

# HEINL RADIO BUSINESS LETTER

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## FCC GENEROUS WITH LICENSES ON EVE OF ELECTION

The Federal Communications Commission may have some explaining to do to the 75th Congress regarding its apparent generosity in authorizing new broadcasting stations despite a crowded broadcast spectrum.

While the License Division of the FCC insists that it hasn't an exact record either of the number of licensed stations or the number which were granted new permits this year, it estimated "about 678" of which "about 45" have come into being since January 1st.

The Broadcast Division explained that an accurate report might be expected shortly after the presidential election.

It is also significant that fifteen of the new stations have been given permits this Fall since the presidential campaign got under way in earnest. Many of them have been contrary to the recommendations of FCC Examiners. One of the awards, to the Star-Times, of St. Louis, was apparently so raw that it raised a howl from the Republican National Committee as well as from a 14-year old St. Louis station, WIL. The G.O.P. Committee charged that the newspaper was given facilities which were denied the veteran station, namely a regional frequency with 1,000 watts power, merely because the paper would be in a position to aid the Democratic campaign.

At about the same time the FCC reaffirmed a previous grant to WOL, of Washington, D. C., of a regional channel and 1,000 watts power.

Political observers noted that William Dolph, General Manager of WOL, has been handling radio engagements for the Democratic National Committee during the current campaign.

Besides the new station grants, the FCC has authorized a score or more of power increases for existing stations while insisting at the same time that its power policies have not been definitely determined.

Of course, the Commission is expecting the Democrats to remain in power for another four years and to forestall any attempt in Congress to bring about an investigation. They recall that Representative John O'Connor, Chairman of the House Rules Committee, was able to block all demands for an inquiry in the 74th Congress.

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Should an inquiry be brought out, it is likely that it will be based on some such affair as the "Vandenberg incident", however, rather than any general charge of "playing politics".

The 15 construction permits for new stations granted this Fall are as follows:

Star-Chronicle Publishing Co., St. Louis, 1,000 watt full-time station on 1250 kc.; Hammond-Calumet Broadcasting Corp., Hammond, Ind., operators of WWAE, time-sharing 100-watter in Hammond, 5,000-watt station on 1480 kc.; A. Staneart Graham, E. V. Baxter and Norman Baxter, doing business as Pittsburg Broadcasting Co., Pittsburg, Kan., 1000 watt daytime station on 790 kc.; Sioux Falls Broadcast Association, Inc., Sioux Falls, S.D., 100 watt full-time station in Sioux Falls on 1200 kc.; Black River Valley Broadcasts, Inc., Watertown, N. Y., 100 watts night and 250 watts day station on 1420 kc.; Harold Perry Johnson and Leland M. Perry, Cedar City, Utah, full-time 100 watts station in Cedar City on 1310 kc.

Also, R. J. Laubengayer, Salina, Kan., 100 watts, full-time station on 1500 kc. in Salina; Tribune Printing Co., Jefferson City, Mo., 100 watts daytime station on 1310 kc. in Johnson City; C. G. Hill, George D. Walker and Susan H. Walker, Winston-Salem, N. C., 250 watts daytime on 1250 kc.; Jonas Weiland, Kinston, N. C., 100 watts night and 250 watts daytime on 1200 kc.; Northern Broadcasting Co., Wausau, Wis., 100 watts daytime on 1370 kc.; Wilton Harvey Pollard, Huntsville, Ala., 100 watts on 1200 kc.; Navaro Broadcasting Association, Corsicana, Texas, 100 watts daytime on 1310 kc; Robert K. Herbst, Moorhead, Minn., 100 watts on 1310 kc., full daytime, and sharing night-time; and Roberts McNab Co., Jamestown, N. D., which will share the same facilities with the new Moorhead station at night.

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#### RADIO EXPORTS CONTINUE INCREASE IN AUGUST

Radio export trade in August, 1936, according to the latest report of the U. S. Bureau of Foreign and Domestic Commerce, continued to maintain the substantial ratio of increase this year. Total value of radio exports in August, 1936, were \$2,307,953 compared with \$2,051,579, in August, 1935.

Receiving sets exported during August, 1936, numbered 48,963 valued at \$1,154,621, compared with 44,896 sets valued at \$1,167,141 in August, 1935.

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## FCC CLOSES "VANDENBERG INCIDENT" WITH A LETTER

The Federal Communications Commission has apparently closed the "Vandenberg incident" with a letter to one of the many protestants against the action of the Columbia Broadcasting System in cutting the Michigan Senator off some of its stations after he resorted to recorded words of President Roosevelt in an imaginary debate.

Although it had been stated previously that the FCC referred the matter to the Broadcast Division, the Commission's Press Department this week made public a letter, without comment, which had been written by John B. Reynolds, Acting Secretary, to W. R. Church, of New York City.

The conclusion of the FCC Secretary was that the CBS stations were under no compulsion to take the Vandenberg address and that the Commission has no authority to compell it to do so or to take the station or network to task for its action.

The letter follows in full:

"Dear Sir:

"Receipt is acknowledged of your telegram of October 18, 1934, in which you state 'As an American I protest against the censorship laid down on Senator Vandenberg's speech last night'. We assume you are referring to the incident of an address of Senator Arthur H. Vandenberg which was cut off some of the stations in the Columbia Broadcasting System chain on October 17, 1936, because the program included phonograph recordings in violation of the broadcasting company's rules.

"In reply, you are advised that the selection and arrangement of broadcast programs in the public interest is a duty which the Communications Act of 1934 places solely upon the licensees of the respective broadcast stations, and the matter of whether it will broadcast mechanical reproduction is, therefore, a question for the decision of each station licensee. If mechanical reproductions are used, however, they are required to be announced as such in accordance with the Commission's Rule 176.

"Section 3(h) of the Communications Act of 1934 provides that a person 'engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier.' It follows, therefore, that a broadcast station is not under a public utility obligation to accept all programs material offered and the Commission has no authority to direct a station to accept any specific program. The only exception to this rule is contained in Section 315 of the Communications Act of 1934 which provides as follows:



"If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station, and the Commission shall make rules and regulations to carry this provision into effect: Provided, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate."

"Since Senator Vandenberg was not a candidate for public office, the broadcasting of his speech does not appear to come within the provisions of Section 315 of the Act, and the station was under no compulsion of law to permit the broadcast of this address."

"Neither the Communications Act of 1934 nor the Rules and Regulations of the Commission prohibit the use of mechanical reproductions on broadcast programs, and Section 326 of the Act expressly denies to the Commission any power of censorship over the radio communications or signals transmitted by any radio station. It provides further that no regulations or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication."

"I am sure you will appreciate that since the station was under no compulsion of law to broadcast the speech, and the Commission has no power to compel it to do so or to take the station to task for cutting the program in question the Commission can take no action upon your protest."

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CHICAGO, PHILADELPHIA, CAMDEN MAKE MOST RADIOS

More than half of the radios manufactured in the fiscal year ended June 30th last, came from the Chicago-Philadelphia-Camden areas, according to the U. S. Treasury's excise tax reports. The first Illinois tax collection district led with radio collections of \$1,116,071.34 during the last fiscal year of the Government, the Philadelphia district being second with collections of \$896,110.60, and the Camden district third with \$743,115.96. Total collections of the radio and phonograph tax, not including separate unsegregated taxes on automobile radio sets and accessories, for the fiscal year ending June 30th were \$5,075,270.82, an increase of \$1,450,366.51 over the previous fiscal year of \$3,624,904.31.

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## FIRST PARLEY ON TELEGRAPH CONFERENCE CALLED

The Preparatory Committee for the International Telegraph Conference to be held at Cairo, in February, 1938, will hold its first meeting at 10 A.M., November 13th in Room 1413, New Post Office Building, Washington, D. C.

The Committee will consider whether it will be to the advantage of the United States to become a party to the international telegraph regulations. It will also consider what changes should be made in those regulations to render them acceptable to the United States. For this purpose it may be necessary to consider the regulations carefully, paragraph by paragraph.

No English translation of the International Telegraph Regulations annexed to the International Telecommunication Convention, Madrid, 1932, has been published in the United States. Copies of the British print may be ordered through The British Library of Information, 270 Madison Avenue, New York City, at \$1.25 per copy. It is imperative that copies be brought to the Committee meeting as the discussions will be based on that print.

All persons and organizations interested in the subject of the meeting have been invited to become members of the Preparatory Committee and to attend its sessions. Persons unable to attend the meetings of the Committee are invited to communicate their views in writing to the Chairman of the Committee, Commissioner Irvin Stewart.

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## CBS ACQUIRES WRVA, STRENGTHENING POSITION IN SOUTH

With the affiliation of WRVA, Richmond, Va., under a 5-year contract, the Columbia Broadcasting System this week strengthened its position in the South and took another station away from the National Broadcasting Company.

Within the past month CBS has signed up WOAI, San Antonio and WHIO, Dayton, O., as well as WRVA, all formerly associated with NBC. WRVA is owned by Larus & Bros., and operates on 1110 kc., with 5,000 watts. It is seeking 50,000 watts, however.

CBS is reputedly after WSM, powerful Nashville station, also. WSM, one of the Clear Channel Group, is under contract with NBC, but this agreement is about to expire. NBC is reported to be confident that the affiliation will be renewed.

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## RADIO MANUFACTURERS CLEAR HOUSE ON TRADE PRACTICES

A program for sweeping reforms in radio set merchandising has been adopted by the RMA in consultation with the Federal Trade Commission at Washington.

Prizes, "spiffs", "push money", bonuses, and also cruises will be among the evils in radio merchandising which will be ended, under the program adopted by RMA and which has been formally submitted to the Federal Trade Commission. The tremendous initial step to improve radio merchandising practices is already partially accomplished. It presents a plan which also furnishes a valuable precedent for other industries to deal with similar merchandising evils and will be supported also in part by the new Robinson-Patman Act.

The initiative and leadership in the program for cleaning up radio set merchandising was begun several months ago by Commander E. F. McDonald, Jr., of Chicago, Chairman of the Fair Trade Practice Committee. The RMA plan developed already has the unanimous endorsement of most leading set manufacturers and also has been tentatively approved by government officials at Washington.

A major feature of the new clean merchandising program for set manufacturers is a new rule of fair trade practice, according to Bond Geddes, Executive Vice-President of RMA. This new rule was approved unanimously by the RMA Fair Trade Practice Committee, the entire Set Division, and has been formally submitted to the Trade Commission for inclusion in the pending trade practice conference agreement for the radio set manufacturing industry which is now before the Commission. The new rule, which is expected to be adopted by the Trade Commission, provides:

"Rule 3 - The granting or giving or promising to grant or give by manufacturers in the industry, directly or indirectly, to employees of retail sales outlets selling competitive lines of radio merchandise, of commissions, bonuses, premiums, prizes, "spiffs", "push money", gratuities, privileges or anything of value in any form whatsoever, in consideration of the said employee's influencing the retail purchase of industry products manufactured by the grantor or donor, whether or not the same shall expressly be granted or given for that purpose, to the extent that such practice has a tendency and effect of improperly influencing and deceiving the buying or consuming public by reason of the fact that the purchaser is not aware of such subsidy or consideration and expects the retail employee to be unbiased, impartial and free from any such influence as between different merchandise sold by him, is an unfair trade practice."



Cruises, although not specifically named, are construed to be included in the proposed new trade practice rule and it is reported that one leading set company already has cancelled plans for a proposed cruise party at a cost to the company of about \$20,000. Other leading companies are abandoning plans for similar cruises.

While the proposed new trade practice rule applies only to action of manufacturers and extends only to radio retail salesmen, wider effect, specifically on radio distributors, will be attained through supplementary action of set manufacturers. At the RMA Set Division meeting the set manufacturers also approved unanimously a separate contract, which has already been signed by a large number of leading companies, that they will "use all lawful means" under their control to prevent their distributors from violating, either in letter or in spirit, the proposed trade practice rule and prevent distributors from granting the prohibited premiums, prizes, "spiffs", etc., to retail salesmen handling competitive sets. Thus the supplementary agreement of the manufacturers will provide for observance by distributors, as well as manufacturers, of the fair trade practice rule after its formal adoption by the Federal Trade Commission.

Companies represented which unanimously endorsed the entire merchandising program of Chairman Gene McDonald and the Fair Trade Practice Committee included the following:

Automatic Radio Manufacturing Co., Inc.; The Crosley Radio Corporation; Electrical Research Laboratories, Inc.; Emerson Radio & Phonograph Corporation; Fairbanks, Morse & Co.; General Electric Company; Hammarlund Mfg. Co., Inc.; Noblitt-Sparks Industries; Philadelphia Storage Battery Company; Pilot Radio Company; RCA Manufacturing Company, Inc.; The Sparks-Withington Company; Stromberg-Carlson Telephone Mfg. Co.; United American Bosch Corporation and Zenith Radio Corporation.

The plan to abolish prizes, premiums "spiffs", etc., is legal and within the jurisdiction of the Trade Commission, according to all legal opinion secured by Chairman E. F. McDonald of the Fair Trade Practice Committee. Further action for other merchandising reforms are under consideration by Chairman McDonald's committee and will be developed in the future.

Also and most important, a number of leading manufacturers are instituting separate merchandising reforms relating to advertising allowances. The Fair Trade Practice Committee was advised that the anti-trust and other laws would not permit definite, binding and concerted action among manufacturers regarding advertising allowances. Therefore, any such action must come separately by individual companies. It is understood that without any agreement or understanding whatever, several leading set companies are adopting advertising policies which

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will result in tremendous improvement in future radio merchandising practices. For instance, it is reported that several leading companies will require a minimum contribution of fifty percent by dealers in cooperative advertising. It is also understood that some set companies will hold the advertising allowances to their distributors to between two and three percent.

On the RMA Fair Trade Practice Committee which developed the merchandising program submitted to the Trade Commission, and the supplementary action of set manufacturers, those in attendance at the New York Committee meeting were: Chairman E. F. McDonald, of Chicago; David Sarnoff, of New York; Elmer T. Cunningham, of Camden, N. J.; James M. Skinner and Larry E. Gubb, of Philadelphia; Charles E. Wilson and R. J. Cordiner, of Bridgeport; J. P. Rogers, of Cincinnati; E. A. Tracey and Irving Herriott, of Chicago; Judge Manton Davis, of New York, and Bond Geddes, of Washington.

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#### WIL NOTES APPEAL IN STAR-TIMES STATION GRANT

Following up an attack on the Federal Communications Commission by the Republican National Committee, Station WIL, of St. Louis, this week filed an appeal in the District Courts from the FCC decision granting a construction permit to the St. Louis Star-Times and denying WIL's application.

The WIL case, which is believed to be headed for the U. S. Supreme Court, probably will become a political issue in the next Congress as well.

Counsel for WIL pointed out that the station had been rendering valuable public service for 14 years and therefore was entitled to better facilities rather than a newcomer, and then attacked the legality of the FCC procedure. The plaintiff complained that the Commission failed to adopt a customary statement of facts and grounds for decision prior to the effective date of the grant, October 7th, and charged that the Broadcast Division illegally delegated power to its attorneys and permitted them to write the decision.

The FCC decision consequently has been stayed temporarily by court order pending action on a plea for a permanent injunction.

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## SELECTION OF FCC SECRETARY SEEN AFTER ELECTION

An early appointment of a Secretary to the Federal Communications Commission following the presidential election November 3 is confidently expected in Washington.

The job, which pays \$7,500 a year, has been officially vacant since last May when Herbert L. Pettey resigned to go with WHN, New York. John B. Reynolds, Assistant Secretary and a Republican, has been Acting Secretary since that time.

A score or more of young Democrats are after the job, and it is understood that the FCC will make an appointment upon recommendation of James A. Farley sometime in November. The appointment will be a reward for campaign activity in behalf of the Democratic National Committee.

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## NAB RAPS NAPA FOR DELAY IN RECORD LITIGATION

The National Association of Broadcasters this week in its "NAB Reports" sharply criticized the National Association of Performing Artists for procrastination in a test case on phonograph records filed against Station WHN, New York, in the name of Frank Crumit.

The suit was filed on July 18 and asked that the station be enjoined from broadcasting any of Crumit's records in the future. NAB then cites six adjournments of arguments on the motion obtained by Maurice J. Speiser, counsel for the plaintiff.

"If the amazing procrastination of NAPA in the Crumit case is at all indicative", the NAB states, "then we may assume that NAPA and ASRA in other cases will endeavor to delay as long as possible bringing the suits to the point where they may be decided by the courts."

The American Society of Recording Artists, Inc., had filed similar suits against Station KFWB, and KFAC in Los Angeles. Records of Jan Garber, Victor Young, and Don Bestor are involved.

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## ELECTRIC INSTITUTE HOLDING UNIQUE RADIO SHOW

Dealer members of the Electric Institute of Washington are displaying en masse over 100 models of 1937 receiving sets to the Washington public as a part of the Institute's Radio Promotion Program. The display is housed in the Institute headquarters, Potomac Electric Power Company Building. Over 70,000 people will view the exhibit during October and November.

The exhibit is unique in that none of the radios is for sale and there are no salesmen present. All sets are tagged, giving price, model number and listing all radio dealers who are members of the Institute who sell a particular model. October electric bills of the Power Company carried inserts designed to arouse interest in all-wave receiving sets. Members of the Institute cooperating in the promotion were listed thereon.

Show windows of the Institute are given to manufacturer members of the organization for the display of their products. With a saturation of well over 95% in the Washington territory, dealers are concentrating their appeal to the public on the all-wave feature of the 1937 receiving sets.

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## AUGUST RADIO TIME SALES 24% AHEAD OF 1935

Broadcast advertising during August amounted to \$6,994,675 gross, the National Association of Broadcasters reported this week, and exceeded the corresponding month of 1935 by 24.1 percent. Total radio volume declined 3.1 percent from July as compared to 3.5 percent the previous August.

"Gains were fairly strong throughout all portion of the medium", NAB said, "with national non-network advertising alone showing weakness. The increase in the national non-network field was but half as great as for the medium as a whole.

"Local and regional stations continued to experience the greatest gain in advertising volume as compared to the corresponding period of the preceding year. Non-network advertising also exhibited marked strength in the South."

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## CBS BANS ELECTION NEWS SPONSORSHIP; NBC UNCERTAIN

Special local sponsorship of the November 3rd election news has been prohibited under a policy adopted by the Columbia Broadcasting System. The National Broadcasting System had not made known its policy up to the middle of this week.

CBS ban does not bar regular news program clients, however, on the individual CBS-owned stations.

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## NBC TO BUILD SMALL RADIO CITY IN WASHINGTON

Plans for new National Broadcasting Company studios in Washington, D. C., which will embody all the advances made in recent years in the science of architectural and technical facilities for radio, were announced October 29th by Lenox R. Lohr, NBC President. The new studios will give the National Capital a radio "show place" similar on a smaller scale to NBC headquarters in Radio City, New York.

The new studios in Washington, now under construction, will house the personnel and facilities of NBC stations WRC and WMAL, and will occupy the entire second floor of the new building being erected by the Trans-Lux Washington Corporation on 14th Street between New York Avenue and H Street. To be officially opened in May or June of 1937, the new quarters will provide 17,000 square feet of floor space for studios, conference rooms, laboratories and offices.

Frank M. Russell, NBC Vice-President in Washington, declared that NBC's Washington facilities will be doubled in size when construction and outfitting are completed. Floor plans show that there will be one audience studio 26 x 39½ feet, with an elevated observation booth 10 x 32 feet; two program studios 14 x 27 feet; two speaker studios 10 x 18 feet; two transcription rooms, one 14 x 14 feet and the other 11 x 14 feet; one conference and clients' audition room 15 x 23 feet; and one master control room of its own.

In addition to the studio space, Russell declared that the architects have provided for 18 general offices and program rooms, a music library, a huge artist's lounge, technical laboratories, and storage rooms. The entire floor is to be air conditioned, and will be kept at constant temperatures in both Winter and Summer. The building will have a separate NBC entrance and marquee, to be located on 14th St. near the New York Ave. corner.

All of the engineering and technical developments in the new Washington headquarters were worked out by O. B. Hanson, NBC Chief Engineer, who had charge of building and installing the broadcasting equipment in the Radio City studios and the new NBC West Coast headquarters in Hollywood, Cal.

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According to present calculations from the office of Gordon H. Mills, Director of studio tours, more than 520,000 people will buy tickets for the NBC Studio Tours in Radio City during 1936. Last year's total number of visitors has already been exceeded, so far this year, by approximately 55,000 people.

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