This is a PDF of a folder from our textual collections.

WHORM Subject File Code: FG128
(Federal Government Organizations:
Federal Communications Commission)
Case File Number(s): 120000-129999
Box: 58

DG

ID # 121881

FG128

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) 83/01/18

Name of Correspondent: Richard Dunn

☐ **MI Mail Report** **User Codes:** (A) _____ (B) _____ (C) _____

Subject: Would like a specific answer to his question regarding FCC granting a license to people who have no regard for the public value of the property they will use. No answer to his previous correspondence

ROUTE TO: Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Completion Code	Completion Date YY/MM/DD
Co Hyde	ORIGINATOR CS	83/01/28		C	83/02/10
FCC	Referral Note: R CS	83/02/02		A	83/02/10
	Referral Note:	/ /			/ /
	Referral Note:	/ /			/ /
	Referral Note:	/ /			/ /
	Referral Note:				

ACTION CODES:
A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet to be used as Enclosure
I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:
A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:
Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

5/81

RECORDS MANAGEMENT ONLY

CLASSIFICATION SECTION

No. of Additional Correspondents:_____ Media: L Individual Codes: 4.000 _.____ _.____

Prime Subject Code: FG 128.__ Secondary Subject Codes: ZT 001.01 __ ____.__

__ ____.__ __ ____.__

__ ____.__ __ ____.__

PRESIDENTIAL REPLY

Code	Date	Comment	Form
C __ __	_____	Time: _____	P- _____
DSP	_____	Time: _____	Media: _____

SIGNATURE CODES:

CPn - Presidential Correspondence
- n - 0 - Unknown
- n - 1 - Ronald Wilson Reagan
- n - 2 - Ronald Reagan
- n - 3 - Ron
- n - 4 - Dutch
- n - 5 - Ron Reagan
- n - 6 - Ronald
- n - 7 - Ronnie

CLn - First Lady's Correspondence
- n - 0 - Unknown
- n - 1 - Nancy Reagan
- n - 2 - Nancy
- n - 3 - Mrs. Ronald Reagan

CBn - Presidential & First Lady's Correspondence
- n - 1 - Ronald Reagan - Nancy Reagan
- n - 2 - Ron - Nancy

MEDIA CODES:
- B - Box/package
- C - Copy
- D - Official document
- G - Message
- H - Handcarried
- L - Letter
- M - Mailgram
- O - Memo
- P - Photo
- R - Report
- S - Sealed
- T - Telegram
- V - Telephone
- X - Miscellaneous
- Y - Study

White House Office
Agency Liaison
(ref. ID 121881)

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

MAIL BRANCH
FEB 10 1983

10 FEB 1983

IN REPLY REFER TO:

8310-H
C2-153

SIGNED BY DOVE
MAIL

Mr. Richard Dunn
27 Skyline Circle
Santa Barbara, California 93109

Dear Mr. Dunn:

Your letter dated January 14, 1983 to President Reagan has been forwarded to this office for reply to your comments about the licensing and operation of broadcast stations.

The records of the Mass Media Bureau's Enforcement Division (formerly Complaints and Compliance Division, Broadcast Bureau) show that we received your April 6, 1982 letter which expressed concern about the quality of programming and the amount of advertising presented by commercial broadcast stations. Our reply to your April letter included an earlier edition of the enclosed pamphlet "The FCC and Broadcasting," which describes provisions of law and policy that apply to broadcast programming and related subjects. Our records also indicate that a note on our cover letter invited your attention in particular to Sections 1(b), 5(a) and (b), and 17(c) and (f) in the pamphlet.

As perhaps you are aware, Congress in drafting the Communications Act conceived of a system of broadcasting that is largely supported by revenues from advertisers, although the Act, as amended, also provides for the licensing of stations that use frequencies reserved for noncommercial educational (or "public") broadcasting. Commercial broadcasters are able to offer a wide variety of programming because they are permitted to sell time to local, regional or national sponsors who find it profitable to advertise their products and services in broadcast messages.

The Commission is authorized by the Communications Act to license broadcast stations and to regulate their operations in some respects, but its role with regard to programming practices is very limited. Under the prohibition on censorship of broadcast matter in the Act and the free speech guarantee there (see 47 USC 326) and in the First Amendment, with a few statutory exceptions, neither this nor any other governmental agency may direct broadcasters in the selection and presentation of programming, including advertising. The Communications Act also provides (in 47 USC 153(h)) that the broadcaster is not a "common carrier," which means that stations are not required to present all matter that may be offered or suggested for broadcasting. In this respect and in the discretion they are afforded under the First Amendment,

broadcasters--much like newspaper publishers and editors--are responsible for deciding what they will present to the public. In a 1940 decision the Supreme Court stated:

> The [Communications] Act recognizes that the field of broadcasting is one of free competition .... Congress intended to leave competition in the business of broadcasting where it found it, to permit a licensee who was not interfering with other broadcasters to survive or succumb according to his ability to make his programs attractive to the public.

Current information about licensing procedures for broadcast stations is contained in Part II (pages 2-5) of "The FCC and Broadcasting." For more details about public participation in application proceedings, you may find of interest paragraphs 21 through 37 as well as the other material in our second enclosure, "The Public and Broadcasting - A Procedure Manual."

As in both of our enclosures, the Commission has always recommended that concerned persons send their comments about programming practices to the stations involved. Such commentary keeps broadcasters informed about public opinion on their service, and it can be effective in influencing their programming decisions.

I hope the information here and in our enclosed publications will be helpful in explaining existing laws and policies that relate to the concerns expressed in your letters.

Sincerely,

Laurence H. Harris

Laurence H. Harris
Chief, Mass Media Bureau

Enclosure

cc: Director of Agency Liaison,
The White House Office

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Broadcast Bureau
Publication 8310-100

THE FCC AND BROADCASTING

PART I

INTRODUCTION

1(a). The Communications Act. The Federal Communications Commission (FCC) was created by Congress in 1934 when it adopted the law known as the Communications Act for the purpose, in part, of "regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communications service...." (Radio in its all-inclusive sense also applies to television.)

1(b). What the FCC Does in Regulating Broadcast Radio and TV. The Commission allocates broadcast channels and frequencies according to good engineering standards, considers applications to build or sell stations or to renew their licenses, and enforces federal laws that are meant to ensure that the more than 10,000 stations now broadcasting in the United States are operated in the public interest. The Commission is prohibited by the Communications Act from censoring broadcast matter and cannot direct radio and television stations to present or not present specific programs. But there are other federal laws which authorize the FCC to revoke broadcast licenses or to fine stations that have aired obscene or indecent language, some types of lottery information, or that have been used to obtain money under false pretenses. Under the public interest standard in the Communications Act, the Commission expects its broadcast station licensees to determine the important problems or issues, needs, and interests of the communities their stations serve and to foster public understanding by presenting some programs and/or announcements about local problems and issues, but broadcasters--not the FCC or any other federal agency--are responsible for selecting all the material aired by their stations.

This pamphlet discusses the laws and many of the other subjects on which the Broadcast Bureau receives questions and comments. Beginning on the next page, the main subjects dealt with here are as follows: Part II - The Licensing of Broadcast Stations; Part III - Broadcast Programming (page 5); Part IV - Broadcast Advertising (page 12); Part V - Other Laws and Policies Affecting Broadcasting (page 14); and Part VI - Organization Addresses and Other Publications About Broadcasting (page 16).

2(a). Some Activities That Are NOT Regulated by the FCC. It cannot regulate closed-circuit television or radio, and so does not control what is carried over closed-circuit systems in department stores, for example. It has no authority over sports teams or leagues, or over the promoters of rodeos, prizefights, bullfights, and other exhibitions. Arrangements for broadcasting sports events and other kinds of exhibitions are

made in private contractual agreements between the owners of the rights, such as a sports team or league, and the broadcast stations and/or networks involved.

The Commission also has no jurisdiction over the production, distribution, and rating of motion pictures; the publishing of newspapers, books, and other forms of printed matter; or the manufacture and distribution of audio and video recordings. It does not administer copyright laws. Other groups and activities outside the Commission's jurisdiction are: newsgathering organizations, including press associations, that provide broadcasters with news and comment; music-licensing organizations such as ASCAP, BMI, and SESAC; and companies that measure the size and other characteristics of radio and television audiences.

2(b). Broadcast Stations In Canada and Mexico. Comments and inquiries about Canadian stations may be sent to the Canadian Radio-Television and Telecommunications Commission, Ottawa KIA ON2, Canada. For Mexican stations, the regulating official is the Director General of Telecommunications, Department of Frequencies, Torre Central de Telecommunications, Mexico 12 D.F.

3. Networks. The FCC does not license networks, except to the extent that they are the owners of individual broadcast stations. It cannot direct anyone to form or refrain from forming a network, or require any station to affiliate with a network or to refrain from affiliating with one. (Headquarters addresses for the major networks are listed in Part VI of this pamphlet.) Under its Rules, the Commission will not license a station having an agreement with any network that would prevent the station from rejecting network programs.

PART II

THE LICENSING OF BROADCAST STATIONS

4(a). Commercial and Noncommercial Stations. Of the more than 10,200 currently licensed radio and television stations in the United States, about 8,800 are authorized to operate commercially and are supported by advertising, and approximately 1380 are licensed for nonprofit, noncommercial service. Noncommercial--often called "public"--broadcast stations transmit educational and entertainment programming to the general public and also instructional programs to schools; under existing law they now are permitted to air paid-for announcements for nonprofit organizations, but they may not editorialize or support or oppose any candidate for public office. Section 19 in Part V of this pamphlet refers to federal funding which partially supports noncommercial educational broadcasting.

4(b). License Applications; Length of License Period; Notices to the Public. The Communications Act authorizes the FCC to grant applications

for the construction of broadcast stations or for their licensing or license renewal only if it finds that such grants will serve the "public interest, convenience, and necessity." Applicants must demonstrate to the FCC that they are legally, financially and technically qualified to construct and operate stations, or to continue to operate them if their licenses are renewed. Most new television applicants and new noncommercial radio applicants are also expected to show--either by information presented with the applications they send to the Commission, or by statements placed as required by FCC rules in their local public files (see the following Section 4(c))--that they have ascertained the significant problems, needs and interests of the communities their stations will serve and have listed the kinds of programs they plan to broadcast about community problems and needs that they propose to treat. 1/ Each new commercial television applicant additionally must state in its application the maximum hourly amounts of commercial matter that it proposes to broadcast. Under FCC rule changes that became effective in April 1981, the only information about proposed programming that must appear on applications filed with the FCC by new commercial radio applicants is a narrative description of the applicant's planned program service.

Communications Act amendments that became law in August 1981 extended broadcast license terms from a maximum of three years to seven years for radio stations, and to five years for television stations. As current licenses expire during the period October 1, 1981 to August 1, 1984, license renewals will be granted for the longer terms; within this period the licenses of all broadcast radio and television stations in a state will expire on the same date. License renewal applications must be filed with the Commission four months before the expiration date. During the first five of the six months before the expiration date, each station must broadcast--on the first and sixteenth days of each month--announcements about the filing of its renewal application and where a copy may be seen by the public in the station's community, the due date for public comments sent to the FCC, and how information about the renewal process may be obtained from the station or the FCC in Washington.

After conducting an inquiry concerning proposed rule changes, the Commission in March 1981 decided to adopt a simplified license renewal application form for commercial and noncommercial radio and television applicants. The new form consists of a single card with five questions and a certification statement to which the applicant responds. The simplified renewal form will greatly reduce processing time and expense for the FCC and for broadcasters, and it in part requires that applicants certify they have placed in their public files information about their program service that formerly was sent to the FCC. Under the revised FCC rules, five percent of all television renewal applicants and also noncommercial radio applicants, randomly selected by

1/ Commercial television applicants whose stations will serve communities of less than 10,000 people that are not within major metropolitan areas are exempted from this ascertainment requirement, but such small-market stations still are expected to present some programming about local problems and needs. Also exempted from formal community ascertainment procedures are noncommercial applicants proposing to broadcast only instructional programming as part of the course of study of an educational institution.

computer, will be expected to complete and file with the FCC a considerably longer "Renewal Application Audit Form" requiring more detailed programming information and also copies of program lists and related information that applicants are expected to have in their local public files.

4(c). Applicants' Public Files; Program Log Inspection. Each licensee or applicant is required by FCC rules to maintain what is called a "public file" at the station's studio or at another accessible place in the community to which a station is or is proposed to be licensed. The file should contain copies of applications filed with the FCC, reports of station ownership, information about the use of the station by legally qualified candidates for public office, special reports on employment practices, and a copy of an FCC publication called "The Public and Broadcasting--A Procedure Manual" which explains how the public may participate in broadcast licensing and related matters. Commercial stations must also include in their public files letters from their audiences about station service during the preceding three years. The files of all commercial television stations and those of most noncommercial radio and TV stations (see footnote on page 3) should each contain annual lists of no more than ten local problems and needs with the broadcast dates for and other brief information about typical programs on local problems that the station aired during the year. Beginning in 1981, each commercial radio station must annually prepare for its public file a list of from five to ten issues or problems in the station's community, with information on how the issues were determined and brief descriptions of programs the station aired in response to issues that it treated. (The programming responsibility of broadcasters is explained further in Sections 5(a) and (b) of this pamphlet.)

Members of the public may inspect the entire contents of the public files of stations at any time during regular business hours; no prior appointment is required for this. Copies of applications are also available for public inspection at the Commission's headquarters in Washington.

The Procedure Manual quotes FCC rules on the availability for public inspection of radio and television program logs. The rules differ from those on the "public file" (prior appointment with a station is required, for example), and program logs need not be made available until the 46th day after the date of broadcast. Under rule changes adopted by the FCC in April 1981, commercial radio stations no longer are required to maintain program logs. All noncommercial stations and commercial television stations are still required to maintain such logs. FCC rules permit machine reproduction of material available for public inspection, provided the request is made in person and the requesting party pays the reasonable cost of reproduction.

4(d). Comments to Stations and Networks. The Commission has always recommended that concerned persons send written comments on broadcast programming directly to the management personnel at stations and also to those in network organizations. They are the people who are responsible for selecting the programs and announcements that are broadcast. Letters to stations and networks help to keep broadcasters informed about community needs and interests as well as audience opinions on specific material.

4(e). Comments to the FCC: "Promise vs. Performance." The Commission gives full consideration to letters it receives from members of the public who, after reading information in a station's public file concerning past or proposed programming on local problems or issues, for example, believe that, when compared with what the station has broadcast, the information in the public file misrepresents the station's actual program service. Complaints of this kind should include very specific and detailed information, not just general statements of dissatisfaction about the lack of certain kinds of programs, and individuals and groups should attempt to resolve differences with stations at the local level.

4(f). "Why Won't the FCC Let My Favorite Station Broadcast at Night?" There are basically two types of radio broadcast signals. The signal strength of "standard" or AM (amplitude modulation) stations is changed according to the varying sound patterns. In FM (frequency modulation) broadcasting, the frequency of the signal is changed accordingly. Television broadcasting is a combination of the two, AM for the picture and FM for the sound, "locked" together for home reception. AM radio signals cover greater distances at night and many AM radio stations, to avoid interfering with other such stations on the same or near frequencies, at night must reduce their power, or have special signal patterns, or both, or they may have to completely cease operating. Applicants for daytime radio station licenses were aware that requests for operation full time on the specified frequency could not be granted because of serious electrical interference with previously licensed stations authorized for nighttime operation. FM radio stations and television stations may operate unlimited hours because their signals do not travel farther at night. The Commission considers applications for new or changed facilities (when submitted in writing as required by law), but can only grant them if they meet required standards. Failure to follow these standards would reduce wireless communications to meaningless noise caused by bad transmission and/or interference.

PART III

A. BROADCAST PROGRAMMING: BASIC LAW AND POLICY

5(a). Prohibition on Censorship; Licensee's Programming Responsibility. The Commission is prohibited by law (the Communications Act) from censoring broadcast matter and from taking any action that would interfere with free speech in broadcasting, a freedom also guaranteed in our Constitution's First Amendment. So, although there are other laws which establish limited exceptions to the Act's no-censorship provisions (see Sections 4(a), 5(e), 7, 8, 10, 14 and 17(b) in this pamphlet), the authority of the FCC to regulate broadcasting does not, in general, include the right to direct broadcasters in the selection and scheduling of programs and announcements, including commercial messages, to be aired by their stations. Stations are, as indicated in this pamphlet's Sections 4(b) and (c), expected to devote some broadcast time to programming about major problems and/or issues in the areas they serve, but, in meeting this obligation, a licensee may take into account programming of this kind being aired by other stations, if any, that serve the same area.

Individual radio and television station licensees are responsible for selecting all broadcast matter and for determining how their stations can best serve their communities. They choose the entertainment programming and the programs on news, public affairs, religion, sports events, and other subjects to be aired by their stations. They also decide how their programs, including call-in shows, will be conducted and whether or not to edit or reschedule material for broadcasting. The Commission does not substitute its judgment in this process, and it does not act as an advisor to stations on artistic standards, grammar, or generally on quality of content. The FCC's policy of noninterference with changes in the entertainment programming of radio stations was upheld in a March 1981 Supreme Court decision. The Commission believes that because of the increased number of radio stations, and the competition among them for audience attention, radio broadcasters will seek to respond to audience preferences and attempt to meet whatever need is left by the entertainment programming of other stations.

Additional law and policy information about some of the various kinds of programming, including broadcast news and commentary and the treatment of controversial issues of public importance, is provided in Sections 6 through 16 of this pamphlet.

Stations and networks are sometimes criticized for presenting the same or similar programs--sports events, for example, or coverage of a special news event--at the same time, but this practice violates no law or regulation. Audience comments in writing to stations and networks can keep broadcasters informed about public reactions to this and other practices. The same suggestion applies to such concerns as stations not broadcasting in color or in stereo or quadraphonic sound when equipped to present such service (they are not obliged by law to do so), or to their not following published program schedules. (The FCC has no authority over newspaper or magazine listings of broadcast programs.)

5(b). Access to Broadcast Facilities. Under a provision of the Communications Act, radio and television stations are not required to accept all matter that may be offered or suggested to them for broadcasting. Except as provided in the Commission's rule concerning broadcast personal attacks and in the laws and FCC rules on the use of stations by candidates for public office (see this pamphlet's Sections 7 and 8), the station licensee is under no obligation to have any particular person participate in a broadcast or to present that person's remarks. Also, no federal law or rule requires stations to broadcast "public service announcements" (which, as defined by the FCC, are aired without charge) for any purpose or on behalf of any public or private organization. As mentioned here in Section 3, the Commission will not license a station whose agreement with a network prevents the station from refusing to broadcast any network program.

It is not the Commission's policy to review material before it is broadcast. Anyone who wishes to market program ideas or scripts, or have recordings or

other material broadcast, should communicate directly with producers, stations, or network organizations; the FCC cannot serve as a clearinghouse for talent or program material. The Commission also cannot direct any program producer or station licensee on the disposition of scripts or other material submitted to them, nor can it intervene in disputes on such matters, which are considered private controversies.

5(c). Retention of Material Broadcast; Editorializing; Labeling of Program Matter. Except when a station broadcasts a personal attack or a political editorial endorsing or opposing a candidate for public office (see this pamphlet's Sections 7 and 8), licensees are not required to make, maintain, or provide to the general public, scripts, tapes, or summaries of material broadcast. The word "editorial" also refers to a broadcast statement of a licensee's opinion; "comment" or "commentary" is generally used when referring to the broadcast opinions of others, including station employees. Commission policy encourages editorials and other commentary, but they may be subject to Fairness Doctrine requirements that are summarized here in Section 7. (Editorializing by noncommercial educational station licensees is prohibited by law).

5(d). AM/FM Program Duplication by Commonly Owned Stations in the Same Area. "Duplication" occurs when a commonly owned AM and an FM station in the same area broadcast the same program at the same time, or when a program is aired by one station within 24 hours before or after the identical program is broadcast by the other station. Under the FCC's Rules, an FM station may not duplicate programs of a co-owned AM station in the same area during more than 25 percent of the average FM week if either station is licensed to a community of more than 25,000 people.

5(e). Station Identification Announcements. A Commission rule requires that all broadcast stations air announcements stating their call letters followed by the name of the community of license at the beginning and end of each period of operation and also hourly, as close to the hour as feasible, during a natural break in programming. The announcements may also mention, between the call letters and name of the community of license, the name of the licensee and the frequency on which the station operates. TV stations may present either spoken or visual announcements. Whether and how often stations identify themselves at times other than those specified in the rule is for their licensees to decide, but the FCC expects that station identifications and any accompanying promotional material will not deceive the public about a station's licensed location, its call letters, or its power or frequency.

5(f). Broadcast Telephone Conversations. If a station intends to broadcast, or believes it may later decide to broadcast, any part of a telephone conversation with a person outside the station and wishes to broadcast the voice of the outside party, a Commission rule requires (with two exceptions) that the station tell the outside party its intention to broadcast the conversation before starting to broadcast it, or before beginning to record the conversation for possible future broadcasting. The exceptions to the rule apply when calls are made to a station in connection with a program

that callers know will broadcast their telephone conversations, and, also, to calls to a station by a full or part-time station employee telephoning in to file a report.

B. BROADCAST PROGRAMMING: LAW AND POLICY ON SOME SPECIFIC KINDS OF PROGRAMMING

6. Broadcast News and News Commentary. Under the no-censorship provisions in the Communications Act, the Commission cannot direct broadcasters in their selection of material for news programs, or interfere with the broadcasting of an opinion on any subject. This agency also does not pass on the qualifications of anyone to gather, edit, announce, or comment on the news; such decisions are a responsibility of the station licensee. The Commission will not act on complaints that news programming has been falsified, distorted, faked, or staged unless it receives extrinsic evidence (evidence apart from program content) of such deliberate conduct by a licensee and/or its management personnel. The Commission recognizes that some abuses may occur, but it believes that without extrinsic evidence of deliberate intent to falsify or distort, any interference by it, the government licensing agency, in the editorial or news judgment of broadcasters would be a greater danger. The Commission has emphasized "the right of broadcasters to be as outspoken as they wish, and that allowance must be made for honest mistakes on their part."

What is often alleged to be news suppression has usually been shown to be the exercise of editorial judgment. However, a serious public interest question would be raised if it appeared that a station licensee was deliberately excluding whole classes of subjects or events from its news coverage, based on private judgments or interests that conflict with the licensee's obligation to serve the public interest. Further information concerning the FCC's policies on broadcast journalism is provided in another Broadcast Bureau publication, 8310-80, which may be obtained as suggested in Part VI of this pamphlet.

7. Discussion of Controversial Public Issues; Personal Attacks. The Fairness Doctrine, as defined in a law passed by the Congress and upheld by the United States Supreme Court, requires stations to broadcast discussions of controversial issues of public importance and to air contrasting opinions on the issues they present. Broadcasters have discretion in selecting the issues they treat and the Fairness Doctrine does not require that the opposing views on an issue be included in a single program, or even in the same program series, as long as the licensee provides reasonable opportunity for contrasting views in its overall programming. It also does not require that a station give time to any particular person or group; the choice of speakers on each issue and the time and way in which contrasting views are presented are left to the judgment of the station licensee. The Fairness Doctrine applies to issues rather than persons, and it does not require "equal time" or "equal opportunities" (see Section 8 concerning broadcasts by candidates for public office). If the Commission receives Fairness Doctrine complaints, it will review broadcasters' actions only to decide whether they have been reasonable and in good faith.

If during a broadcast discussion of a controversial issue of public importance, a comment is made that qualifies as a personal attack against an identified person or group, the station involved must notify the person or group that is the subject of the attack and send a script or recording, or, if they are not available, a summary, and offer time for reply to the attack. The rule applies only to an attack "upon the honesty, character, integrity or like personal qualities of an identified person or group." Specifically exempted from the rule are attacks on foreign groups or foreign public figures; attacks during broadcasts by political candidates; and attacks during news reports, news interviews, and in news commentary. Complete information about the Fairness Doctrine, the personal attack rule, and complaint procedures is given in publications listed in item F in Part VI of this pamphlet.

8. Broadcasts by Candidates for Public Office; Political Editorials. When one qualified candidate for public office has been permitted to use a station to promote support for his or her election, a provision of the Communications Act states in part that the licensee of the station "shall afford equal opportunities to all other such candidates for that office" and that the "licensee shall have no power of censorship over the material broadcast" by the candidate.

If a licensee broadcasts an editorial in which it supports or opposes a candidate for public office, the licensee must, within 24 hours after the broadcast, transmit to the other qualified candidate(s) for the same office, or the candidate opposed in the editorial, (a) notification of the date and the time of the editorial, (b) a script or tape of the editorial, and (c) an offer of a reasonable opportunity for the candidate or a spokesperson for the candidate to respond over the licensee's facilities.

The preceding two paragraphs are only brief summaries of provisions of law and regulatory policy on political broadcasts. Detailed information is provided in another FCC publication, "The Law of Political Broadcasting and Cablecasting," which may be obtained as noted in Part VI of this pamphlet.

9. Criticism, Ridicule, Humor Concerning Persons, Groups and Institutions. Programs that contain such material, which sometimes may "stereotype" or otherwise offend people with regard to their religion, race, national background, gender, or other characteristics of persons or groups, and broadcasts that criticize or ridicule established customs and institutions, including the government and its officials, are protected by the First Amendment guarantee of freedom of speech. The FCC cannot prohibit such programming. In a license renewal case in which charges of defamation had been made, the Commission stated, in part:

> It is the judgment of the Commission, as it has been the judgment of those who drafted our Constitution and of the overwhelming majority of our legislators and judges over the years, that the public interest is best served by permitting the expression of any views that do not involve [quoting from Supreme Court decisions] "a clear

> and present danger of serious substantive evil that rises far above public inconvenience, annoyance or unrest." ... [T]his principle insures that the most diverse and opposing opinions will be expressed, many of which may be even highly offensive to those officials who thus protect the rights of others to free speech. If there is to be free speech, it must be free for speech that we abhor and hate as well as for speech that we find tolerable or congenial.

10. Obscenity, Indecency and Profanity. Broadcasts of obscene, indecent or profane language are prohibited by a federal statute in the Criminal Code, and the Commission is authorized to fine a licensee or revoke a broadcast license for violations of the statute. But the meanings of the terms "obscene," "indecent," and "profane" have been interpreted in court decisions, and the Commission must be guided by such decisions in determining whether broadcast matter may be actionable. The courts will not necessarily decide material is in violation of law because some persons may find it offensive. For example, in a case concerning a motion picture, the Supreme Court ruled that nudity alone is not enough to make material legally obscene. This subject is a complex one which is discussed very briefly here. Further information about the standards for obscene and indecent material that have been applied in courts of law and in FCC rulings on specific broadcasts is included in a four-page publication, "Obscenity, Indecency and Profanity in Broadcasting," which may be obtained as stated in Part VI of this pamphlet.

Concerning language commonly thought of as profane ("Hell," "Damn," "God damn it" and similar expressions), in key court cases the intention of the speaker has been ruled to be the deciding factor. The test in such cases was whether the speaker's words were seriously intended as "an imprecation of divine vengeance or implying divine condemnation, so used as to constitute a public nuisance." Complaints about such language without evidence of this intention do not provide a basis for Commission action, since people who use such expressions seldom intend them to be taken literally.

Even though material considered offensive by some people may not be actionable under the criminal statute referred to above, again we would emphasize that letters to stations and networks are important in keeping broadcasters informed about public concerns and audience evaluations of specific programs.

11. Broadcast Violence. In response to expressions of concern by the Congress and the public, the Commission has studied solutions to the problems posed by televised violence and sexually oriented material (see also Section 10 above). In its February 1975 "Report on the Broadcast of Violent, Indecent and Obscene Material," prepared for the Congress, the Commission referred to the guarantees of freedom of expression in the Constitution's First Amendment and in the Communications Act, and stated its belief that self-regulation within the broadcast industry is preferable to the adoption of rigid federal rules on program content. Such rules could risk improper governmental interference in sensitive programming judgments and discourage creative developments in broadcasting. The Commission advocated the use of warnings in broadcast announcements and printed schedules for programs that might be disturbing to children and some adults. It also affirmed its support of the principle of parental responsibility for the well-being of children.

12. "Drug-Oriented" Song Lyrics. In March 1971, as a result of public concern about the lyrics in some broadcast recordings, the Commission issued a Public Notice to remind licensees of their responsibility to know the kinds of material their stations are broadcasting. Four years earlier the Commission had published a similar reminder concerning broadcast foreign language programs. In its March 1971 Notice and in an April 1971 Memorandum Opinion and Order on the same subject, the FCC stressed that licensees, as public trustees, should know whether their stations are broadcasting songs that promote or glorify the illegal use of dangerous drugs, but it made clear the fact that the selection of records is a matter for the licensee's judgment.

13. Broadcast Contests; Some Contests and Promotions That Adversely Affect the Public Interest. It is a violation of law to prearrange or predetermine the outcome of any contest of intellectual knowledge, intellectual skill, or chance with the intention of deceiving the audience about such a contest. The FCC gives full consideration to complaints that its licensees have engaged in any of the following practices: broadcast or advertised misleading or deceptive information about the nature of a contest, the prizes to be awarded, or eligibility requirements for contestants; or, failure to broadcast or otherwise publicize complete and clear contest rules or timely information concerning any change in a contest or in contest prizes. A Commission rule requires that licensee-conducted contests be conducted fairly and as represented to the public.

The Commission is also concerned that licensees prevent broadcasts of hoax announcements that may alarm audiences about nonexistent dangers, and also contests and other promotions that lead to violations of public or private property rights or the right of privacy, hazards to life and health, and traffic congestion or other public disorders. Such consequences raise serious public interest questions about the station involved.

14. Lotteries. A lottery is a game, contest, or promotion which combines the three elements of (1) a prize, (2) dependence in whole or in part upon chance in determining winners, and (3) the requirement that contestants purchase anything or contribute something of value in order to compete (consideration). If any of these elements is absent, there is no lottery. Generally, a federal law in the Criminal Code prohibits broadcast advertisements for or information about lotteries (Bingo, raffles, etc.). But the restrictions of the law do not apply to an advertisement, list of prizes, or other information concerning a lottery conducted by a state when such information is broadcast by a station licensed to a community in the state, or by a station licensed to an adjacent state which also conducts a lottery.

15. Solicitation of Funds. There is no law or regulation which prohibits broadcast requests for funds for lawful purposes (including appeals by broadcast licensees for contributions to meet station operating expenses) if the money or other things of value contributed are used for the announced purposes. Whether to permit fund solicitations by a station is a matter for

its licensee to decide. A law in the Criminal Code provides penalties for fraud by wire, radio, or television.

16. Use of Tobacco and Alcoholic Beverages in Programs. There is no Federal law that prohibits or restricts the use of tobacco or alcoholic beverages in programs. See Section 17(g) in this pamphlet for information about advertisements for these products.

PART IV

BROADCAST ADVERTISING

17(a). Licensee Business Practices, Advertising Rates and Profit Levels. The FCC would be concerned if any practice of a licensee might be in restraint of trade, result in unfair competition, or otherwise not be in accord with law, but broadcasters, as noted in Section 5, are not required to air all matter offered or suggested to them for broadcasting. Advertising rates are not required to be submitted to the FCC for approval, and the FCC does not attempt to fix broadcasters' profit levels. The rates charged for broadcast time are matters for negotiation between sponsors and stations. Commercial station licensees are not required to charge or refrain from making a charge for broadcast time.

17(b). Sponsor Identification of Advertising and Other Material. The Communications Act requires that a station which broadcasts paid-for material shall announce, at the time the advertisement or program is broadcast, the fact that it is paid for or sponsored, and by whom. If a station broadcasts a program or part of a program concerning political or controversial issues, and the material was provided without charge to induce the station to broadcast it, the station must announce that it has been furnished and by whom.

17(c). Amount of Advertising. No federal law or regulation limits the amount of commercial matter that may be aired in a given period of time. Commercial time is measured in total minutes per clock hour and not all program interruptions are necessarily commercial; public service announcements, for example, are not, nor are unsponsored time announcements, routine weather announcements, or announcements promoting a station's future programs. Television license applicants are required to state the maximum amount of commercial matter they will normally allow in any clock hour and under what circumstances the proposed limits might be exceeded at times and what the limits would then be. Under certain circumstances, applications proposing more than 16 minutes of commercial time per hour on television stations are considered by the FCC's commissioners, rather than only by the staff, to determine whether grants of applications containing such proposals

would be in the public interest. 2/ The Commission does not raise questions regarding an excess of 4 minutes of commercial matter on television stations for purely political advertising in 10 percent of their hours of operation during specified periods before primary and general or special elections. (See also Section 8 of this pamphlet.)

17(d). Loud Commercials. The Commission has issued policy statements to warn its licensees that objectionably loud commercials are contrary to the public interest and to provide guidance in avoiding excessive contrasts between program matter and advertisements. In surveys and technical studies of broadcast advertising the Commission found that loudness was a judgment that varied with each listener and was influenced by many factors, among them the state of mind and the age and sex of the listener. It also found no evidence that stations were deliberately manipulating their signals to emphasize commercial messages. In 1979 the Commission began an inquiry to obtain more information about the causes of and methods for measuring loud commercials to determine whether further FCC action would be appropriate.

Broadcast licensees have primary responsibility for using procedures to avoid excessively loud commercials. Complaints about such messages may be addressed to the stations involved or to the Commission and should identify each message by the sponsor's name or name of product advertised, and mention the date and time of broadcast. Complaints to the FCC should also include the call letters of the station(s) that broadcast the commercials.

17(e). False or Misleading Advertising; Food and Drug Products. The FCC expects its licensees to exercise reasonable diligence to protect their audiences from false, deceptive, or misleading broadcast advertising, but the Federal Trade Commission (Washington, D.C. 20580) has primary responsibility for determining whether an advertisement is false or deceptive and for taking action against the sponsor. The FCC and the FTC have an agreement for exchanging information on matters of common interest.

Comments or inquiries concerning food or drug products believed to be dangerous or unsafe should be addressed to the Food and Drug Administration, U.S. Department of Health and Human Services, 5600 Fishers Lane, Rockville, Maryland 20852.

2/ From the evidence obtained in an inquiry by the Commission concerning proposed changes in its Rules that would partially "deregulate" radio broadcasting, it was determined that the increase in the number of radio stations (and also of all other stations) and the resulting competition among them currently act to prevent commercial abuses in radio. The Commission adopted, as of April 1981, rule changes that eliminated its guidelines for evaluating radio applicants' commercial practices, but it also stated it could reexamine this policy in the future if such action then appears to be warranted.

17(f). Offensive Advertising. Unless a broadcast advertisement is found to be in violation of a specific law or regulation (see Sections 10, 14, 15, and 17(e) and (g) in this pamphlet), no governmental action can be taken against it. Complaints that advertising is offensive because of the kind of item advertised, the scheduling of the announcement, or the way the message is presented, should in most instances be addressed directly to the stations and networks involved, so that they may become better informed about audience opinion on such material.

17(g). Tobacco and Alcohol. A federal law prohibits advertising for cigarettes and little cigars on any medium of electronic communication under FCC jurisdiction. The law does not ban broadcast advertising for other tobacco products, or for pipes and other smoking accessories or cigarette-making machines.

No law prohibits broadcast advertising for any kind of alcoholic beverage. The FCC cannot censor broadcast matter, including advertising, and cannot direct stations to accept or reject commercials for alcoholic beverages. The National Association of Broadcasters' radio and television codes, which represent self-regulatory activity within the industry, forbid advertising for hard liquor and establish guidelines for advertising wine and beer and for programs that feature the use of alcoholic beverages. Membership in the NAB and subscription to its codes are entirely voluntary on the part of broadcasters. The address of the NAB is listed in Part VI of this pamphlet.

17(h). Subliminal Advertising. The Commission sometimes receives complaints regarding the supposed use of subliminal techniques in television advertising. Such complaints usually concern words and pictures flashed briefly on the screen that are consciously seen by the viewer. However, subliminal advertising is designed to be perceived on a subconscious level only. The Commission has held that the use of subliminal perception is inconsistent with the obligations of a licensee and is contrary to the public interest because, whether effective or not, such broadcasts are intended to be deceptive.

PART V

OTHER LAWS AND FCC POLICIES AFFECTING BROADCASTING

18. Broadcast Employment. Under existing rules, only the persons who are at times in charge of the transmitting apparatus of a broadcast station are required to be licensed by the FCC as "operators." The Commission does not examine the qualifications of other station employees, including on-the-air performers (actors, reporters, commentators, etc.), and it cannot direct licensees in their assignments of individuals to specific programs or announcements, or to other duties at stations. But the Commission has adopted rules requiring that equal opportunity in employment "shall be afforded by all licensees or permittees of standard, FM, television, or international broadcast stations ... to all qualified persons, and no person shall be discriminated against in employment because of race, color, religion, national

origin or sex." Broadcast licensees who employ five or more full-time employees are required to file with the FCC annual reports indicating employment in certain job categories of minority group members, subdivided according to sex, and at the time they file their renewal applications they must also send the FCC information concerning their affirmative equal employment opportunity programs. The annual reports and other employment information must be available in the local public files described in Section 4(c) of this pamphlet.

The FCC and the U.S. Equal Employment Opportunity Commission (EEOC) have jointly adopted a Memorandum of Understanding that agrees to procedures for sharing information, handling complaints of employment discrimination in broadcasting, and other forms of cooperation. Specific and detailed charges that a station has engaged in discrimination prohibited by the FCC's rules may be directed either to the FCC in Washington or to a local office of the EEOC.

Complaints alleging unequal pay for equal work, or discrimination in employment because of age against persons between 40 and 65 years old should be filed with a local Wage and Hour Office (listed in telephone directories under U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division). The complaints should include a request that the Broadcast Bureau of the Federal Communications Commission be advised of the Wage and Hour Office's findings on the matter.

19. Noncommercial Educational Broadcasting: Grants and Special Funding. The Communications Act provides appropriations for matching funds administered by the National Telecommunications and Information Administration of the U.S. Department of Commerce (Washington, D.C. 20005) for the purchase and installation of equipment for noncommercial educational broadcast stations. The Act also established the Corporation for Public Broadcasting (CPB) as a nonprofit, private corporation to promote development of the nation's noncommercial television and radio systems. CPB is funded by the Congress. It assists in financing programs and administers funds for employee training, and for staffing and operating noncommercial stations. Its address and the names and addresses of other organizations concerned with noncommercial broadcasting are listed in Part VI of this pamphlet.

20. Controversies and Claims. It is a long-standing policy of the Commission not to exert jurisdiction in private disputes involving its broadcast licensees, but to leave such matters to be settled by the parties or by local courts or agencies. For example, nondelivery of merchandise ordered through stations and licensee failure to meet payrolls or satisfy other debt claims are not matters in which the FCC normally intervenes. The FCC does consider such practices if they are repeated or otherwise raise questions about the qualifications of licensees. An FCC rule requires that broadcast contests be conducted fairly and as advertised to the public (see Section 13), and the Commission holds its licensees responsible for using reasonable diligence to protect the public from false or deceptive broadcast advertising (Section 17(e)), a policy that applies to broadcast announcements concerning merchandise to be ordered by telephone or mail. Stations are expected to promptly evaluate and act on complaints and inquiries about such orders.

PART VI

ORGANIZATION ADDRESSES AND OTHER PUBLICATIONS ABOUT BROADCASTING

A. Headquarters addresses of the major commercial broadcasting networks:

American Broadcasting Companies, Inc.
1330 Avenue of the Americas
New York, New York 10019

CBS Inc.
51 West 52nd Street
New York, New York 10019

Mutual Broadcasting System, Inc.
1755 South Jefferson Davis Highway
Arlington, Virginia 22202

National Broadcasting Company
30 Rockefeller Plaza
New York, New York 10020

B. The National Association of Broadcasters (NAB) is an industry group formed by broadcasters. Its headquarters is at 1717 N Street, Washington, D.C. 20036. The NAB has developed programming and advertising codes for radio and television and can provide information about them upon request. Membership in the NAB and subscription to its codes are voluntary on the part of each station licensee.

C. Noncommercial broadcast industry organizations include the following:

Corporation for Public Broadcasting
1111 - 16th Street, N.W.
Washington, D.C. 20006

National Public Radio (NPR)
2025 M Street N.W.
Washington, D.C. 20036
(radio program distributor to noncommercial educational stations)

Public Broadcasting Service (PBS)
475 L'Enfant Plaza West, S.W.
Washington, D.C. 20025
(television program distributor to noncommercial educational stations)

D. Two commercial publications are briefly described below. They may also be available in some public libraries:

Broadcasting-Cable Yearbook. Annual guide/directory to radio, television and cable TV facilities, services, organizations; it may be purchased from Broadcasting Publications, Inc., 1735 DeSales Street, N.W., Washington, D.C. 20036. Includes, among other material: directories of radio and TV stations licensed by U.S. and Canada (power, frequency, studio address, name of licensee, type of entertainment format, etc.); lists of Mexican and Caribbean stations; market data; selected FCC rules; NAB codes. Also lists names and addresses of associations and unions, advertising and talent agencies, communications law and consulting firms, media brokers, networks, news organizations, FCC staff, music licensing groups, producers of commercials and programs, and manufacturers and distributors.

Television Factbook is published in two volumes annually by Television Digest, Inc., 1836 Jefferson Place, N.W., Washington, D.C. 20036. It provides detailed information concerning television stations and cable TV systems and many other related subjects of interest to broadcasters, cablecasters, advertisers and the public.

OTHER FCC PUBLICATIONS ABOUT BROADCASTING
THAT ARE AVAILABLE UPON REQUEST:

E. The Public Information Office, Federal Communications Commission, Washington, D.C. 20554 can provide a copy of

(1) Applicability of Sponsorship Identification Rules (Public Notice, September 1975),

(2) the several publications on ascertainment of community problems by commercial television broadcast applicants (1971-1976),

(3) Ascertainment of Community Problems by Noncommercial Educational Broadcast Applicants, Permittees, and Licensees (March 1976),

(4) Public and Broadcasting--Procedure Manual (September 1974),

(5) Children's Television Programs--Report and Policy Statement (October 1974), and/or Second Notice of Inquiry: Children's Programming and Advertising Practices (August 1978),

(6) Deregulation of Radio: Report and Order (FCC 81-17), released February 1981.

F. Requests for the following material should be directed to Fairness/Political Broadcasting Branch, Complaints and Compliance Division, Broadcast Bureau, FCC, Washington, D.C. 20554:

(1) Fairness Doctrine and Public Interest Standards--Handling of Public Issues (July 1974),

(2) The Law of Political Broadcasting and Cablecasting (August 1978),

(3) texts and explanations of the personal attack rule and political editorial rule with information about complaint procedures.

G. Listed here are several of the publications that may be obtained from the Complaints Branch, Complaints and Compliance Division, Broadcast Bureau, FCC, Washington, D.C. 20554:

Title/Subject	Reference Number
Cancellation or Refusal of Programs	8310-14
Call-In or "Open-Mike" Programs	8310-37
Obscenity, Indecency and Profanity in Broadcasting	8310-50

Title/Subject	Reference Number
Homosexuality and Broadcasting	8310-65
The FCC and Freedom of Speech	8310-75
Complaints About Broadcast Journalism	8310-80
Religious Broadcasting	8310-RM-2493
Report on the Broadcast of Violent, Indecent and Obscene Material (Report to the Congress, February 19, 1975) and the FCC news release summarizing the Report	

July 1982

federal register

THURSDAY, SEPTEMBER 5, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 173

PART III

FEDERAL COMMUNICATIONS COMMISSION

■

PUBLIC AND BROADCASTING; REVISED EDITION

Procedure Manual

FEDERAL COMMUNICATIONS COMMISSION

[FCC 74-942]

BROADCAST PROCEDURE MANUAL

SEPTEMBER 5, 1974.

Notice is hereby given of a revised edition of a pamphlet entitled, "The Public and Broadcasting—A Procedure Manual." In the manual, an effort is made to outline the respective roles of the broadcast station, the Commission, and the concerned citizen in the establishment and preservation of quality broadcasting services, to outline procedures available to the citizen, and to provide practical advice concerning their use. We are hopeful that the manual will encourage participation by members of the community and that it will direct such participation along lines which are most effective and helpful to the Commission.

Action by the Commission, August 29, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
Secretary.

THE PUBLIC AND BROADCASTING—A PROCEDURE MANUAL

TABLE OF CONTENTS

INTRODUCTION

1. Establishing and maintaining quality broadcasting services in a community is the responsibility of broadcast station licensees and the Federal Communications Commission.[1a] It is also, however, a matter in which members of the community have a vital concern and in which they can and should play a prominent role.

2. Licensees of radio and television stations are required to make a diligent, positive, and continuing effort to discover and fulfill the problems, needs, and interests of the communities they serve. The Commission encourages a continuing dialog between stations and community members as a means of ascertaining the community's problems, needs, and interests and of devising ways to meet and fulfill them. Members of the community can help a station to provide better broadcast service and more responsive programing by making their needs, interests, and problems known to the station and by commenting, whether favorably or unfavorably, on the programing and practices of the station. Complaints concerning a station's operation should be communicated promptly to the station, and every effort should be made, by both the complainant and the licensee, to resolve any differences through discussion at the local level.

3. The Commission is responsible for seeing that stations do in fact meet their obligations to the community. It considers complaints by members of the community against a station and before issuing or renewing a broadcast station license, must find that its action will serve the public interest, convenience, and necessity. However, to effectively invoke the Commission's processes, the citizen must not only concern himself with the quality of broadcasting but must know when, how, and to whom, to express his concern. On the one hand, the Commission is in large measure dependent on community members to bring up matters which warrant its attention. On the other, if resolute efforts are not first made to clear up problems at the local level, the Commission's processes become clogged by the sheer bulk of the matters brought before it.

4. If direct contact with a station does not produce satisfactory results, there are a number of formal and informal ways for members of the community to convey their grievances to the Commission and to participate in proceedings in which the performance of a station is judged and legitimate grievances are redressed. The purpose of this manual is to outline procedures available to the concerned citizen and to provide information and practical advice concerning their use. It is not a substitute for the rules of practice and procedure (47 CFR Part 1).[2] We are hopeful, however, that it will help community members to participate effectively and in a manner which is helpful to the Commission.

PROCEEDINGS INVOLVING PARTICULAR APPLICANTS AND LICENSEES

INITIATING A PROCEEDING

5. *Complaints generally.* A complaint against a broadcast station [3] can be filed with the Commission by any person at any time. You can go about it any way you wish; there are no particular procedural requirements, except as noted below. You should, however, bear the following facts in mind:

(a) During fiscal year 1973, the Commission received 84,525 complaints, comments, and inquiries concerning broadcast stations. Of this total, 61,322 were complaints.

(b) Almost all of these communications are initially considered and dealt with by approximately five Commission employees who are specially assigned this function. Additional personnel are assigned to a matter only if, on the initial examination, the complaint appears to raise novel or difficult legal questions or appears to warrant extensive inquiry, investigation, or formal proceedings. In light of this situation, there are a number of practical steps you can take which will be helpful to the Commission and will increase your effectiveness in making a complaint. These are set out below:

(1) Limit your complaint to matters on which the Commission can act. With minor exceptions (the provision of "equal time" for candidates for public office, for example), we cannot direct

---

[1] Commissioners Wiley (Chairman), Lee, Reid, Hooks, Quello, Washburn, and Robinson.

[1a] The Federal Communications Commission is an independent Government agency responsible for regulating interstate and foreign communication by radio and wire. One of its responsibilities is to determine who is to operate the limited number of broadcast stations, to regulate the manner in which they are operated, and to generally supervise their operation, to the end that such operation may serve the interests of the public. This booklet deals only with this one aspect of the Commission's responsibilities.

The FCC is composed of seven members, who are appointed by the President subject to confirmation by the Senate. Normally, one Commissioner is appointed or reappointed each year, for a term of 7 years. One of the Commissioners is designated by the President to serve as Chairman, or chief executive officer, of the Commission.

The Commissioners, functioning as a unit, supervise all activities of the Commission. They are assisted by a staff of approximately 1,500 persons. Note that the term "Commission" refers both to the seven Commissioners as a unit and to the entire agency, including the staff. For a general description of the Commission and its organization, see 47 CFR 0.1–0.5. For a full description of the Commission's functions and of authority delegated by the Commission to its staff, see 47 CFR Part 0. (The Commission's rules are printed in Volume 47 of the Code of Federal Regulations (CFR). See paras. 60 and 61 below.)

[2] The manual reflects procedures and policies in effect on August 1, 1974. Persons using this manual are cautioned that these procedures and policies are subject to change and that any changes made after August 1, 1974 are not reflected in this manual.

[3] Complaints relating to some of the operations of networks and other organizations associated with broadcasting can also be filed.

that a particular program be put on or taken off the air. Nor are we arbiters of taste. Our concern, moreover, is with matters which affect the community generally (the public interest) rather than with the personal preferences or grievances of individuals. Another publication, "The FCC and Broadcasting," contains more detailed information (in areas in which numerous complaints are received) regarding what the Commission can and cannot do. Copies will be furnished by the Complaints and Compliance Division of the Commission's Broadcast Bureau upon request.

(2) Submit your complaint first to the station involved. The station may well recognize the merit of your complaint and take corrective action, or may explain the matter to your satisfaction. If you are not satisfied with the station's response, it will aid and expedite action on your complaint to the Commission to enclose a copy of your complaint to the station and all subsequent correspondence between you and the station. (Though this way of proceeding is generally far preferable to complaining initially to the Commission, this is not always the case. If, for example, the complainant has reason for not disclosing his identity to the station, he may complain directly to the Commission, requesting that his identity not be disclosed.)

(3) Submit your complaint promptly after the event to which it relates.

(4) Include at least the following information in your letter of complaint:

a. The full name and address of the complainant.

b. The call letters and location of the station.

c. The name of any program to which the camplaint relates and the date and time of its broadcast.

d. A statement of what the station has done or failed to do which causes you to file a complaint. Be as specific as possible: Furnish names, dates, places, and other details.

e. A statement setting forth what you want the station and/or the Commission to do.

f. A copy of any previous correspondence between you and the station concerning the subject of the complaint.

(5) Try to appreciate that the person reviewing your complaint must make rapid judgments regarding the gravity of the matters related and the action to be taken. There are a number of simple things you can do to make his job easier and to aid your own cause: State the facts fully and at the beginning. Subject to fully stating the facts, be as brief as possible. If the facts are self-explanatory, avoid argument; let the facts speak for themselves. Avoid repetition or exaggeration. If you think a specific law or regulation has been violated, tell us what it is. If possible, use a typewriter, but if you do write by hand, take special pains to write legibly.

6. A complaint received by the Commission is dealt with as follows:

(1) If the complaint does not allege a substantial violation of statute or of Commission rule or policy, if inadequate information is submitted, or if the factual statement is not sufficiently specific, a letter (which is often a form letter) explaining these matters is directed to the complainant.

(2) If the complaint does allege specific facts sufficient to indicate a substantial violation, it is investigated, either by correspondence with the station (which may produce a satisfactory explanation or remedial action) or, in rare instances, by field inquiry. (Since the Commission's investigatory staff is small, the number of complaints which can be investigated by field inquiry is limited.) If further information from the complainant is needed, he is asked to furnish it. If the staff concludes that there has been a violation, it may recommend to the Commission that sanctions be imposed on the station; it may direct remedial action (such as equal opportunities for a candidate for public office); or, where extenuating circumstances are present (as where the violation follows from an honest mistake or misjudgment or where the station otherwise has a good record), it may note the violation but not recommend a sanction. Possible Commission actions range from the imposition of monetary forfeitures not exceeding $10,000 and short-term renewal of license to revocation of license or denial of an application for renewal of license. The imposition of sanctions involves formal proceedings (which may include a hearing) and, in connection with such proceedings, the complainant may be asked to submit a sworn statement or to appear and give testimony at a hearing before an administrative law judge. In some circumstances, the complainant is entitled, and may choose, to participate as a party to the proceeding. A hearing is ordered in a renewal or revocation proceeding only if substantial questions have been raised concerning the licensee's qualifications.

7. Four types of complaint require compliance with specific procedures and submission of specific information. These complaints involve compliance with the requirement of equal time for political candidates, the fairness doctrine, the personal attack rule, and the rule governing political editorials. Generally, these matters should be taken up with the station before a complaint is filed with the Commission. However, where time is an important factor, you may find it advisable to complain simultaneously to the station and the Commission. In such circumstances, complaints are often submitted and answered by telegraph and, where the matter is most urgent, by telephone.

8. *Political broadcasting.* Section 315 of the Communications Act, 47 U.S.C. 315,[4] provides that if any Commission licensee shall permit any person "who is a legally qualified candidate for any public office" to use a broadcast station, he shall afford to all other candidates for that office equal opportunities to use the station's facilities. Appearances by candidates on the following types of programs are exempt from the equal opportunities requirement:

1. Bona fide newscast;
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 (including but not limited to political conventions and activities incidental thereto).

However, where candidates appear on programs exempt from the equal opportunities requirement, broadcasters must nevertheless meet the obligation imposed upon them under the Communications Act (to operate in the public interest) and the fairness doctrine (to afford reasonable opportunity for the discussion of conflicting views on controversial issues of public importance). See paragraph 12 below. The equal opportunities and fairness doctrine requirements are applied to networks as well as to stations.

9. A request for equal opportunities must be made directly to the station or network and must be submitted within 1 week after the first broadcast giving rise to your right of equal opportunities. This is most important, as your right is lost by failure to make a timely request. To make it as clear as possible, we offer the following example:

A, B, and C are legally qualified candidates for the same public office. A makes an appearance on April 5 on a program not exempted by the statute. On April 12, B asks for an equal opportunity to appear on the station and does, in fact, appear on April 15. On April 16, C asks for an equal opportunity to appear. However, he is not entitled to do so, as he has failed to make his request within 1 week after A's appearance.

There is an exception to this requirement where the person requesting equal opportunities was not a candidate at the time of the first broadcast giving rise to the right of equal opportunities. See 47 CFR 73.120(e).

10. If you are a candidate or his designated agent and think that the candidate has been denied equal opportunities, you may complain to the Commission. A copy of this complaint should be sent to the station. Your letter of complaint should state (1) the name of the station or network involved; (2) the name of the candidate for the same office and the date of his appearance on the station's facilities; (3) whether the candidate who appeared was a legally qualified candidate for the office at the time of his appearance (this is determined by reference to the law of the State in which the election is being held); (4) whether the candidate seeking equal time is a legally qualified candidate for the same office; and (5) whether you or your candidate made a request for equal opportunities to the licensee within 1 week of the day on which the first broadcast giving rise to the right to equal opportunities occurred.

[4] The Communications Act is printed in title 47 of the United States Code (U.S.C.). See paragraph 59 below.

11. A political broadcasting primer ("Use of Broadcast Facilities by Candidates for Public Office"), containing a summary of rulings interpreting the equal opportunities requirement, has been published in the FEDERAL REGISTER and in the FCC Reports[5] (35 F.R. 13048, 24 F.C.C. 2d 832) and is available from the Commission upon request, as is a question and answer pamphlet ("Use of Broadcast and Cablecast Facilities by Candidates for Public Office") (37 F.R. 5796, 34 F.C.C. 2d 510). See also 47 U.S.C. 315 and 47 CFR 73.120.

12. *Fairness doctrine.* Under the fairness doctrine, if there is a presentation of a point of view on a controversial issue of public importance over a station (or network), it is the duty of the station (or network), in its overall programing, to afford a reasonable opportunity for the presentation of contrasting views as to that issue. This duty applies to all station programing and not merely to editorials stating the station's position. The station may make offers of time to spokesmen for contrasting views or may present its own programing on the issue. It must present suitable contrasting views without charge if it is unable to secure payment from, or a sponsor for, the spokesman for such views. The broadcaster has considerable discretion as to the format of programs, the different shades of opinion to be presented, the spokesman for each point of view, and the time allowed. He is not required to provide equal time or equal opportunities; this requirement applies only to broadcasts by candidates for public office. The doctrine is based on the right of the public to be informed and not on the proposition that any particular person or group is entitled to be heard.

13. If you believe that a broadcaster (station or network) is not meeting its obligation to the public under the fairness doctrine, you should complain first to the broadcaster. If you believe that a point of view is not being presented and wish to act as spokesman for that point of view, you should first notify the broadcaster. Barring unusual circumstances, complaints should not be made to the Commission without affording the broadcaster an opportunity to rectify the situation, comply with your request, or explain its position.

14. If you do file a fairness doctrine complaint with the Commission, a copy should be sent to the station. The complaint should contain specific information concerning the following matters: (1) The name of the station or network involved; (2) the controversial issue of public importance on which a view was presented; (3) the date and time of its broadcast; (4) the basis for your claim that the issue is controversial and of public importance; (5) an accurate summary of the view of views broadcast; (6) the basis for your claim that the station or network has not broadcast contrasting views on the issue or issues in its overall programming; and (7) whether the station or network has afforded, or has expressed the intention to afford, a reasonable opportunity for the presentation of contrasting viewpoints on that issue. The requirement that you state the basis for your claim that the station or network has not broadcast contrasting views on the issue or issues in its overall programming does not mean that you must constantly monitor the station. As the Commission stated in its *Fairness Report:*

> While the Complainant must state the basis for this claim that the station has not presented contrasting views, that claim might be based on an assertion that the complainant is a regular listener or viewer; that is, a person who consistently or as a matter of routine listens to the news, public affairs and other non-entertainment carried by the station involved. This does not require that the complainant listen to or view the station 24 hours a day, seven days a week * * * Complainants should specify the nature and should indicate the period of time during which they have been regular members of the station's audience. *Fairness Report,* 39 FR 26372, 26379 (1974).

Further, a basis for your claim that the station has failed to present contrasting views might be provided by correspondence between you and the station or network involved. Thus if the station's or network's response to your correspondence states that no other programing has been presented on the subject and none is planned, such response would also provide a basis for your claim.

15. Following the Commission's broad-ranging inquiry into the efficacy of the fairness doctrine and related public interest policies, the Commission issued its *Fairness Report,* 39 FR 26372 (1974). Copies of this and an earlier fairness primer containing a summary of rulings interpreting the fairness doctrine ("Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance," 29 FR 10416, 40 FCC 598 (1964) are available from the Commission upon request.

16. *Personal attacks.* The personal attack rule requires that when, during the presentation of views on a controversial issue of public importance, an attack is made upon the honesty, character, integrity, or like personal qualities of an identified person or group, the broadcaster must, within 1 week after the attack, transmit to the person or groups attacked (1) notification of the date, time and identification of the broadcast; (2) a script or tape (or an accurate summary if a script or tape is not available) of the attack; and (3) an offer of a reasonable opportunity to respond over the station's facilities free of charge. See 47 CFR 73.123(a). The personal attack rule does not apply to attacks made in the course of a bona fide newscast, a bona fide news interview, or on-the-spot coverage of a bona fide news event (including commentary or analysis by newsmen offered as part of such programs). Though the specific requirements of notice and an offer of an opportunity to respond do not apply to such programs, the other requirements of the fairness doctrine do apply. For other circumstances in which the personal attack rule does not apply, see 47 CFR 73.123(b). See also, the fairness primer, described above in paragraph 15.

17. If you believe that you or your group has been personally attacked during presentation of a controversial issue, and if you are not offered an opportunity to respond, you should complain first to the station or network involved. If you are not satisfied with the response, you may then complain to the Commission.

18. If you file a complaint with the Commission, a copy should be sent to the station. The complaint should contain specific information concerning the following matters: (1) The name of the station or network involved; (2) the words or statements broadcast; (3) the date and time the broadcast was made; (4) the basis for your view that the words broadcast constitute an attack upon the honesty, character, integrity, or like personal qualities of you or your group; (5) the basis for your view that the personal attack was broadcast during the presentation of views on a controversial issue of public importance; (6) the basis for your view that the matter discussed was a controversial issue of public importance, either nationally or in the station's local area, at the time of the broadcast; and (7) whether the station within 1 week of the alleged attack: (i) Notified you or your group of the broadcast; (ii) transmitted a script, tape, or accurate summary of the broadcast if a script or tape was not available; and (iii) offered a reasonable opportunity to respond over the station's facilities.

19. *Political editorials.* When a broadcast station, in an editorial, endorses a legally qualified candidate for public office, it is required to transmit to other qualified candidates for the same office (1) notice as to the date and time of the editorial, (2) a script or tape of the editorial, and (3) an offer of a reasonable opportunity for the other candidates or their spokesmen to respond to the editorial over the licensee's facilities free of charge. Where a broadcast station, in an editorial, opposes a legally qualified candidate for public office, it is required to send the notice and offer to the candidate opposed. The notice and offer must be sent within 24 hours after the editorial is broadcast. If the editorial is to be broadcast within 72 hours of election day, the station must transmit the notice and offer "sufficiently far in advance of the broadcast to enable the candidate or candidates to have a reasonable opportunity to prepare a response and to present it in timely fashion." See 47 CFR 73.123(c). See also, the fairness primer described above in paragraph 15.

20. If you are a candidate or his authorized spokesman and believe that the station, in an editorial has opposed the candidate or supported his opponent and has not complied fully with these requirements, you should complain to the station or network involved. If, in response to your complaint, the station does not offer what you consider to be a reasonable opportunity to respond to the editorial, you may complain to the Com-

[5] See paragraph 62 below.

mission. Send a copy of your complaint to the station.

PARTICIPATION IN APPLICATION PROCEEDINGS

21. *General.* Public expression regarding the operation of broadcast stations is not limited to letters of complaint. You can also support or object to applications filed with the Commission, such as an application for a new license, a change in existing facilities (for example, an increase in tower height or transmitter power or a change in studio location), or the renewal or transfer of a current license. You may proceed either formally, by filing a "petition to deny," or informally, by filing an "informal objection." (See below.) You may raise any public interest question relating to the application or the applicant. Allegations have been made in the past, for example, that the station's programing does not serve the needs and interests of the community or that the station has engaged in discriminatory employment practices. The question raised need not relate directly to the authority sought by the applicant. Your purpose in participating could properly be to effect a change in the station's policies or practices, by negotiation or by Commission direction, rather than to have the application denied. It is desirable and important that you discuss your grievances with the station, as they occur, and try to work out a mutually acceptable solution, either prior to or in lieu of filing an objection to the grant of an application. The Commission does not look with favor on objections to a grant where grievances have been "stored up" during the license term, without being brought to the station's attention, and are disclosed for the first time in objections to an application.

22. With certain minor exceptions, all broadcast applicants are required to give notice to the community that they have filed an application with the Commission. See 47 CFR 1.580. In the case of most existing licensee-applicants the notice is broadcast over their facilities. Public notice of the filing of the application is also given by the Commission. Applicants and licensees are required to maintain locally for public inspection copies of applications and other documents as specified in the Commission's rules. See 47 CFR 1.526. The notice given locally by the station will state the address at which these documents can be inspected. Additional papers relating to the station, including most of those kept locally, are available for inspection at the Commission's office in the District of Columbia.* Except in the case of certain minor applications (see 47 U.S.C. 309), the Commission must give notice of the acceptance of the application for filing at least 30 days before acting on it. See paragraphs 33 and 34 below.

23. *Informal objection.* If you have information which you believe should be considered by the Commission in determining whether the grant of an application would serve the public interest, convenience and necessity, you may file an "informal objection". See 47 CFR 1.587. Such objections may be filed in writing with the Secretary of the Commission, Washington, D.C. 20554, at any time prior to action on the application, and must be signed by the person making them. There are no other requirements.

24. The informal objection procedure is designed for use by persons who cannot qualify as "parties in interest" (see paragraph 30 below) or who (though they qualify as parties in interest) do not choose to assert the rights or to assume the burdens of parties to the proceeding. In addition, pleadings, or communications, submitted by persons who desire to participate as parties to the proceeding but which fail to meet the requirements for "petitions to deny" (see paragraph 29 below) are treated as informal objections.

25. Informal objections are dealt with much in the same manner as complaints and should include at least the minimum information required for an effective complaint (see paragraph 5, above). They are associated with the application to which they relate, however, and are reviewed by elements of the staff responsible for taking or recommending action on that application.

26. If in the judgment of the Commission's staff, the objection does not raise a substantial public interest question, it will not be referred to the Commission (that is, the Commissioners) for consideration. In such cases, the staff will give notice of Commission or staff action on the application to persons who have filed an objection, advising them that their objection has been rejected by the staff as a basis for denying the application. An application for review of staff action by the Commission may be filed. Such an application must be filed prior to seeking judicial review. See 47 U.S.C. 155(d)(7); 47 CFR 1.115.

27. If in the judgment of the staff the objection raises a substantial public interest question, it is made the subject of field inquiry or is forwarded to the applicant for comment. If the applicant is asked to comment, he is required to serve a copy of his comments on the person who filed the objection, and that person is entitled to file a reply. If there is still a substantial question, it is referred to the Commission and is dealt with on its merits in conjunction with action on the application. If the Commission concludes that a substantial and material question of fact has been presented or if it is for any reason unable to find that a grant of the application would serve the public interest, it will order a hearing. Otherwise, it will grant the application. If a hearing is ordered, a person who has filed an informal objection will not ordinarily be named as a party to the proceeding, but may seek to participate as a witness or, within 30 days after publication of the hearing issues in the FEDERAL REGISTER, petition for intervention as a party. See paragraph 39 below.

28. If the objection is considered and disposed of in a Commission opinion granting the application, you may within 30 days petition for reconsiderations or seek judicial review. If you appeal or petition for reconsideration, you should be prepared to show that you are aggrieved or adversely affected by the Commission action (47 U.S.C. 402(b)(6) and 405). If you have not participated in proceedings resulting in a grant of the application (as by filing an informal objection), or if the Commission has not been afforded an opportunity to pass on the questions you intend to raise in court, you must file a petition for reconsideration before seeking judicial review.

29. *Petition to deny.* A petition to deny, which is a formal objection to grant of an application, is subject to the following statutory requirements (47 U.S.C. 309(d)):

(1) The petition must contain specific allegations of fact sufficient to show that the petitioner is a party in interest and which, if true, would demonstrate that a grant of the application would be inconsistent with the public interest, convenience and necessity.

(2) "Such allegations of fact shall, except for those of which official notice

* Most Commission records are routinely available for inspection under the Public Information Act (5 U.S.C. 552) and Commission rules implementing that Act (47 CFR 0.441–0.467). See, in particular, §§ 0.453 and 0.455. A person wishing to inspect such records has only to go to the office where they are kept and ask to see them. Requests for inspection of records not routinely available for inspection may be submitted, and are considered, under procedures set out in § 0.461 of the rules (47 CFR 0.461). Copies of records may be obtained for a fee from a private firm which contracts with the Commission to perform this service (see 47 CFR 0.465).

may be taken, be supported by affidavit of a person or persons with personal knowledge thereof."

(3) The petitioner must serve a copy of the petition upon the applicant.

(4) The petition must be filed with the Commission within the time prescribed by the rules.

The requirements are discussed below at paragraphs 30–34. A petition opposing grant of an application which does not meet these requirements is treated as an informal objection. If you intend to appeal a grant of the application or wish to participate in any hearing held to determine whether the application should be granted or denied, or if you wish to assure Commission (rather than staff) action on your objections to the application, it is advisable to file a petition to deny rather than an informal objection. If you file a petition to deny, subsequent communication with Commissioners and certain other Commission personnel is limited by the rules governing ex parte communications, 47 CFR 1.1201–1.125.[7]

30. There is no hard and fast rule for determining whether a member of the listening public or a community group qualifies as a party in interest. Generally, under court precedents, members of the listening public who show that they would be aggrieved or adversely affected by a Commission action granting an application of a station in their area have standing to raise public interest questions. It is important to bear in mind this last point—that arguments for denial of the application must be directed to the public interest rather than to your own personal interest. For example, you may show that you are hurt by the activities or failing of the station to which you object, as by showing that you live or work in the area served by the station and, if the charges relate to racial discrimination, that you are a member of a racial minority being discriminated against; but the substance of your arguments must be related to the interests of the community as a whole. Since the purpose of your participation is to argue for the interests of your community as a whole, it is relevant to show your ties to the community and knowledge of its problems and needs. To make a stronger showing,[8] it is also helpful to demonstrate that you are well qualified to represent the interests of the community and to aid the Commission in reaching a decision that best serves the interests of the community. You may, for example, have a background which specifically qualifies you on matters relating to your charges against the station. You may have a background in broadcasting or previous experience in Commission proceedings which would contribute to your effectiveness as a representative of the community. You may have access to information concerning the station's operations which is not generally available, as would be indicated by previous correspondence (or discussion) with the station concerning the charges set out in your petition. You may be the only member of the community who is prepared to assume the personal and financial burden which participation in Commission proceedings involves. It will help to show that others join with you in your petition or that you are serving as an authorized spokesman for a representative community group or groups. If other members of the public have separately petitioned to deny the application, you should endeavor to show that the contribution you can make would be superior to or different from that made by others. You should consider the possibility of joining with other members of the public for the purpose of participating in the hearing. If a large number of persons or groups seek to participate on behalf of the public, it is possible that some would be required to consolidate their efforts.

31. In determining whether the grant of an application is consistent or inconsistent with the public interest, the Commission is guided by the Communications Act, other laws pertinent to the facts of the case and the matters at issue, its own rules and regulations and policy statements, and past decisions of both the Commission and the courts. Although the facts set out in the petition to deny and the precise public interest question presented may be novel, it would be rare indeed if none of these guides could be brought to bear upon the question. It is possible, of course, to simply set out allegations of fact in a petition to deny and assert that they show that "a grant of the application would be prima facie inconsistent with the public interest" (47 U.S.C. 309(d)). Obviously, however, it is far more effective for you, and helpful to the Commission, if the facts alleged are related specifically to the policy and precedent guidelines utilized by the Commission in making its determination. An experienced attorney will be familiar with these materials and will know how to use them in effectively presenting your position.

32. Not that the statute requires specific allegations of fact. Hearsay, rumor, opinion, or broad generalizations, do not meet this requirement. Note also that the allegations must "be supported by affidavit of a person or persons with personal knowledge" of the facts. The petitioner need not, himself, have personal knowledge of the facts if he submits affidavits signed by others who do. An affidavit is a written statement, the truth of which is sworn to or affirmed before an officer who has authority to administer an oath, such as a notary public. Service of the petition is accomplished by delivering or mailing a copy to the applicant, on or before the day on which the document is filed. See 47 CFR 1.47. If the applicant is represented by an attorney, it is the attorney who should be served. A certificate of service, signed by the person who delivered or mailed the petition and reciting the fact and method of service, must be attached to the petition.

33. With minor exceptions (see 47 U.S.C. 309 (c) and (f)), no broadcast application may be granted earlier than 30 days following the Commission's issuance of a public notice stating that the application, or any substantial amendment thereof, has been "accepted for filing" (47 U.S.C. 309(b)). Except in the case of standard broadcast (AM radio) applications and renewal applications, the petition to deny must be filed within this 30-day period. In the case of standard broadcast (other than renewal) applications, the Commission issues a second public notice stating that the application is "available and ready for processing" and specifying a "cutoff" date, on which processing of the application will commence. Petitions to deny must be filed before the cutoff date. See 47 CFR 1.580(i).

34. Applications for renewal of licenses of broadcast stations (except experimental and developmental stations) must be filed not later than the first day of the fourth full calendar month prior to the expiration date of the license (47

[7] It is important that you not communicate privately concerning the merits or outcome of any aspect of the case with persons who may participate in deciding it. Written communications must be served on parties to the proceeding. Oral communication must be preceded by notice to the parties affording them an opportunity to be present. Persons who may participate in the decision are (1) the Commissioners and their personal office staffs, (2) the Chief of the Office of Opinions and Review and his staff, (3) the Review Board and its staff, (4) the Chief Administrative Law Judge, the administrative law judges, and the staff of the Office of Administrative Law Judges, (5) the General Counsel and his staff, and (6) the Chief Engineer and his staff.

[8] We do not wish to imply that a showing with respect to all of these matters, or as to any particular matter, is necessarily required to sustain your claim, or that other information may not also be appropriate. To the extent that the suggested information is set forth, however, it will enhance your showing. Do not, however, be discouraged by the number of factors listed. Our intent is to give you a general idea as to the type of information which can be submitted in support of a claim—not to indicate that the required showing is necessarily difficult to make.

CFR 1.539).* A petition to deny a renewal application must be filed by the end of the first day of the last full calendar month of the expiring license term (47 CFR 1.580(i) and 1.516(e)). Thus, for example, the license of a television station located in Pennsylvania would ordinarily expire on August 1, 1975, the renewal application would be filed on or before April 1, 1975 and a petition to deny would have to be filed on or before July 1, 1975. There are two exceptions to the foregoing. First, the Commission may previously have issued a short-term license to the station in question; the license would in that case expire on a date specified by the Commission in its order making the short-term grant rather than on the date specified in footnote 9. Second, if the renewal application is filed late, the deadline for filing a petition to deny is the 90th day after the Commission has given public notice that the late filed application has been accepted for filing.

35. The applicant may file an opposition to your petition to deny within 30 days after the petition is filed. You may file a reply to the opposition within 20 days after the opposition is due or within 20 days after the opposition is filed, whichever is longer. Note that the papers must reach the Commission within these periods. Reasonable requests for extensions of time will be granted if both parties consent or upon a showing of good cause. Note that requirements applicable to the petition to deny (service, supporting affidavits, etc.) also apply to the opposition and the reply. The purpose of a reply pleading is to respond to points made in the opposition pleading; it is not intended to give a petitioner an opportunity to present new matters. Also, pursuant to § 1.45(c) of the Commission rules (47 CFR 1.45(c)), additional pleadings may not be filed unless specifically requested and authorized by the Commission.

36. Questions raised in a petition to deny are dealt with on their merits in conjunction with action on the application in an opinion issued by the Commission (that is, by the Commissioners and not by the staff under delegated authority). The Commission will either deny your petition and grant the application, deny your petition and set the application for hearing on issues other than those you have raised, or grant your petition and set the application for hearing on some or all of the issues you have raised. If the application is granted, you may petition for reconsideration (see 47 U.S.C. 405; 47 CFR 1.106) or appeal to the U.S. Court of Appeals for the District of Columbia Circuit (see 47 U.S.C. 402(b)(6)). If a hearing is ordered and you are not named as a party, you may petition for reconsideration or (if you have previously made clear your wish to participate as a party) you may appeal; you may also file a petition to intervene (see 47 U.S.C. 309(e); 47 CFR 1.223) or seek participation as a witness. See paragraph 39 below.

37. If you file a petition to deny but do not intend to participate as a party to a hearing on the application, you should so advise the Commission in your petition. Otherwise, it will be assumed that you are asserting the right to participate and offering to prove the allegations set out in your petition; and, if a hearing is ordered and you have established your right to participate, you will be named as a party and may be assigned the burden of proceeding with the introduction of evidence and the burden of proof on the issues raised in your petition. You will be expected to appear at the hearing, present evidence, and proceed in other respects as a party. You are not required to retain an attorney. However, it is most advisable that you do so, as it is unlikely that you will be able to participate effectively without the assistance of counsel. If you do intend to retain counsel, it is advisable to do so at an early date, so as to have his assistance in preparing the petition to deny.

PARTICIPATION IN A HEARING PROCEEDING

38. The rules governing hearing proceedings are set out in Subpart B of Part 1 of Title 47 of the Code of Federal Regulations. If you do not retain an attorney, it is important that you familiarize yourself thoroughly with those rules. It is also important that you become familiar with Subpart A, the general rules of practice and procedure, many of which apply in hearing proceedings. Though the following outline of the procedural stages of a hearing proceeding may be helpful, effective participation will require a more detailed knowledge of the rules.

39. When the Commission determines that a hearing should be held, it issues an order (called a designation order) specifying the issues upon which evidence will be received and naming known parties in interest as parties to the proceeding. Shortly thereafter, the Chief Administrative Law Judge issues an order naming a presiding officer, setting a time and place for an initial prehearing conference, and specifying the place of the hearing and the date for its commencement. If you are named as a party and wish to participate, you should, within 20 days after the designation order is mailed, file a notice of appearance stating that you will appear at the hearing. See 47 CFR 1.221. This notice and (except as otherwise expressly provided) all papers subsequently filed must be served on all other parties to the proceeding. See 47 CFR 1.47 and 1.211; see also, the rules governing ex parte presentations, 47 CFR 1.1201–1.1251. The notice of appearance should list the address at which you wish other parties to serve papers on you. If you are not named as a party, you may petition to intervene. See 47 CFR 1.223. To intervene as of right, you must show that you are a party in interest (see paragraph 30 above) and must file the petition within 30 days after the designation order is published in the FEDERAL REGISTER. It is not necessary for you to have participated in earlier stages of the proceeding. If the petition is filed later or if it fails to show that petitioner is a party in interest, his intervention as a party lies within the discretion of the presiding officer. You may appeal to the Review Board, as a matter of right, from an order denying your petition to intervene. See 47 CFR 1.301(a)(1). (For a description of the Review Board and its functions, see 47 CFR 0.361 and 0.365.) If the petition is denied, the person objecting may nevertheless request Commission counsel to call him as a witness. He may request other parties to the proceeding to call him as a witness. And, if these measures fail, he may appear at the hearing and ask that the presiding officer allow him to testify. If he shows that his testimony will be relevant, material, and competent, he will be allowed to testify. See 47 CFR 1.225(b). A person who has been permitted to participate as a party may move before the Chief Administrative Law Judge to hold the hearing in the community where the station is located, rather than in the District of Columbia. Action on that request lies within the discretion of the Chief Administrative Law Judge. Subject to budgetary limitations, hearings are held in the local community when it appears that there will be a sizable number of witnesses who live in that community.

40. If you are permitted to participate as a party, a number of new rights accrue to you. If you are dissatisfied with the issues listed by the Commission, you may petition for the addition or deletion

---

* Licenses for standard broadcast (AM), FM and television broadcast stations ordinarily expire at 3-year intervals from the following dates:

(1) For stations located in Iowa and Missouri, February 1, 1977.

(2) For stations located in Minnesota, North Dakota, South Dakota, Montana, and Colorado, April 1, 1977.

(3) For stations located in Kansas, Oklahoma, and Nebraska, June 1, 1977.

(4) For stations located in Texas, August 1, 1974.

(5) For stations located in Wyoming, Nevada, Arizona, Utah, New Mexico, and Idaho, October 1, 1974.

(6) For stations located in California, December 1, 1974.

(7) For stations located in Washington, Oregon, Alaska, Guam, and Hawaii, February 1, 1975.

(8) For stations located in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, April 1, 1975.

(9) For stations located in New Jersey and New York, June 1, 1975.

(10) For stations located in Delaware and Pennsylvania, August 1, 1975.

(11) For stations located in Maryland, District of Columbia, Virginia, and West Virginia, October 1, 1975.

(12) For stations located in North Carolina and South Carolina, December 1, 1975.

(13) For stations located in Florida, Puerto Rico, and Virgin Islands, February 1, 1976.

(14) For stations located in Alabama and Georgia, April 1, 1976.

(15) For stations located in Arkansas, Louisiana, and Mississippi, June 1, 1976.

(16) For stations located in Tennessee, Kentucky, and Indiana, August 1, 1976.

(17) For stations located in Ohio and Michigan, October 1, 1976.

(18) For stations located in Illinois and Wisconsin, December 1, 1976.

For the expiration date of licenses of other classes of broadcast stations (for example, television booster and translator stations), see 47 CFR 74.15.

of an issue or for the modification of those which are listed. See 47 CFR 1.229. Such petitions are acted on by the Review Board. You may utilize procedures for the discovery of facts relevant to the proceeding. See 47 CFR 1.311–1.325. You may file pleadings and oppose or support any motion or petition filed by any other party to the proceeding. You may ask the presiding officer to issue subpenas requiring the attendance of witnesses or the production of documents at the hearing. See 47 CFR 1.331–1.340. You may examine witnesses, object to the introduction of evidence, and cross-examine the witnesses of other parties. You are expected to be present at the hearing (either personally or by attorney) and to participate in the proceedings. If you subpena witnesses, you are responsible for payment of witness fees.

41. About 4 weeks after the proceeding is designated for hearing, the presiding officer holds an initial prehearing conference. See 47 CFR 1.248. Additional conferences may be held. At such conferences, the presiding officer works with counsel for the parties to devise a schedule for the completion of procedures (such as discovery and summary decision procedures) to be followed by counsel and to settle as many matters as possible before the evidentiary hearing. Counsel may, for example, enter into stipulations regarding undisputed facts and reach agreement as to the scope of the issues set for hearing. They may also agree as to the authenticity of exhibits and as to the qualifications of expert witnesses. Such agreement aids counsel in the preparation of his case, allowing him to concentrate on matters which remain in dispute. It also saves the time and expense which would otherwise be involved in establishing the facts agreed upon by testimony at the hearing. By the time you attend the conference, you should have a clear understanding of what you intend to prove, how (by what witnesses and exhibits) you intend to prove it, and of any collateral procedures you intend to follow, so that you can make full use of the prehearing technique.

42. A Commission hearing is much like a trial in a civil case in a court of law. Instead of a judge, there is a presiding officer, usually one of the Commission's administrative law judges. The administrative law judge is independent of the remainder of the agency and, with minor exceptions, his sole function is to preside over and initially decide Commission hearing proceedings. The Commission's Broadcast Bureau usually participates as a party to the proceeding, on behalf of the public, and is represented at the hearing by an attorney from its Hearing Division. At the hearing proper, witnesses testify under oath, are examined and cross-examined, and a transcript is made of their testimony; exhibits are offered in evidence; the rules of evidence are applied; and various motions are made, argued, and acted on. The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, constitute the exclusive record for decision.

43. When the testimony of all witnesses has been heard, the presiding officer closes the record (47 CFR 1.258) and certifies the transcript and exhibits as to identity (47 CFR 1.260). Parties are afforded an opportunity to move for correction of the transcript (47 CFR 1.261) and to file proposed findings of fact and conclusions of law, which may be supported by a brief (47 CFR 1.263, 1.264). The presiding officer then prepares and issues an initial decision, which becomes effective 50 days after its issuance unless it is appealed by a party or reviewed by the Commission on its own motion (47 CFR 1.267 and 1.277(d)).

44. If you are dissatisfied with the initial decision you may, within 30 days, file exceptions to the decision, which may be accompanied by a brief. See 47 CFR 1.271–1.279. You may also, within this period, file a statement supporting the initial decision. Reply briefs may be filed within 10 days. In cases involving the revocation or renewal or a broadcast station license, the decision is reviewed by the Commission. In other broadcast cases, unless the Commission specifies otherwise, the decision is reviewed by the Review Board (47 CFR 0.365(a)). After exceptions have been filed, the parties may request an opportunity for oral argument before the Commission or the Review Board, as the case may be (47 CFR 1.277). Such requests are ordinarily granted. Thereafter the Commission (or the Board) issues a final decision (47 CFR 1.282). Within 30 days after release of a final Commission decision, you may petition for reconsideration (47 U.S.C. 405; 47 CFR 1.106) or file a notice or appeal with the U.S. Court of Appeals for the District of Columbia Circuit (47 U.S.C. 402(b)). In the case of a Review Board decision, you may, within 30 days, file either a petition for reconsideration by the Board or an application for review of the decision by the Commission. See 47 U.S.C. 155(d); 47 CFR 1.101, 1.102, 1.104, 1.106, 1.113, 1.115, and 1.117. You must seek Commission review of a Board decision before seeking judicial review.

RULE MAKING

45. A rule is similar to a law. It is a statement of policy to be applied generally in the future. A rule making proceeding is the process, required by law, through which the Commission seeks information and ideas from interested persons, concerning a particular rule or rule amendment, which will aid it in making a sound policy judgment. There are other ways, when a rule is not under consideration, in which the Commission seeks information needed to meet its regulatory responsibilities. It may issue a Notice of Inquiry, in which interested persons are asked to furnish information on a given matter and their views as to whether and how the Commission should deal with it. If needed information cannot be obtained in proceedings on a Notice of Inquiry, the Commission can order an investigatory hearing, in which witnesses and records can be subpenaed. If the information obtained indicates that rules should be adopted, the Commission then initiates a rule making proceeding.

PETITION FOR RULE MAKING

46. The principal rules relating to broadcast matters are set out in the rules and regulations of the Commission as Subpart D of Part 1, Part 73 and Part 74. Other provisions relating to broadcasting will be found in Parts 0 and 1. If you think that any of these rules should be changed or that new rules relating to broadcasting should be adopted by the Commission, you are entitled to file a petition for rule making. 5 U.S.C. 553(e); 47 CFR 1.401–1.407. No specific form is required for such a petition, but it should be captioned "Petition for Rule Making" to make it clear that you regard your proposal as more than a casual suggestion. An original and 14 copies of the petition and all other pleadings in rule making matters should be filed.

47. The petition "shall set forth the text or substance of the proposed rule * * * together with views, arguments and data deemed to support the action requested * * *." 47 CFR 1.401(c). This is important, for unless statements supporting or opposing your proposal are filed, you are afforded no further opportunity, prior to Commission action on the petition, to explain or justify your proposal.

48. When a petition for rule making is received, it is given a file number (such as RM–1000) and public notice of its filing is given. The public notice briefly describes the proposal and invites interested persons to file statements supporting or opposing it. Statements must be filed within 30 days after the notice is issued and must be served on the petitioner, who may reply to such a statement within 15 days after it is filed. The reply must be served on the person who filed the statement to which the reply is directed.

49. If a petition for rule making is repetitive or moot or for other reasons plainly does not warrant consideration by the Commission, it can be dismissed or denied by the Chief of the Broadcast Bureau. See 47 CFR 0.280(bb). In that event, petitioner may file an application for review of the Bureau Chief's action by the Commission. See 47 CFR 1.115. In most cases, however, the petition for rule making is acted on by the Commission. Action is ordinarily deferred pending passage of the time for filing statements and replies. Where the changes proposed obviously have (or lack) merit, however, action may be taken without waiting for the submission of statements or replies. In acting on a petition for rule making, the Commission will issue (1) an order amending the rules, as proposed or modified, or (2) a notice of rule making proposing amendment of the rules, as proposed or modified, or (3) an order denying the petition. In the event of adverse action by the Commission, you may petition for reconsideration (47 CFR 1.106).

RULE MAKING WITHOUT PRIOR NOTICE AND PUBLIC PROCEDURE

50. Rule making proceedings are conducted under section 4 of the Administrative Procedure Act, 5 U.S.C. 553. See

also, 47 CFR 1.411–1.427, section 4 provides that an agency may make rules without prior notice and public procedure in any of the following circumstances:

(a) Where the subject matter involves a military or foreign affairs function of the United States.

(b) Where the subject matter relates to agency management or personnel or to public property, loans, grants, benefits, or contracts.

(c) Where the rules made are interpretative rules, general statements of policy, or rules of agency organization, procedure or practice.

(d) Where the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure are impracticable, unnecessary, or contrary, to the public interest.

The rules of organization practice and procedure (47 CFR Parts 0 and 1) are rather frequently amended, often without prior notice and public procedure. However, prior public comment is requested if the matters involved are particularly significant or there is doubt or controversy concerning the wisdom, precise effect, or details of the rule. Where notice is omitted pursuant to (d) above, it is in circumstances where the effect of the rule could be undermined by actions taken during the period allowed for comment, where the rule merely repeats the provisions of a statute, where the provisions of the rule are beneficial to all and there is no reason to expect unfavorable public comment, or in other similar circumstances constituting good cause under the statute. The other exceptions to the requirement of prior notice are of lesser importance.

51. If you are dissatisfied with a rule made by the Commission without prior notice, you may file a petition for reconsideration. You may also request that the effect of the rule be stayed pending action on your petition. All orders changing the Commission's rules are published in the FEDERAL REGISTER, and the 30-day period for filing the petition for reconsideration runs from the date of publication.

RULE MAKING WITH PRIOR NOTICE AND PUBLIC PROCEDURE

52. Except in circumstances listed in paragraph 50 above, the Commission is required to give prior notice and to afford an opportunity for public comment before making or changing a rule. If you have something to say concerning the proposed rule, you are entitled to file comments. Notice is given by issuance of a notice of proposed rule making, and by publishing that notice in the FEDERAL REGISTER. The text of the proposed rule is usually set out in the notice. On occasion, however, the notice will instead indicate the subject involved and the result intended, leaving the precise method for obtaining that result to a later stage of the proceeding following consideration of public comment. Whether or not the text is set out, the notice contains an explanation of the proposed rule and a statement both as to the Commission's reasons for proposing the rule and its authority to adopt it. The notice also lists the dates by which comments and reply comments should be submitted and states whether there are limitations on Commission consideration of nonrecord communications concerning the proceeding.[10] Requests for extension of the time allowed for filing comments and reply comments may be filed.

53. Rule making proceedings are relatively informal. When a notice of proposed rule making is issued, the proceeding is given a docket number (such as Docket No. 15000). Papers relating to the proceeding are placed in a docket file bearing this number. This file is available for inspection in the Commission's Public Reference Room in Washington, D.C. Because comments and reply comments are sometimes filed by hundreds of persons, the Commission does not require that copies be served on others. To find out what others have said in their comments, you may inspect the docket file or arrange with a private firm (for a fee) to furnish copies of comments filed in the proceeding. See 47 CFR 0.465. Often, those who have filed comments will furnish copies as a courtesy upon request. All papers placed in the docket file are considered by the Commission before taking final action in the proceeding. To assure that your views are placed in the docket file and considered by the Commission, all comments, pleadings, and correspondence relating to the proceeding should (in the caption or otherwise) show the docket number.

54. The rules require that an original and 14 copies of comments be filed, that they be typed, doubled-spaced, timely filed, and so forth. See, e.g., 47 CFR 1.419. As a practical matter, it is important for you to meet these requirements. The 14 copies are needed for distribution to Commissioners and members of the staff involved in making a decision. If you submit only an original, it will be placed in or associated with the docket file and considered by the staff member assigned to write a decision but probably will not be seen by other Commission officials. Handwritten communications are also placed in the docket file and so considered. You should appreciate, however, that you are more likely to get your point of view across to the persons making the decision if your presentation is typewritten. In making a rule, the Commission is interested in getting as much information and the best thinking possible from the public before making a decision and does not reject comments on narrow technical grounds. However, failure to comply with the filing requirements adversely affects your right to have the comments considered and to complain if they do not receive what you consider to be full consideration.

55. The comments should explain who you are and what your interest is. They should recite the facts and authority which support your position. They should not ignore facts and authorities which tend to support a different position, but should deal with them and demonstrate that the public interest requires that the matter be resolved as you propose. They should be carefully worded and well organized and free of exaggeration or vituperative comment. They should be explicit. If the details of the proposed rule or one of several provisions only are objectionable, this should be made clear. Counterproposals may be submitted. If the rule would be acceptable only with certain safeguards, these should be spelled out, with the reasons why they are needed.

56. In rule making proceedings, the Commission's responsibility is to make a policy judgment and, in making that judgment, to obtain and consider comments filed in the proceeding. It may tap other sources of information. Unless otherwise expressly stated in the notice,[11] staff members working on the proceeding are generally prepared to meet with and discuss the proposed rule with anyone who is sufficiently interested. They may initiate correspondence or organize meetings to further develop pertinent information and ideas. They will utilize information available in the Commission's files and draw upon the knowledge and experience of other Commission personnel or of other Government agencies. Generally, the Commission hears oral argument only in rule making proceedings involving policy decisions of the greatest importance. However, you may request the Commission to hear argument in any proceeding, and that request will be considered and ruled upon. When argument is heard, interested persons appear before the Commissioners, orally present their views, and are questioned by the Commissioners. Other devices, such as panel discussions, have, on occasion, been used to further develop the information and ideas presented. An evidentiary hearing is not usual in rule making proceedings. Nevertheless, if you think the circumstances require an evidentiary hearing, you are entitled to ask that one be held.

57. After comments and reply comments and the record of oral argument (if any) have been reviewed, a policy judgment is made and a document announcing and explaining it is issued. There are a number of possibilities. The proposed rules may be adopted, with or without changes. They may be adopted in part and, in that event, further comment may be requested on portions of the proceeding which remain. The Commission may decide that no rules should be adopted or that inadequate information has been obtained and, thus, either terminate the proceeding or issue a further notice of proposed rule making requesting additional comment on particu-

[10] In rule making proceedings which involve "conflicting private claims to a valuable privilege," fairness precludes nonrecord communication between Commission personnel involved in making a decision and interested persons concerning the merits of the proceeding. Sangamon Valley Television Corp. v. F.C.C., 269 F. 2d 221, 224. In such proceedings, limitations on communication with the Commission are stated in the notice of proposed rule making.

[11] See footnote 10 above.

lar matters. If final action as to all or any part of the proceeding is taken, the final action taken is subject to reconsideration (47 U.S.C. 405).

PETITION FOR WAIVER OF A RULE

58. Except as they implement mandatory statutory provisions, all of the Commission's rules are subject to waiver. 47 CFR 1.3. If there is something the rules prohibit which you wish to do, or if there is something the rules require which you do not wish to do, you may petition for waiver of the rules in question. The petition must contain a showing sufficient to convince the Commission that waiver is justified on public interest grounds (that is, the public interest would be served by not applying the rule in a particular situation) or, in some instances, on grounds of hardship or undue burden.

PUBLIC INSPECTION OF STATION DOCUMENTS

59. *Local public inspection file.* All radio and television stations maintain a local public inspection file which contains materials specified in 47 CFR 1.526. The file, which is available for public inspection at any time during regular business hours, is usually maintained at the main studio of the station, but the rules permit it to be located at any other publicly accessible place, such as a public registry for documents or an attorney's office. A prior appointment to examine the file is not required, but may prove of mutual benefit to the station and the inspecting party.

60. The local public inspection files of all radio and television stations include recent renewal applications (FCC-Form 303), ownership reports (FCC-Form 323), various reports regarding broadcasts by candidates for public office, annual employment reports (FCC-Form 395), letters received from members of the public concerning operation of the station (see 47 CFR 73.1202(f)), and a copy of this Manual. In addition, the local public inspection files of commercial television stations also include annual programming reports (FCC-Form 303–A) and annual listings of what the licensee believes to have been some of the significant problems and needs of the area served by the station during the preceding twelve months. All television licensees are required to make the materials in their local public inspection files available for machine reproduction, providing the requesting party pays any reasonable costs incurred in producing machine copies.

61. *Public inspection of television station program logs.* In response to formal requests from various citizen groups, the Commission's rules were amended in March 1974 to require television stations to make their program logs available for public inspection under certain circumstances. The contents of these logs are specified. See 47 CFR 73.112. It should be emphasized that because the logs are intended primarily to serve Commission needs, the information they contain is limited and is essentially statistical in nature. Although, for example, the logs include the title and type (that is, the program category such as news, entertainment, etc.) of the various programs carried by the station, and the times these programs were broadcast, the logging rules do not require descriptions of the actual content of individual programs nor a listing of program participants or issues discussed. Despite their limitations, however, the logs do contain relevant information concerning station programming, including commercial practices.

62. Television station program logs are available upon request for public inspection and reproduction at a location convenient and accessible for the residents of the community to which the station is licensed. All such requests for inspection are subject to the following procedural requirements set forth in 47 CFR 73.674:

(1) Parties wishing to inspect the logs shall make a prior appointment with the licensee and, at that time, identify themselves by name and address; identify the organization they represent, if any; and state the general purpose of the examination.

(2) Inspection of the logs shall take place at the station or at such other convenient and accessible location as may be specified by the licensee. The licensee, at its option, may make an exact copy available in lieu of the original program logs.

(3) Machine copies of the logs shall be made available upon request, provided the party making the request shall pay the reasonable costs of machine reproduction.

(4) An inspecting party shall have a reasonable time to examine the program logs. If examination is requested beyond a reasonable time, the licensee may condition such further inspection upon the inspecting party's willingness either to assume the expense of machine duplication of the logs or to reimburse the licensee for any reasonable expense incurred if supervision of continued examination of the original logs is deemed necessary.

(5) No log need be made available for public inspection until 45 days have elapsed from the day covered by the log in question.

63. 47 CFR 73.674 provides that the licensee may refuse to permit public inspection of the program logs where good cause exists. When it included this provision in its 1974 amendments to 47 CFR 73.674, the Commission indicated that lacking experience with the operation of public inspection of program logs, it was in no position to describe all situations in which there would be good cause for refusing to permit access. Two illustrations which it did offer, however, were (1) a request from a financial competitor of the station or of the station's advertisers which was based solely on competitive considerations and (2) a situation in which the request represented an attempt at harassment. Harassment would exist if the primary goal of requesting examination of the logs was the disruption of station operation or the creation of an annoyance. If, for example, an inspecting party or parties situated themselves in the inspection location hour after hour, day after day, refusing to indicate which, if any, logs it wished to have duplicated, and refusing to engage in dialogue with the licensee regarding further inspection, it would not be inappropriate to characterize that inspection as an attempt at harassment.

64. While the probability of misuse and abuse of requests to inspect program logs and the danger of harassment was not sufficient to cause the Commission to refrain from making the logs generally available, the provision regarding refusal of access for good cause was inserted in amended 47 CFR 73.674 as a recognition of legitimate concerns of broadcasters. In the rare case where an unresolved dispute arises between members of the public and a station regarding whether good cause exists for not making the logs available, the dispute can, of course, be brought to the Commission for resolution.

REFERENCE MATERIALS

65. Laws relating to communications have been compiled in title 47 of the United States Code, which is available in most libraries. The basic law under which the Commission operates is the Communications Act of 1934, as amended, 47 U.S.C. 151–609. A pamphlet containing the Communications Act, the Administrative Procedure Act, and other statutory materials, pertaining to communications may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Ask for the "The Communications Act of 1934" which includes all changes in the Act through January 1969.

66. The Commission's rules and regulations have been compiled in Chapter I of title 47 of the Code of Federal Regulations, which is available in many libraries. Chapter I is divided into four subchapters, which are printed in separate volumes, which may be purchased separately from the Superintendent of Documents. Those wishing to participate in broadcast matters will need two of these volumes:

Subchapter A—General
Subchapter C—Broadcast Radio Services

These volumes are revised annually.

67. The Commission's rules may also be purchased from the Superintendent of Documents in looseleaf form on a subscription basis. The rules are divided into 10 volumes, each containing several related parts. Each volume may be purchased separately. The purchase price includes a subscription to replacement pages reflecting changes in the rules until such time as the volume is revised. Those wishing to participate in broadcast matters will need two of these volumes:

Volume I—containing Parts 0, 1, 13, 17, and 19.
Volume III—cotaining Parts 73, 74, 76, and 78.

68. All documents adopted by the Commission which have precedential or historical significance are published in the FCC reports, which are available in some libraries. The reports are usually published weekly in pamphlet form. The pamphlets are available from the Superintendent of Documents on a subscription basis and are subsequently compiled and published in bound volumes.

69. A list of the Commission's printed publications (with prices) will be furnished by the Commission on request.

[FR Doc.74–20454 Filed 9–4–74;8:45 am]

MMB
SC
2582

THE WHITE HOUSE OFFICE

REFERRAL

C2 -- 116

FEBRUARY 2, 1983

TO: FEDERAL COMMUNICATIONS COMMISSION

ACTION REQUESTED:
DIRECT REPLY, FURNISH INFO COPY

DESCRIPTION OF INCOMING:

ID: 121881

MEDIA: LETTER, DATED JANUARY 14, 1983

TO: PRESIDENT REAGAN

FROM: MR. RICHARD DUNN
27 SKYLINE CIRCLE
SANTA BARBARA CA 93109

SUBJECT: WOULD LIKE A SPECIFIC ANSWER TO HIS QUESTION REGARDING FCC GRANTING A LICENSE TO PEOPLE WHO HAVE NO REGARD FOR THE PUBLIC VALUE OF THE PROPERTY THEY WILL USE - NO ANSWER TO HIS PREVIOUS CORRESPONDENCE

PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, PLEASE TELEPHONE THE UNDERSIGNED AT 456-7486.

RETURN CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO:
AGENCY LIAISON, ROOM 91, THE WHITE HOUSE

SALLY KELLEY
DIRECTOR OF AGENCY LIAISON
PRESIDENTIAL CORRESPONDENCE

5

S. Kelley

14 January 1983

C2 - 216

121881

President Reagan
Washington, D.C.

Dear President Reagan,

In several attempts over the years I've not managed to obtain some answers to questions to the FCC; I'm sure they're very busy and directing questions to an even busier White House will possibly be futile too - but one tries.

I have received a booklet about first amendment matters and about the evident discretionary powers the FCC can exercise in granting a license.

Basically I should like to know by what right or force of law a valuable public property is licensed to enterprises - more accurately to entrepreneurs - who have, for the most part, no interest in the public value of the property, and who, in fact, are almost exclusively in the business of reselling segments of that property to other commercial interests.

It would not be entirely fair to blame the radio and television industry for favoring commercial gain over intrinsic or altruistic considerations; undoubtedly they function within the system. But the result is a steady, unabrupt erosion of civilization, and a very direct disenfranchisement of ~~of~~ a large percentage of the population: that large minority that would like something better for themselves and for their children.

Stating my question another way: what is the flaw in our government, in law, or in the FCC which allows a public property of enormous potential value to be so misused? Where and how does one "get a handle" on a change which requires SOME concern of broadcasters for the intrinsic worth and importance of the property they are licensed to use? The universal formula for any entrepreneur is purely "what reaches the most people"with no concern for what is good or not good but merely for what can be sold. That formula automatically disenfranchises 49% of the population in favor of 51%. Clearly the problem lies not with the entrepreneur but in the allocation to the entrepreneur of public property for exploitation.

Of course I have not argued the question of misuse, because every intelligent and informed person (including network executives) is well aware of that waste. The matter is at least as important as nucleur warfare, the difference being only that one is sudden and the other slower and more insidious.

I don't know whether any President or government or citizen is able to do anything at all, but I would appreciate knowing from SOMEONE why we are doing this.

Sincerely,

Richard Dunn

Richard Dunn
27 Skyline Circle
Santa Barbara, CA 93109

BROUGHT FORWARD

123208
FS128

Previously filed Date

Name Charlton Keilon

Organization _____

_____

123258
~~FS~~ BE113-54

New File Symbol Date

Final Action _____

_____

_____

PR - Herb should not be handling this sort of thing

ID# 123506 FEB 23 1983

FG128

WHITE HOUSE
COUNSELLOR'S OFFICE TRACKING WORKSHEET

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) 83/02/08

cnhamm

Name of Correspondent: Herbert E. Ellingwood

☑ **CN Mail Report** **User Codes: (A)** ______ **(B)** ______ **(C)** ______

Subject: Writer forwards a letter concerning the FCC's failure to respond to the need for a wider spectrum of radio frequencies for the development and replacement of public safety and mutual aid communications systems.

ROUTE TO: **ACTION** **DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CNHAMM	O	83/02/08		C	83/04/20
Referral Note:					
CNCRIB	A	83/02/08		C	83/02/09
Referral Note:					
CNMEES	I	83/02/08		C	83/02/08
Referral Note:					
CAFULL	A	83/02/08		C	83/02/18
Referral Note:					
CUFIEL	A	83/02/22	FF	A	83/04/13
Referral Note: WAT09	D	83/02/24		C	83/03/07

ACTION CODES:
A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet to be used as Enclosure
I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:
A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

~~FF A 83/04/1~~

~~CUFIEL S 83/04/13~~

FOR OUTGOING CORRESPONDENCE:
Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: ______

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

'83 FEB 10 A10:42

RECORDS MANAGEMENT ONLY

CLASSIFICATION SECTION

No. of Additional Correspondents:_____ Media: L Individual Codes: L140 __.____ __.____

Prime Subject Code: FG 128-__ Secondary Subject Codes: UT 001-01 __ ____-__
FG 318-__ __ ____-__
__ ____-__ __ ____-__

PRESIDENTIAL REPLY

Code	Date	Comment	Form
C __ __	_____	Time: _____	P-_____
DSP	_____	Time: _____	Media: _____

SIGNATURE CODES:

CPn - Presidential Correspondence
- n - **0** - Unknown
- n - **1** - Ronald Wilson Reagan
- n - **2** - Ronald Reagan
- n - **3** - Ron
- n - **4** - Dutch
- n - **5** - Ron Reagan
- n - **6** - Ronald
- n - **7** - Ronnie

CLn - First Lady's Correspondence
- n - **0** - Unknown
- n - **1** - Nancy Reagan
- n - **2** - Nancy
- n - **3** - Mrs. Ronald Reagan

CBn - Presidential & First Lady's Correspondence
- n - **1** - Ronald Reagan - Nancy Reagan
- n - **2** - Ron - Nancy

MEDIA CODES:
- **B** - Box/package
- **C** - Copy
- **D** - Official document
- **G** - Message
- **H** - Handcarried
- **L** - Letter
- **M** - Mailgram
- **O** - Memo
- **P** - Photo
- **R** - Report
- **S** - Sealed
- **T** - Telegram
- **V** - Telephone
- **X** - Miscellaneous
- **Y** - Study

THE WHITE HOUSE

WASHINGTON

April 13, 1983

Dear Herb:

Ed Meese's office forwarded to me your note to him enclosing the letter you received from Los Angeles County Sheriff Sherman Block concerning FCC policies on radio frequencies available to public safety officials.

After looking into this matter, I believe it would be prudent for you not to become directly involved, in light both of your present position and of the FCC's status as an independent regulatory agency. Also, it is my understanding that the problem about which Sheriff Block wrote is not a new controversy, and involves the kinds of issues that inevitably arise when one is dealing with a limited commodity such as radio frequencies. That is not to say I necessarily disagree with the Sheriff; it simply means that the issue is apparently a complicated one, where an award of frequencies to one group means denying it to others. In these circumstances, it is difficult for those of us who are not experts in the field to make sound judgments, and hence unwise for us to get directly involved -- particularly when we hold other posts in the Administration, unrelated to this area.

I have also learned, however, that there is an agency in the Department of Commerce called the National Telecommunications and Information Administration, which evidently may take an interest in issues of this sort. You may want to suggest to Sheriff Block or others who write you on this issue that they might wish to contact NTIA.

With warm personal regards,

Sincerely,

Orig. signed by FFF

Fred F. Fielding
Counsel to the President

The Honorable Herbert E. Ellingwood
Chairman
U.S. Merit Systems Protection Board
1120 Vermont Avenue, N.W.
Washington, D.C. 20419

cc: Edwin Meese III

FFF:PJR:ph 4/13/83
cc: FFFielding
PJRusthoven
Subject
Chron.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

April 13, 1983

FOR: FRED F. FIELDING

FROM: PETER J. RUSTHOVEN

SUBJECT: Letter from Herbert Ellingwood to Edwin Meese Concerning Radio Frequencies for Public Safety Officials

Earlier this year, Herb Ellingwood forwarded to Ed Meese a copy of a letter Herb had received from Sherman Block, the Sheriff of Los Angeles County, complaining of FCC policy on radio frequencies available to law enforcement and other public safety officials. Herb asked Meese whether there was "something I can do to assist this?" A lengthy staffing chain eventually brought this to our office.

I agree with your note that Herb should not be involved in this, but had trouble determining exactly who, if anyone, should. Although the FCC is an independent regulatory agency, this is a "policy" matter, rather than an individual application or adjudication of the sort in which the Administration simply cannot interfere. In making an informal and purely informational telephone inquiry to FCC General Counsel Bruce Fein, I learned that this is also a long-standing area of controversy on which law enforcement officials have never been completely happy (which is not surprising, since frequency allocations are decidedly a "zero sum" game).

Neither Bruce nor Dick Hauser was aware of any particular part of the Justice Department that might be interested in this. Bruce suggested, however, that the agency most interested in matters of this sort would probably be the National Telecommunications and Information Administration, an entity (of which I had never previously heard) in the Department of Commerce. The U.S Government Manual describes the NTIA as being concerned with, inter alia, "providing policy and management for the use of the electromagnetic spectrum" and "providing telecommunications facilities grants to public service users." Those seem close enough for present purposes.

Accordingly, attached for your review and signature is a letter for Herb, with copy to Meese, advising that we do not think he should become directly involved in this matter, but suggesting that Sheriff Block and others may want to communicate their concerns to NTIA.

Attachment

08FEB 1983

THE CHAIRMAN

U.S. MERIT SYSTEMS PROTECTION BOARD
1120 Vermont Avenue, N.W.
Washington, D.C. 20419

January 18, 1983

123506

The Honorable Edwin Meese III
Counsellor to the President
The White House
Washington, DC 20500

Dear Ed:

Is there something I can do to assist this?

Sincerely,

Herbert E. Ellingwood

Enclosure

08 FEB 1983

County of Los Angeles
Office of the Sheriff
Hall of Justice
Los Angeles, California 90012

SHERMAN BLOCK, SHERIFF

December 28, 1982

Edwin Meese III
Counsellor to the President
The White House
Washington, D.C. 20500

Dear Mr. Meese:

A major communications problem now confronts police, fire, and emergency medical service agencies across the nation. The heart of the problem is the rapidly diminishing number of suitable radio frequencies available for the development and replacement of public safety and mutual aid communications systems and the reluctance of the Federal Communications Commission (FCC) to allocate this needed spectrum to public safety.

In 1974 you participated in Project: Safer California for the Governor's Conference on Criminal Justice in Sacramento, California. The communications standards set at that conference recognized that public safety must have adequate radio systems to accomplish the timely delivery of their services. These standards further demanded the development of effective mutual aid capability through efficient communications systems. The timetable for meeting these standards has long since passed, and there has been no substantial progress in these areas in California or in the rest of the nation, nor can there be unless a suitable block of the remaining spectrum is set aside and protected for public safety use.

The FCC has, over the years, spread this country's public safety communications systems over five different radio bands which require up to eight separate radios to effect multiagency communications during mutual aid situations. Floods, earthquakes, fires, common carrier and major air crash disasters demand multiagency cooperation and coordination. Rarely are communications networks between essential mutual aid safety agencies established satisfactorily.

The apparent historical advocacy for the broadcast industry, and perhaps the failure of public safety to vigorously pursue its

spectrum needs over the years, has resulted in the Commission ignoring all current requests to formally respond to the problem.

In September 1981 the Los Angeles County Sheriff's Department, in cooperation with the California Peace Officers' Association, submitted a petition to the Commission (RM 3975) which outlined these concerns and recommended a reasonable solution which in essence would set aside and protect a suitable block of spectrum for public safety use nationwide. In spite of overwhelming nationwide support from public safety organizations, Senators and Representatives at state and Federal levels, and public agency leaders, the FCC has failed to respond.

For public safety agencies to continue providing timely emergency responses, a national policy must be established which places a segment of the radio spectrum under protective statute. A recent national survey conducted by the International Association of Chiefs of Police established that 55 percent of police agencies responding required additional frequencies now, and 80 percent will require them in the next decade. I can assure you that without a stated national policy, these frequencies will not be available, and the building and replacement of effective communications systems with mutual aid capabilities will not take place.

I would appreciate an opportunity to personally meet with you and further discuss this issue. Assistance from the White House will be of inestimable value to public safety organizations in solving this problem to the benefit of the entire nation.

Sincerely,

SHERMAN BLOCK
SHERIFF

EF

WS

Document No. 126346 SS

FG12X

WHITE HOUSE STAFFING MEMORANDUM

DATE: May 27 ACTION/CONCURRENCE/COMMENT DUE BY: ---

SUBJECT: LETTER FROM CHARLTON HESTON OF MAY 20

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	GERGEN	☐	☐
MEESE	☐	☑	HARPER	☐	☐
BAKER	☐	☑	JENKINS	☐	☐
DEAVER	☐	☑	MURPHY	☐	☐
STOCKMAN	☐	☐	ROLLINS	☐	☐
CLARK	☐	☐	WHITTLESEY	☐	☐
DARMAN	☐P	☐SS	WILLIAMSON	☐	☐
DUBERSTEIN	☐	☐	VON DAMM	☐	☐
FELDSTEIN	☐	☐	BRADY/SPEAKES	☐	☐
FIELDING	☐	☑	ROGERS	☐	☐
FULLER	☐	☑	_____	☐	☐

Remarks:

The attached has been forwarded to the President.

FYI memorial - Enclosed duplicate before dispatch

Richard G. Darman
Assistant to the President
(x2702)

Response:

MAY 27 1983

Document No. 125346 cu

cf FG127

WHITE HOUSE STAFFING MEMORANDUM

DATE: May 27 ACTION/CONCURRENCE/COMMENT DUE BY: ---

SUBJECT: LETTER FROM CHARLTON HESTON OF MAY 20

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	GERGEN	☐	☐
MEESE	☐	☑	HARPER	☐	☐
BAKER	☐	☑	JENKINS	☐	☐
DEAVER	☐	☑	MURPHY	☐	☐
STOCKMAN	☐	☐	ROLLINS	☐	☐
CLARK	☐	☐	WHITTLESEY	☐	☐
DARMAN	☐P	☐SS	WILLIAMSON	☐	☐
DUBERSTEIN	☐	☐	VON DAMM	☐	☐
FELDSTEIN	☐	☐	BRADY/SPEAKES	☐	☐
FIELDING	☐	☑	ROGERS	☐	☐
FULLER	☐	☑	_____	☐	☐

Remarks:

The attached has been forwarded to the President.

Richard G. Darman
Assistant to the President
(x2702)

Response:

Document No. 125346 55

FG128

WHITE HOUSE STAFFING MEMORANDUM

DATE: May 27 ACTION/CONCURRENCE/COMMENT DUE BY: _____

SUBJECT: LETTER FROM CHARLTON HESTON OF MAY 20

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	GERGEN	☐	☐
MEESE	☐	☑	HARPER	☐	☐
BAKER	☐	☑	JENKINS	☐	☐
DEAVER	☐	☑	MURPHY	☐	☐
STOCKMAN	☐	☐	ROLLINS	☐	☐
CLARK	☐	☐	WHITTLESEY	☐	☐
DARMAN	☐P	☐SS	WILLIAMSON	☐	☐
DUBERSTEIN	☐	☐	VON DAMM	☐	☐
FELDSTEIN	☐	☐	BRADY/SPEAKES	☐	☐
FIELDING	☐	☑	ROGERS	☐	☐
FULLER	☐	☑	_____	☐	☐

Remarks:

The attached has been forwarded to the President.

Richard G. Darman
Assistant to the President
(x2702)

Response:

The President has seen

CHARLTON HESTON

12534655

FG128

May 20, 1983

No Reply Req

The President of the United States
The White House
Washington, D. C.

Dear Mr. President:

I'm grateful not only that you gave me time last week, but for your thoughtful and forthcoming response. I hate to be one of those hundreds of guys tugging at your arm, but this syndication thing really worries me. Given the already awesome power of the networks, to move as fast and as sweepingly as Justice seems determined to do could be deeply dangerous to the nation. If Ed Meese passes on your concerns to Mr. Baxter, he may restrain the unseemly haste with which he is pressing ahead.

Of course I'm delighted that you have expressed your desire to personally examine the credentials of those recommended to fill the vacancy on the FCC. I'm convinced your involvement in both these matters is of vital service to us all.

I know you must have people clipping stuff for you, but your kind note thanking me for the last columns I sent impelled me to include the enclosed. You might find a way to use that neat line I've marked at Williamsburg. Good luck with them.

It was lovely to see you both looking so great. Lydia was delighted to have a chance to chat with Nancy and to see some of what she's done with the rooms there. That's vital service, too.

God bless and love to you both,

As ever,

Chuck

Le socialisme resorts to *le grand chutzpah*

WILLIAM SAFIRE

PARIS — "My right has been rolled up; my left has been driven back; my center has been smashed," Marshal Foch was reported to have said to Marshal Joffre at one of the battles of the Marne, adding: "Excellent! I shall attack."

The socialist economy of France is reeling backward on every front. Inflation is roaring along at 9 percent, triple that of the United States; not even interest rates of 14 percent can hold nervous investment capital in France; after three forced devaluations and a fourth on the way, the franc has lost nearly half its value against the dollar.

The realization is sinking in that the situation must get worse before it can get better. Exactly two years ago, the newly elected utopians under Francois Mitterrand closed their eyes to reality and went on an inflationary binge. Handouts were increased, the work week was shortened, vacations were stretched to five weeks a year and the printing presses rolled out money. Now the piper is demanding payment.

For the first time in a generation, the average Frenchman's real income is about to be reduced. Prices are outstripping wages and workers will be forced to lend the government 10 percent of taxable income. As retail sales plummet, infuriated interest groups from travel agents to medical students are taking to the streets; opinion polls show support for the Socialists collapsing.

Excellent, says President Mitterrand, I shall attack. His chosen villain, against which he is trying to rally the French people: the economy of the United States.

Evoking what the historian Richard Hofstadter called "the paranoid style in politics," the leader of Socialist France speaks darkly of unnamed forces that "desire to see France fail." As France pays the price for its profligacy while the United States moves out of its needed recession toward strong recovery, Mitterrand whips up resentment among his countrymen and directs it across the Atlantic Ocean.

"It is not normal," he insists, "that the United States budget deficit be paid by us in particular." In his view, the American refusal to increase taxes, and not Socialist blundering, is "a cause of worldwide disequilibrium." After years of blaming his recession on our recession, he is now blaming his recession on our recovery.

That takes *le grand chutzpah*. The reason that capital is flowing out of France to the United States and other countries has little to do with deficits or interest rates and much to do with the desire of people to hold on to their money: American free enterprise is stable and France's socialist economy is shaky, and money flows to those places where risk and inflation are low.

Never mind such annoying fundamentals; here comes the Mitterrand blame-America offensive. As John Vinocur of The New York Times has been reporting this week, French Socialists are huddling with the six other Socialist countries in Europe to go scapegoating in unison. The message was laid out by the minister of industry here: "The attitude of the United States is stopping us from cleaning our house."

That sets the stage for a classic case of Gallic two-facedness at the economic summit meeting next week in Williamsburg, Va.

With one face, French officials are predicting sweetness and light at the summit conference, professing distaste for the kind of disagreements that surfaced at Versailles last year. Following that line at the French Embassy in Washington, Ambassador Bernard Vernier-Palliez assures pundits wolfing down his deliciously flaky croissants at breakfast that no ruckus is likely to feed the media's lust for controversy. That reasonable face has induced the United States to cave in on what hardliners hoped would be requirements to limit dependency of Western nations on the Soviet Union for natural gas.

With its other face, France has been hinting broadly that Williamsburg would be the scene of Mitterrand's call -- at the highest level — for a return to fixed rates of exchange that would bail France out at a "new Bretton Woods," an impassioned pitch for the handouts sought by the Third World, and a stern lecture to President Reagan for daring to run a deficit. Press spokesmen would describe that as "a frank exchange," diplomatic lingo for a hair-pulling and eye-gouging donnybrook.

Which is it to be? The bland, informal get-together that the French officials predict, or the audacious pose of international responsibility by the most irresponsible member of the Western alliance?

We will know soon enough. If the failing French Socialist chooses to conceal the weakness of his position with a barrage of grandiose and crackbrained ideas, we should respond with apt deflance: They shall not pass the buck. ■

William Safire is a Pulitzer Prize-winning columnist in Washington, D.C.

3124 S. 88 E Av
Tulsa. Ok 74145

2/9/83

Dear Mr Crib.

I am writing to express my outrage at the total disregard of the F.C.C. Fairness Doctrine. The present head, Mr Mark Fowler is not enforcing that rule and seems to want to abolish it. I think Mr Fowler should be replaced.

The media, news in particular, is totally unfair. makes little attempt to collect facts. Never corrects itself - just "hit and run" journalism.

I strongly believe in what President Reagan is trying to do economically for the country. I just wish it could be more fairly represented in the media - (and he do more)

Thank you

Mrs J. M. Harris