

## THE RCA-NBC ANSWER TO THE CHARGES

*Following is the text of the RCA-NBC answer to the government complaint:*

This suit results from a jurisdictional dispute between two agencies of government, in which RCA and NBC have been caught in the middle. The NBC-Westinghouse exchange of stations in Philadelphia and Cleveland, with which the action deals, was approved by the Federal Communications Commission in December 1955 after a thorough study of all the facts. On the basis of this study, the FCC decided that the exchange was in the public interest.

Contrary to the claim made by the Antitrust Div. in this suit, not only was Westinghouse not coerced by RCA and NBC to make the transfer, but Westinghouse, in fact, sent a letter to the FCC urging approval of the transfer as being in the public interest. It was on the basis of this representation by Westinghouse as well as the other material before it that the FCC approved the transfer now challenged by the Antitrust Div. A copy of this letter is attached.

The FCC is specifically authorized by Congress to pass upon such station transfers, and NBC acted in accordance with its decision. Now another branch of government—the Antitrust Div.—is trying to undo the action of the Federal Communications Commission.

If American businesses are to be hauled into court by the Antitrust Div. because they act in conformance with the rulings of an authorized government agency, then indeed

confusion will be compounded by confusion. We are confident that this dispute between government agencies will not result in RCA and NBC being penalized for scrupulously following the procedures established by law.

The following letter, signed jointly by the Chairman of the Board of Westinghouse Broadcasting Co. and the Chairman of the Board of the National Broadcasting Co., was sent on Nov. 10, 1955, to George C. McConnaughey, Chairman, Federal Communications Commission:

Dear Chairman McConnaughey:

Attached are the replies of our respective companies to the points raised by the Commission in its letter of Oct. 17, 1955, describing the proposed exchange of the Westinghouse stations in Philadelphia for the NBC stations in Cleveland and answering the other questions raised by the Commission.

The decision to make this exchange was arrived at after careful consideration of all factors at the highest management level of both companies. It has the approval of our respective Boards of Directors and the approval of the Boards of Directors of our respective parent companies.

The companies, therefore, entered into the agreement satisfied that the exchange is a fair one, that its consummation will serve the best interests of both companies, and that it is consistent with the public interest.

We jointly urge the Commission to approve this exchange at an early date.

The Justice Dept.'s complaint charges RCA-NBC with "unlawful combination or conspiracy in unreasonable restraint of . . . trade in violation of Section 1 of the Sherman Act."

The conspiracy, the government said, has consisted of "a continuing agreement and concert of action" between RCA and NBC to obtain ownership of vhf tv stations in five of the eight primary markets "by the unlawful use of the power" of NBC to grant or withhold affiliations.

This conspiracy was effectuated in part, the government declared, by "depriving WBC (Westinghouse Broadcasting Co.) and Westinghouse Electric of WBC's vhf station

in Philadelphia" by: (a) threatening to cancel or refuse renewals of NBC's affiliation with WBC stations in Boston and Philadelphia if Westinghouse refused "negotiation with NBC for the transfer of its vhf station in Philadelphia"; (b) withholding affiliation from WBC's Pittsburgh vhf outlet which it was about to acquire (WBC bought DuMont's ch. 2 WDTV [TV] Pittsburgh [now KDKA-TV] for \$9¾ million early in 1955); (c) threatening to withhold affiliation from WBC's other tv stations when and if acquired.

The transfer agreement between NBC and Westinghouse in the summer of 1955 whereby WBC agreed to swap its ch. 3 WPTZ (TV) Philadelphia and KYW in that city for

NBC-owned WTAM-AM-FM and ch. 3 WNBK (TV) Cleveland plus \$3 million was termed by the Justice Dept. as "in unreasonable restraint of trade and a violation of Section 1 of the Sherman Act." Westinghouse bought the Philadelphia vhf outlet from Philco for \$8.5 million in 1953.

The effects of this exchange, the government declared, reduced the ability of WBC to compete with NBC and other station licensees for the sale of advertising; precluded competition among independent advertising representatives for representation of one of the vhf stations in the Philadelphia market; precluded competition among station owners in the Philadelphia market for NBC affilia-