

NBC-WESTINGHOUSE SWAP APPROVED; FCC STIRS JUSTICE DEPT. INTEREST

Cleveland-Philadelphia exchange, long in abeyance because of WGR-TV Buffalo charges that NBC coerced Westinghouse into deal, gives the network KYW and WPTZ (TV) for WTAM-AM-FM and WNBK (TV) plus \$3 million. Justice Dept. did not ask Commission to postpone action.

THE FCC last week approved, six to one, an exchange of stations between NBC and Westinghouse Broadcasting Co. after the Dept. of Justice was understood to have begun preliminary investigation of the exchange.

It was learned that the FCC, following recently-established routine, submitted the case to Justice some time ago. Before the FCC decision last week, the Justice Dept. was said to have notified the FCC it was studying the case. In its notification, Justice made no request to defer action.

The NBC-Westinghouse deal saw the network's owned WTAM-AM-FM and WNBK (TV) Cleveland go to WBC and WBC's KYW and WPTZ (TV) Philadelphia go to the network. In addition WRC got \$3 million.

The day after the U. S. Court of Appeals in Washington denied a request for a stay order against the consummation of the FCC-approved \$312,500 purchase by NBC of ch. 17 WBUF-TV Buffalo, the network closed the deal. The stay was asked by ch. 2 WGR-TV Buffalo. The court denied the petition Thursday; NBC closed in Buffalo Friday.

The NBC-WBC swap—one of the largest in broadcasting history—erupted into one of the year's most mystifying performances when reports were publicized that NBC had bludgeoned WBC into agreeing to the exchange by threatening to withdraw its affiliations from all WBC stations. This was made into a formal charge by WGR-TV, fighting the network's acquisition of WBUF-TV in Buffalo. It called from the FCC a McFarland letter asking for more information and an investigation by the Commission staff into this charge.

The FCC approval (Comr. Robert T. Bartley dissented, urging a full hearing on the pressure charges as well as possible monopoly, overlap and several other items) presumably indicated that no substance was found to the allegations. The majority's point of view was apparently expressed by Comr. John C. Doerfer who wrote a separate statement approving the

exchange. Comr. Richard A. Mack concurred with Comr. Doerfer's statement.

Comr. Bartley declared that the NBC-WBC exchange "strongly" paralleled the motion picture anti-trust case which resulted in the divorcement of producers and their owned theatres.

Mr. Bartley said that the Commission's action may preclude other government agencies—the Dept. of Justice and the Federal Trade Commission—from dealing effectively with the monopoly or restraint of trade question if there was one.

Comr. Doerfer, in more than six single-spaced mimeographed pages, justified the Commission's approval. Gist of his statement was that NBC and WBC had exercised their "business judgment" in agreeing to the exchange. He said a complete disclosure of all the facts had been made, and no reason for delaying or refusing the transfers could be found. "All that could possibly be achieved by a formal hearing was obtained through the investigatory process," Mr. Doerfer said.

In answer to a comment of Comr. Bartley's that there might be changes made in network rules regarding ownership, Comr. Doerfer avowed "To withhold processing applications until all of the vague, undefined and diverse opinions of each commissioner are integrated into a rule or a decision is to graft upon the administrative process interminable delays. . . ."

Discussing the rumors of pressures by NBC upon WBC, Comr. Doerfer said that the wisdom of the two-year affiliation rule (put into effect in the FCC's 1941 network rules) was "now being put to the test."

He continued:

"If NBC had superior bargaining power in the instant case, it was because of the two year limitation. The expiration of the affiliation contract triggered the negotiations which led to the transfer . . . Admittedly the networks presently have the upper hand in the field of television. But with the rapid development in

Postponement

BOWING to a growing sentiment for a continuance of the deadline for counter comments in its television allocations review, the FCC last week postponed the deadline for replies from Jan. 6 to Jan. 20. Officially, the Commission granted the petition of Hometown Television Inc. (a group of small city tv stations, concentrated mainly in the New England area) for this move. More than 200 comments were filed at the first deadline Dec. 15 [B•T, Dec. 19].

the art, this may soon change."

In acquiring KYW and WPTZ, NBC has realized a long time goal—to have its own radio and tv outlets in the home city area of its RCA Victor manufacturing plants across the river in Camden, N. J. KYW, founded by Westinghouse in 1922, is a 50-kw clear channel outlet on 1060 kc. Ch. 3 WPTZ began operating in 1941. It was established by Philco Corp. Westinghouse bought the NBC outlet in 1953 for \$8.5 million.

WBC acquires 50 kw clear WTAM (on 1100 kc) and ch. 3 WNBK which started in 1948.

The consummation of the WBUF-TV purchase followed a last-minute court appeal to stay the effective date of the Commission's approval. WGR-TV, which requested the stay, urged that its position in the pending protest hearing before the FCC would be jeopardized if the sale went through. The petition for a stay was opposed by the FCC, WBUF-TV and NBC. The denial was unanimous by the three-judge court.

Argument on the stay brought charges by NBC that WGR-TV had threatened to wreck uhf in Buffalo. It was also developed that WGR-TV's NBC affiliation would run to August 1956.

A hearing on the WGR-TV protest against the sale is scheduled to begin Wednesday. However, it was understood this would take up minor details and that the meat of the hearing would commence Jan. 16. WGR-TV has issued subpoenas for Brig. Gen. David Sarnoff, RCA chairman; NBC executives Robert Sarnoff, Joseph Heffernan and Charles R. Denny, and Westinghouse executives E. V. Huggins and Chris Witting.

The hearing is the subject of an NBC appeal to the appellate court. The network claimed that WGR-TV has no standing and that its allegations are unfounded.

When the FCC accepted the protest, it refused to stay the effective date of the sale. This was on the ground that WBUF-TV would cease operating Dec. 31 unless the purchase was consummated. WBUF-TV claimed it was \$300,000 in the red and could not continue.

With the acquisition of WBUF-TV, NBC finds itself the owner of its first uhf station. Designated for hearing on overlap and local monopoly issues is the network's \$600,000 purchase of WKNB-AM-TV New Britain, Conn.

WRDW-AM-TV Purchase Goes Up for FCC Approval

APPLICATION for transfer of control of Radio Augusta Inc. (WRDW-AM-TV Augusta, Ga.) to Southeastern Newspapers Inc. (*Augusta Chronicle*) for \$1 million [AT DEADLINE, Dec. 5, 1955], was submitted for FCC approval.

Sellers are Grover C. Maxwell Sr., Harry W. Jernigan Sr., Judge F. Frederick Kennedy, W. R. Ringson, and Allen M. Woodall. Mr. Maxwell and others in his family have stock interest in Augusta Newspapers Inc., Southeastern parent corporation.



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