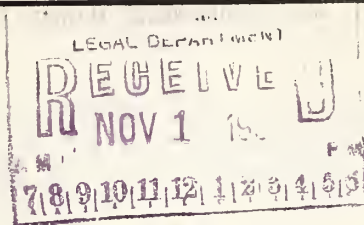


HEINL RADIO BUSINESS LETTER

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No. 1170

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October 31, 1939.

NAB, EMBROILED IN CODE ROW, SUMMONS DIRECTORS

With the controversy over the NAB Code ban on paid broadcasts of controversial topics growing, Directors of the trade organization will meet in Chicago on Thursday and Friday of this week in an attempt to mollify critics and avert a wider split within broadcasting ranks.

While Washington officials of the NAB predicted that the Directors will reaffirm their support of the Code provision, the Directors will consider at least one proposal to modify the controversial ban.

With the expiration of most station contracts with the Rev. Charles E. Coughlin last Sunday, the NAB has been informed that many of the stations are determined to renew the weekly series of talks regardless of the consequences.

John Shepard, III, President of the Yankee Network, whose Northeastern stations have formed the backbone of the Coughlin hookup of 40-odd radio outlets, has taken the lead in demanding modification and has stated that he will renew the series even if he has to give the time to Father Coughlin.

So far, NAB officials said, only four formal resignations have been received since the Code controversy arose. Three of these are owned by Elliott Roosevelt and his wife, and the fourth is associated with his interests. Young Roosevelt, when he announced his intention of quitting the NAB, said ten members of the Texas network would resign as he did.

NAB Directors, while encouraged by the general endorsement of the Code by James L. Fly, Chairman of the Federal Communications Commission, have been disturbed by attacks from other quarters. Elliott Roosevelt criticized it in a broadcast from Windsor, Ontario, and David Lawrence, Washington editor, assailed it in a national hook-up over the week-end. (See stories elsewhere in this issue).

The Committee on Industrial Organization, on the basis of action taken at the recent national convention, is advising its member unions to challenge the NAB Code and demand the right to purchase time for the discussion of controversial issues.

Holding that the Code ban on paid controversial broadcasts is an infringement of free speech, the C.I.O. contends that the provision can be used to preclude all labor issues. Labor organizations, its officials insist, should have the right both to buy time and demand free time in certain cases if the discussions are "in the public interest".

A legal question also has arisen to bother the NAB Directors. Mr. Shepard has made the point that because the Code, which became effective October 1, sanctions existing contracts up to a year from that date, Father Coughlin carriers may continue at least until October 1, 1940, without violating the Code.

Fear that failure to observe the Code provisions might result in punitive action by the FCC, was expressed in some industry quarters. Recalcitrant stations, it was thought might be regarded as vulnerable to attack before the FCC which could take judicial notice of their purported failure to observe Code provisions in applications dealing with their facilities or in connection with license renewals.

At the FCC, however, no basis could be found for such observations or rumors. While NAB President Neville Miller and Public Relations Director Ed Kirby have discussed the Code provisions with members of the FCC, they pointed out they did so simply to keep key officials informally advised of steps being taken by the industry to improve operating standards.

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ELLIOTT ROOSEVELT SEES WAR OVER NAB CODE

Elliott Roosevelt, discussing what he called a "great battle" developing in the radio industry over a recent Code ruling of the National Association of Broadcasters, said in a broadcast talk Saturday night that in America "today, more than ever, outspoken free speech should be encouraged". His broadcast came from Windsor, Ontario, Canada.

Mr. Roosevelt referred to the NAB ruling which forbids purchase of radio time for discussing "controversial issues", except under certain conditions, and said:

"Many broadcast station owners are up in arms over its provisions and claim that it is a flagrant example of censorship that throttles free speech and is the opening wedge for the Government to step in and take over this job.

"When that occurs, broadcasting in this Nation will become nothing but a propaganda tool. The Texas State network has expressed its disagreement with the Code and has stated any one can buy time on its facilities to discuss any controversial issue."

Mr. Roosevelt, who spoke over Windsor Station CKLW, said that the Rev. Charles E. Coughlin, Royal Oak (Mich.) priest, was "welcome" to purchase time on the Texas network. Father Coughlin of late has been devoting his Sunday radio hour to the neutrality question as it involves the arms embargo.

"Officers of the Texas radio network have stated that Father Coughlin is welcome to purchase time to discuss anything he pleased on our facilities just so long as he observes the Constitution of the United States, which means that he does not foster racial or religious hatred or advocate a change in any way of our form of Government", Mr. Roosevelt said.

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FCC MAKING STUDY OF COMMUNICATIONS FACILITIES

The Federal Communications Commission is investigating communications facilities in anticipation of a national emergency, James L. Fly, Chairman, said this week.

The needs of governmental agencies, especially the armed services, are being examined in the light of plans for national defense, Mr. Fly said.

While Mr. Fly denied that the program was being undertaken as a direct result of any immediate developments in world affairs, he said that it was part of the national defense scheme. He likened it to the work of the War Plans Divisions of the War and Navy Departments, where new situations constantly are visualized and plans made to meet them.

The whole program also is being studied in connection with a review of the laws which might be applicable, and if there are any obstructions found to any plans, with the view, either to get the legislation ready now for introduction when the emergency arises, or, insofar as possible, clear the air promptly.

The President is given broad powers over communications in time of a national emergency, or even to enforce the neutrality laws. He may take control of stations and amend or issue new regulations to suit the situation, but, of course, with a provision that if the Government does exercise control, there must be just compensation. While there is authority to take the stations over for control, or even to close them and remove their apparatus, there is nothing which would give the Government the right to put censors in their offices. At this time there is no way in which the Government can lawfully inspect messages going out of the country over the radio or cable communications.

The task, under present conditions, would be a gigantic one, it was pointed out by Chairman Fly, because many of the messages are in code and there are about 60,000 such messages every 24 hours in New York City alone. It would take hours, and perhaps days, it was pointed out, for the experts to break down the codes, and even when broken down, maybe the users would have shifted to a new one.

Of course, it was explained, in time of war, codes might be prohibited to private individuals and firms which would lighten but not entirely remove the problem, because there are codes using even plain language, with even the text reading smoothly, and these are declared to be the most difficult to break down, because they are hard to recognize as code.

Efforts are being made to ascertain the needs of all departments of the Government - this is particularly true so far as services are concerned - so that a program can be worked out which would immediately become effective if necessary. With this the Commission is seeking to determine what may be expected of the communications industries under this system to acquaint them with the governmental needs.

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SENATE MAY GET AMPLIFYING SYSTEM

A survey of the possibilities of installing an amplification system in the staid United States Senate chamber is being conducted at the Capitol although officials decline to discuss it at this stage.

Complaints that visitors in the galleries failed to hear some of the words of distinguished Senators during the neutrality debate induced the study, it is understood. The House, equipped with "mikes", had no such complaints.

The Senate chamber offers more of a practical problem than the House, however, because Senators talk from their seats of wherever they happen to be standing, whereas members of the House speak from the "well", or just in front of the Speaker's desk.

Recalling the ire with which several veteran Senators greeted the dial telephone, Capitol officials are apprehensive of the fate of "mikes" if they are placed on every senatorial desk.

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CROSLEY TO SELL TIME ON NEW S-W STATION

With the completion in November of its new 50,000 watt international station, Station WLWO, owned by the Crosley Corporation, Cincinnati, Ohio, will sell time on the station pursuant to the new rules governing international broadcasting stations permitting sponsorship. Formerly known as W8XAL, the station will begin operation with entirely new equipment and will beam its signals toward the South American market.

The station management and operation, along with the pioneering work in time sales, will be under the direction of James D. Shouse, Crosley Vice-President in Charge of Broadcasting, and Robert Dunville, General Sales Manager.

The signal will be concentrated along the east coast of Brazil, Uruguay and Argentina, directed toward such cities as Rio de Janeiro, Buenos Aires, Montevideo and Sao Paulo. It is estimated that WLWO will transmit more than 100,000 watts in this direction. A rhombic antenna concentrates the station's full output in a small beam, making it possible to deliver a signal strength of more than 600,000 watts at any given point, it was stated.

The station will operate on six frequencies, which will be changed throughout the day so that the comparative signal strength always reaches the east coast of South America. The frequencies are 6060; 9590; 11,870; 15,270; 17,760, and 21,650 kc.

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THREE CONGRESSMEN CROSS WORDS AT FCC HEARING

An FCC hearing room looked like the House of Representatives chamber on day last week when three members of Congress tangled in oral arguments involving pending applications of their respective constituents.

The free-for-all developed after Representative Kent Keller (D., Ill.) appeared as co-counsel in behalf of the application of Orville W. Lyerla, Postmaster of Herron, Ill., for a new local station there on 1310 kc. The Federal Communications Commission had granted the application last July but vacated it on motion of KFVS, Cape Girardeau, Mo., and WEBQ, Harrisburg, Ill., time-sharing stations on 1210 kc., which had mutually conflicting applications.

After Reed T. Rollo, Washington counsel for Mr. Lyerla, had made his general reargument and had introduced Representative Keller, George O. Sutton, counsel for the other two stations, presented Congressmen to speak on their behalf. Representative Clyde B. Parson (D., Ill.) then extolled the virtues of WEBQ, while Representative Orville Zimmerman (D., Mo.), followed suit for KFVS. Indignant because he said his brother Congressmen had not kept "within the record", Representative Keller then sounded a five-minute eulogy in behalf of Herron and its need for facilities. Acting Chairman Walker tried several times to shut off this mode of discussion without avail.

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PRESIDENT LAUDS RADIO IN SPEECH TO FORUM

Radio as a transmitter of ideas was praised by President Roosevelt last week in an address transmitted from Washington to the Herald-Tribune Forum in New York City.

"I am glad to say a word in this forum because I heartily approve the forum idea. After all, two eighteenth century forums in Philadelphia gave us the Declaration of Independence and the Constitution of the United States", he said.

"It is the magic of radio that has so greatly increased the usefulness of the forum. Radio listeners have learned to discriminate over the air between the honest advocate who relies on truth and logic and the more dramatic speaker who is clever in appealing to the passions and prejudices of his listeners.

"We have had an example of objective reporting during recent weeks in the presentation of international subjects, both in the press and the radio. Right here I should like to throw bouquets to the majority of the press and the radio. Through a period of grave anxiety both have tried to discriminate between fact and propaganda and unfounded rumor and to give their readers and listeners an unbiased and factual chronicle of developments. This has worked so well in international reporting that one may be pardoned for wishing for more of it in the field of domestic news. If it is a good rule in one, why is it not a good rule in the other?"

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MUSICIAN CONTRACTS TO BE DISCUSSED IN NEW YORK

Preliminary negotiations for the revision, extension, or renewal of contracts between organized musicians and the broadcasters will be discussed this week at a conference between spokesmen of the American Federation of Musicians and Independent Radio Network Affiliates.

With the present contracts expiring on January 17 for network affiliated stations, the IRNA Board will convene in New York Wednesday, November 1st, preparatory to its meeting with AFM the following day. Contracts of non-network independent stations with AFM locals, following closely the terms of the network affiliate agreement expire in September.

The IRNA Executive Committee, after holding its preliminary session, will meet with the labor experts of the major networks. Under the existing contracts, the networks share in defraying cost of hiring musicians for stations, based on a stabilization fund through which they contribute to payments made by affiliates.

The IRNA Executive Committee also will meet with a group representing National Independent Broadcasters, Inc., headed by former Federal Radio Commissioner Harold A. Lafount, on the same problem. The contract evolved by independent stations differs only slightly from that entered into by the affiliated stations through IRNA.

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ADVERTISERS TOLD RADIO AUDIENCE HAS GROWN

The Association of National Advertisers, who collectively foot the bill for this country's radio entertainment, were told that the radio audience has grown since the outbreak of the European war when they met last week in Hot Springs, Va.

The growth, it was explained, was not due so much to extra sales of receivers as to the fact that set-owners are listening more often to keep abreast of international developments.

At the same time the advertisers were reported as being worried at the increasing cost of radio talent and the trend toward unionization in the industry. Neville Miller, President of the National Association of Broadcasters, addressed the convention on the work of the trade organization in advertising research.

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DAVID LAWRENCE ASSAILS NAB CODE OVER CBS

As one of the most outspoken critics of the Code of the National Association of Broadcasters, David Lawrence, distinguished editor and columnist, took the air Sunday to answer Neville Miller, President of NAB, and amplify his opinions on the ban on sponsored broadcasts of controversial topics.

Edgar Bill, Chairman of the Code Compliance Committee of the NAB, is scheduled for a broadcast next Sunday to answer Mr. Lawrence. Mr. Bill will be heard from Peoria, Ill.

Some of the highlights of Mr. Lawrence's address follow:

"The NAB says that it will gladly give 'free time' for the discussion of controversial questions. But how much 'free time'? There we encounter the true censorship difficulty. Occasionally -- but not regularly and 'when facilities permit', there will be 'free time'. The opportunity to have a regular week-by-week program on a controversial subject is, therefore, to be denied hereafter to any group or organization or citizen. You can buy time for a series of programs to sell toothpaste, but not to sell ideas.

"The reason given by the NAB is that it is desired to prevent the wealthy from having too much time on the air. At first glance, this sounds plausible. But let us examine the merit of the contention. In the first place, the NAB permits itself a conspicuous exception. It will allow the sale of time for political broadcasts during campaigns but conveniently forgets to equalize the financial handicaps of the political party with the lean purse as against the political party with the fat purse. If unequal financial capacity is to be the measure of self-restraint between campaigns, should it not also be applied at a time when political parties, well supplied with funds, seek to exploit the people or that part of the electorate which is sometimes referred to as the 'underprivileged'?

"Again while we are on the subject of finances, if the radio station owners are solicitous about financial inequality, will not some day the question be asked them why they permit huge corporations and big businesses to buy all the time they want to sell their products while the competing businesses not so fortunate must face that competition in sales? Was it not Thurman Arnold, Assistant Attorney General of the United States, who raised this very issue recently as to the alleged unfairness of large sized capital in using huge advertising appropriations to keep the little fellow from successful competition? Have we forgotten already the Tugwell doctrine written into some of the codes of the NRA days whereby advertising was to be limited by concerted action of the code members?

"Clearly we draw ourselves into the ensnaring web of collectivism when we start equalizing financial and economic opportunities and it is transparently fallacious to say that an organization with an idea to sell -- as, for instance, a labor union seeking to buy time to carry on a campaign for better wages for its members -- is not engaged in selling an economic or material thing.

"Radio is under no legal or moral obligation whatsoever to hold the scales even between those who can or cannot afford to buy time for any lawful purpose. Nor is there such a grave danger of undue influence in a buy-as-you-please policy as you may have been led to believe. I can remember political campaigns, for example, in which one political party paid huge sums for newspaper advertising while its opponent did not, and instances also where all the newspapers in a given city backed a particular candidate and yet neither of these advantages affected the outcome of the election even though there was at the time no medium like radio with which to appeal for votes.

"I do not believe we need fear the people's capacity to discriminate between sound and unsound argument irrespective of the fact that the actual quantity of words may be greater in the presentation of one side than the other.. . . .

"Now it is claimed that if the radio stations sell time on the air the controversialists will monopolize the air. This seems to me more of a pretext than a reason because we all know that a balanced program can be arranged by any station just as is the case with the issuance of a newspaper which keeps a general ratio between the amount of news matter and advertising.

"The radio business is a form of publishing. The radio station itself can limit the amount it will accept from advertisers for a given series of programs and yet be above criticism. American newspapers confronted often by mechanical problems at the last moment of going to press lay aside some paid advertising. Also there are newspapers which do not accept an excessive quantity of what is termed political paid advertising and in some instances none at all is accepted. But, in the main, newspapers are careful not to bar anybody who conforms to the laws of libel and they do not discriminate between users nor do they join with other newspapers across the country in a national boycott of particular kinds of lawful advertising.

"The new code adopted by the NAB is confessedly created to prevent governmental regulation of radio programs. In my judgment it will bring on radio regulation by Government faster than any other single circumstance through the action of aggrieved parties seeking redress. For history shows that so-called voluntary efforts to exercise police power in an industry have invariably resulted in public clamor to have a 'disinterested' institution do the regulating. Usually, Government as the representative of all the people and the theoretical custodian of their delegated power, offers itself as the 'disinterested' institution.

"What then is the answer? We have evolved the answer through centuries of time with respect to the press. Let each owner decide for himself what he shall permit to be published. If he abuses that privilege, the listener can turn off the radio station and move his dial to another station just as the reader can decline to subscribe to a publication he dislikes. Stations which put on undesirable programs involving bad taste or unfairness in any respect as a chronic policy lose listeners rapidly and that means a loss of advertising potentiality.. . . .

"Let each and every radio station management be the judge of what it shall not carry on its programs and let no group of owners attempt in concert to foist on the American people a form of censorship of radio. The only censorship we should ever tolerate is the censorship imposed by the listeners themselves. For in any other direction lies the end of precious civil liberties and the introduction of government control over all mediums of communication whether spoken or written.

"It is not too late for the NAB to modify its course. It should withdraw from its code those provisions relating to the purchase of its facilities by public organizations and offer its wares in a balanced relationship between information, argument and entertainment which individual management, exercising good judgment, can easily achieve."

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TWO STATIONS GRANTED FOR ONE CITY

The Federal Communications Commission last week entered its final order granting the application of Saginaw Broadcasting Company for a new station in Saginaw, Mich., to operate on 1200 kc., 100 watts night, 250 watts, local sunset, with specified hours of operation, and the application of Gross and Shields for a new station in Saginaw to operate on 950 kc. with 500 watts power, daytime hour. The order is effective November 1, 1939.

The FCC also granted the application of Spartanburg Advertising Company for a new station in Spartanburg, S. C., to operate on 1370 kc. with 100 watts at night, 250 watts until local sunset, unlimited time.

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BROADCAST MUSIC PLAN IS COMPLETED

With its plan of organization completed, the new \$1,500,000 Broadcast Music, Inc., subsidiary of the National Association of Broadcasters, hopes to begin active operation as soon as formalities of the organization are cleared through the Securities and Exchange Commission.

A meeting of the Broadcast Music Board was scheduled for New York today (Oct. 31), and the organization plan was to be approved in final form. President Neville Miller reported prior to the meeting that response from the industry has been encouraging and that pledges made at the special convention on copyright in Chicago September 15 for the \$1,500,000 stock would soon be solicited. It is expected a series of NAB regional meetings, in the 17 districts into which the country is divided, will be arranged for this purpose.

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TRADE NOTES

The Electrical Division of the U. S. Bureau of Foreign and Domestic Commerce has an inquiry from a Commercial Attache for names of manufacturers of pocket radio sets with headphones for use by foot patrolmen. Firms making such equipment are requested to communicate with the Division, in order that an up-to-date list can be prepared.

The Federal Trade Commission has scheduled a hearing involving the Automatic Radio Manufacturing Company, Inc., Boston, and others, for Wednesday, November 1, at 10 A.M., Room 410, Federal Building, Buffalo, N. Y. Unauthorized use of well-known trade names is the complaint. Trial examiner, Lewis C. Russell; Carrel F. Rhodes, Commission attorney.

The Metropolitan Life Insurance Company Saturday filed suit in Federal Court of New York, charging the New Jersey Broadcasting Corporation with making defamatory statements in the Italian language. The insurance company asked for \$250,000 damages. The plaintiff alleged that the radio company, operating through Station WHOM, made false and derogatory statements in a series of broadcasts made at intervals between January 1 and August 29. In the first of these, the complaint asserted, the Metropolitan company was accused of distributing pamphlets that reflected on the character of a man who figured in the broadcasts. The broadcasts continued despite warnings, it was alleged.

Akron, Ohio, labor leaders said last Saturday night they had asked the Federal Communications Commission to "take action" in connection with cancellation by Radio Station WJW of a weekly broadcast contract with the Akron Union Industrial Council (C.I.O.). S. H. Dalrymple, Council spokesman, asserted the station cited the new Code of the National Association of Broadcasters banning "controversial material".

The monthly index of direct-mail volume in the current Printer's Ink shows an increase of 0.5 percent over 1938 for September. Cumulative volume for nine months is 3.6 percent better than in 1938. The index of radio advertising in September was up 28.5 percent over 1938, but off 6.1 percent from August. For nine months the index records an increase of 15.5 percent over 1938.

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EDITOR HITS RADIO IN ASCAP ROW

Following are excerpts from a recent editorial appearing in the Chicago Daily News and subsequently copied and circulated by American Society of Composers.

"Why are the radio interests so determined to deprive song writers and song publishers of reasonable recompense for the products of their creative talents and industry? In some half dozen states in recent years legislators have been prevailed upon to enact so-called 'anti-monopoly' statutes against the American Society of Composers, Authors and Publishers, more familiarly known as ASCAP. ASCAP is an unincorporated, voluntary association of creative artists and publishers formed many years ago to safeguard the rights of its members under federal copyright laws. . . .

"Yet even among broadcasters there seems to be a dawning realization of the futility of an effort to nullify federal copyright laws through state legislatures. Perhaps this explains a movement begun by broadcasters at a recent convention in Chicago.

"Enthusiastically backed by nearly every radio station in the country, this looks toward the establishment of a radio-controlled rival for ASCAP. Such an organization would eventually give radio power to deal dictatorially with a carefully controlled clique of publishers, composers and authors. Happily, this effort seems as surely foredoomed as all previous attempts to crush ASCAP. ASCAP has done more than merely safeguard the economic rights of its members. It has served to educate them to the nature and importance of those rights. The only manner in which the new organization might grow into a real rival for ASCAP would be through assuring its members greater security and more adequate recompense for their talents."

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KDKA READY TO OPEN 50 KW. STATION

Westinghouse Station KDKA, Pittsburgh, will go on the air next Saturday from its new 50,000-watt transmitting station at suburban Allison Park, 19 years and two days after it broadcast the world's first scheduled radio program over a puny 100-watt transmitter.

In striking contrast to that first fragile, adolescent equipment which included a wire aerial fastened to a factory chimney, the new transmitter is equipped with banks of sleek, powerful transformers, streamlined cabinets concealing all radio apparatus, a sound-proof master control room, and a 718-foot antenna tower.

Although for the present the new transmitter station will send out only the standard broadcasts of KDKA, it is designed ultimately to assume the broadcasting of short-wave programs over the Westinghouse international station WPIT (formerly W8XK), which is now operating at Saxonburg, and to inaugurate noise-free experimental short-wave programs over a "pickaback" aerial which will perch atop the 718-foot standard broadcast tower. Standard wave length broadcasting facilities of the station have been transferred from Saxonburg to Allison Park in order to provide more powerful radio reception for Pittsburgh's metropolitan area, Walter C. Evans, Manager of the Radio Division of Westinghouse, explained.

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