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Tuesday 9/16/75

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→ HON. P.W. BUCHEN
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

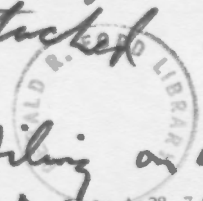
OFFICE OF COMMISSIONER ABBOTT WASHBURN

Phil,

9/16/75 to
of given Hills

Per my phone call to Eva,
Dick Wiley spoke in NYC
today on re-regulation, and
included some words about
reversing 315 ^{FCC} decisions of the
60's with respect to Presidential
press conferences. Copies for you
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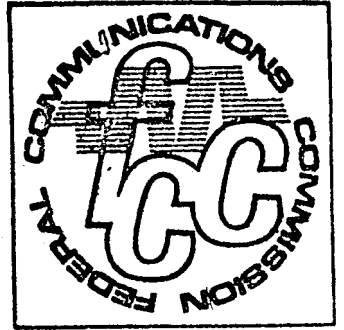
We take up the CBS filing on our
agenda tomorrow. — Abbott



Sec. 315 -- See pages 6 thru 9

NEWS

Federal Communications Commission
1919 M Street, NW.
Washington, D.C. 20554



ADDRESS BY THE HONORABLE RICHARD E. WILEY
CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION

before the

INTERNATIONAL RADIO AND TELEVISION SOCIETY, INC.

New York, New York
September 16, 1975



ADDRESS BY
RICHARD E. WILEY, CHAIRMAN
FEDERAL COMMUNICATIONS COMMISSION
before the
INTERNATIONAL RADIO AND TELEVISION SOCIETY, INC.

New York, New York
September 16, 1975

My subject today is regulatory reform -- and, in light of the interest which has been generated on this subject at the White House, on Capitol Hill, in some regulatory agencies and among the public at large, it would seem to be both a timely and pertinent topic.

Those of you who have followed my statements and actions over the last five years at the FCC are aware of my commitment to the principle that the Commission should undertake a regular and comprehensive review of its policies in order to eliminate antiquated, unessential and overly burdensome forms of regulation. I also believe, in line with President Ford's recent remarks to Federal regulatory commissioners, that such re-regulatory and deregulatory efforts should extend to any agency policy or procedure which is not required to maintain effective, nationwide communications in the public interest. After all, our fundamental system is not based on regulation but, instead, upon a free market. Thus, systematic and comprehensive government controls can only be justified where they are necessary to promote and protect the nation's economic and social welfare -- and where the benefits of regulation outweigh its attendant costs.



Nevertheless, it is clear that government (and, particularly, federal regulation) has developed in this country to a very mature state, one marked by a vast bureaucracy that has produced an unending stream of intricate requirements designed to serve the American public but, perhaps paradoxically, viewed by many citizens as protecting only monopoly power, inefficiency and the civil service system.

And make no mistake about it: government size is a progressive process. One needs to look only at the expansion of the federal budget, now at the astronomical figure of 360 billion dollars, to appreciate this pervasive phenomenon. Even in a relatively small agency such as the FCC, growth has been dramatic. The Commission began in 1934 with a budget under two million dollars. During the current fiscal year, our expenditures will surpass the 50 million dollar mark -- a fact which I understand has motivated one of our more loyal licensees to suggest that the industry should be grateful at least that it isn't getting all the government that it pays for.

How did it all happen? How did Federal agencies grow so big? Well, you know the Potomac story as well as I do. It can begin in innumerable ways -- perhaps with an expression of Congressional or Executive interest or concern. An ad hoc task force is formed to study the problem involved and, as time passes, is expanded to cover related areas. Eventually, the task force becomes a permanent branch,



the branch becomes a division, the division a bureau and, ultimately, the bureau an agency. The agency requires space, people and money -- and all three elements eventually combine to produce regulations implementing statutes, rules interpreting regulations, policies clarifying rules, advisory opinions explaining policies, interpretations elucidating opinions and on and on, all of course in name of the public interest.

While I have exaggerated perhaps (although not too much, I fear), the general pattern occurs not because there was no problem to begin with but, instead, because there was one; and not because government was not responsive to the problem but, indeed, because it was; and, finally, not because the public didn't want or need federal involvement but, let's face it, because it did. But the result of all this responsiveness by government to public concerns is an ever-expanding bureaucracy which today is intruding more and more into the lives, activities, and enterprises of American citizens.

This is not to denigrate the bureaucracy or, certainly, the bureaucrats -- God help me, I'm one of them. Nor is it to imply that there is no need for government regulation -- clearly, in myriad areas, there is. And where governmental oversight is required to protect the public interest within the communications sector, I think you know that I will not hesitate to pursue a vigorous course of action. It is evident,



however, that some federal rules intended to promote the common-
weal have themselves introduced distortions and inefficiencies
into our socio-economic structure which are inimicable to public
welfare and, in some cases, even inconsistent with the traditions
of a free society. Accordingly, what I am suggesting today is
simply this: as we approach the nation's bicentennial year, perhaps
the time has come to reassess what kind of society we want -- and
what kind, and how much, government we really need and are willing
to pay for.

In recognition of this concern, the FCC several years ago
began to weed out the thicket of nearly 40 years of accumulated
regulations and to reduce the paperwork burdens on Commission li-
censees. The work of our Broadcast Reregulation Task Force has
resulted in the modification or elimination of some 300 Commission
rules. Moreover, the concept of revised and simplified regulation
has now been extended into almost every facet of our jurisdiction
including, most notably, the emerging and over-regulated cable tele-
vision industry. This overall initiative will continue and, indeed,
will be intensified in the next year of Commission activity.



Recently, the Commission issued a rule making designed to relieve many of the smaller broadcast stations from reporting requirements associated with ascertainment of community needs. We have also proposed a new "short form" radio renewal application. We have taken these actions not because we believe that our present requirements are without merit and not because we simply want to give certain licensees a "break". Instead, our proposals are premised on balancing the projected benefits of our regulations against the costs to industry, to the government and to the American people who, in the long run, must foot the bill for all federal activity.

These proposals, as expected I suppose, have generated strong (and sometimes vitriolic) opposition. And so it will be with almost any step taken to reassess, modify or delete any aspect of bureaucratic authority. This is why, in part, government seldom gets smaller or regulation less complicated. But I think that our Commission is prepared to accept the challenge of change and of deregulation, and to withstand the inevitable criticism which will follow, where we are convinced that the public interest can be served by such actions.

In this connection, let me say that while our ascertainment and radio renewal proposals represent positive improvements,



I am convinced that further modifications are feasible. I will not take the time today to detail my views in this area -- suffice it simply to say that our short-form application should be made shorter still by eliminating certain unessential reporting requirements and that our small market ascertainment exemption should be further expanded.

Let me briefly mention one other current candidate for reregulation: the Commission's hearing processes. Although a recent newspaper story suggested that our Task Force on procedural reform has done nothing, the truth is that it has produced a 99 page report containing a number of important recommendations to improve and, hopefully, shorten our adjudicatory practices. These recommendations are now being reviewed by senior staff officials and will be presented to the Commission in mid-November. Far from doing nothing, I believe that the Task Force's efforts portend a significant reform of our complex and cumbersome hearing process -- a reform which I personally view as long overdue.

The reforms that I have been discussing (and others) should do much to streamline and enhance our administrative procedures but, in truth, they will not have any direct bearing on the most important function of the broadcaster: his role as a journalist. Yet, it is in this area that government intervention seems most tenuous and most fraught with constitutional concerns. For example, I have long



been frustrated and disturbed by the serious inhibiting effect which, in my opinion, the so-called "equal time" requirement has had on the broadcast coverage of political candidates and campaigns.

In 1960, Section 315 was suspended and, as a result, the Kennedy-Nixon debates were televised. In that race, there were 14 other qualified candidates for President -- ranging from the nominee of the Prohibition Party to the standard-bearer for the American Vegetarian Party. Had the law been in effect, all of them would have been entitled to an equal opportunity to appear. And the inevitable result would have been to eliminate the "Great Debates" to the detriment of the American people.

Section 315 is an Act of Congress which, of course, I am powerless to repeal. I do support the legislative proposals of Senator Pastore and Congressman Macdonald to eliminate it for the offices of President and Vice-President and, as a personal matter, I would probably go even further. Failing that, my preference would be to have the Act amended to apply only to "major party" candidates as appropriately defined. In the meantime, however, I am convinced that there are some important contributions which the FCC can make to facilitate coverage of political campaigns. This action would require the reversal of several Commission decisions handed down in the early 1960's -- a step which, speaking only for myself, I think would serve the public interest.



The first of these decisions involves the Commission's interpretation of an exemption to Section 315 relating to "on-the-spot coverage of a bona fide news event". In 1962, Station WJR in Detroit broadcast a debate between the two major party candidates for Governor of Michigan. The debate was sponsored by the Economic Club of Detroit at one of its regular dinner meetings. The Commission held that WJR's broadcast did not constitute on-the-spot coverage of a bona fide news event, and that a Socialist Labor Party candidate was entitled to equal time. In a similar case, the FCC ruled that the Nixon-Brown debates in California, held during the annual convention of the United Press International, did not constitute bona fide news.

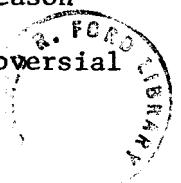
If events such as these do not qualify as bona fide news, one might well ask: what does qualify? The answer, as we find it in Commission decisions of a decade ago, is not very much. Many of us might agree, for example, that a Presidential press conference is "bona fide news" within any acceptable meaning of that term. Indeed, as former Commissioner Ford once stated, this proposition is a "physical fact recognized by representatives of all news media throughout the world". Unfortunately, the Commissioner's view was expressed in the context of a dissenting opinion. The Commission, by a 4-3 vote, ruled in 1964 that the Presidential press conference was not bona fide news.



As a consequence of this line of cases, debates and Presidential conferences with the press simply are not broadcast during American election campaigns. If the law expressly prohibited these journalistic endeavors, it unquestionably would be held unconstitutional. But the effect of the equal time provision in chilling political discussion is every bit as certain and as devastating to the welfare of our democracy.

As indicated, it is my judgment that these FCC decisions should be reversed and, this very week, my colleagues on the Commission will have an opportunity to agree or to disagree with me. So, ladies and gentlemen, stay tuned until tomorrow! I might mention, incidentally, that I am also proposing a broad ranging inquiry into all aspects of the equal time law in order to determine whether additional liberalization of campaign coverage is possible. Specifically, I believe that the Commission should take a close look at its past rulings concerning Section 315 exemptions for newscasts, news interviews and news documentaries -- as well as on the spot coverage of news events.

I would like to turn now to the Fairness Doctrine, another Commission policy with definite First Amendment overtones. Here, however, the evidence of the actual effects of FCC involvement is far less clear-cut than in the case of Section 315. The doctrine, as you all know, does not require equal time. It simply provides that somewhere in a station's overall programming, it must provide a reasonable opportunity for the airing of contrasting views on controversial



issues. As the Commission has held, the broadcaster has wide discretion in selecting which particular viewpoints or shades of opinion are of sufficient public importance to warrant coverage. I have never seen any persuasive evidence that this requirement has had a "chilling" effect on broadcast journalism -- and, to the extent that scarcity is a real and not just theoretical problem, I believe that the doctrine is essential to protect the public's paramount right to be informed.

Increasingly, however, I have wondered whether, in some of our larger radio markets, there really is any practical need to maintain Fairness Doctrine enforcement. In the Chicago market, for example, there are some 65 commercial radio stations; in Los Angeles, the figure is 59; and here, in New York, it is 43 stations. Considering the totality of coverage in each of these markets, and others with numerous radio outlets, one might reasonably expect that an extensive range of viewpoints would be presented even with no governmental oversight. The fact that a few stations may present only one side of a particular issue, a performance which I would consider to be journalistically unprofessional, does not necessarily detract from a citizen's access to contrasting opinion.

Even in large market radio, there is still scarcity in the



legal or constitutional sense -- that is, there are more citizens who wish to broadcast than there are channels to allocate. But such technical scarcity, in my opinion, may not create a realistic need for government supervision of broadcast journalism in these cities. Indeed, we may be far enough removed from monopoly control to be able to expect good results from a self-regulating system of operation. This approach would also be consistent with our national traditions which have long associated free speech and free press with an absence of governmental regulation and control. Whenever a return to these traditions is feasible without jeopardizing the right of the American public to receive a diversity of ideas and experiences (as it may well be in major metropolitan areas), this is the course we should follow.

Accordingly, in the near future, I will propose an experiment in which the Commission would discontinue enforcement of the Fairness Doctrine in the larger radio markets. The precise scope of this experiment, including the areas to be covered, should appropriately be the subject of an inquiry in order to provide the industry and the general public with an opportunity to present comments on the policy and legal issues involved. Some commentators undoubtedly will suggest that the experiment will fail and that the public interest cannot be trusted to a marketplace of ideas free of governmental controls. On the other hand, it is my view that --



with a wide diversity of operating stations -- there is every reason to believe that the experiment can be a success and that a robust, wide-open and uninhibited debate on significant public issues can take place even without FCC involvement in the process.

In the final analysis, however, the success or failure of not only this test but our entire initiative to eliminate unnecessary Federal regulation depends largely on the members of the broadcast industry. Will licensees adhere to the principles of public trusteeship in the absence of the bureaucratic prod? Can you continue to serve the public interest without constant guidance and direction from the Federal government? While such questions may seem rhetorical, I can assure you that the future of regulatory reform at the FCC is hinged upon the answers to just such inquiries.

In my opinion, the next two years can witness the greatest period of constructive and responsible reregulation and deregulation in the Commission's history. Your commitment to public service is the linch-pin upon which this program will be premised -- and, in a very real sense, it is you who will decide your own regulatory fate.

I personally am confident that the industry will prove to be more than equal to this challenge. If I am right, your actions will permit the FCC to improve its regulatory procedures while, consistent with the public interest, reaffirming a basic commitment to the principles of free enterprise, free speech and a free press.



FCC

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Report No. 13623

BROADCAST ACTION

55558

September 25, 1975 - B

RULINGS ON COVERAGE OF CANDIDATE PRESS CONFERENCES OVERTURNED

The FCC today announced that it will permit some on-the-spot coverage by broadcasters of appearances by political candidates.

The Commission overruled its earlier decisions in Goodwill Station Inc. and NBC (Wycoff) rulings, and will from now on exempt from the equal time requirements of Section 315 of the Communications Act, debates between candidates as "on-the-spot coverage of bona fide news events" in situations presenting the same factual context as the two earlier cases.

At the same time, the FCC overruled that part of its 1964 CBS decision that relied on its decision in the 1962 cases. Thus, it said, the press conferences of the President and all other candidates for any political office broadcast live and in their entirety, qualify for exemption under Section 315 (a)(4) of the Act.

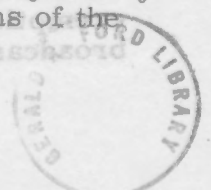
"The undue stifling of broadcast coverage of news events involving candidates for public office has been unfortunate, and we believe that this remedy will go a long way toward ameliorating the paucity of coverage accorded these events during the past 15 years," it declared.

Section 315, the so-called "equal opportunities" rule provides that if a licensee offers time to one legally qualified candidate for public office, it must offer an equal opportunity to all candidates for that office.

Licensees are exempt from this obligation if the broadcast falls within one of four specific categories of exempt programs in Section 315(a)--a bona fide newscast, a bona fide news interview, a bona fide news documentary and on-the-spot coverage of bona fide news events.

The Commission's action was in response to petitions by Douglass Cater, director of the Aspen Institute Program on Communications and Society and by CBS, Inc. Both petitions raised questions concerning the applications of the provisions of Section 315.

(over)



Aspen sought revision or clarification of the FCC's policies concerning the applicability of the Section 315 exemptions to certain joint appearances of political candidates. Aspen urged the Commission to give the Section 315(a)(4) exemption for on-the-spot coverage of bona fide news events its proper broad remedial construction and overrule the two 1962 decisions. It also asked the FCC to clarify its position on Section 315(a)(2)--the exemption for bona fide news interview programs.

CBS requested an interpretative ruling that Presidential press conferences are exempt from the "equal opportunities" provision of Section 315. It contended that the live broadcast of such news conferences constituted "on-the-spot coverage of bona fide news events" within the meaning of Section 315(a)(4) and a bona fide news interview within the meaning of Section 315(a)(2) of the Act.

In its 1962 Goodwill Station, Inc. ruling, the FCC held that the broadcast by WJR, Detroit, of a debate sponsored by the Economic Club of Detroit between two major candidates for Governor of Michigan, then Gov. John B. Swainson and his challenger George Romney, was not "a bona fide news event" under Section 315(a)(4) of the Act.

In its 1962 National Broadcasting Co. ruling, involving a debate between then Governor Pat Brown of California and his challenger, Richard M. Nixon, before the annual convention of the United Press International, the Commission said that merely because an event might be considered newsworthy by a broadcaster did not make the event "bona fide" for purposes of the exemption.

The Brown-Nixon debate was arranged by UPI, and NBC covered the event, as did all the major newspapers in California and other broadcasters.

The Commission held that equal time must be afforded to the Prohibition Party's candidate for Governor, thereby virtually eliminating the possibility that such debates would receive further broadcast coverage.

In its 1964 CBS ruling, the Commission held that press conferences of the President, or a non-incumbent candidate for election to the presidency, would be considered nonexempt "uses" of broadcast facilities within the meaning of Section 315, because such press conferences failed to qualify for exemption as "on-the-spot coverage of bona fide news events."

In today's decision, the Commission said it was convinced that its "reversal of these prior decisions comports with the original legislative intent and signally serves the public interest by allowing broadcasters to make a fuller and more effective contribution to an informed electorate."

It said that when Congress adopted the 1959 amendments, it squarely faced the risks of political favoritism by broadcasters that might be created by the exemptions. On balance, it said, Congress preferred to make available to broadcasters the opportunity "to cover the political news to the fullest degree."

Today, the Commission noted, these risks are substantially lessened. However, it said, its own failure to accord the appearances in Goodwill and NBC the exemption of Section 315(a)(4) "did not give adequate scope to the Congressional action; rather, the Commission took a more cautious position which would ensure that the threat of abuse would never materialize." "To do so merely to preserve administrative convenience is not an appropriate course on which we will continue," the FCC declared.

Turning to the CBS request, the FCC said it would reject the suggestion that, in determining whether press conferences are exempt, it consider "the unique status of the Presidency and the inherent newsworthiness of Presidential communications with the public."

"In our view," the FCC said, "there is no rational distinction to be made between press conferences at one level or another, since no such distinction can be found within the legislative history of the 1959 amendments, nor are there any persuasive indications that the Congress intended to distinguish between press conferences exempt at one level and those at another level of political offices which would not be exempt."

Therefore, presidential press conferences, as well as press conferences by governors, mayors, and any candidates whose press conferences may be considered newsworthy and subject to on-the-spot coverage, may be exempt from Section 315 under the Commission's interpretation.

Action by the Commission September 25, 1975, by Memorandum Opinion and Order. Commissioners Wiley (Chairman), Reid, Quello, Washburn and Robinson with Commissioner Quello issuing statement in which Commissioner Robinson joins; Commissioners Robinson and Washburn issuing separate statements and Commissioners Lee and Hooks dissenting and issuing statements.

- FCC -

Attachments



DISSENTING STATEMENT OF
COMMISSIONER ROBERT E. LEE

In a declaratory ruling, the majority has made a major policy change in its interpretation of what constitutes "on-the-spot coverage of bona fide news events" pursuant to Section 315(a)(4) of the Communications Act of 1934, as amended. The reason given for this significant decision is that the three cases defining Commission policy since the early 1960's were based upon an error in the legal interpretation of Congress' intent in amending Section 315 in 1959.¹

That there was legal error in deciding Goodwill, NBC (Wyekoff), and Columbia Broadcasting System, Inc., is far from clear. What is clear to me is that the majority has sidestepped the very purpose of Section 315 of the Communications Act - that all qualified candidates for a public office be given equal opportunities to present their images and positions to the voters via broadcast media. With the legal interpretation adopted today, the Commission has created a loophole to Congress' intent that allows grossly unbalanced coverage of the political activities of political opponents, so long as the political activities are covered live and in full. Pursuant to the legal interpretation adopted today, a broadcaster may determine that only major candidates are newsworthy and, while covering their debates and press conferences, may ignore similar appearances of other candidates.

A change in policy of this magnitude affects the heart of our political system. At a minimum, it should be made in the context of a rulemaking proceeding where guidelines for broadcaster judgement can be considered. The preferable procedure, however, is to let Congress define the policy.

1

The Goodwill Station, Inc., 40 F.C.C. 362 (1962); National Broadcasting Co., 40 F.C.C. 370 (1962); Columbia Broadcasting System, Inc., 40 F.C.C. 395 (1964).



DISSENTING STATEMENT OF
COMMISSIONER ROBERT E. LEE

During my tenure at the Commission, we have repeatedly told Congress that we are responsible for communications matters, not political decisions. I feel that this role should be preserved.

I dissent.

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STATEMENT OF COMMISSIONER BENJAMIN L. HOOKS*

The Commission is making a tragic mistake. In an ill-considered rush, the majority has swept aside the clear intent of a vital portion of Section 315 which was enacted by Congress to ensure that all political candidates were given media equality with all humanly reasonable exactitude. By exempting two popular forms of political weaponry, the press conference and the debate, the delicate balance of egalitarian precepts underlying political "equal time" legislated into Section 315 and refined over 15 years of consistent administrative and judicial construction, has suffered a severe and, perhaps, mortal blow. I dissent.

* Full text of dissent to be issued shortly.



STATEMENT OF
COMMISSIONER JAMES H. QUELLO
in which Commissioner Robinson joins
Re: Section 315

The action taken by the majority was, I believe, consistent with Congressional intent, common sense and the public interest. There can be no doubt that the prior interpretation of Section 315(a)(4) was acting as a restraint on broadcast coverage of political candidates to the detriment of an informed populace. I refuse to accept the cynical view that incumbent congressmen preferred this limited coverage in their own self-interest.

I do not view this issue as a partisan political one in which one party or one candidate stands to gain or lose by our decision. Political debates--in the limited context in which they will now be exempt from equal time requirements--can only benefit the American people by making us all more aware of the candidates for political office and their stated views. The news conference, too, can serve to inform and educate without the artificial restraints imposed by government.

The direct coverage of an event--such as debates and news conferences--can present to those who will take the time to watch and listen, many of the subtleties and nuances which often escape the paraphrased reports we hear and read. Direct coverage--to my mind--is one of the unique qualities broadcasting brings to public service. It permits each of us to participate directly in the process of selecting our representatives by what they have to say and how they say it, based upon our own analysis. It helps us to better weigh a candidate's qualifications for office according to our own criteria. Journalistic analysis and commentary, too, are important to our understanding. But, such analysis takes on added value when it is compared with the actual event. Therefore, I believe that a better informed American public is an inevitable consequence of our action.

An added benefit to the listening and viewing public is that our action today has removed the restraints from coverage of all political contests, state and local, as well as Federal. For those who believe that broadcast coverage of political events will hereafter be limited to only major party candidates, I hasten to point out that the Fairness Doctrine remains unaffected. Consistent with the Doctrine, I fully expect that all candidates for political office will be accorded a reasonable opportunity to present their views. I do not see our decision as limiting access to political candidates in any way. On the contrary, it is my hope--and my expectation--that broadcasting will now be better able to fulfill its public interest responsibility in covering political events.

September 25, 1975

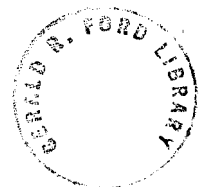
STATEMENT OF COMMISSIONER ABBOTT WASHBURN
ON TODAY'S ACTION ON APPLICATION OF
SUBSECTION 315(a)(4) OF COMMUNICATIONS ACT

It is clear from the legislative record that it was the intent of Congress in 1959, by means of the "news exemptions" to the equal-time Section 315, to open up and facilitate broadcast coverage of political discussions and events in this country.

However, the Commission's narrow interpretations, in 1962 and 1964, of the Subsection 315(a)(4) exemption ("on-the-spot coverage of bona fide news events . . . including but not limited to political conventions") have had the opposite effect. They have effectively inhibited live on-the-spot coverage of debates between candidates and live coverage of Presidential news conferences.

Under the Subsection 315(a)(1) exemption, these same events may be, and are, covered in newscasts. Our action today, rescinding the 1962 and 1964 rulings, makes it possible for broadcasters to cover these events not just in newscasts but also live and in their entirety whenever these events are considered bona fide news.

The Bicentennial year should be a model of the fullest possible broadcast coverage of political activities for the benefit of the electorate.



STATEMENT OF COMMISSIONER GLEN O. ROBINSON

I agree with Commissioner Quello's views on our re-interpretation of Section 315, but want to add a few additional thoughts of my own. First, as Commissioner Quello correctly emphasizes, the Commission's declaratory order is not a partisan political act; it is precisely what it purports to be--the rehabilitation of Section 315 by correcting an old and embarrassing mistake concerning its interpretation. Admitting mistakes is not something government agencies do often or promptly, but it should be a source of satisfaction that they do it at all.

Inasmuch as our action today corrects a mistake of law, I am clear that the agency is not obliged to go through a notice and comment rulemaking. As I have elsewhere expounded at length, the process of adjudication--and declaratory rulings belong to this genre of administrative action--is an appropriate vehicle for policy decisions such as this (particularly where, as here, the decision turns on purely legal issues--which I might note were earlier decided by adjudication). See Robinson, The Making of Administrative Policy: Another Look at Rulemaking and Adjudication and Administrative Procedure Reform, 118 U. Pa. L. Rev. 485 (1970). The Supreme Court has made it clear that agencies have a very broad discretion to formulate and re-formulate policies outside the formal constraints of rulemaking. National Labor Relations Board v. Bell Aerospace Co., 416 U.S. 289 (1974). Hence, today's action is as sound legally as it is sensible.



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FCC Votes to Reverse '64 Equal-Time Ruling

By John Carmody

Washington Post Staff Writer

The Federal Communications Commission yesterday reversed long-standing decisions and exempted from the equal-time rule broadcast debates and on-the-spot coverage of news conferences held by

political candidates for nomination in 1976. The network contended that over "the next 15 months" presidential press conferences "will give rise to 'equal-time' obligations for any additional Republicans who declare their candidacies for that nomination."

Since that time, John J. Gordon of Worcester, Mass., has declared his candidacy for the

Democratic National Committee, Rep. Shirley Chisholm (D-N.Y.), Citizens for Reagan for President, the National Organization for Women and the Congressional Black Caucus.

Yesterday, a spokesman quoted Robert S. Strauss, Democratic National Committee chairman, as saying that "we will make a decision as to

FCC

Friday 9/26/75

3:15 Judy in Mr. Rumsfeld's office said he wanted to be sure that you get or have a copy of the FCC equal time statement on Presidential news conference.

To remind.



THE WHITE HOUSE

WASHINGTON

September 29, 1975

*Equal
Time
(FCC)*

MEMORANDUM FOR:

DON RUMSFELD
JACK MARSH

FROM:

PHILIP BUCHEN

T.W.B.

SUBJECT:

Reaction of Congress to
Modification of Equal-
Time Rule by FCC

Attached is a copy of an excerpt from the Weekly Television Digest on the above subject. Apparently, the ruling by the Commission on the Aspen Institute petition covering political debates is causing more consternation than that on the CBS petition dealing with press conferences. Although, the White House may not have particular interest in the ruling on political debates, I feel that if the Pastore Subcommittee reacts adversely to the FCC ruling we may find the press conference aspect of it in jeopardy.

I think the Congressional relations people should point out to Bob Griffin and the other Republican Members (Ted Stevens, Glenn Beall, Howard Baker, and Lowell Weicker) that we are not fearful of having the President forced into televised debates during the 1976 campaign. There is no precedent, I believe, for any incumbent President's taking part in a debate, and I do not think the FCC ruling would make it difficult for the President to resist challenge for a televised debate.

cc: Max Friedersdorf

Attachment:



EQUAL-TIME REVERSAL IGNITES POLITICIANS: FCC found itself in political cross-fire last week following 5-2 vote (Comrs. Lee & Hooks dissenting) to exempt from equal-time requirement presidential news conferences and debates between candidates. Declaring both to be "bona fide news events," Commission defied pressure from both Democrats and Republicans, made decision which will be challenged in courts and Congress.

Acting on CBS & Aspen Institute petitions to reverse earlier Commission decisions, FCC declared that ruling "comports with the original legislative intent and signally serves the public interest by allowing broadcasters to make a fuller and more effective contribution to an informed electorate."

Decision to overrule two 1962 decisions and allow coverage of third-party-arranged political debates even when all candidates aren't present, was seen as most controversial to Congress. Sen. Pastore (D-R.I.) 2 weeks ago told FCC Chmn. Wiley: "It is a defeat of the equal time doctrine, isn't it?.. You have to change the law in order to do it. You can't do that by regulation." Sen. Griffin (R-Mich.)—who'd been toying with asking FCC to hold off and await congressional action (in order to protect President Ford from being forced into televised debate in 1976 presidential campaign)—was so impressed with forcefulness of Pastore's dissuasion that he decided letter wasn't needed. Following decision, Pastore told us he plans to take up FCC ruling with Subcommittee, though "I'm only one member, of course... The decision is subverting the intention and spirit of Sec. 315." Rep. Macdonald (D-Mass.) said he was "concerned" with decision, would have more to say after reading full text. (Ironically, both Pastore & Macdonald are sponsors of bill to repeal equal-time requirement, but for presidential election only.) In Houston, Rep. Jordan (D-Tex.) told TIO meeting that FCC action "probably will wreak chaos... We have not heard the last of this." She said "valid legal arguments" can and will be raised about adverse impact of ruling on 3rd party candidates because, in most instances, Sec. 315 is only way

2—TELEVISION DIGEST

SEPTEMBER 29, 1975

they can reach public. Former presidential candidate Rep. Chisholm (D-N.Y.)—joined by NOW—immediately filed motion to stay FCC decision; Commission probably will take up motion Sept. 29, deny it.

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In dissent, Comr. Lee accused FCC of making "major policy change" which "has sidestepped the very purpose of Sec. 315... The preferable procedure... is to let Congress define the policy." Added Hooks: "The Commission is making a tragic mistake... The delicate balance of egalitarian precepts underlying political 'equal time' legislated into Sec. 315 and refined over 15 years... has suffered a severe and, perhaps, mortal blow." Comrs. Quello, Robinson & Washburn, in statements concurring with majority, said they felt FCC decision was consistent with congressional intent. Robinson said action "corrects a mistake of law" said he felt declaratory ruling was "an appropriate vehicle for policy decisions such as this."

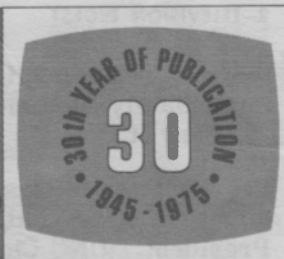
Broadcasters hailed decision. "Today's rulings are highly significant—for they permit us to broadcast important and newsworthy events without artificial impediment or restriction," according to CBS Pres. Arthur Taylor. NBC Pres. Herbert Schlosser called FCC move "a positive step" toward allowing broadcasters to better cover political campaigns, "as they have long sought to do." NAB spokesman said that since NAB wants "complete repeal" of Sec. 315, "any relaxation is welcome."



WEEKLY

Television Digest®

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The authoritative service for broadcasting, consumer electronics & allied fields

SEPTEMBER 29, 1975

VOL. 15, NO. 39

SUMMARY-INDEX OF WEEK'S NEWS

Broadcast

EQUAL TIME REVERSAL lands FCC in political hot water. Decision, by 5-2 vote, declares presidential news conferences and political debates to be bona fide news events; Court & congressional challenges coming. (P. 1)

POLE AGREEMENT MAY BE IMMINENT: NCTA board adopts proposal slightly different from Wiley's. Approach to cable-definition rulemaking adopted. MDS discussion brief. Activity on copyright, convention, etc. (P. 2)

PERSONAL ATTACK RULE TESTED before Appeals Court in case seen as significant test of Red Lion. Issue is whether WMCA violated rule in calling congressman 'a coward.' (P. 4)

SPORTS ANTI-BLACKOUT STALLED as Macdonald is hospitalized at midweek. Hearing delayed until Oct. 6-8. Wiley & Schneider favor Macdonald bill. Pay cable discussion barred by chmn. (P. 5)

EQUAL-TIME REVERSAL IGNITES POLITICIANS: FCC found itself in political cross-fire last week following 5-2 vote (Comrs. Lee & Hooks dissenting) to exempt from equal-time requirement presidential news conferences and debates between candidates. Declaring both to be "bona fide news events," Commission defied pressure from both Democrats and Republicans, made decision which will be challenged in courts and Congress.

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Consumer Electronics

THE NEW ADMIRAL—clean sweep under new Pres. Charles Urban revamps organization, technology & image. Four new color chassis slated for next May. 'Mystery product' to be shown next year. (P. 7)

TRADE DEFICIT EASED in first half despite 9% decline in exports, as value of imports fell 36%. Unit exports off more sharply than value due to rise in average prices. (P. 9)

ENERGY BILL mandating 25% TV power-consumption cut and efficiency labeling passes House. NBS readies proposal for TV wattage measurement. (P. 10)

FIRST-HALF COMPONENT IMPORTS declined more than 50% over 1974, Commerce reports, reflecting production cutbacks in U.S. end products. (P. 11)

SONY NET OFF 28% in 3rd quarter, reversing apparent 2nd-quarter profit recovery. National Semiconductor forecasts earnings dip. (P. 12)

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AT&T & NCTA 'PRETTY CLOSE' ON POLES: Pole-attachment agreement between AT&T & NCTA may be imminent. Said FCC Chmn. Wiley at week's end: "We're pretty close now. It would be unfortunate if it broke down now. There's not much room left to bargain."

This was after NCTA board voted unanimously for most of proposal put forth by Wiley last week (Vol. 15:38 p2). From dollar standpoint, only about \$100,000 a year separates parties. We didn't know it last week, but AT&T had already bought Wiley's deal. During NCTA board meeting, recess was called while pole committee had conference call. After call, board adopted pole committee's recommendations unanimously.

This would provide no change in price for most of U.S., raise rate from about \$2.50 to \$3.25 for Pa. & Cal., in agreement to run to end of 1978. This differs from Wiley's proposal in that he would also increase Northwest area to \$3.25, and agreement would end in mid-1978. It wasn't clear why NCTA insisted on these relatively small differences. One source attributed it to "dynamics" in pole committee (Cal. representative Harold Farrow resigned during discussions). Another said that board was never presented with Wiley's precise proposal. At week's end, Wiley was awaiting response from AT&T Vp James Billingsley.

Pole issue was sole big one at board meeting. Among other actions at Sarasota meeting: (1) Agreed on approach to FCC's re-definition rulemaking, calling for "expansive definition" to include trailer parks, condominiums, etc.—on grounds such setups shouldn't have unfair advantage, free of FCC controls. At same time, NCTA will call for high cutoff point, exempting all outfits smaller than 500-1,000 subscribers, or thereabouts. NCTA will also go for minimum regulation of mid-size groups—such as 1,000-2,500.

(2) There was only brief discussion of MDS. Chmn. Rex Bradley will appoint a committee. (3) Copyright legislation lobbying will be stepped up right away, now that Senate Judiciary moved mark-up date to Oct. 7 (p. 4). (4) Convention theme was approved: "CATV '76: Our Silver Year"—25th anniversary. Major aspects of convention are pay cable, de-regulation, management nuts & bolts, "view from outside" from govt., financial groups, etc. (5) Elected Patrick Nugent to board; he's pres. of Karnack Corp., Austin, is LBJ's son-in-law. (6) Set up "affiliate" membership, similar to "associate" except they can't vote or exhibit, and "individual

patrons" intended to include attorneys, accountants, etc. (also non-voting & non-exhibiting). (7) Approved Engineering Dept. recommendations on graphic symbols. (8) Accelerated political cablecasting plans, with 1976 elections in mind. (9) Expanded speakers' bureau.

New Pres. Robert Schmidt participated in a board meeting for first time, and members were pleased with way he handled himself. He vindicated athletic reputation—winning both tennis & golf tournaments. Said one board member: "He must be pretty confident, if he feels it's safe to beat the board."

It took just 13 min. to complete Senate confirmation hearing on reappointment of Abbott Washburn to FCC. Communications Subcommittee Chmn. Pastore (D-R.I.) asked one question: "What is the genesis for all this [Wiley proposal for fairness doctrine experiment, Vol. 15:38 p1]? . . . Why are you getting into it at this time? . . . The rule has worked up to now." Washburn responded that there's nothing in writing before the Commission, that "I have yet to be persuaded that it's a good move. . . I don't think it's an area where we should re-regulate." He said fairness doctrine is needed to take care of small group of broadcasters who are "blatantly unfair." Pastore, who was only Subcommittee member present, agreed. Sens. Scott (R-Pa.) & Mondale (D-Minn.) testified for Washburn; there was no one opposed. Comr. had 6-page prepared statement—covering his views on fairness doctrine, children's TV, violence, family viewing, among others—which he was told to put in record. Senate okayed nomination 3 days later.

"State of emergency" due to lack of qualified spectrum managers has been declared by Acting OTP Dir. Eger. OTP-requested 1974 survey discovered that of total of 35 senior govt. officials charged by their agencies with spectrum management, 14 are expected to retire before Jan. 1, 1977, additional 6 before Jan. 1, 1979. This "forebodes a crisis" in U.S. negotiating strength at 1979 General World Administrative Radio Conference, where worldwide spectrum allocation will be set for at least next 20 years, according to report. In response, Eger urged Civil Service Commission and all federal agencies with spectrum management needs to begin crash career development program.

Freedom of Information suit will be brought this week by National Public Radio, first such by NPR, against Justice Dept. (JD), seeking documents involved in auto crash death of atomic worker Karen Silkwood. NPR has been investigating case, questioning whether death was accidental. Silkwood was contacting N.Y. Times reporter. On another front, NPR will conduct unusual national call-in program following Oct. 2 CBS-TV special on Hollywood-black-listed John Henry Faulk; he has been contributor to NPR.

Ampex moves into ENG in deal whereby salesmen will handle Sony portable & editing VTRs, playback equipment & Tricon color camera, we've learned. Move is believed to be trial balloon which could lead to line of portable Ampex ENG gear. Ampex spokesman declined comment.

TVB hosts co-op advertising workshop, Oct. 9-10, Plaza Hotel, N.Y. Registration is \$150.

To avoid conflict with FCC regional meetings, NAB has changed its TV Executive Seminar schedule to start 2:30 p.m. first day, run 9 a.m.-lunch 2nd day—instead of beginning 9 a.m. 2nd day. FCC Chmn. Wiley will head Commission meetings in Boston & Denver, Comr. Hooks in San Francisco. Participating with commissioners in FCC's meetings will be Ashton Hardy, William Ray, Richard Shiben, Lionel Monagas, Martin Levy, Phyll Horne. In NAB's other 3 meetings—Atlanta, New Orleans & Chicago—FCC will send Ginsburg, Neal McNaughten & Paul Putney. Hardy will attend in New Orleans. Rep. Staggers (D-W.Va.), chmn. of Commerce Committee, will appear at Atlanta meeting. Sen. Pastore (D-R.I.), chmn. of Communications Subcommittee, couldn't make Boston session; others are being sought.

FCC should tighten its procedures and policies on citizen-broadcaster agreements and renewal proceedings, according to Comr. Quello. Speaking to United Church of Christ group in Wichita, he stated: "A negotiated agreement reached between a licensee and any citizens group who represent only a small portion of the total community simply does not square with the requirement that a licensee follow the Commission's comprehensive ascertainment procedures to determine for himself the needs and interests of his total community. . . After all, activist groups, regardless how laudable the objectives, have not been elected or appointed as bargaining agents for the public at large."

Children's TV is better than it was 2-3 years ago, according to 36% of parents with children 6-12 years of age, while 25% feel programs aren't as good, 39% say they're the same, according to Roper survey conducted for TIO. For parents of children under 6, 46% say programs are better, 21% say they're not as good, 34% about the same. Of total viewers surveyed offering opinion, 40% believe children's programs are better, 26% say they're worse, 34% say they're the same.

Impassioned address by FCC Comr. Hooks, prepared for Sept. 27 annual dinner of Congressional Black Caucus of 17 members, criticized media for concentrating on black entertainers & athletes, said for example, caucus members "ought to be welcome on the programs Meet the Press, Issues & Answers, Face the Nation and in TV documentaries, heralding the magnificent work of black leaders."

FCC has proposed to simplify log-keeping for all classes of stations, also seeks comments (due Oct. 30, replies Nov. 12) on "all facets" of automatic logging.

PERSONAL ATTACK RULE TESTED: "It could be the vehicle for overturning much of the Supreme Court's Red Lion decision," Washington lawyer (not involved) said last week of WMCA(AM) N.Y.'s appeal of FCC ruling it violated personal attack rule. Attorneys say case may be of major significance, involves issue not previously before courts.

In 1973, WMCA talk host Bob Grant called Rep. Rosenthal (D-N.Y.) "a coward" on air. Following Rosenthal complaint, Commission ruled station had violated personal attack rule (although \$1,000 fine levied against station by Bcst. Bureau was rescinded). WMCA has asked D.C. Appeals Court to reverse ruling on grounds: (1) It's unconstitutional. (2) "The vagueness of the... decision and the resultant chilling effect upon the uninhibited broadcast of controversial speech." (3) "The Commission's processes were invoked to punish the station, not to gain a right of reply for public enlightenment." (4) "In light of the Supreme Court's recognition of the inhibiting effects of the personal attack rules... and because of the vagueness of their application by the FCC, the rules should be invalidated."

WMCA noted that, in Red Lion, Supreme Court Assoc. Justice White "expressly left open" possibility that personal attack rules should be abolished if "in actual administration they inhibited coverage..." This is that case, station argued, particularly in light of "FCC's inability to administer the rule in a coherent & principled fashion."

FCC countered that it used case to "clarify a timing problem—the relation of an attack to the discussion of a controversial issue—for [WMCA] and all licensees... This clarified position was reasonable and within the Commission's statutory authority. Petitioner has seized upon the finding of a technical violation and... a prospective interpretation of the personal attack rule as an excuse once again to ask this Court to depart from the holding of Red Lion. We strongly urge this Court... to reaffirm the continuing validity of Red Lion."

Rosenthal told Court "this case appears to be the latest in a series of efforts by the broadcast industry to destroy the concept of the 'public trustee.'" Case will be argued later this fall.

WBTB-TV (Ch. 58) Newark resumed telecasting Sept. 28, having been dark since Dec. 27, 1974, is concentrating heavily on stock market, consumer & business news. Station holds authorization for pay-TV operation, has no plans to start it until adequate financing is obtained. Also started last week was WBKB-TV (Ch. 11) Alpena, Mich. Scheduled to begin Sept. 29 was WGPR-TV (Ch. 62) Detroit. Total operating: 963-706 commercial, 257 ETV.

Hearing has been set by FCC on request for exclusivity protection by WIC-TV Pittsburgh against Southwest Pa. Cable TV. Commission had issued cease & desist order to Southwest, for failure to provide protection. Latter appealed, and D.C. Appeals Court ordered FCC to conduct hearing, saying station didn't seek exclusivity from all cable systems in area; it also ordered evidence taken on system's claim of economic injury.

There's "substantial question" whether current FCC regulation of cable "adequately serves" public interest, according to "work statement" of House Communications Subcommittee. Statement was filed with House Administration Committee as budget justification for Subcommittee's 6-month cable study designed to lead to proposed cable legislation. Statement says study "is not meant to be an analysis of the issues that presently concern the FCC," but "to deal more broadly... with alternative ways of approaching the opportunities offered by the new technologies. The study should reflect the consideration of how cable TV should fit into the national communications network." Subcommittee staff already has interviewed Justice Dept. (JD), OTP, FCC, AMST, NAB, networks, NARUC, NCTA, MPAA, NATO, CATA, citizens groups, plans trips to N.Y., Cal., & Canada for more research. Meanwhile, OTP cable bill has undergone further changes in response to JD objections to earlier draft, is again in White House clearance process. Among options White House is considering is not sending bill to Congress at all for 1-2 years, in order to avoid irritating broadcasters just before 1976 presidential election.

Senate Judiciary Committee meets Oct. 7 in closed session to begin mark-up of general copyright revision bill. (Meeting had been set for Oct. 1, was delayed to allow Register of Copyrights Barbara Ringer to testify Oct. 2 on same bill before House Judiciary Subcommittee.) At press time, it was uncertain what amendments would be offered: (1) Sports blackout apparently is dead issue. (2) Sen. Scott (R-Pa.) may again offer performance royalty amendment. (3) NCTA board discussed copyright issue at meeting last week (see p. 2), reaffirmed earlier stand; NCTA will push for elimination of tribunal's authority to reassess congressionally-set rates. (4) Most important goal for NAB will be right of broadcasters to sue cable systems directly; NAB also will stress language—dropped last year from Senate bill—barring change in number of distant signals system can carry without reopening fee schedule. Meanwhile, House Judiciary Committee hopes to complete action on bill by end of session. There's strong possibility that one or more members of Copyright Subcommittee will offer amendments to exempt local signals from copyright liability.

FCC has voted denial of renewal of Richard Eaton's WFAB(FM) Miami, it's understood, will announce it shortly. Vote is believed unanimous, affirming FCC judge's initial decision, which attacked station for fraudulent billing, Eaton for inadequate supervision. Recently, Commission denied renewal of Eaton's WOOK-TV Washington (Vol. 15:37 p6).

Citizens for Better TV, "concerned about the moral education of our youth via TV," appoints dirs., elects officers, plans national organization "powerful enough to combat this problem" at Oct. 4 meeting, Hyatt Regency, Knoxville, Tenn.

MDS will offer pay TV in Cincinnati, Columbus & Dayton, beginning this fall. Plains TV Corp. will operate systems; Microband arranged contracts, now has 23 in U.S.

SPORTS ANTI-BLACKOUT SLOWED: Hospitalization of House Communications Subcommittee Chmn. Macdonald (D. Mass.) for severe bronchitis attack forced cancellation of 3 of 4 scheduled days of hearing on sports anti-blackout law which expires Dec. 31. Bill pending before Subcommittee would make law permanent (Vol. 15:37 p5). Though Macdonald was released from Bethesda Naval Hospital at week's end, fact that he was named House conferee on massive energy bill forced delay of hearing's conclusion until Oct. 6-8.

Both FCC Chmn. Wiley and CBS Bcst. Group Pres. John Schneider told Subcommittee they supported making law permanent. Reps. Frey (R-Fla.) & Carney (D-O.) suggested amendment defining limit on blackout that home team can impose. FCC report to Congress noted that in some cases, games were blacked out up to 126 miles, when law's intent apparently was to limit blackout to 75 miles (Vol. 15:14 p3). Wiley invited legislative clarification.

Schneider, Reps. Murphy (D-N.Y.) & Wirth (D-Col.) tried to pursue question of whether blacked-out games could or should be available to pay TV, but Macdonald refused to allow subject to be discussed, saying Subcommittee would deal with issue at later hearing.

"Institutional bottleneck" slows down U.S.'s ability to use telecommunications technology advances, according to Acting OTP Dir. Eger, addressing Research Institute of Telecommunications & Economics in Japan. As result, "telecommunications is changing the face of American society at only half-speed." He said OTP is attempting to break bottleneck by promoting competition, reducing "inappropriate regulatory restrictions"—such as in cable—and pushing new technologies of optical fibers, satellites, digital TV signals, add-ons to TV signals such as multi-channel sound & captioning.

In compromise long-term funding bill (Vol. 15:29 p5), "we will not get what we had hoped for, but we will get a heck of a lot more than we've ever had," according to CPB Pres. Loomis. He explained to CPB Advisory Council members that "this is clearly not the amount of insulation we would have had in the original bill, but it is, I think, more insulation than we have now," due to advance funding commitment. He said public broadcasters will try to persuade House-Senate conference to keep Senate bill's 2.5-to-1 match, rather than House bill's 3-to-1 match in 4th and 5th years.

NBC was honored for "50 years of distinguished news & entertainment programming," Pres. Herbert Schlosser for leadership in international broadcasting, at Prix Italia Festival in Florence. Festival is sponsored by European Bcstg. Union, organized by Radiotelevisione Italiana.

FCC has denied NAB request that provisional 3rd-class operators' permits be extended from one to 3 years. NAB had contended complexity of examination had "dramatically" decreased number of successful applicants and that FCC study guide was "woefully lacking in content."

"You can live all right under the present law" on renewals, Rep. Jordan (D-Tex.) told TIO workshop in Houston last week when asked about prospects of congressional passage of renewal legislation. Any legislation "must include assurances" that needs of public will be foremost in minds of licensees. She said stations can "answer renewal protests with quality programming" and that family viewing "is a good response by the industry." Jordan made strong appeal for TV-radio coverage of congressional floor proceedings because "the people should know whether their representatives are on the job or in the gym" and "if the cameras are there" most members will become better congressmen.

International Broadcast Institute annual conference, Sept. 1-4, Cologne, Germany, chose for study: (1) Worldwide volume and direction of flow of TV-radio programs, in national, regional & global context. (2) Development of various national broadcasting structures & policies. (3) Role of communications in social & economic development. (4) Relationship between changing technologies & communications patterns in different societies. (5) Communications' cultural content. (6) Legal obstacles to national communications development. Conference was attended by representatives of more than 35 countries, including ABC Vp-Corp. Affairs Elmer Lower. Next year's meeting is in Japan.

"TV and Human Behavior," 3-vol. compendium organizing and evaluating work to date on subject, is available from Rand, 1700 Main St., Santa Monica, Cal. 90406. Vol. 1 (\$10) is guide to known literature, with 12 bibliographies; Vol. 2 (\$10) focuses on 450 "key" studies; Vol. 3 (\$7) outlines current and future research.

Communications Law 1975 seminar Nov. 6-7 at Century Plaza Hotel, L.A., Nov. 13-14 at Sheraton Hotel, N.Y., features panels on fair trial-free press, libel, legislation, liability for advertising & First Amendment, access. N.Y. Times Exec. Vp-Counsel James Goodale is chmn. Seminar is sponsored by Practising Law Institute.

"Govt. in Sunshine" bill has been approved by Senate Rules Committee, now awaits final Senate action. Legislation would open to public most meetings of most govt. agencies—including FCC, FTC, etc.—unless public interest considerations require them to be closed.

Mobile Image, formed by merger of Mobile Image Atlanta and Jayan Film Productions, is new video & film production company: 769 Peachtree St. NE, Atlanta 30308, 404-875-9048. John Reichard, ex-Jefferson Productions, Charlotte, is pres.

FCC should "seriously consider the need for controls on televised violence and to determine ways in which televised violence may be reduced," according to resolution passed by Cal. legislature.

Washington counsel has been retained for first time by TvB National Sales Advisory Committee—Victor Ferrall, of Jones, Day, Reavis & Pogue.

Personals

John Salisbury, KXL-AM-FM Portland, Ore., elected RTNDA pres., succeeding **Thomas Frawley**, Cox Bestg.; **Wayne Vriesman**, KWGN-TV Denver, named pres.-elect... **John Kinzer**, ex-Arthur Young & Co., Washington, appointed NAB secy.-treas., succeeding **Everett Revercomb**, who retires Nov. 30... **Arno Mueller**, Storer Bestg. elected chmn., Best. Credit Assn.; **Lawrence Loiello**, PGW, pres.; **Howard Brandt**, WGN Continental, vp... **George Keramidas** promoted to audience research dir., ABC-TV Planning & Development; **Jules Haimovitz** advanced to operations & statistical research mgr.

FCC Chmn. **Richard Wiley** & Rep. **Torbert Macdonald** (D-Mass.), chmn. of Communications Subcommittee, speak at Nov. 3-6 NARUC convention, Boston... **James Warwick** advanced to chief, international & satellite transmission systems branch, Facilities Div., FCC Common Carrier Bureau; **John Johnston** promoted to chief, Amateur & Citizens Div., Safety & Special, succeeding **A. Prose Walker**, retired.

Ralph Oman, ex-Justice Dept. Antitrust Div., named minority counsel to Senate Judiciary Subcommittee on Copyrights, succeeding **Dennis Unkovic**, who begins law practice in own firm, Pittsburgh... **Lawrence Carino**, vp-gen. mgr., WJBK-TV Detroit, moves to Washington as vp-govt. affairs, Storer Bestg., post vacant since **Lionel Baxter** retired; **Jay Watson**, Storer Radio vp, succeeds Carino at WJBK-TV... **Paul Simon**, ex-Columbia Pictures TV, named research dir., KTTV L.A.

Fred Cuneo promoted to NBC-TV special program sales dir.,... **John Weir** appointed controller, Kansas State Network... **J. Nicholls Spain** advanced to local sales mgr., WWJ-TV Detroit, new post.

Theodore Koop, one-time CBS Washington vp & **John Horner**, ex-ITT & Washington Star reporter, form K-H Assoc., consultants & PR, 2121 P St., NW, Washington 20037, 202-234-4480... **James Livingston**, ex-RCA, forms Livingston Assoc., CATV consulting firm: 800 Welch Rd., #354, Palo Alto, Cal. 94304.

J. Allison Binford Jr., ex-III. Office of Education, appointed vp-programming, Conn. PTV; **Alfred Steel Jr.** advanced to program mgr.; **Leon Rosenbluth**, ex-J. Walter Thompson, named CPB research dir.; **Dr. Jack Lyle**, ex-CPB, appointed dir., East-West Communication Institute, Honolulu... **Peter Coe** promoted to pres., Berkey Colortran... **Lowell Thomas** celebrates 45th anniversary in radio Sept. 29.

William Morris promoted to Blair TV sales strategy dir., succeeding **Dick Gideon**, who resigned to form consulting firm (Vol. 15:30 p6)... **Terry Devine** advanced to AP regional membership exec. for Wis., Minn., N.D. & S.D., succeeding **Arlan Schlagel**, named sales mgr., KFAM(AM) St. Cloud, Minn... **Donald Ritter** advanced to dir., new Nielsen client service office in Boston... **Dr. Robert Powers**, ex-Commerce Dept. Office of Telecommunications, appointed FCC Cable Bureau senior engineer.

Cox Bestg. is acquiring KOST(FM) L.A. from McLendon Corp. for \$2.2 million; Cox now owns KFI(AM) L.A.

Since judges traditionally don't respond to criticism, media should act "with the same kind of restraint with which the media expects judges to act" when criticizing judiciary, according to Supreme Court Chief Justice Warren Burger. He told Voice of America interviewer that media are "becoming almost a 4th branch of government, in an informal sense... Its powers should be exercised with restraint..." He said right of free press, though "not an absolute right... is as near to an absolute right as we have in our system." However, "I think history shows that there's never been a time in our 200 years when the press did not think its freedom was being threatened."

CBS suit against BMI & ASCAP—seeking performance licenses, rather than blanket, for music performed—was dismissed last week by N.Y. Federal Judge Lasker. Civil antitrust suit, filed in 1969, claimed that alternatives to blanket licensing weren't flexible enough and resulted in payment of royalties "on a basis which doesn't bear any relationship to the amount of music performed." Lasker said CBS didn't prove it couldn't negotiate rights directly with copyright owners. Still pending is BMI suit against CBS seeking payments equal to royalties paid ASCAP; BMI gets just under \$2 million annually, ASCAP twice that, according to BMI.

Senate Select CIA Committee voted last week to delete Committee rule allowing witness to bar TV-radio coverage of his testimony. Rule is common to most congressional committees. Vote followed request by ex-CIA chemist Dr. Nathan Gordon that his testimony not be covered by electronic media. NPACT, public TV's Washington production center, informed Chmn. Curch (D-Ida.) it would drop coverage of hearing, and Church promised NPACT that Committee would reconsider rule in exchange for coverage of all but Dr. Gordon's testimony. Rule change leaves question of TV-radio coverage solely to discretion of Committee.

Three technical issues were stressed by FCC Chmn. Wiley in luncheon address to IEEE Broadcast Symposium Sept. 25: (1) Automatic transmission. He said Commission is thinking of setting over-all standards, leaving it up to licensee how to meet them, providing flexibility. (2) UHF taboos. Urging engineers to file comments in rulemaking, he also reminded that Commission will let contract for development of high-performance receiver to "serve as the basis for action by industry" for upgrading sets. (3) Enforcement. Commission wants to be both helpful & firm.

Tightening of AM-FM duplication rules was discussed by FCC last week, not finalized; Comr. Robinson seeks more economic data. Staff is said to recommend: (1) Reducing to 25% from 50% the amount of duplication allowed in cities over 100,000. (2) Imposing 50% rule on cities as small as 25,000.

'PUP'—PBS UHF Project—is nationwide campaign to improve public understanding & use of UHF TV, beginning Oct. 1 with closed-circuit briefing for PBS' 155 member stations. PUP is complement to Council for UHF Bestg. (CUB) "Action Plan" (Vol. 15:30 p. 8).

Consumer Electronics®

A Section of Television Digest with Consumer Electronics

MANUFACTURING & SALES • TV • AUDIO • TAPE PRODUCTS • VIDEOPLAYERS • COMPONENTS • NEW PRODUCTS • FINANCE

STATE OF THE INDUSTRY

Sales to dealers (total market), from EIA, for week ended Sept. 12 (36th week of 1975):

	Sept. 6-12	1974 week	% change ¹	% change ² (adj.)	1975 to date	1974 to date	% change
Total TV	200,244	187,469	+6.8	-28.5	7,244,509	9,154,400	-20.9
color	127,086	114,231	+11.3	-19.0	4,046,943	5,240,485	-22.8
monochrome	73,158	73,238	-0.1	-40.6	3,197,566	3,913,915	-18.3
Total radio	501,617	557,700	-10.1	-52.5	22,172,444	26,838,377	-17.4
home portable	297,986	330,464	-9.8	-62.4	16,420,813	19,982,571	-17.8
AM-only	67,358	116,359	-42.1	-74.6	4,608,931	7,544,209	-38.9
FM & FM-AM	230,628	214,105	+7.7	-56.3	11,811,882	12,438,362	-5.0
auto	203,631	227,236	-10.4	-22.5	5,751,631	6,855,806	-16.1
Total phono	57,860	67,965	-14.9	-37.2	2,489,213	2,962,085	-16.0
portable-compact	43,820	59,815	-26.7	-43.8	2,168,285	2,453,772	-11.6
console	14,040	8,150	+72.3	-0.1	320,928	508,313	-36.9

Color TV 5-week moving average: 1975—132,930; 1974—144,730 (down 8.2%).

¹ Official EIA comparable week. ² Vs. most nearly comparable 1974 calendar week.

NEW ADMIRAL—TECHNOLOGY & MARKETING: Rockwell's transformation of Admiral is well under way on all fronts—streamlining organization, revamping existing products, developing new ones, changing image—and in visit last week to Schaumburg, Ill. hq, we saw nothing to support innuendos that Rockwell is disillusioned with its \$77.7-million purchase. It's obviously pouring in huge amounts of money, and first major technical results should be visible next year when Admiral plans to: (1) Introduce 4 new color chassis simultaneously. (2) Demonstrate prototype of new mystery hardware-software product.

New sparkplug of Admiral team is Charles J. Urban, ex-Textron, Norge, Bulova, Symphonic, Westinghouse, now pres. of both Rockwell Consumer Operations & Admiral. Since taking over in July, he acted quickly on reorganization, and many familiar names—including some added post-Rockwell—have disappeared, and others brought in. Here are highlights of his first interview since taking over:

Admiral's Urban renewal involves "hybrid" organization structure, operations under Rockwellite John Green, onetime Chrysler, marketing under George Simkowski, ex-Bell & Howell & Norge. Gone are separate Appliance & Home Entertainment Divs. "We have to speak with one voice. It's the consumer who pays the bill, and he must know us as a full-line organization." Urban's decision-making will be aided by exec. committee of 6, and 3-4-person market-plans group will develop strategy. "Product planning & strategy is a top-level decision—we want to know where we'll be 4-5 years from now." Company will assign full-timer to consumer & industry affairs in Washington.

Interfacing with Rockwell technology is major obsession. New Research & Design Center, headed by William Slavik, ex-Motorola, is elite group working on products of future, already has 4 Admiral men in "our little-black-box factory," Anaheim semiconductor lab. Urban believes Admiral is strong "No. 1 in technology among consumer electronics firms—Rockwell spends more on R&D applicable to consumer products than anyone else. By directed research, we want to capitalize on Rockwell's engineering ideas." As example, he cited possibility that heat shield

on Rockwell-developed space shuttle could lead to new thin refrigerator insulation.

What has Rockwell brought to the party so far? "Overnight conversion to all-solid-state," microwave oven business. But main focus has been quality control. Dealer returns of b&w have been reduced to zero, Simkowski told us, and color reliability is coming up fast.

During transition, Admiral is pushing new image, crash program developed by ad agency Marsteller stressing "smart-money set"—more for the money—and touching on Rockwell connection. Ads will avoid stating Admiral is better than other sets, but push it as top value—"cost-value relationship," to quote a favorite Urban phrase.

Major selling tool in new network TV campaign which starts today is Admiral's controversial return to year labor warranty, which probably will last until year's end, Simkowski said. "It's been good for us—dealers have bought a lot of sets in anticipation of the commercials." Next year, Admiral will return to 90 days, offering extension to year at expected \$40—\$10 over some other majors—"providing a profit for both Admiral and its dealers."

Since takeover, Rockwell has put "tremendous sum into Admiral," said Urban. "A lot of it is R&D, cost systems, controls interfacing with our Pittsburgh hq." Though Admiral's 9-month loss was \$15.1 million (Vol. 15:38 p10), "if you take out the money for engineering & systems, our losses aren't so great. We'll continue to pour in money in 1976." Break-even? "We'd like to see profits before fiscal 1976 is over [Sept. 30], but I'm not predicting."

Admiral aims at "performance & legitimate features—not gimmicks," said Urban. "The consumer doesn't care what's in back of that screen." But there are "dramatic developments in the wings." Next May, when 4 new color chassis are unveiled, "we'll show a patentable feature developed in Anaheim & England." And there'll be completely new products—"products for which we can't define a market in our existing business charter."

One of them is code-named "Interface Mark IV" and probably will be demonstrated next Feb. It's Admiral development, out of Anaheim labs. "It could be either a consumer or commercial product—we just don't know. Conceivably we could set up a joint venture with someone else—it may need a specialist type of organization to go to market. And it's not a \$1,000 product." Urban declined to identify it further, but our guess is that it's educational-instructional development interfacing user with TV set.

Some other Urban views: Videoplayer won't be consumer product until it can be made with no moving parts, attainable by expanding on computer memory & display devices already in use. Video games have "some future, but not for us"—big toy & game companies probably will take over field. Projection TV will remain "affluent, specialized market." Audio—"We have a future. We want to try it. While everybody's getting out, we say, 'How do you make a success of it?'" Private-label will continue important to Admiral, has been placed under operations instead of marketing—"marketing people are wedded to brand name and tend to make private-label a stepchild."

Taiwan operation is successful, probably will be expanded next year. Market share is "measurement after the fact—we must satisfy the consumer, make a profit, earn our place first, then go back & measure." Business prospects—"I don't see recovery this year, not much more next year. The key will be credit, and high interest could suffocate sales." Calculators—see p. 10.

"Business comes down to profit-&-loss, the balance sheet," Urban observed. "We must create products for the future and pay for them out of today's earnings. If you don't make money, you can't fund tomorrow's product. The distributor doesn't understand that, the dealer doesn't understand that, and most of all the consumer doesn't understand it."

Although Urban is articulate talker, he also listens. He's now in process of meeting production workers ("the people who run our company"), visiting Rockwell plants, talking with distributors, dealers. He listens personally to consumer complaints—"I usually take 6 or 7 consumer calls a week, learn more from them than anything else. When a customer finally has to call the president, things have gotten pretty bad—and I want to listen."

Urban doesn't minimize long uphill pull ahead for Admiral in change of product, marketing & image—"let's face it, Admiral is known as a promotional line." But he doesn't question eventual success as full-fledged Rockwell product. Rockwell name goes only on "things we're proud of," he told us. "The day it's on Admiral products we'll have earned our place at the dinner table."

TRADE DEFICIT EASED IN FIRST HALF: Though still heavily out of whack on import side, consumer electronics foreign trade balance showed marked improvement in first half & 2nd quarter, Commerce Dept. totals show.

Domestic manufacturers exported \$45.3 million worth of phonos and TV & radios in complete & kit form in 2nd quarter, down 16.4% from same 1974 period. Drop offset first quarter gain (Vol. 15:28 p9), leaving total for half \$84.9 million, off 9.2%. Value of comparable imports in quarter dropped 35.6% to \$204.7 million, bringing first-half total to \$381.1 million, off 31.6%. As result, trade deficit for quarter was \$159.4 million, down 39.5%, and for half was down 36.1% to \$296.2 million, for gross improvement of \$167.4 million.

Shaving of deficit was attained despite general decline in unit exports of most products, as only phonographs showed pickup from year-earlier. Contributing significantly to brighter picture were increases in average price on key export items. Gainers included color TV, up from \$323.63 to \$350.18; TV chassis & kits, \$42.81 from \$31.97; home radios, \$14.23 from \$14.04; auto radios, \$51.57 from \$37.54; radio chassis & kits, \$12.40 from \$10.57. On down side were averages for b&w TV, \$105.07 from \$109.80; radio-phonos, \$110.90 from \$119.77; phonos, \$73.83 from \$74.75.

TV picture tube exports, not included in trade balance calculations or shown in table below, were down 24.5% to 478,700. Shipments of over-22" color tubes fell 29.2% to 209,400, with value off 25.9% to just under \$20 million. Smaller size color tube exports rose 24.4% to 165,900, though value slipped 14.3% to \$10.3 million. B&w tubes dropped 49.6% to 103,400, with value off 37.8% to \$1.45 million. Average large-screen color tube prices rose from \$91.03 to \$95.33, but dropped for smaller sizes to \$61.99 from \$89.87. B&w average increased to \$14.03 from \$11.37. Best customer for over-22" color tubes was U.K. with 73,000, followed by Australia, where color output started just this year, at 48,400, W. Germany at 27,500. S. Africa, also just starting with color, bought 11,200. France, with 71,300, led small-screen color tube buyers, trailed by U.K. with 62,600, Canada's 13,700 & Brazil's 12,300. Italy, with 59,300, was major b&w tube customer.

Best customers for product exports: Color TV—Canada 38,000, Mexico 9,100, Taiwan 4,700; b&w TV—Mexico 12,800, Canada 3,900; TV kits: Mexico 673,700, Taiwan 174,900; Canada was dominant customer for phonos, auto radios & radio kits; Mexico led in radio-phonos, ranked behind Venezuela as home radio purchaser. Here's first half export picture:

U.S. FIRST HALF CONSUMER ELECTRONICS EXPORTS

	Units			Value \$ (add 000)		
	1975	1974	% change	1975	1974	% change
Total TV	91,597	145,847	-37.2	23,693	35,737	-33.7
color TV	57,398	92,238	-37.8	20,100	29,851	-32.7
monochrome TV	34,199	53,609	-36.2	3,593	5,886	-38.9
TV chassis & kits	930,266	1,130,565	-17.7	39,825	36,150	+10.2
Home radios	173,374	212,235	-18.3	2,467	2,797	-11.8
Auto radios	158,248	177,417	-10.8	8,161	6,660	+22.5
Radio chassis & kits	247,207	506,327	-51.2	3,067	5,354	-42.7
Total phonos	85,759	72,480	+18.3	7,718	6,598	+17.0
radio-phonos	37,381	26,527	+41.0	4,147	3,177	+30.5
phonos	48,368	45,953	+5.2	3,571	3,421	+4.4

ENERGY LEGISLATION: Mandatory labeling of TV & other major appliances to show energy efficiency and 25% cut from 1972 level in power consumption of models made in 1980—compared with 1972—are included in bill passed last week by House. Compromise must be reached with earlier Senate-approved bill, which has no appliance provision. Senate also passed bill which would require appliance labeling, but doesn't demand increased efficiency. Appliance issue isn't controversial, probably will be included in final bill. But issue appears moot as President Ford promised to veto any measure limiting Administration action on energy.

Possibility of legislated controls on appliance energy consumption isn't keeping National Bureau of Standards from pushing ahead with voluntary program. NBS is preparing for Oct. publication proposed standard for testing TV energy consumption. Expected proposal, recommended by RCA, calls for average of set wattage measurements with picture control: (1) Set for maximum brightness. (2) Turned down to black screen. Also being considered is Zenith proposal for measuring wattage drain with picture at specified brightness level. Still to come is NBS proposal for labeling, only aspect of program expected to meet strong industry opposition.

Zenith is demanding foreign trade records from Admiral, RCA & Sears for use in \$900-million anti-trust damage suit in Philadelphia Federal Dist. Court against Japanese TV industry (Vol. 14:38 p8). Subpoenaed from Admiral & Sears are details of business deals with Japanese producers, while RCA is asked for licensing documents; most Japanese consumer electronics firms are RCA patent licensees. Earlier, Zenith sought and received information from Magnavox. Admiral, Sears & RCA aren't expected to cooperate willingly. More manufacturers & importers, particularly independent private-labelers, can expect subpoenas from Zenith, and many of same companies probably will get similar demands for records from Japanese defendants. Meanwhile, National Union Electric is petitioning to have trial phase of its similar 5 year-old case shifted from Newark to Philadelphia and combined with Zenith case. NUE claims Japanese damaged its now-defunct Emerson-DuMont TV business by about \$400 million. Cases were combined for pre-trial hearings last year.

New video projector, CineVision, is slated for marketing at year's end at \$5,000 by Projection Systems of Passaic, N.J. Like Advent unit, it uses 3 proprietary 3" Schmidt optical projection tubes, one for each color, housed in 100-lb. 33x39x12-in. box which can be either mounted on floor tripod or suspended from ceiling. Controls are in separate cable-connected box. Unit is focusable from 13 to 17 ft., provides picture ranging from 4-1/2x6 ft. to 6x8 ft. viewable on any movie screen. Product is aimed at hotels, bars & institutions.

Debut of Betamax, Sony's 1/2-in. consumer VTR-19" color TV combination, was at opening of Bloomingdale's White Plains, N.Y. store. Unit carries \$2,400 price there, \$100 higher than suggested retail (Vol. 15:18 p9). It will start appearing in other stores soon. Hour cassette is \$16, 1/2-hour \$12.

Labor Dept. (LD) rejected 3 import adjustment assistance requests from Globe-Union Centralab workers on grounds that depressed market conditions, rather than import competition, was cause of job losses. Petitions covered workers in Milwaukee, Ft. Dodge, Ia., & W. Lafayette, Ind., producing circuit boards, switches, potentiometers, ceramic insulating forms & special capacitors. LD noted that while company sales were down and employment off for those products, import market penetration ranged from negligible for capacitors, to high of just 3.8% for circuit boards. In all cases, LD said, customers interviewed stated they cut back purchases from Centralab because of market decline, have not switched to imports. LD did declare former workers at Electro Motive's Willimantic, Conn. variable capacitor plant eligible for aid, found that imports of types made there are higher than apparent domestic consumption. LD noted EM halted varicap output at plant, shifted work to plant in Florence, S.C. New cases were opened on behalf of b&w TV workers at Sylvania's Batavia, N.Y. plant, and employes at Stackpole Carbon's Kane, Pa. plant (resistors, ferrites, brushes & anodes).

Suit to force immediate public release of Consumer Product Safety Commission TV accident data was dismissed by Washington Federal Judge Richey. Action brought by Consumers Union & Ralph Nader's Health Research Group demanded data under Freedom of Information (FOI) Act. Richey said CU & HRG had no claim against manufacturers, who aren't covered by FOI disclosure requirement, and no case against CPSC, which is willing to make data public, but under injunction by Wilmington Federal Judge Latcham. Latcham, meanwhile, is still pondering whether to grant industry request for permanent injunction on grounds that accident data submitted to CPSC was confidential.

Rockwell has 2 options in calculator field, according to Consumer Operations Pres. Charles Urban (see also p. 8): "Clean up our act or supply private-label only, and I don't think we'll do the latter. We have to determine our stake in this thing and that's up to Lonnie [Rockwell Vp Alonzo Kight]. I think the brand-name calculator must be a special-purpose product, and the cheap stuff should be left to those people who want to make a unit for \$1.98." Whether or when calculators will come under Rockwell Consumer Operations hasn't yet been determined.

Semiconductor sales statistical program is scheduled to be launched in Jan. by WEMA. Some 21 companies, including Fairchild, Motorola & National, among WEMA members, as well as non-members GE, General Instrument, ITT, RCA & Westinghouse, plan to participate. Still on fence is Texas Instruments, whose departure from EIA in 1972 launched demise of EIA Solid State Div. and killed semiconductor data program. WEMA effort is directed by James Conway, former EIA SS Div. staff vp.

Magnavox plans to move N.Y. office to hq of North American Philips at 100 E. 42nd St., no date set. Hq will remain in Ft. Wayne.

COMPONENT IMPORTS: First-half imports of discrete components & parts averaged more than 50% decline from same 1974 period, Commerce Dept. figures show. Drop reflects production cutbacks by U.S. end-product manufacturers.

Increases were achieved in imports of TV cameras, up 22.4% to 28,500, with color up 73%, b&w up 16%. Picture tubes were up 1.1% to 52,500; color slipped 1.8%, b&w gained 3.5%. Leading in general parts fall-off were speakers, down 60.8% to 13 million, while TV tuners dropped 57%, microphones 38.3%. In components, largest decrease was 65.8% for transistors; ICs fell 64.7%. Receiving tube imports were off 15.4%; relatively modest decline probably is indication of increasing import share of market, rather than firmness of demand.

Not indicated in table below are \$6.5 million in picture tube parts (down 6%), \$18.2 million in deflection components and \$111 million in other TV parts. Import totals for TV antennas, deflection components & speakers by type are available for first time this year. Details:

	First Half 1975		First Half 1974	
	Units	Value(\$)	Units	Value(\$)
Pic. tubes, color	23,560	1,526,446	23,991	1,244,193
Pic. tubes, b&w	29,304	515,096	28,322	343,555
TV tuners	4,377,691	27,110,952	10,183,081	46,978,391
TV antennas	1,018,452	1,620,888	—	—
TV cameras, color	4,558	9,189,330	2,636	3,271,473
TV cameras, b&w	23,922	6,372,184	20,626	4,523,829
Microphones	1,477,400	4,585,273	2,392,678	5,539,774
Amplifiers	423,366	12,410,047	1,322,855	11,900,487
Lspkrs., un- enclosed	7,839,361	9,276,676	33,291,390	42,893,736
Lspkrs., lone, encl.	3,320,864	8,124,045	—	—
Lspkrs., mult., encl.	1,870,295	6,616,910	—	—
Receiving tubes	25,537,333	11,839,347	30,171,836	11,904,765
Magnetic tape, blank	—	21,171,659	—	19,674,154
ICs*	445,211	261,479,583	843,177	306,496,419
Transistors*	430,989	63,966,740	1,261,591	116,870,469
Fixed capacitors*	508,052	34,004,117	1,451,455	66,997,506
Variable capaci- tors*	45,082	3,627,763	89,846	7,390,977
Fixed resistors*	903,996	9,425,220	1,918,940	19,338,007
Variable resistors*	75,100	6,988,427	195,306	10,307,476

*Not reported separately in 1974.

*Units in 1,000's.

Romania is shopping in U.S. for equipment to convert state-owned Bucharest b&w TV plant to color. Presumably, bids from other countries also are being invited. Last year, country turned out 451,000 b&w sets, up 13% from 1973, meeting goal of 450,000. Radio output, planned at 670,000, was 602,000, down 3%. For this year, Romania is shooting for 550,000 TVs, 880,000 radios, aims for 700-750,000 TVs, including color, million radios, in 1980.

ADC-MARTA is new northeast buying co-op, result of merger of Appliance Dealers Cooperative (24) members & MARTA (16). Initial purchases by merged group will begin Oct. 1. MARTA Exec. Dir. Art Meltz says 5-6 new members will be enrolled, and group will have buying power of \$35-\$40 million, making it one of strongest appliance co-ops in nation.

"I didn't mean to imply that," was response of FTC Attorney Melvin Orlans to published report that he charged Panasonic with sending same, but modified, color set through NEA serviceability test 2nd time after getting unacceptable rating on initial try. Orlans said he was trying only to indicate Panasonic submitted pre-production CT-701 to NEA, was dissatisfied with result and sent improved production version of model for 2nd rating test. Issue arose during pre-hearing conference on ad complaint filed by FTC in Aug. (Vol. 15:33 p7). Panasonic spokesman essentially agreed with Orlans. "When we didn't get a satisfactory serviceability rating on the first set, we improved the chassis design. Later, a new CT-701 rolled off the assembly line, and it was sent to NEA for testing." Basic issue is FTC assertion that test wasn't constructed in way which supported results and that Panasonic should have verified validity of testing procedure. Panasonic says: (1) Results came from valid testing procedure. (2) It had right to rely on expertise of NEA in testing set serviceability. March 23 was set as hearing date. Pre-conference hearing on ad charges against GE will be Oct. 17.

Watch watch: Pierre Remy, which unveiled electronic watch line at June CES, has acquired Malaysian assembly plant, plans production of 20,000 ladies' watches, 12,000 men's watch modules monthly, may expand operation into subassembly manufacture. Company said it shut down Mountain View, Cal. plant earlier this year because of quality problems with outside-sourced IC, recalled watches for repair. Operations are now back to normal. . . . **Quasar** charged LED watch assembler & distributor Armin Corp. with misappropriation of Quasar trademark in suit filed in Federal Dist. Court. Suit seeks to enjoin Armin from future alleged acts of infringement, asks damages. . . . **American Microsystems,** now private-label watch producer, introduces line under own Om-mex brand. . . . **Texas Instruments** has started test-marketing of own-brand watches. . . . **Litronix** is converting some calculator production lines to watch manufacture, opened new watch facility in Dinuba, Cal., while Novus has started producing watches, clocks & calculators at new W. Jordan, Utah plant. . . . **First watch** using National Semiconductor's 2 time zone module being offered by Calfax at \$43.75 dealer cost.

Ad notes: GE will offer \$50 cash rebate on 25" color console as part of promotion starting Oct. 6. . . . **NBC** pro football participating sponsors include RCA, Sony, Quasar, Rockwell, BASF & Columbia Magnetics. . . . **Fisher** \$849-list 4-channel stereo being offered as \$449 premium by Winston cigarets, which expects to sell 5-10,000 units. . . . Placement of **Admiral's** estimated \$4-million broadcast ads assigned to Kelly, Scott & Madison by Marsteller. . . . **Magnavox** will promote MX audio line as made in U.S.A. "for American ears," in fall print & broadcast campaign. . . . **Sequerra** names Lesly Assoc. for hi-fi components.

Calculator output hikes are being announced by Japan's major producers in reaction to Casio's increase to million monthly (Vol. 15:36 p8). Canon plans 60% boost to 400,000 monthly, Sharp 33% to 600,000 monthly, Omron 15% to 400,000 monthly.

WEEKLY Television Digest

with

Consumer Electronics...

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Financial Reports of TV-Electronics Companies

These are latest reports as obtained during past week. Dash indicates information not available at press time. Amounts expressed in dollars. Parentheses denote loss.

Company & Period	Revenues	Net Earnings	Per Share
Filmways			
1975-6 mo. to Aug. 31	48,058,000	870,000	.43
1974-6 mo. to Aug. 31	38,800,000	773,000	.38
1975-qtr. to Aug. 31	26,024,000	650,000	.33
1974-qtr. to Aug. 31	18,992,000	403,000	.20
Curtis Mathes			
1975-qtr. to Aug. 31	8,287,129	351,480	.11
1974-qtr. to Aug. 31 ^a	8,466,223	194,803	.06
Rust Craft Greeting Cards			
1975-6 mo. to Aug. 31	35,725,000	(189,000)	--
1974-6 mo. to Aug. 31	36,686,000	519,000	.22
Sony^b			
1975-9 mo. to July 31	984,200,000	44,600,000	.26 ^c
1974-9 mo. to July 31	984,600,000	69,100,000	.42 ^c
1975-qtr. to July 31	346,600,000	15,600,000	.09 ^c
1974-qtr. to July 31	341,600,000	21,600,000	.13 ^c
Telecor			
1975-qtr. to Aug. 31	18,031,669	659,819	.24
1974-qtr. to Aug. 31	17,708,765	867,899	.31

Notes: ^aRestated. ^bAt yen's current rate. ^cPer ADR.

Trade Personals

Takao Mizutani, former operations gen. mgr. of Matsushita's National Mexicana, named Panasonic senior exec. vp and elected to board... **Roy Hebert**, former Admiral video products program mgr., moves to Canadian Admiral as product planning & engineering dir.; **Robert De Mers** joins Canadian Admiral as controller... **Edward Troutt**, ex-Admiral, becomes Zenith Special Markets Div. field sales mgr... **Tom Donahue**, ex-Marketronics & one-time Nikko, appointed Magnavox MX div. national sales mgr.

Ed Stravitz, former Broadmoor mktg. dir., promoted to mktg. vp... **Hy Tessler**, ex-Webcor vp, named Morse Philharmonic gen. mgr... **John Lucas**, ex-Union Carbide, named Teletronics mktg. dir... **George Buehl** becomes Radio Shack Tokyo chief engineer, replacing **Wayne Gilbert**.

Dan Collins, former Pickering mktg. dir., becomes consumer mktg. vp, new post... **V. James Rice**, Antenna Specialists pres., elected vp of parent, Allen Group... **John Walsh**, ex-Ampex, named Fuji Photo Chicago branch videotape mgr.

Robert Boniface, Hewlett-Packard corp. admin. vp, elected exec. vp... **W. Angus MacIntyre** becomes Sylvania Chemical & Metallurgical Div. long range planning mgr., succeeding **John Ciccarelli**, now plant mgr., fabricated products & pressed, sintered & rolled products... **Muni Mitchell**, former GI MOSFET & CMOS product line mgr., named gen. mgr. of new special devices business section... **Nathan Aram**, Zenith consumer affairs vp, chairs consumerism panel at Conference Board's marketing conference at N.Y. Hilton, Oct. 22-24; **William Boss**, RCA distributor & commercial relations vp, speaks at sales panel.

Mike Wallace, CBS, delivers keynote speech at

annual ITA seminar in Tucson, Feb. 29-March 3... **Seth Goldstein** named Video Publisher editor, succeeding **Peter Karanakis**, resigned... **Ron Bernard**, ex-Beacham Products, appointed Capitol Magnetic Products western region sales mgr.

Magnavox Field Div. gen. mgrs., under restructuring carried out last Dec. (Vol. 14:50 p12): **Frank Reitter**, NE; **Richard Clearwater**, N. Y.; **Loren Ryder**, Mid-Atlantic; **Raymond Oliver**, Great Lakes; **Carl Smith**, SE; **Norman Mayfield**, Great Plains; **George Stephans**, SW; **William Brittle**, Pacific; **Dale Kelly**, L. A.

SONY NET DOWN: Sony profit fell 28% in 3rd quarter (to July 31) despite 1% sales increase (see financial table), leaving 9-month net off 36%, with full-period sales down less than 1%. Sony's first-quarter profit was down 48%, decline easing to 9% in 2nd quarter. Company said it expected full-year income of about \$56 million, off some 32%, with sales up 3% to \$1.35 billion, indicating 4th quarter net would be off 14%, sales up 13%.

Sony said 3rd-quarter TV sales rose 9% to \$136.6 million, audio & VTR equipment sales 8% to \$72.6 million, while tape recorder & radio volume slipped 17% to \$79.4 million. Sales of other products were up 10% to \$58 million. Sony said all of 3rd quarter sales gain came in overseas markets where volume was up 5% to \$191 million, including 8% increase in U.S. Japan sales slipped 3% to \$155.6 million.

Canadian Phillips sales for 1974 were up 21% to \$104.4 million, while net rose 22% to \$1.1 million. Company valued year-end assets at \$81.6 million.

National Semiconductor told shareholders that sales in quarter to Sept. 19 were up about 7% to \$80 million, but net was down because of poor margins for calculators.

HONORABLE BUCHEN
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF COMMISSIONER ABBOTT WASHBURN

October 1, 1975

Phil:

Len Marks remarked to me on the phone yesterday that he was unhappy with our 315 decision, saying he agreed with Bob Lee that this should be left to the Congress. I said that the 1959 legislative record shows that Congress had given us considerable leeway in interpreting the 315 exemptions, also that the vote in 1964 was 4-3 with dissents by Commissioners Lee Loevinger, Rosel Hyde and Fred Ford. I said that I had been particularly impressed with the Loevinger statement.

Accordingly, I sent the language of the Loevinger dissent to Len, with the enclosed covering letter.



Enclosure



FCC:

September 30, 1975

Honorable Leonard H. Marks
Cohn & Marks
1920 L Street, N.W.
Washington, D.C. 20036

Dear Len:

Per our phone conversation, enclosed is Lee Loevinger's dissenting statement in 1964.

If I had been on the Commission then I would have joined in the dissent along with Lee Loevinger, Rosel Hyde, and Fred Ford.

Regardless of which Party occupies the White House, to me it is incontrovertible that:

1. The President's press conferences are bona fide news events.
2. It is in the public interest for the American people to see them live on television.

To prevent this from happening because equal time must be given to John Gordon, the Socialist Party candidate, the Vegetarian Party candidate, the prohibitionist candidate, et al, is manifestly wrong.

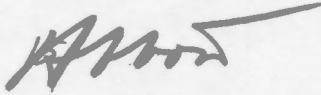
Contrary to the Vanocur piece this morning (which is so biased as to be counter-productive for your position), our decision last week was not "political" nor was the ruling in 1964 "political." Vanocur took off on Jim Quello without identifying him as a Democrat! And he made no mention of Robinson.



Attached to the press release, enclosed, are the statements of Lee, Hooks, Quello, Washburn, and Robinson.

In a Bicentennial year we should have the maximum broadcast coverage of political activities.

Yours,



Abbott Washburn
Commissioner

Enclosures



Wrapping It Up for the

'In' Presidential Candidate

By Sander Vanocur

Last Thursday was not President Ford's birthday, but Federal Commu-

nitious extension to all political candidates for any office at any level, suggests that Wiley and the commissioners who voted in the majority

That is quite a sweeping exemption, one that no one had asked for. CBS had petitioned the FCC on July 16, 1975, for a declaratory ruling reversing the 1964 decision. It said that if the decision were allowed to stand, it would be impractical for any of the networks to broadcast live coverage of any presidential press conference through this year and next.

The scope of the exemption, its gra-

What a wretched piece of "journalism" this is!



A Gift for the 'In' Candidate

TELEVISION, From BI

Scholars and journalists have been spending a good deal of time since Watergate thinking and writing about our "imperial presidency." They

But Wiley and four of his fellow commissioners have now given him even more. And he will use it. He would be foolish not to. Only the courts and the Congress can change

Family Hour, welcomed the decision. Said Taylor: "We at CBS are pleased; the public should be equally pleased by the FCC's action."

At an appropriate time I will urge the repeal of Section 315 and the enactment of a new section which would give the Commission the authority to make rules, regulation and interpretation on the use of broadcast facilities for political campaigns, and for affording a reasonable opportunity for the discussion of conflicting views on issues of public importance. I will further urge that an appropriate Congressional committee convene representatives of the networks, political parties of national importance (so as not to exclude splinter parties), the National Association of Broadcasters, the Commission and such other groups as seem appropriate into a working group under the committee for the purpose of writing into a committee report as many examples as possible of rulings on the various questions presented to achieve fairness in political campaigns and in the broadcast of controversial issues.

This procedure of convening interested parties was used with great success to solve the many vexatious problems involved in the payola legislation, and I believe it can be equally effective in solving these problems. It will permit the people most experienced with political broadcasts and controversial issues to write guidelines for committee approval in the legislative history of such a law for the exercise by the Commission of this new authority and yet not freeze into inflexible statutory language all of the details. Moreover, this would provide the means for clarifying the confusion that exists today between the statutory requirements of Section 315 on the use of broadcast facilities by candidates and the "fairness doctrine" imposed by the Commission in its Report on Editorializing by Broadcast Licensees and incorporated by the 1959 amendments to Section 315 of the Act.

DISSENTING STATEMENT OF COMMISSIONER LOEVINGER

The Commission has today ruled that a press conference at which the President of the United States is interviewed by reporters for news media is neither a "bona fide news interview" nor a "bona fide news event" within the meaning of Sec. 315. I dissent from this ruling because I believe it violates elementary canons of statutory construction, disregards Commission precedents and is contrary to common sense.

Some statement of the background is necessary to an understanding of how the issue arises and what significance the respective positions have. Section 315 of the Communications Act provides that when any licensee permits any legally qualified candidate for a public office to use a broadcasting station he must afford equal opportunities to all other such candidates for that office. 47 USC § 315. This section came from § 18 of the 1927 Radio Act, where it appeared in substantially the same terms. The section caused no substantial difficulty until 1959 when the Commission decided the so-called Lar Daly Case, 26 FCC 715, 18 RR 701 (1959). In that case the Commission ruled that television broadcast of a news reel of public events showing the Mayor of Chicago required the stations to give equal time to Lar Daly, a



minor party candidate for the mayoralty. The effect of this ruling was to require broadcasting stations to give equal time to every legally qualified candidate for any office whether any other candidate, whether an incumbent or not, appeared by image or voice, regardless of the nature of the appearance.

Broadcasters claimed that when Section 315 was interpreted in such a rigid manner this imposed a practical news blackout on any direct coverage of any candidates for any office because of the large number of candidates running for most offices . . . Although the practical choice usually lies between two, or possibly three, candidates for most offices there are frequently numerous candidates representing minor parties and small factions. It is reported that in addition to the candidates for President nominated by the two major parties in 1964 there may be as many as ten minor party candidates for the Presidency. Broadcasting, Sept. 21, 1964, pp. 91-2.

The rule of the *Lar Daly Case* was characterized in Congress as "harsh and restrictive", "stupid and silly", "rigid", and by numerous other equally uncomplimentary terms. See Congressional Record for July 22, 1959, p. 12718 et seq, July 28, 1959, p. 13161 et seq, Aug. 27, 1949, p. 15808 et seq, September 2, 1959, p. 16308 et seq, and Sept. 3, 1959 p. 16342 et seq. Congressional opinion was overwhelmingly to the effect that the statute should be amended to reverse the rule of that case, and there was extended discussion as to how the statutory exceptions to Section 315 should be worded. As a result of this Congressional discussion in 1959, Congress amended Section 315 to provide that it should not be deemed to be a use of a broadcasting station within the meaning of Section 315 when a candidate appeared on any:

- (1) Bona fide news cast,
- (2) Bona fide news interview,
- (3) Bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or
- (4) On-the-spot coverage of bona fide news events. Pub. L. 86-274, § 1, 73 Stat. 557, 47 USCA § 315.

In a letter of August 27, 1964, received by the Commission on August 31, 1964, the Columbia Broadcasting System states that over the years it has been the practice of the President of the United States to hold press conferences which have been considered by the networks as important news events and which have accordingly been given broadcast coverage. CBS states that it believes it would be in the public interest to continue to cover these press conferences, as well as those of the Republican candidate for President, and to give them such broadcast coverage as may be warranted by their newsworthiness, provided that this will not require the giving of equal time to all other persons who may be candidates for the Presidency. If the Presidential press conference is regarded by the Commission as either a bona fide news interview or a bona fide news event then it may be covered by the broadcast media without invoking the equal time provisions of Section 315.

It appears both from the material submitted and as a matter of common knowledge that a press conference consists mainly of interrogation of the President by representatives of the news media, including broadcasting, and answers by the President to such questions. The range and nature of the questions is not limited, and many of them are probing and some are apparently hostile.

The common understanding of the term "interview" is apparently applicable to such an event. This is in accord with the dictionary definition of the term. The dictionary definition of an interview is a meeting between representatives of the press and a person from whom information is sought, in which the former elicit information from the latter by questioning. See Webster's New International Dictionary and Funk & Wagnall's Standard Dictionary.

It is thus apparent that the press conference of the President is within the literal scope of the terms of this statutory exception. Since it is an elementary rule of statutory construction that legislative history may be used to resolve but not to create ambiguity, *US v. Shreveport Grain & El Co.*, 287 US 77, 83 (1932); *CIR v. Ridgway's Estate*, 291 F2d 257 (CA 3d, 1961), no resort to the legislative history is necessary.

However, the statutory provisions have an extensive legislative history which has heretofore guided the Commission in its construction of the statute. Consideration of the whole legislative history in this instance leads to the same conclusion. The Conference Report on the bill that was finally enacted states that for a news interview to be considered bona fide, it should be regularly scheduled, the content and format should be determined by the licensee or network and the broadcast must be in the exercise of a bona fide news judgment and not for the political advantage of any candidate. *Congressional Record*, August 27, 1959, page 15808, et seq. It was also made clear in the Congressional proceedings that the Commission was intended to have reasonable latitude and discretion in construing and applying Section 315 as amended. See Senate Report No. 562, 86th Congress, First Session, page 12. Similarly the broadcasters were to have substantial latitude. *Cong. Rec.*, Sept. 2, 1959, p 16313.

- The principal fear expressed by Congressmen and Senators was that under cover of a statutory exception some broadcasters might use their facilities to aid the candidacy of one candidate and handicap that of another, particularly at the local level. For example, Congressman Harris, House manager of the bill, in speaking of this provision said:

The great problem is that on the local level a broadcaster might set up panel discussions or news interviews that are not regularly scheduled programs but which constitute an effort to take advantage of such a program to further the candidacy of some political candidate. That is not intended to be exempted, and it is not permitted under this report—either the spirit of it or the language of it. Such program has to be, No. 1, bona fide, and No. 2, it has got to be a regularly scheduled program before it would come under the exemption provisions. *Cong. Record*, Sept. 2, 1959, p 16309.

Similarly, in the Senate, Senator Engle said that he was not concerned about national broadcasts, since in the very circumstances of



the case, there are only a few men of national prominence who would appear on such programs from either side of the political fence but that he was afraid of panel discussions at the local level. Cong. Record, Sept. 3, 1959, p. 16344. Similarly, Senator Scott said that the fear of the Conference Committee was that "in some local areas, there would be rigged news interviews for the benefit of one candidate or another." Cong. Record, Sept. 3, 1959, p 16347. Considering the full legislative history of the 1959 amendment leads irresistibly to the conclusion that by using the term "regularly scheduled" to expand the meaning of "bona fide" with reference to news interviews, Congress meant only to prevent the use of rigged, ad hoc or special arrangements to favor or aid one candidate, particularly in local elections.

The term "regularly" is a fairly common term in legal usage. In the absence of legislative definition it must be construed in its generally accepted sense and in the light of the meaning of the word "regular," from which it is derived. *Batzell v. CIR*, 266 F 2d 371 (CA 4, 1959). Any adequate dictionary will disclose that the terms "regularly" and "regular" have a wide variety of meanings. Funk & Wagnall's Dictionary, Webster's Third Edition and the Oxford English Dictionary list numerous meanings. The terms "regular" and "regularly" also are widely used in both statutory and case law. On the basis of the great weight of legal authority the term "regularly" in both statutory usage and case law, means occurrence in a proper manner and conformable to law or custom rather than at uniform intervals or of a constant occurrence. *People v. Fuller*, 282 NYS 28, 156 Misc 404; *Cauchon v. Gladstone*, 104 Vt 357, 160 A 254; *Comptroller of Treasury v. M. E. Rockhill*, 205 Md 226, 107 A2d 93; *Jenkins v. Reichert*, 125 Conn 258, 5 A 2d 6; *Alvary v. US*, 302 F2d 790 (C.A., 2d); *Aerial Crop Care v. Landay*, 235 Ark 406, 360 S W 2d 185.

Thus, on the basis of legal authority, as well as the sense of Congressional discussion, it seems most reasonable to construe "regularly scheduled" as meaning "recurrent in the normal and usual course of events" rather than as "recurrent at fixed and uniform time intervals." This conclusion is strengthened by consideration of the context. The term is used to illuminate (not control) the meaning of the statutory term "bona fide news interview". But by its very nature news is something which does not occur at fixed and uniform time intervals and, consequently, it is more reasonable to take the more common and more flexible meaning of the term rather than the more narrow, more limited, and more inflexible meaning. There is not, and cannot be, any question that Presidential news conferences have been held over many years, are recurrent in the normal and usual course of events, and are regular in every meaning of the term except the most narrow.

Language used in Congressional Reports and debates also refers to control of the format by the licensee or network. The significant aspect of control appears to be whether or not the substance of the questions asked is controlled by the news media or the candidate. It seems unreasonable to assume that Congress meant to exclude from the con-



cept of a bona fide press interview an interview of such news value that representatives of other news media, such as newspapers, also participated. What Congress did mean, as the legislative history shows, is that the questions were not to be controlled by the candidate. There is no grounds for suspicion that the questions asked of the President at a press conference are anything other than bona fide questions put by the reporters at their own instance or that of their editors. Indeed, this is one of the elements that makes such an event newsworthy. Consequently it seems clear to me that the element of control by the news media which was contemplated by Congressional intent is present in such press conferences.

As to the fact that these press conferences are bona fide—and, indeed, bona fide news events—there can be no question from the viewpoint of common sense. It is a fact known to all that the press conference of the President of the United States is the source of some of the most important news, both national and international, in the world today. One of the purposes of the 1959 amendment to the Communications Act was to insure that such news would be available through the broadcasting media to the American people. In a discussion of the baneful effects of the *Lar Daly Case*, Senator Pastore, Senate manager of the 1959 bill, posed as an extreme example the fact that under the rule of that case the President of the United States, if he were a candidate for reelection, "could not stand up in front of the American flag and report to the American people on an important subject without every other conceivable candidate standing up and saying 'I am entitled to equal time.'" Cong. Record, July 28, 1959, p 13189. Senator Pastore further said:

If it is desired to place a blackout on the people of this country, if we want to stop all important news or political campaigns getting to the American people, let the *Lar Daly* decision stand, (id.)

The 1959 amendment was adopted thereafter to avoid the news blackout described by Senator Pastore.

Finally, the conclusion that a Presidential press conference is a bona fide news interview is very nearly compelled by FCC precedents. In 1962, the FCC ruled on a "Governor's radio press conference" which was a program broadcast weekly in which a Governor sat in his office and spoke into a microphone with newsmen each located at his respective station, calling in questions by telephone which were then relayed to the Governor. The program was unrehearsed and the newsmen were free to ask any questions they wished. The Commission ruled that this did not constitute a use under Section 315, but rather was a bona fide news interview. FCC 62-1019, 27 Fed Reg 10067-8 (Q27). The only relevant point of difference between the Governor's press conference, which the Commission has ruled to be a news interview, and a Presidential press conference, is that the Governor's press conference was held weekly whereas the Presidential press conference is held only when the President believes that there is news. This difference may argue for the conclusion that the Presidential press conference is more likely to be concerned with genuine news than a routinely scheduled weekly news conference.



Thus it appears from a careful examination of the legal authorities, of the legislative history, and of the terms used that the Presidential press conference is within the scope of both the terms "bona fide news interview" and "bona fide news event". Indeed, as to the latter exception, no serious argument is made on the basis of either statutory language or legislative history. Rather it is urged that the broad social objectives of the legislation will be better served by the narrow, rigid, and artificial construction now put upon the statutory language. The authors of the Commission opinion seem to be governed by the sardonic rule that in construing a statute one should not refer to the language of the statute itself unless the legislative history is unclear.

No doubt the common sense ruling that the press conference of the President of the United States is a bona fide news interview or a bona fide news event would create problems and difficulties with respect to other candidates and other offices. In view of the position of the Commission I need not reach or comment on any of those although it may be appropriate to note that even though a candidate appears on a news interview or in a news event the broadcasters are not relieved from the obligation under the Communications Act "to afford reasonable opportunity for the discussion of conflicting views on issues of public importance". 47 USC § 315. However, the existence of potential or hypothetical future problems or difficulties should not deter us from making the obviously sensible ruling at this time on this issue.

One further point deserves mention. The basic issue here involves a *Presidential* press conference. The majority opinion of the Commission exhibits little awareness of this. On the contrary, the Commission opinion, by the precedents it relies on and the language and reasoning it employs, proceeds on the premise that there is no difference between the office of President of the United States and any other political office in this country, and that, for some arcane reason, the Commission cannot distinguish between the President of the United States and a candidate for that office, or, for that matter, a candidate for the office of county sheriff or any other office. I cannot believe that we are so intellectually impotent. The President of the United States is the Chief of State of this sovereign nation. The position is wholly unique. To assimilate the President in the performance of his regular functions as Chief Executive to the role of a mere candidate for office, indistinguishable from a sheriff, coroner or mayor, is not merely disrespectful to the President and the nation but is inaccurate, unrealistic and unsound. The ruling of the Commission is not merely wrong but is unfair to the President, the candidates for President, the broadcasters, and, most of all, to the American electorate which is entitled to all the news it can get in aid of its judgment in selecting the President of the United States.

The interpretations of Section 315 by the Commission have been widely denounced by respected broadcasters, editors and publishers. One of the most respected publications in the field has recently referred to them as an "inventory of idiocies". I dissent from this ruling and protest the addition of another item to this inventory.



TORBERT H. MACDONALD, MASS., CHAIRMAN
 JOHN M. MURPHY, N.Y.
 CHARLES J. CARNEY, OHIO
 GOODLIE E. BYRON, MD.
 TIMOTHY E. WIRTH, COLO.
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 (EX OFFICIO)

LOUIS FREY, JR., FLA.
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 SAMUEL L. DEVINE, OHIO
 (EX OFFICIO)

Congress of the United States
 House of Representatives
 Subcommittee on Communications
 Committee on Interstate and Foreign Commerce
 Washington, D.C. 20515

FCC
 File

October 3, 1975

The Honorable Richard E. Wiley
 Chairman
 Federal Communications Commission
 1919 M Street, NW
 Washington, DC

Dear Mr. Chairman:

The purpose of this letter is to request that the Commission make available to the Subcommittee on Communications certain documents pertaining to the recent declaratory order of the Commission revising previous rulings under Section 315(a)(2) and 315(a)(4) of the Communications Act of 1934.

It is my understanding that the position adopted by the Commission represents essentially the recommendations made by the Office of the General Counsel, while the Broadcast Bureau argued against that position. Since the Commission's action was a proceeding which purports to interpret the legislative intent of the Congress, I feel that it is imperative that this Subcommittee be fully aware of the options which the Commission had before it in making this important decision. This is especially true since the Commission reversed its earlier decisions in The Goodwill Station, Inc., 40 FCC 362 (1962) and National Broadcasting Co., 40 FCC 370 (1962).

Consequently, I am hereby requesting any papers or memoranda prepared by the Office of the General Counsel, by the Broadcast Bureau, or by other Commission staff, which were utilized by the Commission in reaching its decision. It is essential that this material be provided to the Subcommittee in order to permit us to carry out our oversight responsibilities and enable us to determine the basis for the Commission's decision.

I am sending a copy of this letter to each of the other Commissioners so that they will be aware of the Subcommittee's request.

Sincerely,

Torbert H. Macdonald

Torbert H. Macdonald, M.C.
 Chairman, Subcommittee
 on Communications

