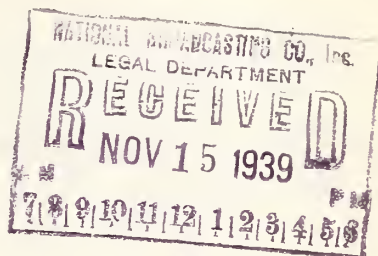


# HEINL RADIO BUSINESS LETTER

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## INDEX TO ISSUE OF NOVEMBER 14, 1939

Limited Advertising, Safeguards Urged For Television.....	2
Administrative Board Created By FCC.....	5
McDonald Urges Curb On Commercial Television.....	6
Two Classes Of Television Stations Proposed.....	9
Court Upholds FCC In El Paso Appeal.....	10
Gannett Solicits Donations To Fight Radio Curbs.....	11
Radio Censorship Seen In Argentina And Uruguay.....	12

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November 14, 1939

## LIMITED ADVERTISING, SAFEGUARDS URGED FOR TELEVISION

While insisting that television has not yet emerged from the experimental stage, the Television Committee of the Federal Communications Commission this week recommended liberalization of the rules to set up two classes of visual broadcasting stations, one of which will be permitted to carry advertising to help defray the cost of preparing programs.

Explaining that the "amber light" should precede the "green light" in television development, the Committee, headed by Commander T.A.M. Craven, asserted that the Commission should remove all obstacles to progress in the infant industry but at the same time must safeguard the public from costly over-promotion.

Finally, the FCC Committee, which has been studying the new art since last Spring, suggested that this might be an opportune time for American manufacturers to get a foothold on future world trade in television while European countries are occupied with war.

The report was the second on television, the first having been submitted last May. It was signed by Commissioners Craven, Norman S. Case and Thad H. Brown. It was divided in three parts, but the second and third sections, which deal with present licensees and applications, were withheld until after the FCC acts on the general policy set forth in Part 1.

Accompanying the report were an allocation table prepared by the Engineering Department and proposed new rules governing television operations.

While retaining the ban on unrestricted sponsorship of television programs, the FCC Committee points out "sponsorship is not prohibited, provided such sponsorship and the program facilities or funds contributed by sponsors are primarily for the purpose of experimental program development".

The Committee notes certain television progress since last May, but feels that a "crucial" stage has been reached. Less than a thousand television receivers have been sold since that time, and nearly all of these are in New York City. To date only seven of the 19 channels available for television have been developed to the point of initial readiness for technical service of any character.

Yet the Committee is of the firm conviction that, while not eager to purchase receivers at this time, "the public does not desire to be deprived of the opportunity to enjoy the benefits

of television when it is ready for public service". It is the Committee's further opinion that progress henceforth "is directly dependent upon the development of public interest in television as a broadcast service, and that such interest can only be developed through the broadcast of programs that have a high public appeal".

Accordingly, the Committee makes specific recommendations which embrace:

1. Greater public participation in experimental operation.
2. Construction of more stations by properly qualified applicants.
3. Elimination of any regulation which interferes with proper business economic processes.
4. Adoption of a license policy for television broadcasters.
5. Allocation of the seven lower frequency channels as follows: 3 channels to metropolitan districts in excess of 1,000,000 population; 2 channels to areas of between 50,000 and 1,000,000, and 1 channel for districts of less than 50,000.
6. Stimulation of technical development on additional channels now reserved for television.
7. Development of program service in conjunction with research and experimentation.
8. Establishment of minimum requirements for television transmitters.
9. Protection of the public, as far as possible, against loss through obsolescence in receivers.
10. Modification of prohibition against commercialism to permit sponsorship on experimental programs, under certain conditions.

Noting the high cost of producing programs for television stations, the Committee said:

"In spite of the convenience afforded by television in the home, it cannot be assumed safely that the public would be entirely satisfied with a quality of television program service inferior to that secured from competitive media, such as motion pictures, particularly the news reels.

"The Committee has been informed that the average cost of the average motion picture production is approximately \$300,000, and that the approximate cost of rendering television programs in New York City for one week on a 12-hour per week broadcast basis is \$15,000. Thus, if television is to become a real service to the public, the licensees must be adequately financed and be assured of an adequate revenue from the service rendered.

"Not only must this huge cost be shared by several licensees, but also many stations interconnected in a program distribution system appear at this time to be necessary before adequate program service to the public is possible.

"To date no connecting links have been constructed because there are not enough stations to justify construction of the interconnecting facilities. Applications for other than television technical research stations have come from only seven communities of the nation.



"The Committee is likewise of the opinion that a wholesale distribution of receivers at this time is unsound because it may lead to retardation rather than acceleration of the ultimate development of television. Public purchase of receivers in advance of proper television transmission facilities would naturally create a demand for such transmitters. At the present stage of development good programs cannot be furnished. The more logical procedure would be the establishment of transmitting stations adequately equipped and organized to render program service so attractive to the public that it will purchase the most modern receivers.

"Only three television stations are now carrying on regularly scheduled broadcast service to the public through their licensed facilities. Broadcast service of a suitable standard can only be rendered at a considerable expense and without any immediate monetary return unless the licensee is engaged in the manufacture and sale of television transmitters or receivers, and even in such cases the return is problematical . . . .

"The Committee has given careful and sympathetic consideration to this proposal, particularly from the standpoint of estimating the extent to which the present restrictions against commercialization constitute a barrier to orderly progress. The Committee is of the opinion that at present the claimed advantages of removing the restrictions against commercialization of television do not outweigh the potential disadvantages.

"Today there is no circulation to attract any sponsor to television as a logical media for securing public response. It appears obvious that before commercialization of television can become feasible, the service should be ready to sell on some reasonable basis of circulation value to the sponsor. Since only a few experimental stations in operation today are rendering broadcast service to not more than 1000 receivers, there is no convincing argument that the removal at this time of the ban on commercialization will affect the development of television in any positive manner.

"On the other hand, there is grave possibility that premature commercialization could retard logical development. There is particular danger that advertising rather than entertainment or education might easily become a paramount factor in programs. In addition, premature commercialization may easily lead to a scramble for television channels by unfitted applicants who have no real public service concept. It may precipitate many stations in local markets before any source of good programs is available. Consequently, it is certain that public reaction to television service would be adverse.

"The Committee does not believe that immediate commercialization of television program service would increase the sale of receivers. On the contrary, it might easily result as a retardation of the ultimate sale of such receivers on a large volume basis.

"Furthermore, immediate commercialization threatens to open the door wide to financial exploitation of the public without any sound basis therefor. And, finally, premature commercialization might crystallize employment and wage levels before a new-born art and industry has any opportunity to gain



sufficient experience to obtain the stability in this phase of the service which is so essential to employer and employee alike. . . .

"It may be that the time is fast approaching when pioneers must receive a return not only on their huge investment but also must secure remuneration for operating expenses. Consequently, the Committee feels that program sponsorship by advertisers is one of the logical means of support for the new television service to the public when such service is ready. The Committee recognizes a particular need for keeping the Commission's regulations abreast of progress. Therefore, applicants should be given the opportunity, at any time, of securing changes in the rules if, as a result of a public hearing, they can demonstrate that public interest will be served by such changes.

"While the Committee does not recommend any radical change in principle in existing rules relating to commercialization, it does suggest a clarification and simplification of existing rules in this respect.

"It should be made clear that the rules do not constitute an artificial barrier to the logical development of program technique, including the development of methods for making television useful as an advertising media conforming to favorable public reaction. Also it should be apparent that sponsorship is not prohibited, provided such sponsorship and the program facilities or funds contributed by sponsors are primarily for the purpose of experimental program development. The intent of the rules should be to prevent commercial exploitation of television as a service to the public prior to demonstrated proof of its readiness for regular operation in accord with public interest, convenience or necessity. Other than such alterations, the Committee is of the opinion that the Commission should not permit regular commercialization of television at present, but that instead the Commission should hold itself ready to consider the problem anew when general development progresses further into practicalities."

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#### ADMINISTRATIVE BOARD CREATED BY FCC

The Federal Communications Commission has issued an Administrative Order (No. 2) effective December 1, changing the routine duties of members of the Commission.

The Order creates a Board to be known as "The Administrative Board" to handle the routine functions formerly in the hands of individual Commissioners. The Board is composed of the General Counsel of the Commission, Chief Engineer, Chief Accountant and the Secretary.

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## McDONALD URGES CURB ON COMMERCIAL TELEVISION

Limited commercial television, confined to the New York metropolitan area, was proposed to the Television Committee of the Federal Communications Commission this week by Commander Eugene F. McDonald, Jr., President of Zenith Radio Corporation, Chicago, just a short while before the release of the Committee's report.

At the same time, Commander McDonald, who opposed the public debut of television last Spring, stated he would oppose any move toward Government subsidy of the art.

His letter to the Committee follows:

"In your consideration of television and the policies likely to be most effective in furthering its development, may I present a viewpoint that results from careful study of the engineering aspects of television as well as from long experience with broadcasting and radio reception.

"In the United States, the radio industry is the product of private enterprise. We can claim superiority over any country in the world, because our government did not hamper the industry by subsidy or control, or by such well-meant participation as resulted in holding back radio development abroad.

"First, I wish to pay tribute to the pioneering work in television of Mr. David Sarnoff and the Radio Corporation of America. With his knowledge of the great possibilities for the founding of an important new industry, he courageously invested not only considerable sums of speculative capital but high personal and engineering ability in the pioneering effort to secure leadership in this new field.

"Great care should be taken by the government at this time so that no obstacle may exist toward working out feasible solutions, both technical and economic, of the problems that must be mastered before television can launch itself in the proper sphere across the entire country.

"Just what the future role of television is, cannot now be foreseen for it is still in an early stage of development. Fundamental changes in its application and in its technical aspects may lie ahead. For example, it may be found that television transmitted over telephone wires, with each subscriber paying a monthly fee, may be more feasible than its broadcasting over radio but no method of supporting television operating costs can be proved till it is tried. In England, television was bringing sports events into the movie theatre. Such outlets may have added to self-support for programs. The problem of supporting television may be partially cared for if it may be found that television has the ability to introduce into the home, through the eye, demonstrations of new products. Very great resistance



is encountered by salesmen in entering the home to make such demonstrations, and it may be that television will have unique advertising value and can partly sustain itself on this feature.

"We must consider, however, that this side of television is still in the experimental stage. It may be wise, therefore, to confine commercial licensing to areas where enough receivers are known to exist that results may be observed, as, for example, the area surrounding New York City with its great concentration of high income population that can be reached from a single telecasting center.

"In any event advertising should be permitted in almost any reasonable form so that diversified tests can be made to ascertain the possibility of self-support from any proposed source.

"If experimentation is confined to a single area that is known to have all suitable characteristics, such as New York with its 15,000,000 potential audience within fifty miles of the Empire State Building television transmitter, it will also be a comparatively easy matter to alter or even cancel the experiment, if it is unsuccessful, whereas it might be genuinely difficult to correct a nationwide mistake.

"In the press there recently has been discussion of the possibility of a government subsidy of television. It seems to me this would have a stifling effect upon television and would be undesirable from other standpoints. Obviously the Government cannot finance all comers and it could hardly justify providing direct or indirect profits to a single entrepreneur. The government could not, without prejudice to other existing media of advertising, such as newspapers, magazines, and radio, subsidize a television development which, in its final outcome, might compete with self-supporting, existing advertising media representing private enterprise. This would be true whether the government permitted advertising at rates below cost or whether it confined itself to entertainment which is the framework by which most other advertising is carried to public attention. It would hardly be fair for government to lend its tax-secured resources to establish competition with existing advertising media in this way.

"There is the possibility that television may become a great avenue of mass communication, a great medium for the dissemination of ideas. If the Government steps in and subsidizes, it inevitably will be faced with the choice of giving preference with its subsidies to one or a few of the private organizations that might contribute acceptable material in adequate volume or of itself taking control of this new medium of communication and developing feeder and distribution services which, if successfully developed, would compete and crowd newspaper, magazine, and radio.

"Furthermore, technical and self-supporting economic progress may be hampered by government subsidies because of the rigidity of the inevitable government control. In England, for example, it has been found there was great interest in the distribution of sports events at the local motion picture houses. There, government regulation, carried over from radio broadcasting, is reported to have prevented paying substantial sums for

the right to transmit by television. Hence, sports promoters were unwilling, without adequate compensation, to permit distribution of their events, fearing that such distribution would cut off a portion of their paying audience without compensating income. And the government, with standard practices requiring nationwide observance, cannot leave to its administrators the necessary discretion and initiative to handle each case on its merits with the same effectiveness that numerous private enterprises now handle these matters.

"Finally, the problem of free speech will face television as it develops into a great avenue of mass communication and supplements the press and radio. In these fields, the Constitution guarantees the right of free speech. It would not be possible, if this new field of television were government-subsidized and government-controlled, to keep government influence from determining what should be telecast and what should not. This field of communication, it may be pointed out, is probably the most dangerous of all in which to take even a few steps leading toward government control by subsidy.

"It may be that like so many other developments in pioneering work they who introduced television are ahead of their time and that today the heavy expenditures required for maintaining television broadcasting are not warranted. It is reported that less than 500 sets have been sold to the public in the whole United States and that 90% of these are in the Greater New York area. At \$500 each, this would represent a total of only \$250,000.

"If that is the case, instead of having the Government come in and take over telecasting from its commercial backers and underwrite a development on which they misgauged the market, it might be better, at cost no greater than that expended for a few weeks of telecasting, to buy back all the sets that are outstanding so that unfavorable reaction from the public would be obviated.

"Further research and technical development may make television commercially self-supporting. That can only be proved by permitting commercial support of such development. Such proof must be based on realities and recognize that the new medium may compete with the press and with radio for the advertising dollar, for sources of programs and for the privilege of entertaining or instructing the public. But, until the real possibilities are better known and the other problems have been thought through, the government should: (a) give the greatest possible freedom to private enterprise for experimentation by removing any hampering rulings; (b) not become a financial partner by assuming responsibility for television's existence."

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John G. T. Gilmour, since 1931 Director of General Electric's Motion Picture Department, has been appointed Program Manager of the company's new television broadcasting station W2XB which will go into operation the latter part of this year, it has been announced by C. H. Lang, Manager of the Publicity Department. Charles R. Brown of the company's Market Research Section has been named to succeed Mr. Gilmour in charge of the Motion Picture Department. W. T. Cook will be in charge of scenarios for both pictures and television programs.

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## TWO CLASSES OF TELEVISION STATIONS PROPOSED

Two classes of experimental stations will be established by the Federal Communications Commission if it adopts rules recommended by the Television Committee.

The two classes of stations as defined in the proposed rules follow:

### Class I and Class II stations:

(a) A licensee of a television broadcast station shall not make any charge, directly or indirectly, for the transmission of either aural or visual programs.

### Class I Stations:

(b) Class I stations shall operate to conduct research and experimentation for the development of the television broadcast art in its technical phases but shall not operate for rendering regularly scheduled broadcast service to the public.

(c) Class I stations will not be required to adhere to the television transmission standards recognized by the Commission for Class II television stations.

(d) No Class I station shall operate when interference would be caused by such operation to the regularly scheduled broadcast service of a Class II station.

### Class II Stations:

(e) Class II stations shall operate to render scheduled television broadcast service for public consumption, and in connection therewith may carry out experiments with respect to program technique, determine power and antenna requirements for satisfactory broadcast service and perform all research and experimentation necessary for the advancement of television broadcasting as a service to the public.

(f) Class II stations shall operate in accordance with the television transmission standards (scanning, synchronization, etc.) which the Commission recognizes for this class of station. The Commission will recognize a modification in these standards upon a showing by the applicant proposing the changes that it will be in the public interest to require all Class II stations to adopt the proposed changes.

(g) Class II stations shall make all equipment changes necessary for rendering the external transmitter performance required by the Commission.

(h) Class II stations shall maintain a minimum scheduled program service of five hours per week throughout the license period. (The Commission may modify this minimum schedule in accordance with the showing on the merits in individual cases.)

(i) In case of failure of a Class II station to render its minimum of scheduled program service per week, the license therefor will not be renewed unless it be shown that the failure of program service was due to causes beyond the control of the licensee.

(j) Class II stations may broadcast sponsored programs, provided such sponsorship and the program facilities or funds contributed by sponsors are primarily used for experimental development of television program service. Solicitation, or the offering on the part of a licensee to anyone, of its licensed facilities for hire as a regular service to the public or as a service to sponsors on other than an experimental basis is prohibited.

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#### COURT UPHOLDS FCC IN EL PASO APPEAL

A mere showing that the income of an existing station may be reduced if another station enters its field is not sufficient to justify the Federal Communications Commission refusing to grant the newcomer a license.

The United States Court of Appeals so ruled this week in dismissing an appeal brought by the Tri-State Broadcasting Co., Inc., licensee of Station KTSM of El Paso, Tex., in its fight to overturn an order granted to Dorrance D. Roderick to construct a station at El Paso.

The company appealed from a finding of the Federal Communications Commission which contended that the firm had no right to appeal from its order, as economic injury, it suffered, is without legal damage.

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A new all-time high month in gross billings since the station was opened 19 years ago was reached in October by Westinghouse KDKA, according to S. D. Gregory, General Manager. During the month billings showed an increase of 18% over October of 1938. New business booked by KDKA during the month just closed topped the same period of last year by a margin of 63%. During the thirty day period, time and talent contracts for future programing hit the sum of \$102,469, an increase of \$63,487 over October of the previous year. The first ten months of 1939 in this phase of business show an increase of 33% over the 1938 period of January through October.

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## GANNETT SOLICITS DONATIONS TO FIGHT RADIO CURBS

Frank Gannett, New York State publisher and Chairman of the National Committee to Uphold Constitutional Government, this week loaded the mails with attacks on the Code of the National Association of Broadcasters and the provision of the Communications Act which gives the President extraordinary emergency powers.

At the same time Samuel B. Pettengill, former Republican representative from Indiana and now Vice Chairman of the Gannett Committee, let loose a blast against the NAB Code in an address carried Sunday night by the Columbia Broadcasting System.

A letter and enclosures of Pettengill's speech and other data was sent to a million persons, according to the Committee's claim, in every Congressional District, including all lawyers, physicians, business men, bank presidents, and editors.

"The National Committee", wrote Sumner Gerard, Treasurer, "has a carefully planned program for nation-wide education and information to bring about, during the next session of Congress, repeal of the dangerous blank-check powers of the President."

In an open letter to broadcasting station operators, Mr. Gannett asked for contributions ranging from \$50 to \$1,000 according to the size of the station, and sustaining time for speakers.

A preliminary study indicates, he wrote, that broadcast stations should be granted three-year licenses and that the FCC should have no power to suspend, revoke, or refuse to renew a license "for an alleged offense in broadcast programs other than violation of specific prohibitions contained in the Communications Act".

"Shall radio have its independent existence assured so that it can always give a firm basis for freedom of speech over the air, regardless of any administration - Republican, New Deal or Democratic, that may be in power?" he asked.

"Shall a system be allowed to continue which at some future date may endanger or even destroy the independence of radio because of beaucratic caprice or manipulation for political purposes?"

Centering his attack on the NAB Code provision which bars sponsored controversial broadcasts, Mr. Pettengill said:

"The National Association of Broadcasters has decided that the American people need a guardian. They have elected themselves the guardian. They did this without our knowledge or consent but it is now the fact. You and I are now their wards. It is only by their leave that you can now discuss a controversial

11/14/39

question over the air waves of America. You can say nothing, you can hear nothing, except with their majesties' gracious permission. Papa knows best.

"The Broadcasters' recent Code is a threat against the free speech of a free people. No law authorized their action. No Constitution sanctioned it. No election ratified it. They did what Congress itself does not have the power to do. The Lords of the Air decided that they would decide what you shall hear. They decided that you shall not decide what you shall hear.

"As always in cases of this kind their action is surrounded by sanctimonious reasons why what they are doing to us is a good thing for us. This is old stuff - as old as Caesar and the Divine Right of Kings. Abraham Lincoln, man of the people, knew this game inside and out. Lincoln said, 'Tyrants always bestride the necks of the people on the claim that it is for the people's good.'"

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#### RADIO CENSORSHIP SEEN IN ARGENTINA AND URUGUAY

Both Argentina and Uruguay are preparing to put all broadcasting under strict government control, including the censorship of news, according to the Montevideo correspondent of the New York Times.

The Uruguayan President last week sent a bill to Congress to that effect and the Argentine Government on the same day published the recommendations of a Government Commission which spent a year studying the problem.

The Uruguayan bill establishes the principle that the atmosphere over the country's territory is a State domain, and that strict governmental control to use that domain does not violate the constitutional guarantees of free speech, free thought or any other individual liberties any more than those liberties are violated in the Government's control of the use of its domain in the soil and subsoil. According to this principle the State argues that it has the same right to exercise its sovereignty by prohibiting and regulating the crossing by airplanes.

Most of the other South American countries already exercise censorship over radio broadcasting by taking phonographic recordings of all programs and later fining or closing down the stations for sending anything the Government disapproves of.

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