

HEINL RADIO BUSINESS LETTER

2400 CALIFORNIA STREET

WASHINGTON, D. C.

INDEX TO ISSUE OF OCTOBER 10, 1939.

Television At Crucial Stage, FCC Informed.....	2
Payne Ruling Hit; Full Hearing Asked.....	3
FCC To Get New Press Chief.....	5
FTC Closes Case Against New York Firm.....	5
Elliott Roosevelt Cites Code, Speaks Anyway.....	5
U. S. Radio Project Employs 383, Draws Fan Mail.....	6
Map And S-W News Log Issued By Manufacturer.....	7
Spies, Spies Everywhere, FCC Tipsters Say.....	7
Civil Liberties Union Defends NAB Code.....	8
Trade Notes.....	9
Crosley Explains Failure To Carry World Series.....	10
Cuban Radio Imports Decline In 1939.....	10
LaGuardia Lauds ASCAP As Music Week Closes.....	11
Code Ruling Justified, Says Editor.....	11

No. 1164

October 10, 1939

TELEVISION AT CRUCIAL STAGE, FCC INFORMED

The secondary report of a Special Committee of the Federal Communications Commission investigating television, expected to be submitted to the full Commission sometime this month, is being awaited with keen interest by broadcasters because of the probable effect it may have on the future course of visual broadcasting in the United States.

Television has reached a crucial stage, according to information reaching the Federal Communications Commission, and unless some aid is accorded it either by governmental subsidy or commercial backing its progress may be halted before it is well begun.

Sales of television receivers have been disappointing, even in New York City, where visual broadcasting has made the most advances, the FCC has been informed. Meanwhile, television in European countries, especially Great Britain, has been shunted aside by the war.

The special Television Committee of the FCC, which has been studying the problem for months, is headed by Comdr. T.A.M. Craven and includes Commissioners Norman S. Case and Thad H. Brown.

Many millions of dollars have been spent by the laboratories and manufacturing companies interested in radio development in bringing the art to its present state. During the past year it was said that more than half a million dollars has been used in further experimentation, and unless the industry can receive some encouragement from the governmental agency the laboratories are about ready to stop. They can't stand the pace of continually putting out money, with no opportunity to cash in to any extent.

While the regulatory body is not disposed to throw any obstacles into the efforts of the developers to obtain some return on the results so far, it is giving very serious study to the problem in an effort to find a way that the project can be encouraged, at the same time protecting both the rights of the industry and the public.

In a preliminary report, the Committee headed by Commissioner Craven held that television was not yet ready for public reception, predicated largely on the belief the projected sets might be subjected to rapid obsolescence without any salvage value. Furthermore, at that time, there was a belief there was not enough information on which to lay down the program for establishment of stations.

The early report had the unintended effect of cooling the public toward efforts of the manufacturers to get their sets on the market, and the industry is said to have suffered, so much so in fact that the matter was called to the attention of the staff of the Commission. The report merely tried to tell the public of the developments so that it would know what it was buying.

Further development which has come to the attention of the Commission since the preliminary report is that the matter of distribution of programs is nearer solution. The first belief was that it would have to be distributed by chains over the expensive coaxial cable, but now it is believed the point has been reached where the programs may be chained by the radio relay; that is the signals instead of being piped by telephone lines as the sound programs are now, they will be broadcast and a chain station would pick up the signals on a receiver and rebroadcast them.

X X X X X X X X

PAYNE RULING HIT; FULL HEARING ASKED

Caustically criticizing the ruling of Commissioner George Henry Payne in the Orlando (Fla.) case, George O. Sutton, Washington attorney, asked for a full hearing this week before the Federal Communications Commission.

Other Washington radio attorneys are watching the case with interest because of the effect it may have on future legal practice and the rights of radio stations to intervene in pending cases.

After complaining that he had never been notified of Commissioner Payne's ruling, Mr. Sutton insisted that the Commissioner's ruling is not in conformity with the FCC rule, just adopted, relating to interventions.

"This petitioner sympathizes with the Commission in its many problems", the brief stated, "but it is in no wise guilty nor responsible for the acts and conditions therein set out. It is further submitted that if the Commissioner feels that it is incumbent to make a public condemnation of the practices which the Commission has created by its own rules and regulations, all of which acts and conditions were brought about with its knowledge, consent and approval, and the Commission desires to change such deplorable conditions, it cannot be blamed upon this petitioner, unless explicit accusations and illustrations are cited.

"Exception is taken to the first paragraph on page 3 of the decision of Commissioner Payne as contained in mimeograph 36567. If the purpose of the present rule 1.102, relative to intervention, is correctly stated in the first sentence of this paragraph, then the Commission as a matter of law should condemn this rule as

being unjust, illegal, arbitrary, and contrary to existing court decisions on this point, or else first convince the courts that they should over-rule certain existing decisions relative to such practice. If the Commission is attempting by this explanation of the rule, to limit intervention only to those parties who come in as amicus curiae, then only confusion will result, with resulting long litigation to correct the interpretation of the rule. The interpretation here given the rule is not in conformity with the position taken by the Commission and its counsel in many appeal cases before the courts. Commission counsel has contended time and again that it was not bound by strict rules, but that it was seeking all the relevant facts it could obtain with respect to the rights and interests of all parties concerned, upon which it should base a decision. There has been no public notice heretofore that the Commission has changed its policy in this respect. . .

"The argument that 'the Communications Act contains no provisions giving the right of intervention in proceedings before the Commission to any person or class of persons, but expressly provides that the Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice', cannot be construed to prevent intervention in the light of Section 4(j) of the Act. Evidently the language 'that the Commission may conduct its proceedings in such a manner as will best conduce to the proper dispatch of business and to the ends of justice' is also taken from this section. How can the third sentence of this section be made compatible with the last two sentences in the first paragraph on page 3 of the instant decision, wherein it is stated that only where the public will benefit through air or assistance given to the Commission by an applicant or intervener is he entitled to participate in such a proceeding.

"The third sentence of Section 4(j) states definitely: 'Any party may appear before the Commission and be heard, in person or by attorney.' The language in other sections of the Act (402(b)-405) also indicates the intent of Congress that the Commission shall attempt with its specialized knowledge of the field to obtain all the necessary facts before trying to reach a legal conclusion that the granting of a specific application is or is not in the public interest. . . .

"It is submitted that it is not a wholly unnecessary, wasteful, and costly procedure for the Commission to hold a public hearing and permit interested parties to participate therein in order that their rights may be determined. It is submitted, however, that it is a wholly unnecessary and wasteful procedure for the Commission to ignore the rights of interested parties, hold an ex parte hearing with respect to the rights of such parties, and then to cause litigation in the courts to determine whether or not such interested parties are entitled to participate in the initial hearings. Again, such a procedure is a return to the conditions when the Commission undertook, during the early thirties, to grant licenses without a hearing, which in turn abrogated the rights of interested parties, and which has been condemned by the courts.

"Exception is taken to the first paragraph on page 5 of the decision of Commissioner Payne in Docket 5698 in that the procedure therein suggested is wasteful of time and energy both on the part of the Commission and interested parties. If the purport of the first sentence in the paragraph is to the effect that one or more hearings should be held on an application, and interveners should not be permitted to participate in all proceedings, then it smacks of Star Chamber proceedings and defeats the argument of the Commission with respect to the saving of time and money."

X X X X X X X X

FCC TO GET NEW PRESS CHIEF

George Gillingham, of the TVA press section, is to be named shortly as head of the Press Section of the Federal Communications Commission, it was learned this week.

Chairman James L. Fly, who was general counsel of TVA, is said to have asked for Mr. Gillingham's transfer.

X X X X X X X X

FTC CLOSES CASE AGAINST NEW YORK FIRM

The Federal Trade Commission has closed its case against Harry G. Cisin, trading as Allied Engineering Institute, 98 Park Place, New York, who was charged with misleading representations in the sale of radio receiving sets.

The Commission was advised that the respondent had suspended the manufacture and sale of radio receiving sets and discontinued the practices charged in the complaint. On September 19, 1939, he submitted a statement adopting and agreeing to abide by the fair trade practice rules for the radio receiving set manufacturing industry promulgated July 22, 1939, in the future conduct of his radio business.

X X X X X X X X X

ELLIOTT ROOSEVELT CITES CODE, SPEAKS ANYWAY

Elliott Roosevelt Saturday warned he might be cut off the air, then said in a radio speech from Fort Worth, Texas, he favored repeal of the arms embargo.

The National Association of Broadcasters recently imposed a ban on discussion of controversial questions by commentators on sponsored programs.

X X X X X X X X X X

U.S. RADIO PROJECT EMPLOYS 383, DRAWS FAN MAIL

The radio project of the U. S. Office of Education employs 383 persons, 16 of whom are supervisors, and now sponsors three educational programs, which have drawn 257,000 fan letters within the past year, according to a booklet released this week on "Federal Activities in Education" and published by the National Education Association.

The radio project, financed by Federal relief funds, was established in December 1935, the booklet recalls.

"Its twofold objective is: (1) to provide employment for persons with radio and script-writing talent who are on relief, and (2) to discover ways in which radio can be used to promote education, both for organized instruction and for general enlightenment", the article states. "The project uses radio facilities offered free to the Office of Education by commercial radio corporations for public service programs.

"The project is attempting to demonstrate that an educational agency can create and present radio programs of an informative and educational character which rival in quality the best commercial broadcasts. In promoting education by radio the project does two things: it engages in network or exchange broadcasting, and it gives aid and counsel to schools, colleges, and local radio stations.

"Series of half-hour programs are produced in cooperation with broadcasting networks and national organizations. During the current year (1938-39) three such series have been broadcast. 'Wings for the Martins' is a program about modern thought and practice in education, particularly as reflected in family life. 'Americans All - Immigrants All' dramatizes the contributions of many races and nationalities to the growth of the United States. 'The World Is Yours' deals with the advances of science as evidenced in the research and exhibits of the Smithsonian Institution.

"The Educational Radio Script Exchange of the radio project, organized in 1936 to serve as a clearinghouse for radio scripts and production suggestions, offers scripts free of charge to high schools, college groups, workshops, and other local radio groups producing their own programs. The Federal project has also developed the use of supplementary visual aids designed to help listeners to understand the programs better, and it has distributed many copies of this material. The local development of radio has also been promoted by the allocation of emergency relief funds to school and college radio centers. The Office of Education has helped to establish a short-term radio workshop at New York University for educators interested in obtaining radio experience.

"The radio project is carried on under the Commissioner of Education, and is in immediate charge of a director. It includes a script division for writing programs, a production division (now centered in New York City), an audience preparation division, and a business division.

"The National Broadcasting Company and the Columbia Broadcasting System and their affiliates cooperate with the Office of Education and contribute funds for the project. Funds have also been advanced by the Federal Radio Education Committee for the development of the Script Exchange, by the Rockefeller Foundation for scripts on local government, by the Smithsonian Institution for expenses incurred in preparing a series of scripts, by New York University for the radio workshop, and by the Committee on Scientific Aids to Education for recordings. A number of private educational organizations, such as the Service Bureau for Intercultural Education and the National Congress of Parents and Teachers, have cooperated extensively in the production of certain series of programs."

X X X X X X X X

MAP AND S-W NEWS LOG ISSUED BY MANUFACTURER

Stromberg-Carlson, radio manufacturer, this week distributed copies of a handy booklet entitled "Map of Europe and Short-Wave News in English Log."

Besides the clear, colored map of Europe, the folder lists the news-in-English broadcasts from London, Berlin, Paris, Rome, and other European capitals in Eastern Standard Time. It also carries a diagram showing the best times to use different short-wave bands.

Tips on tuning short-wave sets, a time conversion table, foreign language news broadcasts beamed on North America, and a list of NBC, CBS, and MBS stations are included in the folder.

X X X X X X X X

SPIES, SPIES EVERYWHERE, FCC TIPSTERS SAY

Federal Communications Commission mobile monitor stations have been kept busy in recent weeks, especially in the National Capital, checking on reports of illegal short-wave transmissions, often along the fashionable "Embassy Row".

Tipsters, who often mistake some form of electrical interference in their households, for "outlaw" station operations, have been unusually active since the European war started, FCC officials said.

Most of the tips, unless too outlandish, have been investigated, but no unlicensed stations have been located to date in Washington.

X X X X X X X X

CIVIL LIBERTIES UNION DEFENDS NAB CODE

The American Civil Liberties Union this week came to the defense of the new Code adopted by the National Association of Broadcasters in a sharp reply to an attack on the Code by John F. Patt, Vice-President of WJR in Detroit, and WGAR in Cleveland.

"In a telegram to the NAB Code Committee, Mr. Patt charged that the Code violates freedom of speech and 'goes beyond self-regulation into the realm of strangulation, stagnation and censorship', the statement released by the American Civil Liberties Union sets forth.

"Replying to Mr. Patt's attack, the Civil Liberties Union, in a statement signed by Arthur Garfield Hays and Morris L. Ernst, general counsel, and Quincy Howe, Chairman of the National Council on Freedom from Censorship, declared:

"It strikes us as highly improper for the Detroit station at which Father Coughlin's programs originate to criticize the new NAB Code for denying free speech. Complaint has already been made to the Federal Communications Commission against that station for denying opponents of Father Coughlin an opportunity to reply to him. What Mr. Patt really means is that the profit has been taken out of free speech since hereafter Father Coughlin or anybody else under the rules of the new Code cannot purchase time for the discussion of public issues. This is wholly in the interest of free speech since it puts everybody on the basis of equality and puts people without money on precisely the same footing as people with it. The new Code corrects a situation so obviously unfair to free speech as to commend itself to every reasonable person. It does away with the justified criticism that public discussion has been weighted heavily on the side of those with large sums to buy time.

"Father Coughlin's sponsors evidently do not believe in fair play. They want a 'fair advantage' through the purchase of time. The Civil Liberties Union condemns such an attitude and commends the enforcement of the Code in the interest of equal rights for all in the discussion of public issues."

X X X X X X X X

The Commerce Department reports that the Government of India anticipates purchasing American radio transmitting equipment, but has no details or indications as to whether the proposed purchases are to be considerable. Firms with representatives in British India should suggest attention to this possibility, the Department advises.

X X X X X X X X

TRADE NOTES

Through the cooperation of the Radio Corporation of America, the National Broadcasting Company and the RCA Manufacturing Company, two one-reel sound films, "Air Waves" and "Television", produced by Pathe for theatrical distribution, have been made available to schools, churches and clubs at transportation costs.

- - - - -

The Columbia Broadcasting System, operator of Station WJSV, Washington, last week paid a \$1,000 fee, equivalent to the cost of domesticating in the State of Virginia in order to avoid the necessity of defending an appeal to the State Supreme Court from a decision of the Corporation Commission.

An order entered at Richmond showed that Columbia planned to move its station to Maryland by May 1, 1940, and had agreed to pay the \$1,000 if the State would drop its proposed appeal, to which the Attorney General agreed.

- - - - -

In honor of the 1939 World Series broadcasts, which the Mutual Broadcasting System handled exclusively, WOR-Mutual's Engineering Department designed a special microphone. J. R. Poppele, Chief Engineer of WOR, produced the "Baseball Microphone". Its base is shaped like a home plate. The standard is a miniature baseball bat, and the mike itself - a non-directional, wide-angled "eight-ball" mike - is enclosed in an enlarged replica of a baseball.

- - - - -

Columbia Broadcasting System this week announced that Dr. Lee de Forest, distinguished pioneer in the development of wireless communication, has accepted membership on the Board of Consultants of "Columbia's American School of the Air". Dr. de Forest will serve as advisor to the air school in fields of science in general and radio technology in particular. His name brings to 41 the number of prominent educators and scientists who aid in planning the curriculum and supervising the educational contents of the ten-year-old "American School of the Air" programs.

- - - - -

Neville Miller, President of the National Association of Broadcasters, will be heard over WOR and the coast-to-coast Mutual Broadcasting System on Saturday from 1:30 to 1:45 P.M., EST, when he addresses the luncheon meeting of the National Conference on Civil Liberties.

X X X X X X X X

CROSLEY EXPLAINS FAILURE TO CARRY WORLD SERIES

The following statement was issued late last week by James D. Shouse, Vice President of the Crosley Corporation in charge of broadcasting.

"The Crosley Corporation, operators of WLW and WSAI, take this opportunity to state their deep regret at being unable to supply their audiences with play-by-play descriptions of the World Series games. We consider this to be particularly unfortunate in view of the fact that for the first time in 20 years, Cincinnati's own team was a participant.

"Station WSAI has for many, many seasons brought complete play-by-play descriptions of all baseball games. However, permission to carry the World Series broadcasts on WSAI was denied, even though we offered to make no charge to the Gillette Company or the Mutual Broadcasting System, who purchased the exclusive broadcast rights from the Commissioner of Baseball. WLW was offered the broadcast of the world series, but inasmuch as the games were sold this year on a commercial basis we did not desire to break long-term contracts entered into with other advertisers in order to carry advertising for a World Series sponsor. WLW also was offered at no cost for the Series games occurring on days when WLW was available.

"WSAI will resume the broadcasting of baseball games for the entire season of 1940. In making this announcement we do not wish to imply any criticism of the arrangements which were made, but have merely felt that our listeners are entitled to an explanation of the situation."

X X X X X X X X X

CUBAN RADIO IMPORTS DECLINE IN 1939

Private compilations show that Cuban imports of radio sets during the first eight months of 1939 numbered 11,257 units, with a total value of 209,039 pesos, as compared with 12,897 sets valued at 306,947 pesos, entered during the corresponding period of 1938, according to the American Commercial Attache.

Imports from The Netherlands during the first eight months of this year numbered 1,100 valued at 17,674 pesos, as compared with 948 units valued at 20,022 pesos, during the corresponding period of last year.

X X X X X X X X

LaGUARDIA LAUDS ASCAP AS MUSIC WEEK CLOSES

Mayor LaGuardia, after participating in the ASCAP concerts at Carnegie Hall, New York, last week lauded the "week of music" which ASCAP sponsored in celebration of its twenty-fifth anniversary.

After an introduction by former Mayor James J. Walker, LaGuardia said:

"I think it's great that here in New York we are having a week of wartime horror. I am glad to say that America is now repaying our musical debt to Europe in full."

On Wednesday night the New York Mayor wielded a baton over the bands of the police, fire, and sanitation departments.

X X X X X X X X X X

CODE RULING JUSTIFIED, SAYS EDITOR

"The new rule laid down by the Code Committee of the National Association of Broadcasters binding individual stations to refuse hereafter to sell radio time to 'spokesmen of controversial public issues' widens the scope of a policy already in force on the major networks", the Washington Star stated editorially this week.

"Under the regulations now announced the presentation of 'controversial' matter will be confined to free periods granted to 'representative spokesmen or groups * * * in accord with public interest, program balance and availability of time', or to the forum type of program, which may or may not be commercially sponsored, but where both sides of a question are treated equally.

"The reason for this step, the Committee said, was the realization that, 'in the absence of any self-imposed policy to the contrary, it is conceivable that some individuals or groups with financial means to do so could buy all the available time necessary to monopolize, dominate or control the discussion of public issues through the radio medium, precluding a fair opportunity for an opposition without financial resources to present its case to the radio audience.'

"More tangible than this cure for a potential evil is the likelihood that the rule will limit the effective range of some notable voices whose advocacy of causes tends to exceed the bounds of polite debate.

"Coming at a time when the arms embargo controversy is at its height, the new ruling, applying to about 92 percent of commercial radio, undoubtedly will be the target of attack. Until and unless it is demonstrated, however, that it infringes on a free and frank discussion of public issues that is unmarked by the introduction of extraneous factors, it stands as a proper exercise of the right of self-regulation."

X X X X X X X X