

THE HISTORICAL DEVELOPMENT OF  
BROADCAST PROGRAM STANDARDS  
BY THE NATIONAL  
ASSOCIATION OF BROADCASTERS

Thesis for the Degree of M. A.  
MICHIGAN STATE UNIVERSITY

Hayes L. Anderson

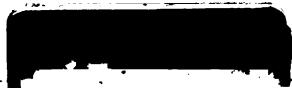
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## ABSTRACT

### THE HISTORICAL DEVELOPMENT OF BROADCAST PROGRAM STANDARDS BY THE NATIONAL ASSOCIATION OF BROADCASTERS

by Hayes L. Anderson

Broadcasters have always professed the right of free speech and the subsequent right to determine the type and content of programs which are presented by their stations. The First Amendment to the Constitution and the Communications Act of 1934 prohibit any regulation or action by government which would intervene between the creation of a broadcast program and its ultimate audience. Although broadcasters legally have protection against government enforced program standards, they have established their own industry-wide set of program regulations. It is the purpose of this study to investigate the discrepancy between the broadcasters' right of free speech and their actions in forming industry-wide standards to restrict and prescribe the manner by which programs can be presented to their audiences.

In order to understand what need broadcasters would have for an industry-wide set of self-regulatory standards, the legal foundations upon which broadcasting is structured were examined. Clues as to the reasons for specific standards of the industry's self-regulatory codes were found by investigating the various problem areas that have caused difficulties for broadcasters with

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When Congress created the Radio Act of 1927 it provided for a five member commission with authority to grant, renew and revoke licenses of stations. It also definitely established that airwaves belong to the public, and that a broadcaster acquired no ownership right to a frequency when granted a license. The broadcaster was required to show that the public interest would be served before he was granted a license. The five man Federal Radio Commission assumed from the beginning that program service was an important factor in making this determination.

The Federal Communications Commission, when it came into being, accepted the F. R. C. 's position of taking into account a station's programming in determining how well the public interest had been served. Also like its predecessor, the F. C. C. has never established a specific definition as to what actually constitutes the public interest. In order to determine the best method of programming according to the public interest, the broadcasters joined together through the National Association of Broadcasters and, using their joint experiences in broadcasting and rulings by federal regulatory agencies, formed a code of self-regulation.

The first industry-wide code for both programs and commercials was adopted by the N. A. B. in 1939. This code spelled out how and why specific subjects were and were not to be treated. Following the form of the 1939 code, the Radio Code has been altered or added to nine times in the ensuing years.

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The self-regulatory Television Code was put into effect March 1, 1952. Utilizing provisions found in the Radio Code and adding some of their own, the telecasters attempted to correct programming abuses in the areas of violence, costuming and profanity. Since 1952 the Television Code has been changed eight times.

Through an analysis of the changes in the programming standards of the National Association of Broadcasters codes it was found that the problem areas which have caused the broadcasters a great deal of difficulty include violence, sex, anti-social actions and words, politics and government, religion, special interests, controversial public issues, liquor, animals, news reporting, medical and legal references, national defense, and ethnic and racial factors.

Most of the changes in both codes of self-regulation came in response to government and public criticism of programming practices. This has caused many critics of self-regulation to state that the N. A. B. codes are nothing more than unofficial government censorship. However, broadcasters point to the fact that their codes have thwarted government intervention into programming matters. At the same time, by listening to governmental and public critics, the broadcasters have been able to define, through their codes, elements of programming which may have the capacity to undermine various

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kinds of authority and order, or have undesirable effects in relation to what is considered to be the common good. In this way the codes help government and the broadcast industry to serve the interests of the public.

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THE HISTORICAL DEVELOPMENT OF BROADCAST PROGRAM  
STANDARDS BY THE NATIONAL ASSOCIATION OF BROADCASTERS

By

Hayes L. Anderson

A THESIS

Submitted to  
Michigan State University  
in partial fulfillment of the requirements  
for the degree of

MASTER OF ARTS

Department of Television and Radio

1965

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## PREFACE

Americans, among the least censored people in the world, are the world's most censorious. Protected by the First Amendment to the Constitution of the United States and curbed by laws against libel and obscenity, an American may say or print almost anything he wants to without fear of either prior restraint or subsequent punishment. Only the act of war can abridge this right of free speech and even in wartime the American government exercises censorship with what seems to be an extreme reluctance and a hovering sense of guilt.

Yet at the very moment they are trying to forget a necessary exercise of a government's right to censor, the American people regulate radio and television, their greatest media of communication. They do it by raising great outcries, singly, in groups, in mass, against the first and slightest appearance of what the broadcast industry has come to know and dread as controversial content. In many cases the outcries are attempts by pressure groups to gain their will through government sanction against such content. No industry is more sensitive to pressure than broadcasting. And no matter what the content, someone will find it controversial. One person or group sees sacrilege where others see art; some see wit where others see smut. During its existence the broadcasting industry has built up a library of controversial content that ranges

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from sex to politics and from ethnic denigration to religion. In charge of this library is the National Association of Broadcasters with a program of "self-regulation" for the industry. One of the functions of industrial self-regulation is to bring about a set of practices and standards which are responsive to public opinion. Through it, industry volunteers to do for itself what some would have done through legislative enactment.

The problem of self-regulation in radio and television is one peculiar to the art and scope of the broadcast media. It is at once delicate and difficult, and is quite different from the problem found in the motion picture field and in the press. It is wholly unrelated to such things as rates, price structure, or trade practices, except as they relate to program content. It is chiefly concerned with the involvement of a set of social standards applicable to radio and television programs which reach a potential audience in excess of one hundred million persons, the largest single potential audience ever gathered in the history of mankind. It is concerned with the development and strengthening of wholesome and fair considerations which should govern the broadcast licensee as he determines the selection or the rejection of subjects and treatment of presentations proposed for broadcast.

The broadcaster can secure no vested right in his broadcast frequency, and since these frequencies belong to the American

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public as a whole, his right to use them for private gain co-extends only with his ability to serve "public interest." He has no moral or legal right to use them to suit his own brand of political, religious, or social belief to the exclusion of all others, as have the publisher and the producer of motion pictures. The basis of the American system of broadcasting is not the right of an individual to be heard, but the right of the public to hear. The broadcaster thus becomes a steward in the public interest. His is the problem of selection and rejection, of program balance, and of fair treatment. In no other person, authority, or industry is this responsibility placed.

Thus it is in the self-interest of the broadcaster to develop common denominators of public interest. He is not always able to find them out of his own immediate experiences, for broadcasting is swift and ever changing. Each day brings new problems and new twists to old ones. No other media have such a diversity of tastes and interests to serve, for only radio and television reach across all barriers of time and distance instantly; touch all ages, races and creeds simultaneously; and cut through every cultural, educational and economic level of our present day complex society.

Within the Communications Act of 1934, by which broadcasters are legally required to operate in "the public interest, convenience and necessity," there are no provisions which can scarcely be

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regarded as a blueprint of operation in "the public interest, convenience and necessity." As broadcasting grew through the years, as it emerged from a vehicle of entertainment only, as it developed sharp social significance, there grew with it, by trial and error, a pattern or program policies that were put into industry codes through the National Association of Broadcasters.

The scope of this study is set to trace the historical development of these codes as they pertain to policies governing the broadcasting of radio and television programs. The study will focus on those factors which broadcasters have taken into consideration in determining what constitutes the "public interest." The attempt here is to obtain knowledge of what types of conditions in the broadcasting industry the codes were designed to correct, and where the pressure for such corrective measures came from. In other words, is the broadcasting industry capable of assessing the needs, wants, and standards of the public it serves in order to create a framework for self-regulation that can be the basis for assuring the "public interest" will be served? If the history and the facts of the broadcasting codes provide a negative answer to this question, then for the public interest some other type of assurance must be given. The assurance will be given by the federal government through laws and regulations.

The Radio Code and the Television Code of the National Association of Broadcasters are divided into two sections; one section indicates standards by which broadcasters are to judge types of

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programs and the presentation of content within those programs which will be in the "public interest;" the second part outlines guides by which advertising material should be accepted or rejected in the "public interest." This study is limited to only those standards in the codes which pertain to content and types of programs and excludes advertising standards.

There is no attempt in this study to make a psychological analysis of the provisions in the Radio and Television Codes. Such an analysis has been done by Wilbur Schramm and is published in his book Responsibility in Mass Communication. Nor will there be any attempt to judge the aesthetic and artistic values of the provisions. While the way in which these program standards are utilized may be important in determining the final content of certain radio and television presentations this study is limited in investigating such cases because of the National Association of Broadcasters policy of secret proceedings in enforcing the industry's standards. However, a few such cases have been cited.

While many authors have mentioned the N.A.B.'s codes in historical works on broadcasting, none have gone into their history to any great degree. Therefore, it was necessary to resort to broadcasting magazines and trade journals for most of the historical material. The New York Times became very helpful in providing a chronological basis upon which to base the general structure of this study.

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The exact provisions and structure of the various codes formulated by the broadcasters, as quoted in the study, were obtained through the publications of the National Association of Broadcasters.

Broadcasting and Government: Responsibility and Regulations, by Dr. Walter B. Emery, was of considerable help in determining broadcast programming regulations as established by the Federal Communications Commission, the Communications Act of 1934 and the United States Congress. For the reactions of different segments of the population about various interpretations of the phrase, "the public interest," use has been made of Radio Censorship, by Dr. H. B. Summers, and Freedom of Speech by Radio and Television, by E. E. Smead.

The writer wishes to express his appreciation to all who have by their interest and inspiration aided him in the accomplishment of this study.

He is especially indebted to Professor Arthur Weld's suggestions, criticisms, and guidance which have been of great benefit to the study.

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## Chapter 1

### THE HISTORICAL DEVELOPMENT OF STANDARDS FOR SELF-REGULATION

The history of broadcast self-regulation, covering a period of 34 years, for maintaining high programming and advertising standards began with the formation of the National Association of Broadcasters in 1923. (1) Since its beginning, self-discipline in broadcasting has been controlled by the thesis that no one likes to be regulated; but since it is necessary, in order to insure that the public would be best served, the industry best advanced and the federal regulatory agencies best aided, broadcasters should do it themselves. It has continually been felt by a majority of the industry that the adoption of voluntary self-regulatory codes of good practice is the democratic solution for a free medium of communication. (2)

Broadcasting's codes of self-regulation have always been statements of responsibility by the broadcasters to their public that they will abide by certain standards in a manner prescribed by the Federal Communications Act, under which they are licensed, to

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1. Broadcasting, May 27, 1963, p. 28.
  2. Letter from Harry Ward, Assistant Manager for Television, National Association of Broadcasters, Washington, D. C., August 22, 1962.

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3. Ibid.

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operate in "the public interest, convenience, and necessity." The codes are also an answer to critics of broadcasting who would substitute federal fiat for individual judgment, taste and discretion. (3)

The first industry-wide code to be activated by broadcasters was written and adopted in 1929, six years after the founding of the National Association of Broadcasters. During the interval of these six years, radio was discovering what form it would eventually establish as its essential character.

In the early 1920's those who adjusted the crystal detector heard chapel services, followed by either music recitals of local amateur musicians or literary readings and some phonograph records. (4) During this same period the "ether" was not commercialized. There was a direct sentiment in the industry to keep broadcasting free of advertising so that it would be a public service comparable to the free library system. But while the notion of non-commercial system of broadcasting was being advanced by David Sarnoff, advertising of a sort was finding its way into the crystal sets. (5)

It was during this period that Secretary of Commerce Herbert Hoover called the First Annual Radio Conference into session in an attempt to straighten out the problem of the over-crowded air waves.

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3. Ibid.

4. New York Times, May 25, 1930, Sec. X, p. 8.

5. White, Llewellyn, The American Radio (Chicago, Ill.: University of Chicago Press, 1947), p. 70.

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At the conclusion of the conference the participants -- broadcasters, manufacturers of radio equipment and government officials -- voiced an almost universal agreement against advertising. (6) They recommended:

. . . that direct advertising in radio broadcasting services be absolutely prohibited and that indirect advertising be limited to the announcements of the call letters of the station and of the name of the concern responsible for the matter broadcast, subject to such regulations as the Secretary of Commerce may impose. (7)

By 1923, broadcasters were realizing the fact that radio was no longer a novelty. The public was beginning to demand that the voice coming through the receiving sets be worth listening to, that it have something worth while to present; it requested that good programs be broadcast. (8) The broadcasters tried to react to the demands of their listeners by presenting the best quality of talent which was attainable. Nevertheless, the stations were beginning to discover that broadcasting was an expensive business; they began to seek a means of revenue. A few suggested and tried "toll broadcasting, " or selling time on the air, but that was frowned upon by the industry's

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6. Head, Sydney W., Broadcasting in America (Boston: Houghton-Mifflin Co., 1956), p. 362.

7. F. C. C., Public Service Responsibility of Broadcast Licensees (Washington, D. C.: Government Printing Office, 1946), p. 41.

8. Chase, Francis, Sound and Fury (N. Y.: Harper and Brothers, 1942), p. 19.

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leaders, all of whom later changed their minds. (9) It was found, however, that advertising on a firm business basis made broadcasting economical to operate, and greatly improved the quality of programming.

Commercial sponsorship and programming standards were not the main problem that faced broadcasters during the twenties. The main problem was to straighten out the interference of frequencies among the numerous stations on the air, those who were coming on the air and the limited number of available frequencies.

Up until 1927 radio frequencies were assigned by the Secretary of Commerce under the Radio Act of 1912. (10) This act created provisions forbidding the operation of radio apparatus within the country without a license from the Secretary of Commerce, who could not, under the terms of the Act, refuse a license to any and every person filing a proper application. (11) Hundreds of stations were trying to obtain air space on the two frequencies that were available for broadcasting at that time. (12) As stations crowded on

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9. New York Times, May 25, 1930, Section X, p. 8.
  10. U. S., Congress, House, Committee on the Merchant Marine Fisheries, Hearings, on H. R. 11964, 67th Cong., 4th Sess., 1923, p. 29.
  11. Rosenbloom, Joel, "Authority of the Federal Communications Commission With Respect to the Programming of Radio and Television Broadcasting Stations," Northwestern Conference on Broadcasting Freedom and Responsibility (Evanston, Ill.: Northwestern University Press, 1961), p. 5.
  12. Chase, op. cit., p. 20.

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13. Ibid.

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the air-waves, they were required to share their frequency with other stations. Therefore a station broadcasting on a frequency was only able to use the frequency for a few hours each day. At the end of a station's broadcast hours another station would then utilize the same frequency and then would discontinue its operation after a few hours to allow a third station to use the frequency. All over the country the shared-time plan for using frequencies restricted any one station's broadcasting operations to a few hours each day. (13) In the beginning this plan seemed to be somewhat satisfactory, but in late 1923 and early 1924 the discovery by broadcasters that they could obtain revenue from their stations by selling air time for advertising messages brought immediate dissatisfaction with the arrangement. At the same time the broadcasters found that, in order to reach the largest available audience and for the best technical transmission, the hours between 9:00 p.m. and midnight were the best for broadcasting. (14)

Broadcasters began to use frequencies other than those assigned by the Department of Commerce. To complicate matters, the engineering crudity of many early stations made them incapable of holding closely to an assigned frequency. (15) An increasing

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13. Ibid.

14. Banning, William P., Commercial Broadcasting Pioneer (Cambridge, Mass.: Harvard University Press, 1946), p. 132.

15. Head, op. cit., p. 127.

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amount of interference resulted. Conflict between frequencies, power, times of operation and location of the stations led to the deterioration of any clear reception of programs so the public gradually ceased to listen. (16) Some broadcasters pleaded with the Secretary of Commerce to take action in order to correct the situation. With almost all of the broadcasters shifting their frequencies every day, in attempts to avoid interference, it became difficult for the Department of Commerce to choose a starting point for prosecution of the violators. (17) There existed at this time doubt as to whether the Secretary could require a station to transmit its signal on any single assigned frequency. (18)

Early in 1925 the whole problem reached its climax. A Chicago broadcaster requested the Department of Commerce to shift his frequency to a more favorable one, which was already occupied. (19) The request was refused. Regardless of the ruling, the broadcaster shifted his transmitter to operate on the wave length anyway. An injunction was filed by the Department of Commerce in a Federal Court. In its decision on the case the court ruled that the

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16. Ibid.

17. Chase, op. cit., p. 22.

18. Rosenbloom, op. cit., p. 6.

19. Summers, H. B., Radio Censorship (N. Y.: H. W. Wilson Co., 1939), p. 54.

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Radio Act of 1912 did not apply to commercial broadcasting and that the department had no authority to assign any particular wave length to any broadcaster. (20) This decision helped to increase the scramble on the part of stations for the desirable frequencies and the broadcasting chaos continued. (21) At this point, Secretary of Commerce Herbert Hoover gave up any attempts to assign frequencies and regulate the air waves. Secretary Hoover issued an appeal to the radio industry asking it to set up voluntary self-regulation, to obtain order out of the chaos in the interest of its listeners. (22)

Many associations interested in broadcasting, such as the Chicago Broadcasters Association, the National Chamber of Commerce and the Radio League of America agreed with Secretary Hoover; but because there was not a single association covering the industry throughout the nation the fulfillment of the ideal was difficult. (23) The association which represented the largest number of broadcasters was the National Association of Broadcasters, which had been, until this time, mainly engaged in resisting the moves of the American Society of Composers, Authors and Publishers to extract royalties for copyrighted music sung or played over radio. (24)

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20. Ibid.

21. Chase, loc. cit.

22. New York Times, July 11, 1926, p. 23.

23. New York Times, September 13, 1925, Sec. X, p. 6.

24. White, loc. cit.

One of the main problems the N. A. B. faced during its formative period was getting broadcasters to realize the importance of close harmony and cooperation among owners of broadcasting stations on a national basis. Upon the plea of Secretary Hoover the N. A. B. issued a statement to the industry calling on broadcasters to regulate themselves to avoid complete chaos until Congress could establish effective legislation. (25) The N. A. B. sent out to each station a "certificate of promise" which it asked the stations to sign and return. (26) There were two hundred stations which pledged to regulate themselves "to the end that the public will be safeguarded in program service." (27) In signing this certificate, the stations promised that until Congress enacted adequate laws, the stations would operate only on their assigned wave-length and hours in accordance with the rules and regulations prescribed by the Department of Commerce prior to the rulings which invalidated their legality. (28) A formal plan of self-regulation was not drawn up at this time. (29)

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25. New York Times, July 11, 1926, p. 23.

26. Mackey, David R., "The Development of the National Association of Broadcasters," Journal of Broadcasting, Vol. 1, Fall 1957, pp. 319 - 322.

27. New York Times, July 11, 1926, p. 23.

28. Mackey, loc. cit.

29. While this self-regulation was solely based on "gentlemen's" agreements, it can be stated that in the history of commercial broadcasting in America this was the only time that licensees restricted themselves under their own edict in the absence of government regulation.



This agreement did not help to relieve the situation. While most of the larger broadcasters preferred to recognize the Commerce Department's allocations of channels and operating time, hundreds of fly-by-night stations were trying to operate on any air lane they found to their advantage. This caused the larger stations to fight back. (30)

Broadcasters with a large stake in the industry lobbied in Washington to get Congress to enact necessary legislation. (31) They complained that the government had not made any moves to police and regulate the use of frequencies. Finally, on February 23, 1927, Congress acted and the Radio Act of 1927 was voted into law establishing the Federal Radio Commission. (32) The first business that the Commission undertook was a general reallocation of frequencies to eliminate station interference. (33)

The new law for radio provided that before a license could be granted to an applicant who wished to use the "public air-waves", he was to demonstrate that the "public interest" would be served. The Radio Act of 1927 established with the government the authority to set standards, within limitations, and the right to make rules for the

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30. Chase, op. cit., p. 22.

31. Ibid.

32. Emery, Walter B., Broadcasting and Government: Responsibilities and Regulations (East Lansing: Michigan State University Press, 1961), p. 19.

33. Ibid., p. 20.

operation of radio stations. (34)

At the fifth annual N. A. B. convention in 1927, Rear Admiral W. H. G. Bullard, Chairman of the Federal Radio Commission, told the broadcasters how the Commission was going to view the industry. He stated that the Commission in its dealings with broadcasters would be mainly concerned in the quality and quantity of their service. (35) He also told them that while the Radio Act of 1927 had left the economic support of radio with advertising, it was the Commission's contention that advertising was to be "incidental" to public service. Chairman Bullard said that as far as radio was concerned:

It must be employed for the benefit of the public.  
It must be a real service, not a plaything or a means  
of self-seeking publicity. The commission has but  
one message, that is, serve the people well and the  
people themselves will guarantee your prosperity.

The commission believes that public convenience  
means public service, and as time goes on it expects  
to see those stations which are genuinely serving  
their communities enjoying constantly greater  
advantages. (36)

During the following year the Federal Radio Commission demonstrated to the radio industry that it meant what it said. While it was working out the reallocation of frequencies and making

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34. Ibid.

35. New York Times, September 20, 1927, p. 18.

36. Ibid.

assignments, the commission began to move against what it termed abuses of radio broadcasting. Advertising abuses were among the first topics to engage the attention of the commission. In its first formal statement of the "broad underlying principles which must control its decision on controversies arising between stations in their competition for favorable assignments," the commission set forth that:

. . . the amount and character of advertising must be rigidly confined within the limits consistent with the public service expected of the station. (37)

This general principle was applied in particular cases, especially in connection with action on renewal of station licenses. (38)

The public was becoming irritated with some of the advertising and so-called "programming" it was being fed by the industry. Various groups began to be vocal in their criticisms of broadcasting in regard to what they termed excessive amounts of advertising and unacceptable program content, especially in programs designed for children. Protests were presented against "pitchmen" who were on the air for fifteen to thirty minutes at a time selling various items. Criticism was lodged against the presentation of astrologers, fortune tellers, experts on

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37. F. C. C., op. cit., p. 41.

38. Ibid.

different private problems and medical quacks. (39) An editorial appearing in the New York Times in 1928 expressed the situation which was found within the radio industry at this time.

One who is versed in only the methods of direct advertising will not survive in broadcasting. The use of bold, direct advertisements injected into a continuous program fails to produce the desired return on the advertising, moreover, advertising ruins the continuity of the program body. At best, listeners will only tolerate such practices in accordance with the quality of the program body. It is as though classified newspaper advertisements were inserted in the middle of news paragraphs throughout the entire sheet.

I have noticed a most dangerous tendency on the part of several stations in accepting ten or fifteen minute periods of programs from sponsors who rank very low in their particular local field, with a following attempt to sell the leader of that field other available hours.

No doubt the need and search for financial income brings about this condition. It nevertheless entirely jeopardizes the opportunity to gain as clients the leaders of any field; even though the financial burden is heavy, executives should stop the acceptance of such sponsorship immediately, lest they ruin the reputation of their station and forever close the doors to the more desirable sponsors. (40)

On August 29, 1928, the F. R. C. started to place stations on probation. It stated such a practice would continue because the

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39. Emery, op. cit., p. 12.

40. New York Times, January 29, 1928, Sec. IX, p. 19.

listeners were given no protection unless it was given to them by the commission. (41) Its contention was that in places where only one station could be received most of the time, it was the commission's duty to the public to make sure that such stations were not misused for private purposes which would deprive the entire listening audience the use of the public air-waves. (42) Following this action the F. R. C. started to take action against stations that allowed "medical quacks," "crackpots," and "swindlers," plus excessive advertising, to be broadcast from their facilities. (43)

Many broadcasters voiced objections to the government's taking into consideration any element of programming. These broadcasters, a few years previously, had called for government regulation of radio, but only on the technical aspects. Most of them in 1928 went on record in favor of the Federal Radio Commission as a regulatory agency in allocating frequencies, but they also went on record as opposing any enlargement of the powers of the commission, particularly as applied to the character and distribution of radio programs. (44) Those

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41. F. C. C., loc. cit.

42. Ibid.

43. Ibid., p. 42.

44. New York Times, January 27, 1928, p. 24.

broadcasters who opposed what they termed "legal censorship" were in favor of keeping the control of broadcast matter within the organization of broadcasters. (45) At the same time they recognized that individually they were in doubt as to the standards which should be followed. (46) They turned to the National Association of Broadcasters in 1929 to try to find a solution. It had been the association's ideal to get all of the broadcasters to join it so that they could pull together their experiences in the industry in order to meet the various problems which arise in operating a broadcast station. (47)

On March 25, 1929, the N. A. B. , composed at that time of 147 broadcast stations out of 600 licensed stations in the United States, adopted its first code of ethical practices. (48)

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45. New York Times, September 17, 1928, p. 14.

46. Federal Council of the Churches of Christ in America, Broadcasting and the Public: A Case Study in Social Ethics (N. Y.: The Abingdon Press, 1938), p. 10.

47. N. A. B. Code Authority, The Radio Code - Its Objectives and Objections (Washington, D. C.: N. A. B., 1962), p. 1.

48. New York Times, September 29, 1929, p. 19. According to the New York Times, a survey of the N. A. B. membership in 1929, revealed that the association had 100 commercial stations as members, that is to say, selling advertising time on the air, and that the remainder were educational or religious stations. Of the commercial stations, 64 had chain affiliations.

### The Ethical Phase

Broadcasters had drafted and adopted their 1929 "Code of Ethics" in a setting which led them to recognize the possibility of government intervention, even ownership, as a real threat unless they lived up to their obligation to operate in the public interest. (49) On the other hand, they recognized that advertising was their only source of financial return which would enable them to continue operating. (50) Therefore, they attempted to design a code of which the application, by broadcasters, would meet government standards and prevent severe government intervention into broadcast matters. (51) The broadcasters, at the same time, tried to draft a code which would not discourage advertisers from using their medium.

In their desire to do their own housecleaning without waiting for regulation by the F. R. C., the broadcasters stated as their first rule in the 1929 "Code of Ethics" that, since the radio audience included persons of all ages and beliefs, every station should "prevent the broadcasting of any matter which would be commonly regarded as offensive." (52)

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49. Schramm, Wilbur, Responsibility in Mass Communication (N. Y.: Harper and Brothers, 1957), p. 338.

50. New York Times, June 6, 1929, p. 30.

51. Schramm, op. cit., p. 239.

52. New York Times, March 26, 1929, p. 40.

Four of the eight rules drawn up as a code warned members of the association to guard against broadcasting material which had not been carefully verified. These four provisions called for the broadcaster to ascertain the financial responsibility and character of any client to whom he might sell radio advertising or program time so that "no dishonest, fraudulent or dangerous person, firm or organization may gain access to the radio audience." (53) The broadcaster was reminded to use caution in the acceptance of advertising "regarding products or services of which may be injurious to health." (54) Rule 6 told the broadcasters to "strictly follow the provisions of the Radio Act of 1927 regarding the clear identification of sponsored or paid-for material." (55)

These four rules were the broadcasters' attempt to clean the air-waves of the "hucksters" and "peddlers of the air." It was the hope of the N. A. B. that through these code provisions promoters of patented heavens, of the meaning of the stars or the future life, and home cures for almost any ailment, including falling teeth or hair, would be barred from the air. (56)

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53. Ibid.

54. Ibid.

55. Ibid.

56. Landry, Robert J., This Fascinating Radio Business (Indianapolis, New York: Bobbs-Merrill Co., 1946), p. 161.



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As for restrictions on program content, the 1929 code, first of all, forbade the broadcasting of "matter which is barred from the mails as fraudulent, deceptive or obscene." (57) The code further stated that the broadcaster should take care to "prevent the broadcasting of statements derogatory to other stations, to individuals, or to competing products or services, except where the law specifically provides that the station has no right of censorship. (58)

During the period of the 1920's, radio was plagued with hysterical clergymen, enemies of Wall Street, enemies of chain stores, and enemies of Catholics, Jews and Negroes. (59) It was the design of these provisions in the code, in order to improve the general quality of the program service, to keep the propagandists, religious zealots, unprincipled persons with axes to grind and a number of demagogues and hucksters from reaching the radio audience. At the same time the broadcasters were warned against censorship, of which they had been accused by some political speakers as a result of what had been termed the broadcasters prejudice or fears of retribution. (60)

The eighth and last rule of the 1929 code dealt with time standards for advertising material and types of programs. This

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57. New York Times, March 26, 1929, p. 40.

58. Ibid.

59. Landry, loc. cit.

60. Emery, op. cit., p. 15.

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provision stated that there existed a decided difference in the use of the radio by the general public before 6:00 p.m. and after 6:00 p.m. The time before 6:00 p.m. was declared to be included in the "business day," and therefore a part of it could be devoted to "programs of a business nature." (61) After 6:00 p.m., the code went on to state, "time is for recreation and relaxation; therefore commercial programs should be of the good-will type." (62) In light of this philosophy the code laid down the specific requirement that, "commercial announcements, as the term is generally understood," should not be broadcast between 7:00 and 11:00 p.m. (63)

These time standards reflected the prominent view as expressed by most of the regulators and influential members of the broadcast world, as well as that of the general public, that radio should be primarily a public service and secondarily an advertising medium. (64)

To the few advertising agencies which were beginning to show some interest in the medium, the code provisions appeared more drastic than anything the advertising industry had encountered in the

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61. New York Times, March 26, 1929, p. 40.

62. Ibid.

63. Ibid.

64. Head, op. cit., pp. 122-123. Mr. Head notes that it was not until after advertising agencies began to play a large part in the control of programming in the 1930's that all-out direct advertising became the generally accepted practice in radio.

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other media. (65) The advertising agencies asked the N. A. B. to use somewhat the same guide lines they had used in other media; but when they realized that the broadcasters were going to retain the time standards, the advertising men prevailed on broadcasters to circulate the standards quietly among the stations rather than make them public. (66) But the N. A. B. made its time standards public in order to let its audience know what radio's guide lines were. At the same time the N. A. B. interjected into the code a statement which was designed to insure advertisers of receiving adequate time to present their messages. The statement merely said:

The client's business and product should be mentioned sufficiently to insure an adequate return on his investment, but never to the extent that it loses listeners to the station. (67)

According to the 1929 "Code of Ethics," the managing director of the N. A. B. was to act as its executor. (68) If anyone, public, government or broadcaster, felt that there had been a violation of any article, he was to file a letter of complaint with the managing director, who in turn would notify the association's Board of Directors. (69) The Board of Directors was then charged with the

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65. White, op. cit., p. 71.

66. Ibid.

67. New York Times, March 26, 1929, p. 40.

68. The N. A. B. at this time did not have a full-time, paid president; the managing director handled all of the association's business affairs.

69. Ibid.

duty of investigating the complaint and notifying the station involved of its findings. (70) These findings were never made public, for the broadcasters felt that they should do their own housecleaning with no outside intrusions.

Upon issuance of the "Code of Ethics" to member stations of the N. A. B. and the general public, the association stated that the main objective of its ethical code was to put a stop to the broadcasting of "offensive matter and fraudulent advertising." (71) It was the judgment of the N. A. B. that its code demonstrated the determination and the good faith and honest intentions of those to whom the government had granted licenses to use the new medium of radio. (72) William S. Hedges, President of the N. A. B. at the time, stated that he felt the development of the code to be,

. . . . indicative of one of the most progressive movements that has ever taken place in radio. It is evidence of our determination that we will keep our own house in order and that we will not permit evils to grow up in the broadcasting business. (73)

As the 1930's started, the N. A. B. discovered that with only one-sixth of the radio stations endorsing the code, all of the "evils" which it had tried to prevent continued, although in reality, many

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70. Ibid.

71. New York Times, April 7, 1929, Sec. II, p. 20.

72. Ibid.

73. Ibid.

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of the "evils" which the N. A. B. 's code had tried to eliminate were removed from the air by the Federal Radio Commission. During the years of 1930 and 1931 the F. R. C. refused renewal of licenses for a number of broadcasters who were "medical quacks", "crackpots", and established "swindlers." (74) Even with the removal of these "evils" the critics of radio were still vocal and numerous. Some congressional leaders kept pointing out the fact that they constantly heard from dissatisfied listeners requesting that something be done about too much "vulgar" material connected with radio, particularly "vulgar music" and an overload of "blatant advertising." (75)

The Senate, in 1932, responded to what it called the "horrible" condition of radio advertising and to study the feasibility of government operation of broadcasting along European lines. After a six-month investigation, the F. R. C. reported to Congress that, "any plan . . . to eliminate the use of radio facilities for commercial advertising purposes, will, if adopted, destroy the present system of broadcasting." (76) Acting upon the F. R. C. 's recommendation, Congress dropped its ideas of government-operated broadcasting.

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74. Emery, op. cit., p. 25.

75. Taylor, Deems, "Radio - A Brief for the Defense," Harpers, April 1933, p. 54.

76. Broadcasting-Telecasting, October 15, 1956, p. 172.

While they still were allowed to develop radio as a commercial enterprise, the broadcasters had felt enough anxiety during the F. R. C. investigation to pass a resolution at the 1932 N. A. B. convention agreeing that self-regulation was the best way to prevent government interference in broadcasting. (77)

Following up on its resolution for self-regulation, the N. A. B. drafted and adopted a code for broadcasters to follow during the days of the Great Depression. This code, incorporating some of the suggestions made by the National Recovery Administration, barred such practices as rate cutting, per-inquiry business, song plugging, excessive commission payments, lotteries and similar operations. (78) A "Code Authority" for broadcasting was established to control and enforce the code as the industry tried to prove that it could discipline itself in times of national crisis. This code, which followed the National Recovery Act, did not displace the 1929 "Code of Ethics" but was intended to work with it.

In May, 1935, the Supreme Court of the United States declared that the National Recovery Act was unconstitutional. (79) With this decision the broadcasting industry's National Recovery Code was terminated, as were all of the other codes in various phases of

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77. Ibid.

78. New York Times, July 28, 1933, p. 8.

79. Nevins, Allen and Henry S. Commager, History of the United States (N. Y.: Washington Square Press, Inc., 1961), p. 435.

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American business which were established during the N. R. A. Actually the broadcasters' National Recovery code never did completely stop the negative practices which it was designed to prevent, and with the end of the N. R. A. these practices started to increase.

By 1935 many changes had taken place in the radio industry. In 1934 Congress had replaced the Federal Radio Act of 1927 with the Communications Act which established a seven-man board of commissioners to regulate broadcasting in the "public interest, convenience and necessity." (80) When the Federal Communications Commission came into being it was besieged by various groups and organizations requesting reforms in radio's programming and advertising formats. One of the more vocal groups, the Woman's National Radio Committee, which listed a membership of ten million women, repeatedly asked the F. C. C. to take action against advertising and advertisers who placed on radio "shocking laxative advertising," programs which gave children bad dreams and manners, and for cluttering the air with "bawling amateurs." (81)

The F. C. C., under its Chairman, Anning S. Prall, began to echo many of the reform groups sentiments about taste in radio. (82)

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80. Emery, op. cit., p. 24.

81. Newsweek, December 21, 1935, p. 32.

82. Business Week, May 18, 1935, pp. 25-26.

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To demonstrate that it intended to scrutinize programming the commission ordered more than a score of stations to appear before it to justify broadcasting of "questionable commercials", on the threat of having their licenses cancelled as not serving "the public interest, convenience and necessity." (83)

Criticism from the public, the F. C. C.'s actions, and the broadcasters desire to take action which would subdue the "unethical" fly-by-night stations that were springing up over the land led the N. A. B.'s 250 members to rewrite their 1929 "Code of Ethics." (84) The new code, adopted in July, 1935, listed ten rules which broadcasters were to keep in mind while operating their stations. Six of these rules were taken directly from the 1929 code. These rules read:

1. Recognizing that the radio audience includes persons of different political, social and religious belief, each member station will endeavor to prevent the broadcasting of any matter which would commonly be regarded as offensive.
2. When the facilities of a member station are used by others than the owner, the member shall ascertain the financial responsibility and character of such client, that no dishonest, fraudulent, or dangerous person, firm or corporation may gain access to the radio audience.

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83. Ibid.

84. White, op. cit., p. 72.

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3. Matter which is barred from the mails as fraudulent, deceptive or obscene shall not be broadcast by a member station.

4. Each member station shall refuse any advertising matter regarding products or services injurious to health.

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7. No member station shall permit the broadcasting of advertising statements or claims which he knows or believes to be false, deceptive, or grossly exaggerated.

8. No member station shall defame or disparage a competitor, directly or indirectly, by words or acts which untruthfully call in question such competitor's business integrity, ability to perform contracts, credit standing, or quality of service. (85)

Clause 6 of the 1929 code, the only one referring to the functions of the government's regulatory agency, was dropped along with any mention of time standards for advertising presentations. Added to the code in 1935 were three provisions which spelled out the actions of "ethical broadcasters." These rules were:

5. Each member station shall maintain a public record of its current rates charged to advertisers for the use of broadcasting time together with all discounts, rebates, refunds and agency commissions which shall be allowed to the users of such time or to their recognized agents.

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85. National Association of Broadcasters, Code of Ethics, published in 1935, quoted in H. J. Kenner, The Fight for Truth in Advertising (N. Y.: Round Table Press, Inc., 1936), p. 295.



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6. Each member station shall refuse to accept any business on a cost per inquiry, contingent, or percentage basis, or to accord free time for commercial use.

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9. No member station shall claim for its service a character, scope or quality which cannot be substantiated, nor shall it claim as regular characteristics of its service features which it knows to be purely temporary or accidental. (86)

The last rule of the 1935 code again placed its "enforcement" in the office of the association's managing director. (87) Violations would only be acted upon if a complaint in writing was submitted; and there was not any procedure for the association to take action against a guilty station other than informing it of its findings.

The 1935 "Code of Ethics" seemed to please no one. Public groups and government agencies, interested in broadcasting, felt that the code was rather weak and would do little to arrest the advertising of laxatives or the descriptions of "internal bodily functions, symptomatic results of internal disturbances, or matters not considered acceptable topics in social groups." (88)

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86. N. A. B., Code of Ethics, quoted in Warren B. Dygert, Radio as an Advertising Medium (N. Y.: McGraw-Hill Co., 1939), p. 138.

87. Ibid.

88. Nation, Vol. 138, September 9, 1935, p. 524.

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In May of 1935, the Columbia Broadcasting System had announced that it would ban from its owned and operated stations, as well as from its network programming, any reference to such advertising. (89) A ten percent time limitation for advertising announcements was also put into effect by the network. This action brought many negative responses from advertising agencies, even the threat of withdrawal of advertising copy. (90) The effect of such threats upon the final form of the 1935 N.A.B. code has never been established; but it has been the observation of some authorities that the threats led to what has generally been called a weak and ineffective code. (91)

All of the additions to the 1935 code were taken from the code adopted during the days of the National Recovery Act. Many broadcasters had voiced objections to some of the N.R.A. code, mainly the rule against per inquiry advertising. (92) These same broadcasters rejected the 1935 code for the same reason. (93) Representatives of the networks spoke bitterly of it, calling it

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89. Business Week, May 18, 1935, p. 25.

90. Ibid.

91. New Republic, October 3, 1936, pp. 201-202.

92. Broadcasting-Telecasting, October 15, 1956, p. 174.

93. Federal Council of the Churches for Christ in America, op. cit., p. 60.

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nothing more than a watered-down version of the 1929 code which would do little more than lead to "the downhill pull to the lowest common denominator." (94) Some broadcasters objected to it because they felt the standards were too confining. (95)

After working with the code for two years the association decided to rewrite it because members of the N. A. B. were observing the code only to the extent that it pleased them. (96) The association's objective was to "eliminate certain practices and policies" reflected in programs and commercial announcements which had an "adverse effect on the industry." (97)

#### Controversial Issues Phase

During the course of its development and refinement, the broadcasting industry has been plagued by periods of disastrous events which have brought the indignation of the government and the public upon it. During the era of 1935 to 1945 such a period fell upon the industry.

The 1935 N. A. B. "Code of Ethics" did not reduce the public and governmental criticisms. During the next four years a number of incidents occurred which increased the demands of some groups

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94. White, loc. cit.

95. Ibid.

96. Ibid.

97. Ibid.

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for government ownership and operating of all broadcasting facilities. Several broadcasts during the 1937-1938 season caused the Federal Communications Commission to reprimand the industry. One of the broadcasts which helped to create the storms of indignation was the Mae West appearance on the Edgar Bergen-Charlie McCarthy program in December, 1937. (98) It was protested, by some of the public and by governmental regulatory agencies, that too many double meaning remarks had been made by Miss West and Don Ameche during an "Adam and Eve" sketch. (99) In July, 1938, a number of stations of the NBC Blue Network had been asked to prepare a statement justifying the presentation of Eugene O'Neill's Pulitzer prize-winning play, "Beyond the Horizon". (100) A number of listeners had written to the F. C. C. complaining about the broadcast of this play which contained obscene words. Other broadcasts which brought the indignation of the public and F. C. C. down upon the industry were Orson Welles' broadcast of "The War of the Worlds," in October, 1938, and broadcasts by Father Charles E. Coughlin, during December, 1938, which were called anti-Semitic. (101)

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98. New York Times, December 18, 1939, Sec. X, p. 14.

99. Ibid.

100. Summers, op. cit., p. 27.

101. Ibid.



These broadcasts, and other practices in the industry, prompted Congressmen and the F. C. C. to warn the industry that unless it "policed itself" legislation would be written which would allow the government, through the F. C. C., to "take a hand in making programs acceptable to radio listeners." (102) The industry immediately announced that through the N. A. B. it would "strive in a self-regulatory manner to study all protests and take steps to correct any abuses." (103) Before this statement had been released by the industry, the N. A. B., on November 25, 1938, had established a committee to study the question of self-regulation and to prepare recommendations for the directors of the association to consider. (104) According to Neville Miller, president of the association at that time, the committee was directed to "recommend procedures leading to self-imposed regulation of American radio and the development of program standards for the broadcasting industry under N. A. B. jurisdiction." (105)

On July 10, 1939, a much more elaborate document than the 1935 code was presented to the 406 members of the N. A. B. and adopted

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102. New York Times, December 18, 1938, Sec. X, p. 10.

103. Ibid.

104. New York Times, November 26, 1938, p. 28.

105. Ibid. In February, 1938, Neville Miller, former mayor of Louisville, Kentucky, became the N. A. B. 's first full-time paid president.

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at their seventeenth annual convention. (106) This code, which became effective on October 2, 1939, was written by a committee of eleven representatives of all types of radio stations, as well as of the three major networks, NBC, CBS and Mutual. (107) This committee had tried to write a code which would commit the broadcasters to the ideal of "public service." (108) This was to be accomplished, according to the N. A. B., by having the code place the responsibility for "the proper use of radio" squarely on the shoulders of the broadcasters. (109) In explaining the code, Neville Miller stated:

We know it is the desire of both the broadcasters and the public that radio be operated in strict accord with our democratic traditions of private and competitive operation, with fair play and equality of opportunity to all, and with wholehearted regard for our inheritance of freedom of speech, freedom of religion and freedom of assembly. (110)

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106. New York Times, July 11, 1939, p. 22. At this time there were 727 broadcasting stations operating in the country.
107. New York Times, May 28, 1939, p. 27. The time lapse between adoption and effective date was to allow stations which had contracts that led to practices which were forbidden by the code to terminate such contracts.
108. Smead, Elmer E., Freedom of Speech by Radio and Television (Washington, D. C.: Public Affairs Press, 1959), p. 97.
109. New York Times, May 28, 1939, Sec. X, p. 10.
110. New York Times, April 2, 1939, Sec. X, p. 12.

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With this as its basic philosophy, the code proceeded to recognize radio as "an invited guest in the home," and therefore presented, in detail, what it considered to be "the yardstick of good taste" that should "be applied to all matter broadcast." (111) To carry out its mission of upholding "our democratic traditions," this code of conduct urged radio to provide avenues for free and open discussion of public questions of general interest. (112) With this in mind, it proposed that all paid religious and evangelical programs be rejected and no paid sponsorship be permitted for controversial issues. (113) The code stated the primary service which a broadcast station could render would be the devoting of a reasonable amount of time to fair and two-sided discussions of controversial public issues.

Three reasons were listed in the code for the rule against selling time for the presentation of public issues, except for political broadcasts. The first reason cited stated that it was the

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111. N.A.B., "Preamble," Standards of Practice for Radio Broadcasting (Washington, D.C.: N.A.B., 1939), p. 1, quoted in, New York Times, July 12, 1939, p. 7. In talking about the 1939 Standards the term "code" is used for convenience. These Standards presumably differ from a code in the sense that there was no mechanism of enforcement for them.

112. Ibid.

113. Ibid.

duty of the broadcaster to present such programs to the listening audience regardless of the ability of participants to pay. (114)

Second, the code indicated that if such programs were sold, program balance would be upset because time would have to be sold to all with the ability to pay. Thirdly, "should time be sold for the discussion of controversial public issues and for the propagation of the views of individuals or groups, a powerful public forum would inevitably gravitate almost wholly into the hands of those with the greater means to buy it." (115)

The code went on to warn broadcasters of discreditable practices in children's and news programs. It also covered a number of miscellaneous topics, including what should not be advertised on the air. Recommended procedure for length of commercial announcement provided for advertising not to exceed ten percent of the total broadcast time for an evening program or fifteen percent of a day-time program. (116)

At the N. A. B. convention the broadcasters authorized the association's board of directors to devise machinery to insure compliance of members with the code. (117) To administer the

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114. Ibid.

115. Ibid.

116. N. A. B., "Commercial Programs and Length of Commercial Copy," Ibid.

117. Ibid.

code the board established what was called a "Code Committee".

The work of this committee was to be mainly advisory and interpretative; there was no provision for strict enforcement. (118)

The basic reason for leaving the adherence to the code up to the individual member station was the "varying economic and social conditions throughout the United States" to which each station must adjust its operation. (119) Each station, though, was reminded that only by following the code would it ever be able to:

. . . fortify the economic foundation of the American system of broadcasting in its continual ability to provide a free and unfettered means of mass communications, and to further contribute to the economic and social development of the nation. (120)

If any of the member stations had questions concerning an interpretation of the code they were to ask the Code Committee. (121)

This committee was charged with the responsibility of placing at the disposal of broadcasters, and the public, code interpretations as

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118. N. A. B., "Code Enforcement," Standards of Practice of the National Association of Broadcasters, in Ninth Yearbook of Broadcasting magazine (Washington, D. C.: Broadcasting Publications Inc., 1941), p. 314.

119. Ibid., p. 313.

120. New York Times, July 9, 1939, Sec. X, p. 10.

121. Ninth Yearbook of Broadcasting magazine, op. cit., p. 314.

they developed. (122) According to the N. A. B. decree establishing the Code Committee:

Such authority as it possesses comes only as favorable public opinion is earned and directed in support of industry policy. It is safe to say that the development of the Code has won the widest support and confidence ever enjoyed by American radio. (123)

Within weeks after the installation of the code, the Code Committee began to issue interpretations which right away met trouble and eventually brought about the death of the 1939 code. The interpretation which created the largest amount of trouble dealt with broadcasts of "controversial public issues". This interpretation defined a "controversial public issue" as one in which "the welfare of the public as a whole is involved, and in which there exists a discernible divided public opinion." (124) Political broadcasts were not included in this interpretation. The exception for political broadcasts was made because during political campaigns, it was felt, the contending parties wanted to use and were entitled to use more time than broadcasters could possibly afford to give away. Political broadcasts, though, were only those connected with some type of public election. (125)

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122. Ibid.

123. Ibid.

124. Kirby, Edward M., "Official Digest of N. A. B. Code Interpretations," Ninth Yearbook of Broadcasting magazine, loc. cit.

125. Ibid.



With this as its premise the Code Committee ruled, on October 2, 1939, that any debate about American neutrality in relation to the war in Europe was to be considered as a controversial public issue, not a political campaign issue, and stations were to act accordingly. (126)

While this rule did not specify Father Charles E. Coughlin, militant clerical broadcaster, the interpretation was generally accepted as an attempt to quiet the priest. Father Coughlin had, by 1939, an independent radio hookup of 58 stations over which he broadcast his program the "Golden Hour". (127) He had been charged by certain segments of the public, and the industry, with using religion as a cloak for broadcasts in order to make bitter personal attacks on President Roosevelt and other prominent government officials, the neutrality question, and to taint American Jewry with the smear of communism. (128)

Immediately after the N. A. B. code ruling, a number of stations cancelled Father Coughlin's broadcasts. (129) Finally in 1940, when all of the larger stations refused to sign contracts for the series, the project was abandoned by the priest for lack of

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126. Ibid.

127. "Father Coughlin: Cleric of Controversy," Broadcasting-Telecasting, October 15, 1956, p. 196.

128. New York Times, November 21, 1938, p. 7.

129. Broadcasting-Telecasting, October 15, 1956, p. 196.

adequate facilities. (130)

In 1939 Elliott Roosevelt, the President's son, criticized Father Coughlin's views on his sponsored news program over the Mutual Broadcasting System. (131) The Code Committee ruled that by attacking Father Coughlin, Mr. Roosevelt, as a news commentator, had violated both the code provisions on news coverage which forbade newsmen from expressing their own personal opinions during a newscast, and the controversial issue rule. The matter was referred to the MBS; but Mr. Roosevelt announced that he intended to express his personal convictions about the war and neutrality regardless of the association's code. In an act of defiance, he withdrew the three stations which he owned in Texas from the N. A. B. (132) It was impossible for the association to take any further action.

Mr. Roosevelt claimed that the code clause forbidding newsmen to express their own opinions about controversial matter was a form of censorship. He was soon joined in this conviction

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130. Broadcasting, May 27, 1963, p. 29. On December 18, 1962, Father Coughlin, during an interview at his Royal Oak, Michigan, church, shown on CBS News, stated that he was wrong in the things that he had said during his 1938-1939 broadcasts.

131. Broadcasting-Telecasting, October 15, 1956, p. 196.

132. Kirby, op. cit., p. 316.

by other broadcasters and many civic groups. (133) Of all the groups opposing the controversial issue clause, the broadcasters' use of it, the labor union movement fought the hardest and eventually won.

The Code Committee had ruled, in October, 1939, that the discussion of labor union problems on the air was always of a controversial nature. (134) Therefore, the committee ruled, time could not be sold to labor organizations, which at the time were involved in a large battle with management for recognition and trying to gain the support of workers and the general public. (135) At the time of the ruling the N. A. B. warned its members that the ruling should not be used as an excuse by broadcasters to keep labor organizations off the air. It recommended that "forum" types of programs be established to discuss the labor question, with both sides participating. (136)

Labor unions complained that they did not care to argue the union question with management but rather they were interested in

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133. New York Times, December 5, 1939, p. 38. By July 14, 1941, 15 stations resigned from the association because they were out sympathy with the position taken by the N. A. B. on the controversial issue clause of the code.

134. Kirby, loc. cit.

135. Ibid.

136. Ibid.

producing programs for the solicitation of memberships. (137)

Broadcasters replied to the unions request for time to achieve their purpose by stating that even solicitation of memberships was a controversial issue. (138) The argument came to a head on July 2, 1944, when the United Automobile Workers of the CIO protested to the F. C. C. the license renewal of station WHKC, Columbus, Ohio, on grounds that the station had refused to sell time for a union program soliciting membership and discussing topics of a controversial nature. (139) It was the union's contention that such acts constituted censorship by the station and were "not in the public interest." (140)

Before the F. C. C. had reached a decision in the case, the station stipulated that it would provide both sustaining and commercial time for the discussion of controversial issues without discrimination between business concerns and non-profit organizations and that the latter would be given a right to buy time for solicitation of memberships. (141) The F. C. C. approved the station's new policy and its license was renewed.

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137. White, op. cit., p. 80.

138. Ibid.

139. Broadcasting-Telecasting, October 15, 1956, p. 397.

140. White, loc. cit.

141. Smead, op. cit., p. 50.

On June 26, 1945, the F. C. C., in a manner of speaking, pulled the props out of the N. A. B. Code provisions by ruling that broadcasters should sell time for controversial issues. (142) The F. C. C. stated:

No single or exact rule of thumb for providing time, on a nondiscriminatory basis, can be stated for application to all situations which may arise in the operation of all stations. The Commission, however, is of the opinion that the operation of any station under the extreme principles that no time shall be sold for the discussion of controversial public issues and that only charitable organizations and certain commercial interests may solicit membership is inconsistent with the concept of public interest established by the Communications Act as the criterion or radio regulations. (143)

Within six weeks after the F. C. C.'s condemnation of the code, the N. A. B. had completely rewritten the document. In August of 1945 the N. A. B. made public its new standards of practice which superseded the 1939 code of conduct. (144) The new standards outlined in the code, according to its "Forward," were to be used as guides to enable the licensee to operate in the "public interest" and were not

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142. Ibid.

143. Ibid.

144. Broadcasting, August 13, 1945, p. 20. Besides developing new standards, the tone of the language within the provisions was changed to make them read as suggested practices rather than mandatory practices. The word "shall" was used throughout the 1939 code, in the 1945 code this word was replaced by "it is suggested that" or "should".

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to be taken as an excuse by him to delegate his responsibilities to someone else, namely the N.A.B. code. (145)

Broadcasting was dedicated to freedom of expression by the new standards, "limited only as prescribed by law and by considerations of decency and good taste." (146) The new standards left the determination of what constituted vital "public questions" up to the individual station managers. (147) Thus, the whole section of the 1939 code dealing with controversial public issues was deleted. Substituted in its place was a statement suggesting that time be allotted for such discussions according to the "value and interest of the subject to the public." (148) Also eliminated was the 1939 code provision that prohibited solicitation of memberships in organizations, except in cases where it related to the sale of insurance. (149)

The N.A.B. proclaimed, at the time of the code's release, that the keynote of the standards of practice was the recognition of the responsibility of station management for what was broadcast.

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145. N.A.B., Standards of Practice for the National Association of Broadcasters (Washington, D.C.: N.A.B., 1945), p. 1. One of the main arguments against the 1939 code, by pressure groups and critics, was that the broadcasters interpreted the "controversial issue" clause as relieving them of making personal decisions in the more delicate aspects of program policy.

146. Ibid.

147. Broadcasting, August 13, 1945, p. 70.

148. New York Times, August 26, 1945, Sec. xi, p. 5.

149. Ibid.

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J. Harold Ryan, president of the N.A.B. in 1945, stated:

The twenty-fifth year of broadcasting is most appropriate for a renewed declaration of principles which assert the complete independence of station management in determining its own operation in the public interest.

These standards of practice provide flexibility and enable the individual licensee to meet the varying social and economic problems growing out of our democratic processes as they effect the area which his station serves. (150)

### The "Blue Book" Phase

Shortly after the adoption of the new standards, some questions were raised as to the broadcasters capabilities to meet their obligations to the public interest.

On March 7, 1946, the Federal Communications Commission issued a 139-page report titled "Public Service Responsibility of Broadcast Licensees," soon nicknamed "The Blue Book." (151) This report cited many practices by the industry which the F.C.C. felt to be not in the public interest. It called for curtailment of "excessive" commercialism on the air and more emphasis on public service broadcasting. (152)

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150. New York Times, August 9, 1945, p. 21.

151. Emery, op. cit., p. 237.

152. New York Times, October 24, 1946, p. 35.

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The F. C. C. stated certain principles in "The Blue Book" to which it would give particular consideration when renewing licenses. The Commission proposed to consider: (1) the carrying of sustaining programs to provide a "balanced program service"; (2) the carrying of local live talent programs; (3) the carrying of programs devoted to discussion of public issues; and (4) avoidance of advertising excesses. (153)

The N. A. B. declared that the F. C. C., through its "Blue Book" and subsequent plans to take programming into consideration when renewing licenses, was trying to control what could be broadcast and therefore was leaning towards censorship. (154) It was the Commission's reply that the "Blue Book" was the findings of a detailed study which it had made of the industry's practices with suggestions for improvements. (155) Charles R. Denny, Jr., acting chairman of the F. C. C. at the time, stated that the purpose of the criteria proposed in the "Blue Book" was to encourage the individual broadcaster to "exercise greater control over his own business and to assist him to escape from the

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153. Emery, loc. cit.

154. New York Times, April 21, 1956, Sec. xi, p. 7.

155. Ibid. Dr. Charles Siepmann directed the study for the Commission.

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dictation of the advertisers."(156)

While many broadcasters complained about the Commission encroaching upon their liberties and freedom, others called for the industry to discipline itself. (157) William S. Paley, Chairman of the Board at CBS, asserted that the Commission was right and that the radio industry had been guilty of "advertising excesses." (158) He cited competition pressures in the industry for the advertising dollar as leading to many practices which "detracted from the good name of radio as a whole." (159) He called for the adoption of a new code of program standards by which the industry could discipline itself and meet "a growing volume of criticism of American broadcasting." (160) Some advertisers and other national networks urged the industry to act on Mr. Paley's suggestion. (161)

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156. New York Times, October 24, 1946, p. 35. Since the late 1930's, when the general public started to accept the idea of direct advertising over radio, the advertising agencies had moved more and more into the area of program production and control. It had reached the point where nearly all commercial radio network programming eventually came under the direct control of advertising agencies with the network's own production activities confined to sustaining programs.

157. New York Times, April 21, 1946, p. 7.

158. New York Times, October 23, 1946, p. 37.

159. Ibid.

160. Ibid.

161. New York Times, September 13, 1947, p. 26.

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Shortly after its publication of the "Blue Book", the F. C. C. moved ahead with its plan to improve the quality of public service broadcasts offered by radio. A number of applications for renewal of license, where station performance did not coincide with the "Blue Book" criteria, were designated for investigation by the Commission during 1947. (162) In one case the station had carried an average of 2,000 commercial spot announcements per week, did not devote time to programs dealing with controversial issues and had provided time for very few local live talent programs or educational programs. The other stations in question showed somewhat similar faults. (163) After receiving promises to provide a better public service to their communities the F. C. C. renewed their licenses. (164)

With the license renewal actions of the F. C. C. and growing public criticism in mind, the broadcasters convened their 1947 N. A. B. convention. (165) The convention voted to promulgate a new code for self-improvement which would once again demonstrate to all concerned that the industry was interested in correcting its own

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162. Emery, op. cit., p. 238.

163. Ibid., p. 239.

164. Ibid.

165. Broadcasting, September 22, 1947, p. 15.

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abuses. (166) What was produced was probably the most comprehensive radio code ever written by the N. A. B. (167) It was the aim of the association that its 1947 code would curtail the criticisms from outside forces that radio needed to attain: (1) greater balance among various types of programs instead of concentration on entertainment formats; (2) improvement in the "moral tone and good taste" of many programs; (3) higher standards in news reporting and analysis; and (4) improvement in commercial announcements that were repetitious and excessive in number. (168)

The proposed code never left the floor of the convention. As soon as the contents of the code were made known to the broadcasters, a heated debate took place because several of the provisions affected the financial revenue of some stations. (169) The broadcasters were divided into two camps. One group was comprised of broadcasters led by the older and more economically secure network affiliates whose contention was that listener irritation over too many commercials was justified and demanded prompt remedy. (170) The

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166. Ibid.

167. See Appendix X for the complete 1947 N. A. B. Code.

168. New York Times, September 13, 1947, p. 26.

169. New York Times, September 16, 1947, p. 18.

170. New York Times, September 21, 1947, Sec. ii, p. 9.

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second group was dominated by independent stations who felt that the proposed code would place a great economic burden upon them.

There were four points in the 1947 proposed code that met with the most negative reaction. One was a blanket stipulation that no fifteen-minute program could contain more than three minutes of commercials. (171) It was stated in the code that there could only be one commercial "spot" announcement between regular scheduled programs. (172) A ban was placed on any commercial announcement in the middle of a fifteen-minute news broadcast. (173) Finally, an unqualified prohibition was placed on the dramatization of political or other controversial issues. (174)

The local independent stations, many of them forced to operate under what they called "extremely competitive local conditions, "

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171. New York Times, September 16, 1947, p. 18. This provision would have affected in particular many disk jockeys, the so-called "give-away" programs and many audience participation shows which were being broadcast at that time.

172. Ibid. Many stations were cited for using two or three "spots" between programs.

173. Ibid.

174. Ibid. In the 1944 Presidential campaign the Democratic National Committee used the dramatic form of radio production to present its arguments, reportedly with the expressed approval of President Roosevelt. Some broadcasters felt that in using the dramatic form for political broadcasts the listeners might be deceived as to the program's actual purpose.

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regarded the one-minute "spot" commercial as almost a way of life. (175) These stations contended that the code would put them at a competitive disadvantage with the affiliates of the networks. They stated that, in actual practice under the code, it would be the independent station which would have to make the most drastic changes, particularly in the matter of offering one-minute commercial announcements. (176)

The only objection not directly related to the commercial time allotment issue was made by representatives of the United Automobile Workers stations. They contended in particular that the ban on the dramatized presentation of political and controversial subjects impinged on maximum freedom of the air. (177)

On September 19, 1947, the Board of Directors of the N. A. B., who had the power to activate the code, voted approval of the new code of standards which were to go into effect on February 1, 1948. (178) The board agreed to "review and revise" those sections that had elicited the most controversy. In October, 1947, the board met with a committee of eleven broadcasters who were representing the

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175. New York Times, September 17, 1947, p. 21.

176. Ibid.

177. Ibid.

178. New York Times, September 20, 1947, p. 17.

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independent stations and heard their complaints. (179) Meanwhile many stations throughout the country were voicing their objections to the code and threatening to resign from the association if the code was not modified. (180)

In November of the same year, the board decided to postpone indefinitely the adoption of the new set of standards. (181) The delay was voted, an association announcement at the time said, "in order to give the board and membership time for further deliberation." (182) Finally, the board decided to completely drop the proposed 1947 code and take up the drafting of a new set of standards.

In May of 1948, after nearly two years of discussion, deliberation and much controversy, the N. A. B. adopted a new code of standards for broadcasting. (183) The association had eliminated the standards for specific programs which it had outlined in the 1947 proposed code and made general statements which applied to the treatment of all types of programs. (184) All of the provisions in the

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179. New York Times, October 10, 1947, p. 50.

180. Ibid.

181. New York Times, November 15, 1947, p. 78.

182. Ibid.

183. New York Times, May 18, 1948, p. 48.

184. Ibid.

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adopted 1948 code were watered down versions of the 1947 drafted set of standards. This new code suggested that advertising connected with fifteen-minute news programs be limited to two and that they should be presented "near the beginning and end of the program." (185) It was suggested to the broadcasters, in the document, that any program which dramatized political or controversial issues "be properly identified as such." (186)

Time standards for advertising copy were broken down into specific program lengths. Eliminated was the proposed prohibition against more than three minutes of advertising within a fifteen-minute program segment. (187) The 1948 code allowed the placement of more than one commercial announcement between two programs when one of the announcements was a sponsored time signal, weather report, station promotion or location announcement that did not exceed ten seconds in length. (188)

Even though the 1948 code of standards was not as detailed as the code proposed in 1947 it was still the most comprehensive document for self-discipline that broadcasters had yet activated. With most of

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185. N.A.B., "Program Standards," Standards of Practice for American Broadcasters (Washington, D.C.: N.A.B., 1948), p. 2.

186. Ibid.

187. Ibid., p. 6.

188. Ibid., p. 7.

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the provisions altered which had brought dissension among the ranks of the association in 1947 the code became effective on July 1, 1948. Even before the code was put into operation, critics of the industry were claiming that broadcasters were displaying scant interest in it, partly because of the increasingly competitive conditions that prevailed in radio. (189) Some of the independent stations still objected to the schedule of time limits on commercials according to program lengths as stipulated in the code, but most of the association's member stations agreed to abide by all of the code's standards. (190)

#### The Television Phase

During the latter part of the 1940's and the beginning of the 1950's, television made its entry into the homes of America. Television had inherited the traditions of radio for economic support and program lengths as well as the general pattern of government regulations. By 1951 there were one hundred television stations in operation, along with four networks, which were demonstrating that television was going to be a commercial success. However, at the same time the public let the broadcasters, and those who hoped to be, know they were going to demand a certain quality from the new medium.

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189. New York Times, May 20, 1949, p. 52.

190. Ibid.

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Early in 1951, F.C.C. Chairman Wayne Coy announced that an analysis of the F.C.C.'s mail demonstrated that the public was highly critical of the program service which television had started to produce. In a 75 day period the commission had received approximately 1,000 complaints about television, with slightly less than 25 percent directed at the medium's trend toward "indecenty, obscenity or profanity." (191) Charges were made that television shows were too "suggestive" because of the "off-color innuendoes" made by ad-libbing comedians, plunging necklines, and scanty clothing in variety and musical shows. Other charges claimed that decorum in action suffered from television's presentations of disrobing scenes and suggestive poses and camera angles used during dance routines. (192) Advertising was also criticized for displaying sex which was not even related to the sponsor's message.

The public demanded action by the regulatory agencies. A rather lenient policy was adopted by the F.C.C., which believed that once the newness of the medium was gone the industry could and would correct many of the defects. (193) Warnings were issued and reforms urged, but no punitive processes were invoked by the commission.

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191. Broadcasting, June 25, 1951, p. 72.

192. Smead, op. cit., p. 8.

193. Ibid.

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Congress started its own inquiry into charges that programs were giving too much prominence to objectionable entertainment in the summer of 1952 as a subcommittee of the House Committee on Interstate Commerce investigated the morals of the industry. (194) At the termination of the hearing the House committee decided to leave program regulation up to the industry; but it warned that if the broadcasters could not discipline themselves the task would be done by the government. (195) Even before Congress had started its investigation, the N.A.B. in conjunction with the television broadcasters had drafted and adopted a television code in 1951, and on March 1, 1952 it had gone into effect. (196)

In February, 1951, the association had taken the new medium into its membership along with radio, and the name was changed to the National Association of Radio and Television Broadcasters. (197) Eighty telecasters joined the association at this time and proceeded to write a code of standards for their part of the industry. (198)

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194. U.S., Congress, House, Subcommittee on the Committee on Interstate and Foreign Commerce, Hearings, on H. Res. 278, 82nd Cong., 2nd Sess., 1952, pp. 15-18.

195. U.S., Congress, House, H.R. Rept. 2509, 82nd Cong., 2nd Sess., (1952).

196. New York Times, October 22, 1952, p. 25.

197. Smead, op. cit., p. 124. On January 1, 1958, the N.A.B. returned to its original name for convenience as the association felt that both radio and television were encompassed by the general term "Broadcasters".

198. New York Times, September 17, 1952, p. 44.

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Besides writing a code, the association's members also set out to formulate a means by which it could be enforced. To accomplish this, a television review board, consisting of six telecasters, was created which would maintain a level of television programming that would benefit, and not offend, the American public. This board was charged with the responsibility of receiving, screening and clearing all complaints from the public and broadcasters. (199) Any violations of the code's provisions were to be reported to the association's television board of directors who could then withdraw a seal of good practice which the telecasters were allowed to display as a symbol of being a code subscriber in good standing.

Every television station, whether it was a member of the N.A.B. or not, was eligible to subscribe to the code. (200) All of the television code subscribers were reminded by the document's preamble that they were "obligated to bring their positive

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199. New York Times, December 7, 1951, p. 20.

200. New York Times, October 20, 1951, p. 21. It had been the practice of the association up until this time to maintain a policy that before a station could subscribe to a code it must become a member of the N.A.B. Even after the television broadcasters changed this policy, the radio section of the N.A.R.T.B. continued to make association membership a prerequisite. Harold E. Fellows, president of the N.A.R.T.B. at the time, stated that the television code and open membership to it were established as an answer to a bill in Congress that was designed to establish a national advisory board to act as a "watchdog" over abuses in television.

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responsibility for excellence and good taste in programming to bear upon all who have a hand in the production of programs." (201) This was meant to include sponsors and advertising and talent agencies. This obligation could be accomplished, according to the code, by program materials that provided wholesome entertainment and reminded the viewers of their responsibilities toward society. (202)

The goals that this first television code tried to achieve can be readily established by reviewing its "Preamble" section, which was a precise statement of the ethical broadcaster's philosophy.

Television is seen and heard in every type of American home. These homes include children and adults of all ages, embrace all races and all varieties of religious faith, and reach those of every education background. It is the responsibility of television to bear constantly in mind that the audience is primarily a home audience, and consequently that television's relationship to the viewers is that between guest and host.

The revenues from advertising support the free, competitive American system of telecasting, and made available to the eyes and ears of the American people the fine programs of information, education, culture and entertainment. By law the television broadcaster is responsible for the programming of his station. He, however, is obligated to bring his positive responsibility for excellence and good taste in programming to bear upon all who have a hand in the production of programs, including networks, sponsors, producers of film and of live programs, advertising agencies, and talent agencies.

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201. Ibid.

202. Ibid.

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The American business which utilize television for conveying their advertising messages to the home by pictures with sound, seen free-of-charge on the home screen, are reminded that their responsibilities are not limited to the sale of goods and the creation of a favorable attitude toward the sponsor by the presentation of entertainment. They include, as well, responsibility for utilizing television to bring the best programs, regardless of kind, into American homes.

Television and all who participate in it are jointly accountable to the American public for respect for the special needs of children, for community responsibility, for the advancement of education and culture, for the acceptability of the program materials chosen, for decency and decorum in production, and for propriety in advertising. This responsibility cannot be discharged by any given group of programs, but can be discharged only through the highest standards of respect for the American home, applied to every moment of every program presented by television.

In order that television programming may best serve the public interest, viewers should be encouraged to make their criticisms and positive suggestions known to the television broadcasters. Parents in particular should be urged to see to it that out of the richness of television fare, the best programs are brought to the attention of their children. (203)

With the ascendancy of television, and its dynamic expansion after the lifting in 1952 of the F. C. C.'s freeze on channel assignments, radio found it necessary to change some of its programming and

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203. N. A. R. T. B., "Preamble," The Television Code of the National Association of Radio and Television Broadcasters (Wash., D. C.: N. A. R. T. B., 1952), p. 1. This preamble remains in the television code today.

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205. Ibid.,

economic concepts. Radio stations began drifting away from national network programming as big national advertisers shifted over to television. (204) Radio became mainly concerned with news formats and recorded transcriptions played at the local station by disc-jockeys for its programming. Radio also discovered that its main financial support came from small national and regional advertisers, plus local merchants, who bought "spot" commercial time. (205) During the rise of these practices, and the refining of television broadcasting, both codes have been periodically revised. Modifications, however, have been in minor details; the original pattern and the basic provisions have remained constant. The most frequent changes have appeared in the allotment for advertising time. The main development, in both codes, was the shift in 1954 from "recommended" time standards to language that said the time standards "are as follows" and "should be", thus making the provisions mandatory for all code subscribers. Before this time a subscriber followed the "recommended" standards to the degree that he felt they were applicable for his particular situation.

Code changes have appeared dealing with the content of advertising and programs. Most of these changes have developed

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204. Head, op. cit., p. 184.

205. Ibid., p. 185.

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out of public and regulatory agency criticisms. One of the most dramatic incidents which applied to these sections occurred in the winter of 1959-1960, when Congressional investigators and the public criticized the whole industry for its practices of "payola," rigged quiz games, "spontaneous" interview shows that were rehearsed in advance, and "canned" applause and laughter. Immediately both the radio and television members of the N. A. B. placed provisions in their separate Codes denouncing such deceptive practices. (206)

These changes in the Codes' programming and advertising sections came in the wake of Congressional investigations into the industry's practices and the calling by some pressure groups for government control of programming. (207) Again, through this process of self-examination, the broadcasters corrected the situation to the satisfaction of the lawmakers. It has generally been the proposition of the N. A. B. that nothing in the industry which is wrong can be excused and left unattended, so the N. A. B. has listened to critics and tried to make adjustments in its standards accordingly. (208)

Not all of the changes that have appeared in the Codes since the beginning of the 1950's have evolved out of after-the-fact reactions

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206. Weinberg, Meyer, TV in America: The Morality of Hard Cash (N. Y.: Ballantine Books, 1962), pp. 92-104.

207. New York Times, April 14, 1960, p. 13.

208. Broadcasting, February 20, 1961, p. 50.

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to public and regulatory agency criticisms. One of the most dramatic developments in the industry's attempt to prevent negative practices occurred in June of 1959. In 1957, the Television Code Review Board interpreted the Code's provision prohibiting the presentation "of intimately personal products which are generally regarded as unsuitable conversational topics in mixed social groups" as including the television commercials for hemorrhoid prescriptions and feminine hygiene products. (209) Enforcement of the ban began in June, 1959. A total of 148 stations were then advertising "Preparation H," a hemorrhoid remedy; 84 of these stations were Code subscribers, and thus violating the Code. (210) Two weeks after enforcement started, seventeen of the subscribing stations resigned from the Code, while twenty-one subscribers continued to carry the commercial. (211) Later the Television Code Review Board suspended from the Code twenty-one subscribers which continued to show the commercial and removed their right to exhibit the N.A.B.'s Television Seal of Good Practice. (212)

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209. Television Code Review Board, "Interpretations of the Television Code," The Television Code of the National Association of Broadcasters (Wash., D.C.: N.A.B., 1962), p. 29.

210. Weinberg, op. cit., p. 93.

211. Consumer Reports, January, 1960, p. 40.

212. Ibid.

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It has always been the feeling of the N.A.B. and its Code authorities that changes in the provisions and the administration of the Codes are necessary to help broadcasters realize their responsibilities towards the industry as well as the public. To this end, the association's radio members placed in their Code provisions a plan for enforcement. In 1960 the N.A.B.'s Radio Board of Directors implemented a set of enforcement and disciplinary rules which closely followed the Television Code procedures. (213) At the same time, following suggestions from Congress, the N.A.B. allowed stations which did not belong to the association to subscribe to the Radio Code in an attempt to encourage as many stations as possible to adhere to its standards. (214)

While the N.A.B. realizes that it will never obtain 100 percent of the broadcasting stations as code subscribers, it continues to make improvements in the structure of the codes as an attempt to enlist a substantial majority of all commercial stations in the country. No statement of principles, no professional standards are meaningful unless they are adhered to by the members of the profession, enforced by those delegated with this responsibility, and understood by those it is designed to benefit. Likewise, such standards are only meaningful

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213. Broadcasting, June 27, 1960, p. 64.

214. Broadcasting, May 27, 1963, pp. 28-29.

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to the extent that they help those in the profession adapt their practices to the wants and needs of those they serve. Throughout the history of the National Association of Broadcasters codes for radio and television programming and advertising standards sporadic attempts have been made to adapt them to a changing and evolving America.

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## Chapter 2

### DEVELOPMENT OF STANDARDS FOR INFORMATIONAL AND CULTURAL PROGRAMS

The National Association of Broadcasters' codes recognize radio and television as media for enlightenment and entertainment. As the material which can be shown and methods of presentation differ between programs which are designed to enlighten and those designed to entertain, the codes are broken down into sections for specific program types.

Since 1939 the N. A. B.'s codes have developed the following sections and standards for programs which are designed to enlighten the public.

#### News Programs

In 1939 the N. A. B. formulated standards for news reporting which would underline the broadcasters' responsibility to the public. This section of the code was written in such a manner to demonstrate to all concerned that radio would not abuse its responsibility when broadcasting factual material that was of vital importance to the general public. (1) After proving to the public and other news media that it was capable of presenting news events with fairness and

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1. National Association of Broadcasters, Standards of Practice for Radio Broadcasters (Wash., D. C.: N. A. B., 1939), p. 1.

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reliability the broadcasters took into consideration the same criteria that professional journalism associations held as essential. These criteria included such factors as accuracy in reporting, objectivity and separating news reports from commentary. (2)

The procedure that radio should use in presenting newscasts had been indicated prior to the adoption by the N.A.B. of its 1939 code through statements issued by the Federal Communications Commission. The Commission had emphasized that it felt radio must not be an advocate for any single position on an issue. Its underlying premise was that radio operates in the public domain and that a station operator is a neutral and non-partisan licensee. (3) Therefore, according to the Commission, the broadcaster owed to the public whose facilities he occupied, and to the democratic ideas he was obligated to preserve, the inescapable duty of full and fair reporting, balanced treatment and honest and impartial comment on all facts and information of public concern. (4) Responsibility for this service, as far as the Commission was concerned, rested with the licensee. The F. C. C. felt that such a service to the public interest should never be delegated to any special interest with the liberty to control news,

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2. Schramm, Wilbur, Responsibility in Mass Communication (N. Y. : Harper and Brothers, 1957), p. 218.

3. New York Times, June 23, 1947, p. 36.

4. New York Times, August 18, 1940, Sec. x, p. 10.

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5. Ibid.

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information and comment, for as soon as this occurred radio would lose its function of promoting democratic ideals. (5)

With these suggestions in mind the broadcasters wrote in their 1939 code of standards that:

News shall be presented with fairness and accuracy and the broadcasting station or network shall satisfy itself that the arrangements made for obtaining news insures this result. Since the number of broadcasting channels is limited, news broadcasts shall not be editorial. This means that news shall not be selected for the purpose of furthering or hindering either side of any controversial public issue, nor shall it be colored by the opinions or desires of the station or network management, the editor or others engaged in its preparation or the person actually delivering it over the air, or, in the case of sponsored news broadcasts, the advertiser. The fundamental purpose of news dissemination in a democracy is to enable people to understand the meaning of events so that they may form their own conclusions, and therefore, nothing in the foregoing shall be understood as preventing news broadcasters from analyzing and elucidating news so long as such analysis and elucidation are free of bias. News commentators as well as all other newscasters shall be governed by these provisions. (6)

When the N. A. B. revised this section of its codes in 1945 it deleted all references to the editorial or analysis of news by broadcasters. The statements in the 1939 code prohibiting such practices in a program which was designated as a straight newscast had caused some segments of the industry and public to charge that

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5. Ibid.

6. N. A. B., op. cit., p. 3.

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the code was a curtailment of free speech and a form of censorship. (7)

When these charges were made the association replied:

. . . . the press of this country has always recognized the necessity of preserving the integrity of its news columns. Personal opinions are reserved for the editorial page. The integrity of radio news is of parallel importance. (8)

However, under the 1939 code commentators and other newsmen could express personal opinions about public controversial issues on programs where time was given freely for just this purpose. When this idea was also criticized by the public, pressure groups, some broadcasters and the F. C. C. the association revised the news section of the 1945 code to simply state:

News should be presented with fairness and accuracy and the station licensee should be satisfied that the arrangement made for obtaining news insures this result. News should not be selected for the purpose of furthering or hindering either side of any public question nor should it be colored by the opinions or desires of the station management, the editor or others engaged in its preparation or the person actually delivering it over the air, or, in the case of sponsored news broadcasts, the advertiser. The fundamental purpose of news dissemination in a democracy is to enable people to know what is happening and to understand the meaning of events so that they may form their own conclusions. (9)

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7. New York Times, October 20, 1939, p. 25.

8. Kirby, Edward M., "Official Digest of N. A. B. Code Interpretations," Ninth Yearbook of Broadcasting magazine (Wash., D. C.: Broadcasting Publications Inc., 1941), p. 316.

9. National Association of Broadcasters, Standards of Practice for Radio Broadcasters, Revised Edition (Wash., D. C.: N. A. B., 1945), p. 1.

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Also eliminated from the 1945 code was any references which would make any of its provisions mandatory. The 1939 code had been phrased in such a manner that all rules were to be explicitly followed by code subscribers. Some members of the F. C. C. and the public felt that because of this type of wording many broadcasters were delegating their individual responsibility towards the public to the N. A. B. code. In the 1945 code the emphasis was placed on the fact that all provisions were to be used as guidelines and that the final determination of what should be broadcast rested entirely with the station licensee. (10)

Many events took place during the years of 1939 to 1945 which convinced the N. A. B. and its Code Committee that the news section of its code should be more specific as to standards for handling certain types of news stories. The 1939 code of ethics when adopted in July seemed at the time to cover everything in "the public interest, convenience and necessity." It soon became apparent to the broadcasters that new and difficult conditions often arise overnight; and so they did on September 1, 1939, when war broke out in Europe.

Five hectic days of broadcasting quickly taught the American broadcasters that they needed new clauses in their code to provide for covering the war. Francis Chase in his book Sound and Fury cites one incident that took place during this period.

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It seems silly that an announcer on one of New York's smaller stations had to signal the control man for the air and then shout, 'We interrupt the war news to bring you the winner of the fourth race at Narragansett.' (11)

Excessive reporting was not the main concern of the broadcasters. They adopted a set of special standards which was to act as a guide for the newscasting of the European war. These special standards were not a part of the N. A. B.'s Standards of Practice for Radio Broadcasters. According to the special war-time guide, the broadcasters pledged themselves to avoid horror, suspense and undue excitement in their reports. (12) Broadcasters were reminded that the United States was a neutral and also that there would be some stories which could properly be covered only in print and not by the spoken word, which is speedy, which can not be checked and which can be misunderstood or only partially heard. (13) The code cited the example of reading a list of survivors of a torpedoed vessel, for it was felt that if a listener tuned in after the broadcast had started he would have missed the first part of the list and therefore might be thrown into confusion. Furthermore, casualty lists, details of atrocity and mutilation reports, plus rumors, were not to be used over radio.

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11. Chase, Francis, Sound and Fury (N. Y.: Harper and Brothers, 1942), p. 196.

12. New York Times, September 17, 1939, Sec. x, p. 10.

13. New York Times, September 12, 1939, p. 1.

The keynote of the special code was fairness -- fairness in reporting and fairness in service to the public. The broadcasters promised to be temperate, reasonable and responsible; they pledged that "extreme care will be exercised in so doing." (14)

Right after this set of special standards was activated the situation changed and the United States became actively involved in the hostilities. In a speech on December 9, 1941, President Roosevelt set down a general policy for the treatment of war news. (15) As the Federal government started to form a censorship board for the control of war-time news, which was applicable to radio under Section 606 of the Communications Act, the N.A.B. set out to rewrite its guide for wartime broadcasting.

After carefully consulting with the military branches of the government, as well as other agencies, the association expanded its previous wartime code. (16) Radio broadcasters were warned once again about sensationalism, carelessness, and trying to "second-guess or master-mind our military officials." (17)

The code listed a notable section of "Do Not's" which warned broadcasters to avoid "production trappings" which tended to increase

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14. Ibid.

15. New York Times, December 10, 1941, p. 1.

16. New York Times, December 22, 1941, p. 14.

17. Broadcasting, December 22, 1941, p. 11.

tension, unjustified interruption of broadcasts to stimulate listening audiences, and the broadcasting of unconfirmed reports. The code suggested, "Remember the Men from Mars!"(18)

The broadcasters rewrote their N. A. B. Standards of Practice for Radio Broadcasters in 1945 before the war had ended. It was somewhat obvious to most of the broadcasters that the war's end was near, but just when they were not sure, so they did not include their wartime code for newscasts in the 1945 code. After the war the association recognized the need for a detailed guide for a "peacetime" approach to the news. At this time a committee of the N. A. B. designed to study radio news recommended to the membership that:

. . . . broadcasters respond to their listeners' desire and need for competent, thorough and speedy reporting of the news by providing coverage of peacetime events on the same high level they achieved in wartime reporting; by continuing the development of domestic news as it assumes more and more relative importance in the national scene, and by striving constantly for improvement in news broadcasts to take advantage of the changing and broadening news picture of a peacetime world. (19)

When the N. A. B. rewrote its 1945 code, in 1948, it appears that the association was interested in maintaining the standards for news broadcasting which had been developed during the Second World War. The section on news in the 1948 code stated:

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18. Ibid.

19. New York Times, October 14, 1945, p. 15.

News reporting should be factual, fair and without bias. Commentary and analysis should be clearly identified as such.

Good taste should prevail in the selection and handling of news. Morbid, sensational or alarming details not essential to the factual report, especially in connection with stories of crime or sex, should be avoided. News should be broadcast in such a manner as to avoid panic and unnecessary alarm.

Broadcasters should exercise due care in their supervision of content, format, and presentation of news broadcasts originated by them; and in their selection of newscasters, commentators and analysts. Broadcasters should exercise particular discrimination in the acceptance and placement of advertising in news programs. Such advertising should be appropriate to the program, both as to content and presentation, and should be distinctly set apart from the news content. In programs of news, news commentary and news analysis which are less than ten minutes in length, no more than two commercial announcements should be used and they should be given at or near the beginning and end of the program.

Agricultural and market newscasts should be governed by the same general standards applicable to news broadcasts. (20)

In 1951 the telecasters who belonged to the N.A.B. developed their own set of standards. The telecasters took advantage of the experiences that the radio broadcasters had undergone in the development of the radio code and thus integrated many of the guides that radio had used, adding provisions handling the visual elements of programming.

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20. National Association of Broadcasters, Standards of Practice for Radio Broadcasters, Third Edition (Wash., D. C.: N.A.B., 1948), p. 1.



After looking over the previous codes and the wartime code, plus their own experiences, the telecasters wrote a code which had as its key word "responsibility." The word was used more than a dozen times, appearing in every section, and was meant to place the use of the document as part of the licensee's responsibility to his public. The code for television required the telecasters to acknowledge the fact that "television is a home medium and an information medium"; therefore, "the licensee must accept responsibility for controlling all aspects and sources of production."

With this as its underlying philosophy the news section stated:

1. A television station's news schedule should be adequate and well-balanced.
2. News reporting should be factual, fair and without bias.
3. Commentary and analysis should be clearly identified as such.
4. Good taste should prevail in the selection and handling of news: Morbid, sensational or alarming details not essential to the factual report, especially in connection with stories of crime or sex, should be avoided. News should be telecast in such a manner as to avoid panic and unnecessary alarm.
5. At all times, pictorial and verbal material for both news and comment should conform to other sections of these standards, wherever such sections are reasonably applicable.
6. Pictorial material should be chosen with care and not presented in a misleading manner.

7. A television broadcaster should exercise due care in his supervision of content, format, and presentation of newscasts originated by his station; and in his selection of newscasters, commentators, and analysts.
8. A television broadcaster should exercise particular discrimination in the acceptance, placement and presentation of advertising in news programs so that such advertising should be clearly distinguished from the news content.
9. A television broadcaster should not present fictional events or other non-news material as authentic news telecasts or announcements nor should he permit dramatizations in any program which would give the false impression that the dramatized material constitutes news. Expletives (presented aurally or pictorially), such as 'flash' or 'bulletin' and statements such as 'we interrupt this program to bring you....' should be reserved specifically for news room use. However, a television broadcaster may properly exercise discretion in the use in non-news programs of words or phrases which do not necessarily imply that the material following is a news release. (21)

The Television Code went one step farther than any of the previous codes adopted by the association, by directly placing upon the telecaster a responsibility to cover all important public events. In a section titled "Public Events" the Television Code told

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21. National Association of Radio and Television Broadcasters, The Television Code (Wash., D. C.: N.A.R.T.B., 1952), p. 10. Ever since the Orson Welles broadcast of "The War of the Worlds" broadcasters have been afraid of a recurrence of such an event which simulates a real newscast to present a fictional drama. The radio code contains a statement warning against the use of such a device but not in its news section.

telecasters that:

A television broadcaster has an affirmative responsibility at all times to be informed of public events, and to provide coverage consonant with the ends of an informed and enlightened citizenry.

Because of the nature of events open to the public, the treatment of such events by a television broadcaster should be effected in a manner to provide for adequate and informed coverage as well as good taste in presentation. (22)

It has been noted earlier that in the middle to late 1930's the F. C. C. frowned upon licensees making radio an instrument for airing their own particular points of view. In 1940 the Commission formulated this notion into its policy in the famous Mayflower decision. (23) The F. C. C. decision stated, in part:

Under the American system of broadcasting, it is clear that responsibility for the conduct of a broadcast station must rest initially with the broadcaster. It is equally clear that, with the limitation in frequencies inherent in the nature of radio, the public interest can never be served by a dedication of any broadcast facility to the support of partisan ends. Radio can serve as an instrument of democracy only when devoted to the communication of information and the exchange of ideas fairly and objectively presented. A truly free radio cannot be used to advocate the causes of the licensee. It cannot be used to support the candidacies of his friends. It cannot be devoted

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22. Ibid., p. 11.

23. Siepmann, Charles A., Radio's Second Chance (Boston: Little, Brown and Co., 1946), p. 83.

to the support of principles he happens to regard most favorably. In brief, the broadcaster cannot be an advocate.

Freedom of speech on the radio must be broad enough to provide full and equal opportunity for the presentation to the public of all sides of public issues. Indeed, as one licensed to operate in a public domain the licensee has assumed the obligation of presenting all sides of important public questions, fairly, objectively and without bias. The public interest - not the private - is paramount. These requirements are inherent in the conception of public interest set up by the Communications Act as the criterion of regulation. And while the day to day decisions applying these requirements are the licensee's responsibility, the ultimate duty to review generally the course of conduct of the station over a period of time and to take appropriate action thereon is vested in the Commission. (24)

This ruling established that the F. C. C. had the power to prevent a licensee from editorializing. Even though the decision caused much resentment in the broadcasting industry the N. A. B. had indicated, in 1945, that as a matter of ethics a station should not present the desires of the station management on any issue over the airwaves. (25) While the N. A. B. kept its code adhering to the Commission's policy it continually asked that the F. C. C. reconsider the Mayflower decision. The result was that on June 1, 1949, the Commission issued a report

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24. Emery, Walter B., Broadcasting and Government: Responsibilities and Regulations (East Lansing: Mich. State Univ. Press, 1961), p. 244.

25. Head, Sydney W., Broadcasting in America (Boston: Houghton, Mifflin Co., 1956), p. 342.

stating that stations could editorialize as long as they offered opportunities for opposing views to be expressed. (26)

When the radio code was revised in 1954 standards for editorializing were interjected into the "News" provisions. In this revised section of the code the principle of "being right" became the underlying basis for all news reporting. (27)

These revised standards stated:

News Sources - Those responsible for news on radio should exercise constant professional care in the selection of sources - for the integrity of the news and the consequent good reputation of radio as a dominant news medium depend largely upon the reliability of such sources.

Newscasting - News reporting should be factual and objective. Good taste should prevail in the selection and handling of news. Morbid, sensational or alarming details not essential to factual reporting should be avoided. News should be broadcast in such a manner as to avoid creation of panic and unnecessary alarm. Broadcasters should be diligent in their supervision of content, format, and presentation of news broadcasts. Equal diligence should be exercised in selection of editors and reporters who direct news gathering and dissemination, since the station's performance in this vital informational field depends largely upon them.

Commentaries and Analysis - Special obligations devolve upon those who analyze and/or comment upon news developments, and management should

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26. Emery, op. cit., p. 246.

27. N. A. R. T. B., Standards of Practice for Radio Broadcasters, Fourth Edition (Wash., D. C.: N. A. R. T. B., 1954), p. 2.



be satisfied completely that the task is to be performed in the best interest of the listening public. Programs of news analysis and commentary should be clearly identified as such, distinguishing them from straight news reporting.

Editorializing - Some stations exercise their rights to express opinions about matters of general public interest. Implicit in these efforts to provide leadership in matters of public consequence and they lend proper authority to the station's standing in the community it serves, is an equal obligation to provide opportunity for qualified divergent viewpoints. (28)

The reputation of a station for honesty and accuracy in editorializing depends upon willingness to expose its convictions for fair rebuttal.

Station editorial comment should be clearly identified as such.

Finally in 1959 and 1960 both the radio and television codes added to their news provisions a paragraph prohibiting deceptive practices in interviews presented to the public. These paragraphs were a result of the scandal which rocked the entire broadcasting industry during 1958-1959 which revealed such fraudulent practices as rigged quiz programs, payola, and interview programs which were represented to be spontaneous but in actuality were completely pre-planned. (29)

While legislation was never passed against the practice of misleading interviews by the Federal government, public indignation was intense. While this practice was mainly confined to straight interview programs

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28. Ibid., pp. 2-3.

29. New York Times, October 20, 1959, p. 1.

the N. A. B. placed a prohibition against it in news programs as news programs use the technique of interviewing to present some news events. In both of the codes the paragraph reads:

All news interview programs shall be governed by accepted standards of ethical journalism, under which the interviewer selects the questions to be asked. Where there is advance agreement materially restricting an important or noteworthy area of questioning, the interviewer shall state on the program that such limitation has been agreed upon. Such disclosure shall be made if the person being interviewed requires that questions be submitted in advance or if he participates in editing a recording of the interview prior to its use on the air. (30)

In retrospect, through a process of evolution based on trial and error the National Association of Broadcasters has formulated ethical statements of what constitutes responsible newscasting for radio and television. As stipulated in the Constitution and the Communications Act, as well as in all previous broadcast legislation, these N. A. B. standards underline freedom of speech and place the responsibility for the implementation and supervision of this freedom for the welfare of the public in the hands of those persons who have leased the privilege of activating the broadcasting frequencies. This responsibility is also restated in the radio and television code provisions concerning political broadcasts and public issues.

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30. N. A. B., Radio Code of Good Practices (Wash., D. C.: N. A. B., 1962), p. 11.



## Public Issues

Congress in its creation of legislation for broadcasting left the question of equal time for both sides on controversial issues, other than political, up to the discretion of the regulatory commissions. The precedent for all regulatory views toward this topic came early. In 1929, the Federal Radio Commission formulated a broad both-sides rule which has generally been adhered to since and gave it its first official expression and rationalization.

There is not room in the broadcast band for every school of thought, religious, political, social and economic, each to have its separate broadcasting station, its mouthpiece in the ether. If franchises are extended to some it gives them an unfair advantage over others, and results in a corresponding cutting down of general public-service stations. It favors the interests and desires of a portion of the listening public at the expense of the rest. Propaganda stations (a term which is here used for the sake of convenience and not in a derogatory sense) are not consistent with the most beneficial sort of discussion of public questions. As a general rule, postulated on the laws of nature as well as on the standard of public interest, convenience, or necessity, particular doctrines, creeds, and beliefs must find their way into the market of ideas by existing public-service stations, and if they are of sufficient importance to the listening public the microphone will undoubtedly be available. If it is not, a well-founded complaint will receive the careful consideration of the commission in its future action with reference to the station complained of. (31)

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31. In re Great Lakes Broadcasting Co., FRC, Third Annual Report, p. 34 (1929), quoted in Smead, Elmer E., Freedom of Speech by Radio and Television (Wash., D. C.: Public Affairs Press, 1959), pp. 52-53.

When the F. R. C. passed on to history broadcasters found the F. C. C. fully in accord with the idea of equal time and opportunity for the presentation of public issues. In line with the ideal established by the F. R. C., the F. C. C. has left the complete enactment of the doctrine as part of the responsibility of the licensee. By its very nature it has not been an easy problem for him to solve.

One of the continually perplexing problems that broadcasters have had to face is the allocation of time for the discussion of controversial public issues. (32) The use of broadcasting as an instrument for the dissemination of ideas and opinions has always been recognized by broadcasters as one of their primary duties in fulfillment of their responsibility to the public interest. The exact way or procedure by which the ethical broadcaster should fulfill this duty to the public has been a constant question in the industry. Solutions which have been reached have come about through assessment of public needs and opinions of how the informational phase of broadcasting should be presented.

During the late 1930's broadcasters realized that the public was immensely interested in the problems which concerned the United States and the war clouds that were forming in Europe. Much

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32. F. C. C., Public Service Responsibility of Broadcast Licensees (Wash., D. C.: Government Printing Office, 1946), p. 40.

controversy was voiced as to the exact foreign policies the U. S. should follow, that of isolationism versus intervention in the world conflict. The issue at stake would affect the history and even the survival of the U. S. and its institutions. (33)

Broadcasters also found themselves caught up in the struggle between the labor unions' fight for recognition and acquisition of membership and management's attempt to prevent their growth. In line with this problem many pressure and other self-interest groups were trying to secure air time for the voicing of their opinions and recruitment of memberships. (34)

Under the Communications Act, primary responsibility for solving the problem of the manner by which such issues should be presented rests upon the licensees of broadcast stations. (35) However, the F.C.C. is required by law to review periodically the station's operation, in order to determine whether the station has operated in the public interest. (36) The establishment of sound

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33. Landry, Robert J., This Fascinating Radio Business (Indianapolis, N. Y.: Bobbs-Merrill Co., 1946), pp. 91-92.

34. New York Times, November 5, 1939, Sec. x, p. 12.

35. Federal Communications Commission, Interim Report on Responsibility for Broadcast Matter, Docket No. 12782 (June 15, 1960), p. 35.

36. Rosenbloom, Joel, "Authority of the Federal Communications Commission With Respect to the Programming of Radio and Television Broadcasting Stations," Northwestern Conference on Broadcasting Freedom and Responsibility (Evanston, Ill.: Northwestern University Press, 1961), p. 5.

station policy with respect to information and the discussion of public issues has always been a major factor in operating in the public interest.

Faced with an increasing request for time and for presentation of public issues the broadcasters unified themselves through the National Association of Broadcasters to develop an over-all statement of policy which would satisfy the regulatory agencies, the public and advertisers. The main concern of the broadcasters was retaining the general notion of over-all program balance in scheduling.

Accordingly, the 1939 N. A. B. code stated that broadcasters should allot time for the discussion of "public questions," whether controversial or not, taking into consideration all elements of balanced programming. (37) Broadcasters were to award time according to the amount of public interest there was in the issue and to allot time which would provide fairness to all sides in a given controversy. (38)

The N. A. B. placed in the 1939 code a statement which prohibited broadcasters from selling time for the presentation of controversial issues, except for political broadcasts. Three fundamental reasons for this refusal were stated explicitly within

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37. N. A. B., Standards of Practice for Radio Broadcasters (Wash., D. C. : N. A. B., 1939), p. 3.

38. Ibid.

the text of the code.

First, it is a public duty of broadcasters to bring such discussion to the radio audience regardless of the willingness of others to pay for it.

Second, should time be sold for the discussion of controversial issues, it would have to be sold, in fairness, to all with the ability and desire to buy at any given time. Consequently, all possibility of regulating the amount of discussion on the air in proportion to other elements of properly balanced programming or allotting the available periods with due regard to listeners interest in the topics to be discussed would be surrendered.

Third, and by far the most important, should time be sold for the discussion of controversial public issues and for the propagation of the views of individuals or groups, a powerful public forum would inevitably gravitate almost wholly into the hands of those with the greater means to buy it. (39)

The over-all code section on controversial issues was based on the notion of "the public interest, convenience and necessity," which the N.A.B. interpreted to mean "that American radio is predicated upon the right of the listener to hear, and not upon the right of an individual to be heard." (40) Therefore, it was felt by the N.A.B. that the responsibility of allowing all sides of an issue to be heard by the public lay solely in the hands of the broadcaster.

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39. Ibid.

40. Kirby, Edward M., op. cit., p. 314.

The N. A. B. interpreted "controversial public issue" to mean any topic in which the welfare of the public as a whole was involved and in which there existed a discernible divided public opinion. (41) At the same time the N. A. B. told broadcasters that there could not be a standard yardstick by which the degree of public interest in a topic could be decided. Therefore the association stated that each individual broadcaster would have to select and reject program matter according to the interests of his own local audience. To serve as a guide and central clearing point for questions which broadcasters might have had in trying to activate this section of the code the N. A. B. made several interpretations of the controversial issue clause.

To begin with the N. A. B. determined that it "was quite evident that all Americans desired to stay out of war, but it was equally evident that the various methods through which American neutrality could be insured were matters on which there was a discernible divided public opinion." (42) Therefore, the N. A. B. ruled, any debates, talks or discussions on the question of U. S. neutrality during the war in Europe were to be presented as sustaining programs and all points of view on the issue were to be given equal time.

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41. Ibid.

42. Ibid.

The N.A.B. carried its controversial issue clause over to domestic affairs. One of the big issues broadcasters found themselves faced with was the controversy over labor unions. The association stated that as far as the industry was concerned, when labor unions asked to buy airtime to express union objectives and membership facts, controversy was always created. (43) It was felt that the presentation of a labor program usually called for "at least another program" because of the division that was felt to be in the ranks of the A.F.L. and C.I.O. Also it was stated that many broadcasters found it impossible to balance a labor program with an employer's program. (44) The N.A.B. recommended to stations that:

. . . . labor be given an adequate opportunity for a fair hearing. The fact that labor programs are controversial and time may not be sold for such discussions should not be used as an excuse to keep them off the air. As in all cases, the 'degree of public interest' must be the test for scheduling labor programs. (45)

Labor rejected the broadcasters' position, stating that the whole controversial issue clause in the N.A.B. code led to

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43. Ibid., p. 315.

44. Ibid.

45. Ibid.

censorship. (46) After three years of trying to persuade stations to allow it to secure airtime the C.I. O. petitioned the F. C. C. in 1943 to consider the right of labor unions to buy time to promote their causes. (47) The C.I. O. petition stated that organized labor "must use this medium, and the radio industry in performing its role in the public interest must serve organized labor which forms so large a part of its listening audience." (48)

Individual stations, the petition stated, had uniformly held that labor programs were controversial. The major activity of labor organizations, it was maintained, was to extend membership and the "benefits achieved by them to workers as yet unorganized." (49) In respect to this function labor held that to the extent networks and stations abided by the N. A. B. code, labor organizations were "seriously crippled in one of their major functions." (50)

Upon receipt of the petition the F. C. C. pointed out that it had no legal power to require any station to put any specific program or

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46. Smead, Elmer E., Freedom of Speech by Radio and Television (Wash., D. C.: Public Affairs Press, 1959), p. 49.

47. Broadcasting, August 30, 1943, p. 10.

48. Ibid.

49. Ibid.

50. Ibid.



any particular speaker on the air. (51) Upon this decision the only course of action left open to the C.I. O. was to challenge the right of some station to hold a license on the general grounds that by refusing to sell time for the discussion of controversial issues the station had violated its duty to broadcast such programs and therefore had failed to serve the public interest.

In August, 1943, the United Automobile Workers of the C.I. O. wrote to F. C. C. Chairman James L. Fly that a speech by one of its representatives over station WHKC the Columbus, Ohio, Mutual Broadcasting System outlet, had been censored and that the station was generally censoring labor spokesmen. (52) The U.A. W. asked the F. C. C. to hold up the renewal of the station's license. However, the F. C. C. declined the petition and in May, 1944, it renewed WHKC's license. (53) A few months later the F. C. C. brought the representatives of the station and union together in a meeting which solved the dispute and enabled the U.A. W. to purchase air time. In June, 1945, the F. C. C. finally dismissed the case with a statement which deflated the controversial issue clause of the N.A. B. code and opened the way for all stations to sell time for controversial

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51. Smead, op. cit., p. 50.

52. White, Llewellyn, The American Radio (Chicago, Ill.: University of Chicago Press, 1947), p. 80.

53. Ibid.

discussions. (54)

While the Commission presented a formal statement of its feelings on the matter, Chairman Fly explained in detail why time should be sold for controversial discussions. Mr. Fly warned broadcasters that the policy as expressed in the code's controversial issues clause did not allow "a healthy growth and expansion in the field of free speech." (55) He denied the contention of broadcasters that to sell time for presentation of controversial issues would necessarily give an advantage to the party having the most money. The whole controversial clause, he maintained, was inconsistent with the concept of public interest. He concluded that:

Licensees must become aware that management should take stock of itself and re-explore the whole significance of free speech as applied to radio. We can no longer operate under dodge clauses. No precedents ought to be allowed that will make this industry automatically stagnate.

One point should be clear - these are not government problems in the first instance. They are primarily problems for the industry itself to face and to solve in the best traditions of American free speech. (56)

With the statement from the F. C. C. denouncing the controversial issue provision in the N. A. B. code many broadcasters began providing

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54. Smead, loc. cit.

55. New York Times, October 8, 1943, p. 20.

56. Ibid.

time for labor discussion, both sustaining and commercial. (57)

In August, 1945, the N.A.B. reported out a new code in which the phrase "controversial public issues" was no more. (58) The new set of standards referred to programs in this category as "public questions" and suggested that broadcasters make up their own minds about acceptance of such programs. The provision that such programs be taken on a sustaining basis only was deleted.

A year later the F.C.C. reversed the position it had stated in 1945. In 1946 the Commission made public its Report on Public Service Responsibility of Broadcast Licensees which was felt to be a general statement of the F.C.C.'s interpretation of what fulfilling the responsibility of "public interest" constituted. (59)

This F.C.C. document stated that there was:

Programs inappropriate for commercial sponsorship - One role of the sustaining program is to provide time for broadcasts which by nature may not be appropriate for sponsorship.

The Code of the N.A.B. recognized, until 1945, that the presentation of controversial issues (except forums) should be exclusively in sustaining programs. While the Commission has recently held that an absolute ban on the sale of time for the discussion of public issues

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57. White, op. cit., p. 83.

58. Broadcasting, August 13, 1945, p. 20.

59. Emery, op. cit., p. 237.

may under certain circumstances not serve the public interest, it is nevertheless clear that such broadcasts should be primarily of a sustaining nature.

Self-regulation consonant with public sentiment, and a responsible concern for the public interest, can best insure a suitable interpretation of the basic principle which the industry itself has always recognized, that some programs are by their nature unsuitable for commercial sponsorship. Public interest requires that sustaining time be kept available for such broadcasts. (60)

Two years after this statement of proposed policy from the F. C. C. the N. A. B. rewrote its entire code. The section in the 1945 code titled "Public Questions" was rewritten and titled "Public Affairs and Issues." The 1948 code did not make any reference to a definition of what constituted a public affairs broadcast. Its main emphasis was upon how a broadcaster should present such a program; and it brought out certain factors which it was felt should be taken into consideration in relation to such presentations. (61)

For radio broadcasters the Radio Code's section on "Public Issues" was rewritten for the last time to date in 1954. In actuality the 1954 revision took the same position as the 1948 Code but expressed it differently. It is the 1954 statement that is still

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60. "Public Service Responsibility of Broadcast Licensees," Report by FCC (Wash., D. C., FCC, March 7, 1946), p. 14.

61. N. A. B., Standards of Practice for American Broadcasters, Third Edition (Wash., D. C. : NAB, 1948), p. 2.

presented in the Radio Code of the N. A. B. today. This section states that when presenting a public service broadcast, whether sustaining or commercial, a broadcaster:

. . . . in allotting time for the presentation of public issues, shall exert every effort to insure equality of opportunity.

Time should be allotted with due regard to all elements of balanced program schedules, and to the degree of interest on the part of the public in the questions to be presented or discussed. (To discuss is 'to sift or examine by presenting considerations pro and con. ') The broadcaster should limit participation in the presentation of public issues to those qualified, recognized, and properly identified groups or individuals whose opinions will assist the general public in reaching conclusions.

Presentation of public issues should be clearly identified. (62)

The television broadcasters wrote their guidelines for presentation of public issues only once. They too took into consideration the statements made by the F. C. C. in the "Blue Book," but they also went one step farther. The "Blue Book" laid a great deal of emphasis on local programming. It stated that "a positive responsibility rests upon local stations to make articulate the voice of the community." (63) While the Radio Code makes no reference to this responsibility of

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62. N. A. B., Radio Code of Good Practices of the National Association of Broadcasters (Wash., D. C.: N. A. B., 1962), p. 5.

63. F. C. C., op. cit., p. 39.

radio licensees, the telecasters affirmatively stated in their first code, in 1951, and all succeeding codes that:

A television broadcaster and his staff occupy a position of responsibility in the community and should conscientiously endeavor to be acquainted fully with its needs and characteristics in order better to serve the welfare of its citizens. (64)

In 1962 the Television Code was amended by a provision which was designed to establish specific standards by which such programs as outlined in the previous provision should be judged before telecasting. This same provision was included in the 1962 revised Radio Code's section covering general standards for all types of programs. (65)

Request for time for the placement of public service announcements or programs should be carefully reviewed with respect to the character and reputation of the group, campaign or organization involved, the public interest content of the message, and the manner of its presentation. (66)

With this as its basic premise the Television Code, in its section titled "Controversial Public Issues," explicitly states that all telecasters should remember that:

Television provides a valuable forum for the expression of responsible views on public issues of a controversial nature. The television broadcaster should seek out and develop with

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64. N.A.R.T.B., The Television Code (Wash., D.C.: N.A.R.T.B., 1952), p. 6.

65. N.A.B., Radio Code of Good Practices, 1962, p. 9.

66. N.A.B., "Community Responsibility," The Television Code, 1962, p. 6.

accountable individuals, groups and organizations, programs relating to controversial public issues of import to his fellow citizens; and to give fair representation to opposing sides of issues which materially affect the life or welfare of a substantial segment of the public.

Requests by individuals, groups or organizations for time to discuss their views on controversial public issues, should be considered on the basis of their individual merits, and in the light of the contribution which the use requested would make to the public interest, and to a well-balanced program structure.

Programs devoted to the discussion of controversial public issues should be identified as such. They should not be presented in a manner which would mislead listeners or viewers to believe that the program is purely of an entertainment, news, or other character. (67)

In retrospect, the N.A.B. codes since their beginning have made an affirmative statement that broadcasters should, as part of their obligation to the public interest, make available their facilities for the discussion of topics which are important to their audience. At first the codes attempted to indicate what these topics might be and the type of program, whether sustaining or sponsored, they could be presented on. Realizing that the responsibility for programming lies with each individual licensee in conjunction with his own transmitting area it became obvious to the broadcasters that if the public interest was truly to be served no declaration of what topics could or could not be presented was justifiable.

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67. N.A.B., "Controversial Public Issues," Ibid., p. 12.

Today the radio and television codes put forth the reminder to broadcasters that as trustees of a public resource they have an obligation to their public to seek out and develop with responsible individuals and organizations programs which will bring public issues of importance to the attention of citizens. They also have an obligation to give or make available broadcasting time to representatives of opposing views on topics which are of a controversial nature.

Even with this general ethical statement experience has shown that to state the guideline of responsibility and to carry it out have been two different things. The problems have been, and will continue to be, numerous and difficult. If the industry were to try to serve all who wanted to express their ideas about our complex society, the air would be continually filled with advocates expressing opinions. Such an over-load of discussion and expression would tend to destroy the ideal of diversity and balance in programming which the codes hold to be just as important in regard to the maintenance of the public interest as are discussion programs. The codes express one guideline which broadcasters can use in solving the problem, "such time shall be allotted with due regard to all other elements of a balanced program schedule and to the degree of public interest in the questions to be presented." One problem remains however -- how does a broadcaster determine the degree of public interest in a topic, and then how does he determine those



persons who are capable of presenting "responsible views" on public issues?

In its entirety the "Public Issues" provision in the Radio and Television Codes represents an attempt by the broadcasters to prevent the broadcasting media of this country from being used for personal feuds and one-sided propaganda. It is a pledge that American broadcasting is predicated upon the right of the listener to hear, and not upon the right of an individual to be heard.

### Political Broadcasting

When Congress was considering radio legislation in the 1920's it took note that some broadcasters had viewed their facilities as outlets for exclusive expression of their own personal predilections. Congress became concerned that if such practices continued some candidates for elected public office would be given an unfair advantage in the use of radio during election campaigns. As a result, the Radio Act of 1927 required equal opportunities for candidates campaigning for elective offices. (68) Subsequently, the provision was re-enacted as Section 315 of the Communication Act of 1934.

If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that

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68. Smead, Freedom of Speech by Radio and Television, p. 52.

office in the use of such broadcasting station: provided, that such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate. (69)

Even though Congress established what it believed to be explicit requirements for political broadcasts, the N. A. B. felt it necessary to state standards for such broadcasts in its 1939 code. There existed in the broadcast industry, prior to 1939, an apprehension that the legislative rule could be interpreted to require all speakers on political matters with different ideas to be accommodated. (70) It was the fear of the industry that chaos could result from the numerous candidates for city, county, state and federal offices all asking for time to answer charges from opponents and to make new charges. The broadcasters' position was that just because a person differs with a point of view already expressed, it may not justify an allotment of time which was already in great demand. All the broadcasters wanted was assurances that their programming could remain balanced and at the same time provide space on the air for political discussion.

The 1939 N. A. B. code tried to solve the broadcasters' dilemma by outlining how political discussions should be handled.

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69. Section 315 Communications Act of 1934, cited by Emery, op. cit., p. 334.

70. Smead, op. cit., pp. 55-56.

In its section on "Controversial Public Issues" the broadcasters were told they should not sell time for controversial issues as defined by the code, except for political broadcasts.

The political broadcasts excepted above are any broadcasts in connection with a political campaign in behalf of or against the candidacy of a legally qualified candidate for nomination or election to public office, or in behalf of or against a public proposal which is subject to ballot. This exception is made because at certain times the contending parties want to use and are entitled to use more time than broadcasters could possibly afford to give away. (71)

While the code did not define when a politician actually became a legally qualified candidate, the N. A. B. informed broadcasters that it regarded the start of a national political campaign as immediately following the selection of party candidates at the national conventions. (72)

From the time after the conventions until the election, broadcasts of the candidates and their spokesmen were to be "paid political broadcasts." (73) Prior to the convention the prominent leaders of the various political parties and varying schools of thought and political opinion were to be given time on a sustaining basis in accord with the public interest in the speakers and subjects. (74)

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71. N. A. B., "Controversial Public Issues," Standards of Practice for Radio Broadcasters, 1939, p. 4.

72. Kirby, op. cit., p. 316.

73. Ibid.

74. Ibid.

The N. A. B. left the determination of when political campaigns started in state, county and local areas to the stations in those areas. This was necessary because different laws and practices governed the conduct of elections in different states and communities throughout the nation. (75) In November, 1939, the N. A. B. recommended that stations in the various states meet to determine (1) how an individual became a legally qualified candidate and qualified for the purchase of political time and (2) the date of the opening of the campaign in the various states and communities. (76)

Some broadcasters were displeased by the N. A. B. 's outline on the handling of political broadcasts. (77) It was contended that cases could arise where a person would become a candidate for political office or an issue would become public before either found its way on a public ballot. Another problem that was unsolved, as far as broadcasters were concerned, was deciding when a public official running for re-election was or was not a candidate. An example of this dilemma occurred in 1936. President Franklin D. Roosevelt decided to address the opening of Congress at a night session on January 3, 1936, with the address to be broadcast by

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75. Ibid.

76. Ibid.

77. Broadcasting, August 31, 1942, p. 58.

the major networks. (78) This was six months prior to the political nominating conventions. The Chairman of the Republican National Committee immediately demanded that the networks give an equal opportunity for a Republican spokesman to reply. The president of one of the networks drew a distinction between Mr. Roosevelt as President and Mr. Roosevelt as candidate for re-election. (79) After exchanges of correspondence which furnished front-page news and material for editorials for a week or more, the controversy subsided without the Republican National Committee obtaining their air time. (80)

In 1945, following the repeal of the restriction on selling time for the presentation of controversial issues, the N. A. B. revision of its 1939 code eliminated the qualifications and limitations previously imposed on political broadcasts. The 1945 code did not define what a political candidate was and laid no restrictions on the presentation of political material. It was suggested in the 1945 code that:

Broadcasts designed for the presentation of political, economic, social or philosophic questions or the candidacy of any person for

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78. Caldwell, Louis G., "Legal Restriction on Broadcasting Programs," Air Law Review, July 1938, pp. 229-249.

79. Ibid.

80. Summers, H. B., Radio Censorship (N. Y.: H. W. Wilson Co., 1939), p. 70.

public office or a measure to be voted upon should be presented by straight forward statements appealing to intelligence and reason. (81)

This appeal was an attempt by the N. A. B. to solve a problem over which the industry had been split since the 1936 Presidential election campaign. During this campaign the Republic National Committee asked the networks to carry a political dramatic series, recorded on electrical transcriptions, entitled "Liberty at the Crossroads". (82) The networks refused on the grounds that it was their policy that "appeals to the electorate should be intellectual and not based on emotion, passion, or prejudice." (83) The networks felt that dramatizations could be so designed that the listener would not be aware of their true purpose. Individual stations, however, broadcast the series.

In 1940 the question whether programs on political affairs which were of a dramatized nature should be broadcast reappeared. Some stations asked the N. A. B. for an industry policy on the matter. The N. A. B. stated that political broadcasts should be limited to speakers, announcements, straight entertainment programs with

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81. N. A. B., Standards of Practice for Radio Broadcasters, Second Edition, (Wash., D. C.: N. A. B., 1945), p. 2.

82. Summers, loc. cit.

83. Ibid.

speakers or announcements, and pick-ups of bona fide political rallies. (84) It was the feeling of the N. A. B. 's Board of Directors that,

Injection of dramatization would throw a campaign onto a wholly emotional level, and the results achieved would depend more upon the skill of the dramatist and actors, rather than upon the merit of the issues presented. (85)

Following this statement of industry policy by the N. A. B. many broadcast stations declines requests by political parties for such presentations. At the same time, there still remained enough stations carrying dramatized political programs that the N. A. B. felt it necessary to include in its 1945 code revision a general guide which suggested that appeals be made to the audience's intelligence and reason. However, the code clearly indicated that the determination of what was broadcast rested entirely with the station licensee and such decision could not be delegated to others, not even the N. A. B. code. (86) Consequently dramatized political broadcasts continued to be carried by a number of stations.

In 1948 the N. A. B. , for the first time, took the area of political broadcasting out of its code's section on "Public Questions"

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85. Ibid.

86. N. A. B. , op. cit.

and placed it in a section which it titled "Political Broadcasts." (87)

This section in the 1948 code simply stated that:

Political broadcasts, or the dramatization of political issues designed to influence an election, should, if accepted, be properly identified as such. (88)

At this time Section 315 of the Communications Act still remained a troublesome rule for broadcasters. There still did not exist a concrete definition of when a person became "a legally qualified candidate." However, in 1948 the broadcasters found this to be a minor problem. According to Section 315 stations are specifically prohibited from censoring any material in broadcasts by political candidates. (89) Laws governing defamation come under state jurisdiction and under such laws broadcasters found themselves legally responsible for what was said over their stations. Even though by the fulfillment of Section 315 stations could be penalized by state laws the F. C. C., in the Port Huron case, insisted on the enforcement of the Section. (90) As libel and slander laws as well as election laws varied considerably from state to state any attempt by broadcasters

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87. N.A.B., Standards of Practice for American Broadcasters, Third Edition (Wash., D.C.: N.A.B., 1948), p. 2.

88. Ibid.

89. Emery, op. cit., p. 220.

90. Head, op. cit., p. 322.



to establish a general industry policy in regards to such matters would have been impractical. A footnote in the 1948 N.A.B. code suggested to broadcasters how they might attempt to solve their individual problems in regards to political broadcasting.

Because of the present confusion concerning the laws with respect to political broadcasts, broadcasters are advised to consult their lawyers in all cases where they have the least doubt as to the proper method of handling. (91)

In the 1952 television code the telecasters simply stated, in a section titled "Political Telecasts", that:

Political telecasts should be clearly identified as such, and should not be presented by a television broadcaster in a manner which would mislead listeners or viewers to believe that the program is of any other character. (92)

This same provision remains in the television code of today. In 1954 the radio broadcasters of the N.A.B. changed the radio code and deleted the footnote on political broadcasts which had been in the 1948 code. The 1954 radio code, and all subsequent codes to the present, contain the same statement in its section on "Political Broadcasts".

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91. N.A.B., Standards of Practice for American Broadcasters, Third Edition (Wash., D.C.: N.A.B., 1948), p. 2.

92. N.A.R.T.B., "Political Telecasts," The Television Code (Wash., D.C.: N.A.R.T.B., 1952), p. 12.

Political broadcasts, or the dramatization of political issues designed to influence an election shall be properly identified as such. (93)

In retrospect, the N. A. B. has consistently taken the view that broadcasters in making their facilities available for political campaigns and to candidates for public office are instrumentalities for the dissemination of accurate information and facts as an aid to the voters in determining policy and selecting public officials. The radio and television codes, as they stand at the present time, are an attempt to see that this obligation is fully and honestly discharged. It would seem that the concept in the radio and television codes that political broadcasts should be announced as such so as to not mislead the audience, is as far as the industry needs to go in formulating policy concerning this area. Regulations covering political broadcasting are quite explicit in the Communication Act of 1934, as amended, and the F. C. C. Rules and Regulations. (94) As these regulations contain definite standards it is unnecessary for the broadcasters to define what standards should be followed. Where the Communications Act and the F. C. C. Rules and Regulations have clearly stated standards to be followed there is no need for the

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93. Ibid.

94. Communication Act of 1934, as amended, Sections 315 and 317, and F. C. C. Rules and Regulations, Sections 3.654, and 3.663 for television and appropriate Sections for radio.

broadcasters to interpret and construct standards. If the F. C. C.'s standards are vague then broadcasters must define these standards in a practical sense in order that there is no mistake as to what will serve the best interest of the public. As broadcasting is structured in this country, the interests of the industry are fulfilled best when the interests of the public have been met.

#### Advancement of Education and Culture

Broadcasting, since its beginning, has been considered to be an effective means of direct education. During the Congressional formation of the Communications Act of 1934 proposals were made to reserve some channel assignments for the sole use of educational broadcasting. (95) At the time it was pointed out that all of the desirable channels had been assigned previously and were being used by commercial broadcasters who had been on the air for quite a while. (96) Therefore, the only way by which reservations could be made for educational radio stations would be by deleting assignments already made to commercial broadcasters. (97)

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95. Head, op. cit., p. 401.

96. Ibid.

97. This was proposed in the Wagner-Hatfield Amendment to the Communications Act which would have allocated 25 percent of all radio broadcasting facilities to educational, religious, agricultural, labor, cooperatives and other non-profit organizations.

While the proposal for reservation of channels for educational organizations was voted down it was decided by Congress that a study be undertaken to determine the feasibility of making such assignments in the future. (98) Section 307 (c) of the Communications Act of 1934 directed the newly formed F. C. C. to "study the proposal that Congress by statute allocate fixed percentages of radio broadcasting facilities to particular types or kinds of non-profit activities," and to report to Congress its recommendations. (99) The F. C. C. conducted hearings on the matter, at which witnesses for non-profit organizations, network and commercial stations were heard. Representatives of educational institutions, religious organizations, the American Federation of Labor, the Farmers' Union and many others testified concerning the importance of broadcasting to their organizations and service which their organizations could rend to the public through broadcasting. (100)

Networks and station representatives pledged their willingness to assist and to supply time for the non-profit organizations to present programs in the best interest of the public. It was the

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98. Ibid.

99. Ibid.

100. "Public Service Responsibility of Broadcast Licensees," Report by F. C. C. (Wash., D. C.: F. C. C., March 7, 1946), p. 15.

broadcasters' sentiment that:

We hold our license by serving the public interest, convenience and necessity. And only by adequate cooperation with all public spirited groups can we be deemed to perform the conditions of our contract. (101)

In January, 1935, the Commission, in its report to Congress, recommended against legislating specific percentages of broadcast facilities for non-profit organizations. It was the opinion of the F. C. C. that existing commercial stations were ready and willing to carry programs of non-profit organizations. (102) The F. C. C. stated in its report:

In order for non-profit organizations to obtain the maximum service possible, cooperation in good faith by the broadcasters is required. Such cooperation should therefore, be under the direction of the Commission. (103)

When the N. A. B. wrote its 1939 code of practices it visualized radio as a medium of both enlightenment and entertainment. While promising cooperation to non-profit groups in the controversial issues section the code also made a pledge to assist in advancing education. The "Educational Broadcasting" section of the 1939 code stated:

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101. Ibid.

102. Ibid.

103. F. C. C., Report to Congress Pursuant to Section 307 (c) of the Communications Act of 1934, January 22, 1935, quoted in Emery, op. cit., p. 38.

While all radio programs possess some educative values, broadcasters nevertheless desire to be of assistance in helping toward more specific educational efforts, and will continue to use their time and facilities to that end and, in cooperation with appropriate groups, will continue their search for improving applications of radio as an educational adjunct. (104)

In the 1945 revision of the code the N. A. B. made the same pledge. In 1941 the N. A. B. had noted that as far as it could determine there had been a marked increase in the quality and scope of educational programming among all classes of stations. At the same time the N. A. B. gave, without knowing, a prediction of problems to come.

There has been an increase of 'in-school' listening which raises problems of unannounced or sudden switches in schedules. Most educators are reasonable and sympathetic with the broadcaster's problem should circumstances force him to change the hour of an established educational feature. Such changes should be anticipated, so that possible adjustments in the school curricula may be made. Otherwise unnecessary ill-feeling is bound to result. . . . (105)

Ill-feeling did arise between educators and commercial broadcasters for a number of reasons. Where the actual fault for this feeling lies is hard to pinpoint. Many historians of broadcasting

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104. N. A. B., "Educational Broadcasting," Standards of Practice for Radio Broadcasters (Wash., D. C.: N. A. B., 1939), p. 4.

105. Kirby, op. cit., p. 316.

have looked at the circumstances and have not been able to agree on the actual cause of trouble. (106) Probably the fault lies with both; but the outcome of the ill-feeling led to a reduction in the number of educational programs carried by commercial stations.

In the late 1940's commercial broadcasters felt that educators were more interested in developing rival noncommercial stations than in improving their relationship with the commercial stations. (107) The problem became a reality in 1945 when the F. C. C. reserved twenty channels for educators and non-profit organizations out of the FM frequencies which were made available to broadcasters at the end of the Second World War. (108) However, this reservation did not exclude commercial broadcasters from seeking out and developing educational programs.

In 1946 the F. C. C. 's "Blue Book" stated four program components which a station operating in the public interest should broadcast. The first component was the carrying of sustaining programs. (109) The Commission felt that educational programs should be part of sustaining time and asked commercial broadcasters how much time they were willing to devote to such programs in their

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106. See Head, op. cit., pp. 400-407, for a good analysis of the problem.

107. Head, op. cit., p. 402.

108. Emery, op. cit., p. 108.

109. F. C. C., Public Service Responsibility of Broadcast Licensees, p. 55.

renewal application forms. With these renewal forms the Commission in 1947 began to investigate the "public service" performance of stations. Where station operations did not measure up to the standards of the "Blue Book" its license renewal was held up until a hearing into the matter had been conducted and the Commission was satisfied that it could expect a better performance in the future. (110)

In its 1948 revised code the N. A. B. generally stated the ideas expressed in the "Blue Book". While the code did not literally state that broadcasters should broadcast educational programs it made the general statement that, "Every radio program performs an educational function." (111) The code further stated that such a function placed a "great responsibility" on the broadcasters, "in planning their programs, to insure the most beneficial service to all listeners." (112) In addition:

Broadcasters should cooperate with educators and with educational groups in developing improved techniques of broadcasting, as well as those processes of education best calculated to produce expert and skillful personnel. (113)

Until 1952 the N. A. B. seemed to have taken a broad view of

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110. Emery, op. cit., pp. 238-239.

111. N. A. B., Standards of Practice for American Broadcasters, Third Edition (Wash., D. C.: N. A. B., 1948), p. 3.

112. Ibid.

113. Ibid.



"education". It incorporated the term "educational" to include as much of the commercial programming as possible. (114) From the point of view taken in the codes through 1948 it seems that the position of the N.A.B. was, anything which was learned, regardless of where it came from, was "educational". However, following the issuing of the "Blue Book" a finer definition of "educational" programs came forth from the F.C.C. The Commission recognized as "educational" only those programs prepared by or for educational organizations. (115)

Following the suggestions in the "Blue Book" and F.C.C. decisions which stressed that a well balanced program structure designed to meet community needs should include educational programs by educational institutions, the television broadcasters placed in their N.A.B. code a section on "Advancement of Education and Culture." This section reminded telecasters of their responsibility to the community and suggested how it should be fulfilled. First of all the telecasters were informed that:

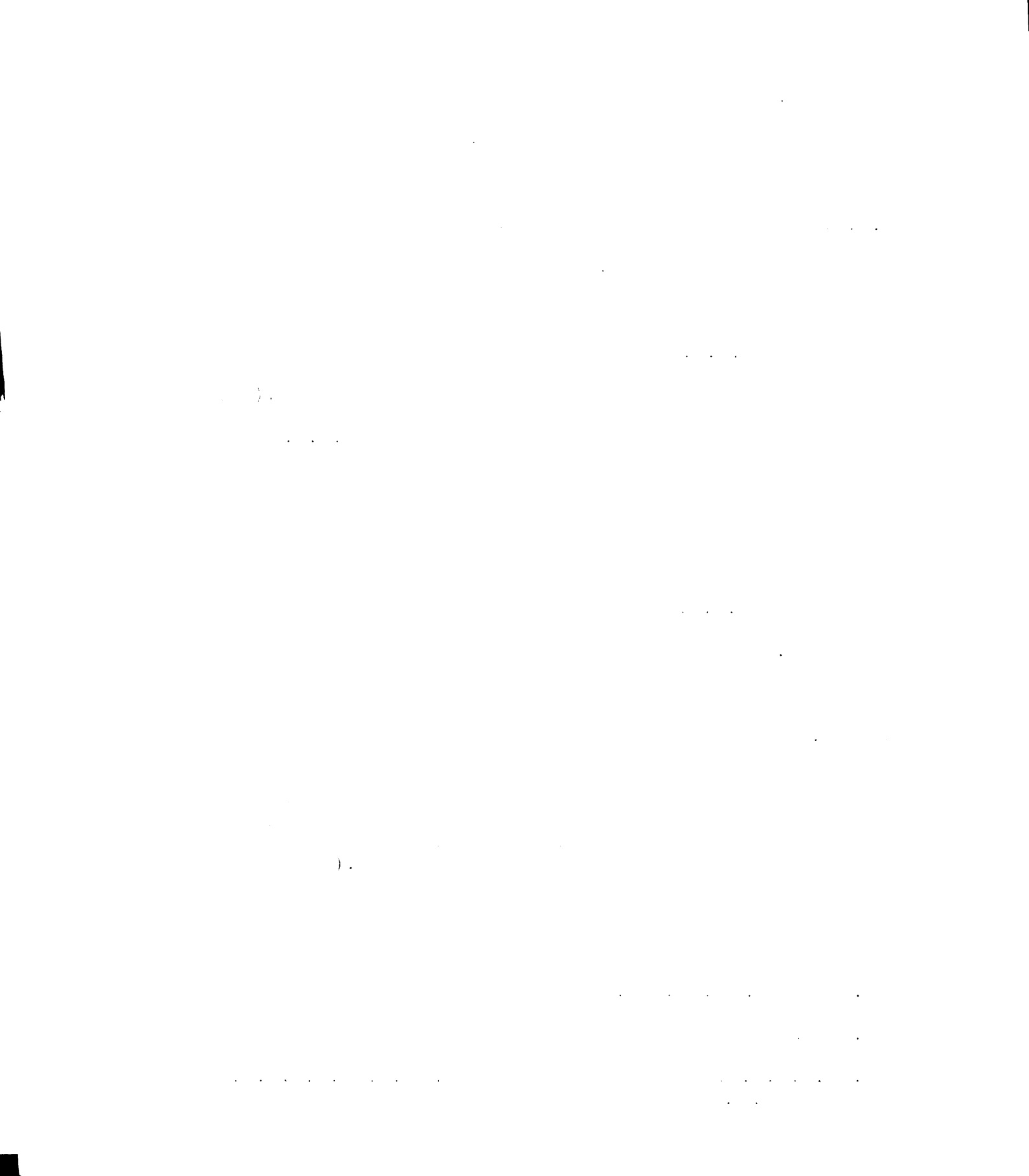
Commercial television provides a valuable means of augmenting the educational and cultural influences of schools, institutions of higher learning, the home, the church, museums, foundations, and other institutions devoted to education and culture. (116)

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114. Head, op. cit., p. 403.

115. Ibid.

116. N.A.R. T. B., The Television Code (Wash., D. C. : N. A. R. T. B., 1952), p. 4.



Then the telecaster was reminded that:

It is the responsibility of a television broadcaster to call upon such institutions for counsel and cooperation and to work with them on the best methods of presenting educational and cultural material by television. (117)

The code did not leave this responsibility solely with the telecaster. It was placed upon all who utilized the medium.

It is further the responsibility of stations, networks, advertising agencies and sponsors consciously to seek opportunities for introducing into telecasts factual material which will aid in the enlightenment of the American public. (118)

As in the radio codes which preceded it the television code sought to make all programs as educational as possible. According to the television code:

Education via television may be taken to mean that process by which the individual is brought toward informed adjustment to his society. (119)

In addition, the code also made it clear that telecasters should develop programs of a strictly instructional nature.

Television is also responsible for the presentation of overtly instructional and cultural programs, scheduled so as to reach the viewers who are naturally drawn to such programs, and produced so as to attract the largest possible audience. (120)

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117. Ibid.

118. Ibid.

119. Ibid.

120. Ibid.

The code further outlines how telecasters should go about fulfilling this responsibility. In the words of the code the television broadcaster:

- a) Should be thoroughly conversant with the educational and cultural needs and desires of the community served.
- b) Should affirmatively seek out responsible and accountable educational and cultural institutions of the community with a view toward providing opportunities for the instruction and enlightenment of the viewers.
- c) Should provide for reasonable experimentation in the development of programs specifically directed to the advancement of the community's culture and education. (121)

The telecasters have never found the need to alter the declaration of responsibility towards education which was placed in their first code of good practices. In 1954 the radio broadcasters revised their statement on educational broadcasting to conform to the ideals of the telecasters. The section on "Advancement of Education and Culture" in the N. A. B. radio code of today is the same section placed in the 1954 code.

Because radio is an integral part of American life, there is inherent in radio broadcasting a continuing opportunity to enrich the experience of living through the advancement of education and culture.

The radio broadcaster, in augmenting the educational and cultural influences of the home, the church,

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121. Ibid.

schools, institutions of higher learning, and other entities devoted to education and culture:

Should be thoroughly conversant with the educational and cultural needs and aspirations of the community served; Should cooperate with the responsible and accountable educational and cultural entities of the community to provide enlightenment of listeners; Should engage in experimental efforts designed to advance the community's cultural and educational interests. (122)

In retrospect, commercial broadcasters find themselves caught in a dilemma in trying to live up to the standards they have created for themselves. To be effective, educational programs require that they be produced with all of the skill of commercial entertainment programs. (123) This should be reinforced by presentation at convenient and frequent times when large audiences are available. All of this should be coupled with a stable scheduling of such programs and sufficient audience promotion. (124)

In reality it is difficult for commercial stations to meet these requirements. The production of any locally produced program requires a substantial investment, no matter how simple the production, which many local station managers find difficult to

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122. N. A. B., "Advancement of Education and Culture," Radio Code of Good Practices (Wash., D. C.: N. A. B., 1962), pp. 5-6.

123. Head, op. cit., p. 403.

124. Ibid.

finance. Broadcasters are able to charge program costs to sponsors but they are reluctant to give financial support to programs which do not bring in income. Consequently, educational programs are usually inadequately planned and ineffectively produced.

In relation to this problem, commercial broadcasters are reluctant to schedule an educational program, which usually has a low rating, next to programs with high audience ratings. (125) A program with a low rating can reduce the value of adjacent time segments. Educational programs on commercial stations are usually placed at times which have a low audience and are difficult to sell. (126)

The problem of inadequate facilities and time on commercial stations, plus the fact that the F. C. C. has reserved broadcast channels in the television spectrum as well as in the FM spectrum for educational organizations to activate, has led many educators to turn away from commercial stations to present their program. (127) This has created problems for commercial broadcasters in achieving the goals of their codes and fulfilling the requirements of the F. C. C. Acquiring regular educational programming has proved a problem for many stations. As an example of some of the problems

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125. Ibid., p. 404

126. Ibid.

127. Emery, op. cit., pp. 117-121.

broadcasters have had, one station in a major market was chastised by the F. C. C. for not having educational programming. (128) The station replied that there were two educational stations in its coverage area and that the educators had turned down time on his station. The F. C. C. staff there upon asked that station to list all educational organizations and individuals contacted, the amount and scheduling of time offered and responses from those contacted. (129)

While some commercial stations feel that educational programming is incompatible with their operation and should be left to educational stations other actively seek to follow the ideas of their codes. Television magazine's annual study of local programming on 200 U.S. television stations shows somewhat the extent to which the broadcasters attempt to provide educational programming. (130) The study showed that while 52 stations out of the 200 programmed no educational fare in 1961, in 1962 that number had dropped to 36 stations. (131)

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128. Broadcasting, August 6, 1962, p. 61.

129. Ibid.

130. Television, August 1963, p. 94.

131. Thirty-one stations were below one hour in this area but 42 stations aired from one to two hours, 34 more aired from two to three hours. Thirty stations programmed five hours or better on educational-cultural topics and a Miami station claimed 15 hours of it.

While educational-cultural programming may never replace baseball or westerns in the esteem of station operators, the fact remains that more stations are availing themselves to this kind of programming. While this can be partly explained in terms of pressure from the F.C.C., the N.A.B. codes remain a promise by the ethical broadcaster, who truly believes in them and his medium, to advance educational and cultural opportunities of the public he serves.

### Religion and Religious Programs

As with educational programs, the F.C.C. has always looked upon the broadcasting of religious programs as part of the licensee's responsibility in the public interest. (132) However, from the early days of radio it became obvious to all connected with the medium that care would have to be taken in the presentation of such programs.

Early in the history of broadcast regulation the federal government demonstrated that it would not allow the broadcast spectrum to be used for attacks against churches or religious beliefs. This policy was established by the Federal Radio Commission when it revoked the license of Trinity Methodist Church, South, to operate station KGEF in Los Angeles. The minister, Robert Shuler, used the station for attacks upon local politicians and upon the Catholic

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132. Emery, op. cit., p. 243.



Church. (133) Acting upon the complaints of local resident, the F.C.C. called on Mr. Shuler to explain or justify his attacks. All he was ever able to do was declare that the statements expressed were his own sentiments. (134)

Reverend Shuler appealed the decision of the Commission to the Court of Appeals of the District of Columbia. The Court upheld the action of the Commission and said:

If it be considered that one in possession of a permit to broadcast in interstate commerce may, without let or hindrance from any source, use these facilities, reaching out, as they do, from one corner of the country to the other, to obstruct the administration of justice, offend the religious susceptibilities of thousands, inspire political distrust and civic discord, or offend youth and innocence by the free use of words suggestive of sexual immorality, and be answerable for slander only at the instance of the one offended, then this great science, instead of a boon, will become a scourge, and the nation a theater for the display of individual passions and the collision of personal interests. (135)

In 1939 the N.A.B. used the Shuler case as its precedent in formulating standards for the section on religious programs in its code. (136) Under the code that was activated by the broadcasters, religious broadcasts were to promote "spiritual harmony and

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133. Nation, May 9, 1934, vol. 138, p. 530.

134. Smead, op. cit., p. 10.

135. Trinity Methodist Church, South vs Federal Radio Commission, 62 F. (2d) 850 (1932).

136. Kirby, op. cit., p. 317.

understanding of mankind and not to convey attacks on another's race or religion." (137) But it had been the intention of the broadcasters to say more about how radio should present religious programs than what they finally did state.

When the first draft of the 1939 code was drawn up part of the section on religious programming would have relieved radio stations from accepting religious programs on a commercial basis. This part tried to establish a well balanced series of religious programs suited to the needs of the community which the N.A.B. felt could only be accomplished by placing such programs on a sustaining basis. (138) It was the desire of the code's designers that the religious section declare that, "the best serve to religion and the public will eventually lead to eliminating commercial religious programs." (139) At the start of the 1939 N.A.B. convention telegrams of protest against the proposal were sent by the American Lutheran Publicity Bureau, an agency representing the Lutheran Synod of Missouri, Ohio and other states, as well as other interested religious groups. (14) Before the code reached the floor of the

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137. New York Times, July 12, 1939, p. 7.

138. New York Times, July 11, 1939, p. 22.

139. Ibid.

140. New York Times, July 10, 1939, p. 21. The Lutheran Synod of Missouri and Ohio bought an hour a week for a program sent out from St. Louis over the Mutual Broadcasting System.

Convention the provision of non-commercial time for religious programming had been eliminated by the code steering committee.

Regardless of whether religion came to the American public over radio on a commercial or sustaining basis the N. A. B. code in 1939 stated certain ideals which ethical broadcasters should consider when presenting such programs.

Radio, which reaches men of all creeds and races simultaneously, may not be used to convey attacks upon another's race or religion. Rather it should be the purpose of the religious broadcast to promote the spiritual harmony and understanding of mankind and to administer broadly to the varied religious needs of the community. (141)

Immediately the N. A. B. stated that this code provision placed the broadcasts of persons like Judge J. E. Rutherford, leader of the Jehovah's Witnesses, in violation of the public interest. Judge Rutherford broadcast tirades against Catholic, Protestant and Jewish churches. As an example of the broadcasts which this provision of the code was to exclude from the air the following is an excerpt from one of Judge Rutherford's sermons:

The Catholic clergymen have no weapon of defense except a gag and a bludgeon. .... The fact that a man occupies the office of Pope of the Catholic organization is no evidence that he speaks with divine authority or that he has approval of God and of Christ. The Catholics have no faith in the Protestants or the Jews; the Protestants have no confidence in the Catholics or the Jews; and the Jews have no faith in either the Catholics or

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141. N. A. B., Standards of Practice, 1939, p. 6.

Protestants..... The Clergy of the church rejected Christ..... There are many honest persons in the ranks of the Catholic organization who have been held there because they had no opportunity to hear and to learn the truth.... For keeping the people in ignorance in this manner the pastors and clergymen and priests and their allies are held liable, and God gives His word and He will punish them for their wrong doing.... The clergy serves the Devil and not Christ Jesus. (142)

The provision against offensive attacks on churches and religious beliefs has remained in the N.A.B. code; however in 1948 the section on religion was altered to read:

Broadcasting, which reaches men of all creeds simultaneously, should avoid attacks upon religion.

Religious programs should be presented respectfully and accurately, and without prejudice or ridicule.

Religious programs should be presented by responsible individuals, groups and organizations.

Religious programs should place emphasis on broad religious truths, excluding the presentation of controversial or partisan views not directly or necessarily related to religion or morality. (143)

This change in the section was merely for the purpose of outlining in greater details the standards and practices which the N. A. B. felt constituted the presentation of religious programming in the public interest. The present Radio Code of the N. A. B.

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142. Smead, op. cit., p. 12.

143. N. A. B., Standards of Practice, 1948, p. 6.

repeats the same ethical ideals as presented in the 1948 code for the presentation of religious programs.

In 1951 the N.A.B. inserted these same ideals into the "Religious Programs" section of its Television Code. However, the telecasters went one step farther than the radio broadcasters. The telecasters made a firm declaration in their code that religious programming was part of a balanced program schedule. Therefore, the telecasters felt every effort should be made by television stations to appropriate time to representatives of their community's faiths. The basic provisions that appeared in the 1952 television code are still maintained in the present code, which states:

It is the responsibility of a television broadcaster to make available to the community appropriate opportunity for religious presentations.

Telecasting which reaches men of all creeds simultaneously should avoid attacks upon religion.

Religious programs should be presented respectfully and accurately and without prejudice or ridicule.

Religious programs should be presented by responsible individuals, groups and organizations.

Religious programs should place emphasis on broad religious truths, excluding the presentation of controversial or partisan views not directly or necessarily related to religion or morality.

In the allocation of time for telecasts of religious programs the television station should use its best efforts to apportion such time fairly among the representative faith groups of its community. (144)

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144. N.A.B., The Television Code. Seventh Edition (Wash., D.C.: N.A.B., 1962), pp. 12-13.

The religious sections of both the radio and television codes have been the least altered of any of the sections. From the time when a statement on standards for religious programming was first installed in a code to the present ministers, government regulators and most of the broadcasters have felt that they have expressed the highest ideals.

The religious sections of the N. A. B.'s early codes have been criticized by some writers on the mass media for not going far enough in setting standards. Llewellyn White, who is often quoted about the code, criticized the 1939 code in his book, The American Radio, for "dismissing 'Religion' in four lines." (145) However, the worth of any idea cannot be judged on the number of words or lines used to express it. In actuality the 1939 N. A. B. code's religious section was widely endorsed by practically every denomination in America. Commenting upon the 1939 code, Dr. Samuel McCrae Cavert, General Secretary of the Federal Council of Churches of Christ, expressed the general endorsement of various religious leaders for the religion section of the code because, "When one reflects on the religious diversity which characterizes America, he readily sees that if spokesmen of religion were to use the air for attacks on one another, or for any

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145. White, The American Radio, pp. 75-76.

sectarian animosity, the result would be such a bedlam that radio would be justified in excluding religion from its programs." (146)

While some religious organizations have voiced complaints about the availability of broadcast time, the costs of programs and the restriction of religious programming by the competition of ratings, they have continuously found air time available. Various surveys have shown that since 1939 radio, and later television, broadcasters have always broadcast spiritual programs covering all faiths and a variety of religious activities. During this time, most stations devoted on the average an hour a week to religious programming; some stations climbed as high as seven and eight hours. In general, most radio stations have carried more locally produced religious programs while television has mainly broadcast syndicated religious shows.

While the N.A.B. has always been interested in assuring that responsible broadcasters recognize the need to allot time for religious programming, it is more concerned with the content of that programming. Since 1939 there has been very little trouble in the broadcast industry in regard to religious content. F. C. C. Commissioner Robert E. Lee has praised the N.A.B. code standards for religious programming. He has stated that the codes outline the Commission's position as to the responsibilities

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146. Kirby, op. cit., p. 317.

placed on both the broadcast licensee and religious organizations who use the airways. The Commission's standards are: (1) know your community; (2) serve your community as it deserves; (3) practice the use of discretion, judgment and good taste; and (4) remember the sanctity of the fairness doctrine. (147)

As more religious organizations feel that broadcasting is an important medium for spreading the gospel, more focus will be placed on the N.A.B. codes. With such diversity of religious thought as is present in the United States more effort will have to be exercised to maintain an emphasis on "broad religious truths" rather than "controversial or partisan views". Religious standards are the personal rights of each citizen and broadcasting facilities must never again become the outlets for attacks on these beliefs or "sectarian animosity".

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147. Broadcasting, January 27, 1964, p. 79.



## Chapter 3

### DEVELOPMENT OF STANDARDS FOR ENTERTAINMENT PROGRAMS

Though a trichotomy between "information", "orientation" and "entertainment" as program categories may seem absurd to those who believe that entertainment might also inform or educate, or that "educational" programs could conceivably be entertaining, no other classificatory schemes have been presented.

Under the codes sections dealing with entertainment programs the emphasis has been primarily on those performances intended to entertain, amuse and divert. Any examination of the content of broadcast media provides enough evidence that the largest proportion of programs is clearly designed for entertainment purposes. The N. A. B. 's standards developed to cover this area have taken into consideration that the field of entertainment can be directly or indirectly responsible for the nation's spiritual or moral progress, in the enforcement of social norms, and popular tastes.

The standards in the N. A. B. 's codes regarding the entertainment content of the broadcast media are stated specifically in a section on children's programs and then generally for all other programs.

### Children's Programs

Throughout its history the broadcasting industry has had fewer problems with the Federal Communications Commission over the content of children's programs than over any other are of programming. However, the content and structure of such programs have created for the broadcasters a great deal of criticism from the general public and congressional groups ever since the first dramatic program was aired. There seems to be an inclination throughout history for people to lump complex social problems into a compact package so that both identification and assault can be handled in a simple, single process. Some years back parents were worried about the "penny paperbacks" that seemed to keep the children enthralled. Children were told that those early paperbacks would ruin their sight and bring their downfall. (1) The early radio children's programs were subjected to criticism from every corner of the country and from every walk of life. Politicians, reformers, professional critics, radio personnel, religious groups, parent viewing groups, and educators belabored them.

In 1935 many groups, led by the Woman's National Radio Committee, condemned radio for giving children "bad dreams" with the "blood-and-thunder" programs that were being broadcast. (2)

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1. Cogby, John, "Too Much Telly for the Kid?" New Republic, May 1, 1961, p. 20.
  2. Newsweek, December 21, 1935, p. 32.

Usually these broadcasts were sponsored by advertisers who had something to sell for the household. The psychology was: "Sell the kids and let the kids sell their parents." (3) The device employed most effectively was the giveaway. Cereals, dairy products, flashlights all used this type of program effectively. At the end of the show the announcer would tell his audience that, with each box top or wrapper of a certain product sent in, the sender would receive a badge or hat making him a member of the "Club".

The fear that "blood and thunder and terror" themes, plus advertising which might cause children to enter dangerous places in search of coupons, could lead to harmful effects upon developing minds brought public pressure on the F. C. C. and Congress to take the necessary steps to ward such programming off the air waves. Early in 1938 the F. C. C. began to react to the demands of the public. In a speech to the N. A. B. 's convention that year F. C. C. Chairman Frank R. McNich told broadcasters that as part of their "public interest" responsibilities they should be aware of the dangers to the ideals, morals and thought-habits of the children that their programs were influencing. (4)

During the following year such programs did not diminish and

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3. Chase, Francis, Sound and Fury (N. Y. : Harper and Brothers, 1942), p. 243.

4. Broadcasting, February 15, 1938, p. 15.

neither did the reactions of pressure groups. In March of 1939 the F. C. C. took steps which led to a chain reaction within the broadcast industry and a pledge to reduce the amount of "blood-and-thunder" in their programs for children. The broadcast industry became "panicky" when the F. C. C. adopted a memorandum, submitted by Commissioners Eugene O. Sykes and George Henry Payne, setting forth 14 types of programs which were indicated as being the basis of possible punitive action because, in the Commission's judgment, they were not in the "public interest." (5) One of the types of programs the broadcasters were warned against was "cliff-hanger kids shows" which were felt to be "overstimulating." (6)

When, in 1939, the broadcasters published their code one of the sections they were careful to publicize was designed to guide the production of "Children's Programs". (7) It was the hope of broadcasters that the standards they created for children's programs in their code would measure up to the ideals that various pressure groups had been proclaiming and at the same time still leave room for the creation of programs which would attract large audiences. In order to accomplish both objectives the broadcasters employed

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5. "Industry Upset by Possible Meaning of FCC's Latest Flank Maneuvers," Variety, March 8, 1939, p. 1.

6. Ibid.

7. New York Times, July 12, 1939, p. 7.

the criteria for such programs that were summarized in a study on the relationship between radio and children undertaken by the Federal Radio Education Committee in 1938. The recommendations for children's programs that appeared in the study were based on data derived from "close contact with broadcasters, with parental and women's organizations which have been active in criticizing children's programs.....and with children." (8) Thereupon the N.A. B. 1939 code stated:

Programs designed specifically for children reach impressionable minds and influence social attitudes, aptitudes and approaches and, therefore, they require the closest supervision of broadcasters in the selection and control of material, characterization and plot.

This does not mean that the vigor and vitality common to a child's imagination and love of adventure should be removed. It does mean that programs should be based upon sound social concepts and presented with a superior degree of craftsmanship; that these programs should reflect respect for parents, adult authority, law and order, clean living, high morals, fair play, and honorable behavior. Such programs must not contain sequences involving horror or torture or use of the supernatural or superstitions or any other material which might reasonably be regarded as likely to overstimulate the child listener, or be prejudicial to sound character development. No advertising appeal which would encourage activities of a dangerous social nature will be permitted.

To establish acceptable and improving standards for children's programs, the National Association of

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8. Federal Radio Education Committee, Criteria for Children's Radio Programs (Wash., D. C.: U. S. Office of Education, 1942).

Broadcasters will continuously engaged in studies and consultations with parent and child study groups. The result of these studies will be made available for application to all children's programs. (9)

Keeping its word for further study into the content of children's programs the N. A. B. cooperated with the Radio Council on Children's Programs in a nationwide survey. (10) Until the R. C. C. P. 's report was published in 1942 the N. A. B. set forth, in 1941 eight objectives as fundamental standards for children's programs to supplement its 1939 code.

Children's programs should be:

1. Entertaining.
2. Dramatic, with reasonable suspense.
3. Of high artistic quality and integrity.
4. Expressed in correct English and diction.
5. Appeal to the child's sense of humor.
6. Be within the scope of the child's imagination.
7. Stress human relations for cooperative living.
8. Stress intercultural understanding and appreciation. (11)

Broadcasters implemented the code's recommendations for programs based upon social concepts by incorporating the idea of hero worship "as one means of inspiring the child to socially useful and

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9. National Association of Broadcasters, Standards of Practice for Radio Broadcasters (Wash., D. C.: N. A. B., 1939), p. 1.

10. The Radio Council on Children's Programs was composed of representatives from various parent, teacher and womens groups throughout the country.

11. Kirby, Edward M., "Official Digest of N. A. B. Code Interpretations," Ninth Yearbook of Broadcasting Magazine (Wash., D. C.: Broadcasting Publications Inc., 1941), pp. 316-317.

laudable ideals, such as generosity, industry, kindness and respect for authority."(12) They tried to construct programs in which there would be a hero figure that could stimulate the young listener to see the "open doors into wide worlds that may be reality or fantasy."(13) But always within such programs they claimed to carefully insure that there would be no sequences involving horror, torture, or suspense, or the use of the supernatural or superstitions in a way which might reasonably be regarded as likely to overstimulate the child listener to a dangerous or unhealthy degree.(14) While these programs met the standards set forth by the Radio Council on Children's Programs as published in 1942 the broadcasters found themselves under criticism again in 1946.(15) Many parents reacted negatively to commercial announcements in children's programs which suggested to the youngsters that if the product advertised was not purchased the sponsoring company would not be able to continue to bring the program's "hero" to them. While the outcry did not reach a great magnitude the N.A.B. in 1948 stated in its code that, "There should be no appeals urging children to purchase the product in order to keep the program on the air...."(16)

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12. New York Times, July 9, 1943, p. 10.

13. Ibid.

14. Ibid.

15. For the criteria established by the Radio Council on Children's Programs see Appendix IX.

16. National Association of Broadcasters, Standards of Practice for Radio Broadcasters. Revised Edition. (Wash., D. C. : NAB, 1948), p. 5.

Shortly before the 1948 revised version of the N. A. B.'s code was published a loud note of indignation arose from the public as a result of the crime, mystery and horror dramas which filled the air waves. The public, once again, was worried about the possible effects of such programs, which by all intent were not particularly designed for children but from which they could hardly escape. (17) At one time a petition with 350,000 names, designed to eliminate these types of programs from the air waves, caused what was regarded to be a "mild case of jitters among the radio men." (18) While the broadcasters took no direct action in their code's section dealing with standards for children's programs they did create a special section, titled "Crime and Mystery Programs", to correct any situations which could create further negative responses from the public. (19)

This section on dramatic programs, which had a direct effect on the nature of children's programs besides general radio drama, stated in 1948, as it states in the present radio code, that:

In determining the acceptability of any dramatic program containing any element of crime, mystery, or horror, proper consideration should be given to the possible effect on all members of the family.

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17. Lindsley, Charles, Radio and Television Communications (N. Y.: McGraw-Hill Book, Co., Inc., 1952), p. 83.

18. Ibid.

19. N. A. B., op. cit.



Radio should reflect realistically the experience of living, in both its pleasant and tragic aspects, if it is to serve the listener honestly. Nevertheless it holds a concurrent obligation to provide programs which will encourage better adjustments to life.

This obligation is apparent in the area of dramatic programs particularly. Without sacrificing integrity of presentation, dramatic programs on radio should avoid:

- Techniques and methods of crime presented in such manner as to encourage imitation, or to make the commission of crime attractive, or to suggest that criminals can escape punishment;
- Detailed presentation of brutal killings, torture, or physical agony, horror, the use of supernatural or climatic incidents likely to terrify or excite unduly;
- Episodes involving the kidnapping of children;
- Sound effects calculated to mislead, shock, or unduly alarm the listener;
- Disrespectful portrayal of law enforcement;
- The portrayal of suicide as a satisfactory solution to any problem. (20)

In the 1948 revision of the N. A. B.'s radio code the standards for children's programs were altered in such a way as to incorporate more directly the major criteria recommended by the Radio Council on Children's Programs as outlined in the Council's 1942 report. The Council's criteria were based upon: 1) considerations relating to the ethical, moral, or social ideals of American life; 2) considerations relating to the emotional, intellectual, and social development of the child's personality; and 3) considerations relating to the showmanship

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20. Ibid., pp. 4-5.

or entertainment values. (21) The final revision in the children's program standards section of the N.A. B. radio code appeared in 1954. The N.A. B. added to the section at that time a statement which basically reminds radio broadcasters of the standards established in the "Crime and Mystery Programs" section of the 1948 code. (22) Since 1954 the radio code's section establishing acceptable standards for children's programs has stated that:

Programs specifically designed for listening by children shall be based upon sound social concepts and shall reflect respect for parents, law and order, clean living, high morals, fair play, and honorable behavior.

They shall convey the commonly accepted moral, social and ethical ideals characteristic of American life.

They should contribute to the healthy development of personality and character.

They should afford opportunities for cultural growth as well as for wholesome entertainment.

They should be consistent with integrity of realistic production, but they should avoid material of extreme nature which might create undesirable emotional reaction in children.

They shall avoid appeals urging children to purchase the product specifically for the purpose of keeping

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21. Federal Radio Education Committee, Criteria for Children's Radio Programs.

22. The heading "Crime and Mystery Programs" was changed in the 1954 radio code to "Dramatic Programs," but the provision remained the same.

the program on the air or which, for any reason, encourage children to enter inappropriate places. (23)

In its fast rise to popularity in the 1950's television found itself replacing radio as the object of public criticism. In the area of children's programs the critics were worried once again, as they had been in the days of radio drama, about the effects of programs presenting violence on the minds of the young. Before any formal action could be instigated through legislative or regulatory bodies the N.A.B. set forth standards for children's television programs in its initial television code in 1952. These standards were basically a restatement of the standards formulated for radio broadcasters in the N.A.B.'s 1948 radio code. However, in the 1952 television code, standards for dramatic programs, especially crime and mystery programs, were incorporated into the section on children's programs. Unlike the radio code, the television code recognized the fact that children would be able to view programs which were not primarily designed for them and therefore it directed that care should be taken in the preparation of any material that could possibly be viewed by children.

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23. National Association of Broadcasters, Radio Code of Good Practice. Ninth Edition. (Wash., D.C.: N.A.B., 1962), p. 7. There have been no further alterations of this section since 1954, which may be due to the decline of radio drama generally, and the reduction in the number of specific programs designed for children.

In its section titled "Responsibility Toward Children" the 1952 television code stipulated that in the production and televising of programs which children could view the telecaster should take into consideration that:

The education of children involves giving them a sense of the world at large. Crime, violence and sex are a part of the world they will be called upon to meet, and a certain amount of proper presentation of such is helpful in orienting the child to his social surroundings. However, violence and illicit sex shall not be presented in an attractive manner, nor to an extent such as will lead a child to believe that they play a greater part in life than they do. They should not be presented without indications of the resultant retribution and punishment.

It is not enough that only those programs which are intended for viewing by children shall be suitable to the young and immature. Television is responsible for insuring that programs of all sorts which occur during the times of day when children may normally be expected to have the opportunity of viewing television shall exercise care in the following regards:

- a) In affording opportunities for cultural growth as well as for wholesome entertainment.
- b) In developing programs to foster and promote the commonly accepted moral, social and ethical ideals characteristics of America life.
- c) In reflecting respect for parents, for honorable behavior, and for the constituted authorities of the American community.
- d) In eliminating reference to kidnapping of children or threats of kidnapping.
- e) In avoiding material which is excessively violent or would create morbid suspense, or other undesirable reactions in children.
- f) In exercising particular restraint and care in crime or mystery episodes involving children or minors. (24)

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24. National Association of Broadcasters, The Television Code. Fifth Edition. (Wash., D. C.: N. A. B., 1959), p. 5.

This section of the Television Code has primarily remained as originally written in 1952, except for a few minor, but interesting changes. In the fifth edition of the Television Code the statement that "violence, crime and sex are a part of the world" that children will live in was deleted. In its place was substituted a statement which indicated that:

Such subjects as violence and sex shall be presented without undue emphasis and only as required by plot development or character delineation. Crime should not be presented as attractive or as a solution to human problems, and the inevitable retribution should be made clear. (25)

This change in the code's basic philosophy towards life in general and its implications for television productions came after four years of investigation by a Senate subcommittee inquiring into national crime in 1954. During this inquiry statements about television's effects on children produced concern among politicians, religious groups, parent-viewing groups and educators. The accusations against television can be summed up by one statement which came from the inquiry. "The human mind in the juvenile and adolescent age group is quite impressionable and easily conditioned. By constant and repeated presentation of undesirable and criminal activity in television, many children and adolescents in time accept

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25. Ibid.

26. New York Times, June 20, 1961, p. 67.

these as attractive ways of living."(27)

However, the Senate Juvenile Delinquency Subcommittee, under the chairmanship of the late Senator Estes Kefauver, which conducted public hearings in 1955 on the effects television violence and sex have on children, did not make as conclusive its interpretation of the effects of television on children. The 1955 Senate subcommittee did warn the television industry that steps should be taken to improve programming for children but that such improvements should come from broadcasters. (28) Immediately the N.A.B., then known as the N.A.R.T.B., reported to Congress that it was planning to place increased emphasis on avoiding "excessively violent" and "morbid" shows, especially those designed to attract children. (29) The N.A.R.T.B. stated that it had notified all code subscribers to take particular care in showing Westerns, mystery and adventure films produced originally for the theater in which "most of the violence occurs;" and to comb schedules in order to insure that no "cumulative effect of violent action occurs during children's viewing hours." (30) In 1961 the Senate subcommittee once again took up its investigation of violence and sex in television

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27. Schramm, Wilbur, Jack Lyle and E. B. Parker, Television in the Lives of Our Children (Stanford: Stanford University Press, 1961), p. 4.

28. Broadcasting, December 23, 1963.

29. New York Times, December 4, 1955, p. 19.

30. Ibid.

viewed by children. According to Senator Thomas J. Dodd, who became chairman of the committee after the death of Senator Kefauver, despite broadcasters promises to police themselves the committee felt that the number of shows containing violence and emphasizing sex had "dramatically increased." (31)

The senate Juvenile Delinquency Subcommittee continued its 1961 hearings into 1962 and conducted further sessions in 1964. What the eventual outcome of the Senate inquiry will be has not been determined, but broadcasters seem to feel that it will be in some form of regulation unless the industry corrects the situation. As to what corrections should be made to improve children's programming the N. A. B. is not sure since scientific evidence does not clearly indicate exactly what effects television violence has on children. (32) Until behavioral science can provide definite proof as to the extent of the cause and effect relationship the N. A. B. seems determined to stand by the present provisions in its codes. (33)

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31. Broadcasting, December 23, 1963.

32. Maccoby, Eleanor, "The Effects of Television on Children," in Wilbur Schramm (ed.) The Science of Human Communication (N. Y.: Basic Books, Inc., 1964), pp. 116-127.

33. Broadcasting, July 9, 1962. To help provide answers to the question, a government-industry study was undertaken by the N. A. B. and the Department of Health, Education and Welfare. Other studies by various institutions and organizations have also been proposed.

### General Program Standards

While the radio and television codes specify standards for certain program areas there are sections in the codes which put forth criteria that are applicable to all program categories. To incorporate these criteria into its codes the N.A.B. created sections which it titled "General Program Standards," in the Television Code, and "General," in the Radio Code. The Radio Code of today defines eleven standards of general program practices which the N.A.B. feels to be pertinent for responsible broadcasting, while the Television Code indicates 32 general practices. The main difference between the two codes in the sections on general program material stems from the fact that television must concern itself not only with the audio content, which is radio's only concern, but also with pictorial content. A second major difference in the two sections results from the television code's including within its section on general program practices many of the standards for dramatic programs which the radio code establishes in its section titled "Dramatic Programs." (34)

The first section establishing "general" program standards appeared in the 1948 revised radio code. Five provisions were covered in this code dealing with the use of the word "Bulletin" within a non-news program, descriptions of physical or mental

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34. See page 102.



handicaps in dramatic programs, gambling information, simulation of courtrooms, and network programming. Since 1948 the radio code has added six additional provisions to its general programming section which are mainly concerned with deceptive program practices.

The first standard established in the "general" program section was an outgrowth of a dramatic radio program presented in 1938. On Halloween Eve 1938 a nation wide panic resulted from a broadcast, by Orson Welles' CBS Mercury Theater of the Air, of "The War of the Worlds". (35) This particular broadcast resulted in reports of wide-spread hysteria by people who heard a part of the program and who concluded that New Jersey actually had been invaded by creatures from Mars. (36) Public panic occurred even though the broadcast was begun with an announcement that a dramatization was taking place and was concluded by Mr. Welles' statement that it was "... the Mercury Theater's own version of dressing up in a sheet.... and saying Boo!" (37)

By using a news bulletin format, the story had been so realistically transplanted from Britian to the U.S., from the 19th to the 20th century, that many listeners actually believed that the

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35. Time, November 7, 1938, p. 40.

36. Summers, H. B., Radio Censorship (N. Y.: H. W. Wilson Co., 1939), p. 27.

37. Time, November 7, 1938, p. 40.

matter-of-fact voice of the simulated newscasters breaking into the program with "Bulletin," and "Flashes" were actually reporting the destruction of the U.S. After calm was restored and the public completely reassured that the invasion from Mars was fictitious, tremendous criticism fell upon the radio networks for turning their newscast patterns and terminology over to fiction.

While the results of Orson Welles' terrifying radio drama seemed to fascinate behavioral scientists more than regulators the N.A. B. took decisive steps to prevent the reoccurrence of broadcasters utilizing recognized broadcast journalism formats and terms in dramatic radio presentations. (38) The first such steps were taken at the outbreak of the Second World War. In December of 1941 the N.A. B. published a pamphlet of recommended practices to be followed by broadcasters as a guide to wartime broadcasting. (39) This guide stated that broadcasters should always exercise extraordinary care to insure that their listeners were constantly aware of the nature of the program being offered and its authenticity. (40)

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38. For an interesting sociological-psychological analysis and study of the "War of the Worlds" broadcast see Hadley Cantril, The Invasion from Mars (Princeton, N. J.: Princeton University Press, 1947).
39. Broadcasting, December 22, 1941, p. 11.
40. It was felt by some observers who studied the reactions to the "War of the Worlds" broadcast that many of the people who panicked tuned in late to the program and received the wrong impression that it was an actual newscast.

In addition, the guide warned broadcasters that such news phrases as "bulletin, " "flash, " "news" and the like be used only in their legitimate functions of indicating the importance of a factual news story. (41) In the first code revision following the end of the war the N. A. B. added a statement to insure that the public would never again be deceived as it was on Halloween Eve 1938. The 1948 revised edition of the N. A. B. Code of Standards for Radio Broadcasters stated:

Sound effects and expressions characteristically associated with news broadcasts (such as 'bulletin', 'flash, ' etc.) should be reserved for announcement of news, and the use of any deceptive techniques in connection with fictional events and non-news programs should be unacceptable. (42)

This standard has been restated in every edition of the Radio Code to the present and was also established in the Television Code.

In the original Television Code under the section on "Acceptability of Program Material, " which is presently titled "General Program Standards, " the telecaster was told that, "Television drama shall not simulate news or special events in such a way as to mislead or alarm. "(43) Reference was made to the

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41. Broadcasting, December 22, 1941, p. 11.

42. National Association of Broadcasters, Standards of Practice for Radio Broadcasters. Revised Edition. (Wash., D. C. : N. A. B., 1948), p. 7.

43. National Association of Radio and Television Broadcasters, Television Code (Wash., D. C. : N. A. R. T. B., 1952), p. 3.

section of the Television Code on standards for newscasts which made more explicit the specific factors, verbal and pictorial, that could not be used in fictional programs. (44) In 1954 the association reorganized the Television Code and transplanted the provision which had been written in the section dealing with news to the section on general program standards. (45) Today the Television Code states that within television programming:

A television broadcaster should not present fictional events or other non-news material as authentic news telecasts or announcements, nor should permit dramatization in any program which would give the false impression that the dramatized material constitutes news. Expletives, (presented aurally or pictorially) such as 'flash' or 'bulletin' and statements such as 'we interrupt this program to bring you....' should be reserved specifically for news room use. (46)

In addition to generally repeating the provision instituted in the Radio Code, the Television Code, unlike the Radio Code, recognizes that situations may arise where the use of formats and terminology typically used in actual newscasts might be needed for the achievement of dramatic effects in certain fictional presentations. Therefore, the Television Code states:

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44. See page 55.

45. National Association of Radio and Television Broadcaster, Television Code. Second Edition. (Wash., D. C.: N.A.R. T. B., 1954), p. 10.

46. National Association of Broadcasters, Television Code, Eighth Edition (Wash., D. C.: N.A. B., 1962), p. 10.

However, a television broadcaster may properly exercise discretion in the use in non-news programs of words or phrases which do not necessarily imply that the material following is a news release. (47)

Following its restrictions on the use of news terms, the 1948 radio code's section on general program standards also presented guidelines to eliminate any possibility of deception in the presentation of fictitious courtroom dramas. The code stated that:

Simulation of cour atmosphere or use of the term "Court" in a program title should be done only in such a manner as to eliminate the possibility of creating the false impression that the proceedings broadcast are vested with judicial or official authority. (48)

Restrictions on certain dramatic advertising tactics, which had been declared as deceptive by the Federal Trade Commission, appeared in the Radio Code's 1954 revised section on general programming practices.

When dramatized advertising material involves statements by doctors, dentists, nurses, or other professional people, the material shall be presented by members of such profession reciting actual experience, or it shall be made apparent from the presentation itself that the portrayal is dramatized. (49)

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47. Ibid.

48. National Association of Broadcasters, Standards of Practice for Radio Broadcasters, 1948, p. 8.

49. National Association of Radio and Television Broadcasters, Standards of Practice for Radio Broadcasters, 1954, p. 8.

The sequel to this provision established in the original Television Code pertains not only to advertising presentations but to all forms of program transmissions. According to the Television Code:

Legal, medical and other professional advice, diagnosis and treatment will be permitted only in conformity with law and recognized ethical and professional standards. (50)

Since 1954 four additional standards have been placed in the general programming section of the Radio Code dealing directly with deceptive practices. All of these standards were written into the 1961 revised code following three years of intensive investigations by a New York City Grand Jury, Congress and the F.C.C. into fraudulent programming practices by the broadcasting industry. The scandal that rocked the American broadcasting industry started to come into the open in 1958 as a number of contestants who had appeared on various television quiz programs informed the New York district attorney's office that they had been given prearranged answers and stage directions prior to their appearances. (51) While the producers of the accused quiz shows denied to a 23-man special New York grand jury that the programs were rigged the jury continued its investigation calling before it some 200 witnesses. At the completion of its work, on June 10, 1959, the grand jury prepared

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50. N.A.R.T.B., Television Code, 1952, p. 7.

51. New York Times, September 1, 1958, p. 1.

a 12,000 word presentment on the rigging and fixing of quiz shows. (52) No further official action was taken by the New York grand jury, nor the District Attorney's office, as there was no law that specifically made rigged shows illegal in the state of New York. (53)

However the investigation was not concluded with the adjournment of the New York grand jury. On October 6, 1959 the House of Representatives Subcommittee on Legislative Oversight began its own inquiry into the television industry to determine if any legislation was needed in the area of program production to protect the public from fraudulent practices. (54) The Senate Subcommittee brought out to the public the testimony by quiz program producers that the programs were rigged by coaching contestants, prior to their appearances before the cameras, on how to give the correct answers and how to bite their nails at the right emotional moment. (55) Before the public exposure, it never occurred to quiz show producers that there was anything wrong with rigging a program. The producers felt the audience was no more cheated by the false atmosphere of a contest

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52. New York Times, June 11, 1959, p. 1.

53. Opatowsky, Stan. TV: The Big Picture. Revised Edition. (N. Y.: Collier Books, 1962), p. 249. The district attorney, Mr. Hogan, was able to convene the grand jury on statutes dealing with business fraud but was unable to relate the quiz programs to the business statutes.

54. New York Times, October 4, 1959, p. 7.

55. Weinberg, Meyer, TV in America: The Morality of Hard Cash (N. Y.: Ballantine Books, 1962), pp. 1-33.

that was not a contest than by the false claims of television commercials or by the fact that a play about Alaska was shot on a Hollywood sound stage. (56) Representative Oren Harris, chairman of the Subcommittee, did not agree and prepared legislation which would make the practices of rigged quiz contests illegal. (57)

The National Association of Broadcasters opened a fall conference in Washington, D. C., less than a week after the October House Subcommittee hearings exposing quiz frauds had ended. (58) Immediately the leadership of the association warned the delegates that proposed Congressional legislation was no idle threat and that the broadcast industry should take positive action against fraudulent quiz programs to reinstate itself in the public's esteem. (59) The conference came out in favor of developing a Television Code amendment specifically forbidding fraudulent programming. (60) The matter was turned over to the Television Code Review Board to study the possibility of such an amendment and to report its findings at a meeting of the Board of Directors in December of that year.

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56. Ibid., pp. 92-104.

57. Ibid., pp. 156-173.

58. Ibid., p. 94.

59. Variety, October 21, 1959, p. 1.

60. Ibid.



Before the Code Review Board was able to hold its December meeting the House Subcommittee conducted a second set of hearings on fraudulent practices in broadcasting. For one week, during November, 1959, the subcommittee heard testimony which revealed that broadcasters were involved in other deceitful practices besides rigged quiz programs. The public was made aware of the fact that supposedly "spontaneous" interview programs actually had their questions and answers rehearsed by the participants in advance of the program. (61) The scandal did not stop here; there was "payola", too. Record manufacturers had been giving undercover payments to radio and television disk jockeys to play, and falsely report upon the popularity of, certain records over the air waves. (62) The Federal Trade Commission moved against the record manufacturers, issuing orders requiring them "to cease and desist" from the practice of payola. (63) This order was based upon an investigation conducted by the F. T. C. following the subcommittee's hearings disclosing the practice of payola. From its study of record manufacturers the F. T. C. concluded that the practice of payola had led disk jockeys to misrepresent to listeners that records had been chosen according to

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61. New York Times, December 5, 1959, p. 47.

62. New York Times, November 19, 1959, p. 50.

63. New York Times, December 5, 1959, p. 47.

their merit. Payola, the F.T.C. reasoned, has "the capacity to suppress competition and to divert trade unfairly from..... competitors." (64)

When the F.T.C. moved against the manufacturers the F.C.C. took action towards stopping payola practices among broadcasters. In December, 1959, it required the more than 5,000 radio and television stations to determine whether their employees had engaged in payola. The F.C.C. inquiry revealed that personnel at some eleven percent of all radio and television stations had participated in payola, i.e., had received cash or some other valuable consideration. (65) The F.C.C. was acting according to the provisions of Section 317 of the Communications Act of 1934 which requires that all broadcast advertising be labelled as such by mentioning the name of the sponsor. (66)

At its December, 1959, meeting in Los Angeles the Television Code Review Board recognized the possibility of F.C.C. and F.T.C. action against broadcasters who had participated in various forms of

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64. Ibid.

65. New York Times, December 23, 1959, p. 40. When Frederick W. Ford became chairman of the F.C.C., he declared that the F.C.C. inquiry had failed to provide accurate findings. Commissioner Ford declared: "No one knows how extensive payola is. I don't know myself."

66. Emery, Walter B., Broadcasting and Government: Responsibilities and Regulations (East Lansing: Michigan State Univ. Press, 1961), p. 215.

fraudulent programming. There was also the threat of legislation by Congress directly outlawing the fraudulent practices which had been disclosed during the House of Representative Subcommittee's hearings. At the end of the meeting the Code Review Board announced that it had prepared code amendments aimed at quiz rigging, deceptive interview programs, payola and fraudulent practices in general. (67) Immediately the N.A.B.'s Television Board of Directors approved the Review Board's code amendments in order to prove that the industry could "clean its own house when necessary." (68) In July, 1960, the amendments became effective and the Television Code stated that telecasters should first of all remember that:

Program materials should enlarge the horizons of the viewer, provide him with wholesome entertainment, afford helpful stimulation, and remind him of the responsibilities which the citizen has towards his society. The intimacy and confidence placed in Television demand of the broadcaster, the network and other program sources that they be vigilant in protecting the audience from deceptive program practices. (69)

The code then indicated various practices which had been declared deceptive and strictly prohibited their use in television programming.

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67. Variety, December 9, 1959, p. 1.

68. New York Times, December 5, 1959, p. 47.

69. National Association of Broadcasters, Television Code. Sixth Edition. (Wash., D.C.: N.A.B., 1960), pp. 6-10.

Quiz and similar programs that are presented as contests of knowledge, information, skill or luck must, in fact, be genuine contests and the results must not be controlled by collusion with or between contestants, or any other action which will favor one contestant against any other.

No program shall be presented in a manner which through artifice or simulation would mislead the audience as to any material fact. Each broadcaster must exercise reasonable judgment to determine whether a particular method of presentation would constitute a material deception, or would be accepted by the audience as normal theatrical illusion.

The broadcaster shall be constantly alert to prevent activities that may lead to such practices as the use of scenic properties, the choice and identification of prizes, the selection of music and other creative program elements and inclusion of any identification of commercial products or services, their trade names or advertising slogans, within a program dictated by factors other than the requirements of the program itself. The acceptance of cash payments or other considerations in return for including any of the above within the program is prohibited except in accordance with Sections 317 and 508 of the Communications Act. (70)

The radio members of the N. A. B. did not make any additions to their code in 1960 prohibiting the practices of quiz rigging and payola. The broadcasters seemed to have been waiting for the F. C. C.'s investigation into the practice of payola to be concluded and for the Commission to make an interpretation of Section 317 of the Communications Act pertaining to the practice of payola. On March 16, 1960, the F. C. C. adopted a public notice which set forth several

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70. Ibid.

specific interpretation of Section 317 which required broadcasters to announce the donor's name on the air of free records, trips, props, and prizes used in connection with programming. (71) The N.A.B., the Federal Communications Bar Association, the networks and other segments of the broadcast industry raised questions regarding the Commission's interpretation and asked the F.C.C. to defer its interpretation. (72) Many broadcasters feared that it would require a large amount of air time to catalogue all the manufacturers and other who contribute to television and radio programming. (73)

Subsequently, the F.C.C. withdrew its interpretation when the Eighty-Sixth Congress amended Section 317 of the Communications Act, clarifying the law regarding announcements and disclosures of payments received in connection with the broadcast of recordings and other program materials. (74) As passed by Congress, the anti-payola bill did not require broadcasters to make an announcement when any freely contributed records or props were used in programs. The new law required a station to make an announcement only if such material was deliberately "plugged" on the air.

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71. Emery, op. cit., pp. 215-216.

72. Ibid.

73. New York Times, March 24, 1960, p. 26.

74. Emery, op. cit., p. 219. For the full text of the amendment see Appendix I of Dr. Emery's book, pp. 335-336.

With laws established by Congress at the end of September, 1960, making the practices of payola and deceptive contests illegal, punishable by fines or imprisonment, the radio members of the N. A. B. amended their code to prohibit the very same practice. The 1961 revised edition of the Radio Code made the following notations on deceptive programming in its section on "General" program standards:

The intimacy and confidence placed in Radio demand of the broadcaster, the networks and other program sources that they be vigilant in protecting the audience from deceptive program practices.

The broadcaster shall be constantly alert to prevent activities that may lead to such practices as the choice and identification of prizes, the selection of music and other creative program elements and inclusion of any identification of commercial products or services, their trade names or advertising slogans, within a program dictated by factors other than the requirements of the program itself. This expressly forbids that acceptance by producer, talent, or any other personnel of cash payments or other considerations in return for including any of the above within the program.

Quiz and similar programs that are presented as contests of knowledge, information, skill or luck must, in fact, be genuine contests and the results must not be controlled by collusion with or between contestants, or any other action which will favor one contestant against any other.

No program shall be presented in a manner which through artifice or simulation would mislead the audience as to any material fact. Each broadcaster must exercise reasonable judgment to determine whether a particular method of presentation would constitute a material deception, or would be accepted by the audience as normal theatrical illusion. (75)

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75. National Association of Broadcasters, Radio Code of Good Practices, Sixth Edition. (Wash., D. C.: N. A. B., 1960), pp. 7-8.

The Television Code deals with one additional area of deceptive broadcasting that the Radio Code has never had to concern itself about, "subliminal perception." In the 1958 revision of the Television Code a paragraph pertaining to the transmission of "subliminal" information stated:

The use of the television medium to transmit information of any kind by the use of the process called 'subliminal perception' or by the use of similar technique whereby an attempt is made to convey information to the viewer by transmitting messages below the threshold of normal awareness, is not permitted. (76)

Beyond these standards, the remaining articles in the section on general programming matters within both codes are primarily aimed at assuring that certain moral principles and institutions will be respected by broadcast productions. The Television Code seems to be more concerned about maintaining these principles than its radio counterpart. This often seems to be the case in a visual medium which can quickly and easily depict situations that demonstrate the immoral and risqué parts of life

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76. National Association of Radio and Television Broadcasters, Television Code. Fourth Edition. (Wash., D. C.: N.A.R.T.B., 1958), p. 10.

than a medium limited to audio presentations. (77)

The present Television Code lists 26 standards specifically dealing with morality, decency and decorum in production while the Radio Code contains only two such standards. Both of these standards in the Radio Code are repeated in the Television Code. The first one deals with the broadcasting of information connected with gambling activities. In 1935 the F. C. C. indicated that programs devoted to horse racing which benefited gamblers were not in the public interest; since that time broadcasters have been hesitant to broadcast odds prior to the start of a race. In the 1948 Radio Code the broadcasters extended the ideal to cover all sporting events where gambling might occur. The provision in the 1948 code stated:

The regular and recurrent broadcasting, in advance of sports events, of information relating to prevailing odds, the effect of

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77. There have been times when radio has demonstrated that it can easily produce risque programs through voice inflections and sound effects. The case in point was Mae West's sexy inflections and the sly rejoinders of Don Ameche, on the Chase and Sanborn Show broadcast over NBC, December 12, 1937. The manner in which the two participants read their lines during an "Adam and Eve" routine was considered objectionable, resulting in a storm of protests from the public and newspapers, a public reprimand from the F. C. C., a broadcast apology from the sponsor, and the barring of Miss West from further network programs. For a detailed description and account of this program see: Summers, H. B., Radio Censorship (N. Y.: H. W. Wilson Co., 1939), pp. 27-29; and Broadcasting-Telecasting, October 15, 1956, p. 258.



which could be expected to encourage gambling, should not be permitted. (78)

In 1952, the F. C. C. recognized that the broadcasting of odds connected with sports events could lend to the enjoyment of the events on the part of the audience without increasing the probability of gambling. Since that time the Commission has taken the position that the amount of time devoted to sports programs and the amount of information presented for the benefit of gamblers would be the important factor in determining whether such programs are against the public interest. (79) In 1954 the radio broadcasters revised the anti-gambling provision of their code to a simple statement recommending that:

Stations should avoid broadcasting program material which would tend to encourage illegal gambling or other violations of Federal, State and local laws, ordinances, and regulations. (80)

The telecasters' statement on the presentation of gambling information in their code, as stated in the original code of 1952 and continued in the present edition, is aimed at the program aspect of sports coverage. The Television Code states:

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78. National Association of Broadcasters, Standards of Practice for Radio Broadcasters, 1948, p. 9.

79. Emery, Broadcasting and Government, p. 249.

80. National Association of Radio and Television Broadcasters, Standards of Practice for Radio Broadcasters, 1954, p. 8.

Telecasts of actual sport programs at which on-the-scene betting is permitted by law should be presented in a manner in keeping with Federal, State and local laws, and should concentrate on the subject as a public sporting event. (81)

This provision is a restatement of the F. C. C. policy on broadcasts of horse races. The F. C. C. has continually stated that broadcast stations could not be exclusively used to serve the special interests of certain individuals or groups, in this case gamblers, but rather should become outlets of programs and information intended for the general public. (82)

In addition to this provision on restraint in presenting gambling information on sporting events the Television Code includes a provision intended to insure that the medium would not become a source of instruction in gambling techniques. This provision is aimed mainly at fictional and dramatic programs. Its purpose was to demonstrate to social critics of television that the industry did not intend to lower the morals of the country by teaching citizens how to participate in certain vices. However, the creators of the Television Code recognized that gambling is a part of human activity and as such could become subject material for dramatic presentations. To protect the public interest, but also to allow

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81. National Association of Radio and Television Broadcasters, Television Code, 1952, p. 8.

82. Emery, op. cit., p. 243.

production utilization of gambling devices, the Television Code tells broadcasters that:

The use of gambling devices or scenes necessary to the development of plot or as appropriate background is acceptable only when presented with discretion and in moderation, and in a manner which would not excite interest in, or foster, betting nor be instructional in nature. (83)

Broadcasters have realized that in certain cases a programming approach which may be acceptable to a vast majority of the audience may be offensive or embarrassing to one particular segment. Since the conception of standards for the broadcasting industry, provisions have been created to prohibit offensive material from reaching the air waves. Most of these prohibitions have been incorporated into sections of various revised codes dealing with specific program areas, such as religion and children's programs. During, and immediately following, the Second World War the broadcasters became cognizant that certain new topics for all types of programming were becoming available, but that some of these topics would have to be handled in discreet ways in order for them not to be offensive or embarrassing for some individuals or groups. The first provision covering these new topic areas appeared in the section on general program standards of the 1948 Radio Code. This provision warned broadcasters:

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83. N. A. R. T. B., Television Code, 1952, p. 8.

When plot development requires the use of material which depends upon physical or mental handicaps it should be used in such a way as to spare the sensibilities of sufferers from similar defects. (84)

This provision remains in the present Radio Code; however since its inclusion in the code the radio broadcasters have not added any further warnings pertaining to possible offensive or embarrassing program topics in the "General" section of the code. This may be explained by the fact that radio at present broadcasts very few dramatic programs but instead relies heavily on music and news presentations.

The Television Code, as written in 1952, followed the example of the Radio Code by proclaiming that:

In reference to physical or mental afflictions and deformities, special precautions must be taken to avoid ridiculing sufferers from similar ailments and offending them or members of their families. (85)

To insure that persons with physical or mental deformities would not be portrayed in a manner which would take undue advantage of them, the telecasters added to their code in 1954 a provision which states:

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84. N. A. B., Standards of Practice for Radio Broadcasters, p. 8.

85. National Association of Radio and Television Broadcasters, Television Code, 1952, p. 7.

Excessive or unfair exploitation of others or of their physical or mental afflictions shall not be presented as praiseworthy. (86)

This statement was added to a provision which was inserted in the original television code telling broadcasters that the presentation of "cruelty, greed and selfishness as worthy motivations is to be avoided." (87) These are two of six provisions in the television code which seeks to maintain respect for the rights and sensitivities of all people. Since its rise to national popularity in the late 1940's and early 1950's television has found itself with a most sensitive and responsive public. Its words and pictures make such a sharp impact, that many times they touch off a quick reaction from any number of individuals or special-interest organizations in nearly every field of human endeavor which feel that they have been portrayed in some derogatory manner by the medium.

Since the writing of the Television Code in 1952 many stations and the three networks had been receiving complaints from aggrieved national or state organizations in the areas of religion, education, community affairs, social welfare, the professions or industry and

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86. National Association of Radio and Television Broadcasters, Television Code. Revised Edition. (Wash., D. C.: N. A. R. T. B., 1954), p. 7.

87. National Association of Radio and Television Broadcasters, Television Code, 1952, p. 7.

business. These organizations alleged that television programs misrepresented or wrongly depicted their profession, ethnic groups, race or religious heritage. (88) These sensitive individuals and groups have approached the sponsors of television programs, the F. C. C., and Congress with their grievances. (89) Television officials acknowledge they are responsive to the sensitivities of their widely assorted audiences and aware of their responsibilities. (90) The Television Code has been a reflection of the telecasters' response in attempting to restrain personally offensive and defamatory material from reaching the air waves. The 1952 code referred to two such areas:

Attacks on religion and religious faiths are not allowed. Reverence is to mark any mention of God, His attributes and powers. When religious rites are included in other than religious programs the rites shall be accurately presented. The office of minister, priest or rabbi shall not be presented in such a manner as to ridicule or impair its dignity.

Law enforcement shall be upheld and, except where essential to the program plot, officers of the law portrayed with respect and dignity. (91)

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88. Broadcasting, April 10, 1961, p. 34. The list of those complaining could go on to infinity, all the way to the name of Melvin. Comedian Jerry Lewis used to impersonate an empty-headed character he called "Melvin." Protest from boys with that name persuaded him finally to drop the role.
89. Ibid.
90. Ibid.
91. National Association of Radio and Television Broadcasters, Television Code, 1952, p. 7.

In the 1954 revision of the Television Code the telecasters responded to the complaints of various foreign nationality groups which objected to television characterizations of individuals of foreign parentage in some dramatic programs. (92) Added to the code in 1954 were two amendments which told telecasters that:

Racial or nationality types shall not be shown on television in such a manner as to ridicule the race or nationality.

Words (especially slang) derisive of any race, color, creed, nationality or national derivation, except wherein such usage would be for the specific purpose of effective dramatization such as combating prejudice, are forbidden, even when likely to be understood only by part of the audience. From time to time, words which have been acceptable, acquire undesirable meanings, and telecasters should be alert to eliminate such words. (93)

The prohibition against the use of words which might mock individuals of any race or nationality was added to the telecasters' standards of practice even though the original code contained a statement on the proper language which could be used in television programs. The first provision on proper language for television was the outcome of a general attitude towards television programs which found expression in Congress and the F. C. C. during 1951.

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92. Broadcasting, April 10, 1961, p. 36.

93. National Association of Radio and Television Broadcasters, Television Code, 1954, pp. 6-7.

During that year F. C. C. Chairman Wayne Coy informed telecasters that the language and innuendoes used in programs would be carefully scrutinized by the Commission for profane, obscene, or indecent comments. (94) It was announced that any violators would be prosecuted under Section 1464 of the United States Criminal Code which states:

Broadcasting obscene language. Whoever utters any obscene, indecent, or profane language by means of radio communications shall be fined not more than \$10,000 or imprisoned not more than two years or both. (95)

Chairman Coy's warning came as a result of mounting complaints the F. C. C. had received from the public. In 1951, during a three month period, the F. C. C. had received over 1,000 complaints about television programs of which 25% were directed at "indecent, obscenity or profanity." (96) Television shows were said to be

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94. Broadcasting, June 25, 1951, p. 72.

95. Emery, Broadcasting and Government, p. 226. This prohibition against indecent, obscene and profane language was originally written into the Radio Act of 1927 and included in Section 326 of the Communications Act of 1934. In 1948, the section was deleted from the Communications Act and transferred to the U. S. Criminal Code. The F. C. C. has the duty to report any violations to the Justice Department which then acts accordingly. The F. C. C. may also refuse to renew the license of any station which allows obscene, indecent and profane language to be broadcast under the general provision in the Communications Act of the "public interest, convenience and necessity."

96. Broadcasting, June 25, 1951, p. 72.



"suggestive" in a number of respects; through ad-libbing, pantomime, and facial expressions a number of television comedians were accused of broadcasting "off-color innuendoes." (97)

In 1952 the telecasters' first code flatly stated that:

Profanity, obscenity, smut and vulgarity are forbidden, even when likely to be understood only by part of the audience. From time to time, words, which have been acceptable, acquire undesirable meanings, and telecasters should be alert to eliminate such words. (98)

To insure that all telecasters would be aware of terms unacceptable for television programs the 1952 code further directed that:

The Television Code Review Board shall maintain and issue to subscribers, from time to time, a continuing list of specific words and phrases, the use of which should not be used in keeping with this subsection. This list, however, shall not be considered as all-inclusive. (99)

This directive to the Television Code Review Board was deleted from the Television Code in 1954 when the provision on words aimed at nationalities was added.

The Television Code prohibits the broadcasting of lottery information as does the U. S. Criminal Code.

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97. Smead, Elmer E., Freedom of Speech by Radio and Television (Wash., D. C.: Public Affairs Press, 1959), p. 8.

98. National Association of Radio and Television Broadcasters, Television Code, 1952, p. 6.

99. Ibid.

Section 1304. Broadcasting lottery information. Whoever broadcasts by means of any radio station for which a license is required by any law of the United States, or whoever, operating any such station, knowingly permits the broadcasting of any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes, shall be fined not more than \$1,000 or imprisoned not more than one year or both. (100)

Originally, Section 316 of the Communications Act prohibited the broadcasting of lottery programs, but in 1948 the section was repealed by Congress and incorporated into the U. S. Criminal Code. (101) Prior to World War II the F. C. C. acting under Section 316 deemed "give-away" shows on radio as constituting lotteries and referred seven programs to the Department of Justice for prosecution. (102) Among them was a program very popular during the late 1930's and early 1940's called "Pot O' Gold." During this program, a telephone number was selected by lot and a prize was granted to the person called if he answered the phone and was listening to the program at the time. In the opinion of the Attorney General the reported programs were not in violation of

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100. 18 U.S.C., Section 1304 cited by Emery, loc. cit.

101. Ibid.

102. Smead, op. cit., p. 16.

the law and so the Justice Department refused to prosecute. (103)

After the Second World War the number of "give-away" shows being broadcast increased and so did the F. C. C.'s determination to ban them from the air waves. In 1946 broadcasters became concerned that the Commission was planning to take action against stations which broadcast "give-away" programs through its licensing powers. The scare was instigated when the application of WWDC, Washington, D. C., for an FM license was denied partly due to the station's plan to duplicate on FM a "give-away" program of "questionable legality" being carried on its AM facilities. (104)

At the time of the WWDC case, the Commission announced that it was going to study the problem of "give-away" programs to prepare for issuance of general, industry-wide rules on the matter. It was the F. C. C.'s opinion that the establishment of rules as to what types of programs actually constituted lottery programs offered many advantages over the licensing procedure. (105) Subsequently, the F. C. C. banned any "give-away" program where the winner of a prize was selected by chance if he was required (1) to furnish any money or thing of value or have in his possession any product sold, manufactured, furnished or distributed by a sponsor or a program

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103. Ibid.

104. Ibid. However, WWDC's application was later granted by the F. C. C.

105. Ibid.

broadcast on the station; (2) to be tuned in to the program; (3) to answer correctly a question, the answer to which was given on a program over the station; (4) to answer the telephone or write a letter in a prescribed manner or respond with a certain phrase if it had been broadcast over the station. (106)

The announcement of the proposed regulations brought forth expressions of approval and disapproval from the industry. While some broadcasters protested the F. C. C.'s proposal as a form of censorship other broadcasters publicized their claim that their aversion to "give-away" shows antedated the Commission's. (107) These broadcasters felt that "give-away" shows made for bad public relations, diverted talent and money from the development of good programs, and constituted bad business. (108) It was the contention of these broadcasters that through "give-away" shows audiences were built through "artificial stimulation" which made for an unreliable public as the listeners were being taught to hop from give-away to give-away thus producing dial twisters instead of loyal listeners. (109) In an editorial Broadcasting magazine noted that the business side of

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106. Emery, Broadcasting and Government, p. 225.

107. Smead, Freedom of Speech by Radio and Television, p. 17.

108. Broadcasting, July 26, 1948, p. 30.

109. Ibid.

broadcasting was being hurt by give-away shows. It commented that in such programs it was common practice to give manufacturers "free rides by publicity for their products which were given as prizes on programs whose high cost was being borne by sponsors. These accounts will be lost to radio as long as they can get air credit on full network, regional nets and individual stations. It is rate-cutting in its most exaggerated form." (110)

Some broadcasters welcomed the rule making procedure by the F. C. C. on the grounds that it would clarify the meaning of the lottery statute, thus ending the doubts which had plagued them for years as to what actually constituted a lottery. (111) Dislike of give-away shows, however, did not always lead to approval of F. C. C. regulations. In many instances, broadcasters thought the solution rested in self regulation. Hence, the N. A. B. in its revised radio code of 1948 declared in the section on "Advertising Standards" in provisions covering contests:

Any broadcasting designed to 'buy' the radio audience, by requiring it to listen in hope of reward, rather than for the quality of its entertainment should be avoided.

Contests should offer the opportunity to all contestants to win on the basis of ability and skill, rather than chance.

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110. Ibid.

111. Smead, op. cit.

All contest details, including rules, eligibility requirements, opening and termination dates should be clearly and completely announced or easily accessible to the listening public; and the winners' names should be released as soon as possible after the close of the contest.

When contestants are required to submit items of product identification or other evidence of purchase of product, reasonable facsimiles thereof should be made acceptable.

All copy pertaining to any contest (except that which is required by law) associated with the exploitation or sale of the sponsor's product or service, and all references to prizes or gifts offered in such connection should be considered a part of and included in the total time limitations heretofore provided. (112)

All such broadcasts should comply with pertinent Federal, state and local laws and regulations. (113)

Subsequently, when the Television Code was drafted the telecasters stated in their section "General Program Standards" that, "Contests may not constitute a lottery." (114) This section of the code also warned telecasters that:

Any telecasting designed to 'buy' the television audience by requiring it to listen and/or view in hope of reward rather than for the quality of the program, should be avoided. (115)

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112. The N. A. B. codes in the section on "Advertising Standards" prescribes certain time limitations which could be allotted to commercial presentations within programs. These time standards for advertising copy were pro-rated to length of program and time of day when broadcast.

113. N. A. B., Standards of Practice for Radio Broadcasters, 1948, p. 10.

114. N. A. R. T. B., Television Code, 1952, p. 9.

115. Ibid.

These provisions appear in the present Television Code; however the radio broadcasters have changed the wording of their section on "Contests" since its inclusion in 1948. The revisions followed the 1954 ruling by the U. S. Supreme Court that give-away programs did not constitute lotteries as long as the element of consideration, necessary to the legal definition of lottery, was missing. (116) This decision was rendered by the Supreme Court in a case in which a national network challenged the F. C. C.'s definition of lottery as pertaining to give-away programs. With its rules designed to ban give-away shows declared unwarranted, the Commission then formulated new rules in 1954 prohibiting the broadcast of programs or information involving all three elements of a lottery as defined by the courts: prize, chance and substantial consideration. (117) Under the new rules the Commission repeated the language of the Criminal Code and further stated in a second paragraph:

The determination whether a particular program comes within the provision of paragraph (a) of this section depends on the facts of each case. However, the Commission will in any event consider that a program comes within the provisions of paragraph (a) of this section if in connection with such program a prize consisting of money or thing of value is awarded to any person whose selection is dependent in

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116. FCC vs. ABC, 347 U.S. 284 at 219 (1954).

117. Emery, Broadcasting and Government, p. 226.

whole or in part upon lot or chance, if as a condition of winning or competing for such prize, such winner or winners, are required to furnish any money, or thing of value or are required to have in their possession any product sold, manufactured, furnished or distributed by a sponsor of a program broadcast on the station in question. (118)

In the revised Radio Code of 1955 the statement in the section pertaining to contests which prohibited broadcasters from trying to "buy" their audience through the hope of rewards for listening to the program was deleted. (119) The rest of the section remained as it was written in 1948. That is to say, the N.A.B. adjusted its standards in line with the ruling of the Supreme Court; and programs like "Stop the Music," "What's My Name," and similar features on network radio were now sanctioned not only by the courts but also by the broadcasters' own standards of practice.

The remaining provisions in the Television Code's section on "General Program Standards" deal with specific subject matter which if not presented in certain ways could be interpreted as lewd or risque. During the many years of the codes' growth and development the radio broadcasters found that the quickest way to bring federal censorship down upon the industry is to invite it through lewd or risque broadcasts. Telecasters became aware of this fact in early

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118. Section 3122. 1 Rules and Regulations 53:232-233; adopted May 19, 1954, 19 Fed. Reg., 3054 (1954) effective June 26, 1954.

119. N.A.R.T.B., Standards of Practice for Radio Broadcasters, 1955, p. 12.



1951 when mountains of criticism were poured upon them, especially from Congressional circles. Most of the criticism was aimed at what was called television's preoccupation with sex, horror dramas and other abuses in video programs.

The criticism was climaxed by various Congressional leaders who favored legislation that would "clean up television programs which are brought right into the home for all the members of the family to see." (120) Typical of proposed bills was the one introduced by Representative Thomas J. Lane, Democrat of Massachusetts, which would have provided for government censorship of television to clean up what he called "lewd and repulsive" programs. (121) His bill would have authorized the F. C. C. to issue regulations to prevent "any language, sound, image, picture or other matter or thing which is obscene, lewd, lascivious or otherwise offensive to public decency" in television programs. (122) However, such legislation was never passed.

While many of the complaints were accompanied by demands for regulation by the F. C. C. the Commission adopted a policy of being lenient with the television industry. Instead of undertaking punitive

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120. New York Times, April 4, 1951, p. 40.

121. Ibid.

122. Ibid.

processes the F. C. C. issued warnings and expressed the hope that the industry could instigate its own reforms. (123) It was the Commission's contention that the industry could and would cure many of the defects noted by its critics which were due primarily to the newness of the medium and its need for mass audiences in order not to operate in the red. (124) The National Association of Broadcasters responded; its 1952 code for television went into considerable detail in denouncing over emphasis in all types of programs, and especially entertainment shows, on drink pouring or other "harmful" activities which might be imitated by viewers, on crime and horror, racy dancing and the lack of proper apparel for feminine performers.

One of the N. A. B. provisions aimed at eliminating offensive material from television programs dealt with certain products and activities which some pressure organizations have continually felt to be harmful to the public interest. First among such products is the use of liquor. Ever since the beginning of commercial broadcasting liquor has been a constant problem for the industry. During the 1920's the broadcasting of anything to do with the manufacturing and consumption of alcohol was nonexistent because of the Eighteenth Amendment to the Constitution of the United States,

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123. Smead, Freedom of Speech by Radio and Television, p. 8.

124. Ibid.

banning the manufacture and sale of alcohol. In fact radio stations actually feared to permit broadcasts of attacks against the Eighteenth Amendment. (125) Broadcasters credited the Anti-Saloon League with enough power in Washington to get their licenses revoked. (126) When the Eighteenth Amendment was repealed in 1933 there was a great deal of hesitation on the part of many radio stations to carry advertising for hard liquor. (127) This was in part a result of a fear by broadcasters that many Congressional leaders who were not completely in favor of radio as an advertising medium might use the broadcasting of hard liquor commercials as an excuse for issuing legislation limiting the use of advertising on radio. Right after the repeal the Federal Radio Commission issued in a press release what was taken to be by broadcasters as the official government position on the subject. The F. R. C. stated that:

Although the Eighteenth Amendment of the Constitution of the United States has been repealed by the Twenty-first, and so far as the Federal Government is concerned there is no liquor prohibition, it is well known that millions of listeners throughout the United States do not use intoxicating liquors and

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125. Landry, Robert J., This Fascinating Radio Business (Indianapolis, N. Y.: Bobbs-Merrill Co., 1946), p. 89.
126. Ibid. This view by broadcasters during the prohibition period brought forth a number of charges by "wets" that radio stations were censoring them off the air. Such "wets" as Senators James W. Wadsworth, William G. McAdoo, and Hudson Maxim all had complaints that they were censored by radio licensees.
127. Broadcasting-Telecasting, October 15, 1956, p. 176.

many children of both users and nonusers are part of the listening public. The Commission asks that broadcasters and advertisers bear this in mind. (128)

This was a sufficiently broad hint; but the Commission did not let the matter rest with a hint. The press release went on to state more explicitly: "The Commission will designate for hearing the renewal applications of all stations unmindful of the foregoing." (129)

Ever since the repeal of the Eighteenth Amendment prohibition has continued as far as the broadcasting industry is concerned. Part of the prohibition is self imposed by the industry. In 1938 the Board of Directors of the N. A. B. adopted the following resolution:

Resolved, that it is the sense of the N. A. B. Board of Directors that American broadcasting stations should not carry advertising for distilled spirits commonly called hard liquor. (130)

This resolution was placed in the 1939 N. A. B. code as a special resolution implementing the code's section on "Commercial Programs and Length of Commercial Copy." (131) The 1939 code simply stated that acceptance of commercial announcements should be based on "accepted standards of good taste." (132) However the N. A. B.,

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128. Landry, op. cit., p. 89.

129. Ibid.

130. New York Times, December 18, 1938, sec. x, p. 10.

131. National Association of Broadcasters, Standards of Practice for Radio Broadcasters, 1939, p. 4.

132. Ibid.

immediately following the issuance of the code, added to it an interpretation of the phrase. This was done because the association felt that various interpretations of the phrase could occur in different parts of the country and a more or less uniform interpretation was necessary as radio broadcasting covered a variety of communities. (133) Therefore, the N. A. B. resolved that any interpretation of the phrase "accepted standards of good taste" would, in addition to the common interpretations the phrase would have in any community, include a number of specific products and services. (134) Among the products mentioned was hard liquor: "Member stations shall not accept for advertising: (1) Any spirituous or 'hard' liquor." (135)

The amendment to the 1939 code specifically prohibiting the advertising of "hard liquor" was formed and implemented just four months after the F. C. C. had issued its list of program taboos which included, among other things, "liquor advertising" and "booze glorification." (136) While the F. C. C. has never created any formal rules which would officially forbid the broadcasting of advertisements for "hard liquor," and likewise there is no Federal statute prohibiting it, the Commission has constantly made it clear that it disapproves

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133. New York Times, July 13, 1939, p. 16.

134. Ibid.

135. National Association of Broadcasters, op. cit.

136. Variety, March 8, 1939.

of such practices. (137) The Commission believes that the broadcasting of commercials which are designed in any manner to encourage the use of "hard liquor" is not in "the public interest, convenience or necessity." (138)

The N. A. B. 's Radio Code has continuously prohibited the advertising of "hard liquor" but has never mentioned the use of such beverages in dramatic productions. The N. A. B. 's justification for the prohibition against "hard liquor," and other products or services is stated in the present Radio Code:

A commercial radio broadcaster makes his facilities available for the advertising of products and services and accepts commercial presentations for such advertising. However, he shall, in recognition of his responsibility to the public, refuse the facilities of his station to an advertiser where he has good reason to doubt the integrity of the advertiser, the truth of the advertising representations, or the compliance of the advertiser with the spirit and purpose of all applicable legal requirements. Moreover, in consideration of the laws and customs of the communities served, each radio broadcaster shall refuse his facilities to the advertisement of products and services, or the use of advertising scripts, which the station has good reason to believe would be objectionable to a substantial and responsible segment of the community. (Emphasis added) (139)

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137. Emery, Broadcasting and Government, p. 243. The F. C. C. 's authority with respect to the matter is limited to the consideration of applications for renewal of licenses.

138. Ibid., p. 249.

139. N. A. B., Radio Code of Good Practices, 1964, pp. 10-11.

Following the same philosophy as the radio broadcasters the telecasters in their code's section on "Acceptability of Advertising and Products," presently titled "General Advertising Standards," banned from the air waves the advertising of hard liquor. (140) However, unlike the Radio Code, the Television Code allows the advertising of beer and wine under the specification that such advertising would be permissible "only when presented in the best of good taste and discretion, and is acceptable only subject to Federal and local laws." (141) By "good taste and discretion" the N.A.B. means that there be no actual on-camera consumption of beer and wine. (142) Actually the telecaster ever since the implementation of their code have been mainly concerned with any type of pictorial or verbal presentation which might induce the use of hard liquor. This was emphasized in a 1961 interpretation of

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140. National Association of Radio and Television Broadcaster, Television Code, 1952, p. 13.

141. Ibid., p. 14.

142. Broadcasting, April 3, 1961, p. 50. The Television Code Review Board in 1961 condemned even the practice of some beer advertisers which used special photographic techniques to show first a full glass of beer and then an empty one. It was the board's opinion that to imply consumption of the product by such devices was at variance with "the spirit and intent of the good taste provision."

of the advertising standards by the Television Code Review Board. (143) During the summer of 1961 a number of television stations which subscribed to the Television Code asked the review board for a judgment as to the acceptability of commercials for cocktail mixes; as covered by the ban against hard liquor in the Code. (144) The board's interpretation of the Code language was as follows: "This restraint applies to the advertising of products and/or services in themselves not hard liquor, but which in their presentation induce the use of hard liquor." (145)

This vigilance against the possibility that television presentations could "induce the use of hard liquor" was established by the Television Code in its original draft. In the wake of Congressional and pressure group criticism about the emphasis

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143. National Association of Broadcasters, "Interpretations of the Television Code." The Television Code. Seventh Edition. (Wash., D. C.: N.A.B., 1962), p. 4.

144. Broadcasting, October 17, 1961, p. 50.

145. Broadcasting, December 18, 1961, p. 54. This interpretation occurred in the wake of criticism and hints of legislation to ban beer and wine advertising from all broadcast media by various U.S. Senators. The threats came from Senator John O. Pastore, Democrat of R. I., chairman of the Communications Subcommittee, and Senator Warren G. Magnuson, Democrat of Washington, chairman of the powerful commerce committee, when it was disclosed by stories in trade publications that an unnamed advertising agency was asking stations whether they would or would not carry advertising for hard liquor. The senators warned at the time that an advertising ban would come if broadcasters did not stick to their promises that such advertising would not be accepted.



on drinking of hard liquor in television programs the writers of the Television Code reminded telecasters:

Drunkenness should never be presented as desirable or prevalent. The use of liquor in program content shall be de-emphasized. The consumption of liquor in American life, when not required by the plot or for proper characterization, shall not be shown. (146)

This provision remains in force in the present Television Code.

Besides liquor, the telecasters in 1952 also seemed to be concerned about their medium wrongfully portraying the use of narcotics. In order to quell any possibility that a television presentation could be interpreted as instructing viewers in the manner by which drugs are administered, which could result in protests from the viewing public, regulators, and Congress, the 1952 code for television strictly forbade the displaying of the administration of illegal drugs. (147) The same code also limited the use of narcotic addiction as subject matter in dramatic programs by indicating that it could never be presented "as desirable or prevalent." (148) However, when "adult" dramatic programs began to present various social issues as themes for their shows in the late 1950's and early 1960's the Television Code was changed to read:

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146. National Association of Radio and Television Broadcasters, Television Code, 1952, p. 8.

147. Ibid.

148. Ibid.

Narcotic addiction shall not be presented except as a vicious habit. The administration of illegal drugs will not be displayed. (149)

Another subject matter which the telecasters took up in their 1952 code was fortune-telling, along with occultism, astrology, phrenology, palm-reading and numerology. Ever since its formation the F. C. C. has repeatedly made known to the broadcasting world that in its opinion programs describing astrology or "other fake sciences" and fortune-telling in any form are contrary to the public interest. (150) Radio broadcasters in their code's section on advertising standards have since its creation stated openly that any programs which present "any fortune-telling, mind-reading, or character reading, by hand-writing, numerology, palm-reading, or astrology, or advertising related thereto" is not within the realm of "accepted standards of good taste" and should not be presented by ethical stations. (151) The N. A. B.'s Radio Code has never established standards pertaining to the use of such pseudo sciences as subject matter within dramatic or fictional programs. The telecasters incorporated the same prohibition in their code under

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149. National Association of Broadcasters, The Television Code, 1962, p. 8.

150. Emery, Broadcasting and Government, p. 243.

151. National Association of Broadcasters, Standards of Practice Radio Broadcasters, 1939.

the section dealing with the acceptability of advertisers and products. (152) While banning fortune-telling and the like from advertising presentations the telecasters also felt it was necessary to state specific standards guiding the use of such material in dramatic presentations. As with hard liquor and narcotics, the telecasters were aware that various critical "watch-dogs" of television felt that the visual portion of the medium was capable of instructing viewers in habits which could be detrimental to the public health. In order not to be charged with the presentation of anything by means of television which would be against the interest of the public the Television Code instructed telecasters that within dramatic programs and programming in general:

Exhibitions of fortune-telling, occultism, astrology, phrenology, palm-reading and numerology are acceptable only when required by plot of the theme of a program, and then the presentation should be developed in a manner designed not to foster superstition or excite interest or belief in these subjects. (153)

Another set of provisions written into the 1952 Television Code was designed to meet the criticism leveled at the type of crime and horror programs presented by the medium. Like the provisions dealing with liquor, gambling and pseudo sciences the main concern the broadcasters faced in formulating the standards by which crime

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152. N.A.R.T.B., Television Code, 1952.

153. Ibid., p. 8.

and horror programs should be constructed was that the programs in general would not instruct viewers or suggest to viewers that the situations enacted be imitated. Telecasters were told in the 1952 Code, and still are, that:

Criminality shall be presented as undesirable and unsympathetic. The condoning of crime and the treatment of the commission of crime in a frivolous, cynical or callous manner is unacceptable. The presentation of techniques of crime in such detail as to invite imitation shall be avoided.

The presentation of murder or revenge as a motive for murder shall not be presented as justifiable.

Suicide as an acceptable solution for human problems is prohibited.

The use of horror for its own sake will be eliminated; the use of visual or aural effects which would shock or alarm the viewer, and the detailed presentation of brutality or physical agony by sight or by sound are not permissible.

Sex crimes and abnormalities are generally unacceptable as program materials. (154)

Portrayals of family life and marriage came under criticism prior to 1952. (155) Subsequently the telecasters placed in the 1952

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154. Ibid.

155. New York Times, October 29, 1951, p. 32. An example of the type of program which gave rise to criticism of television's treatment of matrimony occurred on a "Lights Out" program in 1951. According to New York Times television critic Jack Gould, the whole program revolved around the theme of a man trying to sell his wife for \$50,000.

code the provision that within all television programming:

Respect is maintained for the sanctity of marriage and the value of the home. Divorce is not treated casually as a solution for marital problems. (156)

This provision was reinforced by another provision which was placed in the code at the same time. To insure "the sanctity of marriage" within television presentations the code stated that, as far as any type of program was concerned, "illicit sex relations are not treated as commendable." (157) In addition:

The use of locations closely associated with sexual life or with sexual sin must be governed by good taste and delicacy. (158)

Accompanying the cries in 1952 that television was glorifying vice and crime came the charge that too many variety and panel programs leaned toward the risque in costuming, suggestive movements by performers, and camera angles which showed more of the participants than some people thought necessary. (159) It has been noted by some historians of broadcasting that during the early period of television's growth nothing in the broadcast industry could

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156. National Association of Radio and Television Broadcasters, Television Code, 1952, p. 7.

157. Ibid.

158. Ibid.

159. New York Times, October 29, 1951, p. 32.

cause temperatures in Congress to rise faster than the descent of Faye Emerson's neckline. (160) Many professional critics objected to the continual quotation of Dagmar's bust measurements, "as though it might go beyond a legal limit, like the national debt." (161) As in other areas of program production where loud and clear criticism has been voiced by Congress and vocal public interest groups, the telecasters formulated standards in an attempt to eliminate risque pictorial content. In the 1952 Television Code these standards were installed in a section titled "Decency and Decorum in Production," later these provisions were integrated into the section on general programming standards where they appear at present. (162) According to the provisions, decency and decorum in television productions can be obtained and maintained if telecasters make sure that:

The costuming of all performers shall be within the bounds of propriety and shall avoid such exposure or such emphasis on anatomical detail as would embarrass or offend home viewers.

The movement of dancers, actors, or other performers shall be kept within the bounds of decency, and lewdness and impropriety shall

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160. Ibid.

161. Ibid.

162. National Association of Radio and Television Broadcasters, Television Code, 1952.

not be suggested in the positions assumed by performers.

Camera angles shall avoid such views of performers as to emphasize anatomical details indecently. (163)

In 1954 the telecasters added a provision to the general programming section of their code dealing with the treatment of animals within television programs. During the period between the implementation of the first television code and publication of the second edition in 1954 a number of humane societies notified television networks and program production companies that they were concerned about the treatment given to animals in some television programs. (164) Their main area of concern was western programs where horses were required to fall while running at full speed. There was also a protest from some humane society groups against the telecasting of rodeos. (165) It was their general contention that rodeos were inhumane to animals and therefore in the public interest they should not be shown or promoted by television. The industry undertook a couple of measures to reduce the anxieties of the humanitarians. First, the networks and program production companies made arrangements whereby a representative of the Humane Society would be present during the

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163. National Association of Broadcasters, The Television Code, 1962, p. 9.

164. Broadcasting, April 10, 1961, p. 36.

165. Sponsor, June 17, 1963, pp. 39-40.

production of any program utilizing animals to make sure that the animals were treated correctly. (166) Second, the National Association of Radio and Television Broadcasters placed a provision in its television code affirming the arrangement established by the networks and production companies.

The use of animals both in the production of television programs and as part of television program content, shall at all times, be in conformity with accepted standards of humane treatment. (167)

As indicated earlier, the Radio Code in its section outlining standards for dramatic programs parallels closely the standards for crime and horror programs established in the Television Code's "General Program Section." Provisions aimed at respect for the rights and sensitivities of all people and the sanctity of marriage and the home are stated in the "Radio Broadcaster's Creed" which preface the Radio Code. (168) The only provisions which appear in the Television Code which are not repeated in idea or purpose in the Radio Code are those which cover decency and decorum in production. On the other hand, the Radio Code's section on general programming clearly states:

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166. Ibid.

167. National Association of Radio and Television Broadcasters, Television Code, 1954, p. 7.

168. N.A.B., Radio Code of Good Practices, 1962, p. 3.



In cases of programs broadcast over multiple station facilities, the originating station or network shall assume responsibility for conforming such programs to this Radio Code. (169)

The Television Code makes no such differentiation. It places the responsibility for all matter transmitted squarely on the shoulders of each telecaster regardless of where the program is originated. (170)

This philosophy is the same as that expressed by the F. C. C. (171)

It was the contention of the framers of the Radio Code when they included the provision defining the responsibility for program matter broadcast over multiple facilities that in actual practice only the originating station would be able to maintain control of the content. The Television Code, like the F. C. C., claims that any station has the right as well as the responsibility to reject for transmission a program from any source which is not in the public interest.

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169. N. A. B., Standards of Practice for Radio Broadcasters, 1948.

170. N. A. B., "Preamble." The Television Code, 1962, p. 2.

171. Emery, Broadcasting and Government, pp. 228-232.

## Chapter 4

### PROCEDURES OF ENFORCEMENT

The National Association of Broadcasters, a non-profit organization, was created to:

"..... foster and promote the development of the arts of aural and visual broadcasting in all its forms; to protect its members in every lawful and proper manner from injustices and unjust exactions; to do all things necessary and proper to encourage and promote customs and practices which will strengthen and maintain the broadcasting industry to the end that it may best serve the public. "(1)

Members of the N. A. B. set the policy and make the decisions on industry affairs in order to achieve their objectives. The responsibility for activating N. A. B. policies lies with the association's Board of Directors, which is composed of representative radio and television broadcasters who are elected by their fellow members. The Board of Directors is subdivided into a Radio and a Television Board, each with its own chairman. It is through this extensive administrative structure that the broadcasting industry has developed its codes of broadcasting standards and certain procedures for enforcing them.

#### History of Enforcement Procedures

The history of broadcast self-regulation has been marked by

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1. National Association of Broadcasters, History of the National Association of Broadcasters (Wash., D. C.: N. A. B., 1963), p. 1.

a series of codes and standards, all of which have been designed to do a dual job: keep broadcast programming ethics at a level that will forestall organized public criticism and at the same time keep the government from supervising broadcast programming decisions.

While government at times has refrained from intruding into the area of programming the critics have been constantly active in assailing the content as well as the types of programs provided by broadcasters. Ever since the implementation of self-discipline as an industry policy critics have argued that strict governmental regulation of programming is essential because broadcasters cannot enforce their own codes. Testimony to this weakness in self-regulation has also come from governmental officials and broadcasters. For example, the Federal Communication Commission during its study of broadcasting performances, which culminated in its "Report on Public Service Responsibility of Broadcast Licensees," declared that its findings indicated "that on networks and stations alike, the N.A.B. standards are as honored in the breach as in the observance." (2) The N.A.B. has admitted since the days of its first code that, while there is extensive voluntary obedience to the standards, there are, and will continue to be, many stations who

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2. F.C.C., Public Service Responsibility of Broadcast Licensees (Wash., D.C.: Government Printing Office, 1946), pp. 79, 38-47.

ignore their own rules. (3)

In 1939, along with the writing of a detailed code, the N. A. B. created its first Code Compliance Committee. This committee consisted of eight broadcasters and one full time secretary. The authority of the committee merely existed in acting as an advisory group to interpret the code's provisions upon request from broadcasters. (4) It had no other authority to actively enforce the code. However from 1939 to the present the broadcasters have often considered how they could "put teeth" into their codes in order to meet the charge that the industry is incapable of enforcing its own codes. The problem has been difficult. One obstacle has been a fear of the anti-trust laws and the extent to which the laws will allow the N. A. B. to regulate the entire broadcasting industry. For this reason, black-listing or boycotting has never been attempted. (5)

During the era before the 1950's the N. A. B. felt that expulsion of offenders from the organization, while possible, would not be an effective control. In fact it was felt that during these early days of code development such action would weaken the N. A. B. ; the

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3. Smead, Elmer E., Freedom of Speech by Radio and Television (Wash., D. C.: Public Affairs Press, 1959), p. 98.

4. Broadcasting Yearbook, 1941, p. 314.

5. Ibid., p. 98.

association needed the revenues from membership dues in order to keep operating and its capacity to speak for the industry with governmental officials would have diminished with a decline in membership. It was evident at the time, from past experiences, that many members would not take expulsion seriously. In fact, broadcasters had even taken the initiative by threatening to resign if code provisions were too restrictive or if any discipline against offenders was attempted. So the first ten years of code enforcement were spent in bringing into membership as many stations as possible with very little criticism of station performance. (6)

In 1946, G. A. Richards, president of WGAR, Cleveland, and KMPC, Los Angeles, proposed the adoption of a system patterned along the lines of the motion picture code authority. (7) It was suggested that an "Advisory Council" composed of radio executives, sponsors and advertising agencies, be formed whose function would be to "improve" programs. This proposal produced rumors that the industry was considering a "Czar" system of self-regulation. Broadcasters protested vigorously any idea of forced compliance. As a result, the N.A.B. immediately denied that this kind of control was intended and the industry fell back upon "strictly voluntary" obedience to the code. (8)

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6. Broadcasting-Telecasting, November 12, 1956, p. 118.

7. Smead, op. cit., p. 98.

8. Ibid., p. 99.

Telecasters became the first N. A. B. group to initiate an enforcement procedure. Enforcement was placed in the hands of a Television Code Review Board that reports to the N. A. B.'s Television Board of Directors. The Television Code of 1952 created a "Seal of Approval" which is granted to all subscribing stations to certify that they are members of the Code in "good standing." A system for evaluating performances of subscribers was established along with an intricate procedure for processing complaints and charges against members.

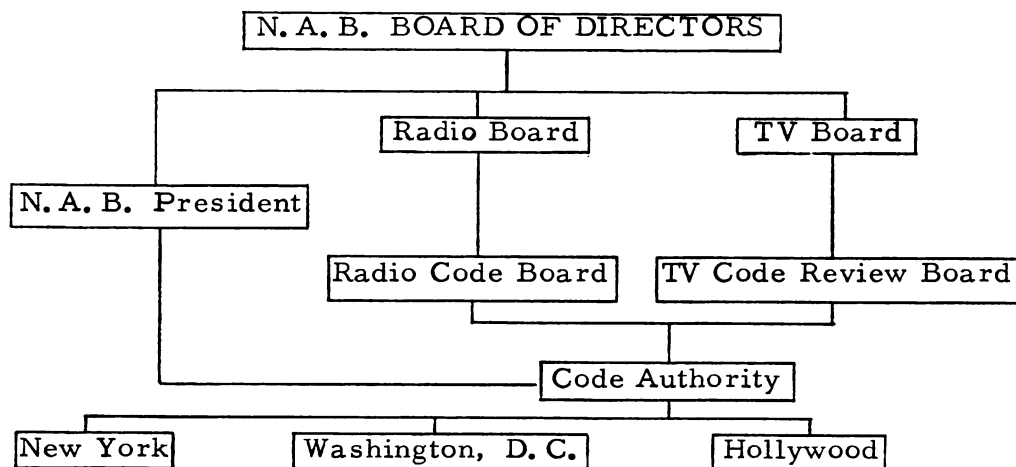
Radio's codes and standards were based on "voluntary" enforcement until 1958 when a pledge-of-allegiance was adopted for stations. Code subscribing stations were provided with a seal similar to the Television Code's seal. In 1960 a Radio Code Board was created along the same lines as the Television Code Review Board.

The administration, requirements for membership and enforcement procedures of the Radio Code directly parallel those established for the Television Code. These provisions are stated in the N. A. B.'s "Regulations and Procedures of the Television Code" and "Regulations and Procedures of the Radio Code."

#### N. A. B. Code Review Boards

The N. A. B., at present, has a comprehensive organizational structure established by broadcasters to enable it to utilize the

specialized knowledge of its members in considering industry problems. The overall governing body of the association is the Board of Directors. Working closely with the Board on all industry matters is a full-time paid president, who is in charge of a full-time staff. The Board of Directors is made up of radio and television broadcasters who also participate on separate boards to handle specific problems in their respective broadcast areas. The Radio Board has twenty-nine members and the Television Board fifteen. (9) Under the Radio and the Television Boards are a Radio Code Board, consisting of nine leading station executives, and a Television Code Review Board, composed of nine telecasters. The day-to-day operation of both codes is handled by a full-time Code Authority Director.




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9. Broadcasting, June 24, 1963, p. 73.

According to the "Regulations and Procedures" of the Radio and Television Codes there will be "continuing committees entitled the Television Code Review Board," for television, and the Radio Code Board, for radio stations. The chairmen and members of the two boards must be subscribers to their respective codes and are appointed by the president of the N. A. B., subject to confirmation by the Television Board and the Radio Board. The Television Code Review Board may include one member from each of the subscribing nationwide television networks. The three national television networks have been eligible to subscribe to the Television Code since its creation. Radio networks were not permitted to join the Radio Code until July 1, 1964. Members of the Television and Radio Boards are not eligible to serve on the code boards. Appointments to both code boards are made upon consideration of such factors as diversification of geographical location, market size, company representation and network affiliation.

Members of each code board serve for a period of two years, and a person cannot serve consecutively as a member of a code board for more than two two-year terms. However, this limitation does not apply to network representatives on the Television Code Review Board. Unlike the stipulations for the Radio Code Board, the "Regulations and Procedures of the Television Code" state that no person can continue as a member of the Television Code Review Board if the station or entity he represents ceases to subscribe to



the Television Code. In such a case the position is vacated immediately, and a successor can be appointed to serve out the unexpired term.

The Television Code Review Board is required to meet at least twice a year on dates determined by its chairman. However, the chairman, or the Code Authority Director, can, at any time, on at least five days written notice, call a special meeting of the board. The Radio Code Board operates under a similar regulation.

The Television Code Review Board is authorized and directed:

- (1) To recommend to the Television Board of Directors amendments to the Television Code;
- (2) To consider, in its discretion, any appeal from any decision made by the Code Authority Director with respect to any matter which has arisen under the Code, and to suspend, reverse, or modify any such decision;
- (3) To prefer formal charges, looking toward the suspension or revocation of the authority to show the Code Seal, to the Television Board of Directors concerning violations and breaches of the Television Code by a subscribers;
- (4) To be available to the Code Authority Director for consultation on any and all matters affecting the Television Code.

The Radio Code Board is authorized and directed to work in the same manner with the Radio Board and the Code Authority Director.

The two code boards cannot amend their respective codes.

By-laws of the N. A. B. authorize only the Television Board of Directors and the Radio Board to enact, amend and promulgate

standards of practice or code structure for their members and to establish methods to secure code observance. However, the duties of the two code boards do include recommending amendments to their parent boards and to consider appeals from decisions concerning violations. The actual task of enforcing the codes falls first on each of the subscribing stations and networks, who are aided by a division of the N.A.B., the Code Authority, headed by a Code Authority Director.

#### Code Authority Director

The Code Authority Director's position was created by the N.A.B.'s Board of Directors in 1961. On February 2, 1962 the Television Board of Directors amended its "Regulations and Procedures" to define the powers and responsibilities of the Code Authority Director. The Radio Board followed suit on June 28, 1962.

According to the amendments, the president of the N.A.B., subject to the approval of the N.A.B.'s Board of Directors, is empowered to appoint someone to fill the position of Code Authority Director. The Code Authority Director is authorized and directed:

- (1) To maintain a surveillance of all programming and advertising material presented over radio and television, especially that of subscribers to the codes;
- (2) To receive, screen and clear complaints concerning all broadcast programming;

- (3) To define and interpret words and phrases in both codes;
- (4) To develop and maintain liaison with governmental agencies and responsible organizations and institutions;
- (5) To inform a subscriber, to either code, of complaints or commendations;
- (6) To advise subscribers of both codes about attitudes and desired program-wise of accountable organizations and institutions, and of the American public in general;
- (7) To receive and monitor, if necessary, any certain series of programs, daily programming, or any other program presentations of subscribers, as well as to request recorded material, or script and copy, with regard to any certain program presented by a subscriber to either code;
- (8) To reach conclusions and make recommendations to prefer charges to the Radio Code Board of Television Code Review Board concerning violations and breaches of the Radio Code or Television Code by a subscriber;
- (9) To recommend to the code boards amendments to their respective code.

In order for the Code Authority Director to fulfill his responsibilities the N. A. B. 's Board of Directors delegated to him the power to:

..... appoint such executive staff as is needed, consistent with resources, to carry out the above described functions, and may delegate to this staff such responsibilities as he may deem necessary.

The first Code Authority Director was Robert D. Swezey. He was one of the two television members of the N. A. B. Board of

Directors in the 1945 to 1951 period when the young television industry was concerned with the problems created by violence, extreme costuming and similar excesses. (10) He was a major participant in writing the original code for television and led the campaign to get it adopted by the N. A. B. and the rest of the industry. In 1963 Mr. Swezey resigned from the N. A. B. to return to private business and was replaced by Howard H. Bell. Mr. Bell has held numerous positions with the N. A. B. since he joined the organization in 1951. Prior to his appointment as Code Authority Director, he had been vice president for planning and development and assistant to the president since 1962. (11)

As the office of Code Authority Director developed it has expanded to various geographic locations in order to fulfill its responsibilities. The majority of the Code Authority's station contacts are maintained in the Washington, D. C. headquarters of the N. A. B. All commercial and program monitoring assignments and reports to subscribing stations originate from this office. Commercial monitoring is an important part of Code Authority activity because it represents the only quantitative measure of compliance to the codes. Program monitoring gives member radio and television stations and networks an indication of how trained

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10. Broadcasting, August 4, 1961, p. 9.

11. Sponsor, April 6, 1964, p. 58.

Code Authority personnel, with long years of experience in the field of broadcast programming, regard certain programs.

All monitoring reports of commercials and programs, whether on networks or individual stations, are treated as confidential. Monitoring reports and the resolution of any differences between Code Authority and station or network opinion that may exist are never disclosed or publicized. It is this confidential relationship which the N. A. B. believes has accounted for much of the success of both codes in achieving high standards within programs. However, this confidential relationship also accounts for much of the public's lack of knowledge of the codes.

In 1959 the second Code Authority office was established in Hollywood. The Hollywood Office of the Code Authority, has as its main concern, the clearance of syndicated film properties which, until the establishment of a Code office, were not cleared by any responsible source before being distributed to Television Code subscribing stations. Personnel in the Hollywood Office cooperate with the producers of syndicated films, from the very moment of conception through the final finished film, of approximately seventy-five percent of the material being produced in California. The television networks maintain extensive continuity acceptance and editing offices in Hollywood, and the Hollywood Code Office consults with these departments to maintain a broad application of the Television Code.

A third code office was located, in 1960, in New York City. The New York Code Office was established primarily as a clearance base for advertisers and advertising agencies located in the immediate area. This office also deals with and works closely with the continuity acceptance and editing offices of the three television networks whose main offices are located in New York.

### Code Membership

As the Code was constructed in 1939, only members of the National Association of Broadcasters were eligible to subscribe. The Television Code was the first to change this procedures. When the Television Code was written in 1952 provisions were created which allowed non-association members as well as members to subscribe to the code. In early 1960 the Radio Board amended the regulations governing the Radio Code to allow subscription to all radio broadcasters. This board action followed the payola scandal which had led the F. C. C. to state that it was concerned about the small number of radio stations which were able to subscribe to the N. A. B. 's Radio Code. (12)

According to the present regulations for both the Radio and Television Codes, eligibility to the respective codes is granted to "any individual, firm or corporation which is engaged in the operation of a radio or television broadcast station, or which holds a construction

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12. New York Times, March 29, 1960, p. 45.

permit for one of the same, within the United States or one of its dependencies." Each application for subscription is subject to approval by the Radio Board, in the case of radio stations, or the Television Board of Directors, in the case of television stations.

Upon acceptance into one of the codes a broadcast station is given a "certification of subscription." Subscribing radio stations are granted the authority, by the Radio Board, to use the "N. A. B. Radio Audio and Visual Symbols of Good Practice." These consist of copyrighted and registered oral "air-identification announcements" and the Seal which subscribing stations can print on their stationery and publications. Subscribing television stations are authorized, by the Television Board of Directors, to use the "N. A. B. Television Seal of Good Practice." This is a copyrighted and registered seal which is provided by the N. A. B. in the form of a certificate, a slide and a film. Both seals are designed to signify to advertisers, advertising agencies, governmental agencies, and the general public that the bearer is a subscriber "in good standing" to either the Radio Code or the Television Code of the National Association of Broadcasters.

Subscription to the codes becomes effective on the date of acceptance by one of the code boards. A subscription lasts until a station resigns from its code or else has its subscription revoked by the N. A. B. In the case of resignation, subscription "shall continue in full force and effect until thirty days after the first of the month

following receipt of notice of written resignation. "(13) A revocation of subscription becomes effective almost immediately.

It is stipulated in the Radio Code's "Regulations and Procedures" that all radio stations which become subscribers must be in compliance at the time of subscription to the Code. The Television Code is somewhat more lenient, allowing a grace period by which subscribing television stations can terminate contracts which are in violation of Television Code provisions.

All subscribers on the air at the time of subscription to the Code shall be permitted that period prior to and including the earliest legal cancellation date to terminate any contracts, then outstanding, calling for program presentations which would not be in conformity with the Television Code, provided, however, that in no event shall such period be longer than fifty-two weeks. (14)

According to the "Regulations and Procedures of the Radio Code of Good Practices" each station subscribing "shall pay fees in accordance with such schedule, at such time, and under such conditions as may be determined from time to time by the Radio Board; provided, that appropriate credit shall be afforded to a radio member of the N.A.B. "(15) Radio subscribers pay a monthly fee equal to one half

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13. N.A.B., "Regulations and Procedures of the Television Code," May, 1962, p. 1.

14. National Association of Broadcasters, "Regulations and Procedures of the Television Code," May, 1962, p. 3.

15. N.A.B., "Regulations and Procedures of the Radio Code of Good Practices," p. 4.



of the station's one-time minute rate as published each June first in Standard Rate and Data, with a radio maximum of \$216 annually.

Each subscriber to the Television Code pays "administrative" rates in accordance with "such schedule, and under such conditions as may be determined by the Television Board; provided, that appropriate credit shall be afforded to a television member of the N.A. B. against the regular dues which he or it pays to the N.A. B. "(16) At the present time, each television network pays \$13,000 annually to the Television Code and individual station subscribers are charged a monthly fee equal to their highest one-time hourly rate, with a maximum of \$1,200 and a minimum of \$300.

#### Affiliate Subscribers

Unlike its radio counterpart the Television Code, through its "Regulations and Procedures," makes provisions for what are called "affiliate subscribers" to the Code. Such affiliate code members can include any "individual, firm or corporation, which is engaged in the production or distribution, lease, or sale of recorded programs for television presentation. . . . "(17) Any such individual or organization upon becoming an affiliate subscriber to the Television Code, subject to the approval of the Television Code Review Board, is granted the

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16. N.A. B., "Regulations and Procedures of the Television Code," p. 4.

17. Ibid.

authority to use the registered seal and declaration of the N. A. B.'s Television Code, identifying the individual or organization as an affiliate subscriber. However, such authority does not constitute formal clearance or approval by the Television Code Review Board of specific film programs or other recorded material produced by an affiliate member. The duration of affiliate subscriptions is equal to that of regular television station subscriptions.

The Television Code Review Board has established special conditions and procedures for the suspension of affiliate subscribers.

Any affiliate subscription and the authority to utilize and show the above-noted seal may be voided, revoked, or temporarily suspended for the sale or distribution for television presentation of any film or other recorded material which by theme, treatment, or incident, in the judgment of the Television Code Review Board, constitutes a continuing, willful or gross violation of any of the provisions of the Television Code, by a majority vote of the Television Code Review Board at any regular or special meeting. The conditions and procedures applicable to subscribers shall not apply to affiliate subscribers. (18)

Any affiliate subscriber or group of affiliate subscribers is allowed by the "Regulations and Procedures" governing the Television Code to authorize an individual or association to act for them in connection with any action taken by the Television Code Review Board by filing a written notice of such representation with the board. Such

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18. Ibid.

representation, however, in no way limits the right of the Television Code Review Board to suspend affiliate subscribers in accordance with the Television Code's regulations.

#### Suspension of Membership

An intricate set of procedures has been established which the Radio Code Board or the Television Code Review Board must follow in suspending a code subscriber. Prior to preferring charges to the Radio Board or the Television Board of Directors concerning violation of the codes, the two code boards must inform any violating subscriber of all complaints against the subscriber's programming and advertising. The two code boards must also inform the subscriber of all information they possess relating to his programming. This is to include an analysis, interpretation, or recommendation by the appropriate board advising the subscriber of the possibility of a violation or breach of code provisions.

If one of the code boards decides that a subscriber to its own particular code is in violation of that code's standards it then must serve upon the subscriber, by registered mail, a "Notice of Intent" to prefer charges to either the radio or television board. The "Notice of Intent" must include a statement of the grounds and reasons for the proposed charges, as well as references to the articles of the code which it is alleged the subscriber violated. This "Notice of Intent" must be sent at least twenty days prior to the filing

of formal charges by either code board with its board of directors. During this interim period the filing code board may, at its own discretion, reconsider its proposed action in the light of any written reply to the charges by the subscriber, or upon action taken by the subscriber in conformance with the analysis, interpretation or recommendation of the code board.

In addition, the "Regulations and Procedures" of both the Radio and Television Code further stipulate:

In the event that the nature of the program in question is such that time is of the essence, the Television Code Review Board (or the Radio Code Board) may prefer charges within less than the twenty days above specified, provided that a time certain in which reply may be made is included in its Notice of Intent, and provided that its reasons therefor must be specified in its statement of charges preferred. (19)

When the charges preferred by a code board are sent to its board of directors it must include the grounds and reasons, together with specific references from the appropriate code. The charges must contain a statement that the conditions necessary to constitute a code violation have occurred.

A subscriber who has been charged with a violation has a right to a hearing. A request for a hearing must be filed within ten days of the date of notification of charges preferred. If the subscriber fails to request a hearing it is considered as a waiver of his right to do so.

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19. Ibid., p. 3.

If a hearing is requested, the appropriate board of directors designates the time and place. All hearings are closed to the public and all correspondence between a subscriber and his code board concerning specific programming conditions are confidential; however, the confidential status of the hearings can be waived by the subscriber.

A subscriber against whom charges have been preferred, and who has exercised his right to a hearing, is entitled to present his own case personally, by agent, by attorney, or by deposition and interrogatory. Upon request by the charged subscriber a board of directors can permit the intervention of other code subscribers as "parties-in-interest." A code board may also make such a request on behalf of its case. Also, a code board may, at its discretion, utilize the services of an attorney from the staff of the N. A. B. for the purpose of carrying out its presentation.

At hearings, oral and written evidence may be introduced by the subscriber and the code board. Oral argument can only be made at the hearing while written memoranda or briefs may be submitted by the subscriber and the code board to the board of directors in advance. The board of directors may admit any evidence it feels to be relevant to the case and determines the nature and length of the oral arguments. All interested parties have the right of cross-examination.

A stenographic transcript record is taken of all aspects of the hearing. It is certified at the end of the hearing by the chairman of the acting board of directors and is sent to the office of the Secretary of the N. A. B., where it is maintained. The transcript is kept private unless otherwise requested by the respondent in the proceedings.

From the acting board of directors a president officer is selected who, during the hearing, rules upon all interpretive matters, such as the admissibility of evidence, the qualifications of witnesses, etc. In cases involving the Television Code the subscribers and Television Code Review Board may present as evidence films, kinescopes, records, transcripts or other mechanical reproductions of television programs which are relevant. The Radio Code Board and the subscriber can present records, transcriptions, or other mechanical reproductions of radio programs when relevant to the provisions of the Radio Code or to the arguments.

The Television Board of Directors in cases pertaining to the Television Code, or the Radio Board in cases involving the Radio Code, decides the case and notifies its own code board and the subscriber, in writing, of the decision and penalty if any. The decision of the board of directors must contain "findings of fact with conclusions, as well as the reasons or bases therefor." (20)

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20. Ibid., p. 3.

Such findings of fact must state in detail all basic evidentiary facts which are in the transcript of the case supporting the board's conclusion.

A request for reconsideration or rehearing may be filed within ten days after receipt by the subscriber of the decision. Opposition to such action must be filed by the interested code board within five days after the filing of the subscriber's request. Any request for reconsideration or rehearing must state in what respect the decision was unjust, unwarranted, or erroneous and be based on the findings of the hearing as noted in the transcript. If the existence of newly-discovered evidence is claimed, the request must be accompanied by a verified statement that the subscriber could not have known or discovered such facts at the time of the hearing. At the discretion of the ruling board of directors, application of any penalty provided for in the decision may be suspended until the board makes final disposition of the request for reconsideration or rehearing. (21)

#### Enforcement of Programming Standards

From the time of the controversial issues clause ruling in 1939 and the early risque television programs to the present, the activities of the N. A. B. in obtaining compliance with its codes have

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21. Advertising Age, August 17, 1964, p. 1.

been to try to impose restraints on excessive commercialism or questionable advertising presentations. Its sorties into the area of program content have been relatively few. Usually the N.A.B. evaluates programs only when code subscribers raise questions about specific programs. Such an occasion occurred in 1963 when a ruling was requested on the acceptability of a David L. Wolper television documentary on Krebiozen that had been scheduled without commercials in a number of major markets, but sponsored by the Timex Corporation. (21) Some stations were concerned about a growing controversy about the merits of this cancer treatment and wondered if the show leaned toward the positive side of the argument without giving fair treatment to opposing viewpoints. Code Authority Director, Howard H. Bell, held that the program did not violate the code's "Controversial Public Issues" section, but advised subscribers to "screen the film carefully in terms of local conditions and community responsibility." (22)

It is impossible to investigate N.A.B. efforts to enforce its codes where standards have been violated by individual radio and television stations because of the secrecy of proceedings. What can be reported are only those acts of enforcements which became public mainly through the involvement in them of many organizations. These deal with commercial television programs connected with national

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22. Ibid., p. 30.



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networks, network affiliates and advertisers.

Most of the N. A. B. Code Authority's day-to-day enforcement of programming standards is confined to prescreening of syndication programs, some feature motion pictures, and movie trailers made originally for theatrical exhibition but released for television presentation. Liaison between the N. A. B. and television film producers and motion picture distributors began in 1959 when the Hollywood Code Office was established. At that time post-1948 movies were being released to television and some broadcasters were concerned about the content of some of the films violating code standards. After screening some films the Television Code Review Board cautioned broadcasters to take care in presenting them as various films and trailers which advertise motion pictures were found to be "exceptionally violent or overly sexy or, at best, quite suggestive." (23) While issuing the warning to broadcasters the N. A. B. stated to the film producers and distributors that it would not attempt to prevent or impeded "appropriate treatment of sex." (24) At the same time several film distributors requested the Television Code Review Board's opinion on some films which were being rejected by broadcasters as containing "improper" scenes for

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23. New York Times, November 30, 1960, p. 74.

24. New York Times, January 1, 1962, p. 33.

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the "home audience." (25) The board's review of 209 television scripts and 74 syndicated motion pictures resulted in the distributors deleting most of the objectionable material. (26) This relationship continues in operation today.

The N. A. B. has never established an equally effective relationship with the three national television networks. While the code authority works with the continuity acceptance and editing offices of the networks concerning the acceptability of commercials the networks have always been somewhat reluctant to allow screening of their program material prior to broadcast. (27)

In 1962 the N. A. B. made a major attempt to establish a working relationship with the networks on prescreening of programs. It was the N. A. B. 's hope that the three national television networks could be persuaded to submit in advance to the code authority those shows about which there may be controversy or moral reservations. (28) Underlying this move was a television show presented in the Fall of 1962 as part of the American Broadcasting Company's series Bus Stop. The episode, titled "A Lion Walks Among Us", dealt with an alcoholic nymphomaniac and a teen-age hoodlum and was heavily

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25. Ibid.

26. Broadcasting, June 20, 1960, p. 62.

27. New York Times, May 6, 1962, Sec. ii, p. 17.

28. New York Times, April 22, 1962, Sec. ii, p. 17.

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criticized by public groups and critics for its excessive sex, violence and sadism. (29) After previewing the episode regular sponsors of the Bus Stop series publicly withdrew from economic support of the program. (30) Following the actions of the sponsors a number of A. B. C. affiliated stations appealed to the N. A. B. to ask the network for modification or cancellation of the episode based on the industry's code of self-regulation. (31) Regardless of the protests, A. B. C. presented the program even though twenty-five stations decided not to carry the show. (32)

As a result of the episode A. B. C. suffered an enormous amount of editorial criticism, a major executive of the network lost his job and some other programs were quickly modified to avoid repetition of the incident. (33) In addition, some members of Congress, including Senator John Pastore, Democrat of Rhode Island, expressed the conviction that the Bus Stop episode had cast doubts on the ability of broadcasters to practice self-regulation. It was their conviction that, "If callous sexpots are allowed to romp the sacred airwaves the

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29. New York Times, April 2, 1962, p. 55.

30. New York Times, April 22, 1962, Sec. ii, p. 17.

31. Ibid.

32. Ibid.

33. Ibid.

men of television are inviting outside regulation." (34)

While Congress expressed its indignation, the N. A. B. began its negotiations with the networks. In explaining the need for complete liaison with all of the networks, Le Roy Collins, who was president of the N. A. B. at the time, stated that the networks furnished about sixty percent of television's programming and that all networks sometimes violated the N. A. B. 's program standards. (35) Mr. Collins further stated:

The television code is the industry's own and only instrument of self-regulation. The code is subscribed to by the networks and by broadcast licensees. The code authority and the code review board, which reviews its decisions, were created by the industry to administer the code. Their functions go much beyond complaining about things which have been done that may violate the codes. It is their function to be helpful, to counsel and advise, and they can do so effectively only if they are fully informed.

The sole purpose of the association in suggesting pre-broadcast liaison in circumstances in which it was thought desirable by either a network or their affiliates was merely to improve their mutual efforts to insure adherence to code standards.

It is our thought, which we know to be shared by many of the affiliated stations who are subscribers to the code, that some effective pattern for giving timely cooperative consideration to possible code involvement in networks programming would prove useful to both the networks and the affiliated stations.

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34. Ibid.

35. New York Times, April 2, 1962, p. 55.

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There is no intention to establish the code authority, the code review board or any other groups as censors of network programming. Each network must decide what programs it will feed to its affiliates, and each affiliate must decide which programs it will broadcast.

It is our sincere conviction that an effective working arrangement can be established between the networks and the code authority which will greatly facilitate a timely treatment of code problems in the public interest without any respect censoring network programming or impeding full creativity in its production.

We believe in keeping broadcasting free. But we feel that the best way to assure this is responsible self-discipline. Our codes gives us the means of accomplishing this - the only means the whole industry has. (36)

Immediately the Columbia Broadcasting System, along with A. B. C. , stated that they would not submit programs to the N. A. B. for pre-screening. (37) While A. B. C. gave no reasons for its decision, C. B. S. expressed skepticism that any system of "policing", public or private, could "plug up all the possibilities for hanky-panky." (38) C. B. S. rejected the N. A. B. plan on the contention that any centralized prescreening authority would be inclined to "play it safe." (39) As proof of this contention C. B. S. officials cited an

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36. New York Times, May 6, 1962, Sec. ii, p. 17.

37. New York Times, April 26, 1962, p. 67.

38. Ibid.

39. Broadcasting, May 7, 1962, p. 68.

instance which occurred in April, 1962, when the N. A. B.'s Code Authority Director, Mr. Swezey, was invited by the network to preview an episode of The Defenders prior to its network showing because of its unusual subject matter. The episode, titled "The Benefactor", dealt with abortions; and the three original sponsors of the program had withdrawn their sponsorship. However, C. B. S. found other sponsors. (40) After viewing the show, Mr. Swezey declared that it did not violate the Television Code. (41) C. B. S. responded to Mr. Swezey's "approval" of the program by stating that his endorsement, "at best was timid and at worst was negative." (42) Because of the N. A. B.'s hesitant support for the program C. B. S. pointed out publicly that the episode had been cited by television critics as "meaningful drama" and "responsible television programming of the first order." (43) It was C. B. S.'s contention that the whole sequence of events surrounding the showing of the episode demonstrated its position that nobody in a centralized clearing office could be expected to give more than minimum approval of controversial programming, no matter how well it was done.

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40. New York Times, April 26, 1962, p. 67.

41. Ibid.

42. Broadcasting, May 7, 1962, p. 68.

43. Ibid.

The N. A. B. plan was also rejected by C. B. S. officials from what was termed a "practical standpoint." The creation of a centralized screening authority "by its very nature would be a lightning rod to attract criticism from everybody who dislikes anything about programming to the point where the code director, and a much bigger staff than he now has, would have to spend full time answering criticism." (44) However, while completely rejecting the N. A. B. 's prescreening plan, C. B. S. went on record as wanting to retain the right to consult the code authority on its own volition from time to time. (45)

N. B. C. publicly came out in support of the N. A. B. plan; however the network emphasized that advance screenings would only be given with the joint participation of network representatives. Officials from the network also made it clear that N. B. C. alone would make the decision whether a program would be modified or televised. (46) The network implied that advance screenings would be permitted whenever the code authority felt it was necessary to arrive at an "intelligent judgment" about a code question. (47) N. B. C. stated

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44. Ibid.

45. New York Times, April 26, 1962, p. 67.

46. New York Times, June 9, 1962, p. 51.

47. Ibid.

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that it believed close liaison with the code authority on questionable programming was necessary because, "to preclude it from doing so would be inconsistent with the function and purpose for which it had been established by the whole industry." (48) N. B. C. also added that it could not see any element of "censorship" or "centralized control" in the prescreening plan which would give N. B. C. "the benefit of the code authority's views in making programming decisions." (49)

The final outcome of the N. A. B. plan resulted in the three networks declaring that they would request code authority advice, in advance, on the showing of any program which the networks felt might be contrary to the N. A. B.'s codes. While the code authority has been called in on a few minor cases dealing with television programs there are no public records of prescreening radio programs. Since its creation the N. A. B. has rarely dealt with any infractions of its Radio Code arising from a specific program. At the present time this may be accounted for by the nature of the radio program that is being presented by broadcasters to their audience. It mainly consists of recorded music, news, sports and weather reports while dramatic programs are almost completely absent. As with television

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48. Ibid.

49. Broadcasting, May 21, 1962, pp. 44-45.

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the code authority basically depends on complaints by listeners or stations to bring its attention to violations of the Radio Code. With most of present day radio programs being created at the local station very few stations notify the code authority of violations or seek interpretations of the code's program statutes. In addition, the public rarely files complaints about programs with the code authority, mainly on account of what the N. A. B. feels to be a lack of knowledge about the broadcast codes.

Whatever the N. A. B. 's code authority and code boards have done in the area of enforcement they cannot be charged with intentionally using the codes as instruments to limit imaginative and perceptive programming. The extent to which the codes will make allowances for good intentions and artistic merit was illustrated by the video production of Eugene O'Neill's The Iceman Cometh. Under a strict interpretation of the Television Code's regulations that require avoidance of profanity, elimination of scenes implying the prevalence of drunkenness, and avoidance of scenes set in places associated with sexual sin, the play could have never been shown on television without modifications. However, the producers argued that this play should be done without change. (50) The Television Code Review Board ruling

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50. Schumach, Murray, The Face On the Cutting Room Floor: The Story of Movie and Television Censorship (William Morrow and Co., 1964), p. 232.

on the telecasting of the play was made only after extensive consideration. The final decision stated:

The Code Board believes that the play as presented will find widely differing audiences responses. Some viewers will find the play to be a rich and exciting performance; others may regard it, because of its language and theme, sordid and offensive.....

The Code Review Board believes that this particular presentation is acceptable for telecast, but only under special circumstances. (51)

"Special circumstances" covered, most specifically, time of broadcast, with late evening showings recommended as it was generally realized that the play was not intended for children. The producers ran the show in two segments late at night. (52) They ran disclaimers before the show started, indicating to the audience the content of the play. (53)

The decisions that have been described are what the N. A. B. calls "typical of the judgments made on a day-by-day basis by the code authority and by stations and networks" that subscribe to one or both of the codes. (54) If this is the case then it seems obvious to conclude that as far as the N. A. B. and its codes are concerned: How something is treated is the major determinant as to what can be treated. This philosophy is based upon a ruling of the United States

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51. National Association of Broadcasters, Seal of Good Practice, A Report Prepared by the Television Code Authority (Wash., D. C.: N. A. B., 1962), p. 9.
  52. Schumach, loc. cit.
  53. Ibid.
  54. National Association of Broadcasters, op. cit., p. 11



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Supreme Court which stated in part:

What is good literature, what has educational value, what is refined public information, what is good art, varies with individuals as it does from one generation to another..... A requirement that literature or art conform to some norm prescribed by an official smacks of an ideology foreign to our system. (55)

It is because the N. A. B. feels the need for flexibility in applying its programming standards in order to sanction aesthetic productions and suppress the sensational ones that a presentation dealing with an alcoholic nymphomaniac and a teen-age hoodlum would be rejected while another program dealing with rape and abortion would be accepted. Another example of the fine line which the N. A. B. tries to draw in deciding whether or not standards of its codes are violated occurred during the decision about telecasting Graham Green's story, The Power and the Glory. A literal interpretation of the Television Code's section concerning the treatment of religious subjects and the clergy would seem to make this play unacceptable. The Power and the Glory deals with the hunting down of a dissolute priest by an anticlerical government during the Mexican Revolution of the 1930's. The Television Code Review Board and the network involved felt, "so sensitively drawn was the portrait of the priest, with all his weaknesses, and so profound the message - the Grace of God may be found in the least likely places - that the

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55. Ibid.

program was acceptable." (56) The program did receive a great deal of critical praise among general newspapers throughout the country, and the Roman Catholic press as well.

No matter how good the intentions of the N.A.B. and its codes are, the final decision as to how the codes and standards are adhered to still remains at the local level with the networks and the individual stations. Whether a program which has been sanctioned or rejected by the code authority is shown lies with each broadcaster, as in the case of the Bus Stop episode already mentioned. The problem of enforcing the codes is intensified by two major factors: The codes, especially the Radio Code, do not have the full support and participation of a majority of the broadcasters; and the enforcement of the codes is kept secret by the association.

While he was acting as Code Authority Director, Robert Swezey told the radio broadcaster, and specifically the whole industry that:

We have tremendous holes in our membership in practically every community in the country. Even if our entire membership conforms religiously to the spirit and letter of the Radio Code, such a substantial part of the industry is completely outside of the jurisdiction of self-regulation that it is virtually impossible for us to maintain industry standards in any practical sense. The public is still being victimized by the poor programming and

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56. Ibid., p. 9.

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shoddy practices of a large segment of the industry which has no interest in standards and feels no compulsion to observe them. "(57)

This lack of total industry support for the N.A.B. codes has at times during major regulatory crises, such as the quiz-show rigging and payola scandals, raised the threat that the Federal Communications Commission might make the codes part of its own regulations and therefore applicable to all stations. Until the industry decides whether to enforce its own codes there will be pressure for someone to act in the public interest; that someone may just be the Federal Communications Commission.

Even with its elaborate procedures and regulations for taking action against violations of its codes and standards by stations and networks the N.A.B. does not have in reality any means of effectively enforcing the industry's policy of self-regulation. While the N.A.B. can remove from a broadcaster his right to use the association's seals of good practice, the broadcaster can and does continue his operations without any interruptions or inconvenience. This situation caused Newton Minow, while he was chairman of the Federal Communications Commission, to note, "The wonderful thing about self-regulation in broadcasting is that no one ever gets punished. "(58)

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57. Minow, Newton N., Equal Time: The Private Broadcaster and The Public Interest (N. Y.: Atheneum, 1964), pp. 169-170.

58. Ibid., p. 245.

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How well the industry's program of self-regulation can work in preventing "poor programming and shoddy practices" from the air-waves depends upon each individual broadcasters' basic values, his attitude toward the audience and community served. Government regulation can be helpful, but its role is limited under a democratic solution to a free press. It is the goal of the industry's plan of self-regulation to encourage radio and television into becoming:

.... a vital medium to encourage and promote the broadcast of programs presenting genuine artistic or literary material, valid moral and social issues, significant controversial and challenging concepts and other subject matter involving adult themes. Accordingly, none of the provisions of this Code, including those relating to the responsibility toward children, should be construed to prevent or impede their broadcast. All such programs should be broadcast with due regard to the composition of the audience. The highest degree of care should be exercised to preserve the integrity of such programs and to insure that the selection of themes, their treatment and presentation, are made in good faith upon the basis of true instructional and entertainment values, and not for the purposes of sensationalism, to shock or exploit the audience or to appeal to prurient interests or morbid curiosity. (59)

These standards for broadcast programming can be achieved, but only through each broadcaster's willingness to establish them, since the industry's program of self-regulation depends as it does on intangibles of good manners, good taste, good faith, good sense and the public

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59. National Association of Broadcasters, The Television Code. Seventh Edition. (Wash., D. C. : N.A. B., 1962), pp. 4-5.

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interest. Self-regulation can become the best form of regulation for the government, the broadcasters and the public, just as self-discipline is the best discipline.

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## Chapter 5

### CONCLUSION

At the time of the adoption of the National Association of Broadcasters' self-regulatory document for radio, it was said by some that the threat of government censorship brought about its birth. The very same sentiments were expressed about the Television Code when it was put into effect on March 1, 1952. To some extent this was correct. In 1929 when the first code for the radio industry was written, and again in 1951 during the development of the Television Code, legislation in Congress was on the books to provide for a citizens' committee to review and make recommendations to the Congress concerning all broadcast programs. In the ensuing years similar threats have been made.

Throughout the history of the N. A. B.'s Codes critics of the industry have constantly charged that all revisions of the documents have merely been attempts by the broadcasting industry to prevent severe government intervention into broadcast matters. To some extent this too is correct. Historically, the Codes have generally tended to be a post facto operation in providing standards which the industry can follow to solve its problems in fulfilling its public responsibilities. This is evident when one looks closely at the inclusion and deletion of various provisions from both codes.

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Actually the problem of self-regulation was not seriously attacked until 1939. In this code the broadcasters, without undue pressure from outside forces, set forth the ideal that the presentation of controversial issues which were in the public interest should be exclusively in sustaining programs. When the Federal Communications Commission held that an absolute ban on the sale of time for the discussion of public issues would not, under certain circumstances, serve the public interest, the N. A. B. completely rewrote its code deleting the controversial issue language and turning the decision over to station managers. Pressures from parent viewing groups, clergy, and labor union organizations, all with the support of various Congressional leaders, helped to bring about changes in the codes sections on educational, children's and religious programs. Conformity to pressures with Congressional and federal regulatory agency backing during the 1940's allowed broadcasters to forestall the formality of government rule-making. It has been this type of response by the industry which has caused some broadcasters, communications lawyers, trade publications and various observers of the industry to charge that basically the codes are an instrument of informal government regulations.

The basic pattern has been for the government to instigate some type of regulatory reforms against programming practices which it deems not to be in the public interest. When this has

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occurred the broadcast industry waits to see how far the government will go and then protests against such reforms. Each new governmental action that tends to lean toward punishing extremes precipitates a new industry demand for revision of a N.A.B. code provision and tighter internal controls. Congressional committees and the F.C.C. find deceptive quiz programs and the practice of payola which causes them to write legislation. After the legislation is just about written the industry follows with self-regulation prohibiting the same conduct. A Senator is outraged by an episode of Bus Stop, and the N.A.B. calls on the networks to submit their programs for clearance by its Code Authority. Most of the industry's problems are from within but actions from without usually have come first before the industry tries to solve the difficulty.

Ever since the formation of its first code of standards the industry's basic position has been that self-regulation through the N.A.B. is better than government regulations and that improvement of the former is the only certain way to avoid the latter. However critics of the codes, while recognizing the necessity of self-discipline in broadcasting, object to the codes merely being responses to external pressures, especially government pressures. An editorial in the July, 1962, issue of Television magazine expressed this general concern.

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This cause-and-effect relationship can easily result in the unintentional creation of a mechanism for government program control. A system of self-regulation that responds to the criticism of government officials can be almost as useful to the aggrandizing bureaucrat as the power of direct censorship would be. The more elaborate the system of internal censorship, the more sensitive it will be to external pressures, and the more easily it can be manipulated. (1)

Basically the critics have been right in that, while there have been notable exceptions, broadcasting's reactions to problems have in the most part been defensive. It is easy to understand why broadcasting has adopted a defensive attitude to governmental regulations. Every U.S. television and radio station operates under a license granted to it by the Federal Communications Commission. At the same time broadcasters operate under the free enterprise system as a private competitive business. The Communications Act, as drafted by Congress, allows stations to be licensed as long as they operate "in the public interest, convenience and necessity." The government, as custodian of the broadcast channels for the public, has the right to revoke or refuse to renew a license. No other system of mass communication operates under such dual pressures.

"In the public interest," a resounding, but highly ambiguous phrase has been puzzling broadcasters and the government since its

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1. "Sure Way to Squeeze the Life Out of TV," Television, July, 1952, p. 86.

inclusion into the Communications Act. There is nothing, however, in the Act which gives the F. C. C. power to regulate and control radio or television programs. The Commission is, in fact, restricted from exercising censorship over broadcasting. But as a practical matter the F. C. C. does become involved in programming; it must have standards to determine whether the granting or renewal of a license will be "in the public interest," and therefore it examines the applicants program practices or proposals. However, the F. C. C. attitudes toward what constitutes satisfactory programming have undergone many changes as the character and personnel of the Commission have changed. (2)

Under these circumstances, it is not surprising that broadcasters, whose licenses must be renewed every three years, have tended to join together through the N. A. B. in setting up standards and techniques of self-regulation. They have usually felt neither the ability, nor the power, to independently explore the mysterious meanings of "the public interest, convenience and necessity", or F. C. C. interpretations of them. As a result broadcasters have developed centralized codes of standards which defines in practical terms their ethical and moral responsibilities based on the experiences of broadcasters with their audiences and

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2. Emery, Walter B., Broadcasting and Government (East Lansing: Michigan State University Press, 1961), pp. 354-385.

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the government. These codes go far beyond any provisions that the Congress could constitutionally enact into law and certainly beyond any rule that the Federal Communications Commission could practically or lawfully administer.

Admittedly, the codes and their enforcement procedures are not perfect, but they are the strongest voluntary self-regulatory effort being made among the various mass media and private business. The broadcasters without ever having a "Czar" to administer their program of self-regulation, as the Motion Picture Production Code has had since the 1920's, have been able to solve most of their problems through the code boards. While most solutions have come after public exposure of difficulties and have been handled in a defensive attitude by the N. A. B., generally government intervention into programming decisions has been prevented.

This defensive attitude of self-regulation may have been expedient when most government suspicions were directed at networks and monopoly and newspaper ownership of broadcast media and Option Time. Following the ideas of President John F. Kennedy's New Frontier era the government came forth with regulatory proposals that hit every phase, and every size broadcast facility. The change began with F. C. C. Chairman Newton Minow who crusaded against the "vast wasteland" of western and family comedy programming. Successor **E. William Henry** took up where Minow left off, when he

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became chairman in May 1963. Henry's crusade was for a general uplift of all programming. He wanted better quality, more local live programming, more editorializing, more local orientation and better decorum in presentations. He was willing to achieve this either through legislation, rule-making procedures or on a case-by-case investigation of license renewal applications.

During this time the broadcasters began to realize that the development of self-regulation under a policy of defensive protest would not suffice to help them meet their responsibilities to the public. Under N. A. B. President LeRoy Collins the broadcasters found the best way to serve the "public interest" is positive attitude toward voluntary betterment. This means that broadcasters who are responsible for the codes development have not been content to wait for trouble, but looked for all signs of it and have tried to promptly get in motion preventive procedures. Under LeRoy Collins the philosophy became that the codes should not be instruments to help the broadcaster "get by," but should challenge him and aid him to do his best in serving "the public interest."

One example of the industry's new attitude occurred in 1964. While the other mass media were willing to wait for a report from an advisory committee to the Surgeon General of the Public Health Service on smoking and its relationships to health the N. A. B. was not. The N. A. B. code boards amended their codes to forbid cigarette presentations aimed at youth or conveying the impression

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that smoking promotes health. (3) While there was not at the time any direct scientific proof about the effects of smoking on health the broadcasters felt that the public's concern about the matter justified action. The sections in the codes providing standards on cigarette smoking in programs declare that "care should be exercised so that cigarette smoking will not be depicted in a manner to impress the youth of our country as a desirable habit worthy of imitation." (4)

This was a courageous step for broadcasters for whom cigarettes constitute the fourth largest source of revenue. Cigarettes alone account for close to \$110 million in television and \$30 million in radio advertising a year. (5) LeRoy Collins in a speech to N.A.B. members expressed why it was necessary for broadcasters to take such action against this and similar issues.

Our radio and television codes are keystones in our N.A.B. program. They should be projected and lived up to, not only as the broadcaster's charter of self-regulation, but as a mark of quality broadcasting for the guidance of the people. It is our responsibility to improve our codes to the point that any eligible broadcaster would not consider failing to be publicly identified as a member.

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3. Broadcasting, May 4, 1964, p. 29.

4. Ibid.

5. Broadcasting, June 24, 1963, p. 33.



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It is my personal view that our codes should be much more than sets of legalistic standards and delineations of good taste and estimated public tolerance. I think the codes should serve as a conscience as well. Under them and to them, the individual broadcaster and all related enterprises should be able to look for, and find, ethical and moral leadership.

For example, if we are honest with ourselves, we cannot ignore the mounting evidence that tobacco provides a serious hazard to health. Can we either in good conscience ignore the fact that progressively more and more of our high school age children are now becoming habitual cigarette smokers?

Certainly the moral responsibility rests first on the tobacco manufacturer. Certainly it also rests on the advertising agencies. But where others have persistently failed to subordinate their profit motives to the higher purpose of the general good health of our young people, then I think the broadcaster should make corrective moves on his own. This we could do under code amendments, and I feel we should proceed to do so, not because we are required to, but because a sense of moral responsibility demands it. (6)

In 1964 Mr. Collins resigned from the N. A. B. and was replaced by a new administration. Whether the new administration will follow Mr. Collins' philosophy of self-regulation remains to be decided. However, those who remain in charge of the codes must realize that neither the government nor the broadcaster has sole responsibility in determining broadcasting standards. This is the combined responsibility of both.

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6. Broadcasting, November 26, 1962, p. 26.

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Under the free-enterprise system government's role is to preserve order and the individual's right to succeed with a minimum amount of control. However some form of regulation is needed, otherwise there would be chaos.

In the late 1920's it became evident that a form of federal control was necessary to bring order to the burgeoning radio industry. The result was the Radio Act of 1927 and later the Communications Act. In these Acts the Congress provided the framework within which the orderly formation of the business of broadcasting has developed. By its action, Congress delegated broad authority to the Federal Communications Commission to assign frequencies, devise engineering standards and require stations to show their specific intentions of programming in the "public interest, convenience and necessity."

So the heart of the government-broadcaster relationship is one of broad jurisdiction by the F. C. C. and specific responsibility by the broadcaster. It is the government's task to help the broadcaster in his responsibilities. However, the government should not restrict the broadcaster in determining program material. It is the broadcaster's job to serve the public and government's to insure he has done so without any burdens that impair the broadcaster's abilities. This must be the relationship between the government and broadcaster.

Through the National Association of Broadcasters Radio and Television Codes the broadcasters have been able to define in practical

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terms the industry's subjective role in society according to the wants and needs of its audience. This has occurred throughout the development of the codes, from the time standards for war-time news and general newscast were created through the establishment of standards for decency and decorum in television, with a never ceasing attempt to encourage the presentation on radio and television of genuine artistic material, valid moral and social issues, significant controversial and challenging concepts and other subject matter involving adult and children's themes. By reacting to the general public, made up of widely divergent age groups, sectional attitudes, and with the complex and often contradictory tolerances of a pluralistic society the codes have been fairly successful in establishing guidelines the broadcasters can utilize in programming according to the most acceptable values and thinking of the nation for the overall benefit of the public, advertisers and industry. However, the broadcaster in modern day America cannot rest on any plateau and decide that, for the present, what he is offering is the ultimate in programming. The broadcaster operates in a ever changing industry and society and he must be vigilant and continuously searching for new and better methods through which he can serve the public. It is in this task that the industry's codes of self-regulation can help the broadcaster in understanding his responsibilities and implementing them as well. This can be accomplished by the broadcaster looking upon the codes as standards through which problems within the industry can be solved before they

become public problems. This means that the industry must meet controversy, within or without, head-on and be willing to admit industry faults. In this manner the programming standards of the broadcaster's codes of self-regulation will help to assure that the industry will be advanced and the federal regulatory agencies best aided in serving the interests of the public.

## APPENDIX I

### Code of Ethics of the National Association of Broadcasters

1929

1. Recognizing that the radio audience includes persons of all ages and all types of political, social and religious belief, every broadcaster will endeavor to prevent the broadcasting of any matter which would commonly be regarded as offensive.
2. When the facilities of a broadcaster are used by others than the owner, the broadcaster shall ascertain the financial responsibility and character of such client, that no dishonest, fraudulent or dangerous person, firm or organization may gain access to the radio audience.
3. Matter which is barred from the mails as fraudulent, deceptive or obscene shall not be broadcast.
4. Every broadcaster shall exercise great caution in accepting any advertising matter regarding products or services of which may be injurious to health.
5. No broadcaster shall permit the broadcasting of advertising statements or claims which he knows or believes to be false, deceptive or grossly exaggerated.
6. Every broadcaster shall strictly follow the provisions of the Radio Act of 1927 regarding the clear identification of sponsored or paid-for material.



7. Care shall be taken to prevent the broadcasting of statements derogatory to other stations, to individuals, or to competing products or services, except where the law specifically provides that the station has no right of censorship.
8. Where charges of violation of any article of the Code of Ethics of the National Association of Broadcasters are filed in writing with the managing director, the Board of Director shall investigate such charges and notify the station of its findings.
  - a) There should be a decided difference between what might be broadcast before 6:00 P. M. and what might be broadcast after that hour. The time before 6:00 P. M. was declared to be included in the 'business day,' and it was decided that part at least of it might be devoted to programs of a business nature. After 6:00 P. M., time is for recreation and relaxation, therefore commercial programs should be of the good-will type.
  - b) Commercial announcements, as the term is generally understood, should not be broadcast between 7:00 and 11:00 P. M.
  - c) The client's business and product should be mentioned sufficiently to insure an adequate return on his investment, but never to the extent that it loses listeners to the station.

## APPENDIX II

### Code of Ethics of the National Association of Broadcasters

1935

1. Recognizing that the radio audience includes persons of all ages and all types of political, social, and religious belief, each member station will endeavor to prevent the broadcasting of any matter which would commonly be regarded as offensive.
2. When the facilities of a member station are used by others than the owner, the member shall ascertain the financial responsibility and character of such client, that no dishonest, fraudulent, or dangerous person, firm or corporation may gain access to the radio audience.
3. Matter which is barred from the mails as fraudulent, deceptive or obscene shall not be broadcast by a member station.
4. Each member station shall refuse any advertising matter regarding products or services injurious to health.
5. Each member station shall maintain a public record of its current rates charged to advertisers for the use of broadcasting time together with all discounts, rebates, refunds and agency commissions which shall be allowed to the users of such time or to their recognized agents.
6. Each member station shall refuse to accept any business on a cost per inquiry, contingent, or percentage basis, or to accord free time for commercial use.

7. No member station shall permit the broadcasting of advertising statements or claims which he knows or believes to be false, deceptive, or grossly exaggerated.
8. No member station shall defame or disparage a competitor, directly or indirectly, by words or acts which untruthfully call in question such competitor's business integrity, ability to perform contracts, credit standing, or quality of service.
9. No member station shall claim for its service a character, scope or quality which cannot be substantiated, nor shall it claim as regular characteristics of its service features which it knows to be purely temporary or accidental.
10. Where charges of violation of any article of the Code of Ethics of the National Association of Broadcasters are filed in writing with the Managing Director, the Board of Director's shall investigate such charges, give opportunity for hearing and afterwards notify the station of its findings.

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## APPENDIX III

### Standards of Practice for American Broadcasters

July, 1939

Recognizing the importance of radio broadcasting in the national life and believing that broadcasters have sufficient experience with the social side of the industry to formulate basic standards for the guidance of all, the National Association of Broadcasters hereby formulates and publishes the following revised code:

#### Children's Programs

Programs designed specifically for children reach impressionable minds and influence social attitudes, aptitudes and approaches and, therefore, they require the closest supervision of broadcasters in the selection and control of material, characterization and plot. This does not mean that the vigor and vitality common to a child's imagination and love of adventure should be removed. It does mean that programs should be based upon sound social concepts and presented with a superior degree of craftsmanship; that these programs should reflect respect for parents, adult authority, law and order, clean living, high morals, fair play, and honorable behavior. Such programs must not contain sequences involving horror or torture or use of the supernatural or superstitious or any other material which might reasonably be regarded as likely to over-stimulate the child listener, or be prejudicial to sound character development. No advertising

appeal which would encourage activities of a dangerous social nature will be permitted.

To establish acceptable and improving standards for children's programs, the National Association of Broadcasters will continuously engage in studies and consultations with parent and child study groups. The result of these studies will be made available for application to all children's programs.

### Controversial Public Issues

As part of their public service, networks and stations shall provide time for the presentation of public questions including those of controversial nature. Such time shall be allotted with due regard to all the other elements of balanced program schedules and to the degree of public interest in the questions to be discussed.

Broadcasters shall use their best efforts to allot such time with fairness to all elements in a given controversy.

Time for the presentation of controversial issues shall not be sold, except for political broadcasts. There are three fundamental reasons for this refusal to sell time for public discussion and, in its stead, providing time for it without charge.

First, it is a public duty of broadcasters to bring such discussion to the radio audience regardless of the willingness of others to pay for it.

Second, should time be sold for the discussion of controversial issues, it would have to be sold, in fairness, to all with the ability and desire to buy at any given time. Consequently, all possibility of

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regulating the amount of discussion on the air in proportion to other elements of properly balanced programming or allotting the available periods with due regard to listener interest in the topics to be discussed would be surrendered.

Third, and by far the most important, should time be sold for the discussion of controversial public issues and for the propagation of the views of individuals or groups, a powerful public forum would inevitably gravitate almost wholly into the hands of those with the greater means to buy it.

The political broadcasts excepted above are any broadcasts in connection with a political campaign in behalf of or against the candidacy of a legally qualified candidate for nomination or election to public office, or in behalf of or against a public proposal which is subject to ballot. This exception is made because at certain times the contending parties want to use and are entitled to use more time than broadcasters could possibly afford to give away.

Nothing in the prohibition against selling time for the presentation of controversial public issues shall be interpreted as barring sponsorship of the public forum type of program when such a program is regularly presented as a series of fair-sided discussions of public issues and when control of the fairness of the programs rest wholly with the broadcasting station or network.

### Educational Broadcasting

While all radio programs possess some educative values, broadcasters nevertheless desire to be of assistance in helping toward more specific educational efforts, and will continue to use their time



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and facilities to that end and, in cooperation with appropriate groups, will continue their search for improving application of radio as an educational adjunct.

### News

News shall be presented with fairness and accuracy and the broadcasting station or network shall satisfy itself that the arrangements made for obtaining news insure this result. Since the number of broadcasting channels is limited, news broadcasts shall not be editorial. This means that news shall not be selected for the purpose of furthering or hindering either side of any controversial public issue nor shall it be colored by the opinions or desires of the station or network management, the editor or other engaged in its preparation or the person actually delivering it over the air, or, in the case of sponsored news broadcasts, the advertiser.

The fundamental purpose of news dissemination in a democracy is to enable people to know what is happening and to understand the meaning of events so that they may form their own conclusions and, therefore, nothing in the foregoing shall be understood as preventing news broadcasters from analyzing and elucidating news so long as such analysis and elucidating are free of bias.

News commentators as well as all other newscasters shall be governed by these provisions.

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Religious Broadcasts

Radio, which reaches men of all creeds and races simultaneously, may not be used to convey attacks upon another's race or religion. Rather it should be the purpose of the religious broadcast to promote the spiritual harmony and understanding of mankind and to administer broadly to the varied religious needs of the community.

Commercial Programs and Length of Commercial Copy

Acceptance of programs and announcements shall be limited to products and services offered by individuals and firms engaged in legitimate commerce, whose products, services, radio advertising, testimonials, and other statements comply with pertinent legal requirements, fair trade practices and acceptable standards of good tastes.

Brief handling of commercial copy is recommended procedure at all times.

Member stations shall hold the length of commercial copy, including that devoted to contests and offers, to the following number of minutes and seconds:

## Daytime

Fifteen-minute programs	-	3:15
Thirty-minute programs	-	4:30
Sixty-minute programs	-	9:00

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## Nighttime

Fifteen-minute programs - 2:30  
Thirty-minute programs - 3:00  
Sixty-minute programs - 6:00

The above limitations do not apply to participation programs, announcement programs, "musical clock," shopper's guides and local programs falling within these general classifications.

Because of the varying economic and social conditions throughout the United States, members of the N. A. B. shall have the right to present to the N. A. B. for special ruling local situations which in the opinion of the member may justify exceptions to the above prescribed limitations.

Resolution Adopted by the Seventeenth Annual Convention of the N. A. B.

Whereas, the phrase "accepted standards of good taste" as used in the N. A. B. Code is possible of different interpretations in different parts of our country, and, whereas a more or less uniform interpretation is necessary because in radio broadcasting wide areas often are covered, therefore, it is resolved:

That any interpretation of the phrase "accepted standards of good taste" shall, in addition to the common interpretation such phrase would have in any community, include the following:

Member stations shall not accept for advertising:

1. Any spirituous or 'hard' liquor.
2. Any remedy or other product the sale of which, or the method of sale of which constitutes a violation of the law.

3. Any fortune-telling, mind-reading, character-reading, by hand-writing, numerology, palm-reading, or astrology, or advertising related thereto.
4. Schools that offer questionable or untrue promises of employment as inducements for enrollment.
5. Matrimonial agencies.
6. Offers of 'homework' except by firms of unquestionable responsibility.
7. Any race-track 'dopester,' or tip-sheet publication.
8. All forms of speculative finance. Before member stations may accept any financial advertising it shall be fully ascertained that such advertising and such advertised services comply with all pertinent Federal, state and local laws.
9. Cures and products claiming to cure.
10. Advertising statements or claims member stations know to be false, deceptive or grossly exaggerated.
11. Continuity which describes, repellently, any functions or symptomatic results of disturbances or relief granted such disturbances through the use of any product.
12. Unfair attacks on competitors, competing products or upon other industries, professions or institutions.
13. Misleading statements of price or value or misleading comparisons of price or value.

## APPENDIX IV

National Association of Broadcasters

### Standards of Practice for American Broadcasters

July, 1948

#### The Broadcasters' Creed

We believe:

That American Broadcasting is a living symbol of democracy; a significant and necessary instrument for maintaining freedom of expression, as established by the First Amendment to the Constitution of the United States;

That its influence in the arts, in science, in education, in commerce and upon the public welfare, generally, is of such magnitude that the only proper measure of its responsibility is the common good of the whole people;

That it is our obligation to serve the people in such manner as to reflect credit upon our profession and to encourage aspiration toward a better estate for all mankind; by making available to every person in America, such programs as will perpetuate the traditional leadership of the United States in all phases of the broadcasting art;

That we should make full and ingenious use of man's store of knowledge, his talents and his skills and exercise critical and discerning judgment concerning all broadcasting operations to the end that we may, intelligently and sympathetically;



Observe the proprieties and customs of civilized society;

Respect the rights and sensitivities of all people;

Honor the sanctity of marriage and the home;

Protect and uphold the dignity and brotherhood of all mankind;

Enrich the daily life of the people through the factual reporting and analysis of the news, and through programs of education, entertainment and information;

Provide for the fair discussion of matters of general public concern; engage in works directed toward the common good; and volunteer our aid and comfort in times of stress and emergency;

Contribute to the economic welfare of all, by expanding the channels of trade; by encouraging the development and conservation of natural resources; and by bringing together the buyer and seller through the broadcasting of information pertaining to goods and services.

Therefore:

As a guide for the achievement of our purposes, we subscribe to the following Standards of Practice:

### Program Standards

#### News

News reporting should be factual, fair and without bias.

Commentary and analysis should be clearly identified as such.

Good taste should prevail in the selection and handling of news.

Morbid, sensational or alarming details not essential to the factual

report, especially in connection with stories of crime or sex, should be avoided. News should be broadcast in such a manner as to avoid panic and unnecessary alarm.

Broadcasters should exercise due care in their supervision of content, format, and presentation of news broadcasts originated by them; and in their selection of newscasters, commentators and analysts.

Broadcasters should exercise particular discrimination in the acceptance and placement of advertising in news programs. Such advertising should be appropriate to the program, both as to content and presentation, and should be distinctly set apart from the news content.

In programs of news, news commentary and news analysis which are less than ten minutes in length, no more than two commercial announcements should be used and they should be given at or near the beginning and end of the program.

Agricultural and market newscasts should be governed by the same general standards applicable to news broadcasts.

#### Political Broadcasts\*\*

Political broadcasts, or the dramatization of political issues

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\*\* Because of the present confusion concerning the laws with respect to political broadcasts, broadcasters are advised to consult their lawyers in all cases where they have the least doubt as to the proper method of handling.

designed to influence an election, should, if accepted, be properly identified as such.

#### Public Affairs and Issues

A broadcaster, in allotting time for the presentation of public questions, including those of a controversial nature, should use his best efforts to insure fair presentation. Such time should be allotted with due regard to all other elements of balanced program schedules and to the degree of interest on the part of the public in the question to be presented.

Discussions of controversial public issues should be presented on programs specifically intended for that purpose, and they should be clearly identified as such.

The presentation of controversial public issues should be made by properly identified persons or groups.

Freedom of expression of opinion in broadcasts of controversial public issues should be carefully maintained, but the right should be reserved to refuse them for non-compliance with laws such as those prohibiting defamation and sedition.

#### Religious Programs

Broadcasting, which reaches men of all creeds simultaneously, should avoid attacks upon religion.

Religious programs should be presented respectfully and accurately, and without prejudice or ridicule.

Religious programs should be presented by responsible individuals, groups and organizations.

Religious programs should place emphasis on broad religious truths, excluding the presentation of controversial or partisan views not directly or necessarily related to religion or morality.

### Children's Programs

Children's programs should be based upon sound social concepts and should reflect respect for parents, law and order, clean living, high morals, fair play and honorable behavior.

They should convey the commonly accepted moral, social and ethical ideals characteristic of American life.

They should contribute to the healthy development of personality and character.

There should be no appeals urging children to purchase the product in order to keep the program on the air, or which for any purpose encourage children to enter strange places or to converse with strangers.

### Educational

Every radio program performs an educational function. Broadcasters should recognize the great responsibilities thus imposed, in planning their programs, to insure the most beneficial service to all listeners.

Broadcasters should cooperate with educators and with educational groups in developing improved techniques of broadcasting, as well as those processes of education best calculated to produce expert and skillful personnel.

### Crime and Mystery Programs

In determining the acceptability of any program containing any element of crime, horror or mystery, due consideration should be given to the possible effect on all members of the family.

If the techniques and methods of crime are presented it should be done in such a way as not to encourage imitation; criminals should be punished, specifically or by implication; and programs which tend to make the commission of crime attractive should not be permitted.

Such programs should avoid the following subject matter:

Detailed presentation of brutal killings, torture or physical agony, horror, the use of supernatural or climatic incidents likely to terrify or excite unduly.

Episodes involving the kidnapping of children.

Sound effects calculated to mislead, shock or unduly alarm the listener.

Disrespectful portrayal of law enforcement; and characterization of officers of the law as stupid or ridiculous.

Suicide as a satisfactory solution to any problem.

### General

Sound effects and expressions characteristically associated

with news broadcasts (such as 'bulletin, ' 'flash, ' etc.) should be reserved for announcement of news, and the use of any deceptive techniques in connection with fictional events and non-news programs should be unacceptable.

When plot development requires the use of material which depends upon physical or mental handicaps it should be used in such a way as to spare the sensibilities of suffers from similar defects.

The regular and recurrent broadcasting, in advance of sports events, of information relating to prevailing odds, the effect of which could be expected to encourage gambling, should not be permitted.

Simulation of court atmosphere or use of the term 'Court' in a program title should be done only in such a manner as to eliminate the possibility of creating the false impression that the proceedings broadcast are vested with judicial or official authority.

In cases of programs broadcast over multiple station facilities, the originating station should assume responsibility for conforming such programs to these Standards of Practice.

### Advertising Standards

Advertising is the life blood of the free, competitive American system of broadcasting. It makes possible the presentation, to all the American people, of the finest programs of entertainment, information and culture.

Diligence should be exercised to the end that advertising copy accepted for broadcasting complies with pertinent federal, station and local laws. Acceptance of advertising should be predicated upon such considerations as the integrity of advertiser, the quality of the product, the value of service, and the validity of claims made.

In accepting advertising the broadcaster should exercise great care that he is not conveying to his audience information which is misleading, dangerous to health or character, distasteful or contrary to the proprieties and customs characteristic of his audience, or in violation of business and professional ethics.

Advertising copy should contain no claims that a product will effect a cure.

Good taste should always govern the content, placement and presentation of announcements. Disturbing or annoying sound effects and devices, blatant announcing and over-repetition should be avoided.

#### Time Standards for Advertising Copy

As a guide to the determination of good broadcast advertising practice, the time standards for advertising copy are established as follows:

The maximum time to be used for advertising, allowable to any single sponsor, regardless of type of programs, should be:

Between 6:00 p.m. and 11:00 p.m.	
5 minute programs	1:00
10 minute programs	2:00
15 minute programs	2:30

25 minute programs	2:50
30 minute programs	3:00
45 minute programs	4:30
60 minute programs	6:00

#### All Other Hours

5 minute programs	1:15
10 minute programs	2:10
15 minute programs	3:00
25 minute programs	4:00
30 minute programs	4:15
45 minute programs	5:45
60 minute programs	7:00

The time standards allowable to a single advertiser do not affect the established practice of allowance for station breaks between programs.

All multiple sponsorship or announcement programs, except as hereinafter provided, are subject to the limitation of a maximum of three minutes of advertising per fifteen minute segment, excluding station breaks. Such programs of half hour, three-quarter hour and hour duration are subject to appropriate multiples of that limitation.

Recognizing that such programs as shopping guides, market information, rural news, and the like render a definite service to the listening public; time standards for such programs may be waived for a total of one hour a broadcast day, but care should be exercised to preserve proper program balance in their distribution.

While any number of products may be advertised by a single sponsor within the specified time standards, advertising copy for these products should be presented within the framework of the program structure. Accordingly the use on such programs of simulated spot



announcements which are divorced from the program by preceding the introduction of the program itself, or by following its apparent signoff should be avoided. To this end the program itself should be announced and clearly identified before the use of which have been known as 'cowcatcher' announcements and the program should be signed off after the use of what have been known as 'hitch-hike' announcements.

Any casual reference in a program to another's product or service under any trade name, or language sufficiently descriptive to identify it, should, except for normal guest identifications, be avoided. If used, it should be considered as advertising copy and, as such, a part of and included in the total time allowances as herein provided.

The placement of more than one commercial announcement between two commercial programs should not be permitted except in those instances when one of the two announcements is a sponsored time signal, weather report, station promotion or location announcement of not to exceed a total of ten seconds in length.

### Contests

Any broadcasting designed to 'buy' the radio audience, by requiring it to listen in hope of reward, rather than for the quality of its entertainment should be avoided.

Contests should offer the opportunity to all contestants to win on the basis of ability and skill, rather than chance.

All contest details, including rules, eligibility requirements, opening and termination dates should be clearly and completely announced or easily accessible to the listening public; and the winners' names should be released as soon as possible after the close of the contest.

When advertising is accepted which requests contestants to submit items of product identification or other evidence of purchase of product, reasonable facsimiles thereof should be made acceptable.

All copy pertaining to any contest (except that which is required by law) associated with the exploitation or sale of the sponsor's product or service, and all references to prizes or gifts offered in such connection should be considered a part of and included in the total time allowances as herein provided.

#### Premiums and Offers

Full details of proposed offers should be submitted to the broadcaster for investigation and approval before the first announcement of the offer is made to the public.

A final date for the termination of an offer should be announced as far in advance as possible.

If a consideration is required, the advertiser should agree to honor complaints indicating dissatisfaction with the premium by returning the consideration.

There should be no misleading descriptions or comparisons of

any premiums or gifts which will distort or enlarge their value in the minds of the listeners.

## APPENDIX V

National Association of Broadcasters

### RADIO CODE OF GOOD PRACTICES

July, 1964

#### PREAMBLE

The radio broadcasters of the United States first adopted industry-wide standards of practice in 1937. The purpose of such standards, in this as in other professions, is to establish guideposts and set forth minimum tenets for performance.

Standards for broadcasting can never be final or complete. Broadcasting is a creative art and it must always seek new ways to achieve greater advances. Therefore, any standards must be subject to change. In 1945, after two years devoted to reviewing and revising the 1937 document, new standards were promulgated. Further revisions were made in 1948, 1954, 1955, 1958, 1960, 1962 and 1964 and now there follows a new revised Radio Code of Good Practices of the National Association of Broadcasters.

Through this process of self-examination broadcasters acknowledge their obligation to the American family.

The growth of broadcasting as a medium of entertainment, education, and information has been made possible by its force as an instrument of commerce.

This philosophy of commercial broadcasting as it is known in the United States has enabled the industry to develop as a free medium in the tradition of American enterprise.

The extent of this freedom is implicit in the fact that no one censors broadcasting in the United States.

Those who own the nation's radio broadcasting stations operate them - pursuant to this self-adopted Radio Code of Good Practices - in recognition of the interest of the American people.

#### THE RADIO BROADCASTER'S CREED

We Believe:

That Radio Broadcasting in the United States of America is a living symbol of democracy; a significant and necessary instrument for maintaining freedom of expression, as established by the First Amendment to the Constitution of the United States;

That its influence in the arts, in science, in education, in commerce, and upon the public welfare is of such magnitude that the only proper measure of its responsibility is the common good of the whole people;

That it is our obligation to serve the people in such manner as to reflect credit upon our profession and to encourage aspiration toward a better estate for all mankind; by making available to every person in America such programs as will perpetuate the traditional leadership of the United States in all phases of the broadcasting art;

That we should make full and ingenious use of man's store of knowledge, his talents, and his skills and exercise critical and discerning judgment concerning all broadcasting operations to the end that we may intelligently and sympathetically:

Observe the proprieties and customs of civilized society:

Respect the rights and sensitivities of all people;

Honor the sanctity of marriage and the home;

Protect and uphold the dignity and brotherhood of all mankind;

Enrich the daily life of the people through the factual reporting and analysis of news, and through programs of education, entertainment, and information;

Provide for the fair discussion of matters of general public concern; engage in works directed toward the common good; and volunteer our aid and comfort in times of stress and emergency;

Contribute to the economic welfare of all by expanding the channels of trade, by encouraging the development and conservation of natural resources, and by bringing together the buyer and seller through the broadcasting of information pertaining to goods and services.

Toward the achievement of these purposes we agree to observe the following:

## I. PROGRAM STANDARDS

### A. NEWS

Radio is unique in its capacity to reach the largest number of people first with reports on current events. This competitive advantage

bespeaks caution - being first is not as important as being right.

The following Standards are predicated upon that viewpoint.

1. News Sources. Those responsible for news on radio should exercise constant professional care in the selection of sources - for the integrity of the news and the consequent good reputation of radio as a dominant news medium depend largely upon the reliability of such sources.
2. Newscasting. News reporting shall be factual and objective. Good taste shall prevail in the selection and handling of news. Morbid, sensational, or alarming details not essential to factual reporting should be avoided. News should be broadcast in such a manner as to avoid creation of panic and unnecessary alarm. Broadcasters shall be diligent in their supervision of content, format, and presentation of news broadcasts. Equal diligence should be exercised in selection of editors and reporters who direct news gathering and dissemination, since the station's performance in this vital informational field depends largely upon them.
3. Commentaries and Analyses. Special obligations devolve upon those who analyze and/or comment upon news developments, and management should be satisfied completely that the task is to be performed in the best

interest of the listening public. Programs of news analysis and commentary shall be clearly identified as such, distinguishing them from straight news reporting.

4. Editorializing. Some stations exercise their rights to express opinions about matters of general public interest. Implicit in these efforts to provide leadership in matters of public consequence and to lend proper authority to the station's standing in the community it serves, is an equal obligation to provide opportunity for qualified divergent viewpoints.

The reputation of a station for honesty and accuracy in editorializing depends upon willingness to expose its convictions to fair rebuttal.

Station editorial comment shall be clearly identified as such.

5. Treatment of News and Public Events. All news interview programs shall be governed by accepted standards of ethical journalism, under which the interviewer selects the questions to be asked. Where there is advanced agreement materially restricting an important or newsworthy area of questioning, the interviewer shall state on the program that such limitation has been agreed



upon. Such disclosure shall be made if the person being interviewed requires that questions be submitted in advance or if he participates in editing a recording of the interview prior to its use on the air.

## B. PUBLIC ISSUES

1. A broadcaster, in allotting time for the presentation of public issues, shall exert every effort to insure equality of opportunity.
2. Time should be allotted with due regard to all elements of balanced program schedules, and to the degree of interest on the part of the public in the questions to be presented or discussed. (To discuss is 'to sift or examine by presenting considerations pro and con'.)  
  
The broadcaster should limit participation in the presentation of public issues to those qualified, recognized, and properly identified groups or individuals whose opinions will assist the public in reaching conclusions.
3. Presentation of public issues shall be clearly identified.

## C. POLITICAL BROADCASTS

Political broadcasts, or the dramatization of political issues designed to influence an election, shall be properly identified as such.

#### D. ADVANCEMENT OF EDUCATION AND CULTURE

1. Because radio is an integral part of American life, there is inherent in radio broadcasting a continuing opportunity to enrich the experience of living through the advancement of education and culture.
2. The radio broadcaster, in augmenting the educational and cultural influences of the home, the church, schools, institutions of higher learning, and other entities devoted to education and culture:
  - (a) Should be thoroughly conversant with the educational and cultural needs and aspirations of the community served;
  - (b) Should cooperate with the responsible and accountable educational and cultural entities of the community to provide enlightenment of listeners;
  - (c) Should engage in experimental efforts designed to advance the community's cultural and educational interests.

#### E. RELIGION AND RELIGIOUS PROGRAMS

1. Religious programs shall be presented respectfully and without prejudice or ridicule.
2. Radio broadcasting, which reaches men of all creeds simultaneously, shall avoid attacks upon religion.
3. Religious programs shall be presented by responsible

individuals, groups or organizations.

4. Religious programs shall place emphasis on religious doctrines of faith and worship.

#### F. DRAMATIC PROGRAMS

1. In determining the acceptability of any dramatic program containing any element of crime, mystery, or horror, proper consideration should be given to the possible effect on all members of the family.
2. Radio should reflect realistically the experience of living, in both its pleasant and tragic aspects, if it is to serve the listener honestly. Nevertheless, it holds a concurrent obligation to provide programs which will encourage better adjustments to life.
3. This obligation is apparent in the area of dramatic programs particularly. Without sacrificing integrity of presentation, dramatic programs on radio shall avoid:
  - (a) Techniques and methods of crime presented in such manner as to encourage imitation, or to make the commission of crime attractive, or to suggest that criminals can escape punishment;
  - (b) Detailed presentation of brutal killings, torture, or physical agony, horror, the use of supernatural or climatic incidents likely to terrify or excite unduly;
  - (c) Episodes involving the kidnapping of children;

- (d) Sound effects calculated to mislead, shock, or unduly alarm the listener;
- (e) Disrespectful portrayal of law enforcement;
- (f) The portrayal of suicide as a satisfactory solution to any problem.

#### G. CHILDREN'S PROGRAMS

1. Programs specifically designed for listening by children shall be based upon sound social concepts and shall reflect respect for parents, law and order, clean living, high morals, fair play, and honorable behavior.
2. They shall convey the commonly accepted moral, social and ethical ideals characteristic of American life.
3. They should contribute to the healthy development of personality and character.
4. They should afford opportunities for cultural growth as well as for wholesome entertainment.
5. They should be consistent with integrity of realistic production, but they should avoid material of extreme nature which might create undesirable emotional reaction in children.
6. They shall avoid appeals urging children to purchase the product specifically for the purpose of keeping the program on the air or which, for any reason, encourage children to enter inappropriate places.

## H. GENERAL

1. The intimacy and confidence placed in Radio demand of the broadcaster, the networks and other program sources that they be vigilant in protecting the audience from deceptive program practices.
2. Sound effects and expressions characteristically associated with news broadcasts (such as 'bulletin', 'flash', etc.) shall be reserved for announcement of news, and the use of any deceptive techniques in connection with fictional events and non-news programs shall not be employed.
3. The broadcaster shall be constantly alert to prevent activities that may lead to such practices as the choice and identification of prizes, the selection of music and other creative program elements and inclusion of any identification of commercial products or services, their trade names or advertising slogans, withing a program dictated by factors other than the requirements of the program itself. This expressly forbids that acceptance by producer, talent, or any other personnel of cash payments or other considerations in return for including any of the above within the program.
4. When plot development requires the use of material which depends upon physical or mental handicaps, care should

be taken to spare the sensibilities of sufferers from similar defects.

5. Stations should avoid broadcasting program materials which would tend to encourage illegal gambling or other violations of Federal, State and local laws, ordinances, and regulations.
6. Simulation of court atmosphere or use of the term 'Court' in a program title should be done only in such manner as to eliminate the possibility of creating the false impression that the proceedings broadcast are vested with judicial or official authority.
7. When dramatized advertising material involves statements by doctors, dentists, nurses, or other professional people, the material should be presented by members of such profession reciting actual experience, or it should be made apparent from the presentation itself that the portrayal is dramatized.
8. Quiz and similar programs that are presented as contests of knowledge, information, skill or luck must in fact, be genuine contests and the results must not be controlled by collusion with or between contestants, or any other action which will favor one contestant against any other.
9. No program shall be presented in a manner which through

artifice or simulation would mislead the audience as to any material fact. Each broadcaster must exercise reasonable judgment to determine whether a particular method of presentation would constitute a material deception, or would be accepted by the audience as normal theatrical illusion.

10. In cases of programs broadcast over multiple station facilities, the originating station or network should assume responsibility for conforming such programs to this Radio Code.
11. Requests for time for public service announcements or programs should be carefully reviewed with respect to the character and reputation of the campaign, group or organization involved, the public interest content of the message, and the manner of its presentation.
12. Program material pertaining to fortune-telling, occultism, astrology, phrenology, palm-reading, numerology, mind-reading, or character-reading, is unacceptable when presented for the purpose of fostering belief in these subjects.
13. The use of cigarettes shall not be presented in a manner to impress the youth of our country that it is a desirable habit worthy of imitation in that it contributes to health, individual achievement or social acceptance.

## II. ADVERTISING STANDARDS

Advertising is the principal source of revenue of the free, competitive American system of radio broadcasting. It makes possible the presentation to all American people of the finest programs of entertainment, education and information.

Since the great strength of American radio broadcasting derives from the public respect for and the public approval of its programs, it must be the purpose of each broadcaster to establish and maintain high standards of performance, not only in the selection and production of all programs, but also in the presentation of advertising.

### A. TIME STANDARDS FOR ADVERTISING COPY

1. The maximum time to be used for advertising shall not exceed an average of fourteen minutes an hour, computed on a weekly basis; provided, however, that in no event shall the maximum exceed eighteen minutes in any single hour or five minutes in any fifteen minute segment.
2. The maximum time to be used for advertising allowable to any single sponsor regardless of type of program, shall be:

5 minute programs	1:30
10 minute programs	2:10
15 minute programs	3:00
25 minute programs	4:00
30 minute programs	4:15
45 minute programs	5:45
60 minute programs	7:00

3. Any reference to another's products or services under any trade name, or language sufficiently descriptive to identify



it, shall, except for normal guest identifications, be considered as advertising copy.

4. For the purpose of determining advertising limitations, such program types as 'classified', 'swap shop', 'shopping guides', and 'farm auction' programs, etc., shall be regarded as containing one and one-half minutes of advertising for each five-minute segment.

#### B. PRESENTATION OF ADVERTISING

1. The advancing techniques of the broadcast art have shown that the quality and proper integration of advertising copy are just as important as measurement in time. The measure of a stations service to its audience is determined by its overall performance.
2. The final measurement of any commercial broadcast service is quality. To this, every broadcaster shall dedicate his best efforts.

#### C. ACCEPTABILITY OF ADVERTISERS AND PRODUCTS

1. A commercial radio broadcaster makes his facilities available for the advertising of products and services and accepts commercial presentations for such advertising. However, he shall, in recognition of his responsibility to the public, refuse the facilities of his station to an advertiser where he has good reason to doubt the integrity of the advertiser, the truth of the advertising representation, or the compliance of the advertiser with the spirit and

purpose of all applicable legal requirements. Moreover, in consideration of the laws and customs of the communities served, each radio broadcaster shall refuse his facilities to the advertisement of products and services, or the use of advertising scripts, which the station has good reason to believe would be objectionable to a substantial and responsible segment of the community. The foregoing principles should be applied with judgment and flexibility, taking into consideration the characteristics of the medium and the form of the particular presentation. In general, because radio broadcasting is designed for the home and the entire family, the following principles shall govern the business classifications listed below:

- (a) The advertising of hard liquor shall not be accepted.
- (b) The advertising of beer and wines is acceptable only when presented in the best of good taste and discretion, and is acceptable subject to existing laws.
- (c) The advertising of fortune-telling, occultism, astrology, phrenology, palm-reading, numerology, mind-reading, or character-reading is not acceptable.
- (d) The advertising of intimately personal products which might offend and embarrass the listening audience is unacceptable. In this category are products for the treatment of hemorrhoids and for use in feminine hygiene.

- (e) All advertising of products of a personal nature, when accepted shall be treated with special concern for the sensitivities of the listeners.
  - (f) The advertising of tip sheets, publications, or organizations seeking to advertise for the purpose of giving odds or promoting betting or lotteries is unacceptable.
  - (g) The advertising of cigarettes shall not state or imply claims regarding health and shall not be presented in such a manner as to indicate to the youth of our country that the use of cigarettes contributes to individual achievement, personal acceptance, or is a habit worthy of imitation.
2. An advertiser who markets more than one product shall not be permitted to use advertising copy devoted to an acceptable product for purposes of publicizing the brand name or other identification of a product which is not acceptable.
  3. Care should be taken to avoid presentation of 'bait-switch' advertising whereby goods or services which the advertiser has no intention of selling are offered merely to lure the customer into purchasing higher-priced substitutes.
  4. Advertising copy should contain no claims dealing unfairly with competitors, competing products, or other industries, professions or institutions.

#### D. CONTESTS

1. Contests should offer the opportunity to all contestants to win on the basis of ability and skill, rather than chance.
2. All contest details, including rules, eligibility requirements, opening and termination dates, should be clearly and completely announced or easily accessible to the listening public; and the winners' names should be released as soon as possible after the close of the contest.
3. When contestants are required to submit items of product identification or other evidence of purchase of product, reasonable facsimiles thereof should be made acceptable.
4. All copy pertaining to any contest (except that which is required by law) associated with the exploitation or sale of the sponsor's product or service, and all references to prizes or gifts offered in such connection should be considered a part of and included in the total time limitations heretofore provided.

#### E. PREMIUMS AND OFFERS

1. The broadcaster should require that full details of proposed offers be submitted for investigation and approval before the first announcement of the offer is made to the public.
2. A final date for the termination of an offer should be announced as far in advance as possible.
3. If a consideration is required, the advertiser should agree

to honor complaints indicating dissatisfaction with the premium by returning the consideration.

4. There should be no misleading descriptions or comparisons of any premiums or gifts which will distort or enlarge their value in the minds of the listeners.

## APPENDIX VI

National Association of Radio and Television Broadcasters

### THE TELEVISION CODE

March, 1952

#### PREAMBLE

Television is seen and heard in every type of American home. These homes include children and adults of all ages, embrace all races and all varieties of religious faith, and reach those of every educational background. It is the responsibility of television to bear constantly in mind that the audience is primarily a home audience, and consequently that television's relationship to the viewers is that between guest and host.

The revenues from advertising support the free, competitive American system of telecasting, and make available to the eyes and ears of the American people the finest programs of information, education, culture and entertainment. By law the television broadcaster is responsible for the programming on his station. He, however, is obligated to bring his positive responsibility for excellence and good taste in programming to bear upon all who have a hand in the production of programs, including networks, sponsors, producers of film and live programs, advertising agencies, and talent agencies.

The American businesses which utilize television for conveying their advertising messages to the home by pictures with sound, seen

free-of-charge on the home screen are reminded that their responsibilities are not limited to the sale of goods and the creation of a favorable attitude toward the sponsor by the presentation of entertainment. They include, as well, responsibility for utilizing television to bring the best programs, regardless of kind, into American homes.

Television, and all who participate in it, are jointly accountable to the American public for respect for the special needs of children, for community responsibility, for the advancement of education and culture, for the acceptability of the program materials chosen, for decency and decorum in production, and for propriety in advertising. This responsibility cannot be discharged by any given group of programs, but can be discharged only through the highest standards of respect for the American home, applied to every moment of every program presented by television.

In order that television programming may best serve the public interest, viewers should be encouraged to make their criticisms and positive suggestions known to the television broadcasters. Parents in particular should be urged to see to it that out of the richness of television fare, the best programs are brought to the attention of their children.

## I. ADVANCEMENT OF EDUCATION AND CULTURE

1. Commercial television provides a valuable means of augmenting the educational and cultural influences of schools, institutions of higher learning, the home, the church, museums,

foundations, and other institutions devoted to education and culture.

2. It is the responsibility of a television broadcaster to call upon such institutions for counsel and cooperation and to work with them on the best methods of presenting educational and cultural materials by television. It is further the responsibility of stations, networks, advertising agencies and sponsors consciously to seek opportunities for introducing into telecasts factual materials which will aid in the enlightenment of the American public.

3. Education via television may be taken to mean that process by which the individual is brought toward informed adjustment to his society. Television is also responsible for the presentation of overtly instructional and cultural programs, scheduled so as to reach the viewers who are naturally drawn to such programs, and produced so as to attract the largest possible audience.

4. In furthering this realization, the television broadcaster:

- (a) Should be thoroughly conversant with the educational and cultural needs and desires of the community served.
- (b) Should affirmatively seek out responsible and accountable educational and cultural institutions of the community with a view toward providing opportunities for the instruction and enlightenment of the viewers.
- (c) Should provide for reasonable experimentation in the development of programs specifically directed to the advancement of the community's culture and education.



## II. ACCEPTABILITY OF PROGRAM MATERIAL

Program materials should enlarge the horizons of the viewer, provide him with wholesome entertainment, afford helpful stimulation, and remind him of the responsibilities which the citizen has towards his society. Furthermore:

- a) (i) Profanity, obscenity, smut and vulgarity are forbidden, even when likely to be understood only by part of the audience. From time to time, words which have been acceptable, acquire undesirable meanings, and telecasters should be alert to eliminate such words.
- (ii) The Television Code Review Board shall maintain and issue to subscribers, from time to time, a continuing list of specific words and phrases, the use of which should not be used in keeping with this subsection. This list, however, shall not be considered as all-inclusive.
- b) (i) Attacks on religion and religious faiths are not allowed.
- (ii) Reverence is to mark any mention of the name of God, His attributes and powers.
- (iii) When religious rites are included in other than religious programs, the rites are accurately presented, and the ministers, priests and rabbis portrayed in their callings are vested with the dignity of their office and under no circumstances are to be held up to ridicule.
- c) (i) Contests may not constitute a lottery.
- (ii) Any telecasting designed to 'buy' the television audience by requiring it to listen and/or view in hope of reward, rather than for the quality of the program, should be avoided.
- d) Respect is maintained for the sanctity of marriage and the value of the home. Divorce is not treated casually nor justified as a solution for marital problems.
- e) Illicit sex relations are not treated as commendable.
- f) Sex crimes and abnormalities are generally unacceptable as program material.

- g) Drunkenness and narcotic addiction are never presented as desirable or prevalent.
- h) The administration of illegal drugs will not be displayed.
- i) The use of liquor in program content shall be de-emphasized. The consumption of liquor in American life, when not required by the plot or for proper characterization, shall not be known.
- j) The use of gambling devices or scenes necessary to the development of plot or as appropriate background is acceptable only when presented with discretion and in moderation, and in a manner which would not excite interest in, or foster, betting nor be instructional in nature. Telecasts of actual sport programs at which on-the-scene betting is permitted by law should be presented in a manner in keeping with federal, state and local laws, and should concentrate on the subject as a public sporting event.
- k) In reference to physical or mental afflictions and deformities, special precautions must be taken to avoid ridiculing sufferers from similar ailments and offending them or members of their families.
- l) Exhibition of fortune-telling, astrology, phrenology, palm-reading, and numerology are acceptable only when required by a plot or the theme of a program, and then the presentation should be developed in the manner designed not to foster superstition or excite interest or belief in these subjects.
- m) Televised drama shall not simulate news or special events in such a way as to mislead or alarm. Reference is made to the section of the Code on News.
- n) Legal, medical and other professional advice, diagnosis and treatment will be permitted only in conformity with law and recognized ethical and professional standards.
- o) The presentation of cruelty, greed and selfishness as worthy motivations is to be avoided.
- p) Unfair exploitation of others for personal gain shall not be presented as praiseworthy.
- q) Criminality shall be presented as undesirable and unsympathetic. The condoning of crime and the treatment of the commission of

crime in a frivolous, cynical or callous manner is unacceptable.

- r) Law enforcement shall be upheld, and the officers of the law are to be portrayed with respect and dignity.
- s) The presentation of techniques of crime in such detail as to invite imitation shall be avoided.
- t) The use of horror for its own sake will be liminated; the use of visual or aural effects which would shock or alarm the viewer, and the detailed presentation of brutality or physical agony by sight or by sound are not permissible.
- u) The presentation of murder or revenge as a motive for murder or revenge shall not be presented as justifiable.
- v) Suicide as an acceptable solution for human problems is prohibited.
- w) The exposition of sex crimes will be avoided.
- x) The appearances or dramatization of persons featured in actual crime news will be permitted only in such light as to aid law enforcement or to report the news event.

### III. RESPONSIBILITY TOWARD CHILDREN

1. The education of children involves giving them a sense of the world at large. Crime, violence and sex are a part of the world they will be called upon to meet, and a certain amount of proper presentation of such is helpful in orienting the child to his social surroundings. However, violence and illicit sex shall not be presented in an attractive manner, nor to an extent such as will lead a child to believe that they play a greater part in life than they do. They should not be presented without indications of the resultant retribution and punishment.

2. It is not enough that only those programs which are intended for viewing by children shall be suitable to the young and immature.

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(Attention is called to the general items listed under 'Acceptability of Program Materials') Television is responsible for insuring that programs of all sorts which occur during the times of day when children may normally be expected to have the opportunity of viewing television shall exercise care in the following regards:

- a) In affording opportunities for cultural growth as well as for wholesome entertainment.
- b) In developing programs to foster and promote the commonly accepted moral, social and ethical ideals characteristic of American life.
- c) In reflecting respect for parents, for honorable behavior, and for the constituted authorities of the American community.
- d) In eliminating reference to kidnapping of children or threats of kidnapping.
- e) In avoiding material which is excessively violent or would create morbid suspense, or other undesirable reactions in children.
- f) In exercising particular restraint and care in crime or mystery episodes involving children or minors.

#### IV. DECENCY AND DECORUM IN PRODUCTION

1. The costuming of all performers shall be within the bounds of propriety, and shall avoid such exposure or such emphasis on anatomical detail as would embarrass or offend home viewers.

2. The movements of dancers, actors, or other performers shall be kept within the bounds of decency, and lewdness and impropriety shall not be suggested in the positions assumed by performers.

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3. Camera angles shall avoid such views of performers as to emphasize anatomical details indecently.

4. Racial or nationality types shall not be shown on television in such a manner as to ridicule the race or nationality.

5. The use of locations closely associated with sexual life or with sexual sin must be governed by good taste and delicacy.

## V. COMMUNITY RESPONSIBILITY

A television broadcaster and his staff occupy a position of responsibility in the community and should conscientiously endeavor to be acquainted fully with its needs and characteristics in order better to serve the welfare of its citizens.

## VI. TREATMENT OF NEWS AND PUBLIC EVENTS

News:

1. A television station's news schedule should be adequate and well-balanced.

2. News reporting should be factual, fair and without bias.

3. Commentary and analysis should be clearly identified as such.

4. Good taste should prevail in the selection and handling of news: Morbid, sensational alarming details not essential to the factual report, especially in connection with stories of crime or sex, should be avoided. News should be telecast in such a manner as to avoid panic and unnecessary alarm.

5. At all times, pictorial and verbal material for both news and comment should conform to other sections of these standards, where ever such sections are reasonably applicable.

6. Pictorial material should be chosen with care and not presented in a misleading manner.

7. A television broadcaster should exercise particular discrimination in the acceptance, placement and presentation of advertising in news programs so that such advertising should be clearly distinguishable from the news content.

8. A television broadcaster should exercise due care in his supervision of content, format, and presentation of newscasts originated by his station; and in his selection of newscasters, commentators, and analysts.

9. A television broadcaster should not present fictional events or other non-news material as authentic news telecasts or announcements nor should he permit dramatizations in any program which would give the false impression that the dramatized material constitutes news. Expletives (presented aurally or pictorially), such as 'flash' or 'bulletin' and statements such as 'we interrupt this program to bring you . . . . ' should be reserved specifically for news room use. However, a television broadcaster may properly exercise discretion in the use in non-news programs of words or phrases which do not necessarily imply that the material following is a news release.



## VII. PUBLIC EVENTS

1. A television broadcaster has an affirmative responsibility at all times to be informed of public events, and to provide coverage consonant with the ends of an informed and enlightened citizenry.

2. Because of the nature of events open to the public, the treatment of such events by a television broadcaster should be effected in a manner to provide for adequate and informed coverage as well as good taste in presentation.

## VIII. CONTROVERSIAL PUBLIC ISSUES

1. Television provides a valuable forum for the expression of responsible views on public issues of a controversial nature. In keeping therewith the television broadcaster should seek out and develop with accountable individuals, groups and organizations, programs relating to controversial public issues of import to its fellow citizens; and to give fair representation to opposing sides of issues which materially affect the life or welfare of a substantial segment of the public.

2. The provision of time for this purpose should be guided by the following principles:

- a) Requests of individuals, groups or organizations for time to discuss their views on controversial public issues, should be considered on the basis of their individual merits, and in the light of the contribution which the use requested would make to the public interest, and to a well-balanced program structure.
- b) Programs devoted to the discussion of controversial public issues should be identified as such, and should

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not be presented in a manner which would mislead listeners or viewers to believe that the program is purely of an entertainment, news, or other character.

#### IX. POLITICAL TELECASTS

Political telecasts should be clearly identified as such, and should not be presented by a television broadcaster in a manner which would mislead listeners or viewers to believe that the program is of any other character.

#### X. RELIGIOUS PROGRAMS

1. It is the responsibility of a television broadcaster to make available to the community as part of a well-balanced program schedule adequate opportunity for religious presentations.

2. The following principles should be followed in the treatment of such programs:

- a) Telecasting which reaches men of all creeds simultaneously should avoid attacks upon religion.
- b) Religious programs should be presented respectfully and accurately and without prejudice or ridicule.
- c) Religious programs should be presented by responsible individuals, groups, and organizations.
- d) Religious programs should place emphasis on broad religious truths, excluding the presentation of controversial or partisan views not directly or necessarily related to religion or morality.

3. In the allocation of time for telecasts of religious programs it is recommended that the television station use its best efforts to apportion such time fairly among the representative faith groups of its community.

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## XI. PRESENTATION OF ADVERTISING

1. Ever mindful of the role of television as a guest in the home, a television broadcaster should exercise unceasing care to supervise the form in which advertising material is presented over his facilities. Since television is a developing medium, involving methods and techniques distinct from those of radio, it may be desirable, from time to time, to review and revise the presently suggested practices.

- (a) Advertising messages should be presented with courtesy and good taste; disturbing or annoying material should be avoided; every effort should be made to keep the advertising message in harmony with the content and general tone of the program in which it appears.
- (b) A sponsor's advertising messages should be confined within the framework of the sponsor's program structure. A television broadcaster should seek to avoid the use of commercial announcements which are divorced from the program either by preceding the introduction of the program (as in the case of so-called 'cow-catcher' announcements) or by following the apparent sign-off of the program (as in the case of so-called 'trailer' announcements). To this end, the program itself should be announced and clearly identified before the sponsor's advertising material is first used, and should be signed off after the sponsor's advertising material is last used.
- (c) Advertising copy should contain no claims intended to disparage competitors, competing products, or other industries, professions or institutions.
- (d) Since advertising by television is a dynamic technique, a television broadcaster should keep under surveillance new advertising devices so that the spirit and purpose of these standards are fulfilled.
- (e) Television broadcaster should exercise the utmost care and discrimination with regard to advertising material, including content, placement and presentation, near or adjacent to programs designed for children. No consideration of expediency should be permitted to impinge upon the vital

responsibility towards children and adolescents, which is inherent in television, and which must be recognized and accepted by all advertisers employing television.

- (f) Television advertisers should be encouraged to devote portions of their allotted advertising messages and program time to the support of worthy causes in the public interest in keeping with the highest ideals of the free competitive system.
- (g) A charge for television time to churches and religious bodies is not recommended.

## XII. ACCEPTABILITY OF ADVERTISERS AND PRODUCTS

### General

1. A commercial television broadcaster makes his facilities available for the advertising of products and services and accepts commercial presentations for such advertising. However, a television broadcaster should, in recognition of his responsibility to the public, refuse the facilities of his station to an advertiser where he has good reason to doubt the integrity of the advertiser, the truth of the advertising representations, or the compliance of the advertiser with the spirit and purpose of all applicable legal requirements. Moreover, in consideration of the laws and customs of the communities served, each television broadcaster should refuse his facilities to the advertisement of products and services, or the use of advertising scripts, which the station has good reason to believe would be objectionable to a substantial and responsible segment of the community. The foregoing principles should be applied with judgment and flexibility, taking into consideration the characteristics of the medium and the form

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and content of the particular presentation. In general, because a television broadcast is designed for the home and the family, including children, the following principles should govern the business classifications listed below:

- (a) The advertising of hard liquor should not be accepted.
- (b) The advertising of beer and wines is acceptable only when presented in the best of good taste and discretion, and is acceptable subject to federal and local laws.
- (c) Advertising by institutions or enterprises which in their offers of instruction imply promises of employment or make exaggerated claims for the opportunities awaiting those who enroll for courses is generally unacceptable.
- (d) The advertising of firearms and fireworks is acceptable only subject to federal and local laws.
- (e) The advertising of fortune-telling, occultism, spiritualism, astrology, phrenology, palm-reading, numerology, mind-reading or character-reading is not acceptable.
- (f) Because all products of a personal nature create special problems, such products, when accepted, should be treated with special emphasis on ethics and canons of good taste; however, the advertising of intimately personal products which are generally regarded as unsuitable conversational topics in mixed social groups are not acceptable.
- (g) The advertising of tip sheets, race track publications, or organizations seeking to advertise for the purpose of giving odds or promoting betting or lotteries is unacceptable.

2. Diligence should be exercised to the end that advertising copy accepted for telecasting complies with pertinent federal, state and local laws.

3. An advertiser who markets more than one product should not be permitted to use advertising copy devoted to an acceptable product for purposes of publicizing the brand name or other identification of a



product which is not acceptable.

### XIII. ADVERTISING OF MEDICAL PRODUCTS

1. The advertising of medical products presents considerations of intimate and far-reaching importance to the consumer, and the following principles and procedures should apply in the advertising thereof.

- (a) A television broadcaster should not accept advertising material which in his opinion offensively describes or dramatizes distress or morbid situations involving ailments, by spoken word, sound or visual effects.
- (b) Because of the personal nature of the advertising of medical products, claims that a product will effect a cure and the indiscriminate use of such words as 'safe', 'without risk', 'harmless', or terms of similar meaning should not be accepted in the advertising of medical products on television stations.

### XIV. CONTESTS

1. Contests should offer the opportunity to all contestants to win on the basis of ability and skill, rather than chance.

2. All contest details, including rules, eligibility requirements, opening and termination dates should be clearly and completely announced and/or shown or easily accessible to the viewing public, and the winners' names should be released and prizes awarded as soon as possible after the close of the contest.

3. When advertising is accepted which requests contestants to submit items of product identification or other evidence of purchase of product, reasonable facsimiles thereof should be made acceptable.

4. All copy pertaining to any contest (except that which is required by law) associated with the exploitation or sale of the sponsor's product or service, and all references to prizes or gifts offered in such connection should be considered a part of and included in the total time allowances as herein provided. (See Time Standards for Advertising Copy).

#### XV. PREMIUMS AND OFFERS

1. Full details of proposed offers should be required by the television broadcaster for investigation and approval before the first announcement of the offer is made to the public.

2. A final date for the termination of an offer should be announced as far in advance as possible.

3. Before accepting for telecast offers involving a monetary consideration, a television broadcaster should satisfy himself as to the integrity of the advertiser and the advertiser's willingness to honor complaints indicating dissatisfaction with the premium by returning the monetary consideration.

4. There should be no misleading descriptions or visual representations of any premiums or gifts which would distort or enlarge their value in the minds of the listeners.

5. Assurances should be obtained from the advertiser that premiums offered are not harmful to person or property.

6. Premiums should not be approved which appeal to superstition on the basis of 'luck-bearing' powers or otherwise.

## XVI. TIME STANDARDS FOR ADVERTISING COPY

1. As a guide to the determination of good telecast advertising practice, the time standards for advertising copy, presently suggested, are as follows:

Length of Advertising Message (minutes and seconds)			
Length of Program (minutes)	News Programs Day and Night	All Other Class "A" Time	Programs All Other Hours
5	1:00	1:00	1:15
10	1:45	2:00	2:10
15	2:15	2:30	3:00
25		2:50	4:00
30		3:00	4:15
45		4:30	5:45
60		6:00	7:00

2. The times set forth above do not affect the established practice of reserving for the station's use the last 30 seconds of each program for station break and spot announcements.

3. Announcement programs are designed to accommodate a designated number of individual live or recorded announcements, generally one minute in length, which are carried within the body of the program and are available for sale to individual advertisers. Normally not more than 3 one-minute announcements (which should not exceed approximately 125 words if presented live) should be scheduled within a 15-minute period and not more than six such announcements should be scheduled within a 30-minute period in local announcement programs; however, fewer announcements of greater individual length may be scheduled provided, that the aggregate length of the announcements

approximates three minutes in a 15-minute program or six minutes in a 30-minute program. In announcement programs other than 15-minutes or 30-minutes in length, the proportion of one minute of announcement within every five minutes of programming is normally applied. The announcements must be presented within the framework of the program period designated for their use and kept in harmony with the content of the program in which they are placed.

4. Programs presenting women's services, features, shopping guides, market information, and similar material, provide a special service to the listening and viewing public in which advertising material is an informative and integral part of the program content. Because of these special characteristics the time standards set forth above may be waived to a reasonable extent. In the present state of experimentation in programming and advertising techniques in television programs of this type no definite limitations to these exceptions are set forth at this time.

5. Any casual reference in a program to another's product or service under any trade name or language sufficiently descriptive to identify it should, except for normal guest identifications, be condemned and discouraged.

6. Stationary backdrops or properties in television presentations showing the sponsor's name or product, the name of his product, his trade mark or slogan may be used only incidentally. They should not obtrude on program interest or entertainment. 'On Camera' shots

of such materials should be fleeting, not too frequent, and mindful of the need of maintaining a proper program balance.

#### XVII. DRAMATIZED APPEALS AND ADVERTISING

Appeals to help fictitious characters in television programs by purchasing the advertiser's product or service or sending for a premium should not be permitted, and such fictitious characters should not be introduced into the advertising message for such purposes. When dramatized advertising material involves statements by doctors, dentists, nurses or other professional people, the material should be presented by members of such profession reciting actual experience or it should be made apparent from the presentation itself that the portrayal is dramatized.

#### XVIII. SPONSOR IDENTIFICATION

Identification of sponsorship must be made in all sponsored programs in accordance with the requirements of the Communications Act of 1934 as the Rules and Regulations of the Federal Communications Commission.

## APPENDIX VII

National Association of Broadcasters

### THE TELEVISION CODE

May, 1962

#### PREAMBLE

Television is seen and heard in every type of American home. These homes include children and adults of all ages, embrace all races and all varieties of religious faith, and reach those of every educational background. It is the responsibility of television to bear constantly in mind that the audience is primarily a home audience, and consequently that television's relationship to the viewers is that between guest and host.

The revenues from advertising support the free competitive American system of telecasting, and make available to the eyes and ears of the American people the finest programs of information, education, culture and entertainment. By law the television broadcaster is responsible for the programming of his station. He, however, is obligated to bring his positive responsibility for excellence and good taste in programming to bear upon all who have a hand in the production of programs, including networks, sponsors, producers of film and of live programs, advertising agencies, and talent agencies.

The American businesses which utilize television for conveying their advertising messages to the home by pictures with sound, seen

free-of-charge on the home screen, are reminded that their responsibilities are not limited to the sale of goods and the creation of entertainment. They include, as well, responsibility for utilizing television to bring the best programs, regardless of kind, into American homes.

Television and all who participate in it are jointly accountable to the American public for respect for the special needs of children, for community responsibility, for the advancement of education and culture, for the acceptability of the program materials chosen, for decency and decorum in production, and for propriety in advertising. This responsibility cannot be discharge by any given group of programs, but can be discharged only through the highest standards of respect for the American home, applied to every moment of every program presented by television.

In order that television programming may best serve the public interest, viewers should be encouraged to make their criticisms and positive suggestions known to the television broadcasters. Parents in particular should be urged to see to it that out of the richness of television fare, the best programs are brought to the attention of their children.

## I. ADVANCEMENT OF EDUCATION AND CULTURE

1. Commercial television provides a valuable means of augmenting the educational and cultural influence of schools, institutions of higher learning, the home, the church, museums,

foundations, and other institutions devoted to education and culture.

2. It is the responsibility of a television broadcaster to call upon such institutions for counsel and cooperation and to work with them on the best methods of presenting educational and cultural materials by television. It is further the responsibility of stations, networks, advertising agencies and sponsors consciously to seek opportunities for introducing into telecasts factual materials which will aid in the enlightenment of the American public.

3. Education via television may be taken to mean that process by which the individual is brought toward informed adjustment to his society. Television is also responsible for the presentation of overtly instructional and cultural programs, scheduled so as to reach the viewers who are naturally drawn to such programs, and produced so as to attract the largest possible audience.

4. The television broadcaster should be thoroughly conversant with the educational and cultural needs and desires of the community served.

5. He should affirmatively seek out responsible and accountable educational and cultural institutions of the community with a view toward providing opportunities for the instruction and enlightenment of the viewers.

6. He should provide for reasonable experimentation in the development of programs specifically directed to the advancement of the community's culture and education.



7. It is in the interest of television as a vital medium to encourage and promote the broadcast of programs presenting genuine artistic or literary material, valid moral and social issues, significant controversial and challenging concepts and other subject matter involving adult themes. Accordingly, none of the provisions of this code, including those relating to the responsibility toward children, should be construed to prevent or impede their broadcast. All such programs, however, should be broadcast with due regard to the composition of the audience. The highest degree of care should be exercised to preserve the integrity of such programs and to ensure that the selection of themes, their treatment and presentation are made in good faith upon the basis of true instructional and entertainment values, and not for the purposes of sensationalism, to shock or exploit the audience or to appeal to prurient interests or morbid curiosity.

## II. RESPONSIBILITY TOWARD CHILDREN

1. The education of children involves giving them a sense of the world at large. It is not enough that only those programs which are intended for viewing by children shall be suitable to the young and immature. In addition, those programs which might be reasonably expected to hold the attention of children and which are broadcast during times of the day when children may be normally expected to constitute a substantial part of the audience should be presented with due regard for their effect on children.

2. Such subject as violence and sex shall be presented without undue emphasis and only as required by plot development or character delineation. Crime should not be presented as attractive or as a solution to human problems, and the inevitable retribution should be made clear.

3. The broadcaster should afford opportunities for cultural growth as well as for wholesome entertainment.

4. He should develop programs to foster and promote the commonly accepted moral, social and ethical ideals characteristic of American life.

5. Programs should reflect respect for parents, for honorable behavior, and for the constituted authorities of the American community.

6. Exceptional care should be exercised with reference to kidnapping or threats of kidnapping of children in order to avoid terrorizing them.

7. Material which is excessively violent or would create morbid suspense, or other undesirable reactions in children, should be avoided.

8. Particular restraint and care in crime or mystery episodes involving children or minors, should be exercised.

### III. COMMUNITY RESPONSIBILITY

1. A television broadcaster and his staff occupy a position of responsibility in the community and should conscientiously endeavor to be acquainted fully with its needs and characteristics in order better to serve the welfare of its citizens.

2. Requests for time for the placement of public service announcements or programs should be carefully reviewed with respect to the character and reputation of the group, campaign or organization involved, the public interest content of the message, and the manner of its presentation.

#### IV. GENERAL PROGRAM STANDARDS

1. Program materials should enlarge the horizons of the viewer, provide him with wholesome entertainment, afford helpful stimulation, and remind him of the responsibilities which the citizen has towards his society. The intimacy and confidence placed in Television demand of the broadcaster, the network and other program sources that they be vigilant in protecting the audience from deceptive program practices.

2. Profanity, obscenity, smut and vulgarity are forbidden, even when likely to be understood only by part of the audience. From time to time, words which have been acceptable, acquire undesirable meanings, and telecasters should be alert to eliminate such words.

3. Words (especially slang) derisive of any race, color, creed, nationality or national derivation, except wherein such usage would be for the specific purpose of effective dramatization such as combating prejudice, are forbidden, even when likely to be understood only by part of the audience. From time to time, words which have been acceptable, acquire undesirable meanings, and telecasters should be alert to eliminate such words.



4. Racial or nationality types shall not be shown on television in such a manner as to ridicule the race or nationality.

5. Attacks on religion and religious faiths are not allowed. Reverence is to mark any mention of the name of God, His attributes and powers. When religious rites are included in other than religious programs the rites shall be accurately presented. The office of minister, priest or rabbi shall not be presented in such a manner as to ridicule or impair its dignity.

6. Respect is maintained for the sanctity of marriage and the value of the home. Divorce is not treated casually as a solution for marital problems.

7. In reference to physical or mental afflictions and deformities, special precautions must be taken to avoid ridiculing sufferers from similar ailments and offending them or members of their families.

8. Excessive or unfair exploitation of others or of their physical or mental afflictions shall not be presented as praiseworthy.

The presentation of cruelty, greed and selfishness as worthy motivations is to be avoided.

9. Law enforcement shall be upheld and, except where essential to the program plot, officers of the law portrayed with respect and dignity.

10. Legal, medical and other professional advice, diagnosis and treatment will be permitted only in conformity with law and recognized ethical and professional standards.

11. The use of animals both in the production of television programs and as part of television program content, shall at all times, be in conformity with accepted standards of humane treatment.

12. Criminality shall be presented as undesirable and unsympathetic. The condoning of crime and the treatment of the commission of crime in a frivolous, cynical or callous manner is unacceptable.

The presentation of techniques of crime in such detail as to invite imitation shall be avoided.

13. The presentation of murder or revenge as a motive for murder shall not be presented as justifiable.

14. Suicide as an acceptable solution for human problems is prohibited.

15. Illicit sex relations are not treated as commendable.

Sex crimes and abnormalities are generally unacceptable as program material.

The use of locations closely associated with sexual life or with sexual sin must be governed by good taste and delicacy.

16. Drunkenness should never be presented as desirable or prevalent.

The use of liquor in program content shall be de-emphasized, The consumption of liquor in American life, when not required by the plot or for proper characterization, shall not be shown.

17. Narcotic addiction shall not be presented except as a vicious habit. The administration of illegal drugs will not be displayed.

18. The use of gambling devices or scenes necessary to the development of plot or as appropriate background is acceptable only when presented with discretion and in moderation, and in a manner which would not excite interest in, or foster, betting nor be instructional in nature.

19. Telecasts of actual sport programs at which on-the-scene betting is permitted by law should be presented in a manner in keeping with Federal, state and local laws, and should concentrate on the subject as a public sporting event.

20. Exhibitions of fortune-telling, occultism, astrology, phrenology, palm-reading and numerology are acceptable only when required by plot or the theme of a program, and then the presentation should be developed in a manner designed not to foster superstition or excite interest or belief in these subjects.

21. Quiz and similar programs that are presented as contests of knowledge, information, skill or luck must, in fact, be genuine contests and the results must not be controlled by collusion with or between contestants, or any other action which will favor one contestant against any other.

22. No program shall be presented in a manner which through artifice or simulation would mislead the audience as to any material fact. Each broadcaster must exercise reasonable judgment to determine whether a particular method of presentation would constitute a material

deception, or would be accepted by the audience as normal theatrical illusion.

23. The appearances or dramatization of persons featured in actual crime news will be permitted only in such light as to aid law enforcement or to report the news event.

24. The use of horror for its own sake will be eliminated; the use of visual or aural effects which would shock or alarm the viewer, and the detailed presentation of brutality or physical agony by sight or by sound are not permissible.

25. Contests may not constitute a lottery.

26. Any telecasting designed to 'buy' the television audience by requiring it to listen and/or view in hope of reward rather than for the quality of the program, should be avoided.

27. The costuming of all performers shall be within the bounds of propriety and shall avoid such exposure or such emphasis on anatomical details as would embarrass or offend home viewers.

28. The movements of dancers, actors, or other performers shall be kept within the bounds of decency, and lewdness and impropriety shall not be suggested in the positions assumed by performers.

29. Camera angles shall avoid such views of performers as to emphasize anatomical details indecently.

30. The use of the television medium to transmit information of any kind by the use of the process called 'subliminal perception,'



or by the use of any similar technique whereby an attempt is made to convey information to the viewer by transmitting messages below the threshold of normal awareness, is not permitted.

31. The broadcaster shall be constantly alert to prevent activities that may lead to such practices as the use of scenic properties, the choice and identification of prizes, the selection of music and other creative program elements and inclusion of any identification of commercial products or services, their trade names or advertising slogans, within a program dictated by factors other than the requirements of the program itself. The acceptance of cash payments or other considerations in return for including any of the above within the program is prohibited except in accordance with Sections 317 and 508 of the Communications Act.

32. A television broadcaster should not present fictional events or other non-news material as authentic news telecasts or announcements, nor should he permit dramatizations in any program which would give the false impression that the dramatized material constitutes news. Expletives, (presented aurally or pictorially) such as 'flash' or 'bulletin' and statements such as 'we interrupt this program to bring you . . .' should be reserved specifically for news room use. However, a television broadcaster may properly exercise discretion in the use in non-news programs of words or phrases which do not necessarily imply that the material following is a news release.

## V. TREATMENT OF NEWS AND PUBLIC EVENTS

## News

1. A television station's news schedule should be adequate and well-balanced.
2. News reporting should be factual, fair and without bias.
3. A television broadcaster should exercise particular discrimination in the acceptance, placement and presentation of advertising in news programs so that such advertising should be clearly distinguishable from the news content.
4. At all times, pictorial and verbal material for both news and comment should conform to other sections of these standards, wherever such sections are reasonably applicable.
5. Good taste should prevail in the selection and handling of news: Morbid, sensational or alarming details not essential to the factual report, especially in connection with stories of crime or sex, should be avoided. News should be telecast in such a manner as to avoid panic and unnecessary alarm.
6. Commentary and analysis should be clearly identified as such.
7. Pictorial material should be chosen with care and not presented in a misleading manner.
8. All news interview programs should be governed by accepted standards of ethical journalism, under which the interviewer selects the questions to be asked. Where there is advance agreement

materially restricting an important or newsworthy area of questioning, the interviewer will state on the program that such limitation has been agreed upon. Such disclosure should be made if the person being interviewed requires that questions be submitted in advance or if he participates in editing a recording of the interview prior to its use on the air.

9. A television broadcaster should exercise due care in his supervision of content, format, and presentation of newscasts originated by his station, and in his selection of newscasters, commentators, and analysts.

#### Public Events

1. A television broadcaster has an affirmative responsibility at all times to be informed of public events, and to provide coverage consonant with the ends of an informed and enlightened citizenry.

2. The treatment of such events by a television broadcaster should provide adequate and informed coverage.

### VI. CONTROVERSIAL PUBLIC ISSUES

1. Television provides a valuable forum for the expression of responsible views on public issues of a controversial nature. The television broadcaster should seek out and develop with accountable individuals, groups and organizations, programs relating to controversial public issues of import to his fellow citizens; and to give fair representation to opposing sides of issues which materially affect the life or welfare of a substantial segment of the public.

2. Requests by individuals, groups or organizations for time to discuss their views on controversial public issues, should be considered on the basis of their individual merits, and in the light of the contribution which the use requested would make to the public interest, and to a well-balanced program structure.

3. Programs devoted to the discussion of controversial public issues should be identified as such. They should not be presented in a manner which would mislead listeners or viewers to believe that the program is purely of an entertainment, news, or other character.

## VII. POLITICAL TELECASTS

1. Political telecasts should be clearly identified as such. They should not be presented by a television broadcaster in a manner which would mislead listeners or viewers to believe that the program is of any other character.

(Ref. : Communications Act of 1934, as amended, Secs. 315 and 317, and FCC Rules and Regulations, Secs. 3.654, 3.657, 3.663, as discussed in NAB's 'A Political Catechism.')

## VIII. RELIGIOUS PROGRAMS

1. It is the responsibility of a television broadcaster to make available to the community appropriate opportunity for religious presentations.

2. Telecasting which reaches men of all creeds simultaneously should avoid attacks upon religion.

3. Religious programs should be presented respectfully and accurately and without prejudice or ridicule.

4. Religious programs should be presented by responsible individuals, groups and organizations.

5. Religious programs should place emphasis on broad religious truths, excluding the presentation of controversial or partisan views not directly or necessarily related to religion or morality.

6. In the allocation of time for telecasts of religious programs the television station should use its best efforts to apportion such time fairly among the representative faith groups of its community.

#### IX. GENERAL ADVERTISING STANDARDS

1. This Code establishes basic standards for all television broadcasting. The principles of acceptability and good taste within the Program Standards section govern the presentation of advertising where applicable. In addition, the Code establishes in this section special standards which apply to television advertising.

2. A commercial television broadcaster makes his facilities available for the advertising of products and services and accepts commercial presentations for such advertising. However, a television broadcaster should, in recognition of his responsibility to the public, refuse the facilities of his station to an advertiser where he has good reason to doubt the integrity of the advertiser, the truth of the advertising representations, or the compliance of the advertiser with the spirit and purpose of all applicable legal requirements.

3. Identification of sponsorship must be made in all sponsored

programs in accordance with the requirements of the Communications Act of 1934, as amended, and the Rules and Regulations of the Federal Communications Commission.

4. In consideration of the customs and attitudes of the communities served, each television broadcaster should refuse his facilities to the advertisement of products and services, or the use of advertising scripts, which the station has good reason to believe would be objectionable to a substantial and responsible segment of the community. These standards should be applied with judgment and flexibility, taking into consideration the characteristics of the medium, its home and family audience, and the form and content of the particular presentation.

5. The advertising of hard liquor (distilled spirits) is not acceptable.

6. The advertising of beer and wines is acceptable only when presented in the best of good taste and discretion, and is acceptable only subject to Federal and local laws.

7. Advertising by institutions or enterprises which in their offers of instruction imply promises of employment or make exaggerated claims for the opportunities awaiting those who enroll for courses is generally unacceptable.

8. The advertising of firearms and fireworks is acceptable only subject to Federal and local laws.

9. The advertising of fortune-telling, occultism, astrology, phrenology, palm-reading, numerology, mind-reading, character reading or subjects of a like nature is not permitted.

10. Because all products of a personal nature create special problems, such products, when accepted, should be treated with especial emphasis on ethics and the canons of good taste. Such advertising of personal products as is accepted must be presented in a restrained and obviously inoffensive manner.

The advertising of particularly intimate products which ordinarily are not freely mentioned or discussed is not acceptable.

11. The advertising of tip sheets, race track publications, or organizations seeking to advertise for the purpose of giving odds or promoting betting or lotteries is unacceptable.

12. An advertiser who markets more than one product should not be permitted to use advertising copy devoted to an acceptable product for purposes of publicizing the brand name of other identification of a product which is not acceptable.

13. 'Bait-switch' advertising whereby, goods or services which the advertiser has no intention of selling are offered merely to lure the customer into purchasing higher-priced substitutes, is not acceptable.

## X. PRESENTATION OF ADVERTISING

1. Advertising messages should be presented with courtesy and good taste; disturbing or annoying material should be avoided;

every effort should be made to keep the advertising message in harmony with the content and general tone of the program in which it appears.

2. The role and capability of television to market sponsors' products are well recognized. In turn, this fact dictates that great care be exercised by the broadcaster to prevent the presentation of false, misleading or deceptive advertising. While it is entirely appropriate to present a product in a favorable light and atmosphere, the presentation must not, by copy or demonstration, involve a material deception as to the characteristics, performance or appearance of the product.

3. The broadcaster and the advertiser should exercise special caution with the content and presentation of television commercials placed in or near programs designed for children. **Exploitation of children should be avoided.** Commercials directed to children should in no way mislead as to the product's performance and usefulness.

Appeals involving matters of health which should be determined by physicians should not be directed primarily to children.

4. Appeals to help fictitious characters in television programs by purchasing the advertiser's product or service or sending for a premium should not be permitted, and such fictitious characters should not be introduced into the advertising message for such purposes.

5. Dramatized advertising involving statement or purported statements by physicians, dentists, or nurses must be presented by accredited members of such professions.



6. Advertising copy should contain no claims dealing unfairly with competitors, competing products, or other industries, professions or institutions.

7. A sponsor's advertising messages should be confined within the framework of the sponsor's program structure. A television broadcaster should avoid the use of commercial announcements which are divorced from the program either by preceding the introduction of the program (as in the case of so-called 'cow-catcher' announcements) or by following the apparent sign-off of the program (as in the case of so-called trailer or 'hitch-hike' announcements). To this end, the program itself should be announced and clearly identified, both audio and video, before the sponsor's advertising material is first used, and should be signed off, both audio and video, after the sponsor's advertising material is last used.

8. Since advertising by television is a dynamic technique, a television broadcaster should keep under surveillance new advertising devices so that the spirit and purpose of these standards are fulfilled.

9. A charge for television time to churches and religious bodies is not commended.

## XI. ADVERTISING OF MEDICAL PRODUCTS

1. The advertising of medical products presents considerations of intimate and far-reaching importance to the consumer because of the direct bearing on his health.

2. Because of the personal nature of the advertising of medical products, claims that a product will effect a cure and the indiscriminate use of such words as 'safe', 'without risk', 'harmless', or terms of similar meaning should not be accepted in the advertising of medical products on television stations.

3. A television broadcaster should not accept advertising material which in his opinion offensively describes or dramatizes distress or morbid situations involving ailments, by spoken words, sound or visual effects.

## XII. CONTESTS

1. Contests shall be conducted with fairness to all entrants, and shall comply with all pertinent laws and regulations. Care should be taken to avoid the concurrent use of the three elements which together constitute a lottery - prize, chance and consideration.

2. All contest details, including rules, eligibility requirements, opening and termination dates should be clearly and completely announced and/or shown, or easily accessible to the viewing public, and the winners' names should be released and prizes awarded as soon as possible after the close of the contest.

3. When advertising is accepted which requests contestants to submit items of product identification or other evidence of purchase of products, reasonable facsimiles thereof should be made acceptable unless the award is based upon skill and not upon chance.

4. All copy pertaining to any contest (except that which is

required by law) associated with the exploitation or sale of the sponsor's product or service, and all reference to prizes or gifts offered in such connection should be considered a part of and included in the total time allowances has herein provided. (See Time Standards for Advertising Copy.)

### XIII. PREMIUMS AND OFFERS

1. Full details of proposed offers should be required by the television broadcaster for investigation and approved before the first announcement of the offer is made to the public.

2. A final date for the termination of an offer should be announced as far in advance as possible.

3. Before accepting for telecast offers involving a monetary consideration, a television broadcaster should satisfy himself as to the integrity of the advertiser and the advertiser's willingness to honor complaints indicating dissatisfaction with the premium by returning the monetary consideration.

4. There should be no misleading descriptions or visual representations of any premiums or gifts which would distort or enlarge their value in the minds of the viewers.

5. Assurances should be obtained from the advertiser that premiums offered are not harmful to person or property.

6. Premiums should not be approved which appeal to superstition on the basis of 'luck-bearing' powers or otherwise.

#### XIV. TIME STANDARDS FOR ADVERTISING

In accordance with good telecast advertising practice, the time standards for commercial material are as follows:

##### 1. Prime Time

Definition: A continuous period of not less than three hours of each broadcast day within the station's highest rate time periods.

Commercial material for both individually sponsored and participation programs within any 30-minute period of prime time may not exceed 4 minutes plus total station break time in the aggregate of 70 seconds.

Commercial material in prime time includes billboards, public service announcements, promotional announcements for other programs as well as commercial copy.

##### 2. Non-Prime Time

Definition: All time other than prime time.

Commercial material for both individually sponsored and participation programs within any 30-minute time period in non-prime time may not exceed 6 minutes plus station break time. Commercial material for all other periods of time shall not exceed this ratio, except that individual programs of 5-minutes duration may include commercial material not in excess of 1 minute 15 seconds and individual programs of 10-minutes duration may include commercial material not in excess of 2 minutes 10 seconds.

Not more than three announcements shall be scheduled

consecutively.

Commercial material in non-prime time does not include public service announcements, promotional announcements for other programs, and opening and closing 'billboards' which give program or sponsor identification.

### 3. Station Breaks

In prime time, a station break shall consist of not more than two announcements plus non-commercial copy such as station identification or public service announcements. Total station break time in any 30-minute period may not exceed one minute and ten seconds.

In other than prime time station breaks shall consist of not more than two announcements plus the conventional sponsored 10-second ID.

Station break announcements shall not adversely affect a preceding or following program.

### 4. Prize Identification

Reasonable and limited identification of prize and statement of the donor's name within formats wherein the presentation of contest awards or prizes is a necessary and integral part of program content shall not be included as commercial time within the meaning of paragraphs 1 and 2, above; however, any aural or visual presentation concerning the product or its donor, over and beyond such identification and statement, shall be included as commercial time within the meaning of paragraph 1, above.

5. Care should be exercised in the selection, placement and integration of non-program material in order to avoid adversely affecting the program content or diminishing audience interest.

6. Programs presenting women's services, features, shopping guides, market information, and similar material, provide a special service to the listening and viewing public in which advertising material is an informative and integral part of the program content. Because of these special characteristics the time standards set forth above may be waived to a reasonable extent.

7. Any casual reference by talent in a program to another's product or service under any trade name or language sufficiently descriptive to identify it should, except for normal guest identifications, be condemned and discouraged.

8. Stationary backdrops or properties in television presentations showing the sponsor's name or product, the name of his product, his trademark or slogan may be used only incidentally. They should not obtrude on program interest or entertainment. 'On Camera' shots of such materials should be fleeting, not too frequent, and mindful of the need of maintaining a proper program balance.

9. Each opening and closing 'billboard' regardless of the number of sponsors shall not exceed 20 seconds in programs longer than one half-hour or 10 seconds in programs of one-half-hour or less.

## APPENDIX VIII

### NAB GUIDE FOR WARTIME BROADCASTING

1941

#### FOREWARD

This is a different war. It affects all phases of the nation's activity and reaches into every home. This is total war and victory requires the combined efforts of all our people. While we have learned much from broadcasting war news since 1939, we now have new responsibilities and new opportunities. The relationship between broadcasting and Government and the manner in which it will perform its function as the chief source of news and information requires careful appraisal. Upon the judgments and policies now formulated will depend our effectiveness.

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The broad outlines of the policies to be followed in dealing with news and radio were given by the President in his speech of December 9.

The President said:

'This government will put its trust in the stamina of the American people and will give the facts to the public as soon as two conditions have been fulfilled: first, that the information has been definitely and officially confirmed; and second, that the release of the information at the time it is received will not prove valuable to the enemy directly or indirectly.

To all newspapers and radio stations - all those who reach the eyes and ears of the American people - I say this: You have a most grave responsibility to the nation now and for the duration of this war.

If you feel that our government is not disclosing enough of the truth, you have every right to say so. But - in the absence of all the fact, as revealed by official sources - you have no right to deal out unconfirmed reports in such a way as to make people believe they are Gospel truth.'

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The National Association of Broadcasters, after careful consultation with the military branches of the Government as well as other agencies, has attempted to make more detailed and specific the broader principles as enunciated above by the President. With the objective of setting forth certain basic requirements, your Association offers to broadcasters this pamphlet of recommendations as a guide to wartime broadcasting.

#### IN GENERAL

Accept the fact that this is likely to be a long war - with both reverses and triumphs. Avoid broadcasting the news in a manner that is likely to cause exaggerated optimism. Likewise avoid creating an atmosphere of defeatism and despair. At all times practice moderation in the writing, delivering and scheduling of news broadcasts.

The writing should avoid sensationalism.

The delivery should be calm, accurate, factual.

There should be a minimum of production trapping surrounding news broadcasts. The news of America at war is sufficiently exciting; do not try to make it more so by presenting it with sound-effects. The tension needs to be lessened, not increased.



Newscasts should be scheduled at regular intervals, and in the absence of news of extreme importance, this regular schedule should be followed.

Artificial efforts to stimulate listening audience by promises of immediate interruption of regular programs for important news broadcasts should not be attempted. Let the events speak for themselves.

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Extreme care should be used in the handling and broadcasting of any communiques or radio reports from our enemies.

They should not be used unless coupled, by careful editing, with known facts or an official statement on the same subject by our government. If you don't have the facts or an official statement on the same subject, don't broadcast the enemy communique until you get them.

In this connection, broadcasters should remember that extraordinary care must be taken to insure that those who tune in late do not get a wrong impression. Remember the Men from Mars!

Remember we are at war with other **Axis** countries as well as Japan. Their communiques should be considered in the same light as those of the Japs.

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The broadcasting industry has been given to understand that it can use news from recognized press services because responsibility for that news rests with the press services. News gathered from

other sources must be thoroughly checked and verified before broadcasting.

### DO NOT

DO NOT broadcast rumors, 'hot tips' or 'unconfirmed reports', no matter what their source. 'Hot tips' and rumors may burn your fingers. If you have the slightest doubt on any story, check with your press association. It is better to have no news than to broadcast false or harmful news.

In this connection, a word of caution on news flashes. A good practice is to wait a few minutes after the first flash until you are perfectly satisfied from the following story that the flash is borne out.

Radio's speed of light is cause for caution.

DO NOT broadcast news which concerns war production figures unless such news is Officially released by the government.

DO NOT broadcast the movement of Naval or any other vessels.

DO NOT broadcast news about the movement of troops or personnel either outside or within the continental limits, unless it has been released officially by the War or Navy Departments.

DO NOT broadcast the location of vessels, either under construction or about to be launched.

DO NOT broadcast figures of Selective Service enrollments and inductions.

DO NOT broadcast personal observations on weather conditions.

Watch sports broadcasts for this. A late night or early morning comment that 'its a fine, clear night (or morning)' might be invaluable information to the enemy. Stick to official weather reports your station receives from your local weather bureau.

DO NOT broadcast such imperatives as 'Attention all men! Report to your local Civilian Defense headquarters tonight at eight.' (Announcements may be requested in that manner. They should be changed to qualify the source at the beginning, such as: 'The local Civilian Defense Committee requests all men, etc.'). Reserve such 'attention compellers' for important war purposes.

DO NOT overestimate American power nor underestimate the enemy strength and thereby tend to create complacent confidence. Stick to the facts as presented in official releases.

DO NOT allow sponsors to use the news as a springboard for commercials. Such practices as starting commercials with 'Now some good news, etc.' should never be permitted. Also it is important that such news-phrases as 'bulletin', 'flash', 'news' and the like be used only in their legitimate functions. Do not permit, 'Here's good news! The Bargain Basement announces drastic reductions, etc.'

DO NOT use any sound-effects on dramatic programs, commercial announcements or otherwise which might be confused by the listener as air raid alarms, alert signals, etc.

DO NOT try to second-guess or master-mind our military officials. Leave this for established military analysts and experts, who are experienced enough to await the facts before drawing conclusions.

DO NOT broadcast any long lists of casualties. This has been specifically forbidden.

DO NOT permit speakers, in discussions of controversial public issues, to say anything of aid to the enemy.

DO NOT broadcast location of plants engaged in the manufacture of war materials unless approved by the Government. This applies to emergencies such as explosions, sabotage, etc., unless such reports have been approved by the Government or cleared at the source by press associations.

DO NOT take chances with ad lib broadcasts, on the street or in the studio. An open microphone accessible to the general public constitutes a very real hazard in times of war. Questions should be prepared and approved in advance and extreme care should be exercised to avoid the asking of questions which would draw out any information or answer which would disclose matters or information of value to the enemy. Any questions regarding the war or war production might make trouble.

DO

Maintain constant vigil over the news machines. Be sure to designate a responsible staff member in charge of the news at all

hours of your operation. That person should be the one to determine the advisability of breaking programs for news bulletins, flashes, etc. and should be responsible for all news during the period he is designated in charge of the news machines.

Look for further instructions on the press wires, from the National Association of Broadcasters, the War Department, the Navy, or other official sources.

See that every member of your staff knows and understands these guides. Let your entire news staff and announcers know your policy.

File a complete script of all your news broadcasts. Keep the file until the war ends. Prepare and present your news factually, authentically, calmly. This is repetition, but this caution cannot be repeated too much.

DO your job as best you can, knowing it is one of the significant jobs in this all-out war in which American is engaged. Do your job measured to even stricter standards than we have set. Do your job in a manner that will satisfy yourself, advance the cause of free radio and serve the best interests of your country.

## APPENDIX IX

### Criteria For Children's Radio Programs

by

Federal Radio Education Committee

1942

#### Category A:

1. Children's radio programs should build faith in democracy and unfaltering loyalty to the ideals of democratic living.
2. Occupational skills which are essential to American life should be honestly and sincerely portrayed.
3. The role of minority groups of races and nationalities which make up modern America should be portrayed sympathetically and realistically.
4. Children's radio programs should be authentic in broad historical or contemporary interpretation, factual detail, and artistic portrayal.
5. Children's radio programs should maintain generally recognized standards of good taste.
6. Crime is not suitable as a dominant theme in radio programs directed specifically to children.
7. The rich field of children's literature should provide the main part of the content of children's radio programs, and the main cues for handling plot and character development in the stories originating from other sources.

Category B:

1. Radio programs should arouse in children a wide range of emotional response and should avoid undue stress upon fear and aggression.
2. The child has a need for genuine characters of truly heroic proportions as imaginary playmates and models to imitate, the fantastic or purely imaginative.
3. In fantasy and fairy-tale programs, the fantastic or purely imaginative elements should be clearly identifiable to child listeners as unreal.
4. Intrinsic interest, maintenance of suspense, and satisfactory resolutions of suspense should be consistently observed in the development of any children's program.
5. The social problems of childhood, involving friendship, gang loyalty, and respect for one's equals, should be frequently and honestly portrayed on children's radio programs.
6. Family relationships, mutual respect and understanding between parents and children, and family problem situations should be portrayed in children's radio programs.
7. Suggestive power of radio should be utilized wherever possible in leading listeners to useful hobbies, skills, interests, activities, and knowledge.
8. Humor that is within the comprehension and appreciation of children should be used more extensively as an integral part of children's programs.

Category C:

1. The specialized technique of radio drama should contribute to the listener's visualization of the characters, situations, and the action portrayed.

2. The vocabulary and vocal inflections used in a children's radio program must be clearly comprehended by the youngest age level of intended listeners.

3. Dialogue in children's programs should not undercut, by over-narration of detail, the imaginative processes by which the listening child lives the story.

4. Sound effects, in order to be effective, should represent things or situations which can be readily visualized by the average child.

5. Music used in connection with radio drama should communicate emotions, mood, and feelings.



## APPENDIX X

1947 Proposed N. A. B. Code  
(not adopted)

### SECTION I STANDARDS FOR ALL PROGRAMS

The standards enunciated in Section I of this code apply to the treatment of all types of programs.

#### Religion

The subject of religion should invariably be with respect. Reverence should mark any mention of the name of God, His attributes or power.

Reference to religious faiths, tenets or customs should be respectful and in good taste, free of prejudice and ridicule.

Religious rites - baptism, marriage, burial and other sacraments - should be portrayed with accuracy.

A priest or minister, when portrayed in his calling, should be vested with the dignity of his office.

#### Race, Creed, Color

No program should be considered acceptable which derides, misrepresents or attacks any person or institution by reason of race, creed, color or national origin.

#### Profanity and Obscenity

Sacrilegious blasphemous, profane, salacious, obscene, vulgar

or indecent material should not be broadcast.

Sex - All reference to sex should be within the limits of good taste and decency.

Dramatic situations, dialogue or lyrics which are suggestive or involve "double entendre" should not be used.

Sex crimes - seduction, rape, etc. - and sex abnormalities are not desirable subjects for broadcast.

### Marriage and the Home

Respect for the sanctity of marriage and the home should be maintained.

Marriage or extra-marital relations should not be made a vehicle for suggestive offensive lines.

Adultery and other infractions of moral law should not be presented as glamorous or socially or morally excusable.

Divorce should not be casually treated or advanced as the normal solution of marital problems.

No material tending to break down juvenile respect for parents, the home, or moral conduct should be broadcast.

### Insobriety and Excessive Drinking

Insobriety or excessive drinking should not be portrayed as desirable or prevalent factors in American life, and reference thereto should be kept incidental to the development of plot or character.

### Narcotic Addiction

Narcotic addiction should never be presented except as a vicious habit.

### Crime and Horror

Crime and punishment should never be presented in a way that will portray the criminal in an attractive light or condone the crime. Criminals should always be punished, either specifically or by implication. The technique and methods of crime should not be presented in enough detail to invite imitation.

Brutal killings, torture or physical agony should never be presented in detail.

Episodes involving the kidnapping of children should never be employed.

Sound effects, calculated to mislead, shock, or unduly alarm the listener, should not be used.

### Physical and Mental Affliction

Program material which depends upon physical or mental imperfections or deformities should not be used in a way which will tend to offend sufferers from similar defects.

The presentation of insanity or other mental or physical maladjustments for any sort of plot development should be approved only if within the bounds of good taste.

### Simulation of News

Fictional events and non-news programs should not be presented as authentic news broadcasts, or news announcements.

Sound effects and expressions characteristically associated with news broadcasts, such as "bulletin, " "flash, " "stand by, " "here's news, " "attention, " should be reserved for the announcement of news and should not be used for any other purpose except where no possible confusion may result.

### Litigation

Comment or opinion on pending litigation which could reasonably be construed as an attempt to influence a decision or which might otherwise obstruct the orderly course of justice should not be used.

Simulation of court atmosphere or use of the term "court" in a program title, in such a manner as to create the false impression that the proceedings broadcast are vested with judicial or official authority, should not be employed.

### Professional Advice

Broadcasting of legal, medical or other professional advice, diagnosis or treatment should be permitted only in conformity with the law, and recognized ethical and professional standards.

### Sports Events

The regular and recurrent broadcasting of information relating

to prevailing odds on any sports event, the effect of which could be expected to encourage gambling, should not be permitted.

## SECTION 2 STANDARDS FOR SPECIFIC PROGRAMS

### News Broadcasts

1. News broadcasts should keep the people informed - fairly, accurately and without sensational treatment.
2. News commentary and analysis should be clearly identified as such. The broadcaster's news service should be fair, balanced and unbiased, representing all significant and pertinent phases of opinion upon issues of public importance.
3. Broadcasters should be at all times responsible for the control of the content and format, and presentation of all news, commentary and news analysis broadcasts. In no circumstances should such responsibility be delegated to a sponsor or other person or agency.
4. Newscasters, analysis and commentators should be members of the broadcaster's staff or be directly and solely responsible to the broadcaster for the content, format, and presentation of their news, commentary and news analysis broadcasts.
5. News should not be broadcast in such a manner as to creat alarm or panic.
6. Good taste should always prevail in the selection and handling

of news. Stories of crime or sex should at all times be handled without morbid, sensational or alarming details.

7. Broadcasters should exercise particular discrimination in the acceptance and placement of commercial announcements in news programs. Special care should be used to avoid those sound effects, singing commercials or other devices which, while acceptable in other programs, would not be appropriate when used in connection with news programming.

8. No middle commercial (announcements preceded and followed by regular or analytical news content) should be included in programs of news, news commentary and news analysis which are less than fifteen minutes (14:30) in length.

9. Commercial announcements in connection with news programs should be distinctly set apart from news content.

10. Agricultural news. Agricultural and market newscasts should be governed by the same general standards applicable to news broadcasts.

#### Political Broadcasts

General: All political broadcasters should be in accordance with the provisions of the Federal Communications Act.

The procedure outlined in those provisions should be followed with respect to allotting time in behalf of, or against, public proposals which are subject to ballot.

- Policies:
1. No dramatization of political issues should be permitted.
  2. All political broadcasts must be clearly identified as such.
  3. Political broadcasts should not be subject to censorship, but the broadcaster should reserve the right to check them for compliance with the law of defamation, sedition, etc.

#### Public and Controversial Issues

General: Time for the presentation of public questions, including those of controversial nature, should be allotted with due regard to all other elements of balanced program schedules, and to the degree of public interest in the question to be presented. A broadcaster in allotting such time should use his best efforts to insure fair presentation of those issues which concern the welfare of the community.

- Policies:
1. The presentation of viewpoints in connection with controversial public issues should be confined to periods or programs specifically designed for that purpose.
  2. Controversial issue programs should be clearly identified as such and no technique should be permitted which may mislead listeners to believe the program is of a news, entertainment or other character.
  3. Where time from the discussion of controversial issues is provided to one side, it should be available on equal terms to significant opposing viewpoints.





4. No dramatizations of controversial issues should be permitted. The material should be presented in a straight-forward manner to appeal to the intellect and reasoning of the listener, rather than to his emotions. The presentation should be made by properly identified authorities.
5. Broadcasts of controversial issues should not be subject to censorship, but the broadcaster should reserve the right to check them for compliance with the laws of defamation, sedition, etc.

#### Religious Programs

To every American the Bill of Rights guarantees freedom of worship without fear of intimidation or reprisal. Radio, therefore, which reaches men of all creeds simultaneously, should not be used to convey attacks upon religion.

Religious programs should be presented by recognized and responsible groups and organizations.

Religious broadcasts should place major emphasis on broad religious truths. They should not be used for the presentation of controversial questions or for the expression of partisan opinions or discussions. Appropriate time, other than that designated for religious programs, should be supplied for such use.

No offer (other than free copies of the message presented) should be permitted on religious programs. No appeal for funds should be permitted on such programs.

Crime and Mystery Programs

In determining the acceptability of crime and mystery programs, due consideration should be given to their possible effect on all members of the family and the following should be observed:

1. No program should be accepted which tends to make the commission of crime attractive.
2. The use of multiple crimes of violence and the use of horror for its own sake should not be permitted.
3. Law enforcement should be upheld and portrayed with respect, characterization of officers of the law as stupid or ridiculous should be avoided.
4. Programs which exalt the criminal or condone the crime should not be permitted.
5. Criminals should always be punished either specifically or by implication.
6. The techniques and methods of criminals should never be presented in such details as to inspire imitation. Blueprints for crime should be avoided.
7. The commission of crime should not be treated in a frivolous, cynical or calloused manner.
8. Murder, or revenge as a motive for murder, should never be justified.
9. Brutal killings, torture, or physical agony should not be presented in detail.

10. Episodes involving the kidnapping of children should not be broadcast.

11. Suicide should never be presented as a satisfactory solution of any human problem.

### Children's Programs

General: Programs designed for children require the closest supervision of broadcasters, both as to content and method of presentation. Programs should be based upon sound social concepts and should reflect respect for parents, law and order, clean living, high morals, fair play and honorable behavior.

Programs for children and young people should be designed to meet the following:

1. They should convey the commonly accepted moral, social and ethical ideals characteristic of American life.

2. They should contribute to healthy personality development. They should contain no material which jeopardizes sound character development.

3. They should provide opportunities not only for entertainment but also cultural growth.

4. Criminals should not be portrayed as heroes. Cruelty, greed and selfishness should not be presented as worthy motivations. Unfair exploitation of others for personal gain should not be made praiseworthy. Vice in any of its manifestations should not be made appealing or attractive.

5. Programs involving tortures, horror, or the supernatural, which are likely to terrify or unduly excite the emotions, should be avoided.

6. No profanity or vulgarity should be permitted.

7. No reference should be made to kidnapping, or threats of kidnapping.

8. No program or episode should contain material or end with an incident which will create in the child's mind morbid suspense or other harmful nervous reactions.

9. No appeal should be made to the child or help characters in the story by sending in box tops or wrappers. There should be no appeals urging children to purchase the product in order to keep the program on the air.

10. Since contests and offers which encourage children to enter strange places and to converse with strangers in an effort to collect box tops or wrappers may present a definite element of danger to the children, they should not be accepted.

### SECTION 3 COMMERCIAL POLICIES

#### Acceptability of Advertiser and Product

No broadcaster should make his facilities available to, or accept, commercial copy for any product or service until he has satisfied himself of the integrity of the advertiser, the quality of product, or value of service and the validity of the claims made,

and the good taste of the commercial presentation.

Business Not Acceptable

Broadcasters should not accept the advertising of:

1. Any spirituous ("hard") liquor.
2. Any product or service, the sale or rendition of which, or the method of sale or performance, constitutes a violation of law.
3. Any occultism, fortune-telling, mind-reading, or character-reading by handwriting, numerology, palm-reading, astrology or phrenology.
4. Matrimonial agencies.
5. Offers of "homework" except by firms of unquestioned responsibility.
6. Any "dopester," tip-sheet or race track publication.
7. All forms of speculative finance. Before broadcasters accept any financial advertising, it should be fully ascertained that such advertising and such advertised services comply with all pertinent Federal, state and local laws.
8. Reducing agents, including foods and beverages designed solely to perform that function.
9. Products designed for the care and relief of ailments of human or animal life which are chronic or irremediable or for conditions in which self-medication presents an element of danger.
10. Mortuaries, cemeteries, morticians, casket makers, memorial parks or any product or service associated with burial

should not be accepted unless both the program and the commercial copy are handled in accordance with the highest standards of good taste and business ethics.

11. Products which are not acceptable conversational topics in mixed social groups.

12. Laxatives, deodorants and products claiming similar functional services should not be accepted unless both the program and commercial copy are handled in accordance with the highest standards of good taste and business ethics.

13. Any school, educational institution, person, firm or organization offering services or a professional or specialized character until the broadcaster has satisfied himself that the institution, person, firm or organization is able to fulfill all claims made and inducements offered in its commercial copy.

14. Professions in which it is deemed unethical to advertise.

#### Product or Service Claims

Broadcasters should not accept for broadcast:

1. Advertising statements or claims that are false or deceptive.

2. Misleading statements of price or value, or misleading comparisons of price or value.

3. Any copy which offensively describes or dramatizes distress or morbid situations involving ailments.

4. Unfair attacks upon competitors, competing products,

or other industries, professions, or institutions.

5. Claims that a product will effect a cure.

### Presentations of Commercials

Broadcasters should take particular care in the production and presentation of commercials. Disturbing or annoying sound effects or devices, blatant announcers and over-repetition should be avoided.

### Time Limitations on Commercials

1. The maximum commercial time, including station breaks, allowable in any fifteen-minute segment of broadcast time, regardless of type of program, or sponsorship, or how such fifteen-minute segment is divided into program units or announcements, should not exceed three minutes.

2. The maximum commercial time allowable to any single sponsor, regardless of type or program, should be as follows:

#### Before 6 P. M.

5-minute programs	1:00
10-minute programs	2:00
15-minute programs	2:40
30-minute programs	4:00
45-minute programs	5:30
60-minute programs	7:00

#### After 6 P. M. and Sunday

5-minute programs	1:00
10-minute programs	2:30
15-minute programs	2:30
25-minute programs	2:45
30-minute programs	3:00
45-minute programs	4:30
60-minute programs	6:00

3. All multiple sponsorship programs such as participation programs, announcement programs, "musical clocks" and shopping guides, which heretofore through general practice have been exempt from any commercial time limitations, are subject to the limitations set forth in Paragraph 1 and in the case of such programs of half-hour, three-quarter-hour and hour duration, to appropriate multiples of that limitation. Five and ten-minute multiple sponsorship programs are subject to the limitations set forth in Paragraph 2 for such length programs, namely, one minute and two minutes respectively.

4. Programs of news, news commentary and news analysis which are less than fifteen (14:30) minutes in length should contain no middle commercial announcement.

5. While there is no restriction on the number of products which any single sponsor may advertise within the above time limits, commercials for these products should be presented within the framework of the sponsor's program structure. This precludes the use on such programs of simulated spot announcements which are divorced from the program by preceding the introduction of the program itself, or by following its apparent sign-off. To this end the program itself should be announced and clearly identified before the use of what have been known as "cow-catcher" commercials, and the program should be signed off after - not before - the use of what have been known as "hitch-hike" commercials.

6. Any reference in a program to any product or service under



any trade name, or language sufficiently descriptive to identify same should, except for normal guest identifications, be considered as commercial copy and as such is a part of and included in the total time allowances as herein provided.

7. The placement of more than one commercial announcement between two programs should not be permitted under any circumstances.

### Contests and Offers

Any broadcasting designed to "buy" the radio audience, and to influence it to listen in hope of reward, rather than for the quality of the broadcasting should not be permitted.

Contests should be subject to the following:

1. Proposed prize contests should be submitted to the broadcaster well in advance of the first public announcement in any medium involving the radio program.

2. Contests should offer the opportunity to all contestants to win on the basis of ability and skill, rather than on chance. Games of chance are not acceptable.

3. The decision of the judges should be final. Duplicate prizes should be awarded in the case of ties.

4. Full details, including the basis upon which contestants submissions as judged should be clearly stated in each announcement of the contest except where all details are withheld in favor of a "teaser" announcement of a pending or current contest, or where the listener is directed to another available source.

5. Closing date of the contest should be made known to the broadcaster when the contest goes on the air. If the contest is to be of short duration, its closing date should be stated during the first broadcast announcement of the contest. If of long duration the termination date should be announced at least two weeks in advance.

6. While advertisers may require contestants to submit box tops, wrappers or other evidence of purchase of products, reasonable facsimile thereof should be equally acceptable.

7. Contests and offers which require a consideration for which no reasonable facsimile can be produced, should not be accepted.

8. Contests decisions should be made promptly, and the names of winners should be released as soon as possible thereafter. When the broadcasting of the complete announcement of winners is undesirable because of its length, broadcaster should be supplied with the names of winners and other necessary information.

9. All copy pertaining to any contest associated with the exploitation or sale of the sponsor's product or service, and all reference to prizes or gifts offered in such connection should be considered as part of and included in the total commercial time allowances as herein provided.

Offers should be subject to the following:

1. Full details of proposed offers, including samples of premiums and proposed copy should be submitted to the broadcaster for investigation and approval before the first announcement is to be

broadcast. No premium should be offered which is harmful to person or property.

2. No premium that depends upon its "luck-bearing" powers for its attractiveness or in any fashion appeals to superstition should be allowed.

3. Announcement of the termination of an offer should be made as far in advance as possible.

4. If a consideration is required, the advertiser should agree to honor complaints indicating dissatisfaction with the premium by returning the consideration. The advertiser should also hold the station free from all liability in connection with the offer. Where offers require a consideration, the premium should not be described as a "gift" or as "absolutely free."

5. Before a premium or gift is offered on a program, the advertiser should be certain of having a sufficiently large supply to meet the demand for the premium or gift.

6. There should be no misleading descriptions or comparisons of any premiums or gifts which will distort or enlarge their value in the minds of the listeners.

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