

TOBEY CRITICAL OF MERGER APPROVAL

"Grievous" and "shocking" thing, says the chairman of Senate Commerce Committee of merger approval. He sees it as "plague on mass communications" but doesn't contemplate any direct action to upset the FCC decision.

SEN. Charles W. Tobey (R-N. H.), chairman of the powerful Senate Interstate & Foreign Commerce Committee, last Thursday blasted FCC's approval of the ABC-United Paramount Theatres Inc. merger as "a very grievous matter" and violative of the country's anti-trust laws.

In a statement to BROADCASTING • TELECASTING in Chicago, Sen. Tobey said he thought the Justice Dept. should look into the Commission's decision, particularly with respect to its anti-trust implications, and described it as a "plague on mass communications that will haunt the U. S. for years to come."

He asserted that the bringing of mass communications under one roof—that is, theatres, films and television—"is not in the public interest" and declared flatly that the Commission told Examiner Leo Resnick that he could not look at the anti-trust aspects of the proposed wedding of ABC and United Paramount Theatres Inc.

Sen. Tobey, who heads up the radio-minded Senate Commerce Committee in the 83d Congress, backed down on his threat to take action to this extent: He said he still planned full-scale hearings but he had "no idea" as to when they would be scheduled. He intimated that it was rather academic at this time to take any action on the ABC-United Paramount case.

Hearings have been indicated on Sen. Tobey's bill (S 538) which would prohibit the Commission from granting station licenses or permits to those applicants who have been convicted of anti-trust violations—save by special FCC order in instances where the violations have not occurred within the five years prior to application for license.

\$80 Million Profit?

It was his understanding, Sen. Tobey continued, that "one of the parties" in the ABC-United Paramount merger case stood to "profit" by about \$80 million on the merger and he felt the Justice Dept. should look into the case. He declined to comment specifically on whether he, as chairman of the Senate Commerce Committee, would seek action from the Justice Dept.

The New Hampshire Republican also refused to comment on the Commission's approval of findings that Paramount Pictures controls Allen B. DuMont Labs. He left no doubt, however, that he looked with favor on Comr. Frieda B. Hennock's stand on the decision [she had concurred in such findings] and her position on educational television.

Referring to FCC's denial of Zenith Radio Corp.'s bid for a commercial TV outlet on Chicago's Ch. 2, Sen. Tobey also indicated—without saying so in so many words—that he went along with FCC Chairman Paul A. Walker and Comrs. E. M. Webster and Hennock on their dissent to the Commission's dismissal action.

Sen. Tobey reiterated his "shock" that the Commission sustained Examiner Resnick's

initial decision, particularly in view of the recommendations of the Commission's legal staff. He had initially scored the Resnick proposed decision in a telegram from Europe last December while serving as an advisor to UNESCO [B•T, Dec. 8, 1952].

"The Commission told Mr. Resnick that he couldn't look at the anti-trust aspects of this case beyond a certain point," he asserted. "This is a grievous and shocking thing," he said.

Sen. Tobey made his remarks in advance of a news conference in Chicago last Thursday afternoon. He addressed a dinner of the Traffic Club of Chicago that evening.

Zenith May Go to Court On Sale of WBKB (TV) to CBS

PROSPECT that the FCC's action in approving the sale of WBKB (TV) Chicago to CBS for \$6 million might end up in court was seen late last week when FCC denied a Zenith Radio Corp. petition for a stay order pending its formal request for reconsideration.

Zenith said it would file a petition for reconsideration not later than Feb. 20, objecting to the Commission's dismissal of its four-year-old application for Ch. 2 in Chicago. Commission had dismissed Zenith's 1948 application on the grounds that WBKB must move to Ch. 2 in line with the new allocations formulated last April [B•T, April 14, 1952] and that Zenith had forfeited its rights in the channel by failing to participate in the allocations proceedings

and in the WBKB renewal hearings (part of the Paramount case).

Late Thursday, the FCC denied Zenith's Wednesday petition for stay, but explained that it would not issue an authorization for WBKB to move to Ch. 2 before considering Zenith's petition for reconsideration if filed not later than Feb. 20.

Zenith, which has been using Ch. 2 for experimental purposes (including most lately Phonevision tests) since 1939, was quick to protest its "loss."

Comdr. E. F. McDonald Jr., Zenith president, stated that "if this FCC decision is permitted to stand, it means that Balaban & Katz has sold for \$6 million that which we believe to be our property." Zenith held a CP for commercial TV on Ch. 2 in 1946 but relinquished it during the first color TV hearing in 1946-'47.

WBKB Sale Part of Merger

Since the sale of WBKB to CBS was part of the merger arrangements—in order for AB-PT to comply with the FCC's duopoly rules prohibiting the same company from owning more than one TV station in the same market—the dissents of Comrs. Frieda B. Hennock and Edward M. Webster applied to this aspect of the merger, too. In addition Chairman Paul A. Walker dissented to the original Zenith dismissal decision, and he again dissented to the Commission denial of Zenith's petition for stay. Miss Hennock did not participate, and Comr. Webster objected to part of last Thursday's denial.

H. Leslie Atliss, CBS Central Division vice

Background, Growth of ABC to, Including New Merger

PROGENITOR of today's ABC was the Blue Network of NBC which began operating in 1927. In 1941, the FCC issued its now famous Chain Broadcast Rules which, in one provision, forced NBC to divest itself of one of its two networks (the other was then called the Red Network, which became the present NBC network).

In 1943, the Blue Network was bought by Life Saver tycoon Edward J. Noble for \$8 million. At that time it consisted of 715 employees, 168 radio affiliates and 2½ owned and operated stations. The Blue Network's net sales in that year were \$18,819,988.

In the nine years since 1943, ABC has invested \$6 million in improving its radio facilities and \$11.5 million on TV facilities. It now consists of more than 2,500 employees, 355 radio and 81 TV affiliates which include five owned and operated AM-FM and TV stations. They are WABC New York, WENR Chicago, WXYZ Detroit, KECA Los Angeles and KGO San Francisco. Report filed with New York Stock Exchange last week showed that for nine months ending Sept. 30, 1952, ABC took an estimated loss of \$659,000. ABC's highest income was \$1.5 million before taxes in 1947. As of Dec. 30, 1951, ABC's long term debt stood at \$9,790,000. Of ABC's 1,689,017 outstanding shares, Mr. Noble owns 901,667 shares, or 53.38%. ABC has never paid a dividend nor has Mr. Noble ever received a salary as chairman of the board.

As of Sept. 30, 1951, ABC had total assets of \$26,808,211, with current assets of \$8,006,201. Total liabilities of ABC at that time was \$12,571,091, with current liabilities of \$4,529,520.

UPT, set up in 1950 as the theatre-holding company formed from the old Paramount Pictures Inc., had, as of Sept. 30, 1951, total assets of \$119,703,840, of which \$39,471,575 were current assets, and total liabilities of \$58,591,433, of which \$15,165,161 were current liabilities.

Consolidated 1951 UPT earnings were \$10,705,000 including capital gains (after taxes) of \$4,002,000. For the first nine months of 1952, UPT's consolidated earnings were \$8,339,000. Under the terms of the Consent Decree UPT will own about 650 theatres throughout the U. S.; at the present time it is still divesting itself of theatres in accordance with court orders.

Under a pro-forma balance sheet as of Sept. 30, 1951, American Broadcasting-Paramount Theatres Inc. showed total assets of \$152,084,955, with \$52,945,902 as current assets, and current liabilities of \$21,143,633, long term liabilities of \$50,869,675, a capital surplus of \$33,301,771 and an earned surplus of \$18,031,522.

The 3,260,228 common shares of UPT will be exchanged for the equivalent common shares of AB-PT. ABC stockholders will receive for each share of their stock \$7.50 of common AB-PT stock measured at \$19 per share and \$7.20 of 5% non-voting \$20 par preferred AB-PT stock. This means that an ABC stockholder with 100 shares will receive 39 9/19 shares of AB-PT common and 36 shares of AB-PT preferred. Mr. Noble and his family will hold just under 10% of AB-PT common and 55% of AB-PT preferred.

AB-PT now owns five and a half AM and FM stations (half interest in WSMB-AM-FM New Orleans), five TV stations, and about 650 theatres.