

HEINL RADIO BUSINESS LETTER

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No. 1110

March 22, 1938.

RCA WINS ANOTHER ROUND OF FIGHT WITH MACKAY

The Radio Corporation of America this week got another favorable ruling from an Examiner of the Federal Communications Commission in its long drawn-out fight with the Mackay Radio & Telegraph Company over the latter's attempt to share international radio traffic now enjoyed exclusively by RCA.

Examiner R. H. Hyde submitted an unfavorable report to the Federal Communications Commission on Mackay's application for a permit to conduct a point-to-point radio telegraph service between several of its stations and Rome, Italy.

The Examiner's recommendation, of course, is subject to approval by the Commission, but it marks another distinct victory for RCA, which has been resisting Mackay's moves to establish contact with world capitals now served by RCA for several years.

The first and longest fight was over an application by Mackay for a permit to add Oslo, Norway, to its international service. The FCC denied this petition, however, and the matter was carried to the courts.

Examiner Hyde in his findings and facts and conclusions upon which he based his adverse recommendation said:

"1. The service proposed to be rendered by the applicant is similar to services available to the public over existing radio and cable circuits between the United States and Italy; the applicant does not propose to make any change in rates or to offer any new or improved service.

"2. The amount of traffic which applicant expects to handle on the proposed circuit is 180,600 words westward and 81,900 words eastward annually. From the evidence relative to these estimates it appears improbable that any appreciable amount of new communication business would result from operation of the new circuit. Such traffic as the applicant obtained for the new circuit, in all probability, would be diverted from existing services.

"3. Existing communication facilities between the United States and Italy are more than adequate for efficient handling of available traffic.

"4. The evidence with respect to content and character of all contract agreements and understandings with respect to the proposed new circuit indicates that the applicant's contract with Italo-Radio provides for the same charges and divisions of tolls as the contract of the Italian company with R.C.A. Communications, Inc., with provisions, however, for notation of a Mackay 'via' on telegrams received from the applicant and a further provision under which the applicant undertakes to deliver 700 transit messages a month to Italy. There is no evidence of any contract between applicant and International Telephone and Telegraph Corporation with respect to the proposed new circuit.

"5. The evidence with respect to the nature of foreign terminal facilities available for the proposed circuit indicates that the new circuit, if established, would be forked with that of R.C.A. Communications, Inc., and also with other points of communication; that facilities are not available at the foreign end of the proposed circuit to provide for simultaneous operation of competing American circuits.

"6. The evidence indicates that establishment of the proposed circuit would result in a further division of a relatively small volume of traffic among carriers subject to the Communications Act of 1934 and that the interests of such carriers would be adversely affected by loss of revenue thereon.

"7. The situation with respect to the new communication circuit proposed in the instant applications is similar in its most important phases to that disclosed in the Oslo cases (applications of Mackay Radio and Telegraph Companies, Docket Nos. 3336, 3337, and 3338) in which the Commission found that the public interest, convenience and necessity would not be served by the establishment of an additional circuit. Accordingly it is concluded that the applicant has not shown that the granting of these applications would serve public interest, convenience or necessity."

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HOUSE VOTES MEMORIAL TO "FATHER OF RADIO"

The House of Representatives this week passed a joint resolution authorizing the Marconi Memorial Foundation, Inc., to erect a monument to Guglielmo Marconi, "the father of radio" in the National Capital at a spot to be chosen.

The resolution must pass the Senate and be signed by the President before it becomes a law. The memorial is to be built by voluntary contributions being raised by the Marconi Memorial Foundation.

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SENATE GROUP SYMPATHETIC TO RMA APPEAL

The campaign in Congress to repeal or reduce the 5 percent radio excise tax was renewed by the Radio Manufacturers' Association at a public hearing late last week before the Senate Finance Committee. Assurances were given by Chairman Harrison that the industry's tax relief appeal would be given 'most careful and thorough consideration.'

Bond Geddes, Executive Vice President of RMA, presented, in oral argument and detailed brief, the numerous reasons for complete repeal or substantial reduction of the tax. President Leslie F. Muter of the RMA, of Chicago, attended the hearing, and a dozen Senators were so interested, with numerous questions, that the RMA time for presentation of the industry's tax relief plea was trebled. The Senate Committee will act on the bill soon, probably within a fortnight.

That radio, broadcasting as well as manufacturing, should be free of any special tax because of its tremendous public service and general use, was emphasized in the presentation of RMA to the Senate Committee. Widespread support came from the trade, in letters to the Committee and individual Senators, including formal resolutions from the Retail Merchants' Association, of San Francisco, and other trade organizations. Further active support was given by the Radio Servicemen of America and its membership in many local sections. Senators also are receiving appeals from many distributors and dealers.

That radio should be the first excise tax repealed or reduced, because of its position as the greatest agency of mass communication, was contended vigorously by Mr. Geddes in his discussions with Senators and the extended brief filed also by RMA. Provisions of the House bill proposing repeal of excise taxes on outright, undeniable luxuries, including furs, sporting goods, cameras, and chewing gum, was sharply criticized and demand made that the radio tax be given prior consideration to any and all of the luxury-repeal provisions of the House bill. Pointing out that the revenue reduction involved in repeal or modification of the radio tax would be less than on any of the principal excises repealed in the House bill, Mr. Geddes cited the sharp reduction in manufacturing and sales, and estimated unemployment in the industry of between 40,000 and 50,000 radio workers.

In asking, first, for repeal, if possible, of the entire radio tax, or a reduction to at least $2\frac{1}{2}$ or 3 percent in the rate, depending on the government's revenue requirements in the pending legislation, the Senate Committee also was asked specifically to exempt police, marine aircraft, public address, and other commercial radio, also to clarify the present law for loud speaker, amplifier, and other parts manufacturers.

Chairman Harrison inquired regarding proposals to tax broadcast stations, and Mr. Geddes, opposing the broadcasting tax, declared that it was exactly as unsound in principle as the special tax now in effect on radio receiving apparatus.

Senators King, of Utah, Bulkley, of Ohio, Townsend, of Delaware, and others expressed interest in television and facsimile experiments. To a suggestion that television was being deliberately delayed, Mr. Geddes cited financing and engineering problems of great magnitude remaining, and the territorial difficulties between television service of Great Britain and the vast continent of this country. That facsimile promised more immediate application was stated.

Further difficulties in securing repeal or reduction of the radio or any other of the various excise taxes was increased by House action rejecting the proposed 'family corporation' tax, reducing the revenue bill by \$20,000,000 or more. That the Senate might find it necessary to restore the 'nuisance' taxes repealed in the House bill has been informally discussed. The Senate Committee was urged that preferential and prior tax relief should be granted radio if any excise taxes whatever are repealed or reduced in the Senate.

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CALDWELL URGES INDUSTRY TO FIGHT PERILS

Seeing a threat to the American system of privately-owned broadcasting in various moves now under way, O. H. Caldwell, former Federal Radio Commissioner and now editor of Radio Today, calls upon the radio industry and listeners to awake to the perils of government ownership as it operates abroad.

Writing in the current issue of his magazine, Mr. Caldwell says:

"Radio in the United States today is free!

"It is free to the listener.

"It is free of government control.

"And it can be used freely by those who have a message to tell. Having so far avoided the government muzzling and taxing which hampers radio in other countries, American radio is first, last, and all the time, a popular servant of the people!

"As a result American broadcasting supplies the finest programs anywhere in the world. The most costly talent is an everyday affair. Music, news, drama, and entertainment are available 18 hours a day, at the turn of a dial. All these come without cost - without fee - to every listener. In consequence the largest listening audience in the world - 37,000,000 radios - has been built up. Measured by the standards of radio in other

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countries, American broadcasting is a shining example of progress for other nations to copy.

"But there are those who would tear down this splendid structure built in 'The American Way of Doing Things.'

"There are those who would impose intolerable burdens upon America's now-free radio - who would restrict its operation in ways detrimental to the public interest - who would inject the dangers of government operation into our free institution of broadcasting.

"These critics who themselves have contributed nothing to radio's vast record of achievement, would revamp and revise the present structure to fit their own whims or political arguments, unmindful that radio as it stands today has been tested through 15 years of searching trial and effort.

"These critics seize upon single minor incidents of program oversight, such as the Mae West broadcast - yet overlook the hundreds of thousands of hours of wonderful musical and cultural programs which are the rule in broadcasting. And, frowning at radio, they overlook the far more objectionable obscene text and pictures which certain illustrated magazines are bringing into American homes, carried by U.S. mailmen.

"Others of these tinkers - and wreckers - of American radio, would put impossible taxes on American broadcasting stations. The Boylan bill, proposing a tax of \$1 per watt on small stations, and \$3 per watt on large ones, is an example of this vicious attempt to control broadcasting through intolerable taxes.

"Others would eventually head American radio into government control and government operation, substituting Washington bureaucrats and political appointees for present highly-paid entertainment executives chosen by reason of their expert qualifications alone.

"And in the wake of government control and operation, would come a Federal license on radio receiving sets - a pall on home enjoyment and education in the form of the heavy hand of the government tax-collector, taxing sets and tubes.

"These are some of the steps in the vicious program of federal control and taxation, already disclosed by movements underway at Washington.

"It is time, therefore, that radio men and radio listeners woke up to the presence of the forces that are about to imperil radio listening and 'the American Way of Doing Things.'

"American broadcasting - like all other human institutions - has some faults. But broadcasting's short-comings are minor - and merely serve to accentuate the merits of an otherwise magnificent - truly miraculous - public service. American broadcasting is sound and healthy, and has grown strong and vital under its own initiative.

"In the best interests of American radio, the present system must be retained along its present broad principles of private operation.

"Government ownership of broadcasting.

"Censorship of programs.

"Limitation of station service.

"Political domination of radio.

"Bureaucratic administration of programs.

"Taxes or licenses for radio listening.

"Those are not 'the American Way of Doing Things'."

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INTER-FAMILY PROFIT HELD ILLEGAL BY FCC EXAMINER

A broadcasting station cannot be sold within a corporate family at an inflated value, or with a substantial allowance for goodwill or going concern value, in the opinion of Examiner P. W. Seward of the Federal Communications Commission.

He submitted an adverse report on the application of the Travelers Broadcasting Service Corporation, which operates WTIC, Hartford, Conn., and several short-wave stations, to transfer its licenses to the Travelers Broadcasting Company.

Fortifying his conclusions by numerous citations of law and court decisions, Examiner Seward said, among other things, "there seems to be no doubt that a radio broadcast stations is a public utility" but that this does not make it a common carrier.

"Since the courts will not permit a public utility to add any amount as a separate item to the value of its property after valuing the assets upon the basis of a plant in successful operation, for 'good will', 'franchise', 'past losses', 'going value', 'pioneer losses', 'development expense', or any other similar item for the purpose of fixing the value of its properties for rate making purposes", the report stated, "it is quite clear that such items may not be considered as separate items to be added to the value of the physical properties of a broadcast station that is a going concern in successful operation, in arriving at the value of the properties for the purpose of sale.

"The total consideration to be paid by the Assignee for the properties here involved, accounts receivable, contracts, and the assignment of the licenses, is \$2,000,000, all of which will be paid to the parent company. Of this sum, \$500,00 is for the properties, the value fixed by the parent company as a going concern in successful operation; \$1,500,000 is to pay an obligation of the assignor which has been assumed by the assignee and is the consideration being paid by the assignee to the assignor for the accounts receivable, contracts - the value of neither of which has been shown - and the assignment of the licenses.

"For this Commission to grant this application and thereby approve the various transactions herein set forth, would be to point the way and blaze the trail to a 'by-pass' around the various provisions of the law which would amount to a nullification thereof. If the owner of a broadcast station may artificially enhance its capital structure in the manner herein shown by capitalizing its past losses or 'development expense', thereby pyramiding its intangible assets, or by attaching a value to the license issued to it, and such acts are approved by the granting of an application, it would be a recognition by this Commission of authority by the licensee of a radio broadcast station to capitalize its past losses or 'development expense' or

would recognize a 'property right' in the license for the use of the frequency, which is prohibited by the provisions of the Act, and which has long been prohibited in the case of other public utility services."

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UNSETTLED PRICES RETARD RADIO TRADE, SURVEY SHOWS

With the radio manufacturing industry still trailing 1937 figures, Dun & Bradstreet, Inc., New York financial statisticians, this week blamed unsettled prices and burdensome stocks of both wholesalers and retailers.

Evidence of a definite upturn in either production or sales, the report stated, were still absent in mid-March.

Simultaneously, Radio Today published the first complete figures on sales of radio sets and tubes in 1937.

"Exceeding most estimates and expectations, radio sets sold by manufacturers in the fourth quarter of 1937, totaled 1,992,980, bringing the year's total up to 8,064,780", the trade magazine stated. "The 1937 total thus came within 2 percent of the 1936 record, 8,248,755 sets. These figures, obtained from licensees, refer to number of sets reported sold by manufacturers to distributors and dealers. Actual sales to the public are believed to be considerably less, owing to the large inventory carried over by the trade in warehouses and retail stocks.

"Tube sales reported by manufacturers for the last quarter of 1937 fell off to 18,278,000 units - only 59 per cent of the same quarter of 1936. The total tube sales for the year 1937 - both initial equipment and replacement tubes - thus totaled only 92,055,000 tubes, or 6 percent below 1936."

"Neither production nor distribution of radio sets for the two opening months this year equalled the 1937 January-February totals", said the Dun & Bradstreet report. "Aside from the brief spurt during the Christmas shopping season, demand has narrowed progressively since the sudden shrinkage in sales last September. Totals for the first nine months of 1937 were larger in most divisions than the comparative 1936 figures; for each subsequent month, the percentage loss from the previous year was widened. Evidence of a definite upturn in either production or sales still was absent at mid-March.

"Inventory reduction has been slow, despite price cuts as deep as 50 percent on some receivers. Stocks held by manufacturers on March 1 were considered not excessive, due to drastic production curtailment in the fourth quarter of 1937. With both wholesalers and retailers, however, inventories still were burden-

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some. This was expected, as the trade was geared during the first nine months for a 9,000,000-set year.

"Few factories turning out radio sets have operated at more than 60 percent of capacity thus far this year. In the comparative period of 1937, full schedules were maintained, and the backlog of orders was rising, despite rates of 25 to 50 percent higher than for the 1936 months. To meet current demand for low-priced units, some manufacturers of nationally-advertised consoles have turned to the production of table models to retail at \$19.95 down to \$9.75. This move apparently was to combat the inexpensive 'no name' merchandise, which had cut dealers' volume.

"Retail sales thus far this year have fallen 30 to 50 percent below the 1937 comparative. Competition has been severe, and even the reduced volume was built largely by the unusually liberal allowances extended for old radio sets. Demand shifted abruptly in the final quarter of 1937 from consoles to inexpensive table models. Automobile sets have sold well, especially to used-car owners. Sales progress was reported as the most satisfactory in the South and on the Pacific Coast. Business in agricultural areas was better than in industrial districts.

"Little benefit accrued to either manufacturers or retailers from the modest price advance made last June, when 1938 models were introduced. By October, weakness was apparent in most divisions, and retail prices in some of the large cities were entirely demoralized by the end of 1937. Since January all kinds of prices have obtained, with some sales made virtually on a bargaining basis.

"Officially off as much as 50 per cent, additional discounts surreptitiously given and excessive trade-in allowances have rocked price standards to a noticeable degree. Some State resale price rulings collapsed, retailers abandoning even the pretense of adherence to producer quotations. No stability was expected before June, when the 1939 models doubtless will be adjusted to lower levels."

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FCC WARNS OF FALSE AUTO ALARM SIGNALS

The Federal Communications Commission has ascertained through a study of ship and coastal radio station logs that false operation of auto-alarm installations has been caused by coastal stations transmitting a series of dashes or "V's" for the purpose of frequency checking, it was disclosed this week.

With a view toward eliminating such possible false actuation of auto-alarms by signals transmitted for this purpose, the Commission has cautioned operators of coastal stations against transmitting any combination of signals on the frequency of 500 kilocycles, which in any way might simulate the auto-alarm signal.

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TIME AND PROCEDURE OF FCC INQUIRY IS VAGUE

While the Federal Communications Commission is on record as having ordered a broad investigation of broadcasting, all inquiries as to the time when the inquiry will start and the procedure to be followed have met with vague answers.

Moreover, there is no evidence that the split within the Commission has been healed by adoption of the McNinch resolution by a vote of 6 to 1.

The FCC action, regardless of its outcome, is expected, however, to forestall any Congressional investigation of broadcasting and the FCC this year. Next year there will be another Congress, and all pending bills proposing such inquiries, including that of the late Representative Connery (D.), of Massachusetts, will die in the interim.

Members of the Commission are understood to be still divided on the issue of whether the inquiry should be conducted by the whole body or by a select committee with the members who composed the old Broadcast Division left off. The members are Judge Eugene O. Sykes, former Chairman, and Norman Case, a Republican from Rhode Island.

The Mutual Broadcasting System announced this week that it welcomes the decision of the FCC to make a thorough investigation of the operations of broadcasting chains, and pledged wholehearted cooperation.

The Mutual network made public a message telegraphed Sunday to the Hon. Frank R. McNinch, Chairman of the Commission: "Having learned of the action taken yesterday by the Federal Communications Commission in voting for an inquiry covering the thirteen points on chain broadcasting operations, please be advised that we offer fullest cooperation. We place our personnel and records at the disposal of the Commission and await notification as to how best we may cooperate."

The telegram was jointly signed by Alfred J. McCosker, Chairman of the Board, and W. E. Macfarlane, President.

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Three Japanese newspapers have private facsimile services between Tokyo and the city of Fukuoka, important city on the islane of Shikoku, located southeast of the main island of Honshu. The newspapers include the Osaki Mainichi, the Tokyo Nichi Nichi, and the Hochi. All of the foregoing papers use the apparatus manufactured by the Nippon Electric Co. They also own and operate portable apparatus, and are equipped to send material from anywhere in Japan to Tokyo.

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NAB POSTPONES MEETING TO SELECT PRESIDENT

Directors of the National Association of Broadcasters have postponed a meeting scheduled for March 21st to select a paid president until March 30th.

Philip G. Loucks, acting counsel and administrator of the NAB, said that the Executive Committee engaged in studying and interviewing candidates for the job have not completed their report.

"The Committee has found its task more difficult than first anticipated", he explained, "and although every effort has been made to get the report ready for the scheduled Board meeting the time was found to be too short."

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RECORDING DEVICE IN U.S. COURT VOTED BY HOUSE

Installation of recording devices similar to those used in taking down broadcasts for rebroadcasting as an experiment in the United States District Court in Washington was voted by the House this week.

A resolution proposed by Representative Hobbs (D.), of Alabama, authorizes the experiment. The author proposed to extend the system to all U.S. District Courts if the test proves successful in expediting appeals.

As contemplated by Representative Hobbs, the recording of a trial will enable the U.S. Court of Appeals or even the U.S. Supreme Court to listen to the full trial of a case without a rehearing.

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Wednesday of this week marks the anniversary of fifteen years in radio for G. W. (Johnny) Johnstone, who, as Director of Public Relations for WOR-Mutual, has played an important role in the phenomenal growth of America's latest coast-to-coast network. Mr. Johnstone's career has kept step with broadcasting from its pioneer days. His background of experience includes journalism, familiarity with the technical aspects of radio, music and myriad public relations contacts. Before coming to WOR he held the post of Director of Press Relations at the National Broadcasting Company, and in 1931 assumed the duties of Assistant to M. H. Aylesworth, then President of NBC.

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I.T.T. 1937 INCOME MORE THAN DOUBLE 1936

The International Telephone and Telegraph Corporation and subsidiaries reports for the year ended December 31, 1937, consolidated net income of \$10,236,148 as compared with \$4,009,103 for 1936.

There were approximately 696,500 telephones operated by telephone subsidiaries (exclusive of Spain) at December 31, 1937, a net increase in excess of 50,000 during the year. Gross telephone operating revenues for 1937 amounted to \$32,476,000 as compared with \$26,751,000 for 1936.

Cable and radiotelegraph operations produced gross revenues in the amount of \$5,327,000 in 1937 as compared with \$4,931,000 in 1936.

Sales by the manufacturing subsidiaries for the year 1937 were the highest in the history of the Corporation, amounting to over \$82,000,000. More than \$100,000,000 in orders were received during the year and orders on hand January 1, 1938, were in excess of \$60,000,000 as compared with approximately \$40,000,000 at the beginning of 1937.

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ZENITH REPORTS \$1,418,978 OPERATING PROFIT

Zenith Radio Corporation, of Chicago, has reported a consolidated operating profit for the first nine months ended January 31, 1938, of its current fiscal year amounting to \$1,418,978, after depreciation of excise taxes and liberal reserves but before provision for Federal Income and Excess Profits Taxes or Undistributed Profits Taxes, as per the Company's books, Hugh Robertson, Vice-President and Treasurer, reported this week.

"In view of the unexpected change in general business conditions last Fall, the Company felt it advisable to greatly curtail production and operating expenses", Mr. Robertson said. "Although employees volunteered wage and salary reductions, the officers felt that until general business conditions became more definitely alarming, it was not necessary for us to impose such a penalty upon our people.

"Our new product 'Radio Nurse', recently announced, is creating unusual public interest, and although it is too early to definitely forecast sales possibilities, we are anticipating a very substantial volume with resulting contribution to our profits."

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Arthur H. Samuels, Executive Producer of Station WOR, Newark, and a former newspaper man and editor of several magazines, died in Doctors Hospital, New York, Sunday morning after a three-day illness.

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