to be born in one of the series, gifts were sent in by the thousands. If there were an accident, there would be messages of sympathy. Many listeners wrote to say they had been better able to solve their own problems after seeing how similar situations were worked out in a serial. In many ways the soap operas were among the most significant programs presented by American radio.

### **Regulating the Traffic**

When the Federal Radio Commission was created in 1927, it faced a monumental task of creating order out of the chaos which had ensued after Hoover gave up issuing limited licenses. Congress had thought it would take about a year and provided that at the end of that time the Commission would be disbanded and licensing would be handled again by the Secretary of Commerce. It took much longer than anticipated. Time-consuming hearings were required to determine who should have the privilege of using the scarce frequencies. The Commission’s licensing authority was extended until it was replaced by the Federal Communications Commission in 1934.

Throughout the ten years from 1927 to 1937 both Commissions devoted most of their attention to allocating facilities to applicants. On only a few occasions did they get into other areas of defining the public interest.

An especially interesting action of the Federal Radio Commission concerned one of the famous broadcasters of that time, Dr. John

Brinkley. Dr. Brinkley was largely self-taught and was licensed to practice medicine only in the state of Kansas in which he had received an honorary medical degree (upon payment of a large sum of money to an unaccredited medical school). His specialty was a goat-gland operation designed to renew sexual vigor in elderly men. Observers said he was an extremely competent surgeon.

Men came from all over the country for Brinkley's operation. In 1923 he built a station primarily to entertain his patients while they were in the postoperative stage of recovery. In the late 1920s, somewhat to his surprise, he found people in the area were listening and were writing in for medical advice. When his first station burned down he built another with greater power and used it to tell about his services and to answer questions he had received in the mail.

He had an arrangement with druggists throughout the Midwest. When a person came in and asked for a Dr. Brinkley prescription by number, the druggist would fill it and send part of the money to the doctor.

In a typical broadcast he advised:

You are listening to Dr. Brinkley speaking from his office over KFKB. . . . She states her case briefly, which I appreciate. She had an operation, with her appendix, ovary, and tubes removed a couple years ago; she is very nervous and has dizzy spells. She says the salt solution and constipation and liver medicine has already benefited her. In reply to your question, No. 1, I am more or less of the opinion that while the symptoms are to a great extent those of a premature menopause, I think they are not, but they are due to the fact that you have a very small amount of ovarian substance remaining. In my practice in such cases as this, I have for many years used Prescription No. 61 for women. I think you should, as well as Special Prescription No. 50, and I think if you would go on a vegetable diet, a salt-free diet, for a while and use Prescriptions No. 64, 50 and 61, you would be surprised at the benefit you would obtain . . .

Responding to pressure from the American Medical Association, the Federal Radio Commission refused to renew Dr. Brinkley's license. It ruled that giving medical advice by radio without having examined the questioners was contrary to the public interest. Not only might the prescriptions be the wrong ones for those who had written in, it was also feared others who heard the broadcasts would diagnose themselves and undertake harmful remedies. The Commission further noted that responding to letters was using a broadcast frequency for point-to-point communication.

It should be noted that the passage of the Communications Act

of 1934 was not considered important enough to mark the division between two periods in our outline history of broadcasting. There was no change in the regulatory patterns of broadcasting.

By 1937 radio had passed through its adolescence and most of the characteristics of modern television had been adopted by the older medium. (1) The networks were established at the heart of radio programming and had essentially the same relationships with their affiliates that the television networks have today. (2) Listening had passed from the period of “dial-twisting” into a time when people turned on their sets for specific popular programs. (3) The ratings were the basis on which many programming decisions were being made. (4) Radio news was ready to assume a position of leadership.

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### **3.4 1937–1945 RADIO’S MATURITY**

When World War II ended in 1945 radio had achieved the stature television was to reach three decades later—it was the dominant entertainment and news medium of the country.

#### **Radio and World War II**

Radio schedules were nearly sold out during the war years, partly because a shortage of newsprint made it impossible for newspapers to add enough pages to include all the advertising they might have sold, and partly because manufacturers were unable to get materials for expanding their plants, thus freeing more dollars for advertising. Radio at the network level was never again to be as healthy as in 1945. It was to be another ten years before radio found its current niche in new formats and the unexpected strength of local advertising.

Radio made important contributions to the war effort by participating in drives to sell war bonds and urging people to conserve scarce materials and to cooperate in various rationing plans. Incidentally, there was no censorship during the war years. The government indicated certain information that would be helpful to the enemy and stations voluntarily eliminated those items from the news. For example, it was known that weather tends to flow from west to east and if an enemy submarine off the North Atlantic coast were able to get weather reports from Chicago, Buffalo, and Boston, it would have good clues as to what might be expected in its area of operations for the next few days. Thus, stations did not give weather reports and they never mentioned if there were large troop movements within their coverage areas

or if there were developments in war plants, such as the hiring of a thousand new workers.

As World War II approached, radio threw off the last remnants of the Biltmore Agreement shackles and became a vital news source with its ability to broadcast events of the day within minutes or hours of the time they occurred. CBS had been fortunate in having Edward R. Murrow in Europe on an assignment to line up cultural programming during the hectic days when Hitler started his military conquests. Murrow was able to enlist a cadre of news persons who reported from various capitals on fast-breaking developments. NBC followed very shortly, and throughout the war it was customary to tune in for the latest news on radio and then to read the papers for more details.

### Radio as an Art Form

In the late 1930s and early 1940s radio achieved great heights as an art form. When conveying concepts radio was able to take advantage of an incredibly effective ally—the human imagination. For example, when a woman sings on television she may appear to be attractive to some and quite ordinary to others. But when a woman sang on radio in those days, every man created in his mind an image to match the voice and each man's imagination was apt to be better than the real thing.



Drawn for BROADCASTING by Sid Hix

*"I thought you preferred radio—where your imagination could paint the scene more vividly than reality!"*

*Reprinted, with permission, from Broadcasting Magazine*

When television attempts to communicate suspense in a graveyard at midnight, someone has to create for the screen what he conceives as frightening to himself. The scene created may make little impression on some viewers. Radio needed only to suggest the suspense with a few subtle sounds and listeners took it from there. They mentally filled the graveyard with whatever was most frightening to them.

Many of today's viewers can never appreciate how listeners once gleefully anticipated the weekly opening of the closet on "Fibber McGee and Molly." It was loaded with far more than could be shown on television and when the door was opened, the cascade of items had to be imagined—in truth they could never exist. There was a pleasure, an excitement, and a satisfaction in listening to radio that the television viewer can never hope to experience.

The person who listens to the radio of the 1970s and wonders how sound alone could possibly be as effective as television should read a study of the Orson Welles broadcast, "The War of the Worlds," on the night before Halloween 1938. Welles thought the script had little credibility and did not look forward to doing it. But as people heard the descriptions of the alien creatures coming out of space capsules and taking over the New Jersey countryside, they fled their homes and prepared for a battle none of them thought could be won. A television program could never have such an impact because the creator's visualization of the vehicle and the creatures from space could never be as convincing as the imagination of the average listener who was terrified.

In 1941 radio was a powerful vehicle used to turn a nation around. We had been told the war in Europe was none of our business and that we would never get involved. After Pearl Harbor (December 7, 1941) the fact that stations were organized into networks made it easier for the administration to persuade a whole nation to change its posture and support our participation in two wars—in Europe and in the Pacific.

In retrospect, it is difficult to know how much of radio's impact was due to skillful use of the medium and how much was due to a lack of public sophistication in that earlier day. Regardless of the reasons, it is safe to say that radio between the early 1930s and 1945 achieved an almost unbelievable hold over America and Americans.

### **Regulatory Activism**

Outside of determining who could use the airwaves, the Commissions were relatively passive between 1927 and 1937. During the 1937–1945 period the FCC became extremely active in an investigation into network practices resulting in passage of the "Chain Regulations." (See Chapter 8.) The investigation grew out of a concern with possible net-

work control of affiliated stations and a determination that stations be independently able to make their own judgments.

## The Birth and Trials of FM

Frequency modulation became a reality in 1933 when it was unveiled by Major Edwin Armstrong. He had worked for ten years on the concept and it promised to revolutionize the technical transmission of radio programs. FM had a high-fidelity capacity to convey all the 20,000 cycles of sound which the ear could perceive. It was resistant to static from lightning and other interference. If a receiver were between two

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## Major Edwin H. Armstrong 1890–1954



*Photo courtesy of Broadcasting Magazine*

**T**he “father of FM” was a suicide at the age of 64, despondent over years of patent litigation and the re-

*sulting deterioration of his home life. A brilliant inventor had been defeated by those who would use the fruits of his labor and force him into the courts to seek remuneration and the recognition that he had been the one responsible for a new medium.*

*Born in New York City in 1890, Armstrong acquired an early interest in radio by reading about Hertz, Marconi, and other pioneers. By the time he was graduated from Columbia University in 1913, he had already invented the regenerative circuit which was to make possible many future developments in the field. While a Major in the U.S. Signal Corps in France in World War I he made a second important contribution—the superheterodyne principle.*

*Through the 1920s his attention was divided among patent litigation which was, perhaps, inevitable in such a new field, his development of frequency modulation, and his marriage to the secretary of RCA’s David Sarnoff. Sarnoff had given strong early support and encouragement to Armstrong’s FM research but they later became bitter enemies.*

*In 1933 he received a patent on FM and amazed both engineers and the general public with his demonstrations of static-free high-fidelity radio. As a Professor at Columbia University, he continued his research. His last patent, issued within a year of his death, was for multiplexing on the FM channel which made possible stereo broadcasting and other services.*

*In 1940 the FCC acknowledged his advances in FM and authorized its use for broadcasting. Although there were only some 50 stations on the air during World War II, he and other engineers looked forward to great expansion when the war was ended. In 1945 he fought bitterly against the FCC's decision to move FM to a higher range in the VHF. The arguments and protests of the man who had invented the medium were, however, ignored.*

*As FM prospered in the immediate postwar years, Armstrong saw more and more companies manufacturing FM receivers without acknowledging his patents or paying*

*him royalties. They developed new tubes to combine functions of his principles and claimed they had a completely new invention. In 1949 he embarked on a five-year battle over patent infringement in the manufacture of FM receivers by RCA. The legal process seemed interminable, but he refused to settle out of court. The fight not only cost the personal fortune he had received from other patents, it also destroyed his relationship with his wife. When he realized what had happened, he wrote her a letter saying he could not understand how he could have let it come about. Then—fully dressed—he stepped out of a window of his thirteenth-floor apartment in Manhattan and plunged to his death.*

*He did not live to see the re-birth of FM in the 1960s. RCA settled with his widow for a million dollars shortly after his death and in subsequent years many more millions were paid to his estate by other manufacturers. Today his peers consider him one of the most productive of all the radio pioneers.*

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stations, the stronger signal would override the weaker and prevent interference. The FM signal did not fade in and out as AM signals did at a distance. Of even more importance was the fact that the sky waves were not reflected back at a distance and the ground wave was inefficient. Since only the direct waves were significant, there could be many more FM stations on a channel than was possible with AM.

In 1940 the FCC approved FM for broadcasting (effective January 1, 1941) and about 50 stations went on the air before the World War II shortage of materials froze further growth. In 1945 the FCC, in a highly controversial decision, moved FM from the 42–50 MHz band where it had been operating to the 88–108 MHz band where it is today. The reason given at the time was the fear that sunspot activity would interfere with the FM signals at the lower band. The need for such fear

was refuted by Major Armstrong and other engineers. There were charges that the FCC was only interested in protecting AM radio and television by deliberately weakening FM just as it reached a point of high promise with the end of the War and the easing of wartime restrictions. Whether or not the FCC reasoning was correct, the movement of the FM band at the end of World War II laid the foundation for confusion among FM enthusiasts and for controversy which still continues.

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### **3.5 LOOKING AHEAD**

In its first quarter century since Mr. Conrad's experiments radio broadcasting had grown rapidly and become a vital part of life. At no point had there been serious question about radio's health and its bright future. There was every reason for optimism as World War II drew to a close. Although the optimism was justified, few could have predicted the course of events over the next few years. It was only after another quarter century that one could look back and see that 1945 climaxed growth of one kind and that a restructuring of the medium would be required before it would rise to even greater size and strength.

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### **GLOSSARY ITEMS**

The following words and phrases used in Chapter 3 are defined in the Glossary:

Broadcasting

Frequency Modulation (FM)

Institutional Advertising

Network Cooperative Programming

Patron Plan

Public Interest, Convenience,  
and Necessity

Public Service Programming

Radiotelephony

Sustaining Program

Wireless Telegraphy

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## Radiobroadcasting Chronolog 1920–1945

- 1920 Frank Conrad's experimental broadcasts.  
KDKA began broadcasting service with results of the Harding-Cox election.
- 1921 KDKA broadcast first religious service, first boxing match, first theatrical program, first tennis match, first baseball game.
- 1922 AT&T put WEAF on the air in New York City; first commercial was a real estate advertisement.  
Secretary of Commerce convened first of four annual Radio Conferences.  
First experimental network broadcast—WJZ in Newark, N.J., and WGY in Schenectady, N.Y., do the World Series.
- 1923 First regular network programming—WEAF in New York City and WNAC in Boston, Mass.
- 1924 First major sponsored network program—"The Eveready Hour" presented by the National Carbon Company.
- 1926 The *Zenith* case ended effective regulation under the Radio Act of 1912.  
AT&T sold WEAF in New York City to RCA.  
RCA formed subsidiary National Broadcasting Company which operated the Red network (formerly AT&T network) and the Blue network (formerly the RCA network).
- 1927 Passage of the Radio Act of 1927.  
Formation of the United Independent Broadcasting network (UIB) which became CBS.
- 1928 William S. Paley bought CBS.
- 1930 Brinkley's license not renewed.
- 1933 President Franklin D. Roosevelt's Inaugural Address followed by "fire-side chats."  
Biltmore Agreement signalling end of one phase of press-radio war.  
Edwin Armstrong demonstrated FM.
- 1934 Passage of the Federal Communications Act.  
Mutual Broadcasting System started as a four-station cooperative network.

- 1938 Orson Welles broadcast “War of the Worlds.”  
Edward R. Murrow started building overseas CBS news in Munich crisis.
- 1941 Beginning of FM commercial broadcasting.
- 1945 FM moved to VHF band between 88 mHz and 108 mHz.

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# 4

## **HISTORICAL PERSPECTIVES II**

**1945–1976 with Emphasis on Radio**

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### **Preview**

In the postwar years networks fell so far below their 1945 peak that many gave up on the future of radio generally. FM development was especially disappointing. The 1950s were a period of continued confusion and pessimism; a network affiliation no longer assured success. Yet by the end of the 1960s the future of both AM and FM radio was assured in format programming. In the mid-1970s radio is healthier than ever before. Although it has accepted a role secondary to television in appealing to Americans' full-attention entertainment needs, its financial prospects are stronger than ever before.

On its fiftieth birthday in November 1970 radio was “alive and well.” The number of AM stations had quadrupled from under 1,000 in 1945 to over 4,250. The number of FM stations had grown from 50 in 1945 to more than 2,000. Radio billings had increased every year but two (1954 and 1961) and reached a level of more than \$1,250,000,000, with every indication of continued growth. The majority of AM stations and AM-FM combinations were reporting profits. Radio listening was rising as more people found that specialized stations offered services they wanted. Broadcaster confidence in both AM and FM was reflected in the rising prices of buying stations and the steady increase in the number of FM stations on the air.

Radio had undergone vast changes since the mid-1940s when it was in its traditional prime. Of the following generalizations one might have made about radio then, not one is true today.

1. It was the most popular entertainment and news medium. To a degree, the radio receiver was the center of the home and family activities frequently revolved around the broadcast schedule.
2. It attempted to be “all things to all people.” The average station schedule had something for everyone from news and commentary through variety and comedy to religion, discussion, sports, and children’s programs.
3. The most popular programs came from the networks. Most of the more powerful stations were either network owned or affiliates.
4. The most prevalent form of advertising was “sponsorship” in which the advertiser bought a segment of time and provided the program and all the commercial messages.
5. Most radio music was live. There was no convenient way to make program recordings, and it was generally agreed that playing recorded music (aside from sound effects, mood music, and special seasonal tunes) was not quite respectable.

Of radio today we can make the following generalizations, none of which was true in 1945.

1. Radio is highly popular but secondary to television, especially as a home-centered “full-attention” medium.
2. Radio’s emphasis is primarily on serving the music and informational needs of its audiences. The key to programming is “format.”
3. The regularly scheduled programs attracting the most listeners are originated by the stations or by schedule syndication companies with which the stations have contracted. A network affiliation no longer has the great value it once possessed.

4. Most advertising is “participating” with commercial messages inserted into programming provided by the stations.
5. Programming consists primarily of recorded music, dialogue, and newscasts with a bow to nostalgia in the old radio comedy and drama programs being revived.

The history of radio from the days of its traditional prime in 1945 can be divided into three periods.

1945–1960	Changing Patterns
1960–1970	Steady Growth and Successful Emergence of FM
1970–1976	Dominance of Format Programming

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## 4.1 1945–1960 CHANGING PATTERNS

### Changing Patterns in AM

When World War II ended in 1945 there were fewer than 1,000 AM stations on the air. There was no reason to expect the number to change significantly, but by the end of 1950 there had been an increase of 135 percent to 2,231. The increase was motivated by the financial success of radio in the early 1940s and facilitated by two changes in FCC criteria for new stations.

*First*, in the *Sanders* case (1940) the Supreme Court ruled negatively on one of the key factors which had held down the number of new stations in the 1930s—economic injury.

For some years it had been the responsibility of an applicant for a new station to argue that there was enough potential advertising in the community to support its proposed operation along with the existing stations. Until the approach of war brought the nation out of the Depression, it was almost impossible to show an abundance of advertising anywhere.

The Sanders brothers operated a station in Dubuque, Iowa, and had opposed the application of a new station on the grounds that the current station would suffer when the advertising was divided between it and the newcomer. The FCC disagreed with the Sanders brothers and granted the new application. The case was appealed to the courts. The Supreme Court rejected the Sanders brothers’ appeal on the narrow grounds that they had attempted to show only that they would suffer economic injury if the new station were approved—they had not taken the next step of showing that both stations might have so much difficulty in securing advertising that the *public* would suffer from reduced services. In reviewing the background the Court pointed out that the airwaves were the property of the public and the FCC was charged

with regulation in the public interest. The economic welfare of the individual station should be of no concern to the Commission. But if the addition of a new station could be shown to place all stations in a community in financial jeopardy, the Commission was free to inquire whether that potential jeopardy would hurt the public by lessening the service available to it.\*

The Court was thus careful to specify that its decision was limited to one particular aspect of economic injury, but the FCC proceeded as though the whole matter had been placed outside its area of responsibility. When a vastly increased number of new applications began coming to the FCC in 1945 and 1946, the Commission simply ignored the economic-injury question.

*Secondly*, the FCC itself decided to provide less protection for existing stations against “electrical interference” (jamming) than it had given in the past. In the 1930s new applicants were expected to demonstrate that their signals would cause very little or no interference with either ground or sky waves of stations already on the air. In the late 1940s they had to demonstrate only that their signals would not interfere with the primary ground-wave coverage of existing stations.

We will never know all the reasons behind the change in policy (some guessed the FCC felt limiting the efficiency of AM stations was a way of helping FM), but there is no question about the mushrooming of stations in contrast to very slow growth in earlier years.

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#### Growth of AM Stations—1945–1960

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1945 – 950  
1948 – 1,911  
1950 – 2,231  
1955 – 2,808  
1960 – 3,526

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#### *Changing Patterns in AM Dollar Flow*

1. *Average Station Revenue*: During the war years virtually every radio station made substantial profits. However, as the number of stations grew by 150 percent from 1945 to 1952, total radio revenues increased by only 50 percent.

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\* Federal Communications Commission v. Sanders Brothers Radio Station, 309 U.S. 470, March 25, 1940.

Year	Approx. No. Stations	Approx. Radio Revenues (\$ Million)	Approx. Ave. Station Revenues (\$ Thousands)
1945	950	310	326
1952	2,375	473	203

A factor which lessened the impact of the decline in average station revenues was that expenses were also being cut sharply. In 1945 the average station was located in the heart of its community's high-rent downtown district. Expensive studios were built for programming by live orchestras and to impress the public and advertisers.

By 1952 many stations had moved their business offices and studios into their transmitter buildings on the outskirts of town and were using records extensively. The number of employees at each station was drastically cut. The decreased average revenues still permitted profits for more stations than one would expect by looking only at the revenue figures.

2. *Network Billings*: Offsetting the apparent health of individual radio stations was an obvious decline in network business. Following are comparative figures for the different categories of radio billing at five-year intervals. Television total billings are also given to show the contrast in trends. (All figures are in \$ millions.)

**Table 4.1**  
**Comparison of Network, National Spot, and Local Radio Billings, 1945–1960:**  
 All figures in millions; %'s in parentheses.

	1945		1950		1955		1960	
	(\$)	(%)	(\$)	(%)	(\$)	(%)	(\$)	(%)
Network*	134	(43.2)	131	(28.8)	64	(14.0)	35	( 5.6)
National Spot	77	(24.8)	119	(26.2)	120	(26.3)	202	(32.4)
Local	100	(32.2)	203	(44.7)	272	(59.6)	385	(61.8)
Radio Totals	310		454		456		622	
Television Totals	—		90		681		1,147	

\* Broadcast billings and business are traditionally divided into these three categories: "Local" refers to the local business interests buying time through the local salesperson. "Network" refers to the national advertiser buying time through the network salesperson. "National Spot" (also called "national nonnetwork") refers to the national advertiser buying time on the local station without involving the network either as salesperson or program distributor.

Source: *Broadcasting Yearbook*, 1975.

Putting the radio figures on a chart (Fig. 4.1), we see the following:

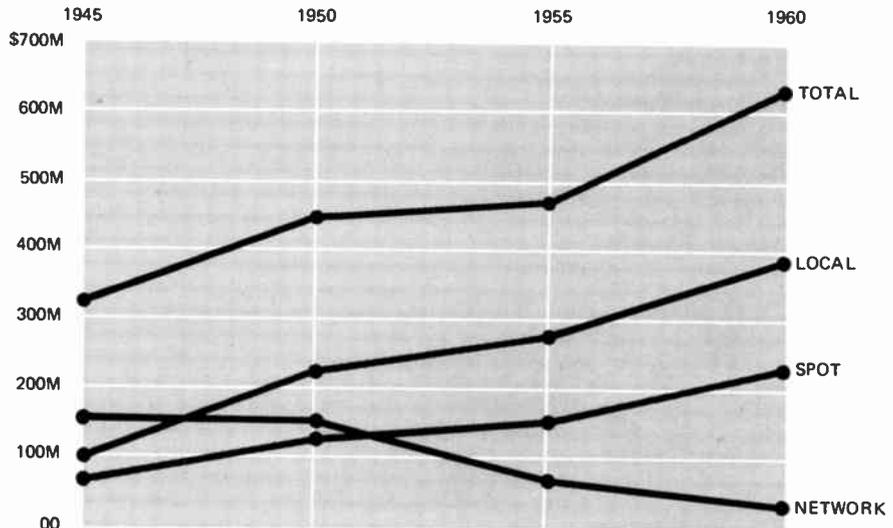


Figure 4.1

The failure of network radio billings to grow in the first postwar years cannot be attributed primarily to television. (By 1948 total television network billings were only \$2.5 million.) Rather, it was a reflection of the fact that network radio revenues had been artificially inflated by wartime circumstances. As soon as newspapers could expand to handle all the national print advertising demands and as soon as materials were available for plant expansion, the extra dollars which had been forced into radio went back to the purposes for which they would have earlier been spent.

In the late 1940s, sponsorship was still the most prevalent form of advertising. As sponsors withdrew funds from the networks, the network schedules became less attractive. People were thus encouraged to spend more time listening to independent stations, which were beginning to specialize in popular recorded music. The networks themselves were not in a position to invest heavily in radio programming since they were using radio income to support their entry into television. This combination of factors hastened the decline in network-radio listenership until the advent of network television made the trend irreversible.

That the trend away from network dominance in radio was to continue is illustrated by comparative figures for station revenues from different sources in 1945 and 1975 (see Table 4.2).

**Table 4.2**  
**Comparison of Station Revenues from Different Sources**

	1945 AM Stations*	1975 AM and AM-FM Combinations†
Network	25%	0.9%
National Spot	33	22.9
Local	42	76.1

\* 1945 figures based on billings data from the 1975 *Broadcast Yearbook*. It was estimated that 30% of network billings reached the stations; that 70% of National Spot and Local Billings were station revenue.

† FCC data printed in *Broadcasting*, November 10, 1976.

### *Impact of Changing Financial Pattern*

The first five postwar years (1945–1950) were a period of great optimism as reflected by the increasing numbers of stations. The slight declines in network revenues failed to register importantly since they were always published a year or more after the fact and it was thought that the trend would be reversed. But from 1950 to 1955 radio was pervaded by a strong pessimism. The chief reason was the sharp drop in finances of the networks, which had been considered as much the heart of radio as they were later to be the heart of television. Many people equated the networks with the whole industry. They assumed that if networks were in trouble, then all of radio must be. The decrease in average station revenues was also noted, but insufficient attention was paid to decreased costs. The increase in local revenues was not dramatic because it amounted to small gains in each community and lacked the impact of the large network decreases.

By 1955 it became clear that the increase in local revenues would continue. During the war years many small companies had been unable to advertise on radio because prices were high and the national advertisers dominated the best spots. As the network business declined and as many new local stations came on the air with low time charges, those retailers who had thought radio was out of reach now found they were welcome and could afford the prices. Some of the new local business came from retailers in small communities which were getting their own stations for the first time. In the late 1950s there was a renewed confidence in radio which led to the strong surge of the 1960s.

### **Changing Patterns in FM Radio**

In the immediate postwar months the optimism about radio extended to FM. Applications for new stations poured into the FCC. The number

of commercial FM stations grew very rapidly in the late 1940s but declined in the early 1950s.

Year	No. FM Stations
1945	50
1946	100
1947	596
1948	698
1949	743
1950	676
1951	650
1952'	626
1953	561

By 1952 television had moved to center stage and many observers had written off FM as an idea whose time was still several years in the future. By the end of 1959 the number of FM stations was still only 664.

How did it happen? In retrospect, it resembles a "comedy of errors" in which most of those involved either did the wrong thing or failed to do anything when vigorous action was indicated. Those who would be hurt by the development of FM were able to retard its growth by simply sitting still.

*Participants in the FM Story*

Movement of the FM assignments upstairs on the spectrum was probably justified as a matter of long-range planning. But as Major Armstrong and others had feared, it proved disastrous in the short run.

The FCC

Those who had become faithful FM listeners during the war found their sets had become obsolete and were often too discouraged to buy new receivers. Satisfied FM listeners would have been the best advocates for the new medium but instead were alienated.

Set Manufacturers

Even if the earlier set owners had wanted to replace their receivers, they would have found it difficult to do so. Assembly lines were busy catching up with the demand for radios which had accumulated during the war. The greatest demand was for AM sets. Since there was little call for FM, production never reached the large numbers which would have brought the prices down.

## The AM Operators of FM

A disproportionate number of the first FM stations were licensed to the more successful AM stations that wanted a hedge against the future. Others who wanted to enter broadcasting for the first time applied for AM rather than FM because standard radio was a proven medium and offered more promise of quick returns.

This left FM largely in the hands of those who would lose the most if it were successful in replacing AM. The most profitable AM stations were on the better frequencies near the lower end of the dial and had power authorizations of from 5,000 to 50,000 watts. But there were to be no favored positions on the FM dial and each station was to be authorized enough power to reach the horizon. The only advantage AM operators would have in FM would be their experience and contacts. There is no evidence that AM operators of FM stations tried to sabotage the new medium, but it would appear they could have done more to make it successful.

## The American Federation of Musicians (AFM)

The AFM ruled that a musician being heard live on both AM and FM must receive double pay. This effectively ruled out putting the most popular AM programs on FM, and the economics of the new medium would not permit hiring live musicians for the extremely small audience then available. Since recorded music at that time did not have high fidelity, it meant there were no programs on the air which could exploit the high-fidelity capacity of FM. The only reason to buy FM was to hear AM program quality without interference. Many stations did go to a classical-music schedule in the hopes that it would attract audiences but there were too few fans among the potential listeners to make the effort worthwhile.

After three years the AFM decided FM did not pose a serious threat to musicians and the rules were changed to permit duplication of AM programs. At that point station salespeople were asked by their managements if they could sell FM as a separate medium. Since there had been few sales in the past at 10 percent of the AM rates, the salespeople recommended that FM simply duplicate the AM schedule and that the FM listeners be given to advertisers as a bonus. Until the mid-1960s there were only feeble attempts at offering popular program services on FM aside from duplicated AM programs.

## The American People

The most disappointing factor in the initial failure of FM was the lack of interest most people had in hearing programs with greater fidelity. Even when records were available which carried the full range of sounds, few cared enough to purchase sets. So long as they could hear

radio reasonably clearly and without too much interference they were satisfied. One sees the same effect in the lack of attention to audio in television programs and the lack of high-fidelity speakers in the sets. In the mid-1950s the growth and popularity of television sealed the temporary demise of FM.

Whether any one of the various factors was more significant than the rest is unimportant at this late date. FM, which had started with such promise, languished until the mid-1960s when a combination of circumstances gave it the impetus it needed.

### **Changing Program Patterns**

The increase in AM radio stations in the late 1940s saw no comparable increase in the number of network affiliates. There was some shifting among networks in individual markets as ABC and Mutual signed contracts with more powerful stations than those with which they had been affiliated. But each new station on the air normally meant one more local programmer independent of any network.

The general pattern was for nonnetwork stations to turn to recorded music. They acquired large record libraries which were necessary because there was a general feeling one should not repeat songs too frequently. At first they emulated traditional radio schedules by trying to provide something for everyone. Different parts of the day were devoted to different types of music. They soon found, however, that some types appealed more than others and started specializing. Among the most successful from the beginning was the Country and Western (C&W) category which approached folk music status.

### *Format Radio*

By the early 1950s some stations had made significant moves toward the current "format" radio in which a single segment of the audience is selected and all programming is designed for it. Rather than seeking to move from one audience to another throughout the day, there was an emphasis on those who would be attracted by a single type of service. Obviously, an all-C&W schedule could work on only a limited number of stations. The next step was the "Top-40" format in which the most popular tunes were chosen either by consulting the trade press or talking with record stores or checking fan mail requesting favorite numbers. The 40 tunes would be presented by the disk jockey (DJ) interspersed with comment, commercials, and news summaries. When they had all been played, it would start all over again. Thus the same tunes might be played ten or twelve times during a day.

The Top-40 stations were anathema to the more traditional broadcasters (especially those at the networks) who thought that program

materials should rarely be repeated and that the audience of every station was entitled to a well-rounded service. When the networks repeated some series episodes during the summer, it was almost a “throwaway” which was expected to fill time but not get much audience. The people indicated their disagreement with the traditional philosophy by turning on their radios in increasing numbers to format stations—especially a growing number of younger people who controlled the expenditure of many dollars and were thus attractive to advertisers.

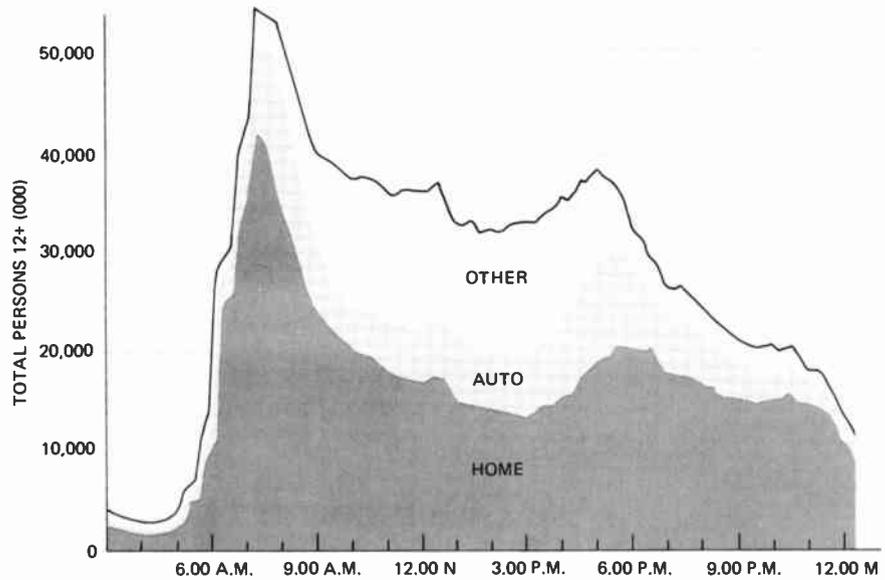
### Changing Patterns in Listening

With the growing popularity of television in the early and mid-1950s, a new pattern of radio listening emerged. No longer did people gather in the living room to hear their favorite radio programs—they gathered for television. But, while television was dominating the living room, the radio receiver had become smaller and less expensive and was available in the other rooms of the home and wherever people went. The transistor radio was in its early stages of development and for the first time there was a truly portable radio small enough to be carried easily and requiring so little power that flashlight batteries might be used. While some members of the family were viewing television in the living room, the rest were elsewhere, frequently listening to radio. (See Fig. 4.2.)



Drawn for **BROADCASTING** by Sid Hix  
*“Don’t forget our thousands of car radio listeners who never leave the room when the commercial comes on!”*

*Reprinted, with permission, from Broadcasting Magazine*



**Fig. 4.2** The RADAR chart shows the growing importance of radio listening outside the home. Especially significant during the morning and afternoon drive-time periods are the auto listeners who as part of the working population constitute an important target audience for many advertisers.  
*Used by permission of Statistical Research, Inc.*

At the same time there was development of better techniques for measuring radio audiences. No longer were surveys focused only on the living room. There was an increase in the use of diaries and personal interviews which reported listening habits in other places and throughout the day and night. C. E. Hooper experimented with measuring automobile listening by sending interviewers out to busy intersections throughout a city. When a traffic light turned red, the interviewer would walk along the stopped line of cars tabulating the number who were using their radios and the stations to which they were tuned. With each new development in measurement of radio listening, it became apparent there was still a significant audience which advertisers wanted to reach.

### **“Payola”**

As stations turned more and more to the Top-40 format, there was the rise of a new phenomenon called “payola,” the payment to DJ’s of unreported remuneration for including certain records in programs. Many stations were using recorded music 60–70 percent of the time. The number of record companies increased from half a dozen in 1945 to somewhere between 1,500 and 2,000 fifteen years later. Some of

them were marginal concerns which might last only a few weeks or months, but when any went out of business, others were ready to take their places. There were up to 250 new single releases each week, exclusive of albums.

As one might have expected, the records which were played the most on radio stations were the ones which sold best in the stores. Since record companies made money by selling records, they were willing to do whatever was necessary to get their products broadcast as frequently as possible.

In 1959 *Broadcasting* did a special report on the many rumors and few facts which were being widely discussed.\* The average DJ of a strong music station would get as many as 150 new releases in the mail each week and would be visited by representatives of record companies and distributors who wanted their releases included in the programming. It was rumored that some DJ's were offered as an incentive "a piece of the action" whereby they might get a penny for every record sold in their markets after it was used on the air. Some were said to have received new roofs on their homes or new landscaping. From DJ conventions came one of the idioms of the day—"Booze, Broads, and Bribes"—describing the entertainment lavished on them by the record companies.

The one indisputable fact was that if a DJ were prominent enough and wanted to make extra money, there was ample opportunity. One man familiar with the trade thought it quite possible for top DJ's in a major market to add from \$50,000 to \$150,000 to their annual salary. As noted in Chapter 6, a law was passed making "payola" a crime.

Responsible broadcasters were perturbed by the possibility they were being "used" by the record companies. They had no objections to advertising records but wanted the pay to go into the station's bank account rather than the DJ's pocket. More important, they realized that payola constituted a violation of Section 317 of the Communications Act which requires an announcement to be made when program materials are broadcast because someone pays to have them aired.

In the early 1950s most DJ's had been permitted to choose their own tunes, but then the stations formed juries or committees which would evaluate the sales reports, the mail, and other polls and make the choices of records for programs. Some sort of similar procedure is now standard with many stations.

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\* *Broadcasting*, August 31, 1959, p. 34.

## The Independent Operation

Midway in the 1950s there was an excellent illustration of the fact that stations might do better as independents than as network affiliates. It was also the forerunner of a new format which is still common today. In the summer of 1956 Westinghouse Broadcasting Company (WBC then—Group W today), a wholly-owned subsidiary of the Westinghouse Company which had started KDKA in 1920, “disaffiliated” four of its stations from NBC. Later in the year it withdrew a station from ABC.

The independents of ten years earlier had been stations which could not acquire network affiliations. The WBC move was unique in that several strong and well-established stations were deliberately choosing to go their own nonnetwork ways. The following year Donald McGannon, President of WBC, reviewed what had happened and looked at the prospects.\* At the end of the first six months the WBC independents were billing 30 percent more than for the same period a year earlier when they were network affiliates. Because networks compensated the stations at such a low rate, McGannon estimated the prospects for profits were up by about 50 percent. This was an eye-opener to the traditional licensees who had thought they were fated to rise or fall with the networks. Many looked at the facts very carefully and the trend away from networks was accelerated.

WBC researchers had come to a revolutionary conclusion, “people don’t tune to radio programs—they tune to stations.” This represented an important change from the days when the broadcaster went over each program in the schedule, compared it with the competition, and tried to win each time slot individually. WBC said the more important fact was to establish a “character” for the station which would attract people whenever they wanted to listen to the radio. Frequent tuning from program to program had become a television phenomenon only. Establishing “character” was another way of saying the station should choose a format. McGannon also reported that the WBC experience proved advertisers were less interested in purchasing commercial time within specific programs than they were in “saturation buying” throughout the day in order to reach the largest possible audience.

There were three program elements to which he attributed the WBC success. *First* was a very aggressive local news policy in which the regular news staff of each station was doubled. “Stringers” (who reported news from a community and were paid by the story rather than being carried on the regular payroll) were added throughout the listen-

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\* Ibid., July 8, 1957, p. 98.

ing areas. Extensive use was made of new devices like the “beeper phone” (which made possible incorporating telephone reports from stringers into newscasts) and tape recorders which could be easily carried around.

News was repeated frequently, but there was a constant rewrite so the listener who heard a news item at ten o’clock and again an hour later would get different perspectives on it. WBC also built a Washington news bureau which concentrated on national news as it related to the communities in which its stations were located.

*Second*, the stations invested large amounts of money to hire strong personalities to host the music programs which were the backbone of the schedule. WBC was adamant that its stations should be more than a series of “jukeboxes” in which records were simply played without any station “character.” As each host attracted a following, the stations benefited from the increased ratings and the resulting higher rate cards.

*Third*, every attempt was made to put a strong emphasis on public service to the local community, even in the sponsored material. Where possible, programs were geared to local needs. The weather reports on Mondays would comment on whether it would be a good washday. Weekend reports related the forecasts to sporting events and picnics. Economic news was interpreted in terms of the impact on the individual pocketbook when the consumer went to the supermarket.

Twenty years later the WBC move seemed too simple for much attention, but in 1956 it was a pioneering effort. In retrospect, the WBC stations were breaking ground in the “middle of the road” (MOR) format which is one of the most prevalent modern types.

By 1960 radio stations were using more and more music, but there was not the degree of specialization which was to come later. There was a general concern among broadcasters that the FCC would frown upon a station which programmed the same all day long.

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## **4.2 1960–1970 STEADY GROWTH AND SUCCESSFUL EMERGENCE OF FM**

The 1960s were characterized by continued growth of format programming. Financially, radio did very well.

1. Network radio failed to make a comeback. It showed only slight growth from \$35 million in 1960 to \$51 million in 1970.
2. National spot billings increased from \$204 million to \$349 million.

3. Local advertising showed a ten-year increase from \$385 million to over \$800 million.

The medium as a whole had grown to become an over a billion-dollar-a-year business. The increases were attributable to a number of factors. There was the increased attractiveness of format radio. Transistor radios were improved to make it easier to listen anywhere. Ratings companies improved the measurement of radio audiences which convinced advertisers they could communicate by radio to people beyond the reach of television.

### Formats

In the early 1960s there was continued experimentation with formats which were becoming more specialized year by year. Stations came to the conclusion that the FCC would not require each of them to offer a variety of services. The attempt of a station to reach its own particular segment of the audience was evident during nearly all hours of the broadcast day—marginal hours were occasionally still used to insert a little variety into the schedule. Perhaps the most important break with tradition came with the all-talk stations which threw away their music libraries except for the very late night hours.

### Emergence of FM

The most dramatic story within the industry itself was the breakthrough of FM in the 1960s. As the decade started, FM was receiving little attention. By 1970 there was a rush for FM licenses and optimism was the order of the day. Consider the following growth figures for AM and FM stations over a 30-year period:

**Commercial Radio  
Number of Stations at Year's End**

	AM	FM
1945	950	50
1950	2,231	676
1955	2,808	536
1960	3,526	785
1965	4,042	1,323
1970	4,319	2,184
1975	4,459	2,752

It is obvious that important changes were taking place. From 1960 to 1965 AM stations continued to grow at a rapid pace, but for the next

five years the gain was much slower. At the same time, growth of FM had increased remarkably. The changes can be traced in part to three actions of the FCC.

In 1962 there was a partial freeze on new AM stations. The FCC had become concerned that AM was reaching the saturation point and that interference among stations would be intolerable. After 1962 the Commission proposed stricter technical standards for new AM stations so it became easier to request and to receive FM authorizations. This did not have a dramatic effect at the moment but provided a clue as to what was to come.

In 1965 the FCC ruled that when a single licensee had both AM and FM stations (called AM-FM combination) in a city of more than 100,000 population, it might not duplicate the AM schedule on the FM transmitter for more than 50 percent of the time. (At this point about 75 percent of all FM stations on the air were owned by AM operators.) When the nonduplication rule finally took effect in 1967, it meant that owners of combinations either had to provide separate programming for their transmitters or give up the FM.

By the mid-1960s it had become apparent to all that the most successful stations were those with format programming. Owners of joint facilities adopted separate formats for their FM outlets and, to their surprise, began to get audiences. The transistor trend had reached the point where many of the smaller portable receivers would pick up FM. The development of high-fidelity records meant that FM was delivering a signal superior to the AM transmission. Finally, the FM operators discarded the notion that their stations were appropriate only for classical music and began to experiment with other kinds. It is probable that the appearance of Rock music on FM stations did much to encourage its general acceptability.

In 1968 the FCC realized its 1962 partial freeze on AM stations had not sufficiently slowed their growth. A more severe freeze was imposed with indications that it would not be relaxed or lifted in the near future. People who wanted to enter broadcasting had to apply for FM licenses. The growth of FM and the change in broadcaster attitudes toward it are reflected in the headlines of three *Broadcasting* special reports:

- “FM Sniffs Sweet Smell of Success” (July 31, 1967, p. 55)  
“FM, at Long Last, Is Making Its Move” (February 23, 1970, p. 47)  
“The Rites of Passage Are All Over for FM Radio:  
It’s Out On Its Own” (September 24, 1973, p. 31)

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### 4.3 1970–1976 DOMINANCE OF FORMAT PROGRAMMING

Radio today occupies a unique role in our society. While our attention at one level is focused on television, we lean more heavily on sound during those hours not reserved for full-attention entertainment with video. Although the traditional radio stations sought to be “all things to all people,” today’s radio comes closer to meeting the basic needs for companionship so prevalent in an impersonal and computerized world. Although it is the television newscasts which people list as a major source of news, it is radio’s constant repetition of the news capsules which make people feel they know what is going on in the community. While the individual radio station specializes to a high degree, the medium offers so much diversity through its collective stations that most people in our society find what they seek to make their listening pleasant.

The radio receiver has become truly ubiquitous. It is found in every room of the home, in the car, on bicycle, on the sidewalk, in places of work and business, on picnics and outings, on vacation, and wherever and whenever else one wants its many sounds. It is a boon to the teenager and the elderly and those in between. It is the twentieth-century “town crier” with local news and the source of whatever type of music meets the individual’s needs.

#### Waiting the FM Breakthrough

With each succeeding year of the 1970s the differences between AM and FM listenership have diminished. FM penetration (percentage of sets able to receive it) has steadily increased each year both in and out of the home. In 1976 a special Arbitron study of listening showed that during six years the FM share of the radio audience had doubled from 20 to 40 percent in the top ten markets.\* The only significant factor which seems to keep FM from competing with AM on even grounds for advertising dollars is the lower percentage of car radios which can receive the signals. Since radio’s “prime time” is morning and afternoon “drive time” and many advertisers want to communicate with auto commuters during those hours, FM has a built-in disadvantage which will disappear only when car manufacturers make FM standard equipment. There have been efforts to persuade Congress that car radios

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\* Ibid., August 23, 1976, p. 74.

should be required to have an FM capacity. Until such a legislative move occurs or demands by car buyers increase the FM automobile penetration, FM will operate under a handicap.

In the meantime, advertising agencies have started buying FM audiences which are large enough to be measured by the rating services. The long-standing refusal to even consider FM has disappeared. There are fewer FM stations in the red each year, and in the 1980s FM stations may become more desirable and expensive to purchase than their AM cousins.

## **Formats**

Radio today is format broadcasting in which each station chooses a particular segment of the population as its target audience and seeks to reach only that segment throughout the entire schedule. Although they may use different descriptive titles for their formats, most commercial station schedules fit into the following categories:

### *Classification of Radio Formats*

1. Middle of the Road (MOR)
2. Talk
3. All-News
4. Music Specialization
  - a. Classical and Semi-Classical
  - b. "Easy Listening" or "Beautiful Music"
  - c. Country and Western (C&W)
  - d. "Oldies"
  - e. Top-40 or Contemporary
  - f. Rock
5. Ethnic
  - a. Black, Puerto Rican, Mexican-American, etc.
  - b. Foreign Language
6. Religious

### *Middle of the Road*

The MOR station comes closest to the traditional programming of "something for everyone" since it has targeted for itself the largest audience segment and provides for it a variety of material. It concentrates on adults from 20 to 50 years of age in the center of the socio-economic and educational scales. More stations claim it than any other format.

The MOR station is characterized during drive time by a personable host who is heard not only on radio, but also appears at various



Drawn for BROADCASTING by Jack Stelling. WMMS Bath, N.J.  
*"And now it's Candlelight and Wine, a quarter-hour of sophisticated music for dining."*

*Reprinted, with permission, from Broadcasting Magazine*

community functions to become better known. The program includes a lot of information and advertising and a little music. There are frequent newscasts with promises to interrupt anything else for important bulletins. There are frequent weather reports and lists of closed schools in inclement weather. If the stations in the larger cities can afford it, there are helicopters giving reports on traffic.

Throughout the rest of the day there are interview programs, telephone dialogues, coverage of sports, and music which falls near the center of the spectrum and would be popular with the target majority audience.

### *Talk*

Few in the 1950s would have suspected how popular talk radio would become. It is an element in the MOR formats and some stations program nothing but talk all day long. The most common talk programs involve telephone dialogues between hosts and listeners on a "topic of the day" which may or may not be accompanied by a studio panel discussion. Topics cover the whole range of subjects in which people are interested, including politics, religion, psychology, sports, and sex. It would appear that the talk programs have tapped a deep-seated need

of people as the daytime serials did in the 1930s. They provide companionship for the lonely plus an opportunity to hear what others are thinking about various subjects. There is a circulation of ideas and information which can be significant. For many, listening to the radio-telephone dialogues has become a major contact with the world.

### *News*

Related to talk radio is the all-news station which carries news, features, and commentary all day. No news station expects listeners to tune in for long periods of time. The aim is to establish a reputation for being the place to get the latest headlines at all hours in the hope that listeners will tune in for an update before turning to other formats with which they may stay for longer periods. To date, all-news stations have been successful only in the largest markets.

### *Music Specializations*

The all-music stations are alike in two respects: each seeks to attract a small segment of the audience with its type of music and each carries its specialization all day long. The “sound” of the station is much the same whenever one tunes in. They appeal to advertisers because they tend to attract a much more homogeneous audience than the MOR radio station or the television stations. While there will be exceptions, the advertiser knows that the audience to various music formats will be reasonably consistent:

1. Rock stations are most popular among teenagers and the younger adults.
2. Top-40 and Contemporary stations appeal to young adults—20 to 30 years of age.
3. “Oldies” (popular tunes of fifteen to twenty years earlier) will draw adults from 30 to 45.
4. Country and Western has a broader appeal which makes it difficult to characterize listeners by age.
5. “Easy Listening” or “Beautiful Music” will appeal primarily to those over 50 years of age.
6. Classical music appeals to those who have come to appreciate it through exposure. The age will tend to be higher than the “Oldies” audience, but the more important characteristic is the higher socio-economic group attracted.

### *Ethnic*

There have been radio stations for blacks since the late 1940s, but the “sound” has changed over the years as broadcasters and advertisers have realized black audiences are neither monolithic nor unsophisticated in their listening tastes. With the civil rights movement of the

1960s, black stations focused more on the problems of blacks and news of their communities. At the same time, advertisers began to realize that ethnic groups represent important purchasing power. Today there are about 90 stations exclusively for blacks and another 400 with some ethnic programming.

### *Religious*

Owners of religious stations tend to be from the conservative fundamentalist Protestant sects. Most programming is evangelical, seeking to make converts and to confirm the faith of adherents. Much of the programming is sponsored to the extent that other religious groups buy time, prepare programs, and make pleas for money to help in their work.

### **Format Stations and Advertisers**

That format radio stations are valuable to advertisers is indicated by the increasing amounts of dollars spent in the medium each year. Through radio the advertising agencies can pinpoint the target audiences, pay for less “waste circulation,” and achieve a lower cost per thousand of specific potential customers. A major deterrent to even greater expenditures by national advertisers is the difficulty of buying radio compared with television. There are up to twenty station representatives through whom an agency can buy time on most of the powerful television stations in the country and achieve coverage of most of the potential viewers. Each contract may involve large amounts of money and it is not too difficult to receive a “proof of performance” affidavit from each station to indicate the advertising was actually aired.

While an agency can deal with fewer than 500 stations and still feel it has considered most of the important television coverage in the nation, it must make its selections of radio stations from some 7,000 commercial operations. Even if it rules out half of them as being marginal, there are still 3,500 from which to choose. The number of station representatives is much larger than in television and it is necessary to write far more contracts to spend as much money as is allocated to television. Since agencies receive their revenues primarily from retaining 15 percent of their media expenditures, it is natural they should want to make larger commitments to a few television buys as compared with almost innumerable smaller radio contracts required to make the same amount.

### **Radio Networks**

The traditional radio networks which formed the backbone of American broadcasting in 1945 had lost their dominance by 1960. After experimentation by several of them in the 1950s and 1960s, the primary

**KATZ**

1954  
ST. LOUIS



**TORBET-  
LASKER,  
Inc.**

### Independent Black

Media Code 4 226 6545 5.00  
Laclede Radio, Inc., 812 Olive St., St. Louis, Mo.  
63101, Phone 314-241-6000.

**STATION'S PROGRAMMING DESCRIPTION**

KATZ: Programmed primarily for Negro audiences.  
MUSIC: M-Sat rhythm and blues with 8 personalities.  
Sun: 11:30 am-5:30 pm rhythm and blues.  
NEWS: 4 min at :53. 65% local, 35% national and international. 1 newsmen. Daily community calendar and job opportunities. Sun: 1/2 hr, discussion and panel programs, gospel music, church remotes, religious features. Contact Representative for further details. Rec'd 9/29/75.

**1. PERSONNEL**

Vice-Pres. & Gen'l Mgr.—Douglas E. Eason.  
Program Director—Chris Hall.

**2. REPRESENTATIVES**

Torbet-Lasker, Inc.

**3. FACILITIES**

5,000 w. days, 1,000 w. nights; 1600 kc. Directional—night only.

Operating schedule: 24 hours daily. CST.

**4. AGENCY COMMISSION**

15/0 net time: payable when rendered.

**5. GENERAL ADVERTISING** See coded regulations

General: 1a, 2a, 2b, 3a, 3b, 3d, 4a, 4c, 5, 6a, 7b, 8.  
Rate Protection: 10c, 11c, 12c, 13c, 14c, 15b, 16.  
Basic Rates: 20b, 22a, 23a, 24b, 24c, 25c, 27, 28b, 29a, 33a.

Contracts: 40a, 41, 43, 44a, 44b, 45, 46, 51a, 51c.

Comb.: Cont. Discounts: 60a, 60c, 60d, 62d.

Cancellation: 70b, 70d, 71a, 72, 73a, 73b.

Print. Service: 80, 82.

Affiliated with ATA Radio Network.

Affiliated with Mutual Black Network.

Affiliated with MBS Network.

Affiliated with National Black Network.

**TIME RATES**

**NATIONAL AND LOCAL RATES SAME**

No. 17 Eff 10/1/74—Rec'd 8/16/74.

AAA—Mon thru Fri 5-10 am & 3-7 pm (fixed/non-preemptible).

AA—Mon thru Fri 5-10 am & 3-7 pm (rotating);

Mon thru Fri 10 am-3 pm (fixed); Sat & Sun 5

am-7 pm (fixed).

A—Mon thru Sun 5 am-7 pm (BTA); Mon thru Fri

10 am-3 pm (rotating).

B—Mon thru Sun 7 pm-5 am (ROS).

**6. SPOT ANNOUNCEMENTS**

**1 MINUTE**

PER WK:	1 ti	12 ti	16 ti	24 ti	30 ti
AAA	27.00	24.85	23.50	22.40	21.30
AA	21.30	19.00	18.50	17.90	17.35
A	19.00	18.80	18.25	15.70	15.10
B	17.90	15.70	14.55	13.45	12.30

**30 SECONDS**

AAA	21.50	19.70	18.80	17.90	17.00
AA	17.00	15.25	14.80	14.35	13.90
A	15.25	13.45	13.00	12.55	12.10
B	14.35	12.55	11.65	10.75	9.85

10 sec: 50% of 1-min.

Submitted by Douglas E. Eason.

Fig. 4.3 Standard Rate and Data Service rate card for radio station KATZ in St. Louis, Missouri.

network service now is in the area of news, information, and commentaries. A move by ABC illustrates the trend.

In 1968 ABC Radio, after receiving an FCC waiver, changed its organization to provide services for four distinct networks serving four kinds of stations. In 1975 ABC described its four networks as follows:

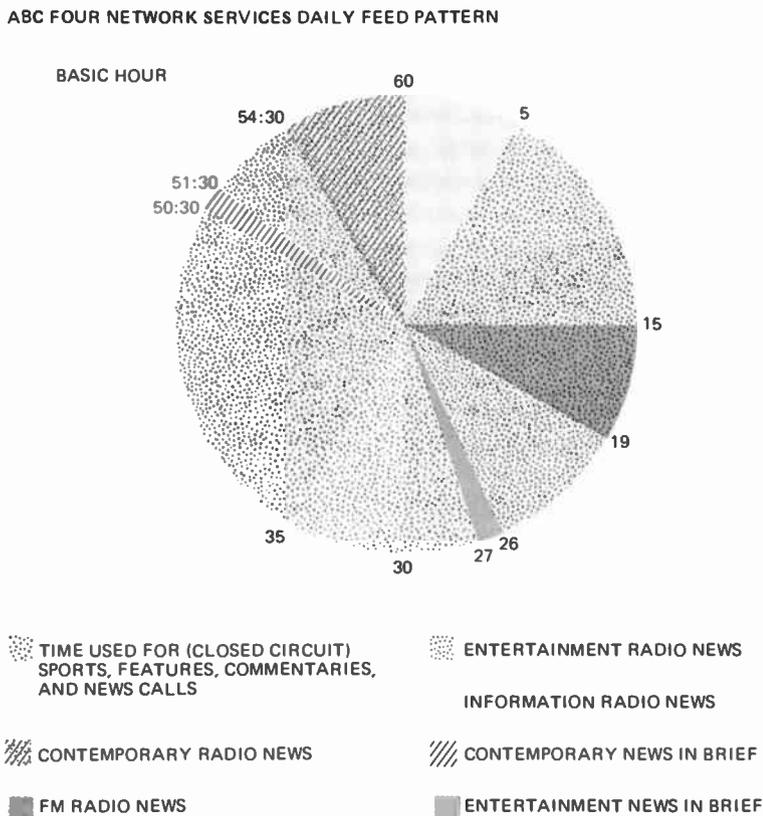
1. *American Contemporary Network*: Contemporary formatted news, sports, and features are fed to 329 stations which program the latest

sounds to appeal to tastes of young adults and teens. The network's listeners generally use radio as their primary medium.

2. *American Informational Network*: News, sports, and features are fed to 444 affiliated stations which program news, information, talk, and adult music. Adult listeners use the medium as their primary source of news and information.
3. *American Entertainment Network*: 382 affiliated stations are fed news, sports, and features which are consistent with their bright MOR, good music, and country music formats. The network's listeners generally use the medium as a primary source of entertainment and diversion.
4. *American FM Network*: A news service is sent to 215 affiliates with emphasis on stereo music and programming for the tastes of young adults and teens.

As shown in Fig. 4.4, the typical hour is split so that there are separate newscasts of four to five minutes in duration for each of the

**Fig. 4.4** Division of ABC's basic hour among its four radio network services.  
*Courtesy: ABC*



four networks. The rest of the time is used to send out to the stations sports, features, commentaries, and other material which can be taped and used at the station's discretion. A major difference between the ABC network services and the traditional network is that while some of the major stations are compensated for carrying the news and commercials, the majority pay the network.

For several years in the mid-1970s NBC experimented with a News and Information Service (NIS) which made it possible for stations in small markets to adopt an all-news format. As with the ABC services, affiliates generally paid the network rather than receive compensation. NIS was dropped in 1977 when the number of affiliates failed to meet expectations. MBS also departed from traditional practice by offering a special black network with news and other programming designed for black audiences.

### **Syndicated Radio Scheduling**

For the station with a specialized-music format there are syndication companies which provide tapes of appropriate music. This eliminates the need for maintaining a music library and personnel to choose the selections each day. For example, Stereo Radio Productions (SRP) offers a 24-hour schedule of "Beautiful Music" service for stereo FM stations, with changes in tempo and style from hour to hour through different portions of the day and with different approaches in the different seasons of the year. Prices to the stations range from \$800 to \$6,000 per month, depending on the size of the market. Because so many stations use the tapes of each syndicator, it is possible to pay more attention to technical quality and to the careful selection of music. Similar services are available for this and other formats.

### **Unique Regulatory Problems of Radio**

The dominance of specialized-format radio stations has led to two regulatory problems which are unique to radio.

#### *Regulation of Program Formats*

Section 326 of the Communications Act forbids the FCC to interfere in any way with freedom of speech by broadcasters. Both Commissioners and broadcasters have interpreted this to mean that a station may control its own programming without government supervision unless there is some serious infringement upon the public interest. The Commission felt its program responsibility was at an end once it had selected the best of the applicants as the licensee of a facility. It was then up to that individual to interpret the public interest and to program to meet the needs and interests of the community.

In spite of this, the Commission has been forced by the courts to consider programming in sales of format stations which provided a

unique service to their communities. In 1968 the only classical-music station in Atlanta, Georgia, applied for permission to sell its facilities and transfer its license to a new operator who announced his intention to change the format. The FCC approved the transfer but a citizens' group protested to the court of appeals which ordered the FCC to further consider the case. Eventually there was a settlement which did not require any further FCC action, but the precedent was established that if a format is unique in a community, the FCC must be more concerned with the transfer than if a station is one of a number providing essentially similar services.

Shortly thereafter the Commission approved without a hearing the transfer of WEFM in Chicago to a company which proposed to do away with the classical format which had been on the station since 1940. Again, a citizens' group appealed to the court even though there were two other classical stations in Chicago. The court ruled that the FCC had erred in approving the transfer without a hearing since the other two stations either had lesser coverage or did not pretend to be fully classical. Since the Commission was ordered to hold a hearing on the transfer, the implication is that the transfer cannot be automatic when citizens object to the loss of a format in a community.

In an editorial at the time, *Broadcasting* commented that the lesson to radiobroadcasters was that they should not let themselves be in the position of providing a unique format service in a community in case they ever wanted to sell to another party. The Commission itself was greatly concerned and called for hearings on whether it could or should be involved in such matters. The major fear of the broadcasters is that the matter might move from involvement of the Commission in format changes to broader consideration of programming. For example, if the CBS "Face The Nation" were to be the only program of its type on the networks, might it be possible for citizens to protest successfully if the program were removed?

In July 1976 the Commission issued an order at the conclusion of its inquiry into the problem. The order indicated that the record of the hearings "clearly points to the conclusion that (regulation of entertainment formats) would not be compatible with our statutory duty to promote the public convenience, interest, and necessity, and we so find."\* The Commission anticipated that the order would be challenged and within a week listener groups petitioned the court of appeals for a review. Whether the Commission will be able to maintain its stance

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\* *Ibid.*, August 2, 1976, p. 21.

*Questions of  
Indecency*

that specific programming decisions are beyond its purview is subject to conjecture. What is certain is that the issue would never have arisen had radio stations failed to specialize to such a high degree.

In the original Radio and Communication Acts broadcasters were specifically forbidden to air obscene and indecent material. Subsequently, the prohibition was removed from the Communications Act but penalties for airing such material were added to the Criminal Code. Obscenity and indecency were never a serious problem with television or with radio as long as stations were trying to reach large mass audiences. But when radio stations began to specialize in format broadcasting and the competition for audience became more intense, problems arose.

In the early months of 1973 Commissioners and broadcast leaders were upset about some of the popular talk programs, which were nicknamed “topless radio” or “sex radio.” Although fewer than 100 stations were involved, it was feared that the trend might grow to the point where all would get a bad name and that regulation might be forced on radio by Congress. In choosing their “topic of the day” many hosts included sex but the majority had handled it in good taste. Some, however, who were seeking the quick gain of sensationalism, not only selected sex topics but made the dialogues highly specific. Women were told to give only their first names and to avoid any possible identification. Otherwise, everything went. Some typical topics were “The first time I had sex,” and “How I get my husband in the mood.” The hosts encouraged highly explicit details.

Irate listeners wrote to the FCC complaining that their children were hearing the programs. Equally important, they also wrote their congressional representatives asking what might be done about it. The legislators brought pressure on the FCC. The Commission did not feel it should get involved, since Section 326 of the Communications Act forbade their entering into program decisions. Furthermore, the FCC had watched the Supreme Court unsuccessfully wrestle with a definition of obscenity.

As the pressure mounted, the FCC was forced to take action. A sample tape was made from some of the most blatant programs around the country and the Commissioners took the unprecedented step of gathering to hear the tape. The broadcasters, who in the earlier years had objected to any consideration of schedules by the Commission, raised no outcry. Ironically, the only Commissioner who refused to listen to the tape was the one whom the broadcasters had criticized the most—Nicholas Johnson, who felt it was a constitutional infringement of licensee freedom to monitor tapes.

The FCC selected the one station which seemed to have been the worst offender, WGLD-FM in Oak Park, Illinois, a suburb of Chicago, and fined it \$2,000 for broadcasting obscene and indecent material. At the same time, it almost begged the station to refuse to pay the fine and to pursue a court case which would clarify the responsibility of the FCC for such regulatory action. WGLD-FM had already dropped the offending dialogue programs since they were not necessary for the financial success of the station. It weighed the alternatives of paying the \$2,000 fine or investing many times that amount in paying lawyers for a court test. The practical solution was to pay the fine. When an Illinois citizens' group appealed, the court of appeals upheld the FCC fine.

In the meantime, the NAB, at its 1973 convention, brought all its persuasive powers to bear on operators who had used the dialogue format to get into sex radio. Between the efforts of the NAB, an exhortatory speech by the FCC Chairman, and the fine by the FCC, sex radio disappeared from the American scene.

In 1974 the Commission received a letter from a listener in New York City objecting to an afternoon program on WBAI-FM discussing the use of language. As part of the program, the host played a record made by comedian George Carlin, "Seven Dirty Words You Never Say on Television." The words were four-letter or variations thereof. The program did not meet the definition of "obscene," which hinges on appeal to a prurient interest or stimulation of sexual impulses. Rather, the FCC found WBAI-FM to be guilty of broadcasting indecent material, which it interpreted to be "patently offensive" references to sexual and excretory activities and organs, without any socially redeeming value.\* The Commission subsequently recommended legislation to Congress embodying the concept that "indecent" was that which lacked the prurient concept but was not acceptable in the average American home. In its *WBAI-FM* decision and others the Commission emphasized its concern with material aired during the hours when children have the most access to radio and implied that what might be indecent at some hours of the day would be acceptable at other times.

In March 1977 the Court of Appeals in Washington, D.C., overturned the Commission action on the grounds that the ruling was too broad and vague and infringed on freedom of speech by broadcasting.

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\* *Ibid.*, February 17, 1975, p. 6.

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## SUMMARY

It would have amazed broadcasters in the 1950s to think the day might come when the future of radio looked brighter than the future of television. Radio has met unique needs which seem to be beyond the capacity of any other medium. While there is great concern about cable's impact on television in the short range and the assumption that television stations as we know them today may disappear in a few decades, there seems to be no prospect of a decline in radio.

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## GLOSSARY ITEMS

The following words and phrases used in Chapter 4 are defined in the Glossary:

AM-FM Combination	Payola
AM-FM Duplication	Penetration
Billings	Prime Time
Drive Time	Radio Schedule Syndication
Economic Injury	Sponsorship
Format Radio	Station Representative
Independent Station	Syndication
National Spot Business	Topless ("sex") Radio
Network Affiliate	Waste Circulation
Participating Advertiser	

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## Radiobroadcasting Chronolog 1945–1977

- 1946 FCC changed criteria for licensing new AM stations.
1. Stopped consideration of economic injury to existing stations (*Sanders* case of 1940).
  2. Lessened degree of protection against interference with existing stations.
- Numbers of AM and FM stations started dramatic growth.

- ca. 1950 Radio networks continued noticeable decline.  
FM optimism faded.  
AM stations were turning to recorded music and format scheduling.
- ca. 1955 “Payola” started to become a problem.
  - 1962 FCC imposed partial freeze on new AM stations.
  - 1965 FCC limited duplication of AM programming on FM.
  - 1968 FCC imposed more severe freeze on new AM stations.  
ABC inaugurated four-network news services.
- ca. 1968 FM was growing rapidly.
- ca. 1970 Growth of radio syndicated scheduling.
  - 1973 Brief period of “sex radio.”
  - 1974 Appeals court ordered FCC to hold hearing on license transfer if demanded by the public.
- ca. 1974 FCC forced to consider program formats in license transfers.
  - 1975 FCC held WBAI-FM guilty of broadcasting indecent material.
  - 1977 Appeals court overturned FCC action on indecency in the *WBAI-FM* case.

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# 5

## **HISTORICAL PERSPECTIVES III**

**1920–1976 with Emphasis on Television**

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### **Preview**

Until 1948 the growth of television was sporadic and uncertain. The Television Freeze from 1948 to 1952 was, perhaps, the most important single action ever taken by the FCC. It was a period of long-range planning from which emerged television as we know it today. The 1950s were in many respects the “Good Old Days” when television boomed even beyond the expectations of its enthusiasts. Continued economic health in the 1960s was accompanied by the uncertainties of regulatory confusion. By the 1970s commercial television had achieved most of its expected growth and found its most persistent frustrations in the confrontations with the Nixon administration and with concerned mothers.

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## 5.1 1920–1945 EXPERIMENTAL BEGINNINGS AND WARTIME HIATUS

By the early 1920s engineers knew that pictures as well as sound might be conveyed by radio waves. By the mid-1920s they were transmitting video experimentally and had relayed it by cable between New York City and Washington, D.C. The picture was seen on a screen measuring only a few inches on each side and was created by *mechanical* television which involved a physically moving part, a rotating disk with a spiral of holes through which the picture passed. At the end of the 1920s the engineers came to the conclusion that mechanical television had too many inherent limitations and shifted their efforts to *electronic* television, which did not contain moving parts. This shift was largely due to the final development in 1928 of the iconoscope tube by Vladimir Zworykin, a Russian émigré.

By 1935 electronic television was being demonstrated to the trade press and other insiders by RCA and other companies. In 1939 RCA presented television publicly at the New York World's Fair. Two years later the FCC authorized television as a broadcast service. During World War II (1941–1945) only six stations were on the air broadcasting limited schedules to fewer than 10,000 sets. For all practical purposes, the story of television broadcasting in America starts after the end of the war in 1945.

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## 5.2 1945–1952 SLOW GROWTH AND THE FREEZE

### Color Confusion

Enthusiasm had run high when the FCC authorized commercial television broadcasting in 1941. At the end of the war there was every reason to expect a mushrooming growth, especially since there were more than 150 applications for new stations in the hands of the Commission. Then confusion set in, followed by a period of general pessimism.

When the FCC decided in 1941 that television was ready for public reception, it considered the question of whether the system should be monochrome (black and white) or color. It was the general consensus that color was not sufficiently developed at that time and the Commission authorized only monochrome TV on 6-mHz channels.

During the war, engineers for CBS Labs (a division of CBS) went ahead with color experimentation and reached the point where they could transmit a picture of far better quality than that which had been

rejected in 1941. In 1946 CBS asked the FCC to replace the monochrome system with its new color which had three important drawbacks.

1. It was mechanical.
2. It was incompatible with the monochrome system. The color receiver could not pick up the black-and-white signals and the monochrome receiver could not pick up the color transmission even in black and white.
3. Each channel required three times as much spectrum space (18 MHz) as did monochrome.

When CBS asked that its color television supplant monochrome, there was great confusion. Changing to color at that time would have required moving all television to another portion of the spectrum and every receiver and transmitter already built would become obsolete. Many CBS radio affiliates had faith in their network's proposal and delayed filing applications for existing television channels. Others also found the CBS arguments persuasive. In the first few months of 1946 nearly half of the pending applications for new television stations were withdrawn. In 1947 the Commission refused to grant the CBS request to change the system. Although there was no longer confusion stemming from the CBS color petition, few expected TV to become a mass medium which could compete with radio. Television receivers were far more expensive than radio sets. There was no network service, so any station going on the air had to plan to do practically all its own programming. The equipment was still primitive and difficult to operate. Cartoons of the time featured the oppressive heat in the studios from the powerful lighting required for production.

## **The Freeze**

As noted in Chapter 2, spectrum space had been allocated for eighteen television channels at first and then was cut back to twelve. By the summer of 1948 the Commission had authorized 124 stations of which about 50 were already on the air. Even at that early stage, it became obvious that the 12 VHF channels were too few to support a national system of television with adequate service to the public.

The situation resembled that of a motorist driving in the country who realizes he or she is on the wrong road. Rather than continuing on to the end, the motorist stops, gets out a road map, asks questions, and decides what to do next. The FCC, when it realized the twelve channels were a "wrong road," simply stopped processing new applications and announced a "Freeze" during which it would try to map out the long-range future. Stations already approved, but not yet built, were

permitted to go ahead with construction of the 124 Pre-Freeze authorizations. Eventually 108 appeared on the air. Applications which had not been approved were held in abeyance.

When it announced the Freeze in September 1948, the FCC thought it would need about six months in which to allocate more channels for television. A few months after the Freeze began, the Commission decided it must also select a system of color. It was not until June 1952 that the Freeze was finally lifted. The expected six months had stretched to nearly four years.

The Freeze was one of the most significant actions ever taken by the FCC. It was a major attempt to look ahead and make long-range plans. The Commissioners hoped that when the Freeze was lifted the nation would have a blueprint for a system which would last for decades. Designing that blueprint involved consideration of four problem areas.

1. Utilization of the UHF.
2. City-by-city channel assignments.
3. Selection of a color system.
4. Assignment of educational reservations.

#### *Utilization of the UHF*

The first problem was purely technical. The twelve VHF channels were inadequate, and the FCC felt there was not enough additional VHF space available. It was necessary to decide how many channels to allocate in which portion of the UHF and then to make decisions on how much power must be assigned to stations on different channels and how far apart they had to be spaced. The details were worked out by engineers using their slide rules and data from an experimental UHF transmitter built by RCA in Bridgeport, Connecticut.

#### *City-by-City Channel Assignments*

When the Commission moved FM to a new portion of the radio spectrum in 1946, it took note of a major criticism which had been leveled at how licenses for AM stations had been granted in earlier years—it had been on a first-come, first-served basis. Since radio operations first appeared to be more profitable in the larger cities, the best assignments were first made in heavily populated areas and in later years it had been very difficult or impossible to find room on the dial for stations in small communities. The Commission proposed but did not implement a system of “fixed assignments” for FM in which space would have been reserved for small markets where it might be several years before operation of stations would be economically attractive.

In the Freeze the FCC decided to draw up and adhere to a table of fixed assignments which would indicate how many television stations on which specific channels should eventually be operating in each city and community in the country. Licenses were to be granted only when an applicant requested a facility which appeared in the overall table. Thus, channels would be available where needed at the times they could be operated on a practical basis. In preparation for making the city-by-city assignments, the FCC laid down three guidelines which would govern its decisions.

Population Density Guidelines

The Commission believed that every part of the country was entitled to service from at least one station and that the great majority of homes should be able to receive two signals or more. Larger cities should have more stations than smaller ones.

Community Size	Desired Assignments to Each
up to 50,000	1 or 2
50,000 to 250,000	2 to 4
250,000 to 1,000,000	4 to 6
1,000,000 or more	6 to 10

Protection of the Status Quo

The Pre-Freeze authorizations were to be left undisturbed.

Technical Guidelines

To minimize the possibilities of interference among stations it was necessary to require a minimum distance between stations on the same channel (co-channel separation) and a lesser distance between two stations on adjacent channels (adjacent-channel separation, e.g., Channels 2 and 3). The co-channel separation figures varied between the VHF and UHF stations and among various "zones" of the country.

**Zone I—The Northeast**

Co-channel separations:

VHF—170 miles

UHF—155 miles

Adjacent-channel separations:

VHF— 60 miles

UHF— 55 miles

**Zone II—The Southeast**

Co-channel separations: VHF—190 miles  
UHF—175 miles  
Adjacent-channel separations: Same as Zone I

**Zone III—West of the Mississippi**

Co-channel separations: VHF—220 miles  
UHF—205 miles  
Adjacent-channel separations: Same as Zone I

Maximum permissible power varied with channel position:

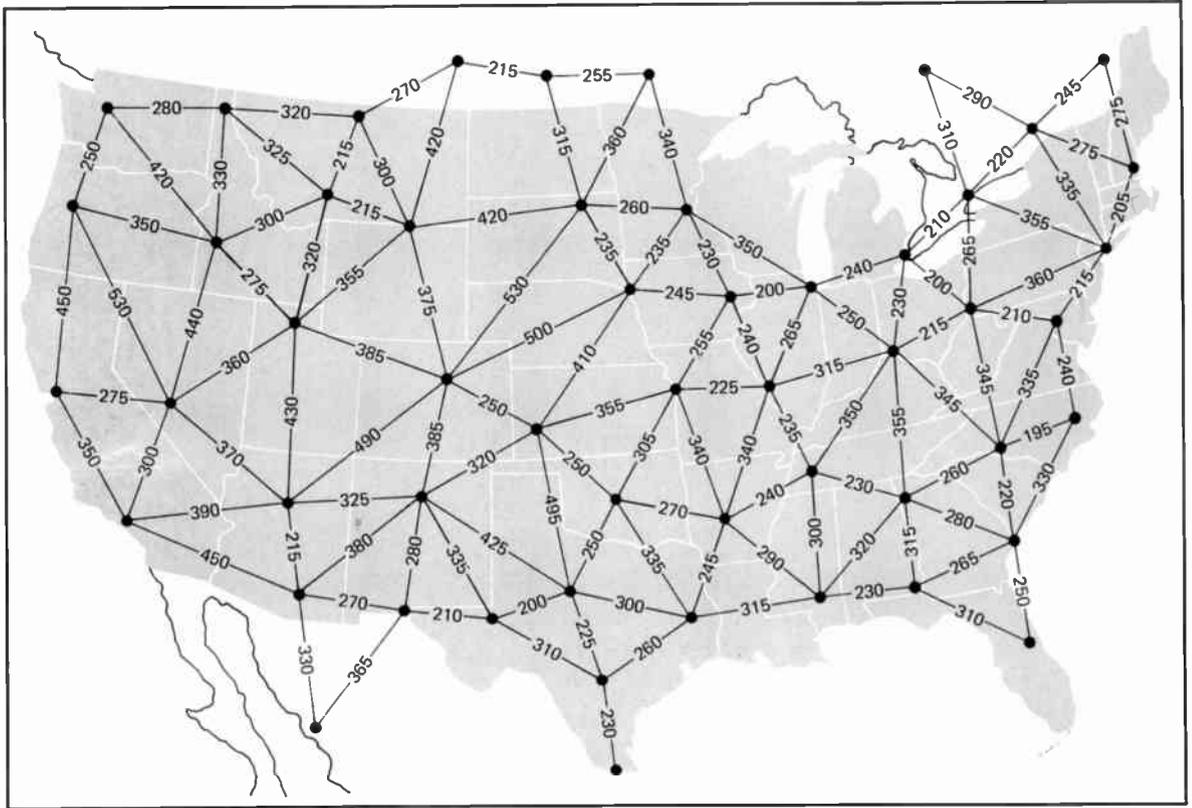
Channels 2–6	100 kilowatts
Channels 7–13	316 kilowatts
Channels 14–83	1,000 kilowatts

Having established its three guidelines, the FCC was ready to start working on a “three-dimensional jigsaw puzzle” without the aid of today’s sophisticated computers which would have made the task easier.

The first step was to consider a single channel such as Channel 9. On a map of the United States and adjoining areas in Canada and Mexico, the Commission would indicate all of the Channel 9 authorizations already made. Then a circle would be drawn around each representing the co-channel separation as an indication of where other Channel 9 stations might be assigned. In this manner the whole country could be covered showing the Channel 9 communities as separated by the minimum co-channel mileage.

A smaller circle would have to be drawn around every Channel 9 assignment to show the necessary adjacent-channel separations for stations on Channels 8 and 10. Then, one could start plotting the Channel 8 stations already authorized and making provision for new assignments while observing the separation factors. (See Fig. 5.1.)

It very quickly became apparent that when people of this nation settled in towns and cities, they were not motivated by future television-channel-separation figures. Rather, they tended to locate in large numbers where there were ports for ships; rivers for commerce and inexpensive power; railroad junctions; or where there would be abundant trading, as in the centers of farming and ranching areas. Some of the cities were conveniently located with regard to television in neighboring cities, but in other parts of the country the spacing was impossible for neat television-channel-assignment purposes.



**Fig. 5.1** FCC map showing locations of Channel 9 assignments in Sixth Order and Report ending the Freeze.  
 Reprinted from *Broadcasting*, April 4, 1952, Part II, p. 184.

The “jigsaw puzzle” was especially complicated by the Pre-Freeze authorizations which had been made on a “first come, first served” basis. For example, there were seven Pre-Freeze VHF stations authorized in the New York City area—six to New York City and one to Newark, New Jersey. All had their transmitters in the Empire State Building. This made it impossible to assign sufficient VHF stations to serve other East Coast cities like New Haven, Connecticut, and Philadelphia, Pennsylvania.

The only solution was the creation of “mixed markets” in which there were assignments on both the VHF and the UHF. To take five communities somewhat at random, the table of assignments looked as follows (asterisk indicates an educational reservation):

- New York City—2, 4, 5, 7, 9, 11, \*25, 31 (13 was assigned to Newark)
- Columbus, Ohio—4, 6, 10, \*34, 40

Des Moines, Iowa—8, \*11, 13, 17, 23  
Albuquerque, New Mexico—4, \*5, 7, 13  
Fresno, California—12, \*18, 24, 47, 53

(For the complete table of assignments, see *Broadcasting*, April 14, 1952, Part II, pp. 132–136.)

### *Selection of a Color System*

In the summer of 1949, the FCC added selection of a color system to the problems to be solved in planning for the long-range future of television. For the next twelve months the Commission conducted hearings and watched demonstrations of various systems.

Although there were several color systems in contention, the two leading competitors were CBS Labs and RCA. Both could transmit color in the 6 MHz channel width used by the existing monochrome stations as opposed to the earlier need for up to 18 MHz. There were still two important differences between them, however:

1. CBS was *Mechanical* and *Incompatible*.
2. RCA was *Electronic* and *Compatible*.

The CBS color system still used the spinning disk which, according to some, meant there was one more opportunity for things to go wrong. The RCA system was electronic, so on looking into the back of an operating receiver one could see nothing except the glow of the tubes.

The incompatibility of the CBS system meant that a CBS color set could not pick up the existing black-and-white pictures and the existing monochrome receivers could not pick up CBS color, even in black and white. But RCA color sets would pick up monochrome signals and monochrome sets would pick up the electronic color in black and white.

CBS and RCA were competing for a very lucrative prize. Obviously, only one system could be approved for the whole country. It would have made no sense to require a home to have two sets if two stations in the community chose different color systems. Whichever company had its system chosen by the FCC would make large amounts of money, not only by manufacturing sets, but also by licensing arrangements which would permit others to use its basic patents. The winner would receive royalties from every set made by another manufacturer. Literally hundreds of millions of dollars were at stake.

By the summer of 1950 pressure was mounting on the FCC to end the Freeze, which was then nearly two years old. People in the many cities without television were reading about programs on the air elsewhere and wanted the opportunity to see them. Congress began complaining to the Commission that broadcasters and other constituents

were impatient. For a year the FCC had been mired in the color controversy. (At the same time it had to continue its regulation of radio and the other electronic media—telephone, telegraph, etc.) Although it was clear that all systems needed more improvement, the FCC bowed to the pressure and announced it would hold one more set of hearings and demonstrations and then make its decision.

In September the long-awaited announcement was made—the CBS color system had been selected for American television. The first reaction was shock and disbelief. It had been assumed the FCC would choose a compatible system which would permit the continued use, during a changeover transition period, of the nearly 10 million sets already in American homes. Few had dreamed that a totally incompatible system would be chosen. The FCC said the CBS quality was better at that time and asked manufacturers to investigate the possibility of making adapters to sets to create a compatibility. However, it stayed with its decision favoring CBS even when the engineers reported adapters were impractical.

RCA immediately went to the United States Court of Appeals in Chicago seeking an order which would force the FCC to delay implementation of its color decision and to reopen the hearings. The basis of the suit was that RCA had made new discoveries which vastly improved its electronic color to the point where it claimed its picture quality was at least as good as that of the CBS system.

The Chicago court refused to order the FCC to reopen the hearings but, noting each side was prepared to appeal, did order that further implementation of color television be halted until the case had been heard by the Supreme Court.

The Supreme Court heard the case in the spring of 1951.\* RCA repeated its arguments that the FCC had not followed the proper procedure, that it had made an “arbitrary and capricious” ruling before all the evidence was in. It said the FCC should have waited until RCA had completed its studies and further refined its system.

The Supreme Court studied the record and found that the FCC had made a reasonable effort to get all the pertinent data available at the time. Courts realize that regulatory agencies reach points where decisions must be made and that it is sometimes impossible to wait for the time when everything is clear beyond question. The Supreme Court was primarily concerned with whether RCA had been given an equal

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\* Radio Corporation of America v. United States, 341 U.S. 412, May 28, 1951.

opportunity with CBS and whether the evidence reasonably indicated the CBS system was better at the time the FCC made its decision.

As noted in Chapter 6, the courts are limited in what they may consider when hearing an appeal from an FCC decision. The Supreme Court, in this instance, explained it was in no position to judge the “wisdom” of the FCC in making its decision. It had no authority to substitute its own “public interest judgment” for that of the Commission which was charged by Congress with making all its decisions on the basis of the public welfare. Therefore, after concluding that the FCC had given both sides full and equal opportunity and that the FCC had reasonably found the CBS system to be better at the time of decision, the Court’s responsibility was at an end. Its ruling in the spring of 1951 upheld the FCC. CBS was the winner, and there was no opportunity for further appeals.

CBS immediately announced the beginning of limited colorcasting and sent sales representatives to take station orders for color equipment. The response was negative. Stations had already built large audiences with monochrome signals. Since one cannot operate two transmitters simultaneously on a channel, during any time devoted to colorcasting there would have been no service to all existing sets. To pick up the color signals each home would have had to make an investment of up to \$1,000 for a second set which would then be of no use while the station was programming in black and white. In effect, operators were being asked to install ruinous competition to their already successful broadcasting.

A few months later the Office of Defense Mobilization said there was so much military need for certain metals (for the Korean “police action”) that none could be spared for color television. CBS color production and sales efforts came to a halt.

Into this hiatus came the National Television Systems Committee (NTSC), which had been formed by equipment manufacturers before the war to advise the FCC on the original technical standards for television. Made up of engineers from all the major companies, the NTSC was highly prestigious and had rendered important services for the Commission. It had never been disbanded, and in 1951 considered what its role might be in the color situation.

Its Chairman, Dr. W.R.G. Baker, General Electric Vice President, approached the FCC and asked whether the whole issue might be reopened if the NTSC could devise a better system of color which would utilize whatever patents were needed, regardless of their ownership.

Since CBS Labs was represented on the NTSC and entered no objection to the NTSC request, the FCC indicated it would reopen the hearings if the NTSC came in with its own system.

The NTSC did come to the FCC later with a proposed color system which was electronic and compatible—basically the RCA system, but an improvement because it involved some patents of other companies. The FCC reopened the hearings and in December 1953 approved the NTSC color system which is used by American television at the present time.

### *Assignment of Educational Reservations*

Midway through the Freeze the FCC announced that hearings would be held near the end of 1950 concerning setting aside some of the fixed assignments for exclusive use of educational institutions. It was not expected that the hearings would be especially significant nor that the Commission would be any more moved by arguments of educators than it had been in 1934 when Congress directed it to hold hearings into setting aside radio frequencies for education. (The FCC had then recommended against such reservations.) The hearings were much more dramatic than expected because several educational organizations combined to form the Joint Committee for Educational Television (JCET) which secured funding from the Ford Foundation. At the end of the hearings, which are described in more detail in Chapter 13, the FCC set aside 242 assignments for use by educational institutions.

### **The End of the Freeze**

In April 1952 the FCC issued its *Sixth Order and Report*, which ended the Freeze, effective July 1.\* Provision was made for over 2,000 station assignments in nearly 1,300 communities. The assignments were divided among VHF and UHF stations in the following way:

1. Commercial: 617 VHF and 1,436 UHF
2. Educational: 80 VHF and 162 UHF

When it was time to start processing applications, over 500 were in the Commission's file.

### **Birth of CATV**

As some people were impatiently waiting for the end of the Freeze so they, too, might see television, they learned that programs could be brought to them by means of a "Community Antenna" located on a

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\* For complete text of the *Sixth Order and Report*, including city-by-city assignments, see *Broadcasting*, April 14, 1952, Part II.

high point. Programs received by CATV systems were then distributed through the towns by cable. In its early form CATV was hailed by all as a good thing, but in later years it became highly controversial. (See Chapter 12.)

### **Pay Television**

As early as June 1946 E. F. McDonald, Jr., President of Zenith Radio Corporation, predicted that advertiser dollars would never be sufficient to pay the costs of television programming. He recommended exploration of several systems whereby people would pay directly for each program. Over the years the concept was variously known as “pay television,” “toll television,” and “subscription television.”\*

In 1950 the FCC warily approved a 90-day test in Chicago of Zenith’s Phonevision system. The experiment started in January 1951 with transmission each day of popular movies. “Families wishing to see a certain Phonevision movie call the telephone operator, ask for transmission of a signal for clearance of the jumbled original TV transmission and are billed one dollar for each movie they see.”† Zenith termed the experiment successful beyond expectation and petitioned the FCC for rule-making which would permit general use of any transmitter for pay TV purposes.

### **Program Changes**

Television at the end of the Freeze was vastly different from the bewildered medium of 1945 and 1946. There were 108 Pre-Freeze authorized stations on the air. AT&T had limited network facilities from coast to coast which were shared by the networks. Advertisers were convinced they should spend increasing amounts in television. There were 17 million receivers in American homes, and viewers were talking about “really big shows,” like Ed Sullivan’s “Toast of the Town,” NBC’s “Saturday Night Review,” “Arthur Godfrey and His Friends,” and the star of stars, “Uncle Miltie” Berle. “What’s My Line?” was opening its long stand in network and syndication. Edward R. Murrow was presenting “See It Now,” and there was the beginning of the live drama which some have identified as television’s “golden age.” Television had survived its infancy and was ready for a vigorous adolescence.

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\* The FCC used the term “subscription” in referring to pay television and pay cable. The latter terms are, however, in more general usage. Use of “subscription” in referring to pay cable can also be confusing since all purchasers of all cable services are known as “subscribers.”

† *Broadcasting*, January 1, 1951, p. 60.

### 5.3 1952–1960 TELEVISION’S ADOLESCENCE

In retrospect, the 1950s were the “good old days” in which growth was rampant and enthusiasm unbounded, with only hints of the regulatory confusion which characterized the 1960s. The number of commercial stations on the air grew from 108 at the end of the Freeze to 522 by the end of the decade. Total television-time sales nearly quadrupled from an annual \$283 million in 1952 to over a billion dollars in 1959. AT&T network facilities were expanded until they could accommodate all networks simultaneously in all parts of the country. CBS, which started as a distant second network to NBC, drew even in 1955, and by the end of the decade ABC was ready to move into a highly competitive position. The growth of television is portrayed in Figs. 5.2 and 5.3.

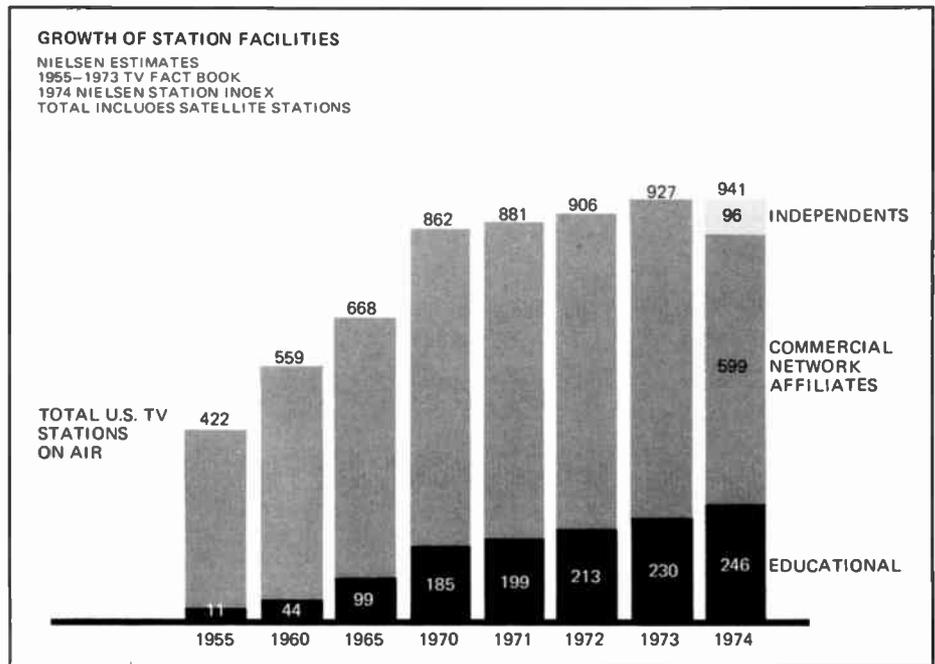


Fig. 5.2 Nielsen graph shows the 1950s as the period of most rapid expansion with the number of television stations growing from 108 at the end of the Television Freeze in 1952 to 559 in 1960.

*Used by permission. A.C. Nielsen Company*

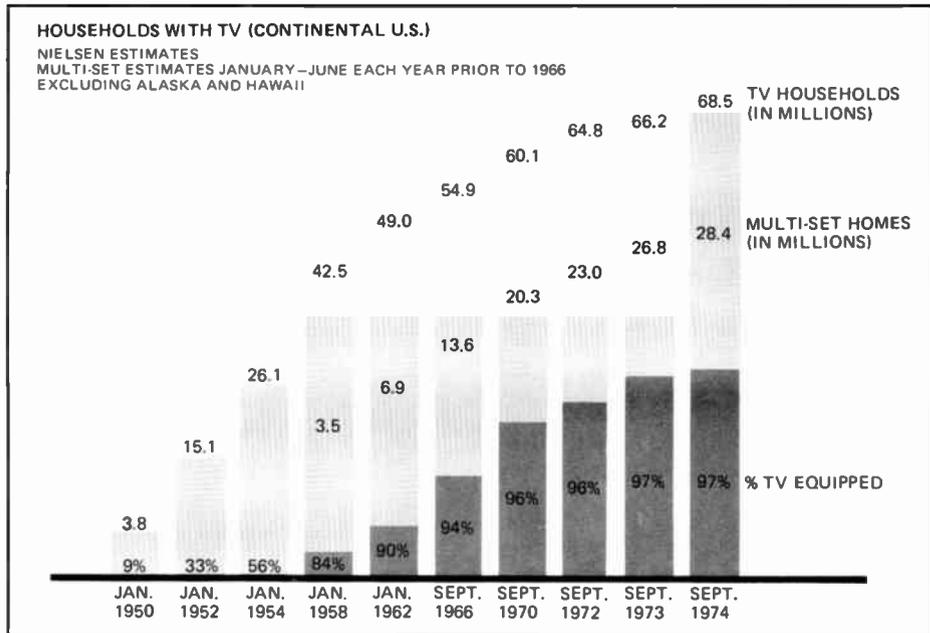


Fig. 5.3 Nielsen graph demonstrates the way in which the number of television households grew from 1950 to the mid-1960s.  
*Used by permission. Nielsen Television Index, A. C. Nielsen Company*

### Blacklisting and the Murrow-McCarthy Confrontation

It was during the blacklisting and Murrow-McCarthy years of the early 1950s that television became prominent in areas other than entertainment. For the first time it not only appeared to reflect society but to have an influence on history as well.

Shortly after World War II the Russians showed they had no intention of living up to agreements and understandings which had been reached and acclaimed when they were our wartime allies. It was also clear that the avowed purpose of the Communists in Russia was to extend their ideology into as many countries as possible, including the United States. The "Communist menace" became a matter of overwhelming concern to many Americans. Their fears deepened when the Russians exploded their first atomic bomb in 1949.

It was a time during which some felt there was nothing more important than weeding out Communist sympathizers. In 1947 a new magazine, *Counterattack*, was published listing the names of people who had in some way been identified, either recently or in the dim past, as associated with a Communist-front organization. There was no attempt to prove an individual was a Communist party member or a Com-

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munist sympathizer or that he or she was then or ever had been dedicated to overthrowing our government. The mere appearance of one's name in a news item about an allegedly subversive group was sufficient. Since broadcasting was so visible, there were listed announcers, newspeople, writers, producers, and other talent at whom the finger of suspicion might be pointed.

In the summer of 1950 a new magazine, *Red Channels*, listed 151 people it claimed had a "Communist background" (using the *Counter-attack* criteria) and who were then banned from work in television and radio without any specific charges ever having been made and without any opportunity to defend themselves. (Indeed, they were even without specific information that their being listed was responsible for their loss of employment.) The primary pressure was brought on advertising agencies, which had much control over individual programs and talent. The simple refusal of the "super patriots" at *Counterattack* and *Red Channels* to "clear" a name was enough to make the listed individual unacceptable in broadcasting.

Had it been only the advertising agencies which engaged in "black-listing," the networks would have been guilty only of passively standing by while the civil liberties of people in programming were being suspended. But the networks themselves subscribed to various blacklists and then started keeping their own lists. At no point did they declare, "This is wrong and we will have no part of it even if it does cost us money."

Senator Joseph McCarthy (R-Wis.) was the mouthpiece of the "anti-Communists." The hearings of the Senate subcommittee of which he was a member were widely carried by the networks, which continued their practice of making sure no one ever appeared on their facilities who might in any way attract Senator McCarthy's displeasure. The only bright exception to television's participation in the McCarthy Era was Edward R. Murrow, who in one of his early "See It Now" programs had fully discussed the case of a Lieutenant Milo Redulovitch who was forced out of uniform because his sister and father were accused of being Communist sympathizers.

In March 1954 Murrow made history by standing up to the Senator in forthright fashion. Of all those in network broadcasting, he seemed to have seen most clearly the dangers of McCarthy's methods and where they were apt to lead. Certainly, he was the only figure of major stature who displayed the courage to speak out. Going through the CBS file films of McCarthy hearings, he selected instance after instance where the sneer and the sly innuendo were most pronounced.

## Edward R. Murrow 1908–1965



Edward R. Murrow in the streets of London during World War II  
Courtesy: CBS

**N**ight after night in the early days of World War II Edward R. Murrow opened his broadcasts from bombed-out London with the simple “This — is London.” His descriptions of the city under siege and of the reactions of its citizens were most influential in bringing Americans close to Londoners, in encouraging American support for early lend-lease aid to England, and eventually for our entry into the war. His dedication to reporting was shown by his disregard

of danger when he spoke from the roof of Broadcast House in London with the bombs falling and when he hitched rides on allied bombers raiding deep into Europe.

Upon his death from cancer in 1965 he “was universally hailed as the man who did most to establish — and elevate—the standards of broadcast journalism.”\* As one who won nearly every journalism award given and as the recipient of honors from many nations and universities, Ed Murrow, more than any other individual, signified the stature of journalism in broadcasting.

It was a mark of his prestige to have been invited for dinner at the White House, although ironically on December 7, 1941, the day of the Japanese attack on Pearl Harbor. Although President Roosevelt did not come to the dinner table, he kept sending word that Murrow should not leave. Late that night he found time to talk with America’s most famous radio correspondent. Murrow’s death a quarter century later left a void in American journalism which many feel will never be filled.

Murrow was born in North Carolina and moved with his family to the state of Washington when he was still a child. He was a Phi Beta Kappa graduate of Washington State College in 1930. For two years he was President of the National Student Federation and for the next three years he was the assistant director of the Institute of International Education. In both capacities he made many friends throughout

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\* *Broadcasting*, May 3, 1965, p. 44.

*the country and the world. In 1935 he joined CBS as director of talks and education and in 1937 became European director. When Hitler marched into Austria in 1938, Murrow quickly moved to line up the staff of foreign correspondents who were to become responsible for CBS's dominance of the news in the early days of the war.*

*For two years after the war he was a vice-president of CBS and director of public affairs, but he never found satisfaction in desk-work. Returning to the air with his "See It Now" program, he did a number of telecasts which are remembered as classics. Most famous was his 1954*

*confrontation with Senator Joseph McCarthy which was important in terminating the period of witch-hunting for Communists. One of his last programs was "Harvest of Shame" about the plight of migrant farm workers, which was a fitting conclusion and capstone to an illustrious broadcasting career.*

*In 1961 he joined the Kennedy administration as director of the United States Information Agency but had to resign for reasons of health. After an unsuccessful operation for lung cancer, he retired to his farm in Pawling, New York, where he died at the age of 57.*

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He opened his "See It Now" program with a statement of his conviction that McCarthy was a menace to the country and announced that he would let McCarthyism speak for itself. After showing the Senator's methods, he said that if McCarthy would like to "answer himself," time would be given to him on a subsequent "See It Now" program.

Edward R. Murrow's broadcast of McCarthy film footage may be one of the most important single programs ever aired. McCarthy did respond, but most ineffectively. Others began to speak out against him. His influence began to wane. Unfortunately, the network and agency blacklisting continued for at least another two years. To many broadcast leaders it was more a "public relations" problem than a crisis in individual rights. Since there was never a public admission that blacklisting existed, there was never a specific moment when it could be said to have ended. It certainly lasted far longer than it should have, and some would say that its influence still lingered a quarter century after it started.

## **Color Television**

Color television moved very slowly after the FCC approved the NTSC electronic compatible system in 1953. The networks announced higher rates which would cover the increased costs of color production. Advertisers were unwilling to pay the higher amounts. ABC and CBS dropped virtually all regular color programming. Only NBC was willing to subsidize color by charging the same prices it asked for black and white.

The NBC incentive was the fact that its parent company, RCA, was the primary manufacturer of color receivers and wished to stimulate demand.

By the end of the 1950s most stations had color transmitters and presented some movies in color. The cost of the first sets was around \$1,000, and each required frequent adjustments of color controls (with almost every program) to get satisfactory reception. Informed opinion was that color would become significant when the cost per set came down to the \$500 level and the receivers could be used without constant readjustment.

### **The UHF Problem**

Without doubt, the greatest disappointment to the FCC in the 1950s was the inability of UHF stations to attract significant audiences which would have led to economic viability. They were unable to compete in mixed markets against VHF licensees and they had great difficulty in new television areas where CATV had been established. The UHF problem and attempts to solve it reveal a great deal about television "facts of life" in the 1950s and about the FCC.

By the end of 1952 there were three UHF stations on the air and many were encouraged that within six months of the lifting of the Freeze, three applicants could get through all the red tape at the FCC, order and accept delivery on their equipment, and begin broadcasting. A year later the number had risen to 115 and there was reason for optimism. However, in the summer of 1953 there had been stories in the trade press about UHF stations which were encountering serious audience and financial problems. By the end of the year some had given up. The year-end figures for UHF stations on the air in the 1950s were as follows:

1952—	3
1953—	115
1954—	116
1955—	102
1956—	91
1957—	84
1958—	77
1959—	76

By mid-1954 the viability of UHF was in serious doubt and investigations were initiated by the FCC and Congress. The Commission was especially concerned because its whole concept of a national system of television depended on the ability of UHF stations to round out the

VHF coverage. It was to that end that a four-year Freeze had been imposed in 1948.

The first inclination of many in Washington (as with radio in the late 1930s) was to blame the networks. It was noted that very few of the popular network programs ever appeared on UHF stations and some felt there must be a conspiracy against the newer-type stations. If there were three VHF stations and a fourth UHF in a market it would be normal to expect to find the major networks on the three VHF stations and for the UHF station to be independent. But even when the number of VHF's was smaller, the network affiliations were similar. Three hypothetical markets would exhibit this pattern of network affiliation:

- Market *A* VHF—NBC  
VHF—CBS  
VHF—ABC  
UHF—Independent
- Market *B* VHF—NBC + ABC  
VHF—CBS + ABC  
UHF—Independent
- Market *C* VHF—NBC + CBS + ABC  
UHF—Independent

As members of Congress and Commissioners looked into the situation closely, however, they found the networks had comparatively little to say about it because the decisions were made by the advertisers who ordered the network lineup. For example, in 1954 ABC added a Walt Disney program to its schedule on Wednesday evenings. It was the first time Disney had done television and there was great enthusiasm about it among both stations and viewers. As ABC was lining up the coverage for the Disney program throughout the country, the advertiser would have to choose between stations in typical Market *C* above. There were two alternatives: the program could be live on the UHF station on Wednesday evening or it could be delayed on the VHF station—perhaps at noon the following Sunday. A look at the ratings would quickly reveal that the program on the VHF Sunday at noon (or at any other time) would draw far more viewers than it would on the UHF station. Since audience size was the only factor of interest to the advertiser, the UHF station would fail to get the Disney program from ABC.

If the Freeze had ended in 1948 rather than 1952, the UHF problem might not have developed to any significant degree. There were, at

the earlier date, only 50 stations on the air and fewer than a million receivers in the country. As families were buying new sets for the first time, it would have been much easier to persuade them to pay extra for a built-in UHF tuner and to put up antennas which were appropriate to the UHF signals as well as to the VHF. In many markets the UHF stations would have arrived as early as the VHF's and the difference between them would have been minimal.

But by the time the Freeze ended in 1952, there were 108 VHF stations on the air broadcasting to more than 17 million VHF homes with antennas purchased for VHF only. To receive UHF in those homes would have required the purchase of a converter (a small box usually placed on top of the VHF television set and costing from \$25.00 up) and an addition to the antenna. Even then it was more difficult to get the UHF station because one had to carefully "tune it in" rather than simply click it to a pre-set position as with the VHF.

The UHF station trying to get started in a mixed market found itself caught in a vicious circle. People would buy converters when some of the popular programs they wanted to see were on the UHF stations. The top programs came to a station when an advertiser was willing to buy the station's circulation. The circulation became attractive to an advertiser only when people had bought converters to see the programs.

In seeking to solve the problems of the UHF stations, the FCC took three approaches in the 1950s:

1. Changing the multiple-ownership rules.
2. Deintermixture.
3. Requesting five VHF channels from the military.

### *Changing the Multiple-Ownership Rules*

When the FCC decided there was no network conspiracy against the UHF stations, it made a move which would automatically place some of the most popular programming on UHF stations—it changed the multiple-ownership rules. In 1954 the maximum number of television stations that might be owned by one licensee was five. The FCC changed the limit from five to seven, with the provision that no more than five of the seven might be in the VHF. This was an open invitation to each of the networks to acquire two UHF stations, and both NBC and CBS did so.\* This meant that those UHF stations would become network property and carry the full network schedules.

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\* CBS acquired UHF stations in Hartford, Connecticut, and Milwaukee, Wisconsin, while NBC bought stations in New Britain, Connecticut, and Buffalo, New York. ABC did not buy any UHF stations.

The NBC experience in Buffalo, New York, characterized the difficulty of solving the UHF problems. There were three stations in the community—two VHF's and a UHF. The two VHF stations had had primary affiliations with NBC and CBS and each carried some ABC programming. The UHF station had been independent. There was only about a 20 percent UHF penetration (percentage of television homes which could receive the UHF). Advertisers would not buy time on the station and it was ready to give up.

NBC bought the UHF station, leaving the two VHF's to the other networks. In 1954 NBC was still the number-one network—CBS would achieve a parity and then move ahead only after another year or so. ABC was a distant third. For the first time there was a UHF station in a highly competitive market carrying the full NBC schedule, and this should have broken the vicious circle. People should have bought converters to see those programs.

Unfortunately, that failed to happen. The UHF set penetration failed to increase significantly. Within three years NBC wrote off the experiment as a bad investment. It gave the studio and transmitter to an educational television council in Buffalo which then operated it as the first noncommercial station in New York State. The other NBC UHF station and the two purchased by CBS were also dropped. In the markets where they had been temporary UHF owners both networks reaffiliated with the VHF stations with which they had formerly been associated.

### *Deintermixture*

While the FCC was waiting to see if putting full-network schedules on some UHF's would work, it moved to the next stage of trying to "deintermix" some of the mixed markets by making them all-UHF or all-VHF. It was thought that if all stations in a market were on the UHF, the public would have no choice but to buy the appropriate receivers. The theory was fine, but when the Commission tried out the plan in areas where VHF was well established it proved unworkable.

In March 1957 the Commission proposed to deintermix several markets, including three in which the VHF assignments were already in use. The experience in the capital cities area of New York State (Albany-Schenectady-Troy) is illustrative. There was one VHF station, WRGB (named after Dr. W. R. G. Baker of GE and NTSC) operated by General Electric, and two UHF's. WRGB was primarily NBC but also carried some CBS and ABC programming. The two UHF's were independent except for the few network programs which could not be placed on the WRGB schedule.

The FCC announced it would move WRGB from Channel 6 into the UHF, thus creating an all-UHF market. The Chairman of the FCC thought he had cleared the move with the Chairman of the Board of GE in a telephone conversation. When the announcement was made, there was no immediate response from WRGB until it could find out about the telephone call. After acquainting the Chairman of GE with some of the television “facts of life” concerning the UHF, the station announced it would fight the move all way to the Supreme Court, if necessary.

It soon appeared that the FCC had picked a poor location to start its deintermixture. WRGB was one of the first experimental TV stations and had been among the first licensed for commercial broadcasting. More important was the fact that the area was surrounded on three sides by mountainous regions where VHF sets had been purchased and antennas put up to receive WRGB. Most were unable to receive the UHF stations even if they used converters and special antennas. If the area were deintermixed, those remote places would have no service at all and the FCC would be violating the first guideline it had established in the Freeze—making sure everyone had access to at least one television station. The Commission did deintermix the capital-cities area—by finding two more VHF channels for the two UHF operators. (One of the UHF’s gave its studio and transmitter to a local educational television council which then became the second educational station in the state.) Thus, although the Commission had devoted a great deal of time to deintermixture, it was no nearer a solution than when it started consideration of the possibilities in 1955.

### *Requesting Channels from the Military*

When engineers came to the conclusion that part of the UHF trouble might be attributed to the inherent limitations of the UHF for broadcasting, the FCC asked the Office of Defense Mobilization (ODM) if there might not be space released by the military in the VHF for broadcasting. (It would still have taken several years for manufacturers to put on the market receivers which could pick them up.) There was special interest in the five channels (14 through 18) which the military had taken in World War II after they had been assigned by the FCC for commercial television. However, the ODM said it could not spare the channels. In fact, there rumors from time to time that the ODM might even have to take over Channels 2 through 6 for military purposes.

### **Pay Television**

Throughout the 1950s pay television was a major issue. Zenith’s petition to approve pay TV remained on the Commission agenda without resolution. Adherents of pay TV claimed that the “pay to see” system

would make available programming which advertisers could not afford to support, primarily in the fields of education and culture. Conventional broadcasters argued that the pay TV promoters were only interested in making money and that once a system was approved, the emphasis would be not on education and culture but on outbidding the networks for their most popular entertainment features. Congress was drawn into the debate and the House Committee on Interstate and Foreign Commerce asked the FCC to delay any final decision.

### **Emergence of Regulatory Issues**

In two areas there were hints of regulatory problems which would become areas of major controversy in the 1960s. *Community Antenna Television* had evolved into *Cable Television* with far more service than the original minor extension of television station coverage. Some UHF stations were complaining that cable competition had become their major problem. All broadcasters were concerned about the growing impact of cable and sought ways of protecting their interests. By the end of the 1950s the FCC had indicated the importance of the problem to Congress and asked that legislation be passed clarifying who might regulate cable television.

In 1949 the FCC had issued the *Fairness Doctrine*, which in its earliest form was primarily concerned with giving stations the right to editorialize if they fulfilled a responsibility of seeing that the public had an opportunity to hear the other side. As the 1950s drew to a close, there were signs that the Fairness Doctrine would be a major area of controversy in the coming years.

### **Slow Start for Educational Television**

The growth of educational television was disappointingly slow in the mid-1950s in spite of heroic efforts by the Ford Foundation to eliminate some of the most pressing problems. By the end of the decade it was hoped that National Educational Television (NET) would, through its network service, help educational stations more nearly achieve their potential than had appeared possible a few years earlier.

### **The “Quiz Scandals”**

Television’s adolescence ended with the “quiz scandals.” The first of the big-money quiz programs, “The \$64,000 Question,” appeared in the mid-1950s. A contestant selected a specialized field (baseball, the Bible, English history, classical composers, etc.) and tried to answer questions which grew progressively harder each week as the money prizes were doubled until they reached the top, \$64,000. This program was followed by the “\$64,000 Challenge,” “Twenty-One,” and others using somewhat similar formats except that they pitted contestants against each other.

Some educators assumed the quizzes were “rigged,” especially those which involved competition between two contestants. Usually one was more interesting than the other and it would make for a better “show” if this contestant were able to win and return the following week. It was assumed, however, that the “rigging” was honest to the extent that it consisted of getting to know the strengths and weaknesses of the players and choosing questions which would probably be answered correctly by the more appealing contestant.

The producers either did not know it might be done that easily or preferred to take no chances. In their desire to create suspense as well as retain the desired contestant, they not only gave the correct answers in advance to some, they also rehearsed them in facial expressions to give the impression of agony as they appeared to struggle for the answers. After much expressive visual contortion, the correct answers would usually be blurted out just as the gong was about to sound.

Eventually, one of the losing contestants complained to the District Attorney in Manhattan. Hearings were scheduled by the FCC and by congressional committees. In retrospect, the significance of the situation lay in the embarrassment of upper-level network management who had to confess they had no idea of what was going on. The quiz programs were among their biggest audience attractions and it never occurred to them to regard them as anything more than “show business” attempts to earn high ratings. It appeared that the public took television programs more seriously than those who were responsible for them. As network executives had once regarded blacklisting as only a public-relations problem, so they now saw their schedules as only a vehicle for advertisers.

The congressional response was to amend the Communications Act by adding Section 509, which made it unlawful to employ deceptive practices in a “purportedly *bona fide* contest of intellectual knowledge or intellectual skill.” The TV industry’s response was to cancel all the big-money quiz programs.

## Programming Changes

Until the advent of the videotape recorder in the latter half of the 1950s, the most exciting programs were the live dramatic series—“Studio One,” “General Electric Theater,” and “Producers Showcase,” among others. As costs rose and the VTR made possible a more polished performance and repeat showings, live drama largely disappeared. Other distinguished programs included the NBC innovations of the “Today Show,” “Tonight,” “Home,” “Wide Wide World,” and specials.

Television also entered its period of “trends” in which one especially successful program was duplicated and copied until there was a

plethora and a new type emerged. The 1950s were the era of the Western and the beginnings of the situation comedies (sitcoms). The Westerns declined quickly in the 1960s but the sitcoms have continued to the present time.

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#### **5.4 1960–1970 TELEVISION'S MATURITY**

In the 1960s television achieved much of its current stature. All major markets were served by at least three stations and each of the three commercial networks had a lineup of primary affiliates which made it competitive with the others. Advertisers gave television a resounding vote of approval by increasing their annual expenditures on it to over \$3 billion. The increased competition of the networks led to the color breakthrough which had been pending for nearly ten years.

##### **The UHF Problem— Deintermixture and All-Channel Receivers**

In April 1960 the FCC finally deintermixed a market in which the VHF station had been on the air—as opposed to markets in which no VHF grant had been made or the grant had not been activated by station construction. Channel 12 was deleted from the assignments in Fresno, California, and the community became all-UHF. Significantly, the move was not opposed by the VHF operator. (The rumor was that he welcomed it since he already had four other VHF stations and changing his Fresno station to UHF would free him to seek another VHF outlet in a larger market.)

In the summer of 1961 the FCC proposed deintermixing eight markets, each of which had one VHF assignment. Most of the VHF's had been activated and the broadcasters brought increasing pressure on Congress to turn the Commission away from its deintermixture course. When members of Congress talked with Commissioners, the FCC response was that it would drop deintermixture if Congress would take action by passing an all-channel receiver bill. In 1962 the Communications Act was amended to give the FCC the power to require that all television sets sold in interstate commerce include the UHF tuner. Since 1964 receivers have had to comply with the all-channel requirements.

Deintermixture was abandoned as a way of solving the UHF problem. Only one active VHF station had been deleted. There were a handful of other markets which were deintermixed but none of them had included VHF assignments in use. How successful were deintermixture and the all-channel receiver bill? Returning to the assignments at the end of the Freeze and comparing them with stations on the air over twenty years later we find the following:

	1952 Assignments	1976 Stations
Commercial VHF	617	513
Commercial UHF	1,436	197

### Color Breakthrough

The spread of color had been disappointingly slow in the ten years after the NTSC system was approved. In the early 1960s only NBC offered substantial programming in color. The breakthrough came as a number of seemingly unrelated events coincided.

In the fall of 1964 ABC became fully competitive with the other two networks. Its programs were attractive, it gained a publicity advantage by starting its fall season a week ahead of the other two networks, and it delayed acceptance of political programming in the presidential campaign until the last two or three weeks before the election. As a consequence, for the first time, less than one average rating point separated the three networks.

Early in 1965 there was a little-noted announcement of the results of a study of color-television homes. It revealed that color homes preferred color programs to a significant degree. For example, "The average rating of all NBC color programs in the 7:30–11:00 P.M. period was given as 39.3 in color homes against 22.2 in black-and-white homes . . ."\* NBC estimated that the advantage had accounted for one full average rating point in the current season and would give a yet more sizeable advantage in the coming year if the other two networks stayed with black-and-white programs.

Very shortly CBS announced its plans for color in the coming fall season and ABC announced it would program primarily in color a year later. When the 1965–1966 season was under way the schedules of all three networks were predominantly in color. In another year or two the black-and-white network show had almost disappeared.

Almost simultaneously the price of color receivers fell into the \$500 range and a new picture tube was developed so that receivers required far less adjustment between programs and between stations than in the past. From the mid-1960s on, color grew rapidly and steadily.

### Educational Television

ETV had developed more slowly than anticipated in the 1950s, but received a great impetus from two congressional actions in the 1960s. In 1962 the Educational Television Facilities Act made available \$32 mil-

\* *Broadcasting*, March 1, 1965, p. 32.

lion of federal funds to help new educational stations get started and older ones to upgrade their facilities. In 1967 the Public Broadcasting Act established the Corporation for Public Broadcasting (CPB), which was private but received public funds for helping what became known as public television. These actions paved the way for the significant role public broadcasting began to play in the 1970s.

## **Pay Television**

As the decade started, the Commission felt it needed more information about pay TV and in June 1960 approved the sale of WHCT(TV) Channel 18 in Hartford, Connecticut, to RKO General, Inc., for a three-year test of Zenith's Phonevision. The trial lasted for six years and apparently answered the Commission's questions. In 1968 it approved the concept of broadcast pay TV and proposed rules to cover it. Pay TV would be authorized for only one station in a community where there were four or more commercial stations in operation. Such a station could not be full-time pay TV, but had to carry a minimum amount of regular broadcasting.

There were a number of antisiphoning rules which prohibited pay TV from buying those programs which had been most important to networks and stations. The presentation of movies was limited to those which were less than two years old except that there could be one a month which was over ten years old. Since most stations used one or more films every day and the majority were released between two and ten years before airing, this protected the supply on which broadcasters were dependent.

No sports event could be shown on pay TV if it had been on regular television during the preceding two years. Promoters of professional sports were very anxious to tap the larger amounts of money they thought pay TV could provide but were being told that they would have to keep their events off regular television for two full years before any such arrangements could be made. Pay TV was not permitted to present a series where individual episodes had either an interconnected plot or substantially the same cast of principal characters. There was to be no sale of time for advertising in pay TV programming.

Pay TV proponents contended the new regulations were designed to protect conventional television operators and were an unfair impediment to development of the new medium. They charged that the Commission was the captive of those it was supposed to regulate. Broadcasters responded that the public would have to pay for programs it had been getting free. They failed to emphasize sufficiently that for many people it was more than a matter of having to pay for popular program-

ming—they would have no opportunity to see it even if they were willing to pay.

When advertisers pay for televising sporting events, they justify the costs by the size of the audience. When all revenues for commercials in an event like a baseball World Series game are added together and divided by the number of sets tuned in, it is apparent that all advertisers combined were paying approximately ten cents per viewing home in the 1960s. That figure could not be materially increased in light of existing cost-per-thousand limits the advertisers had imposed upon themselves. The limit for pay TV, on the other hand, was determined by how much each viewing home would be willing to pay. If, for example, each home were willing to pay 50 cents per World Series game, pay TV could outbid conventional television for the rights even if the number of viewing homes was substantially lower. Since professional sports is a business, one must assume the rights would go to the highest bidder.

However, pay TV would be present only in the largest markets where there were good prospects of its economic success. There might be justifiable debate about whether a person living in a community served by pay TV should be required to pay for seeing a game, but there was no question about the unfairness to an individual in a community without pay TV who would be deprived of the opportunity to see the game even if he or she were willing to pay for it. Thus the FCC saw its apparent protection of conventional television as a more important protection for the public.

Broadcast pay television turned out to be a concept whose time had been passed in the years of controversy. When it was finally approved, pay television by cable seemed to have a far brighter future and promoters who wanted to sell sports and other programming for greater amounts than conventional television could afford were beginning to consider pay cable. Over-the-air pay television was never activated to a significant degree.

An attempt to develop pay television by wire had been aborted in 1964. A year earlier former NBC executive, Sylvester “Pat” Weaver had been hired as President and Board Chairman of Subscription Television, Inc. (STV). The company planned to sell television programs to wired homes and had already contracted for the baseball games of the Los Angeles Dodgers and San Francisco Giants. It was assumed that Weaver, who had built the NBC television schedule in the early 1950s, would be able to add other attractions which STV would offer to its subscribers. Since the system had no plans for relaying broadcast stations, it did not come under FCC cable regulations.

STV's prospects of success were good enough to cause a coalition of theater owners, broadcasters, and other groups to engage in a massive campaign against it. Voters were asked to choose "pay TV or free TV" when a referendum item was placed on the November ballot which amended the California law to prohibit charging for television programs. Pay TV was turned down by a 4–1 landslide. Although the Superior Court of California later ruled the amendment unconstitutional on grounds of free speech, STV never did recover from the blow and gave up its operation. It had, however, served to open the eyes of cable operators to the possibilities of pay cable and they began anticipating the day when they could add a pay service to their CATV, importation, and origination.

### **Regulatory Confusion**

In three important areas the FCC was unable to make clear decisions which would let broadcasters and others know what to expect from day to day.

Until 1965 there was a question as to whether and to what extent the Commission would seek to regulate *cable television*. From 1965 to 1968 the question was whether the Supreme Court would uphold the FCC regulation. When the Supreme Court did affirm FCC authority to regulate cable television in 1968, there was a four-year period of waiting to see what the regulations would be.

In the early 1960s the FCC began to expand its *Fairness Doctrine*. Neither the Commission nor the broadcasters knew where the expansion would stop. When it reached the point of requiring "answers" to cigarette commercials, the Commission itself seemed to feel it had gone too far. A Supreme Court affirmation of the Fairness Doctrine in 1969 increased confusion about what the Commission would do next.

Much against its will, the FCC was forced by the courts into a new approach to *License Renewal* of stations. For a period of time the broadcasters felt that new policies might change the fabric of the system and the Commission itself seemed at times to be deliberately encouraging the confusion.

In contrast to the "good old days" of the 1950s, the 1960s were a period of regulatory confusion. Some broadcasters felt a premonition of things to come in spring 1961 when the new Chairman of the FCC, Newton Minow, spoke to the annual NAB convention. He told them he had been watching television with a new eye and had perceived "a vast wasteland."

### **Programming in the 1960s**

Television entertainment programming continued to follow the "trends" in which the success of one program generated others very nearly the

same. As the Westerns died down, the medical and lawyer programs came into their own. Sitcoms multiplied from year to year. Sports programming grew by leaps and bounds. It was also in the 1960s that the networks began to carry feature movies and for a while there were eight prime-time movies a week split among the three networks. As the audience began to take entertainment programming for granted, it was the "reality" programming which tended to be remembered after a decade or more. Most viewers forgot individual entertainment programs but could easily recall the weekend of the Kennedy assassination, the Olympics brought from around the world by satellite, the space shots climaxed by pictures of men walking on the moon, and the nightly horrors from Vietnam.

As the 1960s ended, television had achieved the greater part of the commercial stature which had been promised at the end of the Freeze. Service was truly nationwide; three networks were profitably affiliated with stations in over 200 markets, and advertisers were using most of the available commercial time. In subsequent years there would be the addition of marginal stations but no significant increase in the size of the system.

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## 5.5 1970–1976 CHANGES IN DIRECTION AND EMPHASIS

In the 1970s the television industry continued the steady growth which had started in the early 1950s as indicated in the comparative figures for billings from 1950 to 1975.

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Year*	Network (\$ millions)	National Spot (\$ millions)	Local (\$ millions)	Totals (\$ millions)
1950	35	25	30	90
1955	308	222	149	681
1960	471	459	215	1,146
1965	585	785	302	1,673
1970	1,551	1,102	589	3,242
1975	1,673	1,441	1,079	4,193

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\* *Note:* The figures before and after 1967 were computed differently by the FCC and are not fully comparable. They are important primarily as an indication of steady growth.

Otherwise, the story of television in the 1970s was not a simple continuation of the preceding decade. Problems which were expected after 1969 tended to disappear while anticipated early success was delayed in other areas by unexpected difficulties. For example, the 1960s were characterized by regulatory confusion in the areas of the *Fairness Doctrine* and *License Renewal*. In 1968 and 1969 court decisions affirmed the power of the FCC to continue in directions broadcasters feared and which they expected would result in a deterioration of their regulatory relationships. But in the early 1970s an accommodation was reached in both areas and they were no longer of primary concern to the industry.

The 1970s were supposed to be a time of fruition for both *Cable* and *Public Television* and each achieved its expected primary goals only to be met with new problems which prevented full success. The FCC issued its new cable regulations in 1972, thus ending the quasi-freeze on cable in major markets. Still, the economic climate of the next few years and miscalculations about the popularity of cable kept the medium in a state of uncertainty. Public Television achieved its live nationwide interconnection system with the help of federal funds and then became enmeshed in the confrontation between the Nixon administration and all of television.

The controversy about *children's television* heightened in spite of the 1972 report from the Surgeon General's Committee indicating that there was only a modest relationship between televised violence and aggressive behavior. The FCC failed to issue rules requested by Action for Children's Television but did reach new levels in efforts to pressure broadcasters into changing the NAB Code of Good Practices. The Commission's pressure was so blatant that a district court held the new Code provision for family viewing policy had resulted from government censorship and was thus unconstitutional.

### **Confrontation with the Nixon Administration**

A primary concern of television broadcasters in the 1970s was their confrontation with the Nixon administration. When he was inaugurated in January 1969, President Nixon expressed less antipathy toward television than toward the rest of journalism, although he did think the medium had placed too much emphasis on the Vietnam protests during the Johnson administration.

One of his major campaign promises had been to end the war in Southeast Asia and in early 1969 war opponents took the position, "Let's wait and see what happens." There was a cessation of demonstrations and comparative peace prevailed between Nixon and the pro-

testers and between Nixon and television. During the summer the militant youth began to lose patience and television newscasts reported on stepped-up antiwar activity. In “instant analyses” after presidential speeches, commentators pointed out the differences between Nixon’s campaign promises and what he had just finished saying. (“Instant analysis” is not a completely accurate description, since copies of the speeches were frequently circulated in advance and there was an opportunity for the commentators to think about what they would say at the conclusion.)

On November 3, 1969 President Nixon made a major televised speech in which he told of his determination to “hold firm” in Vietnam while seeking a negotiated peace. Commentators had expected the speech would be about disengagement from the war and expressed their surprise which the White House interpreted as disapproval. A Vietnam protest March on Washington was scheduled later in the month and billed as the largest ever to take place. In response to the instant analysis treatment of Nixon’s speech and from concern that television would give extensive coverage to the upcoming March on Washington, Vice President Spiro Agnew accepted an invitation to address a Republican fund-raising dinner in Des Moines, Iowa. The networks were informed it would be a major speech so they carried it nationwide. In his remarks Agnew made a major attack on network television news. His specific complaints are found in two excerpts:

The audience of 70 million Americans gathered to hear the President of the United States was inherited by a small band of network commentators and self-appointed analysts, the majority of whom expressed in one way or another their hostility to what he had to say. It was obvious that their minds were made up in advance. . . .

How many marches and demonstrations would we have if the marchers did not know that the ever-faithful TV cameras would be there to record their antics for the next news show?\*

For the next four years network television news appeared to be under an orchestrated attack from various branches of the government. Dean Burch, the recently appointed Chairman of the FCC, said he found the Agnew speech “thoughtful, provocative” and deserving of “careful consideration by the industry and the public.”† Although Burch went on to point out that Agnew had not called for censorship, his stamp of approval on the general content of the speech was startling.

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\* Ibid., November 17, 1969, p. 27.

† Ibid., p. 9.

It was also pointed out that he had two weeks earlier called the heads of the three networks and asked each to provide him with transcripts of what commentators had said at the conclusion of the November 3 Nixon speech.

Following the Agnew speech, Clay T. Whitehead, Director of the Office of Telecommunications Policy (OTP) in the White House, attacked the networks as engaging in “elitist gossip” and “ideological plugola.” In September 1970 Presidential Counsel Charles Colson wrote a memo telling of his calls to the network presidents to ensure Nixon’s easy access to network time. In November 1971 Whitehead made a speech to the National Association of Educational Broadcasters warning them that any attempt to create a “fourth network” of educational television stations would be resisted by the administration. He was obviously concerned that the educational interconnection was carrying news and analysis which closely paralleled what the commercial networks were carrying. Throughout the debate on the extent to which cable television should be free to compete with over-the-air television, Whitehead consistently favored cable as a way of cutting back on the strength of commercial television. When a group of actors and other Hollywood workers protested to the FCC about the number of network reruns of entertainment series episodes, Whitehead and Nixon supported their petition and used it as another way to keep the networks off balance.

In January 1972 petitions were filed by Nixon supporters challenging the renewal of licenses for television stations owned by the *Washington Post-Newsweek* group which had been a leader in liberal news reporting. In April 1972 an antitrust suit was filed by the Department of Justice seeking to bar networks from producing any of their own entertainment programming or from leasing their facilities to other entertainment producers.

Pressure from OTP Director Whitehead centered around “localism,” the removal of news and programming decisions from the networks to the local stations. There was undoubtedly a realization that radio was insignificant in the political arena before the development of networks in the 1930s and the knowledge that diminishing the strength of the television networks in the 1970s would lessen television’s power to influence public opinion. In December 1972 Whitehead made a “carrot-and-stick” speech in which he said his office was proposing legislation to make license renewal easier for the stations to get and for longer periods but which would require that news judgment be centered at the station level.

For two or three years the administration succeeded in enlisting support from its “silent majority” of conservative Americans who supported the war in Vietnam and were disgusted with the methods of the opposition and with the networks which reported them. The confrontation between Nixon and the television networks seemed to fade in the fall of 1973. As the President’s Watergate cover-up fell apart and more Americans became convinced he had badly erred, so the influence of his administration waned. Agnew resigned in disgrace, and Whitehead lost his clout in Washington. Television emerged a stronger force than when it entered the fray in 1969 but with the realization it had traveled through a troubled time and run great risks.

### **Confrontation With Concerned Mothers**

Since the early 1950s, psychologists, sociologists, and others had been greatly concerned about the effects of televised violence on children. There was fear that it might lead to overly aggressive behavior among children who viewed literally thousands of hours of mayhem not only in the cartoons but also in adult programming. Hundreds of studies were conducted but the total results were inconclusive. Because there were so many factors in the child’s environment, none could be isolated. It could be statistically demonstrated only that some television programs might have an adverse effect on some children some of the time.

In February 1970 a group of concerned mothers from the Boston area opened a new front in the war over children’s television. Action for Children’s Television (ACT) petitioned the FCC to make rules with regards to aspects other than violence. There was a request that broadcasters be required to provide specific amounts of weekly programming for children in three age categories (2–5, 6–9, and 10–12), but the major emphasis was on advertising directed at children.

ACT claimed that most advertising exploited children by use of sophisticated techniques before the youngsters had developed the normal adult defenses. ACT was especially critical of those who were trying to sell cereals, vitamins, candy, and other products that would affect the children’s health. The concerned mothers thought it was bad enough to make the children want cereals loaded with sugar and vitamin pills that tasted good, but it was unconscionable to turn them into salespersons who would badger and tease parents for some things which the parents might feel were inferior in nutritional and health values. ACT asked that no advertising be permitted on programs designed for children. Then, on the assumption that the first request would be turned down, ACT further demanded a strict limitation on the number of commercials in a program and a clear separation of advertising from program

content. The mothers pointed out that children considered a program host or cartoon character a member of the family and an object of great devotion. It was inexcusable for the entertainment figure to change roles and tell the children to ask their parents for specific brands of products.

As news of the ACT petition spread, there was a tremendous outpouring of mail from other mothers and groups complaining to the Commission about the television fare being provided for their children. Pressure was also brought on members of Congress to push the FCC into taking some positive action. Although the Commission had serious doubts about its ability to do anything without violating the first amendment and Section 326 of the Communications Act, the petition was received and placed on the agenda and comments were invited.

The Commissioners' focus was on commercial practices. The members expressed their concern at broadcasters' conventions and urged industry leaders to accede voluntarily to some of the ACT's demands so further regulation would be unnecessary. The National Association of Broadcasters amended its Code of Good Practices for Television to reduce the number of commercials to be included in children's programs and to eliminate the use of program hosts as salespersons.

In the fall of 1974 the Commission issued a report on its findings respecting the ACT petition. No affirmative action was taken, but it did call on broadcasters to be more sensitive to the needs of children and to the dangers of their being exploited by advertisers. Specifically, the FCC recommended that broadcasters:

1. observe the new NAB Code standards limiting the time permitted for advertising in children's programming;
2. provide a reasonable amount of programming for children, a significant amount of it educational;
3. air programs oriented to children throughout the week and not just on weekends;
4. observe the Code recommendation that there be no host selling; and
5. provide a clear separation between programming and sales messages.

ACT was bitterly disappointed that the FCC felt it could take no more responsive action on the petition. ACT could, however, derive satisfaction from knowing that over a four-year period broadcasters had been made much more aware of the problems in children's television and the need to clean house on practices which had been universally condemned.

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## SUMMARY

The story of television until 1952 involves experimentation, a shaky start, a holding pattern during World War II, and uncertainty until the end of the Freeze. Since 1952 television has prospered, increasing its influence more than any other medium. Extremely lucrative stations felt threatened in the 1960s by FCC-induced confusion concerning license renewal and the Fairness Doctrine. In the 1970s there was the confrontation with the Nixon administration which posed grave hazards. With the departure of those threats, conventional television in the late 1970s must face the growth of cable. As new technology develops, there may be important changes in the clear domination television now enjoys.

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## GLOSSARY ITEMS

The following words and phrases used in Chapter 5 are defined in the Glossary:

All-Channel Receiver	Penetration
Antisiphoning Rules	Phonevision
Blacklisting	Pre-Freeze Stations
Cable Television	Television Freeze
Channel Assignments	
Channel Separation Factor	
Community Antenna Television (CATV)	
Deintermixture	
Educational Television	
Electronic Television	
Fairness Doctrine	
Fixed assignments	
Mechanical Television	
Mixed Markets	
Multiple-Ownership Rules	
Pay Television	

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## Television Chronolog

**(Omitting items specifically and primarily related to the television networks, the Fairness Doctrine, license renewal, cable television, and public television)**

- 1862 Abbe Caselli (Italy) invented crude system of sending photos by telegraph.
- 1884 Paul Nipkow (Germany) invented scanning disc later used in mechanical television.
- 1905 Julius Elster and Hans Geitel (Germany) developed the photo-electric cell.
- 1917 Vladimir Zworykin started research on television in Russian laboratory.
- 1923 Herbert Ives of Bell Laboratories started experimentation on telephoto process which led to further work in mechanical television.  
David Sarnoff predicted home television to RCA Board of Directors.  
Zworykin (located in U.S.) made application for first patent on iconoscope tube which was key to electronic television.
- 1927 Ives sent mechanical television pictures by wire between New York City and Washington, D.C.  
Philo Farnsworth got first of many patents in television.
- 1928 Zworykin perfected iconoscope tube.
- 1930 Research emphasis shifted from mechanical to electronic television. RCA made heaviest commitment to development of new form.  
NBC put experimental television station on air in New York City.
- 1936 British Broadcasting Corporation started television service.
- 1939 RCA introduced Orthicon tube—improvement over iconoscope.  
NBC demonstrated television at World's Fair in New York City.
- 1940 CBS announced mechanical color television system.
- 1941 FCC authorized commercial telecasting.
- 1945 RCA demonstrated Image-Orthicon tube.
- 1946 CBS petitioned FCC for immediate approval of mechanical color television in the UHF.

- 1947 FCC denied CBS petition for approval of color television.
- 1948 First transistor demonstrated by Bell Labs.  
FCC deleted Channel 1 from television.  
FCC imposed "Freeze" during which no new TV station applications would be received or considered.
- 1950 FCC approved CBS color-television system.
- 1951 Supreme Court refused to overturn FCC decision on CBS color.  
CBS agreed to halt color development due to shortage of materials; NTSC started tests on compatible system.  
AT&T completed television network connections from coast to coast.
- 1952 The Freeze was lifted.
- 1953 FCC approved NTSC electronic and compatible color system.
- 1954 FCC changed multiple ownership rules to permit addition of two UHF stations to five VHF's.  
Edward R. Murrow program on Senator Joseph McCarthy.
- 1955 NBC bought UHF station in Buffalo, N.Y.  
In first move on deintermixture, FCC requested comments on deleting VHF assignments in four mixed markets.  
FCC asked Office of Defense Mobilization to release military VHF channels for television.
- 1956 AMPEX demonstrated videotape recorder at NAB convention.  
ODM denied FCC request for VHF channels.
- 1958 NBC gave Buffalo UHF station to educational group.
- 1959 The quiz scandals.
- 1960 FCC deintermixed Fresno, California. Deleted VHF channel.  
The Great Debates between presidential candidates Kennedy and Nixon.
- 1961 FCC Chairman Newton Minow delivered "vast wasteland" speech to NAB convention.
- 1962 AT&T launched Telstar as first step in global satellite service.

- 1962 COMSAT founded.  
FCC ruled that all TV sets sold after April 1964 be equipped to receive all television channels.
- 1963 Networks moved to 30-minute evening newscasts.  
Coverage of President Kennedy assassination and funeral.
- 1964 Coverage of civil rights demonstrations and confrontations.
- 1965 Breakthrough for color television as ABC and CBS joined NBC in presenting majority of schedule in color.
- 1969 Television coverage of the first man to walk on the moon.  
Agnew speech against the networks in Des Moines, Iowa.
- 1970 Establishment of Office of Telecommunications Policy. First Director was Dr. Clay T. Whitehead.  
Action for Children's Television petitioned FCC on commercial practices in children's programming.
- 1972 Report of Surgeon General's committee on television violence.
- 1974 FCC refused to respond to ACT petition on commercials in children's programming.



# **THE FEDERAL COMMUNICATIONS COMMISSION AND THE REGULATORY PROCESS**

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## **Preview**

The Federal Communications Commission has responsibility for regulating American broadcasting within limits laid down by Congress. The criterion for all FCC actions is the “public interest, convenience, and necessity.” The first business of the Commission is issuing and renewing licenses. It also promulgates rules and regulations, issues policy statements, and seeks through negotiations to pressure broadcasters into changed practices. Some of the criticism of the FCC stems from its nearly impossible position combining legislative, executive, and judicial functions. At the same time it is subject to great pressures from Congress, other government agencies, the public, and the industries it regulates. The story of license renewals since 1945 illustrates many of the factors entering into the regulatory process.

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## 6.1 A DIAGRAMMATIC OVERVIEW

The day-to-day operation of the American commercial broadcasting system can be superficially and *two-dimensionally* charted as shown in Fig. 6.1.

The American public can be divided into two groups, as shown; the smaller group consists of those who vote in the various elections, and the larger group consists of those who do not vote because they are too young, are not citizens, are not registered, or are not interested. Through the election process the voters choose a president and members of Congress. From time to time the president, with the approval of the Senate, appoints members of the Federal Communications Commission (FCC). The FCC authorizes individuals and companies to operate stations which broadcast signals to homes, cars, places of business, or wherever else receivers are available. Rounding out the chart is the "business world" composed of all individuals and companies trying to make a profit through the sale of goods and services. There is a constant flow of dollars from the people to the business world as they purchase goods and services. (Not shown is the return flow of dollars to the people as the business world pays stock dividends, wages, and salaries.) Members of the business world then pay stations for inclusion of adver-

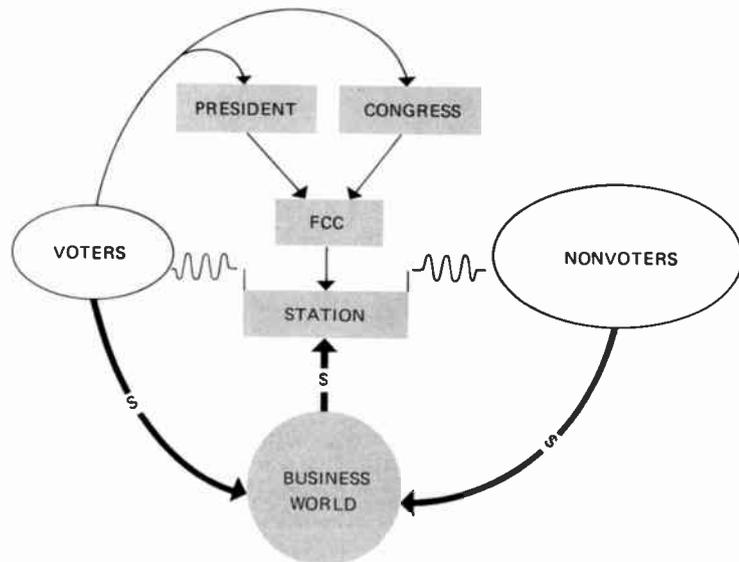


Figure 6.1

tising in the broadcast schedule in the hope that the commercial messages will increase business and profits. Broadcasters have no significant source of income beyond the dollars they receive from advertisers.

A *three*-dimensional chart would show the Congress enacting broadcast-related legislation signed by the president and the courts reviewing that legislation and FCC actions to ensure that regulation is consistent with the Constitution and specific laws. It would also include many auxiliary units such as networks, station representatives, and audience-measurement firms which provide services to broadcasters and advertisers.

A *four*-dimensional chart would show the informal but effective ways in which citizen groups, individual legislators, regulated industries, and others exert pressure upon various facets of the regulatory process.

The chief difference when the educational or public stations are placed in the center of the chart is that the sources of income are more varied and there can be no advertising. Some dollars still come from the business world in the form of contributions, but the majority of funds are from local, state, and federal governments, from foundations, and from individual listeners and viewers.

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## 6.2 THE END OF EARLY REGULATION

From its infancy in 1920, broadcasting was regulated under the Radio Act of 1912, which required users to obtain licenses issued by the Secretary of Commerce. (The Ship Act of 1910 and a 1912 amendment to it, reflecting an urgency generated by the *Titanic* disaster, were concerned only with maritime and other point-to-point radio.) In the 1923 *Intercity Radio*\* case the regulatory authority of Commerce Secretary Hoover was diminished when a court ruled that he must issue a license to a qualified applicant for radio telegraphy even though the grant would probably lead to interference with other users. In 1926 the *Zenith* case† brought to an end effective regulation under the law of 1912. The Zenith Radio Corporation of Chicago had been licensed by Hoover to use a frequency “only on Thursday nights from 10:00 P.M. to 12:00 P.M., Central Standard Time, and only when use of this frequency is not desired by the General Electric Company’s Denver station.” Zenith used not only its assigned frequency but also others beyond

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\* Hoover v. Intercity Radio Co., Inc., 286 F. 1003 (D.C. Cir.) February 5, 1923.

† United States v. Zenith Radio Corporation et al., 12 F. 2d. 614 (N.D. Ill.) April 16, 1926.

the designated hours. When Hoover sought to hold Zenith to the terms of its license, the U.S. District Court in Illinois held that “the Secretary has no power to impose restrictions as to frequency, power, and hours of operation.” The court ruled that “a station’s use of a frequency not assigned to it was not a violation of the Radio Act of 1912.”

In seeking to accommodate more operators than could normally use the limited frequencies, Hoover had assumed more authority than the Act had specifically delegated to him. In 1926 he was required to grant licenses to all who were qualified and all licensees might use the spectrum as they wished so long as they limited themselves to the frequencies assigned to broadcasting. Many licensees took advantage of their new freedom and the ensuing chaos was so great that responsible broadcasters joined the public in demanding effective regulation. Congress responded by passing the Radio Act of 1927, modeled on Hoover’s concept of government-licensed private enterprise under minimal regulation. Since the 1927 Act was almost totally embodied in Title III of the Communications Act of 1934, only the latter will be described here. Pertinent excerpts of the Communications Act are provided in Appendix A. Key amendments are in Appendix B.

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### **6.3 HIGHLIGHTS OF THE COMMUNICATIONS ACT**

#### **The Commission and Its Powers**

The Act establishes a Commission of seven, each to be appointed by the president and confirmed by the Senate to a seven-year term. (Only on rare occasions has the Senate refused to confirm an appointee.) The president designates one as Chairman. No more than four at any time may be from one political party. In theory, one Commissioner should finish his or her term each year. In practice, it is not unusual for Commissioners to resign before the ends of their terms, thus giving a president the opportunity to appoint more than one replacement in a year. Commissioners may also be reappointed at the expiration of their terms.

The Act sought to give the Commission an extremely broad range, and the courts have generally confirmed not only the breadth of those powers but also the right of the FCC to extend them into areas not originally envisioned by Congress. Whenever the word “radio” appears in the Act, it is used generically and applies to television as well. Section 303 (g) clearly empowered the Commission to assume control of the experimental use of television and to authorize its general use when development of the new medium reached the point where it would be in the public interest.



Drawn for BROADCASTING by Jack Schmidt

*"If you enjoy broadcasting, go into radio or television. If you don't, go to the FCC."*

*Reprinted, with permission, from Broadcasting Magazine*

### **Establishing Public Ownership of the Airways**

In Section 304 the FCC is forbidden to grant a license until the applicant signs a waiver of any claim to ownership of the frequency he or she wishes to use. This was especially important in 1927 because some of the early stations had been using frequencies for five or more years and were prepared to argue they had acquired "squatter's rights" by virtue of their tenure. Section 309 (b) (1) reinforces the public ownership of the frequency spectrum by specifying that the license shall not vest in the operator any rights beyond those which are clearly stated.

### **The "Public Interest" Criterion**

We have noted the major defect of the Act of 1912 was its failure to give the regulatory authority (Secretary of Commerce) any discretion in issuing and renewing licenses. The phrase "public interest, convenience, and necessity" which appears in Section 303 and is frequently repeated, provides the discretionary power which remedied the weakness of the earlier Act. For example, if a person applies for permission to use a frequency already in use, the FCC would find that adding the new signal was not in "the public interest."

Very shortly after the passage of the Radio Act of 1927 it was established that the criterion's meaning lay in the whole phrase rather than in the individual words. It had been used in earlier railroad legislation and was interpreted to mean "for the welfare of the public,"

or “in the public interest.” For example, a station is not licensed to program part of the day in the “public interest,” another part of the day in the “public convenience,” and the rest of the day in the “public necessity.”

### **Licensing Broadcast Stations**

The heart of our broadcast regulation is the power of the Commission to issue broadcast licenses and to renew them at three-year intervals. Essentially, the practice has been and still is to renew a license unless there is overwhelming evidence that the operator has failed to serve the public interest, convenience, and necessity. The power to license stations is supplemented by the further power to revoke licenses for making false statements or for anything else which would have precluded the original grant.

### **The Construction Permit (CP)**

Section 319 (not excerpted in the Appendix because of its length and legally complicated wording) specifies that when one makes application for a new station, the FCC shall, if it is in the public interest, first issue a construction permit (CP). The CP authorizes the construction of the station and ensures the granting of the license if the completed station meets all the specifications set forth in the application. This procedure is necessary because the engineering data in the application are theoretically derived. Only after the station is broadcasting can all the details of the transmitted signal be provided. The CP is the equivalent of the license in that the applicant can go on the air and carry regular programming and advertising. The general public has no way of knowing if the station is operating under a CP or a license.

### **Equal Treatment of Candidates in Political Campaigns**

Since the number of would-be broadcasters is greater than the availability of frequencies, Congress passed legislation intended to prevent the privileged few from using their facilities to promote the chances of the political candidates they favored. Because of its importance and the amount of time both broadcasters and Commissioners must devote to it, Section 315 is separately discussed in Chapter 11.

### **Sponsor Identification**

Section 317 is an attempt to prevent deception of the public. For example, if a group buys time to argue against a certain kind of tax, it is important to the public to know who is paying the bills. When there are advertisers, it is assumed they are paying the costs and a subsequent amendment permitted the FCC to waive the identification requirement.

Section 317 has an important bearing on the “patron plan” programming of public television stations. Many of these stations carry

programs which have been purchased by funds provided by commercial companies. The station is required by this Section to make an announcement to that effect at the beginning and end of each program. Some see such announcements as a form of advertising.

### **Freedom of Speech**

It was Hoover's thesis that stations should be free of government regulation to the extent that such freedom was possible. To ensure a maximum of freedom, in Section 326 the Commission was specifically denied the right to "interfere with the right of free speech by means of radio communication." Censorship, which means the right of government to demand that a script be submitted in advance and to force deletion of material, has never been a problem, even in wartime. Neither the FCC nor any other government agency suggests a desire to so infringe on broadcast freedom.

Nevertheless, Section 326 has generated more controversy than any other single portion of the Communications Act. Every extension of FCC authority has been opposed on the grounds that it interfered with or "abridged" freedom of speech. For example, if the FCC were to rule that every station had to take the time every day to read the Declaration of Independence, broadcasters could (and would) argue that during the time they were forced to devote to such reading they were being denied the freedom to present something else they might prefer. The illustration is extreme but in subsequent discussions of Section 315, the Fairness Doctrine, and other controversial issues, it will be seen that the broadcasters' principle is valid.

### **Appealing Commission Decisions**

In conformity with the "checks and balances" philosophy of our government, persons may appeal FCC decisions and actions to the courts. The Communications Act provides that if an FCC decision has to do with a station license, the appeal must be directed to the U.S. Court of Appeals in Washington, D.C. To appeal an FCC rule or another action which does not pertain to a license, one may go to the court of appeals in Washington or in one of the other districts. If the FCC or someone else feels that an appeals court ruling is wrong, an appeal may be directed to the Supreme Court which may or may not agree to receive it. Occasionally, as in the trial on the Family Viewing Policy, the Commission may be required to defend itself in a district court.

### **Limitation on Court Review**

When an FCC action or rule is appealed, the court's right of review is limited to two areas:

1. The court may find that the FCC *exceeded the powers* specified

in the Communications Act or implied in the Constitution. The principle was illustrated in the *Zenith* case when a court found that Secretary Hoover had used discretionary power not designated in the Act of 1912. The broadcasters frequently cite the congressional limitation on FCC power to “interfere with the right of free speech. . . .” If an FCC action does indeed interfere with that right, the court must find that the Commission exceeded its powers. For example, in the late 1940s the FCC ruled that quiz programs were contrary to the public interest. The courts ruled that the FCC had gone too far and voided the action it had taken.

2. The court may find that the FCC *followed improper procedure* and made an “arbitrary and capricious” decision. In effect, this guarantees to all who come before the Commission their “due process” and the right to adequate consideration of all pertinent data. It was noted in the discussion of the FCC color decision during the Freeze that RCA appealed the decision on the grounds the Commission had acted too hastily. In the *WLBT* case, discussed later in this chapter, a citizens’ group went to the court complaining that the FCC had not provided an opportunity for it to appear in hearings to protest a license renewal. The court found the complaint reasonable and ordered the Commission to hold hearings in the community. When, after the hearings, the FCC still voted to renew the protested license, the court found the action so inconsistent with the testimony that the FCC’s grant was overturned.

Supreme Court recognition that the courts are limited in their power to review FCC decisions was most clearly stated in the 1943 Network case challenging the Chain Regulations.

The Regulations are assailed as “arbitrary and capricious.” If this contention means that the Regulations are unwise, that they are not likely to succeed in accomplishing what the Commission intended, we can say only that the appellants have selected the wrong forum for such a plea. What was said in *Board of Trade v. United States*, is relevant here: “We certainly have neither technical competence nor legal authority to pronounce upon the wisdom of the course taken by the Commission.” Our duty is at an end when we find that the action of the Commission was based upon findings supported by evidence, and was made pursuant to authority granted by Congress.\*

Since the courts cannot rule on the wisdom of a Commission action, this means the FCC is autonomous in matters of judgment unless the

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\* *National Broadcasting Co., Inc., et al. v. United States et al.*, 319 U.S. at 224, May 10, 1943.

Congress decides to amend the Communications Act in a way that restricts the freedom of the Commission.

### **Emergency Powers of the President**

The President is empowered to suspend actions of the Commission in the event of an emergency. Aside from assigning five broadcast television channels to the military in World War II, this is a power which has not been used.

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## **6.4 FCC IMPLEMENTATION OF THE COMMUNICATIONS ACT**

There are four categories of Commission actions which implement the provisions of the Communications Act. Three are official while the fourth is informal.

1. Issuing and renewing licenses
2. Formulating and enforcing rules
3. Issuing policy statements
4. Regulating by negotiation

### **Issuing and Renewing Licenses**

Since 1927 the Radio and Communications Commissions have acted tens of thousands of times on licenses. Most decisions have been routine, but occasionally an action will provide a precedent for future action. As an example, the history of the Fairness Doctrine begins with the *Mayflower* case in which a station submitted a routine application for renewal of its license. The application was opposed by the Mayflower Company which wanted to use the frequency. In granting the renewal the Commission took note of the station's having editorialized although the practice had been voluntarily stopped. Almost in passing and as though it were completely obvious, the FCC said, "the broadcaster cannot be an advocate." That statement became a general prohibition against editorializing by licensees. For the next decade it was a source of contention between broadcasters and the Commission.

### **Formulating and Enforcing Rules**

Section 4 of the Communications Act gives the FCC authority to "... make such rules and regulations ... as may be necessary in the execution of its functions." Section 303 (i) went further and authorized the FCC to make special rules which would be applicable only to those stations engaged in chain (network) broadcasting. Throughout its history the FCC has promulgated rules which have had the effect of "spelling out" its concept of the public interest.

## **Applying for a License**

Once an individual or company determines it would like to operate a station, it will normally follow certain steps in seeking the CP.

*Employment of Legal Counsel* There are attorneys in Washington who specialize in practice before the FCC. While in theory anyone can deal directly with the Commission, the competition for available frequencies makes it important to be represented by counsel. An important restriction on the choice of a lawyer is that one must find an individual who has time to handle the case and who is not already representing another client where there might be a conflict of interest.

*Employment of an Engineering Consultant* There are engineering firms which specialize in communications and which will complete all the technical data the FCC requires in the application. (The attorney will guide in selection of an engineer if necessary.) The engineer will provide the applicant with a complete design for the studios and transmitter with specifications down to brand name and part numbers. If the application for the CP is granted, the engineer will also oversee the construction and completion of the final data on the signal required before the license can be issued.

*Filing the Application* The lawyer will guide the applicant very carefully and very specifically while preparing the nonengineering data required by the FCC.

1. Proof of American citizenship.
2. Character of the individual or individuals making the application. They must demonstrate they can be expected to operate a station in the public interest. There should be not only a lack of negative factors in the background but also as many character references as possible from community leaders.
3. Proof of financial ability to put the station on the air and to operate it for the length of time it will take before revenues will equal or exceed expenses.
4. The proposed program schedule, based on evidence the applicant has made a diligent effort to ascertain the needs, interests, and desires of various segments of the community. The proposed schedule should be very specific with program titles and descriptions and an indication of plans for a network affiliation if such is contemplated.

Assuming there is no challenge from other applicants who would like the same facility or from current broadcasters who claim the

new station would interfere with their signals, the FCC staff will evaluate the application. If everything is in order and it appears the new station would be in the public interest, the Commission will issue the CP.

If there is opposition to the application, the procedure can be long and costly. An Administrative Law Judge (ALJ) will be assigned by the FCC to hold hearings and to make a recommendation for Commission action. Delays are frequently caused by the heavy workload of the Commission and its staff, by bureaucratic inefficiency, and by the legal complexity of determining hearing issues.

Realizing that hearings can last for years and that appeals may take more years, the Commission in the 1950s adopted the practice of authorizing “interim operations” while cases were being decided. All the applicants for a television channel would be invited to join in a new corporation which would build the facilities and operate them temporarily until the licensee had been finally selected. At that point, the successful applicant would buy out the interim operation (of which he or she had been a part) and continue operating the station alone.

Every three years the broadcaster must submit a routine application for renewal of the license. It will be reviewed by the FCC staff along with whatever materials may have been put in the licensee’s file—letters complaining about the station and notices the FCC may have sent about a variety of matters. If the station’s record is reasonably adequate, the license will be renewed by the staff on a routine basis. If there are major questions or petitions to deny renewal, it will be brought to the Commissioners’ attention and may be designated for hearings.

Among the most significant were the Chain Regulations in 1941 aimed at freeing stations from network domination. They were bitterly opposed by the broadcasters on the grounds that the Commission had exceeded the authority granted to it in the Communications Act. Their significance lies chiefly in the fact that the Supreme Court made a landmark decision affirming the FCC action and laying the basis for many of the other rules which have followed.

Rules have been written in many other areas of broadcasting. There are limits on the numbers of stations permitted to a single licensee. There are rules concerning employment rights for women and ethnic minorities. The Fairness Doctrine has been elevated to the status of rules.

## **Issuing Policy Statements**

The Communications Act was worded very generally so it could remain applicable as times and circumstances changed. Much was and is left to the interpretation of the FCC. As regulatory policy has evolved, the Commission has felt the need to articulate its thoughts so broadcasters would have guidelines by which to operate. Among the best-known examples which will be discussed in this book are the 1946 "Blue Book," a 1960 Programming Policy statement, and several statements on the Fairness Doctrine. Since these statements are usually made while the FCC is still forming policy, they are frequently confusing. Some, like the "Blue Book," are so strongly opposed that they never do become part of the regulatory process.

## **Regulating by Negotiation**

Although there is no provision for it in the Communications Act, a significant activity of the FCC is the negotiating or jawboning it performs with the NAB, the networks, and some stations. This tends to occur when pressures from concerned citizens reach the point where something is advisable short of legislative action or regulatory rule making. For example, in the summer of 1974 the ACT petition for FCC rule making in the area of advertising on children's programming was attracting great attention. Concerned citizens were bringing pressure on both the Congress and the FCC. Seeking to avoid new legislation or regulation, the NAB changed its standards of children's advertising, but there was a consensus among members of Congress and the Commission that further action should be taken. They were concerned that the early evening programming which was seen by many children contained too much sex and violence. By early 1975 the three networks announced their agreement to a family viewing hour. During the first hour of network entertainment feed (8 to 9 P.M. Eastern and Pacific Times) only programs appropriate for viewing by the entire family would be shown. In April the NAB changed its code to preclude programming inappropriate to family viewing not only from the first hour of network feed but also from the preceding hour. Although adherence to the NAB code is not a requirement for license renewal, the fact that a station had not programmed up to industry standards might be significant to the FCC at renewal time, especially if the performance of the station were marginal or deficient in other respects.

There were complaints at the time that the family viewing policy had been forced on the industry by government and thus constituted censorship. In the fall of 1975 the new policy went into effect while court action was initiated in the U.S. District Court in Los Angeles

charging the FCC, the networks, and the NAB with abridgement of free speech. The suits were brought by writers', directors', and actors' organizations claiming the policy would limit their freedom and by Norman Lear's Tandem Productions and other packagers who felt that the family viewing policy would make it impossible to sell many network series to stations after the network showings had been completed.

In his November 1976 decision, Judge Ferguson detailed the meetings which had taken place between FCC Chairman Wiley and the network and NAB leaders from the fall of 1974 through the April meeting at which the NAB code was changed. There was a day-to-day chronology of meetings and quoting of memoranda written by various participants summarizing developments. He concluded:

Based on the totality of the evidence accumulated in this case the court finds that Chairman Wiley, acting on behalf of the Commission (and with the approval of the Commissioners) in response to congressional committee pressure, launched a campaign primarily designed to alter the content of entertainment programming in the early evening hours.\*

The meetings between Wiley and industry leaders constituted a "jawboning" which resulted in a change in programming desired by government but which government could not constitutionally accomplish through regulation or legislation. In this particular instance, the pressure by the FCC had been so great that the judge ruled it an unconstitutional infringement on free speech.

#### **A Final Complication**

It must be noted that in violation of our political system of checks and balances, the FCC has been given an almost impossible combination of powers. To the extent that it issues rules, regulations, and policy statements, the FCC is a legislative body. It may be checked from time to time by the courts and by Congress, but for the most part it is free to interpret a vague piece of legislation as it sees fit. At the same time, the FCC must be the judge of whether operators have abided by its rules, regulations, and policy statements. Finally, the Commission carries a heavy administrative burden in implementing the basic law and interpretations thereof and in enforcing the judgments it has made.

Whether there should be some reassignments of responsibility is open to debate. In the meantime, the comparatively untenable position of the FCC has made it vulnerable to criticism for which it can plead extenuating circumstances.

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\* *Broadcasting*, November 15, 1976, p. 40.

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## 6.5 CONGRESSIONAL PARTICIPATION IN THE REGULATORY PROCESS

Congress is ultimately responsible for the regulation of broadcasting. It was Congress that enacted the basic legislation in 1927 and 1934. The members of Congress today have the power to amend the Communications Act; they can hold hearings on regulation whenever they feel it merits their attention. It is they who must approve each year a budget for the FCC, and they can call Commissioners to account for their stewardship. It is the members of the Senate whose confirmation must be received by every member of the Commission.

### **Amendments to the Communications Act**

Congressional amending powers have been used (or left unused) in five ways.

1. Amendments supporting the FCC
2. Amendments “correcting” FCC policy
3. Amendments “correcting” specific abuses
4. Amendments to meet new needs
5. Refusal to amend in the face of need

### *Amendments Supporting the FCC*

Until 1952 a major weakness in the powers of the FCC was that when stations failed to operate in the public interest it could impose only the “death penalty”; it could punish only by failing to renew or by revoking a license. This was like a traffic court having the authority to punish overtime parking only by suspending the car registration. Obviously, few parking infractions would be considered that serious and most offenders would escape punishment. The Commission was in a similar position when it came to consideration of minor violations which were frequently a matter of subjective judgment. Consequently, few broadcasters needed to fear any reprisals for minor failures to serve the public interest.

The McFarland Bill in 1952 amended Section 312 to give the Commission the power to issue “cease-and-desist” orders to those licensees who failed to operate in conformity with their licenses, who violated any terms of the Communications Act or the Criminal Code, or who “violated or failed to observe any rule or regulation of the Commission.”

Sections 501, 502, and 503 were added to give the Commission power to levy fines for failing to comply with the Act or with regulations of the FCC or with a cease-and-desist order. Thus, Congress strengthened the hand of the FCC in dealing with minor infractions.

Shortly after the end of the Television Freeze in 1952 the FCC became concerned with the success of UHF stations, especially in mixed markets. When it became apparent that deintermixture, changing multiple-ownership rules, and other efforts could not solve the problem, the FCC asked Congress for legislative assistance. In response Congress amended Section 303 of the Communications Act (see Appendix B) giving the Commission the authority to require that all television receivers shipped in interstate commerce or imported from other countries for resale to the public should have a capacity to receive all channels designated for broadcasting, the UHF as well as the VHF.

*Amendments  
"Correcting"  
FCC Policy*

In some cases the Act was amended because Congress thought the FCC was wrong in its interpretation of earlier legislative mandates. For example, in 1959 the FCC interpreted Section 315 to mean that a station was required in its news coverage to give equal exposure to all opposing candidates in a political campaign. It was a totally unexpected ruling, quite inconsistent with former FCC positions, and (in the eyes of most) inconsistent with the philosophical underpinning of free speech for broadcasters. Congress very quickly amended the Act to overturn the interpretation adopted by the Commission.

In another instance Congress appeared to succumb to pressure from broadcasters to circumvent the philosophy on which the Act was based. The key to the American system of regulation is awarding licenses to those who can be expected to operate stations for the ultimate good of the public rather than for their own benefit. Since the mid-1930s the Commission had been concerned with the propriety of approving the transfer of a license from one who had originally survived FCC scrutiny to a new individual who had, in effect, been selected by the licensee as the one to whom he or she wished to sell. In the 1940s the FCC tried to enforce its "AVCO Rule" which would require that when licensees wished to dispose of a station, they must advertise for purchasers and give the FCC the right to choose among those who had made acceptable offers. Although the FCC dropped the AVCO rule, the broadcasters were still concerned and persuaded Congress to amend Section 310 (b) concerning the transfer of a license from one owner to a new one. The FCC was specifically forbidden even to consider whether the public interest would be better served by transferring the license "to a person other than the proposed transferee or assignee." (See Appendix B.) The effect of this amendment was to require the Commission to transfer the license to a purchaser *selected by the original owner* unless it could be proven that the proposed licensee was not qualified to operate a station.

*Amendments  
“Correcting”  
Specific Abuses*

In its original form Section 326 provided that obscene, indecent, and profane language might not be broadcast. This was to a large extent redundant since it was obvious that broadcasting such material would be contrary to the public interest and the FCC could act against the licensee on those grounds. However, Section 326 provided no penalty for the individual who might have uttered the words without knowledge or permission of the licensee. To close the loophole, the prohibition against obscenity was deleted from Section 326 and the Criminal Code was amended to provide specific penalty for the person who might so transgress.

After investigating the “quiz scandals” of the 1950s, Congress amended the Communications Act by adding Section 509 (see Appendix B) which made it unlawful to give help to a contestant in a purported contest of intellectual knowledge or skill. Violation of the amendment was punishable by either a fine or prison sentence or both.

It has also been noted that “payola” (accepting money or other valuable consideration for putting certain records on the air) also flourished in the 1950s. Section 317 required the licensee to announce when someone else was providing program material but did not cover those employees who were accepting the money for themselves. Since the programs were usually billed as consisting of the most-popular tunes, it was a deception of the public to include some records only because the manufacturer or distributor was paying off the disk jockey. To cover payola and plugola, an associated malpractice, the Act was amended by adding Section 508 (see Appendix B) which required that if radio employees accepted any money or other valuable consideration from persons other than their employers for airing material, they must disclose that fact before broadcast time. Failure to do so could result in either a fine or imprisonment or both.

*Amendments to  
Meet New Needs*

On two occasions Congress amended the Communications Act to provide federal involvement in educational television. The 1962 Educational Television Facilities Act provided financial assistance to stations in the form of grants for equipment. A 1967 amendment, the Public Broadcasting Act, created the Corporation for Public Broadcasting, which would disburse federal funds to assist in the operation of educational radio and television stations.

*Refusal to Amend  
in the Face of  
Need*

Congress has the ability to move with great speed when it feels that the welfare of individual members is at stake. In 1959 a Section 315 amendment passed through its stages of conception, committee hearings, floor debates and votes, joint conference between the two Houses,

and presidential signature in less than six months. Failure to have acted that quickly might have deprived incumbents running for reelection of important news coverage. But Congress can also refuse to act, even when responsible persons and agencies convey a feeling of deep urgency.

In the early 1950s community antenna television (CATV) was a new development which appeared to promise something good for everyone. By the end of the decade it had become to some a "monster" which was threatening the blueprint for a national system of television as drawn up by the FCC during the Freeze. There was a need for regulation of some kind and it was not clear whether the FCC (which was most concerned) had the authority to move in. In 1959 the Commission literally begged Congress to amend the Communications Act to make clear where regulatory responsibility lay. Congress became mired in debate and failed to come to any kind of conclusion. It simply failed to act in the face of need and must accept some of the blame for the confusion which dominated CATV in the 1960s and 1970s.

## **Congressional Hearings**

Congressional committees hold hearings ostensibly as a means of determining the need for legislation and of getting different points of view on what to put into proposed laws. When hearings result in action (as in amendments to the Communications Act), the influence of Congress on broadcast regulation is obvious. There is a further effect which is less obvious but almost equally real even when the hearings do not result in legislation. The hearings become a method for communicating congressional attitudes and ideas to Commissioners.

Since the congressional committees represent ultimate authority to the FCC by their powers to initiate amendments to the Communications Act and to recommend congressional action on budget requests, the Commissioners must take very seriously the views of the Committee members. The Commissioners realize that if one does not accede to the expressed ideas in hearings, legislation may be forthcoming which will alter policy far beyond what would be acceptable on an informal basis. For example, it was after congressional suggestions in Commerce Committee hearings that the FCC took a stance leading to changes in the TV code regarding commercials in children's programming.

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## **6.6 PRECEDENTS SET BY EARLIER COMMISSIONS**

If a nation is to have a government of laws there must be a large degree of consistency in regulation as in other areas. Citizens must have confidence that today's laws will be in effect tomorrow with comparatively

few changes. Above all, there must not be regulation which is “arbitrary and capricious,” depending on the whim of the regulators. A complete reversal of policy must be justified by a dramatic change in circumstances which renders the earlier policy inadequate. Since the FCC is part of a government of laws, it must preserve a degree of consistency with earlier decisions whether or not the current members would have concurred in them had they been on the Commission at an earlier time.

As an example, in 1967 the FCC ruled that cigarette commercials violated a Fairness Doctrine rule that when controversial issues are presented on a station, the other side must be heard. This resulted in the requirement for “counter commercials” to point out the hazards of cigarette smoking. At the same time the FCC announced that because cigarettes were in a class by themselves, this ruling was not to be considered a precedent. Later, when the FCC refused to consider the Fairness Doctrine implications in commercials for high-powered automobiles and leaded gasolines, the appeals court ruled that the cigarette decision had indeed been a precedent, whether the Commission wished to have it so considered or not. It had to be assumed that the Commission had acted logically and legally in the earlier situation (it had been affirmed in court) and that the same logic and law would require a similar response in a similar situation in the future.

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## **6.7 POTENTIAL REVIEW BY THE COURTS**

The influences of statutory provisions and earlier precedents become especially strong when the Commissioners realize that every decision and ruling they make may be subjected to court review. It is assumed that every dissatisfied party in an FCC hearing will appeal his or her case to the courts. The result is an attempt to issue decisions and rulings which the courts will not overturn. This, in turn, results in regulatory conservatism on the part of the FCC and disinclination to “break new ground.”

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## **6.8 OUTSIDE PRESSURES ON THE FCC**

As the Commission seeks to regulate broadcasting under the provisions of the Communications Act, its work is complicated by congressional action and pressures, by the requirement that it be consistent with

earlier Commission precedents, and by the knowledge that every action may be subjected to court review. In addition, there are a number of outside pressures which, taken in combination, make the task even more complex.

### **Pressures from Other Governmental Agencies**

Although the FCC was established as an independent regulatory agency, the Commissioners can never forget that it is part of the total governmental machinery and must at least listen to other agencies. Perhaps the most significant in the early 1970s were the *White House* and its *Office of Telecommunications Policy*. Since it is the president who nominates members to the FCC, it is predictable that they would hold a regulatory philosophy fairly similar to his and that they would feel a sense of gratitude and responsibility to the individual who appointed them. After being in office for two or three years, a president will normally have appointed the majority of Commissioners and certainly will have named the Chairman.

That it is impossible to ignore White House pressure was illustrated in the fall of 1972 when President Nixon was running for reelection. The FCC had received several months earlier a letter from a film editor in Hollywood protesting that the large number of prime-time reruns on the networks was hurting the film industry. The Commission would have preferred to ignore the letter since it felt that any consideration of programming practices would be in violation of Section 326. In September, however, OTP Director Whitehead told the San Francisco chapter of the Academy of Television Arts and Sciences that Mr. Nixon was interested in helping the unions get more jobs. Later in the month Mr. Nixon assured Hollywood film workers that he was on their side and would do all he could to encourage the government to limit the permissible number of reruns. The FCC was forced to call for comments and to place the matter on its agenda where it remained for some four years in spite of a general consensus that it was not a proper item for Commission action.

*The Office of Management and Budget* (OMB) is the White House mechanism for coordinating budget requests and legislative proposals to Congress. It is impossible for the FCC to submit suggestions to Congress which are incompatible with administration policy.

The *Department of Justice* occasionally asks the FCC to interpret the public interest in such a way that licenses will not be granted to those who, the department feels, are engaging in antitrust activities. For example, in the late 1960s it selected several communities where jointly

owned newspapers and stations accounted for some 80 percent of the advertising and asked that specific licenses not be renewed. Although the Commission did not accede to the particular request, the pressure may have led to its later pronouncement that when a newspaper owned the only station in a community, the cross-ownership would have to be dissolved.

*The Federal Trade Commission* (FTC) is charged with seeing that advertising avoids factual untruths in the permitted “puffery.” It asked the Commission to expand its Fairness Doctrine to the point where counter commercials would be required whenever an advertisement based its claims on factual data which could be disputed. Although the FCC rejected this request, it had been forced to complicate its agenda and devote time to consideration of what it knew from the beginning was unreasonable.

### **Pressures from the Public**

There has been public disappointment with the FCC since the 1930s when advertising became the sole source of broadcast revenues, and when program schedules reflected sponsor decisions more than the choices of the critics. The Commission did not begin to feel public pressure as a major factor until after 1966 when the court of appeals ordered that the public be permitted to participate in the license-renewal process. Since 1969, when the same court of appeals reinforced its command that the public be heard, the Commission has had to spend increasing amounts of time listening to various minority and special-interest groups. The court ruled that not only must the public be heard, the FCC must reasonably evaluate what the public says. As a consequence, the Commission is subject to constant pressures from ethnic minorities, devotees of “unique” program formats, concerned parents, politically oriented groups, and others.

### **Pressures from Regulated Industries**

The most intense pressure on the FCC comes from those it regulates since they feel they have the most at stake—their investments and economic future. For many years it was the broadcasters who were most concerned, and many critics charged the FCC was a captive of those it was supposed to regulate. Since the mid-1950s broadcaster pressure has been balanced by pressure from cable interests who want more freedom to grow to the marketplace potential. The Commission is frequently caught in the middle and certain to make decisions which will displease one side or the other.

Pressures from industry groups become even more difficult to resist when one realizes that their lobbying efforts frequently are successful with the Congress and the administration. In the spring of 1976 the

Commission found itself in the unenviable position of trying to defend in court a series of revised regulations it had promulgated in the field of pay cable. Opposed to it in the case were the cable interests and the Department of Justice which felt the rules were still too restrictive on cable. Also opposed were the broadcasters who felt the rules were too permissive. Waiting in the wings was Congress which has the power to change the law if either cable or broadcast interests persuade it to enter the controversy.

### **Criticism of the FCC**

In their half century of regulating broadcasting, the Radio and Communications Commissions have been as vigorously criticized and maligned as any other agency of government. There has probably never been a time in the last several decades when an action of the FCC has been universally applauded. There are always some who insist that the FCC has made serious errors, that its membership is unqualified to serve, and that its actions are unintelligently or illegally or immorally motivated.

The history of the Commission does indeed contain apparent inconsistencies and points at which it seemed to have little commitment to logic. This is not, however, because presidents have appointed weak and unintelligent men and women or because Commissioners lost all sense of public responsibility after being confirmed by the Senate. Rather, it is due to the fact that they are subject to so many different kinds of restraints and pressures in addition to their own personal inclinations. Frequently, significant pressures are exerted in diametrically opposite directions. The wonder, in retrospect, is not that the Commission should have had so many detractors but that it should have been able to accomplish so much in the face of its handicaps and problems.

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## **6.9 A CASE IN POINT—LICENSE RENEWAL**

Perhaps nothing more clearly illustrates the difficulties of regulation (especially when the FCC tries to raise standards) than a review of license renewal in the post-World War II years. It is a classic example of FCC confusion leading to industry confusion compounded by congressional intervention and unprecedented involvement by the courts.

### **The Status Quo in 1945**

The early story of license renewal is summarized by a paragraph from a speech by FCC Chairman Paul Porter to the NAB convention in 1945 and repeated in the "Blue Book."

The station is constructed and begins operation. Subsequently the licensee asks for a three-year renewal and the record clearly shows that he has not fulfilled the promises made to the Commission when he received the original grant. The Commission in the past has, for a variety of reasons, including limitations of staff, automatically renewed these licenses even in cases where there is a vast disparity between promises and performance.\*

Chairman Porter was telling the NAB that a new era was dawning and the Commission would begin to renew licenses on a less casual and routine basis. A month later the FCC demonstrated its seriousness by giving only temporary renewals to six stations while it took time to study further their services to the public.

### The "Blue Book"

In March 1946 the FCC issued an 80-page document titled *Public Service Responsibility of Broadcast Licensees*.† When the Government Printing Office reproduced it with blue covers, it was promptly dubbed the "Blue Book," denoting both the blue pencil of censorship and the New England Blue Laws which barred practically all nonreligious activities on Sunday.

The Blue Book did not take the form of rules and regulations. It was essentially a policy statement hidden in an essay designed to give insight into the thought processes of the Commissioners and a look at their future attitude toward license renewals. Its thesis was that *when promises were made which became the basis of license grants, those promises should be kept*. Frequently the only way in which the FCC could differentiate among competing applicants was by evaluating the promises each made about how he or she would operate a station. Therefore, the Commission announced that at renewal time it intended to look at earlier promises and compare them with subsequent performance.

Having made its point about promise and performance, the FCC devoted the bulk of its document to an essay on good broadcasting. There were five case studies in which the FCC staff had made an analysis of various programming practices. Four factors were selected as most important in future license renewals.

1. The carrying of sustaining programs, including network sustaining offerings, with particular reference to the retention by licensees of a proper discretion and responsibility for maintaining a well-balanced structure.

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\* *Broadcasting*, March 19, 1945, p. 17.

† *Public Service Responsibility of Broadcast Licensees*, FCC Mimeograph No. 81575, March 7, 1946.

2. The carrying of local live programs.
3. The carrying of programs devoted to the discussion of public issues.
4. The elimination of advertising excesses.

It appears in retrospect that the Commission can be faulted for poor strategy in the Blue Book. The document might better have been confined to the simple matter of comparing promise and performance as an indication of the licensee's character and integrity. It could have been terminated after a page or two in which the FCC stated it would not renew licenses to persons who did not keep their promises.

However well-intentioned the essay may have been, the Commission was treading perilously close to the Communications Act's injunction against FCC infringement on the freedom of speech of radio broadcasters. It is one thing for broadcasters to volunteer a definition of good programming to which they can later be held and quite another matter to tell them what their schedule should and should not include.

For the next five years the broadcasters fought the Blue Book on the grounds that its implementation would require FCC consideration of programming and thus violate Section 326. The Commission was not able to keep the debate focused on the character of the licensee who would make promises and fail to deliver. The broadcasters were more successful in taking their case to Congress. Senator White (R-Maine), who had been prominent in writing the Radio Act of 1927, introduced an amendment to the Communications Act "to preclude the Blue Book type of regulation of programs or business practices of broadcasting."\*

Although the Senate took no action on the White Bill and the FCC issued new renewal forms which reflected the Blue Book philosophy, the Blue Book criteria never were applied to the extent that a license renewal was denied because of the operator's failure to match promise with performance or because of failure to measure up to the Commission's definition of good programming. The Blue Book was gradually "bleached," and its demise occurred in 1951 when the FCC renewed the license of Baltimore Station WBAL which had been used as one of the case studies illustrating what the Commission considered poor service to the community and licensee breach of promise.

When WBAL had applied for its renewal in 1945, a challenge was submitted by columnists Drew Pearson and Robert Allen. They pointed to the station's many shortcomings and asked that the frequency be assigned to them. Extensive hearings were held over the years. (The station was permitted to keep operating on temporary authority during

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\* *Broadcasting*, May 26, 1947, p. 13.

that time and most of its listeners probably never realized what was happening.) In the end the license was renewed on the grounds that WBAL had made substantial improvements in its service and that it might be expected in the future to operate in the public interest.\* From that day on the Blue Book was no longer a worrisome factor in the renewal process.

### **The 1960 Programming Policy Statement**

Following the WBAL renewal, the FCC continued what Chairman Walker in 1945 had described as a practice of automatically renewing licenses. In 1960 the Commission again defined its concept of programming in the public interest. In a Programming Policy Statement it identified fourteen program elements as “usually necessary to meet the public interest,” including local self-expression, development of local talent, religion, editorializing, sports, and others. After confirming that all specific program judgments had to be made by the licensees, the Commission announced it was revising its forms for both new and renewal applications. The new forms would require a statement by the applicant as to “(1) the measures he has taken and the effort he has made to determine the tastes, needs, and desires of his community or service area, and (2) the manner in which he proposes to meet those needs and desires.”† This placed a new emphasis on “ascertainment,” which has continued to the present; but it left unchanged the practice of automatically renewing all licenses except for those who had misrepresented factual data (usually about hidden ownership) or in some other way obviously transgressed beyond the level of minimum acceptability.

### **WHDH-TV**

Through the 1960s the *WHDH-TV* case was among the most publicized and most controversial news items about broadcasting. Although it was not a true renewal case, it became a landmark because of its impact on the renewal consciousness of broadcasters, the trade press, and some members of Congress. It was also a prime contributor to the regulatory confusion existing in the 1960s when the FCC appeared not entirely sure of itself and failed to clarify its actions adequately.

When the Television Freeze was lifted in 1952 the FCC began considering applications for stations according to its table of city-by-city

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\* *Ibid.*, June 25, 1951, p. 42.

† Report and Statement of Policy re: Commission en banc Programming Inquiry, 25 Fed. Reg. at 7295, July 29, 1960.

assignments. Where the available assignments were limited, the struggle between competing applicants became very intense. Perhaps nowhere was it more heated than in Boston, which had been assigned only three commercial VHF stations. The assignments were as follows: Boston—2 (educational), 4, 5, 7, 44, 50, and 56. Pre-Freeze commercial stations were on Channels 4 and 7, leaving only Channel 5 for new commercial VHF applicants.

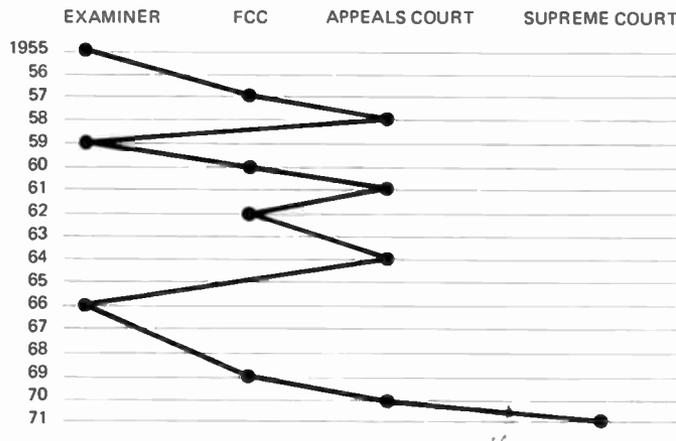
In 1957 the FCC awarded the channel to the Boston *Herald-Traveler* newspaper, which was already operating WHDH radio. The two unsuccessful applicants were Greater Boston Television Corporation and Massachusetts Bay Telecasters, Inc., who followed the usual custom of protesting the grant to the court of appeals in the hope that the Hearing Examiner or the Commission might have made some error serious enough to force a reopening of the case.

A year later (1958) the court ruled there had been no reversible error in the hearings or in the grant and affirmed the award of a construction permit to WHDH-TV. However, the court also took note of a concurrent development and directed the FCC to make an inquiry into whether it might have a bearing on the grant.

The court was referring to allegations made before the Legislative Oversight Committee of the House of Representatives which had been investigating rumors about the FCC and other regulatory agencies. In the hearings there were stories of improprieties on the part of some Commissioners in granting television licenses in Miami, Florida, and Boston. The charges concerned *ex parte* (with only one side present) dealings where one applicant had met informally with a Commissioner in the absence of the others. Specifically, it was alleged that there had been an *ex parte* meeting between Robert Choate, President of the *Herald-Traveler*, and Chairman McConnaughey of the FCC.

The Channel 5 case in Boston lasted from 1955, when the hearings were closed on the original applications, until 1971, when the Supreme Court refused to review the last appeals court decision. Because of its complexity, it helps to make a chronological diagram (Fig. 6.2) of the moves between four points of decision:

1. When the Hearing Examiner makes a recommendation to the FCC.
2. When the FCC makes a decision.
3. When the appeals court reviews the FCC decision.
4. When the Supreme Court reviews or refuses to hear an appeal from the lower court.



**Fig. 6.2** Year-by-year chart of the *WHDH-TV* case.

**Summary:**

- 1955 Comparative hearings ended.
- 1957 FCC granted construction permit to WHDH-TV.
- 1958 Appeals court affirmed grant but directed the FCC to consider the *ex parte* allegations.
- 1959 Hearing Examiner concluded WHDH-TV should be licensee since *ex parte* had not influenced the outcome.
- 1960 FCC vacated WHDH-TV license but permitted continued operation.
- 1961 Appeals court affirmed vacating of WHDH-TV license.
- 1962 FCC found all applicants “flawed” and gave WHDH-TV four-month temporary license.
- 1964 Appeals court noted death of Mr. Choate and approved FCC proceeding with new hearings for license.
- 1966 Hearing Examiner recommended WHDH-TV receive license.
- 1969 FCC granted license to Boston Broadcasters, Inc.
- 1970 Appeals court affirmed Channel 5 grant to Boston Broadcasters, Inc.
- 1971 Supreme Court refused to review appeals court affirmation.

In 1959 an FCC Examiner finished his investigation and concluded that an *ex parte* contact had indeed taken place. Mr. Choate had taken Chairman McConnaughey to lunch and had tried to give him some materials bearing upon the WHDH-TV application. Mr. McConnaughey had refused to accept them. Because the Chairman had not accepted or read the materials, the Examiner concluded the *ex parte* contact could have had no effect on the grant and recommended that WHDH-TV should still be the licensee of Channel 5 in Boston.

In 1960 the FCC rejected the Examiner's recommendations, not because it disagreed with his analysis, but because of the attempt to exert improper influence. In its action, the Commission said:

That (FCC Chairman) McConnaughey did not accept and, therefore, could not have been influenced by the brief is irrelevant to the fact that (WHDH-TV) President Choate attempted, in effect, to influence the outcome of the case by presenting argument on a portion thereof to a member of the Commission *ex parte*. The very attempt to establish such a pattern of influence does violence to the integrity of the Commission's processes.\*

The Commission then vacated the license while giving to WHDH-TV temporary authority to operate in order that the people of Boston might be able to view a third commercial station. It announced it would start new hearings to seek the best among the three original applicants. WHDH-TV appealed the vacating of the license, but the court of appeals upheld the FCC action. At that point WHDH-TV was not a licensee in the true sense of the word and the rest of the proceedings could not technically be a case of license renewal. At no point did WHDH-TV submit what might be called "a routine application for renewal of its license." Rather, the Commission was, after 1960, engaging in hearings to decide who should be awarded the grant *de novo* (from the beginning) from among the original three applicants.

In 1962 the Commission decided that all of the applications were so badly flawed that none should receive a license. Two of them had engaged in *ex parte* meetings and the third had "tried to conceal facts by giving untrue testimony." WHDH-TV was given a four-month license with the FCC's expressed hope that new applicants would come forth in that period. As a consequence, the three original applicants were joined by Boston Broadcasters, Inc.

In 1966 an Examiner again recommended that the license be given to WHDH-TV, largely on the basis of its program service while it had been operating temporarily. Then he contributed to the confusion by noting that newspaper ownership of WHDH-TV was a negative factor and adding that if it were a case of an original license, he would not have recommended WHDH-TV.

Apparently the Commission did consider the Boston hearings "a case of an original license." In January 1969, seven years after giving WHDH-TV a four-month license, the FCC voted to award the channel to Boston Broadcasters, Inc. The original *ex parte* relationship was not mentioned. The WHDH-TV broadcasting record was characterized by the FCC as having been only "adequate." The primary consideration

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\* *Broadcasting*, July 18, 1960, p. 42.

seemed to have been diversification and the fact that WHDH was owned by a newspaper.

From time to time since 1935 the FCC had indicated its concern with "cross-ownership" in which a radio or television station was licensed to a publisher in the same community. But since there had been cross-ownership from the beginning, the Commission had never done anything to force diversification. In 1965 the FCC had issued guidelines for use in comparative hearings when there were several applicants for a *new* license. The guidelines stressed the importance of local ownership and said it would be even better if some of the proposed owners planned to work in the station. On the negative side, the Commission said that cross-ownership with other media would be a distinct disadvantage for the applicant.\*

In the *WHDH-TV* case the FCC applied the standards it had laid down for new applicants. The use of such standards, combined with the fact that the original WHDH-TV grant had been vacated and that it had later received only a four-month license to enable it to serve the viewers temporarily, would seem to be sufficient reason for not considering it a renewal situation. This the Commission failed to state clearly at any time.

That people in the field considered *WHDH-TV* a renewal case was made clear in the reports in *Broadcasting*. Its lead paragraph was:

Multimedia owners throughout the country were put on notice last week that they are vulnerable to challenge by local groups with the funds and determination to oppose the renewal of their broadcast licenses.†

The following week *Broadcasting* reported an economic study on the value of radio and television stations in the top 50 markets which would be threatened if *WHDH-TV* were to be a renewal precedent. The headlines read:

**\$3 BILLION IN STATIONS DOWN THE DRAIN? THAT'S VALUE PUT ON PROPERTIES THREATENED BY NEW GOVERNMENT MOVES: BROADCASTERS FIGHT BACK.‡**

Although the Commission repeatedly said *WHDH-TV* had been a unique case and would not be a renewal precedent, the broadcasters were not convinced and went to Congress for relief.§

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\* *Ibid.*, August 2, 1965, p. 44.

† *Ibid.*, January 27, 1969, p. 25.

‡ *Ibid.*, February 3, 1969, p. 19.

§ The result was that in 1970 the appeals court affirmed the grant to Boston Broadcasters, Inc.; in 1971 the Supreme Court refused to review the case and in 1972 operation of the station passed from WHDH-TV to Boston Broadcasters, Inc.

## WLBT (TV)

The Broadcasters' fears aroused by *WHDH-TV* in January 1969 were greatly increased in June of that year when in a true renewal case a license was stripped from a television station in Jackson, Mississippi. WLBT(TV) started operating in 1953. Its license had been renewed in 1958 only after "assuring the Commission that all points of view would be presented on local programs dealing with controversial issues." It was one of eight stations studied by the FCC because of its biased coverage of the 1962 riots following the entrance of a black student into the University of Mississippi. In short, its record was not unsullied.

When WLBT applied for a renewal in 1964, it was opposed by local groups led by the Reverend Dr. Everett Parker, Director of the Division of Communications of the United Church of Christ (UCC). Blacks made up nearly half the population of the area. However, the news of the local whites' attitude on segregation was thoroughly aired without any mention of the blacks' point of view. There were no black employees at the station and there were no programs designed to meet blacks' needs and interests.

In 1965 the Commission gave WLBT a one-year renewal, which was the equivalent of putting it on probation. (The normal renewal is for three years.) Dr. Parker was pleased with the short-term license, but expressed bitter disappointment that the FCC had not ordered hearings on renewal as he had requested. He thought it important that the Commissioners hear directly from community residents their dissatisfaction with the station. The FCC said it feared hearings would have inflamed racial tension and done more harm than good. It adhered to its policy of limiting official consideration to those who claimed electrical interference or economic injury from the station seeking renewal. Ordinary citizens were denied such "standing" to participate in the renewal process.

The UCC appealed to the court pleading that community residents should have a chance to be heard in renewal cases. In 1966 the court of appeals agreed with the petition and ordered the FCC to hold hearings as requested.\* In effect, the court pointed out that since stations are licensed in the *public* interest, there was no possible way to evaluate a station adequately if community residents were not permitted to speak. Hearings were scheduled by the FCC, and in 1967 a Hearing Examiner was sent to Jackson. At the hearings UCC and local black leaders asserted the station had failed to ascertain the needs of the community, to program for *all* the viewers, or to observe the Fairness Doctrine.

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\* Office of Communication of the United Church of Christ v. Federal Communications Commission, 359 F. 2d 994 (D.C. Cir.) March 25, 1966.

After studying the evidence, the Examiner concluded that the UCC had “failed woefully to support its allegations.” He recommended that the station receive a full three-year renewal and the Commissioners followed his recommendations by a 5–2 vote.\* The UCC again appealed to the court, while the membership of the Commission engaged in vituperative disagreement among themselves about what they had done.

The procedure normally followed when a court feels the FCC has erred is to send the case back with directions that it be reopened and the procedure or basis for decision changed. This had happened in the earlier UCC appeal when the court ordered the FCC to hold hearings on *WLBT*. There are usually no instructions to the Commission on what its final decision should be, only that it must use a different method of arriving at whatever decision the FCC feels is in the public interest.

The court’s reaction to the second UCC appeal in the *WLBT* case is best summarized by the lead paragraph of the *Broadcasting* report:

An obviously angry U.S. Court of Appeals for the District of Columbia last week eviscerated the FCC, stripped the license from WLBT(TV) Jackson, Miss., a station accused of racism in its programming, and directed the Commission to invite new applicants for the Jackson Channel 3 facility involved.†

The court found the Commission’s “administrative conduct” beyond repair, and ordered WLBT’s license vacated. The decision was especially critical of the Hearing Examiner, who had treated the UCC and black leaders as “interlopers” and had placed on them the entire burden of proof.‡ It is unlikely that the Commission throughout its history had ever been so soundly criticized by the court as in the *WLBT* case.

The remainder of the *WLBT* story is not pertinent to the renewal process. The Commission was directed to start in *de novo* determining the best licensee for Channel 3 in Jackson. The court did not bar WLBT from applying, but it would have been sheer effrontery on the part of the FCC to grant the license to the same organization again. The station was turned over to an interim nonprofit group for operation until a new licensee had been selected. A black manager was hired and WLBT became highly integrated and quite successful financially.

## Summary of the 1969 Situation

Throughout the second half of 1969, license renewal was a major topic of conversation among broadcasters. The FCC itself appeared to have

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\* *Broadcasting*, July 1, 1968, p. 9.

† *Ibid.*, June 30, 1969, p. 42.

‡ *Office of Communication of the United Church of Christ v. Federal Communications Commission*, 425 F. 2d 543 (D.C. Cir.) June 20, 1969.

refused renewal to WHDH-TV on the grounds of cross-ownership, and many other valuable stations were owned by newspapers. The court of appeals had forced the FCC to admit community groups into the renewal of WLBT and then superseded the authority of the Commission when it appeared that the Examiner and Commissioners had ignored the evidence in the hearings. Many other stations had within their communities minority groups ready to use the renewal process to express dissatisfaction with broadcasting. Because of broadcasters' fear that the *WHDH-TV* case would become a precedent, Senator Pastore prepared a bill aimed at "insulating broadcasters from irresponsible applications for their facilities at renewal time.."\* It would have required the FCC to find an incumbent licensee disqualified for continued operation of his station before accepting any competing applications or challenges. In the meantime, the FCC was unhappy that the broadcasters would not believe Commission assurances that *WHDH-TV* was not a precedent.

### **1970 Policy Statement on Renewal Procedure**

By the end of 1969, it was apparent that the situation had deteriorated from the Commission's and stations' points of view; Congress was not ready to pass the Pastore Bill, which was being attacked by minorities as racist. Renewal challenges were being filed in increasing numbers; nine were pending at the end of the year. In January 1970 the Commission issued a policy statement on renewals which roughly paralleled the intent of the Pastore Bill. The statement said the FCC "would favor an incumbent broadcaster over rival applicants if he can show in a comparative hearing that his programming has been substantially attuned to the needs and interests of his area." To speed up the process in challenged renewals, the examiner was authorized to halt the proceedings once "the record established that the renewal applicant's service has been substantial on that determination."† (The policy statement also stressed that the WHDH-TV situation had been unique and that future renewal applicants would not be endangered if the incumbent was owned by a newspaper in the same community.)

The 1970 policy statement was appealed to the courts by two companies challenging renewals in Hampton Roads, Virginia, and in Boston, and by two Washington, D.C., citizen groups, the Citizens Communication Center (CCC) and Black Effort for Soul in Television (BEST). The basis for the appeal was that permitting the examiner to close the hearings at an early point deprived the challenger of the right to a full hearing as specified by the Communications Act.

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\* *Broadcasting*, May 5, 1969, p. 50.

† *Ibid.*, January 19, 1970, p. 21.

A year and a half later, in June 1971, the court of appeals ordered the FCC not to follow its policy of favoring the incumbent so long as service was “without serious deficiency.” The immediate grounds for the order was the failure to guarantee a full hearing to the challenger, but the court went on to criticize the overall policy. The FCC had said it was seeking to bring stability into broadcasting; the court said it had, instead, induced *rigor mortis* because since the issuance of the statement not a single renewal challenge had been filed. The Commission was told to reconsider any cases where the policy had been a factor in a decision. It was the court’s view that an incumbent should be favored only after he or she had demonstrated superior service.\*

### **Petitions to Deny Renewal**

By 1971 petitions to deny renewal had assumed greater importance than the challenges from those who would seek incumbents’ licenses. When the UCC opposed the renewal of WLBT in 1964, Dr. Parker did not request that his or any other organization be given the license. He simply petitioned that the license not be renewed. The significance of the *WLBT* case is that it established the principle that members of a community have a right to participate in the renewal process. No longer could the FCC sit in isolated chambers and arbitrarily decide there was not enough evidence against an incumbent to justify failing to renew his or her license. Now the Commission had to satisfy the courts that it had listened to the public and that its decisions were consistent with public testimony brought out in open hearings. The Commissioners quailed at the prospect of having to hold hearings on all controversial renewals. Broadcasters realized that it would take hundreds of thousands of dollars to fight off petitions to deny renewal. Members of ethnic and other groups rejoiced that they were to be permitted to enter the proceedings and that sensitive pressure points of the stations had been exposed. Petitions to deny renewal poured in to the Commission.

### *The Aim—Negotiated Settlements*

Community groups did not submit petitions to deny renewal in the hope that the incumbent would actually lose his or her license. Rather, they used the petition as a device to bring the station to the negotiating table and to agree to changes in programming and employment practices which had been resisted. Their strategy was to submit a petition which would be withdrawn in return for concessions thus saving the incumbent the costs of a contested renewal. Two examples illustrate the kinds of demands being made and granted.

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\* *Ibid.*, June 14, 1971, p. 9.

*KTAL-TV*  
*Texarkana, Texas*

One of the first petitions to be withdrawn in return for changes by the incumbent concerned KTAL-TV in Texarkana, Texas. The agreement was announced by Dr. Parker of UCC in June 1969, the same month in which the court of appeals vacated the WLBT license. It served as a model for future efforts.

The blacks in Texarkana had charged KTAL-TV with failing to provide programs for minority audiences, failing to consult black leaders about the needs of the community, and excluding blacks from newscasts and other programs using local talent. After negotiations the station agreed to meet certain demands in return for the dropping of the petition to deny. Among the items in the agreement were:

1. All sides were to be included in discussion of controversial issues.
2. Black leaders would be consulted in monthly meetings on programming.
3. Two black reporters would be hired and would appear on the air.
4. There would be no unnecessary reference to race of individuals.
5. Public service announcements would be aired for black organizations.
6. Programs would be prepared to publicize problems of the poverty-stricken.
7. There would be a better balance in religious programming.
8. There would be no preemption of network programs without consultation with black leaders.\*

*Atlanta, Georgia*

In April 1970 there was an announcement that 22 of 28 Atlanta radio and television stations had agreed to terms advanced by the Community Coalition in Broadcasting composed of 20 black organizations. (The other stations were still negotiating.) There were differences in the agreements with various stations, but for the most part they said they would carry on a continuing consultation with black leaders about programming and provide on-the-job training and scholarships for blacks who would later be employed by the stations. Two of the stations agreed to put a black on the board of directors. There were to be more public service announcements for black organizations and no more preemption of network programs without consultation. In response, the Community Coalition withdrew its petitions to deny renewal.†

The agreements in Texarkana and Atlanta typified the efforts community residents were making to participate in broadcasting. Their tool

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\* *Ibid.*, June 16, 1969, p. 42.

† *Ibid.*, April 6, 1970, p. 66.

was the petition to deny renewal, although their aim was to improve cooperation from the present licensees rather than to force them out of business. Because there was an ulterior motivation in petitioning to deny renewal, the broadcasters felt the petitions were comparable to blackmail. In the majority of cases there was no great fear that the FCC might actually deny renewal—few stations were as inadequately operated as *WLBT* had been. Rather, the stations were faced with the expenditure of great sums in defending their applications if they did not negotiate with the groups of residents. For a while the broadcasters thought the deck had been stacked against them and that every minority demand would have to be met.

*WMAL-TV*  
*Washington, D.C.*

The pendulum began to swing back with the disposition of the petition to deny renewal to *WMAL-TV* that was filed with the FCC in September 1969, three months after the *WLBT* case was decided for the second time by the court of appeals. The petitioners were sixteen blacks representing a variety of organizations in Washington, D.C., which is 70 percent black. They noted that only 15 (6 percent) of the station's 223 employees were black. They claimed the station had made misrepresentations when it filed its ascertainment reports and that the station had claimed a much closer relationship with the black community than actually existed. They also pointed out that there was practically no programming designed specifically for blacks. A hearing on the renewal was requested.

The petition was in its hands for sixteen months before the FCC announced by a 4–1 vote it was renewing the license for the full three-year period without a hearing. It said there had been some changes in station policy as the result of FCC clarification of its guidelines. It found some of the charges unfounded and concluded that renewal would be in the public interest. The petitioners said they had expected such a response from a Commission which included no blacks and that they would appeal to the courts.\*

In the seventeen more months before the appeals court ruled in the case, petitions to deny renewal of a hundred more stations had been submitted to the FCC. Everyone was awaiting the outcome of the *WMAL-TV* case as an indication of what was to come. To the relief of the broadcasters, in 1972 the court affirmed the FCC's renewal of the license without a hearing because the petition to deny was not sufficiently specific to warrant action. For example, the petition had indi-

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\* *Ibid.*, February 8, 1971, p. 40.

cated the low proportion of blacks employed by the station, but it did not give any instances where blacks had been discriminated against when they sought jobs. The petition complained about newspaper ownership, but it did not show how that cross-ownership had caused negative results. The court also rejected the argument that if 20 percent, or any other portion, of a community belonged to a particular group, it followed that the same portion of the station's programming should be aimed at that group\*

The court made it clear that the decision was based on the specific facts of this one case and should not be interpreted to mean that the Commission could in all cases dispense with hearings. Still, it was a great relief to broadcasters and Commissioners that there had been no repetition of the *WLBT* decision, which would have thrown the renewal process into complete chaos.

### 1973 Renewal Statement

In March 1973 the Commission issued a new policy and renewal forms on which it had been working during the nearly two years since the appeals court had overturned the 1970 Statement. The FCC expressed its concern over the continuing rise in petitions to deny from community groups. There were 140 renewals which had been deferred because of such petitions and the Commission could not possibly handle full hearings and other proceedings for all of them. At the same time, the *WLBT* case had made it clear that community residents could not be ignored. The Commission's problem was to work out a course which would permit community groups to participate in the renewal process and which would also eliminate some of the current chaos.

The Commission gave as its intention provision of a local mechanism for resolving "such dissatisfaction as it arises and eliminating the need for the filing of a petition to deny license renewal." *Broadcasting* paraphrased the FCC aim, "Settle your problems with your communities before they erupt into petitions to deny at renewal time. At the same time the Commission will make sure that the citizen groups have the information they need to keep a close check on their local stations' service."† The FCC announced that stations would be responsible for ascertainment of community problems throughout the license period. All members of the public were to be made aware that the licenses were up for renewal and that the stations would welcome suggestions from viewers. The date for filing applications was moved up to four months before

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\* *Ibid.*, July 10, 1972, p. 17.

† *Ibid.*, March 19, 1973, p. 35.

the renewal date and community groups then had three months in which to submit petitions to deny.

The new policy was laying down ground rules for both parties. Community groups were not to have a voice in the renewal process unless they had over a reasonable period of time attempted to work with stations to negotiate whatever complaints they had. They could not go to the Commission at the last minute and cause disruption to the process. Neither could they enter petitions to deny renewal with the expectation of being reimbursed by the station.

The stations were told that if they refused to bargain in good faith with the community groups, their renewals might be designated for hearings, which could be extremely costly. The Commission was to be the final arbiter in the event that a petition to deny was filed. If the community petition seemed unreasonable, the FCC could refuse to act on it—but the Commission must be prepared to convince a court that it had acted appropriately. If the petition appeared justified, the station would have to go through hearings. There has been a decided decline in the number of petitions actually filed with the FCC since the Statement, although the number of agreements between stations and community groups has climbed. Many of the concessions to minority demands in the 1970s have been the result of community participation in the renewal process.

**Limit on Licensee  
Concessions**

As stations made more and more concessions to community groups to avoid costly hearings, the FCC became concerned that licensees might bargain away their freedom to serve the public interest. Reference to the danger was made in speeches by Commissioners and in the fall of 1974 expressed in a letter to the National Organization of Women (NOW).<sup>\*</sup> NOW had extracted major concessions from a group owner in return for dropping opposition to a transfer of station ownership. The letter to NOW warned that while the FCC was approving the transfer under the terms of the agreement, broadcasters must always retain freedom to change their policies if circumstances warrant it. The concessions might not be binding in the future if the licensee felt the public could be better served in another way.

**Alabama Educational  
Television  
Commission**

That the new policy did not entirely rule out petitions to deny was illustrated by a completely unprecedented action taken by the FCC in January 1975. It refused to renew the licenses of eight public television

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<sup>\*</sup> Ibid., October 7, 1974, p. 20.

stations (plus the construction permit of a ninth) operated by the Alabama Educational Television Commission (AETC). Complaints had been filed by the American Civil Liberties Union about racial discrimination in both employment and programming. The Commission found both charges to be true, although it acted primarily on the issue of programming. The Commission said there was substantial evidence that blacks, who constituted 30 percent of the state's population, rarely appeared on AETC programs; that no black instructors were employed in connection with locally produced in-school programs; and that unexplained decisions or discriminatorily applied policies caused the pre-emption of almost all black-oriented network programs. The FCC was unimpressed with the argument that AETC was a state-controlled organization like the Education Department. It commented, "A licensee cannot with impunity ignore the problems of significant minorities in its service areas."\*

The action was especially dramatic because it was the first time the FCC had taken such decisive nonrenewal action. *WHDH-TV* had not been a clear case of license renewal, and *WLBT* had been an action by the court rather than the Commission. The FCC did give credit for improvement by AETC and indicated it might reapply for the licenses along with competing applicants, if there were any. Since public television stations have always received most-lenient treatment from the FCC, the *AETC* decision was one that made commercial broadcasters more aware of their responsibilities to minorities.

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## 6.10 ANOTHER ATTEMPT AT RENEWAL LEGISLATION

Shortly after President Nixon's reelection in 1972, Director Whitehead of the Office of Telecommunications Policy (OTP) entered the renewal picture. For three years since Agnew's Des Moines speech, there had been growing animosity between the White House and television stations over the coverage of the war in Vietnam and the demonstrations against it. The pressure was particularly intense on the networks. Whitehead had begun talking about "localism," or the centering of program and news responsibility at the station level instead of at the networks.

In December 1972 Whitehead spoke to the Indianapolis Chapter of Sigma Delta Chi, an honorary journalism fraternity. He devoted most of his time to network bias in the news. His remarks were largely a re-

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\* *Ibid.*, January 13, 1975, p. 23.

peat of the criticism voiced by Agnew and others until near the end he made a significant departure from the old charges:

Station managers and network officials who fail to act to correct imbalance or consistent bias from the networks—or those who acquiesce by silence—can only be considered willing participants, to be held fully accountable by the broadcaster's community at license-renewal time.\*

Following this very direct implication that the Nixon administration was prepared to use the license-renewal process to punish stations which carried “biased network news,” Whitehead announced his office was submitting to Congress proposed legislation changing the renewal process. He said he would recommend that licenses be increased in length from three to five years and that there be two primary criteria by which the Federal Communications Commission would assess the licensee's record:

1. That he or she has been attuned to, and made a good will effort to meet the needs of the community, and
2. That he or she has afforded a reasonable opportunity for the discussion of conflicting views on controversial issues of public importance.

Taken by themselves, the proposals were acceptable to broadcasters. If their licenses were to run for five years, there would be fewer occasions when they could be challenged. That would amount to a substantial saving of money and effort. They were already charged by the FCC with the responsibility of being attuned to the needs of the community. The second point was simply a restatement of the Fairness Doctrine with which they were learning to live.

In the context of the speech, however, the proposals read quite differently. Being attuned to the community might imply that news programs should be geared to the interests of the local viewers, many of whom disapproved of the alleged liberal bias of the networks. Reasonable opportunity for discussion might imply that when the station aired liberal newscasts, it should then be prepared to balance them with a conservative approach to the news. Few stations felt capable of monitoring network news feeds and then balancing them to meet community attitudes. The other alternative would be for the affiliates to tell the networks, “give us newscasts which will in no way rouse antipathy among our viewers so they might raise questions about our getting our licenses

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\* Ibid., January 1, 1973, p. 35.

renewed. In short, make the newscasts so neutral that no one can possibly object to them.”

The broadcasters were in a quandary about how they should respond to the Whitehead “carrot and stick” speech. The networks were obviously offended. The stations were torn between their desires for five-year licenses and their commitment to journalistic freedom. Most seemed to be saying, “let’s see if we can get the five-year licenses and learn to live with the implications without surrendering too much.”

In March 1973 the White House sent to Congress a bill based on the Whitehead ideas. Licenses were to be extended to five years. Licensees were to be judged on whether they were substantially attuned to the needs and interests of the public. They were also required to adhere to the Fairness Doctrine. A competitor might file for the frequency only after proving the incumbent had not met the two criteria mentioned above. The House of Representatives immediately started hearings. Senator Pastore, whose 1969 bill had never passed, decided the Senate should wait until the House had completed its action.

About a year later, in May 1974, the House passed its license-renewal bill. The Commerce Committee under Chairman Harley Staggers (D-W.Va.) had recommended an extension of licenses to four years. The full House increased the term to five years. The bill authorized the FCC to renew licenses when it found stations to have been “substantially responsive” to the needs of the community.

There had been comparatively little debate on the extension of the license period. Stations in small markets had emphasized the burden of having to seek renewal every three years, and most legislators felt they were entitled to relief. The only objections were from those who opposed any measure which would make renewal easier for the broadcasters by making it more difficult for minority groups to intervene. Extension of the license term to five years was opposed on the grounds that it reduced the occasions when minorities might bring pressure to bear upon broadcasters.

As soon as the House passed its bill, Senator Pastore announced that the Senate would start acting on renewal legislation. Early in October the Senate passed its own version which also provided for five-year licenses. The renewal criteria were essentially the same as those in the House bill. It was expected that a final bill would be ready for presidential signature by the end of the year. The only remaining procedure was for a conference committee, made up of members of both Houses, to resolve the minor differences in language and report back so each House could vote on an identical bill. No further debate was anticipated

since there was basic agreement on everything. The Senate immediately appointed its representatives to the joint committee.

The joint conferees from the House of Representatives were to be named by Commerce Committee Chairman Staggers. When he did not immediately designate the individuals, it was assumed he would do so after returning from the November election day recess. Upon his return to Washington he made no move. Neither newsreporters nor fellow members of Congress could get Staggers to commit himself or even tell why he was stalling. Finally, in mid-December it became clear that he was not going to name the House conferees and that, for want of a joint committee, the renewal bill was dead.

There was much speculation over his failure to act. It was recalled that he was a leading critic of the CBS documentary "Selling of the Pentagon." He had tried to force CBS President Stanton to give his Committee "out takes" (unused film footage) of the program so there could be more data about how the program was put together. When Stanton refused, Staggers unsuccessfully asked the whole House to declare him in contempt. It was also said that Staggers was upset because he thought the NAB had agreed to settle for a four-year renewal but had then bypassed him to lobby with the rest of the House members for the five-year bill. Whatever his motivation, the fact remains that the bill died. When the complexion of the new Congress became evident, with its swing to a more liberal and consumer-oriented philosophy, it was assumed there would be no license-renewal legislation in Congress for at least a few years.

## **In Retrospect**

It was more than a quarter century between Chairman Walker's announcement that station renewals would no longer be routine and the 1973 Renewal Statement. During that time the FCC had evidenced some desire to change the situation, but in the *WLBT* case it appeared that the majority was quite happy with simply favoring the incumbent regardless of his or her record. When the FCC did decide to take decisive action in the *WHDH-TV* case, it failed to make clear the basis for its decision. When it sought to set minimal standards of matching promise and performance, it muddied the waters by appending a long essay on good broadcasting. Throughout the period, it was subjected to intense pressures from the industry (re: the Blue Book and *WHDH-TV*) and from the public (re: *WLBT* and subsequent challenges to deny renewal). The most important shift in FCC policy came not because Commissioners thought they should be doing differently, but because the court of appeals reversed first, the notion that the public had no standing in the renewal process and, second, the failure of Examiner

and Commissioners to note the weight of evidence appropriately in public hearings. Through it all Congress was ready to intervene if the broadcasters felt the Commission was not giving them enough leeway in their renewal applications. But, when the representatives of minorities pointed out that a renewal amendment to the Communications Act would be racist in holding back legitimate search for access to the airwaves, Congress failed to take action.

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## SUMMARY

For the most part, honest and honorable people have served on the Federal Communications Commission and have sought to do what they considered best. They have had to work with a law which was intentionally vague while conforming to court decisions and precedents of their predecessors. They have been subjected to formidable pressures from Congress, broadcasters, and the public. If they have not been properly qualified, it is the inevitable result of the presidential use of appointments to reward political favors. Trying to determine which Commissioners and which decisions have been best is largely a matter of the philosophy of the individual making the judgments.

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## GLOSSARY ITEMS

The following words and phrases used in Chapter 6 are defined in the Glossary:

Administrative Law Judge (ALJ)	Patron Plan
Ascertainment	Payola
Blue Book	Petition to Deny Renewal
Chain Regulations	Public Interest, Convenience, and Necessity
Community Antenna Television (CATV)	Quiz Scandals
Construction Permit (CP)	Renewal Challenge
Counter Commercials	Sustaining Program
Cross-Ownership	Television Freeze
Hearing Examiner	
Interim Operation	

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## License-Renewal Chronolog

- 1945 FCC Chairman Porter speech to NAB about automatic renewals.
- 1946 FCC issued "Blue Book" (Public Service Responsibility of Broadcast Licensees) with emphasis on promise and performance.
- 1951 WBAL renewal marked end of Blue Book era.
- 1957 FCC awarded Boston Channel 5 license to WHDH. (For detailed Chronolog on WHDH, see text, page 166.)
- 1960 FCC issued "Program Policy Statement." Emphasized methods used to ascertain needs of audience and proposals to meet them. Listed fourteen program elements.
- 1964 UCC opposed renewal of two television stations in Jackson, Miss.
- 1965 FCC issued guidelines for comparative hearings when considering applicants for new stations.  
FCC renewed WLBT in Jackson, Miss., for one year.  
UCC protested lack of hearing in *WLBT* case to appeals court.
- 1966 Court ordered FCC to hold hearing on WLBT renewal.
- 1967 WLBT hearings held in Jackson, Miss.  
Examiner recommended WLBT receive three-year renewal.
- 1968 FCC issued three-year renewal to WLBT.  
UCC protested WLBT renewal to appeals court.
- 1969 FCC awarded Boston Channel 5 to BBI.  
Appeals court said *WLBT* case so badly flawed, it was beyond repair. Vacated WLBT license.  
Agreement between citizen groups and KTAL-TV in Texarkana. Station agreed to changes and petition to deny dropped.  
Blacks submitted petition to deny license renewal of WMAL-TV in Washington, D.C.
- 1970 FCC renewal policy favored incumbent if programming was substantially attuned to needs and interests of area. *WHDH* not to be precedent.  
FCC ruled in *Texarkana* case that station cannot reimburse petitioner to deny for expenses incurred.

- 1970 Agreement between citizen groups and 22 stations in Atlanta, Ga.
- 1971 Appeals court ruled out FCC 1970 Renewal Policy.  
FCC renewed license of WMAL-TV without hearing.
- 1972 Appeals court affirmed FCC renewal to WMAL-TV without hearing.  
Whitehead “carrot and stick” speech on renewal.
- 1973 Whitehead submitted proposed renewal legislation to Congress.  
FCC issued new renewal policy statement setting mechanism for resolving station-citizen disagreement.
- 1974 FCC warned station it cannot make too many concessions to NOW or other citizen groups.  
House and Senate passed similar renewal bills but legislation died because no conferees to joint committee were appointed by House Committee Chairman.
- 1975 FCC refused to renew licenses of Alabama Educational TV Commission stations because of racial bias in programming.



## **THE STATION AND LOCAL ADVERTISING**

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### **Preview**

A broadcast station consists of (1) licensee, (2) equipment, (3) staff, and (4) contracts with outside companies. The licensee is the person or company to which the FCC grants permission to operate the station. The average television and large radio stations are organized in a traditional fashion. Personnel are hired to manage the station, operate its equipment, coordinate the program schedule, provide news, and sell time to local advertisers. Comparatively little programming is done locally. Both entertainment and news come largely from outside organizations. There are also contracts with other outside companies to provide help in selling time to national advertisers and in measuring the audience. For many stations the National Association of Broadcasters is a source of information about practices in other stations around the country.

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## 7.1 DEFINITION OF A STATION

The individual station is the heart of American broadcasting. Although we are most familiar with network programs and personalities, it is the station which is the focal point of regulation and the primary link between broadcasting and the public. A station consists of:

1. A licensee (a person or company) authorized by the FCC to broadcast on a given channel in a given community.
2. The studio, transmitter, and other equipment which the licensee has purchased in order to operate the station.
3. The staff the licensee has organized to accomplish the various functions of the station.
4. The contracts the licensee has signed with other organizations to obtain ratings, programming, sales, and other services.

Today's television station is in most respects very similar to the radio station of the 1940s. This chapter will examine the television station and then note the differences between it and the current average radio station.

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## 7.2 PRELIMINARY STATION ANALYSIS

There are three factors which differentiate the size and probable profitability of commercial television stations: (1) its channel number, (2) its network status, (3) the size of its market. If anyone wants to classify a station in his or her own community, the basic information is already known through observation. If one is interested in a station elsewhere, he or she can consult *Broadcasting Yearbook*, *Standard Rate and Data Service*, or similar publications.

### **The Channel- Number Factor**

The most important characteristic of a station is whether it has a VHF or UHF channel. We have seen that UHF stations had great difficulty in getting started in the 1950s, especially when they were in competition with VHF outlets. While there are a few UHF stations making money today, they are generally by no means as profitable as those in the VHF. For example, FCC figures for 1975 show that while 492 VHF stations reported an average income (revenues less expenses before taxes) of more than \$1 million each, the average UHF station reported only \$56,000 up from an average loss in 1974.

## **The Network Status Factor**

Commercial stations fall into three groups with regard to network status:

1. The network owned and operated station (O&O)
2. The network affiliate
3. The independent

The network O&O is licensed by the FCC to one of the three networks and is located in one of the largest markets.\* The O&O's usually carry everything the network provides. These stations are both large and profitable. The average income in 1975 was a little over \$7 million.

The network affiliate has contracted with a network agreeing to carry most or all of the network programs in return for "compensation" or pay from the network to the station. Since the affiliate receives from the network some of the most popular programs which will attract large audiences, it will be among the largest and most profitable of the stations in its community.

The independent has no contract with a network and includes no current network programs in its schedule except for the few occasions when it may carry a program which has been rejected by the local affiliate. Of the approximately 700 commercial television stations in the country, between 80 and 85 are independents. A station is independent when it cannot get an affiliation, which usually is the case when there are more than three commercial stations in a market. If there are only three, each will usually have an affiliation. Since the independent does not have the popular current network programs, it will attract less audience and be less profitable than the affiliates in the same community. (For figures indicating the value of the network affiliation, see page 217 in Chapter 8.)

## **The Size-of-Market Factor**

Stations are licensed to operate in specific communities but advertisers are more interested in the "markets" they serve. We think of a market as the area from which business tends to flow to a focal point. That point will usually be the largest city in the area. In it will be the largest banks, the major department stores, the wholesale centers from which food and other products are distributed to retailers, and the major airports.

For a consistent definition of individual markets, advertisers use the Arbitron "Area of Dominant Influence" (ADI) concept which

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\* The three national networks own television stations in the following cities:

ABC—New York City, Chicago, San Francisco, Los Angeles, Detroit

CBS—New York City, Chicago, Philadelphia, Los Angeles, St. Louis

NBC—New York City, Chicago, Washington, D.C., Los Angeles, Cleveland

divides the whole country into 209 markets. Each is made up of the counties which tend to cluster together in the flow of business to a central spot. For example, KCRA-TV on Channel 3 is licensed to operate in Sacramento, California. In Sacramento County there are 231,000 television homes. But the market area (ADI) served by KCRA-TV and its competitors contains 604,000 television homes, ranking it twenty-sixth in size among all markets in the country.

A. C. Nielsen uses a related concept of "Designated Market Area" (DMA) in which the ADI is divided into three parts: the Metro Area, the Local DMA, and the Adjacent DMA. Placement of a county in one of the categories depends on the consistency of viewing to the stations in the center, or Metro Area.

When advertisers buy time on a station they are willing to pay a price commensurate with the size of the station's audience. The larger the market, the more a station can charge for its time if it has its fair share of homes tuned to it. Since station expenses tend to rise somewhat more slowly than revenues, this means the size and percentage of income (revenues less expenses) tend to be substantially greater as the size of the market increases.

This is illustrated by Table 7.1, which shows 1975 financial data for seven markets which have one characteristic in common—each is served by three commercial VHF stations (one for each network) and they have no other commercial competition.

Shown are:

1. The names of the seven markets and the rank each occupies in the list of the 209 ADI's in the country.
2. The number of homes (in thousands) in each market.
3. The FCC figures on the three stations combined in each market:
  - a) the combined revenues (in thousands of dollars)
  - b) the combined expenses (in thousands of dollars)
  - c) the combined pretax income (in thousands of dollars)
4. A percentage figure of combined income divided by combined revenues.

Since the three national networks were highly competitive in 1975, it can be assumed the three stations in each market were about equal in income. For example, the average station in Columbus, Ohio, made about \$2.33 million, in Des Moines, Iowa, about \$600,000, and so on down to the probable loss of each station in Boise, Idaho, which apparently does not have enough homes to fully support three commercial stations.

**Table 7.1**  
**Comparison of 1975 Revenues, Expenses, and Income in Selected Markets with Three VHF Stations**

Market	Market Rank	Homes (In thousands)	Revenues (In thousands of dollars)	Expenses (In thousands of dollars)	Income (In thousands of dollars)	Income Revenue
Columbus, Ohio	33	507	20,629	13,588	7,041	34.1%
Albany-Schenectady-Troy, New York	42	431	13,711	11,321	2,391	17.4
Syracuse, New York	54	368	11,547	9,178	2,369	20.5
Des Moines, Iowa	62	317	8,869	7,088	1,781	20.0
Duluth, Minnesota	113	153	4,336	3,904	431	9.9
Charlestown, South Carolina	128	128	4,569	4,320	249	5.4
Boise, Idaho	142	103	4,103	4,276	(-173)	(-)

## To Summarize

If a station has a VHF channel in one of the larger markets and is a network affiliate or O&O, it is a highly valuable property. In the absence of one of the above factors, it will not do as well.

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### 7.3 THE LICENSEE

The first of the four elements in a station is the licensee to whom the FCC gives authority to operate a station. They are normally categorized as follows:

1. Owners of single station or combination:
  - a) The individual person or small partnership,
  - b) The newspaper publishing in the same market,
  - c) A company other than a publisher.
2. Group owners:
  - a) The three national networks,
  - b) Newspapers,
  - c) Group owners aside from networks and newspapers.

In the early 1920s there were some radio stations operated by individuals who simply wanted to participate in the new medium. As stations became more profitable (and more costly to build or buy) there was a lessening in the number of individual owners and a growth in family and company ownerships.

From the beginning, television stations were rarely licensed to individuals for two obvious reasons. Television is far more expensive than was radio. (The average original cost of current TV stations is estimated at \$2,737,000, and purchase prices are many times that amount for VHF stations even in the medium-sized markets.) Second, for a number of years after World War II television was considered a high-risk investment and even those who had the money would have been advised to put it into something safer.

Newspaper ownership is separated from the rest in both the individual and group categories because the FCC sees it differently. When an individual or company publishes a newspaper and operates a broadcast station in the same community, it is called cross-ownership. Since the mid-1930s the FCC has been concerned with such situations on the grounds that they were not conducive to the free flow of diverse ideas and opinions to the public. Although Commissioners expressed their concern with regularity, nothing was done for 30 years. Cross-ownership had existed since the 1920s and Commissioners found themselves

bound by decisions of their predecessors who had established and perpetuated the practice.

In 1965 the FCC took its first step in limiting the expansion of cross-ownership when it set new guidelines for comparative hearings in which a publisher was one of the applicants for a new station. In such an instance, if other things were equal, a nonpublisher applicant would be favored for the grant. In 1970 the Commission announced a ban on the formation of new cross-ownerships pending a study of the problem. No publisher would be permitted to start a new station or purchase an existing one in a community where he or she owned a newspaper. In the event that a cross-ownership was sold, the new owner would have to give up either the newspaper or the broadcasting station.

In 1975 the Commission announced new rules which continued the ban on acquisition of new or existing stations by local publishers. It also announced that in sixteen small markets where the only broadcasting station or stations were owned by a local paper, the cross-ownership would have to be dissolved in five years. At the same time other existing cross-ownerships throughout the country were grandfathered—the Commission said it would not force divestiture unless someone could demonstrate that a cross-ownership was guilty of antitrust violations.

Within hours the National Citizens Committee for Broadcasting (NCCB) went to the court of appeals in Washington to protest the FCC's permission to continue all but a few cross-ownerships. In March 1977 the court, in effect, called the Commission inconsistent for saying that cross-ownership inhibited the freedom of ideas to circulate while permitting most instances of it to continue. The court directed the FCC to adopt new rules which would lead to the dissolving of every cross-ownership unless a publisher could demonstrate that the public interest in his or her community demanded its continuation.

It is likely that years will pass before any substantial number of cross-ownerships are actually terminated. In the meantime, the consideration of newspaper ownership aside from other licensees will be more pertinent than ever.

Most of the prominent television stations in the country are owned by companies which operate in more than one community. This is called "group" or "multiple" ownership. Some of them, like General Electric and Westinghouse, have a long history in broadcasting. Others have entered the field more recently.

The networks constitute a separate category of group owners. (The "owned and operated" tag goes back to the days when networks operated some stations which were owned by others. Today they operate

only the stations they own, but the O&O label still sticks.) Each of the three national networks owns the maximum of five VHF stations and they are located in the largest markets. In 1975 the fifteen O&O's reported average income (before taxes) of over \$7 million while the other 479 VHF stations reported average income of approximately \$950,000. For many years it was the profits of the O&O's which made the networks viable and justified their existence. To the audience, the ownership by the network means only that the station will carry all of the programs the network feeds to the country.

The other group owners have little in common. Some, like GE and Westinghouse, were first interested in broadcasting because of their manufacturing activities. Others were started because radio seemed so closely related to newspaper and magazine publishing. Some started with one station many years ago and gradually added more radio and then television stations. Others have entered the field since World War II because broadcasting is a profitable investment.

Aside from the network O&O's, it would be unusual for all the stations in any one group to be affiliated with a single network. Rather, one might find that in a group of five VHF stations, two would be affiliated with NBC, one each with ABC and CBS, and the fifth an independent. Advantages of group ownership are that skilled centralized management oversees all the stations at once, and there can be great savings in bulk purchases of film and other program materials and in contracting with the station rep for national spot sales.

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## 7.4 TELEVISION STATION EQUIPMENT

The licensees purchase the equipment needed to produce and transmit their own programs and to relay programs from the network or from tape and film which is mailed to them. In the studio are the cameras, lighting, microphones, sets for newscasts and other local programs, etc. In the control rooms are the VTR's, the TV film cameras, the shading equipment (to insure consistency in brightness and contrast among all the cameras), and equipment to distribute signals from wherever they come to wherever they are to go (e.g., studio to VTR; network to transmitter; VTR to transmitter, etc.).

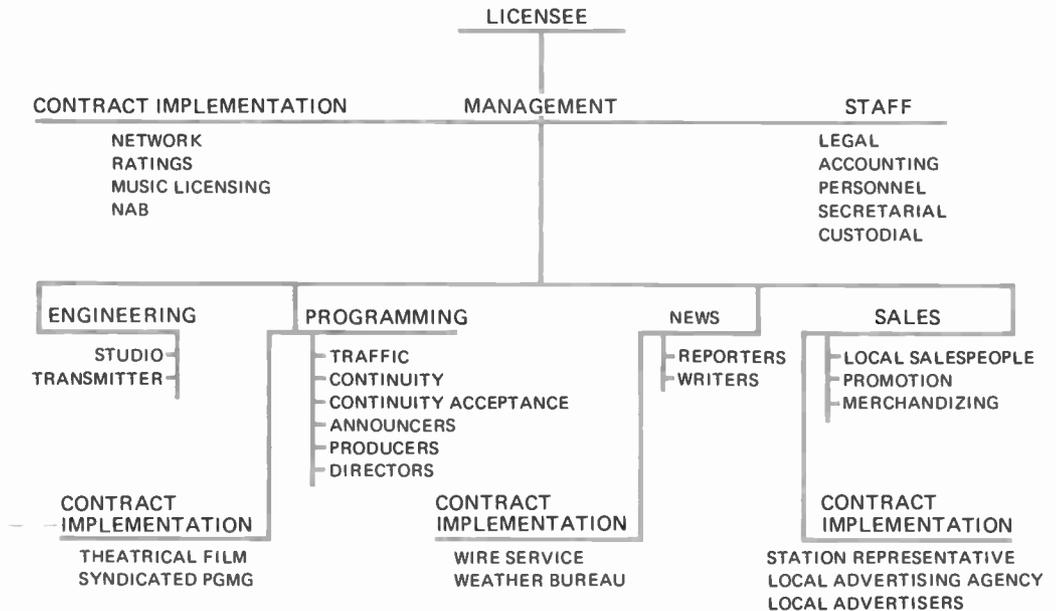
Located on a high hill or tall building is the transmitter which generates the broadcast signals and a tower on which the transmitting antenna is placed. Between the studio and the transmitter is a connection.

It may be co-axial cable furnished by contract with the telephone company or a microwave “studio-transmitter link” (STL).

Various stations have additional equipment as it is needed and within budget limitations. There may be, for example, a remote unit—a truck fitted with a portable generator and cameras and VTR’s which can tape programs outside the studio. Other equipment, especially for news gathering, may consist of portable film and tape equipment which can be carried around in a car.

## 7.5 THE TELEVISION STATION STAFF

The licensee hires the people needed to fulfill the functions of the station. The size of the staff will vary according to the size of the station. For example, the fifteen network O&O stations employ an average of 323 full-time people, the other VHF stations an average of 69, and the UHF stations an average of 36. Regardless of size, the functions to be performed are comparatively constant and the employees will be organized into the following departments: (1) Management, (2) Engineering, (3) Programming, (4) News, and (5) Sales. (See Fig. 7.1.)



**Fig. 7.1 Station Organization and Contract-Implementation Function.** (There will be some variations in organization and contract implementation among stations.)

## Management

In the early days of radio the licensee was frequently the general manager. (This same individual might also have been directly in charge of programming, the chief salesperson, and the one who swept out the station the first thing in the morning.) Today most television stations are owned by companies, and the first step of the licensee is to hire a management team.

The key individual is the Station Manager who will report to a Vice-President of the parent company. The manager hires a staff to fulfill the administrative functions required in any kind of business—personnel, budgeting, accounting, legal, custodial, etc.

Since television stations are owned primarily as an investment on which to make profits, managers tend to be those who have been successful in sales and who know how to work with budgets. In fewer instances the general manager will have come up through the ranks of programming, and even more rarely he or she will have been an engineer. Each year there seem to be more and more who have not had broadcasting experience but who have been trained in management directly and had successful experience managing in other kinds of business.

One management function unique to broadcasting is the “ascertainment” process which is vital in the renewal of the license every three years. It implies getting to know all segments of the community and understanding their needs and interests which must be considered by the station operating in the public interest. Ascertainment primarily involves discussions with community leaders by the manager and by some of the station’s personnel.

## Engineering

In 50 years of broadcasting there has been less change in the organization and function of the Engineering Department than in any other division of the station. This is true in spite of great changes in equipment as the emphasis moved from radio to television.

A station’s technical staff is headed by a Chief Engineer who knows how to install, repair, and operate equipment and, most important, knows how to work with people. The Chief Engineer works out of an office and personally accepts no operations shifts, but can fill in anywhere if needed. Among the functions of the Chief Engineer are to (1) keep an inventory on equipment and know when to reorder, (2) take responsibility for tracking down anything that goes wrong on the technical side of the station, (3) know the capabilities of the individual engineers and assign them to specific duties on specific shifts, (4) get along with unionized personnel who are protective of the rights they have won through collective bargaining. It would probably be difficult

to say exactly what the Chief Engineer does, but he or she always seems to be busy.

The Chief Engineer's staff has two branches—studio and transmitter. The division is required because the studios and transmitter are usually separated geographically and because the qualifications for working in the two locations are different. While some engineers will be able to work in either area, many will be trained and qualified for only one or the other.

The studio technicians maintain all the equipment used in producing the television program—in the studios, the remote units, and the control rooms. In many unionized stations they also operate the production as well as the control room equipment.

There is a geographical separation because the studios are normally near the center of the community where they are easily accessible to staff, talent, and advertisers. The transmitter will normally be on top of a mountain or high building. Across the northern parts of the country transmitter buildings are equipped with sleeping and living facilities so the engineers can stay several days in case of bad snowstorms. The transmitter of a station licensed to operate in Poland Springs, Maine (with studios in Portland), is located on the top of Mt. Washington, New Hampshire, which in much of winter is completely isolated. Engineers may stay there for several weeks before replacements arrive.

The transmitter operator is required to hold a license from the Commission and to keep the station's signal compliant with Commission requirements. No one else in the station except the owner is required to have a license from the FCC.

## **Programming**

The average television station is a network affiliate which operates for approximately 133 hours a week (19 hours a day from 6:00 A.M. to 1:00 A.M.). The Program Director heads a small staff responsible for scheduling and local production. Among the functions to be fulfilled at all stations are those of the traffic manager who makes up the daily log, or traffic sheet, showing everything that will go out over the transmitter in the coming day down to each ten-second identification; the continuity director who writes some of the local commercials as well as the other copy to be read by the announcing staff; the continuity-acceptance person responsible for making sure that all film and other material received from outside meets the station's standards of good taste; and the announcing staff.

The primary responsibility of the Program Director is to fill the

daily schedule from five sources of material: (1) the network feed, (2) local news, (3) theatrical film, (4) syndicated programming, and (5) local (nonnews) programs produced by the Program Department itself.

### *The Network Feed*

The average affiliate carries about 76 network hours per week, or somewhat less than 60 percent of its total schedule. The Station Manager will make the basic decisions about the affiliation contract and how much network programming will be in the schedule. The Master Control engineers will press the proper buttons at the proper times to feed network programs to the transmitter. The details of the network-affiliate relationship are described in Chapter 8.

### *Local News*

The Program Director depends on the News Department to fill from one to two hours a day in the schedule. There may be short newscasts at sign-on in the morning, at sign-off the next morning, and at noon. The primary news effort will be the half-hour adjacent to the network news feed in the early evening and another half-hour at the end of the network entertainment feed later at night. In the largest markets some stations are scheduling one or two hours of local news early in the evening.

### *Theatrical Film*

The Program Director will schedule film which was made for showing in theaters but becomes available to television stations after there is little chance for more profits at the box office or in sale to the networks. Theatrical film is appropriate for filling fairly long periods of the schedule—from 90 minutes to two hours or more. It can be scheduled around the network programs in the morning, at noon or late afternoon, in the early evening or late at night.

### *Syndicated Programming*

Because theatrical film normally comes in fairly long units of time and the supply is comparatively limited, a vital source of material is the syndicated television program. Syndicated programs may have once appeared on the networks or they may have been prepared for sale directly to stations without prior exposure in the community.\* They normally come in lengths of 30 minutes or an hour (minus time for commercials) and are important to affiliates and indispensable to the independents. (Syndication in its various forms is discussed in Chapter 9.)

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\* Some movie companies that make theatrical film also package programs specifically for television.

*Local (nonnews)  
Programs*

Finally, there is the programming and other material done by the Program Department itself. In the average station local origination falls into the following categories:

1. Children's programs,
2. Women's service programs,
3. Public affairs programs,
4. Religious programs,
5. Public service announcements (PSA's),
6. Local commercial announcements.

It must be remembered we are talking about the "average" station. The smallest ones might locally produce only a discussion or two in a week while the largest may do their own "specials" involving substantial investments.

*Children's programs* produced locally are less prevalent than they were in the early days of television when the viewers were less discriminating and there was less outside programming available. It was not unusual then for a station to hire a woman experienced in working with children to do a program of activities which could be carried on at home. Many stations relied on syndicated formats like "Romper Room" in which the station would receive help in finding the talent and the talent would receive ideas and materials from the company which had originated the program concept. With the growing pressure for ratings it is far more likely that the average station will buy some cartoons which have been successful over the years and look to its network for more creative offerings.

*Women's programs* have been traditional in television, as they were in radio. There seems to be a trend away from the typical interview and feature programs in mid-morning to a more widely based women's service show around the noon hour. Development of the VTR has been a great boon in permitting the hostess to tape interviews at convenient times for the interviewees which can then be combined with other materials at airing time.

*Public affairs programs* are usually in the form of discussions of topics of current interest. A member of the Program or News Department or an outsider will serve as moderator to put together a panel each week to talk about a different subject. Because it is inexpensive programming, and since the FCC does insist on a minimal coverage of local opinion, every station will do some such programs.

*Religious* programs may consist of taking a remote unit to a church and broadcasting the service. More frequently, local clergy will be invited to the studio for a special short message. At the very least, members of the clergy will come in to tape five-minute prayer services with brief homilies which can be aired at the beginning and end of each day's schedule.

*Public service announcements* are provided ready to air by national organizations like the Red Cross, Boy Scouts, and Cancer Society. While national PSA's are carried, stations feel a special responsibility to helping local organizations. Considerable assistance in both writing and production will be given by the station in preparation of local PSA's.

*Local commercial announcements* are prepared by the station for local advertisers, especially those who do not work through advertising agencies. In some instances the station receives still pictures and writes copy to be read by an announcer. Some commercials will be prepared in the studio on videotape. All commercials for national advertisers and most large local advertisers will be delivered ready to run on film projector or videotape playback.

In summary, it should be noted that while the Program Department is responsible for organizing the schedule and filling all the time, it does comparatively little production itself—possibly as little as an hour a week.

## **The News Department**

Although the Program Director looks to the News Department to fill an hour or two a day, there is actually very little news gathered directly by the local news staff. There is a heavy reliance on the following three outside sources.

### *The Wire Services*

Companies like the Associated Press (AP) and United Press International (UPI) operate a 24-hour service which is available to stations at prices ranging from two or three hundred dollars up to two or three thousand dollars a month depending on the size of the market and the number of stations subscribing in one contract. In each station is a news-teletype machine which provides five-minute news summaries, business news, sports news, and features on a variety of subjects. The wire services also provide television stations with still photographs, national weather maps, and satellite weather photos. These visuals can be shown on the screen while the newscaster is giving the related story. There are also organizations providing daily news film footage to stations which do not get such service from their networks.

*The U.S. Weather  
Bureau*

Stations supplement nationwide weather reports from the wire services with specific local forecasts from the nearest office of the Weather Bureau.

*The Network Feed*

Affiliated stations may contract with their networks for permission to tape the regular evening newscasts as well as a special twenty-minute feed which comes through in the afternoon. Taped segments from the afternoon feed and the evening newscast can then be inserted into the "local news" program.

The typical half-hour of local news (28½ minutes), may contain the following:

- 6 minutes of commercials
- 5 minutes of wire copy on major stories
- 4 minutes of sports news from wire service
- 2 minutes of weather information from U.S. Weather Bureau
- 1 minute of business news from wire service
- 5 minutes of footage from network feed

23 minutes from outside sources

Five to six minutes are left for local coverage where the local reporter goes into the field with a crew to make the visual record for showing.

This emphasis on how little local news is gathered by the News Department is not intended as a criticism of the average station. Indeed, there are viewers who want the weather reports, the business news, the sports, and other materials which are quite beyond the capacity of the local news staff. If one wishes a much heavier emphasis on local news, it is available in the local paper and on local radio stations. Even the largest stations in the country will not produce more than some twenty minutes of totally local coverage in an hour-long local news program.

In the early days of radio the news operation was usually part of the Program Department. As news became more important and mature in the late 1930s, it seemed inappropriate to have newspeople responsible to the "show business" people in programming. Almost every station today will have its News Department reporting directly to management. In spite of critics, the commitment of most broadcast news people (network and local) to accurate and complete reporting is very strong. The errors in fact and judgment which are inevitable are more apt to be due to human frailty than to conscious bias. Many Station Managers will admit they wouldn't dare try to tell the head of the News Department how to handle a particular story.

Since the early 1970s more and more Station Managers have come to regard the prestige of the local news programs as being very closely

related to the financial strength of the station as a whole. People in the early evening tend to tune to the news program they consider best and to stay with the station through at least the early segments of the entertainment schedule. For this reason there has been an increased emphasis on good, sound local reporting and a willingness to invest in new equipment like the portable VTR's and associated equipment needed for Electronic News Gathering (ENG).

## **The Sales Department**

Sale of time for advertising is a station's only significant source of revenue and for the average affiliate falls into three categories:

Network business = 9.5 percent

National spot business = 51.4 percent

Local business = 38.9 percent

Network business is obtained by network salespeople dealing with advertising agencies in New York City and other major centers. National spot business is obtained by salespeople for the station representative dealing with the same agencies who make network purchases. The station Sales Manager is in constant touch with the station rep but the local salesperson does not participate in the effort. (National spot business is discussed in more detail in Chapter 9.) The local salespeople are responsible for securing local business.

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## **7.6 LOCAL ADVERTISING**

A station differentiates between local and national advertisers by matching their distribution areas with the circulation area of the station. If all of a client's business is conducted within the area where the station has a consistent audience, it is considered a local advertiser. If the product or service is distributed in other markets, the station considers it a national advertiser.

In the early days of radio there was a standard 30-percent discount offered by the station to the local advertiser. This was justified on the grounds that the ad was probably reaching audiences at the outer edges of the circulation area who were not potential customers. Furthermore, local advertisers frequently could not afford to pay the higher national rate and the station would rather receive a smaller amount than have the time unsold. It is not possible to generalize that all television stations give a 30-percent discount to local advertisers, but most will differentiate and charge less than the national rate to the local business.

## **Control of Rates**

The FCC has no regulatory power over the rates a station charges and does not even have a record of what they are. The station is free to raise or lower its rate structure whenever it wishes. Nevertheless, there is among stations a high degree of uniformity in the cost of reaching a thousand homes because so much buying is done by national advertising agencies that deal with many stations and work from formulas relating charges to audience size. If a station raises its rates to the point where the agencies consider the time a poor buy compared with the competition in the same or a similar market, the station will have so much unsold time it will lose money. The practice is to keep rates at the highest possible level while still selling most of the available spots.

## **The Rate Card**

When the salesperson visits a client the primary reference document is the station's rate card or list of prices. It contains basic data about the station—how long it has been operating, its network status, the equipment it has for special programming, and other information the advertiser might seek. In addition, it has a complete breakdown on the prices of different units of time in different periods and in different quantities.

The modern television rate card bears little resemblance to that of the traditional radio station in the mid-1940s. Yet, since the current practices grew out of the earlier methods of operation, the rate cards of today have more meaning if we see the differences from the traditional and understand how they came about.

The price an advertiser used to pay a radio station was a function of three factors:

### *The Class of Time*

More people listened to radio in the evening than during the day, so the evening prices were higher. The hours from 6 P.M. to 11 P.M. were called "prime time" and on the rate card appeared as "Class A." The hours from 9 A.M. to 6 P.M. were called "Class B" and cost half as much as prime time. Before 9 A.M. and after 11 P.M. was usually labeled as "Class C" and cost half as much as "Class B," or 25 percent as much as prime time. The lack of logic in the price structure is clear. The audience did not suddenly double at 9 A.M. and again at 6 P.M. Neither was it reduced by half at precisely 11 P.M. Furthermore, the audience was not constant between 9 A.M. and 6 P.M. or between 6 P.M. and 11 P.M. Broadcasters were not then as committed as today to making sales on the basis of formulas relating prices to cost-per-thousand homes.

### *The Unit of Time*

Until 1950 practically all purchases (both radio and television) were for program-length units of time. What we now call “commercial minutes” (or thirty or ten seconds) were sold only at station breaks between programs or within the few “participating” programs produced by stations. The advertiser was always called a sponsor and the sponsor would purchase an hour or a half-hour or a quarter-hour or five minutes. The ratio of prices between the units was uniform among stations:

60 minutes = 100 percent

30 minutes = 60 percent

15 minutes = 40 percent

5 minutes = 25 percent

Again, it should be kept in mind that the prices were for the time only, and the sponsor still had to pay for the program to be placed in the unit that had been purchased.

### *The Length of the Contract*

As with other things for sale, the price for a unit of radio time declined as more was purchased. The highest price was for buying just one unit. The most common lengths of contract were 13 weeks, 26 weeks, and a year. As one bought more, the cost per unit was less.

### **Comparing Rate Cards**

One major advantage of the old rate card structure was that it was an excellent method for comparing the prices charged by different stations. It was fairly easy to find for each station the charge for one hour Class *A* time purchased just once (1 Hr-C1A1) from *Broadcasting Yearbook*, or *Standard Rate and Data Service* (SRDS) or from the rate cards themselves. If two stations charged the same amount for that highest-price unit, their rates would be approximately equal for all other units of time.

Today’s rate cards are nearly impossible to compare. Few will even list the 1 Hr-C1A1 rate because they never make that kind of sale. Even if that figure is given, one can make no generalizations from it when considering the cost of the 30-second spot which is the most frequently used unit. Figure 7.2 shows a typical SRDS rate card.

The one figure we do have today which helps in making comparisons is the dollar amount listed by a network as the “basic rate” for each of its O&O’s and affiliates. (See Chapter 8 for fuller explanation.) The figure represents an amount negotiated between station and network and on the basis of that amount the network compensates the station for carrying network programs. One may assume it is as high as the station can persuade the network to pay, and as low as the network can persuade the station to accept. And it does furnish an accurate comparison of station prices in various markets.

**KCMO-TV**  
(air date September 27, 1953)

## CBS Television Network



**MMT SALES, INC.**



**A Meredith Owned Station**  
Subscriber to the NAB Television Code  
Media Code 6 228 0250 6.00  
Meredith Broadcasting Co., 125 E. 31st St., Kansas  
City, Mo. 64108. Phone 816-531-6769. TWX 910-  
771-3112.

- 1. PERSONNEL**  
Vice-Pres. & Gen'l Mgr.—Charles M. McAbee, Jr.  
General Sales Manager—Gerald P. Noonan.  
Program Director—John Proffitt.
- 2. REPRESENTATIVES**  
MMT Sales Incorporated.
- 3. FACILITIES**  
Video 100,000 w., audio 14,400 w.; ch 5.  
Antenna ht.: 1,131 ft. above average terrain.  
Operating schedule: 6:00-3:00 am Mon thru Sat;  
7-12:30 am Sun. CST.
- 4. AGENCY COMMISSION**  
15% to recognized agencies; no cash discount.
- 5. GENERAL ADVERTISING** See coded regulations  
General: 1a, 2a, 3a, 3d, 4a, 5, 6a, 7b, 8.  
Rate Protection: 10l, 14m.  
Contracts: 20c, 21, 22a, 25, 26, 27a, 29, 32c, 32d, 33.  
Basic Rates: 40b, 41a, 41b, 41c, 41d, 42, 44b, 45a,  
46, 47a, 51, 52.  
Com'g: Cont. Discounts: 62a.  
Cancellation: 70b, 70h, 72, 73a, 73b.  
Prod. Services: 60, 62, 63, 64, 65, 66, 67c.  
Rates re-classified on 14 days' notice.  
Advertiser with CBS Television Network.  
Selling charges: 25.00 net per splice.  
Where network programming is delayed or runs late,  
advertiser will run with the ordered and scheduled  
program and will be required to pay for those spots  
which have run in the delayed time period.

**Product Protection**  
Station endeavors to provide a minimum of 15 minute  
separation between competitive products. However,  
station only guarantees against immediate adjacent  
conflict, where scheduling is under the control of  
the station. Rebates, credits or makegoods will not  
be issued on any product conflicts other than those  
occurring back-to-back.

- 6. TIME RATES**  
No. 26A Eff 9/2/74—Rec'd 10/7/74.
- 7. SPOT ANNOUNCEMENTS**  
30 SECONDS  
AA—Mon thru Sun 7-10 pm.  
A—Mon thru Sun 6-6:30 pm & 10-10:30 pm; Mon  
thru Sun 6:30-7 pm.  
B—Mon thru Fri noon-5:30 pm, incl 5:30 pm brk;  
Mon thru Thurs 10:30-11:30 pm; Fri, Sat & Sun  
10:30 pm-concl.  
C—Mon thru Fri 7-9 am, 9 am-noon, 11:30 pm-  
12:30 am; Mon thru Sun 12:30 am-concl; Sat 7 am-  
1 pm, 12:30 am-concl, 1-5:59 pm; Sun 9 am-noon,  
11:30 am-5:59 pm.

	1	2	3	4	5	6	7	8	9
AA.....	1400	1200	1100	1000	900	700	500	400	300
A.....	550	500	455	395	345	275	215	185	165
B.....	300	250	200	180	140	120	100	80	60
C.....	225	175	155	125	85	65	45	25	15

8-10 Thurs, Prime Time Local Movie, Class A.  
10 sec: 1/2 of 30 sec, 10 sec spots scheduled in  
30 sec position are subject to preemption by 30  
sec advertisers without notice and with no guarantee  
that makegoods will be available.

- 10. PROGRAM RATES**  
Daily 6:30-10 pm, 1 hr ..... 1600
- 11. SPECIAL FEATURES**  
**COLOR**  
Schedules network color, film, slides, tape and live.  
Equipped with high and low band VTR.
- 13. CLOSING TIME**  
72 hours prior film, slides, artwork  
Submitted by Joyce Dunbar.

Fig. 7.2 Standard Rate and Data Service rate card for KCMO-TV in Kansas City, Missouri.

Suppose that one wishes to compare the rates in two cities like Chicago, Illinois, and New Orleans, Louisiana. The rank order of the markets, the television homes in the area covered by each, and the network rates for the stations in each provide the following comparison:

Market	Rank Order	Homes (In thousands)	Station Network Rates		
			ABC	CBS	NBC
Chicago	3	2,772	\$4,900	\$4,750	\$4,800
New Orleans	36	476	1,000	1,200	1,175

The networks have comparable base compensation rates within each market, and we can assume that the charges for 30-second spots would have about the same relationships among the stations. One is advised, however, to refrain from guessing how much an advertiser paid for a given spot on a given station. There are a number of factors which make such an estimate impossible.

First, the quoted rate by any station is frequently only a beginning point for negotiations to determine how much the advertiser will actually be required to pay. If the station is coming out of a period in which its ratings slipped somewhat, and if it has a large number of available spots, it will rather accept a lower rate than leave the time unsold. If the ratings have been good and if most of the time has been sold, the quoted rate may be the one the advertiser will have to pay.

Second, one never knows what external factors went into determining the actual price. A good customer who consistently buys through the years can get a better break than someone who is purchasing for the first time.

Third, one never knows if the advertiser has a nonpreemptible ("fixed") spot or not. If the purchase is being negotiated well in advance, a lower price may be offered with the understanding that if someone comes along who will pay the rate card price, the latter will get the time.

Finally, the time may have been purchased on a Run of Schedule (ROS) basis. This means that the advertiser purchased a large number of spots but does not control when they will be aired. When the traffic sheet for the day is prepared and there are unsold spots, the ROS commercials will be inserted. The advertiser likes a certain amount of ROS because the price is much lower. The station likes ROS because it provides flexibility in scheduling and unsold time can be filled at the last minute.

## **The Local Salespeople**

Local salespeople use their time in the same ways as medical supplies or industrial equipment salespeople. They work out of offices where they can make phone calls to customers and they travel throughout the city seeing people in their offices. Knowledge of sales technique and the ability to sell are far more important to the salesperson than understanding broadcasting. If a Sales Manager has to choose between two applicants who appear to be identical in all respects, except that one has had successful experience selling shoes while in college and the other has completed a college broadcast curriculum with a straight-A average, the former will usually get the job.

Salespeople have a listing of all the “availabilities” or unsold spots at the station right up to the minute. They have the latest rating information indicating how many viewers an advertiser might hope to reach in each spot. And, of course, they always carry a rate card, along with contract forms.

The challenge of television salespeople today is identical with that of the radio salespeople from the earliest days of broadcasting. They have three objectives: first, to sell themselves and establish their credibility with the advertisers with whom they would like to do business; second, to sell the medium and persuade the potential customer that television is a good advertising buy (the salesperson who knocks a competitor station is really saying the medium is not always a good buy and has partially lost the second mission of making television advertising look attractive); finally, to sell their own stations and persuade the advertiser to buy some of the availabilities.

The selling of the medium today is a little easier than it was with radio in the 1930s and 1940s when most retailers had been brought up in the tradition of advertising in print—newspapers and circulars. They liked the permanence of the printed page which could be put in a scrap book or cut out and pasted in the store window. It was a tangible piece of evidence that the advertising dollar had been well spent.

## **Servicing the Account**

After a local sale has been completed, the salesperson must be concerned with “servicing” the account. Most new advertisers come into broadcasting hoping they will get immediate results while fearing they are making a mistake. Someone has to “hold their hands” and keep reassuring them that the television advertising is doing some good, that it is a long-term proposition, and that patience is in order. Servicing the account also means making sure the advertising copy is at the station on time because if the commercial is not aired, the advertiser doesn’t pay. There may be no problem for a few weeks because the sponsor

enjoys the novelty and gives high priority to providing material to the continuity writer who puts the script into final form. But then other things command attention and more of the salesperson's time may be spent making sure the contract will be carried through to its conclusion.

An effort of the Sales Department related to servicing the account is its *merchandising* which seeks to relate broadcast advertising to the point of sale. Stores are persuaded to feature a product on the shelves along with a poster for the program in which it is advertised. Since it is not possible to offer equal services for all products, the merchandising is a service offered to those whose business the station especially wants.

The point to remember is that when the station sells directly to the local advertiser, it encounters fairly heavy sales expenses and there may be substantial costs in servicing the account.

### **The Local Advertising Agency**

The first "space brokers," forerunners of the modern advertising agency, appeared in the 1840s. These "space brokers" would buy large amounts of advertising space in newspapers at a discount and then sell it to individual retailers. In the 1860s and 1870s advertising agencies, as we know them, evolved. In all but the smallest markets today there are agencies who work for clients in all media—print, broadcasting, direct mail, etc. When advertisers buy time through an advertising agency, they pay exactly the same price they would pay if they bought directly from the station. But the station gets less because it gives an automatic 15-percent discount to the agency. To illustrate, if an advertiser buys \$1,000 worth of time on a station through an agency, the agency will be paid the full \$1,000. But the agency will pay the station only \$850. In effect, the station is paying the agency for its services. But the agency's only responsibility is to serve the client. The obvious question is why the station encourages the practice, as indeed it does.

First, the agency is acting as a salesforce for the station. Because the agency makes money as the client does more advertising, it will encourage the increase in expenditures as long as they can be justified. (No intelligent Station Manager wants money spent on the station if it is apt to be wasted by the advertiser. When one expects to be in business a long time, one's best asset is a satisfied customer.) Because advertisers picked their agencies in the first place, they have confidence in these agencies' judgment. It would take much of the station salesperson's time to reach a comparable position of confidence. In short, for the 15-percent discount, the station is getting a salesforce that requires no out-of-pocket expense.

Second, the agency will then service the account. It will handle the psychological problems if the advertiser gets discouraged. It will also make sure the copy or the filmed commercials are prepared and delivered to the station before the deadlines. (The agency gets no commission if the ad does not run as scheduled.) Again, these are services the station would otherwise have to provide but now gets without having to pay for them.

Finally, there is an advantage many overlook. The station bills the agency and the agency is responsible for payment. If a new business gets started in a community and wants to buy time directly, the station would have to run a credit check on it and hope the business was successful enough so the station would get its money at the end of the month. If the business is handled through an agency, the station does not bother with the client's credit—that is the agency's problem. The station is thus saved the cost of making a credit check.

What does the advertiser get from the agency in return for the 15-percent commission allowed by the station? The agency will advise the client generally on how to divide advertising dollars among the various media (newspapers, radio, television, direct mail, hand bills, posters, etc.). The agency will give further advice on types of commercials and perhaps even come up with "story boards" (line drawings of various stages in a television commercial), or rough layouts of print ads. The agency will then purchase time from the station.

Since this is valuable assistance which the advertiser gets for free, one would wonder why all sponsors do not work through agencies. Why bother with station salespeople at all? The answer is that the very small advertiser may spend so little that 15 percent of it is too little to be worth the agency's effort. The advertiser must have a business of a certain magnitude before it becomes attractive to an agency.

If the client wants the agency to go further and execute or produce the commercials, billing is on a cost-plus basis. This means the agency will charge the client for all costs incurred in doing the commercial plus enough to constitute a reasonable profit.

There is one other category of local business which has been solicited by radio stations for years, although it is only recently that television stations have started to concentrate on it as a comparatively untapped resource. Some national advertisers have a standing offer to their retailers. If the store will buy time locally and use it to run a commercial for a national product with a "trailer" telling the name of the retailer, the national advertiser will pay half the cost. Thus, a 30-second commercial for a General Electric dishwasher ending with the announcement that it is available at the Blank Department Store is a

*cooperative* ad. It provides additional exposure for the product and gives the local merchant a chance to get the store's name on the air at a reasonable price.

From cooperative business has come an illegal practice which has plagued broadcasters for years—double billing. It is stimulated by the fact that the local advertiser is often entitled to a local discount of up to 30 percent. When the cooperative commercial has been run, the station makes out two bills. One is for the full national rate and the other is for the lesser local rate. Both of them are receipted. The merchant pays the smaller bill and then sends the larger one to the national company asking that half of it be reimbursed. Instead of receiving a check for half of the 70 percent actually paid, the local merchant gets a check for half of the full national rate. The practice is now punishable by fines and has resulted in nonrenewal of station licenses, but the problem still exists.

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## 7.7 STATION CONTRACTS WITH OUTSIDE ORGANIZATIONS

The fourth element in the station consists of the contracts the licensee signs with outside groups to acquire various services. To summarize, the following are some types of contracts which either have been mentioned or will be discussed later:

1. With a network for affiliation (Chapter 8).
2. With a station rep for sales service in the national spot market. (Chapter 9)
3. With a ratings service for audience measurement (Chapter 10).
4. With a company selling rights to show theatrical film.
5. With a syndicator selling rights to show television programs (Chapter 9).
6. With an advertising agency for barter syndication (Chapter 9):
7. With a news agency for wire services.
8. With Broadcast Music Incorporated (BMI) and the American Society of Composers, Authors, and Publishers (ASCAP) for rights to use copyrighted music.

### **The National Association of Broadcasters (NAB)**

The networks and most major and many smaller stations belong to the NAB which was formed in the early 1920s to represent broadcasters in their confrontation over payments for airing copyrighted music. Over the years the NAB has added many functions and is perhaps best known

as the broadcasters' lobby with Congress and the FCC. At the same time it provides a number of services valuable to the individual stations.

1. The NAB organizes national and regional conferences where the licensee and his or her management team can meet with their peers and discuss mutual problems.
2. The NAB circulates information about actions by the FCC and other governmental agencies pertaining to broadcasting. It also provides management and engineering advice on various problems.
3. The NAB sponsors codes of good practice for both radio and television. From the codes the licensee can obtain guidelines which will help in problem programming areas. The Television Code Authority also reviews programs and commercials about which questions of good taste might be raised.
4. The NAB has organized the Television Information Office (TIO) which tries to serve all stations as a public relations office disseminating favorable publicity to opinion makers. TIO materials are also available to stations for local distribution.
5. The NAB has organized the Television Bureau of Advertising (TVB) and the Radio Advertising Bureau (RAB) which offer help to stations with sales problems.

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## **7.8 UNIQUE CHARACTERISTICS OF RADIO STATIONS**

With the advent of format-radio and program-syndication services there are a number of ways in which today's average radio station differs from the television station described above.

1. It is not possible to make an accurate preliminary station analysis based on a handful of criteria. There are so many stations that the audience trends are unpredictable. The earlier advantages of power and frequency in AM stations have lessened as most people have tended to tune to local outlets. There never was the important difference in FM facilities. Affiliation with a network is no longer an important determinant of popularity.
2. The station staff is much smaller, especially if the format music is provided by a syndicated service.
3. In AM radio the engineering staff will not be as neatly split between studio and transmitter branches. As many stations have moved all operations under one roof, the control room engineer may also be responsible for the transmitter.

4. Many radio stations will have no local news operation but will depend entirely on the wire services or a radio network.

5. Since the radio station is far more dependent on local business than is the television station, the local sales staff needs to be larger and more aggressive in proportion to size of station.

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## SUMMARY

The central role of the station in our system and its heavy dependence on outside organizations for much of its programming and services emphasize the importance of understanding interrelationships between various units if one would understand broadcasting.

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## GLOSSARY ITEMS

The following words and phrases used in Chapter 7 are defined in the Glossary:

Area of Dominant Influence (ADI)	Licensee
Availability	Market
Class of Time	Merchandising
Commercial Minute	National Spot Business
Compensation	Network Affiliate
Continuity	Network Feed
Cooperative Advertising	Network Owned and Operated (O&O)
Cross-Ownership	Network Station Rates (NSR)
Designated Market Area (DMA)	Participating Advertiser
Double Billing	Preemptible Rate
Electronic News Gathering (ENG)	Prime Time
Fixed Rate Price	Public Affairs Programming
Fringe Time	Public Service Announcement (PSA)
Grandfather Clause	Public Service Programming
Group Owner	Rate Card
Independent Station	

**Remote Unit**  
**Run of Schedule**  
**Servicing the Account**  
**Station Representative (Rep)**  
**Syndication**  
**Theatrical Film**  
**Traffic**  
**Ultra High Frequencies (UHF)**  
**Very High Frequencies (VHF)**  
**Wire Services**

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# 8

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## THE NETWORK

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### Preview

Networks were formed in the 1920s because they were advantageous to advertisers, group owners, and affiliated stations. By 1945 traditional radio networks reached their peak. In the late 1940s networks moved to gain control of their entertainment schedules. In the first half of the 1950s TV networks largely displaced radio networking. NBC was number one under the leadership of "Pat" Weaver. In the second half of the decade CBS became equal to NBC, ABC started moving up, and DuMont went out of business. More and more programs were produced by outside packagers who sold part ownership of series to the networks in return for developmental money. Through the 1960s the networks owned most of their prime-time programming. In the 1970s the FCC sought to limit the power of the networks but the TV network today is surprisingly similar to the radio network of 1945.

In television the primacy of the networks is unquestioned. Network programs fill somewhat less than 60 percent of the time in an affiliated station's schedule. To that amount of network exposure must be added the repeat programs which were first seen on the networks and subsequently carried by individual affiliated and independent stations. Of even greater significance is the almost total dominance of the networks during the hours when they are distributing programs. This sets the style for all programming.

From any point of view, network programming is where the action is. Understanding television programming requires understanding the television networks. Understanding the television networks is easier if one starts with the beginning of radio networks, traces their development to a peak in the 1940s, watches the transplanting of their form without change to television, and then sees the adaptations which have been made to meet changing conditions.

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## 8.1 THE THEORY

For some four decades after their beginnings in the late 1920s networks did not expect to make significant amounts of money from their network operations. The profits they realized came from the O&O stations and other activities which are described in the following chapter. The yearly network operation was considered a success if it represented no deficit from servicing the affiliated stations and the advertisers. The motivation for forming networks in the first place came from two sources—the advertisers and group owners seeking better programs for their stations.

### **The Advertiser and the Network**

Assume that a dairy processing plant in 1925 distributed cheese in its own city and in two other communities which were perhaps a hundred miles apart. The dairy operator decided to use the new medium called radio to let more people know the company's name. By enlisting the gratitude of the listener for a presentation of enjoyable programming, the dairy operator hoped to sell more cheese.

The first step was to go to a station in each of the three cities and purchase time. Assume that our entrepreneur bought a half-hour in the early evening on each station. The next step was to arrange for programs to fill the time. This was normally done by working with each station's Programming Department. The cheese maker was aware of a generalization which had emerged—that one should plan to spend for

### **Defining the “Network”**

The technical definition of “network” is two or more stations carrying the same program simultaneously. For practical purposes, we apply the word to an organization with an ongoing arrangement whereby it supplies a substantial amount of programming on a regular basis to a lineup of stations known as affiliates. The best known of the networks are ABC, CBS, and NBC, although very few of their programs are seen simultaneously by people in all communities across the country. (There are delays to comply with the differences in time zones.) “Network” also includes National Educational Television (NET), which until 1971 circulated programs to educational stations by a “bicycle network” so there was no simultaneity in airing a program. The Public Broadcasting Service is called a network, although some insist it should be referred to only as an “interconnection” since it is not authorized to make all program decisions by itself. There are also “special networks” which are created for the purpose of airing certain sports events and which may exist for only a short period of time.

The syndicator who sells programs to individual stations for airing at different times is not considered a network.

one’s programs an amount approximately equal to the expenditure for the time in which the programming would be heard. This was not the result of scientific study or any particular wisdom on the part of an expert. The medium was new and so was the idea of using it for advertising. One has a total budget to spend on two elements—the time and the program. Why not split the amount equally between them?

That the rule made good sense is indicated by the fact that even through the 1960s there was a close relationship between the two figures in television advertising. What the network was willing to pay for a program was approximately equal to the value of the time on all the stations which would carry it. Even today when networks charge all that the traffic will bear, it is frequently the case that the program budget is very close to half of what the advertisers will be paying for all the commercial spots in the program.

The hypothetical cheese maker in 1925 had purchased time on three stations and had a program budget on each which was roughly equal to the time charges.

City	Time Charges	Program Budget	Total
<i>A</i>	\$1,000	\$1,000	\$2,000
<i>B</i>	300	300	600
<i>C</i>	500	500	1,000
Totals	\$1,800	\$1,800	\$3,600

Even a novice at radio soon learns that the audience appeal of a program is apt to be closely related to the amount of money spent on it. In a given community a program which cost \$800 would normally get more listeners than one which cost only \$500; and if one were to spend \$1,000, the audience would be even larger.

The cheese maker was also informed that even with the limited technology of the time, it was possible to originate a program in a studio in one city and relay it to other cities for simultaneous broadcast. Thus, instead of spreading the \$1,800 among three programs in three cities, one could spend it all on one program which would be broadcast in all three communities without a significant increase in cost to the advertiser. The people in City *A* would have a program costing nearly twice as much as they would normally expect, and the people in City *B* would have a program six times as expensive as its size justified. Without realizing it, the cheese maker would have participated in starting a small network.

### The Group Owner and the Network

The theory is further illustrated by considering a hypothetical group owner with five stations in large markets throughout the country. In each market there is competition for the audience and the owner wants to present the best possible programming. By purchasing the five stations as a package, the advertiser would be justified in preparing a program at a cost equal to the value of the combined station charges. Since the group owner must rent distribution facilities (phone lines from AT&T) from coast to coast, the program will be passing by many stations which belong to others who are also seeking to improve the attractiveness of their schedules. If buying the five stations will justify the advertiser's paying \$5,000 for the program, the addition of another fifteen stations along the line might justify increasing the program costs to \$10,000. This would make the original group owner even more competitive in those cities where his or her stations were located. Why

not go out and actively seek stations that would like to carry the program and continue to increase the number so the advertiser would continue to increase the program budget?

On the face of it, this appears to be perfect for everyone. The group-owned stations are getting better programs. The advertiser is getting wider exposure on better programming. The stations owned by others are particularly happy because they, too, are getting better programs and more audience without any effort beyond agreeing to have an engineer push the proper button at the proper time.

Fairly shortly, however, the group owner will begin to realize that there are problems and expenses. Other group owners are doing the same thing, and it requires hiring an expensive sales staff to persuade sponsors to buy time on one network rather than another. The AT&T line charges for connecting the stations become substantial. It takes secretarial help and a lot of someone's time to keep in constant contact with the stations carrying the programs. As the programs get bigger, it is necessary to build new studios which can accommodate them.

## **Network-Station Relations**

The solution was to formalize the network structure and to ask the stations carrying the programs to share in expenses. Various arrangements were tried until the structure evolved which existed in the late 1930s when the networks had stabilized.

The network dealt with the national advertising agency, selling it time on a large number of stations (O&O's plus affiliates who had signed contracts agreeing to participate). The sale was for time only—the advertiser was wholly responsible for providing the program so program dollars are not included in the computations. The network billed the agency for the combined value of the time on all the stations which carried the program. Assume it was \$20,000.

1. The sponsor paid the agency the full amount of \$20,000.
2. The agency took advantage of the 15-percent discount and paid the network \$17,000.
3. The network retained the money it needed to cover the costs of personnel, studios, line charges, and other items. The network kept about 50 percent of the original amount—in this case, \$10,000.
4. Each station received a proportional share of the remaining \$7,000 as its compensation for carrying the program. The station whose rate card called for \$1,000 got \$350; the station with a rate card for \$400 received \$140.

To recapitulate:

\$20,000 was paid by the sponsor to the agency,  
3,000 was retained by the agency,  
17,000 was paid by the agency to the network,  
10,000 was retained by the network,  
7,000 was paid by the network as compensation to the stations.

### **Station Compensation**

It should be noted the networks did not disburse money to the stations on individual programs. The books were kept by the month and the network did its accounting as follows: It required from each station about 24 free hours to cover line charges; it then figured compensation on a sliding scale. For example, it might pay the station 10 percent of its rate card for the first ten hours, 20 percent for the next ten hours, and so on until it reached a maximum of about 70 percent for the final hours carried in the month. (The sliding scale was abandoned by the television networks around 1960 when the Department of Justice ruled it constituted unfair pressure on affiliates to carry more programming.) When all the computations were completed at the end of the month, the station (either O&O or affiliate) compensation came to between 30 percent and 35 percent of its rate card.

We now see the simplest definition of a network—it is a time broker. Through contracts it collects time from O&O's and affiliates. The collected hours are combined into a package which is sold to the sponsor. Particularly in the days of traditional radio through the 1940s, everything else a network did was peripheral.

### **Financial Benefits to the Affiliate**

Why were stations willing to carry network programming when they received in return such a small percentage of their rate cards? The answer involves several considerations.

*First*, a station never got full rate card on anything it sold. If it was a local sale without an advertising agency, the station got 70 percent. If it was a local sale through an agency, the station got just under 60 percent. If it was national spot business through the station representative (see Chapter 9) it received about 70 percent. The 30–35 percent from the network did not appear quite so small compared to revenues from other sources.

*Second*, the station received the 35 percent without corresponding expenses. It did not have to hire salespeople or use its studio or service the account. It was also income for time which the station would not have been able to sell locally since retailers could not afford to buy the whole schedule.

*Third*, the station was selling to the network the circulation for which the network was primarily responsible. If the station had no network programs, its audience might have been so small that it would not be able to justify a full rate card of more than one-third of what it had with the affiliation.

The value of network programming to a station is illustrated by comparing the prices quoted by the VHF network and independent television stations in New York City. About 1970, when stations were still giving one hour-Class A-once prices, the following rates were quoted:

Station	Channel	Network Status	1 Hr-Cl A-Once
WABC-TV	7	O&O	\$10,000
WCBS-TV	2	O&O	10,000
WNBC-TV	4	O&O	10,000
WNEW-TV	5	Independent	3,600
WOR-TV	9	Independent	3,000
WPIX-TV	11	Independent	2,500

WNEW-TV is one in a group of stations owned by Metromedia, Inc., and is probably being run as well as an independent station can be operated. If either Channel 2, 4, or 7 were to have no network programming, its rate card would probably be about that of WNEW-TV, or only 35 percent of what it is.

### **Public Service Benefits to the Affiliate**

There was a further advantage which was very meaningful for the station concerned about the service it could render to its listeners. The network served the station as its news and public service departments at the national and international level. The network made it possible for the station to broadcast the news to a degree it could never afford alone. The network maintained a news staff around the world and had the ability to bring the listener up to the minute on what was happening in other parts of the country and around the world. While many of the news programs were sponsored, the advertising dollars did not fully cover all the expenses of the network news operation. The stations, by taking only a portion of rate card for all programs, were subsidizing network news which rounded out the news coverage they could offer to their listeners.

The network brought to the stations programs in which national

and international issues were discussed in an attempt to make people aware of various points of view and the arguments on different sides. The networks also presented religious programs for the major faiths. There were cultural presentations by the world's great orchestras and opera companies, all beyond the reach of a station and all needed if the station were to give its audience a well-rounded service.

Having pointed out these advantages to the stations, we must add that too frequently stations failed to clear the time in their schedules to carry programs which some of the listeners wanted very much but which the majority would reject in favor of more entertainment. It is customary to blame the networks because there is not more "good" programming in the areas of culture, discussion, and documentaries. The fact is the networks have always had a higher sense of responsibility than many of their affiliates and they have many times distributed excellent programming which was carried by so few stations that it just could not be continued.

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## 8.2 CRITICISM OF THE NETWORKS

By the mid-1930s radio had grown big enough to attract the attention of critics who thought it was failing to make its potential contribution to our society. They felt there was too much emphasis on entertainment, that the advertisers were too dominant, and that there was too little local programming to meet local needs. As they looked at the medium closely, they saw that the networks exerted nearly total control. The FCC was shortly to document how dominant the networks had become. In 1938 there were 660 commercial stations of which 341 were affiliated with the four national networks. More important than the number of affiliates (and O&O's) was the fact that they were by far the most powerful. The network stations accounted for more than 97 percent of the night-time broadcasting power in the country. NBC was the licensee of ten stations and operated five more under contract with their owners.

There was ample evidence that the network system had circumvented the theory of the Communications Act as originally conceived by Congress. The heart of the Commission's power was the choice of licensees who were expected to operate their stations in the public interest. Yet, after getting authorization to broadcast, the licensee frequently signed away control over much of the schedule to the network. Since the networks were also licensees who had passed Commission

scrutiny, such transfer of control might have been to a degree acceptable. But the networks then sold time to advertising agencies who made all the programming decisions on behalf of their sponsor-clients. The agencies had no formal responsibility to anyone but the advertisers and had never been required to persuade the FCC that they should be fiduciaries of the public airwaves. The figures above indicate that during the evening hours of greatest listening, it was the agencies who determined what the vast majority of the American people would hear.

Networking practices were a natural outgrowth of unrestricted development within the free enterprise system. The tie between network and affiliate was by contract and differed little at that time from other contractual relationships. As with any other agreement, it was written to favor the more dominant of the two partners. While it is true that no network can function or even exist without affiliates, it is also true that no network needs a single affiliate as much as the affiliate needs the network. When the contracts were written, the network had far more leverage and used it. The affiliates were not unhappy with the arrangement. None complained to the Commission about loss of freedom. But when there was criticism about lack of variety in the schedule and the failure of the station to do more local programming, the licensees would respond that they were doing the best they could under the limitations of network contract provisions.

### **The 1941 Chain Regulations**

After studying the situation for two years, the Commission wrote regulations which would not force different programming on the local stations, but which would remove their alibi of blaming the networks when there was justifiable criticism. There were eight "Chain Regulations" whose purpose was to free the stations from network dominance if they wished such freedom. Recounting some of the regulations serves to indicate the extent to which radio in the 1930s had become primarily network programming.\*

### *Exclusive Affiliation of Stations*

The NBC and CBS contracts provided that an affiliate of either might not carry any programs from another network. The result of such a provision became evident in the fall of 1938 when the Mutual Broadcasting System obtained exclusive broadcasting rights to the World Series. Since there were great gaps in Mutual's nationwide coverage, the games were offered to affiliates of NBC and CBS. The people not

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\* For a description of all eight Chain Regulations and their rationale, see National Broadcasting Co., Inc., et al. v. United States et al., 319 U.S. 190, May 10, 1943.

ordinarily reached by Mutual wanted to hear the series. Stations in cities without Mutual affiliates wanted to carry the games. The network wanted to provide the signal to those stations and the advertisers wanted to pay for the additional coverage. Even though everyone directly involved wanted to have the series on some non-Mutual stations, the contracts those stations had with CBS and NBC made it impossible. Many people never did hear the World Series because of the exclusive-affiliation provision of the contracts.

Since the stations had clearly bargained away their rights to broadcast in the public interest in this and other situations, the FCC ruled that such arrangements were not acceptable. It is important to note that the FCC has no power over networks. It is only the stations which are subject to Commission regulation. Therefore, it was necessary to write this and the other regulations as though the stations were being restricted even though the purpose was to free them from network domination. The first Chain Regulation was worded as follows:

No license shall be granted to a station having any contract, arrangement, or understanding, express or implied, with a network organization under which the station is prevented or hindered from, or penalized for, broadcasting the programs of any other network organization.

The networks were thus put on notice that if they kept the exclusive-affiliation provision in the contract, no stations could sign and there would be no networks.

This rule acquired great significance in the 1950s when there were many major communities with only two television stations which were affiliated with CBS and NBC. As ABC was trying to become competitive, it was vital that at least some of its programs be aired in the cities where it had no affiliates of its own. Under this first Chain Regulation, the CBS and NBC affiliates were free to carry ABC programming if they wished. When ABC started its "Disney" series in 1954, it was able to get coverage throughout the country although it had not nearly enough primary affiliates for such extensive reach. Without the prohibition against exclusive affiliations, it is quite likely that ABC would have needed another ten years to achieve parity with the other television networks, and it might never have been able to make it.

### *Right to Reject Programs*

Existing contracts gave stations the right to reject individual programs from the networks but put on the licensee the burden of proving that the rejected program was not in the public interest or that another program being substituted was more beneficial to the audience. The

Commission felt this was an abdication of responsibility and ruled that stations must have the right to reject programs without having to demonstrate to the network anything beyond their desire to carry something else. Although the impact of this provision was not obvious, it did take away from the stations a convenient excuse for questionable programming practices. For example, if there are only two television stations in a community and both are carrying professional football on a Sunday afternoon, there would be justifiable criticism that the people of the area were entitled to more choice than picking one of two games. The stations could not respond by saying they were required by contract to carry the games and the blame should be placed on the networks. The fifth Chain Regulation very clearly places the responsibility for the schedule on the local licensee. If questioned, he or she must be willing to state on the record that the public interest is best served by scheduling professional football when the one competitor is doing the same thing.

### *Dual Network Operation*

Feeling that it was unhealthy for one organization to operate two of four national networks, the FCC ruled that no license would be granted to a station if it signed a contract with a company which operated more than one network. This effectively told NBC to relinquish either the Red or the Blue network. Since the Red was much stronger than the Blue, NBC sold the Blue network to Ed Noble who had made a fortune in Lifesavers candy. It was renamed the American Broadcasting Company (ABC).

### **Network Fear of the Chain Regulations**

The Chain Regulations were promulgated in 1941 and were immediately appealed by the networks to the courts. There were statements by leaders of NBC and CBS that they constituted a "death penalty" and that there could be no continuation of the networks if the regulations were permitted to stand. In 1943 the Supreme Court rejected the networks' objections and affirmed the Commission's power to impose the Chain Regulations.\* That they were not a death sentence is an indication that even the networks failed to realize the strength of the structure which had evolved in the first ten years and how beneficial it was to the affiliates as well as to themselves. Network leaders truly believed they would be unable to continue if current restrictions in the contracts were removed. Yet, when the Chain Regulations were affirmed and enforced, the affiliates continued much as they had in the past. To this

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\* *Loc. cit.*

day, network practices carried over to television have changed little in spite of changing conditions and frequent regulatory tampering. It can be concluded the relationship is good for both parties and will continue for the foreseeable future.

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### 8.3 THE TRADITIONAL RADIO NETWORKS

Traditional network radio reached its peak in 1945. The schedules were largely sold out. The networks' ability to bring war news to the people rapidly and dramatically made the receiver an important center in the home. Networks accounted for well over 90 percent of the listening through much of the day. There were two primary sources of the programs which emanated from the networks—the advertising agencies and the networks themselves.

#### Programming by Advertising Agencies

Virtually all network entertainment programming was conceived, written, produced, and directed by the agencies who purchased time for their clients. Advertising was characterized by “sponsorship” in which a company paid for a unit of 15, 30, or 60 minutes and occupied all the commercial time in the unit for its own products. It was the sponsor who, through the agency, made all the program decisions and, on most occasions, actually owned the program.

Indicative of the degree of sponsor control was a story in *Broadcasting*, June 12, 1944, in which General Foods announced “a series of network program time changes precipitating a major revamping of CBS and NBC summer and fall schedules.” The press release came from the sponsor through its advertising agency and there was no indication the networks themselves had been involved in the decision or even knew about the changes until the story was published.

The only control networks exerted over sponsored entertainment programs was the requirement that scripts be submitted in advance to a “standards” office—a euphemism for censorship. It was the duty of the office to see that there was nothing in poor taste. Such censorship was not contested since the advertiser did not want to hurt any feelings either. During hearings in Washington, the advertising manager for one of the largest sponsors when asked to give his philosophy of radio programming responded, “Never offend anyone.”

Once the script had been cleared by the standards office, the responsibility for representing the network at the airing of the program was in the hands of a network director who would be physically present

in the control room. Although the agency director ran the program, the network director had the authority to take over and make sure that network policy was not being violated.

**Programming by the Networks**

Programming which was completely controlled and produced by the networks was limited to two areas—news and public service.

*News Programming*

By 1945 the networks had complete news organizations with reporters in key centers throughout the country and around the world. There was an increase in the coverage of special events, such as the political conventions and campaigns, inaugural addresses, and presidential appearances before Congress.

This was one area of programming where sponsor control was nearly nonexistent. The first network news reporters tended to be ex-newspaper reporters who were committed to telling their stories without pressures from print advertisers. They would have been unreceptive to the suggestion that sponsors might tell them how to cover the news. Even more significant was the fact that the cost of the news operation was greater than the amount received from sponsors. No single advertiser paid wholly for the services received when sponsoring a news program.

*Public Service Programming*

The network public affairs departments concentrated on discussion programs, religion, and cultural pickups of major operas and orchestras. Since it was the philosophy of the day that this type of program should be sustaining, and since sponsors could not be persuaded to buy them anyway, they were concentrated in the hours of the week which had the least economic value. It was in those “Blue Law” days before professional sports moved in that Sunday afternoons were where many of the public affairs programs were placed and neglected.

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## **8.4 1948–1955 NETWORK CONTROL OF PROGRAMMING**

An important trend in both radio and television from 1948 to 1955 was the assertion by the networks of control over their entertainment schedules. Through the war years the practice of selling time to sponsors who made all program decisions had continued. But in the immediate postwar years the radio networks failed to grow with the economy and with the rest of radio. The situation is illustrated by the experience of the ABC

radio network. As the season opened in the fall of 1947, the network was unable to find a sponsor who would purchase the hour from 8:00 to 9:00 on Sunday nights and provide a program to fill it. Sunday night had then (as it has today in television) the biggest audience of the week. ABC presented the Detroit Symphony Orchestra on a sustaining basis (without a sponsor).

After several months, when it became obvious no sponsor was going to buy the time, ABC took the initiative. Working with a packager, it developed a program concept which it tried out in small markets and brought to the network schedule in the spring. In April 1948 ABC distributed "Stop the Music," which almost literally stopped America. It was a quiz program for the listening audience. An orchestra played a popular tune until a phone rang and emcee Bert Parks called out "Stop the Music." If the listener could identify the popular tune, he or she received a small prize of perhaps a hundred dollars and an opportunity to guess at the Mystery Tune which was worth up to twenty thousand dollars. The amount increased each week in which nobody correctly identified it.

Americans became involved. Attendance at movies dropped off on Sunday evenings. People did not go to visit friends as they had. Anyone who received a call between 8:00 and 9:00 Sunday evening might abruptly say, "Call me back at nine. I want my line clear if Bert Parks calls." When "Stop the Music" was first aired in April, it opposed Fred Allen who dominated the period with a Hooperating of 16.3, ninth among all network programs. When Allen went off the air for the summer he was in thirty-eighth place and had a lower rating than some of the daytime serials.

Within a couple of months the program had been fully purchased by four advertisers, each of whom took a quarter-hour. They were listed as sponsors, but there was an important distinction—they had no control over the program. It belonged to ABC and it was to be presented in its time slot whether an individual advertiser agreed or not. Any advertiser who became unhappy could drop out and another would purchase the spot. The significance of "Stop the Music" was that ABC had made a virtue of adversity and introduced an entertainment program over which it had complete control. Although it was not then apparent, an important step had been taken toward eventual network control of all programming.

*Agencies and the  
Programming Role*

"Stop the Music" came at a time when the advertising agencies themselves were raising questions about their key role in programming as

well as advertising. Their primary concern was the preparation and placement of commercials. When they also did the programming, they were assuming a responsibility which should have been peripheral but for which they might be dismissed if they were not successful. There were profits to be made in packaging programs. But there were also profits in being the broker who purchased from program specialists. Then if the program failed, the onus would to a degree be elsewhere and the agency could recommend dealing with another packager.

Since 1946 there had been an upsurge in the number of program packagers who were making "audition platters" (sixteen-inch half-hour electrical transcription discs) trying to sell them to agencies for their clients. They did not approach the networks at first because they were distributing only what the agencies brought to them.

### *Networks and the Programming Role*

The networks had become increasingly unhappy with agencies and sponsors controlling entertainment scheduling. Not only were the networks unable to change the schedules when it seemed advisable, they were also at the mercy of the sponsors with the most successful shows and had to give concessions to them. For example, it was very important to NBC that the Jack Benny program should start the Sunday evening block of programs. It was well known that CBS would welcome Benny and his sponsors, so when General Foods made requests of NBC, there was always the implication that failure of the network to be reasonable might result in moving the Benny program. CBS had been working since 1940 to break the hold of the sponsors by packaging its own programs. Nevertheless, it still produced for sale to sponsors and did not put its own entertainment programs into the schedule until they had been purchased.

In the fall of 1948 CBS took another significant step toward controlling its own schedule. William Paley was ready to make a major effort to catch up with NBC in radio and to lay the groundwork for television. He wanted the best programs on the air, but he wanted them on his own terms so there would be no reliance on sponsors in scheduling. He wanted to be able to put each program where it would do the most good for the entire schedule and to be able to move them as needed.

Paley's strategy was to introduce to radio talent the concept of "capital gains." For example, he wanted Jack Benny but knew it would do no good to offer more money than Benny was getting from his sponsor—the tax structure was such that most of the increase in salary would have been taken by the government. So he suggested that Benny in-

corporate himself and sell the stock to CBS. The profit from the sale would be taxed at the 25-percent capital-gains tax rate instead of the 80–90 percent he would have had to pay if it were considered personal income. The biggest radio news in the fall of 1948 was that CBS had purchased Jack Benny for \$2.5 million. Amos 'n Andy were bought for \$2 million and there were several other capital-gains deals. NBC resisted the temptation to raid CBS, although there were rumors that Arthur Godfrey would have been available.

## Ready for New Challenges

The traditional radio networks had grown vigorously during the two decades since their establishment. In two or three years after the war they diminished to the point where their eventual demise was fairly obvious. They had become caught up in negative currents as inexorable as the positive climate which had made their dominance inevitable. With hardly a pause, the network organizations transferred their attention and their energies to television and entered a new era.

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### 8.5 EMERGENCE OF THE TELEVISION NETWORKS

It is for two reasons logical to start the story of television networks in 1949. *First*, 1949 was a year of solid growth from almost nothing to the point where television was approaching significance.

1. The number of stations on the air grew from 41 to 98.
2. The number of markets with television grew from 23 to 57.
3. The number of television receivers in American homes tripled from under 1 million to more than 3 million.
4. Total television revenue tripled from an estimated \$8 million to \$24 million.
5. Network revenues increased from less than \$1 million to more than \$10 million.
6. AT&T expanded its facilities so a television signal might be sent from the Northeast to Chicago, Milwaukee, St. Louis, and other cities in between.

*Second*, Sylvester L. (Pat) Weaver, generally considered the most imaginative and innovative television programmer of all time, was named in that year to the Vice-Presidency of NBC in charge of the television-network organization.

In spite of these favorable factors, the networks still faced a multitude of problems. *Sponsors* were very reluctant to make heavy investments in network television because there were so few homes that could

view it. The 3 million television homes were miniscule compared with the nearly 41 million radio homes (90 percent of the total), yet television costs were already soaring beyond radio expenses. Advertisers preferred to wait until they could see more return on their expenditures.

*Advertising agencies* were reluctant to be as active in packaging television programs as they had been with radio. They were already starting to leave radio packaging to program specialists and had found it most difficult to prepare television programs. Because the medium was so new, it was impossible to maintain a budget through a series. Even if it were a program as simple as covering a radio variety show with a TV camera, it seemed that each week brought a new complication for which no plans had been made. Labor-management relations were especially difficult because both sides realized that decisions made in these early days would become precedents by which they would be bound for years to come. Program packaging was a money-losing proposition during this time. When sponsor and agency reluctance were combined, it is easy to understand why network television was off to a slow start.

*AT&T* was still far short of its goal of providing coast-to-coast interconnecting facilities for all of the networks. It was to be another two years before programs could be sent from New York City to California. Even then, there was only enough capacity to relay one program at a time through much of the nation, so the networks had to share the cable.

The *networks* were still trying to determine what constituted a good television program. The stations had pioneered in televised wrestling and showed it so much that it had lost its appeal. A television program had to be more than a simple simulcast of radio where cameras are merely placed in a radio studio to show the viewers what the listeners are hearing. But how much more the television program needed to be was not clear.

Among the most popular programs of 1949 were simple productions like the Ed Sullivan "Toast of the Town" and the comedy-variety hour of host-comedian Milton Berle, "Texaco Star Theater." There was also the first experimentation with live drama which in two or three years would constitute the most exciting television of the early years. Domestic comedy programs such as "Mama" and "The Goldbergs" provided a foretaste of TV's most popular series ever, "I Love Lucy," which premiered two years later.

## **The Television Networks in 1949**

Near the end of 1949 there were four networks struggling to get started—ABC, CBS, DuMont (DuM), and NBC—Mutual did not enter the field. They were competing in a nation where 98 stations were operating

in 57 markets. If one compared only the number of affiliates each network claimed, they appeared to be on even grounds.\*

ABC—52  
CBS—56  
DuM—53  
NBC—55

But when one looked at the estimated revenues for sale of time in 1949, the apparent equality of the networks quickly disappeared.

Network	Revenues in 1949 \$ millions
ABC	1.2
CBS	2.7
DuM	0.9
NBC	5.5

NBC was receiving more revenues for its time than the other three networks combined.

*Comparing the  
Networks in 1949*

ABC was the former NBC Blue radio network which had never been as powerful or profitable as the Red. In radio markets where two stations were carrying NBC programs, the Red affiliates had usually been the stronger. The Blue network had included some strong stations in markets where the Red affiliates provided only fringe coverage. But when the contracts of those stations with ABC had expired, they sought and received an NBC affiliation. E. J. Noble, in buying the Blue network, had purchased the weaker components of NBC and left the stronger ones with their original network.

The comparative strength of the radio affiliates was important to television networking because it was the most powerful and lucrative radio stations which moved first into television. If the licensee of an NBC radio affiliate built a television station, he would normally affiliate it with the NBC television network. There were fewer ABC radio affiliates capable of entering television early.

The reasons for the CBS lag behind NBC television were different. In radio it had been highly competitive in most markets and the CBS

\* *Broadcasting*, December 26, 1949, p. 53.

lineup of stations had as much capacity as the NBC affiliates for an early entry into television. But CBS gambled that its system of color would be substituted for monochrome at the end of World War II. If that had happened, all stations would have been starting anew in applying for licenses in the UHF. When the FCC rejected the CBS color proposal in 1947, the CBS stations had lost valuable time. In 1949 when NBC had its full complement of five television O&O's and ABC had four, CBS had only two plus a 45-percent interest in a third.

*DuMont* was never a strong network. Allen B. DuMont was one of the early pioneers in television broadcast technology and had three stations—in New York City, Washington, D.C., and Pittsburgh, Pennsylvania—upon which he tried to build a network. In 1955 the DuMont network was doing so little business and had such poor prospects that it gave up its effort, leaving the three networks (ABC, CBS, and NBC) which are still operating.

Most of *NBC's* early strength as a television network could be traced to the fact that it was owned by RCA, which had been heavily involved in the technical development of television from the beginning. It was RCA which held the first significant public demonstrations of television at the New York World's Fair in 1939. The system of television approved by the FCC in 1941 was largely pioneered by RCA. It was RCA which was making more television receivers than any other company and was willing to have NBC subsidize program service in order to increase sale of sets. NBC affiliates had been urged by their network to go into television just as soon as possible.

Closer examination of the data on page 228 reveals the sources of NBC's lead over its rivals in 1949. Each of the networks had between 52 and 56 affiliates among the 98 stations on the air. The usual practice for a station in a market with less than four outlets was for it to sign a "primary affiliation" with one network and a "secondary affiliation" with one or more of the others. If a station were a primary CBS affiliate, it was committed to carrying most of the CBS schedule. During some hours of the week, however, it might carry programs from NBC or ABC. The critical question concerned the primary affiliations of the licensees in the one-station markets.

An analysis of the stations and their markets in 1949 shows the following:

37 markets had one station each

8 markets had two stations each

12 markets had three or more stations each

(New York City and Los Angeles each had seven stations.)

ABC, CBS, and NBC had twelve primary affiliations or O&O's each since there were that many markets with three or more stations. Among the eight two-station markets, it is probable that NBC had five primary affiliations and that ABC and CBS shared the rest. The attraction the networks had to the one-station-market outlets is indicated by the following data submitted to the FCC when DuMont was pleading for more opportunity to have its programs distributed. DuMont analyzed the programming of stations which were alone in markets and reported the following percentage of programming from different sources.\*

	NBC %	CBS %	ABC %	DuM %	Local %
Afternoon	31.9	17.0	7.3	6.9	36.9
Evening	47.8	20.2	8.9	4.3	18.8

The DuMont figures indicate the more accurate comparison of affiliations among the four networks should be the following:

	Primary Plus O&O's	Secondary
NBC	42	14
CBS	33	22
ABC	10	43
DuM	8	44

It was clear that NBC had a big lead, CBS was in second place, and ABC and DuMont brought up the rear.

### The Program Problem

The major problem facing the television networks in 1949 was how to break the vicious circle in which UHF stations found themselves some five years later. Until there were more highly attractive (expensive) programs, the number of stations and viewing homes would continue to grow slowly. Advertisers would be willing to pay for more attractive programs when the number of viewing homes was much larger. If television networks were to show significant growth in the next year or so, nonadvertising money was needed to subsidize popular programs until the sponsors were willing to pay the bills.

\* Ibid., November 20, 1950, p. 85.

NBC took the lead in breaking through the programming barrier when it hired "Pat" Weaver. Weaver realized that the traditional and slow way of building NBC television would be simply to keep ahead of the other three. This meant concentrating on the affiliate lineup, waiting for the end of the Freeze and more stations, and depending on a slow accretion in the number of television homes and the subsequent willingness of sponsors to finance better programs. However, he saw the future more clearly than some others and realized that waiting for sponsors meant a delay of several years. Since RCA had the speculative dollars with which to work, he set out to break the impasse with bold new concepts.

In January 1950, a few months after joining NBC, Weaver made his first major program announcement. NBC had budgeted \$50,000 per week for a Saturday night program to last two and a half hours and to be called the "Saturday Night Review." The first hour was to come from Chicago (starring Jack Carter) and the last 90 minutes were to originate in New York City with Sid Caesar and Imogene Coca. It was classified as comedy-variety. The program would be available for sponsorship in segments or in rotating commercial minutes, but it was an NBC show which would stay under NBC control. Weaver was jumping to the third step in progression of advertising patterns even before the second stage had become wholly established.

### **Advertiser Relationships to Programs**

The *first* step was traditional sponsorship in which the advertiser buys a time segment, provides a program to fill it, and uses all the commercial time for its own products or services. A variation was the situation where the advertiser bought the time but put its commercials in a program produced by the network to its specifications. The important factor of traditional sponsorship is advertiser control of the program.

The *second* step, which was just getting started, was called "alternate sponsorship." In this phase, two advertisers join forces in purchasing a time segment and then agree on the program. During one week Sponsor *A* would have two of the three commercials (in a half-hour prime-time program), while Sponsor *B* would have the other. The situation would be reversed in alternate weeks, with Sponsor *B* having two commercials and Sponsor *A* having one.

This step came as the cost of television time and programs rose to the point where few advertisers were willing to risk the dollars for singly sponsoring a program throughout the year. Even in 1949 with the few stations available, the cost of time plus program for a half-hour drama was approaching \$50,000 per week. Over a year this could mean

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**Sylvester L. (Pat) Weaver, Jr. b. 1908**



*Courtesy: NBC*

*In the first half of the 1950s "Pat" Weaver, more than any other individual, molded network television into the medium which so dominated the attention of Americans for the next quarter-century.*

*Born in Los Angeles in 1908, he was a 1930 Phi Beta Kappa graduate of Dartmouth College in New Hampshire with a major in philosophy. For a year he leisurely toured Europe and the Mediterranean area. Returning to America he tried selling magazines door to door in the New York City area before going to California to embark on a writing career. After three*

*years as a writer and program manager for the Don Lee regional radio network, he went to New York as a free-lance writer, producer, and director. In 1935 he went to the Young and Rubicam advertising agency to produce the Fred Allen network program, and two years later was named head of the Radio Department.*

*In 1938 he joined the American Tobacco Company to take charge of the advertising for Lucky Strike cigarettes. He was shortly made Advertising Manager for the whole company under its eccentric President, George Washington Hill. From 1941 to 1945 he was in the armed services with such disparate duties as Commander of a patrol craft in the South Atlantic and Program Manager for the Armed Forces Radio Service. Following the war he returned briefly to the American Tobacco Company before going back to Young and Rubicam as Vice President and Director of Radio Television. From that job he went to NBC in 1949 to build up the television network.*

*In a matter of weeks he had announced the "Saturday Night Review" which would change the concept of sponsorship to participation advertising in commercial minutes. In the next few years he introduced other programs which were not only innovative but far too expensive for individual or alternate sponsorship. These were the "Today" show, "Tonight," "Home," and "Wide Wide World." He also introduced the "Spectaculars," which became "Specials," and he*

was the first to evict programs which failed to provide sufficient lead-in audience for following time periods.

He resigned from NBC in 1956. For a brief time he explored the possibilities of setting up a new network which would concentrate on a program service primarily for independent stations in fifteen of the largest cities, but nothing came of it. Until 1963 he spent several years as a Marketing Consultant to Kaiser Industries and in various capacities with the McCann-Erickson advertising agency. He then became head of STV, a pay television enterprise in California. The company was off

to an auspicious start when a referendum item was placed on the state ballot in the fall of 1964 asking the voters whether they wanted "pay TV or free TV." The company was abandoned after a resounding defeat in the referendum. (The courts later ruled the referendum unconstitutional, but the harm had been done and STV was abandoned.)

Although it is more than twenty years since Weaver left network television programming, he is still remembered as the most imaginative and innovative man the field has ever known.

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a commitment of over 2 million dollars. For the small network advertiser this might mean "putting all of one's eggs in one basket." Even the largest advertisers were reluctant to pay that much money when there was no guarantee of size of audience. All recalled that Fred Allen had been a highly desirable radio program for the advertiser until "Stop the Music" came out of nowhere to steal the audience and make the investment in Allen an extremely poor one.

### Participation Advertising

Weaver was entering the *third* stage, where the network would provide the program without prior consultation with advertisers, place it in the schedule, and then make it available on a "participating" basis where the advertiser could buy single commercial positions rather than the whole program or even segments of it. ("Stop the Music" had been sold in quarter-hour segments.) Some advertisers bought segments of the NBC "Saturday Night Review," but others bought only commercial minutes. This gave each the opportunity to buy as much or little as fit the advertising budget, yet each was paying a proportionate share of the total costs.

For example, *Broadcasting* estimated the total budget for time and program for the two and a half hours at \$90,000.\* (It was at first carried on only 21 stations.) In the five half-hour segments there was room

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\* *Ibid.*, February 6, 1950, p. 122.

for fifteen one-minute commercials, and each had been priced by the network at \$6,202.

Participation advertising was also called the “magazine concept” because of its similarity to the typical magazine advertising where the editor puts the content together without knowing who the advertisers will be or where their messages will be placed. During the next few years Weaver added more programs of the same nature. There were the “Today” (early-morning) and “Tonight” (late-night) shows which have been highly successful. There was the “Home” program, somewhat similar to the traditional morning women’s programs on radio with news, interviews, and features. There was also the most exciting of all, “Wide Wide World,” a 90-minute trip across the continent to see what was going on in various places. The June 27, 1955 program included live segments from a bullfight in Mexico, a Shakespeare rehearsal in Ontario, Canada, urban sequences from New York, Chicago, and San Francisco, with an idyllic pastoral scene in Iowa. It closed with simultaneous pickups of the Golden Gate Bridge in San Francisco and the lights of New York City.

## **The Specials**

The final program innovation by Weaver is still with us today in the “specials” presented by every network. Weaver started by calling them “spectaculars,” but changed the title when it was obviously impossible to be spectacular at all times. The first one, in the fall of 1954, starred Betty Hutton in “Satins and Spurs.” It had lavish publicity and dominated the ratings. Although the reviews were less than enthusiastic (most commented on the poor quality of the color) the program was still so far superior to the average series episode, it was obvious the people would want more. Another early special which was much more successful was Mary Martin in “Peter Pan.”

The special fills a number of needs. It gives the network a chance to put on programs which can be highly publicized and which will, hopefully, help to pull up the ratings for the time period.

The special is also very important for the advertiser with a seasonal product or with a product which needs extra advertising at certain times of the year. There are some who use television only at these particular times, such as the Hallmark Greeting Card Company. Cards are sold year round, but there are peaks for Christmas, St. Valentine’s Day, and June weddings. It is at such times we see the Hallmark “Hall of Fame” with its top-notch dramatic programs.

Other advertisers who are on the networks throughout the year have certain times when they need to advertise more heavily. Cold-

remedy advertisers like to buy heavily during late fall and winter as do the makers of snow tires and antifreeze. Automobile manufacturers usually buy specials in the early fall when they are introducing new models. For example, it was the Ford Motor Company which made history by paying the completely unprecedented price of \$1 million to show the movie *Bridge on the River Kwai* in the fall of 1966.

There is another advantage of the special sometimes overlooked. Some regular series advertisers may want to sign a 52-week contract to obtain the advantages of being annual customers, but the total cost for the year may be somewhat more than they can afford. It is possible for the network to sign a 52-week contract with them and guarantee that they will be preempted four times in the year for specials. This cuts an annual network budget by one-thirteenth.

By introducing the participation-advertising programs (“Saturday Night Review,” “Tonight,” “Today,” “Home,” “Wide, Wide World,” and specials), Weaver was able to move NBC into a clearly dominant role in the early 1950s. Although DuMont was headed for extinction as a network, both ABC and CBS were laying the groundwork to provide strong competition to NBC.

### **ABC Merger with United Paramount Theaters**

The first move came from ABC, which was in great need of cash to invest in programming. ABC had a comparatively short list of primary affiliates and was not able to place many programs on its secondaries because the schedule was not of NBC or CBS caliber. The station lineup for ABC would increase as the programs improved, but advertisers would not pay for more expensive programming until the lineup was assured.

Since ABC did not have a wealthy parent corporation (as did NBC in RCA) it sought to merge with a company with cash that might be used for programming and other improvements. In the late 1940s Paramount Pictures, responding to pressure from the government, agreed to separate its production and its theater ownership. The company owning the theaters was called United Paramount Theaters and, in February 1953, it merged with ABC to form AB-PT. (We will still refer to it as ABC, as do most people.) This gave ABC the cash with which to provide programs which would attract a bigger lineup of stations.

It took nearly three years to move the merger through the stockholders, through the FCC (the new organization had to be approved as the licensee of the O&O's), to finish the paper work and make arrangements for the first program. In April 1954, ABC announced a multi-million-dollar contract with Walt Disney studios for 26 one-hour pro-

grams per year to be aired on Wednesday evenings. Disney had for several years refused to sign any television contracts until he saw where the medium was going. Once he had made up his mind to try television, an important consideration in signing a contract was his need for cash with which to build the Disneyland amusement center in southern California. ABC agreed to invest in it, but was not enthusiastic and sold off its interest at the earliest opportunity.

In the fall of 1954 the Disney programs came on the air. The series was so attractive that many of the ABC secondary affiliates carried it. For the first time ABC could present a full complement of stations from coast to coast.

For the next twenty years ABC engaged in a series of shrewd and imaginative moves which helped it become a competitive network. ABC continued to invest in a few highly attractive programs and used them as leverage to extend its lineups for less popular shows. For example, one fall ABC signed a contract with Frank Sinatra to do a weekly program. It attracted almost as much excitement as had the first Disney contract because Sinatra had not done any regular television. When both outlets in a two-station market wanted to carry Sinatra, ABC chose between them by seeing which was also willing to carry the "Mickey Mouse Club" (another Disney program) in the afternoons. When it was necessary to choose between two stations to carry NCAA football in the 1950s, the winner was the one which also agreed to carry the "Gillette Saturday Night Fights."

ABC was the first network to make a conscious drive to attract the younger (up to 49 years old) audience with its considerable purchasing power. ABC has consistently emphasized sports over the years and appears to have somewhat more than its share of popular games and meets. It was also very successful in building a schedule to exploit the deficiencies of the competition in the race for ratings. For example, at one time the Sunday evening audience from 8:00 to 9:00 was split evenly between "Ed Sullivan" on CBS and "Steve Allen" on NBC. Both involved variety and comedy. Western programs were just starting to hit their peak in popularity, so ABC commissioned a new one, "Maverick," and scheduled it in the fall of 1958 from 7:30 to 8:30 on Sunday nights. It soon dominated the ratings.

### **CBS Gains Momentum**

In 1955 CBS not only achieved parity with NBC but even took a slight lead in the ratings. This was three years after the Freeze ended and CBS had its own primary affiliates in most markets. CBS had continued to build on the appeal of stars which had motivated it during the talent

raids on NBC back in 1948. By the fall of 1955 many of its most popular programs were built around stars. Its schedule included:

Sunday	Jack Benny, Ed Sullivan, "GE Theater," and "Alfred Hitchcock Presents"
Monday	"Burns and Allen," "Arthur Godfrey Talent Scouts," "I Love Lucy," and "Studio One"
Tuesday	Red Skelton and "The \$64,000 Question"
Wednesday	"Arthur Godfrey and His Friends"
Thursday	Bob Cummings, "Shower of Stars," "Four Star Playhouse," and Johnny Carson
Friday	"Our Miss Brooks" and a number of other sitcoms followed by Ed Murrow's "Person to Person"
Saturday	Jackie Gleason and "Gunsmoke"

### **Program Evictions**

In retrospect, 1954 was an especially significant year in the history of the television networks. We have already noted the introduction of the specials on NBC, the Disney program on ABC, and the CBS star-based schedule which in the following year would put it ahead of NBC for the first time. Even more important was a particularly dramatic move the networks took to establish control over their own schedules. Again, it was NBC that moved first.

Since 1928 the NBC radio network had carried "The Voice of Firestone," an orchestral program with semiclassical selections. Since 1948 the program had been simulcast on Monday evenings on NBC radio and television. The sponsor was happy with the television programs even though they got low ratings. The advertising was largely institutional, and the purpose was to stimulate good will.

The program was prestigious, and NBC liked its presence in the schedule. The sponsor was paying the full rate for the time. But the sponsors of the programs following the "Voice of Firestone" were most unhappy because they had to start with a low "lead in" audience. It was discouraging to start a program knowing that very few were watching and having to hope the audience would reach the desired size by the time the first commercial was aired.

"The Voice of Firestone" on NBC Monday evenings from 8:30 to 9:00 was followed by Dennis Day (a tenor, and Jack Benny, support comedian) and then "Robert Montgomery Presents" (a dramatic an-

thology program). CBS had “Arthur Godfrey’s Talent Scouts” from 8:30 to 9:00, followed by “I Love Lucy” and the Red Buttons comedy-variety program. For Dennis Day to build a respectable audience from scratch against “I Love Lucy” was impossible.

In April 1954 NBC regretfully informed Firestone that the “Voice” could not stay in the schedule the next fall. (Regretfully, because no one likes to “discharge” an old friend who pays the bills promptly and adds luster to one’s business.) “Voice” got additional chances on CBS and ABC, but eventually all three networks refused it prime time because of its low ratings.

Later in the same spring, CBS also evicted some programs and refused to reconsider even when the sponsors threatened to take the matter to the courts. A year later, in the spring of 1955, as CBS was making its major bid to take the lead, it demonstrated its determination to take full control over its schedule. It involved the time from 7:30 to 8:00 P.M., Monday through Friday. The schedules on CBS and NBC were as follows:

Time	CBS	NBC
7:30–7:45 P.M.	News	Music
7:45–8:00 P.M.	Music	News

The CBS reporter was Douglas Edwards and the NBC reporter was John Cameron Swayze. The CBS music quarter-hours involved Perry Como, Jo Stafford, and Jane Froman. The NBC programs were built around Tony Martin, Dinah Shore, and Eddie Fisher. The two networks had almost identical ratings and the sponsors were completely satisfied because they were buying what amounted to a guaranteed circulation. They saw little risk in buying during the time period.

In its move to the front of the ratings, CBS announced it was changing the pattern by scheduling a different half-hour program each night. The old sponsors were invited to bring in their own programs if they had something that met the network’s specifications. If they had no programs of their own, they could have first call on sponsoring what the network chose to schedule. But there was no question about the network’s intent to make the final decision itself.

In spite of strenuous objections from the sponsors, the evening 7:30–8:00 periods on CBS the next fall contained the following programs, some of which were provided by sponsors and some by the network:

Monday "Robin Hood"  
Tuesday "Name That Tune"  
Wednesday "Brave Eagle"  
Thursday "Sgt. Preston of the Yukon"  
Friday "The Adventures of Champion"

Not all were sponsored as the new season opened, but as they did well in the ratings participating advertisers eventually purchased all the commercial availabilities.

### **Network Studies by FCC and Congress**

The overpowering foothold of NBC and CBS and the concomitant difficulty of UHF stations led to a two-and-a-half-year series of government inquiries into their practices. First, the Senate Interstate and Foreign Commerce Committee held hearings to determine whether the 1941 Chain Regulations had accomplished their goals and whether the networks were at least partially responsible for the problems of UHF. In February 1955 the Committee released the Plotkin (majority) and Jones (minority) reports. Both generally criticized the networks for not giving more of their programs to UHF stations in mixed markets. The networks countered by pointing out that the choice of stations in a market was up to the advertiser.

In June 1957 the "Cellar Report" appeared summarizing a study made by the House Antitrust Subcommittee. The following October the "Barrow Report" was issued by an FCC Network Study Staff which had been working for two years. Both reports were sharply critical of network practices.

From the release of the Plotkin and Jones reports in early 1955 to a year after the Barrow Report in late 1957, the networks were subjected to a constant barrage of criticism. It was a troubled time for the networks since all the reports were by groups in positions of great power. Minor new regulations were imposed which had little effect on the networks in the long run. Again, their basic structure had been proven sound and no one could figure out a way to replace or even substantially change them.

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## **8.6 1955–1960 GROWTH OF PROGRAM PACKAGERS**

The most significant trend between 1955 and 1960 was the move of production responsibility away from both networks and advertising agencies. As "program plus time" became too expensive for one or even two advertisers, there was less opportunity for an agency to package a

program itself even if it wanted to. Network attitudes paralleled those of the agencies which ten years earlier had decided program production was a peripheral activity which added unnecessary risks to an already risky business. Although the networks had been successful at doing some of their own production, they were still primarily in the business of being "time brokers." For the networks to produce the whole schedule would have called for major organizational changes which did not seem justified.

The mid-1950s brought a plethora of would-be packagers who offered to bring in series of programs all produced and ready for airing. To some it seemed that everyone who had ever had a program idea was wandering up and down Madison Avenue in New York City with a 16 mm pilot (sample program) ready for display. They descended on the networks and agencies trying to sell series of thirty or so programs based on the pilots.

For a brief period the agencies and networks financed program series based only on their evaluation of the pilots. But they soon learned that while many people could produce an acceptable pilot and some might be able to produce eight or ten good programs based on the pilot, few indeed could maintain the quality for thirty programs.

By the end of the 1950s the networks were making all the program decisions and purchases. Some agencies were remembering the "good old days" when life had been more exciting producing programs and they complained of the trend, but the networks were firmly in control and would never again hand it back. The networks were dealing only with those packagers who had been most successful in the past or who had contracts with the biggest stars, which gave them reason to believe the series would be as good as the pilot.

### **Problems of Producing and Selling Pilots**

By 1957 and 1958 the networks were becoming more competitive, as CBS and NBC were approximately equal in the ratings and ABC was drawing closer to them. Each felt the need for more complete treatment in the pilots to give them more information about the potential of the series. At that time the average half-hour program was being budgeted at about \$50,000, though it might cost five times that much to do a good pilot. This is because in doing a series many of the costs can be divided among all the programs, but in a pilot one must speculate large amounts of money which can be divided among programs only if the series is sold. For example, if the series is built around a railroad or a western town or a colonial home, one must build the set in order to

make the pilot representative of the whole series. Making a pilot also requires an investment in costumes and other items which will be reused only when the series has been purchased.

More important is the fact that a producer must ensure that the star will be available later if the series is bought by the network. Assume, for example, that a packager has a series idea starring Henry Fonda. It may be in September that Fonda agrees to do the pilot. It may then take anywhere from six to nine months to get the script in satisfactory condition, to line up the location for shooting, build the set, and hire and prepare the talent. After shooting the pilot it may take another three months to edit it and get it ready for presentation to the networks. The networks used to make their final decisions on fall schedules in February or March. Perhaps eighteen months will have elapsed between the time Fonda agreed to do the series and the time when the network made its final decision. In the meantime, Fonda would be getting other offers for television programs or motion pictures or roles on Broadway. He must be paid for an option so that if the packager called on him, he would be available.

Taking all these things into consideration, packagers found they were spending up to a quarter-million dollars producing a half-hour pilot.

After completing the pilot, the speculating packager headed for New York City to see three potential customers, probably already knowing which network might be most interested and which would be second choice if the first didn't work out. The procedure would be to screen the pilot for the program personnel of the first network, and then make the sale on the spot or perhaps receive enough encouragement to decide not to show it further. Or, the pilot might be turned down for no better reason than that a key member of the network staff may have had a "bad day" personally. (It might also be that the pilot wasn't very good or didn't fit in with the network's plans.)

On leaving the office of the first-choice network to visit the next one, a packager might or might not have understood that there are no secrets in broadcasting. There is a constant shifting of personnel among networks, agencies, and other companies. It is quite likely that before the elevator reached the lobby, the people at the next network would already know that the pilot had been turned down. When the second network screened the pilot, those watching would be looking for the reasons the first network did not take it. If it became necessary to go to the third network, there would truly be two strikes against the pilot before it could even be shown.

## The “Step” Process

The packagers failed to see the wisdom in speculating so much money under such high-risk circumstances and changed their approach. When the program idea was first conceived, the packager went to the network most likely to be interested and talked it through with only verbal details on story line, settings, star, etc. If the network was enthusiastic about the presentation and asked for a written story treatment, the response was, “Fine, advance me \$5,000 to get it done.” At that point, if the idea seemed good enough, the packager received the \$5,000. Two months later, when the packager returned with the rough treatment, if the network asked for a sample script or two, perhaps \$20,000 more would have to be advanced. At each step when the network indicated it was interested and asked that more work be done, the packager asked for and received more money. Quite logically, this joint progressive development of program pilots was called the “step process.” In the end, there might be a half-hour pilot on which \$250,000 had been spent, some by the network and some by the packager—in different ratios depending on the circumstances.

Obviously no network (or other business organization) ever hands out money without getting something in return. In helping to finance pilots, the network was, with each payment, buying “a piece of the action” and becoming a joint owner with the packager. If profits were made on the series, they would be shared between network and packager according to the arrangement made during the step process.

Working this way has obvious advantages for the packager. When it is time to make a final decision on using a series, the network is considering an idea in whose development it has been involved for a year or more and through which it stands to make money if it is successful. Although the packager has had to share the ownership, the initial investment has been smaller and the chances the series will be used by the network have increased immeasurably.

An important advantage for the network is its ability to exert a measure of control over the series if the ratings are not satisfactory. There have been instances where, when the network suggested changes, the packager refused to listen. If the network is part owner, the packager must be cooperative. Financially, the network could realize impressive profits from successful series when they went into later syndication (see Chapter 9).

In the early 1960s the networks owned (either wholly or in part) over 80 percent of their prime-time programming, and the amount rose to over 90 percent by the end of the decade. Each of the networks had a “house packager,” a wholly owned subsidiary which worked with the outside packager when both owned part of the program.

A typical half-hour taped comedy program premiered on one of the television networks in September 1975 after progressing through the following steps.

August 1974—Producer and star of show get idea for half-hour situation-comedy series.

November 1974—Presentation made to network which approved idea and gave producer \$20,000 to hire writer for pilot script.

January 1975—Script completed and presented to network.

February 1975—Network approved script and gave producer \$250,000 to shoot the pilot.

March 1975—Pilot completed.

May 1975—Network commitment made to air series in fall.

July 1975—Production started.

The budget for each episode was about \$95,000. The above-the-line budget to cover the creative aspects was \$54,000. Among the larger items above the line were:

Cast	\$19,000
Packaging fee to Production Company	5,000
Writing staff	10,000
Individual script	4,500
Royalties	2,000
Executive Producer	4,500
Producer	3,000
Director	3,000
Associate Director	900
Taxes and Insurance	2,000

The below-the-line budget to make the program once the creative costs have been paid came to \$41,000. Among the major items were the following:

Stagehands	\$5,500
Live Studio Rental	7,750
Asst. Director/Stage Manager	2,000
Basic Crew	4,500
Videotape, Recording, and Editing	5,080
Studio Overhead	10,000

Miscellaneous below-the-line items included scenery, construction of sets, drapes, rental of stock scenery, scenic painting, costumes and wardrobe handlers, makeup, rental of rehearsal space, etc.

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## 8.7 FCC ATTEMPTS TO DIVERSIFY NETWORK PROGRAM SOURCES

Network ownership of programming was a matter of concern to members of the FCC and in 1964 Chairman E. William Henry decried the situation. It was his thesis that the program chiefs of the networks exhibited bias when they were choosing among pilots, some of which they owned themselves. He proposed that aside from news and commentaries, no network be permitted to have any ownership in more than half of its prime-time programming. It was called the "50-50 rule." All the rest of the programming would have to come completely from outside sources.

A year later the matter was put on the FCC agenda but was never brought to a resolution. By then network programming was so expensive that no one could imagine who would specifically underwrite the other 50 percent. No agency could recommend that its client spend the money to speculate on a program and then support it throughout the year. By the mid-1960s time and program for a half-hour came to about \$150,000. This meant that a series of 30 programs alone would represent an investment of about \$2,250,000 (at \$75,000 each) and time for 52 weeks would cost an additional \$3,900,000. Since the FCC could find no one except the networks prepared to make such an investment in programming, the idea was dropped.

In 1970 the FCC finally moved to lessen the hold of the networks on program production. Three new Chain Regulations were passed:

The *first* forbade the network from acquiring any ownership in programming done by outside packagers. This failed to change the step process with outside packagers, however, since the networks were still the only organizations prepared to spend millions of dollars in program development. Instead of spending the money and getting part ownership, the dollars they advanced toward pilots were applied against the right or license to show the program on the network.

The *second* regulation barred the network from any syndication of programs to individual domestic stations whether the programs were owned by the networks or not. The importance of this regulation will become clearer in the next chapter.

The *third* regulation was known as the "Prime Time Access Rule" (PTAR). It limited the access a network might have to time on its O&O's and affiliates.

No television station assigned to any of the top-fifty markets in which there are three or more operating commercial television stations, shall broadcast

network programs offered by any television network or networks for a total of more than three hours per day between the hours of 7:00 P.M. and 11:00 P.M. local time. . . .

Excluded from the regulation were news broadcasts or coverage of news events or political broadcasts by legally qualified candidates.

The normal scheduling pattern for all three networks had been to feed programs from 7:30 P.M. to 11:00 P.M. for a total of three and a half hours. PTAR cut that total by a half-hour each night. After a period of indecision, the networks all decided to drop the half-hour from 7:30 to 8:00 P.M., Eastern and Pacific Time, and to continue feeding from 8:00 to 11:00 on weekday evenings.

The regulation has been highly controversial. NBC and CBS opposed it. ABC was neutral since it came just as cigarette advertising was banned from the air by Congress and it meant seven fewer half-hours for which programs would have to be developed. Syndicators liked it. Stations accepted it after they found it to be helpful in the profit-and-loss statements. The FCC twice modified PTAR without announcing a firm decision to keep it or drop it.

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## 8.8 NETWORK PRICING PRACTICES

The most significant trend in the 1970s has been the sale of commercial minutes (and “thirties”) in individual programs with the price determined only by the laws of supply and demand. No longer is there any uniformity of prices throughout a period like prime time from 8:00 P.M. to 11:00 P.M. Rather, each program is evaluated in advance in terms of expected ratings and the probable price agencies would recommend their clients pay. In a single evening on a given network, prices per commercial minute might range from \$50,000 for the average program to \$100,000 for one that was leading in the ratings. When NBC paid \$10 million for the right to show *The Godfather*, it priced its commercial minutes at \$225,000 each. (On computing the price-per-thousand viewing homes, it might turn out to be only slightly more expensive than any other prime-time programming.)

The networks do not offer circulation guarantees. The advertisers cannot get their money back if the rating of the program is less than expected. If ratings are seriously off, however, the network will frequently give additional commercial minutes without charge until the advertiser has reached approximately the number of homes expected when the contract was signed. This would be done only for the largest

advertisers and is the sort of understanding which is never written into a contract.

Over a period of only two or three years in the early 1970s the most commonly sold unit changed from the commercial minute to the "commercial thirty," or half-minute. Advertisers have found the 30-second spot to be almost as effective as the full minute and the prices have tended to be only half the minute price.

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## 8.9 NETWORK-AFFILIATE COMPENSATION

A comparison of the percentages of revenues derived from the networks by the traditional radio station and the modern television station might give the impression that a network affiliation is less valuable now than it was during the 1940s.

**Table 8.1**  
**Station Revenues from All Sources**

	1946 Traditional Radio	1975 Television
From the Networks	22%	9%
From National Spot Business	32	52
From Local Business	45	39

In reality, the network is fully as important to television stations as it was to radio affiliates because the network programs build the audience which makes possible a profitable rate card.

The traditional radio-affiliate compensation arrangement was fairly simple. The networks sold time without reference to programs or program costs. The network rate card was the total of the prices charged by each station. After all the computations at the end of the month, the stations received about a third of their rate card figures for carrying network programs.

Such simplicity continued in the television networks in the 1950s but has disappeared today. In the early 1960s the networks had to give up the sliding scale of compensation. As they took over full responsibility for programming and sold commercial minutes, it became difficult to keep track of separate amounts the advertising agencies might be paying for time and for program. Finally, in the early 1970s the net-

works began to price the commercial minutes in each program solely on the basis of what the traffic would bear.

All three television networks compensate their affiliates and O&O's almost exactly the same amounts although the methods of reaching the figures will differ. The NBC contract is more clearly based in the traditional mold.

*The NBC Affiliation Contract*

1. The contract starts with a "Network Station Rate" (NSR) for each station. This roughly corresponds with the former "one-hour class-A once" figure which was used in the 1950s. Following are illustrative NBC NSR's in 1974 for some of the affiliates:

City and ADI Rank	ADI Homes (In thousands)	Network Station Rate
New York City (1)	6,192	\$10,000
Indianapolis (20)	721	1,625
Knoxville, Tennessee (60)	338	1,100
Albuquerque, New Mexico (80)	228	525
Las Vegas, Nevada (140)	107	375

The NSR is the figure on which later computations are based.

2. The basic time concept in the NBC contract is the "equivalent hour." This is the NBC method for distinguishing among different times of the day and week as the traditional rate cards did by giving various "classes" of time. The equivalent hour is a real, or clock, hour multiplied by a percentage reflecting the value of the time in which it comes. For example:

From 6 to 11 P.M. an equivalent hour is 100 percent of a clock hour.

From 5 to 6 P.M. an equivalent hour is 50 percent of a clock hour.

From 9 A.M. to 5 P.M. an equivalent hour is 35 percent of a clock hour.

There are several more categories of time but the above demonstrates the principle. If an NBC station carries an hour of prime-time programming, it gets credit for an equivalent hour; but it must carry nearly three hours between 9 A.M. and 5 P.M. to merit another equivalent hour. NBC computes station compensation on a monthly basis. First, all clock hours in the month are converted to equivalent hours. Assume that in a given month the affiliate schedule included the network times shown on the next page.

80 clock hrs. of prime time at	100% equal	80	equivalent hrs.
10 clock hrs. from 5 to 6 P.M. at	50% equal	5	equivalent hrs.
50 clock hrs. from 9 to 5 P.M. at	35% equal	17.5	equivalent hrs.
<u>140</u> clock hrs. in the month equal		<u>102.5</u>	equivalent hrs.

When all time categories are included, the average affiliate will have carried network programs for about 150 equivalent hours in a month.

3. Each station waives compensation for 24 of its 150 equivalent hours "as a means of sharing the overhead cost to NBC of providing network service." The rest of the computations are based on the 126 hours remaining after 24 are subtracted from 150.

4. The network multiplies the 126 hours by 30 percent (plus or minus one or two points, depending on the result of individual network-station negotiations). The final basis of compensation is, therefore, 37.8 hours, or 30 percent of 126.

5. The 37.8 equivalent hours are multiplied by the NSR. If, for example, the station had negotiated an NSR of \$1,000, the resulting figure is \$37,800.

6. Finally, NBC deducts 3.59 percent to cover network costs in securing music rights from ASCAP and BMI, the major music licensing organizations. After subtracting \$1,357 from the total, the network pays the station \$36,443 for carrying 150 equivalent hours during the month.

ABC and CBS use different formulas which result in almost identical compensation. Trying to work from a station's schedule and NSR to obtain the amount of compensation it might receive in a month is impossible because there are so many exceptions to the general rules. They vary from network to network.

### *Barter Arrangements*

Since sporting events are regularly presented, let us consider the arrangements for carrying them. In the late 1950s ABC was faced with the problem of bidding for renewal of the rights to carry NCAA college football on Saturday afternoons. It knew the price of the rights would be much higher than in the current contract and could see no way of making money if the stations were to continue receiving compensation for carrying them. (The top figure which ABC or any other network can bid is determined by the amount of money advertisers are willing to pay for all the commercials combined.) ABC communicated with its affiliates its inability to bid for a continuation of college football if stations were compensated for carrying the games. The network then asked if the affiliates wanted the games badly enough to carry them without compensation.

The response was overwhelmingly affirmative since the stations liked the prestige and other advertising business the games attracted. Furthermore, ABC agreed to leave some open commercial spots in the coverage which the stations could sell at the high prices warranted by placement in the popular sport. Actually, the stations probably made more money by waiving compensation for the games and having spots to sell than they could have made going out to buy a program and then trying to sell spots against the competition of football on another network.

There are also "barter" agreements as on the "Today" and "Tonight" programs. The network sells all the commercial minute spots and keeps all the revenues from some of the half-hours while leaving all the commercial spots and revenues in the other periods to the stations. No money changes hands between network and stations.

One network executive has speculated the time will come when networks will offer no dollar compensation to affiliates for carrying its programs. Rather, he predicts, there will be a percentage of commercial minutes left open for station sale to provide the source of station compensation for network affiliation.

### **Comparing Traditional Radio with Modern Television Compensation**

Network station rates have not been raised over a period of several years. Today's figures are almost identical with those of 1967. On the face of it the station suffers because its time has increased in value during a period of inflation. This appears to be borne out by the fact that radio stations in traditional days got 22 percent of their revenues from the networks while the current network compensation for television accounts for only about 9 percent of station revenues.

But, when one looks at station revenues as a percentage of the value of both time and program on the network, the picture is quite different. In traditional radio days when the advertiser supplied the programs the station received about 30 percent of the network time charges. If the computations had been based on time charges plus program charges (since time and program had the same approximate value), the station would have received 15 percent of the larger amount. Figures from 1975 reported by the FCC show that the three networks together took in very close to \$2 billion for time and program value combined and disbursed \$255 million in compensation to affiliates and O&O's. Thus the station currently is getting nearly 13 percent of time plus program value on the network compared with 15 percent some 30 years earlier.

In addition to the \$255 million received by the stations as compensation, there is other revenue from sale of time in programming which has been bartered by the network such as NBC's "Today" and

“Tonight” programs and sports on all three networks. This would bring the percentage of compensation by television networks today even closer to the 15 percent of the traditional radio networks in the early 1940s.

Networks today are certainly more profitable than they have ever been before. The FCC reported the joint 1974 income of the three networks to be \$225 million before taxes. Is that exorbitant? Obviously the networks think not because they are taking all the risks in financing program development not knowing when a program may draw such a small audience that advertisers will not be willing to pay enough for commercial minutes to cover the costs. Those who question the morality of network profits should also be prepared to point to other businesses that would take similar risks and invest the hundreds of millions of dollars in programming now being spent by the networks.

Apparently the stations do not feel the arrangement is inequitable since they continue to prize the affiliation. There is surprising similarity between the traditional and current network-affiliate relationship. In spite of all the regulations which were intended to change that relationship; in spite of the changes necessitated by the move from radio to television; in spite of the different computations used to calculate station compensation—in spite of all those factors, the relationship is comparatively unchanged from the 1940s. The affiliate still carries about the same amount of network programming. It still gets about the same percentage of the combined values of time and program on the network. It still benefits from the network schedule as the main source of its audience. It must be concluded that the relationship is one of mutual advantage and probably here to stay for the foreseeable future.

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## GLOSSARY ITEMS

The following words and phrases used in Chapter 8 are defined in the Glossary:

Alternate Sponsor  
Barter  
Chain Broadcasting  
Chain Regulations  
Commercial Minute  
Compensation

Equivalent Hours  
Exclusive Affiliation  
Fifty-Fifty Rule  
Lead-in Audience  
Line Charges  
Magazine Concept

Mixed Markets	Program Packager
National Spot Business	Public Affairs Programming
Network Affiliate	Public Service Programming
Network Cooperative Programming	Simulcast
Network Owned and Operated (O&O)	Special
Network Primary Affiliate	Sponsorship
Network Station Rate (NSR)	Station Representative (Rep)
Participating Advertiser	Step Process
Pilot Program	Sustaining Program
Prime Time Access Rule (PTAR)	Syndication
	Television Freeze

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## Networks Chronolog 1923–1976

- 1923 First network connecting WEAf with other stations in AT&T network.
- 1926 Formation of NBC and its Red and Blue networks.
- 1928 William S. Paley became President of CBS.
- 1934 Formation of Mutual Broadcasting System.
- ca.1937 Networks had evolved to modern form.
- 1941 FCC passed the Chain Regulations.
- 1943 Supreme Court upheld Chain Regulations. NBC Blue network sold to Edward J. Noble and later became ABC.
- 1945 Peak year of traditional radio networks.
- 1948 Radio networks moved to assert control over their own program schedules:
  1. ABC and “Stop the Music.”
  2. CBS talent raids on NBC via capital gains.
- 1949 Weaver joined NBC to head television network.
- 1950 NBC-TV inaugurated “Saturday Night Review” to be followed in next three years by other participating advertising programs—“Today,” “Tonight,” “Home,” and “Wide, Wide World.”

- 1951 ABC and United Paramount Theaters agreed to merge.  
AT&T inaugurated coast-to-coast network TV facilities.
- 1953 FCC approved merger of ABC and UPT.
- 1954 NBC evicted "Voice of Firestone."  
NBC offered first "spectacular," later known as "special."  
ABC offered first Walt Disney programs.
- 1955 DuMont network ceased operation.  
CBS drew even with NBC in TV ratings.  
First of network studies by Congress and FCC.
- ca.1956 Emergence of outside program packagers.
- ca.1958 Beginning of "step process" in financing pilots.
- 1959 FCC ruled networks could be station representatives only for stations they owned.
- 1960 Networks controlled 80 percent of prime-time programming by owning them either wholly or in part.  
Option time cut to 2½ hours per segment of the day.
- 1962 Networks had to give up sliding scale of station compensation.
- 1963 Option time eliminated by FCC.
- 1964 FCC Chairman proposed "50-50" rule.
- ca.1965 Preponderance of network buys were for commercial minutes.
- 1970 FCC passed three more Chain Regulations.
  1. Networks may not acquire ownership of programs brought in by outside packagers.
  2. Networks may not engage in program syndication.
  3. Networks may not feed more than three hours of prime-time programming to affiliates per night.

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## **NATIONAL SPOT ADVERTISING AND PROGRAM SYNDICATION**

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### **Preview**

Advertisers turn to national spot advertising because their needs vary with the seasons and among their markets and because there are limited commercial availabilities on the networks. In national spot business the advertiser buys time on individual stations through the station representatives (reps) who serve as the stations' sales agencies in the national market.

Stations turn to syndicated programming because they need more nonlocal material than they are willing to accept from the networks. They purchase from syndicators who sell programs specifically made for television (as opposed to theatrical film) at prices geared to the size of each market. Syndicated programming falls into three categories: off-network, original, and barter. In the 1970s there has been a marked increase in original and barter syndication due to FCC regulations. The shorter tenure of most shows in network schedules has

resulted in a shortage of off-network products.

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## 9.1 OVERVIEW OF NATIONAL ADVERTISING

National spot advertising comes into focus as one looks at the overall efforts of the national advertiser. FCC figures for 1974 showed the following distribution of advertising expenditures in television:

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Dollars (in billions)	Categories
\$2.000	National advertisers to networks
1.336	National advertisers to stations (nonnetwork)
1.012	Local advertisers to stations
4.348	Total

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The nonnetwork expenditures of national (and regional) advertisers are known as national spot business, which accounted for roughly 40 percent of the national television dollars and 30 percent of the total.

While the viewer at home sees only individual commercials on the TV screen, the advertiser thinks in terms of a "campaign" in which television is only one aspect. Of the television effort the airing of a single commercial is a very small part. The advertiser's strategy is planned by the year so that everything is part of a unified effort. Before thinking about using television in the campaign, an advertiser must make several basic decisions.

### 1. A Campaign for Each Brand

Many major companies sell more than one brand in a product category, such as automobiles, soaps, cereals, drugs, etc. A company starts by separating its brands for advertising purposes and giving to each a large measure of independence. For example, there are separate advertising campaigns for each of the automotive divisions of General Motors—Chevrolet, Pontiac, Buick, etc. The campaigns are cleared with corporate headquarters. Although there may be common themes among them, they are planned and conducted individually. Similarly, Procter and Gamble or General Foods have different staffs working on the campaigns for their different brands.

### 2. Selecting an Advertising Agency

The advertising department for each brand works with an advertising agency. Unless there has been some unusual development in the past year, the brand will continue with the agency it selected some time earlier. If a change is required, the advertising manager will always

select a new agency which does not have a competing brand in the same product category. Chevrolet, for instance, would never hire an agency which was also serving one of the Ford, Chrysler, or foreign models. An agency might be willing to terminate a brand in favor of a competing one, but that would be rare and would take place only if the new brand were an account substantially larger than the one it replaced.

Agencies are highly competitive. Each of the major ones has a full line of services, including research to evaluate the campaigns and provide data and guidelines for decision making. Each has experts in all of the media and creative personnel for conceiving print and broadcasting advertisements. Brand-advertising managers select an agency from those available largely on the confidence they have in those who head it and the feel the agency seems to have for the kind of advertising desired.

### **3. Setting the Advertising Budget**

The advertiser has to make one more corporate decision (perhaps in consultation with the agency)—the total amount of money to be spent on the brand's campaign. To decide, it is first necessary to determine the optimum point at which:

1. all the advertising dollars will bring in more business, and
2. any additional dollars would bring in too little business to justify their expenditures based on the law of diminishing returns.

The decision may be complicated by other factors such as a lack of credit or cash to advertise as much as may be desirable, or the inability of the plant to produce all the items that might be sold with additional advertising. After taking everything into consideration, the advertiser gives the agency the final decision on how much to spend in the campaign for the coming year.

### **4. Allocating Dollars to Media**

The next decision is the first where the advertiser may lean heavily on the agency. There must be a division of the dollars among the media—radio, television, newspapers, magazines, direct mail, etc. The proportions vary among products since each medium has unique abilities to reach given audiences and to use different persuasive devices. The large advertisers seek a “mix” to take advantage of several or all media simultaneously.

How heavily advertisers will rely on an agency will depend partly on the number and caliber of people in their own advertising departments. Each of the major advertisers with many brands maintains an

advertising department with, perhaps, a hundred or more personnel. Many of them have worked with agencies and are as knowledgeable as the current agency executives. Their dependence on the agency is less and the division of dollars among media may be made internally. On the other hand, a small national advertiser with only a few million dollars to spend may have an advertising department consisting of only an advertising manager and a secretary. Such a manager leans very heavily on an agency to present various options and to suggest how to make decisions.

A typical over-the-counter drug product had a total annual advertising budget in the mid-1970s of \$11,832,000 divided among the media as follows:

\$10,800,000 for television  
1,000,000 for print  
32,000 for radio

Of the television dollars, \$8,700,000 were spent with the networks and \$2,100,000 went to "spot" (the topic being discussed in this section). Of the network dollars, about two-thirds were spent for prime-time commercial openings. All of the radio dollars went to spot. The expenditures were divided evenly throughout the year.

## **The Television Campaign**

Once the agency has been selected for a brand and informed of the amount of money to be spent in television, it can proceed with specific planning. Again, there is a decision-making process which develops in logical sequence.

### *Dividing the Television Dollars*

Aside from production of commercials, there are two broad categories of expenditures in television—network and nonnetwork, or national spot. How much goes to each category will depend on the capacity of each to meet the advertiser's specialized needs. The role of national spot business becomes apparent as we look more closely at network advertising.

### *Purchasing Network Time*

The network money will be committed first for a number of reasons. Networks try to sell their commercial minutes and commercial thirties on an annual basis. In the spring of each year the prime-time schedule

is announced for the fall and advertisers are asked to contract for their purchases. (Contracts for other than prime time are made through the year.) The most desirable locations in the schedule will be sold first to those who will sign annual contracts. The advertiser who waits until the last minute will have to be satisfied with time of marginal value as it is available or with time within specials. This situation may vary when a network is having trouble with the ratings. Its availabilities may be more numerous—but, of course, they are then not as attractive.

The network purchasing decision will normally be made at the executive level of the agency because so much money is involved with each contract and because of the inevitable risk. Even buying only one 30-second spot a week in prime time involves committing some 2 million dollars or more a year—at \$40,000 to \$50,000 per spot. Then, if the competing program on another network turns out to be an unexpected smash hit (e.g., “Stop the Music”), the expenditure may be unproductive.

The advertiser will normally buy more than one location in the weekly network schedules. Since one commercial by itself is likely to have little influence on buying habits, only when there are larger numbers can each reinforce the other so that television commercials become effective. The agency for the large accounts will, therefore, probably place its commercials throughout the schedules of all the networks in an effort to extend the messages to more people and to spread the risk so that the failure of one network program will not be disastrous.

### *Production of Commercials*

It is the responsibility of the agency to see that commercials are prepared and delivered to the networks (and to the stations in national spot business) for airing. This is a function the agency will perform for the client at an additional cost beyond the 15-percent commission allowed on the purchase of media. There will first be a general agreement on the kind of advertising and then discussion of commercials at the “story board” stage. At that point there is a series of drawings and words in “comic book” style (balloons with lines to show who is speaking) to illustrate the idea. Then the agency will be asked to execute the commercial by preparing or contracting for the actual film or tape which is sent to stations and networks. Normally the agency will deal with a production house which specializes in the making of commercials.

It is easy to see that a commercial produced with a big star in some exotic location costs a lot of money. Some of the most expensive have run to well over \$100,000 each. What is more difficult to realize is that the simplest of the national commercials will cost \$20,000–\$30,000

each without any big names or going to special locations. (Local commercials, on the other hand, may be videotaped in a local station at a cost of only \$2,000–\$3,000 each or less). Following is a typical budget of a production house for doing two 30-second national spots. The budget does not include writing the script or the principal talent who is under contract with the advertiser or the final editing of the film. The breakdown is as follows:

Shooting footage (6,000 feet)	\$ 2,560
Production, direction, and shooting crews	11,706
Performing talent (extras)	450
Wardrobe	400
Studio, set, and props	1,967
Location costs	4,510
Rental of equipment	655
Editing costs	400
Miscellaneous	200
Overhead and profit to production house	6,854
	<u>\$29,702</u>

### **Limitations of Network Advertising**

Network advertising has several limitations which force virtually all major brands to use nonnetwork advertising also.

First, there is limited network time available. The television schedule is of a fixed length and cannot be expanded the way a newspaper or magazine can to add more pages when there is more advertising to be accommodated. There are only so many hours in the day and stations will carry no more network feed once they have accepted the normal 60 to 70 hours a week. The number of the most attractive locations in the schedule is even more limited. Only about a third of network programming carried by the typical affiliate falls within *prime* time and the commercial spots between programs are controlled by the stations.

Second, the network purchase is comparatively inflexible throughout the year. We have already noted the desire of the networks to sell on an annual basis. While there may be a limited number of spots opening up during the year, there is little opportunity for advertisers to make major changes in their schedules of commercials from week to week.

Third, the network purchase is even less flexible in terms of the markets the advertiser can reach with commercials. Each of the net-

works has about 200 affiliates throughout the country. The major national advertisers want to reach viewers in all markets and the networks prefer to sell all the stations in one package since it is the most efficient way of doing business. The opportunity to use the network for only a few markets is almost nonexistent. From the network the advertiser normally buys a “uniform blanket” of coverage across the country.

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## 9.2 TELEVISION NATIONAL SPOT ADVERTISING

The job of the brand-advertising manager and agency would be easier if three things were true: if the needs for advertising were the same every week of the year; if the needs were the same in every market; and if there were unlimited choice availabilities on the networks. Since none of these conditions is met, problems remain after network utilization and there is a place for “national spot business.”

By definition, national spot advertising means nonlocal purchases of time for commercials on individual stations. It involves both regional and national advertisers, all but the local retailer whose business does not extend beyond the circulation area of the station. They want to “spot” their advertising instead of buying a network lineup. National spot business enables the advertiser to meet those needs which cannot be satisfied by network purchases. The largest brands use it to supplement network buys. Regional advertisers—like most beer companies—may use it for all their television coverage.

The biggest single advantage of national spot business is its flexibility. The brand manager constantly watches sales figures in every market and is prepared to move more advertising into those with problems on very short notice—a week or a month, perhaps. (With some major accounts 25–30 percent of national spot sales for the average month are placed after the month begins.) The “flights,” or spot-advertising contracts, are becoming shorter and more frequent. Where once an agency would buy spot advertising for a year or six months, many now buy for only a month or two at a time, thus getting maximum flexibility.

Assume an automobile company has decided to spend \$500,000 in spot television during the last two weeks in September in 50 markets. The budget is divided among them in specific amounts. The agency knows from experience that it will probably buy time from 125 of the 180 stations in those markets. Assume the decision on the “flight” was made well in advance, so the purchasing takes place in June and July.

The agency's problem is to decide on the best buys on each of the 125 stations in 50 markets and to sign contracts for airing the commercials.

One can immediately see two impractical solutions. First, the agency could assign fifteen or twenty of its staff to go out by train, plane, or bus to each of the markets. There they would visit each station to find what commercial locations were available during the last two weeks of September and to sign contracts for those they wanted. The purchasing effort would be extremely expensive and the resulting flight might suffer from the difficulty of supervising all those buyers in the field.

A second impractical solution would be to invite each of the 125 stations in the 50 markets to send a salesperson to New York City (or to Detroit) to discuss the availabilities and to make sales presentations. The stations could not afford to have their salespeople on the road for individual accounts and the agency would get little work done if over 100 salespeople were invading the premises, each trying to get in before the competition. (It must be remembered the agency has other accounts and other campaigns. At the moment it is handling the September flight for the automobile company, it may also be involved in five more flights buying time on 500 stations in 200 markets.)

### **The Station Representative**

The solution lies in bringing the agency and the station together through an intermediary organization called the station representative (rep). The rep is a company with headquarters usually located in New York City and with branch offices in other centers of advertising around the country. The rep serves as the station's salesperson in the national spot (nonnetwork) market precisely as the local salesperson works the local market. The local salesperson works with local advertisers and agencies; the rep salesperson works with national and regional agencies.

The majority of national spot television business is handled by some twenty reps who sell time for the 400 largest stations.\* The twenty will vary in the number of stations each represents and in the volume of business. About half are subsidiaries of station groups (Westinghouse, Metromedia, the networks, etc.) and represent only the stations owned by the parent groups. Of the remaining reps, the two with the most stations also had the largest billings:

Blair—72 stations—\$126 million estimated billings in 1974

Katz—76 stations—\$86 million estimated billings in 1974

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\* *Broadcasting*, July 14, 1975, p. 29.

The three network-subsidary representatives are at about the midpoint in terms of estimated dollars billed in 1974, although each represents only five stations.

ABC	\$67 million
CBS	\$55 million
NBC	\$54 million

Regardless of its size, no rep will serve two stations in the same market. The importance of the rep to the station is indicated by the fact that national spot sales account for about half of total revenues to stations.

The rep has contracted with each of its stations to sell time on a commission basis. In radio the traditional rep commission was 15 percent and it is still approximately the same today. As television time became more expensive, the stations thought they should pay lower commissions. The lead in lowering the commissions was provided by the group owners. If a company with five stations asks a rep for a somewhat lower rate in return for all its business, the rep will be inclined to accept. Through negotiations over the years the point has been reached where the normal television rep commission is 7–9 percent.

Theoretically, reps get a percentage of all national spot business on a station whether their sales forces actually complete the contract or not. In recent years more advertising agencies with regional accounts have tended to deal directly with stations and most reps acknowledge they probably do not get all the commissions to which they are entitled. They are philosophical about it since there is no way to police the stations and they hope the lost amounts will stay relatively low.

Just as the local station hires a sales staff to visit local advertisers and their agencies, so does the rep hire a staff to visit national agencies. Some reps will assign an individual salesperson to a few agencies seeking to sell them time on all the stations represented. Other reps will assign an individual to sell time for a few stations (in a geographical area, for example) to all of the agencies.

### **The National Spot Campaign**

Let us return to our agency which has a half million dollars to spend on a September flight in 50 markets. Instructions are passed on to “time buyers” who purchase station time to implement national spot campaigns. This is their sole responsibility and they become specialists in working with the reps. They may receive instructions to spend \$8,000 in Denver, Colorado, and be told what portions are to go for day time, prime time, and fringe time (4:30–6:00 P.M.). They will know the “efficiency level” (cost per rating point) at which they are expected to

purchase. They should pay the same approximate price to reach a thousand homes in Denver during the day that they would pay in Chicago or Sacramento. This is the factor which keeps station rates uniform around the country. A local station manager may raise prices, but if they reach the point where the buyer in New York cannot achieve the required efficiency level, the time will be unsold. Since the buyers work constantly with stations in all markets, they quickly recognize the stations whose rates may be getting out of line.

Preliminary information about most stations can be obtained from *Standard Rate and Data Service (SRDS)*, which is published monthly. Looking under Denver, Colorado, the twenty-seventh largest market in the country, with about 600,000 television households, the time buyer will be able to tell a number of things about the four commercial stations.\*

*KBTV*, Channel 9, rep is Peters, Griffin, Woodward, Inc., ABC affiliate, highest quoted 30-second spot in prime time is \$900.

*KMGH-TV*, Channel 7, rep is Katz Television, CBS affiliate, highest quoted 30-second spot in "The Waltons" is \$1,200.

*KOA-TV*, Channel 4, rep is Blair Television, NBC affiliate, highest quoted 30-second spot in prime time is \$1,500.

*KWGN-TV*, Channel 2, rep is WGN Continental Sales Co., no network affiliation, highest quoted 30-second spot in prime time is \$140.

The time buyer will also have the latest ARB or Nielsen local ratings indicating the percentage of homes tuned to each station at various times in the week. So *SRDS* quotes the price for a spot the buyer might want and the ratings provide information to calculate the cost-per-thousand homes or efficiency of the station for the advertiser.

There is some vital information the buyer cannot get from *SRDS* but must secure from the rep salespeople. First, what availabilities does each station have at the moment? Many of the most desirable locations will have already been sold. The buyer will have to choose from those still available, and only the station itself or the rep knows which these are.

Second, are the prices quoted in *SRDS* what the actual cost will be or are they a starting point for negotiations? In spite of the discrepancies quoted in highest priced prime-time commercial thirties in Denver, it is likely that each network affiliate charges approximately the same. The

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\* *Spot Television Rates and Data, (SRDS)*, Chicago, Illinois, January 15, 1976.

time buyer approaches the purchase as did the local advertiser. If the station has just come out of a good rating period and thinks it will be able to sell all of its availabilities, the buyer will probably have to pay the published price. If the purchase is being made fairly close to the time of airing and if the number of availabilities is high and the latest ratings have been low, the buyer can probably negotiate a more favorable rate.

Another factor influencing price is the category of the spots in the purchase:

“Fixed” means the buyer has a guaranteed spot. This is the most expensive.

“Preemptible” spots are those that sell for a lower price but which the buyer knows may be replaced if another advertiser is willing to pay full price.

“Run of Schedule” (ROS), as noted in the material on local sales in Chapter 7, refers to the least expensive purchases without any guaranteed position in the schedule.

The next step is for the time buyer to call the salespeople at the appropriate reps who have been assigned to the agency. Each rep salesperson gives the buyer the latest availabilities on the Denver station for which he or she is responsible and the price of each. The rep’s availabilities and ratings data and prices are as accurate as those of the salesperson who left the station’s office that morning to sell time locally. The rep salesperson also explains why his or her station is the best buy. Without leaving the office, the time buyer can acquire all the information and sign the contracts for the purchases in Denver.

The station’s sales director is in constant communication with the rep and may go to the New York or a branch office on an average of once a month to discuss problems, go with salespeople to visit the agencies, and talk with advertisers if the agency suggests it.

The reps were especially important to stations which were getting started in the early 1950s. They became the primary circulators of ideas and information about what stations were doing because they were in touch with so many of them. They could advise a manager how much others were charging for their time, where they were getting their programs, and how they had managed to cope with a multitude of other problems in a new medium. Station managers were then turning to their reps for advice of almost every kind.

In recent years spot buying has become both simpler and more complicated. Computers have simplified the work because so much data can be stored and then retrieved. Time buyers today know far more

about stations, their ratings, and their demographics than their predecessors did because of the tools at their command.

But the same technology has also complicated the purchasing. Since so much information is readily available, the agency executives expect the time buyer to use it to pinpoint the desired audiences and to spend money more precisely to reach with the greatest efficiency those who are the potential customers.

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### **9.3 RADIO NATIONAL SPOT ADVERTISING**

The foregoing description of television national spot advertising would have been quite appropriate for radio in the 1940s. In the last three decades the changes in radio have led to corresponding changes in representation. As the number of stations has increased eight-fold, the number of reps has also grown much larger. The biggest of the radio reps are the radio branches of the large television reps and those which are subsidiaries of group owners. Many of the radio reps are regional, specializing in getting business from regional accounts for the smaller stations. Purchases are rarely made within specific programs. The emphasis is on saturation buying which involves larger numbers of commercials spread throughout the day. Because many stations have such low rate cards (and because the reps are paid on a commission basis), getting adequate representation is much more difficult than it would be if they were higher.

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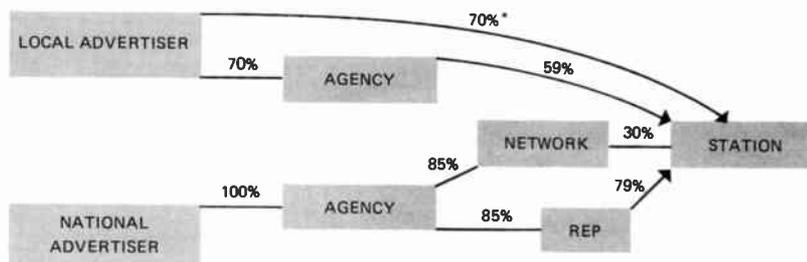
### **9.4 TELEVISION PROGRAM SYNDICATION**

As the typical affiliated television station depends on national spot business for nonlocal and nonnetwork advertising dollars, so does it depend on program syndication for nonlocal and nonnetwork programming. The independent station, which gets no programs from the network, leans even more heavily on the syndicator. By definition, program syndication is the sale of programs directly to stations, either individually or as groups. It normally refers to programs which were specifically produced for television as opposed to theatrical film, and is in units of 30, 60, or 90 minutes with open time for commercials.

The price a station pays for syndicated programming is related to the size of its market. In the 1950s prices were usually quoted with reference to the rate card. A program director might be told that the

## A Dollar Flow Review

The figure below shows the four routes by which dollars flow from advertisers to the stations:



\* The percentage figures are typical but will vary from station to station.

1. Local advertiser deals directly with station and pays approximately 70 percent of the national rate card.
2. Local advertiser buys time on station through advertising agency which retains 15 percent of the 70 percent and pays the station approximately 59 percent of the national rate card.
3. National advertiser buys time through agency on the network and pays 100 percent of rate card to agency; agency pays 85 percent of rate card to network; network gives station about 15 percent of the original charge to the advertiser, or 30 percent of time charges.
4. National advertiser buys time on the station through agency and the station rep. Advertiser pays 100 percent of rate card to agency; the agency pays 85 percent of rate card to the rep; rep gives station about 79 percent of the original charge to the advertiser.

cost of an episode would be the price the station charged for a single half-hour of Class B time. When large units of time disappeared from rate cards, syndicators charged according to the size of the market alone. For example, a half-hour program designed for use in prime time might cost a station in New York City between \$5,000 and \$6,000, while a station in one of the smallest markets could buy the same series for \$100 per episode. An independent in a market is frequently at a disadvantage since its lower rate card does not justify an expenditure

as high as the affiliates are willing to pay. The independent can bargain for more realistic prices only when the syndicator is certain there is no chance of selling to one of the affiliates.

Program syndication falls into three categories: off-network, original, and barter.

### **Off-Network Syndication**

Off-network syndication is sale to stations of programs which were shown earlier on a network. The packager of an entertainment series sells to the network only the right to show the programs during a given broadcast season. At the end of the network run all rights in the series revert to the packager. The normal procedure is to place the programs in syndication and offer them to individual stations. The network on which the program was first seen has no bearing on the affiliation status of potential purchasing stations. A program originally shown on CBS might be purchased in syndication by ABC and NBC affiliates as well as by independents.

Although there was great station demand for program materials in the early 1950s, there were few off-network series available. Of the top ten syndicated programs in 1954, "Badge 714" (called "Dragnet" when it was on the network) was the only one which first had network exposure. When program packagers proliferated in the mid-1950s, the amount of off-network products increased rapidly. Indeed, a major motivation of the packager was the expectation of great profits in later syndication sales. If a network contracted with a packager for a series at \$50,000 an episode (a typical half-hour price in 1960), the entire amount and sometimes more would be spent on production. At the end of the network run the packager would have been reimbursed for approximately all expenses and could do as he or she wished with the programs. This also explains in part the willingness of the networks to invest in packaged series through the step process. They would then share in the syndication profits.

The availability of off-network syndicated series has declined in the 1970s as the networks have revised some of their programming practices. In the early 1950s the television networks followed the radio pattern in that a year of programming consisted of 39 original programs plus a summer replacement. By 1960 it became clear that there was a greater audience than anticipated for reruns. Many who missed a program the first time around would choose to tune in when it was offered again. There was also the chance of some people watching the program a second time if they had liked it enough on the first showing. As programming costs rose, networks began to save money by buying fewer

programs and showing them more often. From the 39-13 pattern the networks gradually shifted to a 24-24-4 typical series year: to cover a period of 52 weeks there would be 24 original programs, each would be rerun once and the time period would be preempted four times for specials.

It normally takes a package of about a hundred episodes to offer an off-network series in syndication successfully. This is because a station does not typically buy off-network with the intention of running one episode a week as they were originally broadcast. Instead, the program director "strips" the series in a time period five days a week. For example, the "Perry Mason" programs appeared on CBS weekly, but a station might use them from 4 to 5 P.M. (or 10 to 11 A.M., or any other time) Monday through Friday. To make it worthwhile for the station to schedule such a series, there should be enough programs so that by running each episode twice, a time period can be filled for up to a year.

When the networks were buying over 30 episodes a year, a successful packager might have enough for syndication after three years or so. As the number dwindled to 24, it would take four or five years on the network to accumulate enough. The problem has become especially acute in the mid-1970s as the three networks have become highly competitive and are changing series much more frequently than they did earlier. Very few current series are expected to last for five years and the prospects for a continuing supply of off-network products are poor.

Off-network series have several advantages for the station. First, it is buying programs which were successful on the network and are, therefore, known to the viewers through extensive network promotion. It is not necessary to introduce a newcomer to the schedule and wonder if it will be accepted. Some original viewers will be glad to see the programs again and, since the series is normally shown in a different time slot, there is a chance to get a whole new group of viewers.

Second, the program director can make a purchase on the basis of a complete rerun "track record" in the ratings. Brochures for a series will not only give the successful ratings history on the network but they will also show how the series has done in various markets where it has been used in syndication against different types of competitive shows. For example, a program director might be looking for a half-hour program when the other stations are running a game show and a sitcom. By checking with the syndicator, he or she can probably find other situations where the proposed program has run against just such com-

petition and have an idea as to its probable success. Since the early 1960s it has been possible for the program director to schedule highly successful network reruns like "I Love Lucy" and "Gunsmoke" ("Marshall Dillon" in syndication) and others which dominated the networks a few years earlier.

### **Another Look at the Television Network**

In the early 1960s a discussion of networks would have covered at least five major aspects:

1. The network was a *time broker* collecting time from stations and packaging it for sale to advertisers. Associated activities were carried out by its news, sports, and public affairs divisions.

2. The network was a *licensee* of five stations in the largest markets.

3. The network was a *station rep* for its O&O's and some of its affiliates.

4. The network was a *program packager* with at least partial ownership of over 90 percent of its prime-time product.

5. The network was a *program syndicator* selling to stations the programs it owned either by itself or in conjunction with outside packagers.

Various Chain Regulations have ruled out the representation by networks of any stations except its O&O's and participation in program syndication. At the same time, by assuming heavier risks in program development, the profits from network operation itself have more than compensated for losses in representation, packaging, and syndication.

### **Original Syndication**

Original syndication is sale to the stations of programs which were designed only for syndication and thus not earlier shown on networks. For several years off-network syndication was the station's primary and almost only satisfactory source of outside programming beyond the network feed and theatrical film. In the late 1960s original syndication, which had not been very successful in the earlier days of television, reemerged.

*Original Syndication  
by Station Groups*

The first significant moves were taken by group owners seeking programming for their stations that was unique and more attractive than network reruns and theatrical film. Group W (Westinghouse) was a pioneer in the field with its "Merv Griffin" and "Mike Douglas" programs. The rationale behind such programming was almost identical with the thinking of the groups when they were starting the networks.

The program director of a station group at the company level might have received an assignment to devise a program to fill 90 minutes a day on the five owned stations with a budget roughly equivalent to the combined value of the time on the stations where it would be shown. This was in accordance with the old rule-of-thumb which said program and time charges should be approximately equal. Assume for illustrative purposes that the figure was about \$5,000 per program.

In working with a program idea like the "Merv Griffin Show," the program director might discover that what he or she would like to do would cost \$7,500 and that cutting the figure by a third would make a substantial difference in quality. Then employing the logic which had led to formation of the networks, groups saw that adding more stations would justify expenditure of more program dollars. The next step would be to go to other stations, especially independents in the major cities, to see if they would be interested in the proposed series. When enough responded affirmatively, the group would be able to proceed with its plans to develop the more expensive variation of the program.

The "Merv Griffin" program can be used to illustrate how a program can remain essentially unchanged while being presented under different conditions. It was started and placed in syndication by Group W. In the late 1960s the CBS affiliates were putting pressure on their network to enter the late-night programming field. There was a diminishing supply of good theatrical film and they wanted more direct competition with Johnny Carson on NBC and Dick Cavett on ABC. When Griffin's current contract ran out with Group W, he was hired to do a late night (11:30 P.M. Eastern time) program on CBS. When the program was unsuccessful and dropped by the network, another group owner, Metromedia, produced and placed the Griffin program in original syndication again.

**The Prime Time  
Access Rule and  
Original Syndication**

Aside from a few programs by group owners, the supply of original syndication material was quite limited until the Prime Time Access Rule became fully effective. It was noted in the chapter on Networks that the FCC ruled in 1970 that a network affiliate in one of the top

50 markets could not broadcast more than three hours of network feed in an evening. A subsequent paragraph in the rule said that the "access time" of the affiliates in the top 50 markets:

. . . may not after October 1, 1972 be filled with off-network programs; or feature films which within two years prior to the date of broadcast have been previously broadcast by a station in the market.

The average affiliate in the Eastern time zone had been carrying three and a half hours of network feed between 7 and 11 P.M. local time plus a half-hour which was apt to come from off-network syndication. Each of them in the top 50 markets was, after October 1, 1972, forced to seek a full hour of nonnetwork material.

The FCC had hoped some of the time would be devoted to local productions which might be related to local interests and needs. However, the economics of the medium led stations to seek other entertainment programming which would be less expensive and which would be better as a vehicle for commercials in prime time. At first there was great confusion and expectation that a court test might be filed against the Prime Time Access Rule which, if successful, would return the situation to its earlier status. When it became apparent the rule would not be overturned by the courts and that the FCC had no intention of dropping it precipitously, program packagers began providing original syndication for the access hour. The series were mostly low budget and somewhat similar to network programming with an emphasis on game shows and wildlife programs. By the mid-1970s the production values of the programs came closer to network quality.

The established packagers have become the leaders because only they can get stations to make commitments based on presentations. Until a series is purchased by a number of stations, it will not be economically worthwhile to go into production. Advance commitments are sought from the network O&O's and from other group owners who are willing to agree to buy only if they have complete confidence in the packager and the stars that are under contract.

### **Barter Syndication**

Barter syndication is the donation of an original syndication program by the advertiser to a station in return for free commercial time within it. Although there were barter syndication programs for many years, the Prime Time Access Rule made them more prevalent and successful. This is illustrated by the experience of Mutual of Omaha and its "Wild Kingdom" program. For several years "Wild Kingdom" had been on NBC at 7:00 P.M. Eastern time Sundays, sponsored by Mutual of

Omaha. When the Prime Time Access Rule became effective, NBC decided not to include "Wild Kingdom" in its schedule.

Mutual of Omaha liked the early evening hour and wanted to continue placing its commercials in the context of "Wild Kingdom" which reached the kind of audience it needed and permitted an excellent commercial lead-in by host Marlin Perkins. If Mutual of Omaha were to go directly into the national spot market, it might not be able to get spots where it wanted them and they might be located in programs less conducive to the success of the commercials. So Mutual of Omaha decided to place "Wild Kingdom" in barter syndication.

The first problem was to obtain from the FCC a waiver which would permit stations to carry a series which had been on the network. The waiver was granted after assurances that the programs would be new and not repeats of what had been presented on NBC. Through its agency, Mutual of Omaha approached stations individually with the following proposition: "If you will put 'Wild Kingdom' in your schedule in the early evening, we will give it to you for free. What we ask in return is that you give us two and a half of the five commercial minutes." Since "Wild Kingdom" had a good ratings history and some characteristics the stations wanted in their schedules, nearly 200 accepted the offer. Because there was no exchange of money between the advertiser and the station, it was a typical case of barter syndication.

The station, by giving away half of the commercial minutes in the program, was adhering to the old formula of equal valuation of time and program. If the value of one of the minutes was \$300, the value of the half-hour (time and program) was \$1500. By giving the sponsor two and a half commercial minutes, the station was in effect paying \$750 for the program and retaining \$750 for the time by selling the other commercial openings. (The Mutual of Omaha barter arrangement was a little better for the sponsor than most; the more standard arrangement is for the advertiser to get only two free commercial minutes.)

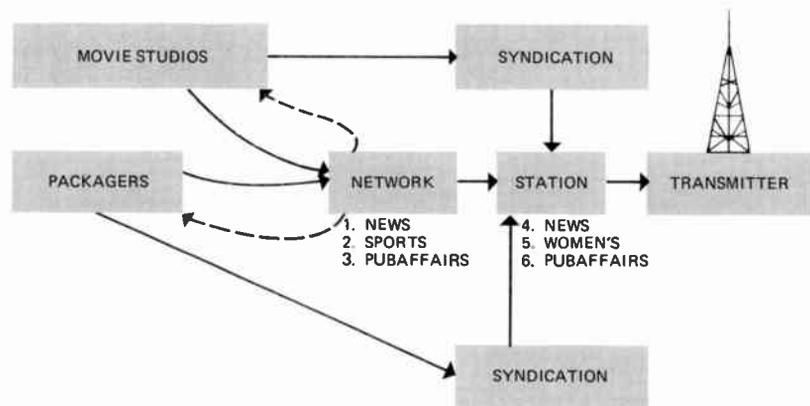
Barter syndication can be identified by the viewer in two or three ways. When the program is introduced, there will usually be the statement, "Sponsored by \_\_\_\_\_." Some of the commercials will be for the advertiser who claims sponsorship and others will be completely unrelated. When the commercials are specifically introduced or given completely by the host, it is also an indication of barter syndication.

At the time that the Prime Time Access Rule led to the growth of half-hour barter syndication programs, network evictions of longer shows also encouraged the trend. The "Lawrence Welk Program" had been in the ABC Saturday night schedule for years and was evicted in

the early 1970s for a reason similar to that which led to NBC's replacement of the "Voice of Firestone" in the 1950s—it was not providing the proper lead-in audience for later programs. When Welk went to barter syndication, the program had an even longer list of outlets than it had had on the network. He persuaded advertisers to pay him for inclusion of their commercials in the programs so that he might pay all his production costs. Then he persuaded the stations to accept the programs for free with the commercials that were already included. The station revenues were made by selling the other commercial spots.

### A Flow-of-Program Chart

As shown below, programs flow to the station's transmitter from the following sources.



1. Stations provide local news programs, some participating women's programs, and some discussion and other public affairs programs.
2. Networks themselves specialize in news, sports, and public affairs.
3. Most entertainment programming specifically for television comes from program packagers. Some programs are delivered to the networks for showing in a season and then return to the packagers for syndication. Other programs go directly from packagers into original or barter syndication.
4. Theatrical film may go to the networks for showing and then return for distribution to stations through syndication. Other movies go directly into syndication after theatrical showings.

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## 9.5 RADIO SYNDICATION

As noted earlier, the primary emphasis in radio syndication is in the provision of the total schedule—normally a music specialization. There is limited syndication of old off-network dramatic series. It might also be said that some of the network-station deals approach barter situations in that there is an exchange of programming without any cash flow in either direction.

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### SUMMARY

National spot advertising and syndicated programming are among the lesser known aspects of broadcasting. However, they are essential to the operation of the station and to meeting the needs of advertisers. Without them the whole industry would become vastly different.

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### GLOSSARY ITEMS

The following words and phrases used in Chapter 9 are defined in the Glossary:

Access Hour	Preemption
Advertising Mix	Prime Time Access Rule (PTAR)
Availability	Program Packager
Barter	Run of Schedule (ROS)
Demographics	Special (Spectacular)
Fixed Rate Price	Station Representative (Rep)
Flight	Stripping a Program
National Advertiser	Syndication
National Spot Business	Time Buyer
Network	
Off-Network Syndication	
Original Syndication	
Preemptible Rate	

# 10

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## RATINGS

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### Preview

Broadcast ratings figures are a response to advertiser needs for information about audiences. There are three basic concepts underlying all measurements: Homes Using Television (Sets in Use for radio), Share of Audience, and Rating. Because a continuous census is impossible, figures are estimated from samples. So many questions are raised about sampling that broadcasters and advertisers joined to form the Broadcast Ratings Council which audits both figures and methods of measurement firms. Advertisers use ratings figures to calculate the cost of reaching 1,000 homes in planning their campaigns. They realize all figures are estimates and depend upon a consistency of measurement to enable them to make valid comparisons among commercial availabilities.

Success in American broadcasting is spelled “R-A-T-I-N-G-S.” As ratings rise, so do the fortunes of networks, stations, program packagers, talent, and syndicators. Money from advertisers flows to highly rated time periods. When stations cannot achieve competitive ratings (as with some UHF stations) they go off the air. When program chiefs produce schedules with high ratings, they get promotions, raises, and bonuses. When their schedules fail in the ratings, they may be fired.

Some of those dissatisfied with broadcasting feel the ratings are a convenient scapegoat for whatever is wrong. They say ratings are valueless, that they are based on inadequate samples, that they give inaccurate results, and that the broadcasters misuse them. Ratings are blamed when a “good” show is dropped and those of lesser quality are retained. *Newsweek*, in reporting on a breach in Nielsen’s security system, commented, “Most recently, Nielsen statistics have all but banished Dick Cavett from the television screen while guaranteeing that limp look-alikes for ‘The Waltons’ dominate fall schedules.”\* The skeptics ask, “How can anyone possibly tell about 70 million homes by surveying only 1,200?” “How can they say some programs are highly rated when everyone knows they are junk?”

The advertisers are ultimately responsible for the importance of the ratings. It is their agencies that buy time by the ratings book to be sure the commercials are seen by audiences large enough to justify their costs. Broadcasters and advertisers spend millions each year for ratings figures on which they base decisions involving billions of dollars. If ratings are of no value, one of two reasons for their use must be given: either those who pay for them are naive or they are perpetrating a fraud. Neither explanation is acceptable.

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## 10.1 BASIC MEASUREMENTS

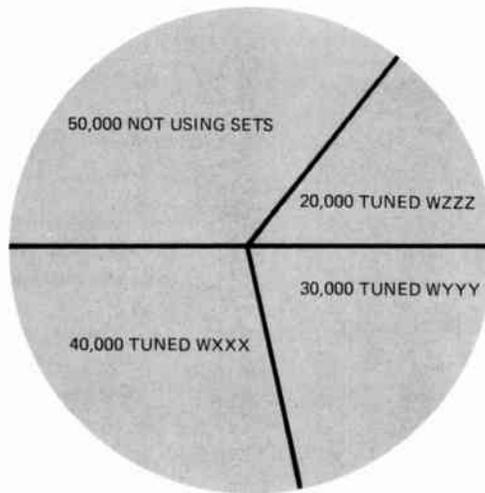
The first questions asked by broadcasters and advertisers about audiences are reflected in three basic concepts: Homes Using Television (HUT), Share of Audience (Share), and Rating.

Assume there is a market containing about 140,000 television homes served by three VHF commercial television stations. Also assume that someone wishing to measure the audience at 7:30 P.M. on a typical

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\* *Newsweek*, July 15, 1974, p. 92.

**Fig. 10.1** Pie chart showing use of television in 140,000 homes.



winter evening could instantaneously check on the receiver in each home. One might find the following:

1. There are a total of 140,000 television homes (homes with television sets).
2. Of the 140,000 television homes, 90,000 have their sets turned on.
3. The 90,000 homes which are using their sets are divided into three groups:
  - a) 40,000 are tuned to WXXX,
  - b) 30,000 are tuned to WYYY,
  - c) 20,000 are tuned to WZZZ.

These figures, diagrammed in Fig. 10.1, are all one needs to compute the three basic ratings figures.

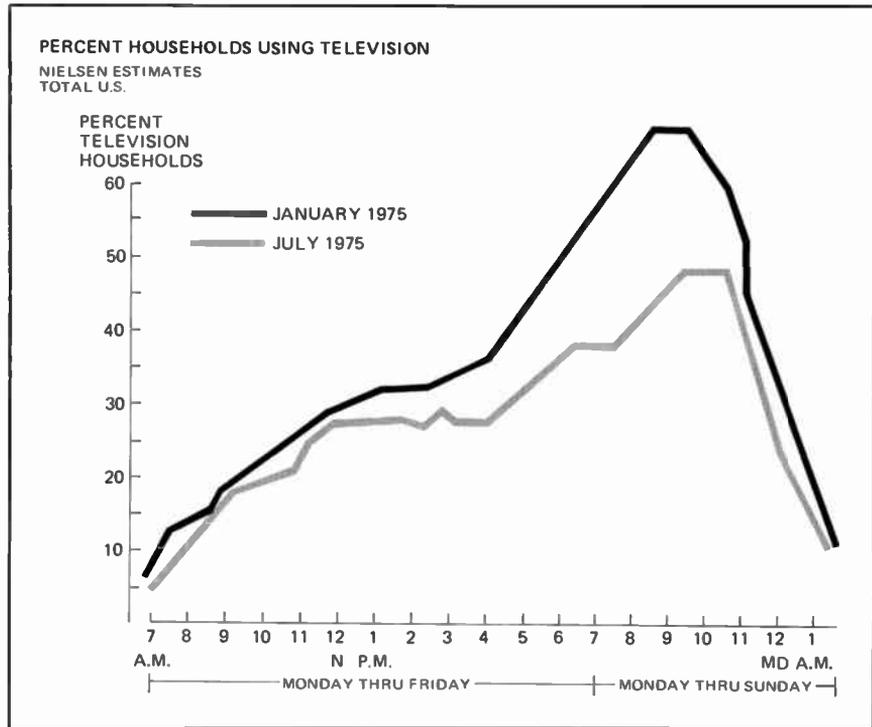
### **1. Homes Using Television (HUT)**

HUT is the percentage of television homes which have their sets turned on. (The equivalent concept in traditional radio was “Sets in Use” or “SIU.”) It is computed by dividing the number of homes using television by the total number of television homes. In our hypothetical market the computation would be:

$$\text{HUT} = \frac{90,000}{140,000} = 0.642 = 64.2\% = 64.2.$$

In common usage, the percentage symbol is dropped from all ratings figures and one would simply say, “The HUT is 64.2.”

During the day the HUT figures early in the morning hover around 5 and rise to a high of 50–70 in prime time depending on the time of



**Fig. 10.2** Nielsen chart reflects difference in HUT figures between mid-winter and mid-summer.

*Used by permission. A.C. Nielsen Company*

the year. (See Fig. 10.2.) HUT figures are comparatively constant from week to week and will not normally reflect programming changes. Although a particular special feature like “The Godfather” or “Roots” may cause a slight increase in the HUT, most shifts in audience are among people who are planning to watch television anyway.

**2. Share of Audience (Share)**

Share is the percentage of those homes using television which are tuned to a given station. It is calculated by dividing the number of homes tuned to each station by the HUT number (not the HUT percentage).

$$WXXX \text{ Share} = \frac{40,000}{90,000} = 0.444 = 44.4\% = 44.4$$

$$WYYY \text{ Share} = \frac{30,000}{90,000} = 0.333 = 33.3\% = 33.3$$

$$WZZZ \text{ Share} = \frac{20,000}{90,000} = 0.222 = 22.2\% = 22.2$$

At any given time in a market the Shares of all stations combined should equal 100 percent after making allowances for rounding off the percentages.

The Share is of value to broadcasters primarily because it is a quick way of comparing the audience of one station with the competition at the same time. In a three-station market where each is a VHF network affiliate, each station would like to have at least a 30 Share at all times to feel it is holding its own. If the Share falls substantially lower, it is probably necessary to make programming changes. Obviously, Station WZZZ above would be in trouble at 7:30 on the night that was measured.

### 3. Rating

To this point the word “rating” has been used as a generic term to denote all figures obtained by audience-measurement organizations. Technically, the Rating is the percentage of all television homes tuned to a given station or program. It is computed by dividing the number of homes watching the station by the total number of television homes.

$$\text{WXXX Rating} = \frac{40,000}{140,000} = 0.285 = 28.5\% = 28.5$$

$$\text{WYYY Rating} = \frac{30,000}{140,000} = 0.214 = 21.4\% = 21.4$$

$$\text{WZZZ Rating} = \frac{20,000}{140,000} = 0.143 = 14.3\% = 14.3$$

When all the Ratings for a given time are added, they should equal the HUT after making allowances for rounding off the percentages.

The Rating is valuable for comparing the station’s audience at one hour of the day with that at another time, or for comparing the audience of one program with that of another at a different time. Advertisers are less interested in knowing how a station compares with its competition than they are in knowing how widely their commercials will be seen. A rating point represents the same number of homes in a market whenever it is delivered by the station. For example, in the market of 140,000 television homes one rating point represents 1,400 viewing homes whether the measurement is made at noon or at 4 P.M. or at 9:30 P.M. But it might represent different numbers of viewers as the audience composition changes.

To summarize: in the hypothetical situation above, the three basic ratings figures are:

1. HUT—the percentage of television homes where the set is being used at a given time.

2. Share—the percentage of viewing homes tuned to a given station at a given time. It is most useful in making comparisons with the immediate competition.
3. Rating—the percentage of television homes tuned to a given station at a given time. It is most useful to advertisers who want to know how large an audience has seen their commercials.

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## 10.2 SAMPLING

These definitions of HUT, Share, and Rating are accurate in the hypothetical situation because it was assumed one could “instantaneously check on the receiver in each home.” Such a check would constitute a census in which information is obtained about every unit in which one is interested. But taking a census of television homes is impractical on a day-by-day and hour-by-hour basis. Because they cannot conduct a census, broadcast-measurement firms base their calculations on information taken from a sample or small group which represents the total. Therefore, in practical situations the word “estimated” should be inserted in each of the above definitions to reflect the way in which they are calculated. While people generally drop the word in conversation, it is significant that the major rating services will always indicate their figures are “estimated.” Thus, it is correct to say, “HUT is the *estimated* percentage . . .,” “Share is the *estimated* percentage . . .,” or “Rating is the *estimated* percentage . . .”

### Possible Sampling Errors

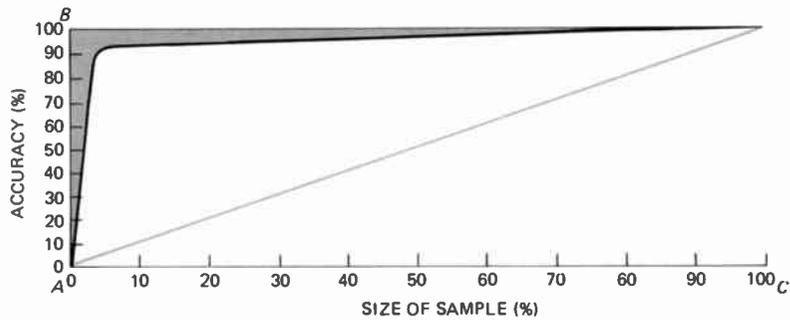
Since few take the time to understand sampling theory, some critics feel free to say that ratings can have little value. Their doubts generally focus on two questions:

1. Is the sample large enough?
2. Is the sample sufficiently representative?

### *Is the Sample Large Enough?*

Nielsen network ratings are based on data from a sample of about 1,200 homes. Thus, the company is generalizing about 70,000,000 homes based on what it learns from fewer than two thousandths of one percent. Is that reasonable? The question really is, “How certain can one be that the ratings are accurate?”

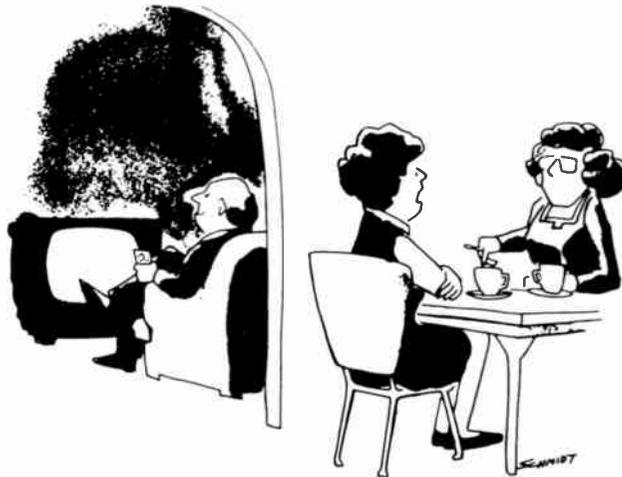
The answer to that question may be found in a chart (Fig. 10.3) which compares the size of the sample with the expected accuracy of the generalization about the total group. On the *A-B* vertical axis is



**Figure 10.3**

plotted the accuracy one can expect from certain estimates or generalizations. On the *A-C* horizontal axis is plotted the size of the sample in terms of its percentage of the total.

On this chart two positions can be plotted by use of common sense alone. If the sample is zero in size so that information has been obtained from nobody, then there must be zero expectation of accuracy about any generalization. On the other hand, if one conducts a census and gets information from everybody, then one would expect 100 percent accuracy. It is no longer an estimate, it is a truth of which one is sure.



Drawn for **Broadcasting** by Jack Schmidt

*"There's no talking to him today....He got a call from a rating firm last night."*

*Reprinted, with permission, from Broadcasting Magazine.*

The key to the acceptance of generalizing from sampling is that the line connecting the two positions already plotted is *not* a straight line. It is not necessary to have a sample of 10 percent in order to achieve 10-percent accuracy. Neither does it require a 50-percent sample to achieve 50-percent accuracy. Rather, the line goes up very steeply at first until it reaches a point above 95-percent expected accuracy and then rises very gradually until reaching the second known point where there is 100-percent accuracy as one takes a census.

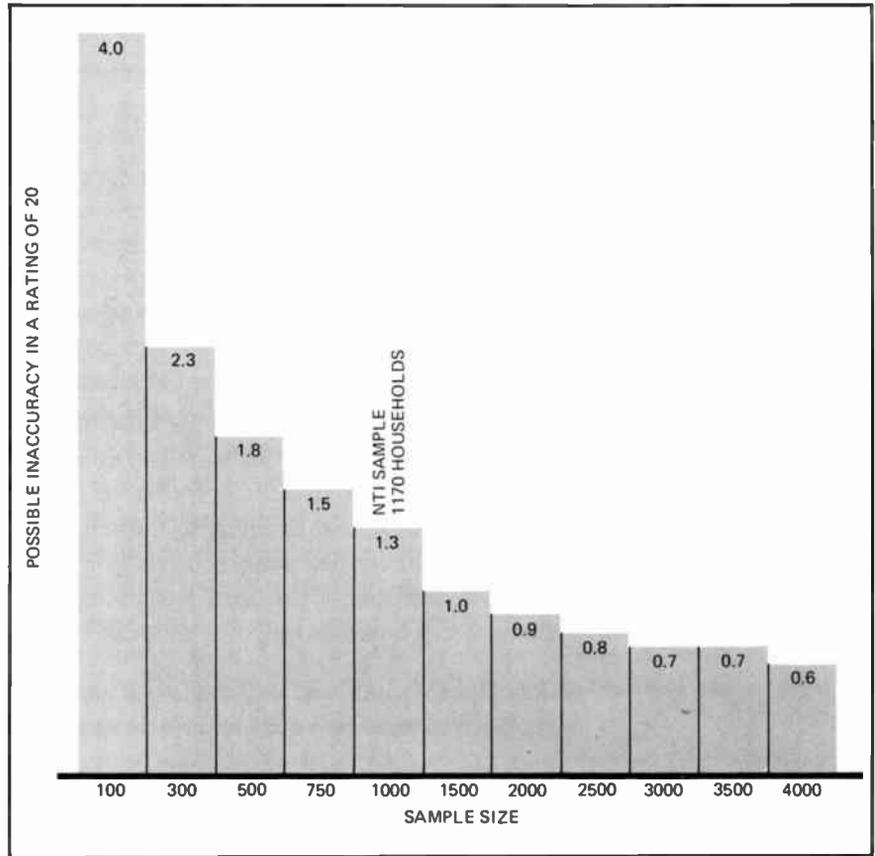
The accuracy of a generalization made from a sample is determined by application of probability statistics formulas. These formulas are the bases on which many decisions are made in other areas of life besides audience measurement. If an automobile manufacturer receives a shipment of a million small parts, they will be subjected to a sampling examination or inspection. If a sample of a given size yields satisfactory results, the whole shipment will be accepted. The United States Census Bureau uses sampling techniques to keep its data current during the ten-year intervals between each census. The dependability of the statistical formulas is a matter of faith which must be accepted unless one is prepared to study the subject intensively enough to perform independent calculations. (Measurement firms will provide the figures on which the statistics are based if a purchaser of the ratings wants to check them.)

#### Nielsen Response to Criticism of Sample Size

To answer those who say a sample of 1,200 homes is too small, the Nielsen Company prepared a graph showing the margin of error (possible inaccuracy) expected in samples of different sizes. Since the margin of error associated with a given sample size is related to the size of the ratings it produces, Nielsen has selected as an illustration a rating of 20 which is about average for prime-time programs. (See Fig. 10.4.) The chart can be read, "If there are a hundred homes in the national sample, a rating of 20.0 would have a possible inaccuracy of plus or minus four. There would be confidence that the true rating was between 16 and 24." As the sample gets larger, there is a smaller spread in the limits within which one can confidently say the true rating lies. When the sample size is 1,000, one can say with confidence the true rating is between 18.7 and 21.3. When the sample is increased to 4,000, the possible inaccuracy is reduced by one half and the true rating would be between 19.4 and 20.6.

#### Sample Size a Compromise

The size of the Nielsen sample (and of the others, also) is the result of the compromise advertisers and broadcasters make between their desire for accuracy and their willingness to pay for it. All ratings firms



**Fig. 10.4** Nielsen graph shows Estimated Standard Error for 20 rating.  
*Used by permission. A.C. Nielsen Company*

would gladly double or quadruple their sample sizes if the purchasers of their services were willing to pay sufficiently higher prices. In effect, advertisers and broadcasters are indicating that the degree of accuracy given by ratings companies is good enough for their purposes and that a higher degree would not be worth what it would cost.

The Broadcast  
 Ratings Council

All major measurement organizations employ statisticians to advise them on the sample sizes necessary for varying situations. However, the public is not forced to put its confidence entirely in the ratings firms themselves. In the early 1960s congressional hearings were held which raised significant questions about audience measurement. The broadcasters and advertisers realized that since ratings figures were so widely

used, it was to everyone's advantage that they be as accurate as possible. The NAB and the networks, in cooperation with other industry-wide broadcasting and advertising organizations, formed the Broadcast Rating Council (BRC) for the specific purpose of auditing and accrediting those companies engaged in continuous audience measurement.

The BRC hires independent auditing companies which study the records of the raters to verify that they are complying with the most stringent standards, not only in the matter of sample size but in all other regards as well. The BRC now evaluates and accredits four major firms which provide most of the audience information regularly used by broadcasters and advertisers:

American Research Bureau, which provides the "Arbitron" ratings for local television and radio stations.

A. C. Nielsen Company, which provides the television network ratings as well as figures for local television stations.

The Pulse, Inc., which provides ratings for radio stations.

Statistical Research, Inc., which provides network radio ratings.

The measurement companies would quickly go out of business if they were not able to answer the questions of skeptics. Faulty ratings are of value to nobody. Broadcasters and advertisers depend on them to make their most critical decisions. The care that is taken to provide accurate estimates is at least as great as the care taken to turn out safe automobiles, safe foods and drugs, and safe cosmetics and many other items, all of which are also tested by sampling techniques. The person who denigrates ratings on the basis of sample size alone would, if floating on a raft in the middle of the ocean, probably proclaim with assurance, "The world is flat."

*Is the Sample  
Representative?*

If one wants to make a generalization about all the students in a college (concerning their political preferences, for example) but obtains information only from majors in one department, the generalization will be highly suspect. Not only must the sample be large enough to satisfy statistical requirements, it must also be representative of the whole student body. If there are equal numbers of students in the various years of study, there should be equal numbers from each class in the sample. If two-thirds of the student body are men, then two-thirds of the sample should also be men. The sample should also reflect accurate proportions of students from different income-level homes and from different areas of study. The sample should be identical with the whole student body in every important characteristic except size.

## Arthur C. Nielsen, Sr. b. 1897



Courtesy: A.C. Nielsen Company

*The man whose name is synonymous with success in television programming entered the field of audience measurement to supplement the market-research services he was supplying to clients in the 1930s. Even today the television "Niensens" account for only about a tenth of his company's total business.*

*His father was a Danish immigrant who learned to speak English in night classes at a business college, married his teacher, and later became Manager of the General Accounting Division of the Quaker Oats Company. Born in 1897, A. C. Nielsen was graduated from the University of Wisconsin*

*in 1918 with the highest grades ever given in engineering. He inherited from his father a skepticism about the values of advertising and a desire to learn why people bought certain products. In 1923 he formed his own market-research company servicing a growing list of clients until the Depression years of the early 1930s. By 1933 the staff of 45 employees had been reduced to the original 6 with which he started and his company was in danger of folding.*

*In 1936, as business was improving, Nielsen became interested in measuring the radio audiences which were so important to his clients. Three years were spent re-researching a method of learning about listening without relying on questions and answers. Another four years were devoted to a pilot project. In 1942 he first installed his "Audimeters" to record radio listening in 800 homes in the eastern and central states. By 1947 he had 1,100 homes in his sample from coast to coast, and in the following year 1,500. (As he measured listening, he was also correlating the advertisements heard in a home with an inventory of brands in the pantry.)*

*In 1950 he bought out the network radio measurement service of C. E. Hooper, who used the coincidental telephone system and who had run for several years the best-known of the ratings companies. In 1963 he, along with other raters, went through intensive investigation by a congressional committee. His service was strengthened by the experience, and there are*

many people today for whom the word "Nielsen's" is synonymous with "ratings."

His company has grown from the original 6 employees to over

12,000. It is the world's largest marketing-research organization serving some 3,700 clients in 22 countries on 6 continents.

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A ratings company must also be sure that its sample is representative of the total population about which it wishes to make generalizations. Given the sizes of population and samples involved, the representative characteristics of the sample are primarily assured by *random* selection of sample participants. Homes and individuals are selected at random when every unit of the population (the group about which the generalization is to be made) has an equal chance of being chosen. If there has been any limitation on the random selection of a representative sample, the company is expected to define the situation and how it was handled so that the purchaser of the ratings can decide if the limitation is significant. For example, in its description of methodology, Arbitron says:

The sample is drawn only from households listed in telephone directories, which eliminates non-telephone households and others not listed in the directory . . . All telephone directories may not have been located and included in the list . . . which is used as Arbitron's sample frame.

When such a limitation exists, the companies conduct special studies to determine if viewing habits might be different in the sample chosen from those in another sample from the whole population. Through personal interviews and diaries, there are simultaneous surveys of viewing in the two groups to test the claim that the data are reliable despite imperfect randomness.

### **Possible Nonsampling Errors**

After the questions about sampling have been answered, there are two nonsampling error possibilities about which questions can also be raised:

1. Are the sample data accurate?
2. Are the data correctly interpreted?

### ***Are the Sample Data Accurate?***

Most of the data collected by audience-measurement firms are verbal in that the respondents answer (either orally or in writing) questions or make choices among possible alternatives. There are three questions

which should be asked in evaluating the accuracy of the generalizations to be made later.

a) Did the respondents *clearly understand* the question and the instructions? Was it clear when they were to make notations in the diaries? Should it be every time the program changed, or when the dial was changed, or when the composition of the audience before the set changed? Or was it acceptable to fill in the information at the end of the evening?

b) Is one response more *socially acceptable* than another? In the 1930s there was great criticism of the soap operas and respondents were reluctant to say they listened to them until the interviewers had taken enough time to establish rapport and understanding. When people are asked to talk about their favorite program they are tempted to elevate to a high priority the news, documentaries, and cultural programs they rarely bother to watch. They may indicate that their favorite station is the educational outlet because they think there may be social prestige associated with viewing it. One should assume that if one answer is more acceptable than another, some people are going to be less than completely truthful.

c) Do the respondents *know* or can they *accurately recall* the information being sought? It would be simpler if a person were to be asked only to describe what he or she is actually doing at the moment. Unfortunately, it is occasionally necessary to ask what happened a few hours or a day earlier. Even when people are asked to write down what they are seeing at the moment, they may forget to do so and fill in the information later based on recall. People have difficulty when they try to remember what they ate at the evening meal last night, unless it was an unusual day or unless the meal was unusual. It takes only a little while to forget what happened in the past.

Recognizing the danger of depending on verbal responses, Nielsen has for many years concentrated on behavioral data where there is no need for recall and less chance the respondent will feel impelled to give socially acceptable answers to an interviewer in a face-to-face situation. The Nielsen data, as will be seen, come from a meter attached to the receiver and require no effort on the part of the viewer.

*Are the Data  
Correctly Interpreted?*

Finally, it is possible to get accurate information from a good sample only to have the measurement company or purchaser draw conclusions which are not warranted. Homes that figure in a rating will range in

degree of attention to the program all the way from 100 percent to zero. Some viewers will do nothing but watch carefully to catch every detail, others will be casually attentive while reading or carrying on a conversation. Some will leave the room and pay no attention to various portions, most likely the commercials.

In summary, criticism of the ratings is not limited to size of sample. There are several legitimate questions to be raised. There are experts who raise them and insist on acceptable answers. If there were faults as obvious as some think, the ratings companies would long since have disappeared and made room for those who would do better.

### **Importance of Consistency**

The broadcaster and advertiser accept a margin of error (both sampling and nonsampling) because they are more interested in comparative estimated data than in the true figures which could come only from a census. It would not bother them too much to learn that all ratings figures are too high or too low so long as the error were consistent and they still had a valid comparison of program and station popularity on which to base the expenditure of their program development and advertising dollars in television.

Similarly, they accept the possibility that some data are inaccurate or that they are not perfectly interpreted. There is the assumption that nonsampling errors also are consistent throughout the data and do not seriously impair the ability to make program and advertising decisions.

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## **10.3 MEASURING THE TELEVISION AUDIENCES**

### **Television Network Ratings**

Broadcasters and advertisers depend on the A. C. Nielsen Company for TV network rating services. Data are collected from a sample by means of the Audimeter, the automatic meter which Nielsen pioneered in the 1930s. When a home has been selected as a member of the sample, it receives \$25.00 upon its agreement to participate and then gets \$2.00 each month and an agreement that Nielsen will pay half the costs of future television repairs. The home is visited by a technician who installs the Storage Instantaneous Audimeter (SIA), a unit which is connected to the set but remains inconspicuously in a closet or some other out-of-the-way place. It stores the information concerning the precise times the set is turned on and the channel to which it is tuned.

Each Audimeter (there is one for each set in a sample home)\* is connected by a special phone line to a central office in Florida. At least twice each day a signal is sent to the SIA commanding it to transmit the stored data about viewing since the last check. As all the data from all the homes are received, they are fed to a computer which can then calculate for each national program the standard HUT, Share, and Rating, even when the program may have been aired at different times in different markets. The great advantage of the current system is the speed with which the computers can process the data. It is even possible to locate terminals in a client's own office so that he or she can receive in the morning a printout on the ratings for two nights earlier. The Nielsen ratings are the lifeblood of the network and network advertising decision making and very important to the affiliates and O&O's who want rough indications of how their schedules are doing.

## **Television Station Ratings**

From the network ratings the national advertiser can make some "educated guesses" about how individual stations around the country are drawing audiences during the hours they carry network programs. There will, however, be some variation in network program preferences from market to market. More important, the network ratings give few clues about station audiences during nonnetwork hours. For that reason it is necessary to have station ratings compiled separately from network ratings.

Both Nielsen and Arbitron provide station ratings for some 200 markets around the country. Both use the diary method. Arbitron offers a service whereby each market is normally measured from three to five times a year depending on its size. The New York City and Los Angeles markets are covered almost continuously (33 weeks a year). The audience in a market is measured during four consecutive weeks which constitute a "sweep." The schedule of sweeps is published so that the stations in every market will know when they are due and the advertisers will know when they were taken. During the sweep periods the stations and networks will carry especially strong programs to improve their ratings.

The Arbitron process starts by calculating the number of homes needed in each week of each sweep in each market to give statistical re-

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\* Note: If either or both sets are turned on, the home is counted only once in the HUT calculations. If both sets are turned on, each is counted in calculations leading to the Share and Ratings figures. It would be possible in that situation for the combined Share figures to total more than 100 and for the combined Ratings figures to total more than the HUT.





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## 10.4 MEASURING THE RADIO AUDIENCES

All television-ratings figures described above have used the television *home* as the basic unit for all calculations. With the change in radio-listening patterns since the 1940s, the basic unit in measuring the radio audience has become the individual *person*.

### Radio Network Ratings

Network audience estimates are provided by Statistical Research, Inc., under the name Radio's All Dimension Audience Research (RADAR). Respondents come from households chosen by the random digital dial (RDD) method. A computer is used to select households in an area from all possible combinations of telephone numbers, thus including the unlisted as well as listed phones. Within each household reached, one person is selected at random and asked to become a member of the sample. If the person agrees, he is called daily for a seven-day period to describe his radio listening. Statistical Research, Inc., reports that the degree of cooperation from panel members is very high.

### Radio Station Ratings

There are two services providing radio station ratings, the Arbitron Company with its diaries and the Pulse, Inc., with its roster-recall personal interview.

The Pulse roster-recall method has been used since the traditional days of radio. A major criticism was that it depended on memory. It was said that even if a person had in her hands a list of the programs from the previous day, there was question about her ability to remember accurately all the tuning decisions she had made. As radio listening has changed with the movement of stations to format scheduling, the recall method has become more effective. When the interviewer asks about the stations heard the day before, he is investigating behavior which has become largely habitual. Since people tend to listen to radio at the same time each day and to the same stations during the day, there is less chance that faulty memory is leading to inaccurate data. When the Pulse interviewer goes to a member of the sample, he asks about radio listening on the preceding day. He places in the respondent's hands a roster of the radio stations in the market along with an "identifying theme" for each of those stations which has provided it. The listener then recalls his listening of the day before. When the data are collected they go to computers where the Sets in Use, the Share, and the Rating (based on individuals) are calculated. The strength of the Pulse method in modern radio is its ability to measure listening wherever it occurred, whether in the home, in the car, or elsewhere.



Drawn for BROADCASTING by Sid Hix

*"To which audience do you credit a teen-ager watching TV, a transistor radio at one ear and a telephone at the other, with a record player on in the background?"*

*Reprinted, with permission, from Broadcasting Magazine.*

## Summary

The major measurement organizations are:

1. American Research Bureau (Arbitron), which uses the diary method to provide ratings for radio and television stations.
2. A. C. Nielsen Company, which uses the diary method to provide ratings for television stations and the Audimeter to provide television network ratings.
3. The Pulse, Inc., which uses the roster-recall personal-interview method to provide ratings for radio stations.
4. Statistical Research, Inc., which uses the telephone-recall interview method (based on Random Digital Dialing) to provide radio network ratings.

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## 10.5 HOW ADVERTISERS USE RATINGS

In the 1930s advertisers looked to the ratings for rough estimates of their audiences for comparison with the competition. With the passage of years, there has been an increasing tendency to go from ratings figures

### **The Telephone-Coincidental Method**

In the 1940s the most-quoted network radio figures were the “Hooperatings” which were obtained from coincidental telephone interviews. C. E. Hooper had a corps of interviewers in 36 key cities. During the hours when the networks were feeding the stations, women in each of the cities would dial numbers selected at random from telephone directories and ask three basic questions:

Were you listening to the radio just now?  
To what station were you tuned?  
What program were you hearing?

When the results of all the interviews were collected, Hooper would calculate the basic SIU (Sets in Use), Share, and Rating figures.

Currently there is no major measurement organization accredited by BRC to use the telephone-coincidental method but it remains an excellent device for anyone wishing to do occasional television surveys at low cost and with a reasonable degree of accuracy. A station or advertiser or college class can organize a group of people to use their own phones and to choose telephone numbers at random. During the time period in which they are interested, each can make calls asking the above three basic questions plus others if desired. The standard HUT, Share, and Ratings figures can be calculated. The coincidental survey draws on one of Hooper’s strongest claims: that it asks people about their activity at the moment and without any dependence on recall.

to actual numbers of homes viewing and the calculation of cost per thousand (CPM)—how much it costs the advertiser to reach each thousand homes. For example, in the hypothetical market described earlier in this chapter, there were three stations. The rating of each could be applied against the total number of television homes to get the number which was viewing each station.

WXXX rating was 28.5, which multiplied by 140,000 (and rounded off) equals 40,000 viewing homes.

WYYY rating was 21.4, which equals 30,000 viewing homes.

WZZZ rating was 14.3, which equals 20,000 viewing homes.

If we assume each station in the market charged \$90 per 30-second spot, the CPM's are calculated when we divide the price by the number of thousand homes:

$$\text{WXXX} \quad \text{CPM} = \frac{\$90}{40} = \$2.25$$

$$\text{WYYY} \quad \text{CPM} = \frac{\$90}{30} = \$3.00$$

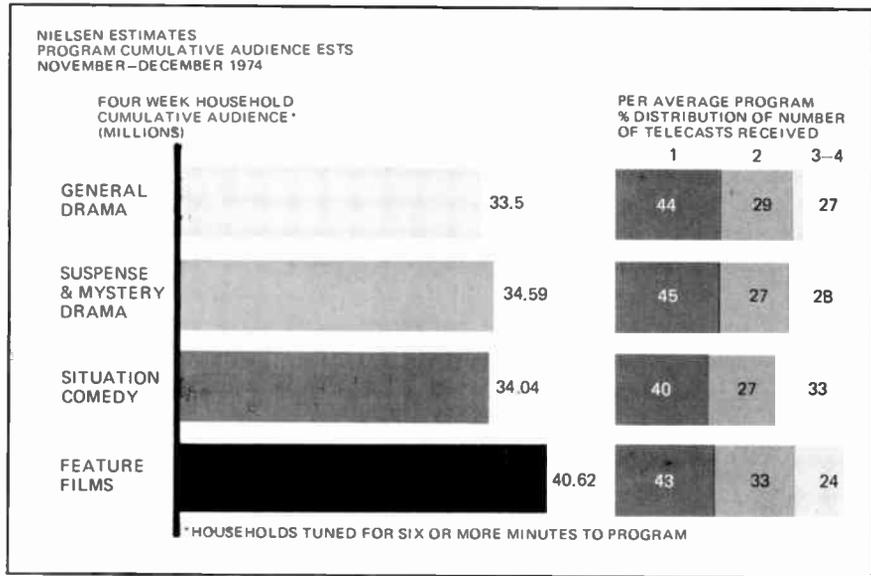
$$\text{WZZZ} \quad \text{CPM} = \frac{\$90}{20} = \$4.50$$

Advertisers can make a clear distinction among the three stations and their comparative efficiency. They can not only see that there are big differences in their audiences, but they have a way of measuring the advantages of some as opposed to others. As one buys time year after year in 200 markets, one is able to establish norms which will govern how much it is reasonable to pay for a thousand homes. For example, if the time buyer for an agency is expected to make prime-time purchases at prices reasonably close to \$3.00 per thousand homes, he or she would jump at the opportunity to buy from Station WXXX which would shortly be able to raise its rates if it could continue to hold its commanding lead. Time on Station WYYY would be a reasonable purchase, but the time buyer would refuse to do business with WZZZ until the station lowered the price fairly close to a \$3.00 CPM. Since all stations in the country are trying to sell time to advertisers through a limited number of agencies, this is a built-in control over station prices. The advertiser will make a purchase only when the CPM is reasonable.

By the mid-1940s ratings firms were delivering Sets in Use, Share, and Rating for each time period and the advertisers were beginning to figure the CPM. There were more data collected but no technology for handling it all. Advertisers had rough measures for differentiating between the audiences they would reach at different times and they had the basis for "playing hunches" but could operate with little of the precision in decision making which is available today. The difference is the availability of the computer and its capacity to store millions of information items and make them available in orderly fashion on command.

## Cume

For example, assume there is an average network prime-time TV program with a rating each week of about 20.0. When the base of 70 million total U.S. TV homes is multiplied by 0.20, this provides an estimate of 14 million homes tuned to the program per week. The advertiser wants to know whether these 14 million homes are the same ones



**Fig. 10.6** Nielsen estimated Average Program Cumulative Audience.  
*Used by permission. A.C. Nielsen Company*

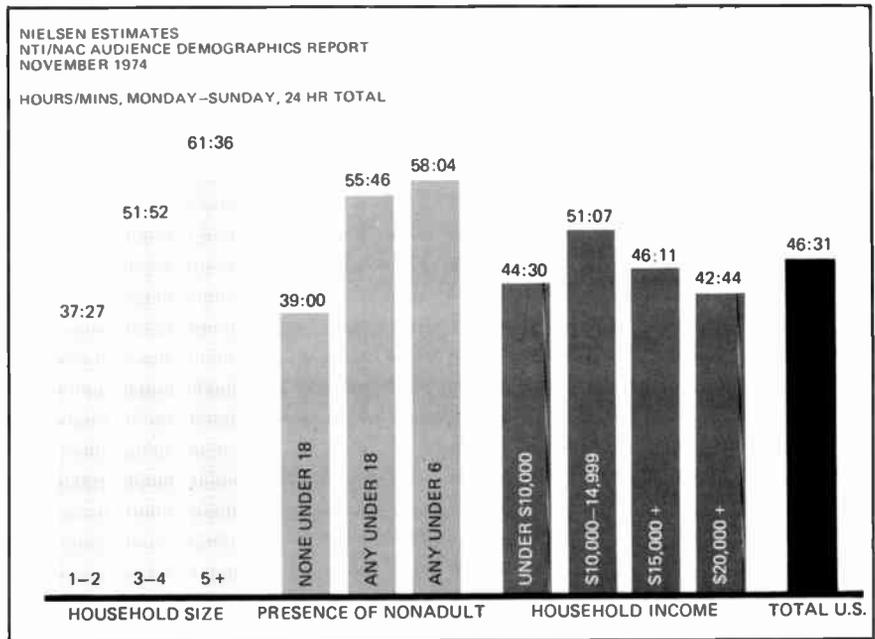
each week, in which case the same people are receiving multiple exposure to commercials, or whether they are a different 14 million each week, in which case the commercial is seen only once in each home.

To answer this, the ratings firms can provide a cumulative audience figure (cume) which will estimate the number of homes that saw at least part of the program at least once. In Fig. 10.6 Nielsen has estimated that in a four-week period 33.5 million homes will see at least one general drama program out of a series of four. The cume is then broken down into categories showing what percentages of the 33.5 million saw one program, two programs, or more than two. This breakdown shows the advertiser what the extent of audience duplication is. Most advertisers try to establish a suitable balance between "reach" (unduplicated cumulative audience) and "frequency" (multiple exposure of duplicated audience).

## Demographics

Demographics refers to audience-composition data: when a home is included in the HUT or Rating, how many people are viewing, what are their ages and sexes, what are their income levels, etc.

At an elementary level, Nielsen has used demographic information to chart the differences in weekly TV usage among households with dif-



**Fig. 10.7** Nielsen estimated Hours of TV Usage per Week by Household Characteristics.  
*Used by permission. A.C. Nielsen Company*

ferent characteristics—the size of the households, the presence of non-adults, and household income. (See Fig. 10.7.)

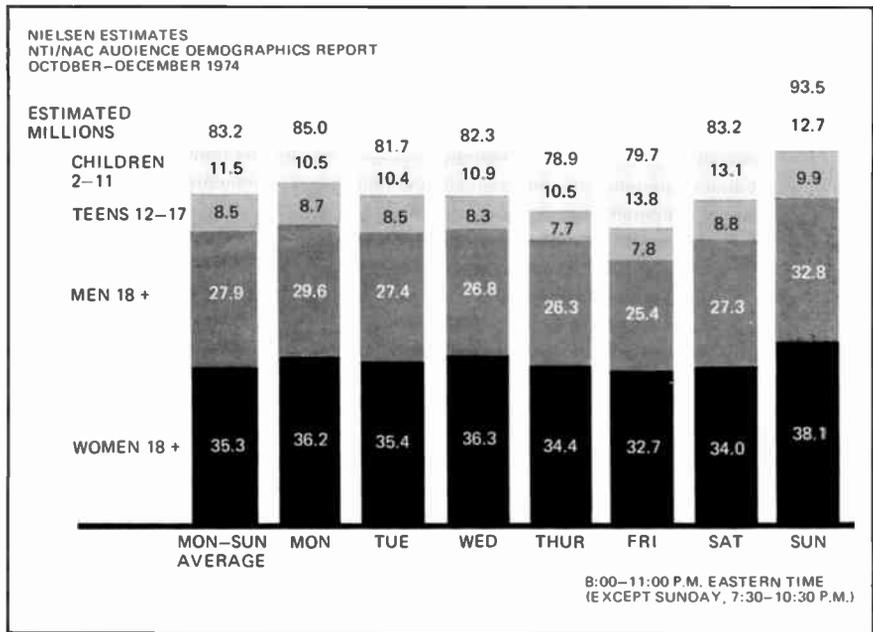
Figure 10.8 shows the estimated millions of persons in various categories (children, teens, men over 18, and women over 18) viewing television during prime time on various evenings during the week.

The division into categories is much broader than Nielsen would provide for an advertiser. One could with equal ease have divided the men and women into groups from 18 to 24, 25 to 49, and 50 and over.

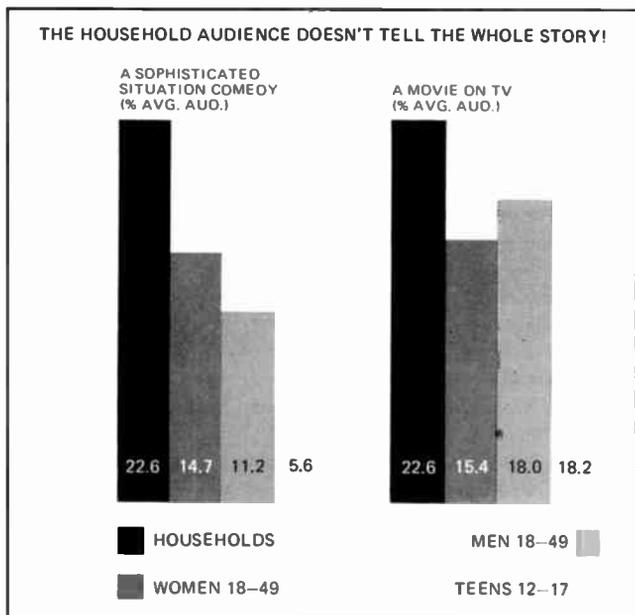
Figure 10.9 shows the three categories of age viewers of two typical television programs. The point to note is that all rating services ask many questions about the characteristics of household members and can then use the information to give very detailed audience-composition or demographic information.

### **A Hypothetical Illustration**

Demographic data are important to the advertiser trying to reach a specific segment of the population. A cosmetics company, for example, may be advertising a line priced for sale to women in middle-income



**Fig. 10.8** Nielsen estimate Persons Viewing by Night of Week.  
*Used by permission. A.C. Nielsen Company*



**Fig. 10.9** The three categories of viewers to two typical television programs.  
*Used by permission. A.C. Nielsen Company*

families (\$10,000 to \$15,000). It is anticipated that the brand will appeal most to women between 25 and 49 years of age since it is too conservative for teenagers and young adults and not conservative enough for women beyond 50. Obviously there will be some sales to high- and low-income women and to older and younger women than the intended audience, but the bulk of the sales will determine the target audience sought on television. Except for certain gift-buying seasons, all sales are expected to be made directly to the women who are the users. Both housewives and working women are important to future sales.

Assume the advertiser has allocated \$5 million a year for network television—about \$100,000 per week. The objective is to buy 30-second spots as efficiently as possible, despite the fact that there will be “waste circulation” to the extent that the audience will include men and others who are not potential purchasers. This makes it all the more important that the campaign be carefully planned.

When the agency talks with the networks, it finds that there are spots available throughout the schedule. The prices for prime-time thirties range from \$20,000 to \$40,000 each, while daytime spots range from \$2,000 to \$8,000. (For simplicity, fringe time will not be considered.) The problem is how to spend \$100,000 per week most efficiently. Four prime-time spots would reach too few women for the price, since children and men outnumber women in the audience during the evening. The money might be spent for 50 of the cheapest daytime spots, which would insure a larger number of impressions but would mean missing out on the working women who are among the best potential customers because they consider cosmetics part of daily attire.

The probable attractiveness of the various programs in which the availabilities are found must also be considered. Some of the programs have “track records” since they have been on the air before. If the programs competing on the other networks are changed, however, the rating of a show being considered may also change. A new program must be evaluated in terms not only of the appeal it should have to the target audience but also in terms of the competition from the other networks and the lead-in from the show which precedes it.

Although it is complicated, it is the kind of problem the big advertiser faces all the time. A solution emerges by feeding all the demographic data into a computer and asking for the expected cost-per-thousand women between 25 and 50 for each program type in each period. Then the “mix,” or combination of daytime and prime-time programs, is determined which will give the largest cumulative audience. The advertiser will then be able to make a decision on what spots to

buy to come as close as possible to the maximum number of exposures to the maximum come among the target audience.

When stations purchase syndicated programs, they are aware of advertiser problems and seek shows which will appeal to the audiences most desired by spot buyers. The problem is essentially the same in planning the national spot campaign except that similar decisions must be made in 200 markets which have different program schedules and different availabilities. Nielsen or Arbitron diary surveys contain the audience-composition figures from which the most efficient mix from the availabilities in each market is determined.

With the development of radio-format stations and specialized programs for homogeneous audiences, it is possible to buy radio time with even more precision and less waste circulation than can be achieved in television. For example, the advertiser who wants to reach teenagers buys time on a rock station. If the target is women aged 25–50, a MOR station is chosen. If the advertiser wants to reach men aged 25–50, all-news and MOR stations are combined. A major difference from television is that instead of buying spots in specific programs, on radio many more spots throughout the day are bought in a saturation campaign that will reach the largest possible audience to the particular station.

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## SUMMARY

Ratings are obtained by sampling techniques, and the most crucial questions about them concern the size and representative characteristics of the sample. Ratings calculations yield estimates of the true audience figures which could be obtained only through a census. Current ratings are of great importance to our system because broadcasters and advertisers consider them good enough for their purpose—making choices among various alternatives. Those who have great concern about the role ratings play can more profitably level their criticism at those who use them than at those who produce them.

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## **GLOSSARY ITEMS**

The following words and phrases used in Chapter 10 are defined in the Glossary:

Advertising "Mix"	Roster Recall
Availability	Sampling
Cost Per Thousand (CPM)	Saturation Campaign
Cumulative Audience (Cume)	Sets in Use Index (SIU)
Demographics	Share
Diary	Storage Instantaneous Audimeter (SIA)
Homes Using Television (HUT)	Sweep
Margin of Error	Telephone Coincidental
Prime Time	Telephone Recall
Random Digital Dialing	Time Buyer
Random Sample	Waste Circulation
Rating	
Representative Sample	

# 11

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## SECTION 315 AND THE FAIRNESS DOCTRINE

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### Preview

Section 315 applies to the use of stations by political candidates themselves while the Fairness Doctrine applies to all other aspects of campaigning and to the airing of controversy about subjects of public importance. Under Section 315 broadcasters are required to give candidates reasonable access to the air waves and to afford equal opportunity to all aspirants for a given office. The broadcaster is not permitted to censor what a candidate wishes to say. The Fairness Doctrine applies the same principles when someone speaks for a candidate or when political advertising is aired. It also provides that when one side of controversy is aired, the licensee has a responsibility to give the public a chance to hear the other side. While Section 315 was clearly stated in the Communications Act and has been comparatively unchanged in three decades, the Fairness Doctrine grew step by step from almost unnoticed beginnings through winding

paths which were far from clear at the time. It is, therefore, difficult to define, open to many interpretations, and troublesome both to those who enforce it and to those to whom it applies.

Because of the scarcity of radio frequencies, the Government is permitted to put restraint on licensees in favor of others whose views should be expressed on this unique medium . . . It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount.\*

The most intense clashes between the functional and literal points of view concerning free speech have come in the context of Section 315 and the Fairness Doctrine. In the former, the Congress applied a fairness concept to the use of broadcast facilities by political candidates. In the latter, the FCC extended that fairness concept to all political campaigning not covered by Section 315 and to all other situations where broadcast schedules enter the field of controversy. Though they are in their application quite separate and distinct, Section 315 and the Fairness Doctrine are both implementations of the same fairness concept and are treated seriatim in this chapter.

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## 11.1 BROADCASTING AND THE ELECTORAL PROCESS

This country is and will remain democratic to the extent that its government is responsive to the will of its citizenry. The primary check the people have on their elected officials is the ballot, which gives them an opportunity to determine who shall occupy local, state, and federal offices. This makes the electoral process the most sacred of all American possessions and one which cannot be violated with impunity.

When Americans look at the potential impact of broadcasting on our society, they turn to politics first. In his campaigns of the 1930s, Franklin D. Roosevelt used radio to appeal directly to the people and to bypass the printed press which reported the mostly negative reactions of reporters and editors to his candidacies and programs. By the late 1940s many of those running for office were using radio, and it had been clearly demonstrated that use of the medium could be critical. Today we know that while radio and television are incapable of converting the vote of a committed individual from one candidate to the opponent, broadcasting can still be the crucial factor in determining the outcome of an election.

Broadcasting's strength lies in the fact that many elections are determined by the votes of large numbers who are either at the neutral point in preference or so close to it that radio and television can be

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\* *Red Lion Broadcasting Co., Inc., et al. v. Federal Communications Commission et al.*, 395 U.S. at 390, June 9, 1969.

effective in moving them. There have been Presidential elections in which the shift of only 50,000 votes throughout the country would have caused a different winner. Those 50,000 and perhaps millions more are apt to be swayed by the candidate who employs the best makeup artist, has the most pleasing speech, or is the most appropriately dressed. Candidates know that the vote of the person who is barely off the point of neutrality when entering the polls counts as much as the vote of someone who is very heavily committed. This helps explain why so much political advertising appears to be lacking in logic. Decisions by those in the middle of the political scale frequently depend on small factors, and recognition alone may be the most important.

### **Section 315 and the Electoral Process**

It was with appreciation of the sanctity of the electoral process and from fear that broadcasting might somehow be used to pervert it that Congress enacted Section 315 of the Communications Act. Its purpose was to minimize the possibility that broadcasters might swing elections through unregulated use of their stations. Its method was to ensure that all candidates for an office have equal opportunity to use a station's facilities.

### **The "Equal-Time" Law**

It is common practice to refer inaccurately to Section 315 as the "equal-time" law. In actuality, it rarely (perhaps in 2–5 percent of the cases) requires equal time. In the great majority of instances there is provision for equal opportunity, which in our society is a very different matter.

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## **11.2 THE ORIGINAL LAW, KEY AMENDMENTS, AND INTERPRETATIONS**

Some provisions of Section 315 can be confusing. This discussion starts by looking at it as originally enacted and then moving on to changes that have been made by congressional action and by FCC and court interpretations.

Congress repeated in the 1934 Communications Act a section of the earlier Radio Act which covered use of stations by candidates in political campaigns:

Section 315. If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station, and the Commission shall make rules and regulations to carry this provision into effect: *Provided*, That such licensee shall have no power of censorship over the material broadcast under the

provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate.

There are five major considerations in Section 315 as enacted, as amended by Congress, and as interpreted by the FCC and the courts.

1. Broadcaster's discretion to permit political use.
2. Definition of "candidate."
3. Definition of "use."
4. Definition of "equal opportunity."
5. Prohibition of censorship.

### **Broadcaster's Discretion**

The section starts with the word "if" which implies that broadcasters may or may not extend the use of their facilities to political candidates. At the end of the paragraph is a very explicit statement that the licensee is under no obligation to permit political use of its station in a campaign. As a practical matter, however, a station would have to find unique circumstances to justify "sitting out" an election. Every station is required to return to the FCC sooner or later for a renewal of its license "in the public interest." Since our system of government is rooted in the electoral process, it would be difficult to persuade the Commission to renew the license if the station had refused to permit the use of its facilities in campaigning.

### *Broadcaster's Discretion— Partially Removed in 1972*

In spite of a high degree of participation in political broadcasting by radio and television stations, Congress amended Section 312 of the Communications Act in 1972, adding the following to the list of reasons for which the Commission may "revoke any station license or construction permit":

For willful or repeated failure to allow reasonable access to or to permit purchase of reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for Federal elective office on behalf of his candidacy.

Although the above was not part of Section 315, it had the effect of removing some of the broadcaster's discretion. In itself, it did not, however, materially change the situation since most stations had been and continued accepting candidates in their schedules.

### *Broadcaster's Discretion Further Limited by FCC Interpretation*

In 1976 the FCC issued a ruling which further violated the concept of licensee discretion in political broadcasting. For two decades WGN in Chicago had followed a policy of refusing to sell political time on its TV and AM stations in units of less than five minutes each. The man-

agement shared with others the feeling that it was inappropriate to merchandise candidates as one sold soap—in 30- and 60-second spots. Its policy, therefore, was to sell them time only in units large enough to make possible discussion of the issues.

During the 1976 Illinois primary for the Republican nomination for the Presidency of the United States, President Ford's committee complained to the FCC that it had not been able to buy the short spots it wished. The Ford committee was joined in its complaint by the National Black Media Coalition and the United Auto Workers who felt that requiring a minimum purchase of five minutes was unfair to the poorer candidates. The Commission in a 5–2 decision ruled that the Communications Act as amended required the stations to sell the short announcement time to “allow reasonable access.”\*

### Definition of “Candidate”

Section 315 refers only to broadcasts of the candidates themselves. If a supporter of the candidate appears in his or her behalf or if there is a political announcement in which the candidate does not appear, the broadcaster is guided by the Fairness Doctrine, which is treated later in this chapter. Generally, the Fairness Doctrine has been extended to all political broadcasting except when the actual candidate is involved.†

Through many decisions and guidelines the Commission has very specifically defined the three characteristics of candidates who require Section 315 treatment by stations.

1. They must have made a *public announcement* of candidacy. This can be done in a public speech or in a news conference or in a letter to a newspaper or in some other public manner. The fact that everyone assumes a particular office holder will run for reelection is not significant—he or she must have made a public announcement. Even saying that one is planning to run is not enough to entitle a candidate to 315 status; it is necessary to make an explicit declaration of candidacy.

2. They must have met the requirements making it *possible for people to vote for them*. The requirements vary from state to state, but they must have done whatever is necessary either to get their names on the ballot or to be write-in candidates.

3. They must be *eligible to serve* if elected to office. If after election they would be found to lack an age or residence or other require-

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\* *Broadcasting*, March 8, 1976, p. 21.

† In 1970 the FCC enunciated the “Zapple” doctrine in a letter to the Counsel of the Senate Communications Subcommittee. Generally, it states that if time is sold to a designate or supporter of a candidate, the Fairness Doctrine requires that designates or supporters of the opposing candidates are entitled to equal opportunity.

ment, they are not legally qualified candidates, even if the laws of their particular states make it possible for people to vote for them.

The size of one's constituency or one's chances of winning are of no significance whatever. In many elections there are those whose names may be known to virtually none of the electorate and who are completely ignored by the press and the odds makers. But, if they meet the above criteria, they are entitled to exactly the same treatment as an incumbent who is expected to be reelected by a landslide.

An illustration of the importance of the public declaration of candidacy is frequently found in the experience of legislators, governors, and mayors as they near the end of their terms. It may be that everyone in a constituency assumes an incumbent will run for another term and the individual may, in fact, have said he or she expected to be a candidate. Many have been given time by a station for a regular "report to the people" in which they chat about what they have been doing on the job and interview colleagues and voters. Such reports can be kept on the air up to the moment that the office holder officially announces his or her candidacy and must then be removed unless the station is prepared to give equal opportunity to all the other candidates.

#### **Definition of "Use"**

When a candidate enters a studio and makes a plea for votes, he or she has "used" the station, and Section 315 requires that all other candidates for the same office have the same opportunity. The Commission has ruled repeatedly that a candidate "used" a facility even though no plea for votes was made. In fact, any appearance by a candidate during a campaign, where he or she was readily identifiable, meant that the opposition had guarantees to equal opportunity under the original Section 315. It did not matter that the candidate claimed there was no political motivation for the appearance. Neither did it matter if the appearance was in a dramatic production or a weathercast or an old movie.

In the winter of 1972 Pat Paulsen, actor and comedian, announced that he was a candidate in the New Hampshire primary for the Republican nomination for President of the United States. He not only made the required public announcement, it was possible for the people in New Hampshire to vote for him and he was qualified to serve as president if he were elected. In the eyes of the Commission he was a "legally qualified candidate." The immediate consequences of his candidacy were as follows:

1. NBC-TV informed him that it would not go through with a commitment to use him in two upcoming specials.

2. The NBC O&O stations decided not to use two segments of a syndicated series, "The Mouse Factory," in which Paulsen had been the host.
3. NBC-TV extended 30 seconds of free time to two other candidates after it had inadvertently shown the movie "*Where Were You When the Lights Went Out?*" in which Paulsen appeared for half a minute.\*

In November 1975, Ronald Reagan announced his candidacy for the 1976 Republican nomination for president. On the same day an FCC designated speaker pointed out, "Television stations that broadcast old Ronald Reagan movies will be liable for equal-time demands by other Republican Presidential candidates."†

*"Use" by a Station Employee*

A problem can arise if a station performer decides to run for office in the circulation area of the station, no matter how obscure it might be. His or her appearance constitutes use. If an on-the-air reporter is running for a seat on the local school board in a small suburb of the city in which the station is located, the station has three alternatives:

1. It can suspend the reporter from air duty for the duration of the campaign; or
2. It can offer to each of his or her opponents as much time on the air as the reporter uses; or
3. It can seek a waiver from the opponents in which they agree they will not seek equal time provided the reporter makes no mention over the air of being a candidate or in any other way uses the appearance to further his or her election. In practice, most broadcast performers will not seek public office unless they are sure the waivers will be forthcoming.

*Emergency Incumbent Reports and "Use"*

There is no question about the application of Section 315 if an incumbent candidate uses broadcast facilities to report to the people on routine matters—all opposing candidates would be entitled to the same opportunity. But, the first time an incumbent president running for reelection sought to report on an extremely urgent crisis, the FCC found itself in a position of not knowing how to respond. In 1956, the major candidates for the presidency were incumbent Republican Dwight D. Eisenhower and challenger Adlai Stevenson. There was a crisis in the Middle

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\* *Broadcasting*, January 31, 1972, p. 40.

† *New York Times*, November 31, 1975, p. 22.

East climaxed by a joint Israeli-French-British invasion of the Sinai peninsula and occupation of the East bank of the Suez Canal.

On Wednesday, just six days before the election, President Eisenhower was given time from 7:00 to 7:15 P.M. on all networks to explain our government's interpretation of and position on events. Immediately Stevenson and a minor-party candidate sought equal opportunity or equal time since the President had not been charged for his usage of the networks.

In response to network requests for a ruling, the FCC said the question was too important to answer on short notice and thus left the networks with no guidance. Later in the month, after further consideration, the Commission ruled that the President's address had been exempt from Section 315 since he was using facilities to report to the people on an international crisis. Eight years later the FCC reaffirmed the principle and ruled that Barry Goldwater was not entitled to equal opportunity to respond to a preelection speech by President Johnson concerning a crisis in American-Russian relations.

*Candidate "Use"—  
Not Applicable to  
News Programs*

The most important change in Section 315 came in 1959 when Congress passed an amendment which has led to many questions and problems. In the winter and early spring of that year there was a primary campaign for the Democratic nomination to the Chicago mayoralty. One of the candidates was Lar Daly, a "perennial candidate." He has run for the Presidency of the United States (and many other offices) and achieved minor recognition as a Johnny Carson guest in Uncle Sam costume. His opponent was the incumbent, Mayor Richard Daley.

Throughout the primary campaign the local television stations covered incumbent Daley in such noncampaign activities as welcoming the visiting President of Argentina and opening the March of Dimes campaign. Lar Daly protested to the FCC that incumbent Daley was getting an unfair advantage from news coverage of mayoral duties and asked that the Chicago stations be notified they must report equally extensively on his (Daly's) activities.

Matters can pend before the FCC for months and years under normal circumstances. But, the Commission is aware that when a Section 315 issue is raised, it must be handled immediately or irreparable harm may be done. On receipt of protests and inquiries, it acts with the utmost speed. The Chicago stations explained their position to the FCC and emphasized that the film clips were included in their regular newscasts and were the kind of thing they would normally carry about the mayor at any time of the year.



Legally qualified Candidate Lar Daly making television appeal  
*Photo courtesy of Broadcasting Magazine*

By the narrow margin of 4–3 the FCC agreed with Mr. Daly that appearance of a candidate on a news program constituted “use” under Section 315. Telegrams were sent to the Chicago stations and for the remainder of the primary campaign the stations were required to give equal news coverage to Messrs. Daley and Daly.

The FCC decision was especially stunning to the broadcasters because it reversed a unanimous ruling of two years earlier. A candidate for Judge of the Detroit Common Pleas Court complained that his opponent had received exposure on local news programs when he was given a temporary appointment pending outcome of the election. The FCC responded that there was no evidence “. . . that the broadcast was more than a routine news broadcast by Station WWJ-TV in the exercise of its judgment as to newsworthy events.”\* The line of reasoning seemed to have no bearing on the *Lar Daly* case.

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\* *Broadcasting*, February 11, 1957, p. 84.

Whatever the reason, the FCC had reversed itself and had created an intolerable position for major incumbent candidates. In less than two years the country would be choosing a president, one third of the senators, and all members of the House of Representatives. If the *Daly* decision were to stand, no network or station would cover the newsworthy activities of any of the candidates for the above offices or for a host of state and local positions. If there is one thing which will move Congress and the administration to swift action, it is the threat that they may be deprived of all news coverage of their activities when seeking reelection. With dazzling speed, both Houses of Congress passed bills, a joint conference committee worked out a compromise which was passed by both Houses, and it was sent to the president, who signed it on September 14, 1959. The amendment read:

Appearance by a legally qualified candidate on any—

1. *bona fide* newscast,
2. *bona fide* news interview,
3. *bona fide* news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or
4. on-the-spot coverage of *bona fide* news events (including but not limited to political conventions and activities incidental thereto),

*shall not be deemed to be use* of a broadcasting station within the meaning of this subsection. Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance. (emphasis added)

The intent of the amendment is clear: broadcasters are to be free to use their own judgment about what is newsworthy and should be included in news programs. If a station deems one or some candidates more newsworthy than others, it may report on those it wishes and omit coverage of the others.

The biggest problem with the amendment was the definition of *bona fide* news interviews and events. Two criteria have emerged from FCC decisions and statements:

1. The broadcast must have been *regularly scheduled*. If a program like “Meet the Press” or “Face the Nation” wishes to invite only some of the candidates, that is permissible because the programs are ongoing year round and the networks can use their judgment as to who is newsworthy. But a station or network cannot broad-

cast a brand new interview program two months before Election Day and have it exempt from Section 315.

2. The second criterion of *bona fide* news programming is that the broadcaster be in *control of the coverage*. It must have been the broadcaster's decision to carry it and he or she must be able to drop it or carry only a portion of it if preferred.

*"Use" and Presidential Press Conferences*

In 1964 the Commission was very sharply divided in responding to an inquiry from CBS as to whether it might carry presidential news conferences as *bona fide* news events without incurring a Section 315 obligation to give equal opportunity to other candidates. CBS pointed out that it had a longstanding practice of carrying such news conferences. While all the Commissioners agreed that networks might tape news conferences and use segments of them in regularly scheduled newscasts, a bare majority of 4-3 responded that carrying the news conferences as a whole would mean having to give equal opportunities to opposing candidates. It was considered significant that the president himself controlled his press conferences.

In June 1975 President Ford, after saying for months he would run for election in 1976, finally made the official specific announcement which, according to the Commission, made him a legally qualified candidate. In the following three months he held only one news conference, which was closed to broadcasters since its airing would entitle his opponents to equal opportunity. CBS again went to the Commission asking that presidential press conferences be ruled *bona fide* news events which might be carried without incurring a Section 315 obligation.

In the eleven years since 1964, presidential news conferences had gained in importance and television had grown so that people were depending on it as a primary source of information. If there were no change in policy, it would mean that for more than sixteen months (July 1975 through October 1976) there would not be a single presidential news conference on television.

There had been major changes in the Commission and in the situation since 1964, and in September 1975 the FCC issued a new interpretation which found carrying presidential news conferences to be *bona fide* news coverage. It then took the next step of ruling that news conferences of candidates for *all* offices were subject to the judgment of the broadcaster as to whether or not they might be included in the schedule as news.\*

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\* *Ibid.*, September 29, 1975, p. 20.

**Definition of “Equal Opportunity”**

The Act provides that if one candidate uses a station, his or her opponents must have equal opportunity. If one received free usage, the others are entitled to equal time. If the first candidate purchased time, the others are entitled to equal opportunity to make a similar purchase. If the opponents do not have enough money to match the first candidate, he or she will have more time than they will.

In many major elections there is one party or candidate with more money than the rest. In 1972 the Republican Committee for the Reelection of President Nixon raised over \$50 million and spent great amounts on television. The Democrats, who had much less money, purchased less time. Occasionally the candidate will be a person of great wealth and willing to use his or her own money for campaigning. Section 315 was written in the context of a free-enterprise society where all persons have equal opportunity to purchase goods (and broadcast time) as long as they have sufficient funds. Every candidate is guaranteed an equal opportunity, but there are few elections in which opposing candidates have equal time.

Equal opportunity refers not only to the amount of time involved, but also to its “quality” in terms of expected viewers. Whether the time is sold or given free, it would not meet the requirements of Section 315 if one candidate were on the air at 7 P.M. and his or her opponent were scheduled just before sign-off at 1 A.M. the next morning. Normally stations put opposing candidates on at about the same time in the schedule. If the time is sold, the price must be the same for all candidates.

*Definition of Equal Opportunity—  
“Lowest Unit Charge”*

It was the practice of many broadcasters to charge candidates according to the rate cards which penalized the purchaser of a small amount of time. Congress amended Section 315 to specify that the station could charge the candidate only as much as the lowest unit charge which would apply to the advertisers who bought in great quantity. This provided office seekers with the advantages of the greatest possible frequency discounts, even though none was likely to purchase so much. Thus the equal-opportunity provision applied not only among candidates but between candidates and regular advertisers.

*One-Time Suspension of Equal Opportunity—the “Great Debates”*

One of the broadcasters’ primary arguments against Section 315 has always been that it prevents people from hearing debates between the major candidates. The presidential candidates themselves would not pay to share time and the stations could not give them free time because that would require extending the privilege to all the minority candidates, who are normally numbered in the scores.

In the presidential election of 1960 the situation was unique in several respects. Neither of the major candidates (Richard M. Nixon and John F. Kennedy) was an incumbent. Each wanted all the television exposure he could get. Each was a skilled debater with confidence in his own ability. When the networks asked the candidates if they would engage in televised debates, each responded affirmatively.

The broadcasters made a request to Congress, and Congress acquiesced because each of the candidates had signified his approval. The outcome was the following:

*Resolved . . . That that part of Section 315 (a) of the Communications Act of 1934, as amended, which requires any licensee of a broadcast station who permits any person who is a legally qualified candidate for any public office to use a broadcasting station to afford equal opportunities to all other such candidates for that office in the use of such broadcasting station, is suspended for the period of the 1960 presidential and vice presidential campaigns . . .\** (emphasis added)

The resulting Nixon-Kennedy confrontations were known as “The Great Debates” and many feel they were significant in Kennedy’s victory at the polls. It is certain that all heavily committed party members felt that the winner in the debates was the one with whom they already agreed. Most observers feel that the neutral viewers were favorably impressed with the Kennedy “bearing” and that Nixon’s “five o’clock shadow” and general lack of poise during the first of the four confrontations worked against him.

The broadcasters were hopeful that the 1960 experience might be a breakthrough possibly leading to a total repeal of Section 315 and certainly relaxing it with respect to major candidates for the top offices. In subsequent presidential election years Congress failed to take similar action because there was no unique situation where both major candidates favored the debates. In 1964 Lyndon Johnson was an incumbent who had profited from presidential exposure and did not feel great need for more. In 1968 and 1972 one of the candidates was Mr. Nixon who had been the debate route before and would have no part of it again.

*Equal Opportunity—  
Debates as News  
Events*

After the 1959 amendment excluding *bona fide* news programs from Section 315 there were new questions raised about broadcasting campaign events. In 1962 broadcasters in Michigan and California asked if they might air as news coverage debates between major candidates which had been arranged by others. The Commission responded that,

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\* Public Law 86-677, 86th Congress, August 24, 1960.

regardless of who made the arrangements, they were still debates and the minority candidates would be entitled to equal opportunity. In July 1975 the Commission was asked to take a new look at the question. The FCC changed its position and said stations might carry such debates with one important stipulation: the events must have been arranged by someone other than the broadcasters or the candidates. Thus, if the League of Women Voters or some similar organization arranged for a debate between the major candidates, the broadcasters may decide to cover it as a news event without having to give equal opportunity to the minority candidates.

The first provision of such debates came in the 1976 presidential campaign. While it appears that there will be more “debates,” a number of questions are still unresolved. For example, does the principle extend to other federal and to local elections? If so, does it mean that the public will have significantly less opportunity to hear minority points of view? Second, the Commission stressed that the debates not be under control of either broadcasters or *candidates*. But no candidate will go into a debate without being sure that he or she faces no inherent disadvantage in the format. In 1976 the two major candidates had their representatives negotiate with the League of Women Voters concerning the arrangements. Does this violate the stipulation that candidates not “control” the debates?

### **Prohibition of Censorship**

Section 315 is very specific in stating that the licensee “shall have no power of censorship over the material broadcast under the provisions of this section.” There are no qualifying phrases and there are no exceptions.

For many years this provision placed some stations in an untenable position where they were truly on the horns of a “damned if you do and damned if you don’t” dilemma. The problem was that laws in some of the states held the broadcaster liable for everything that went out over the airwaves, and if an individual said something for which he or she might be sued, the station could be sued also. The existence of the dilemma was considered a good reason for the broadcasters to argue that Section 315 should be abolished entirely.

The problem was resolved by some stations in an illegal fashion which they didn’t like but considered essential under the circumstances. In the studios of a radio station might be found a sign announcing that all political scripts had to be submitted 48 hours in advance and the candidate was not permitted to deviate from the script by a single word. (The Commission later ruled that scripts could *not* be required in advance.)

Most candidates complied with the station's rules without too much opposition. When a script was submitted, the station lawyer would read it to see if there were any possible provocations for a lawsuit. If any such material was found, the candidate would receive a friendly call indicating that a casual legal glance over the script had revealed that it was possible that the candidate could be sued for something he or she had planned to say. (It was not indicated the station could be included in the suit also.) Upon hearing about it, nine times out of ten, the candidate, wanting to avoid a lawsuit, would take it out of the script, no matter what he or she thought the opponent really deserved.

On rare occasions the candidate would insist upon the right to say what he or she pleased and would claim to welcome a court case to bring everything out in the open. The station's lawyer would not argue and the candidate would come into the studio, eyes ablaze with anticipation of all the trouble about to fall upon the head of the opposition. As the candidate read the script the control room engineer would be following along. Just about the time the legally dangerous words or sentences were to be spoken, the engineer would reach for a cigarette or a cup of coffee and carelessly happen to hit a switch which kept the studio feed from going to the transmitter. By the time the difficulty was repaired, the candidate was beyond the danger spots and few in the audience would have any idea what had happened.

### *The WDAY Case*

The dilemma was finally resolved by a Supreme Court decision. In a North Dakota senatorial race in 1956 one candidate had time on station WDAY and accused his opponent of "conspiring to establish a Communist Farmers Union Soviet right here in North Dakota." Suit against WDAY was brought in the courts of North Dakota and appealed to the Supreme Court which ruled that "Section 315 grants a licensee an immunity for liability for libelous material it broadcasts."\* It pointed out that to rule otherwise would mean that states could punish licensees for actions required by federal law. Since the *WDAY* case in 1959 stations have not had to worry about the legal consequences of uncensored speeches by candidates.

### *Poor Taste*

There still remains the problem of political material which might be in such poor taste that it would offend members of the audience or even lead to riots or other disturbances. In the summer of 1972, Mr. J. B. Stoner was a candidate in the Georgia Democratic primary for nomina-

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\* Farmers Educational and Cooperative Union of America, North Dakota Division v. WDAY Inc., 360 U.S. at 535, June 29, 1959.

tion as a United States Senator. He bought time on several stations for the following 30-second political announcement:

I am J. B. Stoner. I am the only candidate for United States Senator who is for the white people. I am the only candidate who is against integration. All the other candidates are race mixers to one degree or another. I say we must repeal (Georgia Senator) Gambrell's civil rights law. Gambrell's law takes jobs from us whites and gives these jobs to the niggers. The main reason why niggers want integration is because the niggers want our white women. I am for law and order with the knowledge that you cannot have law and order and niggers too. Vote white. This time vote your convictions by voting white racist J. B. Stoner into the run-off election for United States Senator. I thank you."\*

Stations were reluctant to run the spot, but they had no alternative under Section 315. A petition was filed with the FCC by the Atlanta Chapters of the National Association for the Advancement of Colored People and the Anti-Defamation League. The Commission responded that censorship might be justified only if a speech represented a *clear and present danger*. Unless there were reason to believe that the airing of the spot would cause riots or other disorders in a matter of hours, the freedom of the candidate to speak uncensored was paramount.

Theoretically, candidates can use any offensive language they wish and be as obscene as they deem desirable. One might, for example, make a campaign speech against pornography and proceed to show the most explicit scenes from the most objectionable films. Without doubt, the response of the Commission would be that it would favor or excuse station censorship only in the presence of clear and present danger. (Fortunately, most candidates would regard objectionable material as highly ineffective and would avoid it in their desire to win votes.)

### **Summarizing— Broadcasters and Campaigns**

The following major generalizations may be made about the responsibilities of broadcasters in political campaigns:

1. Although Section 315 says that broadcasters may use their own discretion about allowing time to candidates during campaigns, the practical truth is that they must make their facilities available if asked. The Communications Act permits the Commission to revoke a license if candidates for federal office do not receive reasonable access, and the Commission would also find it difficult to renew a license in the public interest if licensees refused to be part of the electoral process.

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\* In Re: Complaint by Atlanta NAACP, Atlanta, Ga., 36 FCC 2d 636.

2. Section 315 applies only to the candidates themselves. To be a legally qualified candidate, one must have made a public declaration, have done whatever is necessary so people can vote for him or her, and be qualified to serve if elected. All noncandidate uses of broadcasting are covered by the Fairness Doctrine which in campaigns implements the philosophical approach of Section 315.

3. A candidate has “used” broadcast facilities whenever he or she appears in readily recognizable form except in news-type programs.

4. All candidates are entitled to equal opportunity except in news-type programs. If broadcasters decide to cover press conferences or debates arranged by outside groups, there is no requirement that other candidates be given the same coverage.

5. The only justification for censoring candidates would be the overwhelming evidence that a clear and present danger would exist if they were permitted to say what they wanted.

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### **11.3 CONTINUED CONTROVERSY ABOUT SECTION 315**

Section 315 will continue to be controversial. Philosophically, the broadcasters consider it an infringement upon their freedom of speech to be required to afford reasonable access to all federal candidates and to be required to give equal opportunity to minority candidates of whom few have heard and for whom fewer would vote. When broadcasters are required to carry certain materials they are denied the right to exercise their own guaranteed freedom of speech.

Pragmatically, the broadcasters point out that in many elections there are large numbers of fringe candidates who meet all the legal requirements and are entitled to an equal opportunity along with the two or three who have the best chance of winning. They claim they could better serve the public if they could offer free time to the leading candidates without having to extend equal opportunity to all the others.

Without question, the broadcasters will continue to press for change, but there appears to be little chance that the Section will be entirely repealed. They are opposed by an unexpected and somewhat unnatural alliance between groups at the two extremes of the political spectrum. The conservatives so distrust the networks that they will insist on keeping Section 315 as a way of preventing the “Eastern Liberal Establishment” from expanding its influence. At the same time, the liberals have so little confidence in the smaller stations throughout the

country that they believe Section 315 is necessary to protect the free circulation of ideas by candidates in small communities.

Even though the broadcasters may try to argue that the original scarcity of the airwaves which prompted regulation in the first place no longer exists, their media have now become so strong that few outsiders want to see them free of restraint with regard to the most important aspect of our democracy—the political process.

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## Section 315 Chronolog

- 1934 Section 18 of the Radio Act of 1927 became Section 315 of the Communications Act of 1934.
- 1956 Incumbent presidential candidate Eisenhower reported to the nation on the Suez Crisis and the FCC ruled that opposing candidate Stevenson was not entitled to equal opportunity.
- 1957 In *WWJ* case FCC ruled that candidate for judge may not demand equal opportunity if opponent appears in newscast.
- 1959 In *WDAY* case the Supreme Court ruled that station may not be sued in state courts for carrying alleged defamatory material uttered by candidate it was not permitted to censor.
- FCC ruled that Lar Daly was entitled to equal news coverage in Chicago mayoral primary.
- Congress amended Section 315 to remove *bona fide* “news-type” programs from equal-opportunity requirements.
- 1960 Congress passed resolution suspending Section 315 equal-opportunity provisions from presidential and vice-presidential elections in 1960, thus making possible the Kennedy-Nixon “great debates.”
- 1962 FCC ruled against further debates between major candidates at state level because they would violate equal-opportunity provision.
- 1964 FCC ruled that broadcasts of presidential press conferences were not *bona fide* news-type programs exempt from equal-opportunity provisions.
- 1970 In letter to Nicholas Zapple, Senate Communications Subcommittee Counsel, FCC extended to supporters of candidates the equal opportunities of candidates themselves.

- 1971 Congress amended the Communications Act:
1. to permit revocation of license for failure to afford reasonable access to candidates for federal elective office,
  2. to require stations to charge candidates only lowest unit charge for purchased time,
  3. to set limits on campaign expenditures.
- 1975 FCC reversed two rulings related to the 1959 amendment:
1. Presidential (and other) debates might be carried as news events by broadcasters without extending equal opportunity to all candidates if:
    - a) the broadcasters had neither arranged the debates nor held them in studios, and
    - b) the candidates had not arranged the debates.
  2. Presidential (and other candidate) press conferences might be carried as news events without equal-opportunity requirements for other candidates.
- 1976 In *WGN* case the FCC ruled that “reasonable access” meant willingness to sell 30- and 60-second spots.
- Carter-Ford presidential debates sponsored by League of Women Voters and carried by the networks.

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## **11.4 THE FAIRNESS CONCEPT LEADS TO THE FAIRNESS DOCTRINE**

The Fairness Doctrine, like Section 315, illustrates the conflict between the literal and functional points of view with respect to the issue of free speech. It represents an extension by the FCC of the Section 315 philosophy to other areas of controversy. The lines were first drawn in the late 1920s. The broadcasters were emphasizing the Federal Radio Act mandate that the Commission “not interfere with the rights of free speech by radio communication.” The Commission was enunciating a “fairness concept” which extended beyond political campaigning the implication that in controversial matters the broadcasters should refrain from imposing their own views on the public. In the 1929 *Great Lakes* Statement, the Commission said,

It would not be fair, indeed it would not be good service to the public to allow a one-sided presentation of the political issues of a campaign. Insofar as a program consists of discussion of public questions, public interest requires ample play for the free and fair competition of opposing views, and the commission believes that the principle applies not only to addresses by

political candidates but *to all discussions of issues of importance to the public.*\* (emphasis added)

The difficulty in applying philosophical abstractions to specific situations ensured that the struggle would be long, confusing, and frustrating to all.

### **The *Mayflower* Decision**

Throughout the 1930s the issue was dormant. The Commissions were so busy regulating the traffic and investigating the networks that they had little time to seek out the implications of the right to freedom of speech as applied to programming. The broadcasters were so busy developing the medium that they for the most part failed to enter areas of controversy in their programming which would force the matter to the attention of the Commission. The modern history of what was to become the Fairness Doctrine started in the early 1940s with the *Mayflower* Decision.

In 1939 station WAAB in Boston submitted to the FCC a routine application for renewal of its license. The Mayflower Broadcasting Corporation, also of Boston, filed a challenge to the renewal. The challenger claimed WAAB had not been operating in “the public interest” and requested that its frequency be assigned to the Mayflower Corporation. A principal ground for the challenge was the undisputed fact that WAAB had aired “so-called editorials” in 1937 and 1938. These were statements broadcast by the stations taking the same kind of one-sided stand that would be found on the editorial page of a newspaper.

In 1941 the FCC denied the Mayflower challenge, partly because it was not deemed financially qualified to construct and operate the station, and partly because it had made misrepresentations of fact to the Commission.

In renewing the license the FCC took note of the fact that WAAB had been editorializing, that it had stopped of its own accord before its license was due for renewal, and that it had no intention of resuming the practice. Then, without any indication of breaking new ground and almost as though in passing, the Commission indicated its disapproval of broadcast editorials:

A truly free radio cannot be used to advocate the causes of the licensee. It cannot be used to support the candidacies of his friends. It cannot be de-

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\* In the Matter of the Application of Great Lakes Broadcasting Co., FRC Docket No. 4900, 3 FRC Ann. Rep. 32 (1929).

voted to the support of principles he happens to regard most favorably. In brief, the broadcaster cannot be an advocate.\*

In the *Mayflower* Decision the FCC was stating what it felt was a logical implementation of the fairness concept. Because there were not enough frequencies to permit all persons who wanted to broadcast their opinions to build their own stations and because the public was entitled to a presentation of all sides of a controversy, the FCC concluded that it was only fair to prevent those who did own stations from using them to give their own opinions—thus editorializing was prohibited.

Prior to the *Mayflower* Decision few broadcasters had shown any desire to editorialize. Now, however, they considered the ban an unwarranted intrusion on their freedom of speech. Following the end of World War II the broadcasters brought increasing pressure on the Commission to reverse the *Mayflower* Decision.

In the meantime, the attitude of the Commission toward the fairness concept was becoming more sophisticated. Its prohibition of editorials to protect the listeners against one-sided broadcasts had been a negative approach. It began to view fairness more affirmatively, and in two or three decisions stimulation of discussion became a paramount regulatory objective.

## **Mayflower Revised**

Because of pressures from broadcasters and because of its own change in views, the FCC in 1948 held hearings “In the Matter of Editorializing by Broadcast Licensees.” A year later it issued a report which became known as the “Revised *Mayflower* Decision,” although neither the *Mayflower* Corporation nor Station WAAB was involved in it. The report reviewed the Commission’s desire to encourage debate and then concluded that editorializing could be an effective stimulant for initiating broadcast discussion of controversial issues.†

There was still concern with the fairness concept and the inherent danger when an audience was exposed to a one-sided discussion. Therefore, the FCC ruled that editorializing was acceptable (in the public interest) provided licensees made an “affirmative effort” to see that the other side of an issue was also presented. The editorializing broadcaster had to accept the responsibility for permitting the other side to

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\* In the Matter of the *Mayflower* Broadcasting Corporation and the Yankee Network, Inc., (WAAB) 8 FCC 333, 338, January 16, 1941.

† In the Matter of Editorializing by Broadcast Licensees, 13 FCC 1246, June 1, 1949.

respond. If necessary, the broadcaster must actively seek out such a speaker. It was left to the individual licensees to use their own judgment in selecting the representative speakers for the other side, but they could not “stack the deck” by choosing persons obviously incompetent to make the best possible response.

## **The Fairness Doctrine**

This requirement that the broadcaster *provide response to broadcast editorials* was the original fairness doctrine. Although the hearings had been called to consider only editorializing, the report went into other areas. There was an overall statement defining freedom of speech in terms of circulating ideas as opposed to simply speaking one’s mind.

It is this right of the public to be informed rather than any right on the part of the Government, any broadcast licensee or any individual member of the public to broadcast his own particular views on any matter, which is the foundation stone of the American system of broadcasting.\*

The report went on to emphasize an affirmative responsibility on the part of the licensee to provide a reasonable amount of time for the presentation of programs on public issues. After reviewing a number of its decisions the Commission generalized:

And the Commission has made clear that in such presentation of news and comment the public interest required that the licensee must operate on a basis of overall fairness, making his facilities available for the expression of the contrasting views of all responsible elements in the community on the various issues which arise.†

In a concluding paragraph, the report sought to recapitulate what had been implied in fifteen confused and confusing pages. Three points seemed to emerge: (1) a licensee must devote a reasonable amount of time to discussion of issues, (2) the discussion must give the public a chance to hear all points of view, and (3) the licensee must choose the appropriate formats, including editorials if he or she wishes. Because the report was so muddled few read it carefully, and most attention was focused on the issue which had led to the hearings in the first place—editorializing. The rest was buried until the FCC decided to exhume it more than a decade later.

## **Slow Growth of Editorializing**

Throughout the 1950s the Fairness Doctrine was discussed only with reference to editorial responses. At first few stations took advantage of the opportunity to express their opinions on controversial issues.

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\* Ibid., 13 FCC at 1249.

† Ibid.

Some licensees had nothing they wanted to say or were afraid they might make enemies and drive away advertisers. Others were genuinely concerned that the Commission might make it impossible to justify their choices of opposition representatives.

The few who did try it learned that all the Commission required was evidence the licensees had used their best judgment in choosing among opposing speakers or that they had made a good-faith effort to find such a person if none appeared voluntarily. No broadcaster experienced difficulty with the FCC over editorializing. Then managers of a few stations like WDSU in New Orleans began speaking at meetings saying they had tried editorializing and found it to be good for business. It had increased their audiences and had not offended or driven off advertisers, even when there were editorials urging Southern citizens to abide by unpopular court desegregation rules. They also reported that editorializing seemed to give them a prestige in their communities which they had not enjoyed before. With such favorable reports, more stations began the practice. By 1960 about 75 television stations were editorializing regularly and the number doubled in the next couple of years.

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## 11.5 EXPANSION OF THE FAIRNESS DOCTRINE

In the early 1960s the Commission emphasized its interest in editorializing and expanded the Fairness Doctrine into other programming areas. In its 1960 Programming Policy Statement the FCC listed fourteen elements usually necessary to meet the public interest.\* One of the elements was "Editorializing by Licensees."

In 1962 the FCC staff reviewed two documentaries about which Fairness Doctrine complaints had been made. A CBS documentary, "Biography of a Bookie Joint," had shown film of a police raid on a bookmaking establishment and it was alleged that Boston had been singled out unfairly in national publicity concerning a problem which extended well beyond that city. An NBC documentary, "The Battle of Newburgh," reported on a controversial welfare program. The city manager claimed the program was "biased, misleading, and lacking in objectivity." In both instances the Commission found that the networks had sought to be fair and had afforded a reasonable opportunity for

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\* Report and Statement of Policy re: Commission en banc Programming Inquiry, 25 Fed. Reg. at 7295, July 29, 1960.

presentation of other points of view.\* While the broadcasters hailed the decisions, there was concern that the Fairness Doctrine was being expanded into the field of news programming.

In 1963 the Commission took under advisement the question of whether a dramatic program had violated the Doctrine. The Armstrong Circle Theater had done a program entitled "Smash-Up." It was in dramatized documentary style and dealt with fraudulent claims in automobile accidents. The National Association of Claimants Counsel of America protested the program might have prejudiced jurors in accident cases. Lawyers wrote in to complain the program had portrayed their profession in an unfair light. After four months the FCC ruled the drama had not violated the Fairness Doctrine, but the fact that the question was considered at all by the FCC indicated that the Doctrine might be applied to entertainment programs.

In 1965 Station KTLN in Denver, Colorado, ran an investigative documentary on persons engaged in "debt adjusting" and titled it "The Gougers." The station concluded that debt adjusters used immoral methods and performed no useful purpose in society. A Fairness Doctrine complaint was made to the FCC which asked the station to justify its title and one-sided view of debt adjusters. The station replied to the Commission that debt adjusters "were no more entitled to broadcast time than dope peddlers." The response of the FCC was that as long as debt adjusting was a legal activity in Colorado, those who practiced it could not be put in the same category as those who were clearly criminal. The Commission said an attack had been made on the honesty and integrity of those in the debt-adjusting business and it was the duty of the station to give them a chance to respond.† Beyond doubt the Commissioners were prepared to extend the Doctrine wherever it seemed appropriate to them.

### **The 1963 Advisory**

As the Commission expanded the Fairness Doctrine, there was growing confusion on the part of broadcasters who complained that they did not know what was expected of them. To combat the confusion, the FCC in July 1963 issued an "Advisory" to stations. The opening paragraph called attention to a statement in its 1949 policy ". . . that the licensee has an affirmative obligation to afford reasonable opportunity for the

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\* *Broadcasting*, July 23, 1962, p. 23.

† "In re: 'Fairness Doctrine' Requirements." Letter to Radio Station KTLN, FCC 65-681, July 21, 1965.

presentation of contrasting viewpoints on any controversial issue he chooses to cover.”\* Reference was then made to three recent FCC rulings holding that the licensee had a Fairness Doctrine responsibility beyond editorial responses.

1. When a program involves attack on a person or organization.
2. When a noncandidate takes a partisan position on either issues or candidates during a campaign.
3. When the licensee permits use of the facilities for the presentation of views on controversial issues such as racial segregation.

The 1963 document was probably more significant than most realized at the time because it was a major expansion of the Fairness Doctrine beyond its apparent original position. The Commission realized it was moving well beyond the broadcasters’ understanding that the Fairness Doctrine was related primarily to editorializing for it added:

It is immaterial whether a particular program or viewpoint is presented under the label of “Americanism,” “anti-Communism” or “states rights” or *whether it is a paid announcement, official speech, editorial, or religious broadcast*. Regardless of label or form, if one viewpoint of a controversial issue of public importance is presented, the licensee is obligated to make a reasonable effort to present the other opposing viewpoint or viewpoints.\* (Emphasis added)

### **Free Response to Controversy in Paid Program**

Two months after the July Advisory, *Broadcasting* headlined a story, “More FCC Confusion on Fairness.”† Two radio stations in Alabama had asked the FCC for a ruling on their Fairness Doctrine responsibility when carrying a sponsored syndicated program, “Life Line,” in which there had been attacks on a nuclear test ban treaty then being debated in the Senate. The syndicator had advised them that they need not permit answers to the program if there were no local chapter of the organization wishing to respond and that, in any event, they would not have to give free time for such a response. In a letter (called *Cullman* after the name of one of the licensees) the FCC ruled:

But, it is clear that the public’s paramount right to hear opposing views on controversial issues of public importance cannot be nullified by either the inability of the licensee to obtain paid sponsorship of the broadcast time or

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\* In re: “Broadcast Licensees Advised Concerning Stations’ Responsibility Under the Fairness Doctrine as to Controversial Issue Programming.” Public Notice—B. FCC 63-734, July 26, 1963.

† *Broadcasting*, September 23, 1963, p. 72.

the licensee's refusal to consider requests for time to present a conflicting viewpoint from an organization on the sole ground that the organization has no local chapter.\*

This was an amplification of the previous Advisory quote giving the licensees Fairness Doctrine responsibility for anything aired even though their only involvement might have been the sale of time and even though they might personally disagree with the viewpoint expressed. *Broadcasting* had less cause for confusion than for concern that the functional free speech point of view appeared headed for an indefinite extension.

### **The 1964 Fairness Primer**

The 1963 Advisory was followed by a 1964 Fairness Primer which was more extensive. It was a digest of cases divided into categories and was designed to answer questions which might arise about either broadcaster rights or responsibilities. The Primer came at a time when Congress was considering whether the fairness concept needed to be written into law in order to eliminate the confusion which attended evolutionary development by the FCC. The House Commerce Committee asked the Commission to take no disciplinary action against stations on Fairness Doctrine grounds until there had been time for further consideration. The Commission responded that it had not to that point taken any such action but refused to make a commitment it would not do so if the need were to arise.

### **The Red Lion Case**

In the fall election of 1964 there was a small incident which eventually reached the Supreme Court and became the ultimate peg on which the Fairness Doctrine survived. Station WGCB, located in the town of Red Lion, Pennsylvania, was owned by the Reverend John M. Norris, an ardent conservative and supporter of Barry Goldwater. During the Johnson-Goldwater election campaign Norris continued carrying a syndicated program called "Christian Crusade" on time purchased by the Reverend Billy James Hargis, another political conservative.

In one program the Reverend Hargis made a personal attack on Fred Cook who had written a book, *Barry Goldwater—Extremist of the Right*, and an article for *The Nation* magazine, "Radio Right—Hate Clubs of the Air." The book and the article expressed an anti-Goldwater point of view which was most unacceptable to those who shared the political beliefs of the two ministers. In the program attack-

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\* In re: "Responsibility Under the Fairness Doctrine." Letter to Cullman Broadcasting Co., Inc., FCC 63-849, September 18, 1963.

ing Cook the Reverend Hargis charged, among other things, that Cook had been fired from a newspaper job after falsely accusing a public official of attempted bribery.

Cook asked the station for time to respond to the attack. He was informed that since the Hargis time had been purchased, he (Cook) would also have to buy time if he wished to respond. (This was a year after the FCC had clearly stated in *Cullman* that licensees could not charge for time to respond even though the attacking program was sponsored.) Cook protested to the FCC.

A year later the Commission informed Station WGCB that it had violated the Fairness Doctrine and directed that time be given to Cook so he might respond to the Hargis attack. Norris decided this was a matter of principle on which he would not compromise. He appealed the FCC decision to the courts on the grounds that the FCC had gone beyond its authority as granted by the Act of 1934 and that the Fairness Doctrine was an infringement on his freedom of speech. In June 1967 the court of appeals upheld the FCC's judgment on WGCB. More important than the effect on WGCB itself was the interpretation of observers that the court was at the same time upholding the constitutionality of the Fairness Doctrine and the right of the FCC to establish and implement it.

### FCC Fairness Doctrine Rules and the RTNDA Case

Until the summer of 1967 no aspect of the Fairness Doctrine had been written into specific rules. There were only FCC statements and individual decisions. Encouraged by the June decision of the appeals court in the *Red Lion* case, the FCC moved in July to "codify" the Fairness Doctrine and to "elevate it to rules status."\* The purpose, according to the Commission, was to eliminate some of the confusion and to emphasize the importance of complying with the Doctrine in two specific situations: in the case of personal attacks and when editorials were aired favoring or opposing a political candidate. A further motivation was that once the rules were adopted by the FCC, a station could be fined for failing to follow them. A month later the proposed rules were amended to exclude the personal-attack requirements from *bona fide* news-type programs.†

As soon as the rules were announced, the Radio Television News Directors Association (RTNDA) announced that it would appeal their constitutionality to the courts. Most observers of American broadcast-

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\* *Broadcasting*, July 10, 1967, p. 68.

† *Ibid.*, August 7, 1967, p. 62.

ing felt that newspeople had a high degree of commitment to fair coverage of news and their organization had great prestige generally. From the broadcasters' point of view it was an ideal group, compared with WGCB, to go to the courts against the FCC. The RTNDA filed its appeal with the court of appeals in Chicago, which it felt was more apt to be sympathetic than the Washington court which had just upheld the FCC in the *Red Lion* case.

While the *RTNDA* case was pending in Chicago, the Supreme Court agreed to hear the *Red Lion* case. Knowing of the *RTNDA* case and being aware that the loser would inevitably seek review, the Supreme Court held the *Red Lion* case in abeyance until it might be heard with the second case.

As the *RTNDA* had hoped, the Chicago court ruled against the Fairness Doctrine.\* It said that the FCC had exceeded its authority in promulgating the Fairness Doctrine, that the Doctrine was "burdensome and unconstitutionally vague," and that the Doctrine was an infringement on freedom of speech. The court also cited some of the FCC's own statistics: there were 6,253 commercial radio and television stations in the country compared with 1,754 daily newspapers. Its conclusion was that "scarcity of the frequencies" could no longer be used as a basis for applying more regulation to broadcasting than to the print media. In brief, the *RTNDA* and the broadcasters won a complete victory at the appeals-court level.

The confusion of the 1960s was probably never more apparent than at this point. In the *Red Lion* case the court of appeals in Washington had upheld the Fairness Doctrine. In the *RTNDA* case the court of appeals in Chicago had struck it down. The two decisions were diametrically opposite.

In June 1969 the Supreme Court handed down a unanimous decision in both cases upholding the FCC and its Fairness Doctrine. The approach of the Court conformed with the functional definition of free speech—the importance of stimulating the circulation of ideas. The Court noted that technological "scarcity of frequencies" still existed and added that it felt the Fairness Doctrine would tend to enhance rather than abridge the freedoms of the First Amendment.† The Court's decision was final—there was no further avenue for appeals.

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\* *Ibid.*, September 16, 1968, p. 30.

† *Red Lion Broadcasting Co., Inc., et al. v. Federal Communications Commission et al.*, 395 U.S. 367, June 9, 1969.

## Counter Commercials

Compounding the confusion and frustration of broadcasters in the second half of the 1960s was another extension of the Fairness Doctrine into an area which few imagined the Commission would enter. It concerned cigarette commercials. In 1964 the Surgeon General's Committee, at the direction of Congress, submitted a report on smoking. It found that "cigarette smoking may be hazardous to your health," and the following year Congress passed an Act providing that cigarette packages must carry a warning to that effect.

In 1966 John F. Banzhaf, III, a lawyer in New York City, became concerned about the number of cigarette commercials on television. He reasoned that while each was on the surface only a plea to buy a particular brand, all were, in effect, messages persuading viewers to smoke cigarettes. The commercials featured happy, youthful, and vigorous people in pleasant surroundings who were made even happier when they could enjoy their favorite brands. Although none of them said to young people in so many words, "Cigarettes are wonderful, you really ought to try them if you want to be happy, also," all of them rather clearly implied it. (Advertising experts and psychologists had maintained for years that the steady increase in cigarette consumption was in part due to the combined results of all advertising for individual brands.)

Banzhaf wrote to WCBS-TV in New York City citing three specific commercials which indicated that smoking is "socially acceptable and desirable, manly, and a necessary part of a rich full life." He requested that free time be given to responsible groups opposing smoking. He asked that such groups receive time approximately equal to that which was spent on the promotion of "the virtues and values of smoking."

WCBS-TV did not question the premises on which Banzhaf had argued but pointed out that over the years it had aired the negative aspects of smoking both in regular newscasts and in special programs. Since the station felt it had adequately provided contrasting viewpoints on the subject, it refused Banzhaf's request. Banzhaf protested to the Commission which, in June 1967, responded in a letter to WCBS-TV. It reviewed the situation and came down squarely on Banzhaf's side in the particular instance, but added that its action was not to be taken as a precedent.

We hold that the Fairness Doctrine is applicable to such advertisements. We stress that our holding is limited to this product—cigarettes. Governmental and private reports . . . assert that normal use of this product can be a hazard to the health of millions of persons. The advertisements in question

clearly promote the use of a particular cigarette as attractive and enjoyable. Indeed, they understandably have no other purpose. We believe that a station which presents such advertisements has the duty of informing the audience of the other side of this controversial issue of public importance—that however enjoyable, such smoking may be a hazard to the smoker's health.\*

The FCC's action was upheld in the court of appeals. In 1969 the Supreme Court refused to review it.

### **A Review of the Situation at the End of the 1960s**

In 1949 the Fairness Doctrine called only for responses to editorials. Twenty years later it seemed to have reached the following proportions:

1. *Editorial Response:* The concept had been clearly established and there was a minimum of confusion about it. More and more stations were editorializing and there was little dissatisfaction with the requirement that time be made available for response.

2. *Personal Attack:* This was the specific item which led to the *Red Lion* case. Although there were still questions about what might constitute a personal attack liability under the Fairness Doctrine, no further cases had arisen to demonstrate that broadcasters found the provision troublesome.

3. *Extension to Political Campaigns:* The FCC had specified that presenting an editorial in favor of or opposing a candidate incurred an obligation to give time for response. It had also ruled that if a non-candidate used station facilities to take a stand on a candidate or on a campaign issue, then time must be given to another noncandidate for response. (If a candidate were to demand and receive time to respond, Section 315 would require that all other candidates for the same office might also demand equal opportunity.) Yet to come was the Zapple ruling of 1970 which extended the Fairness Doctrine to everything in a campaign not already covered by Section 315. In effect, the Commission was to rule that use of facilities by a political party or by a committee for the election of a candidate was subject to the equal-opportunity principle with which we are already familiar. The extension of the Fairness Doctrine added few problems for broadcasters since they were so accustomed to working with Section 315 and since most of them wanted to observe the fairness concept in political campaigns anyway.

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\* Letter from Federal Communications Commission to Television Station WCBS-TV, 8 FCC 2d 381, June 2, 1967.

4. *Dramatic Programs*: Although the FCC had discussed one program, it never did pursue a policy of extending the Fairness Doctrine to dramatic entertainment programs.

5. *Documentaries*: Although the Commission had required one station to give time for response to a documentary, it had not generally concerned itself with that area. Documentaries would become more of a problem for the FCC in the 1970s.

6. *Bona Fide News*: The Commission had granted Fairness Doctrine exemption to personal attacks very similar to that granted to political candidates appearing on news-type programs in the Amendment to Section 315.

7. *Free Time to Respond*: The Commission had established the principle that if a Fairness Doctrine obligation is incurred in a sponsored program, free time must be given for the response.

8. *Counter Commercials*: The courts had upheld the FCC requirement for cigarette counter commercials, but the Commission had stressed it would not consider its action in the field a precedent. It clearly did not wish to extend the Doctrine in this area.

9. *Program Types*: In its 1963 statement the FCC said the station had a Fairness Doctrine obligation whenever it permitted use of its facilities for views on controversial issues. The Commission said the form did not matter—whether or not it was an editorial was insignificant. There were no specified limitations on program types.

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## 11.6 THE 1970s QUESTIONS

When the Supreme Court in 1969 upheld the Fairness Doctrine in the *Red Lion-RTNDA* case and refused to review the Banzhaf cigarette-commercial ruling, broadcasters felt the Commission had been given a green light on the Doctrine, that it would continue its pressure and whatever happened in the 1970s would probably be worse than the confusion of the 1960s. The first few months of 1970 provided evidence that their fears were justified. The *Red Lion* decision opened the floodgates and the flow of complaints was stimulated by the climate of the times with emergence of consumer, environmental, and antiwar militancy. By 1971 Fairness Doctrine protests and petitions were coming in to the Commission at an annual rate of over 2,000.

The FCC staff appeared ready to extend the Fairness Doctrine into new areas. In the fall of 1969 the NBC Huntley-Brinkley evening news had done segments on the perils of aviation in which some thought

the “ability of private pilots was put in an unfavorable light.”\* Although NBC pointed out that it had only done interviews with typical commercial and private pilots to show the difference in experience and training without generalizing about all private pilots, the Commission’s staff ruled that the contrasting view on private aviation had not been represented. It ruled, therefore, that the newscast segments were a violation of the Fairness Doctrine and ordered NBC to indicate how it would balance the broadcasts.

It was not until several years later that broadcasters could see that just when the situation appeared darkest, it was about to improve. Of the thousands of complaints received by the FCC in the early 1970s, not one was carried to a conclusion which significantly expanded the Doctrine. Courts which had supported expansion of the Fairness Doctrine in the 1960s began to have second thoughts and the tide of judicial support turned in favor of the broadcasters. The Commissioners themselves realized that the situation had to be stabilized. In 1971 FCC Chairman Dean Burch called the implementation of the Doctrine “a chaotic mess”† and two years later said in a speech to the Federal Communications Bar Association, “I am not prepared to rewrite the book, and I have no power to rewrite the Act, but I confess to a growing perplexity about the foundations of the Fairness Doctrine and its role in the regulatory scheme.”‡ Events were to persuade the Commissioners that the 1967 cigarette ruling had been a mistake.

An indication that the FCC would draw back from further expansion came in September 1970 when the Commission reversed its staff’s recommendation on the NBC news ruling and said:

A policy requiring fairness, statement by statement or inference by inference, with constant governmental intervention to try to implement the policy would simply be inconsistent with the profound national commitment to the principle that debate on national issues should be wide open and robust.§

To summarize the development of the Fairness Doctrine in the early 1970s several cases have been selected which illustrate four questions about its extension into new areas. Each involves judicial reversals of the FCC, and one involves a double reversal where the Supreme Court, by reversing a court of appeals decision, upheld the FCC.

1. Must broadcasters sell time to initiate controversy?
2. Must the opposition be given time to respond to a response?

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\* *Broadcasting*, April 6, 1970, p. 102.

† *Ibid.*, September 27, 1971, p. 42.

‡ *Ibid.*, July 9, 1973, p. 17.

§ *Ibid.*, September 28, 1970, p. 9.

3. When do commercials violate the Fairness Doctrine?
4. When do documentaries violate the Fairness Doctrine?

**Must Broadcasters  
Sell Time to  
Initiate  
Controversy?**

In 1964 FCC Chairman Henry had said the Fairness Doctrine applied to “a broadcaster who enters the field of controversy.” When he made the statement the Commission had already ruled that if a station carried a sponsored program with a one-sided discussion of controversy, the broadcaster had to give free time for a response. In brief, it was the broadcaster who had entered the field by selling time to someone with an ax to grind. But, even under those conditions, it was the broadcaster’s responsibility to decide if a response were needed and, if so, to select the speaker.

In the spring of 1970 emotions were rising concerning the continuing war in Vietnam. Two organizations went to the FCC with essentially the same issue: could broadcasters be compelled to sell time for controversy? Each was asking the Commission to take the Doctrine a step further. Rather than giving the broadcasters responsibility for selecting a speaker to balance points of view, each wanted the right to demand access to the airways to respond to materials which had been aired.

The first group was the Business Executives Move for Vietnam Peace (BEM), an organization of some 2,500 business executives who felt people should be able to hear points of view about the war other than those expressed by the government. Specifically, the BEM thought the Armed Forces recruiting spot announcements carried by WTOP (AM) in Washington, D.C., presented an attitude toward the war which should be balanced by giving the other side. The BEM taped spot announcements against the war and sent them to WTOP and other stations around the country. WTOP refused to air them as public service announcements (PSA’s). When the BEM asked to purchase time for the spots, the station still refused. The BEM appealed to the FCC, arguing that if the Commission upheld the station’s right to refuse to sell time for the tapes, it would constitute a situation where an agency of government was acting to suppress an antigovernment policy.

The other group was the Democratic National Committee (DNC). It had asked to buy time from CBS for two purposes: to comment on public controversial issues in response to presidential speeches and to solicit funds. When CBS refused the request, the DNC went to the Commission asking for a declaratory judgment that the network had an obligation to sell the time for both purposes.

The FCC first disposed of the DNC request for a ruling on buying

time to solicit funds, agreeing that the network was required to permit such purchases. The Commission then considered simultaneously the DNC and BEM demands that they be permitted to purchase time to air their views on controversial issues. It rejected the two requests and ruled that the Fairness Doctrine required the broadcasters to decide when it was necessary to balance viewpoints and to find the speakers for the other side.\*

The BEM and the DNC appealed the decision to the court of appeals in Washington. A year later the court shocked both the Commissioners and the broadcasters by ruling that the FCC had been wrong.† The gist of the court decision was that if a station sold time for the purpose of selling products, it could not refuse to sell time for the discussion of public issues. The court said that licensees were trustees for the people in use of the public airwaves and might not arbitrarily decide what issues were important enough for debate. Broadcasters felt the court ruling would have altered the entire philosophy of broadcast operation and regulation. Assuming the Fairness Doctrine still held in a revised form, broadcasters would have had to sell time for controversy and then make free time available to answer the paid statements. By the time the licensees had put into the schedule all those who wanted to buy time to talk about the environment and consumerism and the war in Vietnam and then accommodated all those who wanted to respond, they would have no freedom left to program what they wanted. They would have approached being a common carrier like the telephone company with no control over the content of the transmissions.

Two years later the Supreme Court reversed the appeals court decision and returned the situation to what it had been when the FCC rejected the BEM and DNC requests.‡ The Fairness Doctrine had not been extended into the new dimension which had been so feared. Balancing viewpoints was still the broadcasters' responsibility and they were not required to sell time to all who wished to enter the controversy.

**Must the Opposition  
be Given Time to  
Respond to a  
Response?**

In the early months of 1970 the DNC was keeping a tally on President Nixon's television usage and brought to the attention of broadcasters what they had already noted—that in the sixteen months since his inauguration President Nixon had been carried by the networks a total

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\* Ibid., August 10, 1970, p. 26.

† Ibid., August 9, 1971, p. 12.

‡ Columbia Broadcasting System, Inc., v. Democratic National Committee, 412 U.S. 94, May 29, 1973.

of twenty-one times. There had been eleven speeches and ten news conferences. No previous president had requested nearly that amount of exposure. (Congressional Democrats were also concerned and had asked the networks to give them time to respond to the President.)

Frank Stanton, President of CBS, responded to the DNC and Democrats in Congress with a dramatic announcement. Because of its concern with possible presidential domination of the airwaves (not only immediate but also long range) CBS proposed setting aside time for a program to be called "The Loyal Opposition." There was no commitment to offer it on a regular basis, but when it seemed that the current or future president had used so much time that response was needed, the facilities of the network would be extended to the opposition.

Early in July 1970 Lawrence O'Brien, DNC Chairman, took advantage of the offer and appeared on CBS-TV making a slashing attack on the administration and many facets of its policies—the war, civil rights, the environment, and the economy. There was an immediate demand from the Republican National Committee (RNC) for time in which to respond to those items in Mr. O'Brien's speech which had not been included in earlier presidential speeches. The RNC claimed that when O'Brien went into issues not introduced by the President, the Fairness Doctrine required that the Republicans have a chance to answer. CBS refused the request and the RNC complained to the FCC.

The following month the FCC held that since Mr. O'Brien had commented on issues not raised in presidential speeches, CBS should give the RNC an opportunity to respond.\* The obvious result of such reasoning, if carried to an extreme, would be that if the RNC raised new issues, the DNC could ask for more time and so long as each continued to break new ground in the debate, it might never end. The FCC took note of such a possibility but held CBS to be at fault for not restricting Mr. O'Brien to those issues which had been raised in the President's speeches. That could have been done only by asking Mr. O'Brien for a copy of his script in advance and then censoring out inappropriate material. Such action would have been quite inconsistent with the principle that stations should not censor discussion on issues.

In November 1971 the appeals court, to which CBS had gone for relief, reversed the FCC.† It pointed out that censorship of the O'Brien speech would be much worse than having the speaker bring up new areas. It also stingingly suggested that the Republicans on the FCC

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\* *Broadcasting*, August 17, 1970, p. 9.

† *Ibid.*, November 22, 1971, p. 54.

**When Do  
Commercials  
Violate the  
Fairness Doctrine?**

might have been more interested in protecting the President than in regulating broadcasting in the public interest. Unfortunately, the “Loyal Opposition” was discontinued by CBS.

When the FCC in 1967 extended the Fairness Doctrine to cigarette advertising, it stressed that the extension was not to be a precedent since the situation was so unique. On several occasions in subsequent years when there were protests against commercials for various products, the Commission repeated its assertion and refused to act. Three years after its Banzhaf ruling, the Commission found that it is not always possible simply to declare that a decision is not a precedent. This is another illustration of the manner in which one can become a prisoner of the past.

In April 1970 (about the time of the BEM and DNC petitions) the FCC received a complaint from an ecology group, Friends of Earth (FOE). FOE contended that serious health problems were caused by high-powered automobiles and leaded gasolines which polluted the atmosphere. Since these hazards were not totally dissimilar to those associated with cigarette smoking, FOE felt broadcasters should be required to give time for counter commercials pointing out the danger in the products being advertised. It made such a request of WNBC-TV in New York City and, upon being refused, went to the FCC.

The FCC dismissed the FOE petition referring to its earlier statements that the Banzhaf ruling was not a precedent. FOE then appealed to the courts. A year later a decision was handed down that as the FCC had once decided that cigarettes were a Fairness Doctrine issue, so now the court found that high-powered cars and leaded gasolines were also controversial in the area of health. It suggested, however, that counter commercials might not be the only recourse. The FCC was told to decide whether or not WNBC-TV in its overall programming had adequately presented the other side.\*

The Commission called on WNBC-TV and FOE to discuss procedures. Both agreed that a study of programming over a twelve-month period would be reasonable. WNBC-TV went through its schedule for the year preceding the FOE complaint extracting all news and other items which had presented the health hazards in the products under consideration. When the results of the study were presented, the

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\* Friends of the Earth v. Federal Communications Commission, 449 F. 2d (D.C. Cir.), August 16, 1971.

Commission decided that both sides had been adequately represented and again dismissed the FOE complaint.

A somewhat different aspect of commercials was raised in 1971 when FOE joined with the Wilderness Society to protest some ESSO (EXXON) commercials on NBC which had argued the need for immediate implementation of plans for the Alaska Pipeline. This was shortly after the discovery of large oil reserves on the Alaskan North Slope. The only way the oil could be efficiently transported to civilization was by pipeline. Many conservationists were saying the pipeline and accompanying roads would seriously injure the environment and that if there were a break in the pipeline, the impact would be disastrous. Specifications for the pipeline were at that moment a subject of court review and action by the administration. In short, the pipeline was highly controversial.

The two conservation groups asked NBC for time to respond to the EXXON commercials. When the network refused, they went to the FCC. The Commission held that when a commercial entered areas of controversy (aside from the value of the products) the Fairness Doctrine was applicable. NBC was directed to supply a record of all the news and other programming it had done presenting the dangers of the pipeline. After considering the report, the FCC relieved the network of need to broadcast further material.\*

The principle of keeping controversy out of commercials seemed to be clearly established and broadcasters themselves policed commercials to make sure no Fairness Doctrine issues were being raised. When something did get on the air, the situation was remedied without recourse to the FCC. For example, a year after the EXXON controversy, a complaint was sent to WRC-TV (NBC O&O in Washington, D.C.) about commercials it had been carrying for the Association of American Railroads. Wally Schirra, the former astronaut, was acting as spokesman for the Association and in one commercial spoke favorably of a transportation bill then pending in Congress. Since the bill was highly controversial and still in legislative discussion, NBC agreed that counter commercials should be aired and voluntarily made time available for them.†

During the oil crisis in the spring of 1974 the Mobil Corporation wanted to use some of its commercial time to defend the role of the

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\* *Broadcasting*, September 27, 1971, p. 42.

† *Ibid.*, April 24, 1972, p. 26.

major oil companies in the situation. Commercials were prepared in which it sought to give its position relative to American efforts to cope with the problems. The commercials were considered controversial and all networks refused to carry them, even when Mobil offered to buy additional time in which others might give counter commercials.

**When Do Documentaries Violate the Fairness Doctrine?**

Following the KTLN documentary “The Gougers” in 1965, the FCC had paid comparatively little attention to documentaries, particularly at the network level where a conscious effort was made to represent all sides if they so wished. The Commission’s attitude was well illustrated in its handling of the CBS program “The Selling of the Pentagon” in February 1971. After a year of study, in an hour-long documentary the network surveyed the techniques used by the military establishment to tell its side of the Vietnam war to the country. Complaints were filed with the Commission on two grounds: that the program’s presentation was one-sided and that there was a deliberate distortion of data by editing the film to show a person’s answer to one question being placed after the asking of a different question.

The first issue, the Fairness Doctrine, was disposed of in a sentence. The FCC noted that CBS had set aside an hour two months after the original program to “afford an opportunity for the presentation of contrasting viewpoints.” The FCC refused to act on the second issue, distortion, because there was no evidence that the network had deliberately set out to misinform the public. Until there was evidence of an intent to deceive, the Commission felt the First Amendment precluded its questioning the judgment of the broadcaster.\*

In 1972 NBC broadcast a documentary, “Pensions, the Broken Promise.” Legislation was pending in Congress to set standards for private pension plans. The NBC program focused on the deficiencies of existing plans and told the stories of people who, though they had made contributions to their pensions for years, found they had nothing except Social Security when they retired. The program did say that some of the private pension plans were good, but the emphasis was on the ones which did not deliver what they had promised or what people had been led to expect. Viewers were informed there was a bill pending in Congress and that their views might be helpful to their legislators.

A conservative group, Accuracy in Media (AIM), complained to the FCC that the program was one-sided and that the “good” pension

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\* In re: Complaint Concerning the CBS Program “The Selling of the Pentagon,” 30 FCC 2d 150, April 28, 1971.

companies should have an opportunity to tell their side of the story. The FCC studied the complaint and the script of the program and found that NBC had done nothing on private pension plans before so there could have been no other programs which might have told the other side. It also noted that the bill was before Congress, which made the topic especially controversial. It thereupon notified NBC that it had violated the Fairness Doctrine and asked how it proposed to represent the other side.\*

NBC took the case to the court of appeals which, a year later, reversed the FCC.† The court held that the Commission had intruded into programming decisions and had tried to extend the Fairness Doctrine too far. AIM then appealed to the full appeals court (which rarely sits in judgment but hears cases in three-judge panels). The court again affirmed the earlier finding and ordered the FCC to dismiss the AIM complaint.‡ In March 1976 the Supreme Court refused to hear the case after an appeal was filed by AIM.§

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## 11.7 THE 1974 FAIRNESS REPORT

In June 1974, 25 years after it issued the Fairness Doctrine, the FCC attempted to clarify its position in light of the confusion which had grown through the years. The 1974 “Fairness Report” resulted from an inquiry begun in 1971. From it the following points emerge:

1. The goal of the Fairness Doctrine is to foster “uninhibited, robust, and wide open” debate on controversial public issues.
2. The Fairness Doctrine calls for balance in *overall programming* rather than in each individual program. There is no need for a precise balancing of time on both sides so long as the licensee feels there is a balance in the schedule.
3. It is the licensee’s responsibility to determine when there is need for balance and to pick the speakers.
4. The licensee must provide a reasonable amount of time for the presentation of discussion of controversial issues. Such presentation must include the opportunity for opposing viewpoints. If no speaker for an opposing side appears, the licensee has an affirmative responsibility to seek one out.

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\* *Broadcasting*, May 7, 1973, p. 13.

† *Ibid.*, September 30, 1974, p. 6.

‡ *Ibid.*, July 21, 1975, p. 40.

§ *Ibid.*, March 1, 1976, p. 49.

5. The FCC will not examine any charges of misrepresentation in news programming unless there is evidence of a deliberate attempt to distort the information.

6. Commercials which enter into controversial matters of public importance incur a Fairness Doctrine responsibility.

7. There was an attempt to lay the Banzhaf ruling to rest for all time by saying it had been a “serious departure from the ruling’s central purpose—an informed public.” It criticized its own 1967 ruling by saying, “While such an approach may have represented good policy from the standpoint of the public health, the precedent is not at all in keeping with the basic purposes of the Fairness Doctrine.” Henceforth it was to be assumed that standard product commercials make no meaningful contribution to informing the public on issues.

8. The report rejected a suggestion by the Federal Trade Commission (FTC) that the Fairness Doctrine be invoked when commercials make claims based on scientific premises that are in dispute and when commercials are silent about negative aspects of the advertised products.

9. The right of access to the airwaves was rejected while the broadcaster retained responsibility for seeing that there are spokesmen who will provide balance in the schedule. “Thus, while no particular individual has a guaranteed *right* of access to the broadcast microphone for his own self-expression, the public as a whole does retain its ‘paramount right to receive suitable access to social, political, esthetic, moral, and other ideas and experiences.’ ”

10. The report restated the principle enunciated in the letter to Nicholas Zapple to the effect that the Fairness Doctrine applied to all aspects of campaigning not covered by Section 315. The one departure from Fairness Doctrine precedent was that there was no obligation on the broadcaster to give free time to respond to a paid political program or announcement.\*

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## **11.8 THE “FORGOTTEN HALF” OF THE FAIRNESS DOCTRINE**

In its 1974 Report the Commission reiterated (section “4” above) the responsibility of the licensee to provide a reasonable amount of time for the presentation of discussion of controversial issues. This dated back to

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\* In the Matter of the Handling of Public Issues Under the Fairness Doctrine and the Public Interest Standards of the Communications Act. FCC Docket No. 19260. June 27, 1974.

decisions made in the mid-1940s and was clearly enunciated in the original 1949 Fairness Doctrine. It had been honored in the breach, however, as the Commission focused its attention on trying to ensure fairness once the field of controversy had been entered. *Broadcasting* referred to it as the “forgotten half” of the Fairness Doctrine when reporting on a 1976 FCC letter to WHAR (AM), a top-40 station in Clarksburg, West Virginia.\*

In 1974 Congress was considering legislation on strip mining. Representative Patsy Mink (D-Hawaii) sent to a number of stations a tape she felt was needed to counter a program which had been provided by the U.S. Chamber of Commerce. WHAR refused to carry the tape on the grounds that it had not been carrying any programs on strip mining and, therefore, did not need it to balance something which had already been aired. The station later specified that it had not been carrying any “local” programs but it was unable to document any outside items on the subject.

A complaint about the station’s refusal to carry the tape was filed with the FCC by lawyers for Media Access Project (MAP). After consideration, the FCC informed the station that it had violated the Fairness Doctrine by failing to cover an issue which was of such importance to the community and gave it twenty days in which to report on its plans to remedy the defect. This case opens up the possibility of a new area of FCC Fairness Doctrine activity.

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## SUMMARY

The road from the fairness concept underlying portions of the 1927 Radio Act and the Fairness Doctrine of the mid-1970s was long and difficult. Since 1940 the Commission has been consistent in its search for guarantees of the public’s right to receive a balanced presentation of different points of view. The *Mayflower* Decision reflected the FCC’s view that if different sides were not presented, there should be no discussion at all. Editorializing with response was a better way of meeting the Commission’s objective. Then the functionalist free speech approach led to attempts to ensure that broadcasters would provide access to controversy even beyond those areas they entered of their own volition. Broadcasters were consistent in their opposition to all actions likely to affect their freedom to program in the public interest as they saw it.

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\* *Broadcasting*, June 14, 1976, p. 44.

The Fairness Doctrine is no longer the source of great controversy it was in the early 1970s. It poses a serious threat only to those broadcasters who are extreme in their disregard for the need to air controversy and to give the public an opportunity to hear opposite points of view. In its 1976 WHAR decision, the FCC indicated that strict adherence to the Fairness Doctrine was the single most important requirement for operation in the public interest. The continuing problem for both Commissioners and broadcasters is the application of that abstraction to specific programming practices.

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## GLOSSARY ITEMS

The following words and phrases used in Chapter 11 are defined in the Glossary:

<i>Bona Fide News</i>	“Great Debates”
Clear and Present Danger	Lowest Unit Charge
Counter Commercials	Public Service Announcement (PSA)
Equal-Time Law	Zapple Doctrine
Fairness Doctrine	

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## A Fairness Doctrine Chronolog

- 1941 Mayflower Decision—Broadcasters cannot editorialize.
- 1949 Issuance of “Fairness Doctrine”—Broadcasters may editorialize if they assume affirmative responsibility to give opposing speakers a chance to respond. Must also devote reasonable amount of time to discussion of issues.
- 1963 Fairness Doctrine Advisory issued by FCC mandated
1. opportunity for response to personal attack,
  2. opportunity for response when noncandidate (including broadcaster) takes partisan position in political campaign,
  3. opportunity for response when programming touches on controversial issue such as segregation.
- Extended Fairness Doctrine to all controversy, regardless of program type.
- Broadcaster must provide free time for response to attack in paid program.

- 1964 Fairness Doctrine Primer issued by FCC.  
Origin of the *Red Lion* case.
- 1965 FCC ruled WGCB must give equal opportunity to respond to personal attack.
- 1967 Washington appeals court affirmed FCC stand in *Red Lion* case.  
FCC raised Fairness Doctrine to level of rules.  
1. in case of personal attack,  
2. in editorials endorsing or opposing political candidates.  
RTNDA appealed to court to invalidate Fairness Doctrine rules.  
*Bona fide* news programming exempt from personal-attack aspect of Fairness Doctrine.  
FCC ruled in *Banzhaf* case that cigarette commercials are covered by the Fairness Doctrine.
- 1968 Chicago appeals court upheld RTNDA in ruling out Fairness Doctrine.
- 1969 Supreme Court decision in combined *Red Lion-RTNDA* cases—affirmed the FCC’s Fairness Doctrine.
- 1970 FCC staff ruled NBC violated Fairness Doctrine in *Huntley-Brinkley* newscast on private pilots.  
FCC reversed staff ruling on NBC newscast on private pilots.  
Origin of *BEM* and *DNC* cases. FCC said stations and networks not required to sell time for controversy.  
Origin of *FOE-NBC* case. FCC said Fairness Doctrine not applicable to product commercials since cigarette ruling was unique.  
The “Loyal Opposition” on CBS. FCC said RNC had right to respond to O’Brien comments not pertinent to presidential remarks.  
FCC in *Zapple* letter said Fairness Doctrine covered everything in political campaign beyond scope of Section 315.
- 1971 Appeals court reversed FCC in “Loyal Opposition” case and said RNC not entitled to opportunity to respond.  
Appeals court reversed FCC in *BEM-DNC* case and ruled that stations and networks must sell time for controversy.  
FCC refused to enter controversy on “Selling of the Pentagon.”
- 1972 NBC broadcast of documentary “Pensions—the Broken Promise” critical of some private pension funds.

- 1973 Supreme Court reversed appeals court on *BEM-DNC* case and upheld FCC stand that time need not be sold for controversy.  
FCC ruled in "*Pensions*" case that NBC had Fairness Doctrine responsibility to give private pension companies a chance to respond.
- 1974 FCC issued Fairness Doctrine report summarizing its position on many issues.  
Appeals court ordered FCC to dismiss its order in "*Pensions*" case.
- 1976 Supreme Court refused to hear and thus upheld appeals court dismissal of "*Pensions*" case.  
FCC said WHAR had violated Fairness Doctrine by failing to program on the controversial subject of strip mining.

# 12

## CABLE TELEVISION

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### Preview

Cable television started as simple community antenna television (CATV) in 1950 and for a few years seemed an ideal system for everyone. By the mid-1950s CATV had added importation to its services and there were fears it would make impossible the survival of conventional television in some communities. After the *Carter Mountain* case the FCC initiated minimal cable regulations in 1965. In 1968 the Supreme Court affirmed the Commission's right to regulate cable and there was a four-year period of waiting for new permanent regulations. In 1972 the FCC issued new rules and for a year cable seemed to thrive while broadcasters were satisfied with the protection afforded them. Then cable encountered economic difficulties and sought relief from the rules which in 1972 had seemed reasonable. In the mid-1970s FCC limitations on cable are the most controversial topic in broadcasting, and

the future for the next few years is extremely difficult to predict.

By 1950 television was beginning to make an impression on America. There were 107 stations on the air in 63 markets. More than 9 million homes had receivers. The “Saturday Night Review” was dominating its time period. Milton Berle, Arthur Godfrey, and Ed Sullivan were starring in comedy and variety programs and the golden age of video drama was about to begin. The television Freeze was in its second year and people beyond the reach of stations were getting impatient to receive the new medium about which they were reading and hearing so much.

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## 12.1 COMMUNITY ANTENNA TELEVISION (CATV)

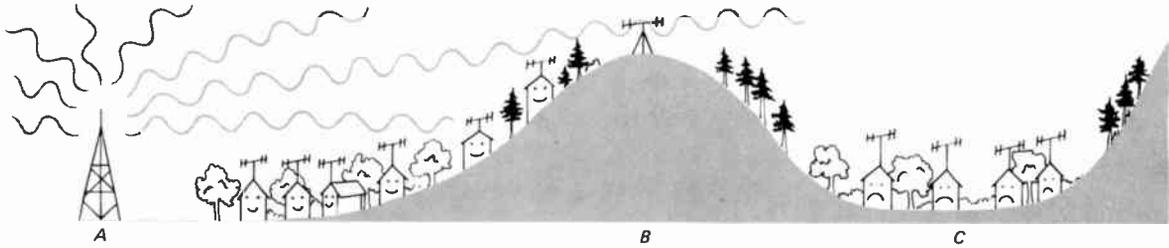
Most of the nontelevision areas would have to wait for the end of the Freeze before they might have service. Some homes, however, were just beyond the range of stations and found a way to receive signals without waiting for FCC action. For a few there was the master antenna which served several families. It might be located on top of a tall apartment house, or several homes might get together to place the antenna high enough to receive pictures and sound which they could share. The breakthrough from these highly informal and noncommercial master antennas came in 1950 in Lansford, Pennsylvania.

Lansford was 70 miles from Philadelphia, a city which had three stations. The signals from those stations passed directly over Lansford but were beyond the reach of either rooftop or master antennas. An enterprising individual placed an antenna on an 85-foot tower at the top of a mountain where he picked up the Philadelphia stations, then amplified the signals and relayed them by wires through the streets of the town. The result was perfect reception for connected homes. Because one antenna was serving a whole community, it was called community antenna television (CATV). The “headend” was the point from which the signals arriving from the mountain-top antenna were sent through the community by cables attached to electric and telephone poles. Connections were made from the main cable into homes so the signals traveled from the community antenna to the receivers without the use of the airwaves. (See Fig. 12.1.)

There were three factors which differentiated CATV systems from the earlier master-antenna setups.

1. They served more homes in larger areas necessitating amplification of the incoming signals.

## COMMUNITY ANTENNA TELEVISION



**Fig. 12.1** Community Antenna Television. At Point *A* is a television station whose signals go in straight lines as indicated. All homes between the station and Point *B* on the mountain can get a good signal. However, people in the community at Point *C* can get no reception because the signals going beyond the mountain are several hundred feet above their homes. By receiving the signals on top of the mountain at Point *B*, amplifying them, and sending them through the community by cable, the CATV operator can provide homes with good reception.

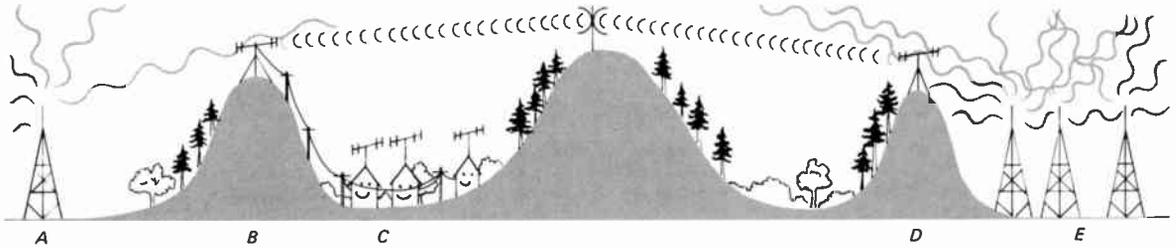
2. They used the community rights of way to a degree which required a franchise or official permission to run the cables through the town.
3. They were planned as profit-making operations in which installation fees and monthly subscription payments would more than cover all expenses.

In its earliest stages CATV was one of those rare developments which seemed ideal for everyone. The stations, networks, and advertisers were glad to get extended coverage at no expense. The subscribers enjoyed the service which would not otherwise have been available. The CATV operator was making a profit.

### **CATV Becomes Cable**

The transition from CATV to cable television occurred first in those communities where only one station could be picked up directly off the air at the headend. From that one station came some of the most popular programs, but there were other shows which were getting national publicity and which subscribers wanted to see. The system operators knew that if there were more stations on the cable, the service would be in greater demand, so they looked for chances to expand. Expansion involved "importation" whereby a receiving antenna was installed in an appropriate location to get programs directly off the air from stations in another city. The signals were then sent back to the headend by microwave relay and distributed along with the original station to subscribers.

## CABLE IMPORTATION



**Fig. 12.2 Cable Importation.** In the television market at Point *A* there is only one station which is being received and fed by CATV to the community at Point *C*. In a major city at Point *E* many miles beyond the community there are three stations whose signals go past the mountain top at point *D*. An antenna is placed on that mountain to receive the signals which are then amplified and sent by microwave relays to the headend of the system at Point *B*. They are then distributed along with the CATV signals from the station at Point *A*. The subscriber can now tune in to four stations without being in any of their coverage areas.

At this point the operator had moved from pure CATV into “cable television.” (See Fig. 12.2) The modern system may offer as many as five distinct services to its subscribers.

1. *CATV*: Distribution of “local” broadcast signals received directly off the air at the headend.
2. *Importation*: Distribution of “distant” broadcast signals taken off the air many miles away and relayed to the headend by microwave.
3. *Origination*: Distribution of material not received from a broadcast station but produced in the system’s studio or generated on its film chain or videotape playback.
4. *Access Channels*: Distribution of signals prescribed by the FCC or by local franchise agreement.
5. *Pay Cable*: Distribution of material for which the subscriber must pay in addition to the basic monthly charge which covers the first four services.

### Lack of Early Regulation

Since there were no complaints about it, the FCC paid little attention to CATV for nearly two years. Systems operated under franchises granted by local communities. They had no reason to communicate with the Commission or any other central agency, so for about twenty years there were only estimates of the numbers of installations and subscribers around the country.

In the fall of 1951 the FCC began to consider the implications of cable. J. E. Belknap & Associates of Poplar Bluff, Missouri, filed an application for a microwave license to import signals to local CATV systems. When Mr. Belknap made inquiries at the FCC, he learned the Commission was afraid “that community antenna TV systems may mean the doom of small-market TV stations,” especially those on the UHF.\* The Commission delayed a decision on the technicality that microwave was intended as a common carrier providing more services than just importation. The authorization was finally granted in May 1954 after minor changes were made in the application and after showing there was no ownership connection between Belknap and the cable systems the company proposed to serve. In granting the application the FCC “specifically stated, however, that it is making no determination at this time on whether or not it has jurisdiction over community television operations.”†

Aside from its natural inclination to avoid new involvements as long as possible, there were logical reasons why the FCC felt it could not regulate CATV. CATV did not use the airwaves which were clearly within Commission jurisdiction. Neither was CATV a common carrier or interstate communication by wire which would have also brought it within the FCC’s area of responsibility. Finally, the chief argument of the first complaining broadcasters was that CATV posed a threat of economic injury to television stations. Since the *Sanders* case in 1940 the Commission had interpreted the court’s decision as a mandate not to consider the economic welfare of stations. In 1954 Commissioner John Doerfer responded to broadcaster complaints, “Jurisdiction over CATV not only is doubtful, but, in my opinion is undesirable.”‡ He was speaking for many who felt the laws of supply and demand should be paramount in determining cable growth and development.

In 1956 the FCC received the first formal request from stations that some CATV systems be regulated because they threatened the existence of stations. The petition was dismissed two years later on the grounds that the Communications Act did not give the FCC authority to intervene. In 1958 “Bonus Baby Is Problem Child” was the headline of a *Broadcasting* story pointing up the difficulty new stations were encountering in communities where CATV was well established.§ By

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\* *Broadcasting*, November 19, 1951, p. 76.

† *Ibid.*, May 10, 1954, p. 67.

‡ *Ibid.*, November 15, 1954, p. 80.

§ *Ibid.*, May 12, 1958, p. 33.

1959 the FCC acknowledged that a problem existed and informed Congress that legislation was necessary if the Commission were to exert any regulatory control. It suggested a law to provide that CATV systems must get permission from broadcasters to use their signals and that they also be required to carry all local signals if the local stations so requested. In the following year the Senate failed by one vote to take any action on the Commission's request.

## **The Regulatory Dilemma**

The role of the FCC in regulating cable has from the beginning been subject to great criticism from both broadcast and cable interests. Each has hailed favorable decisions as wise and justified and criticized adverse rulings on self-serving grounds. The development of cable regulation in the 1960s should be assessed in light of the philosophical commitment the Commission made during the Freeze to a nationwide system of television with emphasis on local service.

When the Commission published its table of assignments in 1952, it had based the system on a number of priorities. The first two were that every home should have television service from at least one station and that the majority should have access to a minimum of two signals. Under the free enterprise system stations could be expected to operate where there was a reasonable hope of making a profit from advertising revenues. The Commission's concern was that new broadcasters in one-station markets might find it impossible to compete profitably with CATV which was providing three or four signals from outside. The advertisers would soon learn that most of the potential audience was tuned to distant stations on cable and would refuse to buy time on the local station.\* This might force some stations off the air and prevent others from even trying to operate. (By the mid-1970s only about 700 of 1,750 commercial assignments had been activated.) For two reasons this impact on local stations would be intolerable in light of the Commission's desire for a nationwide system of local television.

*First*, was the fact that the residents of cable communities without broadcast stations would receive no local television service—no local news, no discussion of local issues, no attempt to communicate a community identity.

*Second*, and of greater significance, was the fact that a substantial portion of the population in cable areas without stations would be to-

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\* In the mid-1970s an operator in Salisbury, Maryland, told the FCC that "a national advertiser had reduced by 40 percent the money spent on his television station because of the 'spill over' of other television signals imported by the cable systems in his area." *Broadcasting*, February 23, 1976, p. 21.

tally deprived of any service. It is in the nature of cable operation that money can be made only when there is a relatively high density of population per mile of installed lines. For example, if it cost \$3,000 to install a mile of cable on existing poles (a reasonable figure in 1960) and if there are 100 homes along that mile, the cost per home is only \$30. Since the subscriber normally paid an installation fee plus a monthly subscription of up to \$5, the per-home cable investment could be fairly easily amortized. But, if there were only 50 homes in the mile, the cost per home would be \$60 and it would take that much longer to pay off the initial expense before starting to make a profit. When the population density was substantially below 50 homes per mile, the cost per unit for installing cable was prohibitive and the cable company made no plans to serve such homes either immediately or in the long run.

This would mean the Commission's first priority of minimal service for everyone had been violated. If there is only cable in an area, there will be some homes denied access to television indefinitely. Even if all channels in the table of assignments came on the air, there would be perhaps 1–2 percent of homes beyond the range of good signals. If many areas had only cable there might be another 10–20 percent without hope of service because systems would not find it economically feasible to run lines past their homes. Should cable be permitted to grow without restriction to the point where it might destroy station viability in small markets and thus make television service totally unavailable to a portion of the population? That was the philosophical question facing the Commission. At the same time, it was clear that cable was providing a valuable service to many people and that it did represent a technological advance. Simply resisting such a development was counter to American philosophy.

### **Cable Optimism**

The early 1960s was a heady time for cable operators. Between 700 and 800 systems were in operation. About 50 were importing and providing more signals to their subscribers than could have been expected off the air under the FCC's table of assignments. Cable operators at the National Cable Television Association (NCTA) conventions were discussing origination financed by advertising sold in competition with over-the-air television. Cable had been so successful in small communities that some operators were looking forward to moving into the major cities.

Part of the optimism was due to the FCC's apparent lack of ability to control growth. Microwave relay authorizations were being granted

for importation, and Congress had refused to amend the Communications Act to give the Commission a clear-cut mandate to regulate cable. It was apparent some changes would take place but no one knew what to expect. The confusion began to dissipate with the *Carter Mountain* case.

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## 12.2 INTERMEDIATE REGULATION

### *Carter Mountain* Case

The Carter Mountain Transmission Corporation operated microwave relays which imported television signals to cable systems in the Rocky Mountains. It applied for permission to increase its facilities so it might provide an importation service to CATV in the Riverton, Wyoming, area which was served by a single station, KWRB-TV. It was a typical small-market situation where the station was in the red and having difficulty competing with CATV. In 1959 the grant was made to Carter Mountain on a routine basis without a hearing. Protests were filed by the station and in 1962 the Commission reversed its earlier award.

A principal basis for the reversal was the 1958 appeals court decision in the *Carroll* case. Carroll Broadcasting Company operated a station in Carrollton, Georgia, which served a population of about 11,000 persons. When the FCC granted a construction permit to a new radio station, the owner of the existing station protested to the court that there was not enough advertising revenue in the area to support both. The court took note of the *Sanders* case, which the Commission had felt ruled out economic injury as an issue in authorizing new stations. It went on to emphasize the Supreme Court's comment that if economic injury meant impaired service to the public, then it should be considered. After quoting the appropriate passages from the *Sanders* case, the appeals court said:

Thus, it seems to us, the question whether a station makes \$5,000 or \$10,000 or \$50,000 is a matter in which the public has no interest so long as service is not adversely affected; service may well be improved by competition. But, if the situation in a given area is such that available revenue will not support good service in more than one station, the public interest may well be in the licensing of one rather than two stations. To license two stations where there is revenue for only one may result in no good service at all. So economic injury to an existing station, while not in and of itself a matter of moment, becomes important when on the facts it spells diminution

or destruction of service. At that point the element of injury ceases to be a matter of purely private concern.\*

In the *Carter Mountain* decision the FCC applied the *Carroll* case reasoning to the granting of microwave licenses for importation. Accepting the statements of KWRB-TV that the proposed importation of signals into its community would force it to go off the air, the Commission adhered to its basic policy of providing television service for everyone and denied the Carter Mountain application.

We will not shut our eyes to the impact upon the public service which is our ultimate concern, when it appears that the (microwave) grant may serve to deprive a substantially large number of the public of a service. . . . We will not permit a subsequent grant to be issued if it be demonstrated that the same would vitiate a prior grant, without weighing the public-interest considerations involved.†

On the matter of economic injury the FCC added:

Hence, when the impact of economic injury is such as to adversely affect the public interest, it is not only within our power, but it is our duty to determine the ultimate effect, study the fact, and act in a manner most advantageous to the public.

The Commission denied the Carter Mountain application but said another request might be filed if there were assurances that the cable system would agree to carry the KWRB-TV signal and avoid importing programs scheduled to be aired by the station. Carter Mountain disputed the FCC's authority to limit the use of microwave, but in May 1963 the court of appeals upheld the Commission. This was a clear authorization for the FCC to move ahead in one aspect of cable regulation without congressional action. The FCC had the responsibility for overseeing development of a national system of television and if that system were threatened by importation, then the FCC had authority to regulate microwave relays to control importation.

### **Cable Regulations of 1965 and 1966**

Following the court's affirmation of the *Carter Mountain* decision the FCC started working on minimal cable regulations. In 1965 it announced rules for cable systems which were importing distant signals and in the following year extended them with slight variations to all systems.

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\* *Carroll Broadcasting Company v. Federal Communications Commission*, 258 F. 2d. 440 (D.C. Cir.), July 10, 1958.

† In re: *Carter Mountain Transmission Corp.*, 32 FCC 459, February 14, 1962.

1. All cable systems were required to carry all local broadcast signals if the stations so requested. This guaranteed the local stations the same cable carriage as those being imported and local UHF signals were given equal cable status with VHF.
2. All systems had to protect local station programming by “blacking out” or not importing a program on the same day it was being aired locally.

The rules contained a “grandfather” clause which permitted existing systems to continue practices which were prohibited to new systems.

The Commission also announced it would issue no automatic new microwave licenses to import distant stations to cable systems in the top 100 markets if any of the local stations objected. In the event that a system applied to import signals into one of the top markets over a local station’s objections, the Commission would hold hearings which might well last for years. Since it was inevitable that some local station would object to importation into its market, this was in effect a “pseudo freeze” on cable in the big cities. By 1965 the most promising of the smaller markets were being served by cable and the greatest remaining potential was in the larger cities. The lure of the large markets was increased by the breakthrough of color which required better reception conditions than did black and white. Cable operators were looking to the major markets as an almost unlimited source of revenue.

From 1965 to 1972 cable was in a state of suspended animation with growth limited to extension of systems in small communities or into large markets like New York City where the concentration of highrise buildings in Manhattan resulted in poor off-air reception and where there were so many independent stations there was no need for importation. In June 1968 there were two important Supreme Court decisions—one gave comfort to the broadcasters, the other to the cable operators.

### **The *Southwestern* Case**

The *Southwestern* case was a challenge to the right of the FCC to promulgate and enforce importation rules on cable systems. Southwestern Cable Company operated a system in San Diego, one of the top 100 markets, and had been importing signals from Los Angeles, a little over 100 miles to the north. Midwest Television, which operated one of the San Diego stations, requested from the Commission an order which would prohibit Southwestern from offering its imported programs to any new customers although it could, under the grandfather clause, continue providing them to former subscribers. The FCC ordered Southwestern

to restrict its services to new subscribers until a hearing might be held. Southwestern asked the U.S. Court of Appeals for the Ninth Circuit to rule that the Commission was exceeding its authority under the Communications Act and the court did so. The FCC appealed the ruling to the Supreme Court.

The Supreme Court in June 1968 reversed the lower court's ruling and in two ways affirmed the authority of the FCC to regulate cable television.

1. It rejected the argument that cable was not interstate and therefore not subject to federal regulations:

Nor can we doubt that CATV systems are engaged in interstate communication, even where, as here, the intercepted signals emanate from stations located within the same State in which the CATV system operates. We may take notice that television broadcasting consists in very large part of programming devised for, and distributed to, national audiences; respondents thus are ordinarily employed in the simultaneous transmission of communications that have very often originated in other States. The stream of communication is essentially uninterrupted and properly indivisible. To categorize respondents' activities as intrastate would disregard the character of the television industry. . . .\*

2. More significantly, the Court held that FCC regulation of cable was essential to fulfill the congressional mandate for development of broadcasting:

Moreover, the Commission has reasonably concluded that regulatory authority over CATV is imperative if it is to perform with appropriate effectiveness certain of its other responsibilities. . . . The Commission has reasonably found that the achievement of each of its purposes is "placed in jeopardy by the unregulated explosive growth of CATV." . . . There is no need to determine in detail the limits of the Commission's authority to regulate CATV. It is enough to emphasize that the authority which we recognize today . . . is restricted to that reasonably ancillary to the effective performance of the Commission's various responsibilities for the regulation of television broadcasting. †

Thus, the Court was agreeing with the FCC posture in *Carter Mountain* that it had the responsibility for planning nationwide television based on the concept of local service. Within the "reasonably ancillary" restriction given above, the Commission might regulate anything which

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\* United States et al. v. Southwestern Cable Co., et al., 392 U.S. at 168, June 10, 1968.

† Ibid., at 173.

threatened the overall design. From that point on there was no question about Commission authority to regulate cable.

### **The *Fortnightly* Case**

A week after the *Southwestern* decision which pleased the broadcasters, the Supreme Court handed down a decision in the *Fortnightly* case which was equally pleasing to the cable interests. It concerned obligations of cable operators under the copyright law of 1909 which generally provides that the creator of a book or play or other work is entitled to compensation if someone else makes money using it.

In the early CATV days, stations wondered whether they might be entitled to some compensation because cable systems were making money distributing their programs. For the most part, however, they were so pleased with the extension of their audiences that they made no issue of copyright payments. Thus CATV systems were obtaining for free the product they were selling the subscribers. When a few broadcasters did try to prevent cable from carrying their programs, they were rebuffed by the state courts.

In 1960 United Artists Television, Inc., which held copyrights on some movies being used on television, sued Fortnightly Corporation asking copyright payments for broadcast movies being delivered by CATV to homes in West Virginia. When the case reached the Supreme Court eight years later, the decision handed down was based on application of a key word found in the Copyright Act—"perform." In ruling against United Artists, the Court said:

CATV systems do not in fact broadcast or rebroadcast. Broadcasters select the programs to be viewed; CATV systems simply carry, without editing, whatever programs they receive. Broadcasters procure programs and propagate them to the public; CATV systems receive programs that have been released to the public and carry them by private channels to additional viewers. We hold that CATV operators, like viewers and unlike broadcasters, do not perform the programs that they receive and carry. . . . We take the Copyright Act of 1909 as we find it. With due regard to changing technology, we hold that the petitioner did not under that law "perform" the respondent's copyrighted works.\*

The Supreme Court emphasized it was ruling on only one specific instance and avoiding broader implications. Some took this to mean that the Court might find differently in another case where there had been importation. In March 1974 the Supreme Court heard another

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\* *Fortnightly Corp. v. United Artists Television, Inc.*, 392 U.S. at 400, June 17, 1968.

copyright case in which CBS sued Teleprompter for importing some of its programs. The Court reaffirmed its original stance:

The reception and rechanneling of these signals for simultaneous viewing is essentially a viewer function, irrespective of the distance between the broadcasting station and the ultimate viewer.\*

This broadened the 1968 decision so that cable was free of copyright liability whenever it carried broadcast signals although a system would have to pay for permission to use copyright material originating in its studio or “performed” on its own film chains or videotape playbacks.

The NCTA was delighted with the 1968 copyright decision and the NAB was dismayed. The FCC realized it must take a fresh look at the problem. According to *Broadcasting*:

Chairman Rosel H. Hyde and other members of the Commission had long counted on copyright to lighten the Commission’s regulatory burden in CATV. They felt that, if CATV systems were held liable for copyright payments, the systems would be forced to compete on more equal terms with stations and that, as a result, the Commission’s need to afford broadcasters economic protection against CATV competition would be reduced.†

Had cable been liable for copyright payments to broadcasters, the relationships between cable and television might have evolved naturally in the marketplace without the need for further regulation. Such was not to be the case.

### **The FCC Search for Accord**

Following the two historic decisions in June 1968 the responsibility for regulating cable fell squarely on the shoulders of the FCC. Its earlier pseudo freeze on importation into the top 100 markets remained in effect and everyone waited for indications of what was to come. The Commission realized its regulations would have to find a middle ground between protecting broadcasters so they might continue serving audiences beyond the reach of cable while at the same time giving cable a chance to realize its eventual potential. There was a tacit suspicion that cable, with its technological capacity to provide every home with 20 or 40 or more channels, might some day replace over-the-air transmissions. But if broadcasting lost its economic viability before cable was ready to serve the whole nation, there would be many people without any television reception at all.

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\* *Teleprompter Corporation et al. v. Columbia Broadcasting System, Inc.*, 415 U.S. at 408, March 4, 1974.

† *Broadcasting*, June 24, 1968, p. 19.

The FCC had little difficulty formulating the broad outline of cable regulations, but it felt the specific details of regulating competition between the two media ought to result from negotiations by both sides. It had been assumed for some years by both broadcasters and cable operators that there should be some payment for use of programs but there was no consensus on how much it should be. The FCC was saying to both sides, "Come up with reasonable proposals on which you can agree and we will formulate regulations to implement them." Meetings were held between the NAB and NCTA with little progress. Commission Chairman Rosel Hyde and OTP Director Clay Whitehead were unable to bring them together.

In August 1971 FCC Chairman Dean Burch (Mr. Hyde's successor) wrote a letter to Congress spelling out a Commission position on cable regulation generally but reported he was unable to get the NAB and NCTA to subscribe to details. The frustration with the uncertainty and waiting began to mount as it had toward the end of the 1948–1952 television Freeze. Finally, in November OTP Director Whitehead called the parties to the White House and handed them what seemed to him to be an acceptable compromise with the ultimatum, "Take it or leave it."

The Whitehead compromise, which was filed with the FCC as the "OTP Consensus Agreement," was largely a matter of affirming or making slight changes in various aspects of the Burch letter of August 1971. The most significant portion dealt with copyrights. It called for "compulsory" licenses for all local signals which would require that they be carried as specified by the FCC. On the matter of payment, the agreement said:

Unless a schedule of fees covering the compulsory licenses or some other payment mechanism can be agreed upon between the copyright owners and the CATV owners in time for inclusion in the new copyright statute, the legislation would simply provide for compulsory arbitration failing private agreement on copyright fees.\*

Thus, the major issue of copyright payment was postponed for later consideration in order that cable might be free to start its expansion.

Each side felt great pressure to accept the proposal. The Supreme Court had ruled that broadcasters were not entitled to copyright payments from cable. Only FCC regulations or congressional passage of a new copyright act could protect broadcasters from competition they

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\* *Ibid.*, November 8, 1971, p. 16.

felt would be detrimental to them. The Court had told the cable operators they were subject to FCC regulations. For more than six years there had been a pseudo freeze which had kept cable from expanding into the major markets where operators felt their most promising future lay. With a sigh of relief, the two parties (plus copyright holders in Hollywood) agreed to the compromise even though it failed to solve the basic problem.

In February 1972 the FCC issued new cable regulations to be effective March 31.\* For the most part they conformed to the Burch letter of the preceding August with minor changes reflecting the Whitehead compromise. Only in the area of pay cable were the regulations breaking new ground with little knowledge of how they would work out.

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### **12.3 THE 1972 REGULATIONS AS THE BASIS FOR FUTURE CONTROVERSY**

During the years following the 1968 *Southwestern* case, the shape of future cable regulations was one of the most disputed issues in the field. But for a year and a half after the 1972 regulations were announced there was comparative quiet. Both broadcasters and cable operators seemed to feel that an acceptable accommodation had evolved. In the summer and fall of 1973, however, the controversy erupted with renewed vigor, largely because the general economic climate of the country mitigated against the success which cable had anticipated. The regulations which were acceptable to cable in 1972 became intolerable by the beginning of 1974. Most of the debate centered on the extent to which the rules should be relaxed to give cable a better opportunity to grow. Subsequently, the story of cable is meaningful as one first studies the nine original areas of regulation in 1972.

1. Certificate of Compliance
2. Carriage of Local Signals
3. Importation
4. Origination
5. Pay Cable
6. Minimum Capacity
7. Access Channels
8. Cross-Ownership
9. Effective Dates

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\* The FCC 1972 Cable Regulations are reproduced "In Full Text" in *Broadcasting*, February 7, 1972, pp. 21-36.

## 1. Certificate of Compliance

After March 31, 1972 all new systems were required to obtain from the FCC a certificate of compliance. No existing system could add new signals or operate under a renewed franchise without the certificate. By March 31, 1977 it would be necessary for all systems to have it.

The certificate of compliance is comparable to the station license in that it is a required document issued by the FCC. In most respects, however, the cable equivalent of the broadcaster's license is the franchise granted by the local community giving permission to install cable above or beneath the city streets and to sell its services to residents.

When a community is considering cable television it will normally make a public announcement, invite proposals, and hold public hearings. The authorities determine the size of the fee to be paid by the cable company, the specific geographic areas for which franchises are to be issued, and the timetable for installing the cable. They will look into the character and financial capacity of the applicants and their promises to operate in the best interests of the community. They will also consider plans for studios to be used by the community and its residents and the ways in which cable will be useful as well as entertaining to citizens.

The FCC intended the certificate of compliance to be largely *pro forma* and given automatically to the holder of a local franchise. It issued only simple guidelines, such as the specification that a community might not require from an operator fees beyond the range of 3–5 percent of gross revenues in a year. In granting the certificate of compliance the Commission plays the role of a central authority concerned with the best interests of the public. For example, it said the limitations on cable payments to the community were “designed to protect cable systems against fees that would be so high as to make it difficult for them to carry out their part in our national communications policy.”\*

In some instances the FCC has refused to grant the certificate when it felt community authorities had exercised bad judgment. For example, a company was given a franchise to cover all of Baltimore County in Maryland, an area so large that various portions fell in three different television markets. The Commission directed that separate franchises be granted for different parts of the county although it did not rule out the possibility that one company might receive all the franchises. In two more instances in Virginia and California the local governments required so many channels for local use that the Commission felt the

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\* *Broadcasting*, January 6, 1975, p. 52.

cable companies would have financial problems which might justify the excuse they could not afford to serve community residents adequately. The certificates were not issued until the franchise terms were changed.

A more perplexing problem was raised in the fall of 1974 as the time approached for Teleprompter (TPT) to seek a certificate for its operation in Johnstown, Pennsylvania. TPT was first issued a franchise for part of the city in 1961, and in 1966 it received an exclusive franchise for the whole area. Subsequent to the latter grant, the president of TPT was found guilty of bribing the mayor and two other officials and spent several years in prison. The problem for the FCC was whether it should grant a certification of compliance for a franchise which had been obtained by illegal tactics. The community insisted the FCC should reject a franchise only on technical grounds and that the local authorities were the only ones who should determine whether bribery in obtaining the franchise was significant. The FCC was split, and in May 1975 it refused to grant the certificate. A year later the court of appeals reversed the FCC on the narrow grounds that the violation occurred before passage of the 1972 cable regulations providing for the certificate of compliance. Left standing was the concept that under other circumstances the Commission can refuse to grant the certificate if the local franchising process is tainted by corruption.

The Johnstown dispute illustrates the divided responsibility in cable regulation which in some areas constitutes three-tiered regulation.

1. The local community gives the franchise.
2. Some states have established cable commissions which set standards to govern community actions since many small towns do not have personnel who are knowledgeable in the field.
3. The FCC grants the certificate of compliance and lays down regulations.

## **2. Carriage of Local Signals**

In order that independent and educational stations (on the UHF as well as the VHF) might have the same advantages as local and imported network affiliates, systems were required to carry all local signals if the stations so requested. There could be no deletion of local programs or commercials.

## **3. Importation**

Cable systems were given the right to import signals under certain conditions which varied according to the size of the market. Every system could import to the extent necessary to provide three "full-network" stations which in prime time carried 85 percent of the programs offered

by their networks. All might also import independent stations within the following general limits:

- 3 into the top 50 markets
- 2 into the next 50 markets
- 1 into television markets below the top 100
- without restriction into nontelevision areas.

Importation was subject to “leapfrogging” rules which required that systems bring in outside stations from among the nearest sources. The imported full-network station must be the closest available. Independent stations could be imported only from the two closest of the top 25 markets. For example, if a cable system in central Missouri were going to import independent stations, it must do so from St. Louis or Kansas City and not go all the way to Chicago or San Francisco or New York City for such signals.

Importation was also subject to program-exclusivity rules which protected local stations which had purchased syndicated programs. For example, if a local station broadcasts the syndicated “Perry Mason” series and the local cable system is importing a station which shows the same series, the system must delete it from the imported signal. Thus the local station is protected against duplication of the shows which it has purchased for exclusive airing in the area.

#### **4. Origination**

In 1969 the Commission had ruled that any cable system having 3,500 or more subscribers must provide original, nonbroadcast material “to a significant extent,” and the rule was carried over into the 1972 regulations. There was never a definition of what constituted “significant.” Some systems simply focused a camera on a clock so one could always know the precise time. Others went as far as the New York City systems which paid a quarter-million dollars a year to carry nonbroadcast events from Madison Square Garden.

#### **5. Pay Cable**

Pay cable, by definition, is the distribution of material for which the viewer must pay in addition to the monthly subscription fee. By the spring of 1972 it was estimated that about 6 million homes were connected to cable systems and might be able to receive any pay cable which was offered. If half of those 6 million homes were willing to pay 50 cents per game for the World Series, there was a potential revenue of \$1.5 million. For seven games the total would be greater than the networks were paying for broadcast rights. Since it was expected that the number of cable homes would rise very rapidly after the

end of the pseudo freeze in the major markets, the threat of pay cable was far greater than it had ever been with over-the-air pay television.

Just as the FCC had been concerned with viewers in small markets which did not have pay TV, so were they even more concerned with viewers in homes where there was no possibility they would have cable in the near future. It was noted above that cable has a financial potential only where there is an adequate density of population per mile of installed cable. It must also be noted that even in high population-density areas it can take several years to complete installation of a system. The Commission felt it had to protect noncable homes from pay cable's siphoning off the most popular programs before pay cable was in a position to serve the whole country.

Consequently, the 1972 cable regulations incorporated almost without change the antisiphoning rules applied to pay television in 1968. Pay cable might not offer movies more than two years old except that during one week of each month there could be one movie more than ten years old. Regular sporting events might not be offered if they had appeared on regular television in the past two years. An infrequent event like the Olympic Games might not be purchased by pay cable if it had been on regular television the last time it occurred. Series with interconnected plots or continuing characters were not permitted. Neither could there be any commercials.\*

## **6. Minimum Channel Capacity**

Some of the early CATV systems were built with only two or three channels. Over the years the capacity of most cable installations grew but there was little uniformity. Because the stringing or laying of cable is so expensive, the Commission required a minimum capacity which would be adequate for the foreseeable future. It ruled that all new systems in the top 100 markets must have a minimum of twenty channels along with an "upstream capacity" which meant that the channels must be able to carry a nonvoice signal (as in computer data) from homes back to the headend.

## **7. Access Channels**

To provide for the local interest beyond origination requirements, the Commission ruled that systems in the top 100 markets must provide one other-purpose channel for each used to carry broadcast programs. Among the nonbroadcast channels must be four "access" facilities.

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\* In March 1977 a court of appeals said that the pay cable antisiphoning rules on movies and sports were unconstitutional—an infringement on freedom of speech. The Supreme Court declined to review the decision.

a) *Public Access*: One channel must be available to the public on a first-come, first-served basis so individuals can communicate whatever they wish on the system. There can be no charge for use of the channel, and production facilities must be maintained for use at a minimal cost. The cable operator can exercise no control over the program content other than to prohibit advertising and presentation of obscene or indecent material.

b) *Educational Access*: One channel must be assigned for full-time use by educational authorities and institutions. Since few schools were equipped to use cable, those channels were comparatively unused.

c) *Local Government Access*: One channel must be reserved for local government. Since few municipalities are organized to use mass media and since the connection of homes is still far from universal, there has been little use of these channels either.

d) *Leased Access Channels*: Cable systems are required to offer their unused channels for lease to individuals and organizations. There are no advertising restrictions, so producers who experiment on public access and think they have a salable commodity can lease time on another channel and try to sell advertising. For example, a group which produced "soft porn" on public access in New York City at a cost of \$50 per hour went to a leased channel, raised its budget to \$1,500 per program, and offered spots to advertisers.

## **8. Cross-Ownership**

The Commission's concern with newspaper ownership of broadcast stations has been noted. To prevent cross-ownership of broadcast and cable the FCC ruled that a television station might not own a cable system in the community where it was broadcasting and that the national networks might not own cable systems anywhere.

## **9. Effective Dates**

Systems in existence in February 1972 were "grandfathered," or excused from new regulations, for the first few years. The date by which those systems were to bring their systems and practices in line with the regulations was March 31, 1977.

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## **12.4 DISAPPOINTING GROWTH OF CABLE**

When the rules were announced in February 1972 there was great enthusiasm for the future of cable. It had been unable to move into most of the major markets since 1965. With the lifting of the pseudo

freeze and the establishment of ground rules, cable companies planned to proceed rapidly and their stocks soared on the exchanges.

Fifteen months later, in June 1973, there were the first hints that cable still had major problems. Cable penetration (percentage of connected homes in areas where cable was installed) in the major markets was growing more slowly than anticipated. In New York and other cities it appeared to be leveling off at about 30 percent. Further examination revealed it was the CATV aspect of cable which had persuaded homeowners to become subscribers. They signed up for the service when they had difficulty getting good off-the-air signals because of high buildings and terrain features. When a home had good reception, the origination and importation services were not enough to attract large numbers of subscribers. It should also be noted that many of the major markets had one or more independent stations. Since any imported stations would also be independent, there would be many programs which the nonduplication rules would have forced the operator to eliminate. This would have caused serious operational problems.

At the June 1973 NCTA convention, pay cable attracted major attention as an essential service for success in the major markets. "Pay TV, they were told and they believed, is the only extra CATV service now available that has been proved to bring in cash—and wiring the big cities is going to take a heavy capital investment."\* The cost of cable installation in big cities, where it had to be buried under the streets, ranged from \$75,000 to \$90,000 per mile. This was at a time when there was a shortage of investment capital and interest rates rose to unprecedented heights. The annual prime interest rate for the banks' most favored customers was 11–12 percent. Cable companies were being charged 15–20 percent. There were dim prospects of being able to pay such charges on a penetration of substantially less than half the homes passed by cable.

In September 1973 there was a bombshell involving Teleprompter which served approximately 10 percent of all cable homes in the country. Trading of its stock was suspended on the exchange amid rumors it had overextended its borrowing for new systems and would have trouble paying its debts. Teleprompter announced it was releasing 20 percent of its employees and retrenching its development plans.

In October leaders of the NCTA and representatives of a stock-brokerage house met with the FCC pleading for fewer restrictions and especially asking for an easing of the antisiphoning rules on pay cable.

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\* *Ibid.*, June 25, 1973, p. 32.

In December cable was “banned in Boston.” The city had conducted a study and concluded the potential income to the city from cable was too small to justify having the streets ripped up for installation of the lines. It further noted that in other large cities subscriber homes appeared to be limited to those which needed the CATV service, while most homes in Boston were getting reasonably good off-the-air reception. After considering all the aspects, Boston decided it neither needed nor wanted a cable system and that it would grant no franchise.

In February 1974, *Broadcasting* reported on a survey taken among the major cable companies and found them much less optimistic about major market cable. “But one of the most significant developments of cable (during 1973) was the growing realization by major cable concerns that the concept of the wired city must, for the time being, remain just a concept.”\*

### Easing of Cable Restrictions

As cable problems became more evident, there was increasing pressure on the FCC to relax its cable restrictions. Spearheading the pressure was the Nixon administration in the person of OTP Director Whitehead. On many occasions he expressed his belief that cable’s new technology should be made available to Americans subject only to the limitations of the marketplace and the laws of supply and demand. He was joined by others who felt television was exercising a biased monopoly on the circulation of ideas or that it had made too much money to be permitted to grow further without strong cable competition. In the next two years the Commission relaxed several of its rulings without granting the extremes demanded by the NCTA and its supporters.

1. The *importation* rules were relaxed to permit increased importation late at night if all local stations were off the air.
2. The *leapfrogging* rules were eliminated.
3. The *origination* rules were abandoned, but all systems having 3,500 or more subscribers were required to operate access channels.
4. The *pay cable* restrictions were relaxed without seriously altering the antisiphoning philosophy. Pay cable may bid on movies up to three (instead of two) years after public release and it may carry as many movies more than ten years old as it wishes. There is no limit on carrying foreign-language films in any market, and pay cable in nontelevision markets may carry movies without any restrictions. The waiting period for televised sporting events was

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\* Ibid., February 4, 1974, p. 48.

raised from two years to five, but cable may buy a portion of a regular sporting schedule which is not carried in its entirety by television. (For example, if only part of a baseball team's games are televised, pay cable may contract for a limited number of the rest.)

5. The *cross-ownership* rules were amended so the only prohibition on a station's ownership of cable in its community was if the station had no broadcast competition.
6. The *effective dates* for complying with the twenty-channel minimum capacity were postponed indefinitely.

These and other minor changes failed to violate the protection of regular television intended by the FCC in issuing the regulations in 1972.

### **The Pay Cable Controversy**

When the 1972 regulations were announced there was no major protest about the antisiphoning rules for pay cable. Two years later many companies had come to the conclusion that only pay cable could make them viable in the larger cities. A controversy about relaxing the antisiphoning provisions raged. The NCTA and its supporters again accused the FCC of being captive to the broadcasters and favoring their economic interests. The NAB responded that "free television" would be killed if there were no rules to protect the major sports, the program series, and the movies, which were the backbone of televised schedules.

It had first been assumed that pay cable would charge for individual programs it presented by sending out a scrambled signal which could be decoded by use of an etched circuit or telephone connection. However, the first successful pay cable operation was Time-Life subsidiary Home Box Office (HBO) which furnished material to individual systems for distribution on a separate channel for which the subscriber paid a flat monthly fee over and above the basic subscription price. In the spring of 1975 HBO announced it would use a satellite to distribute material to any system wishing to offer pay cable. At the April meeting of the NCTA, HBO said it would commit \$7,500,000 over the next five years for time on satellites and invited cable companies to invest \$75,000 for each earth station to receive the programs for their own use and for relay by microwave to other systems in the vicinity. Thus any system could offer pay cable by distributing HBO program materials through a channel for which the subscriber would pay a fee of perhaps \$7.50 per month. The standard arrangement for reimbursing HBO was to divide the first \$6.00 from a home each month so HBO

### **Controversy over Copyright Legislation**

received \$3.50 and the system kept \$2.50. After the first \$6.00, the income was divided fifty-fifty. A major advantage in the networking of pay cable is that one company dealing with the owner of a movie or sporting event can commit large amounts of money in a single contract, whereas dealing with hundreds of individual systems would be inconvenient for the owner of the rights.

In the mid-1950s Congress started work on a copyright bill to replace the 1909 law. Though cable assumed it would have to make payments for carriage of broadcast signals sooner or later, there was controversy over the size of the payments and the degree to which they would apply to small systems as well as the large ones. In 1971, when the Whitehead compromise was accepted, cable interests were so optimistic about the future they were willing to leave payment details to future negotiations. When cable growth after 1972 fell below expectations, the willingness to reimburse broadcasters was diluted. Some of the small systems felt they should pay no copyright fees at all. The larger systems talked about paying 1–2 percent of their gross income, while the broadcasters produced statistics showing cable could afford 15–25 percent.

In the fall of 1976, after nearly twenty years of intermittent discussion, Congress passed a new copyright law to be effective in 1978. It gave the cable operators a compulsory license permitting them to pick up and distribute broadcast signals without negotiations with the copyright holders. However, it also provided that the systems would have to pay fees which depended both on the size of their gross revenues and the number of signals being imported from distant stations. The fees are to be paid to a tribunal which will then devise a formula for paying appropriate shares to the copyright holders. The fees are also subject to revision if the FCC changes its basic cable regulations.

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## **12.5 WHAT OF THE FUTURE?**

What is the future of cable? It is somewhat easier to speculate about the long-term future in another 25 years than it is to predict about the short run. Given our technology, given the potential of cable to bring a wide range of services into the home, given the pressure on the spectrum to release many of the television channels for other purposes, and given American ingenuity to work out solutions to difficult problems, it seems reasonable to assume that at some point we will approach the “wired nation” in which the great majority of homes will be connected

to cable. The cable companies will have had to pay the same price the telephone and electric utilities have paid by being required to make installations in low population-density areas where it is far less profitable. There will be national cable networks whereby the whole nation will see the same programs simultaneously. Probably the principal suppliers of entertainment programs on cable will bear the initials ABC, CBS, and NBC, and they will make more money from such service than they now do from their current operations. Homes in areas where there is no cable service may be able to pick up directly from communication satellites the three or so major entertainment schedules plus an educational service.

Homes will be paying for some of the programs they now get for free, but the rates will be reasonable because they will be regulated as the utilities prices are today.

All this is in the distant future. It is far more difficult to predict the intermediate steps. Cable TV looks to pay cable as the solution to its financial difficulties. The outcome of the FCC appeal to the Supreme Court on siphoning sports is uncertain. Equally uncertain is whether Congress would move in if the Supreme Court upheld the lower court ruling that the antisiphoning rules were unconstitutional. It is doubtful if there will be major changes in the immediate future.

Will the American public turn to pay cable as rapidly as anticipated? There are indicators in network television that people tend to be quite happy with what they have and content to exercise limited choice. Certainly, as networks have tried innovative programming, it has been largely unsuccessful. We should recall the NBC experience with UHF in Buffalo when people refused to buy converters to get from the network programs of the type on which pay cable is depending so heavily.

The one certainty about the near future is that it will continue to be filled with controversy and that many of the arguments will be more emotional than logical.

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## **GLOSSARY ITEMS**

The following words and phrases used in Chapter 12 are defined in the Glossary:

Access Channels	Headend
Antisiphoning Rules	Importation
Cable Franchise	Leapfrogging
Cable Penetration	Local Carriage
Cable Pseudo Freeze	Master Antenna
Cable Television	Microwave Relay
Cable Three-Tiered Regulation	Minimum Channel Capacity
Certificate of Compliance	Origination
Community Antenna Television (CATV)	Pay Cable
Compulsory License	Program Exclusivity Rules
Cross-Ownership	Public Access Channel
Economic Injury	Syndication
Full Network Station	Upstream Capacity
Grandfather Clause	

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## **Cable Chronolog**

- 1950 Birth of CATV, probably in Lansford, Pa.
- 1951 FCC showed first concern about the effects of importation on stations planned for small markets.
- 1956 FCC received first formal request from stations to regulate some CATV.
- 1958 FCC refused to assume jurisdiction over CATV.
- 1959 FCC recommended congressional action to enable FCC regulation of cable.
- 1960 Senate failed by one vote to pass bill for cable regulation.

- 1962 *Carter Mountain* case—FCC denied microwave application for CATV which would have caused economic injury to a station and probably lessened the service the station could render to its public.
- 1965 FCC adopted rules for cable systems importing by microwave and imposed a “pseudo freeze” by restricting importation into major markets.
- 1966 FCC extended revised rules to all cable systems.
- 1968 Two Supreme Court decisions:  
1. In *Southwestern* case, upheld FCC authority to regulate cable.  
2. In *Fortnightly* case, ruled CATV need pay no copyright fees.  
FCC sought agreement between cable and broadcasting on new regulation.
- 1969 Cable-origination rule issued.
- 1971 FCC Chairman Burch outlined new regulations in letter to Congress.  
OPT Director Whitehead persuaded cable operators and broadcasters to accept compromise.
- 1972 FCC announced cable regulations.
- 1973 Cable failed to reach growth goals.  
1. Teleprompter crises.  
2. Cable “banned in Boston.”  
3. NCTA applied for relaxation of cable regulations.
- 1974 Supreme Court ruled no copyright liability for importation.
- 1975 HBO announced satellite network for pay cable.
- 1976 Congress passed new copyright law.
- 1977 Appeals court ruled pay cable antisiphoning rules were unconstitutional.

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## **PUBLIC (EDUCATIONAL) BROADCASTING**

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### **Preview**

There was an abortive attempt to start educational radio in the 1920s but it was not until the reservation of FM channels in 1945 that substantial progress was made. In the early 1950s educators realized that long-range decisions were being made in television and persuaded the FCC to set aside reservations for educational institutions. Throughout the rest of the 1950s progress was slow and disappointing in spite of massive assistance from the Ford Foundation. In the 1960s the federal government committed funds to public broadcasting and there were reasons to hope that public television would shortly become quite significant. The expectations with which the medium entered the 1970s foundered on a confrontation with the Nixon administration which, in turn, caused former allies CPB and PBS to oppose each other in the area of program control. In the mid-1970s public television is still beset by

many problems. Public radio, however, which had been almost unnoticed, has made great strides in accomplishing its goals.

When the Freeze ended in 1952, commercial television grew steadily until it became our dominant mass medium. Public (educational) television, on the other hand, started slowly and developed erratically in an atmosphere of constant crisis. To participants and observers alike, it was both exciting and disappointing. Its current status is controversial and defies precise description. It was a continuation of the history of educational radio whose roots go back to 1920.

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### **13.1 1920–1935 THE BEGINNINGS**

Among those claiming to be the first radio broadcasters was the University of Wisconsin at Madison. Its professors were operating a transmitter before Dr. Conrad's 1920 experiments which led to KDKA in Pittsburgh. When the scientists at Wisconsin and other institutions had developed a technical capability, other faculty members wanted to use it for educational radio. Some institutions entered the field with great enthusiasm, seeing radio as a way of giving everyone the equivalent of a college or high school education. It was assumed that if a microphone were placed in a classroom, people in their homes would want to listen and benefit from the lectures and discussion. By 1925 there were about 170 stations operating at various educational levels. But it became clear that the American public was not interested in academic pursuits just for the sake of learning and that operation of stations which would attract audiences required both skills and dollars which were not available to educators. Aside from a handful of midwestern stations, where radio was part of extension services to rural audiences, most educators were disappointed in their broadcast efforts and ready to give up.

At the same time it had been demonstrated that profits could be made from commercial stations. As soon as a frequency was released by an educator, someone else applied for it. By the early 1930s only a couple of dozen educational radio stations remained on the air and the dream of formal home instruction by radio had proven to be unrealistic. Some were still convinced that educational radio had an important potential and on several campuses there were faculty members who were studying the medium, working with commercial stations, and acquiring the skills needed for successful educational operations. But when they went to the Federal Radio Commission for new licenses, they were informed there was no longer any available space on the spectrum for them.

When Congress passed the Communications Act of 1934 it responded to pressure from educators by directing the new FCC to report on the advisability of setting aside some frequencies for use by educational institutions. After hearings the FCC recommended there be no educational reservations since commercial stations were required to operate in the public interest which would require cooperation with educators.

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### **13.2 1935–1945 EDUCATORS ON COMMERCIAL STATIONS**

For the next ten years most educators could broadcast only in time provided by commercial stations. In some instances an excellent cooperative arrangement existed. One of the most prestigious discussion programs of the time was NBC's "University of Chicago Roundtable." In central New York two commercial stations paid two-thirds of the construction costs of a radio workshop on the campus of Syracuse University which then served as the public service department of each of them.

But in far too many instances the results were disappointing. Part of the fault lay with some educators who went to stations with the condescending attitude that they knew more about broadcasting than those who were doing it all the time. They implied that if the commercial broadcasters would step aside, the educators would show them how it should be done. The response of the station personnel was to withdraw and let the educators proceed without any of the advice and help they really needed. It was in those years that educational programs received the reputation of being extremely dull. It was also a time in which an unhealthy antipathy was built up between educators and broadcasters.

The FCC was kept aware of the educators' desire for their own frequencies and in 1938 set aside space for them on the VHF spectrum. It could not be used at the time since there were no appropriate receivers, but it heralded a continuing regulatory interest in educational broadcasting. When FM was authorized in 1940, five of forty channels were assigned to educational institutions but they were comparatively unused due to wartime shortages of materials.

In 1945 the FCC was making plans to move FM to a higher spectrum position where there appeared to be room for some 4,000 stations compared with the fewer than 1,000 AM outlets at the time. Under

the leadership of the United States Office of Education, the educators petitioned the Commission to set aside a sizable portion of the new channels for their exclusive use. Because the FM spectrum appeared to be almost infinite, there was no opposing voice urging the FCC to deny the educators' application. Thus, when 100 FM channels were assigned from 88 MHz to 108 MHz, the twenty channels between 88 MHz and 92 MHz were reserved for educational institutions wishing to use them without advertising support.

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### **13.3 1945–1950 GROWTH OF EDUCATIONAL FM**

In the early postwar years between 1946 and 1950 educators paid little attention to television; they were too busy thinking about FM, which assured them ample opportunity for broadcasting. The number of educational stations grew slowly from six to over sixty during the five years. Many of them were low-powered 10-watt stations authorized only for education. At the same time, there was an increased availability of time on commercial FM stations which were having trouble finding program material. Educators were highly enthusiastic about radio.

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### **13.4 1950–1952 ASSIGNMENTS FOR EDUCATIONAL TELEVISION**

It was in 1950, when the Freeze was two years old, that educators realized the FCC was about to establish a pattern for national television and that it was a medium in which they should be involved. They wanted television channels set aside for education as they had been reserved in FM some five years earlier. There was, however, a significant difference in the two situations. No one had actively opposed the assignment of FM channels to education, but there was strong opposition to a similar reservation of TV channels. By 1950 it was becoming clear that not only was television the medium of the future, but also that there was a scarcity of desirable channels. Operators of AM stations who wanted to get into television realized that every TV channel assigned to education meant one fewer available for commercial operation. It was inevitable that the NAB, consisting of commercial broadcasters, would oppose educational-television assignments.

Although educators are notoriously ineffectual in political situations, they were able in 1950 to organize more effectively than anyone

would have expected. Seven educational groups of national scope cooperated to form a new organization called the Joint Committee for Educational Television (JCET).

The initial problem of any new organization is raising money, and the JCET was among the first to receive grants from the Ford Foundation. Henry Ford's will had provided that control of the company would remain in the family but that the bulk of his holdings would, for tax purposes, be given to a foundation for use in nonprofit activities. After his death it had taken time to settle his estate and it was 1950 before the Foundation was ready to start thinking about how to use its money. Few at that time had any idea of the eventual stature the Ford Foundation would reach, but it became clear five years later when there was a series of grants to the endowment funds of over 4,000 private colleges, universities, and hospitals. The Foundation's purpose was to disburse dollars which had accumulated faster than they could be spent. The total amount given away at one stroke to use up the income without touching the capital was \$500 million.

The JCET was able to interest the Ford Foundation in its problems and received a small organizational grant with an invitation to return when more was needed. (During the next two decades educational television was to receive more than \$250 million from the Ford Foundation and its subsidiary Fund for Adult Education and Fund for the Advancement of Education.)

The next problem was employment of a lawyer. Theoretically, any person or group can go directly to the FCC and present arguments and petitions. Nevertheless, as in a courtroom situation, it is wise to have a lawyer who knows his or her way around and can organize materials in the most effective way. One difficulty in selecting a JCET lawyer was that all the experienced attorneys of the Federal Communications Bar Association already had commercial broadcasting clients and would have a conflict of interest if they represented the JCET. It might have been possible to hire some young person who had just been admitted to the bar and would work cheaply, but that would have been to invite failure in a very difficult undertaking.

The JCET finally employed Telford Taylor as its attorney. Mr. Taylor had been general counsel to the FCC from 1940 to 1942 and had then entered the Army. He had served as United States Chief of Counsel for war crimes trials from 1946 to 1949. Not only was he thoroughly at home with the FCC, he was also one of the most respected lawyers in the country. Furthermore, he represented no commercial broadcaster and would have no conflict of interest.

In their preliminary deliberations the educators calculated they needed 10 percent of all television assignments reserved for their use. Realizing one rarely gets everything requested, they drew up a petition asking for 25 percent. When the petition for a quarter of the channels was presented to the FCC, the stage was set for a confrontation between the JCET and the NAB.

The NAB was not motivated solely by the fact that commercial radio operators wanted TV channels—it had a genuine philosophical disagreement with the educators. The NAB argued, as the FCC had in 1935, that all licenses are granted “in the public interest.” The reasoning continued that every commercial operator realized this and was fully prepared to cooperate with educators. Furthermore, by putting a few programs on commercial stations, the educators would reach much larger audiences than they could hope to achieve all day long on their own stations. The commercial operators would build up audiences and then deliver them to the educators so they could do truly significant programming. The few educational radio stations on the air had done very poorly in attracting audiences and it was not in the public interest to let some of the valuable television channels remain practically unused in terms of the numbers of people who would view them.

The arguments of the JCET started from quite different premises. Attention was called to public education generally throughout the country. For three reasons it appeared that schools were going to need outside assistance to an extraordinary degree if they were to meet the coming challenges. First, the postwar baby boom would greatly enlarge school enrollments. Second, education had become increasingly complex; from 1939 to 1949 humanity had doubled its entire store of knowledge and would probably redouble it again by 1959. There was much to be taught beyond the three R's. Third, there was an anticipated shortage of teachers. During the war many industries paid more than the schools and teachers left their profession. It appeared there would not be enough of them to serve the huge numbers of students who would need to learn so much.

The thesis of the JCET was that the educators were not in need of a half-hour here and a quarter-hour there. Rather, they needed their own stations so that during the day they could help meet the needs of public and private schools and colleges and during the evening present adult education.

One of the most significant persons in the fight for educational reservations was Frieda Hennock, the first woman to serve on the FCC. She had been a lawyer in New York City and was appointed to the FCC

by President Truman. She made no secret of her interest in educational television. In the hearings the JCET organized the educators who were to testify and the NAB coordinated the appearances of commercial broadcasters. There was no question but that Miss Hennock usually asked the educators the questions which would elicit the most favorable responses. Commercial broadcasters had cause to suspect that she and the JCET worked together on questions for the commercial representatives. After a broadcaster had made his statement that educators had no need for reserved channels because time would be made available for them to reach large audiences on commercial stations, Miss Hennock might ask about his personal experience during the ten years from 1935 to 1945, when the cooperation between educators and broadcasters was so unsatisfactory. She was able to present affidavits from educators stating that he had usually denied them time on his radio station when they had asked for it.

When the hearings and deliberations were ended, the FCC announced that it had reserved 12.5 percent, or 242 out of 2,000 channel assignments, for education.\* Technically, the channels were labeled "noncommercial." But in response to an inquiry from the city of New York, the Commission specified that they would be licensed only to *bona fide* educational institutions or organizations. Some of the reservations were extremely valuable—VHF channels in Boston, Pittsburgh, Chicago, and San Francisco. Two-thirds were in the UHF, which eventually turned out to have little commercial value. The educators immediately began to receive warnings from Commissioners that they should start making their plans to use the reserved channels or they might be lost.

In April 1952 the FCC announced the Freeze would end in June. Because there was such a backlog of applications, the FCC also announced that for the next year it would devote all its efforts to granting licenses in accordance with the table of assignments and would consider no applications for changes in the table. At that point, the NAB said it agreed that one year was a reasonable length of time to give educators to apply for licenses. At the end of the year commercial broadcasters would feel free to apply for any educational reservation on which no action had been taken. The issue was clarified a year later.

Mr. John Doerfer had been nominated to be a member of the FCC in the spring of 1953. He routinely appeared before a Senate subcom-

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\* The educational assignments are included in the FCC's *Sixth Order and Report* reprinted in *Broadcasting*, April 14, 1952, Part II.

mittee as a prelude to a vote on confirmation. A member of the subcommittee was Senator Tobey of New Hampshire who had become well known through televised hearings on organized crime and who had an unusual capacity to “rise in righteous indignation.” When Mr. Doerfer was asked for his reaction to the proposition that if no action were taken on an educational reservation for one year, commercial broadcasters should be permitted to apply for it, he indicated that he could see nothing wrong with it. At that point Senator Tobey rose in righteous indignation and proclaimed that those reservations should be maintained forever, that education was too important to be shunted aside just because it could not move in a short time. He called upon the FCC then and there to make it clear that those reservations had been made “in perpetuity” and said if he did not immediately get such reassurances he would call a meeting of his Senate Commerce Committee and demand an accounting from the Commissioners. Shortly thereafter, Acting Chairman Rosel Hyde did announce that the educational reservations had indeed been made in perpetuity and the Commission had no intention of turning them over to commercial use. Thus, whether it took an educational institution or group one or five years to make application, the channel would be there for its use.

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### **13.5 1952–1960 LAYING THE GROUNDWORK**

In June 1952, when the Freeze was lifted, there was speculation as to how rapidly educators would be able to move in activating their stations and which would be first on the air. It was estimated that the cost of each would be about \$250,000 and few institutions could afford to spend that amount. The Ford Foundation offered a matching grant to help any educational group get started. For every dollar raised or committed to a new station, Ford would add another 50 cents up to a maximum of \$150,000. Thus, if an institution had \$200,000, Ford would add another \$100,000, pushing it over the top.

#### **Patterns of Ownership**

The Commission made it clear that competing applications would not be entertained for an educational channel in a community. If more than one institution or group were interested in getting a construction permit, the FCC would wait until they had worked out some kind of cooperative arrangement and could submit a joint application. In the next decade three patterns of educational-station ownership emerged.

1. Some stations were licensed to a *single private institution*, such as a college or university. If money were available to that single body, it would be able to move much more rapidly than it if were cooperating with several others, and the first stations were started in this manner. The drawback to having a station operated by a single institution was that the operating budget loomed rather large in the expenses of the college or university and if there were hard times, television was one of the items easiest to cut.

2. Some stations were licensed to *governmental agencies*, either a state-wide commission or university or a municipal board of education. It was in the midwest that educational radio had been most satisfactory and it was there also that states began making the first of the governmental plans for educational television. A state university can move with reasonable speed (although it must work through the legislature) and the television budget is not as conspicuous as when it is included in the expense of a single institution. Generally, it was the state-operated stations and systems which appeared after those licensed to private institutions.

3. The type of organization which emerged latest but was in many respects the most successful involved organizing a new *community group* for the purpose of building and operating a station. It took time to bring together representatives of the public and parochial schools, the colleges and universities, the art museums and the historical associations, the orchestras and other cultural components of the community. However, once they were organized, the new entity had a broad base of support.

Such groups normally started by asking the local board of education to set aside money for daytime operation of in-school programs. Then large gifts would be sought from corporations, businesses, and wealthy citizens while small five- and ten-dollar donations would be solicited from the other citizens. While they never seemed to be fully free of financial problems, the community stations had such a wide range of support that they nevertheless weathered their crises. As a matter of fact, the community stations generally were more outstanding and significant on the national scene than the other types.

### **The First Stations**

In 1953 the first two educational stations came on the air. Each was licensed to a single private institution; KUHT to the University of Houston, and KTHE to the University of Southern California. A couple of years later the danger of station operation by a single institution became apparent when the University of Southern California lost the

support of the wealthy oilman who had given money for the station. He stopped his donations, the University was unable to get community funding, and the station went off the air.

Programming was an even more important problem. The first stations appeared to be very amateurish when compared with the commercial network and station offerings seen in their communities. This was to be expected. Even the wealthiest commercial stations today with their VTR's and ample funds rarely produce more than an hour a day of completely local programming. When educational stations came on the air they were forced to fill three or four live hours a day without any recording capacity and without adequate funds or experienced personnel. The result was predictable—as educational radio programming in the late 1930s was written off as dull, so educational television in the mid-1950s received the same label. Televised lectures and panel discussions simply did not have wide audience appeal.

### **National Educational Television**

The Ford Foundation had anticipated the problem and had moved to fill the need by funding the National Educational Television and Radio Center (NETRC). (In 1959 it became known as simply National Educational Television [NET] and for simplicity that appellation will be used throughout.) Money was provided for purchasing a kinescope recorder (at about \$50,000) for each educational station and for several colleges which had their own production facilities. Each was then invited to submit proposals on programs it would be able to produce well if there were money available. For example, a station in Texas might submit a prospectus for doing a thirteen-week series on the culture of Indians in the Southwestern United States at a total cost of \$39,000. If the NET program staff in Ann Arbor, Michigan, approved the proposal, it would contract with the station to produce the programs in its studios and to make a kinescope recording of each. The kinescopes would be sent to Ann Arbor for duplication and distribution to other educational stations around the country.

NET then organized a “bicycle network” which worked as follows: The first program in a series would be mailed to Station *A* which would show it and then mail it to Station *B*. In the second week Station *A* would show the second program while Station *B* would show the first. Each would mail its copy to the next station, and in the third week Station *A* would be showing the third program, Station *B* the second, and Station *C* the first. In this fashion, each series would eventually be seen in its entirety on all stations in the group. Such programming had to be comparatively “timeless” in character since some episodes would

not be shown on some stations until a year or more after production. A few outstanding programs are still remembered: “Japanese Brush Painting,” which stimulated such interest that it became difficult to find necessary supplies; “The Great Plains Trilogy,” which gave the history of mid-America; and “The Religions of Man,” which led to searching discussion among viewers. Among the best children’s programs was “The Finder” with Sonny Fox.

Two important limitations plagued the NET bicycle network in the mid-1950s. First, too many of the programs were done by local stations with local production standards and too frequently were of more local interest than national. While this was not necessarily a fatal flaw, it did mean that in comparison with the schedules of the commercial networks, the educational programs were poorly produced and uninteresting to the majority of the viewing public. It did little to lift from educational television its reputation for presenting dull material.

Even more significant was the fact that the programs were being circulated by kinescope film recordings which are inherently limited in quality to the point that one immediately knows if a program has been recorded rather than presented live. Although NET took every possible precaution to maintain high kinescope quality, it could never eliminate the basic technical inferiority. Viewing was therefore restricted to those whose interest in the subject matter was intense.

When the Ampex Corporation demonstrated its new videotape recorder in 1956, all networks and some stations immediately placed orders for the first models which cost about \$75,000 each. Shortly thereafter, the Ford Foundation donated funds to purchase a VTR for every educational station plus several more at Ann Arbor for duplicating purposes. By the end of the 1950s NET had overcome one of its two major deficiencies and was distributing technically superior program recordings on videotape. Its next step was aimed at improving the program schedule—it moved its headquarters to New York City, the heart of television production and criticism. It heralded the hope that in the 1960s educational television would move to more significant levels.

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### **13.6 1960–1970 GREAT EXPECTATIONS**

Aside from educational reservations made during the Freeze and the early support of the Ford Foundation, there had been little about educational television in the 1950s to ignite either excitement or enthu-

siasm. The medium made only slow headway and had little impact on the public. In the 1960s some of the earlier efforts were to come to fruition and there was to be help from other sources.

### **Educational Station for New York City**

NET felt it could achieve significant program advances only if it had a strong affiliate in New York City which could draw on professional talent and attract the attention of the major newspaper and magazine critics. Channel 25 had been reserved for educational use in the city, but by 1960 it was clear that a UHF station could do comparatively little in competition with VHF stations, and there were seven commercial VHF's in New York.

One of the seven was Channel 13, assigned to Newark, New Jersey. It had been activated in 1948 by Atlantic Television, Inc. (WAAT-TV) and its transmitter was located with those of the New York stations on the Empire State Building. In 1958 sale of WAAT-AM, FM, and TV to National Telefilm Associates (NTA) for \$3.5 million was approved by the FCC. Channel 13 became WNTA-TV but over the next two years did very poorly and eventually was on the air only eight hours a day.

In the early months of 1961 NTA announced that Channel 13 was for sale and several commercial groups expressed an interest in purchasing it. In March the FCC announced its intention of locating educational stations on the VHF in New York and Los Angeles. It was apparent that there would be no approval for sale of WNTA to a commercial company and negotiations were halted. A community group was formed in New York City, headed by President John White, of NET, which entered into negotiations with National Telefilm Associates.

Later in the year the station was sold to Educational TV for the Metropolitan Area (ETMA) for slightly over \$6 million. (This was the same television station which along with associated AM and FM was sold for \$3.5 million three years earlier.) ETMA received major grants from the commercial networks (\$500,000 each) and the independent stations in New York. The rest of the money was raised from corporations, individuals, and, of course, the Ford Foundation. A waiver was received from the FCC permitting location of the main studio in New York City, although it was also necessary to maintain a smaller studio in Newark.

### **NET Programming**

WNDR (TV), *New Dimensions in Television*, came on the air in 1962 and in the following year there was a significant change in NET's programming. To that point, practically all programs on the bicycle net-

work had originated as concepts with the individual stations. In 1963 NET formed its own programming staff which took over the function of originating program ideas, some of which were produced by NET staff personnel and some of which were still contracted out to the strongest of the educational stations. It then became possible for NET to build a network schedule with programs which constituted a unified whole. Production values gradually approached those of the commercial networks since NET was able to hire personnel with commercial experience who wanted to work in a situation free of commercial pressures.

This represented the breakthrough which made educational television a significant factor in the American system of broadcasting. Among the outstanding NET offerings of the 1960s were "Spectrum," a series presenting science topics for laymen; "The Great American Dream Machine," a magazine format series; and "An American Family" and "VDBlues" with Dick Cavett. Some of these were carried on the PBS interconnection in the 1970s. There were also more individual dramas presented in a "Playhouse" series. The network schedule was better organized, programs had national interest and were produced to high standards, and they were distributed on videotape which was technically equivalent to live presentations. Since the bicycle network still took time for distribution, there was no capacity for doing up-to-the-minute programs which would be feasible only with a live network.

### **The Educational Television Facilities Act of 1962**

During the 1950s about 47 educational television stations had come on the air financed by state and local governments, educational institutions, foundations, corporations, and individuals. However, there were many more ready to join the ranks as soon as money could be raised. In 1962 the federal government made its first financial commitment to educational television. Congress amended the Communications Act to provide grants which could be used for educational television facilities. The amount, \$32 million dollars over five years, was not large in terms of the total federal budget, but it did provide an important impetus for stations which had completed everything but the final funding. The Secretary of Health, Education, and Welfare was authorized to grant up to 75 percent of the total cost of a project to activate a new station or improve the facilities of an existing operation. The 47 stations at the beginning of the 1960s nearly doubled to 92 in 1965 and redoubled to 190 by the end of the decade.

### **Ford's Domestic Satellite Proposal**

As the 1960s moved into the second half, the Ford Foundation continued to be educational television's major patron and stimulant of ex-

citing ideas. Most foundations prefer to make “seed money” grants to enable a recipient to start an activity which will then become self-supporting. Ford had been the major contributor to educational television for sixteen years and felt the time had come to use more of its resources for other purposes. It therefore proposed in 1966 that the Foundation spend \$80 million to finance a domestic satellite system which could distribute network television programming throughout the country less expensively than could AT&T with its coaxial lines and microwave relays. The profits of the system were to be turned over to educational television. Although the plan was not accepted by the FCC, it was heartening to know that attempts were being made to solve both the distribution and long-range financial problems of educators.

### **The Carnegie Commission on Educational Television**

In January 1967 the Carnegie Commission on Educational Television issued a report which was expected to be significant. It had been studying the future of the medium for over a year under a \$500,000 grant from the Carnegie Corporation. Its membership was distinguished under the leadership of Dr. James Killian, President Emeritus of MIT and a long-time public servant. President Johnson and key congressional leaders had indicated their interest in the report as a basis for possible legislation.

The report started with a new name for an old concept. In an effort to eliminate the unfortunate connotations of the word “educational,” the Carnegie Commission referred to the medium as “public television.”

The Carnegie Commission noted that the annual budget for all public television was about \$58 million exclusive of the current grants to support NET. These dollars came from the federal government under the facilities act, from state and local governments, foundations, and others. The Commission concluded that it would require a massive infusion of federal funds if public television were to approach its potential. It saw the federal government as the major source of new funds and proposed the creation of a group to be known as the Corporation for Public Television which would be nonprofit and nongovernmental. It was to be the channel for federal and other dollars going to program development, research, production, and support of individual stations.

To avoid political interference with public television, the Commission recommended “permanent funding” whereby the government would impose an excise tax of 2–5 percent on new television sets. The dollars would be collected by the government and turned over to the Corporation without requiring congressional action beyond passage of the original act. To further separate it from government there was to

be a board of twelve members, six to be appointed by the president and confirmed by the Senate and the other six to be chosen by the original appointees.

The Corporation was to make provision for a live interconnection for programs to all public television stations. NET was praised for its contributions to past efforts and designated as one of at least two major program suppliers for the Corporation.

Reaction was generally favorable. The Ford Foundation praised the report since it promised that government would take over some of the heavy burden of supporting educational television. CBS was so enthusiastic that it pledged a gift of \$1 million on the day the new Corporation became operational. The individual public stations felt this was what they had long needed to give them relief from their financial crises. NET was less enthusiastic since it anticipated becoming one of several rather than the only program supplier.

### **The Public Broadcasting Act of 1967**

In February 1967, President Johnson recommended legislation to Congress based on the Carnegie Report and signed the new legislation into law that November. However, there were two areas in which the new law deviated from the Carnegie recommendation. First, its concern was broadened to include radio as well as television. The central group was known as the Corporation for Public Broadcasting (CPB) and some of its efforts were directed to the older medium.

More significantly, there was no provision for “permanent funding” or an excise tax or any other source of dedicated income for the CPB. Instead, the law provided that CPB be given \$9 million for the first year and that further funds be appropriated by future Congresses. The Board was to include fifteen members to be appointed by the president and confirmed by the Senate, with no more than eight from one political party.

The failure to include permanent funding was not surprising in view of the doubts many members of Congress had about governmental involvement in communications. Even though the 1967 Act contained safeguards against political interference, the current Congress would not commit funds for the indefinite future in an area where there were no precedents. There was a split among the educators. Some assumed that things would still work out in the long run. Others felt it would be better for educational television to continue in its current state of uncertainty than to permit the building of a system where the future would be at the whim of politicians each year.

## **The Public Broadcasting Laboratory**

In 1967 the Ford Foundation granted \$10 million to Columbia University for a two-year "Public Broadcasting Laboratory" (PBL). The Laboratory was to consist of Sunday night programs distributed live to all the educational stations in the country. Emphasis was to be on news and public affairs. PBL was beset by problems from the start.

Ford had announced the grant to Columbia University before the University had fully agreed to take on the project. Thus, there was the highly unusual case of an institution refusing to accept the grant, largely because it was planning a new fund-raising project and was afraid that a hard-hitting news program might scare off some of its corporate donors. Ford then announced the grant would be administered through NET but the network was to have no control over the content. This was offensive to the group which had done all of the national programming for educational television over the past ten years. However, NET could not refuse to cooperate with the Foundation which had provided all of its money and so agreed to be a bookkeeper for the operation to be run by outsiders. The stations around the country were not entirely enthusiastic because they were being told they were expected to carry a program fed to them live without any opportunity to preview the material. Most of them were engaged in perpetual fund-raising activity and they were afraid, like Columbia University, there might be segments which would alienate some of those on whom they depended for donations. Furthermore, they felt this to be an abdication of their programming responsibility.

Finally, on the day of the first broadcast in the fall of 1967, full-page ads in some of the leading newspapers around the country proclaimed that the people would have a chance to see the news covered in a way that commercial television would never dare to handle it. The programs themselves were reasonably good but were unable to come up to the standards of the advertisements. The series was on the air for two seasons. It was satisfactory, but when the two years and \$10 million had been expended, PBL left the air with comparatively little impact. It was important as the first live interconnection of educational television stations for a season and as a preview of the problems in getting cooperation between divided central authorities and the growing number of diverse educational stations.

## The Children's Television Workshop and "Sesame Street"

While the CPB was being organized the big news in 1968 was the formation of the Children's Television Workshop (CTW). Until that time children watched either cartoons, which were excellent "baby sitters," or "educational" programs, which were usually dull. Mrs. Joan Ganz Cooney saw the need for a preschool program which would give young children (especially those in deprived neighborhoods) a head start on elementary education and which would entertain at the same time. Over the years, commercials on television have been more heavily researched than have programs; the technique of communication by short segments was well developed. It was Cooney's intention to use the techniques of the commercials in preparing children for school.

In March 1968 she received grants totalling between \$6 million and \$8 million for a two-year project to go on the air in the fall of 1969. The major donors were the Carnegie Corporation, the Ford Foundation, and the U.S. Office of Education. The resulting "Sesame Street" programs were among the highlights of public television, although they have been subject to criticism from some educators who disagreed with certain aspects of their pedagogical approaches.

*In retrospect*, most of the developments in educational (public) television were favorable in the 1960s. NET became a far more effective network, the federal government in two significant pieces of legislation assumed a commitment for advancement of the medium, and the CTW was winning accolades for the most exciting educational programs yet known.

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### 13.7 1970–1976 CONFRONTATIONS

The 1960s appeared to have paved the way for great advances in the following decade. It looked as though all the elements were ready to fall into place so public television could begin to achieve its potential. In the fall of 1971 events began to press upon each other. There was a *dramatis personae* of seven participants which would interact during the next few years in a highly complicated situation which must be followed step by step to understand the outcomes.

1. *CPB*, the Corporation for Public Broadcasting. It was dependent on Congress for annual funding and had yet to receive as much as the Carnegie Commission recommended. The funds for 1971–1972 had not been appropriated by the fall of 1971, but were to come to only \$35

million (far less than requested). The organization of the Corporation had been completed. The Chairman of the Board was Frank Pace, who had been Secretary of the Army and Director of the Budget for the federal government. Its President was John Macy, who had also had a long and distinguished career in government and had a keen interest in public television.

2. *PBS*, the Public Broadcasting Service. The Public Broadcasting Act of 1967 had directed CPB to assist in development of an interconnection system (the technical part of a network) but had specifically forbidden it to own or operate such an interconnection or production facility. In 1969 CPB had fostered the organization of PBS to operate the interconnection. Although most of its funds were to come from CPB, PBS was designed to be autonomous. The original nine-member board consisted of five selected by the stations themselves, one each from CPB and NET, and two more chosen by the first seven to represent the public. PBS had planned for the fall 1971 season a ten-hour interconnection schedule each week—two hours a night, Sunday through Thursday. Its budget for the year was only \$7 million, which accounted for the limited schedule. Its President was Hartford Gunn, who had built and managed WGBH(TV) in Boston, one of the first and most prestigious of the educational stations.

3. *NPACT*, the National Public Affairs Center for Television, organized and funded by the Ford Foundation to serve as the source of news and public affairs programs for PBS. It came into being in the summer of 1971 and had hired two top newsmen to provide leadership. Sander Vanocur had been on the NBC news staff for fourteen years. Robert McNeil, who had earlier been with NBC in Chicago, had spent the preceding three years with the BBC in England. They were to head a staff of 55 to 60 people and to receive salaries commensurate with their earlier earnings. Vanocur was hired at \$85,000 per year, and McNeil at \$65,000.

4. *NET*, National Educational Television, after more than fifteen years as the only network for educational television, was to become one of the PBS program suppliers. NET President was James Day, who had organized and operated for many years KQED in San Francisco, one of the most successful community stations in the country.

5. *OTP*, the Office of Telecommunications Policy, was organized in 1970 as a branch of the White House to speak for the administration on all matters having to do with broadcasting. Its Director was Dr. Clay T. Whitehead who had been with the Nixon administration from

the beginning as an advisor on communications matters. He had previously been with the Rand Corporation, a government “think tank” in California.

6. *Ford Foundation*, which had continued its grants to public television filling in the gaps where CPB had received too little from Congress to accomplish its goals. Ford’s main efforts were to support programming by NET and NPACT and to help fund the PBS interconnection costs which CPB was unable to meet.

7. *ETS*, the Educational Television Stations Division of the National Association of Educational Broadcasters (NAEB). NAEB dated back to the early days of educational radio and had been instrumental in the formation of JCET during the Freeze. As educational television stations grew in number and needed an organization, they set up ETS in NAEB to which they already belonged.

**The FBI Segment of  
the “Great American  
Dream Machine”—  
October 1971**

A foretaste of future turmoil in public broadcasting came on Sunday, October 3, 1971, when PBS started its fall season. It scheduled “The Great American Dream Machine” which had been highly successful on NET. It had a magazine format and stimulated much discussion and was acclaimed by the critics. In the first program of the new season was a twelve-minute segment which “contained interviews with three young men who claimed they had been assigned by the FBI to provoke violence within radical organizations.”\* The hour tape for the whole program was sent by NET to PBS well in advance of air time. PBS previewed it and decided the FBI segment was “insufficiently documented” and asked NET to provide something else to fill the twelve minutes.

The NET reaction was that it had for over fifteen years been the network of educational (public) television and certainly knew as much about what was appropriate as did the new PBS. Furthermore, PBS was supposed to be only an interconnection, not a network which would control its programming. Therefore, PBS would either carry the segment as delivered or “go black” and present nothing for the period. The program was carried without the FBI segment and controversy erupted. NET announced plans to play the segment on Channel 13 in New York City the following Friday night and have the producers and critics discuss the censorship of its program. PBS President Hartford Gunn was invited to appear and he responded that he would not only be there, PBS would also schedule a live interconnection so stations across the country could carry it.

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\* *Broadcasting*, October 11, 1971, p. 53.

It was then learned that the Director of the FBI had written to NET protesting the segment before it had been sent to PBS. Although Gunn claimed he had not known of the FBI protest, this appeared to confirm the fears of those who said taking federal money for public television would lead to censorship. The results of the Friday night debate were inconclusive. The participants were persuasive in explaining their positions and it was clear each side would have acted in the same way if it were to be done over. The tensions were reminiscent of the PBL squabbles in 1967.

**Dr. Whitehead's  
Speech to the NAEB  
—October 1971**

Later that month Dr. Whitehead of OTP was a featured speaker at the NAEB's annual convention. His topic was centralization. It was his premise that Congress in 1967 had intended a system of public television founded on the "bedrock of localism." The issue was whether PBS was to be a network or an interconnection and he was strongly opposed to the development of a fourth strong centralized network which might become like its three commercial counterparts.

His speech was depressing to public broadcasters, since it presaged their being joined with commercial television as a target of administration antagonism and pressure. Furthermore, in his position of formulating administration policy, Dr. Whitehead was a most important individual in determining White House recommendations to Congress on CPB funding.

**OTP Recommendations to Congress—  
Winter 1972**

In February 1972 the White House submitted OTP-proposed legislation to Congress calling for allocation of \$45 million to CPB in the coming fiscal year with the condition that one-third of it be immediately handed over to individual public radio and television stations. For the next few months intense debate about the future of public broadcasting centered on the issues of "localism" and whether PBS should be a network or an interconnection agency. The principal protagonists were, on one side, CPB and PBS supported by NET and most of the stations and, on the other side, the OTP supported by President Nixon and the conservative "silent majority."

It was the OTP thesis that the Public Broadcasting Act of 1967 had been designed to strengthen public television at the local level and that CPB's primary function was to channel federal dollars to the stations. It was argued that the three commercial networks were covering national news and issues and that public stations should emphasize other areas. The Act had mentioned "interconnection" and PBS should, therefore, be a device for selecting the best programs being done by the stations,

helping them with the financing, and then distributing them to the rest of the public system. In effect, OTP was arguing for a return to the programming philosophy of the original NET in the mid-1950s when programming concepts were originated at the local level and the distributed programs were produced to local standards. The only difference would be live distribution as opposed to the bicycle network.

CPB and PBS, on the other hand, believed public television stations should present a balanced service; that local stations should not only engage in local programming, but should also have access to coverage of national issues and events in ways not presented by the commercial networks. History had shown that broadcasting became significant only when there was centralized networking. If public television were to make an impact on society, it needed its own network. They argued, furthermore, that the public broadcasters themselves should be permitted to make the final decisions about programming emphasis.

### **Disposition of the Budget—Spring and Summer 1972**

Congress was persuaded by CPB-PBS and passed a two-year bill which would have given CPB \$64 million in 1972–1973 and \$90 million in 1973–1974. But in July 1972 President Nixon vetoed the bill with a restatement of his belief that CPB had assumed too much control over local stations. Presidential news secretary Ron Ziegler announced that CPB would continue on year-by-year funding until there was some kind of reorganization which would free the stations by lessening the control of CPB and PBS.

### **Changes in CPB Leadership—September 1972**

Following the Nixon veto, CPB Board Chairman Pace and President Macy resigned their executive posts saying it was essential for the CPB leadership to be more closely attuned to the administration. For the next month the picture was bleak and confused.

In September 1972, with a Republican majority for the first time, a new CPB leadership team was installed. The Chairman of the Board was Thomas B. Curtis, Vice-President and General Counsel for *Encyclopaedia Britannica* and a former Republican Congressman from Missouri. The new CPB President was Henry Loomis, who had been Deputy Director of the United States Information Agency (USIA). In the 1940s Mr. Loomis had been an assistant to MIT President Killian. In the early 1950s he was one of the first Eisenhower supporters and went to Washington in 1953 as an assistant to the President. He later became Director of the Voice of America and was retained in that position by Presidents Kennedy and Johnson until he split with Johnson on news policy about Vietnam. He took office as CPB President professing

no expertise in public television but with a conviction that tax dollars should not be used for controversial programming. It was his belief that CPB should use most of its dollars to help the stations and to provide instructional and cultural programs. It appeared that in the coming months PBS would be more closely aligned with the stations than with the CPB in the fight for congressional funding.

Following Mr. Nixon's landslide victory in November 1972, the OTP appeared to have more power than ever. In December Whitehead delivered his "carrot-and-stick" speech in which he offered commercial stations longer licenses if they would assume more local control over the news they broadcast. There was clearly an attack on television over a broad front which included both the commercial and public sectors.

As 1972 came to an end, CPB moved to assert some control over national programming which had previously been left entirely in the hands of PBS. It did so by naming specific programs it was prepared to fund for another year and omitting several which had been produced by NPACT along with others which were known for their "liberal bias." Since the earlier practice had been to give the money to PBS and let it make all programming decisions, a showdown was imminent.

#### **CPB vs. PBS— Winter 1973**

During January and February 1973 a struggle took place between CPB and PBS. Attempts were made to work out an acceptable compromise on control of the programs to be distributed, but by March the prospects for settlement were dim. CPB issued a statement pledging to carry on in a "spirit of maximum cooperation" with PBS. But it added that "the ultimate responsibility and accountability to Congress for the proper use of the interconnection facilities funded by CPB" rested with the Corporation.\*

PBS countered by reorganizing and redefining its function. It had been formed as an interconnection facility which received most of its funding from federal grants through the CPB. It had occupied a middle ground between CPB and the public stations which tended to express their opinions and stands through the ETS Division of the NAEB. True power lay on both sides—with the CPB which handled the funds and the stations which carried the programs. It was possible that PBS might be forced into extinction if CPB simply ignored it.

The solution was for PBS to take over the representation functions of ETS, thus speaking for the public stations in addition to providing the interconnection service. If the stations were to refuse to cooperate

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\* Ibid., March 12, 1973, p. 56.

with CPB, the Corporation might become obsolete and meaningless. While this outcome was unlikely, it was real enough so that CPB had to deal with PBS in a new light when the latter organization became the official spokesman of the stations. At the same time, Whitehead's localism demands were being partially met. PBS decisions in the future were to be considered actions of the stations it represented.

### **Search for Funding —Spring 1973**

While CPB and PBS were trying to work out a compromise on program control of the interconnection, both joined in trying to persuade Congress again to pass a bill providing enlarged funding for two years. Whitehead opposed any funding beyond a single year at a restricted level. He made two primary points about public broadcasting as he saw it:

. . . the distribution of programming over the interconnection system by PBS amounted to precisely the kind of federally funded "fourth network" which the Congress sought to avoid. . .

Another problem area is the funding of public-affairs programs. . . . Reliance on federal monies to support public-affairs programming is inappropriate and potentially dangerous. Robust electronic journalism cannot flourish when federal funds are used to support such programming.\*

These comments were made in the spring of 1973 when the Nixon administration was still basking in the glow of its great landslide of the previous November election and before Watergate began to occupy its attention and sap its power.

### **Attempts at Compromise— Spring 1973**

In April a CPB negotiating committee headed by Chairman Curtis worked out a compromise with PBS for presentation to the full Board. PBS would continue its responsibility for scheduling the interconnection; PBS could schedule programs which were not funded by CPB. If there were controversy about such a program it would be referred to a "monitoring board" made up of three CPB trustees and three PBS trustees. A majority vote (four of the six) would be required to keep a program off the network. CPB would continue funding the programs it wished to sponsor. If the stations disagreed with any program decision of the CPB program department, there was a complicated ritual which would leave matters ultimately in the hands of the respective Chairmen of CPB and PBS.

As with any compromise, this one left neither side completely happy, although PBS could feel it had gained a minimal victory. Chair-

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\* Ibid., April 2, 1973, p. 72.

man Curtis had every reason to believe he would be supported by the entire board when the compromise was presented. To his surprise and dismay the board deferred action and voted to disband the old negotiating committee while forming a new one and asking for a "cease fire" until something could be worked out.

Chairman Curtis bitterly submitted his resignation amid talk that the OTP had killed the compromise by telephone calls to Board members urging them to vote against it. Reportedly, Mr. Curtis had accepted the chairmanship during the preceding year only after assurances from the White House that he would be free to use his own judgment in the office. While it is probable that President Nixon may not have known the details of the situation, most had little doubt but that his Office of Telecommunications Policy had sabotaged the compromise.

The only man to whom CPB could turn at such a time was Vice-Chairman Killian who had chaired the original Carnegie Commission which recommended the Corporation in the first place. He enjoyed the confidence of everyone involved and, in spite of ill health, agreed to become the Chairman. In June 1973 a second compromise was announced and approved. It was essentially similar to the one turned down by CPB two months earlier. PBS maintained control of the interconnection subject to elaborate schemes to resolve controversies, but it was to receive no money from CPB to spend for programs. Program dollars were to be spent by CPB itself or given directly to the stations to pay for the programs they wanted on the interconnection. This was the localism for which Whitehead had been fighting so hard.

## **The Outlook in January 1974**

Public broadcasters started 1974 with the hope that the worst was behind them. The cooperation between CPB and PBS was working reasonably well. President Nixon had finally signed an authorization of \$47.5 million for the current year. In January congressional leaders came to a Washington conference sponsored by PBS and vowed to keep fighting for long-range funding. Vice-President Ford attended and praised public television for meeting needs overlooked by commercial broadcasters.

PBS could point with pride to a number of series which had attracted favorable reviews. The science series "Spectrum" of the 1960s had been replaced with the even more impressive "Nova." From the BBC had come "Masterpiece Theater" and "Civilization." "Washington Week in Review" and "Wall Street Week" were analyzing the general and economic news. There was excellent cultural programming in "Theater in America" and "Dance in America."

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## 13.8 THE STATION PROGRAM COOPERATIVE

An essential element in the 1973 compromise between CPB and PBS placed more responsibility for program selection in the hands of the local stations. Stations used their CPB funds for programs on the interconnection through a mechanism called the Station Program Cooperative (SPC) which was unveiled in early 1974. The SPC gives stations an opportunity to make interconnection program decisions by indicating what they are willing to purchase from their program dollars. In the beginning of the planning period of each year PBS circulates to the stations a long list (perhaps a hundred) of programs which will be available. All stations go through the list and indicate which ones they are willing to buy at the quoted prices. Then the list is pared down by eliminating those with the fewest station votes. After going through several rounds of station choices, PBS finally has a list of programs to be distributed and the income from the individual stations to pay for them.

Those skeptical of the plan feared that local station managers worried about losing support from local donors might avoid all public-affairs programs and choose only the safer cultural and instructional offerings. While some controversial programs were left out of the schedule, there was a representation of NPACT and other series touching on current issues. A more serious deficiency has been the tendency of the stations to spend their money for acceptable series programming which will fill more hours than outstanding documentaries or specials. If PBS lists two possibilities at the same cost to a station—a one-hour documentary and a series of thirteen half-hour programs—most stations will opt for the latter which, with repeats, will fill thirteen hours in the year as opposed to only two hours from the former.

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## 13.9 FUNDING SOURCES FOR PROGRAMMING ON THE INTERCONNECTION

Following the compromise of 1973 the PBS schedule has consisted of programs funded from four distinct sources. For example, the 1974–1975 schedule consisted of the following:

1. programs chosen by the stations and paid for through the *SPC* with CPB and local dollars—30 percent.

2. programs funded directly by CPB—10 percent. For the most part, these are pilots of series which CPB thinks would be appropriate for the interconnection in subsequent years. By funding the first programs, CPB gives the stations an opportunity to see and evaluate them and to decide if they would like to pay for them through the SPC later.

3. programs funded by the Ford Foundation through NET and NPACT, by other foundations and federal projects—35 percent.

4. programs funded by commercial companies through the “patron plan”—25 percent. Although a public station can carry no advertising, it can carry programming funded by a commercial company. Furthermore, FCC regulations require it give courtesy announcements at the beginning and end to the effect that “Presentation of this program was made possible by a grant from \_\_\_\_\_.” Among the most prominent of the patrons providing programs in the mid-1970s were the large oil companies. Mobil, for example, purchased rights to the British “Masterpiece Theater” and Gulf paid for a series of National Geographic specials after none of the commercial networks would carry it.

The patron plan is controversial. Commercial broadcasters feel that it is a form of commercialism and that the patrons are interested only in generating good will among certain Americans who can be better reached by public stations than on the commercial outlets. Critics of public television wonder whether the public broadcasters can be objective in looking at big business after becoming dependent on commercial dollars for some of their most outstanding programs.

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### **13.10 THE PUBLIC BROADCASTING FINANCING ACT OF 1975**

The 1973 compromise between CPB and PBS over control of the interconnection and the Station Program Cooperative which emerged from it seemed to satisfy the Nixon administration. In 1974 Whitehead suggested a plan which would fund CPB for a five-year period. Among Nixon’s last actions in the summer of 1974 was sending the Whitehead proposal to Congress with his endorsement. The result was the 1975 Public Broadcasting Financing Act.

The original plan was for Congress both to authorize and to appropriate funds for five years with gradually escalating amounts. Congress, however, removed the appropriation item so the authorized dollars would have to be voted on separately every one or two years. To encourage the solicitation of other money Congress authorized only one

federal dollar for every \$2.50 raised from other sources. It also mandated that some of the money voted to CPB must be used for instructional television.

Although public broadcasters felt that five years was medium-range funding and would have preferred long-range or permanent funding, and although there was disappointment that the whole appropriation was not actually made, a mood of optimism did prevail after the passage of the bill. It was assumed that under a new president the days of confrontation were past and that the medium could proceed with its plans for the future.

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### 13.11 NATIONAL PUBLIC RADIO

The 1967 Carnegie Commission report was devoted entirely to educational television and its long-range development. When they saw that radio had been ignored, the educational radio stations circulated information about the background and importance of their medium and persuaded Congress to pass a Public *Broadcasting Act* rather than a Public *Television Act*. CPB found ample guidance for its television activities in the Carnegie Commission report but had no corresponding basis for proceeding in radio.

In 1969 CPB commissioned a study of educational radio which uncovered several discouraging facts. Although there were more than 400 educational stations on the air, there was great diversity among them. About half operated with a power of only 10 watts on FM. Many were operated by educational institutions primarily as a training ground for commercial broadcasting. Most had an annual budget of less than \$10,000 and no full-time professional staff. Operating hours were few and irregular. There was a program exchange using tape but no centralized authority to provide overall leadership. In short, there was no national educational radio system comparable with the one which had developed in television in the 1950s.

In 1970 CPB identified 80 stations which met minimal criteria in terms of power, personnel (one full-time staff member), and schedule (at least 48 hours a week for 48 weeks in a year). To these 80 stations CPB made grants to upgrade their facilities and to produce programs. To parallel PBS in television the CPB created National Public Radio (NPR), a program and distribution service controlled by the member stations. Gradually the requirements for membership were increased to

five full-time staff members and a minimum schedule of 18 hours a day for 365 days a year. While public controversy raged about whether PBS should be a network or an interconnection, NPR quietly proceeded to form a network which turned into a strong program service. As the number of its affiliates doubled in the next five years from the original 80, its audience also increased. There was a strong emphasis on news over the live network and programs like "All Things Considered" became for many listeners a "must" because of their incisive coverage of controversy and current events.

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### **13.12 ISSUES AND PROBLEMS IN PUBLIC BROADCASTING**

Three years after the 1973 CPB-PBS compromise which led to the Station Program Cooperative, the 265 public television stations were having their most successful season to date. Income from various sources was up by a third while audiences had increased by some 50 percent from the preceding year. A five-year funding bill had been enacted and plans were being made for interconnection by satellite which would give stations more choice in selecting PBS programs for their schedules. Still, the medium faces several important questions in the form of issues and problems which must be solved before there can be eventual success.

#### **What Is Public Television's Identity?**

The overriding problem facing the medium is its own identity and the resulting programming. So long as we used the label "educational" television, there existed a degree of agreement on what it meant. ETV was generally expected to provide instructional programs geared to curricula at various levels, adult education programs (solving personal problems, understanding the news and civic issues, and making better use of leisure time), cultural programs exposing the audience to the various arts, and programs which would prepare children for formal schooling. It was in those terms that the JCET argued for educational reservations in 1950 and it was in those terms that the FCC set aside about 250 channels to be used by educational institutions.

When the medium became "public" television, the limits of its concerns and expected programming beyond clear-cut education were no longer so clear. Some interpreted its mission as providing "alternative programming," which meant analyzing the commercial schedules and filling in the gaps. Might that extend so far as to cover entertainment

programming? It seemed to justify the televising of tennis in the early 1970s when there was little coverage of that sport by commercial networks. Is continued televising of that and other sports in direct competition with commercial stations and networks also justified?

Others feel that public television should look at society and program to meet the needs it finds. If one were to program either to fill the gaps in commercial schedules or to meet the greatest needs of the greatest numbers, one of the first priorities would be doing something for minorities. Indeed, specialized programming like "Black Journal" received impressive accolades for public television before being axed by CPB in its fight with PBS over control of the interconnection. In the mid-1970s many of the blacks, Puerto Ricans, Mexican Americans, Chinese Americans, American Indians, and other minorities feel they have little more hold on public television than on the commercial sector. They are underrepresented in both programming and employment.

**Which Comes First—Programming or Dollars?**

The failure of public television to do more programming for minorities illustrates the dilemma of the public station. It is never financially secure and must program for those who will reciprocate with membership dollars. The most obvious potential donors are members of the middle and upper classes who are searching for the culture and ideas which are not presented to their tastes on the commercial channels. Few dollars can be expected from the poor who are most in need of what public television could give. So long as public television stations are desperate for money, they will continue to program so that the rich get more and the poor are ignored.

It would be ideal if important philosophical decisions about identity and mission could be made without reference to pragmatic problems like raising money. From its very beginnings, however, educational television stations secured dollars from whatever sources appeared and then tailored their schedules to their revenues and to the expectations of those who had given the money. When the donors were foundations, programming reflected the interests of foundation executives. When the donors were commercial companies, programming reflected the desire of the corporations to secure a favorable image among certain viewers. When the donors were individual citizens, the programs were designed to so please them that their subscriptions would be continued another year. In effect, stations were forced to play the "numbers game" with an emphasis on demographic statistics related to the potential of raising money for the future.

**Can Federal Dollars Be Separated from Politics?**

The earliest educational television stations were dependent on local boards of education and state legislatures (through their university systems) for the part of their budgets which would enable them to get on the air and present instructional materials. So long as they were considered "educational" they were no more affected by political considerations than were the public schools and the state universities. The Carnegie Commission recognized the dangers of accepting federal operational funds and tried to provide safeguards against political interference by specifying a nonpolitical CPB membership and permanent funding.

The story of public television between October 1971 and the end of 1973 showed how completely the desire of the Carnegie Commission could be foiled. The Nixon administration made public television controversial and it is likely that Congress will not for many years enact permanent funding which would permit public television to pursue a philosophy which has not taken politics into account.

**Who Will Provide Leadership for Public Television?**

At any moment over the first twenty years it was easy to pinpoint the leadership of the medium. Beginning in 1950 the JCET was clearly leading the fight for educational reservations and then assisting educational institutions and organizations to put stations on the air. From the mid-1950s through the 1960s the mantle of leadership was on NET with its programming services and its discussions with stations. By 1968 educational telecasters were looking to the new Corporation for Public Broadcasting to provide leadership with federal dollars. For two or three years, so long as they had compatible philosophies, CPB and PBS worked together spearheading the drive for significance.

Whitehead's October 1971 speech to the NAEB marked the beginning of the end for effective national leadership of public television. The membership of CPB was changed. It and PBS were first split apart and then forced into a confrontation over control of the interconnection. As PBS became the representative of the stations, the confrontation was widened to include the distribution of the limited funds available. Neither party emerged with enough power to lead over 200 diverse stations. CPB was reduced to being largely a conduit of dollars from the federal treasury to individual stations without control of expenditures. PBS was limited to circulating programs selected by the stations from the SPC or financed by outside sources. NET was only one of several program suppliers with no assurance of long-term continued funding by the Ford Foundation.

No agency of the federal government has indicated a desire to move into the void. During World War II radio specialists in the U.S. Office of Education provided leadership in the quest for reserved FM frequencies and then stimulated discussion on their use. Today federal dollars for CPB and for facilities are channelled through the Department of Health, Education, and Welfare, which has grown so large that any concern it might have for public television is buried under mountains of other activities. The FCC sees itself primarily as a licensing agency and has made no effort to get public broadcasters together to discuss vital problems related to goals and missions. The OTP has shown little interest in public television since winning the fight to emasculate PBS and then initiating a bill to provide five-year funding. Congress has largely ignored public television beyond voting funds.

OTP Director Whitehead was the winner in his fight with the system. Public broadcasting has become a true democracy with power dispersed among the individual stations which have no mechanism for selecting effective leadership for even limited periods of time. In fact, most stations have no desire for such leadership. Each manager is constantly concerned with financial pressures which threaten the station's very existence. Each station manager must work with boards of directors or legislative committees, most of whom want to do the safe (conservative) thing. Station managers are normally cautious in making program selections through the SPC. They are concerned that no program in the schedule alienate those on whom the station is dependent for its funds. They must get as much programming as possible for each dollar they spend, which means choosing the inexpensive series over the more costly documentary or special.

Until effective national leadership emerges which can help public television: (1) decide on its identity and mission, (2) formulate policy which stems from philosophical concerns rather than dollar availabilities, and (3) persuade the federal government to keep politics out of funding consideration, there is little hope that the medium will become any more significant in our society than it has been and it is likely that its importance will diminish.

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## **SUMMARY**

Public (educational) television has come a long way from the days in 1950 when the JCET was organized to ask the FCC for educational reservations. Its immediate future is reasonably secure. So long as the

federal government, the foundations, individual subscribers, and commercial patrons maintain or increase their mid-1970s level of contributions, public television will exist and include some outstanding series and specials in its schedule. It will even, from time to time, be able to compete with the commercial networks for ratings. There should be fewer crises and less dependence on hand-to-mouth existence.

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## **GLOSSARY ITEMS**

The following words and phrases used in Chapter 13 are defined in the Glossary:

Bicycle Network	Patron Plan
Channel Assignments	Permanent Funding
Educational Reservations	Public Television
Educational Television	Satellite Relay
Interconnection	Station Program Cooperative (SPC)
Instructional Television	Television Freeze
Non-Commercial Television	

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## **Public (Educational) Broadcasting Chronolog**

- 1922 First licenses to educators.
- 1925 171 educational AM stations on the air.
- 1935 24 educational AM stations on the air.  
FCC recommended there be no special educational allocations.  
Start of ten-year period of cooperation between educators and commercial stations.
- 1938 FCC assigned VHF channels to educational radio.
- 1940 FCC assigned five educational FM channels.
- 1946 FCC gave educators 20 of 100 reallocated FM channels.

- 1950 Educators formed JCET to seek ETV reservations.  
JCET hired Telford Taylor as counsel.
- 1952 FCC assigned 242 educational television channel reservations—80 VHF and 162 UHF.
- 1953 Educational reservations extended for indefinite period.  
First ETV stations start operations.  
Organization of NETRC as programming service for educational stations.
- 1959 NET bicycle network used videotape.
- 1962 Channel 13 in New York City became educational.  
Congress passed the Educational Television Facilities Act.
- 1963 NET began to produce its own programming.
- 1966 Ford Foundation proposed domestic satellite service with profits to ETV.
- 1967 Carnegie Commission Report and passage of Public Broadcasting Act.  
Ford Foundation funded for two-year Public Broadcasting Laboratory.
- 1968 Formation of Children’s Television Workshop.
- 1971 PBS started operation.  
Controversy over “FBI Segment” and NPACT salaries.  
Whitehead speech to NAEB on “localism.”
- 1972 CPB budget controversy, Nixon veto, Macy resignation.  
Loomis appointed President, Curtis Chairman of CPB.
- 1973 PBS reorganized as representative of educational stations.  
CPB-PBS compromise on control of interconnection defeated, Curtis resignation, Killian to Chairmanship, and compromise effected.
- 1974 Beginning of Station Program Cooperative.
- 1975 Passage of the Public Broadcasting Financing Act. Five-year authorization subject to periodic appropriations.
- 1976 CPB and PBS announced plans for interconnection by satellite.

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## AMERICA AND BROADCASTING AROUND THE WORLD

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### Preview

The different systems of broadcasting around the world reflect how different governments relate to their citizens, especially with respect to giving them access to a wide range of information and entertainment. The American government-licensed free enterprise system contrasts most noticeably with the government ownership and operation found in the majority of nations. In between is the government-chartered monopoly characterized by England and its British Broadcasting Corporation and Independent Broadcasting Authority. In 1941 the United States government started broadcasting to the rest of the world. The Voice of America and the television branch of the United States Information Agency have been our most visible and overt users of the media. Their efforts have been supplemented by Radio Free Europe and Radio Liberty which were started in 1950 and operated for years by the Central Intelligence Agency.

Through our State Department and Agency for International Development we have provided assistance to many Third World broadcasters. Our objectives have been to win friends among those responsible for local broadcasting and to help them use radio and television to improve the quality of life of their citizens and to promote the stability of friendly governments.

Americans have traditionally had little interest in foreign broadcasting. Since the early 1930s our domestic service has been so extensive that few have felt the need for foreign entertainment or to hear what foreign stations might want to say to us. For a short distance from our northern and southern borders a few tune to Canadian and Mexican stations. For the rest of the country foreign listening requires short-wave receivers which have never been sold here in large quantities. By contrast, as World War II approached, people in many parts of the world were hungry for news and either had no domestic radio service or wanted more information than their stations were willing or able to give them. For them international short-wave radio was a primary source of information through the 1940s.

It was not until the 1950s and a budding dissatisfaction with American television that a few in this country started looking to the British system as a way of avoiding the negative influences of advertising. At the same time, we placed greater emphasis on international broadcasting to implement our foreign policy objectives. As the world has grown smaller we have felt a greater need to know more about radio and television elsewhere and the ways in which we can participate in worldwide broadcast communications.

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## 14.1 SYSTEMS OF BROADCASTING

Radio stations now operate in practically every country of the world and there is probably no one on earth totally beyond reach of broadcasting. The number of nations without indigenous television is diminishing every year. One of the obvious differences among countries as we look at broadcasting around the world is the way in which each has chosen to control its facilities. Every country, when it was ready to start radio (and later television), had to make a basic decision about its type of system. In this country we opted for a *government-licensed free enterprise* system to which was later added a leavening of public stations which were not to be supported by sale of time for advertising. Our frequencies were placed in private hands and the incentive for operation was the chance to make a profit. The majority of countries, however, chose to have their broadcasting under a *government-owned-and-operated* system. England devised the *government-chartered monopoly* in which the British Broadcasting Corporation (BBC) operated without competition for many years. A few countries adopted a combination of

systems for radio. As television spread rapidly in the 1960s, an increasing number of nations which were reluctant to make the required large investments in the new medium by themselves also went to some combination of the three basic systems.

Just as our system reflects our basic philosophy about government-citizen relationships and a desire that our people have access to a wide range of ideas and entertainment, so do other systems reflect how other countries feel about these basic issues. The American system represents one end of a scale. The government-owned-and-operated system in a dictatorship is at the other end and the government-chartered monopoly (which in England has become a duopoly) is in between but reflects concepts closer to the American philosophy than to that of Russia or other authoritarian countries.

### **The Government-Owned-and-Operated System**

The most prevalent system around the world is government ownership and operation in which the facilities are state owned, all personnel are state employees implementing government policy, and the financing is from government funds. Government ownership and operation derive from the belief that government is best suited to broadcast policy making and management or from a fear of the consequences if ideas inimical to government were permitted to circulate. Depending on which motivation is dominant, program philosophies range between the dictatorial effort to provide only a limited access to ideas and entertainment and a more benevolent attempt to provide the information and relaxation programming that the people may desire.

### **The Government-Chartered Monopoly System in England**

It was natural that the Americans who first studied broadcasting in other countries should find the English system most interesting—in large part because we could understand the programs. The natural affinity of our political philosophies meant that we were more apt to feel comfortable with the English way of doing things than with the ways followed by the government-owned systems. Finally, the BBC had no commercials and critics were convinced that advertising was responsible for the deficiencies in our system.

In 1927 the English replaced their five-year-old private enterprise broadcasting with a government-chartered monopoly, the BBC, a group of distinguished citizens chartered to operate all stations for a period of ten years. This reflected a degree of paternalism in which an elite group was to make all programming decisions. It was also a direct rejection of government control, since the citizens on the Corporation's Board of

Governors had a ten-year tenure. They were charged with providing a radio service without any machinery for government input or any requirement that the service be popular among listeners.

Under this system the Postmaster General had the technical right to censor programs. He did so on only one occasion—there was so much resulting criticism that he never tried it again.

The principal source of financing was a tax on receivers collected by the Post Office and turned over directly to the BBC. The Corporation accepted no broadcast advertising but was free to seek money from other sources and for many years derived significant funds from the sale of its highly popular *Radio Times* magazine which listed the program schedules and contained profitable advertising.

Although the BBC, under its long-time director, Sir John Reith, operated according to the principle that it knew better than the people what should be on radio, there was the development of alternative services for different tastes. The “Home Service” provided a general schedule including news, discussion, entertainment, religion, children’s, and other programs. In its diversity it was the closest to what the American networks were offering in the 1930s. The “Light Programme” was for that portion of the public which desired mostly entertainment and news in capsule form. The “Third Programme” was highly cultural, including discussion of esoteric subjects such as ancient civilizations and presentation of comparatively obscure classical music. It was a matter of pride to the BBC that although the “Third Programme” was aired for several years without substantial audience, it eventually developed a loyal listenership. Since the “Third Programme” was primarily an evening service, its transmitters were occasionally used during the daytime hours for a fourth service broadcasting sports and other special events.

### *Development of Television Services*

In 1936 the BBC unveiled its television and for nearly twenty years provided the only video service available to the country. In the postwar years television was very low on the priority list of facilities to be rebuilt, and while American television was making great strides in the late 1940s and early 1950s, the BBC was hampered by lack of funds and facilities. As the English became highly critical of the BBC for lagging in television, a commission was appointed to look into alternatives which would speed up development of the medium. In 1954 the Independent Television Authority (ITA) was chartered by the Crown to be financed by advertising as a supplement to the BBC. At the time, American broadcasters claimed the English had finally seen the error of their ways and were adopting the American system. In actuality, the ITA was

carefully structured to avoid what was considered the major evil of American broadcasting—advertiser domination of programming.

The ITA was authorized to construct transmission facilities throughout the country for lease to private companies who contracted for specific blocks of time on specific transmitters. Each company was responsible for programming the time it leased and was expected to offer a variety of programs under requirements somewhat similar to the FCC concept of the public interest. Payments by the companies to the ITA were to cover the construction, upkeep, and operation of the facilities. The companies were to obtain their own revenues to cover costs and profits from sale of time to advertisers. At first the ITA leaned over backward to avoid advertiser influence by requiring that all time sales be on a “run of schedule” basis where the advertisers would not know when their commercials would be aired and hence could not possibly control any program. In subsequent years advertiser resistance to such purchases led to modifications which were still intended to keep advertiser influence out of programming.

The ITA has since become the Independent Broadcasting Authority (IBA) with responsibility for both radio and television alternatives to the BBC. However, the charters of both organizations reflect the original concept of the government-chartered monopoly as an intermediate step between free enterprise and government ownership.

## **Combinations of Systems**

As early as the 1930s a handful of countries adopted combinations of the government-licensed free enterprise and government-chartered monopoly systems. As might be expected, they were at first countries such as Canada and Australia which had strong ties to both the United States and England and had parallel systems operating simultaneously. In Japan in the 1950s a television system evolved similar to the British in which private companies competed with the government-chartered organization. Comparable arrangements followed in some of the European countries. At the same time when some poorer countries wanted to get into television, they found the heavy expense an incentive to combine various systems. For example, several with government-owned radio facilities joined in partnership with American companies to form a chartered monopoly or a private enterprise system. All three American networks were interested in expansion into overseas markets hoping to profit both from station operations and from sale of syndicated programs. A common practice was for a local government either directly or through a chartered corporation to hold 51 percent of the new television facilities while the American network owned the other 49 percent.

and provided the operational expertise along with much of the programming. This pattern largely disappeared in the late 1960s as countries became more nationalistic and more sensitive about foreign influence over their communications facilities.

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## 14.2 INTERNATIONAL RADIO

Deliberate broadcasting beyond national boundaries was first tried in the late 1920s when some of the European colonial powers sought through radio to build stronger cultural ties between themselves and the peoples they ruled around the world. England and Holland especially thought it would help to hold their empires together if their subjects listened to the radio programs being heard at home. Their early efforts were neither extensive nor effective.

Adolf Hitler of Germany was the first world leader not only to see the potential use of domestic and international radio for purposes of propaganda, but also to have complete control over the medium. He considered every type of program (news, music, comedy, drama, sports, etc.) from the perspective of what it could contribute to his national goals. Only the “good news,” from his point of view, was aired; news items were fabricated if necessary. Commentaries told the people what to think about the news. Music was selected to stress the military heritage of the country and to build national pride. Comedy poked fun at those who opposed him. Drama always portrayed the villain as a Jew, a Negro, a Communist, an American, or some other “enemy of the Fatherland.” The hero was always the purely Aryan patriotic German.

As he prepared to invade neighboring countries in the late 1930s, Hitler beamed radio programs to Germans in those lands. The difficulties they were suffering were emphasized, and they were told how much better life would be for them when they were reunited with Germany. By the time the military invasion was launched, Hitler could count on so much help from his expatriates that a new phrase was added to our language—“the Fifth Column”—whose cooperation was as valuable as another column of infantry or armored vehicles in a battle.

### **The World War II Battle for People’s Minds**

During World War II international short-wave radio was a primary weapon in the battle for people’s minds. It was not that the combatants hoped to change enemy minds by radio, although there were attempts to destroy morale by broadcasting the “bad” news which the local sta-

tions were probably trying to suppress. Programs beamed to the United States were largely ineffective, since Americans paid little attention to short-wave signals. More important were programs for the African and Asiatic colonies of the two sides. England broadcast to its colonies trying to enlist their support in the war and to colonies of Germany and Italy trying to neutralize them. This strategy of enlisting support of their own colonies and trying to neutralize the rest was also followed by the others.

The British were the masters of international radio. The government contracted with the BBC to originate and transmit programs for the rest of the world. The overseas service was financed by government funds quite separate from income for domestic services. The BBC's primary asset was its credibility—people tended to believe what it said. This was not accidental. There was a conscious effort to give only accurate information, even when it was unfavorable to British interests, and to avoid the possibility of getting caught telling a lie. The BBC developed its reputation to the point where if people heard unexpected and unbelievable news on another service, their first reaction was, "Let's tune to the BBC to find out if it's true."

Few colonial residents had receivers in their homes for truly convenient reception. But the leaders and opinion makers could listen, and there were enough sets in villages and tribes so that news could be received by radio and spread by word of mouth. There were no locally controlled stations, so for most people in the Third World radio was synonymous with short-wave programs from the major European powers.

### **International Radio by New Nations**

An important development of the postwar years was the transformation of colonies into independent nations. When a new country was born, its government had a natural desire to engage in those activities which characterized the major powers. It might first consider building an atomic bomb, but quickly learned that it possessed neither the billions of dollars nor the hundreds of scientists required. The next item on a priority list might be a major air force but that, too, required much money and a large pool of skilled personnel. Eventually the new government would consider its desire for a powerful radio station and find it was neither too expensive nor dependent on large numbers of educated people. As a consequence, construction of radio facilities proceeded rapidly in the newly independent nations and the airwaves were soon bearing programs aimed not only at domestic audiences but also at people in neighboring countries.

It is axiomatic in broadcasting that when competing services are approximately equal in other respects, people will tend to tune to the station which is most "local," or nearest geographically and spiritually. As new nations built their own facilities, their peoples and those of neighboring states stopped listening primarily to distant European stations. In a few short years global international short-wave radio had become quite regional. For example, Egypt's Radio Cairo has been dominant in the Middle East since the 1950s because it had very powerful transmitters and because Cairo was a cultural and entertainment center making available the best Arabic talent for programming. As President Nasser broadcast his own brand of Pan Arabism, in the mid-1950s, some of his neighbors became concerned about losing control of their own people. The author was enlisted to train Jordanian broadcast executives and to recommend a training program for others in a new station. The avowed purpose of the Jordanian government was to entice its citizens away from Radio Cairo. In the mid-1960s Libya (which borders on Egypt) was considering building a television system with its new petroleum funds. The author was briefly in Tripoli representing our Department of State which had been invited to give advice on the training necessary to help personnel run the proposed facilities. On one of his visits to the Minister of Information he inquired into Libyan motivation, hoping that it was a desire to use the medium for bringing an underdeveloped country into the twentieth century sociologically and culturally. Instead, the minister responded it was vital that Libyans no longer listen so much to Radio Cairo, which was broadcasting programs unfriendly to the monarchist Libyan government. The minister said he had noted that whenever television came into a home, people no longer spent as much time with radio. Since Radio Libya had been unable to compete with Radio Cairo for the Libyan audience, perhaps Libyan television could succeed. The wisdom of his concern was demonstrated the following year when there was a coup and a new government closely aligned with Egypt came into power. Radio Cairo had been successful.

The importance of Radio Cairo was also demonstrated by actions of the Israelis after the "Six Day War" in 1967. Several years earlier the Deputy Director of Israeli Broadcasting had reported his government's plan that television not be started until Israeli radio could complete its work of helping integrate new immigrants into Israeli society. He felt television would be a distraction and make little contribution to solving national problems. Shortly after the 1967 annexation of areas which included major Arabic refugee populations in Gaza and the West

Bank, it became known that Israel was finally going into television. When Israeli broadcasting students in this country went to their consulates to apply for jobs, they were informed that one of the important criteria was the ability to speak Arabic. Like the Libyans, Israel was starting a television service partly to lure its Arab population away from Radio Cairo.

### **The United States and International Broadcasting**

When the United States entered World War II in 1941, it had no governmental international broadcasting. Six companies (General Electric, Westinghouse, NBC, CBS, Crosley, and Worldwide Broadcasting Corporation) owned and operated short-wave transmitters beamed to other countries. By the end of 1942 the United States government had leased the private transmitters and was in the process of building more. The private stations were beamed primarily at Latin America and it was important to get more coverage in the Pacific, in Africa, and in Asia. There were two government organizations responsible for international broadcasts—the Office of War Information (OWI) under veteran newsman Elmer Davis, and the Council of Inter-American Affairs under Nelson Rockefeller. Most of the programming titled the Voice of America (VOA) was done by CBS and NBC under contract with the two groups. By the spring of 1943 there were 21 transmitters in service broadcasting nearly 2,700 programs a week in 21 languages. More transmitters were added, but the United States effort did not catch up with that of the European nations. CBS and NBC continued doing the bulk of the programming until 1948.

When the war ended in 1945 there was a rush to demobilize not only our military organizations but also everything else related to the war effort. Congress was ready to end funding the VOA when it became apparent there were to be continuing tensions between the United States and Russia. As the cold war intensified, the VOA continued its operation from New York City, where it had been placed to be near the center of domestic broadcasting activities. Its distance from Washington was a handicap as the people in the Voice felt out of the government mainstream and received less attention and support than they would have enjoyed as a more visible unit with the rest of the government.

In the early 1950s, the cold war was at its height; Senator Joseph McCarthy spearheaded the search for Communists within the country; the containment of Communism around the world was a primary objective of our foreign policy. We were heavily involved in helping non-Communist governments through foreign aid and mutual-security military treaties. It was clear that America would never return to the

isolationism it experienced during the 1930s. It was also clear that international radio was important and that the VOA should be brought to Washington and given a more important role.

On the recommendation of President Eisenhower in 1953, Congress enacted legislation establishing the United States Information Agency (USIA). It was responsible directly to the president, but had a very close liaison with the Department of State as its source of day-to-day guidance on American policy. The United States Information Service (USIS) was the overseas arm of the USIA. A person might at a given time be assigned a job in Washington as part of the USIA; the next month he or she might be in another country working as part of USIS.

### *USIS Operations*

In any foreign country all government employees are under the authority of the ambassador, the president's personal representative in that country. The ambassador is responsible not only for State Department employees, but also for those with the Agency for International Development (AID), the USIS, the military attaches, and advisors and anyone else assigned there.

The ranking USIS officer in an overseas country is the Public Affairs Officer (PAO) of the embassy. Under the PAO will be a staff varying in size depending on the scope of American activities in the country. There may be five or six (including secretaries) or there may be several times that many. All USIS personnel may be in the capital city working out of the embassy or some may be assigned to individual cities around the country. American USIS employees are augmented by the hiring of foreign nationals.

The most visible USIS activity is normally the library located near the embassy and open to citizens of the country who want information about the United States. It is stocked with standard reference materials plus other books designed to convey impressions and understanding about the United States and its culture. It is frequently visited by students who have school or college assignments to write about America. People who are planning trips to this country also go to the library for information. Many of our friends in other countries first came to know us through use of the USIS library. But because it is so visible, it is usually the first building to be attacked when anti-American feelings run high.

Many USIS posts, especially in the Third World, include film sections. The USIA maintains one of the largest film libraries in the world with many thousands of educational and entertainment titles. There is

usually a theater near the embassy for showing the movies and there may be traveling crews with portable units who will take projectors and films to villages and tribes in the further reaches of the country. The purpose is to show films which will be helpful in basic education and which will give the viewers a better idea of what the United States is like.

There is usually at least one person assigned as liaison with the local radio and television stations and with the newspapers. His or her responsibility is to get to know the media personnel as well as possible and provide them with whatever services might be required. For example, when a new radio station was started in Amman, Jordan, the radio officer of the USIS provided it with a copy of the news each day from the embassy news ticker until the station could get its own. Audio and video tapes and films are received from the USIA in Washington to be offered to the local stations.

### *The Voice of America*

When the USIA was organized in 1953 the VOA became one of its divisions. It was a very difficult period; Senator McCarthy was promising to produce long lists of names of Communists who had infiltrated the military, the State Department, and the information personnel. Any attempt to initiate major programming activities was made impossible by the climate of the times. The other priority work to be done was building the technical facilities. One of the first VOA Directors was Jack Poppele, former Chief Engineer for WOR in New York City and for the Mutual Broadcasting System. He was also one of the pioneers who had formed the Television Broadcasters Association which later merged with the NAB. While VOA programming was considerably handicapped by McCarthy, the physical facilities were expanded.

Upon entering the White House, President Eisenhower brought with him as a Special Assistant Henry Loomis, who later became President of CPB. After a brief period in the White House, Loomis went to the USIA to head up its Research and Information Service. He subsequently became Director of VOA and filled that position under Presidents Eisenhower, Kennedy, and Johnson. In the late 1950s the VOA began to reflect the results of world-wide research.

### The Intended Audience

In earlier days international broadcasts had been beamed to the masses of people throughout the world. With the building of national systems, most listeners tuned to their own stations. The Voice of America began to specialize in broadcasts for the politically curious, the people who wanted to know the official government viewpoint on different matters.

This audience was expected to listen to the VOA news, then to tune immediately to the BBC, and then to Radio Moscow and other government voices. The mass audiences were conceded to local stations.

### Emphasis on English

The amount of English-language programming was increased for two reasons. First, in many places it would be practical and useful for natives to be able to speak with Americans; the gardener or housemaid who could communicate in English had a better chance at a good job with Americans stationed overseas. The taxi driver who could follow directions in English could earn more. Young people wanted to learn English so they might later travel to the United States as students. Businesses could expand if their employees could deal with Americans. The increase in English-language programs featured a vocabulary with basic words easily learned and most frequently used.

Second, it was learned that news programs were more authoritative when carried in the language of the country from which they emanated. VOA news carried more authority when it was in English; Radio Moscow news was better received when it was in Russian. Foreign-language broadcasts remained in the schedule, but there was more emphasis on the English programming for all parts of the world.

### Search for Credibility

The VOA made a conscious effort to achieve the degree of credibility enjoyed by the BBC during World War II. This involved telling the truth at all times, whatever the cost might be. In 1961 Edward R. Murrow, who had organized the CBS European coverage of World War II and then gone on to become our best-known and most respected newsman, was appointed by President Kennedy to be Director of the USIA. In a statement which is still being used in VOA brochures, he affirmed the search for credibility:

The Voice of America stands upon this above all,

The truth shall be the guide.

Truth may help us.

It may hurt us.

But, helping us or hurting us we shall have the satisfaction of knowing that man can know us for what we are and can at least believe what we say.

Newspeople and students understand the necessity for such a policy and the importance of bearing up under the problems it inevitably presents. Some politicians find it most difficult to understand why a costly official voice should be used to spread bad news about our

country. A major test came in budget hearings during and after the VOA reports on school integration in Little Rock, Arkansas, when President Eisenhower federalized the National Guard to enable blacks to attend schools to which they were assigned. For a while the three best-known cities in America were Washington, New York, and Little Rock.

Members of Congress kept pressing the USIA and VOA officials for explanations. They were informed that Radio Moscow and other unfriendly voices were carrying the Little Rock story almost to the exclusion of other items. If the VOA did not cover it, our whole operation would be suspect. Furthermore, by covering it, the VOA could put it in context with the rest of the news.

One of the darkest days in USIA history was when the VOA had to reverse itself on a story about a plane shot down over Russia. When word first came from Radio Moscow that an American plane had been downed, the VOA went to the Department of State to find out what had happened. Apparently the advice was sought before the matter had reached the highest levels of government. The Voice was told that it was an American weather plane operating in Turkey to help the farmers which had strayed a short distance over the Russian border by mistake and had been shot down in a cold-blooded, unnecessary, and uncivilized way.

The next day the VOA had to tell the truth, which had been revealed by the White House. It was not a weather plane; it was a special U-2 spy plane built to fly above the level which might be reached by Russian missiles. It did not stray out of Turkey; it left Pakistan and was headed for Norway, taking pictures on the way. Furthermore, the Central Intelligence Agency had been operating flights of that nature for some years. The broadcasting of conflicting stories on a single incident can do more to destroy credibility than almost anything else.

Throughout the 1960s the VOA grew in stature and has been a reasonably effective voice for the United States. Some are highly critical because there are so many in other lands who dislike our government and disapprove of our policies. They feel the VOA should have done its job well enough so that the United States would not be on the losing side of so many votes in the United Nations.

We have always known that broadcasting could not sell an unpopular product in the marketplace. Franklin D. Roosevelt could persuade the American people to have no fear of fear itself, but he could not muster their support for packing the Supreme Court. The American government could not persuade its own people that Vietnam was a

justifiable war, so the VOA should not be faulted for being unable to persuade others to believe what we ourselves could not agree on. The Voice has probably explained our position in as successful a fashion as could be expected under the circumstances.

The Voice of the mid-1970s is a major organization. It has over 2,250 authorized employees of whom some 1,350 are in the United States and the rest overseas. It broadcasts in 35 languages nearly 800 hours per week, about the same amount as Egypt but well behind Russia and China. It also supplies tapes for distribution by USIS personnel in foreign stations. There are 23 radio studios in Washington plus 5 more in New York City, Miami, Chicago, and Los Angeles. It has 41 transmitters in the United States beamed overseas and 72 more located in other countries. One final measure of its effectiveness is the trouble to which the Russians go to jam its signals (broadcasting sound on the same frequencies at the same time we are trying to beam programs into Russia). It is estimated that the Russians at times have spent more money jamming the VOA than the VOA has spent for all of its operations!

The heart of the schedule in all languages is news and commentary. One program travels around the world in different languages following the sun—"Breakfast with the Voice of America." Timed for early-morning listening (local time), it includes reports on medicine, science, space, education, dance, theater, drama, film, human-interest features, and music (along with news).

#### *USIA—Television*

Quite separate from the VOA is the television service of the USIA. Since it is not possible to beam TV programs directly to distant points, the emphasis is on preparation of program materials which the USIS radio-television officers can try to place on local stations. The USIA studio complex in Washington is one of the few facilities in the world where television programs can be recorded on videotape for the use of all three (American, British, and French) systems of television. Some programs are produced by agency personnel and some are obtained from stations and networks. The purpose is to circulate materials which will lead to a better understanding of America and its people.

The USIA is forbidden by law to circulate its materials in this country. This reflects our conviction that the government should be completely removed from operating domestic communications. In 1964, after his assassination, the USIA did a film on President Kennedy which attracted much favorable publicity abroad. As a result of special con-

gressional authorization, it was possible for domestic groups to obtain a copy of the film for private viewing, but most Americans never had a chance to see it.

For special events like a walk on the moon or a major presidential speech, the USIA arranges a satellite distribution so stations around the world can carry them.

A major disagreement with the Russians concerns the future use of satellites for international broadcasts directly to homes. An attempt was made to work out an agreement within the United Nations. The technology is nearly ready so that home antennas can be constructed reasonably inexpensively to pick up satellite signals directly. The United States proposed that all nations sign agreements to permit satellites to broadcast international television for home reception. The Russians objected strenuously and it appears unlikely there will be such an agreement in the foreseeable future.

*USIA—Radio in the  
American Sector  
(RIAS)*

Ever since the partition of Berlin into four sectors after World War II, the USIA has operated RIAS. It broadcasts in German for about 240 hours a week over both medium- and short-wave stations. Its intended audience is in East Germany, although there is extensive listening in West Germany also.

*Radio Free Europe  
and Radio Liberty*

On February 17, 1972 Senator Fulbright (D-Ark.) in a debate climaxing discussion of one of the most poorly kept secrets in all of broadcasting, said:

Mr. President, I submit that these radios should be given an opportunity to take their rightful place in the graveyard of cold war relics.\*

He was speaking of Radio Free Europe (RFE) and its sister operation, Radio Liberty, which were considered among the most effective of all international broadcast organizations. The secret, which had been known to the more sophisticated broadcasters as well as to the Russians and their satellite countries, was that RFE and Radio Liberty were organized and financed by the CIA.

In the summer of 1950 the United States was approaching the height of its cold war concern with the advance of Communism around the world. The VOA was still an ineffective whisper. On July 4, 1950 RFE began broadcasting to five countries behind the iron curtain—

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\* *New York Times*, Sec. 6, p. 36, March 26, 1972.

Czechoslovakia, Poland, Hungary, Rumania, and Bulgaria. (Radio Liberty was organized to broadcast directly into Russia.) It was announced that RFE had been founded by a private organization and that it would be supported with donations from the public, and each year there was a plea for funds over American radio and television stations and in the print media.

The programmers were expatriates who had worked in radio in the target countries. They were known to be opposed to Communism and were told to broadcast what they thought would be most effective in fighting Communism. They were not permitted to use any news item until it had been confirmed by two separate sources, however. Nor were they expected to expound any official American point of view.

Eventually, the organization included over 1,100 employees in Munich, another 350 in Portugal, and 96 in New York. Their broadcasts to the five target countries included:

- 20 hours daily to Czechoslovakia
- 19 hours daily to Poland
- 19 hours daily to Hungary
- 12 hours daily to Rumania
- 7.5 hours daily to Bulgaria

The purpose was to provide a counterbalance to the news and information available from official sources in those five countries. The emphasis was on items not discussed locally. There was ample evidence the broadcasts were widely received and effective.

The "private organization" which had founded RFE and Radio Liberty was a "front" for the CIA. When there were insufficient donations from citizens, the CIA continued paying all the bills and the fund drive each year was only a token. By the 1970s, with the increased business and cultural exchange with the Russians and with President Nixon's visits to Moscow and Peking, there were those who felt operation of RFE and Radio Liberty was not consistent with our changing policy. The CIA involvement was disclosed on the floor of the Senate and the "cover" was blown. The CIA announced it would terminate its funding of the radio operations, and Congress had to decide whether or not to institute open appropriations.

Congress continued RFE and Radio Liberty because there are certain ways in which the VOA can never fully gain the confidence of listeners. The Voice is the official organ of our government and must broadcast American policy in a diplomatic context. The expatriate

broadcasters of RFE had much more freedom and the audiences respected their views. How much longer RFE and Radio Liberty will continue is an open question today.

Has the CIA engaged in other international or foreign broadcasting activities? None has been publicized, although it seems reasonable to assume that RFE and Radio Liberty were not isolated incidents. The CIA receives its policy directives from the White House and, since broadcasting is so important in world affairs, the motivation which led to the "cold war relics" may well have led to other activities.

*The American  
Forces Radio  
Television Services*

Although our military establishment never set out to be active in international broadcasting, it has been making an impact through the programming of stations built for the armed forces overseas. It started in 1941 with an informal radio station to entertain soldiers in an Alaskan camp. As the number of overseas camps grew, the military authorized the Armed Forces Radio Service (AFRS). Small AM stations were built on which the men could receive the programs they had heard at home. Most big programs from the networks were transcribed on sixteen-inch discs, and special events like football games and the World Series were sent by short-wave for rebroadcast. As television became widespread in the United States, it was natural that the AFRS should become the AFRTS and build television stations where we had large permanent installations. Today the AFRTS (renamed the *American Forces Radio Television Services*) has some 900 outlets around the world (AM, FM, and TV), including 150 shipboard stations.

It was apparent that people living in the vicinity of the camps were also listening and viewing and beginning to like American radio and television. It is said that in England it was the AFRS which stimulated the most dissatisfaction with the rather unexciting BBC. There can be little doubt that the AFRTS stations helped spread American culture and had an influence on listeners in all countries where they were established. It was noted that the Libyan government wanted to start its own television service to keep the people from listening so much to Radio Cairo. The minister's judgment of what happened to a home with television was based on his observations in Tripoli. Wheelus Air Force Base was about ten miles from the city. It was a training base for American pilots assigned to Europe and it had an AFRTS television station. Traveling throughout the city one could see TV antennas which were oriented toward Wheelus, the only available source of television signals.

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### 14.3 THE UNITED STATES AND DOMESTIC BROADCASTING IN FOREIGN COUNTRIES

During the postwar years the established powers naturally sought to influence broadcasters and their programs in emerging countries. With the comparative equality of the major countries, the balance of power in the United Nations and in politico-economic struggles frequently lies in the Third World. Thus the attitude of the citizens of those countries toward other countries is of great importance. If the broadcasters of a country lean to one side or another, this may well be communicated widely. Hence, the United States and other governments try to make friends with and influence foreign broadcasters.

#### **The Department of State**

Among our most effective attempts to make friends of foreign broadcasters has been a State Department policy which brings outstanding station personnel to this country to observe our techniques and to see America for themselves. Some come in an organized project in which about twenty each year spend a month or so at an American university learning the theory of the American broadcasting system before going out on individual tours across the country. About 150 American commercial stations have agreed to host such visiting broadcasters for a week in which they meet the station personnel, discuss their operations, and also have numerous opportunities to meet with citizens in various situations. At the end of their visits most foreign broadcasters feel they have had an excellent opportunity to see the country, meet its people, and improve their own skills. They also report that they understand Americans better. It is hoped that this understanding will be a step toward friendship.

#### **The Agency for International Development**

In the 1950s and 1960s we sought to relate broadcasting's greatest ability (disseminating information) to the world's greatest need (raising the quality of life in underdeveloped countries.) For the world's population as a whole, the following generalizations could be made:

1. More than half the babies born never live to be one year old.
2. More than half the people of the world go to bed every night hungry without having had enough food to sustain what we consider normal activity.
3. More than half the people of the world are born, live, and die without ever having consulted a doctor or dentist.
4. More than half the people of the world cannot read or write.

In his 1949 Inaugural Address President Truman said, "I believe we should make available to peace-loving people the benefits of our store of technical knowledge in order to help them realize their aspirations for a better life." Thus was born our technical assistance program designed to help others help themselves. The Agency for International Development (AID) and its predecessor agencies focused their attention on such pragmatic goals as raising standards of health, increasing agricultural yields, and wiping out illiteracy.

It is, of course, impossible to eliminate the causes of poverty through education. But it is possible, by teaching people how to produce more and take better care of their health, to alleviate suffering. As people are better informed, they can better cope with their problems. The tragedy was that in underdeveloped countries the information needed by the peasants was available on university campuses and in government offices of the capital cities. But there was no effective way of disseminating it where it would do the most good. The people could not read pamphlets or other literature. It was impractical to hope that all could see films on portable projectors. The experts would never have time to visit all the places where their information was so vitally needed.

The only solution to the informational problem seemed to be radio. Every new country included radio stations in its earliest planning. While most homes did not have receivers, there were some in virtually every village and tribe where leaders could hear the latest news and where groups could gather for special programs.

Broadcasting has a greater potential than any other medium or method for disseminating basic information to large numbers of people. The AID programs have tried to work at all five of the basic steps in the communication process leading to effective usage of radio and television:

1. The conceptual planning of programs designed to give people specific information they need.
2. The preparation of programs containing the information and motivation to use it.
3. The transmission of programs to the areas where people live.
4. The reception of programs by the people for whom they are intended.
5. The movement to desired action by the audience.

AID has brought promising young people to this country for intensive study (frequently leading to academic degrees) in the field of

broadcasting and communications generally. It has also sent Americans to foreign countries for two-year periods to work with broadcasters in their own stations. AID has provided assistance in the installation of transmitters and in increasing the accessibility of receivers to the people. Unfortunately, the results have usually failed to fulfill early promises. The reasons are many.

Training for effective broadcasting which will change behavior requires a long time and intensive study. Too many young foreigners, like too many American students, think that effective broadcasting is achieved primarily by access to equipment. They quickly master the studio tricks of the trade but have little concept of program planning to meet human needs. They are satisfied if other programmers compliment them for slick production.

In too many government bureaucracies there is too little understanding of the pyramidal organization of effort which enables large numbers to cooperate in difficult undertakings. The operation of broadcasting is so important in some countries that every official wants to play a role in its details. For example, newscasters may receive instructions from everyone who outranks them, including the King, the Prime Minister, the Minister of Information, the Director General of Broadcasting, the Station Manager, and the News Director. Not only is this wasteful of policy-making personnel, it also leads to confusion. In many countries there is also a fear in the bureaucracy that the well-trained broadcaster is a threat to his or her superiors. There are any number of broadcasters who have come to this and other countries for training and then have never been given an opportunity to use their skills at home. In fact, many stations could be well staffed by the foreign-trained broadcasters who have gone into private business or other branches of government because they were held back in their efforts.

Finally, there is in many countries what is common here—a lack of concern on the part of high officials for the welfare of the poor citizen. They fail to grasp the dream that radio and television might be used to make a difference in the life-style of the individual and, consequently, use the media only for the obvious and less important purposes of entertainment and extension of political power. With this and all the other handicaps, it is little wonder that broadcasting has failed to make much difference, especially in a world where the expanding population has compounded health, agricultural, and literacy problems annually.

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## **SUMMARY**

The United States has been aware of the potential the electronic media have in international affairs and in the easing of human problems around the world. Several branches of our government have participated in efforts to present our point of view to others and to help others use the media wisely. That we have not been more successful is due to the unpopularity of American policy in the 1960s, to the climate of increased nationalism, and to the failure most have to understand or want to use broadcasting's potential.

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## **GLOSSARY ITEMS**

The following words and phrases used in Chapter 14 are defined in the Glossary:

Government-Chartered Monopoly

Government-Licensed

Free Enterprise

Government-Owned and Operated

Jamming

Run of Schedule

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## **EPILOGUE: CONTROVERSY AND COMPROMISE**

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### **Preview**

As broadcasting (especially television) monopolized more of people's time, it attracted more criticism and became the subject of more controversy about what it does and what it should attempt. The effects of most purposive programming—news, politics, and advertising for adults—are reasonably clear. It is entertainment and advertising for children that have led to most controversy. Minority groups are concerned about stereotyping. Parents worry about what television does to children. While there is no probability that controversy will be eliminated, it is to be hoped that dialogue will become more productive as broadcaster and consumer-critic try harder to understand each other. They must compromise since each has rights which conflict with the rights of others. The futures of both broadcasting and society will be bright when all approach controversy and

differences of opinion as partners in search for workable answers.

To this point, understanding broadcasting has included studying various controversies within the field. We have seen the great difference of opinion about the role of the FCC and about whether the Fairness Doctrine and other regulatory activities are compatible with our commitment to free speech. We know that little agreement exists concerning how much pay cable should be permitted to compete with conventional television for popular programming (such as sports events). We have sensed the confusion about the directions public broadcasting should take and the extent to which the CPB should be involved in programming.

In addition to these intra-media controversies, it is important that future broadcasters and consumers know about the controversies surrounding the roles the media do and should play in society and the effects they have on individuals. These controversies originate in charges brought by critics and other members of the public. Radio has been comparatively ignored in recent years, but television is subjected to more criticism than all the other mass media combined. Some imply that it is callously indifferent to the fate of our youth and that it is motivated by a greed matched only by Midas. In response, some broadcasters tend to become defensive and ask that their critics assume an impossible burden of proof. With rhetorical hyperbole, both critic and broadcaster overstate their cases and lose credibility among those who seek the truth. We should be concerned with understanding the points of view of both sides and the possibility that healthy dialogue might lead to better understanding between them, to compromise, and to better media in a better society.

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## 15.1 BROADCASTING AND SOCIETY

The essence of the controversy about the role and influence of broadcasting is a question about broadcasting itself—is it an integral part of society? If broadcasting has been totally absorbed by society, it is able to move only as society moves it. If, on the other hand, it is to some degree separate, it can take actions independently of the rest of society and seek to exert an influence of its own.

It is a difficult question because in social relationships the neat separation of cause from effect is usually impossible. While an individual or institution seems to be reflecting the environment, he, she, or it may also be changing the environment. For example, when a baby is born, it is usually expected that he or she will to a degree absorb and

then reflect some characteristics of the family. Yet, the family itself may have been so greatly changed by the introduction of the child that it becomes impossible to identify purely familial influences. In fact, family and child are inseparable.

Since broadcasting began in the early 1920s, people have raised questions about the influence of radio and television on our society and its members. The answers have generally been inconclusive except to those who wanted to prove a prior judgment with whatever research and statistics they might find favoring their beliefs. Broadcasting has without question reflected many of society's characteristics. It has also changed society. The question is whether broadcasting by itself caused the change or whether society so shaped broadcasting that what the latter did was inevitable. Only to the extent that broadcasting is extra-societal can it have a will and consequence of its own. Otherwise, it can no more change society than can our schools, churches, newspapers, banks, and other institutions. Although we cannot clearly define the societal status of broadcasting, it will be helpful to bear the question in mind as we seek to understand the controversies rising from criticism of the media.

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## **15.2 ENTERTAINMENT VS. PURPOSIVE BROADCASTING**

It is also helpful in viewing criticism of broadcasting to see that all radio and television can be divided into two categories related to the purpose of various materials. From a behavioral point of view, *entertainment* can be defined as that in which there is no intent to change members of the audience. Entertainment contrasts with *purposive* broadcasting in which one deliberately sets out to change the listener-viewer in some way. For example, purposive broadcasting includes the commercials designed to make people more favorably disposed to a company or product, the political speeches and announcements designed to solicit votes, the news and documentary programs designed to make people better informed about the events and issues of the day, and the cultural programs designed to foster a better appreciation of the arts.

Entertainment is presented only to attract people to their sets so they will be exposed to the commercials of the advertisers who are paying the costs. There is no ostensible desire that people be any different at the end of the program than they were when it started. If people

watch a sporting event or typical entertainment program, the chances are that the only effect on them is that they will have grown one or two hours older and enjoyed the aging process.

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### 15.3 CONTROVERSIES ABOUT BROADCASTING

#### Controversy about Television News

There is general agreement that television news coverage is significant. This has been especially true since 1963 when the networks expanded their evening newscasts from fifteen minutes to half an hour in length. Since 1940 Americans had used radio as a primary source of up-to-the-minute information about what they considered important. In the 1960s they began to accept from the television newscasts their perceptions of what was important. Although the half-hour was only sufficient to provide a few headlines, it seemed long enough to cover the major stories. Therefore, if television consistently covered a story night after night, viewers thought it must be important. Conversely, if television ignored a story, the viewers assumed the item was not as significant as the ones which were included. In effect, the television news editors were giving the viewers a rank order of importance for various news items of the day.

The controversy about news coverage derives from the differences of opinion about what is important enough to be included in the few stories television can present. For example, the Vietnam protest movement, which had started as a few skirmishes and picket lines in 1965, became much larger in 1967 and 1968. The networks considered the demonstrations newsworthy and covered them consistently. This, in turn, reinforced the opinion of those who already had an antiwar leaning and caused sober questioning by people who had all their lives assumed that information from their government was to be trusted. As respectable citizens like Dr. Benjamin Spock and leaders of various religious faiths appeared in televised demonstrations, more and more who considered themselves part of the establishment began to ask questions for which the government had no satisfactory answers. Eventually, so many people were influenced that President Johnson first had to severely curtail his trips around the country and then to announce he would not be a candidate for reelection in 1968.

Television was criticized then (and later in 1969 by Vice President Agnew) on the grounds that it should have ignored the protests which, unreported, would then have more quickly faded away. There

was evidence that the demonstrators planned their activities and publicized them to the medium in such a way as to ensure maximum coverage. While the demonstrations would have been continued even without television coverage, there is little chance that as many people would have known about them or been affected by them. Many felt that television had set out to make the demonstrations more important than they actually were. Broadcasters responded that this was like the ancient king who killed the messenger who had brought bad news.

### **Controversy about Broadcasting in Politics**

Campaigning has changed greatly in the last 50 years, and much of the change is due to broadcasting. Candidates have relied more and more on the broadcast advertising techniques by which manufacturers sell soap, autos, cereals, and drugs. In 1964 one party prepared a political commercial showing a little girl picking daisies with a nuclear explosion in the background implying that the other candidate might get us into war. Four years later a book on Richard Nixon's campaign by author Joe McGinniss was titled *The Selling of the President, 1968*. Present campaigns rely heavily on commercials stressing slogans and superficial generalizations about personality and points of view on issues.

There is controversy about the degree to which broadcasting has degraded the political process. Critics bemoan the selling of political candidates and yearn for days when issues seemed more important. One can question, however, whether the average voter in prebroadcast days was as well informed about the candidates as are the voters of today. Before broadcasting, voters could only read on the printed page what the reporters, editors, and publishers wanted them to know. Today's voters can at least see the candidates and form impressions of their personalities and capacities.

It should also be noted that, with regard to politics, broadcasting truly mirrors our society. Broadcasters did not set out to change the political process and would, indeed, be glad to devote less time to political campaigning than they do. They are, however, required to make their facilities available to candidates without any restrictions on material used. It is the politicians who have decided to use circus techniques because they believe our society is one in which those techniques are the most effective way of getting votes.

### **Controversy about Television Advertising**

Some of the criticism aimed at television advertising is equally appropriate to the other mass media. For example, some say that since the manufacturer obviously passes advertising costs on to the consumer,

every billion dollars spent on television commercials means that much more in costs to the American public. But at the same time it is theorized that advertising actually reduces costs of individual units. As advertising creates demand, manufacturers can use mass production techniques which lower prices (even with advertising) far below the levels of goods made in smaller quantities and not advertised.

Along this same line, it is then remarked that in creating demand, advertising must lead to wasteful spending. If we were not induced to want so much, might we not all live more frugally and be better off? This is a possibility. But that would require a curtailment of all advertising, and if that succeeded in substantially lowering demand, we would have to start subsidizing the living costs of those who are now making cosmetics, beer, drugs, autos, and the other products which we might use to a far lesser degree.

A criticism peculiar to broadcast advertising concerns the irritation factor. It is quite possible to ignore print advertising but some resent the interruption of broadcast programs (especially serious drama) for "this important message." There is, however, little evidence that the majority of Americans object to commercials.

A more serious complaint concerns the degree to which broadcasters, because of advertising pressures, let themselves be dominated by the "tyranny of the ratings." This stems from the fact that there are two fairly distinct types of viewers during all parts of the broadcast day. The first type tunes in at a given time to see a particular program. It may be a show he or she watches regularly or one consciously selected from those listed in *TV Guide*. If the set is not on or if this type of viewer is not already tuned to the proper channel, he or she will adjust the receiver. For this selective viewer the broadcasters design programs they hope will be attractive.

The other type of viewer turns on the set out of habit, looking to television to provide companionship and to relieve monotony. He or she is "watching TV" rather than making conscious choices among programs. To explain these viewers, NBC program executive Paul Klein formulated a "Least Objectionable Program (LOP) Theory" which hypothesizes that some people shift channels more to avoid the unusually dull than to find the especially attractive. Even if only five percent of the population are of this type (and the proportion is probably much higher), they are important to the ratings figures. In the statistical calculations it makes no difference if a set is tuned to a program because a selective viewer really wants to see it or because the "TV watcher" was not sufficiently bored to change the dial.

No broadcaster expects to have the top rating in every time period of the week. Each is content with a share of audience approximately equal to that of the competition. But no broadcaster can afford to have even one time period so dull it will drive the audience to the other channels. That would be disastrous for the rest of the morning or afternoon or evening in which it occurred. It would take several hours to regain a fair share of those who just watch television and who are required for satisfactory rating figures.

For most, television is a very profitable business. The critics are quite correct in feeling the station can afford to give away a half-hour here and there to present an important program which will not be sponsored. The broadcasters' problem is that they see the half-hour allocated for an "educational" program driving away the audience and depriving them of revenues for much more time than the critic would think of requesting. Thus, the tyranny of the ratings extends its influence to those who make reasonable requests for small amounts of time in which to present significant programming.

The most serious criticism of television advertising is directed at the broadcasters not for something they do themselves but for what they permit others to do on their facilities. Since the mid-1920s when it became clear that America was committed to a broadcast system financed by sale of time for advertising, broadcasters have regulated the advertiser only by limiting the amount of time for commercials in a program and by refusing to carry commercials for certain products. So long as the products were legitimate and not harmful and the advertising techniques were not proscribed by the Federal Trade Commission or the industry code, the advertiser was free to do as he or she pleased on the air.

The major controversy of the 1970s revolves around whether the broadcaster should permit the advertiser to "exploit" the children who have been drawn to home sets in such large numbers. Should the host who has become like a family member be permitted to act as a salesperson for products? Should advertisements for important items like vitamins and cereals be directed at children who will insist on something their parents may not consider best for them? In short, should the *caveat emptor* attitude we take toward advertising for adults be suspended when the viewers are preschoolers who have yet to develop defenses against sophisticated sales messages?

The broadcaster's first inclination might be to say that the parents should direct their criticism and threats of retaliation against the adver-

tisers; stations and networks simply make their facilities available for the accepted practice of selling goods. He or she might also be tempted to disclaim responsibility if parents are unable or unwilling to prevail over their children in important decisions of how the parents' money is to be spent for items affecting health. Neither answer will satisfy parents who feel that broadcasters are irresponsible if they permit their facilities to be used irresponsibly by others. Until some accommodation is reached, broadcasters must expect to be criticized for permitting misuse of their privileged status as guests in the home and members of the family.

### **Controversy about Entertainment Pro- gramming and Stereotypes**

The controversy surrounding purposive broadcasting is fairly simple because the material is overt and easy to describe. The controversy surrounding entertainment programming is much more difficult because the effects are apt to be unintentional and cannot be clearly defined.

There is an inherent danger in entertainment because people attend it with their guards down and are susceptible to influences they would resist in other circumstances. This is demonstrated by the practice of some manufacturers who incur major expenses in order to have their products given away as prizes on game shows. Because the descriptions of the products are not obvious commercials, they are frequently more credible.

The danger arises if writers and producers either consciously or unconsciously cast certain roles so that members of a group are consistently portrayed in a particular way. This constitutes stereotyping, and it has been a problem for various ethnic minorities and for women over many years. For example, it was customary in the movies and in radio for negroes to be cast either as buffoons or in lazy, contented, subservient roles. The listener-viewer who perceived blacks only in such roles in entertainment tended to associate real-life blacks with the stereotypes. There was a concerted effort to keep off television the radio stereotypes of blacks personified by Amos 'n Andy and the servile buffoon, Rochester, in the Jack Benny programs. Broadcasters have responded by using blacks in a few more roles but there is still a valid complaint that blacks are not being portrayed on television in the variety of roles approximating real life or as fully as are the whites.

As the women's liberation movement grew stronger in the 1960s, there was an attempt to stop casting women as only secretaries, nurses, school teachers, and housewives. A program trend of the same decade was the detective series in which criminals were frequently associated with the Mafia or Cosa Nostra, a peculiarly Italian organization in the

minds of most. In response to vigorous protests from Italian-Americans, television producers began refraining from giving criminals obvious Italian names and from referring to either the Mafia or the Cosa Nostra.

Stereotyping is one of the most vicious practices which can exist in our society and the broadcaster has one clear responsibility—to ensure there is never cause for criticism by being sure it does not occur. This includes having a sensitivity that stereotyping can also occur in commercials and working with the advertisers, if necessary, to curb any tendencies in that direction.

### **Controversy about Violence on Television**

Concern about violence on television began in the earliest days of the medium in the late 1940s. That the broadcasters were sensitive to the criticism was indicated in the first television code written in 1951. There was a paragraph on violence in the section on children's programming. There was to be no violence for the sake of violence and it was never to be shown in an attractive light.



Drawn for BROADCASTING by Sid Hix

*"Violence on TV has nothing to do with it. They're fighting over me!"*

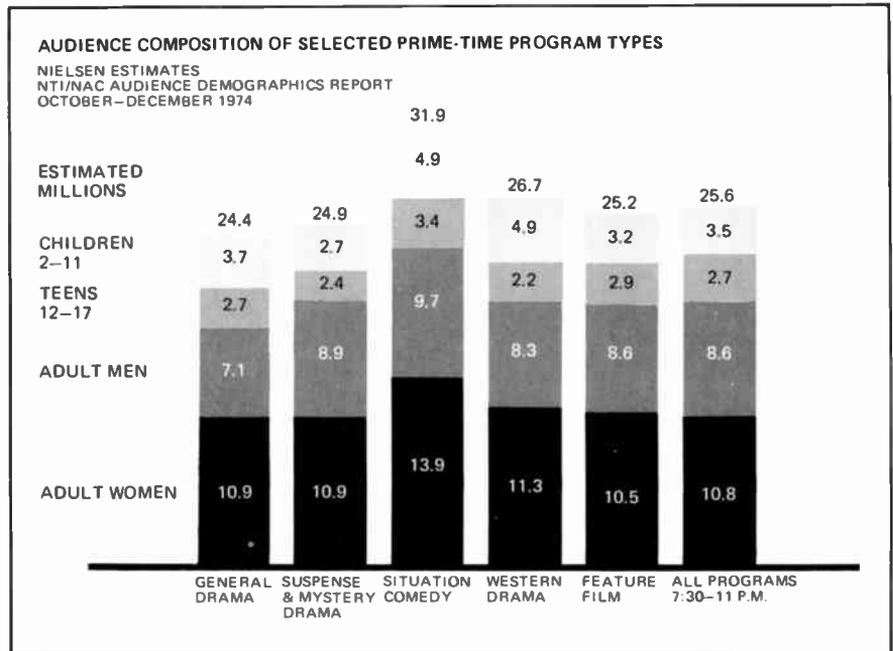
*Reprinted, with permission, from Broadcasting Magazine.*

The presence of violence in television in the early days was predictable. The network schedules were limited and the stations were forced to fill substantial amounts of time on their own. After scheduling some old theatrical films, the next readily available source of programming was antiquated cartoons which had long since completed their box office runs. A major source of the humor was slapstick violence to which the children reacted as enthusiastically as their parents had years before in movie theaters. As the old cartoons proved to be successful programming during the “children’s hours” (Saturday and Sunday mornings and weekdays after school), new ones were made in the old formula. Violence abounded.

When the networks began regular service, their programming for adults followed the proven formula of the morality story in which there was conflict between the “good guys” and the “bad guys”—the former were expected to win and punish the latter, and the more violent the punishment the better. There were cowboys and Indians, sheriffs and rustlers, policemen and crooks, and detectives and murderers. In the intense rivalry for ratings it was discovered that violence in itself was a popular ingredient, so violence multiplied. The factor which concerned many was that youngsters watched TV much later in the evening than anyone would have predicted. Between the cartoon programs presented by the stations and the adult programming from the networks, children were seeing far more violence than their parents had experienced in their youth (see Fig. 15.1).

In 1954 and 1955 television was considered, among other factors, by a Senate Juvenile Delinquency Subcommittee chaired by Senator Estes Kefauver (D-Tenn.). The subcommittee reported (as would most of its successors in later years) that it had been unable to find a direct and causal relationship between viewing violence on television and subsequent criminal behavior. With great insight the report pointed out the difficulty of meaningful dialogue when the broadcasters would only talk about the effect of an individual program on the individual child while the critics wanted to discuss the cumulative effect of seemingly endless hours of viewing crime and violence. The broadcasters took the position that television (like an individual in court) should be considered innocent until proven guilty. The critics searched in vain for evidence that specific programs had caused specific antisocial behavior and still maintained that the overall result of so much violence on television must be harmful.

Many studies were conducted by social scientists with conflicting results. The most widely accepted statement on the effect of televised



**Fig. 15.1** Nielsen estimates show that children constitute an important part of the audiences to all types of prime-time programs between 7:30 and 11 P.M.  
*Used by permission. A.C. Nielsen Company*

violence on children was made by Schramm, Lyle, and Parker in a 1961 study at Stanford University:

*For some children, under some conditions, some television is harmful. For other children under the same conditions, or for the same children under other conditions, it may be beneficial. For most children, under most conditions, most television is probably neither harmful nor particularly beneficial.\**

*The Report of the  
 Surgeon General's  
 Committee*

In 1969 Senator John O. Pastore (D-R.I.), Chairman of the Senate Subcommittee on Communications, asked the Surgeon General of the United States to appoint a committee to study what harmful effects, if any, televised crime and violence had on children. Unfortunately, the Surgeon General wanted too much to ensure that his committee's report would have the backing of the broadcasters. From a long list of nominees he chose 40 potential committee members and submitted their names to the presidents of the National Association of Broadcasters and

\* Schramm, Lyle, and Parker, "Television in the Lives of our Children," p. 1.

the networks asking them to indicate which would *not* be appropriate on the committee. Seven of the 40 names were stricken and from the rest the final 12 were selected. In their report the committee members said they had not been aware of the veto power given to the broadcasters and they regretted it. Although there was generally good acceptance of the report by most people, the method of selecting committee members convinced some critics in advance that the results would be tainted.

The committee had a million dollars to cover its expenses in reviewing all past research and commissioning new studies. It worked about two and a half years on the project. The report first considered the known facts about children's viewing:

1. Ninety-six percent of American homes had sets.
2. The average set was on for six hours a day.
3. The average child watched at least two hours a day.
4. Much of the viewing was with only partial attention to television as the child did other things at the same time.
5. The most frequent viewing is from the ages of three to twelve.
6. Most children develop individual program tastes by the time they enter the first grade.

It was then pointed out that violence was a major component of television and of the other media and was most prevalent in the cartoons. Violence seemed to be an attractive element which was used to raise ratings of programs.

After reviewing the evidence of both old and new studies, the committee concluded:

The studies reviewed in this chapter indicate that a modest relationship exists between the viewing of violence on television and aggressive tendencies.\*

Since the committee members were all respected scientists (including the two who represented CBS and NBC), it is unfortunate that the results were found lacking in credibility. The report is a solid one. The competent personnel had money with which to review past research and commission new studies. There was ample time for considering the evidence. Had the broadcasters not been permitted to veto membership, the chances are the results would have been identical and the report accepted as the nearly definitive effort it was with the research tools available.

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\* "Report of Surgeon General's Advisory Committee on Television and Social Behavior," p. 181.

Even though the broadcasters have not been “proven guilty beyond a reasonable doubt” in the research studies, they should not ignore the possibility that the critics are right in some of their claims. Thoughtful television leaders should continue to address themselves to questions such as the following:

1. Is there an issue of desensitizing children toward violence quite aside from encouraging aggressive behavior? Will we one day reap the whirlwind of bringing up several generations of children to whom the most extreme violence is a matter of course?

2. Is it in the public interest to use scarce broadcasting frequencies to make any contribution to aggression whether it be “modest” or not?

3. If, as the study suggests, only 1,000 children throughout the country are led by televised violence into extreme aggression which hurts others as well as themselves, would the damage done to that thousand and those they hurt be more than offset by the pleasure the rest of the children received from viewing the violence without any ill effects?

4. Since it uses the public frequencies, should broadcasting have an affirmative responsibility to try to supplement family, church, and school in developing desirable characteristics (or at least fighting negative influences)?

### *More General Effects on Children*

It was clear from the beginning that television was an excellent baby sitter. The moving images claimed the attention of even the youngest children and kept them quiet while their parents could get their work done. Some parents worried that television might supplant other desirable activities, such as outdoor exercise and reading books. At the same time, they acknowledged that children seemed to become better acquainted with the world outside the home and to grow faster intellectually as they watched television. The purposive programs like NBC’s “Ding Dong School” in the 1950s and the later “Mr. Rogers’ Neighborhood” on PBS assisted in the socialization of preschool children and furthered their ability to get along with their peers outside the home. Programs like “Sesame Street” aided in developing learning readiness for children starting school, especially in deprived neighborhoods, although there was little evidence that the early advantage was carried over into later years.

On the other hand, it was clear that children were becoming addicted to watching television and there was concern about the nonspecific effects this might have on personality. Marshall McLuhan says the “medium is the message” and it really doesn’t matter what children

watch. Whether it be “Sesame Street,” cartoons, or the “Gong Show,” they are developing a passivity which may be a handicap in the years ahead. If this is so, broadcasters will feel that it is the parents who have let the children down. It would certainly be unreasonable (and many adults would complain bitterly) if stations were forced to go off the air so children would be forced to do something else.

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## 15.4 UNDERSTANDING PEOPLE

Seeking to explain the media leads to the conclusion that we will be on the road to solving problems and easing controversy when broadcasters and consumers better understand each other as well as the workings of the industry. Most broadcasters are intelligent, honest, and sincere persons who not only want to do well at their jobs but also want to feel that what they do makes a difference. They want to be more than the travelling medieval juggler who brought temporary surcease from misery but left each town exactly as he found it. Broadcasters are frequently frustrated in their desire by pressures from stockholders who insist that each year be more profitable than its predecessor, if possible. Most consumer-critics are also intelligent, honest, and sincere. They are frustrated by conditions generally and criticize the most visible media with the knowledge that even if all their demands were met, they still would not achieve all the desired changes in the world generally. Still, they are impelled to do what they can.

Both must be willing to put themselves in the other's position and to appreciate the points of view and motivations of the other. Consumer-critics must understand the pressures on well-meaning broadcasters. They should realize that some of the stockholder demands come from their own neighbors who happen to own some broadcast stock and are dependent on its increasing value to counter inflation. They must realize the plethora of entertainment (including violence) is in response to the will of a majority of fellow citizens who may be less discerning than they. Once they understand the industry, they should confess that if they were broadcast executives they would probably do what is now being done in their desire to survive in the job.

Broadcasters must be willing to put themselves in the position of the consumer who lacks expertise about television but takes its influence on people and society very seriously. They must try to understand the mother whose child is developing undesirable traits while watching

the TV screen several hours a day. They need to sympathize with minority groups who seek a better economic life but see themselves nearly invisible in the most visible of the media. They must remember that many who insist most loudly on the right to be heard do so because the law says that the airwaves really belong to the public and not to the broadcaster.

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## 15.5 RIGHTS AND RESPONSIBILITIES

### **Rights and Responsibilities of Free Enterprise**

Nearly all criticism of American broadcasting arises from the consequences of our commitment to the free enterprise system in our communications media. Free enterprise must seek profits which are closely related to size of audience. Many might believe the broadcasters themselves devised the system and foisted it on the American public. Yet, nothing is further from the truth. It was Herbert Hoover who shaped the system in the early 1920s and whose concepts were accepted by Congress when it passed the Federal Radio Act of 1927. He felt that giving profit-seeking persons and companies the use of the public's frequencies was better than having government or a quasi-government organization decide what the American people might receive.

Although Mr. Hoover had early doubts about advertising, he never wavered in his support of the system. But, in his annual radio conferences he constantly sought to stimulate in broadcasters a sense of responsibility. Today he would be the first to ask them to face the question: to what extent is a public responsibility inherent in accepting the rights of free enterprise operation on the public airwaves? He would insist that so long as a broadcaster assumed only the minimum responsibility required by law and the FCC, the extent of accountability was at an unsatisfactory level.

Each broadcaster must decide how important it is that society improve rather than stand still or deteriorate. Since one cannot change the world alone, one can at least start to earn the confidence of consumer-critics by dealing with them in complete frankness and persuading them that one really is interested in their points of view. Second, broadcasters can go to as much effort to learn about other people's problems as they devote to their own problems with regulation and competition. Third, they can welcome rather than resist the pressures to make their profession more responsive to society in general. They can perceive the efforts of the FCC to involve stations in the discussion of public issues as

## Herbert Clark Hoover 1874–1964



Courtesy: NBC

*At the time of his death, Herbert Hoover was honored as a highly successful mining engineer who had worked all over the world, as a great humanitarian who had organized massive efforts to relieve the suffering of war, and as the thirty-first President of the United States. To Broadcasting he was “more than anyone else the father of the American system of broadcasting.”\**

*He was born in Iowa in 1874. Before he was 10 years old both of his parents died and he was raised by relatives in Oregon. In 1895 he was a member of the first graduating class of Stanford University in Palo Alto, California. After spending a*

*year as a mine laborer (\$5 for a ten-hour day, 7 days a week) he became a mining engineer in Australia and China. As a Quaker (Society of Friends) he was deeply affected by suffering and in 1900 directed a food relief program for destitute victims of the Boxer rebellion in China. He later set up his own engineering consulting firm and was in demand in many nations.*

*In 1914 he established relief committees in Europe and was probably the only American who had free access to the capitals of the nations on both sides of the lines throughout World War I. After the war he was appointed by President Wilson as director general of a program for the relief and reconstruction of Europe. His organization was responsible for distributing nearly 50 million tons of food to famine-threatened populations in thirty countries.*

*From 1920 to 1928 he was Secretary of Commerce under Presidents Harding and Coolidge, charged (among other duties) with licensing radio operators. Until the Zenith decision of 1926 he was successful in persuading operators to share the limited available frequencies and to engage in self regulation which would lessen the possibility of government control of programming. His most successful medium of leadership was the series of four annual broadcasting conferences starting in 1922. In them he gave to the broadcasters his own vision of the medium and his own concepts of*

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\**Broadcasting*, October 26, 1964, p. 80.

*future directions. His one notable failure to understand the role of the medium was his conviction that "direct advertising would be the surest way of killing radio." Thirty years later he admitted he had been wrong. In 1928 he was elected President of the United States. It was his misfortune to be in the White House when the depression came and for many years he was maligned for failing to prevent the inevitable and for doing too little once economic collapse occurred. In the closing*

*years of his life he was accorded the honors due him. After World War II President Truman asked him to be coordinator of a Food Supply for Famine operation which again alleviated the suffering of war victims.*

*Congress established the "Hoover Commission" to make recommendations on reorganization of the Executive branch of government. When he died he had been for two decades a respected elder statesman of his country.*

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a buffer between themselves and the stockholders who think their only purpose should be returning greater profits. They can see that many of those they most resent are, in the final analysis, among their most valuable assets in giving them an opportunity to be more than the medieval juggler. Fourth, the many broadcasters who already have a lively concern for their responsibility can try to communicate it better to their employees. Too much of the consumer criticism of stations and networks is occasioned by second- and third-echelon personnel who inaccurately understand what their employers value most highly.

Such preliminary steps may or may not lead to changes in programming and employment practices. But in this situation what the broadcaster actually does may be less important than that he or she have a concern that is clear to the public.

### **The Rights and Responsibilities of Consumerism**

The consumer has a right to enjoy the programming provided by the broadcasters on the public's airwaves. There is a further right to protection from any broadcast which might have a demonstrable ill effect on the person, the family, or society in general. There is a right to hope that broadcasters, as well as others, will accept a share of responsibility for keeping our society healthy. The consumer-critic has a responsibility to understand broadcasters and their problems as well as he or she wants them to understand the consumer's problems. There is a responsi-



Drawn for BROADCASTING by Bill Davey  
*"I liked it better as a vast wasteland."*

*Reprinted, with permission, from Broadcasting Magazine.*

bility to make requests which are not totally inconsistent with the broadcasters' right to make money in the free enterprise system.

There is a further responsibility to realize there are some 200 million consumers in this country and each has rights in making demands on stations. There are those who want only entertainment—for better or for worse, that is the way some people are. When the consumer-critic protests that certain matters of particular concern should be emphasized over entertainment, it is a criticism of some fellow consumers as much as it is of broadcasters. Even those who join in criticizing broadcasting may differ greatly about which concerns are most important. There needs to be more dialogue among various consumer groups so their efforts can be focused on the areas of greatest importance.

### **The Rights and Responsibilities of Free Speech**

It is ironic that so much of the controversy between broadcasters and consumers stems from the one concept all endorse most enthusiastically—freedom of speech. We have noted the conflict between the literalist and functionalist points of view—the right of individuals to express themselves and the right of the public to hear what it deems important. Although they appear at times to be diametrically opposed, the literalist and functionalist approaches are of equal importance in our society and equally deserving of respect.

Discussion of free speech is never simple—there are too many caveats and qualifications to be made. For example, the right to express one's self is never absolute. There are limits, usually relating to the welfare of others. The right to hear belongs to the public and not to an individual or small group. Until one can persuade a substantial part of the public to accept his or her appraisal of what is most important, no *right* to hear it on the air exists.

The broadcasters' right to express themselves must be accompanied by a desire to use at least part of their time for what they think the public has a right and need to hear. The consumer's right to hear must be accompanied by acknowledgment of the general public's right to determine what shall be demanded of the broadcaster.

Philosophically both broadcasters and consumers must face the fact that free speech is meaningless if it is not exercised in significant ways. The broadcaster with nothing to say is subverting the theory of using the public's airwaves in the public interest. The public which refuses to listen to significant ideas and information is doomed to mental deterioration.

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## 15.6 THE NEED FOR COMPROMISE

In free enterprise and free speech there must be compromise. There are too many rights in conflict to expect that anyone can have everything to which he or she feels entitled. Broadcasters must be permitted to make money and willing to accept responsibility. Consumer-critics must be heard by the broadcaster yet willing to accept a judgment that other needs may be more important than theirs. Broadcasters must be permitted to control the schedule and willing to use wisely the power this gives. Consumers must make constructive criticism and become partners rather than adversaries to others whose desires are different from theirs.

Perhaps the greatest danger we face is that either side or any single group might gain indisputable control over the media. Broadcasters must be held accountable to others as well as to their stockholders. No group of consumer-critics must be in a position to dictate to broadcasters. If one consumer group can dictate today, another will have the same power tomorrow, and the second may be more indifferent to today's activist than were the broadcasters. It would be even more unfortunate if government in the form of the FCC were able to exert total control over radio and television. Power tends to corrupt and the members of government are as susceptible to its corrosive influence as is any-

one else. The sharing of power is the ideal in our society. The danger comes when that sharing depends wholly on tests of strength among the participants and the knowledge that many, if they were able, would take all power for themselves.

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## **15.7 IN RETROSPECT AND IN PROSPECT**

In looking back, one sees that the American system has worked. Society absorbed and was changed by broadcasting. Just as none can claim all credit for the beneficial contributions broadcasting has made to our society, so none must bear all blame that radio and television have not done more.

As the blind men saw the elephant differently, so will we see broadcasting from different perspectives. Even with a common understanding of the media, there is room for differences of opinion on what broadcasting has done and should do to our society. There will always be different notions of how conflicting rights in free enterprise and free speech should be resolved. But in looking ahead the future appears bright. As more are willing to take the time to understand broadcasting and to understand each other, we can all continue to benefit from prosperous media in a healthy society.



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# **APPENDIX A**

## **Excerpts of the Communications Act of 1934 as Originally Enacted**

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### **Purpose of the Act**

- Sec. 1. For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, . . . there is hereby created a commission to be known as the "Federal Communications Commission," which shall be constituted as hereinafter provided, and which shall execute and enforce the provisions of this Act.

### **Definitions**

- Sec. 3. For the purposes of this Act, unless the context otherwise requires—
- b) "Radio communication" or "communication by radio" means the transmission by radio of writing, signs, signals, pictures, and sounds of all kinds. . .
  - c) "Licensee" means the holder of a radio station license granted or continued in force under authority of this Act.
  - h) "Common Carrier" or "carrier" means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or in interstate or foreign radio transmission of energy, except where reference is made to common carriers not subject to this Act; but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier.
  - o) "Broadcasting" means the dissemination of radio communications intended to be received by the public, directly or by the intermediary of relay stations.
  - p) "Chain broadcasting" means simultaneous broadcasting of an identical program by two or more connected stations.

### **Provisions Relating to the Commission**

- Sec. 4. a) The Federal Communications Commission (in this Act referred to as the "Commission") shall be composed of seven commissioners appointed by the President, by and with the advice and consent of the Senate, one of whom the President shall designate as chairman.
- b) . . . Not more than four commissioners shall be members of the same political party.
- c) . . . shall be appointed for terms of seven years. . .
- i) The Commission may perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions.

### **License for Radio Communication or Transmission of Energy**

- Sec. 301. It is the purpose of this Act, among other things, to maintain the control of the United States over all the channels of interstate and foreign radio transmission; and to provide for the use of such channels, but not the ownership thereof, by persons for limited periods of time, under licenses granted by federal authority, and no such license shall be construed to create any right beyond the terms, conditions, and periods of the license. No person shall use or operate any apparatus for the transmission of energy or communication or signals by radio . . . except under and in accordance with this Act and with a license in that behalf granted under the provisions of this Act.

### **General Powers of Commission**

- Sec. 303. Except as otherwise provided in this Act, the Commission from time to time, as public convenience, interest, or necessity requires shall—
- a) Classify radio stations;
- b) Prescribe the nature of the service to be rendered by each class of licensed stations and each station within any class;
- c) Assign bands of frequencies to the various classes of stations, and assign frequencies for each individual station and determine the power which each station shall use and the time during which it may operate;
- d) Determine the location of classes of stations or individual stations;
- g) Study new uses for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest;
- i) Have authority to make special regulations applicable to radio stations engaged in chain broadcasting;
- o) Have authority to designate call letters of all stations;

### **Waiver by Licensee**

- Sec. 304. No station license shall be granted by the Commission until the applicant therefor shall have signed a waiver of any claim to the use of any particular frequency or of the ether as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise.

### **Allocation of Facilities; Term of Licenses**

- Sec. 307. a) The Commission, if public convenience, interest, or necessity will be served thereby, subject to the limitations of this Act, shall grant to any applicant therefor a station license provided for by this Act.

c) The Commission shall study the proposal that Congress by statute allocate fixed percentages of radio broadcasting facilities to particular types or kinds of nonprofit radio programs or to persons identified with particular types or kinds of nonprofit activities, and shall report to Congress, not later than February 1, 1935, its recommendations together with the reasons for the same.

d) No license granted for the operation of a broadcasting station shall be for a longer term than three years. . .

#### **Applications for Licenses**

Sec. 308. a) The Commission may grant licenses, renewal of licenses, and modification of licenses only upon written application therefor received by it. . .

#### **Granting of Licenses**

Sec. 309. a) If upon examination of any application for a station license or for the renewal or modification of a station license the Commission shall determine that public interest, convenience, or necessity would be served by the granting thereof, it shall authorize the issuance, renewal, or modification thereof in accordance with said finding. In the event the Commission upon examination of any such application does not reach such decision with respect thereto, it shall notify the applicant thereof, shall fix and give notice of a time and place for hearing thereon, and shall afford such applicant an opportunity to be heard under such rules and regulations as it may prescribe.

b) 1) The station license shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated in the license beyond the term thereof nor in any other manner than authorized therein.

2) Neither the license nor the right granted thereunder shall be assigned or otherwise transferred in violation of this Act.

#### **Limitation on Holding Licenses**

Sec. 310. a) The station license required hereby shall not be granted to or held by—

1) Any alien or the representative of any alien;

2) Any foreign government or the representative thereof;

3) Any corporation organized under the laws of any foreign government.

b) The station license required hereby, the frequencies authorized to be used by the licensee, and the rights therein granted shall not be transferred, assigned, or in any manner either voluntarily or involuntarily disposed of, or indirectly by transfer of control of any corporation holding such license, to any person, unless the Commission shall, after securing full information, decide that said transfer is in the public interest, and shall give its consent in writing.

#### **Revocation of Licenses**

Sec. 312. a) Any station license may be revoked for false statements either in the application or in the statement of fact which may be required by Section 308 hereof, or because of conditions revealed by such statements of fact as may be required from time to time which would warrant the Commission in refusing to grant a license on an original application, or for failure to operate substantially as set forth in the license. . .

### **Facilities for Candidates for Public Office**

- Sec. 315. If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station, and the Commission shall make rules and regulations to carry this provision into effect: *Provided*, that such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidates.

### **Announcement that Matter is Paid for**

- Sec. 317. All matter broadcast by any radio station for which service, money, or any other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, shall, at the time the same is so broadcast, be announced as paid for or furnished, as the case may be, by such person.

### **Rebroadcasting**

- Sec. 325. . . . nor shall any broadcasting station rebroadcast the program or any part thereof of another broadcasting station without the express authority of the originating station.

### **Censorship**

- Sec. 326. Nothing in this Act shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication. No person within the jurisdiction of the United States shall utter any obscene, indecent, or profane language by means of radio communication.

### **Right of Appeal**

- Sec. 402. b) An appeal may be taken, in the manner hereinafter provided, from decisions of the Commission to the Court of Appeals of the District of Columbia in any of the following cases:
- 1) By any applicant for a construction permit for a radio station, or for a radio-station license, or for renewal of an existing radio-station license, or for modification of an existing radio-station license, whose application is refused by the Commission.
  - 2) By any other person aggrieved or whose interests are adversely affected by any decision of the Commission granting or refusing any such application.
  - e) At the earliest convenient time the court shall hear and determine the appeal upon the record before it, and shall have power, upon such record, to enter a judgment affirming or reversing the decision of the Commission, and in event the court shall render a decision and enter an order reversing the decision of the Commission, it shall remand the case to the Commission to carry out the judgment of the court: *Provided, however*, That the review by the court shall be limited to questions of law and that findings of fact by the Commission, if supported by substantial evidence, shall be conclusive unless it shall clearly appear that the findings of the Commission are arbitrary or capricious. The court's judgment shall be final, subject, however, to review by the Supreme Court of the United States . . .

**War Emergency—Powers of the President**

Sec. 606.       c) Upon proclamation by the President that there exists war or a threat of war or a state of public peril or disaster or other national emergency, or in order to preserve the neutrality of the United States, the President may suspend or amend, for such time as he may see fit, the rules and regulations applicable to any or all stations . . . and may cause the closing of any station for radio communication . . .

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## APPENDIX B

### Selected Amendments to the Communications Act of 1934

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- Sec. 303. Except as otherwise provided in this Act, the Commission from time to time, as public convenience, interest, or necessity requires, shall—
- (s) have authority to require that apparatus designed to receive television pictures broadcast simultaneously with sound be capable of adequately receiving all frequencies allocated by the Commission to television broadcasting when such apparatus is shipped in interstate commerce, or is imported from any foreign country into the United States, for sale or resale to the public.
- Sec. 310. . . . Any such application for transfer of license shall be disposed of as if the proposed transferee or assignee were making application under Section 308 for the permit or license in question; but in acting thereon the Commission may not consider whether the public interest, convenience, and necessity might be served by the transfer, assignment, or disposal of the permit or license to a person other than the proposed transferee or assignee.
- Sec. 315. . . . Appearance by a legally qualified candidate on any—
- 1) *bona fide* newscast,
  - 2) *bona fide* news interview,
  - 3) *bona fide* news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or
  - 4) on-the-spot coverage of *bona fide* news events (including but not limited to political conventions and activities incidental thereto),
- shall not be deemed to be use of a broadcasting station within the meaning of this subsection. Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

- Sec. 508. a) . . . any employee of a radio station who accepts or agrees to accept from any person (other than such station), or any person (other than such station) who pays or agrees to pay such employee, any money, service, or other valuable consideration for the broadcast of any matter over such station shall, in advance of such broadcast, disclose the fact of such acceptance or agreement to such station.
- (g) Any person who violates any provision of this section shall, for each such violation, be fined not more than \$10,000 or imprisoned not more than one year, or both.
- Sec. 509. a) It shall be unlawful for any person, with intent to deceive the listening or viewing public—
- (1) To supply to any contestant in a purportedly *bona fide* contest of intellectual knowledge or intellectual skill any special and secret assistance whereby the outcome of such contest will be in whole or in part prearranged or predetermined.
- (c) Whoever violates subsection (a) shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

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# GLOSSARY

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Access Channels	In cable, channels required by FCC and some franchisers, for use by public, education, and government; also leased.
Access Hour	The hour between 7 P.M. and 11 P.M. local time in which affiliated and owned stations may not carry network feed or off-network programs.
Adjacent Channels	Television channels which adjoin each other on the radio spectrum.
Administrative Law Judge (ALJ)	FCC staff member who presides at hearings and recommends actions to the Commission. Formerly called "Hearing Examiner."
Advertising "Mix"	Combination of time buys in an advertising campaign usually involving network and spot, different classes of time, and different programs (also different media).
All-Channel Receiver	Television receiver capable of tuning in the UHF as well as the VHF broadcast channels.
Alternate Sponsor	An advertiser who shares with another the cost of time and program and uses half the commercial openings.
Amplitude Modulation (AM)	(1) Refers to method of imposing program on carrier wave by modulating amplitude or strength of signal. (2) Refers to medium wave or standard broadcasting between 535 and 1605 kHz.
AM-FM Combination	AM and FM stations operated by a single licensee in a community.
AM-FM Duplication	The same program schedule being simultaneously carried on commonly owned AM and FM stations in a community.
Antisiphoning Rules	FCC rules preventing both pay TV and pay cable from purchasing certain program material which has been of great importance to conventional television.

Area of Dominant Influence (ADI)	Arbitron term for “market” or the area from which business tends to flow to a focal point. Cf. DMA.
Ascertainment	The procedure by which problems of the community are studied when preparing an application for a new station or license renewal.
Availability	Time spot in the schedule which is currently available for sale to an advertiser.
Barter	(1) A form of syndication in which the advertiser donates a program to a station in return for a specified number of free commercial minutes in the program. (2) An arrangement in which the station waives compensation for carrying a network program in return for commercial openings which are left open for sale by the affiliate.
Bicycle Network	Circulation of programs among affiliates by mail so individual episodes are seen in different weeks on different stations.
Billings	The total amount of bills to advertisers by broadcasting category, such as AM stations, FM stations, networks, national spot, etc.
Blacklisting	The practice of listing producers, writers, and performers who were unacceptable to certain groups in the 1940s and 1950s, presumably on the grounds of being alleged Communist sympathizers.
Blue Book	1946 document of the FCC entitled “Public Service Responsibility of Broadcast Licensees.”
<i>Bona Fide News</i>	In Section 315, news programming on which the appearance of a candidate is not considered “use” and therefore does not incur an equal-opportunity liability by the broadcaster.
Broadcast Channel	The segment of the radio spectrum assigned to a broadcast station.
Broadcasting	Transmission of radio and television programs to reach all or part of the general public. Contrast with point-to-point transmission intended for a limited number of receivers.
Cable Franchise	Document from the local community permitting a cable system to install its equipment along or under the streets and to sell its services to homes.
Cable Penetration	Percentage of homes on the cable route which have subscribed to the service.
Cable Pseudo Freeze	Period from 1965 to 1972 in which cable growth in the top 100 markets was virtually halted by refusal of the FCC to grant microwave licenses for importation without full hearings.
Cable Television	Delivery of television programs to homes by cable as opposed to over-the-air transmission. Cable service may include CATV, importation, origination, access channels, and pay cable.
Cable Three-Tiered Regulation	Reference to fact that three levels of government are involved in much cable regulation: local community gives franchise under guidelines of state commission and the FCC issues the Certificate of Compliance.
Carrier Wave	The broadcast signal on which program material is imposed.
Certificate of Compliance	An FCC document required for operation of cable television.

Chain Broadcasting	Term used in the Communications Act of 1934 to denote network broadcasting.
Chain Regulations	FCC rules pertaining to network-station relations. Originally eight were passed in 1941, followed by others (including three promulgated in 1970).
Channel Assignments	Assignment of commercial and educational TV channels to specific communities during the TV Freeze from 1948 to 1952.
Channel Separation Factor	The minimum mileage which must separate television stations: co-channel separation = miles required between stations on the same channel; adjacent-channel separation = miles required between stations on adjacent channels.
Class of Time	Division of broadcast schedule into segments with different prices: eg., prime time vs. day time vs. "fringe time," etc.
Clear and Present Danger	A situation in which freedom of speech can be justifiably curtailed.
Closed-Circuit Television (CCTV)	Transmission of television signal by wire or radio waves not available to people with conventional over-the-air receivers.
Co-Axial Cable (co-ax)	Series of wires in a shield which can carry several television programs or thousands of telephone conversations.
Commercial Minute (or Thirty)	A unit of time sold for a commercial message in participating advertising. Contrast with sponsorship.
Community Antenna Television (CATV)	(1) Generic term for all cable television in the 1950s and 1960s. (2) A cable system's delivery to homes of programs picked up directly off the air as opposed to importation.
Compensation	Money stations receive for carrying network programs.
Compulsory License (copyright)	Right to use copyrighted material without negotiating with copyright holder. Includes payment of fee to a group which will distribute money to the owners of the material.
Construction Permit (CP)	FCC authorization to build a station with assurance that the license will be granted when final engineering data based on performance are satisfactory.
Continuity	(1) Nondramatic script for broadcasting. (2) Continuity writer—one who writes routine material for announcer and commercials and public service announcements. (3) Continuity acceptance—reviewing material to be broadcast to ensure maintenance of standards of good taste.
Cooperative Advertising (co-op)	Arrangement in which retailer buys local time to run manufacturer's commercial followed by local announcement of where product may be purchased. Cost is shared by retailer and manufacturer.
Cost Per Thousand (CPM)	The cost to an advertiser of delivering a commercial to a thousand homes.
Counter Commercials	Airing of anticigarette public service announcements during period when cigarettes were being advertised on radio and television.
Cross-Ownership	The common ownership of different media, such as: (1) newspaper and broadcast station(s) in a community, (2) broadcast station(s) and cable system in a community, (3) television network and cable system anywhere.

	It does not refer to common ownership of different broadcast services (AM, FM, TV) in a community.
Cumulative Audience (cume)	The estimated percentage of homes which are tuned to part of a program during one or more episodes.
Deintermixture	FCC attempts in the 1950s to solve the UHF problem by changing "mixed markets" to either all VHF or all UHF.
Demographics	The characteristics of the audience in terms of age, sex, income, etc.
Designated Market Area (DMA)	Term used by A. C. Nielson Co. to indicate geographic area where a station is received. DMA is subdivided into the Metro Area, the local DMA, and the adjacent DMA. Cf. ADI.
Diary	Method of measuring the audience by asking respondents to keep a written record of viewing and listening during a week.
Direct Wave	Radio signal traveling by line-of-sight from the transmitter to the receiving antenna.
Directionalized Antenna	Transmitting antenna arrangement which causes more signal strength in some directions than in others.
Double Billing	An illegal practice in cooperative advertising when station receipts two bills for time purchased. Retailer pays the smaller bill and sends the larger to the manufacturer for partial reimbursement.
Drive Time	The early morning and late afternoon hours when many radio listeners are commuting by car.
Earth Station	An installation for transmitting signals to and receiving signals from a communications satellite.
Economic Injury	The harmful economic impact of a new station or a cable system on an existing station.
Educational Reservations	Setting aside FM and television channels for noncommercial use by educational institutions.
Educational Television	(1) Generic name of stations designated by the FCC as noncommercial. Currently called public television stations. (2) Broadcasting of educational material on either public or commercial stations. (3) Any broadcast activity by an educational institution.
Electromagnetic Spectrum	The range of all electromagnetic energy, including radio and visible light.
Electron Gun	Device which aims electrons at elements in the television camera. Reflected electrons cause modulations of electrical energy.
Electronic News Gathering (ENG)	Recording news events on portable videotape recorders instead of film, or sending the signals directly back to the studio for recording and transmission.
Electronic Television	Television system in which neither studio nor receiving equipment has physically moving parts.
Equal Time Law	Popular misnomer for Section 315 of the Communications Act of 1934 which requires broadcaster to give equal opportunity to opposing candidates.

Equivalent Hours	Phrase in NBC affiliation contract which provides different compensation rates for different parts of the broadcast schedule.
Exclusive Affiliation	Earlier practice where station agreed to carry no programs from a network other than the one with which it was affiliated.
Fairness Doctrine	FCC rules and policies requiring stations to devote a reasonable amount of time to discussion of controversial issues and to see that opposing points of view are aired.
Fiber Optics	Distribution of television material, imposed on light waves, through a hair-thin glass core.
Fifty-Fifty Rule (50–50)	Proposed FCC rule in the 1960s which would have required networks to control no more than half of their prime-time programming.
Fixed Assignments	Assigning television channels to communities and accepting applications only on the basis of the prior assignment.
Fixed-Rate Price	Highest price for a commercial spot which is not subject to preemption for another advertiser.
Flight	A unit of the national spot campaign covering expenditures of specific amounts in specific communities in a specific length of time.
Frequency Modulation (FM)	Imposing program on carrier wave by modulating the frequency of the wave within its channel.
FM Multiplexing	Transmission of more than one program on an FM channel, as in stereophonic broadcasting (two signals), and quadrophonic broadcasting (four signals).
Format Radio	Station schedules designed to attract one segment of the audience all day long with comparatively similar programming.
Fringe Time	Between day time and prime time in television rate card. Usually about 4:30 to 6:00 P.M.
Full-Network Station	In cable regulations, a network affiliate which carries at least 85 percent of its network's prime-time feed.
Government-Chartered Monopoly	A system of broadcasting in which facilities are owned by a chartered organization of private citizens, e.g., British Broadcasting Corporation and the Independent Broadcasting Authority in England.
Government-Licensed Free Enterprise	A system of broadcasting in which stations are licensed to private individuals or companies who seek to make a profit from the operations, e.g., United States.
Government-Owned and Operated	A system of broadcasting in which the government owns all facilities and employs all broadcasters. Found in most countries of the world.
Grandfather Clause	Provision that existing enterprises may for a period of time continue practices or conditions prohibited to new enterprises.
“Great Debates”	The televised debates between presidential candidates Nixon and Kennedy in 1960.
Ground Wave	Radio signal traveling along the contours of the earth.
Group Owner	Single licensee of stations in two or more communities.

Headend	The location from which the TV signals received directly off the air and the imported signals received by microwave are sent on to homes by cable.
Hearing Examiner	Former title of the Administrative Law Judge (ALJ).
Hertz (Hz)	One cycle per second (frequency with which wave crests pass a given point). The abbreviations kHz and mHz refer to thousands and millions of cycles per second, respectively.
High Fidelity	Capacity of FM signal to carry the full range of sound which is audible to the human ear.
Homes Using Television (HUT)	Estimated percentage of homes where the set is being used at a given time.
Importation	Distribution by cable of broadcast signals taken off the air at a distant point and relayed to the headend by microwave relay.
Independent Station	A station having no relationship with a network.
Institutional Advertising	Commercials telling the good features of the advertiser without trying to sell specific products.
Instructional Television Fixed Services (ITFS)	Use of frequencies in the 2500 mHz range for distributing instructional television among buildings which are reasonably close together.
Instructional Television Interconnection	Use of television programming in conjunction with the formal classroom. In public broadcasting, the designation of PBS as simply distributing programs as opposed to being a network which would also control what it distributed.
Interim Operation	Arrangement for joint operation for a new station by some or all of the applicants while the FCC determines which should eventually get the license.
Jamming	Transmitting noise on a frequency being used by another party so the interference nullifies the program being jammed.
Kennelly-Heaviside Layer	Layer of the ionosphere from which some sky waves will be reflected back to the earth.
Kilocycles (KC)	Thousands of cycles per second. The term has been replaced by kiloHertz (kHz).
Kinescope	(1) The picture tube in the receiver. (2) Kinescope recording is making a motion picture off the face of the kinescope tube.
Lead-in Audience	The portion of the audience viewing the preceding program which remains for the next program.
Leapfrogging	Cable importation of independent station signals from cities more distant than the two closest of the top 25 markets.
Licensee	Individual or company licensed by the FCC to operate a broadcast station.
Line Charges	The network payments to AT&T for distribution of programs to stations.
Local Carriage	In cable, the requirement that cable systems carry all local stations.
Lowest Unit Charge	In Section 315, the requirement that broadcasters not charge candidates more than the lowest rate advertisers are paying for the same class and amount of time.

Magazine Concept	(1) Participation advertising where commercial time is purchased in program controlled by the broadcasters. (2) Programming format which includes unrelated segments.
Magnetic Impression	The alignment of magnetic particles on tape which, when played back, will recreate electrical modulations coming from the microphone or television camera.
Margin of Error	The range around an estimated percentage in which there is confidence that the true figure lies.
Market	An area from which business tends to flow to a central community. Cf. ADI, DMA.
Master Antenna	Receiving antenna which services a limited number of households in close proximity—usually requires no amplification of signals.
Mechanical Television	System of television where studio and receiving equipment have physically moving parts, such as a wheel with a concentric circle of holes which serves as a scanning device.
Merchandising	Relating advertising to the point of sales through use of store displays of sponsored products and of the programs on which they are advertised.
Microwave Relay	Distribution of television and other signals by beamed radio relay between points on mountains or high buildings.
Minimum Channel Capacity	FCC rule that cable systems in the top 100 markets must install a system with at least 20 channels and with an “upstream capacity.”
Mixed Markets	Communities in which the FCC assigned both VHF and UHF stations during the Television Freeze.
Monitor	TV set on which the television program is seen in the studio and control rooms.
Multiple-Ownership Rules	FCC limitations on the number of broadcast stations which may be owned by a single licensee.
National Spot Business	Station sale of time to nonlocal advertiser through the station representative: contrasts with network business.
Network	(1) Technically, two or more stations carrying the same program simultaneously. (2) A number of stations making an arrangement with a network organization to carry programming distributed by the network.
Network Affiliate	(1) Commercial station which signs a contract agreeing to carry network programs in return for compensation. (2) Noncommercial station which pays a membership fee in return for permission to carry network programs.
Network Cooperative Programming (co-op)	A program distributed by a network with openings for commercials to be sold locally. Stations reimburse network for program costs.
Network Feed	Programs distributed by networks to stations.
Network Owned and Operated Stations (O&O's)	Broadcast stations licensed to one of the national networks.

Network Primary Affiliate	Station which normally carries most programs from the network. Contrasts with secondary affiliate which carries from the network only some of those programs the primary affiliate rejects.
Network Station Rate (NSR)	The figure negotiated between network and station on which monthly compensation is based.
Noncommercial Television	The FCC designation of broadcast stations which are also called "educational" or "public." May not accept money from sale of time for advertising.
Off-Network Syndication	Sale to stations of rerun rights to programs which have been on a network earlier.
Original Syndication	Sale to stations of right to show television programs which were produced specifically for syndication and have not been shown on the networks.
Origination	In cable, distribution of program material not received from a broadcast station, but normally produced in the system's studio or generated on its film chain or videotape playback.
Participating Advertiser	One who buys commercial spots within a program provided by and controlled by the broadcaster. Contrast with sponsor who has degree of ownership or control over program.
Patron Plan	Donation of program funds to public television by commercial company. Grant must be acknowledged at beginning and end of program.
Pay Cable	Distribution by cable of material for which viewer pays in addition to subscription fee for other basic services.
Pay TV (toll TV, subscription TV)	Broadcasting for which the viewer pays a per-program charge.
Payola	Illegal radio practice in which record companies surreptitiously pay disk jockeys to play certain tunes.
Penetration (FM, UHF, cable, etc.)	The percentage of homes equipped to receive a given type of service.
Petition to Deny Renewal	A request to the FCC that a station's license not be renewed.
Phonevision	System of Pay TV using telephone line to provide a synchronizing element to unscramble the broadcast picture.
Pilot Program	A program prepared as a sample for a proposed series.
Preemptible Rate	Less than the highest fixed price with the understanding that if another advertiser will pay the fixed rate, that commercial will be placed in the spot purchased.
Preemption	Cancellation of a regularly scheduled program for a special or a news event.
Pre-Freeze Station	Television station authorized by FCC prior to beginning of the TV Freeze in September 1948, although it might not have started broadcasting until two or three years later.

Prime Time	The highest priced time in the schedule. In television, from 7 to 11 P.M.; in radio, during drive time, 7 to 9 A.M. and 4:30 to 6 P.M.
Prime Time Access Rule (PTAR)	A 1970 FCC Chain Regulation ruling that affiliated television stations might not carry more than three hours of network programming between 7 and 11 P.M. local time.
Program Exclusivity	Cable regulation prohibiting importation of a program being aired by a local station.
Program Packager	Company other than station or network which delivers a program ready for airing.
Program Syndication	Sale of programs specifically produced for television to individual stations or to groups of stations.
Public Access Channels	Cable channels required by FCC to be open to the public on a first-come, first-served basis without advertising and without censorship of content.
Public Affairs Programming	A term loosely applied to programming related to current events and discussion. Sometimes synonymous with "public service," although the latter implies absence of advertising.
Public Interest, Convenience, and Necessity	The criterion laid down in the Communications Act of 1934 as a guide to all actions by the FCC.
Public Service Announcement (PSA)	An announcement for an educational, charitable, or other nonprofit group carried by stations without charge.
Public Service Programming	A term loosely applied to sustaining programs which are other than entertainment. Sometimes interchangeable with "public affairs."
Public Television	Label for noncommercial television stations and related activities which, prior to 1967, were called educational television.
Quadraphonic Broadcasting	Transmission of four related signals on one FM carrier wave (see FM Multiplexing).
Quiz Scandals	Revelation in the late 1950s that some of the big-money television quiz programs had been "rigged."
Radio Schedule Syndication	Sale to a radio station of all material for the schedule except news and commercials.
Radio Spectrum	The frequency range of radio energy including portions used for broadcasting. Spectrum extends from under 10 kHz to over 100,000 mHz.
Radiotelephony	Use of radio to carry telephone conversations. A necessary prerequisite to the development of broadcasting.
Radio Wave Frequency	The number of cycles per second (hertz) or the number of wave crests passing a given point in a second. A measurement used to differentiate among radio waves, e.g., 600 kHz vs. 1200 kHz.
Radio Wave Length	The distance between the crests of individual waves. A measurement used to differentiate among radio waves, e.g., 10 meters vs. 20 meters.
Random Digital Dialing	Use of a computer to select telephone numbers at random.
Random Sample	A sample chosen so every member of the population has an equal chance of being selected.

Rate Card	List of prices charged by a station or network along with information on facilities and policies.
Rating	(1) In television, estimated percentage of television homes tuned to a given station at a given time. (2) In radio, estimated percentage of persons tuned to a given station at a given time.
Remote Unit	The equipment required to originate a radio or television program from a location outside the studio.
Renewal Challenge	Request that a license up for renewal be given to someone other than the incumbent.
Representative Sample	A sample chosen to include in proper proportions the characteristics of the population from which it is drawn. Normally accomplished by drawing a random sample.
Roster Recall	Audience measurement by asking the interviewee to recall listening activities for previous time period while consulting a roster of stations.
Run of Schedule (ROS)	Purchasing a quantity of commercial openings at low rates without specifying in advance when the commercials will be aired.
Sampling	Making generalizations about a population based on information gathered from a small portion of the total.
Satellite Relay	Distribution of television program via satellite which receives signal from one point and relays it to an earth station within the line-of-sight horizon.
Saturation Campaign	Purchase of many commercial openings throughout a station's schedule with little attention to programs in which they will be aired.
Servicing the Account	A wide range of activities making certain the advertising contract is fulfilled and that the advertiser is pleased enough to renew the contract.
Sets in Use Index (SIU)	In radio, the estimated percentage of receivers being used at a given time.
Share	Estimated percentage of viewing homes which are tuned to a program or to a station at a given time. In radio, percentage of listening persons.
Simulcast	Broadcasting a program on both radio and television.
Sky Wave	Radio signal traveling up from the transmitter and going out into space or being reflected back to earth by the Kennelly-Heaviside layer of the ionosphere.
Special (spectacular)	Occasional nonseries program in place of series episode.
Sponsorship	(1) Loosely applied to any broadcast advertising. (2) In traditional radio, the purchase of a time unit by an advertiser who provided the program and used all the commercial openings. (3) In modern times a radio or television advertiser who buys all the commercial spots in a program or program segment.
Station Program Cooperative (SPC)	The mechanism whereby public television stations "vote" on the Public Broadcast Service schedule by telling for which programs they are willing to pay in proportional shares.
Station Representative (rep)	A company serving as a station's time salesperson in the national spot market.

Step Process	An arrangement whereby the network provides money in successive steps for program development.
Stereophonic Broadcasting	Transmission of two related signals on one FM carrier wave (See FM Multiplexing).
Storage Instantaneous Audimeter (SIA)	The device used by the A. C. Nielsen Company to record tuning information about a television set and then to deliver it to a central computer on demand.
“Stripping” a Program	Scheduling a program at the same time five or more days a week (“across the board”).
Sustaining Program	A program without commercials.
Sweep	A period during which television audiences are being measured in a market.
Syndication	Sale of program material directly to stations (see Program Syndication and Radio Schedule Syndication).
Telephone Coincidental	Audience measurement by telephone interview to ascertain viewing or listening at the moment.
Telephone Recall	Audience measurement by telephone interview to ascertain viewing or listening during an earlier period.
Television Freeze	Period from September 1948 through June 1952 during which the FCC processed no license applications but sought to complete a blueprint for long-range development of a national system.
Theatrical Film	Motion pictures produced primarily for exhibition in theaters.
Time Buyer	Advertising agency employee who purchases time on stations in a national spot campaign.
“Topless” (“Sex”) Radio	Talk programs in the early 1970s emphasizing explicit telephone discussion of sexual topics.
Traffic	Reference to the second-by-second schedule of a station or network. Traffic manager prepares the schedule.
Transponder	Equipment (on a satellite, for example) which receives and retransmits signals.
Ultra High Frequencies (UHF)	Portion of the radio spectrum opened up to television stations during the Freeze. (Channels 14–83)
UHF Converter	A device attached to the VHF television receiver enabling it to receive UHF stations also.
Upstream Capacity	The ability of a cable system to carry signals from a subscribing home back to the headend.
Very High Frequencies (VHF)	Portion of the radio spectrum opened to television stations in 1940. (Channels 2–13)
Videotape Recording (VTR)	Recording a television program by imposing magnetic impressions on plastic tape.
Waste Circulation	Persons in the audience who are neither potential purchasers of the product being advertised nor likely to influence those who will purchase.

Wire Services	Organizations delivering news by teletype to stations 24 hours a day. Also provide photo services for television stations.
Wireless Telegraphy	Early use of radio to send messages in “dot and dash” code.
Zapple Doctrine	Extension of the Fairness Doctrine to cover all aspects of political campaigning not covered by Section 315.

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# INDEX OF INITIALS

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Asterisk (\*) indicates inclusion of the item in the Glossary.

ABC	American Broadcasting Companies
AB-PT	American Broadcasting Paramount Theaters—(ABC after it merged with United Paramount Theaters.)
ACT	Action for Children's Television
ADI*	Area of Dominant Influence
AETC	Alabama Educational Television Council
AFM	American Federation of Musicians
AFRS	Armed Forces Radio Service
AFRTS	American Forces Radio and Television Service
AID	Agency for International Development
AIM	Accuracy in Media
ALJ*	Administrative Law Judge
AM*	Amplitude Modulation
AP	Associated Press
ARB	American Research Bureau (Arbitron)
ASCAP	American Society of Composers, Authors, and Publishers
AT&T	American Telephone and Telegraph Company
BBC	British Broadcasting Corporation
BEM	Business Executives Move for Peace in Vietnam
BEST	Black Efforts for Soul in Television

BMI	Broadcast Music Incorporated
BRC	Broadcast Ratings Council
CATV*	Community Antenna Television
CTW	Children's Television Workshop
C&W	Country and Western (music)
CBS	Columbia Broadcasting System
CP*	Construction Permit
CPB	Corporation for Public Broadcasting
CPM*	Cost Per Thousand
COMSAT	Communications Satellite Corporation
DJ	Disk Jockey
DMA *	Designated Market Area
DuM	Dumont Network
EHF	Extremely High Frequencies
ENG*	Electronic News Gathering
ET	Electrical Transcription
ETS	Educational Television Stations division of NAEB
ETV*	Educational Television
FCBA	Federal Communications Bar Association
FCC	Federal Communications Commission
HBO	Home Box Office
HUT*	Homes Using Television
IBA	Independent Broadcasting Authority (England)
INS	International News Service
ITA	Independent Television Authority (England)
ITFS*	Instructional Television Fixed Services
JCET	Joint Committee (later Council) for Educational Television
kHz	KiloHertz
MBS	Mutual Broadcasting System
mHz	MegaHertz
MOR	Middle of the Road (radio format)
NAB	National Association of Broadcasters
NAEB	National Association of Educational Broadcasters
NBC	National Broadcasting Company
NAIPD	National Association of Independent Program Directors
NCCB	National Citizens Committee for Broadcasting
NCTA	National Cable Television Association
NET	National Educational Television

NPACT	National Public Affairs Center for Television
NPR	National Public Radio
NTSC	National Television Systems Committee
O&O	(Network) Owned and Operated
OTP	Office of Telecommunications Policy
OWI	Office of War Information
PAO	Public Affairs Officer
PBL	Public Broadcasting Laboratory
PBS	Public Broadcasting Service
PD	Program Director
PSA*	Public Service Announcement
PTAR*	Prime Time Access Rule
R&B	Rhythm and Blues (music)
RAB	Radio Advertising Bureau
RADAR	Radio's All Dimension Audience Research
RCA	Radio Corporation of America
RFE	Radio Free Europe
RIAS	Radio in the American Sector
ROS	Run of Schedule
RTNDA	Radio Television News Directors Association
SIA*	Storage Instantaneous Audimeter
SIU*	Sets in Use
SRDS	Standard Rate and Data Service
STL	Studio-Transmitter Link
TIO	Television Information Office
TPT	Teleprompter
TVB	Television Bureau of Advertising
UCC	United Church of Christ
UHF*	Ultra High Frequencies
UP	United Press
UPI	United Press International
UPT	United Paramount Theaters
USIA	United States Information Agency
USIS	United States Information Service
VHF*	Very High Frequencies
VOA	Voice of America
VTR*	Videotape Recorder

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**Part I: Selected references from Broadcasting** Some of the items are news stories with good background and summary material. Others fall into the following designations:

F—“Feature”

PN—“Perspective on the News”

RS—“Retrospective”

SR—“Special Report”

The notations before each entry refer to month/day-page.

## 1952

- 4/14-Pt.II “Sixth report and order.” (Complete text of FCC order ending the Freeze.)  
9/22-44 “CBS passes the 25 year mark.”

## 1953

- 2/9-82 F “Is community TV here to stay?”  
6/22-94 F “The color controversy.”  
7/13-115 F “What happened in Roanoke?” (UHF)  
8/3-82 F “Will a box office be added to TV?”  
8/10-89 F “Film reruns can pay off.”  
9/7-86 F “UHF faces a test: Los Angeles’ 7 VHF’s.”

## 1954

- 4/26-76 F "UHF on trial." (Milwaukee)  
5/3-67 F "Pay-as-you-see in Palm Springs."  
6/28-72 F "Television networks: an inside story of how and why they operate as they do."  
7/26-82 F "Educational television—in two years: plenty of dreams but only 7 stations."  
11/1-86 F "Diversification: its case history."

## 1955

- 1/3-35 "Tin Pan Alley in the Ozarks."  
2/7-39 "Network domination damned by Plotkin." (Report excerpted extensively.)  
2/14-27 "The pay-TV battle is joined as FCC calls for comments."  
2/21-35 "The Jones report on television." (Report excerpted extensively.)  
5/23-27 "ABC, CBS oppose toll TV as controversy heats up."  
9/19-51 SR "Curve starts up." (144-page report on radio in 1955)

## 1956

- 5/7-35 SR "Where VHF isn't, it isn't missed." (A look at UHF.)  
6/11-27 "CBS-TV tells inside story of TV network operations."  
6/18-35 SR "The 15% commission: tradition on trial."  
11/26-31 SR "The radio networks: are they here to stay?"

## 1957

- 6/10-31 "Celler spells out his criticism." (Summary of Celler report.)  
4/8-116 SR "How bright a future for FM?"  
9/2-50 F "Why they keep on going thataway." (Psychologist defends Westerns.)  
10/7-100 "Barrow study holds up 37 ways to revamp networks' structure." (Verbatim text of recommendations.)  
10/21-33 SR "Talent agents."  
11/4-60 SR "Langer's Bartlesville survey tossed into toll TV rhubarb."  
11/11-94 SR "ETV: five years and 60 million dollars later."  
12/2-31 SR "Subliminal perception."

## 1958

- 3/31-54 SR "The high cost of being investigated."  
4/28-68 SR "New reassurance for advertising: special survey finds people think well of advertising and ad men."  
5/12-33 SR "Collision on TV delivery routes." (CATV)

## 1959

- 7/20-50 SR "Long hair vs. short in Bay area." (Radio in San Francisco.)  
8/31-35 SR "How big the Payola in records?"

- 11/2-41 SR "Hardly a scratch in TV's image." (Survey on impact of quiz scandals )  
 11/9-37 "A sad ending to the Quiz era: House probe discovers that most of biggest shows were frauds."

**1960**

- 2/29-29 "Battle of pay TV: air vs. wire."  
 4/25-52 SR "Radio-TV take off in aircraft."

**1961**

- 1/2-32 "Oversight has collected its final scalp." (A look at 3½ years.)  
 5/8-84 "First-run film series: its heyday is past."  
 7/17-27 "The hot market in used shows." (Off-network syndication.)

**1962**

- 3/12-70 SR "UHF wins its own broad market."  
 5/14-77 SR "Radio feels confidence in its future." (On 40th birthday.)  
 7/16-43 SR "Editorials give station prestige."  
 10/8-69 SR "Translators supply uncounted audience."

**1963**

- 1/28-67 SR "A big new sound blows out of Nashville."  
 5/13-38 PN "Cooperative research tried twice before."  
 6/17-27 "New tumult in the ratings game."  
 7/29-51 SR "And now FM will have the numbers too." (New confidence in FM.)  
 12/2-36 SR "A world listened and watched." (Covering the Kennedy assassination and funeral.)

**1964**

- 3/23-60 PN "What to do with Community television."  
 9/28-53 SR "Radio audience: 80 million daily."  
 11/16-51 SR "TV at peak, with new gains ahead."  
 12/14-57 SR "One best format for each station." (Radio programming.)

**1965**

- 5/24-31 "Specials: now a \$50 million plum."  
 10/18-69 SR "Growing sound of country music."

**1966**

- 1/3-29 "Out of the egg with a bang." (Color TV.)  
 6/13-42 SR "Computers in the paper jungle."  
 11/7-71 SR "Radio a leading force in Negro progress."

## 1967

- 1/2-33 SR "Color is a must in 1967 television."  
1/30-21 "A grand design for 'public TV.'" (Carnegie Commission.)  
2/27-68 PN "Will '67 see solution to ETV problems?"  
3/20-46 SR "A new price tag for television?" (30-second commercials.)  
6/12-34 PN "The evolving doctrine of fairness."  
7/3-46 SR "NCTA Convention." (General summary of status.)  
7/17-36 "Long round-trip to the barn." (How NBC deals with its affiliates.)  
7/31-55 SR "FM sniffs sweet smell of success."  
10/23-55 SR "Mid-road keeps success image." (MOR radio.)

## 1968

- 11/18-62 SR "How newsmen can open closed doors."  
12/16-52 SR "Are movies riding off into the sunset?" (Slide in network ratings.)

## 1969

- 2/3-46 SR "Have radio doctor's kit, will travel." (Growth in consultants.)  
4/28-66 "Resurgence seen in nonnetwork product." (Little report rebuts FCC's 50-50 proposal.)  
5/5-42 SR "A look at those broadcast reformers."  
5/19-66 SR "Shake-out among the station reps."  
6/2-49 SR "The added dimensions in radio news."  
6/9-54 SR "Automated radio: it's alive and prospering."  
6/23-71 SR "Local TV puts its best foot forward."  
6/30-44 SR "Local radio's voice for a better tomorrow."  
7/14-54 SR "Where 3-dollar spots are top rate." (Small market radio.)  
8/11-46A SR "The new respectability of rock."  
8/25-32 SR "Step-up in worldwide networking." (Use of satellites.)  
10/27-60 SR "Two candles but not much cake." (CPB on second birthday.)  
11/10-36 SR "The new tricks of counter programming."  
11/24-44 SR "Now an open season on all newsmen." (Aftermath of the Agnew speech.)

## 1970

- 1/5-18 SR "What it takes to score in local news." (Television.)  
1/12-55 SR "The David Sarnoff era ends at RCA."  
2/16-53 SR "Tooling up for sharper buying in the '70s."  
2/23-47 SR "FM, at long last, is making its move."  
3/23-58 SR "The double whammy of local production." (Commercials.)  
6/1-42 SR "In Chicago they slug it out editorially."  
6/22-50 SR "Local TV: public service with a capital P."

- 6/29-42 SR "Radio: 50 years old and still strong of voice."
- 7/27-42 SR "Why set up a news bureau in Washington?"
- 8/17-53 SR "Keeping them informed down on the farm."
- 8/31-44 SR "Black radio: on a high wire with no net."
- 10/12-56 SR "Broadcast news: bending to the times?"
- 11/2-65 SR "Broadcasting at 50: can it adapt?" (Listing of stories and reports in issues of *Broadcasting* since Oct. 15, 1931.)
- 11/23-48 PN "An FCC repair job stands up in court." (WHDH-TV)

**1971**

- 3/29-80 PN "Where all that talk about cable may lead."
- 4/26-60 SR "Cassette revolution slow a'borning."
- 5/10-17 "Something's happening about children's TV."
- 6/21-41 SR "On the leading edge of broadcasting." (Radio in 1971.)
- 7/19-20 PN "What the shooting was all about." (The Selling of the Pentagon.)
- 8/2-14 SR "Broadcasting: conglomerates' bright penny."
- 8/2-22 PN "Cable policy: who's in charge here?"
- 8/16-12 "New rank for renewals: industry's prime problem."
- 8/23-26 SR "Those high-stakes rollers in Boston." (WHDH-TV)
- 8/30-17 PN "Broadcasting's pre-emptive court."
- 9/20-32 SR "The struggle over broadcast access(I)."
- 9/27-24 SR "The struggle over broadcast access(II)."
- 10/18-29 SR "Yesteryear's yarns, tomorrow's legends."
- 11/8-30 SR "The story of Public Broadcasting."
- 11/29-21 SR "Local TV journalism's quest for excellence."
- 12/27-31 SR "Now, we're into music . . . it's a family affair."

**1972**

- 1/17-26 SR "Two big ones make a record year." (Station trading.)
- 1/24-16 SR "Growth market in black radio."
- 2/7-21 In full text: "The FCC's basic rules for CATV."
- 4/10-62 PN "Chance to get fairness under control."
- 5/29-18 PN "Any ceiling now in sight on the price of settling sales protests?"
- 6/12-37 SR "There's still magic in the middle of the radio road."
- 7/10-35 PN "Public Broadcasting: widening breach on first principles."
- 8/7-39 SR "Olivetti girls aren't forever." (Women in broadcasting.)
- 9/18-30 SR "There's new life in an old radio art form." (Country radio.)
- 10/16-72 SR "Radio at 50: an endless search for infinite variety."
- 10/30-25 "Coming through the front door of ownership: a new direction for blacks in broadcasting."
- 11/20-31 SR "Television for children: there's more than may meet the eye."

## 1973

- 1/1-35 PN "The push has come to shove in broadcast journalism." (Radio-TV and the Nixon administration.)
- 1/15-36 SR "By anybody's definition it's every night at the movies."
- 1/29-41 SR "It's back to the tried and true for top-40 radio."
- 2/12-24 "How Nixon administration plans to cut TV networks down to size." (Interview with Clay T. Whitehead.)
- 3/5-39 SR "The hard way to make money in television." (Independent stations.)
- 3/12-63 "Oldies radio: a natural for the 70s."
- 4/2-27 "Government and the NAB close in on sex programs."
- 4/23-41 PN "The net effect of 'Sonderling': FCC diminishes broadcast freedom yet another cubit."
- 5/28-35 SR "Talk radio: in the middle of America's conversational mainstream."
- 7/9-17 PN "The militant support for fairness fast fading."
- 8/20-17 SR "TV journalism: more meaning, wider range, harder work, bigger budgets."
- 8/20-76 "Sounding a new beat in radio: the Jesus rockers."
- 9/17-16 PN "A beleaguered Whitehead and battered OTP."
- 9/24-31 SR "The rites of passage are over for FM radio; it's out on its own."
- 11/5-22 "Question now: Will Nixon try to curb journalism?"
- 12/3-26 "The stuff of which 'substantial service' is made." (Tabulation of TV programming by categories.)

## 1974

- 2/4-19 PN "Cable Report: Will it live as legacy of Whitehead?"
- 2/4-48 "In cable franchising, the cards are being played closer to the vest."
- 3/11-26 RS "Going back over Burch: now departed FCC chairman, whatever else his accomplishments, was his own man."
- 5/6-22 SR "The bounds of barter are hard to find."
- 6/10-35 SR "UHF: out of the traffic and heading for the open road."
- 6/24-26 "Ups and downs in radio drama."
- 7/8-17 PN "Tightening the reins on fairness."
- 7/15-21 "The hassle in syndication that prime time ruling set off."
- 7/15-32 PN "The making of the FCC—1974."
- 8/5-23 PN "The hard choices FCC now confronts on crossownership."
- 8/19-22 PN "Two decades of crisis between Nixon and media."
- 8/19-41 SR "Big changes in local news: more speed, more depth, more demands."
- 9/9-21 "News doctors: taking over TV journalism?"
- 9/9-48 "How well the games play on television."
- 9/23-15 "Producers gripped in new crunch between costs and prices."
- 10/7-41 SR "The upbeat tempo of FM 1974."
- 10/28-19 "War of words on Pay Cable occupies FCC and industry."
- 11/11-23 "No danger to TV profits in new policy on children, FCC was told."

## 1975

- 1/6-27 "Radio credo for the 70's: journalism spoken here."  
5/19-23 SR "Vietnam and electronic journalism."  
6/30-41 SR "The ferment in television for children."  
7/14-29 SR "Future shock: it's here now for the reps."  
8/25-33 SR "And now the news."  
9/22-37 SR "The biggest game in town for the networks" (sports).

## 1976

- 1/5-45 SR "The First Amendment and the Fifth Estate."  
5/31-25 "The winning ways of William S. Paley."  
6/21-29 SR "The first fifty years of NBC."

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*Access*

*Advertising Age*

*Broadcasting*

*Columbia Journalism Review*

*Federal Communications Bar Journal*

*Journal of Broadcasting*

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*Journalism Quarterly*

*Marketing/Communication*

*New York Times*

*Public Opinion Quarterly*

*Public Telecommunications Review (PTR)*

*TV Guide*

*Variety*

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# INDEX

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- Access channels, cable, 348, 363  
Accuracy in Media (AIM), 338  
Action for Children's Television (ACT), 135, 136  
Advertising agency, local, 205; packaging by, 227; programming by, 222; selection of, 254  
Advertising budget, 255  
Advertising, development of 1930s, 60  
Affiliate compensation, 215, 246  
Agency for International Development (AID), 422  
Agnew, Spiro, Des Moines speech, 133, 177  
Alabama Educational Television Commission (AETC), 176  
Alaska Pipeline, 337  
All-channel receivers, 126, 155  
All-news radio, 92  
Alternate sponsorship, 231  
Amendments to Communications Act, 154 ff; to Section 315, 310  
American Broadcasting Company (ABC): and Disney programs, 236; formation of, 221; 4-network radio service, 94; merger with Paramount Theaters, 235; television network status in 1949, 228  
American Federation of Musicians (AFM), 80  
American Forces Radio Television Services (AFRTS), 421  
American Research Bureau. *See* Arbitron  
American Society of Composers, Authors, and Publishers (ASCAP), 52  
American Telephone and Telegraph Company (AT&T): and formation of RCA, 47; radio network, 54; television facilities in 1949, 227  
Amplitude modulation (AM), 20; radio, 26  
Anti-Defamation League, 316  
Antisiphoning rules: pay cable, 363; pay television, 128; relaxed, 365  
Applying for a license, 150  
Arbitron, 288  
Area of Dominant Influence (ADI), 186  
Armed Forces Radio Service (AFRS). *See* American Forces Radio Television Services  
Armstrong, Edwin M.: biography, 67; in development of FM, 28, 67  
Ascertainment, 164, 193  
Associated Press (AP), 60  
AVCO rule, 155  
Baker, Walter R. G., 111, 122  
Banzhaf, John F. III, 329, 336

- Barter: network-station, 248; television program, 270
- "Battle of Newburgh," 323
- Belknap, J. E. and Associates, 349
- Bicycle network, 33, 381
- Biltmore Agreement, 61
- "Biography of a Bookie Joint," 323
- Black Effort for Soul in Television (BEST), 171
- "Blacklisting," 115
- "Blue Book," 162
- Bona Fide* news, Section 315 amendment, 310; and Fairness Doctrine, 327, 331; and presidential debates, 313; and presidential press conferences, 311
- Brinkley, John, 63
- British Broadcasting Corporation (BBC), 406 f; formation of, 407; and international radio, 411; radio programming, 408; television services, 408
- Broadcast Ratings Council (BRC), 282
- Broadcasting: controversy about politics in, 430; and the electoral process, 302
- Broadcasting channels, 18; AM radio, 27; FM radio, 28; television, 30
- Burch, Dean, 133, 332, 358
- Business Executives Move for Vietnam Peace (BEM), 333
- Cable television, Ch. 12, 345 ff; regulations of 1965 and 1966, 353; regulations of 1972, 359
- Candidate (Section 315), defined, 305
- Carnegie Commission on Educational Television, 385
- Carriage of local signals (cable), 361
- Carrier waves, modulation of, 20
- Carroll* case, 353
- Carter Mountain* case, 352
- Central Intelligence Agency (CIA), 419
- Certificate of compliance (cable), 360
- Chain regulations, of 1941, 219; of 1970, 244
- Channel number factor, 185
- Channel separation factor, 30, 106
- Children's television, 135
- Children's Television Workshop (CTW), 388
- Choate, Robert, 166
- Citizens Communication Center (CCC), 171
- City-by-city channel assignments (television), 105
- "Clear and present danger," 316
- Closed circuit television (CCTV), 38
- Coaxial cable, 33
- Color television: 1946 confusion, 103; 1950 decision, 109; in 1950s, 118; breakthrough in 1960s, 127
- Columbia Broadcasting System (CBS): color television (1946), 103; formation of, 56; parity with NBC (1955), 236; selection of color system (1950), 110; talent raids, 225; television network in 1949, 228
- Communications Act of 1934, Ch. 6, 141 ff; excerpts, Appendixes A and B; passage of, 55
- Communications Satellite Act of 1962, and COMSAT, 35
- Compromise, need for, 444
- Congressional hearings, 157
- Conrad, Frank, 50
- Consistency of ratings, importance of, 287
- Construction Permit (CP), 146
- Consumerism, rights and responsibilities of, 442
- Cook, Fred, 326
- Cooney, Joan Ganz, 388
- Cooperative advertising, 206
- Cooperative Analysis of Broadcasting, 60
- Copyright law of 1909, 356; compromise of 1971, 358; controversy, 368
- Copyright law of 1976, 368
- Corporation for Public Broadcasting (CPB), formation of, 386; function in the 1970s, 388
- Cost per thousand (CPM), 293
- Council of Inter-American Affairs, 413
- Counterattack*, 115
- Counter commercials, 158, 329, 331
- Country and Western (C&W) radio format, 81
- Criticism of networks in 1930s, 218
- Cross ownership: cable, 364, 367; newspapers, 189; WHDH-TV case, 168

- Cullman letter, 325, 327  
 Cumulative audience (Cume), 294  
 Curtis, Thomas, 392  
 Cycle, 16  
 Daley, Richard, 308  
 Daly, Lar, 308  
 Davis, Elmer, 413  
 Day, James, 389  
 Daytime serial, development in 1930s, 62  
 Deintermixture, 122, 126  
 Democratic National Committee (DNC), 333  
 Demographics, 295  
 Designated Market Area (DMA), 187  
 Diary method, 288  
 Directionalized antenna, 27  
 Documentaries, and the Fairness Doctrine, 323  
 Doerfer, John, 349, 378  
 Double billing, 207  
 Dramatic programs and the Fairness Doctrine, 324  
 Drive time, 89  
 Dual network operation, 221  
 DuMont television network, 229  
 Earth station, 36, 37, 367  
 Economic injury, 74, 352  
 Editorial response, 321, 330  
 Editorializing, 320; slow growth in 1950s, 322  
 Educational television, Ch. 13, 372 ff  
 Educational Television Facilities Act of 1962, 156, 384  
 Educational Television for the Metropolitan Area (ETMA), 383  
 Educational Television Stations Division of the National Association of Educational Broadcasters (ETS of NAEB), 390  
 Eisenhower, Dwight, 307  
 Electrical transcriptions (ETs), 24  
 Electromagnetic spectrum, diagram, 19  
 Electron gun, 23  
 Electronic news gathering (ENG), 26  
 Electronic television, 103  
 Emergency powers of the president, 147  
 Engineering staff, local, 193  
 Entertainment programming and stereotypes, 433  
 Equal opportunity (Section 315), defined, 312  
 "Equal Time" law, 303  
 Ethnic radio format, 92  
 Exclusive affiliation, 219  
 Fairness Doctrine, Ch. 11, 319 ff; 1963 Advisory, 324; Primer of 1964, 326; 1967 rules, 327; FCC report of 1974, 339  
 Family viewing policy, 152  
 Federal Bureau of Investigation, FBI segment of "Great American Dream Machine," 390  
 Federal Communications Commission (FCC), Ch. 6, 142 ff; and postwar FM, 79  
 Federal Radio Commission (FRC), 62  
 Federal Trade Commission (FTC), 160  
 Fiber optics, 34  
 Fifty-fifty (50-50) rule, 244  
 Fixed assignments, 105  
 Fixed price, 263  
 Ford Foundation, 376; domestic satellite proposal (1966), 384; role in 1970s, 390, 397  
 Ford, Gerald, 311, 395  
 Format radio, 1950, 81, 87; and advertisers, 93; classification, 90; dominance of 1970s, 89; and indecency, 98; transfer of unique station, 96  
*Fortnightly* case, 356  
 Free enterprise: rights and responsibilities of, 440; system, 6  
 Free response to paid program, 325, 331  
 Freedom of speech, 9; and the "Blue Book," 163; and editorializing, 320; and fairness concept, 302; and format radio, 96; Hoover's philosophy of, 53; and indecency, 98; and political candidates, 314; and public television, 401; rights and responsibilities of, 443; and Section 315, 317; and Section 326, 147; and "sex" radio, 98; and systems of broadcasting, 406  
 Freeze. *See* Television freeze  
 Frequency Modulation (FM), 20  
 Frequency Modulation (FM) radio, 28; approval (1940), 68; birth and

- Frequency Modulation (*cont.*)  
 early trials, 67; educational reservations (1940 and 1945), 374; multiplexing, 28; in 1960s, 86; postwar, 78
- Friends of Earth (FOE), 336
- Fulbright, J. William, 419
- Funds for Adult Education and Advancement of Education, 376
- Goldwater, Barry, 308
- Government chartered monopoly, 406
- Government licensed free enterprise, 406
- Government owned and operated, 406
- “Grandfather” clause, 354
- “Great Debates,” 312
- Great Lakes Broadcasting Co., 319
- Group ownership, 190
- Group W (Westinghouse Broadcasting Co.), 85
- Gunn, Hartford, 389
- Hargis, Billy James, 326
- Health, Education and Welfare, Dept. of, 402
- Hennock, Frieda, 377
- Henry, E. William, 333
- Hertz, 17
- Hitler, Adolf, 410
- Home Box Office (HBO), 37, 367
- Homes Using Television (HUT), 276
- Hooper, C. E., 83
- Hoover, Herbert; biography, 441; and the Federal Radio Act, 144; regulatory philosophy, 52; *Zenith* case, 55
- Hyde, Rosel, 357, 358, 379
- Importation (cable), 347, 356, 361, 366
- Independent Broadcasting Authority (IBA), 409
- Independent radio station operation, 85
- Independent Television Authority (ITA), 408
- Institutional advertising, 60
- Instructional Television Fixed Services (ITFS), 38
- Intercity Radio* case, 55, 143
- Interim operations, 151
- International News Service (INS), 60
- Israeli television, 412
- Issuing and renewing licenses, 149
- Jamming, 28, 418
- Johnson, Lyndon, 308, 385
- Johnson, Nicholas, 98
- Joint Committee for Educational Television (JCET), 376 f
- Justice, Department of, 159
- KDKA, 50, 373
- Kefauver, Estes, 435
- Kennedy, John, 313
- Kennelly-Heaviside layer, 21, 26
- KFKB, 63
- Killian, James, 385, 395
- Kinescope recording, 24, 382
- Klein, Paul, 431
- KQED, 389
- KTAL, 173
- KTHE, 380
- KTLN, 324
- KUHT, 380
- KWRB-TV, 352
- “Leapfrogging” rules, 362; eliminated, 366
- Least Objectionable Program (LOP) theory, 431
- Libyan television, 412
- Limitation on court review of FCC decisions, 147
- Little Rock, Ark., and Voice of America, 417
- Local commercial announcements, 197
- Local news, 195
- Local programs, non-news, 196
- Local sales staff, 204
- Localism, 134, 391
- Loomis, Henry, 392, 415
- Lowest unit charge, 312
- “Loyal Opposition,” 335
- Macy, John, 389
- Magnetic impression, 24
- Management staff, 193
- Marconi, Guglielmo, 41; biography, 42
- Marconi Wireless and Signal Co., 43
- Mayflower decision, 320; revised, 321
- McCarthy, Joseph, 115, 116, 413, 415
- McConaughy, George, 166
- McDonald, Eugene, Jr., 113
- McFarland bill, 154
- McGannon, Donald, 85

- McNeil, Robert, 389  
 Measuring the radio audiences, 291  
 Measuring the television audiences, 287  
 Mechanical television, 103  
 Media Access Project (MAP), 341  
 Merchandising, 205  
 Metromedia, Inc., 217  
 Microwave relays, 34  
 Middle of the Road (MOR) format radio, 86, 90  
 Minimum channel capacity (cable), 363  
 Mink, Patsy, 341  
 Minow, Newton, 130  
 Mixed markets, 108  
 Multiple-ownership rules, 121  
 Murrow, Edward R., 65, 115, 116; biography, 117; 416  
 Music specialization, format radio, 92  
 Mutual Broadcasting System (MBS), 56, 219
- Nasser, Gamal Abdel, 412  
 National Association for the Advancement of Colored People (NAACP), 316  
 National Association of Broadcasters (NAB): code, 136, 180, 207, 358, 367, 377; formation of, 52; and "sex" radio, 99  
 National Association of Educational Broadcasters (NAEB), 134, 390  
 National Broadcasting Company (NBC): formation of, 56; television network in 1949, 229, 306; and UHF station in Buffalo, N.Y., 122  
 National Cable Television Association (NCTA), 351, 357, 358, 367  
 National Citizens Committee for Broadcasting (NCCB), 190  
 National Educational Television (NET), 381, 386, 387, 389 f, 397  
 National Educational Television Radio Center (NETRC). *See* National Educational Television  
 National Organization of Women (NOW), 176  
 National Public Affairs Center for Television (NPACT), 389, 396, 397  
 National Public Radio (NPR), 398  
 National radio conferences, 52, 440  
 National spot advertising: television, 259; radio, 264  
 National Television Systems Committee (NTSC), 111; color system approved, 112  
 Negotiation, regulation by, 152  
 Network, Ch. 8, 212 ff; advertising, limitations of, 258; cooperative programming, 59; definition, 213; feed, 195, 198; owned and operated stations (O&O), 186, 190; station rate (NSR), 247, 203; station relations, 215; status factor, 186; studies by FCC and Congress, 239; theory of, 212  
 News: development of 1930s, 60; local department, 197  
 Nielsen, Arthur C., Sr., biography, 284  
 Nielsen, A. C., Co.: television network ratings, 279, 283, 287; television station ratings, 288  
 Nixon, Richard, 313, 392, 395  
 Nixon administration, confrontation with, 132, 390  
 Nonsampling errors, 285  
 Norris, John, 326
- O'Brien, Lawrence, 335  
 Obscenity and indecency, 156  
 Office of Defense Mobilization (ODM), 123  
 Office of Management and Budget (OMB), 159  
 Office of Telecommunications Policy (OTP): consensus agreement of 1971, 358; and FCC, 159; and Nixon confrontation, 134; and public television, 389, 402; and renewal legislation, 177  
 Office of War Information (OWI), 413  
 Off-network syndication, 266  
 Original syndication, 268  
 Origination (cable): defined, 348; rules, 362; rules deleted, 366
- Pace, Frank, 389  
 Paley, William S.: biography, 57; and purchase of CBS, 56; and "talent raids," 225  
 Parker, Everett, 169  
 Participation advertising, 233  
 Pastore, John, 179, 436

- “Patron Plan,” 397
- Paulsen, Pat, 306
- Pay cable: defined, 348; rules, 362
- Payola, 83, 156
- Pay television, 113, 123, 128
- “Pensions, the Broken Promises,” 338
- “Perform,” 356
- Permanent funding, 385, 386
- Personal attack, 325, 330
- Petitions to deny renewal, 172
- Phonevision, 113
- Pilot programs, problems of 1950s, 240
- Policy statements by FCC, 152; on renewal procedure, 1970, 171
- Poppele, Jack, 415
- Porter, Paul, 161
- Precedents of the FCC, 157
- Preemptible price, 263
- Prefreeze stations, 105
- Presidential debates, 314
- Presidential press conferences, 311
- Prime Time Access Rule (PTAR), 244; and original syndication, 269
- Production of commercials, 257
- Program evictions, 1954, 237
- Program packagers, 239
- Program policy statement of 1960, 164
- Programming, local, 194
- Prohibition of censorship (Section 315), 314
- “Pseudo Freeze” (cable), 354
- Public Affairs Officer (PAO), 414
- Public affairs programs, 196
- Public Broadcasting Act of 1967, 156, 386
- Public Broadcasting Financing Act of 1975, 397
- Public Broadcasting Laboratory (PBL), 387
- Public Broadcasting Service (PBS), 389 f
- Public (Educational) Broadcasting, Ch. 13, 372 ff
- Public Interest, Convenience, and Necessity, 145
- Public Ownership of the Airways, 145
- Public Service Announcements (PSAs), 197
- Public Service Programming of networks, 217
- Public Service Responsibility of Broadcast Licensees. *See* “Blue Book”
- The Pulse, Inc., 283, 291
- Purchasing network time, 256
- Purposive broadcasting, 428
- Quadrasonic FM, 29
- Quiz scandals, 124, 156
- Radio Act of 1912, 44
- Radio Act of 1927, 55
- Radio Cairo, 412
- Radio Corporation of America (RCA): electronic color television, 109; formed, 47; radio network, 54; television demonstrated, 103
- Radio formats. *See* Format radio
- Radio Free Europe (RFE), 419 f
- Radio in the American Sector (RIAS), 419
- Radio Liberty, 419
- Radio Libya, 412
- Radio Moscow, 417
- Radio network ratings, 291
- Radio spectrum, 16; diagram, 19; divisions of, 18
- Radio syndication, 273
- Radiotelephony, 48
- Radio Television News Directors’ Association (RTNDA), 327
- Radio Times*, 408
- Radio waves, ground, sky, and direct, 21
- Radio’s All-Dimension Audience Research (RADAR), 291
- Random Digital Dialing (RDD), 291
- Rate card, 200
- Rating, defined, 278
- Ratings, Ch. 10, 274 ff
- Reagan, Ronald, 307
- Reasonable access, 304
- Recording, 24
- Red Channels*, 116
- Red Lion* case, 326 f
- Religious, programs, 197; radio format, 93
- Renewal statement of 1973, 175
- Representative sample, 283
- Republican National Committee (RNC), 335
- Right to reject programs, 220
- Rockefeller, Nelson, 413

- Roosevelt, Franklin D., use of radio, 59, 302
- Roster-recall method, 291
- Rulemaking powers of the FCC, 149
- Run of schedule, 263
- Sampling, 279; data accuracy, 285; data interpretation, 286; error, 279; size, 279
- Sanders Brothers* case, 74, 349
- Sarnoff, David, 45; biography, 46; 1915 memorandum, 45
- Satellites, 35, 367, 419
- "Saturday Night Review," 231
- Scarcity of frequencies, 8
- Schirra, Wally, 337
- Section 315, 146, Ch. 11, 301 ff; continued controversy, 317; and the electoral process, 303
- Selection of color system in television freeze, 109
- "Selling of the Pentagon," 180, 338
- Servicing the account, 204
- "Sesame Street," 388
- Share of Audience (Share), 277
- Short-wave radio, 28
- Size of market factor, 186
- Southwestern* case, 354
- Sponsor identification, 146
- Sponsorship, 77, 231
- "Spy Plane" incident, 417
- Staggers, Harley, 179
- Standard Rate and Data Service* (SRDS), 262
- Stanton, Frank, 180, 335
- State, Department of, 422
- Station compensation, 216
- Station licensee, 189
- Station Program Cooperative (SPC), 396
- Station representative (rep), 260; commission of, 261
- Station sales department, 199
- Statistical Research, Inc., 283, 291
- Step process, 242
- Stereophonic FM, 29
- Stereotyping, 433
- Stevenson, Adlai, 307
- Stoner, J. B., 315-316
- "Stop the Music," 224
- Surgeon General's Committee, report of, 436
- Syndicated programming, 195
- Syndicated radio scheduling, 96
- Syracuse University, 374
- Talk radio format, 91
- Taylor, Telford, 376
- Telephone Coincidental method, 293
- Teleprompter, 361, 365
- Television advertising, controversy about, 430
- Television freeze, 103 ff; end of, 112
- Television networks: compared 1949, 228; ratings, 287
- Television news, controversy about, 429
- Television program, costs, 243; specials, 234; syndication, 264
- Television station: equipment, 191; ratings, 288
- Theatrical film, 195
- Three-tiered regulation (cable), 361
- Time buyer, 261
- Titanic*, sinking of, 44
- Tobey, Charles, 379
- Top-40 format radio, 81
- "Topless (sex) radio," 98
- Trans Radio Press, 61
- Transponder, 35
- "Tyranny of the Ratings," 431
- Ultra High Frequencies (UHF): in television freeze, 105; post-freeze problem, 119
- United Church of Christ (UCC), 169
- United Press (UP), 60
- United States Information Agency (USIA), 414; television service, 418
- United States Information Service (USIS), 414
- United States Office of Education (USOE), 402
- United States Weather Bureau, 198
- Use (Section 315), defined, 306
- Vanocur, Sander, 389
- Videotape recording, 25
- Violence on television, controversy about, 434
- Voice of America (VOA), 413, 415
- "Voice of Firestone," 237
- WAAB, 320
- "The War of the Worlds," 66
- Waste circulation, 93

WBAI-FM, 99  
 WBAL, 163  
 WCBS-TV, 329  
*WDAY* case, 315  
 WEA, 54  
 Weaver, Sylvester (Pat), 129, 226;  
     biography, 232  
 WEFM, 97  
 Westinghouse Electric Co., 50  
 WGBH-TV, 389  
 WGCB, 326  
 WGLD-FM, 99  
 WGN, 304  
 WHA, 50  
 WHAR, 341  
*WHDH-TV* case, 164 f  
 Whitehead, Clay T.: attack on net-  
     works, 134; and CPB funding, 397;  
     1971 consensus agreement, 358, 389;  
     1972 campaign, 159; and renewal  
     legislation, 177; speech to NAEB,  
     391  
 Wilderness Society, 337

Wiley, Richard, 153  
 Wire recording, 24  
 Wire service, 197  
 Wireless Ship Act of 1910, 44  
*WLBT* case, 169 f  
*WMAL-TV* case, 174  
 WNAC, 54  
 WNBC-TV, 336  
 WNDT, 383  
 WNTA, 383  
 Women's programs, 196  
 World War II and radio, 64  
 WRC-TV, 337  
 WRGB, 122  
 WTOP, 333  
 WWJ, 50, 309  
 WXYZ, 56

Zapple ruling, 330  
*Zenith* case, 55, 143, 148  
 Ziegler, Ron, 392  
 Zworykin, Vladimir, 103

- 1960 FCC deintermixed Fresno, Calif., removing active VHF channel. Presidential candidates Kennedy and Nixon held "Great Debates." Senate failed to pass bill so FCC could regulate cable. FCC issued Programming Policy Statement.
- 1961 FCC Chairman Newton Minow made "vast wasteland" speech.
- 1962 FCC imposed partial freeze on new AM stations. FCC ruled all new television sets must have UHF capacity. FCC denied Carter Mountain application for microwave relays. Congress passed the Educational Television Facilities Act.
- 1963 FCC ruled broadcasters must give free response to paid comment. Networks expanded evening news programs to half hour. Broadcasting covered the Kennedy assassination and funeral.
- 1964 FCC Chairman Henry proposed 50-50 rule. WGCB refusal of time to Fred Cook was beginning of *Red Lion* case. UCC opposed renewal of WLBT in Jackson, Miss. FCC issued Fairness Doctrine Primer.
- 1965 FCC limited duplication of AM schedules on FM. Research report led to color breakthrough. FCC renewed WLBT for one year. FCC issued rules for cable systems engaged in importation.
- 1966 FCC extended cable rules to all systems. Ford Foundation proposed domestic television satellite.
- 1967 Court of appeals upheld FCC in *Red Lion* case. FCC raised Fairness Doctrine to level of rules. RTNDA appealed Fairness Doctrine rules to court. *Bona Fide* news exempted from Fairness Doctrine. FCC required counter commercials for cigarette ads. WLBT hearings held in Jackson, Miss. Carnegie Commission on ETV submitted its report. Congress passed the Public Broadcasting Act. Ford Foundation funded two-year Public Broadcasting Laboratory.
- 1968 Chicago appeals court ruled Fairness Doctrine unconstitutional. UCC protested three-year renewal of WLBT. *Southwestern* case affirmed FCC cable authority. *Fortnightly* case ruled out cable copyright liability. FCC sought agreement between cable and broadcasters. Joan Ganz Cooney formed Children's Television Workshop. ABC started four-network news services. FCC approved pay TV and antisiphoning rules.
- 1969 Americans saw live television of man on moon. Court of appeals vacated WLBT license. KTAL-TV agreed to policy change and citizen petition dropped. Blacks petitioned FCC to deny renewal to WMAL-TV in Washington. FCC required cable origination by some stations. Vice President Agnew attacked television in Des Moines, Iowa. FCC gave Channel 5 to Boston Broadcasters, Inc. Supreme Court upheld Fairness Doctrine in *Red Lion* case.