

THE GOVERNMENT'S CHARGES AGAINST RCA-NBC

Following is the text of the government complaint listing alleged offenses:

Beginning about March 1954, and continuously thereafter to the date of the filing of this complaint, the defendants RCA and NBC have been engaged in an unlawful combination or conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in violation of Section 1 of the Sherman Act.

The aforesaid combination or conspiracy has consisted of a continuing agreement and concert of action between the defendants RCA and NBC to obtain vhf television station ownership for NBC in five of the eight primary markets by the unlawful use of the power of the defendant NBC, as a network, to grant to or withhold from non-network station owners, NBC network affiliation for their television stations.

Defendants RCA and NBC have effectuated this combination or conspiracy in part by depriving WBC and Westinghouse Electric of WBC's vhf station in the Philadelphia market by the following means:

(a) Threatening to cancel or to refuse to renew WBC's affiliation with NBC in Boston and Philadelphia if WBC refused to negotiate with NBC for the transfer of its vhf station in Philadelphia to NBC;

(b) Withholding affiliation with NBC for a vhf station about to be acquired by WBC in Pittsburgh, until WBC agreed to transfer its vhf station in Philadelphia to the defendant NBC;

(c) Threatening to withhold affiliation with NBC for WBC's fifth vhf and two

uhf stations when acquired.

On or about May 16, 1955, defendant NBC entered into a contract with WBC in unreasonable restraint of the aforesaid trade and commerce in violation of Sec. 1 of the Sherman Act. This contract provided that:

(a) NBC would acquire the WBC television and radio broadcasting facilities in Philadelphia;

(b) WBC would acquire the NBC television and radio broadcasting facilities in Cleveland;

(c) NBC would pay WBC \$3,000,000.

On or about January 21, 1956, WBC and the defendant NBC exchanged the aforesaid facilities pursuant to this contract.

Said offenses are continuing and will continue unless the relief hereinafter prayed for in this complaint is granted.

The effects of the aforesaid offenses, among others, have been and are:

(a) To reduce the ability of WBC as a station owner to compete with NBC and other station owners for the sale of advertising;

(b) To preclude competition among independent advertising representatives for representation of one of the vhf stations in the Philadelphia market;

(c) To preclude competition among station owners in the Philadelphia market for NBC network affiliation; and

(d) To reduce the ability of Westinghouse Electric to compete with RCA and others in the sale of equipment for the transmission and reception of radio and television signals.

suit for antitrust violation and stand to collect treble damages—which could run into the millions.

An analogy was seen between this first television network case and the government's antitrust moves against newspapers. It was likened to the Justice Dept.'s successful move against the *Lorain (Ohio) Journal* in 1949; which was followed by similar actions against the *New Orleans Times-Picayune* and the *Kansas City Star*. The last case has been appealed to the U. S. Supreme Court.

Actually, this is the second government suit against broadcast networks. The Justice Dept. filed an antitrust complaint against all radio networks in 1941. This was while the

networks were appealing from the FCC's chain ownership regulations. This suit was dropped when the Supreme Court upheld the Commission's right to promulgate these rules.

The antitrust issue was raised during the 1953 hearings on the ABC-United Paramount Theatres merger. The proceedings were observed almost in their entirety by a Justice Dept. attorney. Following the FCC approval of this merger there was talk of Justice Dept. action, but no move was ever made.

The possibility that trial on the RCA-NBC suit will not commence for two years was broached by many conversant with

court procedures in cases of this nature. The usual procedure, it was explained, is for the defendants to file an answer 20 days after the complaint is filed. This would make the deadline for RCA-NBC to reply to these charges Christmas Eve. However, it also was pointed out that continuances are customarily given in these matters. Following these answers, a pretrial conference usually is held in an attempt to consolidate and focus the issues and to itemize the witnesses and exhibits to be called. A trial is then held. Parenthetically, it was observed that the famous Paramount motion picture antitrust case ran for 10 years, from investigation to consent decree.