

# HEINL RADIO BUSINESS LETTER

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## INDEX TO ISSUE OF FEBRUARY 20, 1934.

Stingingly Rebukes Commission Liquor Gesture.....	2
Don Lee Loses Court Appeal.....	5
We Begs To Re-Pologize.....	6
Music Group Asks For ASCAP Investigation.....	6
Saltzman Resignation Is Shipping Board Mystery.....	7
Canada Progresses With Its New Commercial Station.....	7
Senator Predicts New And Larger Radio News Service.....	8
Musicians Complain To Code Authority.....	9
Agenda For Radio Parley Discussed.....	9
New Globe Wireless Service Across Pacific Started.....	10
RCA Scores Against Majestic Distributors, Inc.....	10
NBC Issues Program Policies As Guide.....	10
Decisions Of The Federal Radio Commission.....	11

No.699

*[Handwritten signatures and initials at the bottom of the page]*

February 20, 1934.

## STINGINGLY REBUKES COMMISSION LIQUOR GESTURE

One of the worst rebukes ever given to the Federal Radio Commission was administered by Representative Emanuel Celler, Democrat, of Brooklyn, in an extension of remarks last week in denouncing the Commission's liquor procedure. Mr. Celler said, in part:

"The Radio Commission issued a warning to radio stations to observe the so-called 'properties' in broadcasting liquor advertising.

"What these proprieties are apparently are hermetically sealed within the minds of the members of the Commission. The Commission did not issue an order. It simply announced a policy by a news-release.

"To my mind, this news-release is cowardly, unwarranted, and unjustifiable. It does not state that liquor advertising is banned. On the other hand, it lays down no definite rule for broadcasters to follow. If the Commission wishes to interdict liquor advertising, it should come out in the open and courageously say so. If it rears its head in that fashion, however, it can expect a 'good sock in the jaw' - if I may be pardoned this slang.

"The Commission knows this and would not dare risk condign criticism.

"It slyly and cowardly uses a one-half way measure which I, as a Member of Congress, who have battled against prohibition for years, deeply resent. The Commission has no right to shield itself behind a news release of this character.

"The action of the Commission undoubtedly borders upon censorship. Congress gave no right of censorship to the Commission. The Commission has repeatedly denied that it seeks to exercise the right of censorship. Yet, in its carefully worded news-release, it issues a warning which is tantamount to censorship.

"Incidentally, the news release is not definite as to whether a station which has a program which is not commercially sponsored can debate the question of liquor, and permit a person to speak on the worthwhileness of wine or other alcoholic beverages. We do not know even if such a talk shall be taboo. They do not say the talk will be banned or will not be banned if it is commercially sponsored by a distiller or vintner or wholesale liquor dealer. The meaning is not clear, being susceptible of several interpretations.

"But the Commission has no right to tell the public what it shall or shall not hear on the liquor question\*\*\*\*\*If anyone does not wish to listen to a broadcast on the liquor question, it is a simple matter for the listener to turn off the program.

"The Post Office Department no longer has the right to prevent the mailing of announcements about liquor even though the mail circulates in dry States. We recently repealed a statute which forbade the circulation in the mails of newspapers and publications containing liquor advertisements.

"Congress has stated that liquor dealers may circulate their advertisements in dry States. The Radio Commission should not now have the temerity to say to these same liquor dealers, 'You cannot broadcast information concerning your alcoholic beverages, whether the station is in a wet or a dry State, for fear the broadcast may reach the ears of those in dry States.' Such a position is utterly indefensible.

"On the one hand, we have the Government getting huge taxes from alcoholic beverages; in fact the Government is encouraging huge importations of American type whisky from Canada, Mexico, and elsewhere, from which importations there is yielded to the Government \$7 a gallon, a huge amount. And on the other hand, the Radio Commission says that nothing shall be said about this liquor. Certainly it is far better to spread, as much as possible, the information about legal liquor so this Government can get much-needed revenue. Radio broadcasting helps circulate this information.

"The President made a proclamation urging the Nation to purchase lawful liquor. The bootlegger prefers to have the public know as little as possible about good brands, lawful beverages, and decent products. The less the people in dry States know about good liquor and lawful products, the better are the opportunities for the bootlegger to peddle his wares in those dry States.

"I herewith submit a letter from Henry Adams Bellows, Vice-President of Columbia Broadcasting System:

"I have given very serious consideration to your suggestion of a radio talk in opposition to the recent press release issued by the Federal Radio Commission on the subject of liquor advertising by radio. The more I think of it, the more I feel sure that the broadcast of such a talk would be misinterpreted by literally millions of listeners. No matter how careful we might be to explain why the talk was being given, a great many people would inevitably assume that we were broadcasting it as a protest of our own against the action of the Commission.

"As you know, Columbia's policy with regard to liquor advertising, which was announced by Mr. Paley 3 months ago, is very close to what the Radio Commission itself apparently had in mind. My objection to the Commission's action is that no department of the Government has any business to try to set up a government of



press releases. If the Commission had had courage enough to issue a definite order, we could have attacked in an orderly manner through the courts, but this vague business of getting out press releases containing indefinite threats seems to me thoroughly bad. With regard to this we are wholly in sympathy with your views, and I may add that we feel exactly as you do about attempts to interfere with our freedom to advertise what we regard as suitable.

"On the other hand, I feel, frankly, that we have built up a lot of goodwill by our stand on liquor advertising, a stand which we took voluntarily and without any compulsion. I am very much afraid that a broadcast of the kind you suggest would have a distinct tendency to destroy some of this goodwill. Since the Federal Radio Commission is not an elective body, I can see absolutely no good purpose to be served in criticizing it to the public, the place for such criticism being clearly on the floor of the House or Senate. I hate to turn down a suggestion which is so completely in line with my own ideas as I could undertake to endorse in advance very word you would say on such a subject, but I do feel that this matter is definitely one for discussion in Congress rather than before the public audience. The Radio Commission, as we all know, is tremendously responsive to what is said in Congress, and is very little influenced by what it hears from the public. Furthermore, I am quite sure that the result of such a talk would be that the Commission would be flooded with letters from prohibitionists praising it for its stand and thus the real point at issue, which is the attempt to govern by press releases, would be completely lost sight of.

"I hope you will agree with me that it is wiser, particularly from the standpoint of getting the Radio Commission to see that it has made a mistake, for you to make the speech you have in mind on the floor of the House rather than to the public, which is perfectly sure in part to misunderstand your motives in making the speech and our motives in broadcasting it."

"I replied to Mr. Bellows, as follows:

"I do not agree with you that broadcasting a talk would be misinterpreted by literally "millions of listeners."

"I hope you will grant me intelligence sufficient to permit me to present my views with such clarity that it would be impossible to be misunderstood by literally "millions." A statement could be made at the beginning and at the end of the address indicating that the station over which the broadcast had been given did not, in no wise, directly or indirectly, intend to protest the action of the Radio Commission.

"I am keenly disappointed with your attitude. First, because I cannot use your system for the purpose indicated. Second, because you are willing to surrender without a shot being fired. Frankly, I believe your attitude is unjustifiably weak-kneed. You do not even know your own strength. You mention the



Commission's lack of courage in their failure to issue a definite order but instead send forth a news release which contained indefinite threats. I think you lack just as much courage in failing to protest and in not allowing a protest over your system.

"I think you also show the white feather and are assuming a ridiculous policy in refusing to permit advertising broadcasts sponsored by liquor dealers and/or wine merchants. Why should not legitimate concerns be encouraged to make known their brands? Your failure to cooperate in this regard encourages the secret methods of the bootleggers. The Government is anxious to secure as much revenue as is possible from the liquor business to help reduce our deficit.

"It should receive cooperation from the radio broadcasting stations. Knowledge could be spread about liquor upon which a tax had been paid rather than have the public supplied with alcoholic beverages sold and delivered clandestinely and upon which the Government has received no tax."

"One of the members of the Radio Commission may soon have his name presented for reappointment. Notice is hereby served upon such member and other members that I shall oppose the reappointment or the appointment of anyone who subscribes to the recent press release. As above mentioned, any man who would continue to make liquor something romantic and something that can only be sold in dark corners and speak-easies - and this is what the order or press release encourages - is not qualified to sit on the Radio Commission. Anyone who, directly or indirectly, seeks to invoke censorship - and this is what the press release intends - is not fit to sit upon the Radio Commission.

"My hat goes off to Station WOR at New York. It put on a liquor advertising broadcast after the Commission's absurd news release. I admire the courage of Alfred J. McCosker, in charge of WOR."

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#### DON LEE LOSES COURT APPEAL

The District Court of Appeals has denied a stay order for the Don Lee Broadcasting Company against a decision of the Radio Commission denying construction application to the Lee Company for a new station at Redlands, Calif., granting license renewals to KTM and KELW and assignments to the Los Angeles Evening Herald, a Hearst publication.

The Court of Appeals affirmed the Commission's action in refusing to move WOQ, Unity School of Christianity, Kansas City, Mo. off the frequency 1300 which it is now sharing with KFJ, of Wichita. KFJ had asked for unlimited time on this frequency.

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## WE BEGS TO RE-POLOGIZE

The following has been received from James W. Baldwin, Executive officer of the Broadcasting Code Authority:

"Please allow your next News Service issue to show that the statement attributed to me in your Service of February 9 concerning Station CKLW at Windsor, Canada, is in error. I have never authorized any statement concerning any complaint against any radio station. In this connection and in fairness to Station CKLW, I quote in full a letter dated February 10th which has been received from Mr. Keith Scott, Secretary and Treasurer of the Essex Broadcasters, Inc., which is a subsidiary of Station CKLW:

"It seems desirable that you should be fully informed of the basis of operation of Radio Station CKLW, and its American subsidiary, Essex Broadcasters, Inc., who are located in Detroit, Michigan.

"We were one of the first in Detroit to sign the President's Blanket Code, and to receive our Blue Eagle. We are paying all of our employees, both in Windsor and Detroit, according to the scale set up in the code for the Radio Broadcasting Industry for a high power regional station. Besides maintaining our studios and transmitter in Windsor, we, through Essex Broadcasters, Inc., spend approximately \$10,000.00 per month in Detroit, of which salaries and wages account for almost 50%.

"We were late in filing our rate card, due to our having no notice of the date it should have been filed, or the authority to whom it should be sent, but we revised our rate card as at January 15, 1934, and forwarded a copy of it to the broadcasting code authority at Washington, D. C., but as this may not have reached the proper authority, we are enclosing herewith another copy of our present rate card.

"It is our policy to live up to the code in every particular and we have not, nor do we intend, to provide any unfair competition for local broadcasting stations."

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## MUSIC GROUP ASKS FOR ASCAP INVESTIGATION

The Music Users' Protective Association of America, through its attorney, Harry L. Katz, of Baltimore, has accused the American Society of Composers of violating the anti-trust laws, of unfair methods of competition, and with racketeering in a complaint made to the Federal Trade Commission.

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## SALTZMAN RESIGNATION IS SHIPPING BOARD MYSTERY

Several reasons were advanced as to why Gen. Charles McK. Saltzman, former Chairman of the Federal Radio Commission, resigned as Vice-President of the U. S. Shipping Board Emergency Fleet Corporation. One prediction was that it was destined to precipitate revelations concerning ocean mail subsidies as sensational as those made in connection with air mail contracts. General Saltzman's resignation is taken to mean his efforts were consistently blocked.

It is believed Coolidge and Hoover appointments, together with private shipping concerns, are responsible for the deadlock.

That this deadlock will be broken was foreshadowed recently when President Roosevelt spoke of abolishing mail contracts in favor of out-and-out subsidies. The President believes in subsidies under certain conditions and favors calling them by their right name. Friends explained, however, that General Saltzman's resignation was influenced primarily by an attractive offer he had received from a private business firm.

Still another version of the Saltzman resignation is that he may be paving the way to get on the new Communications Commission.

In addition, it was explained that General Saltzman had been disappointed at the action of Secretary Roper in appointing Henry H. Heimann as director of the recently established Shipping Board Bureau of his department which succeeded the United States Shipping Board. It had been thought by many that General Saltzman was in line for the appointment.

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## CANADA PROGRESSES WITH ITS NEW COMMERCIAL STATION

Canada is going ahead with its new point-to-point communication station, according to the McClure Newspaper Syndicate.

"Plans for a Canadian government radio station to transmit American transatlantic messages at cheaper than prevailing commercial rates are coming along nicely", a McClure dispatch reads. "The main problem still to be solved is the matter of suitable reception facilities in England."

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## SENATOR PREDICTS NEW AND LARGER RADIO NEWS SERVICE

Informing the Senate that for several weeks he has been receiving a considerable number of letters from all parts of the United States complaining that many of the radio stations of the country are about to discontinue the announcement of news, Senator Dill, of Washington, said:

"I have no desire to criticize what the Associated Press or the United Press or the other press associations or the broadcasting chains may decide to do about the news they collect, but I do have this to say about the public service to be rendered by radio. There are literally millions of people in the country who depend upon the announcement of news over the radio to get the news events of the world. In many cases at this time of the year they know what is happening in the world 2 or 3 days ahead of any time they could learn it through the newspapers.

"I venture the prediction that this order will not be carried out by all radio stations in the country so far as news service is concerned. If the press associations of the country and the broadcasting chains insist that there shall not be more than 5 minutes of news service over the radio and that only after after 9:30 o'clock in the morning and after 9 o'clock at night, I venture the prediction there will be a radio news service established in the country that will give the news collection agencies a good deal more trouble than they have ever had up to this time from radio broadcasts. The people of the country expect the radio stations to give them information. The radio stations are giving them information at this time.

"I dare to suggest to the news-gathering associations that they cannot do more to popularize their own newspapers than to allow a larger use of their services than 5 minutes twice a day after 9:30 o'clock in the morning and after 9 o'clock at night. I believe they are in position to combine with the news-gathering agencies of America and the world to give to the American people the greatest news service ever known to the human family. No suppression of this kind can long keep the people from securing the service from the radio stations which those stations are able to give. I earnestly hope they will see that it will be to their interest to satisfy the desires of the people for this information, and not attempt to shut off a great radio service in the form of news in this country."

The Associated Press, United Press and the International News Service have notified all member and client newspapers that effective March 1 the broadcasting of news from their telegraphic reports is prohibited, except in accordance with the recently promulgated program.

James W. Barrett, editor of the new Press Radio Bureau of the Publishers' National Radio Committee at 551 Fifth Avenue, New York, said that the NBC and Columbia were the only subscribers to the service thus far. He added:

"Any radio station may have access to the broadcast reports prepared by the bureau upon its request and upon its agreement to pay a proportionate share of the expenses involved, in addition to wire toll charges, collect, for transmission to the station.

"News commentators who now include spot news in their broadcasts have agreed to confine themselves after March 1 to generalization and background of general news situations."

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#### MUSICIANS COMPLAIN TO CODE AUTHORITY

Former Magistrate Charles A. Oberwager, Chairman of the Emergency Council of Unemployed Musicians, announced in New York that he had received a letter from Deputy Administrator William P. Farnsworth in which the latter had assured him that several matters brought to his attention by the delegation of unemployed musicians which visited Washington would be discussed at the next meeting of the Radio Broadcasting Code Authority.

According to Oberwager, one of these matters is the practice of broadcasting companies in hiring out studio orchestras for dances and social functions. He alleges that studios, who are allowed to employ musicians at a rate of \$90 a man for a week of 24 hours of either rehearsals or playing or both, do not always use the musician for the 24 hours and attempt to profit by sending him outside the station to play, competing with musicians who are usually employed for these occasions at the \$12 an hour rate.

Other complaints of the musicians which will be taken up at the next meeting of the Radio Code Authority will involve the use of electrical transcriptions by broadcasters and the alleged decrease in employment of musicians throughout the country because of the coast-to-coast broadcasts of name bands.

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#### AGENDA FOR RADIO PARLEY DISCUSSED

Plans for the forthcoming conference of the International Committee on Radio were discussed last week in Washington by the Executive Council of the American Section of the Committee at a meeting at the University Club. The agenda for the conference, to be held at Warsaw, Poland, April 10 to 15, was discussed.

Senator White, of Maine, was re-elected President of the Council, and William R. Vallance, of the State Department was renamed Chairman.

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## NEW GLOBE WIRELESS SERVICE ACROSS PACIFIC STARTED

Inauguration of a Transpacific radio service to land stations and ships at sea was announced by Globe Wireless, Ltd., in San Francisco Feb. 16, according to an Associated Press dispatch.

The announcement said the concern has stations at San Francisco, Seattle, Portland and Los Angeles, New York, Honolulu, Guam, Shanghai and Manila.

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## RCA SCORES AGAINST MAJESTIC DISTRIBUTORS, INC.

The Radio Corporation of America made the following statement last Saturday:

An important decision covering radio tube patents has been handed down by Judge Thomas in the United States District Court, District of Connecticut, in suits brought by the Radio Corporation of America and others against Majestic Distributors, Inc., a subsidiary of the Gribbsby-Grunow Company.

The Radio Corporation of America claimed infringement of eleven patents relating to radio tubes. These included patents owned by the Radio Corporation of America, and others under which it is licensed with the right to grant licenses to others. The Court held ten of the eleven patents to be valid and infringed by the defendant company.

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## NBC ISSUES PROGRAM POLICIES AS GUIDE

The National Broadcasting Company has mailed copies of its Program Policies to broadcast advertisers. In connection with this, Richard C. Patterson, Jr., NBC Vice-President said:

"The relationship between advertisers and the public is a matter of primary concern to all those interested in advertising. With the cooperation of leading broadcast advertisers and advertising agencies, the National Broadcasting Company has attempted to crystallize current trends of thought on this subject in a statement, bound in handy booklet form. In the future, NBC will be guided in all its presentations by the program standards and program procedures there set down."

The following excerpts taken from "NBC Program Policies" are of particular interest:



"Its (broadcast program) primary appeal should be to the listener's interest. Unpleasant or gruesome statements should be avoided as more likely to offend than to instruct or entertain."

"Tiresome repetition or too much detail should be avoided. For instance, the advertiser's street address and the like should not be reiterated to the point of annoyance."

"Statements of prices and values must be confined to specific facts. Misleading price claims or comparisons must not be used."

"....Commercial programs shall not refer to any competitor, directly or indirectly, by company name, by individual name, or by brand name - regardless of whether such reference is derogatory or laudatory."

With regard to testimonials, the advertiser or his agency must submit to the National Broadcasting Company, at least three days in advance of the broadcast, "either an indemnification signed by the advertiser or his agency, or a written release authorizing its use for advertising purposes, signed by the person making the testimonial and sworn to before a notary public, and must furnish the National Broadcasting Company a full copy thereof."

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## DECISIONS OF THE FEDERAL RADIO COMMISSION

### Applications Granted (Feb. 20, 1934)

WLAP, American Broadcasting Corp. of Kentucky, Lexington, Ky., modification of C.P. approving transmitter and studio locations, and extending commencement date from Feb. 5 to 30 days from this date and completion date to May 5, 1934; WSOC, WSOC, Inc., Charlotte, N. C., C.P. to make changes in equipment and increase daytime power from 100 to 250 watts; KIEM, Harold H. Hanseth, Eureka, Cal., modification of license to increase hours of operation from daytime to unlimited; WEAN, Shepard Broadcasting Service, Inc., Providence, R. I., extension of special experimental authority to use 250 watts experimentally at night in addition to regular power of 250 watts; WJAR, The Outlet Company, Providence, R. I., extension of special experimental authority to use 250 watts power at night in addition to regular assignment of 250 watts; WNEL, Juan Piza, San Juan, P. R., modification of C.P. to make changes in equipment and extend commencement date to 10 days after this date and completion date from April 16, 1934 to 90 days thereafter.

Also, WIBA, Badger Broadcasting Co., Madison, Wis., special temp. exp. auth. to operate with 500 watts in addition to the regular assignment of 500 watts at night, for period ending April 1, 1934; WFBM, Indianapolis Power & Light Co., Madison, Wis., special temp. exp. auth. to operate with 500 watts in addition to the regular assignment of 500 watts at night, for period ending April 1, 1934; WFBM, Indianapolis Power & Light Co., Indianapolis,

Ind., authority to operate simultaneously with Station WSBT, March 16 and 17 specified hours; WHET, d/b as Troy Broadcasting Co., Dothan, Ala., authority to operate from 7:30 p.m. to 9:30 P.M. CST, Feb. 20, 1934 for political broadcast; WSUI, State University of Iowa, Iowa City, Ia., spec. temp. auth. to operate specified time Feb. 23, 1934; WJDX, Lamar Life Insurance Co., Jackson, Miss.. C.P. to make changes in equipment and increase power from 1 KW to 1 KW night, 2½ KW day; WMBD, Peoria Broadcasting Co., Peoria, Ill., authority to rebroadcast Police Radio System for one-half hour on Sunday night, Feb. 25, 1934; KTRH, KTRH Broadcasting Co., Houston, Tex., special exp. auth. to change frequency from 1120 kc., to 630 kc. and increase power to 500 watts night, 1000 w. day - exp. to April 1; KSOO, Sioux Falls Broadcast Association, Inc., Sioux Falls, S.D., spec. temp. auth. to operate simultaneously with WRVA Feb. 13, 16, 17, 20, 22 and 27, 1934, specified hours;

Also, KWCR, Cedar Rapids Broadcast Co., Cedar Rapids, Ia., modification of C.P. approval of transmitter site authorized to be determined at 3rd Ave. and 3rd St., Cedar Rapids, Ia.; KGDY, Voice of South Dakota, Huron, S. D., special temp. auth. to operate specified hours Feb. 16, 17, 24 and March 2 and 3, 1934; WCHS, WOBV, Inc., Charleston, W. Va., extension of special temp. auth. to operate with 250 watts additional nighttime power for period beginning 3 A.M. EST, March 1, 1934 and ending in no event later than 3 A.M. EST., Sept. 1, 1934; WTAG, Worcester Telegraph Publishing Co., Inc., Worcester, Mass., same as for WCHS.

#### Action On Examiner's Report

Wyoming Broadcasting Co., Cheyenne, Wyo. (New) denied application for C.P. for new station to operate on 780 kc., 500 watts night, 1 KW LS, sustaining Examiner George H. Hill, order entered effective Feb. 27, 1934.

#### Miscellaneous

WDEL, WDEL, Inc. Wilmington, Del., application for modification of license requesting increase in power from 250 to 500 watts night, on 1120 kc., restored to hearing docket; KICK, Red Oak Radio Corp., Carter Lake, Ia., suspended grant to move station from Carter Lake to Davenport, Ia., make change in equipment and frequency, and change call letters to WOC, also authorization for voluntary assignment of license to Palmer School of Chiropractic, because of protests of stations KSO, Des Moines, and WHBF, Rock Island, Ill., applications set for hearing; WJJD, WJJD, Inc., Chicago, Ill., suspended grant of authority made Jan. 16, 1934, to move studio from Mooseheart, Ill., to 201 N. Wells St., Chicago because of protests of WGN, WENR, WMAQ and WCFL. All Chicago stations; application set for hearing.

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