

## What's fair under 'fairness'?

### Broadcasters part company with the ACLU over question of paid access

The fundamental question of what constitutes an equitable public-interest policy under the fairness doctrine was deliberated in comments at the FCC last week. In consensus, the parties responding offered two solutions: From the broadcast side came a call for a laissez-faire attitude by government toward licensee discretion. From the American Civil Liberties Union and another group, the FCC heard the regulatory right of paid access to the broadcast media defended.

Last week's proceeding heralded the last round of comments in the commission's fairness-doctrine inquiry. The inquiry next turns to open panel discussions and oral argument on the fairness issue, to be held the week of March 27. Last week's comments came in response to a commission request for further statements on the nonconstitutional aspects of the access problem or, specifically, whether or not there exists a public right of paid access to broadcast facilities for the discussion of controversial issues.

Most of the broadcasters responding told the commission that this issue could be more appropriately taken up after the Supreme Court issues a ruling on the Business Executives Move for Peace in Vietnam case, in which the commission is seeking a reversal of a U.S. Court of Appeals decision that licensees cannot arbitrarily refuse paid advertising from the proponents of controversial issues. Nevertheless, broadcasters argued that no matter what insight might be drawn from the Supreme Court decision, the commission should not institute regulations that would (as the National Association of Broadcasters put it) "in any way undermine broadcasting's statutory exemption from regulatory treatment as a common carrier."

And, as far as CBS and several other broadcast interests were concerned, past FCC decisions—in access matters in which the commission upheld broadcasters' right to refuse time requests—are "no less valid today." Specific references were made to the commission's ruling in the BEM case and to its denial of a reply-time request (to answer TV appearances by President Nixon) from the Democratic National Committee. ABC pointed out that other appeals-court decisions justify the commission's reaffirmation of its present policy favoring licensee discretion in access matters. It referred specifically to the court's ruling two weeks ago that parties filing fairness complaints carry the burden of proving their contentions, in a case involving a complaint against KTTV(TV) Los Angeles (BROADCASTING, March 13). And it cited the court's refusal to

override the commission in the DNC case.

NBC went a step further, in asserting that "there is not, cannot and should not be a right of access for all those wishing to express a viewpoint on a controversial public issue."

On the other hand, the American Civil Liberties Union contended that broadcasters should—or be made to if necessary—take positive steps to further open facilities to proponents of public issues. ACLU went so far as to suggest that moderate blocks of prime time be made available to the public on a first-come, first-served basis, under the "paid, common-carrier principle."

And the congressionally established Commission on Population Growth and the American Future recommended that the FCC refrain from imposing a "flat ban" on paid access. It suggested that nationally recognized groups should be permitted to buy time to present "informational" as opposed to "partisan" viewpoints, and that the networks should be compelled to consider each request for time on its individual merits.

## Heftel in, NBC out of Pittsburgh radio

### \$1.8-million sale is another step in NBC's plan to drop its AM-FM holdings

NBC sold the second set of its radio stations last week: WJAS-AM-FM Pittsburgh went to Cecil Heftel, Hawaii broadcaster, for a reported \$1.8 million, subject to FCC approval.

The conditional sale was announced by Robert L. Stone, president of the NBC Radio division, and Mr. Heftel, president and part owner of KGMB-AM-FM-TV Honolulu and also KPUA-AM-TV Hilo.

Mr. and Mrs. Heftel are members of the family of the late A. L. Glasmann, whose other broadcast interests—directly and through Mr. and Mrs. George C. Hatch, also family members—include KALL(AM), KQMU(FM) and KUTV(TV) Salt Lake City, KGEM(AM) Boise, Idaho, and KGHL(AM) Billings, Mont.

Mr. Stone said NBC "is delighted that WJAS will be operated by a man with the experience of Mr. Heftel, who has spent more than 20 years in broadcasting and has operated radio and TV stations in Utah, Idaho and Colorado, as well as Hawaii." Mr. Heftel said his interest in Pittsburgh radio ownership dated to 1960, when he first offered to buy WJAS (then WAMP) from NBC.

Howard Stark, New York broker, participated in the WJAS negotiations as a consultant to NBC.

WJAS(AM) operates on 1320 khz with 5 kw, directional at night. WJAS-FM is on 99.7 mhz with 24 kw and an antenna 470 feet above average terrain.

Early this year NBC sold WKYC-AM-FM Cleveland to Nick J. Mileti, promi-

nent local sports figure, for an estimated \$5.5 million, subject to FCC approval (BROADCASTING, Jan. 17, March 13).

## FCC grants break to ex-convicts

Traditionally, the privilege of holding an FCC-endorsed commercial operator's license has been withheld from ex-convicts for up to six months, following release from prison. The commission ended that tradition last week in adopting a new policy by which an individual may apply for and obtain a license immediately upon his release.

Under past procedures, the commission said, a license could not be issued to an ex-convict until his parole officer files a report affirming that his rehabilitation has been successful. This process, the commission said, often takes up to six months. And according to a pleading filed with the agency by the Justice Department's Bureau of Prisons, the first six months of freedom for an ex-convict is a crucial period, in which he is most prone to relapse. In order to prevent this, the bureau had argued, the ex-convict should obtain a job quickly.

In adopting the new policy by a 6-to-0 vote, the commission stipulated that affected applicants for licenses must present a signed release statement from a responsible prison official. It also emphasized that this policy would apply only to those prisoners released on parole. An applicant whose release was at the expiration of his terms, the commission said, would have to await a parole officer's post-prison behavior report.

## Viacom and S.F. trio settle spin-off suit

Viacom International Inc. announced last week that it had made peace with three minority stockholders of one of its cable-TV systems who had gone to court in an effort to block the spin-off of Viacom from CBS.

Viacom announced that it had purchased the trio's 19% interest in Television Signal Corp., owner-operator of a San Francisco cable system, and that the three had "withdrawn all legal action" against Viacom and CBS. Viacom already owned the remaining 81% interest.

The price Viacom paid for the 19% was not disclosed. BROADCASTING, calculating on the basis of approximate value per connection, estimates it about \$1.5 million.

The three stockholders—Marino L. Iacopi, Louis Benedetti and Frank M. Verducci Jr.—filed suit in Federal District Court in San Francisco in December 1970 in an effort to block the then-projected spin-off of CBS's CATV and domestic-syndication operations into Viacom (BROADCASTING, Dec. 14, 1970, et seq.). The suit, seeking more than \$67 million in damages as well as a permanent order barring the spin-off, accused CBS of gaining control of the