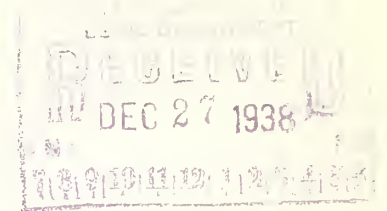


HEINL RADIO BUSINESS LETTER

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FCC FINDS "CENSORSHIP" REPORTS TOO HOT TO HANDLE

The Federal Communications Commission this week postponed action on two contrary reports from its own Committee on program complaints recommending new policies for handling cases that border on censorship.

At the same time the Commission, finding the issue politically hazardous regardless of the action taken, refused to release the Committee reports.

While members involved declined to discuss the reports, it was learned that one report has been submitted by Commissioners George Henry Payne and Eugene O. Sykes, as a majority of a three-man committee, and another by Commissioner T.A.M. Craven as the minority.

The FCC, finding the reports too hot to handle for the time being, postponed action until after the first of the year. There were some indications it might delay a decision indefinitely unless forced to act by the Committee itself.

The majority report is understood to suggest merely minor changes in the procedure of handling program complaints by the Legal Department, leaving the Commission free to clamp down on stations which broadcast programs that arouse public protests.

The majority report, it is reported, proposes an entirely new policy of non-interference and strict observance of the non-censorship provisions of the Communications Act.

Under this procedure the FCC would not punish or reprimand a station for a broadcast as it did the National Broadcasting Company for the Mae West-Charlie McCarthy program. It would make recommendations to proper governmental agencies whenever a station was believed guilty of violating the laws against broadcasting obscene or indecent language, conducting lotteries, or carrying false advertising.

Then stations would be left free to exercise their own judgment and censorship providing they maintained a strict freedom of speech over the air and kept their programs generally above public criticism.

The censorship issue has been full of dynamite for the Commission ever since Chairman Frank R. McNinch took office due to his insistence that the Commission crack down on stations whose programs brought complaints from listeners.

The first instance of indirect FCC "censorship" was the Mae West case, for which NBC was given a stern rebuke and stations were told the incident would be held against their records.

Subsequently, the FCC called NBC stations to account for the broadcast of Eugene O'Neill's Pulitzer-prize play, "Beyond the Horizon", but later abruptly dropped the matter when newspapers joined broadcasters in labelling the action the most dangerous form of censorship.

Consequently, when the Orson Welles, "The War of Worlds" broadcast occurred, all of the Commissioners except Chairman McNinch shied away from the matter, and the Commission finally announced that it would take no action as none was necessary.

Meanwhile, the National Association of Broadcasters has taken the lead in a move within the radio industry to police radio programs. The matter was discussed at length by the Board of Directors of the National Association of Broadcasters last week and committees are to be appointed shortly to make a study and report to the NAB convention next July in San Francisco.

It is generally expected, moreover, that the question of radio censorship will come up for debate at the approaching session of Congress and that attempts will be made to amend the present law.

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ZWORYKIN GRANTED BASIC TELEVISION PATENT

Fifteen years after he had applied for it, Vladimir K. Zworykin was granted a basic patent on the electronic television system he developed by the U. S. Patent Office this week. The patent has previously been denied, but the action had been reversed by order of the U. S. Court of Appeals for the District of Columbia.

The electronic system has been generally adopted by all experimenters in the television field, displacing the original mechanical system. Television receivers which are being made to be placed on the market next Spring, it is understood, are of the electronic type.

Just what affect, if any, the belated granting of a patent to Dr. Zworykin will have on the industry was not immediately apparent.

Dr. Zworykin applied for the patent Dec. 29, 1923, four years after emigrating here from Russia. At the same time he assigned his patent to the Westinghouse Electric and Manu-

facturing Company of East Pittsburgh, which now controls the rights. The patent contains forty claims covering the "tele-eye", on which the transmission centers, other phases of transmission and the receiver.

The tele-eye, or cathode ray vacuum tube, containing a screen with myriad photo-electric elements and a "gun" generating an electronic scanning beam. The tele-eye makes an electrical image which, because of the scanning beam, can be broadcast by radio waves as a succession of impulses. The receiver turns these impulses into an image that can be seen on a fluorescent screen. The beam gives this system its name, electronic.

The New York Times, in explaining the patent, said:

"Dr. Zworykin turned from mechanics to nature for his inspiration in the development of his 'iconoscope', or 'electric eye', which simulates the human eye by means of an electric 'retina' and 'optic nerve'.

"The inventor announced the perfection of his instrument in 1933 after most experiments with television had functioned through the use of a revolving mechanical disk which broke up the image into parts for transmission. The 'electric eye', which was the culmination of ten years of intensive research, 'saw' the image as a whole, just as the human eye does.

"The 'iconoscope' consists of 3,000,000 tiny photo-electric cells so small that they can be seen only under a microscope. The 3,000,000 cells are held in a mica sheet four by five inches, with 10,000 crowded into the space of one square centimeter. The whole is enclosed in a vacuum tube sixteen inches long and eight inches in diameter.

"As a counterpart to the iconoscope, which corresponds to the human eye, there is a kinescope, the receiving instrument corresponding to the human brain. Both have one element in common, a cathode-ray tube, which emits a powerful beam of electrons. But instead of the mica sheet with the 3,000,000 photo-electric cells, the kinescope has a fluorescent screen on which the image is reproduced.

"The iconoscope takes the light from an object through an ordinary motion picture camera lens. Inside the cathode ray tube an electron beam playing on the 3,000,000 cells transfers the image into electrical energy in the form of short radio waves. The waves are picked up by the cathode ray tube of the kinescope and transformed back into light energy in the form of the original image.

"In some respects, the artificial eye is more sensitive than the human eye. It can 'see' wave-lengths of the invisible spectrum such as ultra-violet and infra-red, thus making it a 'superhuman eye' which can be used for a microscope with a range of vision far beyond the limits of other microscopes.

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FCC STUDYING TELEGRAPH POLICY, SAYS JETT

The Federal Communications Commission is studying the question of thorough-going telegraph regulation with a view to determining the position this country should take at future International Conferences on the subject, Ewell K. Jett, Chief Engineer of the Commission disclosed this week.

Speaking before an American Bar Association group at the Mayflower Hotel, Lieutenant Jett emphasized necessity for "giving serious consideration to the question of telegraph regulation".

Senator White, Maine, Chairman of the United States delegation to the International Telecommunications Conference at Cairo, Egypt, last Winter, in a report on the Conference said nothing had done more to militate against this country's influence at such conferences than the attitude of aloofness toward telegraph regulation.

Senator White pointed out that this country's refusal to go along with other countries in telegraph regulation had been due to the policy "not to invade the field of management and operations".

A resolution offered by Louis G. Caldwell, urging Senate ratification of the Radio Regulatory Convention adopted at Cairo, was voted.

Gerald C. Gross, Chief of the International Section of the FCC, reported on the recent radio conference at Guatemala City.

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FCC HEARS ORAL ARGUMENT IN WLW CASE

The Federal Communications Commission on Thursday listened for nearly three hours to Duke M. Patrick, counsel for Powel Crosley, Jr., argue for renewal of the super-power experimental license of Station WLW, Cincinnati.

Some fifty questions were asked by the Commissioners with some indication that Chairman Frank R. McNinch and Commissioner Paul Walker might support the recommendation against renewal by the three-man committee.

Commissioner T.A.M. Craven, a member of the committee and a technical expert, challenged Mr. Patrick to produce evidence that WLW's proposed program of research and experimentation will be likely to contribute substantially to the art of broadcasting.

He also asked for evidence to indicate that WLW needs 500 KW. to carry forward its experimentation. His intimation was that the experiments could be made just as well with 50 KW.

Mr. Patrick called attention to the sun spot cycle and asserted that the super-power is needed to overcome this interference.

While the Committee did not make the profits of WLW an issue in its decision, Mr. Patrick challenged the right of the FCC to regulate or control a radio station's rates. His challenge brought an immediate response from Chairman McNinch, who indicated he held a different view.

There was no indication as to when the Commission will come to a decision in the WLW case.

Meanwhile, it was learned that the same Committee which recommended discontinuance of WLW's experimental license will make a report around January 15th on the proposals that the FCC rules be amended to eliminate the 50 KW. power limitation.

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FCC HINTS AT AD CONTROL IN MONOPOLY PROBE

Members of the Federal Communications Commission conducting the chain-monopoly investigation, hinted at possible control of radio advertising as the inquiry was recessed Wednesday over the holidays.

Roy C. Witmer, NBC Vice-President in Charge of Sales, was questioned closely by the Commissioners, as well as William J. Dempsey, FCC counsel, regarding the network's policy as to advertising on the air.

The cross-examination was significant in view of the fact that Senator Wheeler (D.), of Montana, recently warned the industry that unless steps are taken to reduce commercialism on the air that he will sponsor legislation to require it by law.

Commissioner Eugene O. Sykes asked Mr. Witmer how much time in a quarter hour program should be allowed for commercial announcements.

Mr. Witmer stated that the National Broadcasting Company had no written policy regarding the length of commercial announcements and that he believed the interesting manner in which it is presented should be the basis for control.

Some advertising that takes only a minute is "terrible", he said, while other commercial announcements that are spread over several minutes are "interesting".

Mr. Witmer cited a number of products that cannot be advertised over NBC in support of his contention that the network considers good taste and its listeners in signing advertising contracts.

Such products as cathartics, antiseptics for bad breath, reducing foods or beverages, hair restorers or dyes, products which claim to remove wrinkles, fortune telling or character analysis based on handwriting, cemeteries, hard liquors, wines, and champagnes, and physicians and dentists may not be advertised on the network, he said.

The loss to NBC runs into several millions, he said.

"That is balanced by the cost you have of counter-acting the bad reaction", commented Commissioner Paul Walker.

Mr. Witmer also pointed out that the percentage of commercial advertisements on the air is less than the percentage of advertising in the nation's newspapers and magazines. The latter run about 40 percent advertising and 60 percent editorial matter, he said, whereas commercial programs on the air constitute only 34.5 percent of the time.

The NBC Vice-President was also questioned about "puffing" or exaggerated claims by advertisers, the plugging of movie stars, talks on controversial subjects during commercial periods, and children's programs.

Asked whether he thought political talks should be sponsored, Mr. Witmer said:

"I don't think a speech by the President should be sponsored."

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NAB BACKS WMCA IN COUGHLIN CASE; FCC SILENT

The National Association of Broadcasters this week issued a statement under the name of Neville Miller, President, endorsing in principle the refusal of Station WMCA, New York, to carry the talks of the Rev. Charles Coughlin.

At the same time Frank R. McNinch, Chairman of the Federal Communications Commission, declined to comment on the Coughlin case, Mr. Miller's statement, or the "open letter" to him from Dorothy Thompson, newspaper commentator.

"Broadcasts inciting racial and religious hatred are an evil not to be tolerated", Mr. Miller said.

"Radio has become a new force of tremendous power and influence in our life. It must be used in the public interest and not subjected to irresponsible abuse", he continued.

"The particular problem which we confront today is that of preserving the precious right of freedom of speech. However, the same Constitution which guaranteed us freedom of speech, also guaranteed other rights, such as freedom of religion, and in protecting one right we must not violate other rights.

"The right of free speech is a right which extends to every American citizen. It is a right which broadcasters interpret as one requiring that equal opportunity be available for the expression of honest divergence of opinion. But in administering this responsibility, we must also be cognizant of the fact that radio by its very nature reaches all classes of our fellow citizens, regardless of race, religion or conviction, and that there is no obligation to broadcast a speech which plays on religious bigotry, which stirs up religious or racial prejudice or hatred. Such a speech is an abuse of the privilege of free speech and unworthy of American radio.

"It must also be recognized that broadcasters are responsible under the law of our land for anything that may be said over their facilities which is libelous or slanderous. In a number of instances suits have been filed and judgments have been rendered against broadcasters in favor of the aggrieved, where libel or slander was proved. These decisions have placed the responsibility for libel or slander squarely upon the broadcaster.

"No obligation of free speech or of public service could justify broadcasters in allowing this great new social force to strike at the harmony of the nation. In a country of many races and many religions amicably dwelling together, broadcasts inciting racial and religious hatred are an evil not to be tolerated. In these troubled times throughout the world, there is a great need for national unity. And in the hearts of the vast majority of our people I believe there is a great yearning for unity.

"The responsibility for the content of programs rests upon the broadcaster; to determine what is in the public interest requires the exercise of an informed and mature judgment. He is well within his rights to demand an advance copy of any proposed radio talk. He is well within his rights to close his facilities to any speaker who refuses to submit it. He is well within his rights to refuse to broadcast a speech plainly calculated or likely to stir up religious prejudice and strife.

"Such action is merely an act of good stewardship, distinctly in the public interest, and is not an abridgment of the right of free speech. The situation parallels the example once given by the late Justice Oliver Wendell Holmes of the United States Supreme Court, where he declared that free speech did not give a man the right to yell 'fire' in a crowded theatre.

"The responsibility to accept or to reject broadcast material is one placed squarely on the shoulders of the American broadcaster. It is up to him to evaluate what is and what is not in the public interest. This responsibility the American people have delegated to him in his license to operate a radio station. The National Association of Broadcasters will defend his right to discharge that responsibility."

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RMA URGES TREASURY TO DROP RADIO TAX

Continuing its campaign to remove the 5 percent excise "nuisance" tax on radio, the Radio Manufacturers' Association has asked the Treasury Department to recommend complete repeal of the radio tax. The tax will expire June 30 next year unless continued by Congress.

A special RMA committee appointed by President A. S. Wells held a conference with Treasury officials presenting numerous reasons and data for discontinuance of the 5 percent tax next June. Representing the RMA at the Treasury conference were President Wells, Director A. H. Gardner, of Buffalo, Chairman of the Special RMA Tax Committee; James M. Skinner, another Director of RMA, and John R. Howland, of Philadelphia; J. McWilliams Stone, of St. Charles, Illinois, another RMA Director; Robert R. Kane, of Camden, N.J., and Bond Geddes, RMA Executive Vice President.

Since the RMA conference at the Treasury Department, Under Secretary Hanes has responded that the representations made by RMA "will be given careful and sympathetic consideration by the (Treasury) Department in the course of its study of present revenue structure". However, Senator Barkley, of Kentucky, Democratic leader, has conferred with President Roosevelt and discussed continuance of all "nuisance" taxes.

In urging the Treasury Department to recommend to Congress that the 5 percent tax be allowed to terminate on June 30, the RMA said, among other things:

"Radio is the universal public communication service and should, like the press, be free of any tax burden. Newspapers and magazines enjoy a mail subsidy, and the long established government policy of keeping public communications free and unburdened has just been endorsed by the President through reduction of postage on books, etc.

"Radio is a universal necessity, in general public use, and not a luxury. Less than one percent of receiving sets sold could possibly be classed as a 'luxury'.

"Repeal of the selective discriminatory 'nuisance' tax on radio would remove a burden from the service of radio to the consuming public, tend to increase sales of dealers and distributors, as well as manufacturers, increase broadcast listeners, and provide an immediate needed business stimulus. Radio taxes discontinued or repealed would be entirely or largely passed on to the public.

"Radio and the press are the two great mediums of mass communication. Radio reaches a greater number of people, many of them exclusively, and is a larger and growing influence, with facsimile, television, and other new developments approaching rapidly. The policy of the Treasury Department and Congress is to eliminate special 'nuisance' excise taxes as rapidly as possible, and we earnestly submit that the excise tax on radio, imposed on public communication, should not be continued but should be allowed to lapse when the law expires June 30, 1939."

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CHANGE IN POLICE FREQUENCIES UNDER CONSIDERATION

The Federal Communications Commission is considering making a shift in short-wave frequencies assigned to police services, it was disclosed this week with the release of a duplicate letter sent to all licensees of zone and inter-zone police stations.

"The Inter-American Arrangement Concerning Radio Communications adopted at Havana in December, 1937, among other things, provides for the move of the amateur band covering frequencies lying between 1715 and 2000 kilocycles to the frequencies lying between 1750 and 2050 kilocycles", the FCC explained. "One of the purposes to be achieved by this shift is to make more frequencies available above 1600 kilocycles in order to adjust certain interference problems involving state police radio stations, United States Government stations, and certain stations authorized by the Canadian Government. It is expected that this shift of frequencies will also result in the reduction of interference to the existing state police stations.

"You will note that the three frequencies 2036, 2040, and 2044 kilocycles now available for intra-zone communication are involved in this problem. It is being found very difficult to find replacement frequencies for these three in the band immediately adjacent to 2050 kilocycles.

"Reports reaching the Commission indicate that there is a possibility that these frequencies could be replaced by higher frequencies to the general benefit of the police radio-telegraph system. One suggestion is that the three frequencies in the 2800 kilocycles band (2804, 2808 and 2812 kilocycles) be made available primarily for intra-zone communication; and the

"day only" restrictions be removed from the frequencies 5135, 5140 and 5195 kilocycles and that they be made available primarily for interzone communication, and secondarily for intra-zone communication as at present, and that three new frequencies be allocated of the order of 7000-8000 kilocycles on a 'day only' basis primarily for interzone communication, and secondarily, for intra-zone use.

"Under the terms of International Agreements, it is recognized that frequencies above 5000 kilocycles are particularly valuable for long-distance communications, and, therefore, they may only be assigned for domestic communication on the condition that no interference is caused to the service of other countries. The usual practice adopted by the Commission to insure this condition being met is to assign frequencies with a 'day only' or other appropriate restriction as to period of use, giving consideration of the propagation characteristics of the frequencies. Therefore, if the 'day only' restriction is removed from the frequencies in the 5100 kilocycle band, it will be necessary to place a restriction on them that they are not to be used in a manner to cause interference to the service of another nation. It is believed that if their use is restricted to the distances contemplated by the rules and regulations, these frequencies may be used with freedom without a great probability of interference. However, should interference occur, additional restrictions would have to be applied.

"Investigations indicate that 7480, 7805, and 7935, kilocycles may have some possibility of being available for the proposed police radiotelegraph communications. Before this matter is acted upon by the Commission, however, it is desired that day-time listening tests be conducted in the various police areas of the country to determine the suitability of these frequencies for interzone use in lieu of the lower frequencies. Reports on these tests should be mailed the Commission as soon as feasible under the circumstances and should contain the date, hour and frequency of each listening test, an estimate of the intensity and character of signals heard, the identity of the station heard if possible, and any other pertinent information that may be of value.

"Before taking action on this matter it is desired to receive your comments based on your experience in the use of radiotelegraph, and as it is necessary that the arrangements for the use of frequencies be shortly placed into effect, we request that your reply be expedited. It is also desired that you advise the Commission of your willingness to relinquish the frequencies now assigned between 2000 and 2050 kilocycles in order that the shift of the amateur band to 2050 kilocycles may be made at the earliest practicable date in accordance with the provisions of the Inter-American Agreement."

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TRADE NOTES

The Federal Communications Commission this week repeal-
Telegraph Division Order No. 24; adopted sections 343.01, 343.02,
and 343.03, of Federal Communications Commission Regulations
embodying the requirements of that order; and approved a revised
form for reporting traffic damage claims in accordance with the
provisions of Section 343.02.

The Radio Corporation of America on last Wednesday
night inaugurated a program on Station WMAL, Washington local to
the District of Columbia. It was labelled "Radio Center Open
House" and will be carried weekly.

The Midland Television, Inc., of Kansas City, Mo.,
conducting resident courses in radio and television and corres-
pondence courses in those subjects and in airline radio opera-
tion, has entered into a stipulation with the Federal Trade
Commission to stop using in advertising matter representations
in the form of purported testimonials or otherwise, the effect
of which is to convey the impression that the writers or authors
of such testimonials studied airline radio operation as students
of Midland Television, Inc., or obtained employment as students
of Midland through that organization's efforts, when such are
not the facts.

New officers, elected on a temporary basis by the
Columbia Broadcasting System for the American Record Corporation,
were announced by the network this week. Pending appointment of
permanent executives, the following temporary officers will head
American Record Corporation; Adrian Murphy, President; Frank K.
White, Treasurer; C. C. Boydston, Assistant Treasurer; Ralph F.
Colin, Secretary.

Richard C. Hoyt, radio technician, who kept in daily
communication from New York with the Byrd Antarctic expedition
in 1934 for the Mackay Radio and Telegraph Company, with whom he
was employed, died Tuesday in the Mount Vernon, N. Y. Hospital
of injuries suffered when he fell under a train of the New York,
New Haven & Hartford Railroad. He was 35 years old.

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DUE TO THE CHRISTMAS HOLIDAYS AND THE FACT THAT THE
GOVERNMENT OFFICES WILL BE CLOSED, THERE WILL BE NO RELEASE
OF THIS SERVICE ON TUESDAY, DECEMBER 27TH.

R. D. HEINL