

"Short Wave" Hearing

JULY 14

Commissioner Thad H. Brown, acting chairman, opened the hearing by announcing the suspension of the program rule affecting international broadcasting. Mr. Brown denied that the Commission had any intention of exercising any "censorship" of international programs. He made the following statement:

This hearing was set on a petition of the American Civil Liberties Union for revision, amendment or modification of Section 42.03(a) of the Commission's rules and regulations governing international broadcast stations. This rule reads as follows:

"A licensee of an international broadcast station shall render only an international broadcast service which will reflect the culture of this country and which will promote international good-will, understanding and cooperation. Any program solely intended for, and directed to an audience in the continental United States does not meet the requirements for this service."

The Commission intended by this rule to require international broadcast stations, which are licensed for the purpose of rendering a program service intended for general public reception in foreign countries, to render a program service designed for reception by the people of such countries as distinguished from a program service intended only for reception in this country. It was further intended to define the primary purpose and objectives of international broadcast stations for reasons provided in international agreements to which the United States is a party.

The applicable provisions of the Communications Act of 1934, as amended, require that licenses be issued to serve the public interest, convenience or necessity. To comply with this statutory mandate, the Commission is required before it may issue a license or assign any frequency for any particular service to define the purpose and objectives for such service in such a way that the public interest, convenience or necessity will be served by the station licensed to operate on frequencies assigned to this service. This is true whether the service be international broadcast service, telephone or telegraph service, domestic broadcast service, police service, aviation service or any of the other various classes of radio service authorized by the Commission.

Prior to the adoption of the present rules governing international broadcast stations, stations licensed to operate on the frequencies assigned to that service were authorized only on an experimental basis. During the experimental period the Commission imposed, and the licenses accepted, conditions limited the nature and defining the character of the service which could be rendered on the assigned frequencies.

The operation of these stations has demonstrated that the use of the frequencies involved for long-distance communication is practicable and can no longer be considered in an experimental stage of development. Before assigning frequencies for use on a regular basis for international broadcasting, it was necessary for the Commission to consider what, if any, benefits would result to the people of this country from such use. For, unless the public interest, convenience or necessity would be served by assigning

these frequencies to a use which would not directly serve the listeners of this country, and since the frequencies are to be used for providing program service to the listeners of other countries, it was necessary to determine how and to what extent a program service to foreign countries from American broadcast stations would be of benefit to this country. The Commission reached the conclusion that there would be a public benefit to the people of this country if American stations could be licensed to provide a program service to foreign countries if the effect of the operation of such stations would be to engender international good-will, understanding and cooperation through program service generally reflecting the culture of our people. The Commission was of the opinion that such a service would result in benefits to the people of the United States through the stimulation of international good-will, understanding and cooperation and would promote our foreign commerce.

Among other things, it was necessary to keep in mind at all times that from a technical standpoint the licensing of international stations presents a different problem than that of regular domestic broadcast stations. As an example, the problem of providing an interference-free channel between the transmitter and the receiver is not one subject generally to the control of this government alone; for any of these frequencies or all of them could be rendered useless for our purposes if other countries permitted stations to operate, or create interference, on the same frequencies.

It was also necessary to consider in connection with this rule the international policy which our government had a major part in formulating with respect to the use of these frequencies. This policy is reflected in Article VII, Section 22 of the General Radio Regulations annexed to the Telecommunication Convention of Madrid, the Cairo revision of which carries forward and makes more restrictive the similar provisions in the Madrid regulations (Article VII, Section 19). The Cairo provision reads:

"§ 22. (1) It is recognized that the frequencies between 5,000 and 30,000 kc. (60 and 10 m) are capable of propagation over great distances.

(2) The administrations shall make every possible effort to reserve the frequencies of this band for long-distance communications, in view of the fact that their use for short- or medium-distance communications is likely to interfere with long-distance communications."

In summary, Section 42.03(a) was intended to do two things: (1) to require international broadcast stations to direct their service to foreign countries rather than the United States; (2) to define the public interest to be served through the licensing and operation of such stations. It has not been the practice of the Communications Commission in the past, nor is it the intention of the Commission now, with respect to the rule, ever to require the submission of any program continuity or script for editing, modification or revision, or for any other purpose prior to its use by a station.

It cannot be emphasized too strongly that the Commission has no desire, purpose or intention of setting itself up as a board of censorship, and that it does not and will not exercise any such jurisdiction.

The Commission deems it appropriate in the interests of orderly procedure to place this statement formally upon the record in this hearing which has been duly set upon a proper petition, and hopes that the statement will contribute materially toward a constructive result.

The fundamental issue in this hearing may be stated as follows:

1. Is the public interest, convenience or necessity within the meaning of the Communications Act of 1934, as amended, served

(Continued on page 3606)

Neville Miller, *President* Edwin M. Spence, *Secretary-Treasurer*

Andrew Bennett, *Counsel*; Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*

"SHORT WAVE" HEARING

(Continued from page 3605)

through the licensing and operation of international broadcast stations?

2. How is the public interest, convenience or necessity served through the licensing and operation of international broadcast stations?

3. Is the Commission on the basis of the public interest, convenience or necessity to be served through the licensing of such stations justified in limiting the stations to an international broadcast service as distinguished from a domestic broadcast service?

It is of the greatest importance that these issues be considered and discussed without possibility of confusion arising from any ambiguity in or misinterpretation of language or phraseology. The Commission, therefore, pending an opportunity to hear and consider the evidence, views and arguments to be presented on the issues in this hearing has ordered that the operation of section 42.03(a) be suspended.

After the American Civil Liberties Union had introduced a statement of its radio policy as its only direct testimony, Swagar Sherley, special NAB counsel, introduced a motion to amend the suspended rule to read: "A licensee of an international broadcast station shall render an international broadcast service." ("Stop there," Mr. Sherley said.) All interested parties except the International Catholic Truth Society and the National Committee on Education by Radio agreed to the motion, he explained. After considerable discussion, the motion was taken under advisement.

Horace L. Lohnes appeared for the Westinghouse Electric and Manufacturing Company, and told the Commission that "Westinghouse does not believe in censorship any more than the Commission apparently does," and that he joined in Mr. Sherley's motion. The same held for the Isle of Dreams Broadcasting Company, he added. During cross-examination, Commissioner Thompson asked Mr. Lohnes a question he asked each succeeding witness: "Has there been any indication whatsoever in the operation of the station that any effort at all has been made to censor any program on that station?" Mr. Lohnes replied that there had not been.

Rev. Edward Lodge Curran, appearing for the International Catholic Truth Society, the next witness, said that as an American Citizen he was "at a loss to understand how any of my fellow American citizens can object to either the contents or the wording of this section." During his testimony, he assailed both the NAB and the

American Civil Liberties Union for their position in the matter.

Neville Miller, NAB president, was on the stand the rest of the first day, and was subject to a great deal of questioning by both the Commission and Commission counsel.

The NAB convention, the new code, how Mr. Miller found out about the "censorship" rule, the NAB news review, the drafting of Mr. Miller's letter requesting a hearing on the rule, whether the board of directors was consulted, why the letter was sent to Chairman McNinch instead of the acting chairman, how many stations the NAB represented, just whom Mr. Miller represented in the proceedings—these and other topics were discussed before the Commission and its counsel finished their questioning.

JULY 15

E. K. Cohan, CBS engineering director, the next witness, described the technical aspects of international broadcasting. It was brought out that a broadcast could not be confined to one country alone, and that a program which was designed to promote "good will" in one country might be received in another where it might provoke ill will. Frederick A. Willis, CBS assistant to the president, in charge of short wave operations, described in detail CBS short wave programs and policy.

H. Thomas Austern, for the American Civil Liberties Union, next gave his argument in behalf of that organization. In concluding, he said, in part:

"Now, what does this mean when a licensee of the Commission examines whether a program promotes international goodwill, understanding and cooperation? Well, it clearly considers the effect of what is said on those who listen. It proposes, as it can be so interpreted, we think, to curb expression where the listener might possibly be irritated or annoyed; it necessarily confers upon the Commission the opportunity to decide when this occurs. Now, frankly, we do not know how anyone could interpret that standard. Would a public discussion of tariff policy, let's say, with respect to imported beef, be permitted even though both sides were debated? Would a news report about our Governmental action in buying such materials be proper? Would a broadcast of the Mikado or Porgy and Bess be ruled out as possibly offensive to the sensibilities of some other nationals, and would not a licensee, seeking renewal or defending a revocation proceeding, necessarily have to deal with the effect of his program content in specific terms? We think that this clearly permits censorship. Frankly, we fear that it is contemplated, that type of examination. * * *

"Now, we submit that all of subparagraph (a) should be rescinded because it permits the exercise of the power of censorship; because it impedes and interferes with the specific content of programs; because it contemplates the measurement of such specific content in terms of its truth, its effect elsewhere, whether it will provoke hostility, and so forth. * * *

"Now, we submit that there is no necessity whatever for that paragraph. Candidly, we think there is no necessity for any such particularization as to public convenience and necessity, and we respectfully submit that it be deleted."

After Mr. Willis underwent long cross-examination, C. B. Jolliffe, engineer in charge of the RCA frequency, and Frank E. Mason, in charge of the NBC International Division, discussed NBC short wave broadcasting. Like

the other witnesses, Mr. Mason was closely cross-examined on the "censorship" issue.

JULY 17

Mr. Sherley summed up the NAB'S case with a brilliant analysis and discussion of the fundamental issue. Following are especially important excerpts:

Perhaps it may not be amiss at this point to call attention to what I consider to be the loose thinking that has grown up in connection with radio and government's relationship to it.

We all indulge in talk about the ether and it being the property of the State; that licensees are the recipients of government favor and as such exist, so to speak, as tenants by sufferance. I in no way deny the right of regulation which, in the interest of the public, the government possesses; but it has been easy, because of this right of regulation, for persons to conclude that there is in government an ownership of the ether in some mystical way (always unexplained) whereby the use of this great art by the citizens of the Republic is to be considered as a favor bestowed by a generous government, and that the recipients should therefore show a corresponding sense of gratitude and accept with whatever limitations are placed on it the right to use the art.

To my mind nothing could be more misleading. Ownership of the ether, in any strict sense of the term, is an impossibility. It is a property of nature, capable of use, but not of ownership. What the government possesses is a right to regulate the use of the ether, and this right of regulation with a free people is limited *by the need to regulate* in order that proper use in the interest of society may be made.

Man's inventive genius found a method for transmitting electrical impulses with the speed of light and their translation into auditory sensation, and as a result of the genius of Marconi and those who followed him, there has been built up a new form of instruction and entertainment for mankind, the possibilities of which we cannot even visualize. Those who have given their ability, their wealth and their energy in the development and improvement of this art are not in any true sense of the term suppliants of a government's favor. They are benefactors of their time, willingly submissive to that regulation of their government and that only which is necessary in the clear interest of all.

Now let me not be misunderstood. I would not represent but misrepresent those for whom I speak, if I in any way gave the impression that the industry is rebellious over the regulation and licensing that the *radio law* provides. Those of us who had experience in the chaotic days when the then regulatory power of the government was stricken down would be the last to ask that freedom which is not real freedom but anarchy, that existed in the ether.

But I have said what I have said because I believe it was the intention of Congress—as I believe that it is and should be the viewpoint of this Commission—that regulation should be the child of the art's need and not the exertion of power by government for power's sake, or of any mistaken notion that those who are licensed to pursue the art are beneficiaries of grants in the sense in which a government with a proprietary interest might convey rights or interests to specially chosen individuals and therefore place whatever conditions upon the grant it saw fit.

It is interesting to note that the Commission's carefully prepared statement suspending the rule occupies five pages of typewriting in order to explain the intent lying behind six lines of regulation. May I be pardoned if I say that witnesses may be considered to have had some justification for expressing their uncertainty as to the significance and scope of the regulation? It will be noticed that the Commission's statement at no place deals with the meaning and construction of the language actually used in the regulation.

The Commission at no point has undertaken to define the word "culture", of which we have heard so much during the hearing, nor as to what will promote international good will, understanding and cooperation, and the statement of the Commission is interestingly silent as to the second sentence of the regulation, though it does affirmatively declare that the intention of the Commission was to make a distinction between the program service intended for general public reception in foreign countries as distinguished from a program service intended for reception in this country.

INDEX

	Page
Short Wave Hearing	3605
Issue Before Congress	3608
Correction	3608
RCA vs. Whiteman	3608
FCC Rules	3609
Bill to Curb Agencies	3609
New Legislation	3610
Free Offers	3610
FCC Monitoring Station	3610
Broadcast Measurements	3610
778 Stations	3610
New FCC Rules	3610

Notwithstanding the disclaimer as to intent made by the Commission, I submit that there can be no two opinions as to the language of the rule being such as in law to create and permit censorship of international broadcast programs.

And it must never be overlooked that the phraseology of the rule is an affirmative command and not simply a prohibition. It would be bad if it was a prohibition other than those which the Act itself contains. It is doubly bad when it substitutes the judgment of the Commission as to what must be said in order to be considered in the public interest. That is the very essence of censorship—the substitution by governmental fiat of a judgment as to what is desirable for the freedom of judgment of those within the purview of the regulation.

Rule 42.03(a) is an affirmative requirement that all licensees of international broadcast stations *shall* render a program service which both reflects the culture of the United States and promotes international good will, understanding and cooperation, and I respectfully submit that no question of intent on the part of the Commission in adopting the rule has any place in the construction of the language actually used.

Had the rule provided simply that a licensee of an international broadcast station should render an international broadcast service and stopped there, it might be argued with some plausibility that the regulation was simply a classification such as we are all familiar with in connection with ship-to-shore, police, point-to-point and other regulations pertaining to classification.

But when it goes forward with an affirmative requirement—vague, uncertain and indefinite though it is—I submit that it is an effort at direct censorship of program content within the international field and as such is beyond the power of this Commission to enact.

As always, confusion arises from the use of the same word in different senses. We have talked about censorship, using the phrase as carrying with it as a necessary incident the fiat of the government whereby the person subject to the censorship is under the compulsion of obedience.

The word has been used as applying to the self-imposed censorship which the members of an association such as the National Association of Broadcasters voluntarily elect to impose upon themselves in their desire to live up to the full obligation of their duties as licensees of broadcast stations, and it has been used to indicate that editorial selection which is exercised by a broadcaster in determining what shall go into a particular program. It is very vital that we bear in mind the fundamental differences that underlie the word accordingly as it applies to one or the other of these situations.

Repeated suggestions were made that inasmuch as the broadcasters had seen fit to establish standards that should control them in broadcasting, there should be no objection to the like purpose sought to be accomplished by a regulation of the Commission. Such a view, I submit, is fundamentally unsound. The vice of governmental censorship lies in its compelling power; like a sword of Damocles it is held over the heads of those subject to it, with pains and penalties if they fail to comply. It is the difference between servitude and voluntary restraint.

One may and does impose upon himself restraints that are in the nature of voluntary censorship, but to conclude that there is no essential difference between such voluntary restraint and that which may be imposed upon one by government is again to lose sight of the whole philosophy that underlies our government.

Voluntary restraint by an association is the American way of making sure the performance of a duty that is always coincident

to a right. The failure properly to live up to the duty may be, under given conditions, a warrant for taking away the right or privilege; but unless we are to transform completely our concept of government, the right cannot in the first instance be given subject to conditions that of themselves curtail the freedom that is contemplated by the Bill of Rights.

Again I say to you that our theory of government contemplates citizens full grown, capable in themselves, who do not need the guiding hand of governmental guardianship no matter how benevolently applied.

The power of Congress over radio arises out of the constitutional grant in reference to interstate and foreign commerce. This power, broadly speaking, is a plenary power; but like all other express grants to Congress, it is to be exercised subject to the limitations imposed by the First Amendment to the Constitution.

I have, I hope, already made clear that Congress has the right—nay, the duty—in the public interest to place restrictions upon speech in order that the right may not degenerate into license of speech.

Congress has the unquestioned power, and it is the very basis of its control, to determine in the public interest who shall be given the right to use of the ether waves. And it has not only the right to determine who shall be licensed to use the ether but also to classify the uses to which particular frequencies shall be dedicated. This power of classification is broad and fundamental as a classification of service to be rendered, but it is not a power that can be used as a medium for disregarding the prohibition on abridging freedom of speech.

Much has been said in connection with the Montevideo Conference of 1933 and the very laudatory resolution adopted there regarding desirable objectives as to international broadcasts. Similar resolutions were adopted at Buenos Aires in 1936 and at Lima in 1938. But there has been an entire failure to call attention to the fact that in connection with the very statements which have been quoted there was a statement on behalf of the American delegates to the Lima conference which reads as follows:

"The United States delegation agrees to this resolution with the understanding that the following words in paragraph one: 'to recommend that the governments of America, *in so far as their respective internal legislation permits*', are intended also to apply to and limit the language of paragraph two."

But I submit with all the earnestness possible that the necessity for any consideration of programs, broadcast by a single station, if necessity exists, cannot in any way be construed into a right of the Commission to declare affirmatively what shall or shall not be broadcast by all stations, save as the Radio Act expressly provides.

The Communications Act contains five specific provisions having to do with programs:

- (a) Obscene, indecent or profane language;
- (b) Denial of equal opportunity to political candidates;
- (c) Lottery information;
- (d) Announcement of sponsored matter; and
- (e) Unauthorized rebroadcasting.

In summary and in conclusion, may I say that it is my position that the Bill of Rights is an express limitation upon every power conferred upon our Federal Government by the Constitution of the United States.

That Congress, recognizing the limitation in the First Amendment upon freedom of speech, has most emphatically and explicitly declared that this Commission should exercise no form of censorship.

That all of the powers conferred upon the Commission regarding classification and other matters are by the express terms of Section 326 of the Radio Act made subject to that clause.

That Rule 42.03(a) is censorship and censorship none the less because of the benevolent intent of the Commission in adopting it.

We lose sight entirely of the fundamental issue here involved if we accept a disclaimer as to an intent to disagreeably or restrictively enforce a regulation as warranting its enactment.

We were told during the hearing that the industry should have no concern over the regulation adopted or some substitute for it, because its enforcement would be by reasonable men and without an intent to interpret it oppressively. This is the old, old plea

for power sought to be justified by a disclaimer of intent to abuse the power. But I submit as a matter of law that a regulation adopted speaks in its own language and once adopted it *becomes the duty and not the option* of those charged with enforcement to see to its enforcement.

(Note: Mr. Sherley's full statement is being printed, and will be sent to all NAB members.)

ISSUE BEFORE CONGRESS

Representative Cochran (D-Mo) on July 13 introduced a bill to set aside the FCC short wave rule setting program standards for international broadcasts and to forbid the FCC from setting up such standards.

CORRECTION

In last week's NAB Reports (Vol. 7, No. 28, page 3588), Walter J. Damm was incorrectly listed as director of District 9. This should be changed to:

District 9—Gene T. Dyer, Manager
Radio Station WCBD
WCBD, Inc.
Chicago, Ill.

Members should correct the list in case it is used for reference.

Legal

RCA VS. WHITEMAN

Findings of fact and conclusions of law were made by United States District Judge Vincent L. Leibell in the Southern District of New York and filed on Saturday, July 15th, in the case of RCA Manufacturing Company, Inc., against Paul Whiteman, W. B. O. Broadcasting Corporation and Elin, Inc., tried in that Court last December. No opinion has yet been rendered although it is understood that Judge Leibell will shortly file a memorandum in support of his findings and conclusions, and this week will sign a decree.

The Court found that from November 1932 to August 15, 1937, the RCA Manufacturing Company, Inc., and its predecessor, RCA Victor Co., has marketed phonograph records bearing the legend "Not Licensed for Radio Broadcast," and since August 15, 1937, all records have been issued with labels and envelopes stating, "Licensed ** Only For Non-Commercial Use On Phonographs In Homes. Mfr. & Original Purchaser Have Agreed This Record Shall Not Be Resold Or Used For Any Other Purpose."

The Court held that the broadcasting by the defendant radio station and sponsor of phonograph records

bearing these restrictions constituted unfair competition with the record manufacturer (and also with the recording artist, provided the artist had not assigned all of his rights to the recording company); that Whiteman had contracted away all of his rights to the Recording Company except under one contract in which the rights were restricted as to broadcasting so that neither the Company nor Whiteman could alone license the broadcasting of the records without the consent of the other.

The Court found that Whiteman and certain other artists had (in their renditions of musical selections transcribed upon phonograph records) acquired common-law-property rights in such renditions and that these rights were not dedicated, published or abandoned by the sale of the records, provided the labels restricted the use thereof.

The Court further found that the defendant W. B. O. Broadcasting Corporation had caused the New York distributor of RCA records to breach the distributor's contract with RCA Manufacturing Company, Inc., by inducing the distributor to sell the records for radio use.

The injunctions that are expected to issue are as follows:

1. Whiteman will be enjoined from asserting the right to control the commercial use of RCA phonograph records made under his 1924 and 1931 contracts with the manufacturer, and from undertaking to license the same, and from asserting the sole right to control the use for radio broadcast of RCA phonograph records produced under the 1934 contracts, and from undertaking solely to license the same.

2. WBO Broadcasting Corporation and Elin, Inc., will be enjoined from broadcasting any RCA records provided such records have on them the restrictive-use labels; and the WBO Broadcasting Corporation will be enjoined from inducing RCA Manufacturing Company's New York distributor to breach its contract by selling records for radio use.

This decision may have various results. The National Association of Performing Artists has received a decided set-back in its attempt to license radio stations to broadcast phonograph records. It is reported that fewer than a dozen contracts exist by which the artists have retained any rights of any character in their renditions.

On the other hand, it is understood that some phonograph record manufacturers are likely to attempt to license their records for radio use on a regular fee basis with the royalties divided with the artists and music publishers.

The following findings of fact in this case may in some cases make the decision inapplicable to other stations:

"10. Defendants WBO Broadcasting Corporation and Elin, Inc., duly appeared in this action and filed their answers herein, but at the trial of this action appeared by counsel and stated that they elected not to defend the suit.

"77. Defendant WBO Broadcasting Corporation has prefaced the playing of phonograph records with announcements designed to create the impression among the audience that the performance is being rendered by the artist in person."

Accordingly, it is possible that in a suit in which testimony would be introduced by a defendant radio station and in which the witnesses of the recording company and

of the recording artists would be subjected to vigorous cross-examination, the decision might be far different.

The decision is furthermore determinative only of the common law of the State of New York and need not be followed by Courts of other States or even by the State Courts of New York. Furthermore, if appealed by any of the parties, it may not even be sustained as the legal conclusions arrived at are not only far from being well settled but also are contrary to many decided cases in analogous situations.

Although the recording company urged a property right in it by virtue of the skill and ability of its employes, the Court refused to so find and instead found:

"52. No act of the recording company contributes to the artistic quality of the interpretation."

It is suggested that the members keep NAB headquarters advised of any steps taken by manufacturers or artists respecting the broadcasting of records.

FCC STANDARD BROADCAST RULES

Inquiries have been received respecting the interpretation of Rule 3.90(a)(2) of the Rules Governing Standard Broadcast Stations, which become generally effective August 1. The Rule is as follows:

"3.90. Logs. The licensee of each broadcast station shall maintain program and operating logs and shall require entries to be made as follows:

"(a) In the program log.

"(2) An entry briefly describing each program broadcast, such as 'music,' 'drama,' 'Speech,' etc., together with the name or title thereof, and the sponsor's name, with the time of the beginning and ending. If a mechanical record is used, the entry shall show the exact nature thereof such as 'record,' 'transcription,' etc., together with the name or title of each, and the time it is announced as a mechanical record. If a speech is made by a political candidate, the name and political affiliations of such speaker shall be entered."

The second sentence of the Rule with respect to transcription and phonograph record programs is the portion which apparently needs clarifying. An official ruling has been requested from the FCC which we hope will be available for publication in the NAB REPORTS next week.

BILL TO CURB GOVERNMENT AGENCIES

The bill introduced by Senator Logan (D-Ky). and advocated by the American Bar Association which would curb the powers of quasi-judicial federal agencies, such as the Federal Communications Commission, the Federal Trade Commission and others, was approved by the Senate on July 18. The proposed law is opposed by the government agencies as well as the Department of Justice, and an effort is being made by Administration leaders to have the bill reconsidered. The proposed law would impose a mandatory obligation upon federal courts to set aside decisions, rulings and orders of administrative agencies on any of the following grounds: (1) if the findings of fact were "clearly erroneous"; (2) if the find-

ings of fact were not supported by "substantial evidence"; (3) if the decision was not supported by the findings of fact; (4) if the decision was issued without "due notice" and a "reasonable opportunity" for the aggrieved parties to have "a full and fair hearing"; (5) if the decision was "beyond the jurisdiction" of the agency; (6) if the decision infringes the Constitution or statutes of the United States, and (7) if the decision is "otherwise contrary to law."

NEW LEGISLATION

CONGRESS

H. R. 7188 (Mr. Cochran, D., Mo.) COMMUNICATIONS ACT—To abrogate FCC Rule 42.03(a), adopted by FCC May 23, 1939, requiring international broadcast stations to limit programs to those which reflect the culture of the United States and promote international good will, understanding and cooperation, and to prohibit FCC adopting any similar rule. Referred to Interstate and Foreign Commerce Committee.

H. R. 7192 (Mr. Fay, D., N. Y.) PATENTS—To provide for the compulsory granting of licenses under patents which are brought by competitors within a single control in order to dominate an industry. Referred to Patents Committee.

FREE OFFERS

Recent attempts to obtain free time for commercial purposes called to the NAB's attention:

The American Can Company—"A series of non-commercial, educational recordings" for "use in conjunction with their food programs."

Hal Roach Studios, Inc.—"An entirely new transcribed program of Hollywood happenings . . . talks with the stars and featured players appearing in productions currently before the cameras at our studio."

The American Golf Institute ("Founded and conducted by A. G. Spaulding and Bros.")—Question and answer quiz on golf including two plugs for Spaulding, manufacturers and retailers of golf equipment.

Ringling Brothers-Barnum and Bailey Combined Shows, Inc.—"One or more transcriptions prepared by the Educational Department of Ringling Brothers and Barnum & Bailey Circus." (Note: Circus offers passes as a reward for the use of these).

"Your Life" Magazine (Amy Vanderbilt)—Excerpts from an article in August issue, about blondes vs. brunettes.

FCC MONITORING STATION

Senate Bill 2611 authorizing the purchase of a site and erection of a building in Massachusetts for use as a FCC radio-monitoring station with an appropriation of \$30,000 was approved this week by the Senate. A similar bill is pending in the House.

The bill provided "that the Federal Communications Commission be, and it is hereby, authorized to purchase for the United States a suitable site in the State of Massachusetts, provided a suitable site now owned by the Gov-

ernment is not available for the purpose, and cause to be erected thereon, according to plans and specifications to be approved by it, a suitable building or buildings, for use as a radio-monitoring station, or to modify or reconstruct existing buildings of facilities on such site for such purpose, and to provide the necessary associated antenna systems, roadways, power, water, and sanitary facilities, including necessary outfits, apparatus, and equipment at a total cost of said site, buildings, and equipment of not to exceed \$30,000."

BROADCAST MEASUREMENTS

During the month of June experts of the Federal Communications Commission measured 701 broadcast stations leaving 69 not measured.

Of this number 629 showed a maximum deviation within 0-10 cycles; 64 a deviation within 11-25 cycles; 5 a deviation within 26-50 cycles and 3 stations having a maximum deviation of over 50 cycles.

778 STATIONS

During the month of June, the Federal Communications Commission granted permits for the construction of five new stations. A comparative table by months follows:

	Jan. 1	Feb. 1	Mar. 1	April 1	May 1	June 1	July 1
Operating stations . .	722	727	729	732	734	735	735
Construction permits . . .	42	39	37	37	38	38	43
Total . .	764	766	766	769	772	773	778

New FCC Rules

PART 3—RULES GOVERNING STANDARD BROADCAST STATIONS*†

TABLE OF CONTENTS

DEFINITIONS

* Sec. 4, 44 Stat. 1163; 47 U.S.C. 84 (f), rules promulgated thereunder continued in effect by Sec. 604, 48 Stat. 1103; 47 U.S.C. 604—Sec. 4 (i), 48 Stat. 1066; 47 U.S.C. 154 (i)—Sec. 303 (b), 48 Stat. 1082; 47 U.S.C. 303 (b)—Sec. 303 (c), 48 Stat. 1082; 47 U.S.C. 303 (c)—Sec. 303 (e), 48 Stat. 1082; 47 U.S.C. 303 (e)—Sec. 325 (a), 48 Stat. 1091; 47 U.S.C. 325 (a)—Sec. 325 (c), 48 Stat. 1091; 47 U.S.C. 325 (c).

† Adopted by the FCC on June 23, 1939, to become effective as follows: Sec. 3.32 (b) to become effective Jan. 1, 1940. Sec. 3.34 to become effective Aug. 1, 1939, provided that on and after that date each renewal of license will be issued for such period of months, not exceeding twelve, as will cause such license to expire in accordance with the expiration date fixed therefor in Sec. 3.34. All the remaining provisions of this Part to become effective Aug. 1, 1939.

Sec.

- 3.1 Standard broadcast station.
- 3.2 Standard broadcast band.
- 3.3 Standard broadcast channel.
- 3.4 Dominant station.
- 3.5 Secondary station.
- 3.6 Daytime.
- 3.7 Nighttime.
- 3.8 Sunset
- 3.9 Broadcast day.
- 3.10 Experimental period.

- 3.11 Service areas.
- 3.12 Main studio.
- 3.13 Portable transmitter.
- 3.14 Auxiliary transmitter.
- 3.15 Combined audio harmonics.
- 3.16 Effective field.

ALLOCATION OF FACILITIES

Sec.

- 3.21 Three classes of standard broadcast channels.
 - (a) Clear channel.
 - (b) Regional channel.
 - (c) Local channel.
- 3.22 Classes and power of standard broadcast stations.
 - (a) Class I station.
 - (b) Class II station.
 - (c) Class III station.
 - (1) Class III-A station.
 - (2) Class III-B station.
 - (d) Class IV station.
- 3.23 Time of operation of the several classes of stations.
- 3.24 Broadcast facilities; showing required.

FREQUENCY ALLOCATIONS BY CLASSES OF STATIONS

- 3.25 Clear channels; class I and II.
- 3.26 Regional channels; class III-A and III-B.
- 3.27 Local channels; class IV.
- 3.28 Assignment of stations to channels.
- 3.29 Assignment of class IV stations to regional channels.
- 3.30 Station location.
- 3.31 Authority to move main studio.
- 3.32 Special experimental authorizations.
- 3.33 Directional antenna; showing required.
- 3.34 Normal license period.

EQUIPMENT

- 3.41 Maximum rated carrier power; tolerances.
- 3.42 Maximum rated carrier power; how determined.
- 3.43 Changes in equipment; authority for.
- 3.44 Other changes in equipment.
- 3.45 Radiating system.
- 3.46 Transmitter.

TECHNICAL OPERATION

- 3.51 Operating power; how determined.
- 3.52 Operating; indirect measurement.
- 3.53 Application of efficiency factors.
- 3.54 Operating power; direct measurement.
- 3.55 Modulation.
- 3.56 Modulation; data required.
- 3.57 Operating power; maintenance of.
- 3.58 Indicating instruments.
- 3.59 Frequency tolerance.
- 3.60 Frequency monitor.
- 3.61 New equipment; restrictions.
- 3.62 Automatic frequency control equipment; authorization required.
- 3.63 Auxiliary transmitter.
- 3.64 Duplicate main transmitters.

OPERATION

- 3.71 Minimum operating schedule.
- 3.72 Operation during experimental period.
- 3.73 Specified hours.
- 3.74 Sharing time.
- 3.75 Sharing time; equivalence of day and night hours.
- 3.76 Sharing time; experimental period.
- 3.77 Sharing time; departure from regular schedule.
- 3.78 Sharing time station; notification to Commission.
- 3.79 License to specify sunset hours.
- 3.80 Secondary station; filing of operating schedule.
- 3.81 Secondary station; failure to reach agreement.
- 3.82 Departure from schedule; material violation.
- 3.83 Local standard time.
- 3.84 Daylight saving time.
- 3.85 Changes in time; agreement between licensees.
- 3.86 Local standard time; license provisions.
- 3.87 Station license; posting of.
- 3.88 Licensed operator required.
- 3.89 Licensed operator; other duties.

- 3.90 Logs.
- 3.91 Logs; retention of.
- 3.92 Station identification.
- 3.93 Mechanical reproductions.
- 3.94 Rebroadcast.

BROADCASTS BY CANDIDATES FOR PUBLIC OFFICE

Sec.

- 3.101 General requirements.
- 3.102 Definitions.
- 3.103 Rates and practices.
- 3.104 Records; inspection.

DEFINITIONS¹

§ 3.1 *Standard broadcast station.* The term "standard broadcast station" means a station licensed for the transmission of radio-telephone emissions primarily intended to be received by the general public and operated on a channel in the band 550 to 1600 kilocycles inclusive.*†

§ 3.2 *Standard broadcast band.* The term "standard broadcast band" means the band of frequencies extending from 500 to 1600 kilocycles, inclusive, both 550 kilocycles and 1600 kilocycles being the carrier frequencies of broadcast channels.*†

§ 3.3 *Standard broadcast channel.* The term "standard broadcast channel" means the band of frequencies occupied by the carrier and two side bands of a broadcast signal with the carrier frequency at the center. Channels shall be designated by their assigned carrier frequencies. Carrier frequencies assigned to standard broadcast stations shall begin at 550 kilocycles and be in successive steps of 10 kilocycles.*†

§ 3.4 *Dominant station.* The term "dominant station" means a Class I station, as hereinafter defined, operating on a clear channel.*†

§ 3.5 *Secondary station.* The term "secondary station" means any station except a Class I station operating on a clear channel.*†

§ 3.6 *Daytime.* The term "daytime" means that period of time between 6 a. m. local standard time and local sunset.*†

§ 3.7 *Nighttime.* The term "nighttime" means that period of time between local sunset and 12 midnight local standard time.*†

§ 3.8 *Sunset.* The term "sunset" means, for each particular location and during any particular month, the average time of sunset as specified in the license of a broadcast station. (For tabulation of average sunset time for each month at various points in the United States see "Average Sunset Time".)*†

§ 3.9 *Broadcast day.* The term "broadcast day" means that period of time between 6 a. m. and 12 midnight, local standard time.*†

§ 3.10 *Experimental period.* The term "experimental period" means that period of time between 12 midnight and 6 a. m. This period may be used for experimental purposes in testing and maintaining apparatus by the licensee of any standard broadcast station, on its assigned frequency and with its authorized power, provided no interference is caused to other stations maintaining a regular operating schedule within such period. No station licensed for "daytime" or "specified hours" of operation may broadcast any regular or scheduled program during this period.*†

§ 3.11 *Service areas.* (a) The term "primary service area" of a broadcast station means the area in which the ground wave is not subject to objectionable interference or objectionable fading.

(b) The term "secondary service area" of a broadcast station means the area served by the sky wave and not subject to objectionable interference. The signal is subject to intermittent variations in intensity.

(c) The term "intermittent service area" of a broadcast station means the area receiving service from the ground wave but beyond the primary service area and subject to some interference and fading.*†

§ 3.12 *Main studio.* The term "main studio" means, as to any station, the studio from which the majority of its local programs originate, and/or from which a majority of its station announcements are made of programs originating at remote points.*†

§ 3.13 *Portable transmitter.* The term "portable transmitter" means a transmitter so constructed that it may be moved about conveniently from place to place, and is in fact so moved about from time to time, but not ordinarily used while in motion. In the standard broadcast band, such a transmitter is used in making field intensity measurements for locating a transmitter site for a stand-

¹ Other definitions which may pertain to Standard Broadcast Stations are included in Sections 2.1 to 2.35 and the Communications Act of 1934, as amended. These sections appear as Sections 21.01 to 21.35 at 4 F.R. 2104 DI.

ard broadcast station. A portable broadcast station will not be licensed in the standard broadcast band for regular transmission of programs intended to be received by the public.*†

§ 3.14 *Auxiliary transmitter.* The term "auxiliary transmitter" means a transmitter maintained only for transmitting the regular programs of a station in case of failure of the main transmitter.*†

§ 3.15 *Combined audio harmonics.* The term "combined audio harmonics" means the arithmetical sum of the amplitudes of all the separate harmonic components. Root sum square harmonic readings may be accepted under conditions prescribed by the Commission.*†

§ 3.16 *Effective field.* The term "effective field" or "effective field intensity" is the Root-mean-square (RMS) value of the inverse distance fields at a distance of one mile from the antenna in all directions in the horizontal plane.*†

ALLOCATION OF FACILITIES

§ 3.21 *Three classes of standard broadcast channels—(a) Clear Channel.* A "clear channel" is one on which the dominant station or stations render service over wide areas and which are cleared of objectionable interference, within their primary service areas and over all or a substantial portion of their secondary service areas.

(b) *Regional channel.* A "regional channel" is one on which several stations may operate with powers not in excess of 5 kilowatts. The primary service area of a station operating on any such channel may be limited, as a consequence of interference, to a given field intensity contour.

(c) *Local Channel.* A "local channel" is one on which several stations may operate with powers not in excess of 250 watts. The primary service area of a station operating on any such channel may be limited, as a consequence of interference, to a given field intensity contour.*†

§ 3.22 *Classes and power of standard broadcast stations—(a) Class I station.* A "Class I Station" is a dominant station operating on a clear channel and designed to render primary and secondary service over an extended area and at relatively long distances. Its primary service area is free from objectionable interference from other stations on the same and adjacent channels, and its secondary service area free from interference, except from stations on the adjacent channel, and from stations on the same channel in accordance with the channel designation in Sec. 3.25 or in accordance with the "Engineering Standards of Allocation". The operating power shall be not less than 10 kw nor more than 50 kw (also see Sec. 3.25 (a) for further power limitation).

(b) *Class II station.* A "Class II Station" is a secondary station which operates on a clear channel (see Sec. 3.25) and is designed to render service over a primary service area which is limited by and subject to such interference as may be received from Class I stations. A station of this class shall operate with power not less than 0.25 kilowatts nor more than 50 kilowatts. Whenever necessary a Class II station shall use a directional antenna or other means to avoid interference with Class I stations and with other Class II stations, in accordance with the "Engineering Standards of Allocation."

(c) *Class III station.* A "Class III Station" is a station which operates on a regional channel and is designed to render service primarily to a metropolitan district and the rural area contiguous thereto. Class III stations are subdivided into two classes:

(1) *Class III-A station.* A "Class III-A Station" is a Class III station which operates with power not less than 1 kilowatt nor more than 5 kilowatts and the service area of which is subject to interference in accordance with the "Engineering Standards of Allocation."

(2) *Class III-B station.* A "Class III-B Station" is a Class III station which operates with a power not less than 0.5 kilowatt nor more than 1 kilowatt night and 5 kilowatts daytime and the service area of which is subject to interference in accordance with the "Engineering Standards of Allocation."

(d) *Class IV station.* A "Class IV Station" is a station operating on a local channel and designed to render service primarily to a city or town and the suburban and rural areas contiguous thereto. The power of a station of this class shall not be less than 0.1 kilowatt nor more than 0.25 kilowatt and its service area is subject to interference in accordance with the "Engineering Standards of Allocation."*†

§ 3.23 *Time of operation of the several classes of stations.*² The

² Formal application required for change in time of operation of existing broadcast station. See "Standards of Good Engineering Practice" for form number (to be published at a later date).

several classes of standard broadcast stations may be licensed to operate in accordance with the following:

(a) "Unlimited time" permits operation without a maximum limit as to time.

(b) "Limited time" is applicable to Class II (secondary stations) operating on a clear channel only. It permits operation of the secondary station during daytime, and until local sunset if located west of the dominant station on the channel or if located east thereof, until sunset at the dominant station, and in addition during night hours, if any, not used by the dominant station or stations on the channel.

(c) "Daytime" permits operation during the hours between 6 a. m. and average monthly local sunset. (For exact time of sunset at any location, see "Average Sunset Time.")

(d) "Sharing Time" permits operation during hours which are so restricted by the station license as to require a division of time with one or more other stations using the same channel.

(e) "Specified Hours" means that the exact operating hours are specified in the license.

(The minimum hours that any station shall operate are specified in Sec. 3.71)*†

§ 3.24 *Broadcast facilities; showing required.* An authorization for a new standard broadcast station or increase in facilities of an existing station³ will be issued only after a satisfactory showing has been made in regard to the following, among others:

(a) That the proposed assignment will tend to effect a fair, efficient and equitable distribution of radio service among the several states and communities.

(b) That objectionable interference will not be caused to existing stations or that if interference will be caused the need for the proposed service outweighs the need for the service which will be lost by reason of such interference. That the proposed station will not suffer interference to such an extent that its service would be reduced to an unsatisfactory degree. (For determining objectionable interference, see "Engineering Standards of Allocation" and "Field Intensity Measurements in Allocation".)

(c) That the applicant is financially qualified to construct and operate the proposed station.⁴

(d) That the applicant is legally qualified. That the applicant (or the person or persons in control of an applicant corporation or other organization) is of good character and possesses other qualifications sufficient to provide a satisfactory public service.

(e) That the technical equipment proposed, the location of the transmitter, and other technical phases of operation comply with the regulations governing the same, and the requirements of good engineering practice. (See technical regulations herein and "Locations of Transmitters of Standard Broadcast Stations.")

(f) That the facilities sought are subject to assignment as requested under existing international agreements and the Rules and Regulations of the Commission.

(g) That the public interest convenience, and necessity will be served through the operation under the proposed assignment.*†

FREQUENCY ALLOCATIONS BY CLASSES OF STATIONS

§ 3.25 *Clear channels; class I and II.* The frequencies in the following tabulation are designated as clear channels and assigned for use by the classes of stations as given:

(a) To each of the channels below there will be assigned one Class I station and there may be assigned one or more Class II stations operating limited time or daytime only: 640, 650, 660, 670, 700, 720, 740, 750, 760, 770, 800, 810, 820, 830, 850, 860, 870, 980, 990, 1000, 1070, 1090, 1130, 1150, 1170 and 1190 kilocycles. The power of the Class I stations on these channels shall not be less than 50 kw.

(b) To each of the channels below there may be assigned Class I and Class II stations: 680, 710, 790, 970, 1020, 1040, 1050, 1060, 1080, 1100, 1110, 1140, 1160, 1180, 1460, 1470, 1480, and 1490 kilocycles.*†

§ 3.26 *Regional channels; class III-A and III-B.* The following frequencies are designated as regional channels and are assigned for use by Class III-A and Class III-B stations: ⁵550, 560, 570, 580 590, 600, 610, 620, 630, 780, 880, 890, 900, 920, 930, 940, 950, 1010, 1120, 1220, 1230, 1240, 1250, 1260, 1270, 1280, 1290, 1300, 1320, 1330, 1340, 1350, 1360, 1380, 1390, 1400, 1410, 1430, 1440, 1450, 1530, and 1550, kilocycles.*†

³ Formal application required. See "Standards of Good Engineering Practice" for form number.

⁴ See "Money Required to Construct and Complete Electrical Tests of Stations of Different Classes and Powers."

⁵ See Sec. 3.29 in regard to assigning Class IV stations to regional channels.

§ 3.27 *Local channels; class IV.* The following frequencies are designated as local channels and are assigned for use by Class IV stations: 1200, 1210, 1310, 1370, 1420, and 1500 kilocycles.*†

§ 3.28 *Assignment of stations to channels.* The individual assignments of stations to channels shall be made in accordance with the standards of good engineering practice prescribed and published from time to time by the Commission for the respective classes of stations involved. (For determining objectionable interference See "Engineering Standards of Allocation" and "Field Intensity Measurements in Allocation", Section C.)*†

§ 3.29 *Assignment of Class IV stations to regional channels.* On condition that interference will not be caused to any Class III station, and that the channel is used adequately and properly for Class III stations and subject to such interference as may be received from Class III stations, Class IV stations may be assigned to regional channels.*†

§ 3.30 *Station location.* (a) Each standard broadcast station shall be considered located in the state and city where the main studio is located.

(b) The transmitter of each standard broadcast station shall be so located that primary service is delivered to the city in which the main studio is located, in accordance with the "Standards of Good Engineering Practice," prescribed by the Commission.*†

§ 3.31 *Authority to move main studio.* The licensee of a standard broadcast station shall not move its main studio outside the borders of the city, State, district, Territory, or possession in which it is located without first making written application⁷ to the Commission for authority to so move, and securing written permission for such removal. A licensee need not obtain permission to move the main studio from one location to another within a city or town, but shall promptly notify the Commission of any such change in location.*†

§ 3.32 *Special experimental authorizations.* (a) Special Experimental Authorizations⁸ may be issued to the licensee of a standard broadcast station in addition to the regular license upon proper application therefor⁷ and satisfactory showing in regard to the following, among others:

(1) That the applicant has a program of research and experimentation which indicates reasonable promise of contribution to the development and practical application of broadcasting, and will be in addition to and advancement of the work that can be accomplished under its regular license.

(2) That the experimental operation and experimentation will be under the direct supervision of a qualified engineer with an adequate staff of engineers qualified to carry on the program of research and experimentation.

(3) That the public interest, convenience and necessity will be served by granting the authorization requested.

(b) In case of Special Experimental Authorization permits additional hours of operation, no licensee shall transmit any commercial or sponsored program or make any commercial announcement during such time of operation. In case of other additional facilities, no additional charge shall be made by reason of transmission with such facilities.

(c) A Special Experimental Authorization will not be extended after the actual experimentation is concluded.

(d) The program of research and experimentation as outlined in the application for a special experimental authorization shall be adhered to in the main unless the licensee is authorized to do otherwise by the Commission.

(e) The Commission may require from time to time a broadcast station holding such experimental authorization to conduct experiments that are deemed desirable and reasonable.

(f) A supplemental report shall be filed with and made a part of each application for an extension of a special experimental authorization and shall include statements of the following:

(1) Comprehensive summary of all research and experimentation conducted.

(2) Conclusions and outline of proposed program for further research and development.

(3) Comprehensive summary and conclusions as to the social and economic effects of its use.

§ 3.33 *Directional antenna; showing required.* (a) No application for authority to install a directional antenna⁹ will be accepted unless a definite site and full details of the design of the

directional antenna are given with the application. (See "Data Required with Applications Involving Directional Antenna Systems.")

(b) No application for an authorization to operate a directional antenna during the broadcast day will be accepted unless proof of performance of the directional antenna taken during equipment test period is submitted with the application. (See "Field Intensity Measurements in Allocation," Section B.)*†

§ 3.34 *Normal license period.* All standard broadcast station licenses will be issued so as to expire at the hour of 3 a. m., Eastern Standard Time and will be issued for a normal license period of one year, expiring as follows:

(a) For stations operating on the frequencies 640, 650, 660, 670, 680, 700, 710, 720, 740, 750, 760, 770, 790, 800, 810, 820, 830, 850, 860, 870, 970, 980, 990, 100, 1020, 1040, 1050, 1060, 1070, 1080, 1090, 1100, 1110, 1130, 1140, 1150, 1160, 1170, 1180, 1190, 1460, 1470, 1480, 1490 kilocycles February 1.

(b) For stations operating on the frequencies 550, 560, 570, 580, 590, 600, 610, 620, 630, 780, 880, 890, 900, and 920 kilocycles April 1.

(c) For stations operating on the frequencies 930, 940, 950, 1010, 1120, 1220, 1230, 1240, 1250, 1260, 1270, 1280, and 1290 kilocycles June 1.

(d) For stations operating on the frequencies 1300, 1320, 1330, 1340, 1350, 1360, 1380, 1390, 1400, 1410, 1430, 1440, 1450, 1530, and 1550 kilocycles August 1.

(e) For stations operating on the frequencies 1200, 1210, and 1310 kilocycles October 1.

(f) For stations operating on the frequencies 1370, 1420, and 1500 kilocycles December 1.*†

EQUIPMENT

§ 3.41 *Maximum rated carrier power: tolerances.* The maximum rated carrier power of a standard broadcast transmitter shall not be less than the authorized power nor shall it be greater than the value specified in the following table:

Class of station	Maximum power authorized to station	Maximum rated carrier power permitted to be installed ¹ Watts
Class IV	100 or 250 watts	250
Class III	500 or 1,000 watts	1,000
	5,000 watts	5,000
Class II	250, 500 or 1,000 watts	1,000
	5,000 or 10,000 watts	10,000
	25,000 or 50,000 watts	50,000
Class I	10,000 watts	10,000
	25,000 or 50,000 watts	50,000

¹ The maximum rated carrier power must be distinguished from the operating power. (See Secs. 2.18 and 2.19, which appear as Secs. 21.18 and 21.19 at 4 F.R. 2105 DI.)

*†

§ 3.42 *Maximum rated carrier power; how determined.* The maximum rated carrier power of a standard broadcast transmitter shall be determined as the sum of the applicable power ratings of the vacuum tubes employed in the last radio stage.

(a) The power rating of vacuum tubes shall apply to transmitters employing the different classes of operation or systems of modulation as specified in "Power Rating of Vacuum Tubes," prescribed by the Commission.

(b) If the maximum rated carrier power of any broadcast transmitter, as determined by paragraph (a) of this section, does not give an exact rating as recognized by the Commission's plan of allocation, the nearest rating thereto shall apply to such transmitter.

(c) Authority will not be granted to employ, in the last radio stage of standard broadcast transmitter, vacuum tubes from a manufacturer or of a type number not listed until the manufacturer's rating for the class of operation or system of modulation is submitted to and approved by the Commission. These data must be supplied by the manufacturer in accordance with "Requirements for the Approval of the Power Rating of Vacuum Tubes," prescribed by the Commission.*†

§ 3.43 *Changes in equipment; authority for.* No licensee shall change, in the last radio stage, the number of vacuum tubes to

⁶ Special authorizations which do not involve experimental operation may be granted pursuant to § 15.15 (3 F.R. 2836 DI).

⁷ Formal application required. See "Standards of Good Engineering Practice" for form number.

⁸ Formal application required. See "Standards of Good Engineering Practice" for form number.

vacuum tubes of different power rating or class of operation, nor shall it change system of modulation without the authority of the Commission.*†

§ 3.44 *Other changes in equipment.* Other changes except as provided for in these Rules or "Standards of Good Engineering Practice," prescribed by the Commission, which do not affect the maximum power rating or operating power of the transmitter or the operation or precision of the frequency control equipment may be made at any time without authority of the Commission but in the next succeeding application for renewal of license such changes which affect the information already on file shall be shown in full.*†

§ 3.45 *Radiating system.* (a) All applicants for new, additional, or different broadcast facilities and all licensees requesting authority to move the transmitter of an existing station shall specify a radiating system the efficiency of which complies with the requirements of good engineering practice for the class and power of the station. (Also see "Use of Common Antenna by Standard Broadcast Stations or Another Radio Station.")

(b) The Commission will publish from time to time specifications deemed necessary to meet the requirements of good engineering practice. (See "Minimum Antenna Heights or Field Intensity Requirements" and "Field Intensity Measurements in Allocation," Section A.)

(c) No broadcast station licensee shall change the physical height of the transmitting antenna, or supporting structures, or make any changes in the radiating system which will measurably alter the radiation patterns except upon written application to and authority from the Commission.¹⁰

(d) The antenna and/or supporting structure shall be painted and illuminated in accordance with the specifications supplied by the Commission pursuant to Section 303(q) of the Communications Act of 1934, as amended. (See "Standard Lamps and Paints.")

(e) The simultaneous use of a common antenna or antenna structure by two standard broadcast stations or by a standard broadcast station and a station of any other class or service will not be authorized unless both stations are licensed to the same licensee. (See "Use of Common Antenna by Standard Broadcast Stations or Another Radio Station.")*†

§ 3.46 (a) *Transmitter.* The transmitter proper and associated transmitting equipment of each broadcast station shall be designed, constructed, and operated in accordance with the standards of good engineering practice in all phases not otherwise specifically included in these regulations.

(b) The transmitter shall be wired and shielded in accordance with good engineering practice and shall be provided with safety features in accordance with the specifications of Article 810 of the current National Electrical Code as approved By the American Standards Association.

(c) The station equipment shall be so operated, tuned, and adjusted that emissions are not radiated outside the authorized band¹¹ which cause or which, in accordance with the Standards of Good Engineering Practice, are considered as being capable of causing interference to the communications of other stations. The spurious emissions, including radio frequency harmonics and audio frequency harmonics, shall be maintained at as low level as required by good engineering practice. The audio distortion, audio frequency range, carrier hum, noise level, and other essential phases of the operation which control the external effects shall at all times conform to the requirements of good engineering practice.

(d) Whenever, in this rule, the term "good engineering practice" is used, the specifications deemed necessary to meet the requirements thereof will be published from time to time. (See "Construction, General Operation and Safety of Life Requirements.")*†

TECHNICAL OPERATION

§ 3.51 *Operating power; how determined.* The operating power of each standard broadcast station shall be determined by:

(a) Direct measurement of the antenna power in accordance with Sec. 3.54¹²

⁹ Formal application required. See "Standards of Good Engineering Practice" for form number.

¹⁰ Informal application may be made, except in controversial cases or directional antenna; then formal application shall be made.

¹¹ See "Construction, General Operation and Safety of Life Requirements."

¹² Program tests on equipment including a new or different antenna system will not be authorized unless application for authority to determine power by the direct method has been granted or is submitted simultaneously with the application for license to cover the construction permit and the application for license will not be granted until such time as the application for direct measurement is approved.

- (1) Each new standard broadcast station.
- (2) Each existing standard broadcast station after July 1, 1940.

(b) Indirect measurement by means of the plate input power to the last radio stage on a temporary basis in accordance with Secs. 3.52 and 3.53.

(1) In the case of existing standard broadcast stations and pending compliance with paragraph (a) (2) of this section.

(2) In case of an emergency where the licensed antenna has been damaged or destroyed by storm or other cause beyond the control of the licensee or pending completion of authorized changes¹³ in the antenna system.

(c) Upon making any change¹³ in the antenna system, or in the antenna current measuring instruments, or any other change which may change the characteristics of the antenna, the licensee shall immediately make a new determination of the antenna resistance (see Sec. 3.54) and shall submit application for authority to determine power by the direct method on the basis of the new measurement.*†

§ 3.52 *Operating power; indirect measurement.* The operating power determined by indirect measurement from the plate input power of the last radio stage is the product of the plate voltage (E_p), the total plate current of the last radio stage (I_p) and the proper factor (F) given in the following tables: that is

$$\text{Operating power} = E_p \times I_p \times F$$

A. Factor To Be Used for Stations Employing Plate Modulation in the Last Radio Stage

	Factor (F) to be used in determining the operating power from the plate input power
Maximum rated carrier power of transmitter: ¹	
100-1,000 watts.....	0.70
5,000 watts and over.....	.80

¹ The maximum rated carrier power must be distinguished from the operating power (See Secs. 2.18 and 2.19 which appear as Secs. 21.18 and 21.19 at 4 F.R. 2105 D.I.)

B. Factor To Be Used for Stations of All Powers Using Low-Level Modulation

	Factor (F) to be used in determining the operating power from the plate input power
Class of power amplifier in the last radio stage:	
Class B	0.35
Class BC ¹65

¹ All linear amplifier operation where efficiency approaches that of Class C operation.

C. Factor To Be Used for Stations of All Powers Employing Grid Modulation in the Last Radio Stage

	Factor (F) to be used in determining the operating power from the plate input power
Type of tube in the last radio stage:	
Table C ¹	0.25
Table D ¹35

¹ See "Power Rating of Vacuum Tubes."

*†

§ 3.53 *Application of efficiency factors.* In computing operating power by indirect measurement, the above factors shall apply in all cases, and no distinction will be recognized due to the operating power being less than the maximum rated carrier power. (See "Plate Efficiency of Last Radio Stage.")*†

§ 3.54 *Operating power; direct measurement.* The antenna input power determined by direct measurement is the square of the antenna current times the antenna resistance at the point

¹³ Changes shall not be made except upon making proper request and obtaining approval thereof in accordance with Secs. 3.45 and 3.58.

where the current is measured and at the operating frequency. Direct measurement of the antenna input power will be accepted as the operating power of the station, provided the data on the antenna resistance measurements are submitted under oath giving detailed description of the method used and the data taken. The antenna current shall be measured by an ammeter of accepted accuracy.¹⁴ These data must be submitted to and approved by the Commission before any licensee will be authorized to operate by this method of power determination.¹⁵ The antenna ammeter shall not be changed to one of different type, maximum reading or accuracy without the authority of the Commission. If any change is made in the antenna system or any change made which may affect the antenna system, the method of determining operating power shall be changed immediately to the indirect method. (See "Further Requirements for Direct Measurements of Power.")*†

§ 3.55 *Modulation.* (a) A licensee of a broadcast station will not be authorized to operate a transmitter unless it is capable of delivering satisfactorily the authorized power with a modulation of at least 85 per cent. When the transmitter is operated with 85 percent modulation, not over 10 percent combined audio frequency harmonics shall be generated by the transmitter.

(b) All broadcast stations shall have in operation a modulation monitor approved by the Commission.

(c) The operating percentage of modulation of all stations shall be maintained as high as possible consistent with good quality of transmission and good broadcast practice and in no case less than 85 percent on peaks of frequent recurrence during any selection which normally is transmitted at the highest level of the program under consideration.

(d) The Commission will, from time to time, publish the specifications, requirements for approval, and a list of approved modulation monitors. (See "Approved Modulation Monitors" and also "Requirements for Approval of Modulation Monitors.")*†

§ 3.56 *Modulation: data required.* A licensee of a broadcast station claiming a greater percentage of modulation than the fundamental design indicates can be procured, shall submit full data showing the antenna input power by direct measurement and complete information, either oscillograms or other acceptable data, to show that a modulation of 85 percent or more, with not over 10 percent combined audio harmonics, can be obtained with the transmitter operated at the maximum authorized power.*†

§ 3.57 *Operating power; maintenance of.* The licensee of a broadcast station shall maintain the operating power of the station within the prescribed limits of the licensed power at all times except that in an emergency when, due to causes beyond the control of the licensee, it becomes impossible to operate with the full licensed power, the station may be operated at reduced power for a period of not to exceed 10 days, provided that the Commission and the Inspector in Charge¹⁶ shall be notified in writing immediately after the emergency develops. (See "Operating Power Tolerance.")*†

§ 3.58 *Indicating instruments.* Each broadcast station shall be equipped with suitable indicating instruments of accepted accuracy to measure the antenna current, direct plate circuit voltage, and the direct plate circuit current of the last radio stage. These indicating instruments shall not be changed or replaced, without authority of the Commission, except by instruments of the same type, maximum scale reading, and accuracy. (See "Indicating Instruments Pursuant to Sec. 3.58.")*†

§ 3.59 *Frequency tolerance.* The operating frequency of each broadcast station shall be maintained within 50 cycles of the assigned frequency until January 1, 1940, and thereafter the frequency of each new station or each station where a new transmitter is installed shall be maintained within 20 cycles of the assigned frequency, and after January 1, 1942, the frequency of all stations shall be maintained within 20 cycles of the assigned frequency.*†

§ 3.60 *Frequency monitor.* The licensee of each standard broadcast station shall have in operation at the transmitter a frequency monitor independent of the frequency control of the transmitter. The frequency monitor shall be approved by the Commission. It shall have a stability and accuracy of at least 5 parts per million. (See "Approved Frequency Monitors" and also "Requirements for Approval of Frequency Monitors.")*†

§ 3.61 *New equipment; restrictions.* The Commission will authorize the installation of new transmitting equipment in a broadcast station or changes in the frequency control of an exist-

ing transmitter only if such equipment is so designed that there is reasonable assurance that the transmitter is capable of maintaining automatically the assigned frequency within the limits specified in Sec. 3.59*†

§ 3.62 *Automatic frequency control equipment; authorization required.* New automatic frequency control equipment and changes in existing automatic frequency control equipment that may affect the precision of frequency control or the operation of the transmitter shall be installed only upon authorization¹⁷ from the Commission. (See "Approved Equipment")*†

§ 3.63 *Auxiliary transmitter.* Upon showing that a need exists for the use of an auxiliary transmitter¹⁸ in addition to the regular transmitter of a broadcast station, a license therefor may be issued provided that:

(a) An auxiliary transmitter may be installed either at the same location as the main transmitter or at another location.

(b) A licensed operator shall be in control whenever an auxiliary transmitter is placed in operation.

(c) The auxiliary transmitter shall be maintained so that it may be put into immediate operation at any time for the following purposes:

(1) The transmission of the regular programs upon the failure of the main transmitter.

(2) The transmission of regular programs during maintenance or modification¹⁹ work on the main transmitter, necessitating discontinuance of its operation for a period not to exceed five days.

(3) Upon request by a duly authorized representative of the Commission.

(d) The auxiliary transmitter shall be tested at least once each week to determine that it is in proper operating condition and that it is adjusted to the proper frequency, except that in case of operation in accordance with paragraph (c) of this section during any week, the test in that week may be omitted provided the operation under paragraph (c) is satisfactory. A record shall be kept of the time and result of each test operating under paragraph (c). Tests shall be conducted only between midnight and 9 a. m., local standard time.

(e) The auxiliary transmitter shall be equipped with satisfactory control equipment which will enable the maintenance of the frequency emitted by the station within the limits prescribed by these regulations.

(f) An auxiliary transmitter which is licensed at a geographical location different from that of the main transmitter shall be equipped with a frequency control which will automatically hold the frequency within the limits prescribed by these regulations without any manual adjustment during operation or when it is being put into operation.

(g) The operating power of an auxiliary transmitter may be less than the authorized power but in no event shall it be greater than such power.*†

§ 3.64 *Duplicate main transmitters.* The licensee of a Standard Broadcast Station may be licensed for duplicate main transmitters provided that a technical need²⁰ for such duplicate transmitters is shown and that the following conditions are met:

(a) Both transmitters are located at the same place.

(b) The transmitters have the same power rating.

(c) The external effects from both transmitters is substantially the same as to frequency stability, reliability of operation, radio harmonics and other spurious emissions, audio frequency range and audio harmonic generation in the transmitter.*†

OPERATION

§ 3.71 *Minimum operating schedule.* Except Sundays, the licensee of each standard broadcast station shall maintain a minimum regular operating schedule of two-thirds of the total hours that it is authorized to operate during each broadcast day (both day and night), except that in an emergency when, due to causes beyond the control of the licensee, it becomes impossible to continue

¹⁷ Formal application required. See "Standards of Good Engineering Practice" for form number.

¹⁸ All regulations as to safety requirements and spurious emissions applying to broadcast transmitting equipment shall apply also to an auxiliary transmitter. (See "Use of Frequency and Modulation Monitors at Auxiliary Transmitter.")

¹⁹ This includes the equipment changes which may be made without authority as set forth elsewhere in the Rules and Regulations and the Standards of Good Engineering Practice or as authorized by the Commission by letter or by construction permit. Where such operation is required for periods in excess of five days, request therefor shall be made in accordance with Sec. 15.15 (3 F.R. 2836 DI).

²⁰ Such as licensees maintaining 24 hour schedule and needing alternate operation for maintenance, or development work is being carried on requiring such alternate operation.

¹⁴ See "Indicating Instruments Pursuant to Sec. 3.58."

¹⁵ Formal application required. See "Standards of Good Engineering Practice" for form number.

¹⁶ See "Field Offices of the Commission."

operating, the station may cease operation for a period of not to exceed 10 days, provided that the Commission and the Inspector in Charge²¹ shall be notified in writing immediately after the emergency develops.*†

§ 3.72 *Operation during experimental period.* The license of each standard broadcast station shall operate or refrain from operating its station during the experimental period as directed by the Commission in order to facilitate frequency measurement or for the determination of interference. (Stations involved in the after-midnight frequency monitoring programs are notified of their operating and silent schedule.)*†

§ 3.73 *Specified hours.* If the license of a station specifies the hours of operation, the schedule so specified shall be adhered to except as provided in Secs. 3.71 and 3.72.*†

§ 3.74 *Sharing time.* If the licenses of stations authorized to share time do not specify hours of operation, the licensees shall endeavor to reach an agreement for a definite schedule of periods of time to be used by each. Such agreement shall be in writing and each licensee shall file the same in triplicate original with each application to the Commission for renewal of license. If and when such written agreements are properly filed in conformity with this rule the file mark of the Commission will be affixed thereto, 1 copy will be retained by the Commission, 1 copy forwarded to the inspector in charge, and 1 copy returned to the licensee to be posted with the station license and considered as a part thereof. If the license specifies a proportionate time division, the agreement shall maintain this proportion. If no proportionate time division is specified in the license, the licensees shall agree upon a division of time. Such division of time shall not include simultaneous operation of the stations unless specifically authorized by the terms of the license.*†

§ 3.75 *Sharing time; equivalence of day and night hours.* For the purpose of determining the proportionate division of time of the broadcast day for sharing time stations one night hour shall be considered the equivalent of two day hours.*†

§ 3.76 *Sharing time; experimental period.* If the license of a station authorized to share time does not specify the hours of operation, the station may be operated for the transmission of regular programs during the experimental period provided an agreement thereto is reached with the other stations with which the broadcast day is shared and further provided such operation is not in conflict with Sec. 3.72. Time sharing agreements for operation during the experimental period need not be submitted to the Commission.*†

§ 3.77 *Sharing time; departure from regular schedule.* Departure from the regular operating schedule set forth in a time-sharing agreement will be permitted only in cases where an agreement to that effect is reduced to writing is signed by the licensees of the stations affected thereby and filed in triplicate by each licensee with the Commission prior to the time of the proposed change. If time is of the essence, the actual departure in operating schedule may precede the actual filing of written agreement, provided appropriate notice is sent to the Commission and the Inspector in Charge.²² *†

§ 3.78 *Sharing time station; notification to Commission.* If the licensees of stations authorized to share time are unable to agree on a division of time, the Commission shall be so notified by statement to that effect filed with the applications for renewal of licenses. Upon receipt of such statement the Commission will designate the applications for a hearing and, pending such hearing, the operating schedule previously adhered to shall remain in full force and effect.*†

§ 3.79 *License to specify sunset hours.* If the licensee of a broadcast station is required to cease operation of the station at the time of sunset at some point within the United States, the license will specify the hour of the day during each month of the license period when operation of such station shall cease. (See "Average Sunset time.")*†

§ 3.80 *Secondary station: filing of operating schedule.* The licensee of a secondary station authorized to operate limited time and which may resume operation at the time the dominant station or stations on the same channel ceases operation shall, with each application for renewal of license, file in triplicate a copy of its regular operating schedule, bearing a signed notation by the licensee of the dominant station of its objection or lack of objection thereto. Upon approval of such operating schedule, the Commission will affix its file mark and return 1 copy to the licensee authorized to operate limited time, which shall be posted with the station license

and considered as a part thereof. Departure from said operating schedule will be permitted only in accordance with the procedure set forth in Sec. 3.77.*†

§ 3.81 *Secondary station; failure to reach agreement.* If the licensee of a secondary station authorized to operate limited time and a dominant station on a channel are unable to agree upon a definite time for resumption of operation by the station authorized limited time, the Commission shall be so notified by the licensee of the station authorized limited time. After receipt of such statement the Commission will designate for hearing the applications of both stations for renewal of license, and pending the hearing the schedule previously adhered to shall remain in full force and effect.*†

§ 3.82 *Departure from schedule; material violation.* In all cases where a station licensee is required to prepare and file an operating schedule, any deviation or departure from such schedule, except as herein authorized, shall be considered as a violation of a material term of the license.*†

§ 3.83 *Local standard time.* All references herein to standard time or local standard time refer to local standard time as determined and fixed by the Interstate Commerce Commission.*†

§ 3.84 *Daylight saving time.* If local time is changed from standard time to daylight saving time at the location of all stations sharing time on the same channel, the hours of operation of all such stations on that channel shall be understood to refer to daylight-saving time, and not standard time, as long as daylight-saving time is observed at such locations. This provision shall govern when the time is changed by provision of law or general observance of daylight-saving time by the various communities, and when the time of operation of such stations is specified in the license or is mutually agreed upon by the licensees: *Provided, However,* That when the license specifies average time of sunset, local standard time shall be observed and in no event shall a station licensed for daytime only operate on regular schedule prior to 6 a. m. local standard time or shall a station licensed for greater daytime power than nighttime power operate with the daytime power prior to 6 a. m. local standard time.*†

§ 3.85 *Changes in time; agreement between licensees.* Where the local time is not changed from standard time to daylight-saving time at the location of all stations sharing time on the same channel, the hours of operation of such stations shall be understood to have reference to standard time, and not daylight-saving time, unless said licensees mutually agree upon a new schedule which shall be effective only while daylight-saving time is observed at the location of some of these stations.*†

§ 3.86 *Local standard time; license provisions.* The time of operation of any broadcast station which does not share time with other stations on the same channel shall be understood to have reference to local standard time unless modification of such license with respect to hours of operation is authorized by the Commission.*†

§ 3.87 *Station license; posting of.* The station license and any other instrument of authorization or individual order concerning construction of the equipment or the manner of operation of the station shall be posted in a conspicuous place in the room in which the transmitter is located in such manner that all terms thereof are visible and the license of the station operator shall be posted in the same manner. (See Secs. 2.51 and 2.52.)²³ *†

§ 3.88 *Licensed operator required.* The licensee of each station shall have a licensed operator or operators of the grade specified by the Commission on duty during all periods of actual operation of the transmitter at the place where the transmitting equipment is located. (See Sec. 2.53.)²⁴ *†

§ 3.89 *Licensed operator; other duties.* The licensed operator on duty and in charge of a standard broadcast transmitter may, at the discretion of the licensee, be employed for other duties or for the operation of another radio station or stations in accordance with the class of operator's license which he holds and by the rules and regulations governing such other stations: *Provided, However,* That such duties shall in no wise interfere with the proper operation of the standard broadcast transmitter.*†

§ 3.90 *Logs.* The licensee of each broadcast station shall maintain program and operating logs and shall require entries to be made as follows:

(a) In the program log,

(1) An entry of the time each station identification announcement (call letters and location) is made.

(2) An entry briefly describing each program broadcast, such

²¹ See "Field Offices of the Commission."

²² See "Field Offices of the Commission."

²³ Appear as Secs. 22.11, 22.12 and 22.13 at 4 F.R. 2106 DI.

as "music," "drama," "speech," etc., together with the name or title thereof, and the sponsor's name, with the time of the beginning and ending. If a mechanical record is used, the entry shall show the exact nature thereof such as "record," "transcription," etc., together with the name or title of each, and the time it is announced as a mechanical record. If a speech is made by a political candidate, the name and political affiliations of such speaker shall be entered.

(3) An entry showing that each sponsored program broadcast has been announced as sponsored, paid for, or furnished by the sponsor.

(b) In the operating log.

(1) An entry of the time the station begins to supply power to the antenna, and the time it stops.

(2) An entry of the time the program begins and ends.

(3) An entry of each interruption to the carrier wave, its cause and duration.

(4) An entry of the following each 30 minutes:

(i) Operating constants of last radio stage (total plate current and plate voltage).

(ii) Antenna current.

(iii) Frequency monitor reading.

(iv) Temperature of crystal control chamber if thermometer is used.

(5) Log of experimental operation during experimental period (If regular operation is maintained during this period, the above logs shall be kept).

(i) A log must be kept of all operation during the experimental period. If the entries required above are not applicable thereto, then the entries shall be made so as to fully describe the operation.*†

§ 3.91 *Logs; retention of.* Logs of standard broadcast stations shall be retained by the licensee for a period of two years except when required to be retained for a longer period in accordance with the provisions of Sec. 2.54.*†

§ 3.92 *Station identification.* (a) A licensee of a standard broadcast station shall make station identification announcement (call letters and location) at the beginning and ending of each time of operation and during operation on the hour and half hour as provided below:

(b) Such identification announcement during operation need not be made when to make such announcement would interrupt a single consecutive speech, play, religious service, symphony concert or operatic production of longer duration than thirty minutes. In such cases the identification announcement shall be made at the first interruption of the entertainment continuity and at the conclusion of such program.

(c) In case of variety show programs, baseball game broadcasts, or similar programs, of longer duration than thirty minutes, the identification announcement shall be made within five minutes of the hour and half hour.

(d) In case of all other programs (except provided in paragraphs (b) and (c) of this section) the identification announcement shall be made within two minutes of the hour and half hour.

(e) In making the identification announcement, the call letters shall be given only on the channel of the station identified thereby.*†

§ 3.93 *Mechanical reproductions.* Each broadcast program consisting of a mechanical record, or a series of mechanical records, shall be announced in the manner and to the extent set out below:

(a) A mechanical record, or a series thereof, of longer duration than fifteen minutes shall be identified by appropriate announcement at the beginning of the program, at each fifteen minute interval, and at the conclusion of the program: *Provided, however,* That the identifying announcement at each fifteen minute interval is not required in case of a mechanical record consisting of a single, continuous, uninterrupted speech, play, symphony concert or operatic production of longer duration than fifteen minutes;

(b) A mechanical record, or a series thereof, of a longer duration than five minutes and not in excess of fifteen minutes shall be identified by an appropriate announcement at the beginning and end of the program;

(c) A single mechanical record of a duration not in excess of five minutes shall be identified by appropriate announcement immediately preceding the use thereof;

(d) In case a mechanical record is used for background music, sound effects, station identification, program identification (theme music of short duration), or identification of the sponsorship of

the program proper, no announcement of the mechanical record is required.

(e) The exact form of the identifying announcement is not prescribed but the language shall be clear and in terms commonly used and understood by the listening public. The use of the applicable identifying words such as "a record," "a recording," "a recorded program," "a transcription," "an electrical transcription," will be considered sufficient to meet the requirements hereof. The identifying words shall accurately describe the type of mechanical record used, i. e., where a transcription is used it shall be announced as a "transcription" or an "electrical transcription" and where a phonograph record is used it shall be announced as a "record" or a "recording." *†

§ 3.94 *Rebroadcast.* (a) The term "rebroadcast" means reception by radio of the program²⁴ of a radio station, and the simultaneous or subsequent retransmission of such program by a broadcast station.²⁵

(b) The licensee of a standard broadcast station may, without further authority of the Commission, rebroadcast the program of a United States standard broadcast station, provided the Commission is notified of the call letters of each station rebroadcast and the licensee certifies that express authority has been received from the licensee of the station originating the program.²⁶

(c) No licensee of a standard broadcast station shall rebroadcast the program of any other class of United States radio station without written authority having first been obtained from the Commission upon application accompanied by written consent or certification of consent of the licensee of the station originating the program.^{27 28}

(d) In case of a program rebroadcast by several standard broadcast stations such as a chain rebroadcast, the person legally responsible for distributing the program or the network facilities may obtain the necessary authorization for the entire rebroadcast both from the Commission and from the person or licensee of station originating the program.

Attention is directed to Section 325 (b) of the Communications Act of 1934, which reads as follows:

"No person shall be permitted to locate, use or maintain a radio broadcast studio or other place or apparatus from which or whereby sound waves are converted into electrical energy, or mechanical or physical reproduction of sound waves produced, and caused to be transmitted or delivered to a radio station in a foreign country for the purpose of being broadcast from any radio station there having a power output of sufficient intensity and/or being so located geographically that its emissions may be received consistently in the United States, without first obtaining a permit from the Commission upon proper application therefor." ²⁹*†

BROADCASTS BY CANDIDATES FOR PUBLIC OFFICE

§ 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.*†

§ 3.102 *Definitions.* The following definitions shall apply for the purposes of Sec. 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, county, 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.*†

§ 3.103 *Rates and practices.* The rates, if any, charged all such candidates for the same office, shall be uniform and shall

²⁴ As used in Sec. 3.94 "program" includes any complete program or part thereof, or any signals if other than A., emission.

²⁵ In case a program is transmitted from its point of origin to a broadcast station entirely by telephone facilities in which a section of such transmission is by radio, the broadcasting of this program is not considered a rebroadcast.

²⁶ The notice and certification of consent shall be given within three (3) days of any single rebroadcast, but in case of the regular practice of rebroadcasting certain programs of a standard broadcast station several times during a license period, notice and certification of consent shall be given for the ensuing license period with the application for renewal of license, or at the beginning of such rebroadcast practice if begun during a license period.

²⁷ The broadcasting of a program relayed by a relay broadcast station (Sec. 4.21) is not considered a rebroadcast.

²⁸ Informal application may be employed.

²⁹ Formal application required. See "Standards of Good Engineering Practice" for form number.

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 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.*†

§ 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.*†

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 39-2229; Filed, June 27, 1939; 3:05 p. m.]

CHAPTER III—RULES GOVERNING STANDARD BROADCAST STATIONS

The Commission, on June 23, 1939, repealed the following rules to become effective August 1, 1939:

Rule No.:	C. F. R. Section No.
69	30.02.
70	31.01.
71	30.01.
72-83, inclusive	30.11-30.22, inclusive.
84-91, inclusive	30.03-30.10, inclusive.
103	30.34.
113	31.10.
115-120, inclusive	31.02-31.06, inclusive.
120.1	Not codified.
121-124, inclusive	31.07-31.09, inclusive.
125-132, inclusive	32.01-32.08, inclusive.
134	33.01.
	33.02.
	33.03.
135	33.04.
136	33.05.
137	33.06.
139-150, inclusive	33.08-33.19, inclusive.
151-163, inclusive	34.01-34.13, inclusive.
166-168, inclusive	34.16-34.18, inclusive.
171	34.21.
172	34.30.
175-177, inclusive	34.33-34.35, inclusive.
177.1	34.36.
177.2	34.37.
178	34.38.
181	34.41.
36 (a) 1.	Not codified.
36 (a) 2.	Not codified.
36 (a) 3.	Not codified.
36 (a) 4.	Not codified.

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 39-2230; Filed, June 27, 1939; 3:05 p. m.]

FEDERAL COMMUNICATIONS COMMISSION DOCKET

The next regular meeting of the Commission will be July 26.

The following hearing is scheduled by the Commission in a broadcast case during the week beginning Monday, July 24. It is subject to change.

July 21, 1939

Monday, July 24

NEW—C. T. Sherer Co., Inc., Worcester, Mass.—C. P., 1200 kc., 100 watts, 250 watts LS, unlimited time.

FUTURE HEARINGS

During the week the Commission has announced the following tentative dates for future broadcast hearings. They are subject to change.

September 25

NEW—Union Broadcasting Co., Scranton, Pa.—C. P., 1370 kc., 100 watts, 250 watts LS, unlimited time.

W9XTA—K. E. Schonert, d/b as Schonert Radio Service, Harrisburg, Ill.—Renewal of license, 26500 kc., 500 watts, Emission A-3, unlimited, according to Rule 983(a).

NEW—Samuel M. Emison, Vincennes, Ind.—C. P., 1420 kc., 100 watts, unlimited time.

Hearing Before Commissioner Case
Broadcast

KUMA—Albert H. Schermann, Yuma, Ariz.—Application for hearing upon Order of Revocation of License of Station KUMA. Present assignment: 1420 kc., 100 watts, specified hours.

FEDERAL COMMUNICATIONS COMMISSION ACTION

MISCELLANEOUS

W2XUP—Bamberger Broadcasting Service, Inc., Newark, N. J.—Granted extension of special temporary authority to operate facsimile broadcast (experimental) station W2XUP on the frequency 25700 kc. only, for the period July 17 to 3 a. m., EST, August 1, 1939, pending effective date of new frequency allocation.

W8XWJ—The Evening News Association, Detroit, Mich.—Granted extension of special temporary authority to operate high frequency broadcast (experimental) station W8XWJ on frequency 42060 kc., in addition to the normal licensed frequencies, for the period July 16 to 3 a. m., EST, August 1, 1939, pending definite arrangements to be made in the ultra high frequency bands.

KGLO—Mason City Globe Gazette Co., Mason City, Iowa.—Granted motion to take depositions in re application of KGLO for C. P. to change frequency, power and time of operation (requesting facilities of KWLC and KGCA), and the application of KWLC, Decorah, Iowa, for renewal of license.

NEW—John R. Pepper, Greenville, Miss.—Granted petition for permission to withdraw appearance in re application of Hot Springs Broadcasting Co. for a new station in Hot Springs, Ark.

NEW—Cascade Broadcasting Co., Inc., Everett, Wash.—Granted motion to extend time for filing Proposed Findings of Fact and Conclusions in re application for new station to September 20, 1939.

KRKO—Lee E. Mudgett, Everett, Wash.; and NEW—The Everett Broadcasting Co., Inc., Everett, Wash.—Granted motion for addition of time to file Proposed Findings of Fact and Conclusions to September 20, 1939, in re applications of KRKO for C. P. to change facilities, voluntary assignment of license to Everett Broadcasting Co., and renewal of license of KRKO, and the application of Cascade Broadcasting Co., Inc., for a new station.

NEW—Harry Jackson, Harrisburg, Pa.—Granted motion to extend time for filing Proposed Findings of Fact and Conclusions in re application for C. P. for general experimental station, from July 13 to July 28, 1939.

WREN—The WREN Broadcasting Co., Inc., Lawrence, Kans.—Granted extension of time to August 7, 1939, within which to file Proposed Findings of Fact and Conclusions in re

- application to move transmitter and studio to Kansas City, Kans., and Kansas City, Mo., respectively, install DA, and operate on **1220 kc.**, 1 KW, 5 KW LS, shares KFKU.
- KICA**—Western Broadcasters, Inc., Clovis, N. Mex.—Granted special temporary authority to operate simultaneously with station KGFL from 6:45 p. m. to 7:30 p. m., MST, July 16, 1939, in order to celebrate seventh anniversary of Radio Station KICA.
- W3XO**—C. M. Jansky, Jr., and Stuart L. Bailey, d/b as Jansky and Bailey, Washington, D. C.—Granted extension of special temporary authority to operate high frequency broadcast station W3XO on a frequency of **43.2 mc.**, with the regular power of 1000 watts, pending effective date of new high frequency allocation, for the period July 29 to 3 a. m., EST, August 1, 1939.
- WTAR**—WTAR Radio Corporation, Norfolk, Va.—Granted extension of special temporary authority to operate with 5 KW power, using directional antenna, for the period July 14 to August 12, 1939, in order to overcome interference from Cuban Station CMQ, provided such operation with additional power terminates immediately when CMQ ceases operation on frequency **780 kc.**, reduces power so that additional interference is not involved, or until defective directional system is corrected by installing new tuning condensers.
- WNEL**—Juan Piza, San Juan, P. R.—Denied special temporary authority to rebroadcast sustaining programs to be received from international broadcast stations W3XL and W3XAL over station WNEL, on a non-commercial experimental basis only, for a period not to exceed thirty days.
- WJBO**—Baton Rouge Broadcasting Co., Inc., Baton Rouge, La.—Granted extension of special temporary authority to operate simultaneously with WTAU from 8 to 9 p. m., CST, the following Mondays: July 17, 24 and 31, in order to broadcast special programs from Louisiana State University and special addresses by the president and members of the faculty of that University.
- WMPC**—The First Methodist Protestant Church of Lapeer, Mich.—Granted extension of special temporary authority to operate from 9 to 10 a. m., EST, Monday, Tuesday, Wednesday, Thursday, Friday and Sunday mornings, for the period August 1 to 30, 1939, in order to broadcast educational programs.
- W2XBT**—National Broadcasting Co., Inc., New York City.—Granted special temporary authority to operate television broadcast (experimental) station on frequency band **156-162 mc.**, for a period not to exceed 30 days pending adjustment of license to conform with provisions of Rule 43.13.
- KOB**—Albuquerque Broadcasting Co., Albuquerque, N. Mex.—Granted extension of special temporary authority to operate unlimited time on **1180 kc.**, using 10 KW, employing directional antenna system after sunset at Portland, Ore. (July, 8 p. m., PST), for the period July 22 to August 1, 1939.
- KEX**—Oregonian Publishing Co., Portland, Ore.—To operate unlimited time on **1180 kc.**, using 5 KW, for the period July 22 to August 1.
- WGST**—Georgia School of Technology, Atlanta, Ga.—Granted extension of special temporary authority to reduce power 15 minutes earlier than specified on license when necessary to prevent interruption of continuous programs, during month of July.
- WSGN**—The Birmingham News Co., Birmingham, Ala.—Granted special temporary authority to make transmitter site tests, using 100-watt portable transmitter, between the hours of 12 midnight and 6 a. m., CST, for a period not to exceed 30 days.
- KFRO**—Voice of Longview, Longview, Tex.—Granted special temporary authority to operate from local sunset (August, 7 p. m., CST) to 11 p. m., CST, using 100 watts, on August 6, 13, 20 and 27, in order to broadcast church services. Also granted special temporary authority to operate from local sunset (August, 7 p. m., CST) to 11:05 p. m., CST, using 100 watts, August 1, War Anniversary program; August 7, 14, 21, 28, Legion programs; August 8, 15, 22, 29, Theatre of the Air; August 2, 9, 16, 23, 30, Welcome Neighbor program; August 3, 17, 24, 31, E. Texas Chamber of Commerce program; August 10, Herbert Hoover program; August 4, 11, 18, 25, Community Jamboree; August 5, 12, 19, 26, Fair program.
- WCKY**—L. B. Wilson, Inc., Covington, Ky.—Granted extension of special temporary authority to operate with directional antenna, 50 KW power, from 6 a. m. to one hour before sunset, for the period July 17 to July 26, 1939, in order to make proof of performance measurements in accordance with construction permit granted November 28, 1938.
- W1XO**—The Travelers Broadcasting Service Corp., Portable-Mobile (area of Hartford, Conn.)—Granted C. P. for changes in equipment of relay broadcast station and decrease in power from 50 to 25 watts.
- NEW**—WIBX, Inc., Portable-Mobile (area of Utica, N. Y.)—Granted C. P. for new relay broadcast station to operate on **1622, 2058, 2150 and 2790 kc.**, 50 watts.
- NEW**—The Travelers Broadcasting Service Corp., Portable-Mobile (area of Hartford, Conn.)—Granted C. P. for new high frequency relay broadcast station to operate on frequencies **31220, 35620, 37020, 39260 kc.**, power 0.2 watts.
- KLO**—Interstate Broadcasting Corp., Ogden, Utah.—Granted license to cover C. P. authorizing local move of station, installation of new equipment, and increase in power from 500 watts to 1 KW night, 5 KW day, employing DA system for both day and nighttime operation.
- WTMC**—John T. Alsop, Jr., Ocala, Fla.—Granted license to cover C. P. for new station to operate on **1500 kc.**, 100 watts, unlimited time.
- KDRO**—Drohlich Bros., Sedalia, Mo.—Granted modification of C. P. approving transmitter and studio sites, changes in authorized equipment, and installation of vertical radiator.
- WLNH**—The Northern Broadcasting Co., Laconia, N. H.—Granted license to cover C. P. for new station to operate on **1310 kc.**, 100 watts, unlimited time.
- WFVA**—Fredericksburg Broadcasting Corp., Fredericksburg, Va.—Granted modification of C. P. approving transmitter and studio sites and installation of vertical radiator.
- WMCA**—Knickerbocker Broadcasting Co., Inc., New York City.—Granted authority to install automatic frequency control apparatus, auxiliary transmitter.
- KVOD**—Colorado Radio Corp., Denver, Colo.—Granted modification of C. P. approving transmitter site in Denver at 56th Ave. and Pecos St., installation of new equipment, and extension of commencement date to 30 days after grant and completion date to 180 days thereafter.
- W8XWJ**—The Evening News Assn., Detroit, Mich.—Granted special temporary authority to rebroadcast program material over high frequency broadcast station W8XWJ to be received from relay broadcast stations W8XIG and W8XHV, in connection with National Rowing Regatta, from 12 noon to 6 p. m., EST, on July 20, 21 and 22.
- WILM**—Delaware Broadcasting Co., Wilmington, Del.—Denied special temporary authority to operate simultaneously with station WAZL from 8:30 p. m., EDT, to conclusion of Philadelphia National League baseball game on July 19.
- W9XZV**—Zenith Radio Corp., Chicago, Ill.—Granted special temporary authority to operate a 50-watt portable television transmitter on frequency **45¼ mc.**, for the period August 1 to 30, in order to make site survey for new location of experimental television station W9XZV.
- WEAU**—Central Broadcasting Co., Eau Claire, Wis.—Granted special temporary authority to reduce power from 1 KW to 250 watts for a period not to exceed 10 days, while rebuilding transmitter in accordance with C. P.
- KGFL**—KGFL, Inc., Roswell, N. Mex.—Granted special temporary authority to operate simultaneously with KICA from 8 to 9 p. m., MST, on July 27, in order to broadcast State Safety Program.
- KOB**—Albuquerque Broadcasting Co., Albuquerque, N. Mex.—Granted extension of special temporary authority to operate unlimited time on **1180 kc.**, using 10 KW power, employing DA system after sunset at Portland, Ore. (August, 7:15 p. m., PST), for the period August 1 to August 30.
- KEX**—Oregonian Publishing Co., Portland, Ore.—To operate unlimited time on **1180 kc.**, using 5 KW, for the period August 1 to August 30.
- KBTM**—Regional Broadcasting Co., Jonesboro, Ark.—Granted special temporary authority to operate from 8 to 9 p. m., CST, for the period September 20 to October 1, in order to broadcast revival services of Fisher Street Church of Christ in Jonesboro, subject to compliance with Rule 15.15.
- WNAD**—University of Oklahoma, Norman, Okla.—Granted special temporary authority to remain silent from 7:15 to 9:15 p. m., CST, on August 1, 3, 8, 10, 15, 17, 22, 24, 29, 31, and from 8:15 p. m. to 9:15 p. m., CST, on August 2, 9, 16, 23, 30, in order to observe summer vacation.

KGGF—Hugh J. Powell, Coffeyville, Kans.—To operate on above-mentioned dates in order to permit WNAD to remain silent during summer vacation.

APPLICATIONS FILED AT FCC

570 Kilocycles

WMAM—M & M Broadcasting Co., Marinette, Wis.—Modified construction permit (B4-P-2130) for new station, requesting approval of antenna and approval of studio and transmitter sites.

580 Kilocycles

KMJ—McClatchy Broadcasting Co., Sacramento, Calif.—Extension of special experimental authority for transmission of facsimile signals from midnight to 6 a. m. for period ending 3-1-40.

710 Kilocycles

WOR—Bamberger Broadcasting Service, Inc., Newark, N. J.—Construction permit to make changes in directional antenna. Amended: antenna changes.

890 Kilocycles

KARK—Arkansas Radio & Equipment Co., Little Rock, Ark.—License to cover construction permit (B3-P-2318) as modified for increase in power, install directional antenna for night use and make changes in equipment.

1200 Kilocycles

WABI—Community Broadcasting Service, Bangor, Maine.—Modified license to increase power from 100 watts night, 250 watts day, to 250 watts day and night.

1210 Kilocycles

KHBG—Okmulgee Broadcasting Corp., Okmulgee, Okla.—Authority to transfer control of corporation from Harry B. Greaves, T. B. Lanford, R. M. Dean, John Caruthers, to Mrs. Lucille Buford, Mrs. S. P. Ross, Sam W. Ross, and Paschal Buford, 100 shares common stock.

NEW—Yuma Broadcasting Co., Yuma, Ariz.—Construction permit for a new broadcast station to be operated on 1210 kc., 100 watts night, 250 watts day, unlimited time. Amended: antenna to be determined, transmitter site to be determined.

WSNJ—Eastern States Broadcasting Corp., Bridgeton, N. J.—License to cover construction permit (B1-P-2275) for new equipment, increase in power and hours of operation.

1250 Kilocycles

WTCN—Minnesota Broadcasting Corp., Minneapolis, Minn.—Construction permit to install new transmitter, directional antenna for night use; changes in frequency from 1250 kc. to 710 kc.; increase power from 1 KW night, 5 KW day, to 10 KW day and night; and move transmitter.

1260 Kilocycles

KPAC—Port Arthur College, Port Arthur, Tex.—Modified construction permit (B3-P-206) for change in frequency, hours of operation, equipment changes, installation of directional antenna for night use, and move of transmitter, further requesting changes in antenna and installation of new transmitter, extend commencement and completion dates 20 and 120 days, respectively.

1280 Kilocycles

WORC—Alfred Frank Kleindienst, Worcester, Mass.—License to cover construction permit (B1-P-2270) for installation of directional antenna for day and night use.

1370 Kilocycles

WABY—Adirondack Broadcasting Co., Inc., Albany, N. Y.—Special experimental authority to operate a synchronous station using 100 watts power for regular license period, install 100-watt transmitter, studio and transmitter site to be determined.

1420 Kilocycles

KRLH—Clarence Scharbauer, Midland, Tex.—Construction permit to make changes in equipment; change power and hours of operation from 100 watts daytime to 100 watts night, 250 watts day, unlimited time. Amended to change from construction permit to modified license, omit request for equipment changes and request 100 watts power day and night.

1430 Kilocycles

WHP—WHP, Inc., Harrisburg, Pa.—License to cover construction permit (B2-P-2090) as modified for new equipment, directional antenna for night use, and increase in power.

1500 Kilocycles

WJBK—James F. Hopkins, Inc., Detroit, Mich.—Modified license to increase power from 100 watts night, 250 watts day, to 250 watts day and night.

MISCELLANEOUS

W1XAR—World Wide Broadcasting Corp., Boston, Mass.—Modified license to add frequency 6080 kc. to present authorized frequencies.

W1XAR—World Wide Broadcasting Corp., Boston, Mass.—Modified license to add frequency 25600 kc. to present authorized frequencies.

NEW—Central New York Broadcasting Corp., Portable-Mobile.—Construction permit for new relay broadcast station on 31220, 35620, 37020, 39260 kc., power of 12 watts, A3 Emission.

NEW—Central New York Broadcasting Corp., Portable-Mobile.—Construction permit for new relay broadcast station on 1606, 2022, 2102, 2758 kc., power of 12 watts, A3 Emission.

WDAC—University of Wisconsin, Portable-Mobile.—License to cover construction permit (B4-PRY-150) as modified for new relay station.

WDAC—University of Wisconsin, Portable-Mobile.—Modified construction permit (B4-PRY-150) requesting equipment changes.

W9XER—Midland Broadcasting Co., Inc., Kansas City, Mo.—License to cover construction permit (B4-PHB-65) for changes in equipment, move of transmitter, and increase in power (application specified 42460 kc. as assigned under new rules).

W9XBF—WDAY, Inc., Portable-Mobile.—License to cover construction permit (B4-PRE-255) for new relay station.

NEW—Don Lee Broadcasting System, Portable-Mobile.—Construction permit for new developmental broadcast station for portable-mobile operation in Western United States on 1614, 2398, 3492.5, 4797.5, 6425, 9135, 12862.5, 17310, 23100, 31540, 35460, 39460 kc., 125 watts power, unlimited time A1, A3 Emission (to be used as an experimental long distance relay transmitter to feed programs to stations of the Don Lee Mutual Broadcast Systems).

W3XIS—WLBG, Inc., Mobile.—Modified license to change corporate name from WLBG, Inc., to Richmond Radio Corp.

WAHM—WLBG, Inc., Portable-Mobile.—Modified construction permit (B2-PRY-160) to change corporate name to Richmond Radio Corp.

FEDERAL TRADE COMMISSION ACTION

COMPLAINTS

The Federal Trade Commission has alleged unfair competition in complaints issued against the following firms. The respondents will be given an opportunity to show cause why cease and desist orders should not be issued against them.

Central States Supply Company—Use of lottery methods in the sale of fishing tackle, silverware, rifles, radios, cups, blankets,

and other articles is alleged in a complaint issued against Rose Greenberg, trading under the name of Central States Supply Company, 537 South Dearborn St., Chicago. The respondent is alleged to have furnished others with push cards for use in the sale of her merchandise to ultimate consumers. (3845)

House of Royalsun—False representations in the sale and distribution of various grades and types of textile fabrics and knitting yarns are alleged in a complaint issued against Samuel R. Israel and Al Goldstein, trading as House of Royalsun, 25 Essex St., New York.

The complaint alleges that the respondents have falsely represented the constituent fiber or material of their products by means of labels and in advertisements, and by failing to disclose the rayon content of certain of their products; that they have falsely represented that purchasers of their products received certain discounts or savings, and that they have falsely represented that they employed one of the foremost authorities in the East on mail-order instructions and fashion designs, whose services were available to the respondents' customers.

The respondents are also alleged to have falsely represented that they maintain a separate unit in their organization for blocking and cleaning garments; that this unit is operated by experts; that the respondents' plant is equipped to specialize in such work, and that this branch of the business is on a non-profit basis, being operated solely as a service for their customers. (3849)

Inland Sales Corporation—Use of lottery methods in the sale of sports jackets, pens, pencils and other articles is alleged in a complaint issued against A. Laskey, J. Samuels and J. P. Sheehan, trading as Inland Sales Corporation, 1719 W. Division St., Chicago.

The respondents are alleged to have distributed to the purchasing public push cards for use in the sale of their merchandise to ultimate consumers. (3846)

Landon & Warner Company—See Purity Products Company.

Penn Products—See Dr. Ron-al Medicine Company.

Dr. Penn's Products Company—See Dr. Ron-al Medicine Company.

Purity Products Company—False advertising in the sale and distribution of "Wheatol", claimed to contain Vitamin E, is alleged in a complaint issued against Willard C. and Maude B. McAhren, trading under the name of Purity Products Company, 801 Bluff Road, Sioux City, Iowa, and Landon & Warner Company, 360 North Michigan Ave., Chicago, advertising agents for Willard C. and Maude B. McAhren.

The complaint alleges that the respondents have made, directly or by implication, the following misleading representations: that impairment of youthful vigor, vitality and general well-being in men up to and considerably over 50 years of age is due to an inadequate supply of Vitamin E and can be averted or delayed by the use of Wheatol, and that, in women, inability to bear children successfully after conception is due to a deficiency of Vitamin E and will be remedied by the use of Wheatol. (3847)

Dr. Ron-al Medicine Company—A complaint has been issued against Irving Sofronski, trading as Dr. Ron-al Medicine Company, Dr. Penn's Products Company, and Penn Products, 7342 Ogontz Ave., Philadelphia, alleging dissemination of false advertisements concerning "Dr. Ron-al's Relief Compound", represented as a remedy for delayed menstruation.

This is the second Commission complaint in a series of seven cases in which preliminary injunctions were recently granted by the Federal courts on petition of the Federal Trade Commission prohibiting dissemination of advertisements which represent certain preparations of this character as being safe, competent and scientific treatments for delayed menstruation and as having no ill effects, and which fail to reveal that the use of such preparations under conditions as prescribed in the advertisements, or under customary and usual conditions, may result in serious injury to the health of

users. The injunctions remain in effect until final disposition of the Commission's complaints under the Federal Trade Commission Act.

The Commission's complaint in the Sofronski case alleges that the respondent's product does not, as advertised, accomplish results without pain or delay; that its use under certain conditions may result in gastro-intestinal disturbances leading to excessive uterine hemorrhage, and when used to interfere with the normal course of pregnancy, may cause septicemia. The complaint further alleges that use of the respondent's preparation is a menace to the health and life of pregnant women. (3848)

CEASE AND DESIST ORDERS

The commission has issued the following cease and desist orders:

American Memorial Company, 2135 Piedmont Road, Atlanta, Ga., was ordered to discontinue misleading representations in the sale of granite or marble monuments, tombstones or footstones.

The Commission finds that monuments which the respondent represents as being "everlasting" are not everlasting; that stones represented as weighing 400 pounds weighed substantially less than that amount; that the respondent was not the manufacturer of its granite tombstones as advertised, and that representations that purchases made through the respondent eliminate profits of the middleman were misleading.

The order prohibits representations that the respondent's monuments, tombstones, or footstones are everlasting; that its monuments or tombstones weigh 400 pounds or any specified weight until that is a fact; that the respondent manufactures its granite monuments or tombstones, and that it has posted a bond guaranteeing the quality of its products. (3369)

Hart, Schaffner & Marx, 36 South Franklin St., Chicago, and its subsidiary, Wallach's, Inc., Fifth Ave. and 33rd St., New York, were ordered to discontinue misleading representations in the sale of men's clothing.

The order prohibits use by the respondents of the unqualified word "Silk" or "Silkool", or similar words, to designate fabrics which are not composed wholly of unweighted silk, except that in the case of a fabric or product composed in part of unweighted silk and in part of other materials, such descriptive words may be used as descriptive of the silk content if conspicuously accompanied by other words accurately designating each constituent fiber or material in the order of its predominance by weight, beginning with the largest single constituent.

The order also forbids the advertisement or sale of men's clothing composed wholly or partly of rayon without clear disclosure of the rayon composition, and where such clothing is composed in part of rayon and in part of other fibers, such fibers, including the rayon, shall be named in the order of their predominance by weight, beginning with the largest single constituent. (3560)

Interstate Premium Novelty Company—See Schall Candy Company.

Monica M. Rock, individually and as executrix of the estate of Dr. Arthur A. Rock, Milwaukee, has been ordered to discontinue misleading representations in the sale of medicinal preparations for treating goiter.

The Commission finds that tablets and an ointment sold by the respondent are not a scientific, efficacious, safe and proper treatment for any type of goiter, nor do they have any therapeutic value; that, contrary to the respondent's representations, medication is not a proper and efficacious treatment for all types of goiter, surgery being the only effective remedy in some types; that the respondent cannot accurately diagnose cases of goiter from answers submitted by patients on the question blanks furnished by the respondent, and that the respondent, has not successfully treated and cannot successfully treat goiter my mail. (2509)

Schall Candy Company—Orders have been issued to a Clinton, Iowa, candy distributor and a Brooklyn, N. Y., dealer in novelty

articles prohibiting the use of lottery devices in the sale of their merchandise to ultimate consumers.

The Schall Candy Co., Clinton, Iowa, was found to sell to wholesale dealers, jobbers and retail dealers, certain assortments of candy so packed and assembled as to involve the use of lottery schemes when so sold and distributed to consumers.

The Commission ordered the Schall Candy Co. to cease and desist from supplying others with candy assortments or other merchandise, together with push or pull cards, punch boards or other lottery devices which may be used in selling or distributing such candy or merchandise; supplying lottery devices, either with assortments of candy or other merchandise, or separately, which devices may be used in selling or distributing such candy, or other merchandise, and selling or otherwise disposing of merchandise by the use of such devices.

Max Bergman, trading as Interstate Premium Novelty Company, 700 Glenmore Ave., Brooklyn, N. Y., was found to sell articles such as dresser sets, watches, bedspreads, quilts, cameras, dolls, kitchenware, silverware, razors, razor blades, fountain pen and pencil sets, jewelry, cigarette lighters, cosmetics, pocketknives, mirrors, men's and women's clothing, and other merchandise, through agents, who were supplied with pull card devices for use in promoting sales to ultimate purchasers.

It was ordered that Max Bergman cease distributing lottery devices to his agents or others, to enable such persons to sell merchandise, and to cease disposing of merchandise by the use of lottery devices. (3776 and 3577)

Wallach's, Inc.—See Hart, Schaffner & Marx.

STIPULATIONS

The Commission has entered into the following stipulations:

Cary Manufacturing Company—W. Earl Cary, trading as Cary Manufacturing Company, 1116 West Washington Blvd., Los Angeles, entered into a stipulation to desist from use of the word "manufacturing" in conjunction with his trade name, or use of any word which would imply that the respondent makes the merchandise sold by him, or that he actually owns and operates or controls the plant or factory in which his merchandise is made, when in truth he is engaged only in the sale and distribution of a kitchen utensil designated "The Cary Vapor Cooker." (2486)

Commercial Silk Company—Two textile companies entered into stipulations to discontinue misleading representations.

The Commercial Silk Company, having its principal place of business in Paterson, N. J., and a manufacturing plant at Altoona,

Pa., agreed, in its stipulation, to cease using the word "Silk" as part of its corporate or trade name and the term "manufacturers of silks," when actually it manufactures and sells only rayon fabrics.

Martin Weiner, trading as Martin Weiner Company, New York, stipulates that he will cease representing himself to be a manufacturer of silk or rayon or any other products when in fact he is engaged only in the sale and distribution of fabrics. (2484-2485)

Correspondence Register—Mary Lee Saltz, conducting a business in her own name and as Mary Lee's Club and as Correspondence Register, Rolla, Mo., entered into a stipulation to discontinue false and misleading representations in the sale of lists of persons wishing to correspond for social and matrimonial purposes, and memberships in a correspondence club.

In her stipulation, the respondent admitted that the price charged for membership in her club is not a "special offer," as represented in advertisements, but the regular price. She also admitted that no inquiry is made to determine the moral, business, social or financial standing of her clients; nor are records kept to indicate the outcome of the correspondence or resulting marriages for which the respondent advertises definite claims.

Under the stipulation, the respondent agreed to cease representing that any offer is "special" unless that is a fact; that club members are suited in correspondence or married within any specified time, or at all, unless supported by sufficient investigation as to actual fact; or that parties seeking correspondents are worth any specified amounts, or have any social, business or financial standing, other than that disclosed by a competent investigation. (02402)

Foster Canning Company, Inc., Glendale, Long Island, N. Y., entered into a stipulation to discontinue misrepresentations in the sale of a dog food designated "Dr. Olding."

The respondent agreed to cease use in advertising matter of the word "meat," alone or in connection with the words "food product" or with other words so as to imply that its product is composed wholly of meat, when such is not a fact.

The stipulation provides that if the preparation is composed substantially of meat and partly of other ingredients, and the word "meat" is used to describe the meat content, it shall be accompanied by other words in conspicuous type clearly indicating that ingredients other than meat are present.

The respondents also agreed to cease representing directly or by implication that its product contains more real fresh beef or meat than products of its competitors, when such is not a fact. (02487)

Mary Lee's Club—See Correspondence Register.

Martin Weiner Company—See Commercial Silk Company.