

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

March 21, 1972

IN REPLY REFER TO:

8330-Q  
C1-1235

Mr. Harold Weisberg  
Coq d'Or Press  
Route 8  
Frederick, Maryland 21701

Dear Mr. Weisberg:

This is in reference to your complaints against the Columbia Broadcasting System concerning matters discussed during the appearance of Mr. Percy Foreman on the "Merv Griffin Show," and against WJZ-TV, Baltimore, Maryland, concerning the two appearances of Mr. Jim Bishop on the "David Frost Show." You state that the above appearances involved controversial issues of public importance in connection with the assassination of Dr. Martin Luther King, Mr. James Earl Ray's role in the assassination, the fairness of Mr. Ray's trial, and, with further regard to Mr. Bishop's second appearance on the "David Frost Show," an assault on the character of Dr. King. You request that the Commission provide you with an adequate opportunity to present the other side of these issues. You have also requested, in a letter dated January 11, 1972, that you be allowed time to respond to an unidentified CBS broadcast which presented Dr. John K. Laftimer and apparently related to the assassination of President Kennedy.

The response from CBS states that the appearance of Mr. Foreman on the "Merv Griffin Show" was in connection with the appearance of four other prominent attorneys; that while there was a short discussion of the James Earl Ray case, reference to this particular case was made merely in passing during the course of a ninety-minute discussion by these attorneys on many areas of interest, including many famous past cases in which they had participated; that CBS provided significant coverage of the Martin Luther King assassination and the James Earl Ray case at the time of those events; that the discussion on the program did not raise a current controversial issue of public importance; and that CBS has acted reasonably and in good faith in rejecting your request for time under the fairness doctrine.

The response from WJZ-TV, Baltimore, Maryland, states that your request to appear on WJZ-TV's "Arnold Zenker Show" to discuss the subject matter of your book, which was denied, was made in the late winter of 1970-71; that you did not refer to any other WJZ-TV broadcast at or around that time relating to the subject; that Mr. Jim Bishop, author of The Day Martin Luther King Was Shot, did appear on the "David Frost Show" twice



in the fall of 1971; that during his first appearance Mr. Bishop expressed his reasons for the opinion that James Earl Ray was hired to assassinate Martin Luther King; that during his second appearance, the subject of James Earl Ray was not discussed, but that Mr. Bishop did discuss Dr. Martin Luther King and characterized him as an "intellectual coward"; that Barbara Walters, another guest on the show, disagreed vehemently with Mr. Bishop, as did Mr. Frost; that it is not clear what you contend were the controversial issues of public importance concerning which WJZ-TV has failed to air a reasonable scope of viewpoints; that while you mentioned "the avoidance of a trial for James Earl Ray," that subject was not discussed on the "David Frost Show" segments to which you refer; and that "The King Assassination," which occurred in 1968, was discussed in the fall 1971 "David Frost Shows" to a limited extent, but in the judgment of the station the discussion did not, at the time of broadcast in the fall of 1971, constitute the discussion of a "controversial issue of public importance" within the meaning of the fairness doctrine.

The fairness doctrine provides that if a licensee presents one side of a controversial issue of public importance, it is required to afford reasonable opportunity for the presentation of contrasting views. The fairness doctrine does not require that "equal time" be afforded for each side but that the licensee present contrasting views in its overall programming. Both sides need not be given in a single broadcast or series of broadcasts, and the licensee may exercise judgment in selecting the format to be employed and the persons he believes to be responsible representatives of the various contrasting views. No particular person or group is entitled to appear on the station since it is the right of the public to be informed which the fairness doctrine is designed to insure rather than the right of any individual to broadcast his views. The Commission will review pursuant to the fairness doctrine the licensee's decision generally only to determine whether the licensee has acted reasonably and in good faith under all of the circumstances.

Initially, whether or not any given problem is a controversial issue of public importance is thus determined by the individual licensee in accordance with paragraph 10 of the Report on Editorializing by Broadcast Licensees, 13 F.C.C. 1246 (1949), (included as Appendix A to the Public Notice of July 1, 1964, entitled Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance) which states, in part:

" . . . The licensee will in each instance be called upon to exercise his best judgment and good sense in determining what subjects should be considered, the particular format of the programs to be devoted to each subject the different shades of opinion to be presented, and the spokesmen for each point of view. In determining whether to honor specific requests for time, the station will inevitably be confronted with such questions as whether the subject is worth considering, whether



Mr. Harold Weisberg

3.

the viewpoint of the requesting party has already received a sufficient amount of broadcast time, or whether there may not be other available groups or individuals who might be more appropriate spokesmen for the particular point of view than the person making the request. . . ."

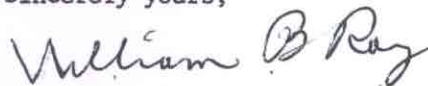
Although the assassination of Dr. King, Mr. Ray's role in the assassination, the fairness of Mr. Ray's trial, and the assassination of President Kennedy received wide and in-depth coverage by both the press and broadcasters when the events occurred and for a substantial time thereafter, including various opposing viewpoints, it does not appear that CBS and WJZ-TV have acted unreasonably or in bad faith in determining that a controversial issue of public importance no longer exists. Both events took place several years ago, and you have not provided any sufficient basis for your contention that these events currently are controversial issues of public importance. Even though an interesting topic open to varying viewpoints is discussed on a program, it does not necessarily follow that the topic is a controversial issue of public importance requiring fairness time for reply. "Merely because a story is newsworthy does not mean that it contains a controversial issue of public importance. Our daily papers and television broadcasts alike are filled with news items which good journalistic judgment would classify as newsworthy, but which the same editors would not characterize as containing important controversial public issues." Dorothy Healey v. F.C.C., \_\_\_\_\_ U.S. App. D.C. \_\_\_\_\_, \_\_\_\_\_ F. 2d \_\_\_\_\_ (Decided March 3, 1972, Case No. 24,630, Slip Op., p. 10).

The courts have also made it clear that the fairness doctrine does not create a right in any particular person or group to be granted time, that the fairness doctrine is issue oriented, and that it is sufficient for a licensee to show that it has presented the viewpoints advocated by a complainant. Green v. F.C.C., \_\_\_\_\_ U.S. App. D.C. \_\_\_\_\_, 447 F. 2d 333, 328 (1971).

Therefore, in view of the considerations set forth above it is believed that CBS and WJZ-TV acted reasonably and in good faith in denying your request for fairness time and that further action by the Commission is not warranted in this matter.

Staff action is taken here under delegated authority. Application for review by the full Commission may be requested within thirty (30) days by writing the Secretary, Federal Communications Commission, Washington, D.C. 20554, stating the factors warranting consideration. Copies must be sent to the parties to the complaint. See Code of Federal Regulations, Volume 47, Section 1.115.

Sincerely yours,



William B. Ray, Chief  
Complaints and Compliance Division  
for Chief, Broadcast Bureau

cc: Wallace Dunlap, Vice President,  
Westinghouse Broadcasting Co.  
CBS  
Joseph DeFranco, Esq.  
WJZ-TV  
Hedrick & Lane