

# FCC Backs Refusal of Union Air Time

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Only three days after the U.S. Court of Appeals ordered the Federal Communications Commission to allow a certain amount of controversial or political advertising on broadcast stations, the FCC yesterday upheld two major networks that refused to sell air time to a labor union.

The two networks, CBS and NBC, declined to allow the Communications Workers of America to buy 90-second radio spots to explain terms of the CWA's recently negotiated contract with the American Telephone and Telegraph Co. to 500,000 union members. A vote on the agreement is scheduled for Aug. 10.

The CWA subsequently purchased spot time on other radio stations, but argued that the NBC and CBS outlets represented its first choice.

The networks justified their refection on the FCC's long-standing policy that broadcasters should be permitted to

prohibit advertisements involving "controversial" public issues. The agency has traditionally maintained that broadcasters can treat these issues adequately in news and commentary programs.

But, on Tuesday, the U.S. Court of Appeals for the District of Columbia overturned an FCC decision in which the agency had sided with broadcasters that refused to sell air time to the Democratic National Committee and the Business Executives' Move for Vietnam Peace.

"We are convinced that broadcast advertising has great potential for enlivening and enriching debate on public issues, rather than drug-ging it with an overdose of non-ideas as is now the case," Judge J. Skelly Wright wrote in the 2-to-1 ruling reversing the FCC.

"The principle at stake here is one of fundamental importance: it concerns the people's right to engage in and to hear vigorous public debate on the broadcast media," he wrote.

Yesterday, in a 3-to-1 ruling, the FCC decided that the court decision did not automatically require NBC and CBS to sell time to the Communications Workers. Commissioner Nicholas Johnson dissented, and the other three members of the commission were out of town.

To justify their rejection of the CWA's complaint, the FCC majority pointed to another passage in the court's decision. The Court Said:

"We do not hold, however, that the planned announcements of the petitioners—or, for that matter, of any other particular applicant for air time—must necessarily be accepted by broadcast licensees. Rather, we confine ourselves to invalidating the flat ban (against controversial advertising) alone, leaving it up to the licensees (broadcasters) and the commission to develop and administer reasonable procedures and regulations determining which and how many

'editorial advertisements' will be put on the air."

The FCC said yesterday that it "has had insufficient opportunity to consider actions to be taken relevant to the court's recent decision" and ruled that "it would be inappropriate" to require NBC and CBS to carry the union's spot advertisements.

The commercials consisted of questions and answers about the contract, which provides for more than 31 per cent in wage increases over three years. In response to one question, the union says that the settlement is non-inflationary—a judgment which, the FCC said, "a substantial number of persons would consider controversial."

Johnson said the broadcasters could have met obligations under the "fairness doctrine" — requiring presentation of both sides of controversial "matters — by allowing opponents of the contract to buy advertising or setting aside "a very modest amount of free advertising time" for dissenters.