

What the Commission Does

1. Congress created the Federal Communications Commission in 1934 for the purpose (among other things) of "regulating interstate and foreign commerce in communication by wire and radio so as to make available, as far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service . . ." Thus, the Commission regulates not only all broadcasting stations in this country, but also all interstate and foreign telephone, telegraph and cable service, as well as CATV systems and communication by satellite. It also licenses and regulates more than a million and a half stations which you cannot hear on the regular broadcast bands.^{1/} At present, approximately 7,500 radio and television broadcasting stations are on the air, and several hundred more have been authorized. Most are licensed for commercial operation, and are supported by advertising revenue. However, there are approximately 375 noncommercial FM radio stations and 175 noncommercial television stations. In order to provide better broadcasting service to the American people and a greater variety of programming, the Commission has consistently encouraged the expansion of all forms of broadcasting, including noncommercial broadcast services. Such monitoring of broadcast stations as the Commission is able to do is directed principally to detection of technical violations, such as operation with unauthorized power or on a frequency other than the one assigned. A frequently misunderstood matter is the fact that standard transmissions cover greater distances at night, and therefore many stations in the standard (AM) broadcast band must limit their operating power at night, or cease operating altogether, to avoid interference with other stations on the same or adjacent frequencies. Licenses for daytime operation were originally sought by the applicants with the knowledge that nighttime operation could not be granted because of interference to previously-licensed stations.

^{1/} These include more than 867,000 Citizens Band stations, as well as stations in the following approximate numbers serving other purposes: marine services, 164,000; public safety services (such as police and fire departments), 63,000; industrial service, 185,000; transportation (such as taxicabs and railroads), 20,000 and amateur ("ham") operators, 270,000.

Programming Responsibility of Broadcasters

2. The Commission is prohibited by law from censoring broadcast matter, and it does not attempt to direct broadcasters in the selection or presentation of specific programming. However, no application for a broadcasting license will be granted unless the Commission finds that the public interest, convenience and necessity will be served by such a grant, and it has stated that the "principal ingredient of the licensee's obligation to operate his station in the public interest is the diligent, positive, and continuing effort by the licensee to discover and fulfill the tastes, needs, and desires of his community or service area, for broadcast service." For this reason, the Commission urges concerned persons to express their views on programming directly to the station licensees and the networks involved. Some persons have organized groups in order to express their collective opinions on programming and to attempt to bring about changes in programming. The addresses of some such groups, as well as the major networks, are given in the Addendum hereto. Since the Commission at times receives complaints concerning motion pictures, newspapers and magazines, it should be made clear that motion picture and publishing companies, as such, are not subject to regulation by the Commission. However, persons or firms engaged in publishing or in motion picture production or presentation may hold ownership interests in the licensees of broadcast stations. The Commission has under review its policies regarding concentration of media control, as well as the question of broadcast ownership by so-called "conglomerate" firms.

3. Public Inspection of Applications. In order that viewers and listeners may know what programming each broadcasting station has proposed to present, the Commission requires applicants for licenses and license renewals to make available for public inspection in their own communities copies of most applications they have filed with the Commission, as well as certain other documents, such as reports on the ownership of the stations. An application for renewal of license, for example, must state how the applicant has tried to learn the needs and interests of the public to be served by the station and what significant needs and interests the applicant thinks his station will serve during the coming license period. The applicant must list typical programs which he plans to broadcast to meet these needs and interests. He also must supply information about his programming and commercial practices during the past license period, and about the programming and commercial practices he proposes for the future. Copies of all applications also are available for public inspection in the Commission's headquarters in Washington.

4. Broadcast licenses are normally granted for a three-year period, and the licenses of all stations in a given state expire at the same time. When filing application for grant or renewal of license, the applicant in most cases must place a notice in a local newspaper that the application has been filed. If the application is for renewal of license, such an announcement must also be broadcast. The Commission has made this requirement so that anyone who wishes to file comments about a station may do so while the Commission is considering its application for renewal of license. However, as explained in Paragraph 2, above, the Commission urges concerned citizens first to make their opinions known to their local stations. In most cases, they will find that broadcasters welcome suggestions from members of the public as to possible ways to improve their service.

5. Non-Discrimination in Broadcast Employment. The Commission has adopted rules which provide that "equal opportunity in employment shall be afforded by all licensees or permittees of ...standard, FM, television or international broadcast stations...to all qualified persons, and no person shall be discriminated against in employment because of race, color, religion, or national origin." Each station is required to "establish, maintain and carry out a positive continuing program of specific practices designed to assure equal opportunity in every aspect of station employment policy and practice," to review job structure and employment practices and to "adopt positive recruitment, training, job design and other measures needed in order to insure genuine equality of opportunity..."

6. Scheduling or Cancellation of Programs. The Commission is prohibited from censoring broadcast matter, and it places responsibility for the selection of programming on each broadcast licensee on the basis of what he learns about the tastes, needs and desires of his community. Thus, the Commission does not direct him to broadcast one program or cancel another. This policy applies to many programming matters, such as discontinuance of a particular program over a station or network or the deletion of certain portions of a program for reasons of taste or propriety. It is also applicable to the selection of specific types of public service programs and announcements, religious programs, motion pictures and sports programs (including bull fights). The same policy covers decisions by networks or stations to present simultaneously the same or similar sports or news events. The Communications Act of 1934, as amended, specifically excludes the broadcaster, as such, from being classified a common carrier and the licensee is therefore not obliged to accept any and all program material offered for broadcast. The Commission recommends that the viewer or listener make his wishes known to the broadcasters involved, so that they may become better informed concerning audience reactions. It should also be noted that it is not the Commission's policy to render advisory opinions regarding a proposed program prior to its broadcast. It is also within the discretion

of each licensee to select or reject specific advertising or other program matter offered for broadcast, whether on a paid basis or otherwise, and the Commission under normal circumstances has no basis for action in such matters. The licensee is expected to make judgments in such matters in the light of what he has learned regarding the tastes, needs and desires in the community which he is licensed to serve.

7. Fairness Doctrine. The Commission does not attempt to substitute its judgment for that of the broadcast licensee regarding "open mike" or other programs in which the editorial views of the licensee himself are set forth. We should explain, however, that the Commission believes that licensees are obligated to give the public more than one viewpoint on a controversial issue of public importance. This policy, known as the fairness doctrine, requires a licensee who presents one side of a controversial issue of public importance to try to bring about a balanced presentation of opposing viewpoints on that issue. The fairness doctrine does not require exact equality of time for opposing viewpoints, and should not be confused with the law governing use of broadcasting stations by candidates for public office. What the fairness doctrine requires is that a broadcast licensee, having presented one side of a controversial issue of public importance, make reasonable efforts to present opposing sides of the issue in his over-all programming. Opposing views need not be presented on the same program or even in the same series of programs, so long as an effort is made in good faith to present contrasting views in the station's over-all programming. With the exception of certain circumstances involving political editorials of licensees or personal attacks as defined by the Commission's Rules, licensees are not required to make, maintain or provide to the general public scripts, tapes or summaries of program material broadcast.

8. It should be stressed that the purpose of the fairness doctrine is to protect the right of the public to be informed, not to provide broadcast time to any particular person or group. Having broadcast one side of a controversial issue of public importance, the broadcast licensee has an obligation to attempt to present contrasting viewpoints, but it lies within his discretion to select the particular format to be used in such presentations, as well as the particular individual to express the various viewpoints -- provided, of course, that the licensee appears to be acting reasonably and in good faith. A more detailed statement of Commission policy regarding the fairness doctrine, including examples of the way it has been applied to particular factual situations, is contained in a booklet on that subject which is available upon request. The Commission also has prepared a detailed explanation of the way the so-called "equal time" law applies to candidates for political office, which also is available upon request. Editorializing by broadcast licensees is encouraged under the Commission's policies, subject of course to the requirements of the fairness doctrine. In this regard, it should be noted that there is no law or rule which requires editorial or news comment to be labeled or announced as such, or which requires that it be separated or distinguished in any way from other program matter.

9. Obscene or Profane Language. The broadcast of obscene, indecent or profane language is prohibited by a federal criminal statute. Although the Department of Justice is responsible for prosecution of the alleged violations of criminal statute involved (Section 1464, Title 18, United States Code), the Commission is authorized to impose certain sanctions on broadcast licensees for violation of this statute, including revocation of license or the imposition of a monetary forfeiture. However, both the Commission and the Department of Justice are governed by past decisions of the courts as to what constitutes profanity or obscenity, and the broadcast of material which may be offensive to many persons would not necessarily be held by the courts to violate the statute.

10. Criticism of Laws or Government. The courts have held that the First Amendment to the United States Constitution guarantees free speech with certain very limited exceptions, such as expressions which "constitute a clear and present danger of serious substantive evil." Thus, broadcasts of views opposing existing laws or criticizing social conditions, government activities or officials are protected by Constitutional guarantees of free speech.

11. Programs Which Reflect Upon Religion, Race or National Background. Programs containing criticism, ridicule or humor concerning the religious beliefs, race or national background of persons or groups are sometimes the subjects of complaints received by the Commission. Such broadcast matter, however offensive it may sometimes be, also enjoys the protection of the Constitutional guarantees of free speech. As the Commission stated, in part, in its Memorandum Opinion and Order of January 22, 1964, concerning the license renewal of the Pacifica Foundation stations:

"We recognize that as shown by the complaints here, such provocative programming as here involved may offend some listeners. But this does not mean that those offended have the right, through the Commission's licensing power, to rule such programming off the airwaves. Were this the case, only the wholly inoffensive, the bland, could gain access to the radio microphone or TV camera. No such drastic curtailment can be countenanced under the Constitution, the Communications Act, or the Commission's policy, which has consistently sought to insure the maintenance of radio and television as a medium of freedom of speech and freedom of expression. In saying this, we do not mean to indicate that those who have complained about the foregoing programs are in the wrong as to the worth of these programs and should listen to them. This is a matter solely for determination by the individual listeners."

12. News Programs. The Commission sometimes receives allegations that a network, station or newscaster has distorted or suppressed news, or unduly emphasized certain aspects of the news, or has staged, instigated or fabricated news occurrences. The Commission will not attempt to substitute its judgment of news values for those of a licensee, but the deliberate distortion, slanting or "staging" of news by broadcast stations would be patently inconsistent with the public interest and would call for remedial action by the Commission. However, the Commission in order appropriately to commence action in this sensitive area must receive significant extrinsic evidence of such deliberate distortion as, for example, statements by individuals who have personal knowledge that the news was deliberately distorted or fabricated. Were this Commission to proceed upon the basis simply of what was said over the air, it would be in the position of determining the "truth" of each factual situation, evaluating the degree to which the matter complained of departed from the "truth," and, finally, calling upon the licensee to explain the deviation. The Commission believes that such activities on its part would be inappropriate for a Government licensing agency.

13. Violence and Crime in Programming. This Commission will cooperate in every feasible way with the work of governmental groups studying the possible influence upon human behavior of the depiction of crime or violence in broadcast programs and will take cognizance of any findings which may result from these studies. The Commission will of course be governed by any legislation which may be enacted by the Congress in this area. Meanwhile, it believes that Section 326 of the Act precludes action by the Commission to restrict such programming, either in news programs or in dramatic or advertising material. In this connection, it should be stressed that there is no law prohibiting programs which depict cruelty to animals, and the Commission does not attempt to assert any jurisdiction which could be construed as censorship with respect to such programming.

14. Cigarette Advertising. Although legislation to prohibit cigarette advertising has been introduced by members of Congress in the past, no such legislation has been enacted. However, the Commission on February 15, 1969 announced a rule-making procedure proposing to ban or otherwise restrict the broadcast of cigarette advertising unless Congress itself takes further action in this area. The Commission had previously ruled that any licensee who broadcasts cigarette advertising is obligated to devote "a significant amount of time to the other side of this controversial issue of public importance--i.e., that however enjoyable, such smoking may be a hazard to the smoker's health."

15. Alcoholic beverages. The Congress has enacted no law prohibiting the broadcast advertising of alcoholic beverages. However, the radio and television codes of the National Association of Broadcasters forbid the advertising of hard liquor and establish guide-lines for advertising wine and beer and for the depiction of the use of alcoholic beverages in television programs. These codes are aspects of self-regulatory activities among broadcasters. Membership in the NAB and subscription to its codes are entirely voluntary on the part of broadcast licensees.

16. Other Advertising Complaints and Inquiries.

(a) Amount of Advertising. There is no statute or regulation which limits the amount of commercial material which may be broadcast in any given period of time. On the other hand, the licensee is not required to accept any and all advertising matter which may be offered for broadcast. However, when applying for a license or renewal thereof, the applicant is required to state the maximum amount of commercial matter which he proposes normally to allow in any 60-minute segment. If the applicant proposes to permit this amount to be exceeded at times, he is required to state under what circumstances and how often this is expected to occur, and the limits that would then apply. In addition, each applicant for renewal of license is required to inform the Commission of the maximum amount of commercial matter per hour actually broadcast during his past license period. Commercial time is measured in total minutes rather than by number of announcements. Public service announcements are not computed as commercial time, nor are unsponsored time signals, routine weather announcements, and station promotion announcements.

(b) Advertising in Bad Taste. In matters of questionable taste or propriety, the Commission urges concerned citizens to make their views known directly to the broadcasters of the particular advertisements which are considered offensive.

(c) False or Misleading Advertising. The Federal Trade Commission (Pennsylvania Avenue and Sixth Street, N.W., Washington, D. C. 20580) has the primary responsibility for determining whether advertising is false or deceptive and for taking appropriate action against the sponsors of such material. This Commission, however, holds broadcast licensees responsible for exercising reasonable diligence to prevent the use of their facilities for false advertising, and the Commission makes inquiry into complaints which appear to involve a failure to exercise such responsibility.

(d) Loud Commercials. The Commission also receives complaints that certain broadcast advertising is objectionably loud. The Commission has made extensive inquiries into this problem and has concluded that although no method apparently has been developed whereby the objectionable quality of "loudness" can be measured objectively, many factors pertaining to "loudness" can be controlled by broadcasters. Accordingly, the

Commission amended its rules to this end. It also issued a policy statement setting forth the various methods by which "loudness" can be controlled, and requested broadcast licensees to take appropriate measures to adhere to the policy. Following these actions by the Commission, there has been a marked decrease in the number of complaints received on this subject. However, the Commission makes inquiry into each such complaint it receives if the complainant states the call letters of the station which broadcast the commercial, describes the commercial or lists its sponsor, and specifies the date and approximate time of the broadcast.

(e) Subliminal Advertising. The Commission receives complaints regarding the supposed use of subliminal techniques in television advertising. Such complaints usually concern words and pictures flashed briefly on the screen but of which the viewer is consciously aware. However, subliminal advertising would not be consciously perceived by viewers, since it is designed to be perceived on a subconscious level only. The Commission knows of no instance of its present use on television. Industry self-regulation appears to have eliminated it altogether from broadcasting. The practice is forbidden under the National Association of Broadcasters' television code.

17. Private Controversies; Miscellaneous Claims Against Stations; Contests; Lotteries.

(a) Controversies & Claims. The Commission does not attempt to resolve private controversies involving broadcasting stations, and generally leaves the enforcement of individual claims to the parties involved. It cannot, for example, collect contest prizes for participants, secure delivery of merchandise ordered through broadcast stations or enforce claims against stations for payment of wages or other debts. However, it is the Commission's duty to consider practices which might reflect upon either the character or financial qualifications of a broadcast licensee or which could adversely affect the ability of the broadcast industry to serve the public interest. Consequently, it will make inquiry into complaints regarding any of the above matters which may raise such questions regarding the qualification of the licensee.

(b) Improperly Conducted Contests. It is a violation of law to prearrange or predetermine the outcome of any purportedly bona fide contest of skill or intellectual knowledge or chance with the intention of deceiving the broadcast audience regarding such contest.

(c) Lotteries. It is illegal to broadcast any information concerning a lottery. A lottery is a game, contest or promotion which combines the three elements of (1) a prize, (2) dependence in whole or in part upon chance in determining winners, and (3) the requirement that contestants purchase anything or contribute something of value in order to compete.

ADDENDUM

The addresses of the major communications networks are as follows:

1. National Broadcasting Company, Inc.
30 Rockefeller Plaza
New York, New York 10020
2. American Broadcasting Companies, Inc.
1330 Avenue of the Americas
New York, New York 10019
3. Columbia Broadcasting System, Inc.
51 West 52nd Street
New York, New York 10019
4. Mutual Broadcasting System
135 West 50th Street
New York, New York 10019

The National Association of Broadcasters, an industry group formed by the broadcasters themselves, is located at 1771 N Street, N.W., Washington, D. C. 20036. The NAB has established programming and advertising codes for the industry, and can provide information upon request regarding its radio and television codes. Membership in the Association and subscription to its codes are voluntary on the part of each licensee.

Other industry groups and associations include the following:

National Religious Broadcasters
210 North Broadway, St. Louis, Missouri 63102
(This is an association of religious or church-related groups which hold broadcast licenses.)

National Association of Educational Broadcasters;
and Joint Council on Educational Telecommunications
1346 Connecticut Avenue, N.W.
Washington, D. C. 20036

National Educational Television
10 Columbus Circle, New York, New York 10019
(A program producing and distributing group.)

A number of groups have been organized for the purpose of expressing their collective opinions on broadcast programs and achieving changes

in programming which are deemed desirable. The principal groups are:

National Citizens Committee for Broadcasting
609 Fifth Avenue, New York, New York 10017

National Association for Better Broadcasting
(formerly National Association for Better
Radio and Television), 373 North Western Avenue,
Los Angeles, California 90004

American Council for Better Broadcasts, Inc.
15 West Main, Madison, Wisconsin 53703

Broadcasting Yearbook is published annually by Broadcasting Publications, Inc., and may be purchased by writing to the publisher at 1735 DeSales Street, N.W., Washington, D. C. 20036. This publication is primarily a guide for broadcasters and advertisers, but it contains a list of the radio and television stations licensed by this Commission, with certain other information including the power and frequency of each station, its studio location, and the name and address of the licensee of each.

Television Factbook is published annually by Television Digest, Inc., and may be purchased by writing to the publisher at 2025 Eye Street, N.W., Washington, D. C. 20006. This publication is also designed to provide information for broadcasters and advertisers, and is devoted exclusively to television broadcasting stations and activities.