

Who's Responsible for What's on the

BY CLAY T. WHITEHEAD

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Air?

Clay T. Whitehead is director of the White House Office of Telecommunications Policy. In a recent speech to the Indianapolis chapter of Sigma Delta Chi, the professional journalism fraternity, Mr. Whitehead, outlined proposed changes in Government policy. The speech caused a considerable furor in broadcasting circles. In the interest of giving the public a chance to become fully acquainted with the text, we reprint it below.

IN this calm during the holidays, we in Washington are thinking ahead to 1973; among other things, planning our testimony before Congressional committees. For my part, I am particularly concerned about testimony on broadcast license renewal legislation.

Broadcasters are making a determined push for some reasonable measure of license renewal security. Right now they are living over a trap door the Federal Communications Commission can spring at the drop of a competing application or other renewal challenge. That is a tough position to be in, and, considering all the fuss about so-called "intimidation," you would think that there wouldn't be much opposition to giving broadcasters a little more insulation from Government's hand on that trap door.

But there is opposition. Some tough questions will be asked—even by those who are sympathetic to broadcasters. Questions about minority groups' needs and interests. Questions about violence. Questions about children's programming, about reruns, about commercials, about objectivity in news and public affairs programming. In short, all questions about broadcasters' performance in fulfilling their public trust.

These are questions the public is asking. Congress is asking the questions, too; Senator Pastore on violence; Senator Moss on drug ads; Representative Staggers on news misrepresentations. Despite this barrage of questioning, the Congress is being urged to grant longer license terms and renewal protection to broadcasters. Before voting it up, down or around, the Congress will have to judge the broadcasters' record of performance.

And where do we see that performance? It leaps out at you every time you turn on a TV set, and it's definitely not all that it could be. How many times do you see the rich variety, diversity and creativity of America represented on the TV screen? Where is the evidence of broadcasters doing their best to serve their audiences, rather than serving those audiences up to sell to advertisers? And, most disturbing of all, how do broadcasters demonstrate that they are living up to the obligation—as the FCC puts it—to "assume and discharge responsibility for planning, selecting and supervising all matter broadcast by the stations, whether such matter is produced by them or provided by networks or others"?

It's been easy for broadcasters to give lip service to the uniquely American principle of placing broadcasting power and responsibility at the local level. But it has also been easy—too easy—for broadcasters to turn around and sell their responsibility along with their audiences to a network at the going rate for affiliate compensation.

The ease of passing the buck to make a buck is reflected in the steady increase in the amount of network programs carried by affiliates between 1960 and 1970. It took the FCC's Prime Time Access Rule to reverse

this trend, but even so, the average affiliate still devotes over 61 per cent of his schedule to network programs.

This wouldn't be so bad if the stations really exercised some responsibility for the programs and commercials that come down the network pipe. But all that many affiliates do is flip the switch in the control room to "network," throw the "switch" in the mailroom to forward viewer complaints to the network, sit back and enjoy the fruits of a very profitable business.

Please don't misunderstand me when I stress the need for more local responsibility. I'm not talking about locally produced programs, important though they are. I'm talking now about licensee responsibility for all programming, including the programs that come from the network.

This kind of local responsibility is the keystone of our private enterprise broadcast system operating under the First Amendment protections. But excessive concentration of control over broadcasting is as bad when exercised from New York as when exercised from Washington. When affiliates consistently pass the buck to the networks, they're frustrating the fundamental purposes of the First Amendment's free press provision.

The press isn't guaranteed protection because it's guaranteed to be balanced and objective—to the contrary, the Constitution recognizes that balance and objectivity exist only in the eye of the beholder. The press is protected because a free flow of information and giving each "beholder" the opportunity to inform himself is central to our system of government. In essence, it's the right to learn instead of the right to be taught. The broadcast press has an obligation to serve this free flow of information goal by giving the audience the chance to pick and choose among a wide range of diverse and competing views on public issues.

This may all seem rather philosophical. Cynics may argue that all television, even the news, is entertainment programming. But in this age when television is the most relied upon and, surprisingly, the most credible of our media, we must accept this harsh truth: The First Amendment is meaningless if it does not apply fully to broadcasting. For too long we have been interpreting the First Amendment to fit the Communications Act of 1934. As many of you know, a little over a year ago I suggested ways to correct this inversion of values. One way is to eliminate the FCC's Fairness Doctrine as a means of enforcing the broadcasters' fairness obligation to provide reasonable opportunity for discussion of contrasting views on public issues.

Virtually everyone agrees that enforcement of the Fairness Doctrine is a mess. Detailed and frequent court decisions and FCC supervision of broadcasters' journalistic judgment are unsatisfactory means of achieving the First Amendment goal for a free press. The FCC has shown signs of making improvements in what has become a chaotic scheme of Fairness Doctrine enforcement. These improvements are needed. But the basic Fairness Doctrine approach, for all its problems, was, and for the time being will remain a necessity, albeit an unfortunate necessity. So, while our long-range goal should be a broadcast media structure just as free of Government intrusion, just as competitive, just as diverse as the print media, there are three harsh realities that make it impossible

to do away with the Fairness Doctrine in the short run.

First, there is a scarcity of broadcasting outlets. Second, there is a substantial concentration of economic and social power in the networks and their affiliated TV stations. Third, there is a tendency for broadcasters and the networks to be self-indulgent and myopic in viewing the First Amendment as protecting only their rights as speakers. They forget that its primary purpose is to assure a free flow and wide range of information to the public. So we have license renewal requirements and the Fairness Doctrine as added requirements—to make sure that the networks and stations don't ignore the needs of those 200 million people sitting out there dependent on TV.

But this doesn't mean that we can forget about the broader mandates of the First Amendment, as it applies to broadcasting. We ought to begin, where we can, to change the Communications Act to fit the First Amendment. That has always been and continues to be the aim and intent of this Administration. We've got to make a start and we've got to do it now.

This brings me to an important first step the Administration is taking to increase freedom and responsibility in broadcasting.

The Office of Telecommunications Policy has submitted a license renewal bill for clearance through the executive branch, so the bill can be introduced in the Congress early next year. Our bill doesn't simply add a couple of years to the license term and guarantee profits as long as broadcasters follow the FCC's rules to the letter. Following rules isn't an exercise of responsibility; it's an abdication of responsibility. The Administration bill requires broadcasters to exercise their responsibility without the convenient crutch of FCC program categories or percentages.

The way we've done this is to establish two criteria the station must meet before the FCC will grant renewal. First, the broadcaster must demonstrate he has been substantially attuned to the needs and interests of the communities he serves. He must also make a good-faith effort to respond to those needs and interests, irrespective of whether those programs are created by the station, purchased from program suppliers, or obtained from a network. The idea is to have the broadcaster's performance evaluated from the perspective of the people in his community and not the bureaucrat in Washington.

Second, the broadcaster must show that he has afforded reasonable, realistic, and practical opportunities for the presentation and discussion of conflicting views on controversial issues.

I should add that these requirements have teeth. If a station can't demonstrate meaningful service to all elements of his community, the license should be taken away by the FCC. The standard should be applied with particular force to the large TV stations in our major cities, including the 15 stations owned by the three TV networks and the stations that are owned by other large broadcast groups. These broadcasters, especially, have the resources to devote to community development, community service, and programs that reflect a commitment to excellence.

The community accountability standard will have spe-

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If the programs or commercials glorify the use of drugs, if the programs are violent or sadistic, if the commercials are false or misleading, or simply intrusive and obnoxious, the stations must jump on the networks rather than wince at the Congress and the FCC are forced to do so.

There is no area where management responsibility is more important than news. The station owners and managers cannot abdicate responsibility for news judgments. When a reporter or disk jockey slips in or passes over information in order to line his pocket, that's plugola and management would take quick corrective action. But men also stress or suppress information in accordance with their beliefs. Will station licensees or network executives also take action against this ideological plugola?

Just as a newspaper publisher has responsibilities for the wire service copy that appears in his newspapers, so television station owners and managers must have full responsibility for what goes out over the public's airwaves, no matter what the origin of the program. There should be no place in broadcasting for the "rip and read" ethic of journalism.

Just as publishers and editors have professional responsibility for the news they print, stations and licensees have final responsibility for news balance, whether the information comes from their own newsroom or from a distant network. The old refrain that "we had nothing to do with that report, and could do nothing about it" is an evasion of responsibility and unacceptable as a defense.

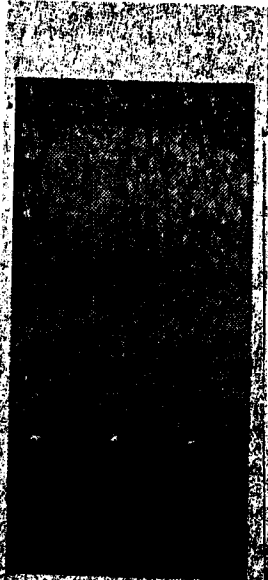
Broadcasters and networks took decisive action to insu-

late their news departments from the sales departments when charges were made that news coverage was biased by commercial considerations. But insulating station and network news departments from management oversight and supervision has never been responsible and never will be. The First Amendment's guarantee of a free press was not supposed to create a privileged class of men called journalists who are immune to criticism by Government or restraint by publishers and editors. To the contrary, the working journalist, if he follows a professional code of ethics, gives up the right to present his personal point of view when he is on the job. He takes on a higher responsibility to the institution of a free press, and he cannot be insulated from the management of that institution.

The truly professional journalist recognizes this responsibility to the institution of a free press. He realizes that he has no monopoly on the truth; that a pet view of reality can't be insinuated into the news. Who else but management, however, can assure that the audience is being served by journalists dedicated to the highest professional standards? Who else but management can or should correct so-called professionals who confuse sensationalism with sense and who dispense elitist gossip in the guise of news analysis?

Where there are only a few sources of national news on television, as we now have, editorial responsibility must be exercised more effectively by local broadcasters and by network management. If they do not provide the checks and balances in the system, who will?

Station managers and net-



WEDDING PAID

Robert Leggett, the
leading member of the
Children's...
reached its...
since 1914...

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at license renewal time.

Over a year ago I in-
cluded a speech in an ad-
dress of broadcasters and net-
work officials by stating that

"There is a world of dif-
ference between the profes-
sional responsibility of a free
press and the legal responsi-
bility of a regulated press.

Which will you be—private
business or Government
agent? A responsible free
press or a regulated press?
You cannot have it both ways.
Neither can Government
nor your critics.

I think that my remarks
today leave no doubt that
this Administration comes out
on the side of a responsible
free press.