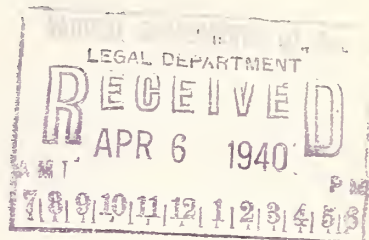


HEINL RADIO BUSINESS LETTER

2400 CALIFORNIA STREET

WASHINGTON, D. C.



INDEX TO ISSUE OF APRIL 5, 1940

Television Course In Doubt As Hearing Nears.....	2
NAB Starts Music Licensing In ASCAP Fight.....	3
Soviets Copying Radio Patents, Says U.S. Report.....	4
Fly Says FCC Doesn't Wish To Halt Television.....	6
Networks' Time Sales Point To New Records.....	8
Did Fly Hold Gun In NBC's Face For Broadcast?.....	10
Trade Notes.....	11
Valentine Bans Radios For Taxi Drivers.....	12
Germany Trying To Revive Radio-Luxembourg, Says BBC.....	12

No. 1223

g
H. J.

TELEVISION COURSE IN DOUBT AS HEARING NEARS

The Federal Communications Commission stated this week that the television hearing scheduled to begin Monday, April 8, at 10 A.M., will be open to all interested parties so that the subject may be explored from every angle.

There was an unusual lack of confidence in the speculation of radio industry observers as to the outcome of the inquiry ordered by the FCC because of the promotional activities of the Radio Corporation of America.

While there were indications that the FCC might be ready to come to an amicable understanding with the RCA and other television licensees and permit its former order to stand, persons close to the Commission said that Chairman James L. Fly and the other three members who voted for the probe are still determined to "crack down" on RCA.

Likewise there were contradictory rumors as to the attitude of President Roosevelt in the controversy. One report was that he was backing the FCC majority, while another held that he had told Chairman Fly to settle the matter without any further fuss because of the avalanche of press criticism of the Commission's action.

The FCC in a statement outlining the procedure of the television hearing, which will be held in Room A of the Interstate Commerce Building, said the purpose of the inquiry is two-fold, to determine:

"(1) whether research and experimentation and the achievement of higher standards for television transmission are being unduly retarded by recent promotional activities, requiring any additions, modifications, revisions, or amendments of the rules adopted February 29, 1940, governing television broadcast stations, or other action by the Commission; and

"(2) whether the effective date for the beginning of limited commercial operations set forth in Section 4.73 Subsection (b) of the Commission's Rules and Regulations should be changed from September 1, 1940, to some subsequent date.

"The Commission desires to hear all parties who at the January 15 hearing offered testimony that they were carrying on substantial research tending toward improvement in broadcasting of television", the FCC statement added. "The evidence of such parties should, in summary form, state the scope of their present television experimentation in terms of subject matter, staff, and time devoted to the same and should indicate what proportions of

such work are directed toward technical ends and toward commercial production. This information should be broken down with respect to the periods prior and subsequent to March 1, 1940. Any changes made or under consideration as a result of sales promotional activities should be stated.

"General conclusions should be offered as to the prospects for improving the performance of television broadcasting but descriptions of recent improvements are desired only if they have taken place since the date of the original hearings or are the final results of previous experimentation. Evidence will be received also as to the effect of the above matters on the prospects for higher transmission standards and as to whether there has been any retardation of progress. Parties are also requested to express their views, based upon the facts on the foregoing matters, as to the appropriate date for commencing limited commercialization.

"No invitation is extended to parties who did not appear at the hearing of January 15, 1940. Limited testimony may, however, be accepted from new parties upon a showing that they are engaged in substantial research and have evidence bearing upon the above matters which includes information not heretofore presented to the Commission and which relates to the present status of the technical phases of the science. At least 18 copies of printed or typewritten material to be submitted should be made available at the hearing, and appearances should be handed to the Docket Clerk at the hearing prior to its opening."

X X X X X X X X X X

NAB STARTS MUSIC LICENSING IN ASCAP FIGHT

With the broadcasters and music copyright owners deadlocked on their respective Maginot and Seigfried lines, Broadcast Music, Inc., this week began issuing licenses for the use of its music for public performances as neither the American Society of Authors, Composers, and Publishers nor the National Association of Broadcasters showed any signs of surrender.

The Columbia Broadcasting System announced that it saw no prospect of using the composer group's music after 1940 on the basis of present ASCAP demands and that it was so notifying its 114 affiliates. The National Broadcasting Company said that the Society's increasing fees were becoming "intolerably burdensome" and that it would take any action necessary in unison with the industry.

The reservoir of music for radio was started with the acceptance of six new popular songs by non-ASCAP writers. They will be heard for the first time on sustaining (unsponsored) programs, and sheet music will be published within "two or three days". To meet the demand for popular music, it was explained, opportunities to be heard will be given to new composers.

Since the Society now controls an "overwhelming portion" of the music available for use on the air, the radio group is endeavoring to arm itself by December 31, when the current agreement between the two factions expires, with such supplies of, or access to, music to build a catalogue capable of sustaining broadcasting.

So far \$1,253,189 has been pledged by 284 radio stations in support of Broadcast Music, Inc.

X X X X X X X X

SOVIETS COPYING RADIO PATENTS, SAYS U. S. REPORT

The Union of Soviet Socialist Republics is "engaged in copying on an extensive scale machinery and other articles which have been invented and patented in other countries, samples or descriptions of which have been obtained by purchase or otherwise", the U. S. Bureau of Foreign and Domestic Commerce stated this week in a "World Radio Markets" report on the Soviet radio industry.

The document, issued by the Electrical Division, of which John H. Payne is Chief, also disclosed that despite claims that Russia has made considerable progress in television broadcasting no television receivers have been offered to the public.

"The Soviet press has claimed that considerable progress has been made by the Soviet radio industry since 1938", the report states, "in the technique and quality of television transmission, which is taking place at more or less regular intervals in Moscow and Leningrad."

Regarding the patent copying the governmental report states:

"Soviet industry is engaged in copying on an extensive scale machinery and other articles which have been invented and patented in other countries, samples or descriptions of which have been obtained by purchase or otherwise. This practise has been facilitated by the fact that it is not illegal in the Soviet Union to copy articles or processes not patented in that country, and that relatively few Soviet patents have been granted to persons or firms resident abroad. The Soviet Government is not a party to the Convention for the Protection of Industrial Property or to any of its revisions.

"Certain patents have been granted to foreign nationals, but the extent to which the holders have benefitted is not known. In a number of cases the patents were granted under contract whereby technical assistance would be given the Soviet industries in making use of the inventions.

"It would appear that two factors are primarily responsible for the relatively small number of Soviet patents granted to

persons and firms resident abroad: (a) the policies of the Soviet Government which result in a curtailment of the number of patents thus granted; (b) a reluctance on the part of foreign inventors to apply for Soviet patents since they feel that even if following protracted and expensive proceedings, they are successful in obtaining patents, they may be unable, in view of the peculiar economic structure of the Soviet Union, to derive any material benefit therefrom.

"Foreign citizens resident abroad may make application for Soviet patents on inventions regardless of whether they have already obtained patents on such inventions in other countries. The question of whether the applications will be acted upon favorably depends upon the decision in each case of the inventions committee of the Soviet of Labor and Defense, which is given very wide discretion in the matter.

"Since practically all industry is carried on by organizations owned or controlled by the State and since there is little scope for private enterprise, a Soviet patent is in effect a guarantee only of the right to seek remuneration for the use of the invention.

"If an invention is of substantial importance to the State and no agreement is reached with the patent holder, the inventions committee may empower the State enterprise concerned to use the invention and may fix the amount of the remuneration to be paid the patent holder. The inventions committee may also issue a compulsory license for putting the invention to practical use and fix the amount of remuneration to be paid the patent holder in case the invention has not been utilized on an industrial scale within 3 years of the date of issuance of the patent. It is understood that the inventions committee has thus far not found it necessary to make use of its powers to fix amounts to be paid foreign holders of Soviet patents, nor to issue compulsory licenses on such patents.

"Any person or firm not resident in the Soviet Union who desires to obtain a Soviet patent must appoint an agent permanently resident to represent him during the proceedings. He must also be represented by such an agent during the life of the patent. The number of persons, or organizations, who may act as patent agents is strictly limited. It is understood that at the present time the agent of practically all foreign applicants is the All-Union Chamber of Commerce.

"The fees which a Soviet agent is entitled to charge as well as the fees for obtaining and holding the patents are prescribed in a published tariff. The fees payable to the patent agent and to the Soviet Government in connection with the making of an application for patent amount to at least 150 rubles. In the event that the proceedings should become involved or protracted the costs will be much greater. On an average of 2 to 6 years elapse between the date of filing of the application and the final decision by the inventions committee. A Soviet patent is valid for 13 years, during which the holder is required to pay annual fees to the Government totalling 3,825 rubles and to the agent totalling 180 rubles. The holder of a patent must be prepared at any time during the life of the patent to defend his rights against other claimants. Fees from non-residents must be paid in foreign currency."

FLY SAYS FCC DOESN'T WISH TO HALT TELEVISION

James L. Fly, Chairman of the Federal Communications Commission, went on the air over NBC and MBS last Tuesday night to defend the recent decision of the Commission to reopen the television inquiry because of the promotional activities of the Radio Corporation of America.

Mr. Fly insisted that "we neither have nor desire any regulatory power over the sale of receivers or over advertising". The only "axe we have to grind", he said, is "the long range interest of the public".

The FCC Chairman opened his address with an explanation that during the last several weeks much has been said and more written about television and that he felt it incumbent upon him to make a report to the radio public on its status.

"In view of international conditions, American industry has the opportunity to lead the world in the development of the art of visual broadcast", he said. "Where television was advancing with youthful faltering steps in Europe, darkness has descended. Research has been stopped while all energies are devoted to war. Foreign television for the time being is paralyzed. It is singularly fortunate that in our own country neither war nor any other ruthless force can lay a heavy hand upon the youthful television industry and impede its normal progress.

"In the present state of radio, broadcasting of sound has progressed to the point where reliable service can be received in nearly every home. Receiving sets are within the means of almost every family. In the meanwhile, television has been gradually approaching the threshold of the American home.

"Most of us have witnessed radio grow from its laboratory stages. All of us will have the thrill of seeing television ripen into a reality for everybody to enjoy. While television is still in the experimental stage, it is moving out of the laboratory. We know that it is a practical thing, and that it has great potentialities for development into a permanent instrument of entertainment, of information, and of education. Our generation has been entrusted with the responsibility of carrying forward this advance. There may be differences of opinion as to what is best for television, but no one would favor other than its orderly and healthy growth into an instrument of permanent public good."

Explaining why the FCC is concerned with the development of television, Chairman fly said:

"Congress has placed upon the Commission the duty to issue licenses for experimental operations; the duty to foster research and development, and to encourage the achievement of high standards, and, ultimately, to recognize those high standards - once they have been achieved by the industry's engineers.

"It is likewise under a clear mandate to regulate the kind of apparatus to be used in radiobroadcasting, including television, and to promulgate appropriate regulations. We should be derelict in our duty to the public if we should disregard this mandate of the Congress, or if we should permit any business interest to render it ineffective.

"We should also be avoiding our obligation if, in the regulation of the experimentation, and of the transmitting apparatus, and its methods of operation, we ignored the current state of the science.

"There is at present in the television industry a very wholesome state of competition between rival manufacturers to develop their transmitting apparatus to a point where the quality of reception of their telecast pictures will be superior to those of any other manufacturer. It was the Commission's considered judgment and, in this judgment I might say there has been the universal concurrence of the engineering profession, that no one manufacturer of transmitting equipment has yet perfected his apparatus to a point where it should be accepted as the standard for universal application. On the contrary, no voice has dissented from the proposition that further research and experimentation is needed.

"The recently adopted rules and regulations of the Commission governing television broadcasting recognize this engineering fact. The Commission, therefore, deliberately refused to place its final approval upon any present type of transmitting equipment as the type which all must use. This attitude is merely a reflection of the engineering opinion in the television industry that there were still too many improvements in sight to warrant standardization at this time. It seems clear that the research should continue, and that order and caution should be the keynote to foster that improvement.

"What a great tragedy it would be if today some heedless power, for the sake of an immediate short-sighted interest, should obstruct television's progress and leave it dwarf-like in the shadow of its own great potentialities. But, you may readily ask, 'How can this happen to television; it didn't happen to motion pictures; it didn't happen with automobiles; it didn't happen with the advance of ordinary broadcasting itself.' Why, then, the special solicitude for the future advance of television?

"The answer is not readily obvious, but it is fundamental and, I think, thoroughly understandable.

"The fact is that television is not like ordinary broadcasting, not like the automobile, not like motion pictures.

"Now let me be perfectly plain in stating the position of the Federal Communications Commission on the question of public participation in the future development of television. Does the Commission wish to discourage members of the public from purchasing television receiving sets today?

"The answer is emphatically 'No'. As a matter of fact, it is only by having receiving sets in the homes of members of the public that experimentation in program techniques can be successfully carried on. But it is important that the general public know that when they buy television sets they are definitely partaking in a program of experimentation. If the public knows the facts about the limited number of stations which are now operating, the few hours of programs that are on the air, the experimental character of their operation, and finally that new standards of television transmission may convert the sets of today from instruments of enjoyment to articles of furniture of doubtful usefulness, then there can be no danger in public participation. . .

"Let me make it clear that we neither have nor desire any regulatory power over the sale of receivers or over advertising. But any action we take under our duty to license experimental operations and to encourage advances in radio, must of course be taken in the light of actualities. Our course can be influenced, for example, by the rare case where a licensee might engage in extravagant promotion of sales to people of modest incomes while failing to inform the public of the limited and experimental character of the service now available, and of the mobility of the science, where it appears that such activities threaten to make his system dominant among both transmitting stations and the public. For the result would be that his competitors - continuing their research - might find themselves with an improved system of broadcasting television which cannot be given to the public.

"By this sales activity alone the standards of the science might be locked against their improvements. Under such circumstances it is rather more likely that the competitors too would be crowded into production and sales promotion. This would make it even more probable that television would be shackled at its present state and future progress obstructed. These are the unanimous views the Commission has clearly and repeatedly expressed in recent months.

"The American people, I am certain, do not want to stop short of improvements which the industry's engineers assure us may be just over the horizon. The Commission must not lose sight of the long range interest of the public. We shall not. This, I might add, is the only axe we have to grind."

X X X X X X X X X X

NETWORKS' TIME SALES POINT TO NEW RECORDS

New records in the volume of radio advertising carried by the major networks are being set this Spring, according to reports on time sales made in March.

The National Broadcasting Company announced that it did the greatest business for a quarter, ending March 31, in its history. Both Columbia Broadcasting System and the Mutual Broadcasting System were far ahead of their 1939 sales.

4/5/40

Gross network revenue for the NBC networks for the first quarter of 1940 amounted to the greatest quarter business in the company's history, with the total figure of \$12,841,636 showing an increase of 7.4 percent over the 1939 figure of \$11,953,447.

Contributing to the record-breaking quarter was the biggest March volume of business ever reached at NBC with the total gross revenue figure of \$4,304,344 showing an increase of 3.2 percent over the March, 1939, figure of \$4,170,852.

Total gross network revenue on the NBC-Red Network for the first quarter of 1940 amounted to \$10,061,816, an increase of 6.1 percent over the 1939 total of \$9,484,411. The 1940 figure on the NBC-Blue Network was \$2,779,820, an increase of 12.6 percent over the 1939 figure of \$2,469,036.

The March, 1940, revenue from the NBC-Red Network amounted to \$3,338,440, an increase of 1.2 percent over the 1939 figure of \$3,297,992. The NBC-Blue Network figure for this year was \$965,904, an increase of 10.7 percent over the March, 1939, figure of \$872,860.

Gross billings for time on the Columbia Network - prior to deductions for agency commissions and time discounts to sponsors - totaled \$3,513,170 during March, 1940. The March figure brings the three-month cumulative total for 1940 to \$10,419,743.

March sales by CBS were 20.1 percent above last year, whereas the quarter's billings were up 28 percent.

Mutual Broadcasting System billings for March, 1940, totalled \$390,813, representing an increase of 27.3 percent over a similar period in 1939 when billings reached \$306,976. 1938's March billings were \$232,877.

Mutual's cumulative billings for the first three months of 1940 totalled \$1,046,191, a rise of 16.8 percent over 1939's first three months when the figure of \$898,659 was attained. 1938's first three months totalled \$756,021.

X X X X X X X X X X

Columbia Broadcasting System, Inc., this week reported for the 52 weeks ended December 30 last a net profit of \$5,001,529, equal to \$293 a share on the combined Class A and B stocks. For the 52 weeks ended December 31, 1938, the net profit was \$3,541,741, or \$2.07 a share on the combined Class A and B stocks.

X X X X X X X X

4/5/40

DID FLY HOLD GUN IN NBC'S FACE FOR BROADCAST?

The circumstances of the Tuesday night broadcast by Chairman James L. Fly over the NBC and MBS networks this week stirred up as lively a controversy as the argument over television itself.

Publication of a story by the New York Times that Commissioner Fly had demanded specific facilities of NBC with the result that the network had to cancel a commercial program at a cost of \$10,000 started the debate.

Chairman Fly subsequently denied the charge and stated that he merely had offered the address to NBC after he had been invited to speak over MBS.

In a statement explaining the arrangements for the broadcast, the FCC Chairman disclosed that he had conferred with David Sarnoff, President of RCA, on the television dispute Sunday morning.

Said the New York Times, in part:

"An official of the Mutual Broadcasting System said that Mr. Fly had been invited to broadcast from the WOR studio. From that point the speech was 'fed' to the NBC network. Originally, it was explained, Mr. Fly was to have broadcast from the Tuesday luncheon of the Advertising Club, and WOR, because of commercial commitments, was unable to handle the broadcast but had arranged to broadcast a recording of the speech in the evening. When the noontime broadcast was canceled upon Mr. Fly's request, executives of WOR suggested that he go on the air in person in place of the scheduled recording. WOR had the time free and no commercial programs were sidetracked.

"According to a representative of NBC, who explained that there was no way of checking how many stations actually transmitted the talk, he said that he could not confirm or deny that Mr. Fly had requested the facilities. It was learned on good authority that Mr. Fly had asked for the radio time through the NBC office in Washington."

X X X X X X X X

Station WMCA, New York, last week applied for an application to operate an FM transmitter to the Federal Communications Commission. Permission to construct a high frequency broadcast station employing frequency modulation was asked.

X X X X X X X X

:::
 ::: TRADE NOTES :::
 :::

The U. S. Bureau of Foreign and Domestic Commerce this week issued world radio market reports on the following: Japan, Colombia (regulations), Denmark, Ireland, Union of Soviet Republics, Bermuda and the Bahamas.

In response to the many requests, the daily schedule of W2XOR, WOR's frequency modulation outlet, was stepped up to 15 hours daily effective Thursday (April 4). W2XOR will relay Mutual programs at 9 A.M. and continue throughout the day until midnight, providing the longest service of any FM station in the entire New York area.

The Federal Trade Commission has ordered J. W. Marrow Manufacturing Company, 3037 North Clark Street, Chicago, manufacturer and distributor of cosmetics, to discontinue certain misleading representations made in magazine, radio and circular advertising.

John Thomas McManus, radio editor of Time for the last 18 months, has been appointed Radio Editor of P.M., the no-advertising 5-cent newspaper to be published soon in New York. P.M. will devote two to three pages to this subject.

G. H. Beasley, President of Utah Radio Products Company, reported this week at the annual meeting that shipments in the first quarter were \$695,290, against \$624,132 in the 1939 period. Fred R. Tuerk was elected a Director to replace M. M. Corpening.

Station WSJS, Winston Salem, N. C., will join the NBC networks on June 26, William S. Hedges, NBC Vice-President in Charge of Stations, has announced.

WSJS is operated by the Piedmont Publishing Company, of which Gordon Gray is President, on a frequency of 1310 kc., with a power of 250 watts, day and night. The station will be a member of the NBC Southeastern Group. It will be the 188th affiliate of NBC.

Stockholders of the Columbia Broadcasting System will be asked at their annual meeting in New York on April 17 to approve a five-year contract with William S. Paley, President, providing for a base salary of \$40,000 annually plus 5 percent of the first \$1,000,000 of consolidated net profits, 4 percent of the second million dollars, 3 percent of the third million, and 2 percent of all earnings in excess of \$3,000,000, according to the New York Times business page. Had this contract been in effect in 1939, Mr. Paley would have received \$203,370, the notice says.

X X X X X X X X X X

VALENTINE BANS RADIOS FOR TAXI DRIVERS

A police order silencing all New York City cab radios except for passengers threatened this week to eliminate for drivers a widely enjoyed way to pass the time between fares, according to the New York Times. It was estimated that 90 percent of the radio use is by the cabbies.

Commissioner Valentine ordered enforcement of the year-old ban on such use in connection with hack medallion renewals begun on April 1. Under the old ruling the police hack bureau granted owners six to eight weeks to wire radios through the taxi meter, so that the radios will play only while the meter is running.

The action was believed to have resulted from a plea made by the Broadway Association on February 19th. The Association asked removal of the radios for greater safety and less noise.

A canvas made later by the hack bureau showed owners of 8,000 of the city's 11,138 taxis favoring removal. Fleet owners desired attendant cost reductions, while individual owners largely sought to retain their radios. About 50 percent of the taxis have radios, it was estimated.

Commenting on the order, Maurice Hotchner, Executive Chairman of the United Taxicab Board of Trade, Inc., and former Chairman of the City Board of Taxi Control, said:

"The police have no more jurisdiction over the cab radios than over private car radios. These are accessories having nothing to do with safety equipment. Insurance company studies show that radios do not increase accidents."

A spokesman for three taxi fleets declared that radio-equipped cabs had the best drivers.

X X X X X X X

GERMANY TRYING TO REVIVE RADIO-LUXEMBOURG, SAYS BBC

"Anybody who listened to Radio-Luxembourg before the war will have noticed that the station closed down on the outbreak", the BBC's "Radio Time" comments. "The reason was that it was operated by a French company, and the authorities of the Grand Duchy feared complications with Germany if it went on. Since then, we have heard, the Germans have been trying to put the station on the air; again by means of broadcasts from Frankfurt; they have approached the staff of the old station, eighty of whom lost their jobs when it closed, with the idea of putting on programs that listeners would think came from the original Radio-Luxembourg. According to our information, however, only one of the eighty has accepted their offers, so prospects of a convincing impersonation do not look too good."

X X X X X X X