

**HOW TO PROTECT
CITIZEN RIGHTS IN TELEVISION
AND RADIO**

Office of Communication, UNITED CHURCH OF CHRIST
289 Park Avenue South, New York, N. Y. 10010
212-475-2127



Before they are granted license's to operate, television and radio stations must agree to serve the public interest through their programs. This booklet is a guide to help citizens and organizations to evaluate the extent to which stations in their communities render service in behalf of community interest and issues, and to act to improve program services.

Why Are Television and Radio Important?

Television and radio are the leading channels of communication today. For millions of people they are the primary source of information about what is going on in the world and why. They provide news about daily events. They comment on those events and analyze their causes and importance. A national network newscaster develops a loyal following of his own. People watch his program every day. They rely on it to give them an accurate and unbiased report of the events of the day. They trust what he says, and believe that if he reports an event it must be important. The same is likely to be true in the case of a local newscaster, many of whom also develop loyal followings in their communities. Popular entertainers also evoke affection and trust. They become important leaders in setting tastes, and even in establishing opinions.

Television and radio educate, sometimes by chance, through such things as commercials. Sometimes commercial broadcasting educates by design in programs like *Romper Room* or early high school and college courses in mathematics, language, politics, and other subjects. Television and radio provide specialized coverage of subjects to interest particular groups in their viewing audience, as in the case of agricultural and farm market reports and in programs especially designed for children. They can stimulate public interest and concern over current issues, through documentary programs, or by discussions embodying political leaders and other qualified persons. They can be a force for reform through such devices as station editorials. They can, and do sell products better than any other medium, as the number and frequency of commercials attests. They can and do entertain.

Radio and television, to repeat, are primary channels of communication. What they do can have a tremendous impact on a community. Upon these media, therefore, rests a great responsibility to use the influence they have to promote the best interests of the communities they serve.

Furthermore, they are required by law to broadcast in "the public interest, convenience or necessity," that is, to put the public interest above the private interest of the individual broadcaster and above his eagerness to make the largest possible amount of money out of his station license.

It is exactly because television and radio are such important means of communication that thoughtful people are concerned about what they carry in the way of programs and what they do not carry.

In a time of crisis—as when Dr. Martin Luther King was assassinated—television can play an important part in drawing the people of the nation closer together. It can be an important means of maintaining peace and order at a time when tensions and emotions run high. On the other hand, many Negroes feel that both television and radio have unfairly reported the needs, interests, and life of the Negro and hence have served to widen the gap of misunderstanding between whites and blacks. This conclusion is shared by the President's Commission on Civil Disorders which said: "Important segments of the media failed to report adequately on the causes and consequences of civil disorders and on the underlying problem of race relations. They have not communicated to the majority of their audience—which is white—a sense of the degradation, misery, and hopelessness of life in the ghetto."

On occasion Negroes have made specific complaints against the media: that Negroes seldom appear on programs, that the viewpoint of Negro leaders is poorly reported, that Negro leaders appear much less often than do white leaders, that Negroes are not accorded the same kind of respect and courtesy normally accorded whites, and that Negroes are all too often treated as if they were a group of second-class citizens, trouble makers, shiftless, uncouth, and irredeemable.

But Negroes are not the only ones who complain about television and radio. For years various groups and individuals—color aside—have been concerned about the amount of programming devoted to extremist propaganda, aimed to shake people's faith in American institutions; about personal attacks made on persons and groups who are given no chance to defend themselves; about the amount of time given over to commercials; about the amount of time allocated to entertainment programs as against those of a more constructive nature; about the lack of quality in children's programs; about the dullness of many religious programs; about the scarcity of time devoted to covering local community affairs and the lack of serious public affairs programs; about the imbalance often present in the viewpoints expressed when such public affairs programs are broadcast, about the bias evident in news programs and station editorials.

What can be done about these complaints? What can the average citizen do if he wants to make television and radio a better and more constructive means of communication? By way of beginning to answer this question let us first review what the responsibilities of a broadcasting station are and how its obligations are enforced.

The Communications Act of 1934

The American system of broadcasting was established by an Act of Congress, the *Communications Act of 1934*. Under its provisions the limited number of wave lengths—usually called “frequencies”—on which radio and television stations can operate are declared to be public property. They must be used “in the public interest, convenience, or necessity,” said the Congress. Radio and television belong to the American people.

In theory, there are three parties who participate in the American system of broadcasting: the public, the government, and the broadcasters. The public has the most at stake. It has the right to service, and the responsibility to see that service is provided. Through a government agency, the Federal Communications Commission (FCC) broadcasters are granted a temporary privilege to use the public's air waves. The broadcaster's use of the public's air is limited and conditional. While he is engaged in private, competitive enterprise, he must subordinate his quest for profit to the public interest. The FCC, as guardian of the public domain, has the responsibility to insure that the public interest is served by each broadcaster.

The Federal Communications Commission

The FCC is a board of seven men appointed by the President. They and their staff have the responsibility of assigning the use of broadcast frequencies to the individual stations. (Networks are voluntary associations of stations. They are not licensed by the FCC.) Licenses are granted to radio and television stations for a period of three years. The broadcaster is legally required to sign a waiver acknowledging that he has no permanent right to the frequency on which he operates. According to the law, a license can be renewed only after the FCC is convinced that the broadcaster is satisfactorily meeting his obligations to the public. Although the FCC is denied the power of being a censor, it may decline to renew a station license if the station is found to be disregarding its obligations. (*For an overall view of what these obligations are, read the printed statement which appears as an appendix to this background paper. That statement is part of the formal document which a station license holder must complete and file with the FCC when he applies for a renewal of his station's license. It presents a general summary of the obligations which the station license holder must agree to accept before his station's license may be renewed.*)

The Broadcaster's Responsibility

As trustee in the use of an assigned frequency, the broadcaster is charged with definite responsibilities. Above all, the Communications Act requires that he operate his station "in the public interest, convenience, or necessity." The FCC does not prescribe the station's programming policy. It may not censor anything that goes on the air. It does set guidelines and procedures through which the broadcaster may ascertain the public tastes and needs of his community. The broadcaster is required to consult with members of the listening public and with leaders in community life to determine how best to serve the interests of the people in the area covered by his signal. The broadcaster must demonstrate to the FCC that he has, in fact, surveyed his community, must present program proposals to meet the needs and interests he has discovered, and must promise to fulfill his prescription for service over the three-year term of his license. The same procedures of consultation, analysis of community needs, and proposal of programming to fulfill the needs and desires of the audience must be repeated every three years for the station to qualify for license renewal.

The FCC has identified as "the major elements usually necessary to meet the public interests, needs and desires of the community in which the station is located": 1. opportunity for local self-expression, 2. the development and use of local talent, 3. programs for children, 4. religious programs, 5. educational programs, 6. public affairs programs, 7. editorialization by licensees, 8. political broadcasts, 9. agricultural programs, 10. news programs, 11. weather and market reports, 12. sports programs, 13. service to minority groups, and 14. entertainment programs. Normally, a station is expected to present programs on a regular basis that cover all of these interests and activities.

Adequate attention given to each of these program interests is acceptable to the Commission as valid effort to establish a balanced program schedule. The broadcaster is obliged to offer balanced programming, regardless of whether or not he is able to realize a profit on all presentations. Indeed, there are bound to be some programs which are either not conducive to or are inappropriate for commercial sponsorship. The broadcaster is also required to serve non-profit organizations in his community. Sustaining programs, those programs which are presented at the expense of the station, must be used by the broadcaster to fulfill those community interests and needs which are not dealt with in sponsored programs.

The Fairness Doctrine

The presentation of news and public affairs programs is perhaps the single most important public service rendered to its community by a radio or television station. Through such programs, broadcasting fosters the dialog that makes democracy work. The broadcaster's responsibility to the public interest accords him special obligations in this sensitive area. The FCC requires of the station another kind of program balance: fairness in the handling of controversial issues of public importance.

A broadcaster is not permitted to use his facilities solely for the presentation of his own point of view or of the views of those who purchase the time he offers for sale. He is obliged to provide coverage of controversial issues. Further, he has the responsibility to see that listeners hear all significant viewpoints concerning the issues presented. This policy has been enunciated by the FCC. It is known as the Fairness Doctrine.

In addition to these general requirements of fairness, if in the course of a discussion of controversial issues a personal attack is made upon the honesty, character, or integrity of a person or group, the broadcaster must notify those attacked and provide them adequate free time to reply. Personal attacks made upon public officials and foreign persons or groups, attacks by political candidates and their spokesmen on each other, or attacks made during bona fide newscasts or coverage of bona fide news events are excluded under this ruling.

How the System Really Functions

Thus far we have dealt with the American system of broadcasting as the law provides it should function. There is a good deal of difference between that ideal and reality. First, the broadcaster is in business to make a profit. The responsibility to serve the public interest is never his main concern, least of all if that obligation seems to interfere with his private income. It is unrealistic to expect broadcasters voluntarily to subordinate their business interests to the needs and interest of the public.

With nearly 6,000 radio and 1,000 television stations in the United States, it also is unrealistic to expect that the FCC in Washington, D.C., can police the stations adequately and guarantee that the public interest is being served in all localities. The Commission, at best, will listen to complaints from the public and, infrequently,

intervene in cases of proven abuse of the requirements of the Communications Act. The public, too often, is disorganized and is plagued by apathy and indifference about the functioning of its broadcast stations. More importantly, the public is not informed about its rights and responsibilities with respect to the operation of stations. The broadcasting industry has built up powerful trade interests which are well represented at all levels of government, while the public is seldom heard. Therefore, stations operate pretty much as they please, without fear of being penalized for other than the most flagrant violations of the Communications Act.

The Public—The Missing Link

By now it should be obvious that the missing element in our scheme of broadcasting is the public itself. What the public has a right to expect from its radio and television stations has been discussed already. But along with rights come attendant responsibilities. Just as you are concerned with the kind of education that is offered in your schools, the police and fire protection provided in your community, and the health care available in your hospitals, you should concern yourself with the radio and television fare which is served up in your home. You and your fellow citizens have an obligation to participate in the broadcasting being done in your community.

The following questions should be considered in evaluating the present nature of broadcasting by stations in your community.

1. Does the station make a serious effort to consult with representatives of community groups about the kind of programming it is providing and how it might improve its service?
2. Does the station present a balanced program schedule, offering programs in such of the fourteen areas enumerated by the FCC as represent local needs?
3. Does the station program discussion of controversial issues that are important to the community? Does this programming give opposing points of view the opportunity to be heard or does it give voice to only one point of view? Are members of minority groups featured in discussions of community issues? Are news and documentary programs biased toward one viewpoint or a limited number of viewpoints?
4. Do announcers or guests of the station attack individuals or groups? Does the station feature "call-in" programs on which

anonymous callers are allowed to make attacks on individuals or organizations? If such attacks are made, does the station offer those attacked an immediate opportunity to reply?

5. How much time does the station devote to public service broadcasting for non-profit organizations within the community? Are these programs aired during hours when people are likely to be viewing or listening or are they on the air at times when people are in bed, at meals, or in church? Are the programs aimed at a variety of audiences, or are they dominated by a particular segment of the community?
6. Are the interests, tastes, needs, and desires of minority groups, such as Negroes and Puerto Ricans, adequately served? Do Negroes, for example, receive treatment equal to that accorded to whites? Do they appear regularly on the station on all types of programs at all times of day? Are racial issues and the affairs of the Negro community dealt with fairly and objectively? Do Negro leaders have regular access to the station to present their views? Are the lives and problems of Negroes portrayed to the whole community with depth and meaning?

If the answers to any of these questions indicate that a station is not living up to its responsibilities to the public, you may want to pursue the matter further. Remember, there is strength in numbers. Although any person is entitled to complain to the FCC, the more representative of the public as a whole the suggestion or complaint is, the more likely it is to be given serious consideration.

Seek out other individuals and organizations in your community that share your concern. Join with them in deciding what practices in broadcasting you find objectionable and how radio and television service can be improved. Remember, however, that you are exercising an important responsibility. If you seek to use your organization's power merely to censor unpopular broadcasters or to keep points of view other than your own from being heard, you will make a mockery of the right of the public to broadcast service.

The best way to make sure that a station will act responsibly is to let its management know that you are interested in its performance. Keep station management informed about your suggestions and complaints, but also about the things you like about its programming. Sometimes you will be able to talk things over and improve your

broadcast service. However, it is possible that the broadcaster will reject your overtures. He may even deny that you have any right to interest yourself in broadcasting affairs.

A Significant Court Decision

If a broadcaster does not live up to his responsibilities, the public has a right to demand that his license be taken away and given to a licensee who will act in the public interest. The Office of Communication of the United Church of Christ made such a demand in 1964 when it petitioned the FCC to deny license renewal to Jackson, Mississippi, television stations WLBT and WJTV, on grounds that they consistently discriminated against their Negro viewers who constituted 45 per cent of their audience.

The FCC ordered the two stations to cease their discrimination practices, but refused to hold a hearing to determine whether or not their licenses should be revoked, or to give legal standing to the church body.

An appeal of the FCC ruling in respect to WLBT to the United States Circuit Court of Appeals resulted in a landmark decision that reversed the FCC on all issues and ruled that public groups do have standing to intervene in radio and television station licensing procedures.

The Circuit Court decided that responsible community organizations such as "civic associations, professional societies, unions, churches, and educational institutions or associations" have the right to contest the renewal of the license of a station which ignores its public responsibilities. Previously, only those who had a financial stake in stations ownership were permitted by the FCC to intervene in its licensing procedures.

Many broadcasters say that restrictions on their operations are a violation of their right of free speech. On the contrary, the courts have consistently ruled that the freedom of speech clause of the First Amendment applies not to the broadcaster but to the public, and not only permits but requires that licensees be regulated so as to insure that all viewpoints are heard over their stations.

In the WLBT case, the Circuit Court of Appeals ruled that "a broadcaster seeks and is granted a free and exclusive use of a limited and valuable part of the public domain; when he accepts that franchise, it is burdened by enforceable public obligations."

Broadcasting in a Democracy

Television and radio provide unique and vital channels for the dissemination of news and information, the exchange of ideas, the presentation of programs that can set tastes and desires, and the influencing of cultural standards and practices. The broadcasting media exert a major influence on the lives of individuals and the public at large. This influence can be constructive or destructive, dependent upon the attitudes and activities of the managers of the television and radio stations and networks. It should not be expected that broadcasting will function primarily for the betterment of private and public life unless there is active participation by the public in the setting of policies, standards, and practices of the stations and networks.

Democracy is more than abstract ideal. Beyond its political manifestations through government by the people, it entails belief in the freedom, dignity, and individuality of man and faith that there is a purpose in human existence. The dynamism of democracy demands a continuous effort at betterment of self and society, which in turn requires involvement by each person in the processes of democratic living.

An informed public is essential to the operation of democratic processes. The individual must be constantly exposed to a free flow of ideas. He must be informed about the issues and problems that face the nation, his community, and himself, and he must understand proposed solutions. Broadcasting has a dual role in this process. It is a means of keeping dialog flowing. It is also an institution whose function is peculiarly the responsibility of the individual citizen and the primary groups to which he belongs. It is essential that each citizen understand the ground rules under which the broadcasting system operates, and that each person decide for himself whether or not broadcasting is living up to its potentials and obligations and that he support its successes and help rectify its shortcomings.

Where to Get Help

If you or an organization to which you belong feel that one or more of the radio or television stations in your community is not meeting its responsibilities to the public and that station management is unresponsive to the suggestions or complaints of substantial segments of the public, there are organizations that can help you have

your views considered by the station. If you write for help, be sure to describe your problem in detail. Among organizations that are helping community groups to achieve balanced programming are:

1. Anti Defamation League of B'nai Brith
315 Lexington Avenue
New York, New York 10016
2. Broadcasting and Film Commission
National Council of the Churches of Christ in the U.S.A.
475 Riverside Drive
New York, New York 10027
3. Institute for American Democracy
Suite 101
1330 Massachusetts Avenue, N.W.
Washington, D. C. 20005
4. Office of Communication
United Church of Christ
289 Park Avenue South
New York, New York 10010

The address of the FCC is:

Federal Communications Commission
1919 M Street N.W.
Washington, D.C. 20554

APPENDIX

STATEMENT ON PROGRAM SERVICE
(Attachment A of FCC Form 301)

Attention is invited to the Commission's "Report and Statement of Policy Re: Commission En Banc Programming Inquiry" released July 29, 1960 — FCC 60-970 (25 Federal Register 7291; 20 Pike and Fischer Radio Regulation 1902).

Pursuant to the Communications Act of 1934, as amended, the Commission cannot grant, renew or modify a broadcast authorization unless it makes an affirmative finding that the operation of the station, as proposed, will serve the public interest, convenience and necessity. Programming is of the essence of broadcasting.

A broadcast station's use of a channel for the period authorized is premised on its serving the public. Thus, the public has a legitimate and continuing interest in the program service offered by the station, and it is the duty of all broadcast permittees and licensees to serve as trustees for the public in the operation of their stations. Broadcast permittees and licensees must make positive, diligent and continuing efforts to provide a program schedule designed to serve the needs and interests of the public in the areas to which they transmit an acceptable signal.

In its above-referenced "Policy Statement," the Commission has indicated the general nature of the inquiry which should be made in the planning and devising of a program schedule:

"Thus we do not intend to guide the licensee along the path of programming; on the contrary, the licensee must find his own path with the guidance of those whom his signal is to serve. We will thus steer clear of the bans of censorship without disregarding the public's vital interest. What we propose will not be served by pre-planned program format submissions accompanied by complimentary references from local citizens. What we propose is documented program submissions prepared as the result of assiduous planning and consultation covering two main areas: first, a canvass of the listening public who will receive the signal and who constitute a definite public interest figure; second, consultation with leaders in community life — public officials, educators, religious (groups), the entertainment media, agriculture, business, labor, professional and eleemosynary organizations, and others who bespeak the interests which make up the community." Over the years, experience has shown both broadcasters and the

Commission that certain recognized elements of broadcast service have frequently been found necessary or desirable to serve the broadcast needs and interests of many communities. In the Policy Statement, referred to above, the Commission set out fourteen such elements. The Commission stated:

"The major elements usually necessary to meet the public interest, needs and desires of the community in which the station is located as developed by the industry, and recognized by the Commission, have included: (1) Opportunity for Local Self-Expression, (2) The Development and Use of Local Talent (3) Programs for Children, (4) Religious Programs, (5) Educational Programs, (6) Public Affairs Programs, (7) Editorialization by licensees, (8) Political Broadcasts, (9) Agricultural Programs, (10) News Programs, (11) Weather and Market Reports, (12) Sports Programs, (13) Service to Minority Groups, (14) Entertainment Programming."

It is emphasized that broadcasters, mindful of the public interest, must assume and discharge responsibility for planning, selecting and supervising all matter broadcast by their stations, whether such matter is produced by them or provided by networks or others. This duty was made clear in the Commission's Policy Statement, page 14, paragraph 3:

"Broadcasting licensees must assume responsibility for all material which is broadcast through their facilities. This includes all programs and advertising material which they present to the public. With respect to advertising material the licensee has the additional responsibility to take all reasonable measures to eliminate any false, misleading, or deceptive matter and to avoid abuses with respect to the total amount of time devoted to advertising continuity as well as the frequency with which regular programs are interrupted for advertising messages. This duty is personal to the licensee and may not be delegated. He is obligated to bring his positive responsibility affirmatively to bear upon all who have a hand in providing broadcast matter for transmission through his facilities so as to assure the discharge of his duty to provide (an) acceptable program schedule consonant with operating in the public interest in his community. The broadcaster is obligated to make a positive, diligent and continuing effort, in good faith, to determine the tastes, needs and desires of the public in his community and to provide programming to meet those needs and interests. This, again, is a duty personal to the licensee and may not be avoided by delegation of the responsibility to others."