

# HEINL RADIO BUSINESS LETTER

2400 CALIFORNIA STREET

WASHINGTON, D. C.

**CONFIDENTIAL — Not for Publication**

INDEX TO ISSUE OF NOVEMBER 29, 1935

Ten Per Cent Of Radio Continuities Questioned By FTC.....	2
St. Louis Auto Radio Ban Seen Doomed After Public Hearing.....	4
Super-Power G-Man Station To Depend Upon Results Of Test.....	5
Examiners Straighten Out Two Inter-Stations Scraps In West....	6
Few New Features In German Radio Receiving Sets.....	6
NRA To Pass Into History Soon; Radio Industrial Union Looms...	7
Warner Brothers Move Puts Broadcasters In Quandary.....	8
Station List Issued To Complement Program Bulletins.....	9
Zenith Reports Net Profit Of \$482,025.99.....	10
Prall Luncheon Address To Be Broadcast Dec. 5.....	10
Industry Notes.....	11
WJR Stock To Be Sold To Public; Will Acquire WGAR Control....	12
Westinghouse Sells Balance Of Shares In RCA.....	12

No. 881

*L. R. G. J. P. H. H.*

## TEN PER CENT OF RADIO CONTINUITIES QUESTIONED BY FTC

The Federal Trade Commission during the last fiscal year after a preliminary review of 376,539 radio continuities found 38,873, or about ten per cent, questionable enough to refer to the Legal Division for further consideration and possible action, the FTC annual report released today (Nov. 29) reveals.

All of these 38,873 advertising announcements were not necessarily barred after further examination, but the Commission found reason for questioning them "as possibly false and misleading", the report explains. In many cases advertisers entered into stipulations with the FTC to cease and desist from broadcasting false or misleading announcements over the air.

False and misleading advertising matter as published in newspapers and magazines and as broadcast over the radio is surveyed and studied by a special board set up by the Federal Trade Commission in 1929. This board, known as the Special Board of Investigation, consists of three FTC attorneys designated to represent the Commission at preliminary hearings and specialize in this type of cases.

The Federal Trade Commission, which has recently been conferring with members of the Broadcast Division of the Federal Communications Commission regarding a cooperative control of radio programs, explains its attitude in "censoring" continuities.

"The Commission's sole purpose is to curb unlawful abuses of the freedom of expression guaranteed by the Constitution", the report states. "It does not undertake to dictate what an advertiser shall say, but rather indicates what he may not say. Jurisdiction is limited to cases which have a public interest as distinguished from a mere private controversy, and which involves practices held to be unfair to competitors in interstate commerce."

In all cases where false and misleading advertising is detected in radio broadcasts, the Commission is applying substantially the same procedure as is followed in the cases of false and misleading advertising in newspapers, magazines, and other periodicals.

"This scrutiny of radio advertising is being conducted with a minimum of expense to the government as well as to the industry", the report states, "because of the cooperation of members of the industry and the system of procedure developed.

"The Commission began its review of advertising copy broadcast over the radio at the beginning of the fiscal year 1934-35. At the outset the Commission, through its Special Board of Investigation, made a survey of all commercial continuities, covering the broadcasts of all radio stations during July 1934. The volume of returns received and the character of the announcements indicated clearly that a satisfactory continuous scrutiny of current broadcasts could be maintained with a limited force and at small expense, by adopting a plan of grouping the stations for certain specific periods.

"Consequently, starting in September, 1934, calls have been issued to individual radio stations according to their location in the five radio zones established by the Federal Communications Commission. These returns cover specified 15-day periods.

"National and regional networks, however, respond on a continuous weekly basis, submitting copies of commercial continuities for all programs wherein linked hook-ups are used involving two or more affiliated or member stations.

"To complete the observation of radio advertising, the producers of electrical-transcription recordings submit regular weekly and monthly returns of typed copies of the commercial portions of all recordings manufactured by them for radio broadcast. As the actual broadcast of a commercial recording is not always known to the manufacturer of the commodity being advertised, the Commission's knowledge of current transcription programs is supplemented by special reports from individual stations from time to time, listing the programs of recorded transcriptions with essential data as to the name of the advertiser and the article sponsored.

"The combined material received from the individual stations for specified periods, from the weekly returns on regional and national network broadcasts, and from the special transcription reports, furnishes the Commission with representative and specific data on the character of radio advertising which has proven of great value in its efforts to curb false and misleading trade representations."

In the field of dealers in radio sets and tubes, the Commission "charged various groups of persons, partnerships, and corporations selling radio sets and radio tubes in interstate and foreign commerce with appropriating and using prominent, well-established and favorably known names long in use by others, as marks or brands on radio sets and radio tubes manufactured and sold by respondents. It was alleged that surnames of individuals and brand names of concerns well known and established in the electric, sound transmission, and radio fields had been appropriated by respondents without the consent of the persons or concerns whose surnames or brand names had been so used, and that the alleged appropriation of such names and brands placed in the hands of respondents and others the means whereby trade was unfairly diverted from those whose names and brands were so



applied, with resultant injury to the purchasers of radio sets and radio tubes so falsely branded."

The Trade Commission was aided by effective cooperation from other departments of the Government. Cases involving what appeared to be fraudulent schemes in violation of the postal laws are referred to the Post Office Department. Scientific opinions have been rendered by the Food and Drug Administration, Bureau of the Public Health Service, and the Bureau of Standards. Also analyses and comments regarding the therapeutic properties of various preparations have been furnished by the Food and Drug Administration. In a number of cases, Commission action against advertisers of medical preparations has been undertaken at the request of the Department of Agriculture.

X X X X X X X X

#### ST. LOUIS AUTO RADIO BAN SEEN DOOMED AFTER PUBLIC HEARING

The proposed ban on radio receivers in automobiles at St. Louis appeared doomed by unanimous public opposition after a public hearing before the Public Safety Committee of the St. Louis Board of Aldermen, November 25.

Bond Geddes, Executive Vice-President of the Radio Manufacturers' Association, which organized the opposition, reports that more than 100 representatives of the auto, radio and broadcasting industries appeared to testify against the ordinance sponsored by Maj. A. J. Lambert, St. Louis Police Commissioner.

"No one appeared in support of it", Geddes said, "not even Major Lambert."

The Committee took the matter under advisement and will report on December 6 at a meeting of the City Council. Defeat of the proposal appears very probable, Geddes said.

Witnesses who appeared to oppose the ban included the St. Louis Electrical Board of Trade, the Greater St. Louis Automobile Club, and Geddes, who presented telegrams from officials of 44 States asserting that no traffic accident to their knowledge could be attributed to an automobile radio.

The St. Louis Safety Council reported that no accident in the city could be attributed to the present of radio sets in motor vehicles.

Broadcasting stations in St. Louis lent invaluable aid to the fight against the ordinance. For four days before the hearing, J. L. Van Volkenburg, of KMOX, and Raymond C. Schroeder, of WIL, broadcast attacks on it, explaining it would prove harmful to listeners, broadcasters, and advertisers. The Automobile Manufacturers' Association and other national organizations entered protests against the ban, and the St. Louis Post-Dispatch carried an editorial denouncing the proposal.

X X X X X X



# SUPER-POWER G-MAN STATION TO DEPEND UPON RESULTS OF TEST

Whether the Federal Government decides to construct a super-power G-Man short-wave broadcasting station to form an ethereal network for speedy apprehension of kidnappers and other inter-state criminals probably will depend upon tests to be made next week.

Police and short-wave radio fans have been asked to cooperate with the Federal Bureau of Investigation to determine whether the Bureau of Standards Station WWV, Beltsville, Md., can be tuned in at such far-away places as Florida, Mississippi, and the West Coast.

J. Edgar Hoover, Director of the FBI, who is anxious to impress upon the approaching Congress the need for more funds, said:

"There is no precedent in this country for broadcasting from one station on such a comprehensive scale. The project, of course, requires very careful study. The Federal Communications Commission and the National Bureau of Standards studied various plans from a general engineering standpoint and submitted the recommendations of their engineers to the FBI."

Hoover announced sometime ago that consideration was being given to erection by the Department of Justice of a powerful short-wave transmitter capable of flashing emergency orders to G-Men in all parts of the country and of informing State and City police of criminals at large.

The idea is one of many that Hoover has to coordinate Federal, State and Municipal law enforcement agencies in important man-hunt or other inter-state cases. Almost all, however, are subject to review by Congress because of the additional appropriations required.

Just why ordinary short-wave listeners should be invited to tune in on the experiments has not been explained, but it has the ear-markes of a publicity stunt as any Justice Department station that eventually is developed would not broadcast in a fashion that every short-wave set owner could listen in on.

The tests will occur on December 2, 5, 9 and 12. The schedule on each of the days follows:

Two p.m., E.S.T., on 5,000 kilocycles; 2:10 P.M., EST, on 10,000 kilocycles; 2:20 P.M., EST, on 15,000 kilocycles; 11 P.M., EST, on 4,000 kilocycles; 11:15 P.M., EST, on 6,800 kilocycles.

X X X X X X X X X

## EXAMINERS STRAIGHTEN OUT TWO INTER-STATIONS SCRAPS IN WEST

Two inter-station scraps for better broadcasting facilities have been recommended for settlement by Examiners in reports to the Federal Communications Commission. Both groups involve western outlets.

Five stations in the West and Northwest sought operation on 780 kc., including KEHE, Los Angeles, which is already assigned to the channel. The other stations and their present waves are: KDFN, Casper, Wyo., 1440 kc.; KGHL, Billings, Mont., 950 kc.; KSOO, Sioux Falls, Idaho, 1100 kc., and KXL, Portland, Ore., 1420 kc.

Examiner P. W. Seward recommended to the FCC that the disputed channel be granted to the Billings, Mont., station and that the other applications be denied. The Examiner said that the granting of the KGHL request would produce no objectionable interference and that it would serve public interest, convenience, and necessity.

Four Texas applicants asked for assignment on 1500 kc., with 100 watts power, daytime operation. Examiner John P. Bramhall recommended that construction permits be granted to the Big Spring Herald Broadcasting Co., Big Spring, Texas, and the North Texas Broadcasting Co., Paris, Texas, providing their antennas complied with engineering requirements.

Denial of the applications of the A.B.C. Broadcasting Co., Big Spring, Texas, and the Plainview Broadcasting Co., Plainview, Texas, was recommended.

X X X X X X X X X X

## FEW NEW FEATURES IN GERMAN RADIO RECEIVING SETS

A birds-eye view of the new German radio receivers exhibited at the recent Berlin Exhibition has been reprinted by the Electrical Division of the Department of Commerce from "Das Echo". The Berlin show, the publication states, reveals little that is new and nothing revolutionary in design. The "standard types of last year, in their man characteristics and class divisions, have been retained", it states.

"The new sets are healthy improvements on the approved models, which offer purchasers a guarantee for thorough elaboration of the apparatus, and given reception performances in each class which represent the highest attainable."

Corresponding with the progress made in television, a number of German firms have already provided their standard sets with an ultra-short wave range which permits the ultra-short waves of the televisior to be received.

"It must not be forgotten to mention the television receiver for sound and pictures which, when switched together with a standard Superhet set, permits the ultra-short wave sound to be received, and can supply the first amplifying stage for the picture part of a television receiver", the report states. "Such apparatus considerably simplify the television receiver, and enables all who are already in possession of a good Super, or who intend to purchase one, to make use of their sets in combination with television receivers which will later make their appearance."

X X X X X X X X X X

## NRA TO PASS INTO HISTORY SOON; RADIO INDUSTRIAL UNION LOOMS

The National Industrial Recovery Administration will pass into history within a few weeks, according to all indications in Washington, but a movement will start to organize the radio industry along industrial union lines as advocated by John L. Lewis, resigned Vice-President of the American Federation of Labor.

Even the business conference called by Major George L. Berry, coordinator for industrial cooperation, appears to be petering out as other industries stand with the National Association of Broadcasters in declining to participate.

Raymond Clapper, Washington Post columnist, commented on the Berry parley thus:

"The American Iron and Steel Institute has added its name to the long list of industries refusing to participate in the conference on industry called by George L. Berry, of NRA.

"From present indications, Berry will hold the most largely unattended conference in the history of NRA."

While Major Berry has denied he intends to try to revive the NRA, business appears skeptical. The conference is scheduled for December 9, when the future course of the remnants of NRA may be decided.

The proposal which is expected to be placed before the conference will be legislation to provide a permanent organization of business and labor leaders under government supervision to give continuous attention to industrial problems.

Laurence J. Martin, who has been Acting Administrator of NRA, will resign shortly to take a position with a manufacturing concern. No successor is expected to be named.

How far Lewis and his associates will get in their efforts to organize industrial unions as opposed to craft unions is conjectural. The issue has already split the ranks of the A.F. of L.; the radio industry, however, has been chosen as one of the industries in which the fight will be made.

X X X X X X X X



## WARNER BROTHERS MOVE PUTS BROADCASTERS IN QUANDARY

The withdrawal of the eleven music companies controlled by Warner Brothers from the American Society of Composers, Authors and Publishers has placed broadcasting stations in a temporary quandary as they await the next moves of Warner Bros. and ASCAP.

James Baldwin, Managing Director of the National Association of Broadcasters, frankly admitted that he didn't know what the upshot of the resignations will be.

During a trip to New York, he learned that Warner Bros. has not decided what terms to offer broadcasting stations which want to use the music controlled by its companies. ASCAP is in the midst of reclassifying its membership, and it is presumed it will offer a schedule of reduced rates to broadcasters.

Asked whether the withdrawal of Warner Brothers should not bring down ASCAP rates on its remaining music, Baldwin said: "It certainly should."

Stations which already have renewed contracts with ASCAP for the next five years have been given the opportunity to cancel them pending the outcome of ASCAP's review. The new contracts were to become operative January 1, 1936.

The possibility that some of the stations may continue to use Warner Brothers' music after December 31, when the latter's withdrawal becomes effective, was seen by Variety, amusement trade organ, on the ground that the new contracts "guarantee to hold the licensees free from liability in any infringement suit brought in connection with any musical rights currently controlled by ASCAP."

Statements were issued by both Warner Brothers and ASCAP following the action of the former at its Directors' meeting last week.

Warner Brothers, in its statement, took exception to the published remarks of Edwin C. Mills, General Manager of the Society, in which he described the resignations of the music publishing firms as an action "solely and selfishly in the interest of themselves."

"Such an accusation demands a reply", the Warner statement asserts. "The self-preservation of our companies has dictated their withdrawal from the society, which has utterly failed to obtain adequate payments for the use of music by radio. The Society at present is being run by a well-entrenched clique of executive officers who sign contracts and perform other important acts on their own authority."

"As things stand today, the Society has disposed of its rights to radio for the next five years on a basis which

11/29/35

would render it impossible to keep our music-publishing companies alive if they retained their memberships.

"These executive officers have very little at stake financially in comparison with the publishing firms that are threatened with extinction, although it must be said that the salaries paid the Society's executives are certainly not small; Mr. Mills, the General Manager, receiving about \$50,000 a year for his services, and Mr. Buck, the President, about \$35,000."

Mr. Mills said:

"Warner Brothers Pictures are attempting to justify an act for which, heretofore, publicly and privately, their single excuse has been that they must have more money."

X X X X X X X X X

#### STATION LIST ISSUED TO COMPLEMENT PROGRAM BULLETINS

A list of radio stations has just been published in conjunction with the December program bulletin of The Radio Institute of the Audible Arts, in order to aid listeners in all parts of the country in tuning in on the recommended programs listed in the Institute's program bulletin, as well as other chain broadcasts. The list is arranged by States and cities, and notes the network affiliations and frequencies of the stations listed.

The December bulletin continues the day by day classification of outstanding domestic programs in the fields of music, talks, variety, comedy, drama, sports and special events to be heard during the month. Pitts Sanborn, nationally known music critic and Director of the Institute, discusses broadcasts of outstanding musical events in a supplement to the bulletin.

The station list and program bulletins of the Institute, which was founded by Philco Radio & Television Corporation, may be obtained free of charge, upon request to The Radio Institute of the Audible Arts, 80 Broadway, New York City.

X X X X X X X X

11/29/35

## ZENITH REPORTS NET PROFIT OF \$482,025.99

Zenith Radio Corporation reports a net operating profit for the quarter ended October 31, 1935, of \$482,025.99, as against a loss of \$13,581.75 in the corresponding quarter of 1934, according to E. F. McDonald, Jr., President.

For the six months period ended October 31, 1935, Zenith reports a net operating profit of \$547,448.45, as against a loss of \$50,154.94 in the corresponding first half of the fiscal year 1934.

These figures are after all charge-offs, including liberal depreciation, excise taxes, and royalties, but before Federal profits taxes, as per the Company's books.

"Zenith Radio Corporation has at present three times as many dealers throughout the United States as it had at the beginning of its fiscal year, and its entire line of radio receiving sets with its new black dial have enjoyed an enormous increase in public acceptance", McDonald said.

"Production for the quarter was the highest in the history of the company. Sales for the quarter were the highest for any quarter since 1929. The company's two plants will be unable to fill the November orders on hand.

"The figures submitted herewith are believed to fairly set forth the extent of the Company's progress for the period but are, however, subject to verification by our auditors when making their annual examination at the close of our fiscal year."

X X X X X X X X X

## PRALL LUNCHEON ADDRESS TO BE BROADCAST DEC. 5

Anning S. Prall, Chairman of the Federal Communications Commission, will address the "Headliners" luncheon of the Downtown Athletic Club December 5. The talk will be broadcast over an NBC-WEAF network at 1:05 P.M. EST.

Noted officials of the radio, telephone and telegraph industries will be guests at the luncheon, among them being David Sarnoff, President of RCA; Richard C. Patterson, Jr., Executive Vice-President of NBC; R. B. White, President of Western Union; William S. Paley, President of CBS; Walter Gifford, President of the American Telephone and Telegraph Company, and Sosthenes Behn, President of the International Telephone and Telegraph Company.

X X X X X X X X X X X



11/29/35

INDUSTRY NOTES

"Squashing all rumors to the contrary", reports Billboard, "the Don Lee network will continue to be the CBS Pacific Coast outlet -- at least for another year. It has just been revealed here (San Francisco) that an extension of the present contract between the two was signed in New York in October. The extension is to run until January 31, 1937."

Grief over the death of his wife was ascribed as the cause of the suicidal death of Walter A. Parks, 38, Program Engineer at WMAL, Washington, on November 27. Parks, who had been with WMAL four years, shot himself through the heart.

The Telephone Division of the Federal Communications Commission has adopted the annual report, Form M, for telephone companies for the year 1935. Certain changes have been incorporated. Copies may be obtained from the FCC.

Clear channel station representatives are reported by Variety to have held a meeting in Chicago recently to plan their defense against any change in policy by the Federal Communications Commission on clear channel assignments. Those reported represented: WSM, Nashville; WFAA, Dallas, WOAI, San Antonio; WHO, Des Moines; WLW, Cincinnati; KFI, Los Angeles; WGN, Chicago; WHAS, Louisville; and WJR, Detroit. KDKA, Pittsburgh and KYW, Philadelphia, were not represented.

The FCC Telegraph Division on November 26 set for hearing in part the applications for renewal of licenses filed by a number of radiotelegraph companies. The parts set for hearing covered points outside of the United States to which, according to the information in the possession of the Commission, no traffic was transmitted during the preceding license period. The Division will entertain motions to reconsider and to grant without hearing the renewal licenses where the applicants can show that the Commission's information was incomplete and that the circuits were active during the preceding license period.

X X X X X X X X

11/29/35

## WJR STOCK TO BE SOLD TO PUBLIC; WILL ACQUIRE WGAR CONTROL

As WJR, Inc., Detroit, prepares to sell its proposed increase in stock to the public, a plan was revealed under which WJR will gain control of WGAR, Cleveland, through an exchange of shares.

WJR is awaiting approval of the Securities and Exchange Commission before increasing its present 15,000 authorized shares of \$10 par value, to 200,000 shares with a \$5 par value. WJR will make available 28,065 shares to the public at \$25 par.

WGAR control will be effected, it is reported, by WJR trading 20,000 shares of the \$5 par stock for the present 1,000 share capitalization of the Cleveland station. The latter is owned by G. A. Richards, President of WJR; Leo Fitzpatrick, Vice-President and General Manager; John F. Pratt, and P. M. Thomas, Treasurer of WJR.

X X X X X X X X X X

## WESTINGHOUSE SELLS BALANCE OF SHARES IN RCA

Westinghouse Electric & Manufacturing Company has disposed of the balance of its holdings of Radio Corporation of America common stock, realizing an average of \$8.08 a share, according to the Associated Press.

As of May 1 last Westinghouse had a balance of 60,038 shares of Radio common and 28,200 shares of class "A" preferred. The shares were sold in compliance with the terms of the consent decree entered by the Federal Court in Delaware three years ago, which required liquidation by November 21, 1935.

The recent sales represented stock held against fractional receipts for one-fourth of one share of common, issued to Westinghouse stockholders last February 18, when the company made a pro rata distribution of 665,299 $\frac{1}{4}$  shares.

Holders of the fractional receipts will receive a payment of \$2.02 for each receipt.

Westinghouse held 2,842,950 Radio common at the time of the decree which terminated the interests of General Electric and Westinghouse in Radio Corporation.

X X X X X X X X X