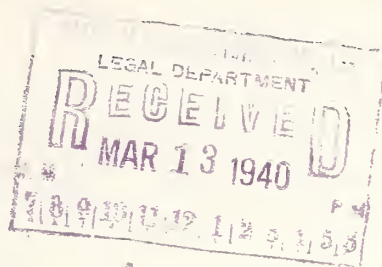


# HEINL RADIO BUSINESS LETTER

2400 CALIFORNIA STREET

WASHINGTON, D. C.

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## INDEX TO ISSUE OF MARCH 12, 1940

FCC To Move Cautiously In "F.M." Inquiry.....	2
Commissioner Case Reported Improving.....	4
FCC Explains Rules Regarding Political Broadcasts.....	5
Educators To Fight For School Channels.....	7
Pepper Asks Month's Notice Before FCC Action.....	8
FCC Gets Queer Questions In A Day's Mail.....	9
Trade Notes.....	11
A.P. Moves To Liberalize Radio Activities.....	12
Paper Uses Short-Waves To Serve Clients.....	12

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March 12, 1940

## FCC TO MOVE CAUTIOUSLY IN "F.M." INQUIRY

Despite admitted improvements in radio transmission offered by frequency modulation broadcasting, the Federal Communications Commission has indicated it will keep a restraining hand on the development of "F.M." because of the effect a revolutionary change would have on investments of both the listening public and the radio industry.

Some of the present curbs on "F.M." broadcasting are expected to be removed, however, and more waves doubtless will be made available in view of the large demand for channels. Following the hearing, which starts next Monday, members of the FCC will make an inspection trip to see "F.M." stations in operation.

A new obstacle to the broadening of the "F.M." band appeared this week when educational interests disclosed that they will resist any encroachment on the channels allocated to them by the FCC.

The hearing was called by the Commission primarily because of the considerable number of applications being filed for aural broadcast stations to operate on frequencies above 25,000 kilocycles employing frequency modulation and rendering program service to the public, the FCC said this week.

"The Commission concluded that it was in the public interest to ascertain if such stations had reached 'a stage of development that is acceptable for rendering regular as distinguished from experimental broadcast service to the public', FCC release stated. "This, including as it does the problem of the relative merits of frequency and amplitude modulation, is the first and principal topic of the agenda for the hearing, the other subjects being ancillary. Thus, among the matters noted, further consideration will be given to the questions whether frequencies allocated to aural broadcasting above 25,000 kc. are adequate for rendering a satisfactory and widespread service, and what additional frequencies, if any, are available or necessary to meet the capacities and needs of such aural broadcasting.

"It was not the purpose of the Commission to inquire into broad allocation problems affecting services other than aural broadcasting. This limitation, however, is not intended to preclude testimony pertaining to the suitability of forms of modulation for other services, or to preclude general testimony respecting the effect upon the present allocations to other particular services by the adoption of different channel widths than are now recognized.

"The Commission is particularly interested in obtaining as much factual data as possible based upon tests and operations that may be pertinent or material to the questions propounded by the topics on the agenda."

The National Association of Broadcasters is watching the new development with keen interest. In a report to its membership on "F.M." recently, the NAB said:

"No one can tell at present what will be the future of F.M. as far as the broadcasting industry is concerned. Its development involves the general use of special receivers. None of the regular receivers now in use are suitable for receiving F.M. and there are some forty-four million receivers in the United States. On the other hand, there are indications of considerable developments both from the transmitting angle as well as the receiver manufacturing angle. It is not impossible that we may find in the not too distant future that broadcasting has developed into two bands - one the regular broadcast band and the other the F.M. band. No doubt, for some time it will be necessary to have a certain number of stations in the regular broadcast band to provide service to much of the rural and sparsely settled sections of the country, particularly in the plains states. Of course, the use of two bands for receiving broadcasting would increase the cost of receivers. It is not impossible either that F.M. may be generally adopted in years to come, and if such is the economic and technical trend of this new development, there will be required a transition period during which the auxiliary F.M. station gradually changes to the main station and the A.M. station fades into an auxiliary to be ultimately abandoned. However, the information available at this time is insufficient for any reliable prophecies to be made.

"Some of the advantages of Frequency Modulation transmission and reception are so marked that it should command the greatest attention from the broadcast industry, in order that the full "system" possibilities might be determined. Many of the questions concerning Frequency Modulation undoubtedly will be answered during the Federal Communications Commission's hearing on March 18th."

The principal testimony will be given by spokesmen for the recently organized Frequency Modulation Broadcasters, Inc., headed by John Shepard, III, President of the Yankee Network, and by Maj. Edwin H. Armstrong, developer of "F.M.", who will be the star witness.

This organization, which claims an investment of \$1,500,000 in equipment and engineering research by its members, will ask the FCC for the following concessions, among others:

That the granting of regular licenses, rather than those giving experimental status only, be permitted.



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That the power limitation on F.M. transmitters be raised from one kilowatt to 50 kilowatt.

That a minimum separation of 200 kilocycles between adjacent F.M. channels is, in this group's opinion, essential to accommodate facsimile by multiplex (simultaneous) transmission, and because of the fact that narrow band transmission may be carried on within such channels

That more than five adjacent channels for F.M. are essential.

That the 41 to 43 megacycle band should be allowed to stations using F.M., and that the 26 megacycle band, now assigned to F.M., should be allocated to other services.

That, 15 channels will not prove sufficient for the needs of F.M. and immediate provision should be made which will insure the availability of additional channels in the near future. From the point of view of receiver design, the additional channels should be as nearly adjacent as possible - insofar as this can be accomplished without undue injury to other services.

That there should be separation distances for stations on the same channel and on adjacent channels for varying power.

That the Commission should set an established policy of permitting rebroadcasts between stations, subject only to permission of originating stations as is the rule in the regular broadcast band.

That the Commission set an established policy of permitting relay stations using F.M., thereby making possible high fidelity network operation.

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#### COMMISSIONER CASE REPORTED IMPROVING

Commissioner Norman S. Case, of the Federal Communications Commission, is reported to be steadily improving in his fight against pneumonia with which he was stricken more than a week ago. He is said to have passed the crisis last Friday. Commissioner Case is at his home, 4706 - 17th Street, N.W., in Washington.

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## FCC EXPLAINS RULES REGARDING POLITICAL BROADCASTS

Because of repeated requests for information as to the use of broadcasting facilities for the discussion of political issues and by candidates for public office, the Federal Communications Commission this week issued a statement outlining the provisions of law and regulations covering the subject.

It was explained that the FCC statement was made merely for its informational value and not to put the Commission "on the defensive".

"Broadcast stations are licensed to serve the 'public interest, convenience and necessity'", the FCC explained. "This carries with it obligation on the part of stations to provide opportunity for well-rounded rather than one-sided discussion of public controversial issues and to render a program service in the general public interest. However, there is no requirement, express or implied, that the broadcast facilities must be afforded for the use of any particular individual or organization.

"Section 3(h) of the Communications Act of 1934, as amended, expressly provides that a person engaged in radio broadcasting shall not be deemed a common carrier. In this respect broadcasting is unlike telephone, telegraph, or cable service. Accordingly, a broadcast station may refuse the use of its facilities to any particular person or group, even though offer is made to pay for the time.

"However, Section 315 of the Act stipulates:

"If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station, and the Commission shall make rules and regulations to carry this provision into effect: Provided, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate."

"This provision does not apply to persons other than the legally qualified candidates themselves but does require that, if a broadcast station permits the use of its facilities by a candidate, equal opportunities in the use of the station shall be afforded all other legally qualified candidates for the same office.

"The Commission's Rules Governing Standard Broadcast Stations more specifically define broadcasts by candidates for public office in the following language:

"Section 3.101 General requirements. - No station licensee is required to permit the use of its facilities by any legally qualified candidate for public office, but if any licensee shall permit any such candidate to use its facilities, it shall afford equal opportunities to all other such candidates for that office to use such facilities, provided that such licensee shall have no power of censorship over the material broadcast by any such candidate.

"Section 3.102 Definitions. - The following definitions shall apply for the purpose of Section 3.101:

"(a) "A legally qualified candidate" means any person who has met all the requirements prescribed by local, state, or federal authority, as a candidate for the office which he seeks, whether it be municipal, country, state, or national, to be determined according to the applicable local laws.

"(b) "Other candidates for that office" means all other legally qualified candidates for the same public office.

"Section 3.103 Rates and practices. - The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means, directly or indirectly; no licensee shall make any discrimination in charges, practices, regulations, facilities, or services for or in connection with the service rendered pursuant to these rules, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office.

"Section 3.104 Records; inspection. - Every licensee shall keep and permit public inspection of a complete record of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if request is granted.'

"The Commission's Rules and Regulations do not impose any requirements as to the rendering of free service by broadcast stations. This is a matter to be determined by the individual stations themselves.

"With respect to program content, Section 326 of the Communications Act provides:

"Nothing in this Act shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication.'

"The express prohibitions contained in the Communications Act with respect to program content are: the prohibition against the broadcasting of lottery information contained in Section 316, and the provision of Section 326 that no person 'shall utter any obscene, indecent, or profane language' on the air."



## EDUCATORS TO FIGHT FOR SCHOOL CHANNELS

Headed by Commissioner John W. Studebaker of the United States Office of Education, nearly three-score representatives of educational organizations throughout the country have indicated they will give testimony at the frequency modulation hearings to be started by the Federal Communications Commission next Monday, March 18th. They have asked for time through Dr. Willard E. Givens, Executive Secretary of the National Education Association.

The approaching hearing has taken on an international aspect through the applications of Canada and Russia for permission to have engineers attend the hearing. The Canadian application came from the Department of Transport of the Dominion, and that of the Russians was from S. Savin, Vice President of Glavesprom of U.S.S.R., who asked permission to have three engineers attend the hearing. Canada indicated it would send one observer.

Those interested in educational broadcasting are not opposed to frequency modulation. On the other hand, it was indicated by Dr. Belmont Farley of the National Education Association they are interested in frequency modulation for educational broadcast purposes because of the lower price of the equipment and the reduced cost of operation when compared to the present amplitude system. Their testimony before the Commission will oppose any proposal to take their present band from 41,000 to 42,000 kilocycles away for the purpose of giving it to commercial frequency modulation.

While it was said at the FCC that only three educational stations have been licensed since the band allocations were made in 1938, it was pointed out at the Educational Association headquarters that some cities are planning to establish stations. The lack of funds was indicated as the primary reason why more stations have not been licensed. The educational broadcast systems provide for the purchase of the transmitters and the receivers which would be in the classrooms.

Use of frequency modulation in educational systems, Dr. Farley said, would make it possible to increase the scope of special instruction. Under present conditions, a special teacher must visit each school to give instruction, but with radio it would be possible to give lessons simultaneously to all classes in a school system from one central point, thus saving the time of the specialist going from school to school.

It was emphasized that in periods of epidemics when schools are closed to avoid spread of diseases, loss of time can be avoided by giving the instruction over the air to the pupils in their homes.



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The National Congress of Parents and Teachers has notified the Commission that it plans to have three witnesses at the hearings. They are Mrs. J. K. Pettengill of Chicago, President; Dr. William McKinley Robinson, of Kalamazoo, Mich., a member of the Executive Committee, and Mrs. M. T. Bannerman of this city, Chairman of Legislation. I. Keith Taylor, Director of Evaluation of School Broadcasts of Ohio State University, also has asked for time to give evidence in support of the present allocation for school broadcasts.

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#### PEPPER ASKS MONTH'S NOTICE BEFORE FCC ACTION

A bill seeking to amend Section 309 of the Communications Act by adding a requirement that no station license shall be granted, modified, or renewed until after four weeks' notice published by the Federal Communications Commission, was introduced last week by Senator Pepper (D.), of Florida.

The amendment follows:

"'c) No application for a station license or for the renewal or modification of a station license shall be approved prior to the expiration of four weeks after the first notice of such application is published. The Commission shall cause such notice to be published once a week for four consecutive weeks in a newspaper of general circulation in the county in which it is or is to be located. The expense incident to such publication shall be paid for by the applicant at the time such application is filed. Such notice shall contain a statement that objections in writing to any such application may be filed with the Commission prior to the expiration of the four weeks' publication period and that a public hearing will be held if a request is made therefor prior to the expiration of such period. If any person so requests a hearing on any such application, the Commission shall hold a public hearing in such town, city, or county or in the District of Columbia, as the Commission may determine. Notice of such hearing, including the time and place thereof, shall be given to the applicant and to any such person requesting a hearing, and an opportunity to be heard at such hearing shall be afforded to all interested persons. Such hearing may be held by the Commission, by an individual Commissioner, or by any officer or employee of the Commission designated by it for that purpose."

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## FCC GETS QUEER QUESTIONS IN A DAY'S MAIL

"Do you have to have a license to transmit by radio if you can't be heard in any other State?"

Such is one inquiry in a day's mail received by the Federal Communications Commission. The answer to this particular question is simple: The courts have held that a radio signal is interstate in character and that the Communications Act applies to all stations which produce radio emissions intended for reception. It is an established engineering fact that in any use of radio the signals will at times have effects which extend beyond the borders of a State, or interfere with transmission to or reception from other States. Accordingly, any person building or operating a radio transmitter is required to obtain a license from the Commission.

Another mail "I.Q." involves permission to construct a private telegraph line from a boy's house to a friend's house. The Commission has no jurisdiction over such private circuits. Any legal requirements rest with the State or municipal authorities.

Still another writer complains about a local telephone service. The jurisdiction of the Commission is limited to the regulation of interstate and foreign communication by wire or radio. Authority over local exchange and intrastate toll service was, by the Communications Act, specifically exempted from the Commission's jurisdiction and reserved to the respective State regulatory bodies.

Another complaint relates to interference with radio reception by emissions of a local power company. Though the Commission has no authority in this matter, it is glad to refer the complaint to the company involved. Complainants are usually in position to furnish information of value in locating interference conditions.

Under the Communications Act, individual licenses for all types of radio services - broadcast, amateur, commercial, etc. - are restricted to citizens. Broadcast station licenses are denied corporations "of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives".

Acts of Congress have repeatedly indicated a national policy against possible control of radio facilities by aliens. Accordingly, the Commission's regulations forbid location of an amateur station on premises controlled by an alien. This invites presentation of many problems, usually decided by the statement that, in view of its obvious purpose, the rule applies to an entire residence and is not avoided by nominal rental of a room from an alien parent to another member of the family who is a minor.



Another question that never stays answered is: "How much does it cost to build a commercial radio broadcast station?" The frank reply must dissuade some would-be operators. One hundred watts is the minimum power considered capable of rendering appreciable service. The approximate cost to construct such a station is between \$5,000 and \$8,500.

Complaints about individual radio programs run the gamut from taking issue with an announcer's English and differing with a speaker's conclusions to objecting to advertising and protesting refusal of time on the air. In such cases the Commission has to advise that it has no power of censorship over programs, and that since the Act expressly provides that a radio broadcast station is not a common carrier the Commission cannot compel any station to accept a particular program or to allow someone's favorite performer or speaker to use its facilities. In many cases it refers complainants to the particular station or network involved. Occasionally a complaint alleging unfair competitive practices is received and referred to the Federal Trade Commission.

However, certain things are definitely barred from the air by the Communications Act. Hence, cases which involve violation of the specific injunction against lotteries and obscene language are referred to prosecuting authorities for appropriate action. Also, the Commission can and does review the general public service rendered by stations in determining if renewal of license is in the public interest. The statute requires the Commission in acting upon renewals to consider the same factors as it must consider before granting a new application. In either case the service proposed to be rendered to the public is the dominant consideration.

Numerous letters erroneously attribute a broadcast "code" to Commission regulation. This is really a code of ethics adopted by the National Association of Broadcasters, and the Commission has no jurisdiction in the administration of its provision. Adoption of the code is not a substitute for compliance by a licensee with duties under its license and the Act. The code represents the efforts of the broadcasters themselves to impose self-regulation in addition to the absolute requirements of the law.

In reply to a currently recurring inquiry, the Commission has to report that it is without authority to require a broadcast station to make frost warning announcements. On the telegraph side of its incoming mail desk, the Commission is in receipt of complaints that these carriers should now recognize "airmail" as one word, and charge accordingly.

Some persons have a mistaken notion that the Commission can recommend schools and publications, or find jobs for them in the broadcast industry. As for applications for positions with the Commission itself, with few exceptions the entire personnel is under Civil Service and its occasional vacancies are filled from those ranks.

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TRADE NOTES

The Department of Commerce has issued world radio market reports covering the following countries within the last week: Spanish Morocco, Colombia, Iran, Switzerland (regulations), Angola, Spain, and Cuba (regulations).

Walter Logan, Musical Director of Station WTAM of the National Broadcasting Company, and nationally known composer and violinist, died this week in Cleveland at the age of 63 after an illness of six months. Mr. Logan had been associated with WTAM since 1923 and had conducted many NBC network programs. He formed the nucleus of the Cleveland Orchestra and was active in the development of many other musical groups.

The Cincinnati Enquirer entered the newscasting field March 1 with an announcement that it had made available its 24-hour Associated Press leased wire service reports to radio stations WLW and WSAI, Crosley stations.

Under a resolution passed by the Executive Committee of the A.P. Board of Directors last May permitting member papers to sell news for broadcast purposes, with or without commercial sponsorship, the Enquirer automatically began paying a basic 25% additional assessment to the A.P.

The National Carbon Company has scheduled an advertising campaign in newspapers in nine major markets for its new Eveready Mini-Max "B" battery for portable radios. The product makes use of other batteries of equal capacity. Some thirty makers of portable radios have designed sets using the battery. J. M. Mathes, Inc., is the agency.

Eighty thousand contributions toward the \$1,000,000 Metropolitan Opera Fund have been made by radio listeners who appreciate the regular Saturday afternoon broadcasts of the opera, it was announced Sunday. The contributions have been received by the Radio Committee, of which David Sarnoff is Chairman, and Mrs. August Belmont and Miss Lucrezia Bori, Vice Chairmen. Gifts from radio listeners have come from every State, the District of Columbia, Canada, Switzerland, France, the West Indies and Chile. The radio audience in New York State has made the largest number of donations, 14,882. Pennsylvania, with 7,681 contributions, is second, and California, with 6,831, is third. The contributions from Massachusetts total 6,082, from New Jersey, 4,145, and from Connecticut, 2,292.

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## A.P. MOVES TO LIBERALIZE RADIO ACTIVITIES

Confronted with the need for increased revenue to meet the increased costs of news collection, the Associated Press is currently polling its membership by mail to determine "the advisability of liberalizing radio activities to make possible a larger income and at the same time enable the Association to meet, insofar as is appropriate, the radio policies of competitors", according to Editor & Publisher.

A single question has been submitted to the membership, accompanied by a letter dated Feb. 29 and signed by Robert McLean, Philadelphia Bulletin, President of the A.P. The letter points out that the Board is seeking an expression from the members on this long-controversial issue to guide it in any action it suggests to meet the revenue situation. It is understood the Board and the membership will act on the matter at the annual meeting, to be held in New York April 22 at the Waldorf-Astoria.

A "Yes" or "No" answer is requested from each member on the following question:

"Do you favor the Associated Press liberalizing its radio activities to the extent that necessary revenue therefrom can be provided to meet the increased news collection costs which confront the Association?"

Mr. McLean's letter recalls the adoption of a resolution by the members at the 1939 meeting, urging the Board of Directors to consider again the use of A.P. news in the broadcasting of sponsored programs, and the subsequent action taken by the Executive Committee May 24, when a set of tentative rules and regulations governing the use of news in sponsored programs was adopted, and subsequently approved by the Board and modified in January of this year. "The steps that have been taken, however, have not been productive of much increased revenue", Mr. McLean told the members.

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## PAPER USES SHORT-WAVES TO SERVE CLIENTS

The Chicago Daily News foreign news service has inaugurated short-wave radio transmission, via Press Wireless, Inc., to serve several West Coast newspaper clients with Daily News foreign dispatches, effective March 1, it was announced last week by Lynn E. Aldrich, Daily News Treasurer.

Short-wave broadcasting of dispatches to the West Coast eliminates wire costs and the daily file of foreign news is sent in code "F-O-B the air", Mr. Aldrich explained. Clients are responsible for reception and cost of receiving, under this plan.

Newspapers having radio station affiliations can arrange for reception of the short-wave broadcasts, or a paper can delegate a local amateur short-wave radio operator to translate the messages. Either method represents a saving in transmission costs across the continent. Press Wireless broadcasts from Long Island, N.Y., the dispatches over a special short-wave length from 8:30 to 10:30 A.M., E.S.T. Latest addition to the list of clients receiving Daily News foreign service is the London Telegraph.

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