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## Convention Program

## SUNDAY, MAY 11

2:30 p.m. Public Relations Committee Room 2  
6:00 p.m. Board of Directors, Broadcast Music, Inc. Room 3

## MONDAY, MAY 12

9:00 a.m. to Registration Mezzanine Floor  
5:00 p.m.  
10:00 a.m. Engineering Committee Room 8  
Legislative Committee Room 2  
Research Committee Room 7  
Sales Managers' Executive Committee Room 6  
11:30 a.m. NAB Bureau of Copyrights, Board of Directors Room 8  
Insurance Committee Room 9  
2:30 p.m. NAB Annual Golf Tournament Sunset Hill  
(The BROADCASTING MAGAZINE Trophy)  
Entries and Transportation arrangements may be made at the time of Registration  
7:00 p.m. NAB Board of Directors Room 3  
Accounting Committee Room 8  
Code Committee Room 7  
Labor and Wages and Hours Committees Room 6

## TUESDAY, MAY 13

8:30 a.m. Independent Radio Network Affiliates (IRNA) Board of Directors Breakfast Room 2  
10:00 a.m. Business session Ivory Room  
Neville Miller, presiding  
President's Annual Report  
Appointment of Convention Committees  
Secretary-Treasurer's Annual Report  
Proposed Amendments to By-Laws  
Report of Nominating Committee  
THE RELATION OF RADIO TO THE NATIONAL DEFENSE  
Major General Robert C. Richardson, Jr., Public Relations Director, U. S. Army  
Commander H. R. Thurber, Public Relations Officer, U. S. Navy  
Hon. James Lawrence Fly, Chairman, Federal Communications Commission and Federal Defense Communications Commission  
Lowell Mellett, Director, Office of Government Reports  
12:30 p.m. Luncheon Gold Room  
1:15 p.m. Address of Welcome, Hon. Forrest C. Donnell, Governor of Missouri  
1:20 p.m. Address of Welcome, Hon. William Dee Becker, Mayor of St. Louis  
1:30 p.m. Address: Hon. Henry A. Wallace, Vice President of the United States of America (Continued on page 408)

You Can't Afford to Miss the NAB Convention

May 12, 13, 14, 15

New Jefferson Hotel

St. Louis

Neville Miller, *President* C. E. Arney, Jr., *Assistant to President*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Frank E. Pellegrin, *Director of Broadcast Advertising*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*

## CONVENTION PROGRAM

(Continued from page 407)

### TUESDAY, MAY 13—Continued

- 2:15 p.m. Group Meetings  
 Independent Radio Network  
 Affiliates (IRNA) Ivory Room  
 National Independent Broadcasters (NIB) Room 9  
 Sales Managers' Executive Committee, Sales Managers' General Committee, Station Representative Associate Members, and Agency Representatives Room 1  
 4:15 p.m. Clear Channel Group Room 9  
 Regional Channel Group Room 8  
 Local Channel Group Ivory Room

### WEDNESDAY, MAY 14

- 8:30 a.m. Breakfast Sessions  
 (NAB Staff Directors, presiding)  
 Coordination of National Defense Broadcasting Public Relations Roundtable—Edward M. Kirby, presiding Room 9  
 Department of Broadcast Advertising Roundtable—Frank E. Pellegrin, presiding Room 1  
 Engineering Roundtable—Lynne C. Smeby, presiding Room 3  
 Foreign Language Broadcasting Roundtable—Neville Miller, presiding Room 8  
 Law Roundtable, Russell P. Place, presiding Room 6  
 Labor, Wages and Hours Roundtable—Joseph L. Miller, presiding Room 7  
 Research Roundtable—Paul F. Peter, presiding Room 2  
 10:00 a.m. Business Session Ivory Room  
 Neville Miller, presiding  
 "The Music Situation"  
 Reports by  
 Sydney M. Kaye, Vice President and General Counsel, Broadcast Music, Inc.  
 Merritt Tompkins, Vice President and General Manager, Broadcast Music, Inc.  
 Carl Haverlin, Stations Relations Director, Broadcast Music, Inc.

### WEDNESDAY, MAY 14—Continued

- 12:30 p.m. Luncheon Gold Room  
 1:20 p.m. Address of Greeting, Hon. Dwight L. Greene, Governor of Illinois  
 2:15 p.m. Business Session Ivory Room  
 Neville Miller, presiding  
 "The Music Situation" continued  
 Copyright Insurance, Russell P. Place, NAB Counsel  
 Recording Standards  
 Daylight Saving, John J. Gillin, WOW, NAB Director, District 11; Paul F. Peter, NAB Research Director; Jack W. Laemmar, Lord & Thomas  
 8:30 p.m. Evening Session Gold Room  
 (Public Meeting)  
**THE RADIO SPECTRUM**  
 Chairman and General Remarks, C. J. Burnside, Westinghouse Electric and Manufacturing Company  
 Facsimile Broadcasting, John V. L. Hogan, WQXR  
 Frequency Modulation Broadcasting, Major Edwin H. Armstrong  
 Television Broadcasting, A. H. Morton, National Broadcasting Company  
 International Shortwave Broadcasting, Edmund Chester, Columbia Broadcasting System

### THURSDAY, MAY 15

- 8:30 a.m. Breakfast Sessions  
 Coordination of National Defense Broadcasting Public Relations Roundtable, Edward M. Kirby, presiding Room 9  
 Department of Broadcast Advertising Roundtable, Frank E. Pellegrin, presiding Room 1  
 Engineering Roundtable, Lynne C. Smeby, presiding Room 3  
 BMI-Transcription Representatives Roundtable, Merritt Tompkins, presiding Room 8  
 Labor, Wages and Hours Roundtable, Joseph L. Miller, presiding Room 7  
 Law Roundtable, Russell P. Place, presiding Room 6  
 Research Roundtable, Paul F. Peter, presiding Room 2  
 10:00 a.m. Business Session Ivory Room  
 Neville Miller, presiding  
 E. Y. Flanigan, WSPD, Chairman, NAB Sales Managers' Executive Committee, Chairman  
 "The Commercial Provisions of the NAB Code," Edgar Bill, WMBD, Chairman NAB Code Committee



THURSDAY, MAY 15—Continued

"The Unit Plan of Volume Measurement," William Scripps, WWJ, Chairman NAB Research Committee

"Planning Today for Post-War Business," Colonel Willard Chevalier, Publisher, BUSINESS WEEK

"Broadcast Advertising, An Industry Job," Frank E. Pellegrin, Director, NAB Department of Broadcast Advertising

12:30 p.m. Luncheon Session Gold Room

12:30 p.m. (Open to NAB members and Associate members only)

"The Radio Broadcasting Industry, Its Problems and Responsibilities, Mark Ethridge, WHAS, NAB Director and past president

2:15 p.m. Business Session Ivory Room

Samuel R. Rosenbaum, WFIL, Chairman NAB Labor Committee, presiding

"Labor and the Broadcaster" Open Discussion led by Joseph L. Miller, Director of Labor Relations

3:00 p.m. Neville Miller, presiding  
Election, Directors-at-Large and Network Directors  
Advisory Ballot on Site of 1942 Convention  
Report of Resolutions Committee  
Adjournment

7:00 p.m. Refreshment service preliminary to Banquet Ivory Room

7:45 p.m. Nineteenth Annual NAB Banquet Gold Room  
(See Banquet Menu and Program)

FRIDAY, MAY 16

9:00 a.m. Newspaper-Radio Committee Room 8

10:00 a.m. NAB Board of Directors Room 3

## A Factual Analysis of ASCAP's Proposal to MB Stations

This is a factual analysis of proposals which ASCAP has made to Mutual Broadcasting System, Inc., and to Mutual affiliates. Under the non-discrimination clauses of the consent decree signed by ASCAP, these proposals will presumably be available to all broadcasting stations and networks. While each station will compute what the proposals mean to it individually, the NAB, in accordance with its established policy of supplying members with information on matters of industry interest, is presenting in the Reports these proposals together with this brief factual analysis which may be useful to members as a source of information.

It is, of course, impossible to state the precise legal effect of the proposals until they have been reduced to contract form. Moreover, it is impossible to cover in detail in a brief memorandum all of the points involved in such a complicated problem.

Under the recommendation made by the majority of Mutual stockholders to Mutual affiliates, it is proposed that ASCAP music be placed on the network prior to the negotiation of individual station licenses covering local business, and the cost thereof deducted from station payments, provided that a majority in number of Mutual affiliates approve the deduction of such cost. No reference is made in the proposals as to what the situation would be with respect to stations which do not assent to the making of the deductions. Stations will have to determine for themselves whether they wish to commit themselves to payment for network service before the actual submission and execution of finalized agreements covering their individual problems on local service.

According to the best estimates which can be made, the cost of the proposed licensing plan, if adopted by the entire industry and based on estimated 1940 net time sales, would be as follows:

Payments by 781 Stations on National Non-Network and Local Net Time Sales	\$2,374,000
Payments on Network Payments to Affiliates	764,000
Payments by Networks taking into account deductions for wire lines and "Sales Commissions"	753,000
Sustaining Fees of Stations	725,000
Total Estimated Payments to ASCAP	\$4,616,000

The proposals are not entirely clear as to whether the charges are to be based on net time sales or, as in the case of the June 1940 contracts tendered by ASCAP, upon additional factors such as line charges, free hours, certain talent costs, etc. In the event that the June 1940 provisions remain unchanged, this would of course increase the amounts of all payments mentioned in this analysis. Also in the event that ASCAP avails itself of its privilege of discontinuing, without reduction in payment, the availability of its foreign repertory and stations find it necessary to acquire the right to perform foreign music, this would increase the amount which would have to be paid for the former ASCAP repertory, some of which, it will be remembered, is now controlled by BMI.

The foregoing computation is based upon the 3% payment fixed for the first four years of the proposal; considerably larger payments would be required when the rate is increased to 3½% during the remaining four years and seven months of the proposal. It is estimated that the amount actually paid by the industry to ASCAP in 1940 was \$5,100,000. In the event that none of the factors causing increase come into being, a comparison with actual 1940 payments would indicate decreased payments to ASCAP of \$484,000 in the event that we assume that all stations would take out blanket licenses.

Comparison with the form of contract tendered by ASCAP in June 1940 is also necessary. This can most easily be made by taking stations in the groupings which were set up by the tendered June 1940 contract. This comparison is as follows:

(a) Stations with an annual revenue of \$50,000 'or less get the same terms as were tendered in the June 1940 contract for the first four years of the proposal, without reduction. For the remaining four years and seven months of the proposal, the fee to the station is increased from 3% to 3½%.

(b) Stations with an annual revenue of between \$50,000 and \$150,000 have a reduction in commercial fees of from 4% to 3% for the first four years of the proposal and from 4% to 3½% for the next four years and seven months of the proposal. These stations were, under the June 1940 contract, offered a sustaining fee equal to 75% of the sustaining fee formerly paid by the station. The annual sustaining fees, under the current proposal, are twelve times the station's highest hour rate with a maximum of 1½ times the station's 1940 sustaining fees, a potential increase of 100% in sustaining fees. Stations in this class will benefit or lose by the current proposal depending on the ratio of gross business to card rate and previous sustaining fees.

(c) Stations with a revenue of over \$150,000 per annum obtain a reduction from the June 1940 contract of 2% in commercial fees for the first four years of the contract and 1½% in commercial fees for the remaining four years and seven months of the contract. Their sustaining fees are subject to a potential 50% increase. Stations in this category would appear to benefit from the new proposal in so far as local and national spot business is concerned.

(d) Networks, under the current proposal, will pay less than they would have paid under the June 1940 contract but would still pay a very substantial increase, as a class, over actual 1940 payments. Deductions under the new proposal decrease sharply from a maximum of 15% to a minimum of 1% in proportion to volume of business done. The effect upon stations of increased payment by the networks would depend on the extent to which the cost to the network is passed along to stations. Stations which are on more than one network or which expect to receive programs from more than one network have special problems which they will undoubtedly consider in this connection.

The proposals relate to three forms of contracts (1) a blanket single station license, (2) a per program single station license and (3) a network blanket license. No per program network license is submitted, apparently because Mutual stockholders have voted to take a blanket network license but stations have the privilege of accepting either the per program or blanket licenses which are tendered. The per program proposal which is submitted contains a

provision which permits ASCAP to compel a broadcaster to shift from a per program to a blanket basis in the event that the return to ASCAP during any year is less than 2% of the station's entire revenue. The broadcaster may shift from the per program to the blanket basis if his payments to ASCAP during any year are in excess of 5% of the station's entire revenue. It will be noted that the network blanket contract provides that if network sustaining programs are broadcast by an affiliate which does not have a local blanket license, as distinguished from a per program license or no license at all, there must be paid, with respect to such sustaining programs, a sustaining fee of 1% of the card rate applicable at the time that the sustaining program is broadcast, with a maximum monthly payment of one-half of the station's highest one hour card rate, but not exceeding three-fourths of the 1940 monthly sustaining fee; or the highest one hour rate, not exceeding 1½ times the monthly 1940 sustaining fees, less actual sustaining fees paid by the station under its individual per program contract. These sustaining fees are in addition to commercial fees deducted by the network.

The consent decree signed by ASCAP provides that ASCAP may not demand any percentage which is based upon a percentage of revenue of programs which do not include ASCAP music. In our opinion, therefore, the proposed per program contract, with its minimum of 2% of the broadcaster's entire receipts, does not comply with the terms of ASCAP's consent decree.

Attention is directed to the NAB Special Bulletin of June 27, 1940 which was reprinted in Vol 8, No. 26, June 28, 1940, NAB REPORTS. This Bulletin pointed out that the form of contract then submitted by ASCAP was unsatisfactory.

In the absence of a final contract incorporating all of the terms of the current proposal, it is impossible to judge how many of the defects of the June 1940 contract will remain, although some defects appear to have been eliminated. The full effect of the clause limiting the right of ASCAP to restrict compositions, for instance, cannot accurately be assessed until the language of the provision is examined, and there does not appear in the proposal anything with respect to the rates to be charged by ASCAP on optional clearance at the source on electrical transcriptions. It will also be noted that under the logging provisions of the per program contract it would appear that any number which cannot be identified by full title, author's name, copyright proprietor's name, and if the number is performed from a recording, an identification of the record, is presumed to be an ASCAP number, and that any program which contains a number which cannot be so fully identified will pay the full ASCAP per program rate. Some of these matters may be covered in the supplementary document which is on file in the



Mutual offices and which was not available to us at the time of the preparation of this memorandum.

Mr. Gene Buck, as President of ASCAP, has wired to the Association that our telegram stating that the ASCAP proposal would be analyzed is construed "as an unlawful interference with the realization of the benefits of that contract. We hold you fully responsible for all damages that we may suffer thereby. . . ." It goes without saying that nothing in this analysis is intended to deter stations from independently considering any proposals that are submitted to them solely on the basis of their own ultimate wellbeing, and that this analysis is intended only as an information service to NAB members. If any inadvertent errors have been made, despite the care which has been exercised, we shall be glad to correct them if they are called to our attention.

## A BLANKET SINGLE STATION LICENSE PROPOSAL

ASCAP will issue a license granting to any station of the Mutual Broadcasting System the use of all music in its repertoire or of any of its associated or affiliated societies for local broadcasting only.

1. The consideration for the license will be:

### A. SUSTAINING FEE:

A yearly sustaining fee of twelve times the highest one hour published rate of the station, provided such sum shall not exceed one and one-half times the sustaining fee paid by the station during the year 1940, unless the gross amount paid to Station for the use of its broadcasting facilities, for local broadcasts for 1940 or any year thereafter shall be less than \$50,000, in which case the sustaining fee shall be \$12 for the succeeding year.

### B. COMMERCIAL FEE:

In addition, the station, for the first four years of the agreement, shall pay to ASCAP a sum of 3%, and for the remaining term of the agreement a sum of 3½%, of its net receipts from sponsors for the use of the broadcasting facilities for local broadcasting.

The term "*net receipts*" from sponsors shall be construed to mean the gross amount paid by sponsor for all local broadcasting facilities, less rate card discounts (quantity and/or frequency) and any advertising agency commission not to exceed 15% actually allowed and paid to a recognized advertising agency.

2. No payment shall be required to be made hereunder with respect to any local commercial program presented by transcription in the event that payment at the source has been made with respect to such transcription program.
3. ASCAP will reserve the right to restrict, in good faith, the broadcasting of compositions from musical comedies, operas, operettas, and motion pictures, or any other composition being excessively broadcast, only for the purpose of preventing harmful effect upon such productions or compositions in respect of other interests under the copyrights thereof. In any case, however, ASCAP agrees that the maximum number of compositions which may be at any time thus restricted shall not exceed 500 and moreover limited licenses will be granted upon application entirely free of additional charge, as

to restricted compositions if and when copyright owners thereof are unable to show reasonable hazards to their major interests likely to result from such broadcasts.

Provided, however, that in no case shall any charges "*free plug*" or other consideration be required in respect of any permission granted to perform a restricted composition, and further provided that in no event shall any composition, after the initial broadcast thereof, be restricted for the purpose of confining further broadcasts thereof to a particular artist, station, network or program.

4. ASCAP will agree to maintain during the term of the agreement substantially the existing domestic repertoire, and agrees to identify, save and hold station, sponsors, advertising agencies, and each of them, harmless, and defend them and each of them from and against any claim, demand or suit that may be brought against them or any of them with respect to renditions given during the term hereof or any renewal, in accordance with this license, of musical compositions contained in ASCAP's repertory heretofore or hereafter during the term hereof copyrighted or composed by members of ASCAP.
5. The term of this agreement shall be for a period ending on December 31, 1949.
6. ASCAP agrees that if a more favorable license is granted to any other comparable broadcasting station, station shall have the right to avail itself of the terms thereof. ASCAP agrees that any station may, upon request, inspect at the offices of ASCAP, the original copy of any license agreement in effect with any broadcasting station.
7. Royalty accountings, accompanied by payment in full, shall be rendered to ASCAP on or before the twentieth of each month covering the previous calendar month.
8. ASCAP agrees to release and discharge station, advertising agencies and sponsors from any and all liability and claims whatsoever which may have heretofore arisen as a result of the broadcast by station from and after Jan. 1, 1941, of any composition or work copyrighted or composed by ASCAP members or as to which ASCAP shall have public performing rights.
9. Station shall not be required to account for any sums received from political broadcasts.

## PER PROGRAM SINGLE STATION LICENSE PROPOSAL

1. For the purposes of this proposal, under which licenses to publicly perform by broadcasting the ASCAP repertoire will be upon request of any broadcaster issued, the different types of radio programs are classified variously as follows:
  - A. SUSTAINING, NON-MUSICAL:

Being a non-commercial, unsponsored local program, containing no music.
  - B. SUSTAINING, MUSICAL:

Being a non-commercial, unsponsored local program, and which shall include or present in whole or any part, any musical composition or work.
  - C. COMMERCIAL, NON-MUSICAL:

Being a commercial, sponsored local program during the presentation of which no musical composition or work whatever, in whole or any part, is rendered.

It is to be understood that as to sports events (excluding football games), parades and civic celebrations, where music shall be performed under exclusive control

or direction of others than the licensee and shall be merely incidental to the main event or celebration, such programs shall nevertheless be regarded as coming under this heading.

D. COMMERCIAL, MUSICAL:

Being a commercial, sponsored local program, for the public presentation of which the broadcasting facilities of licensee have, for a consideration, been engaged by the sponsor; and which shall include or present in whole or any part, any musical composition or work; or the commercial sponsored broadcast of a football game incident to which music is used; and so-called "*participating programs*" using music.

E. RELIGIOUS, EDUCATIONAL AND CIVIC:

Being a non-commercial local program, sponsored by a religious, educational, patriotic, political or civic association or group, and presented under its *official* auspices, for which licensee grants the free use of broadcasting facilities.

2. ASCAP will make available to any radio broadcasting station a license to publicly perform the compositions copyrighted by its members, and by the members of affiliated foreign societies upon a "*per program basis*" on the following terms and conditions:

In respect of the various types of programs the following payments shall be made:

SUSTAINING, NON-MUSICAL:

No payment.

COMMERCIAL, MUSICAL:

If any or all of the musical content shall include, in whole or any part, any ASCAP composition, an amount equal to ten per cent (10%) of the net receipts of the licensee from the commercial sponsor for the use of the broadcasting facilities of the station, provided, however, that if the music used shall be limited solely to a single identical theme or signature and/or to a single identical theme or signature and incidental bridge or background music in connection with a program otherwise non-musical, the rate of payment shall be 3%; and if only incidental bridge or background musical accompaniment and/or any opening and/or closing music (not constituting a theme or signature song) is used in connection with a program otherwise non-musical, the rate shall be 1½%.

Provided further that if the commercial broadcast is of a football game, a sum equal to 1½% of the amount charged by licensee to the commercial sponsor shall be paid.

SUSTAINING, MUSICAL:

If any or all of the musical content shall include, in whole or any part, any ASCAP composition, an amount equal to one per cent (1%) of the regular published full card rate of the station applicable for the broadcasting facilities used. In no case shall the maximum amount payable by licensee in respect of sustaining programs during any year exceed either twelve times the highest one hour published rate of the station or one and one-half times the sustaining fee paid by the licensee during the year 1940, whichever shall be less; and provided further that if such maximum amount is guaranteed then no payments based upon the above percentage need be made.

COMMERCIAL, NON-MUSICAL:

No payment.

RELIGIOUS, EDUCATIONAL AND CIVIC:

No payment.

3. ACCOUNTINGS:

- A. Licensee is to furnish, postage prepaid, to ASCAP monthly a copy of the complete station log for each day, in the form required by FCC Rules and Regulations, Part 3, Sec. 3.90, and as to each program thereupon listed as musical or having any musical content, shall furnish ASCAP a complete item-by-item list of each musical composition rendered in whole or in part during local programs. Such listing shall show, as to each musical composition thus rendered, the full title thereof, the name of the composer and/or author, and name of the copyright owner as imprinted on the published sheet music or orchestration. Titles may not be abbreviated but must be shown in full. These requirements apply to all such programs, without exception, and regardless of the origin of the program.
- B. Such report of each accountable local program shall, if commercially sponsored, state the name of the sponsor or sponsors, and the amount charged each sponsor.
- C. Royalty accountings, accompanied by payment in full shall be rendered to ASCAP on or before the twentieth of each month, covering the previous calendar month. Such statements shall show in respect of each accountable program (a) the date of rendition, (b) the title of the program, (c) the time rendered, (d) the name of each sponsor and amount charged to each, and (e) the listing of titles, composers, authors and copyright owners.
- D. All accountings in respect of local "*commercial musical programs*" rendered in accordance with the foregoing, shall be understood to relate to the net receipts of the station, construed to mean the gross amount paid by the sponsor for all broadcasting facilities of the station, less rate card discounts (quantity and/or frequency) and advertising agency commission of not exceeding fifteen per cent (15%) if actually paid or allowed to a recognized advertising agency.
- E. Where renditions are by means of phonograph records, program listings shall show the manufacturer's brand and serial number of the record.
4. Any failure to comply with the requirements set out in Article 3 of this proposal as to the complete identification of compositions performed on programs, shall create the presumption that the music and/or compositions used were ASCAP compositions.
5. No payment shall be required to be made hereunder with respect to any local commercial program presented by transcriptions in the event that payment at the source has been made with respect to such transcription programs.
6. ASCAP reserves the right to restrict, in good faith, the broadcasting of compositions from musical comedies, operas, operettas and motion pictures, or any other composition being excessively broadcast, only for the purpose of preventing harmful effect upon such productions or compositions in respect of other interests under the copyrights thereof. In any case, however, ASCAP agrees that the maximum number of compositions which may be at any time thus restricted shall not exceed 500 and moreover limited licenses will be



granted upon application, entirely free of additional charge, as to restricted compositions if and when copyright owners thereof are unable to show reasonable hazards to their major interests likely to result from such broadcastings.

Provided, however, that in no case shall any charge, "*free plug*," or other consideration be required in respect of any permission granted to perform a restricted composition; and further provided that in no event shall any composition, after the initial broadcast thereof, be restricted for the purpose of confining the further broadcasts thereof to a particular artist, network, station or program.

7. ASCAP agrees to maintain during the term of the agreement substantially the existing domestic repertoire, and agrees to indemnify, save and hold licensee, sponsors, advertising agencies and each of them harmless, and defend them and each of them from and against any claim, demand or suit that may be brought against them or any of them with respect to renditions given, in accordance with this license, of musical compositions contained in ASCAP's repertory heretofore or hereafter copyrighted or composed by members of ASCAP.
8. The term of the agreement may at election of licensee be fixed to cover any portion of the time between effective date and December 31, 1949, and, notwithstanding anything herein to the contrary, if during any year of the license period the total payments per annum made by licensee to ASCAP shall be less than 2% of the total "*net receipts*" of the station for broadcasting facilities, as the term "*net receipts*" is defined in the blanket license proposal for single stations simultaneously submitted by ASCAP, ASCAP may require licensee to change to the blanket licensing basis for remainder of the term, and licensee will agree to accept such blanket basis, or if such payments shall exceed 5% of such "*net receipts*" licensee may require ASCAP to change the formula to such basis for remainder of the license period and ASCAP will agree to accept such blanket basis; such option to be exercised within sixty days following the end of the applicable license year in which such total "*net receipts*" shall be less than or shall exceed the applicable percentage, the new basis to be effective as of the beginning of the license year within which such option was exercised.
9. ASCAP agrees that if a more favorable license is granted to any other comparable broadcasting station, the licensee shall have the right to avail itself of the terms thereof. ASCAP agrees that any licensee may, upon request, inspect at the offices of ASCAP the original copy of any license agreement in effect with any broadcasting licensee.
10. ASCAP agrees to release and discharge licensee, advertising agencies and sponsors from any and all liability and claims whatsoever which may have heretofore arisen as a result of the broadcast from and after January 1, 1941, by licensee of any composition or work copyrighted or composed by ASCAP members or as to which ASCAP shall have public performing rights.

## NETWORK BLANKET LICENSE PROPOSAL

ASCAP will issue a license granting to the Mutual Broadcasting System the use of all music in its repertoire and of any of its associated or affiliated societies.

1. The consideration for the license to the Mutual Broadcasting System shall be:

### A. SUSTAINING FEE:

(a) As to stations affiliated with Mutual having a Single Station License from ASCAP under which the said stations guarantee to pay to ASCAP an agreed upon amount fixed in dollars for the use of ASCAP music in sustaining programs, ASCAP will grant to Mutual a license to broadcast sustaining programs to such stations upon the payment to it of the sum of One Dollar annually.

(b) In the event of a situation arising in which any of the Mutual stations does not have a Single Station License from ASCAP, or if such license is a Per Program License and the station has not guaranteed to pay to ASCAP, an agreed upon amount fixed in dollars for the use of ASCAP music in sustaining programs, then Mutual may supply its sustaining programs to such stations upon the payment to ASCAP of a sum equal to one per cent of the applicable card rate of each such affiliated station receiving and rebroadcasting the said sustaining program for the time consumed, provided, however, that in no case shall the maximum amount payable by Mutual in respect of any such station for sustaining programs exceed either: (a) a monthly payment equal to one half of the highest one hour published card rate of the station but in no event more than three quarters of the monthly sustaining fee paid by the station during the year 1940, or (b) the difference between twice the amount stated in subdivision (a) hereof and the actual sum paid during such month by the station for sustaining fees; whichever of such amounts shall be less.

### B. COMMERCIAL FEE:

Mutual further, for the first four years of the agreement, shall pay to ASCAP a sum of 3%, and for the remaining term of the agreement, a sum of 3½%, of its "*net receipts after deductions*" (as hereinafter defined) received during each year for the use of the broadcasting facilities of the stations over which the sponsored programs are broadcast.

The term "*net receipts*" from sponsors shall be construed to mean the gross amount paid by sponsor during such year for all network broadcasting facilities, less rate card discounts (quantity and/or frequency) and any advertising agency commission not to exceed 15% actually allowed and paid to any recognized advertising agencies.

The term "*net receipts after deductions*" shall be construed to mean the net receipts from sponsors during such year, less the sum of the following deductions:

(a) An amount equal to the actual cost to Mutual, its members and affiliates, of all program transmission lines used during such year in the transmission of network programs from any member or affiliate station to any other member or affiliate stations, but shall not include any program transmission lines extending from a member or affiliate station to the point of origination of a remote control program. Neither shall it include the cost of any program transmission lines maintained by a regional network affiliate of Mutual other than the program transmission line connecting the key station of such regional network with any other member or affiliate (other than an affiliate of such regional network) of Mutual.

(b) A sales commission on the net receipts from sponsors for such year equal to the sum of the following:

Fifteen per cent (15%) on the first One million dollars (\$1,000,000) or less of such net receipts;

Twelve and one-half per cent (12½%) on the next Two million dollars (\$2,000,000) or less of such net receipts (\$1,000,000 to \$3,000,000);

Ten per cent (10%) of the next Three million dollars (\$3,000,000) or less of such net receipts (\$3,000,000 to \$6,000,000);

Seven and one-half per cent (7½%) of the next Four million dollars (\$4,000,000) or less of such net receipts (\$6,000,000 to \$10,000,000);

Five per cent (5%) of the next Five million dollars (\$5,000,000) or less of such net receipts (\$10,000,000 to \$15,000,000);

Two and one-half per cent (2½%) of the next Five million dollars (\$5,000,000) or less of such net receipts (\$15,000,000 to \$20,000,000); and

One per cent (1%) of all net receipts in excess of Twenty million dollars (\$20,000,000).

2. No payment shall be required to be made hereunder with respect to any network commercial program presented by transcription in the event that payment at the source has been made with respect to such transcription program.

3. ASCAP will reserve the right to restrict, in good faith, the broadcasting of compositions from musical comedies, operas, operettas, and motion pictures, or any other composition being excessively broadcast, only for the purpose of preventing harmful effect upon such productions or compositions in respect of other interests under the copyrights thereof. In any case, however, ASCAP agrees that the maximum number of compositions which may be at any time thus restricted shall not exceed 500 and moreover limited licenses will be granted upon application entirely free of additional charge, as to restricted compositions if and when copyright owners thereof are unable to show reasonable hazards to their major interests likely to result from such broadcastings.

Provided, however, that in no case shall any charges "free plug" or other consideration be required in respect of any permission granted to perform a restricted composition and further that in no event shall any composition, after the initial broadcast thereof be restricted for the purpose of confining further broadcasts thereof to a particular artist, station, network or program.

4. ASCAP will agree to maintain during the term of the agreement substantially the existing domestic repertoire, and agrees to indemnify, save and hold Mutual, its member and affiliate stations, sponsors, advertising agencies and each of them harmless, and defend them and each of them from and against any claim, demand or suit that may be brought against them or any of them with respect to renditions given during the term hereof or any renewal in accordance with this license of musical compositions contained in ASCAP's repertory heretofore or hereafter during the term hereof copyrighted or composed by members of ASCAP.

5. The term of this agreement shall be for a period ending on December 31, 1949.

6. Royalty accountings, accompanied by payment in full shall be rendered to ASCAP on or before the twentieth of each month, covering the previous calendar month. In view of the fact that under Article 1, Subdivision B, subdivisions a and b, provisions are made for deductions on an annual basis, it is agreed that these items will be made with a final readjustment to be made within thirty days after the end of each fiscal year. Accountings and payments shall be made on a billing basis, with a right of deduction for bad accounts and dis-

counts allowed or rebates paid. The periods for less than a full fiscal year at the beginning and end of this agreement shall be pro rated.

7. ASCAP agrees to release and discharge Mutual, its member and affiliate stations, advertising agencies, and sponsors from any and all liability and claims whatsoever which may have heretofore arisen as a result of any network broadcast over the Mutual network from and after January 1, 1941, of any composition or work copyrighted or composed by ASCAP members or as to which ASCAP shall have public performing rights.

8. Mutual shall not be required to account for any sums received from political broadcasts.

## The New Network Rules

### RULES APPLICABLE TO STATIONS ENGAGED IN CHAIN BROADCASTING

May 2, 1941.

Whereas, the Commission, on March 18, 1938, by Order No. 37, authorized an investigation "to determine what special regulations applicable to radio stations engaged in chain or other broadcasting are required in the public interest, convenience, or necessity;"

Whereas on April 6, 1938, the Commission appointed a Committee of three Commissioners to supervise the investigation, to hold hearings in connection therewith, and "to make reports to the Commission with recommendations for action by the Commission;"

Whereas the Committee held extensive hearings and on June 12, 1940, submitted its report to the Commission;

Whereas briefs were filed and oral arguments had upon the Committee report and upon certain draft regulations issued for the purpose of giving scope and direction to the oral arguments; and

Whereas the Commission, after due consideration, has prepared and adopted the Report on Chain Broadcasting to which this Order is attached;

Now, therefore, it is hereby ordered, That the following regulations be and they are hereby adopted:

#### Licensing Requirements

§ 3.101 *Exclusive affiliation of station.* No license shall be granted to a standard broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization (The term "network organization" as used herein includes national and regional network organizations.) under which the station is prevented or hindered from, or penalized for, broadcasting the programs of any other network organization.\*

\*§ 3.101 to 3.108, inclusive, issued under the authority contained in Sec. 4 (i), (j), 48 Stat. 1068; 47 U. S. C. 154 (i), (j), Sec. 303 (b), (f), (g), (i), 48 Stat. 1082; 47 U. S. C. 303 (b), (f), (g), (i), sec. 303 (r), 50 Stat. 191; 47 U. S. C. 303 (r), 308 (a), (b), 48 Stat. 1084; 47 U. S. C. 308 (a), (b), sec. 309, 48 Stat. 1085; 47 U. S. C. 309, sec. 311, 48 Stat. 1086; 47 U. S. C. 311, sec. 313, 48 Stat. 1086; 47 U. S. C. 313, sec. 314, 48 Stat. 1088; 47 U. S. C. 314.

§ 3.102 *Territorial exclusivity.* No license shall be granted to a standard broadcast station having any contract arrangement, or



understanding, express or implied, with a network organization which prevents or hinders another station serving substantially the same area from broadcasting the network's programs not taken by the former station, or which prevents or hinders another station serving a substantially different area from broadcasting any program of the network organization.\*

§ 3.013 *Term of affiliation.* No license shall be granted to a standard broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization which provides, by original term, provisions for renewal, or otherwise, for the affiliation of the station with the network organization for a period longer than one year: *Provided*, That a contract, arrangement, or understanding for a one-year period, may be entered into within sixty days prior to the commencement of such one-year period.\*

§ 3.104 *Option time.* No license shall be granted to a standard broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization which prevents or hinders the station from scheduling programs before the network finally agrees to utilize the time during which such programs are scheduled, or which requires the station to clear time already scheduled when the network organization seeks to utilize the time.\*

§ 3.105 *Right to reject programs.* No license shall be granted to a standard broadcast station having any contract, arrangement, or understanding, express or implied with a network organization which (a), with respect to programs, offered pursuant to an affiliation contract, prevents or hinders the station from rejecting or refusing network programs which the station reasonably believes to be unsatisfactory or unsuitable; or which (b), with respect to network programs so offered or already contracted for, prevents the station from rejecting or refusing any program which, in its opinion, is contrary to the public interest, or from substituting a program of outstanding local or national importance.\*

§ 3.106 *Network ownership of stations.* No license shall be granted to a network organization, or to any person directly or indirectly controlled by or under common control (The word "control" as used herein, is not limited to full control but includes such a measure of control as would substantially affect the availability of the station to other networks.) with a network organization, for more than one standard broadcast station where one of the stations covers substantially the service area of the other station, or for any standard broadcast station in any locality where the existing standard broadcast stations are so few or of such unequal desirability (in terms of coverage, power, frequency, or other related matters) that competition would be substantially restrained by such licensing.\*

§ 3.107 *Dual network operation.* No license shall be issued to a standard broadcast station affiliated with a network organization which maintains more than one network: *Provided*, That this regulation shall not be applicable if such networks are not operated simultaneously, or if there is no substantial overlap in the territory served by the group of stations comprising each such network.\*

§ 3.108 *Control by networks of station rates.* No license shall be granted to a standard broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization under which the station is prevented or hindered from, or penalized for, fixing or altering its rates for the sale of broadcast time for other than the network's programs.\*

*It is further ordered*, That the regulations in §§ 3.101-3.108 shall become effective immediately; *Provided*, That, with respect to existing contracts, arrangements, or understandings, or network organization station licenses, the effective date shall be deferred for 90 days from the date of this order: *Provided further*, That the effective date of § 3.106 may be extended from time to time with respect to any station in order to permit the orderly disposition of properties.\*

BY THE COMMISSION.

(Seal)

T. J. SLOWIE,  
Secretary.

(F. R. Doc. 41-3288: Filed, May 5, 1941; 12:15 p. m.)

## The FCC Report

Following is the text of the FCC's summary of its report on the new rules for network broadcasting:

Regulations designed to "foster and strengthen network broadcasting by opening up the field to competition" are contained in a Federal Communications Commission order made public today. Accompanying the order is the Commission's "Report on Chain Broadcasting," which explains the new regulations and states the premises on which they are based.

"The regulations which we are promulgating," says the Commission, "are designed to preserve without loss the contributions of network broadcasting to the public and to the affiliated stations, while ensuring that licensees will exercise their responsibilities under the law. We believe that these regulations will foster and strengthen network broadcasting by opening up the field to competition."

\* \* \*

The Commission finds a variety of restraints in the present station-network relationships which impair the ability of stations to render service in the public interest. By removing these restraints, the Commission states, there should result "an increased number of networks, and, consequently, a larger supply of available network programs and a wider latitude for all stations in obtaining network programs." There should also result "a gain in quality as well as quantity as a result of increased competition among networks \* \* \* . Not only the more powerful stations, but those with less desirable facilities, and the public as well, will benefit."

The Commission notes that there exists only two alternatives to competition as a means for protecting the public interest in radio broadcasting: government ownership and detailed regulation of the kind applicable to railroads and telephone companies. The Commission rejects both of these alternatives. It states: "We believe \* \* \* that competition, given a fair test, will best protect the public interest. That is the American system."

\* \* \*

Six of the eight regulations are designed to remove the restraints upon stations contained in most station-network affiliations contracts. Under the new regulations, an affiliation contract may not restrain a station from carrying programs offered by any network, or restrict a network to one station in an area. It may not bind a station to a network for more than one year, and must leave each station free to schedule such programs as the station considers to be in the public interest. It may not contain an option clause requiring a station to cancel other programs merely because the network offers a program for the optioned hour; nor may it deprive a station of the final decision as to what programs shall or shall not be broadcast.

Finally, an affiliation contract may not deprive a station of the right to set its own rates, and to compete freely with networks for advertising revenues. Thus, according to Chairman Fly, "the new regulations might properly be called a Magna Carta for American broadcasting stations."

Says the Commission:

"This report is based upon the premise that the network system plays a vital role in radio broadcasting and has brought great benefits to it. We have carefully drawn our regulations so as not to interfere with any of the three major functions which a network performs—the sale of time to advertisers; the production of programs, both commercial and sustaining; and distribution of programs to stations."

The report further states:

"We are concerned \* \* \* with insuring that at reasonable intervals a station will be free to change its regular network affiliation, and, as occasion requires, to broadcast the programs of networks with which it is not regularly affiliated, and to exercise independent judgment in rejecting or refusing network programs. To the extent that the networks' present status rests upon excellence of service rather than coercive power, it will remain substantially unaffected."

The regulations are designed not merely to introduce competition among existing networks, but also to open the door to new networks. Says the report:

"The exclusion of new networks from the industry is especially onerous because of the failure of existing networks to render service on a truly national basis. They have left a number of communities, especially in the West and Middle West, wholly without network service, and many more with inadequate service or service from only one network. Under such circumstances, it is especially important to keep the door open for new networks which may be willing to serve areas now unprovided for."

\* \* \*

In laying the foundation for its discussion of the current network situation, the Commission report deals with the history of the Columbia Broadcasting System (CBS) and the Mutual Broadcasting System (Mutual); and places particular stress upon the history of the National Broadcasting Co. (NBC), and its parent, Radio Corporation of America (RCA). "NBC is but a branch—though an important branch—of (RCA), a corporate enterprise which straddles the fields of communication, radio-equipment manufacture, and entertainment," the Commission declares, and adds:

"RCA was originally founded to utilize wireless techniques for the transmission of messages; today it bestrides whole industries, dwarfing its competitors in each. \* \* \* RCA occupied a premier position in fields which are profoundly determinative of our way of life. \* \* \* Whether this ramified and powerful enterprise with its consistent tendency to grow and to expand into new fields at the expense of smaller independent concerns is desirable, is not to be decided here. We have thought it proper, however, to call the attention of Congress and the public to the broader problems raised by this concentration of power in the hands of a single group."

\* \* \*

The report notes that stations utilizing roughly 97 per cent of the nation's total nighttime broadcasting power are affiliated with the three major networks. All but two of the nation's clear-channel stations are affiliated with NBC or CBS and the remaining two (WOR and WGN) own Mutual. Eighteen of the Nation's most powerful and most desirable stations are licensed directly to NBC or CBS.

The Commission comments:

"The United States has rejected government ownership of broadcasting stations, believing that the power inherent in control over broadcasting is too great and too dangerous to the maintenance of free institutions to permit its exercise by one body, even though elected by or responsible to the whole people. But in avoiding the concentration of power over radio broadcasting in the hands of government, we must not fall into an even more dangerous pitfall: the concentration of that power in the hands of self-perpetuating management groups."

\* \* \*

One of the eight new regulations concerns the ownership of stations by networks, as distinguished from the affiliation of stations with networks by contract. The report notes that 18 of the most powerful and desirable stations in the country are at present licensed directly to NBC or CBS. "Competition among networks for these facilities is non-existent," says the Commission in discussing this "bottling-up" of the best stations. It finds that "the licensing of two stations in the same area to a single network organization is basically unsound and contrary to public interest," and that "it is against the public interest for networks to operate stations in areas where the facilities are so few or so unequal that network competition is seriously restricted." The Commission concludes:

"Subject to the right and opportunity of CBS and NBC to show at hearing in a particular case that public interest requires otherwise, the Commission will not license to a single network organization more than one station within a given area, nor will it license stations to any network organization in communities where the

available outlets are so few or of such unequal desirability as to require that all facilities be open to competition among networks for outlets and among stations for networks."

\* \* \*

The Commission occasionally contrasts Mutual with NBC and CBS in respect to size, structure, and mode of operation, but makes it clear that in so doing it does not seek to approve Mutual practices or to set them up as ideals or models. "On the contrary," it observes, "we find a tendency in Mutual to follow the paths toward restrictive practices blazed by CBS and NBC."

\* \* \*

Another of the new regulations concerns the operation of more than one network by one organization. The report notes: "The operation of the Red and Blue networks by NBC gives it a decided competitive advantage over the other two networks." It further notes that NBC's Red and Blue networks do not compete with one another, and that "the Blue has had the effect of acting as a buffer to protect the powerful Red against competition. \* \* \* NBC has utilized the Blue to forestall competition with the Red."

The Commission concludes that "it is not in public interest for a station to enter into a regular affiliation contract with a network's organization maintaining more than one network." It adds:

"Under any system of broadcasting, someone must decide what a station will put on the air and what it will not. \* \* \* Decentralization of this power is the best protection against its abuse. We cannot permit the protection which decentralization affords to be destroyed by the gravitation of control over two major networks into one set of hands. While the concentration of power resulting from operation of a network is unavoidable, the further concentration of power resulting from operation of two networks by one organization can and should be avoided."

\* \* \*

The remaining six new regulations are concerned with the affiliation contracts between networks and stations. Among the restraints which the Commission finds in these contracts are the following:

"NBC and CBS, by contractual arrangements with their affiliates, prevent the great majority of them from broadcasting programs of any other national network."

"Programs rejected by (network) affiliates, \* \* \* may not be offered by the network to other stations in the service area of the affiliate which rejects the program."

"The long-term (five-year) contracts of CBS and NBC were intended to, and do, prevent any real competition in the network-station market."

"\* \* \* National network time options have restricted the freedom of station licensees and hampered their efforts to broadcast local commercial programs, the programs of other networks, and national spot transcriptions."

"Long-term (five-year) affiliation contracts, with their exclusivity and optional-time provisions, seriously interfere with competition among networks. Ownership of broadcast stations by networks, however, goes even further. It renders such stations permanently inaccessible to competing networks."

"The operation of the Red and Blue networks by NBC gives it a decided competitive advantage over the other two national networks. \* \* \* By tying up two of the best facilities in lucrative markets—through the ownership of stations, or through long-term contracts containing exclusivity and optional-time provisions—NBC has utilized the Blue to forestall competition with the Red."

"NBC has attempted to protect itself against competition with its affiliates for the business of national advertisers. \* \* \* A contract of this kind, providing a severe penalty for price-cutting, is equivalent to, and has the same effect as, a price fixing agreement."

"At every turn, \* \* \* restrictive clauses taken cumulatively operate with even greater force than their effect considered in isolation would suggest."

The six features of present affiliation contracts which the new regulations are designed to eliminate are:

1. "Exclusivity"
2. "Territorial Exclusivity"
3. Contracts binding for more than one year



4. "Network optional time"
5. Restrictions on the right to reject network programs
6. Limitation of competition between network and stations.

\* \* \*

## 1. "Exclusivity"

Under the so-called "exclusivity clause," a station affiliated with one network may not carry a program of any other network. The Commission notes that there are a great many cities to which neither Mutual nor any new network can obtain any access whatever, since all the stations are already bound to NBC or CBS by contracts containing "exclusivity clauses." Thus:

"Not only is regular Mutual program service banned from large areas, but even individual programs of unusual interest are kept off the air. A concrete example of the manner in which exclusivity clauses operate against the public interest may be seen in the broadcasting of the World Series baseball games of October 1939. Mutual obtained exclusive privileges from the baseball authorities for the broadcasting of the series with the Gillette Co. as commercial sponsor. Thereupon it attempted to obtain time from various stations including stations which were then under exclusive contract to NBC and CBS. CBS and NBC immediately called upon their outlet stations to respect the exclusive provisions of their contracts. Disregard of this reminder would have jeopardized a station's rights under the contracts. This prevented certain licensees from accepting a program for which they believed there was public demand and which they thought would be in the public interest. It also deprived the advertiser of network advertising service in some areas, and prevented the licensee from receiving income which could have been obtained from acceptance of the program series. As a result, thousands of potential listeners failed to hear the World Series of 1939."

Under the new regulations, stations affiliated with one network may nevertheless carry also programs offered by any other network.

## 2. "Territorial Exclusivity"

Similar to the "exclusivity clause" is so-called "territorial exclusivity," under which a network is bound not to send a program to any station located in an area served by its affiliated station, even though the affiliated station rejects the program. Says the Commission:

"Territorial exclusivity arrangements are important from the point of view of over-all program structure. To be sure, usually it would be wasteful duplication of service for a network simultaneously to send identical programs to stations whose service areas approximately coincide. If the only effect of territorial exclusivity were to prevent duplication, no fault could be found. But exclusivity goes much further; it protects the affiliate from the competition of another station in the same area which may wish to use programs not carried by the affiliate.

"Under territorial exclusivity, programs rejected by affiliates, sustaining or commercial, may not be offered by the network to other stations in the service area of the affiliate which rejects the program. An example of the adverse effect this may have upon the public is given in a brief filed August 7, 1940, by station WBNY at Buffalo, N. Y. WBNY related that Mutual outlets in Buffalo rejected a sustaining program series known as "The American Forum of the Air," but that its efforts to obtain this program were futile. Consequently, this worth-while program was not broadcast to the Buffalo area despite the desire of WBNY to carry it."

\* \* \*

"It is as much against the public interest for a network affiliate to enter into a contractual arrangement which prevents another station from carrying a network program as it would be for it to drown out that program by electrical interference."

## 3. Long-Term Affiliation Contracts

One of the new regulations limits the term of affiliation contracts to one year. Says the Commission:

"With respect to the maximum term of the contract, no showing has been made that there is any business need for an affiliation contract longer than one year. On the contrary, competition will

be strengthened if opportunity is provided for annual readjustments on the basis of comparative showings of networks and stations. We conclude, therefore, that station licensees will best serve the public interest if they refrain from entering into such contracts for periods in excess of one year and hold themselves free to negotiate with networks annually."

## 4. "Network Optional Time"

Another provision in standard affiliation contracts having a restrictive effect upon stations is the so-called "optional time clause," under which a station must cancel any program scheduled during an option period if the network with which it is affiliated offers a program for that period. NBC, CBS, and Mutual all have such clauses in some or all of their contracts. Says the Commission:

"A station licensee must retain sufficient freedom of action to supply the program and advertising needs of the local community. Local program service is a vital part of community life. A station should be ready, able, and willing to serve the needs of the local community by broadcasting such outstanding local events as community concerts, civic meetings, local sports events, and other programs of local consumer and social interest.

"We conclude that national network time options have restricted the freedom of station licensees and hampered their efforts to broadcast local commercial programs, the programs of other national networks, and national spot transcriptions. We believe that these considerations far outweigh any supposed advantages from 'stability' of network operation under time options. We find that the optioning of time by licensee stations has operated against the public interest."

## 5. Restrictions on the Right to Reject Network Programs

Many affiliation contracts restrict the right of a station to reject network programs, even though a better program is available for the same hour. Thus control of what a station broadcasts is in effect taken away from the station. This is especially true, because "precise information concerning the program the network proposes to distribute is not usually furnished and is not always easy to furnish." Says the Commission:

"It is the station, not the network, which is licensed to serve the public interest. The licensee has the duty of determining what programs shall be broadcast over his station's facilities, and cannot lawfully delegate this duty or transfer "the control of his station directly to the network or indirectly to an advertising agency. He cannot lawfully bind himself to accept programs in every case where he cannot sustain the burden of proof that he has a better program. The licensee is obliged to reserve to himself the final decision as to what programs will best serve the public interest.

"We conclude that a licensee is not fulfilling his obligations to operate in the public interest, and is not operating in accordance with the express requirements of the Communications Act, if he agrees to accept programs on any basis other than his own decision that the programs are satisfactory.

"Even after a licensee has accepted a network commercial program series, we believe he must reserve the right to substitute programs of outstanding national or local importance. Only thus can the public be sure that a station's program service will not be controlled in the interest of network revenues."

## 6. Limitation of Competition Between Network and Station

A final regulation is concerned with the station's control over its own rates. Some present affiliation contracts penalize a station for selling time to national advertisers at less than the rate which the network charges for the station's time, and thus hinders it from competing with the network. "A contract of this kind, providing a severe penalty for price-cutting," says the Commission, "is equivalent to, and has the same effect as, a price-fixing agreement."

The Commission further states:

"We conclude that it is against the public interest for a station licensee to enter into a contract with a network which has the

effect of decreasing its ability to compete for national business. We believe that the public interest will best be served and listeners supplied with the best programs if stations bargain freely with national advertisers."

\* \* \*

Throughout the report, the need for competition as a protection to the public is emphasized. For example:

"A constantly improving service to the public requires that all the competitive elements within the industry should be preserved. The door of opportunity must be kept open for new networks. Competition among networks, among stations, and between stations and networks, all of which profoundly affect station service, must be set free from artificial restraints. It is not in the public interest for any licensee station to make arrangements which tend to close that door or restrain that competition. Pursuant to the mandate of Congress that it grant licenses and renewals only to stations operating in the public interest, this Commission must refuse further to license stations which persist in these practices."

\* \* \*

The Commission notes that approximately the same restraints are found among some regional as among national networks, and hence the new regulations cover regional networks. According to the report:

"Restrictive contracts and other practices with which these regulations are concerned restrain competition and operate against the public interest whether the network concerned is national \* \* \* or regional. True, the national restraints loom larger; but \* \* \* with respect to a given station, a given community, or a given region, a restrictive contract between a station and a regional network \* \* \* may operate to foster a local monopoly and to impair station operations in the public interest just as effectively and as intensively as similar practices on a national scale."

However, the Commission notes that the regional networks are "in a state of more rapid flux than the national networks," and that therefore it "will carefully consider, in particular instances, any showing that the application of the regulations herein adopted to a station affiliated with a regional network will reduce rather than increase its ability to operate in the public interest."

\* \* \*

The new regulations are effective immediately, except that with respect to existing contracts and arrangements, the effective date is deferred for 90 days. The regulation concerning network ownership of stations may be further extended from time to time with respect to any station to permit the orderly disposition of properties.

\* \* \*

The "Conclusion" of the Commission "Report on Chain Broadcasting" follows in full:

"We have exercised our jurisdiction upon the premise, generally accepted by the public and the industry, that the network method of program distribution is in the public interest. We subscribe to the view that network broadcasting is an integral and necessary part of radio. The regulations which we are promulgating are designed to preserve without loss the contributions of network broadcasting to the public and to the affiliated stations, while ensuring that licensees will exercise their responsibilities under the law. We believe that these regulations will foster and strengthen network broadcasting by opening up the field to competition. An open door to new networks will stimulate the old and encourage the new.

"The prophecy that regulations such as we are adopting will 'result in the eventual destruction of national program service' and 'destroy the American system of network broadcasting' is, we believe, the exaggeration of advocacy. The practices which we find contrary to public interest were instituted to restrict competition within the broadcasting field, not to protect commercial broadcasting from competition by other types of advertising. Everyone familiar with broadcasting as an advertising medium knows that radio reaches a different audience from other types of advertising, and that it reaches them in a different way. We doubt that the networks have so little faith in the stability of their own enterprise as is suggested by their insistence that the whole structure of commercial broadcasting will collapse if their relations with outlets are

modified along the lines indicated. It is incredible that the industry's footing is so insecure. The prospect that advertisers will desert radio in favor of newspapers, magazines, or billboards is singularly unconvincing.

"We are under no illusion that the regulations we are adopting will solve all questions of public interest with respect to the network system of program distribution. For 'example, we have not dealt with the activities of principal networks in the fields of electrical transcription and talent supply, although we recognize, as did the committee, that their activities in these fields 'raise problems which vitally concern the welfare of the industry and the listening public.' The problems in the network field are interdependent, and the steps now taken may perhaps operate as a partial solution of problems not directly dealt with at this time. Such problems may be examined again at some future time after the regulations here adopted have been given a fair trial.

"We have been at pains to limit our regulations to the proven requirements of the situation, and especially to ensuring the maintenance of a competitive market. Radio broadcasting is a competitive industry. The Congress has so declared it in the Communications Act of 1934, and has required the fullest measure of competition possible within physical limitations. If the industry cannot go forward on a competitive basis, if the substantial restraints upon competition which we seek to eliminate are indispensable to the industry, then we must frankly concede that broadcasting is not properly a competitive industry. If this be the case, we recommend that the Congress should amend the Communications Act to authorize and direct regulations appropriate to a noncompetitive industry with adequate safeguards to protect listeners, advertisers, and consumers. We believe, however, that competition, given a fair test, will best protect the public interest. That is the American system."

\* \* \*

The report is concurred in by Chairman Fly and Commissioners Walker, Payne, Thompson, and Wakefield; with Commissioners Case and Craven dissenting.

The complete "Report on Chain Broadcasting," including the dissenting report, may be obtained in printed form from the Superintendent of Documents, Government Printing Office, Washington, D. C., at a nominal cost.

## The Dissent

Following is the FCC's summary of the "minority comment" by Commissioners Case and Craven on the new network rules:

All members of the Commission recognize that improvements in the present broadcast service as well as in the organization thereof are not only possible but also desirable. However, the minority disagrees with the proposals which the majority has adopted as a method of securing improvements. We fear that the proposals of the majority will result inevitably in impaired efficiency of the existing broadcast organization of the country. This system has been developed as a result of practical experience over a period of years. In the main it is operating very well in the public interest. Undoubtedly it provides the public with the best broadcasting service in the world. Naturally, there are faults which may need correction. However, some of the corrective processes suggested by the majority may easily result in faults which are far more basic than the known defects which exist today. Furthermore, it appears that insufficient recognition is given to the practical considerations which are inherent in the American system of broadcasting and which cannot be circumvented. It seems that no weight is given to the fact that broadcasting is dynamic and not static. No consideration seems to be given to the probable effect of new developments. Also inadequate recognition is given to the effect of the natural and economic limitations within which broadcasting must operate. Likewise, inadequate recognition is



given to the natural laws which influence basically the manner in which broadcasting renders a social service to the public of America.

No member of the Commission condones any form of monopoly which concentrates power contrary to the public interest or which constitutes unreasonable restraint of competition. However, the majority appears to suggest that "unlimited" competition is the most important factor in securing improvements in radio broadcasting service and proposes to issue regulations the effect of which will prohibit certain contracts which now exist between chain companies and their affiliates. The intent of these regulations is to ban all arrangements which limit the ability of any broadcast station licensee to engage at any time in any and all forms of competition. While the minority insists upon competition they suggest the principle of "Free competition accompanied by good radio service to the public" rather than competition which affects adversely program service.

The minority is of the opinion that the most important problem confronting the Commission may be stated briefly as follows:

"Considering the necessity of a balanced radio broadcast service of interest to and in the interest of the public, and recognizing the natural limitations inherent in radio, how can greater equality of opportunity be extended to persons desiring to utilize radio as a media of broadcasting information to the public?"

The solution of the problem requires a broad viewpoint as well as a balanced consideration of at least all of the following factors which among others contribute to broadcast service in the interest of the public:

1. The establishment of a "free radio" insofar as is practicable within inherent natural limitations.
2. Good programs.
3. An equitable distribution of facilities to states and communities.
4. Diversification of control of radio stations among many licensees.
5. Competition.
6. Efficiency of program distribution to the nation as a whole.
7. Operation of each station in the public interest rather than for the private interest of the licensee.
8. Natural economic laws of supply and demand.
9. Principles of sound business.

A limited approach, or conclusions based upon over-emphasis of one phase of the problem, will result in unsound administration and unfortunate consequences to the radio service to which the public is entitled. More specifically, we fear that the revolutionary change proposed by the majority will result in the destruction of the present excellent national program distribution system and the substitution therefor of some new kind of system, the effects of which the majority does not adequately visualize.

It is axiomatic that unlimited availability of the few existing radio facilities and efficient national program distribution cannot both be attained at the same time. There is no open market condition in the business of broadcasting as in other businesses. Nature has determined that. To attempt to circumvent these basic economic laws is fraught with peril to an industry which has hitherto achieved a marked degree of success. Regulation in disregard of economic laws may foster a situation in which competition among competently managed networks would be replaced by an unwholesome conglomeration of opportunistic "time brokers" catering to an aggregation of local monopolies in the various towns and cities of the nation. This will result in

1. Responsibility for carrying sustaining programs of public importance would be so diffused that such service would likely become nobody's business and the difficulty in clearing time on a national network would become an almost insurmountable task.
2. The incentive would be removed for the origination of such sustaining features as the European war broadcasts, the American Farm and Home Hour, the Town Meeting of the

Air, Toscanini, etc. If the proposals of the majority are enforced there can be no logical determination of who will pay for such service or how it will be developed.

These considerations and other far-reaching adjustments that would be involved would plunge the American broadcasting system from the *known* of good public service to the *unknown* in which all the consequences cannot be foreseen. It is, therefore, no exaggeration to predict that the decision of the majority instead of resulting in "free competition", would more likely create "anarchy" or a kind of business chaos in which the service to the public would suffer.

The majority appears to conclude that it is necessary to exert control over certain business policies of radio station licensees in much the same manner as has been proven suitable for public utilities other than radio. However, in arriving at this conclusion there appears to have been no weighing of the advantages and the disadvantages of the present broadcast structure in terms of good program service to the public. Hence, no conclusions based upon evidence in the record have been made of the reasonableness of the present practices of the industry. For 14 years, existing contract arrangements have been enforced both through formal and informal agreements, and broadcasting in America has achieved greater progress than in any country in the world. The record does not disclose that there is *unreasonable* restraint of competition resulting from certain contracts which the majority proposes to prohibit.

It is possible that the majority in its desire to regulate one facet of the broadcast problem has overlooked some of the other important considerations and hence may have made impossible the attainment of an ideal objective. For example, in asserting jurisdiction to regulate the business practices of broadcast station licensees the majority may have assumed certain power which is not delegated to it under the law. In broadcasting, Congress evidently intended to apply the constitutional doctrine of a "free press." In so doing, Congress recognized that the advantages of a "free radio" were more important than the advantages of the type of regulation heretofore considered necessary in the public utility field. As evidence of their intent, Congress specified that radio broadcasting should not be classed as a common carrier even though licensed by the Government to operate as a form of monopoly in the public domain. The type of regulation specified by Congress for broadcasting clearly envisioned that the Communications Commission should not regulate the programs, the business practices or business policies of broadcast station licensees. Congress specified a type of regulation designed to maintain its policy of a "free radio." This type of regulation differs from that applied to other private business operations in the public domain.

Thus, the question of the power of the Commission to regulate the business phases of broadcasting may be approached from the standpoint of public interest. Congress required that radio, like the press, must be free from those restraints of Government which hamper free expression and which control what may be said or who may speak. The most important function of Government should be to facilitate the attainment of a "free radio." Therefore, it may be argued that if the licensing authority interferes with the business practices of persons engaged in broadcasting, there is concentrated in a single Government agency a power which must lead inevitably to undesirable restraints upon a "free radio." Such concentration of power in Government is just as contrary to public interest as the concentration of control of broadcast stations among a limited number of licensees.

It is obvious that if all the stations in the country were licensed to one person, that person, even though regulated by the Government, would have vast power to control an important media of information. Even though such person had the best of intentions

for the welfare of the public, his would be the sole judgment which determined how radio would be utilized to influence public opinion. Such an extreme is unthinkable. On the other hand, if we had innumerable licensees and therefore innumerable competitive judgments, all under the autocratic regulatory supervision of a single Government agency vested with final and unrestrained power of life and death over the economic destinies of each licensee, we likewise would have an intolerable situation, however well-intentioned such Government agency may be. It was for this reason that Congress provided not only for a diversification of control of radio broadcasting among licensees, but also for diversification of jurisdiction among various regulatory agencies of Government. It was not intended by Congress that any licensee merely because he was a radio broadcaster should be exempt from the application of laws directed to business enterprise generally. The Department of Justice and the Federal Trade Commission as well as other Government agencies include broadcasters within their jurisdiction when administering the laws relating to all business enterprise.

Congress empowered the Federal Communications Commission to regulate only that phase of radio operation which relates to licensing stations. This embraces a fair and equitable distribution of radio facilities to states, communities and persons in a manner which insures diversification of control among many licensees, as well as a good program service of interest to and in the interest of the public. It likewise includes the regulation of technical aspects of operating stations and certain other phases of radio operation affecting public interest which are not under the jurisdiction of other agencies of Government. The Commission is charged with the responsibility of determining the qualifications of licensees to operate radio broadcast stations, but the Commission does not have the responsibility to determine the guilt of licensees for violations of law, the administration of which is not under the direct jurisdiction of the Communications Commission. If licensees of radio stations are found guilty of violation of such other laws, the Commission's responsibility in the premises rests solely as to the qualifications of such licensees to operate stations in the interest of the public.

If some form of monopoly exists in radio broadcasting which is contrary to the best interests of the public, it should be remembered that the Commission has licensed all broadcasting stations in the United States after finding time and time again that each of the licensees was operating his station in the public interest. Therefore, if the Commission has erred in the past, it can now correct the mistake by exercising in individual cases the licensing power delegated to it under the Communications Act of 1934.

The Commission should encourage the organization of independent, highly competitive national networks. However, if there are limitations or barriers to the establishment of additional competitive networks, the Commission need not and should not promulgate rules the effect of which would destroy all existing systems, merely to provide some other private enterprise with an opportunity to capture the revenues of broadcasting. There are better ways to encourage and secure additional competition.

### Conclusions

There are certain factors which should provide the basis for consideration of the many complex problems in the field of radio broadcasting. However, as has been stated elsewhere in this report, no abrupt changes should be attempted without positive indication that such changes will result in improved service to the public. The record in this instant investigation does not justify sweeping proposals to change the developments resulting from practical experience.

It is must be considered that since 1927, the American system of broadcasting has developed under a Congressional formula

which, until recently, has been administered in its broad policy aspects with fair consistency by the Commission and, on the whole, uniformly interpreted by the Courts.

It must be admitted that imperfections exist. No human institution is free from error. It is significant, however, that this record fails to disclose important abuses. Moreover, no information is available to the Commission which justifies an invasion of the business practices of the licensees of this Commission.

It is true that some of the pioneers in broadcasting have achieved conspicuous financial success. Likewise others who have made contributions to the industry and the public have been well rewarded. This fact alone affords no proper basis for a radical extension of the regulatory scheme.

The record shows that in broadcasting there exists vigorous competition in the areas that count. It is the duty of the Commission to preserve and encourage such competition. However, we should not embark upon novel or untried courses of regulation based upon mere speculation as to how American businessmen should manage their affairs. Rather we should consider that the consequences of our acts might injure or retard further improvement in the existing system and the service which it now performs.

Competition accompanied by good radio service to the public should continue to be fostered by the Commission. However, the blind adherence to the slogan "free competition", regardless of all practical factors, is unsound and will result in a conglomeration of uncoordinated radio stations rendering an inferior service to the public.

On the whole, radio broadcasting has an excellent record of public service. This includes both networks and the independent stations. Possibly with a few isolated exceptions, radio has been scrupulously fair in dealing with questions of political, social and economic importance. It has been progressive and enterprising in the entertainment field. The public has been and should continue to be its most important and only censor.

Radio is so constituted that it is sensitive to public criticism and responds promptly to changing public tastes. For this Commission or any agency of Government to attempt to substitute its judgment for that of the public involves an arrogant presumption which should be avoided at all costs. That such a policy is not contemplated by anyone on the Commission seems quite clear. However, it can be argued with logic that invasion of this economic field by the licensing authority in the absence of clear legal mandate would constitute an inevitable prelude to the second step of assuming the role of arbiter of public tastes.

Circumstances may require the Federal government to exercise broad powers in many fields of our economic life, but it is imperative that broadcasting be maintained as a free American institution. To adopt some pattern of government regulation as applied in other fields is to ignore the real nature of broadcasting. Borrowed techniques just don't fit. Broadcasting must be kept free from unnecessary Government restraints. Nowhere has this concept been given better expression than in a recent statement of the President of the United States wherein he said:

"Your Government has no wish to interfere or hinder the continued development of the American system of broadcasting. Radio was born and developed in the real American way and its future must continue on that basis."

Our views in this matter may be summarized as follows:

1. The Commission is without jurisdiction to promulgate regulations which undertake to control indirectly the business arrangements of broadcasting licensees.

2. The record shows vigorous competition among networks and independent stations within the limitations of facilities imposed by nature and thus no finding of illegal monopoly can be made by this Commission, even if it can be assumed that this Commission had the legal authority to make such determination.



3. The Commission through its licensing powers has ample authority to deal with any abuses that may arise, or which may now exist. Thus with the possible exception of clarification of the procedural and appellate provisions of the Communications Act of 1934, no legislative changes seem necessary.

4. There is no support in the record of these proceedings or otherwise in the possession of the Commission which would require new regulations which would attempt to control the relations between networks and affiliates.

5. Broadcasting service is essentially a national service. It must be recognized that listeners prefer good programs originating from any source where there is superior talent and which may have greater entertainment value than would otherwise be available from a purely local source.

6. There is an important function to be served by the smaller local stations. The Commission should continuously strive to improve the technical efficiency of such stations and, within the limits of the Act, afford encouragement to broader economic opportunities for such stations. This should not be attempted by the destruction or impairment of existing services. There is room for both.

7. There is the strong presumption that four competing national networks independently operated might afford opportunity for improved service, although there is nothing in this record to establish that stations affiliated with the company operating two networks have not rendered a good public service. It is, therefore, recommended that informal discussions begin forthwith between the Commission and the representatives of the company operating two networks with a view of obtaining a voluntary segregation.

8. Network companies maintain concert and artist management bureaus as an incident to their operations. The Commission has no jurisdiction in this field. However, the companies should be notified that the Commission intends to request an inquiry by either the Federal Trade Commission or the Department of Justice, or both, in the event the companies do not divest themselves of these activities within a reasonable time.

9. There is no reason why the Commission should not forthwith extend the terms of broadcast licenses to the full statutory limit of three years. This would create an atmosphere of greater stability in the industry and would in no way detract from the Commission's power to proceed by revocation against licensees who contravene the standard of public interest.

Finally, it seems appropriate to emphasize that our government is concerned with many important and crucial problems. This is no time to embark upon a new and untried course for which no urgent need can be established. It seems to us that the kind of democratic freedom which we are preparing to defend requires those in government to manifest restraint and tolerance. There is no evidence to justify an attempt at unnecessary control of the broadcasting industry under even normal circumstances. In this atmosphere of world tension, our own national unity would be disserved by a new experiment at "reform" of an established system of mass communication upon which so many of our people rely for information and diversion.

### EXECUTIVE COMMITTEE

The NAB Executive Committee, as instructed by the Board of Directors, met Wednesday, May 7, in New York. The network report, the proposed hearing on newspaper ownership and the ASCAP situation were considered. The committee decided to report to the Board at the St. Louis meeting, Monday, May 12.

### REPORT FOR SALE

The FCC's supply of copies of its "Report on Chain Broadcasting" is now exhausted.

However, the complete report with its associated order (153 pages) is obtainable from the Superintendent of Documents, Government Printing Office, Washington, D. C., at 30 cents a copy.

## REPORT TO DEPARTMENT OF JUSTICE

At a press conference on Monday, FCC Chairman James Lawrence Fly stated that the Commission would send a copy of the monopoly report and the complete record in the case to the Department of Justice.

## Labor

### OUTSIDE SALESMEN

A break for small stations under the Wage and Hour Act was obtained by the NAB this week when the Wage and Hour Division held that radio's outside salesmen could write their own copy without losing their exemption.

The Wage and Hour Division's ruling followed a conference between division attorneys and Joseph L. Miller, NAB labor relations director, who presented the industry's story.

The definition of an exempt outside salesman says he can do work "incidental to" his selling without losing his exemption. The division held that copy writing was "incidental to" selling.

Announcing, however, is not "incidental to" selling. Therefore, if an outside salesman announces more than 20 per cent as much (in time) as regular announcers who are non-exempt, he loses his outside salesman's exemption.

For example, in a station where regular announcers work 40 hours a week, an outside salesman could work the following hours without overtime payment:

Outside selling: 40 hours  
Writing copy for accounts sold: 10 hours  
Announcing: 8 hours.

The text of the Wage and Hour Division's opinion:

This is in reply to your letter of April 28, 1941, in which you ask certain questions concerning the application of the outside salesman exemption provided by section 13(a)(1) of the Fair Labor Standards Act to employees of radio stations.

Your first inquiry relates to outside advertising solicitors who prepare the commercial "copy" for use on the programs which they have sold. You state that you consider the preparation of the copy to be "incidental to and in conjunction with the employee's own outside sales or solicitations" within the meaning of section 541.5(B) of Regulations, Part 541. If an outside advertising solicitor otherwise conforms with section 541.5 of the regulations, it is the opinion of this office that preparation of commercial "copy" when written exclusively with respect to the advertising accounts sold by such employee may be considered to be incidental to and in conjunction with his own outside sales or solicitations.

Your second inquiry relates to employees who solicit advertising away from the place of business, prepare the commercial copy at the place of business and also announce the program as prepared by them. In the opinion of this office, the announcement of the program is too far removed from the outside solicitations to be considered incidental to or in conjunction therewith. Accordingly, the time devoted by the outside solicitors in question to the

announcing of programs should be considered as nonexempt work within the meaning of the 20 percent test contained in section 541.5 of Regulations, Part 541.

Very truly yours,

FOR THE SOLICITOR,  
(s) RUFUS G. POOLE,  
*Assistant Solicitor In Charge  
of Opinions and Review.*

## Broadcast Advertising Record

On May 7 the NAB Research Department released Volume 1 of "Broadcast Advertising Record". It is a new name and a new record, formerly called the Broadcast Advertising Unit Volume Report.

The "Broadcast Advertising Record" just released presents January, 1941 unit volume of the stations reporting. The "Record" is rearranged to increase the practical value of this sales tool to stations. Separate tables are presented for local and national spot business with facility in each for direct comparison of the individual station with all stations, the average station and stations located in each of five market sizes.

The "Record" was mailed to those stations actively cooperating in this undertaking by submitting monthly records of their business.

Station managers who have seen the "Record" are enthusiastic and confirm the belief of the Research Department and the Department of Broadcast Advertising that the "Record" will be the most potent business-builder in the possession of stations.

January 1941 totals of programs units and announcements carried on 227 stations and all national networks is presented in the following table:

January, 1941 Record						
RETAIL		GENERAL		TOTAL		
Pgm. Units	Ann's	Pgm. Units	Ann's	Pgm. Units	Ann's	
All National Networks.....		2,603,982		2,603,982		
227 Stations Reporting:						
Regional Network.....	7,293	913	69,909	6,684	77,202	7,597
National Spot.....	52,990	6,440	421,929	91,618	474,919	98,058
Local.....	386,492	143,476	175,334	36,017	561,826	179,493
Total Other Than National Network.....	446,775	150,829	667,172	134,319	1,113,947	285,148
TOTAL..	446,775	150,829	3,271,154	134,319	3,717,929	285,148

## Sales

### APPLE COMMISSION USES RADIO

As previously related in these REPORTS, various interests have taken advantage of the national defense emergency to bring pressure through governmental agencies or bureaus for free radio time, under the guise of participation in national defense. An example recently cited in these columns is the Fish and Wildlife Service of the Department of the Interior, which is currently receiving \$98,-076.16 worth of free radio plugs per year.

In refreshing contrast is the Washington State Apple Commission, now engaged in a four-week \$20,000 radio campaign in se-

lected markets. After considerable discussion and correspondence between this Commission and NAB, a letter from C. E. Chase, Secretary-Manager of the Commission, states:

"On my return here I read with considerable interest your letter of April 4th, together with the copy which you enclosed which you had written in connection with the broadcast of fish menus. I also read your letter to the Commission at our meeting on the 19th and gave it as my reason for not having done anything in connection with getting the Department of Agriculture to put on apple radio programs. They approved the stand I had taken on account of my conference with you, and Kelsey Denton, the new Northwest manager of the J. Walter Thompson Company, also concurred.

"We are putting on a radio program for the next four weeks, starting the first of May, which will total over \$20,000. While this amount does not mean much to some organizations, to us it is considerable, as you know. We hope to get splendid cooperation from the stations in this connection, as you will note by the bulletin I am enclosing where I have marked the information we are putting out to the shippers about this.

"I think you are familiar with the fact that we just concluded advertising in 45 cities, most of which expired the 26th of April. A good deal of this was radio. On this new drive, however, *it is all radio*, and of course in a good many cities we have posters which are still being left up even though the expiration date is past."

Certainly no comment on a letter like that is required. Instances like this, though rare, are so encouraging that NAB sincerely hopes that participating stations will do all in their power to make the apple campaign an outstanding success, for the salutary effect it will have on other groups.

### SUCCESS STORIES NEEDED

To fill current requests from members, additional success stories, big or little, are urgently requested on these topics:

Amusements	Funeral services
Meat products	Newspapers

Please send what you have to the Department of Broadcast Advertising.

### MOVIES USE INTERNATIONAL RADIO

A 52-week contract for two programs per week, to be broadcast over international transmitters to South America, has been signed by RKO Pictures with the International Division of NBC.

One program will dramatize highlights of current RKO Pictures, the other will dramatize the lives of RKO stars.

The contract was placed direct by the motion picture company with no agency involved, and may indicate a more pronounced trend towards the use of radio advertising by the motion picture industry.

### CIRCUS SUCCEEDS WITH RADIO

In response to the item last week detailing plans to spend \$350,000 in newspaper advertising this summer by circuses, Howard Loeb of WFDF, Flint, Mich., contributes an outstanding circus success story substantiating NAB's belief that not only can a circus use paid radio advertising effectively, but that it will do so if properly handled by station managers.

Writes Mr. Loeb:

"Through a mistake the big Hagenbeck-Wallace Circus and the equally big Cole Brothers Circus made arrangements to show in



Flint on exactly the same day, July 5, 1937. Their advertising representatives both frantically appealed to WFDF for help. A community of 150,000, they felt, was not big enough to support two big circuses simultaneously. They wanted to know what should be done about it.

"We suggested that we declare a 'Circus Day in Flint', and pointed out that if each circus would increase its advertising appropriation and place the biggest share of their budgets on our station, everything would turn out all right. This they agreed to do. Hagenbeck-Wallace placed an order with us at regular rates to be spent on four days up to and including circus day. Cole Brothers placed an order on the same basis. Both companies purchased spots announcing 'Circus Day', each plugging its own name and circus grounds. We did not use any program whatsoever and the circuses cut their newspaper space to a minimum, putting the big responsibility on radio.

"To say that both circuses were elated over the results would be putting it mildly, as all their tents were far too small to handle the crowds, and it turned out that two circuses on the same day in Flint are not enough—we think we might have handled several more. Attached is a copy of a letter from R. E. Hickey, General Press Representative of Hagenbeck-Wallace."

The letter from Mr. Hickey states:

"It is indeed a pleasure for me to write you and tell you of our great success in Flint on July 5, 1937, when Hagenbeck-Wallace had opposition-day and date—with another large railroad circus. Our records for that day show two thousand more paid admissions than capacity, which is indeed a remarkable figure to attain, when you consider it was the third day of a week-end holiday, the heat and other circumstances.

"During my stay in Flint and also on circus day your station cooperated 100 per cent, and the advance press department and also the executives of Hagenbeck-Wallace wish to thank WFDF for its loyalty and the promotion of this circus.

"For the remarkable turnout of the Flint and Genesee county people and the huge Hagenbeck-Wallace business we lay a good share of the cause at the studio door of WFDF. I am highly recommending your station and its facilities to our other two major circuses, our associates.

"You may be certain of a good percentage of our advertising appropriation when next we appear in Flint. Thanks to you and all your excellent staff, and good luck and happiness."

We suggest that you confer with your sales, program, news and special events departments, so that when the first circus approaches your station for free promotion, these letters may be put to effective use.

## AFA CONVENTION PROGRAM

J. Walter Neff, president of Neff-Rogow, Inc., New York City, will speak on "Increasing the Tune-In" before the radio section at the AFA convention in Boston at 10:00 a. m. on Wednesday, May 28. This agency has achieved notable success in radio for such clients as Bond Clothes, Thom McAn Shoes, and others, and Mr. Neff has developed some unusual approaches and techniques that he will discuss for the benefit of all radio men attending.

"The Effect on Advertisers of the Monopoly Report" will be discussed by Russell Place, NAB Counsel, and "Chimes and Gongs in Radio Advertising" will be the topic of Frank E. Pellegrin, Director of the NAB Department of Broadcast Advertising. An open forum discussion of all radio topics of interest to station men and advertisers, especially those acted upon at the NAB convention, will follow. Robert S. Peare, advertising manager of the General Electric Co. and manager of broadcasting at WGY, Schenectady, will preside.

## PER-INQUIRY OFFERS

"Radio Income Builders" (sic) of 225 Fifth St., Des Moines, who call themselves "Specialists in creating income producing plans for use on unsold station time," thus frankly confess to be per-inquiry seekers. Their current effort is to put radio stations in the fountain pen business. In a four-page communication they offer to *sell* fountain pens direct to stations, requiring the station

to pay in full ten days from date of invoice. The station is expected to sell the pens over the air on "unsold" time, pay the postage, handle the mailing, etc., and keep what profits there are, if any. No provision is made for return of unsold pens; apparently stations that fail to sell their full order are struck with the balance. The company also says "We now have in test a large number of other products," to be later "released to our Radio Station customers."

This company has been advised by NAB that it is the policy of most radio stations to try and operate their radio business successfully, and leave the fountain pen business to others; that stations would dislike to see fountain pen dealers and stationers begin to compete with us in the sale of advertising, and that this fair-play policy works both ways; that stations dislike to enter the direct sales field in competition with local retailers and thus incur the ill will of local merchants, whose support they need, and finally, that many per-inquiry products have been found unsatisfactory by listeners, who thus lose faith and confidence in the local station that persuaded them to buy, and the station thus loses the friendship of the very listeners who are absolutely vital to its continuance in the broadcasting business. NAB also advised that if the fountain pens are as good as the company claims, there is nothing to prevent the company from buying radio time like other advertisers, and enjoying the profits of its own confidence in its product.

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Henry Holt, of Houston, Tex., is seeking per-inquiry deals on a radio log book, perhaps unmindful of the nation-wide industry drive to acquaint listeners with the new frequencies of all stations affected by the recent re-allocation.

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The Armand S. Weill Co., of Buffalo, N. Y., is seeking special rates on behalf of its client, Sachinol Perfumers. Telling stations he would like an inquiry cost of 11 cents or less, Mr. Weill suggests that if a station does not feel it can pay out on that basis at its regular rates, that it "let me know what rate you would set up to take care of this business. I would advise not setting it too high otherwise you will find it difficult to pay out at our desired inquiry cost."

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## Golden Glint Pays Full Rate

That stations can sometimes secure business at card rates from advertisers who first seek special deals is shown by the recent experience of an NAB member, who refused an invitation to cut rates for the Golden Glint Co. Writes the member:

"Just the other day, out of a clear sky, we received another letter from them authorizing us to go ahead at our regular rate, with a series of thirteen one-minute announcements."

## "TESTED METHODS TO MAKE SALESMEN USE 'HELPS' MORE RESULTFULLY"

A group of forty sales managers were nearly unanimous in agreeing that their toughest continuing problem was to get salesmen to use selling helps profitably.

Sales departments invest many thousand dollars in material to help salesmen: manuals, portfolios, bulletins, etc., yet many men make little use of this excellent material, which is designed to make their selling more profitable. The trouble isn't that they don't appreciate it, or that the material isn't good. It lies in the fact that the average salesman has a tendency to let things outside of the immediate day-to-day contact with prospects slide.

Also, the average conscientious salesman, who studies the man-

uals or portfolios thoroughly, absorbs an idea or two and then feels that he has really dug out everything that will help him.

C. B. Larrabee in *Printers' Ink* has presented an investigation of tested plans, which we have secured for the sales managers of NAB. Each one of these has worked in actual practice. None is elaborate; some are extremely simple, but all have proved effective.

#### Plan 1

This plan works wonders in getting salesmen to use a manual. Here is how one company did it:

First, it built a skeleton manual and gave it to all salesmen. Next, the sales manager wrote a long list of questions designed to bring out information as to the best practice among salesmen in doing their stuff. Then, the list was split up and divided among the salesmen for their answers to the questions. When the answers were all in, the sales manager prepared a complete manual which, instead of being called "Manual No. 2" was called "The Book You Wrote". Copies were then given to each salesman, with a short personal note beginning:

"Here is the sales manual that you helped us write. Every line, every idea came from you or one of the other boys. When I tell you it's practical, you don't have to take my word for it. You know it's practical because you put in it the kind of stuff that you have learned the hard way. etc."

#### Plan 2

One company, creating its first manual, decided that the toughest problem involved would be to sell the salesmen the manual idea. The president wrote a letter to the salesmen, telling them a manual was being prepared, asking them to list the major objections and difficulties they encountered.

Next the sales manager requested testimonial letters, unusual performance records and other data of value. In the company's sales meetings and bulletins each week was something about the progress of the manual, keeping it constantly before the men. After four months of collecting, sorting, dramatizing, editing and indexing material, enough data had been gathered to make up the manual.

The sales manager then called a special meeting for the presentation. It was planned not to pass out a copy of the manual to each salesman until the purpose back of each of the major sections was thoroughly explained. He used a blackboard chalk talk to show the salesmen that the manual was not a canned presentation. He then described its fine points and how it could be used. After this explanation copies were passed to each salesman and a roundtable discussion followed.

Next a boiled down presentation made from the Master Manual was given the salesmen. They were told that such presentations could be individually built to fit the needs of every prospect. The result was a manual that was used faithfully and thoroughly by a sales force that, in the beginning, had been antagonistic toward the whole manual idea.

#### Plan 3

A number of companies use sales meetings to create interest in sales material. One plan calls for a "quiz program," with questions based upon definite sales material previously furnished. A salesman cannot make a creditable showing unless he has been using this material faithfully.

Another company issues a sales bulletin weekly. After 43 bulletins, it held a prize contest, with cash awards to the salesmen who gave the best answers to questions posed in the next ten issues of the bulletin. The questions, of course, required some study of various sales material. About half the sales force submitted answers, but investigation shows that nine-tenths of the

men really followed the contest pretty closely. And the salesmen gave much closer attention to the bulletins than they ever had before.

#### Plan 4

The company wanted to get a new visual presentation used effectively.

It prepared a mailing piece showing several interesting pages from the presentation and telling of its value. This mailing piece was sent to customers and prospects with a letter saying that the salesman calling on the recipient of the letter had a presentation and urging the prospect not to let the salesman get out of the office until he had shown the presentation.

Each salesman received a copy of the mailing and was told that he had better carry the presentation with him on every call because many prospects would be sure to ask for it.

The plan worked well. In many cases customers or prospects had their curiosity aroused to a point where they actually demanded that the salesmen show the presentation.

\* \* \*

A study of the methods used by sales managers to get salesmen to employ sales equipment more effectively indicates that in seeking methods of doing this a number of executives have discovered that the chief reason why men would not use material was because it was not properly prepared.

Therefore, what should probably be Plan One in every sales executives' consideration is to be sure that the material is profitably usable before asking the salesmen to make good use of it.

## BMI

### The Song Is the Thing

BMI hits and near hits and their creators will feature a new program sponsored by the Canadian Government over the facilities of the Canadian Broadcasting Corporation. The broadcast, which will begin in the fall and run for a year, will present the news behind the song. The theme will be, the singer may be forgotten but the song lingers on, and the program will tell why it lingers on. The story of how the song came to be written and interesting incidents from the lives of the composers will be included as well as letters of greeting from the composers to the Canadian audience. Jess Jaffrey, who is in charge of the program, expects at the conclusion of this series to have the most complete record available of currently popular songs and of their authors and composers.

More BMI music is being played in Canada now than ASCAP, according to Mr. Jaffrey, despite the fact that Canadian broadcasters have the full rights to play any or all ASCAP selections. There are more requests coming in for BMI music and virtually every program by Canadian orchestra leaders features BMI tunes.

### Foreign Language Music

There is greater demand among BMI stations for Polish music than for any other foreign music, it is revealed in a survey of requests by member stations. Italian was the second most popular foreign music, followed by Cuban and Latin American, Scandinavian and Hungarian.

In line with BMI's policy of providing stations with music of every classification, a questionnaire covering listener preference was mailed to BMI subscribers. Latest catalogue lists music of some 33 nationalities, and negotiations are pending for the acquisition



of several additional foreign catalogues, notably of Polish music.

BMI has just closed a contract with Edward and Louis Rossi, 127 Mulberry Street, New York City, transferring the rights to some excellent Italian material, much of which is recorded. Among the recordings are the following:

*Campagnola* by Bertini and recorded by Carlo Buti; *Munez E Llenzole* by Fusco-Falve, recorded by Gianninni; *Popolanella* by Martelli-Ruccione, recorded by Giglio; *Come Bella A Stagione* by Piasano, recorded by Cibelli, and many others.

#### *Tid-Bits*

*Cheer Up*, a BMI controlled tune, published by the Foreign and Domestic Music Corporation, has been adopted by the British-American Ambulance Corps as its official theme song and a share of the profits from all regular music sheets sold will be donated to the Corps' fund. The publishers have a letter from the office of Prime Minister Winston Churchill thanking them for licensing the tune.

*Hey, Stop Kissing My Sister*, is not only the first song its writers have written together, but their first published song. The writers are Kay Coblin and Phil Coblin, brothers, and Eddie Peyton.

Broadcast Music, Inc., has issued a list of the popular dance numbers controlled by BMI and recorded by name bands. Virtually all of the band leaders are represented. Benny Goodman and Horace Heidt have the largest number of recordings.

### BMI FEATURE TUNES

May 12 - May 19

1. MY SISTER AND I
2. WALKIN' BY THE RIVER
3. WISE OLD OWL
4. FRIENDLY TAVERN POLKA
5. G'BYE NOW
6. WHAT D'YA HEAR FROM YOUR HEART
7. HERE'S MY HEART
8. WITH A TWIST OF THE WRIST
9. TALKIN' TO THE WIND
10. THE RELUCTANT DRAGON

### BMI Feature Tunes

The Music Popularity chart for the week ending May 3rd compiled by Billboard, shows BMI holding firm to the first five places in leading music machine records with *There'll Be Some Changes Made*, *It All Comes Back To Me Now*, *Amapola*, *Oh, Look At Me Now* and *The Wise Old Owl*. *Amapola* leads all the lists of national and regional best selling retail records. In the sheet music best sellers, it has been replaced in the south by *My Sister And I* as the number one tune below the Mason-Dixon line. It is interesting to note that *Number 10*, *Lullaby Lane* holds the second place in southern popularity with *Amapola* third, with the new *Because of You*, by Arthur Hammerstein, holding fourth position. Among those coming up rapidly are: *Friendly Tavern Polka*, *G'Bye Now*, which is being themed by Horace Heidt's Ronnie Kemper, and *Do I Worry*, on which Tommy Dorsey has concentrated. Just appearing over the horizon in fifteenth place in national sheet music best sellers is the *Hut Sut Song*, the rights to which have been acquired by BMI, and which bids fair to be the summer's sensation.

### BMI Grants Clearance at the Source to Exhibitors

The following extract of a letter from Sydney Kaye of Broadcast Music, Inc., has created wide spread comment among motion picture exhibitors:

"It is, and always has been, the principle of BMI that the right sold to a motion picture producing corporation should include not only the right to record and synchronize the music with the action of the picture, but also the right to exhibit the picture in all parts of the world, without payment of any additional sum by the theatre owner.

"This has been our policy with respect to all synchronization contracts that we have already made, and we are glad to confirm to you that it will continue to be our practice in the future. You may, therefore, be confident that where a BMI tune is legally included in a motion picture, that means that any exhibitor may freely exhibit the picture without any performing license."

In this connection, The Independent, motion picture trade magazine, makes the following comment:

"The monopolistic practices of ASCAP have rubbed theatre owners sore for many years, and the constant hike in royalty charges has irked them that much more. The anti-ASCAP legislation in many states is a certain indication of how exhibitors in general feel and the fact that theatres were not covered in a recent consent decree entered into between ASCAP and the Department of Justice has left theatre owners amazed, for certainly the more than a million dollars a year extracted from theatres by ASCAP is a considerable item and should immediately be eliminated."

### It Happens to Titles Too

By a coincidence of this curious music business BMI finds itself in a position of licensing two songs with the same title, *Everything Happens to Me*. One song was written by Louis A. Davis and his brother, Ernest Davis and published by Davis & Ostergard, and the other song by Tom Adair and Matt Dennis, and published by Embassy Music Corporation (Tommy Dorsey). There is no similarity in the music of the songs, nor in the sentiment, nor the lyric, except the title. There is no infringement involved, but the Davis brothers have offered to do a very sportsmanlike thing and substitute, *Why Did It Happen To Me*. There will be slight changes made in the lyric, one line of the verse being re-written. M. E. Tompkins, BMI's General Manager, is deeply appreciative of the generous attitude taken by the composers as well as by Davis and Ostergard, publishers.

### BMI Subscribers More Than Doubled

When BMI entered the NAB Convention in San Francisco last August, subscribers numbered 311. They are now at a new high total of more than 700 including non-commercial. Renewals for BMI's new year, which runs from April to April, have included all but five of the subscribers for 1940 and many new names have been added to the list. It is interesting to read some of the comment which broadcasters have made on the progress of BMI. "Keep up the good work. You are going strong! and we like it . . . WFLA: "You are doing a great job, keep it up. We're behind you 1000 percent." . . . WCOU; "It is a pleasure to cooperate with you in every way, and we assure you we will be glad to work with Broadcast Music, Inc., at all times." . . . WJAX; "As always we are only too happy to do anything that would further the cause of BMI" . . . WBAP; "We are behind BMI 100%, and nothing gives us more pleasure than to give BMI and its releases all the publicity possible" . . . KOH; "KFAM is happy to acknowledge and compliment the fine policies and wonderful progress made by Broadcast Music, Inc., and its affiliated broadcasters in settling once and for all the serious question of fair practices in the use of music. You may count on our continued support in all matters" . . . KFAM.

In a large office lined with long rows of filing cases, Miss Otalie Mark, head of the BMI Copyright Research Department, has assembled cards for hundreds of thousands of selections, each with the name of the number, its composers, publisher, date of publication and designation of the performing rights society that controls it. In other files are cards with information on thousands of publishers, not only those in the United States, but also in such distant countries as Argentina, Japan, Peru, Hungary, Haiti and many others. A third file of cards is devoted to authors and composers. Here one can look up almost any living music writer of importance of popular, standard, hill-billy, devotional, military, symphonic or any other classification of music, and secure his name and pseudonym, age, affiliation with performing society, and whenever possible, his address. Thus, Miss Mark has at her finger tips information on practically every composition that might be used today and every person who is at all important in the world of music. In addition, broadcasters can also secure information on the best sources for such obscure and little played material as Chinese, Arabian and Indian music.

According to copyright experts, no music firm has ever taken such extensive steps to avoid errors and infringements as BMI. An example of this extreme care may be seen in the copyright background of the public domain numbers being newly arranged. First, a photostatic copy of the original source material of the number is obtained, usually from the Library of Congress in Washington or the New York Public Library. The composition is then cleared by BMI's Copyright and Legal Department when it has been definitely established as P. D. material.

After clearance, the selection is sent to the Arranging Department where it is assigned to an arranger by Arthur Gutman, head of the Department. Finally, when the composition has been scored in a new orchestration that is copyrighted, it is returned to the Copyright and Legal Departments for a final check-up. After these steps have been taken, a printed copy of the new arrangement together with all "source material" is put in a large envelope and filed away. Similar records of all BMI's new popular and standard songs are likewise kept and put on file.

Because of the complete coverage of every aspect of musical copyright, BMI's Copyright Department has become a sort of national fountain head of information pertaining to copyright questions that is consulted many times daily by BMI stations and also by many band leaders, singers, theatres, managers and others who want authoritative data.

### "Because of You"

Without any particular attention, *Because of You*, a BMI tune by Arthur Hammerstein and Dudley Wilkinson, is rapidly gaining favor not only with the bands, but with concert artists. It has been sung recently on the best of the musical programs and by the best known artists of the air. Arthur Hammerstein is the same Arthur Hammerstein who produced *Naughty Marietta* and *Rose Marie*, who introduced Rudolph Friml and who brought to the public eye such outstanding composers as George Gershwin, Vincent Youmans, Jerome Kern and others. While he never wrote any of the music in the successful operettas he produced, there is no doubt that he contributed to the public reception of the hit numbers that came out of each of these productions. Now, after thirty years of producing musicals, Mr. Hammerstein and his collaborator, Mr. Wilkinson, widely known as an accompanist of concert artists, find themselves hit song writers. It is a new experience for both of them.

As *Yankee Doodle* was characteristic of the "Spirit of 1776" and the *Battle Cry of Freedom* suggested the crusading spirit of the war between the states, so *Fall In*, a new patriotic march, now rolling off the presses of Broadcast Music, Inc., may be said to reflect the cry that is coming to be heard everywhere today—"AMERICANS, UNITE AND HELP TO KEEP US FREE . . ."

According to its author, Welcome Lewis, radio singer, the idea and words for *Fall In* were inspired by President Roosevelt's "Hand that Held the Dagger" speech which followed Italy's entrance into the war on the side of Nazi Germany against her former ally, France.

After listening to the President, Miss Lewis was moved to write the chorus of the song . . . she says now, she didn't know why, because up to that time she had never written a song . . . yet the words just seemed to flow from her typewriter. She put them aside and it was not until several days later that she persuaded Milton Shaw to write a melody for them.

Like many another song, *Fall In* was not accepted at first. Nearly everyone who read the lyric declared that it was too partisan. At that time the country and particularly the major networks were leaning over backwards in an effort to be neutral. The policy of all-out aid to Britain had not yet been endorsed by the public in the second re-election of Franklin D. Roosevelt and by Congress with the lease-lend bill.

Even though she was unable to interest a publisher, Welcome Lewis, convinced of the value of the song's appeal, re-wrote the lyric in milder tone . . . had it okayed by music clearance and began to plug it as an unpublished number on her own audience participation show, the Welcome Lewis Singing Bee on the Columbia Broadcasting System.

The first performance of the song proved that she was right. She was deluged with letters and appeals for copies from patriotic societies as well as individuals throughout the country. For months the requests poured in, and finally in recent weeks when the appeal for Unity in the country reached nation-wide proportions and opened discussion on the floor of Congress, BMI became interested and decided to publish the song.

A stirring march, *Fall In* is easily singable as well as playable and will undoubtedly provide the strains for many a rookie's daily dozen on the parade grounds.

The girl who wrote it is a Californian, a petite brunette, and a member of a large family noted for musical accomplishments.

A graduate of Venice High School and the daughter of the former Mayor of Venice, California, she studied violin under her brother, the first violinist of the Los Angeles Symphony Orchestra, but became famous as a singer on the radio despite the fact that she never had a singing lesson in her life.

Her grandfather was Frank Emil Englander, former concert master of the San Francisco Symphony Orchestra and one of the most famous musicians on the West Coast.

### I AM AN AMERICAN

ASCAP has advised the NAB that any station has permission to broadcast the composition "I AM AN AMERICAN" on I AM AN AMERICAN DAY.

### DAYLIGHT SAVING TIME

Replying to Neville Miller's letter directing attention to the desirability of national daylight saving time, Mr. William S. Knudsen, Director General of the Office of Production Management, states that the matter is now



under discussion in the various sections of the Office of Production Management.

Last week at a press conference the President is reported to have said that national daylight saving time is a matter for Congress to decide. It is generally felt in Washington that when, as and if the OPM indicates its approval, a national daylight saving bill will promptly be passed by Congress.

We print below the exchange of correspondence:

"April 8, 1941.

Honorable William S. Knudsen,  
National Defense Commission,  
Washington, D. C.

My dear Mr. Knudsen:

There have been introduced in Congress two bills to provide for daylight saving time on a nation-wide basis,—one H. R. 3789 by Representative McLean (R.-N. J.) and the other H. R. 4206 by Representative Keogh (D.-N. Y.) Our Board of Directors has voted unanimously to support national daylight saving time for the reason that it will solve the broadcasting industry's semi-annual programming problems arising out of the fact that some states operate on daylight saving time and others do not. The Association of American Railroads through its Board of Directors has also, I am informed, voted to support national daylight saving time.

I do not know what consideration, if any, the Defense Commission has given to the question of the desirability of national daylight saving time as a defense measure. Our Association, and others, deem it of transcendent importance. If you concur in our view, we urge that you make a public statement to that effect.

Very truly yours,

NM/hml

NEVILLE MILLER."

"May 1, 1941.

Mr. Neville Miller,  
National Association of Broadcasters,  
Normandy Building,  
1626 K Street, N. W.,  
Washington, D. C.

Dear Mr. Miller:

This will acknowledge your letter of April 8 with reference to H. R. 3789 and H. R. 4206, bills to provide for daylight saving time on a nationwide basis.

I appreciate your thoughtfulness in bringing this matter to my attention, and it is now under discussion in the various sections of the Office of Production Management.

Yours very truly,

WILLIAM S. KNUDSEN."

The NAB Research Department mailed today to the NAB Board of Directors the report of the survey of broadcast stations and its study of the daylight saving time problem.

The report clearly indicates that 72% of the reporting stations favor universal daylight saving as the means to end the twice yearly programming problems which arise due to partial observance of daylight saving time.

## COPYRIGHT AND LIBEL INSURANCE

The NAB Insurance Committee met in New York May 1 to review forms of insurance policies recently submitted by several insurance companies to cover broadcasters against libel, slander and copyright infringement suits. The committee passed a resolution that the Insurance Committee itself should draft a form of such an insurance

policy for submission to underwriters so that they may consider writing the type of coverage recommended by the Insurance Committee, and thereby make this type of insurance,—which the committee feels is sorely needed,—available to all broadcasting stations. The committee instructed Charles A. Wall, NBC, a member of the committee, to begin preparation of a form of policy which will meet the needs of the broadcasters, and to negotiate with those insurance companies which are interested in writing this type of insurance.

## SELECTIVE SERVICE

Responsive to numerous inquiries concerning deferment of radio technicians under the selective Service Act and Regulations, NAB today mailed questionnaires to the entire broadcasting industry to elicit the facts for submission to National Selective Service Headquarters for appropriate action. Blanket deferment is illegal under the Act, but there is the possibility that if the survey shows broadcasting to be unduly harmed by induction of technicians, the National Selective Service Headquarters may decide to instruct the 48 State Occupational Advisors to investigate all radio technicians before induction. In that event, stations should advise their State Selective Service Headquarters of the names of their technicians subject to draft, and request deferment for six months. Results of the survey, and further developments, will be released when known.

## FEDERAL LEGISLATION

### HOUSE

H. R. 4619 (SACKS, D-Penna.) COMMUNICATIONS ACT—To amend the Communications Act of 1934 so as to prohibit and penalize the unauthorized recording or mechanical reproduction of music and other program material transmitted by wire or radio. Referred to Committee on Interstate and Foreign Commerce.

## STATE LEGISLATION

### FLORIDA:

H. 666 (OVERSTREET) BROADCASTING STATIONS—Amend Sec. 1, Chapt. 19616, Acts of 1939, relating to civil liabilities of lessee operators of broadcasting stations and their agents and employees. Referred to Committee on Judiciary "A".

### ILLINOIS:

S. 455 (FLAGG) LIBEL & SLANDER—Provides no action for libel or slander shall be started against any person, firm or corporation which publishes actionable matter through an honest mistake as to the truth thereof if, upon being appraised of the truth, such person, firm or corporation publishes a prominently displayed retraction of original erroneous matter. Referred to Committee on Judiciary.

S. 456 (FLAGG) LIBEL—Provides no prosecution for libel where person publishes prominently displayed retraction of same. Referred to Committee on Judiciary.

### MICHIGAN:

S. 382 (BALDWIN) FOOD, DRUG, COSMETIC ACT—A bill to safeguard the purchasing public from injury by merchandising deceit, flowing from interstate commerce in food, drugs, devices, and cosmetics. Referred to Committee on Public Health.

S. 431 (BLONDY) GROUP LIBEL—A bill to prohibit group libel, and to provide a penalty therefor. Referred to Committee on Judiciary.

# FEDERAL COMMUNICATIONS COMMISSION

## TELEVISION GETS GREEN LIGHT

Following is the FCC report, giving commercial television a green light for July 1:

### REPORT ON MARCH 20, 1941, TELEVISION HEARING

Docket No. 5806

By the Commission (Fly, Chairman, and Commissioners Walker, Payne, Thompson and Wakefield concurring; Commissioners Case and Craven not participating):

On March 20, 1941, a hearing was held for considering when television broadcasting "shall be placed upon a commercial basis" and for considering rules and regulations and standards for such stations.

Upon the hearings held in January and in April of 1940, the Commission found the industry divided upon the basic question whether television was ready for commercial broadcasting, and also found the industry divided as to transmission standards for television broadcast stations. Some believed that television had not reached the point where it could offer sufficient entertainment value to justify commercial operation and that standardization would result in the freezing of the science at the then level of efficiency. Others were determined to proceed at all costs with the launching of television on a large scale.

In its report of May 28, 1940, on the April hearing, the Commission declared:

"As soon as the engineering opinion of the industry is prepared to approve any one of the competing systems of (television) broadcasting as the standard system the Commission will consider the authorization of full commercialization. That a single uniform system of television broadcasting is essential—so far as the basic standards are concerned—must also be amply clear. The public should not be inflicted with a hodge podge of different television broadcasting and receiving sets."

Because the situation was one which threatened to hold up coordinated television development indefinitely and to delay public service on a widespread basis, the Commission offered its cooperation to the industry along lines in furtherance of the achievement of higher standards by research and development.

First, it provided for new experimental television stations in various sections of the country to engage in practical demonstration of prevailing competing systems. Later, it collaborated with the Radio Manufacturers Association (RMA) in creating the National Television System Committee (NTSC). The RMA felt that "Because of the inadequacy of the various suggested standards for television" all existing systems should be explored and developed, and new standards formulated. The NTSC was given this task.

The Commission now finds the industry entirely in agreement that television broadcasting is ready for standardization. The standards as finally proposed by the NTSC at the March 20, 1941, hearing, represent, with but few exceptions, the undivided engineering opinion of the industry. Some difference of opinion exists among broadcasters as to the date when commercial operation should begin. The National Broadcasting Company and the Columbia Broadcasting System, in effect, urged some delay in beginning commercial television. However, the Commission is

of the opinion that the reasons advanced for the delay are not controlling. Other leading figures in the industry that earlier opposed commercialization, such as Philco, Zenith, and De Forest, now express the view that the present stage of scientific development warrants prompt standardization and commercialization.

The demonstrations conducted by different broadcasters and manufacturers for the benefit of the NTSC and the Commission revealed the merits and demerits of the systems upon which standards could be based. The eleven volumes constituting the proceedings of the Committee and its subcommittees stand as evidence of the great volume of work done. The Commission acknowledges its appreciation to the RMA and NTSC for their cooperation in performing this worthwhile work.

The three-color television system demonstrated by the Columbia Broadcasting System during the past few months has lifted television broadcasting into a new realm in entertainment possibilities. Color television has been known for years but additional research and development was necessary to bring it out of the laboratory for field tests. The three-color system demonstrated insures a place for some scheme of color transmissions in the development of television broadcasting.

The NTSC proposals provide that color television be given a six-month field test before standardization and commercialization. The Commission finds this requirement necessary. However, immediate experimental color program transmissions are encouraged.

The standards proposed by the NTSC provide for most of the improvements held out as readily possible a year ago for monochrome transmissions (black and white pictures). These standards fix the line and frame frequencies at 525 and 30, respectively.<sup>1</sup> The 525 lines provide for greater detail in the pictures transmitted than the 441 lines advocated a year ago. They give substantially equal resolution and more fully exploit the possibilities of the frequency bands allocated for television. Different line and frame frequencies will likely be required for color transmissions. This, however, is a matter for future consideration after color transmissions have been adequately field tested.

A year ago one of the weakest phases of the proposed television standards was an unreliable synchronizing pulse which frequently caused the loss of the picture under interference conditions. A few weeks before the March 20, 1941 hearing, developments were brought forth for greatly intensifying the synchronizing signals transmitted. These developments have been incorporated in the new standards. The demonstrations witnessed by the Commission impressively showed the tenacity with which this new form of synchronizing signals hold the picture in place under extremely adverse interference conditions.

The proposed standards require frequency modulation for sound accompanying the pictures. Television is therefore benefited by the recent development of frequency modulation.

The standards proposed by the NTSC reasonably satisfy the requirement for advancing television to a high level of efficiency within presently known developments. These standards are adopted by the Commission and made effective immediately.

The Commission feels that this state of the science affords some reasonable assurance against early obsolescence of equipment. At the same time, it must explicitly recognize the advancing and necessarily fluid state of the science. Accordingly, procedure has been provided for the consideration of new developments, including, but by no means limited to color television.

Procedure is also provided for expediting completion of the television stations now authorized by the Commission. Existing

<sup>1</sup> Certain experimental systems require variable line and frame frequencies. However, the fixed values proposed appear to be best for monochrome transmissions, because only 30-frame pictures have been fully developed and as long as the frequency band for television channels (aural and visual) is limited to 6 megacycles not more than 525 lines can be employed to advantage with 30 frames.



licensees and permittees who can satisfy the Commission that their station construction will meet all the engineering requirements of the rules and regulations and standards for such stations may begin commercial operation on July 1, 1941.

The Commission finds that at least six months will be required for obtaining comparative test data on the alternative methods permitted for transmitting synchronizing signals. Such data are necessary for further limiting the signal synchronizing standards. The Commission is requesting the industry to provide the necessary test data as to both color transmissions and synchronizing signals within the six-month period following the beginning of commercial operation.

The regulations require that at least 15 hours program service per week shall be rendered by each station.

The Commission adheres to the policy set forth in its report on the April, 1940, television hearing regarding multiple ownership or control of television broadcast stations. Under this policy no person is permitted to own or control more than three television broadcast stations.

This is to preserve the public benefits of competition in the use of the limited number of channels available for television broadcasting.

The Order and appropriate regulations carrying out the principles of this report were adopted by a unanimous vote of the Commission en banc in its meeting of April 30, 1941. Copies of those documents are attached to this report.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following broadcast hearing is scheduled to be heard before the Commission during the week beginning Monday, May 12. It is subject to change.

Friday, May 16

KMA—May Broadcasting Company, Shenandoah, Iowa.—Renewal of license, **930 kc.**, 1 KW night, 5 KW day, unlimited time.

### FUTURE HEARINGS

During the past week the Commission has announced the following future hearings in broadcast cases. They are subject to change.

May 26

KFNF—KFNF, Incorporated, Shenandoah, Iowa.—Renewal of license, **890 kc.**, 500 watts night, 1 KW day, SH-KUSD.

#### Consolidated Hearing

WCAM—City of Camden, Camden, N. J.—Renewal of license, **1280 kc.**, 500 watts night, 500 watts LS, shares WTNJ and WCAP.

WCAP—Radio Industries Broadcast Co., Asbury Park, N. J.—Renewal of license, **1280 kc.**, 500 watts night, 500 watts LS, shares WTNJ and WCAM.

WTNJ—WOAX, Incorporated, Trenton, N. J.—Renewal of license, **1280 kc.**, 500 watts night, 500 watts LS, shares WCAM and WCAP.

WTNJ—WOAX, Incorporated, Trenton, N. J.—C. P., **1230 kc.**, 1 KW, unlimited, DA-day and night.

NEW—Trent Broadcast Corporation, Trenton, N. J.—C. P., **1230 kc.**, 1 KW, unlimited, DA-day and night.

WDAS—WDAS Broadcasting Station, Inc., Philadelphia, Pa.—C. P., **1260 kc.**, 1 KW night, 5 KW day, DA-night, unlimited.

June 3

Broadcast  
Consolidated Hearing  
To Be Held in Portsmouth, Ohio  
Court Room To Be Assigned Later

WPAY—Chester A. Thompson (Transferor) and The Brush-Moore Newspapers, Inc. (Transferee), Portsmouth, Ohio.—Transfer of control of corporation, **1370 kc.**, 100 watts, unlimited.

WPAY—Vee Bee Corporation, Portsmouth, Ohio.—Renewal of license, **1370 kc.**, 100 watts, unlimited.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

WWNC—Asheville Citizens Times Co., Inc., Asheville, N. C.—Granted construction permit, subject to action on renewal proceedings, to move transmitter to Emma and Maple Crest Roads, near Emma, N. C., approximately 3 miles due west of center of Asheville; install new transmitter, increase power from 1 to 5 KW day and night, **570 kc.**, employing directional antenna at night, subject to approval by Chief Engineer (B3-P-2644).

WSYR—Central New York Broadcasting Corp., Syracuse, N. Y.—Granted construction permit to install new transmitting equipment, make changes in directional antenna for both day and night use, and increase power from 1 to 5 KW unlimited time on **570 kc.**, on condition that proof of performance and installation of a recording meter at a monitoring point on the radial toward WMCA, New York, be submitted (B1-P-2706).

WMCA—Knickerbocker Broadcasting Co., Inc., New York City.—Granted modification of license to increase nighttime power from 1 to 5 KW, **570 kc.**, 5 KW day, unlimited time, using directional antenna day and night (B1-ML-1064).

WKBN—WKBN Broadcasting Corp., Youngstown, Ohio.—Granted construction permit to increase power from 500 watts night, 1 KW day to 5 KW, increase hours of operation from specified hours (sharing WOSU), to unlimited time, install new transmitter and directional antenna for night use; **570 kc.** (B2-P-2547).

WKBN—WKBN Broadcasting Corp., Youngstown, Ohio.—Granted modification of license to change hours of operation from specified hours (sharing WOSU) to unlimited, on condition that no operation pursuant to the grant shall be undertaken until station WOSU commences operation on frequency **820 kc.** (B2-ML-1059).

WOSU—The Ohio State University, Columbus, Ohio.—Granted construction permit to install new transmitter, change frequency from **570 to 820 kc.**, increase power from 1 to 5 KW, and hours of operation from specified hours (sharing WKBN) to limited to local sunset at Dallas, Texas (B2-P-3138).

WCBD—WCBD, Inc., Chicago, Ill.—Granted construction permit to make changes in equipment, change frequency from **1110 to 820 kc.**, increase power from 5 to 10 KW, and change hours of operation from L-WBT, sharing WMBI, to daytime only (B4-P-2974).

WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Granted construction permit to increase night power from 1 to 5 KW, increase hours of operation from limited to unlimited time; move transmitter to Forsyth Road, approximately 6 miles west-north-west of the center of Macon, install directional antenna for day and night use; **940 kc.**, 5 KW day (B3-P-3043).

KGEZ—Donald Treloar, Kalispell, Mont.—Granted modification of construction permit for approval of directional antenna system for night use (B5-MP-1173).

WJBC—Arthur Malcolm McGregor and Dorothy Charlotte McGregor, a Partnership (Assignor), Arthur Malcolm McGregor and Dorothy Charlotte McGregor, and Hugh L. Gatley (Assignee), Bloomington, Ill.—Granted application for assignment of license of station WJBC from Arthur Malcolm McGregor and Dorothy Charlotte McGregor, a Partnership,

## APPLICATION DENIED

WIXG—General Television Corp., Boston, Mass.—Denied petition for 30 day extension of temporary authority to operate visual and aural television transmitters (Dockets 5988 and 5989).

## DESIGNATED FOR HEARING

Fairfield Broadcasting Corp., Lancaster, Ohio.—Designated for hearing application for construction permit for new station to operate on **820 ke.**, 250 watts, daytime only. Exact site of transmitter and studio to be determined with Commission's approval (B2-P-2976).

KEVR—Evergreen Broadcasting Corp., Seattle, Wash.—Designated for hearing application for construction permit to change frequency from **1400 ke.** to **1090 ke.**, increase power from 100 watts to 250 watts day and night, increase hours of operation from sharing with KRKO to unlimited, move transmitter and studio to 810-812 Third Avenue, Seattle, and install new equipment (B5-P-2023).

Nashville Radio Corp., Nashville, Tenn.—Designated for hearing application for new station to operate on **1410 ke.**, 1 KW night and day, using directional antenna, different patterns day and night (B3-P-3034).

A. M. Burton, Nashville, Tenn.—Designated for hearing application for new station to operate on **1410 ke.**, 1 KW night and day, with directional antenna with different adjustments day and night, unlimited time. Exact studio site to be determined. Joint hearing to be held on both Nashville applications (B3-P-3072).

WPRP—Julio M. Conesa, Ponce, P. R.—Designated for hearing application for renewal of license for station WPRP and application for construction permit to increase power and change frequency, and application for modification of construction permit for approval of antenna site, station now operates on **1420 ke.**, 250 watts, unlimited (B-R-882, B-P-2377 and B-MP-1024).

## MISCELLANEOUS

KFEQ—KFEQ, Inc., St. Joseph, Mo.—Granted special temporary authority to operate from 8:30 p. m. CST to conclusion opening baseball game of the Western Association on May 2, 1941, in order to broadcast said program only, using 500 watts only (B4-S-635).

KWLC—Luther College, Decorah, Iowa.—Granted special temporary authority to operate from 10:45 to 11:30 a. m. CST, May 1, 1941, in order to broadcast Convocation and chapel exercises in connection with the annual Senior Day; from 3:30 to 4:30 p. m., and 5:30 to 6:30 p. m., May 1, 1941, in order to broadcast baseball game with the University of Iowa; from 3:30 to 4:30 p. m., and 5:30 to 6:30 p. m. CST, May 6, 1941, to broadcast a baseball game with Simpson College; from 3:30 to 4:30 p. m., CST, May 10, 1941, to broadcast a baseball game with Iowa State Teachers College; from 3:30 to 4:30 p. m., and 5:30 to 6:30 p. m. CST, May 15, 1941, to broadcast a baseball game with Northwestern University; from 3:30 to 4:30 p. m., and 5:30 to 6:30 p. m., CST, May 22, 1941, to broadcast baseball game with the University of California.

WGES—Oak Leaves Broadcasting Station, Inc., Chicago, Ill.—Granted special temporary authority to operate from 8 p. m. to 12 midnight, CST, April 30, 1941, in order to broadcast the President's address and rebroadcast same in a number of foreign languages only.

WMRO—Martin R. O'Brien, North Aurora, Ill.—Granted special temporary authority to operate until 8 p. m., CST, on May 1, 1941, in order to complete a program of the Protestant Religious Educational Society at Elgin, Ill., only (B4-S-995).

KGLO—Mason City Globe Gazette Co., Mason City, Iowa.—Granted modification of construction permit (B4-P-2329), which authorized installation of new transmitter and DA for night use, increase in power, change of frequency, and move of transmitter, for change in directional antenna on **1300 ke.** under NARBA, and extension of commencement date to 30 days after grant and completion date to 60 days thereafter (B4-MP-1285).

WFBL—Onondaga Radio Broadcasting Corp., Syracuse, N. Y.—Granted special temporary authority to rebroadcast transmission on April 30, at 4 p. m., of aircraft radio station

to Arthur Malcolm McGregor, Dorothy Charlotte McGregor and Hugh L. Gatley, a Partnership; station operates on **1230 ke.**, 250 watts, unlimited time (B4-AL-306).

KNET—John Calvin Welch, William M. Keller, and Bonner Frizzell, d/b as Palestine Broadcasting Association (Assignor), Bonner Frizzell (Assignee), Palestine, Tex.—Granted consent to assignment of license of station KNET from John Calvin Welch, William M. Keller, and Bonner Frizzell, d/b as Palestine Broadcasting Association, to Bonner Frizzell; station operates on **1450 ke.**, 100 watts, daytime only (B3-AL-287).

WSJS-WALH-WBLQ—Piedmont Publishing Co., Winston-Salem, N. C.—Granted consent to relinquishment of control by Gordon Gray over Piedmont Publishing Company, licensee of broadcast station WSJS and relay stations WALH and WBLQ, to 86 stockholders, conditionally, and granted renewal of license for station WSJS on a regular basis; **600 ke.**, 250 watts night and day, unlimited time; (under construction permit 1 KW night and day, directional antenna at night) (B3-TC-266).

WCAX—Burlington Daily News, Inc., Burlington, Vt.—Granted construction permit to change frequency from **1230 to 620 ke.**; increase power from 250 watts night and day to 1 KW night and day; move transmitter to  $\frac{1}{2}$  mile north of Pine Island, Colchester, 2.8 miles north of center of Burlington; install new transmitter and directional antenna for day and night use (B1-P-3082).

Chilton Radio Corp., Dallas, Tex.—Granted construction permit for new station to operate on **660 ke.**; 1 KW; daytime. Exact site to be determined, and the grant is made upon the express condition that applicant later file an application for modification of construction permit, specifying the exact transmitter location (B3-P-2487).

Northwest Georgia Broadcasting Co., Cedartown, Ga.—Granted construction permit for a new station to operate on **1340 ke.**, 250 watts, unlimited time (B3-P-3029).

Cascade Broadcasting Co., Inc., Everett, Wash.—Granted construction permit, subject to engineering conference, for a new station to operate on **1460 ke.**, 500 watts; unlimited time. To specify transmitter site as Pacific Highway, outside city limits of North Everett, Wash. Studio site to be determined (B5-P-2008).

Tacoma Broadcasters, Inc., Tacoma, Wash.—Adopted order granting application for construction permit for a new station to operate on **1490 ke.**, with power of 250 watts, unlimited time, subject to the condition that permittee shall, within 2 months, file with the Commission an application for modification of construction permit requesting the use of frequency **1490** with operating power of 250 watts, unlimited time, specifying therein the exact transmitter location and antenna system to be used. If for any reason such application cannot be submitted within the time allowed, an informal request for extension of time must be submitted stating the necessity therefor (Docket No. 5229).

Michael J. Mingo, Tacoma, Wash.—Adopted order granting application for construction permit to operate a new station on frequency **1430 ke.** with 500 watts or 1 KW, unlimited time, subject to condition that permittee shall within two months file an application for modification of construction permit requesting authority to operate on the frequency **1430 ke.** with power of 500 watts or 1 KW, unlimited, to comply with the requirements of Sec. 3.22 (c) (2) of the Commission's Rules. If for any reason such application cannot be submitted within the time allowed, an informal request for extension of time must be submitted stating the necessity therefor (Docket 4937).

W45D—The Evening News Association, Detroit, Mich.—Ordered issuance of construction permit for new FM station and authority to operate a 3 KW transmitter for a period of 60 days, without prejudice to determination of newspaper issue.

W45CM—WBNS, Inc., Columbus, Ohio.—Ordered issuance of construction permit for new FM station and authority to operate a 3 KW transmitter for a period of 60 days, without prejudice to determination of newspaper issue.

W45BR—Baton Rouge Broadcasting Co., Inc., Baton Rouge, La.—Ordered issuance of construction permit for new FM station without prejudice to determination of newspaper issue.



- aboard U. S. Army plane in order to aid recruiting drive of the U. S. Army.
- WNYE—Board of Education, City of New York.—Granted extension of special temporary authority to continue to operate noncommercial Educational Broadcast station on **41100 ke.**, for the period May 1 to May 30, pending completion of construction under application (B1-PED-16).
- W2XOY—General Electric Co., New Scotland, N. Y.—Granted extension of special temporary authority to operate high frequency experimental broadcast station on **43200 ke.**, 2500 watts, special emission for FM, for the period May 1 to May 30, 1941.
- W2XQR—John V. L. Hogan, Long Island City, N. Y.—Granted special temporary authority to operate a high frequency experimental broadcast station on **48700 ke.**, with 100 watts power, special emission for FM, for the period May 1 to July 1, 1941. (No authority is granted to conduct a facsimile broadcast service.)
- WTBO—Associated Broadcasting Corp., Cumberland, Md.—Granted special temporary authority to operate from 9:15 p. m., EST, to conclusion of President Roosevelt's address on April 30, 1941, in order to broadcast said address only.
- WMBS—Fayette Broadcasting Corp., Uniontown, Pa.—Granted license to use old RCA 250-D transmitter as auxiliary transmitter, for emergency use only (B2-L-1377).
- WMVA—Martinsville Broadcasting Co., Martinsville, Va.—Granted license to cover construction permit (B2-P-2226) for new station; **1450 ke.**, 100 watts night, 250 watts LS, unlimited time (B2-L-1384). Also granted authority to determine operating power by direct measurement of antenna input (B2-Z-814).
- KFOR—Cornbelt Broadcasting Corp., Lincoln, Neb.—Granted license to cover construction permit (B4-P-3087, which reinstates B4-P-2537, for changes in transmitting equipment, antenna, increase in power, and move of transmitter), on **1240 ke.** under NARBA (B4-L-1375). Also granted authority to determine operating power by direct measurement of antenna input, on **1240 ke.** under NARBA (B4-Z-790).
- WMBS—Fayette Broadcasting Corp., Uniontown, Pa.—Granted license to cover construction permit (B2-P-2711, for new transmitter, installation of DA for night use, increase in power and change in frequency) (B2-L-1376). Also granted authority to determine operating power by direct measurement of antenna input (B2-Z-791).
- KPOW—Albert Joseph Meyer, Powell, Wyo.—Granted license to cover construction permit (B5-P-2593, for new station to operate on **1230 ke.**, 250 watts, unlimited time), (B5-L-1378). Also granted authority to determine operating power by direct measurement of antenna input (B5-Z-795).
- WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Granted special temporary authority to operate from local sunrise Glenside, to local sunset at Knoxville, Tenn. (Station WNOX) instead of daytime as stipulated in reallocation, for period beginning April 29 and ending no later than May 27, pending action on formal application for such authority (B2-S-339).
- WSOY—Commodore Broadcasting, Inc., Decatur, Ill.—Granted petition for extension of time to May 15 in which to file amendment to application for construction permit to change frequency and increase power.
- KYUM—Yuma Broadcasting Co., Yuma, Ariz.—Granted authority to determine operating power by direct measurement of antenna power on **1240 ke.** under NARBA (B5-Z-799).
- WAOV—Vincennes Newspapers, Inc., Vincennes, Ind.—Granted authority to determine operating power by direct measurement of antenna power on **1450 ke.** under NARBA (B4-Z-805).
- KDB—Santa Barbara Broadcasters, Ltd., Santa Barbara, Cal.—Granted authority to determine operating power by direct measurement of antenna power on **1490 ke.** under NARBA (B5-Z-785).
- WTRC—The Truth Publishing Co., Inc., Elkhart, Ind.—Granted authority to determine operating power by direct measurement of antenna power on **1340 ke.** under NARBA (B4-Z-800).
- WMBD—Peoria Broadcasting Co., Peoria, Ill.—Granted authority to determine operating power by direct measurement of antenna power on **1470 ke.** under NARBA (B4-Z-803).
- KFDA—Amarillo Broadcasting Corp., Amarillo, Tex.—Granted authority to determine operating power by direct measurement of antenna power on **1230 ke.** under NARBA (B3-Z-815).
- WBT—Columbia Broadcasting System, Inc., Charlotte, N. C.—Granted authority to determine operating power by direct measurement of antenna power on **1110 ke.** under NARBA (B3-Z-813).
- KFBB—Buttery Broadcast, Inc., Great Falls, Mont.—Granted modification of construction permit (B5-P-2920, which authorized increase in power and installation of DA for night use), for changes in directional antenna on **1310 ke.** under NARBA (B5-MP-1252).
- WGCA—Gainesville Broadcasters, Gainesville, Ga.—Granted modification of construction permit (B3-P-2627, which authorized a new station) for approval of antenna, of transmitter and studio sites at Athens Road, Gainesville, and request frequency **1240 ke.** under NARBA (B3-MP-1040).
- WWJ—The Evening News Assn., Detroit, Mich.—Granted modification of construction permit (B2-P-2880, which authorized changes in transmitting equipment, increase in power and installation of DA for night use), for changes in directional antenna on **950 ke.** under NARBA, and extension of completion date to 120 days after grant (B2-MP-1268).
- KMA—May Broadcasting Co., Shenandoah, Iowa.—Granted authority to determine operating power by direct measurement of antenna power on **960 ke.** under NARBA (conditionally), (B4-Z-808).
- KHAS—The Nebraska Broadcasting Co., Hastings, Neb.—Granted authority to determine operating power by direct measurement of antenna power on **1230 ke.** under NARBA (B4-Z-773).
- KIUP—San Juan Broadcasting Co., Durango, Colo.—Granted authority to determine operating power by direct measurement of antenna power on **1400 ke.** under NARBA (B5-Z-812).
- WLAV—Leonard A. Versluis, Grand Rapids, Mich.—Granted authority to determine operating power by direct measurement of antenna power on **1340 ke.** under NARBA (B2-Z-809).
- WHK—United Broadcasting Co., Cleveland, Ohio.—Granted authority to determine operating power by direct measurement of antenna power on **1420 ke.** under NARBA (B2-F-216).
- WLAP—American Broadcasting Corp. of Ky., Lexington, Ky.—Granted authority to determine operating power by direct measurement of antenna power on **1450 ke.** under NARBA (B2-Z-834).
- WBAB—Press-Union Publishing Co., Atlantic City, N. J.—Granted authority to determine operating power by direct measurement of antenna power on **1490 ke.** under NARBA (B1-Z-823).
- WIL—Missouri Broadcasting Corp., St. Louis, Mo.—Granted authority to determine operating power by direct measurement of antenna power on **1230 ke.** under NARBA (B4-Z-841).
- WEAU—Central Broadcasting Co., Eau Claire, Wis.—Granted authority to determine operating power by direct measurement of antenna power on **1070 ke.** under NARBA (B4-Z-840).
- WKBW—Buffalo Broadcasting Corp., Buffalo, N. Y.—Granted authority to determine operating power by direct measurement of antenna power on **1520 ke.** under NARBA (B1-Z-745).
- KOBH—Black Hills Broadcast Co. of Rapid City, Rapid City, S. Dak.—Granted authority to determine operating power by direct measurement of antenna power on **1400 ke.** under NARBA (B4-Z-797).
- KVOA—Arizona Broadcasting Co., Inc., Tucson, Ariz.—Granted authority to determine operating power by direct measurement of antenna power on **1290 ke.** under NARBA (B5-Z-798).
- KPAB—Marvel M. Valentine, Laredo, Texas.—Granted authority to determine operating power by direct measurement of antenna power on **1490 ke.** under NARBA (B3-Z-826).
- WDZ—WDZ Broadcasting Co., Tuscola, Ill.—Granted authority to determine operating power by direct measurement of antenna power on **1050 ke.** under NARBA (B4-Z-839).
- WKBH—WKBH, Inc., LaCrosse, Wis.—Granted authority to determine operating power by direct measurement of antenna input on **1410 ke.** under NARBA (B4-Z-751).
- WLAP—American Broadcasting Corp. of Ky., Lexington, Ky.—Granted license to cover construction permit (B2-P-2900), which authorized move of transmitter and installation of

- new antenna, specifying **1450 kc.** under NARBA (B2-L-1380).
- KOB—Albuquerque Broadcasting Co., Albuquerque, N. Mex.—Granted modification of construction permit (B5-P-2783, for new transmitter and increase in power from 10 to 50 KW), for extension of completion date to July 6, 1941 (B5-P-1273).
- WEBC—Head of the Lakes Broadcasting Co., Duluth, Minn.—Granted modification of construction permit (B4-P-2821, which authorized increase in power and installation of directional antenna for night use) for changes in directional antenna on **1320 kc.** under NARBA (B4-MP-1254).
- KBWD—Brown County Broadcasting Co., Brownwood, Tex.—Granted modification of construction permit (B3-P-2672 for new station) requesting approval of antenna, new transmitter studio and transmitter sites, and **1380 kc.** under NARBA (B3-MP-1212).
- WJAS—Pittsburgh Radio Supply House, Pittsburgh, Pa.—Granted modification of construction permit (B2-P-2947, for increase in power to 5 KW, installation of directional antenna for night use) for changes in antenna system and requesting **1320 kc.** under NARBA; extension of commencement date to 30 days after grant and completion date to 180 days thereafter (B2-MP-1269).
- WALA—Pape Broadcasting Co., Mobile, Ala.—Granted modification of construction permit (B3-MP-932, which authorized increase in power, installation of new equipment, and DA for night use, and move of transmitter) for change in type of transmitter, and changes in directional antenna on **1410 kc.** under NARBA (B3-MP-1270).
- WKMO—Kokomo Broadcasting Corp., Kokomo, Ind.—Granted license to cover construction permit (B4-P-2842, as modified, which authorized new station on **1400 kc.** under NARBA, 250 watts, unlimited time (B4-L-1386). Also granted authority to determine operating power by direct measurement of antenna power on **1400 kc.** under NARBA (B4-Z-820).
- W2XMN—Edwin H. Armstrong, Alpine, N. J.—Granted special temporary authority to operate an additional transmitter located at Alpine, N. J., on **43 mc.** with power not to exceed 40 KW, using frequency modulation for a period of 10 days beginning May 1 to May 10, in order to conduct further experiments on adjacent channel operation of high frequency broadcast stations and to demonstrate such operation to certain engineering committees of the RMA.
- W2XBS—National Broadcasting Co., Inc., New York City.—Granted extension of special temporary authority to operate television broadcast station with special emission in addition to A3 emission on Channel No. 1, in order to conduct experimental tests for National Television Standards Committee and NBC, for period May 1 to May 25, 1941.
- KGNC—Plains Radio Broadcasting Co., Amarillo, Tex.—Granted license to cover construction permit (B3-P-2969 for increase in power, 1 KW night, 2½ KW LS, to 5 KW LS, 1 KW night, and installation of new transmitter (B3-L-1387).
- WAGE—Sentinel Broadcasting Co., Syracuse, N. Y.—Granted license to cover construction permit (B1-P-1934, for new station to operate on **620 kc.**, 1 KW, unlimited time, DA-night (B1-L-1389). Also granted authority to determine operating power by direct measurement of antenna input (B1-Z-843).
- WFBL—Onondaga Radio Broadcasting Corp., Syracuse, N. Y.—Granted authority to install automatic frequency control equipment (B1-F-217).
- WCLE—United Broadcasting Co., Cleveland, Ohio.—Granted authority to install automatic frequency control equipment (B2-F-218).
- KGVO—Mosby's, Inc., Missoula, Mont.—Granted authority to install automatic frequency control equipment (B5-F-220).
- WNAX—WNAX Broadcasting Co., Yankton, S. Dak.—Granted authority to install automatic frequency control equipment (B4-F-219).
- W69PH—WCAU Broadcasting Co., Philadelphia, Pa.—Granted modification of construction permit (B2-PH-43, which authorized a new FM station) for approval of transmitter, changes in antenna, and change location of transmitter from 117 So. 17th St., to 1616 Walnut St., Philadelphia (B2-MPH-14).
- The Metropolis Company, Ocala, Fla.—Referred to the full Commission the motion for immediate specification of issues fixing date and place of hearing and for other relief, in re application for license for new station.
- Bay County Publishers, Inc., Panama City, Fla.—Referred to the full Commission the motion for immediate specification of issues fixing date and place of hearing and for other relief in re application for license for new station.
- WPAY—Chester A. Thompson (Transferor) and The Brush Moore Newspapers, Inc. (Transferee), Portsmouth, Ohio; WPAY—Vee Bee Corp., Portsmouth, Ohio.—Granted petition to hold hearing on applications for consent to transfer control of Vee Bee Corp., licensee of station WPAY together with application for renewal of license, in Portsmouth, and change date of hearing, now scheduled for June 2.
- KFJI—KFJI Broadcasters, Inc., Klamath Falls, Ore.—Granted motion to dismiss without prejudice application to change frequency from **1210 to 600 kc.**; increase power from 100 watts to 500 watts night, 1 KW, local sunset.
- WRDO—WRDO, Inc., Augusta, Me.—Granted petition for leave to amend application for renewal of license.
- W3XMC—McNary & Chambers, Washington, D. C.—Granted extension of special temporary authority to continue operation of high frequency experimental broadcast station on **42600 kc.**, 100 watts, special emission for frequency modulation, with transmitter located at 2701-14th St., N. W., Washington, D. C., for the period May 2 to not later than July 1, 1941.
- WDRG, Inc., Hartford, Conn.—Granted special temporary authority to operate frequency modulation station commercially on **46500 kc.**, 1000 watts, special emission for frequency modulation, with transmitter at Meriden, Conn., and described as Composite, Type FM1, Maximum rated carrier power 1000 watts, for a period not to exceed 60 days, pending completion of construction pursuant to construction permit.
- W65H—WDRG, Inc., Hartford, Conn.—Granted special temporary authority to rebroadcast high frequency broadcast stations W2XMN and W1XOJ emissions for a period not to exceed 60 days.
- WSAZ—WSAZ, Inc., Huntington, W. Va.—Granted special temporary authority to operate the relay mobile unit (WADA) of the Charleston Broadcasting Co. for a series of special programs consisting of interviews with housewives of Huntington, W. Va., the program originating in the studio and being transferred to the various homes where the interviews take place, during the period May 2, 9, 16, 23, 30, 1941, only.
- WFLA—The Tribune Co., Tampa, Fla.—Granted license to cover construction permit which authorized a new broadcast station to operate on **940 kc.**, 1 KW, 5 KW LS, unlimited time, using directional antenna night (B3-L-1327). Also granted authority to determine operating power by direct measurement of antenna input (B3-Z-563).
- WBEN—WBEN, Inc., Buffalo, N. Y.—Granted modification of construction permit for change in frequency from **900 to 930 kc.** and changes in directional antenna.
- W9XBK—Balaban & Katz Corp., Chicago, Ill.—Granted extension of special temporary authority to operate two transmitter units to be installed and operated from the State-Lake Bldg., Chicago, Ill.; Link Transmitter Type No. 50-UTX with 100 watts power for visual and Link Transmitter Type No. 25-UBX 25 watts power for aural; temporary steel tower to be used on roof of said building, in order to conduct tests for period May 19 to not later than June 17, 1941, in accordance with construction permit.
- WHJB—Pittsburgh Radio Supply House, Greensburgh, Pa.—Granted special temporary authority to operate from 7:30 p. m. to conclusion of program, approximately 10 p. m., EST, May 6, 1941, in order to cooperate with the Indiana County Music Supervisors Assn. in the Indiana Music Festival, to be held in the High School, Indiana, Pa.
- WEAU—Central Broadcasting Co., Eau Claire, Wisc.—Granted special temporary authority to operate from sign-off (April 7 p. m., CST) to conclusion of President's radio address and Secretary of Treasury Morgenthau and Postmaster Walker, only, approximately 9 p. m., CST, April 30, 1941.
- KFNF—KFNF, Inc., Shenandoah, Iowa.—Continued hearing in re application for renewal of license now scheduled for May 7, 1941, until May 26, 1941.
- WWDC—Capital Broadcasting Co., Washington, D. C.—Granted modification of construction permit (B1-P-2679, which authorized a new station on **1450 kc.**, 250 watts, unlimited time, and 100 watt amplifier, for changes in type of transmitter and extension of commencement and completion dates to 1 and 2 days after grant respectively (B1-MP-1297).



WTMJ—The Journal Co. (The Milwaukee Journal), Milwaukee, Wis.—Granted modification of construction permit (B4-P-2696, for increase in power, installation of DA for night use) for extension of completion date to June 6/41 (B4-MP-1278).

WRC—National Broadcasting Co., Inc., Washington, D. C.—Granted modification of construction permit (B1-P-243, which authorized increase in power and installation of DA for night use) for **980 kc.** under NARBA (B1-MP-1249). Also granted modification of construction permit (B1-P-243) for extension of completion date to June 5/41 (B1-MP-1277).

WLAC—WLAC Broadcasting Service, Nashville, Tenn.—Granted special temporary authority to rebroadcast program originating in plane of Vultee Aircraft Co. at Nashville, Sunday, May 4, between 2:30 and 4 p. m., CST, only (B3-S-482).

WHBI—National Broadcasting Co., Inc., Bound Brook, N. J.—Granted modification of construction permit (B1-PIB-28, which authorized changes in equipment, etc., in International broadcast station) for extension of completion date to June 6, 1941 (B1-MPIB-26).

WKBX—Community Broadcasting, Inc., Wheeling, W. Va.—Granted modification of construction permit (B2-P-2967, as modified, for new station), authorizing installation of new transmitter (B2-MP-1283).

WTMJ—The Journal Co. (The Milwaukee Journal), Milwaukee, Wis.—Granted special temporary authority to rebroadcast program originating in U. S. Army plane in vicinity of Milwaukee on May 2.

W2XQR—John V. L. Hogan, Long Island City, N. Y.—Granted extension of special temporary authority to operate a high frequency experimental broadcast station on **43200 kc.** with 100 watts power, special emission for FM, with transmitter located at 3104 Northern Blvd., Long Island City, for the period May 1 to May 30. No authority is granted to conduct a facsimile broadcast service.

The Evening News Press, Inc., Port Angeles, Wash.—Placed in pending files application for new broadcast station to operate on **1450 kc.**, 250 watts power, unlimited time, and specifying exact transmitter location, pending disposition of newspaper issue.

## APPLICATIONS FILED AT FCC

### 930 Kilocycles

WSAZ—WSAZ, Inc., Huntington, W. Va.—Modification of construction permit (B2-P-2856) for approval of transmitter site and changes in directional antenna from day and night to night use only, and **930 kc.** under NARBA.

### 970 Kilocycles

WAAT—Bremer Broadcasting Corp., Jersey City, N. J.—Modification of construction permit (B1-P-2704) as modified, for new transmitter, install directional antenna, change in hours of operation from daytime to unlimited, increase in power from 500 watts to 1 KW and move of transmitter for extension of completion date from 5-25-41 to 7-25-41.

### 980 Kilocycles

KMBC—Midland Broadcasting Co., Kansas City, Mo.—Construction permit to from **950 kc.** to **690 kc.**, power from 5 to 50 KW, install new transmitter, new directional antenna for night use, move transmitter and move studio from Kansas City, Mo., to Kansas City, Kansas, requesting facilities KGGF, WNAD and KFEQ as proposed by NARBA. Amended: To change location of transmitter from near Wolcott, Kans., to near Sibley, Mo., omit request for move of studio, change frequency from **690 kc.** to **770 kc.**, make changes in directional antenna for day and night use and omit request for facilities of KFEQ, KGGF and WNAD.

### 990 Kilocycles

WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Authority to determine operating power by direct measurement.

### 1050 Kilocycles

WHN—Marcus Loew Booking Agency, New York, N. Y.—Modification of construction permit (B1-P-2899) for new trans-

mitter, directional antenna for day and night use, change in frequency, increase in power and move of transmitter, for authority to install new transmitter and make changes in antenna.

### 1070 Kilocycles

KFBI—The Farmers and Bankers Broadcasting Corp., Wichita, Kans.—License to cover construction permit (B4-MP-896) as modified, for decrease in power, change in hours of operation and installation of directional antenna for night use.

KFBI—The Farmers and Bankers Broadcasting Corp., Wichita, Kans.—Modification of construction permit (B4-MP-896) as modified, for changes in directional antenna on **1070 kc.** under NARBA.

KFBI—The Farmers and Bankers Broadcasting Corp., Wichita, Kans.—Authority to determine operating power by direct measurement of antenna power.

### 1090 Kilocycles

KTHS—Hot Springs Chamber of Commerce, Hot Springs National Park, Ark.—Authority to determine operating power by the direct method.

### 1110 Kilocycles

WCBD—WCBD, Inc., Chicago, Ill.—Authority to determine operating power by the direct method.

### 1150 Kilocycles

KTBC—State Capitol Broadcasting Assn., Inc., Austin, Texas.—Authority to determine operating power by direct measurement.

### 1230 Kilocycles

WJNO—WJNO, Inc., West Palm Beach, Fla.—Authority to determine operating power by direct measurement.

KVNU—Cache Valley Broadcasting Co., Logan, Utah.—Authority to determine operating power by the direct method.

WBHP—Wilton Harvey Pollard, Huntsville, Ala.—Authority to determine operating power by direct measurement.

### 1240 Kilocycles

WJLS—Joe L. Smith, Jr., Beckley, W. Va.—Construction permit to install new transmitter, install directional antenna for night use, change frequency from **1210 kc.** to **900 kc.**, and power from 250 watts to 1 KW. Amended: To request change in frequency from **1240 kc.** (under NARBA) to **640 kc.**, Class II, changes in directional antenna and equipment and requesting limited time to local sunset at Los Angeles, directional antenna from sunset Beckley to local sunset Los Angeles.

KHBG—Okmulgee Broadcasting Corp., Okmulgee, Okla.—Authority to determine operating power by direct measurement.

KVSO—The Ardmoreite Publishing Co., Inc., Ardmore, Okla.—Authority to determine operating power by direct measurement.

### 1250 Kilocycles

WDSU—WDSU, Inc., New Orleans, La.—Modification of construction permit (B3-P-2923) for extension of completion date from 6-1-41 to 9-1-41.

### 1260 Kilocycles

KYA—Hearst Radio, Inc., San Francisco, Calif.—Authority to determine operating power by direct measurement for auxiliary transmitter.

KYA—Hearst Radio, Inc., San Francisco, Calif.—Authority to determine operating power by direct measurement for main transmitter.

### 1270 Kilocycles

KFJZ—Tarrant Broadcasting Co., Fort Worth, Tex.—Modification of construction permit (B3-P-2497) which authorized new transmitter and installation of directional antenna, increase in power and move of transmitter, for extension of completion date from 5-17-41 to 8-15-41.

### 1300 Kilocycles

KGLO—Mason City Globe Gazette Co., Mason City, Iowa.—Modification of construction permit (B4-P-2329) as modi-

fied, for installation of new transmitter and directional antenna for night use, increase in power, change of frequency and move of transmitter, requesting changes in directional antenna on **1300 kc.** under NARBA, and extension of commencement and completion dates from 1-4-41 to 7-4-41 to 30 days after grant and 60 days thereafter, respectively.

#### 1320 Kilocycles

WNEL—Juan Piza, San Juan, Puerto Rico.—License to cover construction permit (B-P-2762) which authorized equipment changes, antenna changes, increase in power and move of transmitter, specifying **1320 kc.** under NARBA.

#### 1340 Kilocycles

NEW—Jefferson Broadcasting Corp., Birmingham, Ala.—Construction permit for a new broadcast station to be operated on **1340 kc.**, 250 watts, unlimited time. (Facilities of station WSGN when vacated.)

KVOX—KVOX Broadcasting Co., Moorhead, Minn.—Authority to determine operating power by direct measurement.

WAML—New Laurel Radio Station, Inc., Laurel, Miss.—Authority to determine operating power by direct measurement.

KMYR—F. W. Meyer, Denver, Colo.—Authority to determine operating power by direct measurement.

KMYR—F. W. Meyer, Denver, Colo.—License to cover construction permit (B5-P-2067) as modified, for a new station.

KRBA—Red Lands Broadcasting Assn., Ben T. Wilson, Pres., Lufkin, Tex.—Authority to determine operating power by direct measurement.

#### 1360 Kilocycles

KRIS—Gulf Coast Broadcasting Co., Corpus Christi, Tex.—License to cover construction permit (B3-P-2230) as modified, for new transmitter, increase in power, move transmitter and changes in antenna.

#### 1390 Kilocycles

KGER—Consolidated Broadcasting Corp., Long Beach, Calif.—Construction permit to make changes in equipment, increase power from 1 KW to 5 KW, install directional antenna for night use. Amended to make changes in directional antenna.

#### 1400 Kilocycles

KRLC—H. E. Studebaker, Lewiston, Idaho.—Authority to determine operating power by direct measurement.

KRLC—H. E. Studebaker, Lewiston, Idaho.—License to cover construction permit (B5-P-3020) for changes in equipment and to specify **1400 kc.** under NARBA.

WORD—Spartanburg Advertising Co., Spartanburg, S. C.—Authority to determine operating power by direct measurement.

WHBQ—Broadcasting Station WHBQ, Inc., Memphis, Tenn.—Authority to determine operating power by the direct method.

WHBQ—Broadcasting Station WHBQ, Inc., Memphis, Tenn.—License to cover construction permit (B3-P-3075) for new transmitter and increase in power.

KTUC—Tucson Broadcasting Co., Tucson, Ariz.—Transfer of control from John Merino (100 shares), Glenn Snyder (50 shares), Geo. R. Cook (50 shares), Burridge D. Butler (38 shares), Carleton W. Morris (30 shares), Louis F. Long (30 shares), Ralph W. Bilby (1 share) and Frank Z. Howe (1 share) to John Merino (50 shares), Glenn Snyder (50 shares), Geo. R. Cook (50 shares), Burridge D. Butler (69 shares), Louis F. Long (30 shares), Ralph W. Bilby (50 shares) and Frank Z. Howe (1 share).

#### 1450 Kilocycles

KDNT—Harwell V. Shepard, Denton, Tex.—Authority to determine operating power by direct measurement.

#### 1480 Kilocycles

WAGA—Liberty Broadcasting Corp., Atlanta, Ga.—Construction permit to change frequency from **1450 to 590 kc.**, increase power from 500 watts night, 1 KW day to 1 KW night, 5 KW day, install new equipment and directional antenna for night use and move transmitter. Class III-B station.

Amended to change power to 5 KW day and night and make changes in directional antenna for night use.

#### 1490 Kilocycles

NEW—San Jose Broadcasting Co., San Jose, Calif.—Construction permit for a new broadcast station to be operated on **1490 kc.**, 250 watts, unlimited time. Amended to change requested transmitter site.

NEW—William Price, Burlington, N. C.—Construction permit for a new broadcast station to be operated on **1490 kc.**, 250 watts, unlimited time. (Contingent on WDNC going to new frequency.)

#### FM APPLICATIONS

NEW—Cherry & Webb Broadcasting Co., Providence, R. I.—Construction permit for a new high frequency broadcast station to be operated on **47500 kc.** Coverage: 6,207 square miles; population: 4,230,838. Amended: re antenna.

W47PH—Pennsylvania Broadcasting Co., Philadelphia, Pa.—Modification of construction permit (B2-PH-69) for a new high frequency broadcast station, for change in type of transmitter and changes in antenna system; population from 4,474,940 to 4,214,336.

#### MISCELLANEOUS APPLICATIONS

W6XAO—Don Lee Broadcasting System, Los Angeles, Calif.—License to cover construction permit (B5-PVB-38) as modified, which authorized move of station and change in frequencies.

## FEDERAL TRADE COMMISSION ACTION

#### COMPLAINTS

Federal Trade Commission has alleged unfair competition 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.

**Peoples Hardware Stores**—A complaint has been issued charging Domenico Del Vecchio, trading as Peoples Hardware Stores, 1434 Florida Ave., N. E., Washington, D. C., with misleading representations in violation of the Federal Trade Commission Act in the sale of paint products.

The complaint alleges that the respondent has advertised that "Our factory-to-you plan brings savings of 20% to 35%", when in fact he does not own or control a plant in which the products he sells are made but orders them from the manufacturers and his prices do not represent a saving of 20 per cent to 35 per cent to purchasers as compared to prices charged by his competitors for similar products made of comparable materials.

The complaint also alleges the respondent advertised that "Lawrence Master Painters Flat Paint—covers 1100 square feet per gallon", when in fact such coverage cannot be obtained under normal conditions of use and can be obtained only when employed over a pigment sealer on a smooth surface. (4495)

**Tag Manufacturers Institute**—A complaint has been issued charging the Tag Manufacturers Institute, 370 Lexington Ave., New York, Frank H. Baxter, its secretary-treasurer and executive director, and 31 member companies, with practices in restraint of trade and in violation of the Federal Trade Commission Act in the sale of tags, pin tickets and similar marking and pricing devices. According to the complaint, the respondents are majority of the country's manufacturers of such tag products.

The complaint alleges that the respondents, acting directly, through their representatives, and in cooperation with each other and with the respondent institute and the respondent Baxter,



entered into an agreement, combination and conspiracy to restrict and eliminate price competition in the sale of tag products by fixing and maintaining uniform prices, terms and conditions of sale for their products; by holding meetings under the auspices of the institute to devise methods for such price maintenance, and by a "Tag Industry Agreement".

According to the complaint, the "Tag Agreement" provides:

(1) That each subscribing respondent member send to the respondent Baxter a complete statement of every "general offer" to sell tag products, including available prices, terms and sale conditions, and of every "restricted offer", including prices, terms and sale conditions more favorable to the purchaser than the "general offer" for similar products.

(2) That the respondent Baxter disseminate to all subscribing respondent members the information furnished under the two offers.

(3) That each respondent subscribing member furnish the respondent Baxter with duplicates of every invoice or other shipping memorandum for products sold, and duplicates of all credit memoranda covering rebates.

(4) That the respondent Baxter compile and disseminate to members such information in a manner not disclosing the identity of any one subscriber or the names of any purchasers.

(5) That each subscribing respondent member submit to a "Determination Board" appointed by the respondent members all pertinent records in its possession and permit an examination of such information by the board to determine whether or not such subscribing member has complied with the Tag Industry Agreement rules concerning the furnishing of such information.

(6) That the Determination Board announce its findings pursuant to such investigations; such findings to be accepted by the subscribing members any of whom are to be subject to fines, assessments and liquidated damages in case of breach of rules or regulations.

(7) That each subscribing respondent member pay annually not less than \$120 to the respondent Baxter as institute secretary for an "Operating Fund", and not less than \$200 into a "Revolving Fund", to provide funds from which operating and investigating expenses and into which fines and assessments are to be paid.

Respondent manufacturer members of the respondent institute are: Acme Tag Co., Minneapolis; Allen-Bailey Tag Co., Inc., Caledonia, N. Y.; American Tag Company, Chicago; American Tag Company of New Jersey, Newark; Atlas Tag Company, Neenah, Wisc.; Badger Tag Co., Inc., Random Lake, Wisc.; A. C. Baldwin & Sons, Austin, Tex.; Campbell Box and Tag Company, South Bend, Ind.; Central Tag Co., Chicago; Cupples-Hesse Envelope and Litho. Co., St. Louis; Dancyger Manufacturing Company, Cleveland; The Denney Tag Company, Incorporated, West Chester, Pa.; Dennison Manufacturing Co., Framingham, Mass.; Eastman Tag & Label Company, San Francisco; Ennis Tag and Printing Company, Ennis, Tex.

Haywood Tag Company, Lafayette, Ind.; International Tag & Salesbook Co., Chicago; Keystone Tag Company, West Chester, Pa.; A. Kimball Company, New York City; Marion Manufacturing Company, Atlanta; J. L. May Company, New York; Michigan Tag Company, Grand Rapids; Midwest Tag Company, St. Louis; The National Tag Company, Dayton; The Reyburn Manufacturing Company, Inc., Philadelphia; The Robinson Tag and Label Company, New York; Rockmont Envelope Company, Denver; Salisbury Mfg. Co., Central Falls, R. I.; The Standard Envelope Mfg. Company, Cleveland; Tagcraft Corporation, Lancaster, Pa.; and Waterbury Buckle Company, Waterbury, Conn. (4496)

## CEASE AND DESIST ORDERS

Commission has issued the following cease and desist orders:

**Ethel Bellamy, Inc.**, Nutley, N. J., has been ordered to cease and desist disseminating advertisements which represent that "Ethel Bellamy Eyelash Luxuriant" possesses therapeutic value in the treatment of granulated eyelids, promotes eyelash growth, supplies pigment to the eyelashes, darkens eyelashes permanently or has any effect on eyelash color in excess of such temporary effect as it may produce by reason of its properties as a dye. (4424)

**Consumers Bureau of Standards**—Albert Lane, an individual trading as Consumers Bureau of Standards, who has conducted his business at various locations in New York, Chicago, Philadelphia, and Long Island City, N. Y., has been ordered to cease and desist from misrepresentations and other unfair practices in the sale of publications advertised as being the result of research on behalf of the consumer. The respondent's publications were: "Consumers' Preference," "Consumers Bureau Reports" and "Consumers Bureau Guide."

Commission findings are that:

The respondent represented the Consumers Bureau of Standards as being "a national non-profit consumers' research and educational organization which investigates, tests and reports on goods and services for the benefit of the ultimate consumer," when in fact the respondent did not conduct a real research and testing bureau for consumers and maintained no staff or laboratory equipment.

The Commission order directs that Albert Lane, trading as Consumers Bureau of Standards, or Consumers Bureau, in connection with the sale of any book, magazine, periodical or circular letter purporting to give appraisals or classifications of merchandise, goods or services, cease and desist from representing in any manner, or using any trade or other name which implies, that such publication is compiled, issued, sold or offered for sale by or under the direction of any bureau, institute, or organization engaged in research work for the benefit of consumers, or devoted to aiding consumers in making wise or economical purchases, or which by means of any scientific or adequate tests of any nature designates the comparative consumer value of any merchandise, goods, or services.

The respondent also is ordered to cease and desist from:

Representing that any such publication is or will be issued, printed, or distributed at any stated time or times other than those at which it is actually issued, printed, or distributed;

Representing that the respondent's business is operated on a non-profit basis;

Representing that the respondent's business is national in scope, or representing in any manner that such business is greater in size or scope than is the fact;

Representing that the respondent is, or represents, any consumers' research group or movement;

Representing that the respondent has any arrangement with the Mellon Institute of Industrial Research, Massachusetts Institute of Technology, or any similar organizations or institutions, for the submission thereto for determination of any questions concerning the value or comparative value of merchandise, goods, or services;

Representing that the respondent is, or represents, any consumers' special training, education, or experience to determine, or has any employees, staff, equipment, or facilities for determining, by any scientific method or adequate investigation or tests, the value or comparative value of any merchandise, goods, or services;

Threatening, inferring, or implying to any manufacturer or distributor of merchandise, goods, or services that a refusal to buy copies of or contribute financially to such publication or directly or indirectly to the respondent, will or may result in unfavorable, disparaging, or derogatory listing of, or reference to, such manufacturer or distributor or his merchandise, goods, or services in or in connection with such publication. (3718)

**Gly-Case Medicine Company**—Medora Whinrey, trading as Gly-Cas Medicine Co., and the concern's manager, Robert B. Whinrey, Muncie, Ind., distributors of the medicinal preparation "Gly-Cas," has been ordered to cease disseminating advertisements which represent that their product constitutes a cure or remedy for constipation or has therapeutic value in treating it in excess of temporary relief afforded by causing a partial evacuation of the intestinal tract; that indigestion, gas, bloated or sour stomach, rheumatic or neuritis pains, sore or aching muscles, limbs or joints, backaches, dizziness, nervousness, kidney trouble, sleeplessness, biliousness or headaches are typical or usual symptoms of constipation or faulty elimination; that their product "Gly-Cas" is a cure, remedy or competent treatment for such conditions, or has therapeutic value in their treatment when they are due to causes other than constipation or faulty elimination or other than that furnished by causing a partial evacuation of the intestinal tract. (4432)

**Hartig Drug Co.**, also trading as H. K. Pharmaceutical Laboratories, and A. J. Hartig, president of Hartig Drug Co. and trading as H. K. Pharmaceutical Laboratories, 756 Main St., Dubuque, Iowa, has been ordered to cease and desist from misrepresentation

in the sale of certain medicinal preparations for women. The Commission order directs that in the sale of "Menstruaid Nos. 1, 2, 3, 4 and 5" the respondents cease disseminating advertisements which represent that these products constitute a competent or effective treatment for delayed menstruation; that they are scientific, safe or harmless and are guaranteed, and which advertisements fail to reveal that their use may cause gastro-intestinal disturbances and other serious conditions. (4406)

**Universal Industries, Inc.,** 2222 Diversey Parkway, Chicago, and Abraham Leonard Koolish and George William Ehrlich, officers and directors of the corporation, has been ordered to cease and desist from misrepresentations in the sale of sales stimulator plans or devices including trade cards, circulars, and other advertising material, and also tableware and other products used as premium merchandise under such plans.

Commission findings are that in advertisements circulated in various States the respondents have represented that for a cost of only one cent merchants participating in the respondents' sales plans would receive \$5 worth of business from their customers when in fact the merchants purchase from the respondents at 50 cents a set tableware which they resell to customers at 49 cents a set when such customers have purchased \$5 worth of other merchandise.

Also, the findings continue, the merchants pay the respondents \$4.95 for the sales plan which includes cards, literature and two display sets of tableware, none of which amount the respondents refund until the merchants have purchased eight dozen tableware sets; and the respondents deduct from such refund, if and when made, the resale value of the two display sets furnished the merchants.

The Commission order directs the respondents to cease misrepresenting the cost of any sales plan or sales stimulator to any dealer or merchant by failing to reveal that additional sums must be paid by the merchant or dealer in operating the plan or using the sales stimulator; to discontinue misrepresentations found to have been made concerning salesmen's earnings, the price and value of products sold, and the respondents' length of time in business and financial standing, and to cease using the term "free" to describe articles offered as compensation for distributing the respondents' merchandise, unless all conditions are clearly explained and there is no deception as to price, quality, character, services to be performed, or other features.

The Commission dismissed its complaint in this proceeding as to Mrs. Ida B. Koolish, an officer of the corporate respondent, there being no evidence that she has taken an active interest in the business. (3882)

## STIPULATIONS

Following stipulations have been entered into by the Commission:

**Chelf Chemical Co.,** 118 South Seventeenth St., Richmond, Va., stipulated that it will cease certain representations in the sale of its preparation known as "Chelf's C. C. Comp'd" and also as "C. C. C. C." and "4 C's," containing, among other ingredients, potassium bromide and acetanilid.

The respondent agrees to cease representing that its preparation will remove the cause of headaches, indigestion or nervousness or remedy these conditions; may be safely used by all persons under all conditions; will not have a depressing effect upon the heart, and will relieve colds generally or head colds, unless the representation is limited to palliative relief of aches and pains accompanying such colds.

The respondent also agrees to cease disseminating advertisements which fail to reveal that the preparation should not be used in excess of the dosage recommended and that its frequent and continued use may be dangerous; provided that such advertisements need contain only a statement that the preparation should be used only as directed on the label, if the label either contains a warning of the possible consequences of the use of the product or directs attention to a similar warning in the accompanying labeling. (02787)

**Eagle Electric Manufacturing Co., Inc.,** 59 Hall St., Brooklyn, entered into a stipulation to cease certain representations in the sale of electrical heating pads. The respondent agrees to cease

using the words or symbols "Three Heat" or "3-Heat" as descriptive of such pads or the switches used to operate them and to cease employing the words "Three Heat" or other similar words to imply that its electrical pads are capable of maintaining, or that the operation of the switches results in maintaining, three different, distinct temperatures. (3093)

**Federal Enameling & Stamping Co.,** McKees Rocks, Pittsburgh, Pa., distributor of enameled kitchenware, stipulated to cease representing or placing in the hands of others a means to represent, directly or inferentially, that any enamelware product not completely covered with three separate coats or applications of enamel, is "triple coated" or that its enameling consisted of the application of three separate coats of enamel. (3092)

**A. Freedman & Sons, Inc.,** shoe manufacturer, New Bedford, Mass., has entered into a stipulation to cease using the words "Designed by an English Bootmaker" as descriptive of certain of its shoes which are not designed by an English bootmaker, such words appearing as a stamp, brand or label upon shoes or the boxes in which they are sold. The respondent corporation also stipulates that it will desist from using these quoted words or the words "John McVey, Ltd.," alone or in connection with the words "Distinctly English" or with other similar words so as to imply that such shoes are either designed by an English Bootmaker or are made in England. The stipulation recites that the respondent's shoes are not designed by an English bootmaker and are not made in England but at its New Bedford, Mass., plant. (3091)

**Humania Hair Goods & Specialty Company—**Gustave Goldstein, hair goods and cosmetics dealer trading as Humania Hair Goods & Specialty Co., 303 Fourth Ave., New York, a stipulation to cease disseminating advertisements which fail conspicuously to reveal certain dangerous possibilities in the use under certain conditions of "Magic Shaving Powder" and "Kongolene", and which advertisements represent that "Apex Pomento" and "Humania Dandruff Treatment" will prevent dandruff or do more than remove dandruff already formed on the scalp; that "Humania Dandruff Treatment" and "Amron New Hair Aid" will stop falling hair or keep it from coming out, and other similar representations. (3094)

**Charles B. Knox Gelatin Co., Inc.,** Johnstown, N. Y., engaged in selling Knox Gelatin or Knox Sparkling Gelatin, has entered into a supplemental stipulation in connection with the dissemination of advertising of the products in which it agrees to cease and desist from representing, directly or by implication:

(1) That scientific laboratory tests have established as a matter of scientific fact that Knox Gelatin increases vim and vitality, increases endurance, builds resistance to fatigue, cuts down and lessens fatigue, increases stamina and "staying power", curbs tiredness, restores vigor or stores energy.

(2) That Knox Gelatin or Knox Sparkling Gelatin prevents fatigue; keeps one in top form for working hard and playing hard; enables a person to sleep better or awaken more refreshed; lessens the seriousness of athletic injuries or causes minor athletic injuries to respond quicker to treatment; increases muscular work capacity 50% to 100% or is of any substantial benefit in increasing muscular work capacity; doubles energy or increases energy output 37% to 240% or is of any substantial value in increasing energy output; is an amazing discovery or stores energy.

(3) That it is a manufacturer; but nothing in the stipulation shall prevent the Charles B. Knox Gelatin Co., Inc., from representing and stating that Knox Gelatin is manufactured under the laboratory supervision of the Charles B. Knox Gelatin Co., Inc.

The stipulation provides that in the event future facts and circumstances should, in the judgment of the Commission, so warrant, such suitable modification thereof may be made as may be necessary to conform to the facts. (02436)

**Leonard Sales Company—**Benjamin Ingber, trading as Leonard Sales Co., 237 North Ninth St., Philadelphia, has entered into a stipulation to cease advertising that a drug preparation designated "Corn-Go" will instantly stop the pain of corns or calluses; will prevent their recurrence, and will remove bunions or has any value in their treatment. (02786)