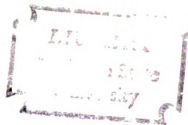


FREEDOM OF SPEECH AND THE AMERICAN
EDUCATIONAL TELEVISION STATION

Thesis for the Degree of Ph. D.
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ROBERT KERWIN MacLAUCHLIN
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ABSTRACT

FREEDOM OF SPEECH AND THE AMERICAN EDUCATIONAL TELEVISION STATION

By

Robert Kerwin MacLauchlin

The early supporters of educational television in the United States expected that noncommercial television stations would be able to program much more freely than those restricted by commercial interests. Thus, they would be better able to serve education, which is predicated on freedom of expression. In 1968, with more than 150 noncommercial educational television stations in operation, this study raises the question: Just how free are these stations to program "in the public interest, convenience and necessity?" The study lays foundations for this question and attempts a partial answer to it.

The foundations are laid in the opening chapters, which trace the development of the concept of freedom of speech and then show its application to broadcasting. They draw from speeches and scholarly writings on freedom, court cases dealing with freedom and broadcasting, and other historical documents.

The partial answer to the freedom question was sought by a national mail survey, directed by the author to all managers of stations affiliated with National Educational Television as of September, 1968. The survey results indicated how much freedom of speech managers felt was enjoyed by their stations. All managers were invited to take part in the survey and to indicate their willingness by returning a stamped, pre-addressed postal card. Fifty-one and nine-tenths percent of them actually completed the survey. Their replies are presented in one chapter of the study.

Managers were asked to make various responses on the subject of freedom of speech at their stations--for example, to compare the freedom of their broadcasting with that of the print media; to identify factors which kept certain programs off their station; to state their reactions to Canon 35, to the Fairness Doctrine, and to the ban on editorializing established by the Public Broadcast Act of 1967. They were also asked to write freely about what they considered to be the main barriers to freedom of speech on educational television and how such barriers might be removed in the future.

The survey disclosed little agreement among managers on questions pertaining to freedom of speech at their stations. It did, however, reveal several alleged restrictions, including certain rules and regulations of state and

federal government, timidity on the part of certain administrators, and their fear of agitating financial supporters.

The study concludes with recommendations for further research. Some of these recommendations are based on replies to the survey, others on the author's study of freedom of speech in general, others on his personal convictions. It is hoped that these recommendations will be followed up by other researchers, as all work done on the present study indicates the need for continued investigation in the area of "Freedom of Speech and the American Educational Television Station."

FREEDOM OF SPEECH AND THE AMERICAN
EDUCATIONAL TELEVISION STATION

By

Robert Kerwin MacLauchlin

A THESIS

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

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Department of Speech

1969

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1969

Accepted by the faculty of the Department of Speech,
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in partial fulfillment of the requirements for the Doctor
of Philosophy degree.



Director of Thesis

Guidance Committee: Kenneth G. Hance, Chairman
Leo A. Martin
Colby Lewis
David C. Ralph
Elwood E. Miller

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CHAPTER I

OVERVIEW OF NONCOMMERCIAL EDUCATIONAL TELEVISION AND A PROFILE OF THE STUDY

From a very modest beginning in 1953, noncommercial educational television grew and developed in the United States to the point where by 1968, the Federal Communications Commission was describing it as having become ". . . an integral part of quality education, cultural enrichment and information."¹

Some fifteen years after the inaugural broadcast of KUHT, there were more than 150 educational television stations in existence in the country. These 150 stations reached an average population area of approximately 160 million people.² By 1968 it was estimated that some fifteen million students in more than two thousand educational institutions, including elementary, secondary and higher

¹"Educational Television," INF Bulletin No. 16-B (Washington, D. C.: Federal Communications Commission, April 1968), p. 1.

²Ibid.

education, were receiving all or part of their instruction through television.³

During that fifteen year period of growth for noncommercial television, an event of January, 1967, was to provide new direction for noncommercial television in this country. In that month the words "public television" appeared for the first time, as the much-heralded Carnegie Commission on Educational Television filed its report to the American people. The fifteen-man Commission, sponsored by the Carnegie Corporation of New York, chaired by Dr. James B. Killian, Jr., Chairman of Massachusetts Institute of Technology, and both endorsed and supported by President Lyndon B. Johnson, had been asked the previous year to "conduct a broadly conceived study of noncommercial television."⁴ The Commission was also asked to "focus its attention principally, although not exclusively, on community-owned channels and their services to the general public."⁵ One final charge was that the Commission recommend "lines along which noncommercial television stations might most usefully develop during the years ahead."⁶

³Ibid.

⁴The Carnegie Commission on Educational Television, Public Television (New York: The Carnegie Commission on Educational Television, 1967), Preface, p. vii.

⁵Ibid.

⁶Ibid.

The Commission executed its responsibilities in a year-long period of research. In reporting its findings, the Commission indicated it had viewed the American system of educational television as including: "(a) the better than 120 stations which were owned and operated by educational institutions or other nonprofit educational organizations and which carried no advertising; and (b) National Educational Television (NET), a non-profit organization which provided most of the more ambitious programming and with which most of the stations were affiliated."⁷

The Commission also indicated that it had separated educational television programming into two parts. These were instructional television and public television. It was the latter to which the Commission had devoted its major attention. By public television the Commission meant "all that is of human interest and importance which is not at the moment appropriate or available for support by advertising and which is not arranged for formal instruction."⁸

It is noteworthy that in filing its comments about public television, the Carnegie Commission stressed the importance of freedom to program without limitations. It was indicated in the following manner:

If we were to sum up our proposal with all the brevity at our command, we would say that what we recommend is

⁷Ibid.

⁸Ibid.

freedom. We seek freedom from the constraints, however necessary in their context, of commercial television.⁹

The Carnegie Commission made its recommendation that Congress act to "authorize and to establish a federally chartered, nonprofit, nongovernmental corporation, to be known as the 'Corporation for Public Television.' The Corporation should be empowered to receive and disburse governmental and private funds in order to extend and improve Public Television Programming."¹⁰ In so stating, however, the Commission recognized the importance of the local educational television station as being "the bedrock upon which Public Television is erected. . . ."¹¹

Following publication of the Commission Report and recommendations, the Congress took action. Various reports were issued in Congress recognizing the true significance of this developing system of noncommercial educational television in the United States. One such report (Number 222) was written to accompany S. 1160.¹² It stated:

Radio and television broadcasting are forces of staggering importance in our society. Approximately one and a half billion man-hours per week are spent with these

⁹Ibid., p. 98.

¹⁰Ibid., p. 36.

¹¹Ibid.

¹²Senator Pastore, from the Committee on Commerce, submitted Report Number 222 to accompany S. 1160. S. 1160 was a bill to amend the Communications Act of 1934 by extending and improving the provisions relating to grants for construction of educational television broadcasting facilities.

media by the people of this country. Television viewing alone occupies nearly one-fourth of the waking hours of the average American. The airwaves themselves over which programs are broadcast are public property. Developing this natural resource in the best interests of society as a whole has been the subject of previous congressional action. . . . The intent of S. 1160, the Public Broadcasting Act, is to improve the facilities and program quality of the nation's educational broadcasting stations so that this natural resource may be used to its fullest for the betterment of individual and community life.¹³

X The Public Broadcasting Act of 1967 was signed into law by President Lyndon B. Johnson in November of that year. Reflecting upon President Johnson's actions, John F. White, President of National Educational Television, said that the signing gave "recognition to a fifteen-year pioneer effort that had worked to expand the service from one station to a network covering all but four of the fifty states."¹⁴ The new scope of noncommercial television he looked upon as having "grown to provide an essential part of the total impact of United States television."¹⁵

In a year when the Carnegie Commission was publishing its national findings, John F. White was also noting that:

Almost from the start, noncommercial television has drawn strength from the creative interplay of two forces: the stations, reflecting community interests, and NET, the national program center. More than any single factor, this interplay produced the searching,

¹³U. S. Congress, Senate, Public Broadcasting Act of 1967, Report Number 572, 90th Cong., 1st sess., 1967, p. 1.

¹⁴John F. White, NET: A Progress Report 1967-68 (New York: National Educational Television, 1968), p. 1.

¹⁵Ibid.

restless creative spirit that last year engaged the attention of the nation's decision makers.¹⁶

The emphasis on the importance of a creative interplay between stations and network was coming at a point in time when the number of educational television stations was on the increase while the amount of local production from these stations was on the decrease. The Morse Communication Research Center revealed this information in its publication entitled, One Week of Educational Television. The Center studied the educational television stations licensed in April of 1966. Published results revealed, among other things:

1. For the first time in 1966, National Educational Television was the largest single source of ETV hours--the result not of an increase in NET's percentage (30.6 percent--1,742 hours--of all ETV airtime in 1966 compared to 31 percent--1,150 hours--in 1964) but of a sharp decrease in local efforts from 37 percent of total broadcast hours in 1964 to 27 percent in 1966.
2. Local production, second highest source of ETV programs, was the largest single source of school programming. Even so, local production declined from 59 percent of total school hours broadcast in 1964 to 41 percent in 1966.
3. Other national agencies were providing new program sources for stations.¹⁷

The Morse Communication Research Center findings further revealed that educational television stations were devoting more time--a clear majority--to their general audiences.¹⁸

¹⁶Ibid

¹⁷One Week of Educational Television (Brandeis University: The Morse Communication Research Center, April 17-23, 1966), p. 12.

¹⁸Ibid., p. 13.

The study showed that fifty-seven percent of all educational television's time was intended for the general viewer, thirty-three percent for school children, and nine percent for the college-adult instruction audience.

This growing interest in making noncommercial television a public venture was further emphasized in January, 1967 when National Educational Television presented its first live, coast-to-coast broadcast of President Lyndon B. Johnson's State of the Union Message. Since that initial venture, more noncommercial television stations have been linked together for the simultaneous broadcast of special network programs. This greater capability for interconnection has been due in no small part to the development of state and regional networks.

By March of 1968, National Educational Television was able to report that some 140 local stations were affiliated with its network, each being unique in terms of its own means of operation and financing. Further breakdown revealed that 41 of the stations were so-called community stations, operated by nonprofit corporations and depending upon voluntary contributions as their main source of support. Universities or colleges operated 48 of the NET affiliated stations. State boards of education, state commissions or authorities were the operators of another 35 of the NET affiliated stations. The remaining stations, 16 in number,

¹⁹Ibid.

were reported to have been licensed to local public school systems. An additional 21 noncommercial stations were operating in the United States in March of 1968, but were not affiliated with NET.²⁰

Further breakdown of noncommercial television stations in the United States in 1968 revealed that of the 140 NET affiliated stations, 77 were VHF stations (channels 2-13), and 63 were UHF stations (channels 14-88).²¹

As for the general character of noncommercial television in the United States, it might be described in these words:

About all the nation's ETV stations have in common is that they are noncommercial. Beyond that, similarity ends. Some stations are established solely to serve the schools; others pull the community-at-large and its many needs into their program philosophies. A few sustain large staffs with sizeable yearly budgets. While some admittedly interpret their function as being literally educational, others take that word in its fullest context--the presentation of any and all subjects to enlighten and inform. . . .²²

John F. White, President of National Educational Television, had much to say in 1968 about the newly emerging form of noncommercial educational television. Realizing the unique character of every local station, but seeing, too, the role of the new public television, he addressed himself to the kind of programming that might be done in the future.

²⁰NET The Public Television Network--Fact Book (New York: National Educational Television, 1968), p. 8.

²¹Ibid.

²²One Week of Educational Television, op. cit., p. 3.

Speaking before the Annual Meeting of the Association for Professional Broadcasting Education, he commented:

. . . the job of public television is to take up where commercial television has to leave off. It is public television's responsibility to do--and do well--the kind of programming that you and I know should be done, but that commercial television, for various reasons, can't do, or can't do enough of, or can't offer to the public at a time convenient to most viewers.²³

In April of 1968 President White again spoke out concerning the matter of programming. He told the affiliated members of National Educational Television:

Now, more than ever before, it is important that we as individual citizens, that you as a station broadcaster and we as a network programming service, have the strength to resist the pressures and temptations that would lead us to avoid the controversial, to shun the provocative, to limit the exploration of new ideas. We must stand straight and walk tall in the greatest war facing the nation--the war for truth and justice.²⁴

In the month of October, 1968, Mr. White spoke again on the matter of types of local programming and responsibility that he felt to be important for the future. His address was prepared for the NET affiliates meeting that was held in Chicago, Illinois. He noted:

When public television really disturbs its viewers to the point where they think for themselves and begin to do something about what it is that disturbs them,

²³John F. White, "Programs for Tomorrow's World," A speech given by the President of National Educational Television, delivered at the Annual Meeting of the Association for Professional Broadcasting Education, Chicago, March 31, 1968.

²⁴John F. White, A Report to the Affiliates, A report presented by the President of National Educational Television, delivered at the 1968 Spring Meeting of NET Affiliates, New York City, April 22, 1968.

then we will have succeeded . . . Ladies and gentlemen, flower arranging, book reviews, and guitar lessons all have their place, but your station won't gain the respect it must have unless you provide your community with a healthy proportion of local programming with substance. . . .²⁵

These remarks followed the June, 1968, announcement by the Ford Foundation that it was awarding nearly \$5 million to fourteen noncommercial television stations and four regional educational networks.²⁶ Then, in November, the Corporation for Public Broadcasting received a rate reduction from the American Telephone and Telegraph Company for purposes of providing interconnection for public television during prime time at costs lower than commercial rates.²⁷ In addition, the Ford Foundation announced in November that it would help underwrite the new service of interconnection for public television, in the amount of \$250,000.²⁸

The 1968 activity in the area of noncommercial educational television was cause for many journalistic writings. Suddenly, what was once a very small television movement in the United States had emerged as a newsworthy communications

²⁵John F. White, A Report to the Affiliates, A report presented by the President of National Educational Television, delivered at the 1968 Fall Meeting of NET Affiliates, Chicago, Illinois.

²⁶"ETV's Get \$5 Million in Programming Grants," Broadcasting, June 17, 1968, p. 58.

²⁷"CPB Gets Rate Reduction from AT&T," Broadcasting, November 11, 1968, p. 48.

²⁸"More Windfalls for ETV," Broadcasting, November 11, 1968, p. 9.

form. A November, 1968, article appearing in Broadcasting was headlined, "Now Their Best Friends Tell Them."²⁹ The secondary title was "Noncommercial broadcasters get the word that they must earn the help they're given."³⁰ In addition, television and radio critics including Jack Gould of the New York Times were reflecting upon the new directions of this new public television. In a column entitled, "Noncommercial TV Faces Confusion and Uncertainty," Gould wrote:

Noncommercial television, the hope of viewers who want an alternative to the output of commercial TV, appears headed for a period of deepening confusion and uncertainty. . . . The growing pains of the new medium cover the spectrum of difficulties, including resentment over New York dominance of educational TV, the first challenge to the political complexion of non-commercial programming, and doubt over whether the new form of home screen service will be able to free itself from federal supervision.³¹

The Gould article presents an overview of some of the difficulties facing noncommercial television in 1968. How severe some of them may be to local station personnel is a matter for conjecture. The fact remains, however, that 1968 is a period of new development for noncommercial television. Because of this, it is an exceedingly good time to view non-commercial television in terms of what speakers are saying,

²⁹"Now Their Best Friends Tell Them," Broadcasting, November 25, 1968, p. 47.

³⁰Ibid.

³¹Jack Gould, "Noncommercial TV Faces Confusion and Uncertainty," The Sunday Denver Post, December 22, 1968, p. 23.

what writers are writing, what educational television stations are doing in programming and what managerial staff personnel are thinking.

Statement of the Problem

The research reported in this study is devoted to a consideration of the problem of freedom of speech for the local American educational television station. The problem statement is, "Just how free are local American educational television stations in 1968-69 to program 'in the public interest, convenience, and necessity', and what are the elements that may tend to restrict that freedom?"

Richard S. Salant, President of CBS News, corresponded with this researcher in words that illustrate the problem area under consideration in this study. Mr. Salant's emphasis was on broadcasting in general. The emphasis in this research is on noncommercial educational television in particular. Salant wrote:

I happen to think that one of the great issues still left under the First Amendment is the definition of just how much less protection a broadcaster has because he is necessarily licensed. Everybody agrees that the First Amendment does apply to the broadcaster and everybody but the knee-jerk broadcaster advocate concedes that our freedoms must be somewhat less than print's. But nobody has really thought of how much less is less and what the dangers and implications are. You can perform a real service to everybody in exploring the issue thoughtfully. . . .³²

³²personal letter from Mr. Richard S. Salant, President, CBS News, April 25, 1968.

It was with a knowledge of the fact that noncommercial educational television is, in many ways, similar to commercial television and to the print media but unlike them in other ways, that this exploration of freedom for the educational television broadcaster was undertaken.

Limitations Imposed

The research topic, "Freedom of Speech and the American Educational Television Station," is extremely broad in scope. It is the type of topic that would most ideally lend itself to conscientious investigation by a number of researchers, all of whom have adequate financial backing, proper facilities for such research, and an extended period of time. Unfortunately, no such serious team investigation has ever been conducted on the subject. Thus, the work done for purposes of this dissertation was a first step.

Although this researcher kept his topic intentionally broad in scope with the hope of discovering general areas of interest, he attempted to limit his investigations of the freedom issue to the following:

1. Key overview writings by scholars on the matter of freedom of speech and the press, as concepts in our American society.
2. Key court cases in the matter of freedom of speech and the press.
3. Specific cases and writings that relate directly to the matter of freedom of speech for the local, noncommercial educational television station.

4. The results of a nationwide survey of station managers of local, noncommercial educational television stations.

This researcher was himself limited by the following:

1. The limitation of time. While it might have been most advantageous to have been able to pursue certain specific topics related to the freedom issue, it was not possible to do this in all instances.
2. The limitation of money. No funding was employed in any of the research conducted for this dissertation. If funding had been available for travel, in-depth interviewing might have been possible at the local station level. Funding might also have allowed interviews with certain scholars and journalists who have been concerned with the matter of freedom of speech as related to mass media.

Significance or Justification of Research

A. Intrinsic Merit

As a communications form, noncommercial educational television has been in existence since 1953. Its scope and sphere of influence has broadened since that early date. No researcher has yet investigated the degrees and kinds of freedom at the local station level. Such seemed important to this researcher, especially at this point in time. Other individuals had similar sentiments about the justification of conducting such a study. One such individual was William Work, Executive Secretary of the Speech Association of America. He wrote, "It would appear to me that your proposed dissertation will prove to be both interesting and useful."³³

³³Personal letter from Mr. William Work, Executive Secretary, Speech Association of America, April 25, 1968.

Another person reacting to the subject under investigation was Professor R. Franklin Smith, Assistant Professor of Speech at Western Michigan University, and broadcast researcher. In a letter to this researcher he commented, ". . . let me say I think you have a remarkable, and most vital topic to explore, especially now with the upcoming development (I hope) of the CPB and PBL."³⁴

This researcher wrote to the offices of National Educational Television in New York for that organization's assistance and reaction to this research project. Representatives of National Educational Television endorsed the merit of the research project. Replying for President John F. White, Fritz Jauch, Director of Reports for National Educational Television, said through correspondence:

Mr. John F. White who is now out of the city on business has asked me to reply to your request for comment and speech materials in your area of dissertation research. First of all, let me say that we both think the topic you have chosen is an extremely important one and we wish you all success in the project. . . .³⁵

Another endorsement came from at least one member of the Federal Communications Commission. In a letter to this researcher dated June 5, 1968, Commissioner Nicholas Johnson commented, in part, "I am pleased that you are working in

³⁴Personal letter from Professor R. Franklin Smith, Assistant Professor of Speech, Western Michigan University, Kalamazoo, Michigan, June 20, 1968.

³⁵Personal letter from Mr. Fritz Jauch, Director of Reports, National Educational Television, New York, May 16, 1968.

the area of educational television and freedom of speech.

. . . If it is convenient I would like to see a copy of your paper when it is finished."³⁶

Among legal authorities who expressed interest in and justification for the study were individuals at the firm of Pierson, Ball, and Dowd. This particular law firm, located in Washington, D. C., has been involved in certain freedom cases concerning broadcasting. The firm has also presented cases before both the Federal Communications Commission and the courts of the United States. In a letter addressed to this researcher, J. Laurent Scharff of Pierson, Ball, and Dowd wrote, "We would be very interested in seeing a copy of your work on 'Freedom of Speech and the American Educational Television Station.'"³⁷

B. Distinctiveness or Uniqueness

During the period of review of the literature and theses related to educational television in the United States, this researcher discovered early that very little had been studied on the subject of freedom of speech and educational television. The uniqueness of the planned research was further reinforced through correspondence received from knowledgeable

³⁶Personal letter from Commissioner Nicholas Johnson, Federal Communications Commission, Washington, D. C., June 5, 1968.

³⁷Personal letter from Mr. L. Laurent Scharff, Pierson, Ball, and Dowd, Washington, D. C., June 5, 1968.

people in the field of communications. One such person was Commissioner Kenneth Cox of the Federal Communications Commission. Commissioner Cox wrote:

This is in response to your letter of May 9, 1968, in which you requested materials relevant to your dissertation research at the University. Unfortunately, there is a dearth of material on your specific subject of 'Freedom of Speech and the Educational Television Station.'³⁸

An inquiry directed to the Carnegie Corporation concerning its accumulated research in the area of freedom of speech and educational television, brought the following response:

The only study of educational television the Corporation has supported was the one by the Carnegie Commission on Educational Television which resulted in the report, Public Broadcasting: a Program for Action. I do not think the commission made any study in depth of the freedom issue and we do not have any Corporation position on the subject. I regret that we cannot assist you with your dissertation project.³⁹

This researcher also corresponded with the national headquarters of the American Civil Liberties Union, inquiring as to whether that organization had any accumulated research or studies on the subject. A reply from Miss Lindsay Stewart, Public Information Assistant, stated in part, ". . . I regret to inform you that we have very little information on freedom of speech in educational television. . . ."⁴⁰

³⁸Personal letter from Commissioner Kenneth A. Cox, Federal Communications Commission, Washington, D. C., May 24, 1968.

³⁹Personal letter from Miss Florence Anderson, Secretary, Carnegie Corporation of New York, May 8, 1968.

⁴⁰Personal letter from Miss Lindsay Stewart, Public Information Assistant, American Civil Liberties Union, New York City, September 26, 1968.

Finally, correspondence was established with the law firm of Krieger and Jorgensen in Washington, D. C., a firm which acts as the legal consultant to the National Association of Educational Broadcasters. Beginning with the March 1968 edition of the NAEB Newsletter, Krieger and Jorgensen offered comments on continuing legal problems affecting educational broadcasting. The law firm rendered an opinion about freedom of speech and educational television in a letter dated May 7, 1968. Citing a few well-known studies or cases related to the freedom issue, Robert A. Woods went on to say, ". . . There are no other pertinent documents or writings which we could send you, since this is largely an uncharted area."⁴¹

Materials and Sources

In an attempt to gather the most pertinent sources for a broad research topic, discussions were first held with several broadcast educators and practicing communications people. This researcher then decided upon the utilization of the following types of resources:

1. Written materials by certain academically oriented writers. Such writers were both historical and philosophical in their approaches to the freedom issue. Among them were: J. Edward Gerald, William Ernest Hocking, Harold L. Cross, William A. Hachten, Elmer E. Smead, Zechariah Chafee, Fred S. Siebert,

⁴¹Personal letter from Mr. Robert A. Woods, Krieger and Jorgensen, Washington, D. C., May 7, 1968.

Leonard W. Levy, Robert M. O'Neil, Dan Lacy, Walter B. Emery, Alexander Meiklejohn, John E. Coons, and others.

2. Other broadcast writings, including those of Mr. Donald H. McGannon, President of Westinghouse Broadcasting and those of Mr. William Harley, President of the National Association of Educational Broadcasters.
3. Certain legal writings. These included the writings of practicing attorneys.
4. Writings issued by agencies, foundations, or centers where the matter of freedom of speech was considered to be important. Included in this category of resources were: writings of members of the Department of Health, Education and Welfare, the Ford Foundation, The Freedom of Information Center, the Center for the Study of Democratic Institutions, the American Civil Liberties Union, and The Fund for the Republic, Inc.
5. Actual speeches given on the subject of freedom of speech by broadcasters or by people in the print media. Among the speeches reviewed for purposes of this research were the following:
 - a. Mr. W. Theodore Pierson--Freedom expert and Washington attorney in the firm of Pierson, Ball and Dowd
 - b. Mr. John F. White--President of National Educational Television
 - c. Commissioner Lee Loevinger--Member of the Federal Communications Commission, Washington, D. C.
 - d. Commissioner Nicholas Johnson--Member of the Federal Communications Commission, Washington, D. C.
 - e. Commissioner Kenneth A. Cox--Member of the Federal Communications Commission, Washington, D. C.
 - f. Mr. Richard S. Salant--President of CBS News
 - g. Mr. William G. Harley--President of the National Association of Educational Broadcasters
 - h. Miss Katharine Graham--President of The Washington Post Company

- i. Mr. Stanford Smith--General Manager of American Newspaper Publishers Association
 - j. Mr. John M. Couric--Vice President for Public Relations, National Association of Broadcasters
 - k. Mr. Frank Stanton--President, Columbia Broadcasting System
6. Historical manuscripts pertaining to the freedom issue. Examples included Congressional writings and Zenger's Own Story: A Brief Narrative of the Case and Tryal of John Peter Zenger.
 7. Individual cases pertaining to freedom, broadcasting and the press, as presented to the Federal Communications Commission and the Supreme Court of the United States.
 8. Results of personal interviews, review of audiotapes, and examination of correspondence in selective freedom cases at the local educational television station level.
 9. Legislative policies at the state and local levels, as related to freedom of speech and the local educational television station.
 10. Information contained within the pages of federal, governmental reports.
 11. Information received as the result of returns from a national survey of noncommercial educational television station managers. The survey was conducted on the subject, "Freedom of Speech and the Educational Television Station."

Method and/or Plan of Research (Design)

Several distinct modes of research are employed within the study.

The first form of research is the historical approach. Clyde W. Dow, in his book An Introduction to Graduate Study in Speech and Theatre, says of historical methods that they

"require the student to seek out and critically evaluate the reports of observers of past events in order to describe accurately what happened and to clarify as best he can the relationships among events."⁴² Dow goes on to say, "An important development in recent years has been the interest of professional scholars and other scholars in the history of ideas and of great political-social-economic movements."⁴³

Chapters I-IV are largely historical in nature. This methodology is employed in order to provide an overview concerning the specific areas of freedom of speech and press and freedom as applied to both commercial and noncommercial educational broadcasting.

Another form of research methodology employed in the study is the survey approach. Again citing Mr. Dow, "The term 'survey' is often used by investigators to refer to studies carried out by direct inquiry through interviews, questionnaires, and related data-gathering procedures."⁴⁴ Campbell and Katona have noted that such studies are dependent upon "direct contact with those persons, or a sample of those persons, whose characteristics, behaviors or attitudes are relevant for a specific investigation."⁴⁵

⁴²Clyde W. Dow (ed.), An Introduction to Graduate Study in Speech and Theatre (East Lansing: Michigan State University Press, 1961), p. 53.

⁴³Ibid., p. 54.

⁴⁴Ibid., p. 31.

⁴⁵A. Angus Campbell and George Katona, "The Sample Survey: A Technique for Social-Science Research," Leon Festinger and

In Chapter V of this study, the results of the use of the survey method are reported. This chapter discloses the results of a national survey which was made of station managers of noncommercial educational television stations. The survey, employing both open and closed end questions, investigated the degrees and kinds of freedom found at the local stations. The survey method was employed in order to gather pertinent information from specific, decision-making individuals.

Permission was requested from station managers before involving them in the questionnaire materials. This procedure made the relationship between the researcher and station managers more conducive to research. Many managers wrote personal comments relative to the methodology which was employed. Sample comments include the following:

"I appreciate this approach to questionnaires--Good for you."

"Thanks for asking."

"And thank you for the prior notice."

"Thanks for being so thoughtful!"

Chapter VI of this study employs the critical approach. It is defined in Dow as ". . . the method, or procedures, of evaluating phenomena of speech according to appropriate criteria or standards of judgment."⁴⁶ The presentation in

Daniel Katz (eds.), Research Methods in the Behavioral Sciences (New York: The Dryden Press, 1953), p. 16.

⁴⁶Dow, op. cit., p. 82.

Chapter VI is based upon the researcher's evaluation of station manager comments on the questionnaire.

Chapter VII is devoted to recommendations for future research. The first category of recommendations is presented as a result of what the survey comments revealed. The second category of recommendations comes from the researcher himself. These recommendations are based upon serious study of the entire freedom question as it relates to educational broadcasting, as well as a professional and academic background in the area of noncommercial educational television. A final set of recommendations is presented as unsupported assertions, mainly the result of certain feelings that this researcher has about the freedom area.

Definition of Terms

1. Educational Television--A broad form of television broadcasting, which includes cultural and community service broadcasting and may also include certain programs for in-school or adult education.
2. Instructional Television--A teaching-learning situation involving the use of the medium of television. It is considered as a part of the entire, formalized program of instruction at a particular institution.
3. Public Television--As defined by the Carnegie Commission. "All that is of human interest and importance which is not at the moment appropriate or available for support by advertising and which is not arranged for formal instruction."
4. Freedom of Speech--A fundamental right which is safeguarded by the First Amendment and by the due process clause of the Fourteenth Amendment to the Constitution of the United States. It means the communication or expression of ideas or information in spoken words, unencumbered by restraints.

5. Freedom of the Press--Freedom to publish any opinions in newspapers, books, etc., or to broadcast them on radio-television without government interference or censorship. This freedom usually excludes libel, sedition, and obscenity.
6. Degrees of Freedom--Not to be confused with statistical terminology, these words are used in a broad, descriptive way only.

CHAPTER II

FREEDOM OF SPEECH AND THE PRESS AS CONCEPTS IN OUR DEMOCRATIC SOCIETY

Interpretation of the Freedom Concept

Freedom of speech and the press can be viewed as concepts that are undergoing continual change in our American society. The initial words of the First Amendment to the United States Constitution were but beginnings. They state:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.¹

In a book dealing with Supreme Court cases and the elements of freedom of speech and the press, William A. Hachten commented that as for freedom of the press, "The concept of freedom of the press begins but does not end with the First Amendment to the United States Constitution."²

¹U. S. Constitution, Amendment I.

²William A. Hachten, The Supreme Court on Freedom of the Press Decisions and Dissents (Ames, Iowa: The Iowa State University Press, 1968), p. 3.

Hachten further observed that "The First Amendment is old, yet its words and the meanings in them have been renewed and revitalized by decisions of the Supreme Court. Interestingly enough, most of these decisions are less than fifty years old."³

In order to gain a basic understanding of the concept of freedom, it is well to study the historical setting of the times of the First Amendment. There is special justification in doing this, for the Supreme Court has repeatedly based its freedom decisions on the First Amendment as it was written in the 1700's.

The United States Constitution itself became a legal document on March 4, 1789. The First Amendment to the Constitution became a part of the Bill of Rights and was adopted in 1791. The Bill of Rights itself was adopted in order to gain the necessary state support for ratification.

Cranston Williams, giving thought to the Bill of Rights and the First Amendment in particular, has noted in a speech:

The word 'freedom' in the First Amendment is used only once and it groups together speech and press--covering both oral and written expression of the views of the individual. Webster's Dictionary tells us that 'freedom is exemption or liberation from slavery; imprisonment or restraint, or from power or control of another; liberty; independence.'

Webster further tells us that 'sometimes press is technically limited to hand presses, especially in the British usage; and press is 'the art, business, act

³Ibid.

or process of printing, hence printed publications collectively.⁴

The John Peter Zenger Case and
the Quest for Press Freedom

For anyone studying freedom of speech and the press as concepts in our American society, it is important to look at these freedoms as they existed in Colonial times. As Siebert, Peterson, and Schramm have noted ". . . the press always takes on the form and coloration of the social and political structures in which it operates."⁵

In the 1700's a case and trial took place in the colonies that illustrate for us today the social climate and limits on freedom as they existed in Colonial times. The person on trial was one John Peter Zenger. The case was noteworthy in that it not only was tried "on the basis of the English common law, but also on the grounds of the new ideas of liberty which had been spreading widely in both the Colonies and the Mother Country."⁶

⁴Cranston Williams, "The Press, The First Amendment and the Constitution," A speech given at a meeting of the Blue Ridge Chapter of Daughters of the American Revolution, Lynchburg, Virginia, March 12, 1964, p. 2.

⁵Fred S. Siebert, Theodore Peterson, and Wilbur Schramm, Four Theories of the Press (Urbana: The University of Illinois Press, 1963), p. 1.

⁶Zenger's Own Story: A Brief Narrative of the Case and Tryal of John Peter Zenger, A Literal Reprint of the Original Pamphlet Printed by Zenger in New York in 1736 (Columbia, Missouri: The Press of the Crippled Turtle, December 1954), p. iii.

At the time of the Zenger trial, courts were not strictly governed by procedures; and magistrates were limited in terms of the law and the legal process. As has been pointed out in the Zenger account, ". . . it was possible to try a case almost as much on accepted ethical principles, texts from the Bible, and current political and social theory, as upon Coke, Selden, and Hale."⁷

Zenger had been operating his own printing business for approximately six years when one William Cosby arrived in New York, having been appointed to serve as governor of the colony. According to the account provided in the Zenger documents, "behavior of Governor Cosby was arrogant. His automatic spirit and his deficiencies of judgment led him into one administrative blunder after another."⁸

Zenger's printing activity at the time of Cosby was devoted to the printing of some broadsides and folders of folio size which related to Colonial life. A William Bradford, meanwhile, was printing a publication known as the Gazette. It was a publication that was entirely in support of all that Governor Cosby did.

At the time, there were several individuals who were strongly opposed to the policies of Governor Cosby. Included in this group of opponents were: Judge Morris, Lewis Morris, Jr., James Alexander, and William Smith.⁹

⁷Ibid.

⁸Ibid., p. v.

⁹Ibid.

Historical records indicate that Alexander, Smith and Morris went to Zenger's print shop, Alexander is reported to have turned to Zenger and said:

Tis no good beating about the bush. We've reached the point in this fight with Cosby when we need a gazette. The Court party have Bradford's, but we need a spokesman more than they do. Ours is the popular side, and the people must be informed of how things stand.¹⁰

Zenger replied to lawyers Alexander and Smith in the following manner, "I am just a printer, I can set the type. I can print the paper. These things I can do, and do well, as I hope I may say, and as you gentlemen know also. But I am poor at writing. . . ." ¹¹

The continuing discussion among Alexander, Smith, and Zenger is interesting to note. To Zenger's reply came the response from Alexander, "That shall not be at your charge my good Printer. My pen shall be dedicated to the cause--and yours, too, Smith?"

"Mine, too," agreed Morris, "and my father's, and William Smith's, and others, I warrant you."

"Then I will do it!" exclaimed Zenger. "I will have to get another printer--a journeyman."¹²

As for the risk in printing, Alexander reminded Zenger, "I need not tell you, Friend Zenger, that no man challenges

¹⁰Ibid.

¹¹Ibid.

¹²Ibid.

a Royal Governor with impunity. There is no small danger here. But Smith and I pledge ourselves to see you through whatever may befall, Eh, Smith?"¹³

Zenger printed his Journal from November of 1733 until the following January. The pages of the Journal were filled with writings about liberty and criticism of Governor Cosby. In January, however, Peter Zenger was brought to trial, charged with libel against a government official. The exchange that ensued between the Defense Attorney, Andrew Hamilton, and the Attorney General reveals the degree of freedom of the press just prior to the time of the United States Constitution. From Zenger's Own Story: A Brief Narrative of the Case and Tryal of John Peter Zenger:

Mr. Attorney

. . . Mr. Hamilton, has confessed the Printing and Publishing, and I think nothing is plainer, than that the Words in the Information are scandalous, and tend to sedition, and to disquiet the Minds of the People of the Province. And if such Papers are not Libels, I think it may be said, there can be no such Thing as a Libel.

Mr. Hamilton

May it please Your Honour; I cannot agree with Mr. Attorney: For tho' I freely acknowledge, that there are such Things as Libels, yet I must insist at the same Time, that what my client is charged with, is not a Libel; and I observed just now, that Mr. Attorney in defining a Libel, made use of the Words, scandalous, seditious, and tend to disquiet the People; but (whether with Design or not I will not say) he omitted the Word false.¹⁴

¹³Ibid.

¹⁴Ibid., p. 21.

Hamilton, in speaking to the jury, said that the question before them would affect every man who lived under British rule in the colonies.

John Peter Zenger was acquitted by the jury. His trial was a milestone in the growth of free speech and press in the United States.

Reflecting upon the true meaning of the trial of John Peter Zenger, the Department of Journalism at the University of Arizona began an award in 1954. Begun on November 21st of that year, it was called The John Peter Zenger Freedom of the Press Award.

The recipient of the Zenger award in the year 1958 was Representative John E. Moss. In accepting the award for "leadership in the endless battle to protect the freedom of the press and the people's right to know,"¹⁵ Representative Moss had this to say about the significance of the trial of John Peter Zenger and what it meant in terms of the establishment of free speech and press in the United States:

The trial of John Peter Zenger nearly 224 years ago, and his eloquent defense by Andrew Hamilton, is a case in point. Zenger established the first partisan newspaper on the American continent. . . . In the words of Zenger's Editor-in-Chief, the paper was designed 'to be continued weekly and chiefly to expose' Governor Cosby. The trial and acquittal of John Peter Zenger was: (1) an effective argument for truth as a defense against libel and (2) for the principle that juries

¹⁵John E. Moss, "What You Don't Know Will Hurt You," An address by the United States Representative from the Sacramento District of California, The John Peter Zenger Award, 1958.

have the right to determine both the fact and the law in a libel case and (3) it highlighted the first attempt by a political faction to use a newspaper to carry on a political controversy.¹⁶

Representative Moss also said that the Zenger trial:

. . . led to the success of such newspapers as Fenno's Gazette of the United States and Freneau's National Gazette, the publications which were platforms for Thomas Jefferson and Alexander Hamilton in their political controversy which established many of the governmental policies for our American democracy.¹⁷

Reactions and Action Against Stringent Colonial Press Restrictions

The stringent controls over printed matter in the colonies during Zenger's time had deep roots. As William Hocking has stated in his book, Freedom of the Press:

A Framework of Principle:

The age calling itself 'enlightened' flowered into revolution and produced the American and French Declarations of the Rights of Man. These its own assumptions it took as final pronouncements of truth. . . . The American Bill of Rights made no exceptions in their favor (or in favor of any other assumptions) in its guarantee of freedom of speech and of the press against abridgment of the Congress.

.

There were reasons for this clean sweep of emancipation. No doubt British officials in America during the period of turmoil had treated Colonial pamphleteering with a severity which had largely disappeared from England; we were reacting against British practice during this period more than against British law.¹⁸

¹⁶Ibid.

¹⁷Ibid.

¹⁸William Ernest Hocking, Freedom of the Press: A Framework of Principle, A Report from the Commission on Freedom of the Press (Chicago: The University of Chicago Press, 1947), p. 8.

The severity of British rule by a few government officials is revealed in certain speeches made during the 1700's. One such speech was delivered in Boston, Massachusetts on March 6, 1775, in commemoration of the "Bloody Massacre" which took place in King Street, Boston, the evening of March 5, 1770. The speaker was Joseph Warren:

. . . By an intercourse of friendly offices the two countries became so unified in affection, that they thought not of any distinct or separate interests, they found both countries flourishing and happy.

These pleasing connections might have continued . . . but, unhappily for us, unhappily for Britain, the madness of an avaricious minister of state, has drawn a sable curtain over the charming scene . . . now discord, envy, hatred and revenge, with civil war close in the rear.¹⁹

The commemorative speech was concluded by Warren's saying:

An independence of Great Britain is not our aim. No, our wish is, that Britain and the colonies may, like the oak and ivy, grow and increase in strength together. But if it appears that the only way to safety is through fields of blood, I know you will not turn your faces from your foes.²⁰

Another speaker whose remarks revealed some of the sentiment of the 1700's was Samuel Adams (1722-1803), who in August of 1776, addressed himself to the matter of the Declaration of Independence. He presented his remarks before the Continental Congress itself:

¹⁹Frank Moore, American Eloquence, Vol. I (New York: Appleton and Company, 1872), pp. 61-62.

²⁰Ibid., pp. 61-64.

We have fled from the political Sodom; let us not look back, lest we perish. . . . He who has strength to chain down the wolf is a madman if he let him loose without drawing his teeth and paring his nails.

We have no other alternative than independence.²¹

Author William Hocking has commented upon the period of the 1700's in these words:

Leaning against the evils of monarchic rule, the devisers of the republic were on guard also against their own creation. The best government was the least government, because free men would do for themselves what a self-magnifying government would too willingly do for them and do less well. It was not merely monarchy, but government per se, that required curbing. Hence the Bill of Rights became a defense of individual citizens against the collective will of a free people.²²

By the time the First Amendment to the Constitution was adopted in 1791, a new, liberal spirit was beginning to manifest itself in the variety of opinions that were being expressed. Such opinions were found in increasing numbers in the newspapers themselves. Writing of the 1791 period, Zechariah Chafee, Jr. has observed:

We pointed out in our report on a Free and Responsible Press that when the First Amendment was adopted in 1791 anybody with anything to say had little difficulty in getting it published. A journeyman printer could set up a newspaper if he could borrow a few dollars. Each large town had many newspapers which, taken together, represented nearly all of the conflicting viewpoints on public issues. . . .²³

²¹Charles Hurd, Great American Speeches (New York: Hawthorn Books, Inc., 1959), p. 31.

²²Hocking, op. cit., p. 11.

²³Zechariah Chafee, Jr., The Blessings of Liberty (New York: J. B. Lippincott Company, 1956), p. 108.

Viewed in this social setting one is able to appreciate the Colonial sentiment concerning the press--"the press should be given wide leeway in the criticism of government. . . ." ²⁴ This new American press was quite different from the earlier press form found in England during the 1600's, where control was vested in the English kings, operating under the Licensing Act of 1622, which provided that no printed material could be published unless first scrutinized by a governmental censor.

During the eighteenth century a libertarian theory of the press began to evolve in the colonies. This theory said in part, ". . . it is imperative that the press be free from government control and influence . . . there must be a 'free market place' of ideas and information." ²⁵ The new press forms that were developing in the late 1700's were providing just that.

A New Understanding of the First Amendment Emerges

What has happened since the 1700's? For one thing, the words, "Congress shall make no law . . . abridging the freedom of speech, or of the press . . ." have been argued for years. This has been due in no small way to the fact that

²⁴Roscoe Pound, "The Development of Constitutional Guarantees of Liberty," Notre Dame Lawyer, XX, No. 4 (June 1945), 356.

²⁵Siebert, op. cit., pp. 3-4.

clear definitions of freedom of speech and press never came from any of the early Americans. As Leonard W. Levy has noted:

One searches in vain for a definition of any of the First Amendment freedoms in the rhetorical effusions of George Clinton, Elbridge Gerry, Patrick Henry, Thomas Jefferson, Richard Henry Lee, Luther Martin, George Mason, Spencer Roane, Melancthon Smith, and other advocates of a Bill of Rights. Nor do the newspapers, pamphlets, or debates of the state ratifying conventions offer illumination.²⁶

Full understanding of the First Amendment and its relationship to our American society would come only through the court decisions of our country and, as Chafee has pointed out ". . . there was little occasion for these until the day when the United States declared war against Germany for the first time."²⁷ Zechariah Chafee, Jr. has also said:

The forty years (the book was written in 1956), almost, since April 6, 1917, have given us all the authoritative judicial interpretation of freedom of speech and press we have, and they have also brought forth a host of restrictions on open discussion, which, whether constitutional or not, were never dreamed of in the United States before we went to war to save freedom.²⁸

Much of the early lead in court interpretations of the freedom issues came from two Justices. One was Justice Oliver Wendall Holmes, the other Justice Louis D. Brandeis. Their court decisions have caused the First Amendment to assume new meaning in the twentieth century.

²⁶Leonard W. Levy, Freedom of Speech and the Press in Early American History: Legacy of Suppression (New York: Harper and Row, Publishers, 1963), p. 215.

²⁷Chafee, op. cit., p. 64.

²⁸Ibid.

By way of example, during World War I, a group of people were accused of interfering with the drafting of men into the Armed Forces of the United States. The defendant in the case was one Charles F. Schenck, general secretary of the Socialist Party, who had mailed materials to men who had already received induction notices from the military. The recipients of the printed material were asked by Schenck to resist the draft. The Supreme Court unanimously sustained the conviction, with Justice Holmes writing the opinion. In presenting it, Holmes is reputed to have "formulated a new test of the freedom of speech guarantee."²⁹ The words of the Justice have often been repeated:

We admit that in many places and in ordinary times, the defendants in saying all that was said in the circular, would have been within their constitutional rights. But the character of every act depends upon the circumstances in which it is done. The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre, and causing a panic. It does not even protect a man from an injunction against uttering words which may have all the effect of force. . . . The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree.³⁰

The "clear and present danger" principle of the case of Schenck v. United States gained yet new direction in a subsequent decision of Justice Holmes. Dissenting in the case

²⁹Alexander Meiklejohn, Free Speech and Its Relation to Self Government (New York: Harper and Brothers, Publishers, 1948), p. 29.

³⁰Schenck v. United States, 249 U. S. 47, 52, 1919.

of *Abrams v. United States*, Justice Holmes stated:

I do not doubt for a moment that . . . the United States constitutionally may punish speech that produces or is intended to produce a clear and imminent danger that it will bring about forthwith certain substantive evils that the United States constitutionally may seek to prevent.³¹

Several other Supreme Court cases are pertinent to this discussion concerning the evolution of our freedom of speech/press concept.

The *Gitlow* case of 1925 dealt with the publication of printed material that advocated the violent overthrow of the United States Government. Benjamin Gitlow was the business manager of a Socialist newspaper Revolutionary Age. He was convicted under a New York State statute forbidding the publication of material advocating the violent overthrow of government. Upholding the conviction of Gitlow, the court ruled that the New York act did not limit the defendant's freedom of speech and press and that free speech and press are protected against state actions.³² Here again, a growing body of interpretation of the First Amendment to the Constitution was provided by Justice Sanford and Justices Brandeis and Holmes.

Another Supreme Court case that involved the activities of a Socialist was *Whitney v. California*. Miss Whitney was convicted of violating an act of the State of California.

³¹*Abrams v. United States*, 250 U. S. 616, 624, 1919.

³²*Gitlow v. New York*, 268 U. S. 652, 1925.

The act prohibited the teaching of a doctrine where workers were urged to take over both the American government and the American economy.³³ The conviction was upheld by the Supreme Court. In providing an overview of the decision that was rendered, William Hachten has written:

In his concurring opinion Justice Brandeis elaborated on the clear and present danger test in eloquent words and explained why government is prohibited from restricting freedom of expression.³⁴

The significance of the previously mentioned Supreme Court cases has been noted by Hachten:

In *Schenck* and subsequently in their dissents in *Abrams* and *Gitlow*, and in their concurrence in *Whitney*, Justices Brandeis and Holmes enunciated views and principles of free expression which set the stage for Supreme Court decisions from 1940 onward. Meaning and interpretation were added to the blunt admonishment that 'Congress shall make no law . . . abridging freedom of speech, or of the press.'³⁵

Although provisions for freedom of speech and press were established by the Framers of the United States Constitution, these freedoms were far from a reality until a rationale was established by the nation's Supreme Court, acting over many years. There is still doubt in the minds of some modern writers that the Framers themselves actually knew, by definition, what such freedoms were. Nevertheless, a provision was made; it made possible new and expanded interpretation as the years have passed.

³³*Whitney v. California*, 274 U. S. 357, 1927.

³⁴Hachten, *op. cit.*, p. 23.

³⁵*Ibid.*, p. 17.

In 1931, the Supreme Court considered the case of *Near v. Minnesota*, which was significant in that it pertained strictly to newspapers. The case was the first newspaper case which applied against the states the provisions of the First Amendment through the Fourteenth Amendment. The results struck down a Minnesota statute which had provided for prior restraint of publications considered to be undesirable by the state courts.³⁶

What has taken place in the courts throughout the years has brought about greater understanding of freedom of speech and the press. The interpretation of the First Amendment has caused a fence to be built ". . . inside which men can talk. The law-makers, legislators and officials stay on the outside of that fence. . . ." ³⁷

Equally important according to Chafee is this viewpoint:

. . . The press must be free for the development of its own conceptions of service and achievement. It must be free for making its contribution to the maintenance and development of a free society.

This implies that the press must also be accountable to society for meeting the public need and for maintaining the rights of citizens and the almost forgotten rights of speakers who have no press.³⁸

³⁶*Near v. Minnesota*, 283 U. S. 697, 1931.

³⁷Chafee, op. cit., p. 108.

³⁸Ibid., p. 109.

Siebert, Peterson, and Schramm have noted that, as our society becomes more complex and highly technical, it has a direct bearing upon the very composition of the press itself:

. . . the press, as in the old authoritarian days, is falling into the hands of a powerful few. . . . No longer is it easy for the press to be a free market place of ideas, as defined by Mill and Jefferson. As the Commission on Freedom of the Press said, 'protection against government is not now enough to guarantee that a man who has something to say shall have a chance to say it. The owners and managers of the press determine which persons, which facts, which versions of these facts, shall reach the public.' The uneasiness is the basis of the developing Social Responsibility theory: that the power and near monopoly position of the media impose on them an obligation to be socially responsible, to see that all sides are fairly presented and that the public has enough information to decide.
 . . .³⁹

While it may be true that there is less diversification of press ownership today than in yesteryear, it may also be said that the concept of freedom as applied to the press is not diminishing in 1968. Even as recently as 1964, the Supreme Court of the United States ruled on a case (New York Times v. Sullivan) which clarified aspects of freedom for members of the press.⁴⁰

One of the popular fears of 1968 is that as diversification of press ownership declines, so, too, might opportunities for various opinions and views decline. As A. J. Lieblich has warned in his highly critical essay on the American press system:

³⁹Siebert, op. cit., pp. 4-5.

⁴⁰New York Times v. Sullivan, 376 U. S. 254, 1964.

. . . the United States is much further advanced toward a monovocal, monopolistic, monocular press than Britain. With the decline in the 'number and variety' of voices there is a decline in the number and variety of reporting eyes, which is at least as malign.⁴¹

The freedom that the Founding Fathers spoke of in their writing of the First Amendment was intended to be something more than the freedom in England had been. There, the English Government had been able to punish publishers after the actual printing had taken place. As the Supreme Court of the United States noted as recently as 1941, in the case of *Bridges v. State of California*:

. . . No purpose in ratifying the Bill of Rights was clearer than that of securing for the people of the United States much greater freedom than the people of Great Britain had ever enjoyed.⁴²

Blackstone, a legal scholar of the eighteenth century, was of the conviction that the purpose of freedom of speech and the press was to protect against prior restraint and ". . . that subsequent punishment could not abridge these freedoms."⁴³ The enlightening and broad interpretations of freedom of speech and press matters have caused the courts to ". . . now come almost totally to reject the Blackstonian distinction."⁴⁴

⁴¹A. J. Liebling, The Press (New York: Ballantine Books, Inc., 1964), p. 3.

⁴²*Bridges v. California*, 314 U. S. 252, 62 S. Ct. 190, 86 L. Ed. 192, 1941.

⁴³Robert M. O'Neil, Free Speech: Responsible Communication Under Law (New York: The Bobbs-Merrill Company, Inc., 1966), p. 28.

⁴⁴Ibid.

The way to greater freedom in this country has not come without its trying moments, however. There have been times when threats to existing freedom have been very challenging. Robert M. O'Neil of The Law School at the University of California, Berkeley, has written his opinion that:

There have been at least three major 'crisis' periods in our history--times at which government efforts to suppress speech posed very serious threats to intellectual and literary freedom.⁴⁵

The three threats O'Neil classifies as:

1. The Alien and Sedition Acts during the latter years of the eighteenth century. Under these Acts newspaper editors and printers were imprisoned for criticizing the Adams administration. Both Thomas Jefferson and James Madison opposed these Acts which were later eliminated.
2. The time leading up to and including the Civil War. The abolitionist movement brought about extralegal and legal suppression. President Lincoln suspended the writ of habeas corpus for the duration of the war, making it impossible to test the constitutionality of convictions that would have been open to attack during non-war years.
3. The time when World War I ended. Our law of free speech under the First Amendment begins during this era, as there were no free-speech or free-press decisions of consequence prior to 1919. Suddenly, however, many cases were presented and much law made. The basis of these prosecutions was the Espionage Act of 1917 making it a federal crime to block recruiting activities or to cause disloyalty among servicemen.⁴⁶

The "clear and present danger" clause established by the Supreme Court in *Schenck v. United States* in 1919⁴⁷

⁴⁵Ibid., p. 29.

⁴⁶O'Neil, op. cit., p. 29.

⁴⁷*Schenck v. United States*, op. cit.

stressed what Congress had a right to prevent. Then, in Supreme Court cases of 1942,⁴⁸ 1957⁴⁹ and 1964,⁵⁰ exclusions were made from the protection of the First Amendment to the United States Constitution. These exclusions were: (1) words not worthy of constitutional protection; (2) obscene words; and (3) group libel.

With new freedom came the need for press responsibility. Harold L. Cross, speaking on the topic "Our Free Press, How Free?" before the Maine State Bar Association issued both the kind of challenge and responsibility that members of the press must have:

. . . The public business is the public's business. Freedom of information is the just heritage of the people. Without it we have but changed our kings.

It is not enough philosophically to recognize this freedom or to pay it lip service. It is not enough that, by virtue of favorable exercise of official grace, legislative power and judicial discretion, information in substantial volume becomes known. It is not enough that industry and resourcefulness of newspapermen makes news of governmental activity available to the people speedily, in volume, at low cost.

Our people must have the right--the legal right--directly and through their press to examine the conduct of their affairs, subject only to limitations imposed by the most urgent public necessity.

.

Dynamic, explosive expansion of governmental activity demands this revival of the neglected constitutional right to the raw materials of public knowledge. . . .

⁴⁸Chaplinsky v. New Hampshire, 315 U. S. 568, 572, 1942.

⁴⁹Roth v. United States, 354 U. S. 476, 1957.

⁵⁰People v. Bruce, 31 IU, 2d 459, 202 N. E. 2d 497, g. 1964.

The people are entitled to know not only what decisions were reached but how and why and who voted for and against them.⁵¹

Gaining access to information amidst certain pressures makes the job of the press member often very difficult. In a 1965 article appearing in the Columbia Journalism Review, Ben Bagdikian cited the pressure that the President of the United States can himself exert on members of the press. Speaking of President Lyndon B. Johnson, he wrote that the President and his staff ". . . seem to ring like burglar alarms whenever and wherever the name 'Johnson' appears in print or is uttered on the air."⁵² It was Bagdikian's contention that under such circumstances journalists cite President Johnson as both the originator and the editor of the news.⁵³

The entire matter of access to information has been a matter long neglected in discussions of freedom. Only recently has the matter been pursued in a vigorous manner. As one concerned about access, Louis H. Mayo suggested that press members themselves may lack initiative in seeking information amidst pressures or closed door policies. Said Mayo in a University of Michigan Law School address:

⁵¹Harold L. Cross, "Our Free Press, How Free?" A speech delivered before the Maine State Bar Association, The Belgrade Hotel, Belgrade Lakes, Maine, August 21, 1952.

⁵²Ben Bagdikian, "Press Agent--But Still President," Columbia Journalism Review, Summer 1965, p. 10.

⁵³Ibid.

. . . A further difficulty is found in the established pattern of practices sanctioned by Congress granting, by statute, broad discretion to the various heads of Executive Departments and Agencies where the test may be simply whether such officials consider the release of such information to be in the 'public interest.'

In view of these factors, it might be suggested that the press should attack this phase of the information problems by whatever legal means will effectively gain easier access to government information sources. It is possible that newspapers have been too cautious in asserting the First Amendment.⁵⁴

Dr. Frank Stanton, President of the Columbia Broadcasting System, Incorporated, addressed himself to the problem of freedom of speech and press when he spoke before the Sigma Delta Chi national convention in 1968. An overview of Stanton's remarks is found in Broadcasting under the heading, "Journalism Under Attack."⁵⁵ Not only did he rely upon history to emphasize his views, but he applied his concerns in the freedom area to both print journalism and electronic journalism:

Government officials and any others who would curtail or qualify the freedom of the press overlook the basic theory and reality upon which the First Amendment was originally built--that there is no single universal standard of journalistic truth. There can only be different approximations of truth. The more numerous the sources of those approximations, the less likely is the persistence of error. Judge Learned Hand saw this clearly when he said that the First Amendment 'presupposes that right conclusions are more likely to be gathered out of a multitude of tongues, than through any kind of authoritative selection. To many this is,

⁵⁴Louis H. Mayo, "Comments Concerning the First Amendment and the People's Right to Know," Communications Media Legal and Policy Problems--1954 (Ann Arbor: University of Michigan Law School, 1954), p. 11.

⁵⁵"Journalism Under Attack," Broadcasting, November 25, 1968, pp. 58-59.

and always will be, folly; but we have staked upon it our all.⁵⁶

Dr. Stanton also underscored the importance of press aggressiveness in seeking truth. On the matter of access itself, he presented his view that press members should have that information necessary in order to properly inform the American people. To shy away from press aggressiveness and responsibility would, in Stanton's view, be weakening a basic American press right and need:

Every journalist has an immense responsibility to the public for there is no more vital role in a free society than informing the public--fully, freely and without accountability to anyone except the public themselves. A nation not fully informed is a nation in trouble. And a sense of the uncompromisable urgency of our mission must never desert us. There can be no question that a litmus paper test of a viable democracy is the freedom of its press. The totalitarian governments seem to recognize this fact more quickly than some of our own officials.⁵⁷

The true meaning and significance of press and speech freedoms in our society come to view when one considers the heritage that is ours, developed out of the Constitution. In order to be reminded of what true freedom is, one needs only to recall the lack of press freedom and freedom of speech in Czechoslovakia in 1968, after the Russian invasion. As another illustration, one might review the press under

⁵⁶Frank Stanton, President, Columbia Broadcasting System, Incorporated, Keynote Address before Sigma Delta Chi National Convention, Atlanta, Georgia, November 21, 1968.

⁵⁷Ibid., pp. 9-10.

the years of Mussolini. Under the Italian rule, freedom was non-existent. The press was seen as:

. . . only a part of the educative program of the State, an education that began with the cradle and ended with the grave. Accordingly, the press was conceived with only one function and purpose in mind--the service of the state. This service unfolds itself into two main objectives: (1) to eradicate and kill off all competitive and inimical ideas; and (2) simultaneously to foster the fascist ideology, its institutions, and its forms of life everywhere.⁵⁸

As a result of the words of the United States Constitution, the actions of the Supreme Court over the years, and the writings of individuals, we are better able to understand the true meaning and significance of the freedom concept in our modern day.

An example of the need for continuing work in the freedom area is the fact that the American press system is confronted not only with the matter of access to governmental news sources, but with access to other sources of information, as well. In the 1945 case of *Associated Press et al. v. United States*, a private organization, the Associated Press, was charged with limiting access to information by non-subscribing press personnel.⁵⁹ This was held to be in violation of the Sherman Act. As Louis H. Mayo has noted:

The decision in effect stated that 'news media cannot be arbitrarily excluded from the facilities to command

⁵⁸Fr. Antonio Piñón Tiana, O. P., The Freedom of the Press: A Critical Evaluation of the Totalitarian and Liberal Theories (Manila: University of Santo Tomas Press, 1960), p. 89.

⁵⁹*Associated Press v. United States*, 316 U. S. 1, 1945.

possession of and to print news which they have not gathered, but which has been gained by the costly efforts of an international news agency.'⁶⁰

Access to information, of and by itself, is important. Access to information by differing media forms is likewise important to the 1960's. Mayo has commented:

The question of discrimination in access of differing media to various government proceedings has become more acute with the introduction of television's tremendous impact on the public information function.⁶¹

With access to information, there is also the need for an appreciation of limits. The press must be concerned with one's right to privacy. As Schramm has said:

The right of an individual to his own private life, his own thoughts, his own beliefs, has long been highly valued in Western culture, and has had increasing attention in United States law since a memorable article, by Warren and Brandeis, was published in 1890.⁶²

A Warren-Brandeis article focused upon that delicate line of privacy of the individual, bringing together many elements of common law. Common law by definition is that form of law that has developed over long periods of time, either from tradition, or from the outgrowth of prevailing thought pertaining to rules. The Warren-Brandeis publication, later to be recognized by the courts of our land, had these comments to make about individual rights:

1. Liberty means freedom from actual restraint.

⁶⁰Mayo, op. cit., p. 12.

⁶¹Ibid., p. 25.

⁶²Wilbur Schramm, Responsibility in Mass Communications (New York: Harper and Brothers, 1957), p. 167.

2. The right of property secures for the individual his lands and his animals.
3. A man's feelings and intellect are his own.
4. A man has a right to enjoy life and to be left alone.
5. As the world becomes more and more complex, there becomes more and more of a necessity for man to have some form of retreat from it and from man.
6. Common law secures to each person the right to determine, ordinarily, and to what extent his thoughts, sentiments, and emotions shall be communicated to others. The same protection is accorded to a casual letter or an entry in a diary and to the most valuable poem or essay, to a botch or daub and to a masterpiece. In every case it is the individual who shall be released to the public. The right is lost only when the author himself communicates his production to the public, or publishes it.⁶³

Our concept of freedom of speech and the press was born out of an understanding of the weaknesses and limitations of the British system. Over time, through discussions, writings and subsequent Supreme Court decisions, the words of the First Amendment began to assume new meaning. With such broadening of the freedom concepts, there was need for responsibility.

Our American system of democracy has always placed great faith in the ability of the individual. It is a system that has been built upon the importance of people. As Thomas Jefferson once said, "It is an axiom in my mind that our

⁶³Samuel D. Warren and Louis D. Brandeis, "The Right to Privacy," Harvard Law Review (IV 1890-1891). (Cambridge, Massachusetts: Harvard Law Review Publishing Association, 1891), pp. 193-198.

liberty can never be safe but in the hands of the people themselves. . . ." ⁶⁴

It is the people of our land who will continue to make freedom of speech and the press living concepts in our democratic society. Challenges are, and will continue to be, great, especially as these concepts are applied directly to the still developing media of radio and television. The dimension of the challenge is reflected in an editorial that appeared in Broadcasting on December 2, 1968. That editorial stated, in part:

What the First Amendment means when it says freedom of speech is that anyone can state a view in private or public. It does not mean that he has the right to make his views known through an established organ of the press. When the First Amendment speaks of freedom of the press it refers to a proprietor's right to put in his organ of communication what he sees fit to put in it. Benjamin Franklin saw the distinction clearly when he remarked that his newspaper was not a stagecoach on which everyone could ride. ⁶⁵

Freedom of speech and the press have meant different things to different people throughout the years since 1791. It has taken specific issues and the courts of our land to interpret these issues in order to bring greater meaning and understanding to the First Amendment.

The Constitution and its Amendments were merely beginnings for speech and press freedoms in this country. As William A. Hachten has said, "Freedom of the press in America

⁶⁴Benjamin S. Catchings, Master Thoughts of Thomas Jefferson (New York: The Nation Press, 1907), p. 82.

⁶⁵"The Right Name," Editorial appearing in Broadcasting December 2, 1968, p. 88.

begins but does not end with the First Amendment to the United States Constitution."⁶⁶

⁶⁶Hachten, op. cit., p. 3.

CHAPTER III

FREEDOM OF SPEECH AND AMERICAN BROADCASTING

The Beginning of Federal Regulation

Unlike members of the print media, who early sought freedom from government involvement and intervention, members of the electronic media, by contrast, actually sought federal involvement in order to insure their own freedom to operate.

When radio broadcasting first began in the United States, anyone in possession of a broadcast transmitter could begin operations. There were no restrictive governmental measures in terms of station power, hours of operation, or frequency. The gravity of the situation is reviewed in a government publication entitled, Fairness Doctrine:

As radio broadcasting burgeoned before any serious regulation was undertaken, problems of interference became widespread. When two or more operators arbitrarily elected to broadcast over the same radio frequency, the result was chaos. The early broadcaster could expect no viable future unless exclusive use of a particular frequency, free from encroachment by other operators, could be insured for him. The infant industry saw the need for Federal control of broadcast

communication long before radio could be described as a mass media. Practitioners of the art were in the vanguard of those who sought legislation in the field.¹

The early confusion and chaos in radio broadcasting was viewed by one writer as meaning ". . . real freedom of speech for no one."² As a first step in overcoming the problem the federal government instituted regulation of the airwaves through the establishment of the Radio Act of 1912. Its provisions were minimal and were designed only to deal with the licensing of radio apparatus, not to provide comprehensive rules and regulations for the operation of radio broadcasting stations as we know them today.

After 1920, radio broadcasting stations began to emerge in great numbers. By July 1, 1922, 382 broadcasting stations had been licensed; by December 27, 1922, the number of licensed stations had risen to 569.³ This new growth in the number of stations caused government and industry spokesmen alike to realize that the Radio Act of 1912 was not adequate for purposes of dealing with the situation. Secretary of Commerce Herbert Hoover acted in 1922 by inviting representatives of government, broadcasting, and American industry to

¹Fairness Doctrine, Staff Report Prepared for the Subcommittee on Communications of the Committee on Commerce, United States Senate on the FCC's Actions and the Broadcasters' Operations in Connection with the Commission's Fairness Doctrine, 90th Cong., 2d sess., 1968, p. 3.

²O'Neil, op. cit., p. 67.

³U.S., Congress, House, Committee on the Merchant Marine and Fisheries Hearings before the Committee on the Merchant Marine and Fisheries, on H. R. 11964, 67th Cong., 4th sess., 1923, p. 29.

meet to consider the entire matter of radio communication and the regulatory positions that might be taken. What eventually resulted from these meetings was the Federal Radio Act of 1927 and the establishment of the Federal Radio Commission. This Commission served as the forerunner to the present Federal Communications Commission.

The rationale underlying Secretary Hoover's actions in 1922 is suggested by Walter B. Emery in a 1964 issue of The Centennial Review of Arts and Sciences. Emery wrote, in part:

Obviously, it was no libertarian or laissez-faire philosophy that motivated Mr. Hoover in his effort to persuade Congress to pass this law. While he wanted freedom for the broadcaster, he realized that they would have to give up some of their rights, accept some restrictions from government, and take on some new responsibilities, if radio was to have an orderly growth and achieve its maximum social utility.⁴

One of the early duties of the Federal Radio Commission was the allocation of limited radio frequencies. This demanded some form of standard and some criteria for judgment. The phrase that was to be used was "the public interest, convenience or necessity." It appeared in the Radio Act of 1927, having been borrowed from public utility legislation as a standard for licensing.

Broadcast station operators were now being thought of as trustees of publicly owned, government assigned broadcast

⁴Walter B. Emery, "Broadcasting Rights and Responsibilities," The Centennial Review of Arts and Sciences, VIII, No. 3, (Summer, 1964), p. 311.

frequencies. The licensee was charged with the responsibility of serving the public with meaningful programming. This was to establish the basic, working relationship of government to the broadcaster, and the broadcaster to government.

The involvement of government in the area of regulation had come about as the result of need. The licensed station was to be thought of as being free to program to community needs, but within a certain framework, that hopefully would bring order out of the earlier chaos. The system that evolved and has endured to the present day makes that system rather unique. LeRoy Collins has described it in these words:

It [broadcasting] becomes a free enterprise under permit subject to grant and renewal by the government, but with neither the advantages nor the disadvantages of a utility franchise monopoly . . . broadcasting must earn its own economic support and at the same time live up to its social and moral and legal responsibility to operate in the public interest. There is nothing else like it on the American scene or in the world.⁵

As broadcasting began to prosper in the 1920's the public began to realize that this new communications form offered splendid potential for free speech. In the historical description of the 1920 era, the Fairness Doctrine report points out:

⁵LeRoy Collins, "Freedom Through Responsibility," in Freedom and Responsibility in Broadcasting, ed. by John E. Coons (Evanston, Illinois: Northwestern University Press, 1961), p. 5.

The advent of radio broadcasting excited the hopes and imagination of those dedicated to preservation and extension of the democratic processes of a free, pluralistic society. Foremost was this new medium's potential for democratic expansion of the cherished democratic ideal--free speech. The soapbox orator could be freed from the geography of his park and his utterances, magnified a thousandfold, extended far beyond the decibel limits of his own voice mechanism. His ideas, however, profound or mundane, popular or radical, well-seasoned or unfounded, relevant or frivolous, could enter a vastly expanded dialog upon public issues.⁶

It was for Secretary Hoover himself, in addressing the Fourth National Radio Conference of 1925, to define freedom of speech as applied to broadcasting:

. . . We hear a great deal about the freedom of the air; but there are two parties to freedom of the air, and to freedom of speech, for that matter. There is the speechmaker and the listener. He has much less option upon what he can reject, for the other fellow is occupying his receiving set. The listener's only option is to abandon his right to use his receiver. Freedom can not mean a license to every person or corporation who wishes to broadcast his name or his wares, and thus monopolize the listener's set.

We do not get much freedom of speech if 50 people speak at the same place at the same time, nor is there any freedom in a right to come into my sitting room to make a speech whether I like it or not.

.

The ether is a public medium, and its use must be for public benefit. The use of a radio channel is justified only if there is public benefit. . . .⁷

The view of the ether as being a public medium assumed added importance in the year 1928 when the Commission

⁶Fairness Doctrine, op. cit., p. 3.

⁷Proceedings of the Fourth National Radio Conference (Washington, D. C.: Government Printing Office, 1926), pp. 6-8.

considered the WRAK, WCOT, and WEVD cases. What these particular cases did was to establish what the Fairness Doctrine report describes as "a regulatory philosophy upon which the fledgling FRC would draw its 'Principles Underlying the Evaluation of Broadcasting Stations.'"⁸

The Fairness Doctrine report goes on to say that in cases involving fairness and personal use violations the Commission ". . . in the next few years exercised a regulatory muscle which it has yet to flex again against broadcast content. Among those revocations were the notorious Brinkley, Shaeffer, and Shuler cases."⁹

The Brinkley case involved Dr. John R. Brinkley, operator of radio station KFKB. On three thirty-minute broadcasts each day, Brinkley would read letters from listeners which described their physical problems. Brinkley also prescribed specific treatments for the problems presented. The treatments often involved the purchase of special drugs, obtainable only from Brinkley or from druggists who participated in the program series.

The public complained bitterly over the Brinkley practices. The result was that the Federal Radio Commission decided that the renewal of station license KFKB would not be "in the public interest, convenience or necessity." The Commission ruling in this case was appealed all the way to

⁸Fairness Doctrine, op. cit., p. 9.

⁹Ibid.

the United States Court of Appeals for the District of Columbia, where the court issued these words:

. . . When Congress provided that the question whether the license should be issued or renewed should be dependent upon a finding of public interest, convenience or necessity, it very evidently had in mind that broadcasting should not be a mere adjunct of a particular business, but should be of a public character. Obviously there is no room in the broadcast band for every business or school of thought.¹⁰

A second early case relating to broadcast content was the Shaeffer case, decided in 1930. The government's Fairness Doctrine report stresses the significance of this case when it notes:

It is of particular note for two reasons. It is probably the harbinger of the personal attack feature of the doctrine and it involved opinion and utterances of a person other than licensee.¹¹

According to the Fairness Doctrine report, the Commission, in acting on the Shaeffer case ". . . announced the principle which was to define licensee responsibility thereafter."¹² The licensee himself was charged with the obligation of assuming full responsibility for all programs broadcast from his station.

A third illustrative case was the Shuler case which involved the Trinity Methodist Church, South, Los Angeles, California and the church pastor, Robert P. Shuler. The Rev. Mr. Shuler oftentimes used Station KGEF for the broadcast

¹⁰KFKB Broadcasting Association, Inc., v. F. R. C., 47 F (2d) at 672.

¹¹Fairness Doctrine, op. cit., p. 10.

¹²Ibid., pp. 10-11.

of his own personal views on controversial issues. He also used the public airwaves to levy strong attacks against certain institutions and individuals. Institutions attacked included the Catholic Church. Jews were among individuals subject to his attacking words.

In hearing the Shuler case, the Federal Radio Commission chose not to renew the license of Station KGEF. The report in the Fairness Doctrine gives the account of the ruling:

While, as in Shaeffer, the Commission determined the involved personal attacks were not in the public interest, it developed a new standard for dealing with broadcast content. It condemned broadcasts 'filled with misstatements of fact and insinuations based thereon.' The broadcast of opinion per se was not condemned, only opinion based upon misstatement of fact.¹³

By 1932 the Commission had become more interested than ever in the program content of stations. However, certain government and industry leaders were beginning to question this involvement in programming by the Commission. As Joel Rosenbloom has indicated:

But the Commission's authority to take program content into account in renewing licenses, in assigning frequencies, power, time of operation and location of station was clearly understood to be limited only by the First Amendment's ban on infringements of the right of free speech. It remained for the future to provide a clear understanding of those Constitutional limits, but it was generally presumed that they left a large field for the play of the Commission's judgment.¹⁴

¹³Fairness Doctrine, op. cit., p. 11.

¹⁴Joel Rosenbloom, Authority of the Federal Communications Commission with Respect to the Programming of Radio and Television Broadcasting Stations, A memorandum prepared by the legal assistant to Commissioner Kenneth A. Cox, Federal Communications Commission, Washington, D. C., pp. 50-51.

A basic national policy for the regulation of radio broadcasting had been established by the Federal Radio Commission. Those early policies, many of which were related to programming itself, were maintained and even strengthened with the establishment of the Communications Act of 1934, which created the present day Federal Communications Commission. It also said that the new Commission's general rule-making functions would come under "the public interest, convenience or necessity." Furthermore, the 1934 Act identified certain general areas of Commission authority in the programming field:

- (1) Subsections (a), (b), (c) and (d) of Section 303, which grant to the Commission authority to "Classify radio stations," to "Prescribe the nature of the service" to "Assign bands of frequencies to the various classes of stations," to "Assign frequencies for each individual station," and to "Determine the location of classes of stations or individual stations."
- (2) Section 303 (i), which provides that the Commission shall "Have authority to make special regulations applicable to radio stations engaged in chain broadcasting."
- (3) Section 303 (j), which provides that the Commission shall "Have authority to make general rules and regulations requiring stations to keep such records of programs, . . . as it may deem desirable."
- (4) Section 307 (c), which provides that "The Commission shall study the proposal that Congress by statute allocate fixed percentages of radio broadcasting facilities and particular types or kinds of non-profit radio programs or to persons identified with particular types or kinds of non-profit activities. . . ."
- (5) Section 308 (b) and 319 (a), which provide that applications for station licenses, construction permits, or modifications or renewals thereof, shall set forth such facts as to ". . . character . . . and other qualifications of the applicant to operate the station. . . ."

- (6) Section 315, which requires that, if the licensee of a broadcasting station permits a legally qualified candidate for any public office to use his station, he shall afford "equal opportunities to all other such candidates for that office in the use of such broadcasting station."
- (7) Section 317, which requires that "All matter broadcast by any radio station for which any money, service or other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, shall, at the time the same is so broadcast, be announced as paid for, or furnished, as the use may be, by such person."
- (8) Section 325 (b), which provides that "No person shall be permitted to locate, use, or maintain a radio broadcast studio or other place or apparatus from which or whereby sound waves are converted into electrical energy, or mechanical or physical reproduction of sound waves produced, and caused to be transmitted or delivered to a radio station in a foreign country for the purpose of being broadcast from any radio station there having a power output of sufficient intensity and/or being so located geographically that its emissions may be reached consistently in the United States, without first obtaining a permit from the Commission upon proper application therefor."¹⁵

The regulatory guidelines for the new Federal Communications Commission were now established in the programming area. It took until 1941, however, to illustrate to broadcasters how the power of the Commission might be employed. A Federal Communications Commission decision of January 17th of that year focused public attention upon the role of the Commission and the established distinction between freedom of speech for the print media and freedom of speech for the broadcaster. The case was the Mayflower Case.

¹⁵Rosenbloom, op. cit., pp. 2-3.

The Mayflower Case involved two Yankee Network stations in Boston, Massachusetts--WAAB and WNAC. Beginning in 1937, these were used for the broadcast of editorials. The positions taken by those speaking on the stations related to controversial issues of a public nature. In the portion of the case pertaining to the editorials themselves the Federal Communications Commission stated:

. . . 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 limitations 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 his own partisan ends. . . . A truly free radio cannot be used to advocate the causes of the licensee. . . . 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. . . .¹⁸

The Commission ruling was interpreted to mean that a station licensee was not eligible to editorialize on any matter. This was viewed as an infringement on freedom of speech as guaranteed by the First Amendment to the United States Constitution.

A position or stand had been taken by the Federal Communications Commission. Greater clarification to the

¹⁸"In the Matter of The Yankee Network, Inc. (WAAB)," Federal Communications Commission Reports, VIII (Washington, D. C.: U. S. Government Printing Office, March 1, 1940 to August 1, 1941), pp. 339-340.

Commission's authority was made just a few years later, in *NBC v. U. S.* when a ruling was rendered by the Supreme Court of the United States. In that case, Justice Frankfurter interpreted the meaning of the Communications Act of 1934 and the overall authority of the Federal Communications Commission in the field of regulation. Said Frankfurter:

The Act itself establishes that the Commission's powers are not limited to the engineering and technical aspects of regulation of radio communication. Yet we are asked to regard the Commission as a kind of traffic officer, policing the wave lengths to prevent stations from interfering with each other. But the Act does not restrict the Commission merely to the supervision of the traffic. It puts upon the Commission the burden of determining the composition of that traffic.¹⁷

With the *Mayflower Case* and the decision in *NBC v. U. S.* behind it, the Commission began to give careful consideration to what its own role in the programming area ought to be. During 1945, Charles A. Siepmann collaborated with lawyer Elinor Bontecue for purposes of investigating the basic needs of American radio. They also studied the relationship of government to individual stations and stations to government. Both Siepmann and Bontecue were employees of the Federal Communications Commission.

On March 7, 1946 the Commission released the findings of Siepmann-Bontecue. Entitled, "Public Service Responsibility of Broadcast Licensees," the report was to become better known as the "Blue Book." This "Blue Book," according to a

¹⁷*NBC v. U. S.*, 319, U. S. 190, 215, 216 (1943).

writing by Richard J. Meyer, ". . . was not part of the FCC's Rules and Regulations, but an expression of the Commission's philosophy on program matters in 1946."¹⁸ In his article about the "Blue Book" Meyer indicates the enduring nature of the writing.

Another who has stressed the significance of the "Blue Book" is Robert Lowe, staff counsel of the Senate Commerce Committee staff, and important writer of the Fairness Doctrine report:

That document, popularly called 'The Blue Book,' was designed to apprise broadcasting licensees of the Commission's policies and procedures in reviewing renewal applications. It emphasized programming policies and content. The report was based upon a far-reaching study of industry policy, practices, and revenues. It is, by far, the most comprehensive statement of its sort in the history of the Commission.¹⁹

Broadcasters themselves were not at all in favor of the provisions and language of the "Blue Book." As the Fairness Doctrine report states:

Justin Miller, then president of NAB, was the most outspoken industry figure in opposition to the report. Advancing the position that section 326 of the Communications Act and the first amendment forbade any such oversight of programing, Judge Miller became the leader of industry opposition.²⁰

The combined effort of the National Association of Broadcasters and individual licensees caused the Commission

¹⁸Richard J. Meyer, "The Blue Book," Journal of Broadcasting, VI, No. 3 (Summer 1962), 206.

¹⁹Fairness Doctrine, op. cit., p. 20.

²⁰Ibid., p. 23.

in September of 1947 to set hearings for purposes of reconsidering its policy concerning licensee editorializing. Those hearings began on March 1, 1948. They lasted until April 21, 1948. One year later, on June 2, 1949, the Federal Communications Commission issued its report entitled, "Editorializing by Broadcast Licensees." The report was significant for two reasons. First, the ban on station editorials was lifted. Secondly, the fairness doctrine as we know it today was begun. It is that doctrine that has often been used to compare freedom for the broadcaster with freedom for members of the print media.

Review of the complete text of the report on "Editorializing by Broadcast Licensees" reveals the sentiment of the Commission toward the expression of editorials on broadcast stations. It also reveals the degree of change in Commission attitude from its earlier position in the Mayflower Case.

Representative passages of that 1949 report state:

The Communications Act of 1934, as amended, makes clear that licenses are to be issued only where the public interest, convenience or necessity would be served thereby, and we think it is equally clear that one of the basic elements of any such operation is the maintenance of radio and television as a medium of freedom of speech and freedom of expression for the people of the nation as a whole. . . .²¹

It is axiomatic that one of the most vital questions of mass communication in a democracy is the development of an informed public opinion through the public

²¹Federal Communications Commission, "In the Matter of Editorializing by Broadcast Licensees," Docket No. 8516, Federal Communications Commission, XIII (July 1, 1948-June 30, 1949), 1248.

dissemination of news and ideas concerning the vital public issues of the day.²²

The affirmative responsibility on the part of broadcast licensees to provide a reasonable amount of time for the presentation over their facilities of programs devoted to the discussion and consideration of public issues has been reaffirmed by this Commission in a long series of decisions. The United Broadcasting Company (WHKC) case, 10 FCC 675,²³ emphasized that this duty includes the making of reasonable provision for the discussion of controversial issues of public importance in the community served, and to make sufficient time available for full discussion thereof. The Scott case, 3 Pike and Fischer, radio regulation 259²⁴ stated our conclusion that this duty extends to all subjects of substantial importance to the community coming within the scope of free discussion under the first amendment without regard to personal views and opinions of the licensees on the matter, or any determination by the licensee as to the possible unpopularity of the views to be expressed on the subject matter to be discussed among particular elements of the station's listening audience.²⁵

²²Ibid., p. 1249.

²³This was a 1944 case where the UAW-CIO charged Station WHKC with not operating in the public interest. The union contended that WHKC refused to sell it time for purpose of broadcasting programs in an attempt to gain union membership. It also stated that WHKC would not allow programs of a controversial nature. Lastly, the UAW-CIO charged that any scripts it submitted to WHKC were censored. The FCC ruled that a station could not be operated in the public interest while deliberately excluding certain programs of importance to the public it served.

²⁴The Scott decision was rendered July 19, 1946. Robert Scott, an atheist, petitioned for license revocation of three California stations that had denied him time to express his views. The stations were KQW, KPO and KFRC. Station KFRC replied that to grant Scott time to broadcast his views would not be in the public interest. The FCC ruled that Scott's proposed broadcasts did not involve blasphemous attacks upon God nor an attack upon any religious group. The FCC did not punish KFRC.

²⁵"In the Matter of Editorializing," op. cit., pp. 1249-1250.

. . . The freedom of speech protected against government abridgment by the first amendment does not extend any privilege to government licensees of means of public communications to exclude the expression of opinions and ideas with which they are in disagreement.²⁶

We fully recognize that freedom of the radio is included among the freedoms protected against government abridgment by the first amendment. *United States v. Paramount Pictures, Inc., et al.*, 334 U. S. 131, 166. . . . The most significant meaning of freedom of the radio is the right of the American people to listen to this great medium of communications free from any governmental dictation as to what they can or cannot hear and free alike from similar restraints by private licensees.²⁷

The editorializing report of 1949 marked a change in policy, to the degree where station licensees were now allowed to editorialize, where once they had had no such freedom.

The first opportunity the Commission had for interpreting the 1949 editorializing report involved station WLIB in New York City. WLIB had broadcast station editorials that favored the National Fair Employment Practices Commission. The station advised the Commission that it had not sought out and presented opposing viewpoints. This action on the part of station WLIB brought the following response from the Commission:

In our report . . . it was made clear that the licensee has an affirmative duty to seek out, aid, and encourage the broadcast of opposing views on controversial questions of public importance.²⁸

The "seek out, aid, and encourage" wording appeared in "fairness" decisions until July 29, 1959, when the Commission

²⁶Ibid., p. 1256.

²⁷Ibid., p. 1257.

²⁸6 Pike and Fischer, Radio Regulation 258 (1950).

acted on the renewal of station KNOE-TV, Monroe, Louisiana. KNOE-TV had telecast editorials in opposition to subscription television, and did not present opposing viewpoints. The "seek out, aid, and encourage" phrase, prevalent in cases prior to the KNOE-TV one gave way to "aid and encourage." The partial text of the Commission letter to KNOE-TV said:

. . . the licensee must follow a reasonable standard of fairness in the presentation of the issues in the controversy and that he has an affirmative duty to aid and encourage the broadcaster of opposing views by responsible persons.²⁹

Prior to 1950, most of the significant freedom matters in broadcasting related specifically to radio, but after 1950 they were more related to television. Writing in the George Washington Law Review of October 1950, Herbert E. Forrest accented the changing situation in the area of freedom in broadcasting:

. . . Combining as it does pictorial representation with the technique of radio communication, television has inevitably created novel legal problems not falling squarely and obviously within established rules. The recent case of Allen B. Dumont Laboratories, Inc. v. Carroll³⁰ proscribing state censorship of motion picture film intended for broadcast by television, represents the first case to define in part one aspect of that field, viz. governmental control of the program content.³¹

²⁹FCC letter to KNOE, mimeo 76175.

³⁰Allen B. Dumont Laboratories, Inc. v. Carroll, 184F, (2d) 153 (C.A. 3d, 1950) affirming 86F. Supp. 813 (E. D. Pa., 1950).

³¹Herbert E. Forrest, "Governmental Regulation of the Program Content of Television Broadcasting," 19 George Washington Law Review (Washington, D. C.: The George Washington University Press, October 1950), p. 312.

The Dumont case illustrates not only the unique problems created by television in the freedom area, but also the complexity of the freedom issue itself. This particular case came about as the result of a State of Pennsylvania Statute which said that all motion pictures shown in Pennsylvania were first subject to a group of state censors. The only exceptions were advertising slides and advertising announcements. What the state board of censors did was to extend its censorship rights to include television. As Forrest points out in his article:

It was held by the United States Court of Appeals, Third Circuit, affirming the lower court decision, that television is in interstate commerce, and that there has been a complete occupation of the field of television regulation by Congress under the Federal Communications Act of 1934 thereby precluding the state from regulation by censorship.

The regulation of the board had been attacked by the broadcasters in their brief upon three grounds: (1) it conflicted with federal legislation in asserting regulatory power because the field had been fully occupied by Congress; (2) it imposed an undue and unreasonable burden on interstate commerce; (3) it infringed upon constitutional guarantees of freedom of speech and press.³²

The Forrest writing highlighted an interesting result of the Dumont case:

Thus, if a state may not censor film intended for broadcast by television, there remains the question whether the matter is subject to any censorship regulation. Plaintiffs had contended, inter alia, that the regulation of the Board of Censors was an infringement upon constitutional guarantees of freedom of speech and press. If so it would of course likewise be outside the sphere of permissible federal control.³³

³²Ibid., p. 313.

³³Ibid., p. 328.

Relationship of Government to Television
Broadcasting from 1950-1960

From 1951 to the early 1960's scholarly writings in the freedom-broadcasting area were devoted to two main areas of concern: (1) the relationship of the Federal Communications Commission to this developing broadcast industry that now included television and (2) the unique problems created by television itself.

In one scholarly article of 1951, Thomas H. Wall pointed out:

To apply the constitutional guarantee of free speech literally is an absurdity. Any regulation of radio and television, any choice between candidates, be it upon technical, financial or character grounds necessarily abridges the power of some one person or persons to avail themselves of the opportunity to speak over the air. But chaos would result if such were not the case.

. . . the right of the people to hear, be informed and entertained must take precedence over the freedom of any broadcast licensee to use his station as he sees fit. But the FCC as the regulatory agency set up by Congress to regulate radio and television, may not prescribe any type or types of programs. . . . Due to engineering considerations freedom of speech is abridged to many who wish to use these media of communication. Because of the unique feature of radio and TV, licensees can constitutionally be regulated.³⁴

Another unique problem created by television was discussed at the June 1954 Summer Institute on International and Comparative Law. The problem under consideration was that of discrimination in privileges of access granted the

³⁴Thomas H. Wall, "Program Evaluation by the Federal Communications Commission: An Unconstitutional Abridgment of Free Speech?" The Georgetown Law Journal, XXXX, No. 1 (November 1951), 39-40.

various media. One speaker at the Institute was Louis H. Mayo, then Assistant Dean and Professor of Communications Law at George Washington University Law School, who said:

Another problem of considerable current interest and importance involves discrimination in privileges of access granted the various media and we are concerned, of course, with the consequence of such practices on "The People's Right to Know." It would seem reasonable to assume that any mode of communication which lends itself to dissemination of facts and opinion should be accorded the presumption of First Amendment protection.
 . . .³⁵

In addition he noted some of the specific forms of media discrimination of that period:

We have many instances of distinctions being made, especially in our courts with respect to access of communications media. Rule 53 of the Federal Rules of Criminal Procedure forbids the taking of photographs during the progress of judicial proceedings or radio broadcasting of such proceedings from the courtroom. . . . Canon 35 of the American Bar Association canons of Judicial Ethics provides:

'Proceedings in court should be conducted with fitting dignity and decorum. The taking of photographs in the courtroom, during sessions of the Court or recesses between sessions and the broadcasting of court proceedings are calculated to detract from the essential dignity of the proceedings, degrade the Court and create misconceptions with respect thereto, in the mind of the public and should not be permitted.'³⁶

Mayo further criticized the media discrimination for television when he said:

Embodied in the aforementioned restrictive rules is the attitude that the use of cameras, radio and television, distract from the essential function of a criminal trial.³⁷

³⁵Mayo, op. cit., pp. 22-23.

³⁶Ibid., p. 24.

³⁷Ibid., p. 26.

The Mayo speech also spoke of television access versus access for member of the print media. In comparing the differences between the two, he said:

An additional objection to telecasting trials is that the television camera may not present full and complete coverage or that the audience may be able to view the proceedings only intermittently. . . . But need this vary greatly from the mechanics of viewing such information through the other media? Of course, a newspaper or periodical is available at one's convenience, and a temporary distraction does not preclude full coverage.³⁸

Action accompanied much of the speechmaking of the 1950-1960 period. Typical of this was the 1959 National Association of Broadcasters study that investigated the FCC's powers. Mr. Whitney Seymour, New York attorney, was employed by the Association to conduct the in-depth study. Seymour's work was done with a view to the provisions of the First Amendment. The results of his study were presented to the Federal Communications Commission at hearings in January of 1959.

The Seymour report relied upon court decisions in order to illustrate the areas of broadcasting that were outside the First Amendment protection. These areas were indicated as being:

1. Speech which threatens interests which the government should protect. Such speech would include the communication of obscene, lewd, lascivious, filthy, indecent or disgusting ideas. . . .³⁹

³⁸Ibid., p. 27.

³⁹Whitney North Seymour, "Authority of the FCC Over Broadcast Content," Journal of Broadcasting, IV, No. 1 (Winter 1959-1960), 18.

2. The communication of speech designed to incite people to riot, or which advocates the violent overthrow of the government.⁴⁰
3. Communication consisting of pure commercial advertising.⁴¹

The Seymour report concluded by saying:

. . . the provisions of the First Amendment reflect a basic decision that occasional abuses of the right of free speech--exasperating though they may be or lacking in taste as some may think--are still preferable to any system of governmental control over what people think and say . . . except for the few narrowly defined exceptions to the First Amendment discussed above, the government has no proper concern with the substantive content of the ideas communicated among the public, whether they are thought to be entertainment or instruction.⁴²

It was also in the year 1959 that a particular case took place that stressed to the public and broadcast industry alike the significance of freedom in television. It also stressed how interpretation of that freedom by the Commission was difficult. The case was the famous "Lar Daly Case," decided by the Federal Communications Commission on June 15th. Emery has provided this historical overview of the situation surrounding the case:

Primary elections for the office of Mayor of Chicago were scheduled for February 24, 1959. Richard J. Daly, Mayor of Chicago, was a candidate in the Democratic Primary; Timothy P. Sheehan was a candidate in the Republican Primary; and Lar Daly was a candidate in both. Prior to election time Lar Daly filed a complaint with the Commission alleging that certain Chicago television

⁴⁰Ibid., p. 19.

⁴¹Ibid.

⁴²Ibid., pp. 23-24.

stations had, in the course of their newscasts, shown film clips of his opponents; that he had requested equal time over these stations but that his requests had been refused.⁴³

Stations were subsequently advised by the Federal Communications Commission that Lar Daly was, indeed, entitled to equal broadcasting opportunities, under Section 315 of the Communications Act of 1934.

Section 315 is a congressional enactment whereas the Fairness Doctrine is not. Section 315 applies to the use of a broadcasting station by a "legally qualified candidate for any public office" and the Fairness Doctrine applies to all broadcast content except attacks upon foreign leaders. Section 315 requires that "equal opportunities" be afforded all legally qualified candidates for any public office if any one such candidate for that office is permitted the use of the station. The Fairness Doctrine speaks only of the licensee affording a "reasonable opportunity" for airing various viewpoints on socially important issues.

In the Lar Daly case the Commission said:

. . . we are of the opinion that there is no legal basis for exempting appearances by candidates on newscasts from Section 315, irrespective of whether the appearance was initiated by the candidate or not. We are further of the opinion that when a station uses film clips showing a candidate during the course of a newscast, that appearance of a candidate can reasonably be said to be a use, within the meaning and intent of Section 315. In short, the station has permitted a benefit or advantage to accrue to the candidate in the use of its

⁴³Walter B. Emery, Broadcasting and Government: Responsibilities and Regulations (East Lansing: Michigan State University Press, 1961), p. 221.

facilities, thus placing itself under the statutory obligation to extend equal opportunities to opposing candidates in the use of its broadcasting station.⁴⁴

The *Lar Daly* decision clearly showed the differences between freedom in news reporting for newspaper personnel and freedom for the broadcaster. The decision did not remain long. The Congress of the United States came under real pressure from the public and in 1959 amended Section 315 of the Communications Act of 1934. As amended, the following were exempt from the application of Section 315: (1) bona fide newscasts, (2) bona fide news interviews, (3) bona fide news documentaries, or (4) on-the-spot coverage of bona fide news events. The Fairness Doctrine was to apply to all.

Freedom of Speech for the Broadcaster During the 1960's

As a result of what took place in the *Lar Daly* case, Congress in August of 1960 did away with the equal time requirements of Section 315 for the duration of the presidential and vice-presidential campaigns of that year. The temporary change pertained only to the nominees for the offices of President and Vice President of the United States.

In a 1960 publication written by Frank K. Kelly, the reader is able to gain some of the sentiment of that time,

⁴⁴See CBS pleadings filed in the Matter of Petitions of Columbia Broadcasting Company for Reconsideration and Motions for Declaratory Rulings on Orders Relating to Applicability of Section 315 of the Communications Act of 1934, as amended, to Newscasts by Broadcast Licensees; 18RR 701.

as related to television and radio. Appearing before the Federal Communications Commission in that year was Harry S. Ashmore, member of the Board of Directors of the Fund for the Republic. Kelly's publication gives an account of Ashmore's comments concerning federal regulation. Some of his remarks follow:

The performance of the broadcasters is a proper matter of public concern, as is the performance of the proprietors of the printed media. The role of the government in determining what that performance shall be is, of necessity, essentially negative; the government may define certain outer limits of free speech on grounds of obscenity and libel, and it may set general standards but must be met in return for governmental bounty in the form of monopoly broadcast licenses or mail subsidies.

We are all of us properly concerned that there be no trespass beyond these limits that would inhibit freedom of expression. . . .⁴⁵

The words "freedom of speech" and "freedom of expression" were uttered with increased frequency during this, the period of the 1960's. Reference was being made regularly by freedom spokesmen. A maturing, sophisticated broadcast industry was being represented by some very articulate individuals, one such person being LeRoy Collins, who, in 1961 presented his views:

. . . Prating about freedom as if it were a franchise to do as one pleases, uttering phrases about the sanctity of the broadcast license as if it were a vested, untouchable personal-property right once obtained, guarding the status quo as if it were the ultimate

⁴⁵Frank K. Kelly, Who Owns the Air? An Occasional Paper on the Role of the Mass Media in the Free Society (Santa Barbara, California: Center for the Study of Democratic Institutions, March 1960), p. 8.

rather than a steppingstone to still further greatness--these things will get us nowhere.

The time has come--the urgencies of the hour demand it--for broadcasting to demonstrate that it can do even better, can act still more responsibly. This is the surest defence against tyranny. This is the real road to greater freedom. . . .⁴⁶

Another spokesman who proved himself to be articulate in 1961 was FCC Chairman Newton N. Minow who spoke very directly about censorship in broadcasting in a presentation entitled "The Public Interest." Like the remarks of Collins, those of Minow provide us with an overview of concerns at that time. Minow commented:

There is much censorship. Even as it is defined here [Writer's note: Mr. Minow earlier defined censorship as any "previous restraint" of communications or publications.] there is much censorship in broadcasting today. It is as much to be examined, spotlighted and at times deplored as any form of censorship by a government agency. And since it is done by our own governmental licensees every broadcast day, it violates the spirit of the First Amendment and Section 326 of the Act just as surely as if we had done it ourselves.⁴⁷

Minow also included the type of censorship he felt existed in American broadcasting in 1961:

The censorship I speak of here takes two forms:

First, there is the censorship connected with "ratings" and the almost desperate compulsion of some of our licensees to work and to plan and to live by the numbers--always striving to reach the largest possible

⁴⁶Collins, op. cit., p. 14.

⁴⁷Newton N. Minow, "The Public Interest," in Freedom and Responsibility in Broadcasting, ed. by John E. Coons (Evanston, Illinois: Northwestern University Press, 1961), pp. 16-17.

audience, in order to attract and hold the mass advertising dollar. . . .

The other form of censorship I speak of is what Clare Booth Luce has called "dollar censorship." Here, the broadcast licensee simply abdicates his own judgment and turns programming decisions over to an advertiser and his agency.⁴⁸

Minow stressed the fact that the government "does not, cannot, and will never license newspapers."⁴⁹ He went on to note, however, that by contrast, the First Amendment guarantees are different for broadcasters, simply because broadcasting itself is different. Minow concluded his remarks with these words:

I will add that programming responsibility is most urgently needed in these crucial days. To those few broadcasters and their professional associates who would evade the nation's needs by crying, "Censorship! Oh, where will it end?" I ask, "Responsibility! Where will it begin?"⁵⁰

Another person concerned about freedom and broadcasting in 1961 was Louis F. Jaffe. A specialist in administrative law, he was a member of the faculty of the Law School of Harvard University when he presented his personal views that represented yet another opinion:

. . . I envisage government as a Grand Court of Inquiry. It can assemble, digest, and bring into focus the totality of opinion concerning the rule of performance. I applaud the proposed moves of the FCC to increase the scope and the precision of licensee-reporting and to compel the licensee to make studies relevant to the

⁴⁸Ibid., p. 17.

⁴⁹Ibid., p. 20.

⁵⁰Ibid., p. 33.

discharge of responsibility. I approve, too, the proposal to subject renewal applications to occasional public hearings--or informed investigations. . . .⁵¹

Articulate speakers and writers of freedom and broadcasting were numerous during 1961; another who spoke out that year was Dr. Frank Stanton, President of the Columbia Broadcasting System, Inc. In a May speech Stanton expressed his thoughts related to freedom and broadcasting:

. . . Just as print journalism in America had to persist in its claims for its fundamental freedoms in the face of both inertia and outright opposition, so electronic journalism in our own time has had to defend its position that its freedom cannot be qualified without being destroyed. The struggle for freedom has centered on the complete rejection alike of governmental restraints and of governmental compulsions on the substance of broadcasting.

That freedom cannot be relative, or eclectic, or occasional.

A free society cannot say of one medium that it shall have less freedom than another, because it has more impact or more immediacy or a greater audience. If the freedom of any medium is restricted, the foundation for the freedom of all media is gone, and freedom eventually becomes a governmental handout.⁵²

The key theme of freedom expressed by Stanton in 1961 was to be reiterated in his later speeches on the same subject. His was a viewpoint that was both philosophical and practical in approach, coming as the result of many years of

⁵¹Louis L. Jaffe, "The Role of Government," in Freedom and Responsibility in Broadcasting, ed. by John E. Coons (Evanston, Illinois: Northwestern University Press, 1961), p. 41.

⁵²Frank Stanton, President, Columbia Broadcasting System, Inc., A speech delivered before the Broadcast Advertising Club of Chicago, Illinois, May 24, 1961.

broadcasting work. Representative samples of those later speeches indicate both the sentiment of a man devoted to freedom in the electronic media, and something of the times.

In a May 1962 speech Stanton stated that ". . . if you attack the freedom of one medium, you attack that of all others; and if you diminish that of any one medium, you diminish it of all others."⁵³ In a 1963 speech prepared for a group of broadcasters he noted, "We must recognize the overwhelming truth that we cannot preserve and expand our freedom by seeking to restrict it. . . ."⁵⁴

As various writers and speakers were presenting their views relative to freedom for the broadcaster, the Commission itself was acting. It was attempting to justify its local programming inquiries in such cities as Chicago and Omaha by saying, in part:

First and foremost, the local inquiry offers the Commission a chance to gain a "grass roots" insight into the thinking of community leaders and the public at large concerning the local service they receive.

In addition, the public inquiry offers an opportunity to broadcasters to correct, supplement and rebut statements that others may make about their efforts.⁵⁵

⁵³Frank Stanton, A speech delivered before the Overseas Press Club of New York, May 28, 1962.

⁵⁴Frank Stanton, A speech delivered before the New York State Broadcasters Association, Albany, New York, March 5, 1963.

⁵⁵"In the Matter of Inquiry into Local Television Programming in Omaha, Nebraska," Pike and Fischer, Radio Regulation 1RR 2d Cases Second Series, Released October 24, 1963, pp. 1954-1955.

The "public interest" phrase was used widely during the period of the mid 1960's. In April of that year, for instance, FCC Commissioner Kenneth A. Cox said:

I simply can't believe that the general effort to see whether a broadcaster has ascertained and is serving the needs and interests of his community either constitutes censorship or interferes with the broadcaster's freedom of speech. . . .⁵⁶

Commissioner Cox concluded his position speech by telling his audience how he felt about the Federal Communications Commission, its involvement with broadcasting, and its programming concerns:

I believe that the Federal Communications Commission should be concerned with programming, and that in fact it is required to do so by the statute which it administers. I believe, however, that this concern must always be with general, overall performance, and that it will always be of limited effectiveness. Because the fact remains that only you, the broadcasters, can program your stations. I may urge you to present local live programs, but I can't produce them--only you can do that. . . .⁵⁷

Cox also elaborated upon the Fairness Doctrine which was of particular concern during the 1965 period. The Fairness Doctrine reversed earlier Commission policy related to editorials in the Mayflower Case. The doctrine served to encourage more editorial comment on the part of individual broadcast stations. In the words of Cox:

⁵⁶Kenneth A. Cox, Commissioner, Federal Communications Commission, A speech entitled, "Some Assorted Views on Broadcast Programming," delivered before the Mississippi Broadcasters Association, April 30, 1965.

⁵⁷Ibid.

I should make it clear, however, that even where we find that a station has failed to comply fully with the Fairness Doctrine we don't specify what program to present or what spokesman for the other side should be selected--unless the station has broadcast a personal attack, in which case the individual or group attacked is entitled to reply. I think it is clear that this whole policy promotes, rather than restricts, free speech.⁵⁸

The view of Commissioner Cox that the Fairness Doctrine served to promote rather than hinder free speech was taken by certain other Commissioners, as well. One other was the Chairman of the Federal Communications Commission, Rosel Hyde. The sentiments of Chairman Hyde were reflected to this researcher in a letter from his office, dated May 23, 1968. Writing for Chairman Hyde was George S. Smith, Chief, Broadcast Bureau, Federal Communications Commission, who said:

Chairman Rosel Hyde has asked me to reply to your letter to him of May 9, 1968.

One of the principles of this Commission has been to avoid engaging in any action which might tend toward control or censorship of freedom of speech.

.

We have, however, as you know, set forth principles on applicability of the Fairness Doctrine, which applies to educational as well as commercial stations. In addition, this Commission has encouraged editorializing by broadcast stations.⁵⁹

While the remarks of Smith were made in 1968, they had applicability for years prior.

⁵⁸Ibid.

⁵⁹Personal letter from Mr. George S. Smith, Chief, Broadcast Bureau, Federal Communications Commission, Washington, D. C., May 23, 1968.

While the Federal Communications Commission may well have viewed its policies as promoting freedom in the 1960's, others did not. Those who disagreed were the broadcasters themselves. By 1966, numerous broadcasters were of the opinion that they had less freedom than that for the print media. Furthermore, some felt the trend was toward even less freedom, rather than more.

One of the most significant developments of 1966 was the comment filed with the Federal Communications Commission by the law firm of Pierson, Ball, and Dowd. This Washington, D. C. firm filed an exception to the Fairness Doctrine policy on behalf of numerous parties, including:

Bedford Broadcasting Corporation
 Central Broadcasting Corporation
 Continental Broadcasting Corporation
 The Evening News Association
 Marion Radio Corporation
 Moline Television Corporation
 Radio Television News Directors Association
 Reams Broadcasting Corporation
 RKO General, Incorporated
 Royal Street Corporation
 Roywood Corporation
 Time-Life Broadcasting, Incorporated
 WKY Television System, Incorporated

The comments prepared by Pierson, Ball, and Dowd were significant in that they represented the sentiment of a sizable segment of American broadcasting. In the words of the law firm, the comments themselves ". . . precipitated the appeal in the Seventh Circuit after the Commission adopted the rules in question. . . ." ⁶⁰ Early in the pages of

⁶⁰Personal letter from Vernon C. Kohlhaas, Attorney at Law for the law firm of Pierson, Ball, and Dowd, Washington, D. C., September 19, 1968.

Docket No. 16574, a statement is made by the law firm that establishes the general argument that was presented to the Commission:

It is our fervent goal to re-establish the freedom of the electronic press protected by the First Amendment.
 . . .⁶¹

The Pierson, Ball, and Dowd presentation was organized to include the following materials:

I. Preliminary Considerations

- A. Broadcasting is entitled to the same constitutional protection afforded other communications instruments making up the constitutionally-protected press.
- B. The Fairness Doctrine and the "equal opportunity" provision of Section 315 have resulted in less, not more broadcasting of information in the public interest.

II. The Operational and Legal Environment in Which Broadcasting Functions

- A. There is no established constitutional principle that discretionary legislative or administrative restraints on communications are justified.
- B. The press (all mass media) is not a stagecoach obligated to carry all ideas ready to travel.

III. The Clear and Present Danger Doctrine

IV. Rationalizations Attempting to Circumvent the Application of First Amendment Protections to Broadcasting Are Specious

- A. The "Scarcity" Argument

⁶¹In the Matter of: Amendment of Part 73 of the Rules to Provide Procedures in the Event of a Personal Attack or Where a Station Editorializes As to Political Candidates, Docket No. 16574, Pierson, Ball, and Dowd, Washington, D. C., June 20, 1966, p. 3.

- B. The "Licensing" Argument
 - C. The "Public Domain" Argument
 - D. The "Content" Argument
 - E. The "Private Restraint" Argument
- V. Even If a Constitutional Power to Require "Fairness" in Broadcasting Resides in Congress, the Statutory Provisions Upon Which the Commission Relies As Authorizing It to Promulgate the Fairness Doctrine Are Unavailable Because They Are Vague and Lack Explicitness.
- A. Constitutional Vagueness⁶²

In concluding its presentation, the representatives of Pierson, Ball, and Dowd said,

. . . the parties to these comments respectfully urge that the proceedings be terminated without rule making because the Commission's Fairness Doctrine and Section 315, upon which rule making is predicated, violate the First Amendment or because the Fairness Doctrine is otherwise unlawful.⁶³

The report filed by the legal authorities was a challenge to the authority of the Federal Communications Commission in at least one of the areas of freedom. One notes the tone and substance of the commentary that began after the 1966 report to the Commission.

Just four months after the Pierson, Ball, and Dowd report, for example, Dr. Frank Stanton made these comments:

Unlike the courts and the police, the communications media have no special authority delegated to them by statute or court rule. Far from being created by law, they are not even given any constitutional assurance of their survival--only of their freedom. But this

⁶²Ibid., pp. 3-43.

⁶³Ibid., p. 66.

assurance is pivotal, because without freedom, none of the communications media can make contributions of any substance to the democratic proposition. Indeed, they could no longer be a major underwriter of the democratic process--which is exactly why Jefferson said that if he had to do without either government or a free press, he would do without government. . . .⁶⁴

Speaking directly to the issue of the Fairness Doctrine, Commissioner Kenneth A. Cox said in 1967:

This brings me to a specialized area of programming in which the FCC has more concrete authority, but where I think its present administration of its policies needs improving. This is the vitally important field of the handling of controversial issues of public importance--in other words, the Fairness Doctrine.

. . . Certainly one way to present views fairly is to see that responsible spokesmen for both sides are not simply permitted, but actually persuaded, to state their cases to your audience--and that's one way of satisfying the Fairness Doctrine.

. . . I know the publisher of the newspaper which competes with you cannot be compelled to deal with controversy in this way, but if he truly serves the public interest he, too, will see that reasonable opportunity for presentation of conflicting views is provided. . . .⁶⁵

As positions were taken relative to the Fairness Doctrine and other freedom matters, that original filing of Pierson, Ball, and Dowd was precipitating the eventual petition to the United States Court of Appeals for the Seventh Circuit. This latter petition was for purposes of having

⁶⁴Frank Stanton, A speech before the International Association of Chiefs of Police, Philadelphia, Pennsylvania, October 5, 1966.

⁶⁵Kenneth A. Cox, Commissioner, Federal Communications Commission, "Some Current Problems in Broadcast Regulations," A speech before the Fall Conference, Illinois Broadcasters Association, Chicago, Illinois, October 30, 1967.

the court review the earlier actions of the Federal Communications Commission, in the matter of the Fairness Doctrine. Again, the Fairness Doctrine was the subject of attention. The Seventh Circuit appeal, which occurred in April of 1968, was direct in approach. Typical statements from that filing include the following:

The Government states inaccurately that our view of the applicability of the First Amendment to broadcasting is 'that the First Amendment protections apply to radio in exactly the same manner as the printed press.' (Br.30). On the contrary, we readily concede that government may allocate and license frequencies under a public interest standard, and thus we recognize certain differences between print and broadcast media in terms of permissible government regulation. But we argue that the differences are not so great that government may regulate broadcast speech concerning public persons and issues in a manner plainly forbidden by the First Amendment in the case of printed speech. It is the Commission's overreaching in this limited but critical area that we challenge, not its broad and comprehensive powers to allocate and assign frequencies.⁶⁶

The case as it was presented to the United States Court of Appeals for the Seventh Circuit was argued on the basis of two key points, these being:

1. That the challenged regulation violated the First Amendment.⁶⁷
2. That the challenged regulation was not authorized by the Communications Act of 1934.⁶⁸

⁶⁶Reply Brief for Petitioners Radio Television News Directors Association, et al., On Petition To Review an Order of the Federal Communications Commission, In the United States Court of Appeals, For the Seventh Circuit, No. 16369, April 1968, p. 2.

⁶⁷Ibid., p. 4.

⁶⁸Ibid., p. 18.

The points made under the first argument indicated that in the view of the petitioners the federal government was encroaching upon the freedom of speech of American broadcasters. The comment made was:

. . . The broadcast speech which the Commission is attempting to govern lies 'at the very center of the constitutionally protected area of free expression,' for self-government depends upon freedom to discuss matters of government and to criticize public officials, without risking the imposition of governmental sanctions, New York Times v. Sullivan, 376 U. S. 254, 292 (1964).

The personal attack regulation certainly invades this vital area. Persons criticized 'during the presentation of views on a controversial issue of public importance' are likely to be public officials or public figures, and criticism of the conduct of such persons, including criticism that reflects upon their personal character, is uniquely valuable and uniquely protected speech.

. . .

The Government's brief overlooks this vital consideration.⁶⁹

In presenting its views that the Fairness Doctrine was not authorized by the Communications Act of 1934, the petitioners in the Seventh Circuit noted, "The challenged regulation, as we have shown, goes far beyond the fairness doctrine, and therefore, regardless of the status of the doctrine, is without statutory authorization."⁷⁰

If the early 1960's were years of recognition of the need for broadcast freedom, the late 1960's might be thought of as years of action to gain freedom comparable to that for members of the print media.

⁶⁹Ibid., p. 4.

⁷⁰Ibid., p. 20.

Considering electronic journalism to be part of the press, Douglas A. Anello, General Counsel for the National Association of Broadcasters, commented in 1968:

At the outset we should remember that broadcasting, like other media, is protected by the First Amendment. Thus, in *United States v. Paramount Pictures* (1948), the Supreme Court said:

'We have no doubt that moving pictures like newspapers and radio are included in the press whose freedom is guaranteed by the First Amendment.'

Freedom of the press has been consistently interpreted by the Supreme Court to mean that the press has a vital role to perform in criticizing public figures and taking positions on public issues and that it shall in no way be hampered in its performance in this role by government intrusion.⁷¹

The year 1968 saw freedom matters other than the Fairness Doctrine being brought to the forefront. It was a national election year, and the coverage of news events and political parties precipitated areas of discussion. Television was used to cover both the Republican and Democratic national conventions, and its use created new problems.

The August Democratic Convention coverage incurred much criticism to be leveled against the manner in which it supposedly covered the convention itself. The Democratic Convention was marked by outbursts of violence; the television industry showed this violence when it happened, and it was this coverage that later brought criticism from government

⁷¹Douglas A. Anello, General Counsel, National Association of Broadcasters, The Fallacy of the Fairness Doctrine (Washington, D. C.: The National Association of Broadcasters, 1968), p. 3.

and public alike. This severe criticism in the wake of the Convention prompted CBS official Frank Stanton to look in retrospect at the August convention days and to make certain philosophical comments. These comments were delivered in a speech of September 1968:

Obviously, what has happened here--what is really behind the whole burning question of television's treatment of the convention--is not the nature of our coverage, I feel, so much as the nature of our medium itself and the tremendous impact this medium has on our lives by literally putting us, the viewer, right there on the scene as the news is breaking. And this is compounded by the context of an uneasy society whose nerve ends are exposed. Like no other medium in history, television catches the flavor, the immediacy, the excitement, the tension and the confusion, too, of the moment.⁷²

What the Stanton remarks of September meant were that the medium of television and the industry of broadcasting, in general, were indeed unique unto themselves. It was, perhaps, as Richard Salant had said, in speaking to an April 1968 group of print people:

And so to put it broadly, you in print and we in broadcasting are in precisely the same business--the very great business of informing the American public. In a working democracy which depends on an informed public, our goal has to be identical--to fulfill our responsibility of informing as accurately, as fairly and as effectively as we can. The difference between print and electronics creates differences in our problems, differences in our techniques, differences in our impact, but not differences in our goals.⁷³

⁷²Frank Stanton, A speech before the Vancouver Board of Trade, Vancouver, British Columbia, September 23, 1968.

⁷³Richard S. Salant, President, CBS News, A speech before the American Society of Newspaper Editors, Washington, D. C., April 18, 1968.

Later in the speech Salant observed:

You in print can always argue that you don't use the public's air, and anybody--if he has enough money--can go into the newspaper business, so there are bases for regulating broadcast news that are not present in print news. But these distinctions have come under increasing question, and I for one am not at all sure that governmental permission to enter broadcasting (which incidentally doesn't apply to networks at all) or the use of the public air provide a rational basis for regulating broadcast news. But in any event, for good or ill, broadcast news is news, and we are part of the press; and the public does rely on us as an important source of its news and information. And if we all get too accustomed to the regulation of one component of the press, there are clouds, perhaps no bigger than a man's hand, that can rain dead cats and dogs on all of us.

What I suggest is that we may all be in this together and that our foes who would regulate and control each of us are more common to us than one might think.⁷⁴

Representative samples of certain trade journal articles written in 1968 do much to present yet another image of broadcast freedom in that year. One such article, which appeared in the June 17th issue of Broadcasting, was written about the changes in power of the Federal Communications Commission and was by-lined, "Era of expanding federal regulation seen as Supreme Court gives FCC jurisdiction over all cable television systems."⁷⁵ Another June article appearing in Broadcasting discussed the passing of a "boisterous era" with Commissioner Lee Loevinger leaving the Commission on June 30, 1968. That article was entitled, "Boisterous Era Ends on

⁷⁴Ibid.

⁷⁵"New Sweep of FCC Powers," Broadcasting, June 17, 1968, p. 23.

Quiet Note."⁷⁶

TV Guide may well have expressed the sentiments of many broadcasters in 1968 when, in an October article, that publication stated:

There are more than three times as many television and radio stations as there are daily newspapers in this country today. They are staffed and controlled by men of widely divergent opinions and points of view. There is no reason why they cannot deal with the issues of the day--without Government regulations.

It is time broadcasters had full First Amendment rights of free expression.⁷⁷

It was also the broadcast trade publications that portrayed a view of possible things to come in the freedom area. One such article was entitled, "Broadcasters Face Obstacles in 91st Congress."⁷⁸ Another article dealt with the issue of broadcasting's freedom of the press being taken directly to the United States Supreme Court for action.⁷⁹

Richard S. Salant of CBS News continued to take an aggressive stand on the matter of freedom for the broadcaster in 1968. His comments before the Oregon Association of Broadcasters on November 8, 1968 prompted a trade journal article to be written, with the by-line, "Defends news

⁷⁶"Boisterous Era Ends on Quiet Note," Broadcasting, June 24, 1968, p. 48.

⁷⁷"As We See It," TV Guide, October 12-18, 1968, p. 2.

⁷⁸"Broadcasters Face Obstacles in 91st Congress," Broadcasting, October 21, 1968, p. 46.

⁷⁹"Landmark Case Goes to High Court," Broadcasting, November 11, 1968, p. 56.

coverage, says First Amendment is being 'chipped away.'"⁸⁰

While Broadcasting articles took pointed views, so, too, did some non-broadcasting publications. One such non-broadcasting publication was The Salt Lake Tribune, which wrote of the increased federal jurisdiction over advertising. Speaking of cigarette advertising on television and the attitude of the federal government, it commented:

We make no case for smoking or for cigarette advertising on television or elsewhere. But we think the FCC has gone too far in trying to protect the public. . . .⁸¹

At issue was the June 1967 ruling that the Fairness Doctrine was applicable to cigarette advertising and that stations carrying such advertising had an obligation to devote a significant amount of time to the hazards of smoking.

As the federal intervention in cigarette advertising became more pronounced, other non-broadcasting publications expressed their editorial views. In one column, appearing in the Rocky Mountain News, writer Don Kirkman noted:

The Federal Communications Commission's proposal to ban radio and TV cigarette advertising is the most drastic action to result from the government five-year campaign to reduce cigarette smoking on grounds that it is hazardous to health.⁸²

⁸⁰"Salant Criticizes Government Policy," Broadcasting, November 11, 1968, p. 60.

⁸¹"Equal Time Anti-Smoking Edict Impractical," The Salt Lake Tribune, November 23, 1968, p. 18.

⁸²Dan Kirkman, Scripps-Howard Science writer, "Cigarette TV Ad Proposal 'Drastic,'" Rocky Mountain News, February 6, 1968, p. 81.

The Kirkman views were in reference to cigarette advertising and possible government encroachments in that area of freedom. Richard Cheverton, News Director of WOOD-TV, and WOOD Radio used equally strong words, only in application to the increased government controls in the field of broadcasting, in general. Said Cheverton in 1968:

When electronic communications became a reality, federal control of the spectrum was necessary to avoid chaos. But controls did not cease at the licensing level. Government persisted in the affairs of broadcasting, and it was inevitable that sooner or later the philosophy of control and the constitutional guarantee of freedom to publish would conflict.

That is where we are today. Never in our history has the principle of freedom to publish been under such pressures by governmental bodies as it is today. Make no mistake about it--the conflict between government control, benign or otherwise, and the principle of the free press, is here, now.⁸³

Broadcasting has played, and will continue to play, an important part in the daily lives of people. As the broadcast industry expands, to include new stations and communications systems, it will offer more opportunity for the presentation of various issues on the airwaves. It will also offer new legal and technical challenges as programs and systems develop simultaneously.

The industry is dependent upon the actions of people in making it free. One speaker of the 1960's, while addressing

⁸³Richard Cheverton, News Director, WOOD-TV and WOOD Radio, Grand Rapids, Michigan, "A Censor In Your News Room?" The keynote address delivered to the 23rd Annual Conference of the Radio Television News Directors Association, Los Angeles, November 20, 1968.

himself to the people on the FCC, underscores the impact that can be created by men in positions of authority in broadcasting. W. Theodore Pierson stated, ". . . this is a precarious and delicate balance that can be upset by just one change in the Commission's membership."⁸⁴

As federal intervention has increased in matters related to commercial broadcasting programming, there have been spokesmen present to remind industry officials of impending dangers. The spokesmen have been both articulate and numerous, whomever they have been. They have also been rather successful in terms of stimulating action to take place to try and limit federal intervention in broadcasting. The best example is the effort that was directed to the Seventh Circuit Court of Appeals case.

What has been presented in this chapter has been an overview of freedom of speech for the commercial broadcaster. A similar overview for educational television follows in Chapter IV.

⁸⁴W. Theodore Pierson, Pierson, Ball, and Dowd, Washington, D. C., A speech before the International Radio and Television Society, New York, April 13, 1967.

CHAPTER IV

FREEDOM OF SPEECH

AND

EDUCATIONAL TELEVISION

The Importance of Freedom in Programming
As Educational Television Develops

Effort to have broadcast channels provided for noncommercial television in the United States began in the 1940's and was brought to a successful conclusion with the writing of the TV Allocation Report of April 14, 1952. Better known as the "Sixth Report and Order," this document described the channel reservations that should be set aside for the use of education in the United States. While reserving 242 television channels as an alternative form to commercial television, the Federal Communications Commission in presenting its report also dealt with the rationale for this new communications system in the United States. The report presented an overview and perspective as to what was envisioned for this new form of American television. Included were comments about how free educational television should be to program "in the public interest, convenience, and necessity."

It was Commissioner Freida Hennock who had brought educators to action on the channel reservations. It was she, more than anyone else on the Commission, who considered the freedom issue, and urged educators to activate the reserved channels.

Fritz Jauch of National Educational Television has written of Miss Hennock and the supporters of the Educational television movement in the United States, ". . . they found a dedicated ally in one of the seven FCC Commissioners, Miss Freida Hennock, who championed the cause with the Commission."¹

At an early point in the development of educational television, Miss Hennock devoted her attention to the relationship of government to television. She presented her views to her fellow Commissioners as she spoke about the free circulation of ideas and information:

. . . The Commission's lawful task is not merely to establish the technical framework for television service. The public must not only be reached, it must (in the truly beneficial sense of that word) be 'served.' The Commission's goal, within the ambit of its statutory powers, should therefore be to bring about the best possible television service for the American people. The participation of educators on a full-scale basis is indispensable to its achievement.²

Having said this, Miss Hennock then went on to say:

¹Fritz Jauch, A Brief History of Educational Television in the United States (New York: National Educational Television, February, 1968), p. 2.

²The Final Television Allocation Report: Full Text of the "Sixth Report and Order of the FCC (52-294)" (Washington, D. C.: Television Digest, April 1952), p. 5.

. . . Educational-TV stations, when established, will do more than furnish a uniquely valuable teaching aid for in-school and home use. They will supply a beneficial complement to commercial television. Providing for a greater diversity in TV programming, they will be particularly attractive to the many specialized and minority interests in the community, cultural as well as educational, which tend to be by-passed by commercial broadcasters in terms of mass audience. They will permit the entire viewing public an unaccustomed freedom of choice in programming. . . . Finally, educational stations will provide the highest standards of public service. Introducing non-commercial objectives and activities, they will be a leavening agent raising the aim and operations of our entire broadcasting system.³

One broadcast scholar who has examined the personal papers of Miss Hennock has said of her, "She was an exceptional woman; she was known as the great crusader for educational television. . . ." ⁴ In personal correspondence with this researcher, this same scholar rendered his opinion that Miss Hennock ". . . harbored an idealistic image that ETV stations would . . . somehow . . . be free to do all kinds of things that the commercial stations could, or would not, do. . . ." ⁵ He went on to say:

It would just be too much out of character, I feel, for Miss Hennock, to pull in her horns and support any kind of restrictions, or even envision such restrictions. Commercial broadcasting was timid, restricted . . . let's get ETV, and away we go in our balloon. . . .⁶

³Ibid., p. 207.

⁴R. Franklin Smith, "Madame Commissioner," Journal of Broadcasting, XII, No. 1 (Winter 1967-68), 69.

⁵Personal letter from Dr. R. Franklin Smith, Assistant Professor of Speech, Western Michigan University, Kalamazoo, Michigan, June 20, 1968.

⁶Ibid.

Freida Hennock provided much of the initial perspective and had many of the dreams for educational television. But, there were problem areas as this new communications form got established. One such area is commented on by William J. Elliott in his book, Television's Impact on American Culture:

Educational interests were now to experience the FCC technique of regulation by raised eyebrow. The Sixth Report was issued on April 11, 1952. On April 17, FCC Chairman Paul A. Walker cautioned educational broadcasters to get on the air or face the possible loss of the channels by default after one year.⁷

Another early concern for educators was in the area of monetary matters. The activation and operation of noncommercial, educational television stations would be costly, and as Congress was not yet ready to appropriate large sums, financial backing had to come from some other sources. The greatest single source of money in the early days of educational television was from the Fund for Adult Education, an organization of the Ford Foundation. According to Jauch, the Fund for Adult Education ". . . worked to spur station activations across the country."⁸ With such an involvement in the new educational television movement, the Fund also had something to say as to what it felt educational television should become: "American educational television should be not just an instructional aid for schools but an

⁷William Y. Elliott, Television's Impact on American Culture (East Lansing: Michigan State University Press, 1956), p. 81.

⁸Jauch, op. cit.

informational and cultural service for persons of all ages."⁹

It was in May of 1953 that the nation's first fully noncommercial, educational television station began operations. Licensed to the University of Houston and the Houston Independent School District, Station KUHT (Channel 8) reflected in its early programming some of the basic ideas mentioned by both Freida Hennock and representatives of the Fund for Adult Education. The early program schedule of that station was broad in base and was composed of something more than purely instructional offerings. The early objectives of KUHT indicated that the station was to be used for several purposes:

1. To upgrade college instruction in the multiple-section introductory courses.
2. To supplement public school instruction.
3. To provide adult program series in depth on cultural and common concerns of our times.¹⁰

By the end of the year 1954, there were nine noncommercial, educational television stations operating within the United States. These were located at Michigan State University, the University of Wisconsin, the University of Nebraska, the University of Washington, and in the cities of Pittsburgh, San Francisco, Cincinnati, and St. Louis.¹¹

⁹Ibid.

¹⁰Background Material on KUHT (Houston, Texas: Station KUHT--Mimeographed notes concerning the growth of KUHT), p. 1.

¹¹Jauch, op. cit.

It was quickly discovered that if these stations wished to attract audiences, they would need a national programming service that would be a supplement to what they would and could produce locally. As a result, the Educational Television and Radio Center was created for that very purpose in 1954. Supported by money from the Fund for Adult Education, the Center sought to provide a "cultural and informational program service."¹² The "service" aspect came with the Center's providing the impetus for the exchange of programs between stations.

Not only did the Fund make possible the establishment of this national distribution center for noncommercial, educational television, but it also provided material support to individual stations in the form of gift videotape recorders. These machines allowed individual stations more flexibility in programming.

By the year 1959, the Center had a new name, National Educational Television (NET). Elected president was John F. White. By this date, the network was involved in both the distribution of programs and the activation of additional educational television channels. Most all of the network's programming effort was made possible by Ford Foundation grants.

¹²Ibid.

Additional Concerns as Noncommercial Educational
Television Gains in Stature

With educational television activations becoming more common, types of local operations became more diversified. Each licensee had its own specific reasons for operating a channel. Each desired various degrees of freedom to program to its public.

By 1968, about one-third of the noncommercial television stations in the country were licensed to state or local systems, about one-third to colleges or universities, and about one-third to community organizations. Initially all of the stations were VHF, but in late 1967 the number of UHF stations in operation exceeded the number of VHF stations for the first time.¹³ This diversified type of local ownership prompted the following statements to be made in One Week of Educational Television:

About all the nation's ETV stations have in common is that they are noncommercial. Beyond that, similarity ends. Some stations are established solely to serve the schools; others pull the community-at-large and its many needs into their program philosophies. A few are three or four-man operations, while another few sustain large staffs with sizable yearly budgets. While some admittedly interpret their function as being literally educational, others take that word in its fullest context--the presentation of any and all subjects to enlighten and inform. . . .¹⁴

Dr. Frederick Breitenfeld, Jr., Executive Director of the Maryland Educational-Cultural Television Commission, has

¹³Ibid., p. 4.

¹⁴One Week of Educational Television, op. cit., p. 3.

attempted to categorize types of educational stations:

1. The School Station--One that is often owned and operated by a public school system.
2. The State Station--One that is often developed, operated, and maintained by an ETV Commission. The Commission is often comprised of a group of citizens appointed by the governor of a particular state.
3. The University Station--One that might well have its general manager reporting to the office of the Vice President for Academic Affairs. This type of station might well have a contract with the local board of education for the presentation of perhaps 30% of instructional type programming.
4. The Community Station--Formed by an ETV Corporation, the charter members might well include several important members of the community--clergymen, bankers, industrialists, educators and commercial broadcasters.

Perhaps half of the station budget would come from 'participating' school districts in the area. Schools would pay a per student fee for use of instructional programs.

Its other financial bases might come from donations from individuals and from unrestricted grants from local industries and foundations.¹⁵

These various forms of station ownership meant diversified forms of funding and budgeting. As the Federal Communications Commission has pointed out:

. . . On the average, stations operated by colleges and universities and by school systems obtain about 75% of their income from direct budgeted support. Stations operated by state agencies receive about 95% of their funds from state appropriations. Community stations, on the other hand, receive about 75% of their support from

¹⁵Frederick Breitenfeld, Jr., "The Four Faces of Educational Television," The Farther Vision, Allen E. Koenig and Ruane B. Hill (eds.) (Madison, Wisconsin: The University of Wisconsin Press, 1967), pp. 36-49.

gifts, grants, and services, the latter primarily for the production of in-school programs. ITFS [Instructional Television Fixed Stations, frequently called the 2500 megahertz service] systems are supported by the local institutional licensee, in some instances with the aid of Federal grants.¹⁶

The Federal Communications Commission further indicates in its INF Bulletin No. 16-B that according to the much publicized Carnegie Commission report of January 1967 the following is true:

. . . of the total source of funds for all ETV stations, 27.1% came from state government, 18.9% from local government, 14.4% from foundations, 11.8% from the federal government, 11.2% from state universities, 5.5% from subscribers, 3.5% from business and industry, 1.9% from underwriting, and 5.7% from other sources. Of total operating costs of all stations, 37.9% went for program expenses, 31.2% for general and administrative, and 30.9% for technical. The median station operating expense was \$258,510. Selected items showed 52.9% of total station expenses went for wages and salaries, 6.1% for fund raising and promotion, and 2.7% for outside programs.¹⁷

The local station search for money has been and continues to be important. As Frederick Breitenfeld, Jr. has observed:

No educational television station is completely mercenary, of course. Still, American ETV is the only system of broadcasting in the world with no defined means for support. Instead, only restrictions describe our educational television stations: (1) they may not broadcast commercials, and (2) they may not operate for profit. For community stations--those owned by private corporations formed specifically to be ETV licensees--these are negative guidelines indeed.¹⁸

¹⁶"Educational Television," op. cit., p. 8.

¹⁷Ibid., p. 9.

¹⁸Breitenfeld, op. cit., p. 48.

It might be thought that if the type of local ownership and the sources of funding for local programming were two factors in determining what was done locally, they would certainly play important roles in the determination of what would be done on regional, interconnected educational television systems. It is noteworthy that as local educational operations did, in fact, become sophisticated to the point where they became parts of larger networks, they did so with a full awareness of the dangers of program control. One such interconnected educational television network is the Eastern Educational Network, extending from Maine to West Virginia. In a network policy statement, that group of stations has agreed upon the following as related to funding sources:

. . . Those sources can be federal, private or business oriented as long as the projects fill a required need and are controlled by the network staff in such a way as to render service to the members.¹⁹

x The expansion of educational television during the mid to late 1960's would not have been possible without a national, governmental commitment to the movement. That commitment had come in 1961, when, in May of that year, hearings were held on educational television before a Subcommittee of the Committee on Interstate and Foreign Commerce of the House of Representatives. Testimony of William G. Harley, President

¹⁹Donald R. Quayle, The Regional Network, A Paper on the Concept and Reality of Regional Networking Among Educational Television Stations (Cambridge, Massachusetts: Eastern Educational Network, November 1966), p. 3.

of the National Association of Educational Broadcasters does much to reflect the sentiment of some individuals in 1961. It also points out some of the early restrictions which limited what could be done on the airwaves. Mr. Harley said:

. . . The sum total of this recital is that all over the country work and plans for ETV development have been sparked by the hope and promise of Federal legislation. A large proportion of the plans have been guided by this promise. The time is crucial, as the description of the situation in the several States and in the many localities indicates. Another postponement or serious delay at this time would seriously handicap this development for years, in some cases many years.

In addition to this, there is always the threat, which is not a small threat, of losing the reserved channels, or of being too late to drop in a necessary channel. And this is just as important.

The need is now, and a dollar now would be worth several in the future. There is a time for all progressive developments to move. ETV has reached that critical movement; it moves now, or endangers its total progress.²⁰

The statements of Mr. Harley indicated the need for Congressional action that would bring about a major source of funding. The association representing educational broadcasting pleaded its case before the Congress. The Congressional members listened.

The Congressional support for educational television was to come later in the form of the Educational Facilities Act of 1962, which provided \$32,000,000 for the construction of new educational television stations. It also provided for

²⁰U.S., Congress, House, Committee on Interstate and Foreign Commerce, Statements before a Subcommittee of the Committee on Interstate and Foreign Commerce, House of Representatives, 87th Cong., 1st sess., 1961, p. 220.

the improvement of existing educational television facilities. The Act specified that no more than \$1,000,000 would be designated to any single state.²¹ The federal government, as others before, was committing itself through financing to educational television in the United States. Its commitment was to facilities.

Applicants who wished to apply for the new federal money, which involved matching grants under P. L. 87-447, were provided with materials by the United States Department of Health, Education, and Welfare. One publication from many was entitled, Educational Television Facilities Program--An Instructional Manual.²² It provided grant applicants with an array of information and an overview of what the federal requirements were in applying for the matching grants.

In the early 1960's much valuable programming support to educational television came from industrial underwriters; but, as Jauch points out, ". . . underwriters were staying completely clear of some program areas--notably, public affairs with its controversy."²³ So, at a time when an emergent television form was beginning to take its place on

²¹See Federal Financial Assistance for Noncommercial, Educational Television Broadcast Facilities, Rules and Regulations of Public Law 87-447.

²²Educational Television Facilities Program--An Instructional Manual (Washington, D. C.: United States Department of Health, Education, and Welfare, 1963), pp. 1-21.

²³Jauch, op. cit., p. 10.

the American scene, there were varied degrees and kinds of program involvement by participating agencies. In the earlier years, educational television was spoken of as being the medium that would allow for complete freedom to express new ideas and views, unlike those on commercial television. In reality, during the early 1960's, there was a dependency upon numerous givers for both facilities and programming, and some did not wish to get involved in meaningful and perhaps controversial matters.

✓ Continued financial support to educational television came during 1963 when in October of that year the Ford Foundation announced the first of its annual \$6,000,000 grants for the basic support of the program service of the National Educational Television and Radio Center. This substantial foundation grant meant that National Educational Television would, for the first time, have a production staff of its own. This would enable the educational network to produce quality programs that would be meaningful and significant.

Much attention had been directed to educational television by 1964. This caused Commissioner Newton N. Minow of the Federal Communications Commission to say:

Free of the commercial imperative to seek the largest possible audience, ETV should tread new ground, take new chances and offer gifted people plenty of creative elbow room. Yet it must be noted that ETV itself is not without "sponsors." They are a doughty group: the state and local appropriating committees, the foundations, the civic organizations and business concerns, the school boards and others who pay the piper. ETV station management must not permit its independent judgment to be colored when sticky issues arise--a provocative news commentary, for instance, or the selection

of a panel to discuss a touchy problem, or the production of a controversial play. . . .²⁴

Television was continuing its national development on the American scene in 1964. Audience analysis studies were revealing in 1964 that television audiences by and large were more educated and superior than at any other time. In a 1965 speech, delivered at the Speech Association of America's annual convention, Roy Danish, Director of the Television Information Office, commented on this:

The very nature of the audience itself is undergoing slow modification. To the extent that education conditions one's tastes and needs and preferences, the rising level of formal educational achievement suggests the possibility that there may develop a greater acceptance of certain kinds of program material which have in the past enjoyed very limited popularity.²⁵

The time was right for educational television broadcasts to make their programming mark upon thousands of Americans. Still, the restrictions of money and type of ownership had their influences on what was done and how it was done.

There was a need on the national scene to institute a national, long-range study of educational television and what its place might truly be in American life. In 1966, a commission was formed to conduct such a study. Called the

²⁴Newton N. Minow, "Editorializing: The Second Mayflower," in Equal Time: The Private Broadcaster and the Public Interest, ed. by Lawrence Laurent (New York: Atheneum Press, 1964), pp. 199-200.

²⁵Roy Danish, Director, Television Information Office, New York, "The Shaping of the Television Medium," A speech delivered at the Speech Association of America's annual convention in New York City, December 30, 1965.

Carnegie Commission on Educational Television, it was sponsored by the Carnegie Corporation of New York. Given the specific charge of conducting "a broadly conceived study of noncommercial television,"²⁶ it separated educational television into two parts: (1) instructional television, directed at students in the classroom or otherwise in the general context of formal education, and (2) what it called Public Television, which is directed at the general community.²⁷

The Commission also was concerned about the matter of freedom in programming. Members realized, too, that each station in the country was different in terms of type and manner of operation from every other station.

In filing the advance printing of its report in January of 1967, the Commission had this to say on the subject of freedom for Public Television in the United States:

. . . Public Television can offer people of talent and ideas a magnificent new opportunity to share what they have to share, and in so doing, to grow in their own powers. We believe that Public Television can aspire to freedom and excellence which will persuade creative people that it is a medium through which they can best express themselves.

If we were to sum up our proposal with all the brevity at our command, we would say that what we recommend is freedom. We seek freedom from the constraints, however necessary in their context, of commercial television. We seek for educational television freedom from the

²⁶The Carnegie Commission on Educational Television, Public Television, op. cit., Preface.

²⁷Ibid., p. 1.

pressures of inadequate funds. We seek for the artist, the technician, the journalist, the scholar, and the public servant freedom to create, freedom to innovate, freedom to be heard in this most far-reaching medium. We seek for the citizen freedom to view, to see programs that the present system, by its incompleteness, denies him.

Because this freedom is its principal burden, we submit our Report with confidence: to rally the American people in the name of freedom is to ask no more of them than they have always been willing to provide.²⁸

The words of the Carnegie Report seemed to touch upon the very problems that had bothered and slowed down educational television in its early development.

In mid-February of 1967 President Lyndon B. Johnson acted on the recommendations of the Carnegie Report and named a full 15-man Board of Directors for the Corporation for Public Broadcasting. Appointed Chairman was Frank Pace, Jr., president of the International Executive Service Corporation.

Among some of the duties of the Corporation were:

(1) the assisting by grant or contract in the development of national, regional, or local transmission over noncommercial stations; (2) the facilitating of interconnection among stations; and (3) the funding of local creative programming efforts.²⁹ The federal government was now playing an ever

increasing role in the development of educational television in the United States. What of local control of programming, or local independence where federal funding might be used to help programming at the local station level? The Honorable

²⁸Ibid., pp. 98-99.

²⁹NAEB Newsletter, XXX, No. 3 (March 1968), 1.

John W. Gardner, Secretary of Health, Education, and Welfare spoke on this matter of freedom in the 1967 hearings before the Committee on Interstate and Foreign Commerce, House of Representatives. Secretary Gardner said:

. . . This proposal maintains the independence of local stations, which would continue to determine for themselves what they should or should not broadcast. To insure this autonomy, the corporation is prohibited from owning any station or network, any interconnection system, or program production facility. The corporation would not, or should not, in my opinion, be an operating organization, but would provide support to operations carried out by others.

The corporation would be managed by a board of directors appointed by the President, with the approval of the Senate. The integrity of the board is, of course, central to the success of the venture. It would consist of talented and eminent people from appropriate fields and from across the Nation.

.

. . . The first ETV Facilities Act has brought noncommercial television to the threshold of maturity. Now we must complement facilities construction with program development. In terms of our commitment to education, the investment required in this field to turn potential into reality is small, but critical.³⁰

The remarks made by Secretary Gardner were obviously the ideal arrangement, but educational broadcasters were shortly later expressing some caution. The stations would be dependent upon the Corporation for major financial support. The Corporation would be dependent upon the whims of a Congress. Thus, at a very early stage in the development of the Corporation for Public Broadcasting there were concerns

³⁰U.S., Congress, House, Committee on Interstate and Foreign Commerce, Public Television Act of 1967, Hearings, before the Committee on Interstate and Foreign Commerce, 90th Cong., 1st sess., 1967.

for freedom in programming. President John F. White of National Educational Television issued a cautious concern that pertained to this when, in a November 1967 speech, he said:

Soon there will be a new entity that will play an important role in your future and ours--a Corporation for Public Broadcasting. When its appropriation is passed--and this may not come easily--the Corporation will have a relatively small amount of money to take its first vital steps. It must employ at least a key staff of qualified, courageous men. It must within a year, and possibly less, demonstrate that it can use its limited seed money effectively. It must be prepared to return within a year and possibly sooner to this same Congress to undergo the most careful scrutiny of its initial activities under a direct appropriation; and, in an election year, it must undergo the most careful scrutiny of proposals for future funding. If you have read the complete record of the hearing testimony and the floor debates--particularly in the House of Representatives--you will have a good idea of just how careful the scrutiny will be.

I am not trying to be pessimistic. But I am trying to be realistic, and to offer what I consider a practical analysis of the problem immediately ahead. . . .³¹

What of the use of Congressionally approved federal money to support noncommercial, educational television? The remarks of President White illustrated one area of concern--reliance upon good performance to please a Congress that would be appropriating money for the future. Some broadcasters questioned just how free they might be to program with taxpayer dollars. Federal Communications Commission member, Nicholas Johnson addressed himself to this matter

³¹John F. White, President, National Educational Television, A Report to the Affiliates, 1967 Fall Meeting of NET Affiliates, Denver, Colorado, November 5, 1967.

in an article entitled, "The Why of Public Broadcasting."

Speaking as one individual, Commissioner Johnson wrote:

. . . For me, then, there is no real question about the inherent validity of the use of public money in support of a Public Broadcasting Corporation. When our grandchildren look back upon President Johnson and the Congresses of the 1960's, they will remember the Public Broadcasting Act of 1967 as one of the proudest achievements of the decade. Thomas Jefferson could well have been speaking of the Public Broadcasting Act when he said in 1786, 'The most important bill is that for the diffusion of knowledge among the people. No other sure foundation can be devised for the preservation of freedom and happiness.' This should be a proposal beyond controversy, not only for the social dreamer but for the social accountant as well. The Public Broadcasting Corporation could wisely spend far more money than it is apt to have.

But to embrace the Public Broadcasting Act is not to rule out careful scrutiny of the 'public interest in public broadcasting.' Public broadcasting is not, after all, an end in itself. It is a means--and not an exclusive one--to ends which can and should, be frankly and clearly identified.³²

✓ The climax to a year-long period of discussion and debate about public television came on November 7, 1967, when President Lyndon Johnson signed into law the Public Broadcasting Act of 1967, thereby adding new material to the Communications Act of 1934. ✓

Two sections of the Act pertained specifically to freedom areas. Section 398 of the Act dealt with the matter of federal interference or control, while Section 399 of the Act dealt with editorializing and the support of political candidates by stations receiving Corporation money.

³²Nicholas Johnson, "The Why of Public Broadcasting," Educational Broadcasting Review, I, No. 2 (December 1967), 5.

The wording of Section 399 caused certain concern among educational broadcasters. Those words said, "No noncommercial educational broadcasting station may engage in editorializing or may support or oppose any candidate for political office."³³

Section 399 dealt specifically with a prohibition of a certain kind of educational television program. Dr. Walter B. Emery, writing in the Educational Broadcasting Review of February 1968, presented his view that the wording of that section of the Act could well turn out to be a serious constitutional flaw which violated the principle of free speech under the First Amendment:

. . . While it may be presumed that the Congressmen had the best of intentions, in my opinion, this represents a serious flaw in the legislation. There probably will be little negative reaction to prohibiting educational stations with tax exempt status from using their facilities to support political candidates, but to bar them from broadcasting editorials on any subject is another matter.

It may be that many educational stations will not want to editorialize. However, serious thought should be given to the question whether it is a valid social principle and consistent with democratic ideals to prohibit them from doing it if they desire to do so. Assuming that an educational licensee does careful research, shows a high regard for facts in its programs, and attempts to present well-reasoned points of view without fanfare or name-calling; and assuming further that it positively and aggressively 'seeks out' and permits the expression of other points of view, why shouldn't it be permitted to editorialize with the same right that commercial broadcasters have under policies established by the Federal Communications Commission? So often as the licensee is under a legislative mandate to be 'objective'

³³The Communications Act of 1934, Part IV, Sec. 399.

and 'fair' and to maintain 'balance' in its programming, is there any real danger that can result from station advocacy?³⁴

If there was a question of federal involvement in, and control of, noncommercial, educational television by certain writers in 1967, there still was in 1968. In an exchange of views on the matter of who should actually pay for educational television, authors Ronald H. Coase and Edward W. Barrett shared their thoughts with readers. Mr. Coase said in his article:

Much is made of the need to keep the Corporation for Public Broadcasting free of political influences. . . . Actually, to expect the President in making appointments to the Corporation and Congress in making appropriations to support the Corporation not to be influenced by political considerations is about as likely as that the manager of a slaughter house will be a tender-hearted lover of animals. . . .³⁵

Mr. Barrett communicated his thoughts with the following words:

What is proposed in the Public Broadcasting Act, I submit, is only an extension--and a logical extension--of what we are already doing in the fields of information, education and--yes--culture. . . .³⁶

In speaking before the Special Subcommittee on Investigations of the Committee on Interstate and Foreign Commerce,

³⁴Walter B. Emery, "Is There a Constitutional Flaw In the Public Broadcasting Act of 1967?" Educational Broadcasting Review, II, No. 1 (February, 1968), 20.

³⁵Ronald H. Coase, "Educational Television: Who Should Pay?" Educational Broadcasting Review, II, No. 2 (April, 1968), 5.

³⁶Edward W. Barrett, "Educational Television: Who Should Pay? Rebuttal" Educational Broadcasting Review, II, No. 2 (April, 1968), 15.

House of Representatives, William Harley President of the National Association of Educational Broadcasters made it very clear that there were, indeed, non-financial concerns of importance to educational broadcasters:

As we at NAEB understand the nature of the problems that arise under the general heading of fairness, three broad areas of inquiry can be identified. The first of these is the Commission's so-called 'fairness doctrine.' The second is the somewhat related, but specialized, problem of editorializing. The third is the matter of political broadcasting under Section 315 of the Communications Act.

The principles underlying the Commission's 'fairness doctrine' are basic to the philosophy of educational broadcasting; namely, that reasonable opportunities must be provided for the discussion of conflicting views on issues of public importance.

Educational Broadcasting has from its inception emphasized that diverse viewpoints on important local, regional, national and international issues must be actively encouraged. Variety in thought and opinion is the mainspring of an informed American public.³⁷

Harley continued in his remarks:

The chief concern of educational broadcasters in the area of the fairness doctrine relates to the manner of its administration by the Commission. Such a doctrine, which by nature touches on the borderlines of free speech and thought, must be wisely and reasonably administered.³⁸

On the matter of the editorializing ban in Section 399 of the Act, Harley stressed the significance of freedom for

³⁷U.S., Congress, House, Committee on Interstate and Foreign Commerce, Fairness Doctrine, Hearings, before a subcommittee of the Committee on Interstate and Foreign Commerce, House of Representatives, 90th Cong., 2nd sess., 1968, p. 102.

³⁸Ibid., p. 103.

the educational broadcasters:

. . . in the opinion of the NAEB, this statutory ban on editorializing by educational broadcasters raises serious public interest questions, as well as a basic issue of free speech under the first amendment of the Constitution.³⁹

He went on to testify that only educational broadcasters were discriminated against in the matter of editorializing.

Finally, Harley presented his views on the matter of political broadcasting. He advised the committee that educational stations carefully followed the equal time provisions of Section 315 of the Communications Act. He also noted, however, that the NAEB believed ". . . that the political broadcast ban in Section 399 should be clarified to accord with the standard of non-partisan political broadcasting recognized by the IRS and the Federal Communications Commission."⁴⁰

It is apparent from the comments made by educational broadcasters in the late 1960's that this medium, approximately 15 years old in 1968, was seeking to establish its own identity, but was doing so amidst certain prevailing restrictions.

It is interesting to reflect upon some of the comments written by Mort Stern, Assistant to the Publisher of The Denver Post, for they portray thought and concern about freedom in educational television in this period of the late

³⁹Ibid., p. 104.

⁴⁰Ibid., p. 105.

1960's. Stern, a researcher on the matter of free press-fair trial, made personal comments to this researcher. He stated:

One question that interests me is, if educational or 'public' television is to take stands on issues, whose views are to be expressed? When a newspaper, or even a commercial television station, takes a stand, the public knows that the person speaking out is the owner or is supported in this by the owner. If any member of the public disagrees, his ultimate legitimate response is to withhold his patronage. Thus, the commercial operator in the media must take some thought, at least, for the rights and interests of those who disagree with him--or take the financial risk. It isn't any perfect guarantee of responsibility by any means, but it is a beginning.

The operator of a public television channel, on the other hand, works for the taxpayer. But a taxpayer, if he disagrees with the stands taken, does not have the opportunity to withhold his taxes from the television station. What recourse does he have? Is it adequate?⁴¹

If the "average" taxpayer has little recourse, members of the Congress have a great deal of action they can take. An illustration of this is the National Educational Television program, "NET Journal: North Vietnam," broadcast over some NET affiliated stations in January of 1967. The program was about an avowed enemy of the United States, North Vietnam, and was filmed by Felix Greene. The programming position taken by National Educational Television was criticized by certain viewers to the point where photographer Greene was accused of being a propagandist for Communist China and North Vietnam. If the "average" taxpayer's complaints on

⁴¹Personal letter from Mr. Mort Stern, Assistant to the Publisher, The Denver Post, May 16, 1968.

the program weren't understood, those of certain Congressmen were. One Congressman said that NET undoubtedly would be eligible for Federal funding under the Public Broadcast Act. He also said that if NET continued to broadcast programs like the one on North Vietnam, "I will do whatever I can to prevent them (NET) from receiving Federal funds under the above mentioned law."⁴² Edwin R. Bayley has described this matter of Congressional interference in these words:

. . . As long as Congress can, Congressmen will want to dictate program content for public television. Even more dangerous is the self-censorship that would ensue when the pleasure or displeasure of Congressmen becomes a factor in each program decision.⁴³

Vernon C. Kohlhaas of the law firm of Pierson, Ball, and Dowd has corresponded with this researcher, describing one part of the problem this way:

. . . educational stations receive their financing primarily through appropriations made by federal and state legislatures, contributions from foundations and general citizen support. Experience teaches that these sources of financing for educational stations are equally if not more demanding than commercial sponsors in dictating the type of educational programming they will appropriate money for. In short, the federal or state legislatures will not appropriate money for programs which do not show some degree of mass appeal, so the educational station is faced with some of the same problems as a commercial station. It may be permitted to program a few more esoteric minority taste type of programs than a commercial station, but not many.

Furthermore, experience has shown that where foundations, such as the Carnegie and Ford Foundations, make grants to educational stations . . . their grants will not be forthcoming for long if the educational stations violate

⁴²Edwin R. Bayley, "An Attempt at Suppression: An Ugly Omen," Educational Broadcasting Review, II, No. 3 (June, 1968), 11.

⁴³Ibid.

the principles which the foundations believe are meritorious in educational programming. Finally, many educational stations receive substantial amounts of financing from local support.⁴⁴

Kohlhaas provided this researcher with a personal story that illustrates some of the subtle pressures that can be brought to bear upon individual educational television stations, or individual managers. Such pressures can effectively be used to keep certain program material from that station. When it does this, it limits the degree and kind of freedom of speech that that local station might otherwise enjoy.

The related story was presented in the following manner:

I remember the manager of one educational television station telling me that he did not carry a particular program in his community on civil rights and the racial problems which was produced by one of the foundations because his sole source of financing came from an annual ball (at \$100 per couple) conducted by the so-called white establishment in his southern community. The total raised by this ball was in excess of \$100,000 per year. I do not think that this manager could be accused of cowardice or of an 'intellectual sellout' merely because he recognized that if he carried a so-called civil rights program, the annual ball might not have been held and he would have no finances with which to operate. Like the commercial stations, the first problem of an educational station is to survive.⁴⁵

Kohlhaas suggested in his correspondence with this researcher that if certain educational television station managers were to be contacted personally, it might be found that:

⁴⁴Personal letter from Mr. Vernon C. Kohlhaas, attorney for the firm of Pierson, Ball, and Dowd, Washington, D. C., October 16, 1968.

⁴⁵Ibid.

. . . their 'freedom of speech' is abridged more because of the sources of financing they utilize than by any direct command that they broadcast or do not broadcast any particular type of program. Educational station managers, like other people, must be political realists. It is for this reason that I have personally long doubted that educational stations will have any more 'freedom' than commercial stations, although the educational stations may be able to broadcast certain types of programs which would not be appropriate for a commercial station to carry.⁴⁶

With such an emphasis on financial control, an attempt was made by this researcher to ascertain the degree and kind of control foundations might have over local programming on educational television. Correspondence was established with both the Carnegie and the Ford Foundations. On June 10, 1968, this researcher received a long distance telephone call from one of the two, the Ford Foundation. In that telephone conversation a representative of the Ford Foundation reacted to my letter of inquiry and informed me that his Foundation had no printed policy materials regarding how foundation funds would be used locally. He replied that the foundation reacted in this manner:

. . . Regarding how funds are used locally, we believe that each station operates within Section 315 of the Communications Act. As for funding to National Educational Television, we pass judgment only after NET has aired a program. If the program was objectionable, we'd complain.⁴⁷

This executive said that the Ford Foundation placed no content restrictions on those things produced with Foundation

⁴⁶Ibid.

⁴⁷Personal telephone conversation with Mr. Richard Catalano of the Ford Foundation, New York, June 10, 1968.

money. He did indicate, however, that if, over a period of time National Educational Television, by way of example, was unfair or unduly restrictive, the Ford Foundation would take some form of action.⁴⁸

What influence, if any, does foundation backing have upon the editorial policy of National Educational Television? That policy states:

In all of the discussions that have arisen on the subject of editorial policy in public affairs programs, there has been no questioning of the following statement of N.E.T.'s purpose:

'To pose and illuminate an issue or condition in all its urgency and all its complexity, to place it in the context of our daily lives, to give it historical perspective, to relate it to other issues, to treat on their merits the arguments that pertain to it, to depict the probability or possible consequences of various courses of action--these, then, are the primary function of N.E.T. in the area of public affairs.'⁴⁹

On the matter of controversial programs, which might well cause underwriters to be concerned, National Educational Television has stated the following in its Editorial Policy pages:

N.E.T. regularly selects subjects and produces programs dealing with controversial issues. This is an important part of the role N.E.T. accepts and attempts to fulfill.

.

N.E.T. does not deal in controversial public affairs subjects just to be bold, provocative, sensational or to create an adventurous image. Rather, the issues

⁴⁸Ibid.

⁴⁹National Educational Television, N.E.T. Editorial Policy (New York: National Educational Television, 1968), p. 1.

selected are chosen because they touch on our nation's survival as a democracy and our freedom as individuals.⁵⁰

On the matter of balance and fairness in the presentation of public affairs programming, N.E.T. has issued this series of statements:

A conscious effort is made to achieve balance and fairness in National Educational Television public affairs programs, especially those involving controversial programs. Usually the balance is achieved within a single program, sometimes within a series, and occasionally by a matching program.⁵¹

The Network Editorial Policy continues:

Freedom to state a conclusion imposes great journalistic responsibility. The conflicting or contradictory aspects of a problem should be explored, and the documentary filmmaker exploring a political, social or economic subject for television must be fair and responsible.

To leave out pertinent data which is essential to a thorough understanding of a subject is editorially irresponsible.⁵²

Finally, the Network policy statement says:

. . . the fact remains there are public affairs programs which, in varying degrees, present expressions of opinion or imply points of view not always perfectly balanced. This can sometimes be simply a matter of subject selection; sometimes a result of editing; sometimes the product of differences in on-camera persuasiveness by participants; and, sometimes the result of the production approach, style and handling of narration. N.E.T. has produced imperfectly balanced programs on several occasions, and there will be more programs in the future which for one or more (or a combination) of these reasons prompt conflicting viewer reactions.⁵³

⁵⁰Ibid., p. 2.

⁵¹Ibid.

⁵²Ibid., pp. 3-4.

⁵³Ibid., p. 4.

President White of National Educational Television reiterated the N.E.T. philosophy of programming when, in his Report to the Affiliates at the 1968 Fall Meeting, he said to those in attendance:

. . . we learned long ago that you cannot please all of the people all of the time and that, in fact, you had better start examining your conscience if you somehow begin to please most of the people most of the time.

When public television really disturbs its viewers to the point where they think for themselves and begin to do something about what it is that disturbs them, then we will have succeeded. . . .⁵⁴

White concluded his speech with these words:

. . . I know that what really matters is not what I or anyone says here. What really matters is what we put on those millions of television screens in those millions of homes across the country, this year and next year and the year after. Our hope lies not in saying but in doing, not in pep talks but in performance. Thank you.⁵⁵

The remarks by President White of National Educational Television reflect an attitude for both present and future programming. His comments were directed to action, rather than talk.

Another who spoke of action was Secretary of Health, Education and Welfare Wilbur J. Cohen. Addressing the National Association of Educational Broadcasters in 1968, Secretary Cohen commented:

⁵⁴John F. White, A Report to the Affiliates, A report presented at the 1968 Fall Meeting of N.E.T. Affiliates, Chicago, Illinois, October 18, 1968.

⁵⁵Ibid.

In the long transition from empire, monarchy, feudalism and serfdom to the concept of democratic societies in which individual liberty and worth is primary, we have come increasingly to realize government's role in assuring individual freedom, and in providing the environment in which this freedom can flourish.

It is one thing to talk about freedom. It is quite another to put it into practice for all men, to create the social and political climate in which that freedom can operate, and in which the individual's search for truth and knowledge to dispel his ignorance can develop with maximum opportunity and minimum restraints.⁵⁶

Cohen went on in his remarks to say:

I believe that educational television has a unique and priceless opportunity in this regard. We need your imagination and creativity. You can bring to every classroom and to every living room the kinds of knowledge, the kinds of experiences, the kinds of insights that can truly widen the dialogue and help find the common ground for solutions to our most pressing problems.⁵⁷

What is occurring nationally is that noncommercial educational television is seeking to establish itself. It is seeking to program in a courageous fashion that is different from commercial television. It still has more work ahead of it if it is to gain true freedom, as compared with commercial television or the print media. What has happened to date has been a beginning.

Within the past few years a few incidents of conflict in the freedom area have occurred in educational television.

⁵⁶Wilbur J. Cohen, Secretary of Health, Education, and Welfare, "Freedom From Ignorance," National Association of Educational Broadcasters Convention Report (Washington, D. C.: National Association of Educational Broadcasters, 1968), pp. 57-58.

⁵⁷Ibid., p. 61.

It might be expected that as noncommercial educational television stations increase the amount of their programming the number of incidents may well increase. While it is impossible to summarize all of the incidents of conflict in the freedom area, it is possible to present representative cases. Each is unique unto itself.

Incidents of Conflict in Educational Television
at the Local Station Level

State of Maine Educational
Television Network

In December of 1961 an Act was approved by the legislature in the State of Maine for the construction of a state educational television network which was to be built with state financing. Known as H.P. 1233-L.D. 1698, the Act read as follows:

AN ACT Providing for Construction of an Educational Television Network for the State of Maine and the Issuance of not Exceeding One Million Five Hundred Thousand Dollars of State of Maine Bonds for the Financing thereof.⁵⁸

The Act was read three times and passed to be enacted in the Maine House of Representatives on December 1, 1961, and in the Senate on December 1, 1961, and was signed by the then Governor John H. Reed on December 2, 1961. It consisted of some twelve sections. One particular section, Section 5, which created a particular area of conflict in the freedom

⁵⁸State of Maine Enabling Act, H.P. 1233-L.D. 1698,
December 2, 1961.

area, was worded as follows:

Sec. 5. Promotion of political and governmental activities prohibited; penalty for violation.

None of the facilities, plant or personnel of any educational television system which is supported in whole or in part by state funds shall be used directly or indirectly for the promotion, advertisement or advancement of any political candidate for any municipal, county, state or federal office or for the purpose of advocating or opposing any specific program, existing or proposed, of governmental action which shall include, but shall not be limited to constitutional amendments, tax referendums or bond issues. Any person convicted of a violation of any provision of this section shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than 11 months, or by both.⁵⁹

The implications of Section 5 of Maine's Enabling Act came to the attention of all as the result of a regular televised Governor's press conference which used the facilities of educational television. The press conference that precipitated the criticism occurred in the network studios on August 20, 1968. Broadcast to approximately 98% of the state's population, the comments of Governor Kenneth M. Curtis had direct political overtones and aroused the Republican opposition, especially as they thought of Section 5 of the Enabling Act.

Governor Curtis faced the educational television cameras and the press audience on August 20th and began his press conference by saying:

I do have a short announcement this morning of general interest to all the people of the State of Maine. I had the opportunity last weekend to spend two days last week

⁵⁹Ibid., Section 5.

in the beautiful Allagash Region . . . to tour the whole waterway and to view the progress being made on the dam . . . there is slow progress by the state in taking title to 19,000 acres constituting the restricted zone in the Allagash Wilderness Waterways.⁶⁰

Following the opening statements, the usual press questions were directed to the Governor:

GOV. CURTIS: I'd be glad to field any questions you have.

PRESS QUESTION: Governor, I wonder, are you going to Chicago . . . are you going to . . . a . . . put forth your suggestions on a nationwide primary and if you are, are you going to give specific suggestions for implementation?

GOV. CURTIS: Well, I . . . ah, was talking this morning on the phone with Dennis Blay who's one of the members of the Platform Committee and I've been given the invitation to appear either Thursday or Friday in Chicago before the Platform Committee. However, where I'm going to be gone all next week, it's almost impossible for me to leave for the convention prior to Saturday morning. So, I've asked Congressman Hathaway [Congressman Hathaway is a Democrat from Maine] who, incidentally agrees with me, to present my proposed resolution to the Platform Committee on my behalf. What I am asking them to do is to have the Congress empower the President and direct the President to appoint a national bipartisan commission who'd be instructed to report back to the Congress and to the two major political parties their recommendations for either coming up with a national primary system or through the increased use of statewide primaries and finally to study the effectiveness of the Electoral College.
. . .⁶¹

Governor Curtis continued his elaboration of his proposal in Chicago. Then he said:

⁶⁰Governor Kenneth M. Curtis (D.-Maine), Television press conference remarks broadcast from the State of Maine Educational Television Network, Orono, Maine, August 20, 1968 (Un-edited audiotape of Governor Curtis's comments and the reply by members of the press).

⁶¹Ibid.

GOV. CURTIS: . . . I am sure that in both political parties when these conventions are over that McCarthy supporters and Rockefeller supporters are going to feel they've somehow been short changed and this may be so but it is the current system and we have to live with it. I think we should get together and change the system.⁶²

What really precipitated much controversy was the lengthy discussion by Governor Curtis after a press member asked him about his support of Vice-President Hubert H. Humphrey. The exchange went as follows:

PRESS QUESTION: Governor Curtis, you were one of the first to support the late Senator Kennedy in his bid for the presidency and now you've come out in support of Vice President Humphrey, but Senator McGovern's position seems to be more in line with Senator Kennedy's than is Senator [Error in political title given by press member in questioning Governor Curtis] Humphrey. How can you justify your support for Vice President Humphrey?

GOV. CURTIS: I would agree with you that Senator McGovern and both Senator McCarthy, in many ways, our positions are much more closely aligned with Senator Kennedy than was Vice President Humphrey. However, I think that there's one very practical fact involved . . . I think the battle lines are clearly drawn and I think regardless of how many more liberal candidates enter the field that this fall's contest is going to be between Vice President Humphrey and Vice President Nixon. In my viewpoint, I have projected what is going to take place and I feel that we should, as Democrats, make our decision if we feel we can support Vice President Humphrey . . . if we feel that he's a better candidate than former Vice President Nixon, then we should unite and get together and try to impose upon the Vice President our views as to the course that he should take as President in Viet Nam and other domestic issues and band together and look toward the November election. I haven't been very happy about many of the statements the Vice President has made in this campaign but I've researched what type of a liberal Senator he was--

⁶²Ibid.

I've talked with him privately about his views in various items and I feel that after the Convention is over that he is a candidate that I can support and so I've decided in view of all these factors that I might as well join the team now and get to the task of the fall campaign.⁶³

The Governor's press conference on educational television continued with a member of the press next directing a question to the Governor about the Vice Presidential choice. The exchange went as follows:

PRESS QUESTION: Governor, is there any chance, in connection with your endorsement of Vice President Humphrey that you think he might consider Senator Muskie [Democratic Senator from Maine] as a Vice Presidential running mate?

GOV. CURTIS: Well, I think this is another factor that a lot of us who were Kennedy supporters have to take into consideration in the selection of the Vice President. I don't think any of us want to see the Democratic Party yield to the South in the manner in which the Republican Party did in the choice of a Vice Presidential candidate. . . . And it seems to me that if we want to have some voice in the selection then we have to get Vice President Humphrey's ear and again this was another of my reasons for my earlier endorsement of the Vice President because I had voiced to him privately that I thought it would be a great mistake to go to somebody like Governor Connolly, who's being mentioned very heavily . . . a Southern conservative in his choice, and I think we need to go to an easterner, midwestern, liberal in order to properly balance the ticket and represent the views I think we want injected. Of course, Senator Muskie is being mentioned even more frequently in Washington, and I would hope that my endorsement and my joining the Humphrey camp might in some way be useful in furthering Senator Muskie's cause.

PRESS QUESTION: Governor, there seems to be some doubt even among Democrats in the State of Maine that this is actually serious talk about Muskie being

⁶³Ibid.

selected for a Vice President. Do you have anything from Washington on this?

GOV. CURTIS: Well, quite candidly, I believe the talk is very serious. I talked to some national reporters several weeks ago and asked them the question saying, 'I'm from Maine and, of course, I'd just like to have Maine be recognized and a great friend of mine and a great Senator be recognized but I'm also not naive . . . I know we're stuck up on the northeast . . . we don't have too many electoral votes and we're a small state and you know . . . are we dreaming?' and my answer was, 'No you aren't. He is being very, very seriously considered.' From what I can find out from talking to people in the Vice President's office around Washington and also my conversations with members of the Maine members of the Platform Committee that this is very serious in Washington, and that he has a very good chance . . . I think there's no question that had 'Ted' Kennedy been available he would certainly have been selected to try and combine the two camps but McGovern has said under no circumstances would he be a candidate and McCarthy has just about said that and I think then you start going through the field of Easterners . . . you have to say that Muskie stands an excellent chance.⁶⁴

The August 20th press conference left the subject of politics only momentarily after the above remarks. After a short discussion of some matters related to the interests of Maine people, Governor Curtis then discussed politics again when he was confronted with a question posed to him by another press member:

PRESS QUESTION: Governor Curtis, to get back to politics, how do you see the breakdown of the Maine delegation in the voting in Chicago, and also if the voting should go beyond the first ballot, which it probably won't, do you see any erosion from Vice President Humphrey's strength?⁶⁵

⁶⁴Ibid.

⁶⁵Ibid.

Governor Curtis answered the question that was asked and then dealt with more politics. In response to one question asked of him, Governor Curtis gave this reply:

GOV. CURTIS: . . . I could certainly, very readily support Senator McCarthy over Vice President Nixon and Agnew, and I'd be happy to do so. If he can prove himself this last step and pull this one out of the fire I would admit my wrong decision and support him wholeheartedly.⁸⁶

In response to a press question about the Vice Presidential strength of Senator McCarthy in Maine, Governor Curtis replied:

GOV. CURTIS: . . . if he has that kind of support . . . then I think he'd be good for any state . . . particularly the State of Maine. He's done the impossible in everything he's accomplished to date and if he pulls off this last feat, then I think that he's won the election, just based upon his amazing victory at the convention. . . .⁸⁷

Reacting to a press question dealing with personal opinion in politics the Governor said:

GOV. CURTIS: . . . I think that the delegates are pretty well committed around this nation and they're committed to Vice President Humphrey. This is the system. Humphrey won the delegates and so, therefore, under our current system, he's entitled to the nomination.⁸⁸

The Governor made other political comments on this same press conference. Near the end of the conference he noted that he had been talking with Governor Hoff of Vermont (D.). Then he went on to predict the percentage of votes he felt

⁸⁶Ibid.

⁸⁷Ibid.

⁸⁸Ibid.

Governor Wallace of Alabama might be expected to receive in the November elections of 1968.

In an attempt to gain additional information about the August 20th press conference on statewide educational television, this researcher corresponded with the Acting General Manager of the State of Maine Educational Television Network. In a letter dated November 1, 1968, Phillip C. English described what took place following the conference:

. . . I think I can fill in some of the details. Republican Legislator, Harrison Richardson, called President Libby [President Libby was Acting President of the University of Maine, Orono, Maine. The University of Maine is the licensee of the State of Maine Educational Television Network.] and told him that this was political broadcasting and that as such was in violation of Paragraph 5. It is interesting to note that he did not threaten the punishment that is listed in Paragraph 5, but said he thought the appropriation for Educational Television could be held up in the legislature. In this case almost any pretense could be used for stopping appropriations. One wonders now how often Educational Television will be threatened this way. It could well mean anything that upsets a legislature could cause it to hold up appropriations. This is probably a game we'll have to play as long as we are dependent on the legislature for funds. We are currently working through our lawyers in Washington and through the legislature trying to get the law changed. It appears that Paragraph 5 of the Enabling Act may stand. However, we hope that the legislature will initiate clarifying legislation for this portion of the Act saying definitely what we can and can't broadcast.⁶⁹

Eleven days after the receipt of the first letter from the Acting General Manager of the Maine Network, this researcher received a second one. It said, in part:

⁶⁹Personal letter from Mr. Phillip C. English, Acting General Manager, State of Maine Educational Television Network, November 1, 1968.

We recently took the Paragraph 5 question to the Governor's ETV Advisory Committee. They advised that they were in sympathy with us on Paragraph 5 but politically we did not have a chance to get the bill through the Legislature. So with this in mind we may not get the act changed this session.⁷⁰

By January of 1969, the Maine press had begun to react to the televised conferences of Governor Curtis on statewide educational television. In a front page story appearing in the January 3rd edition of the Bangor Daily News there was an article entitled, "Do Curtis, ETV Mix?" That article said, in part:

Democratic Gov. Kenneth M. Curtis, who has conducted several televised press conferences over the Educational Television (ETV) at its Orono studios, may be prevented by statute from conducting further conferences over that media.

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Republicans, angered over the use of the ETV network by Curtis last year, as what one Republican leader termed Thursday, 'A forum for partisan politics,' are seeking an interpretation of the statutes governing politics and the ETV network and any 'equal time' provision which may apply.

Curtis held several ETV press conferences during 1968, and the network received some criticism from Republicans then.

The network, which receives a sizable subsidy from the state, has taken the position that the press conferences are considered educational and do not violate any ban on political partisanship which may be in the ETV law.

The governor has taken a similar position. . . .⁷¹

⁷⁰Personal letter from Mr. Phillip C. English, November 12, 1968.

⁷¹"Do Curtis, ETV Mix?" Bangor Daily News, Bangor, Maine, January 3, 1969, p. 1.

In the January 4-5th edition of the Bangor Daily News another article appeared that dealt with the situation. It indicated how the Governor was reacting to the criticism being brought against him for his use of statewide educational television for press conferences:

Despite Republican complaints of political optimism, Gov. Curtis' office said Friday the governor plans to continue news conferences on Maine's Educational Television Network.

. . . The spokesman said Curtis appears at these conferences as chief executive and not as a politician, and that any political discussions are spurred by newsmen's questions.

Republican legislative leaders have charged that Curtis violated state law by discussing politics during his ETV news conferences.⁷²

On and after January 5th, the frequency of articles about the Enabling Act and Governor Curtis' press conferences increased in number. Another Bangor Daily News article, this one dated January 8th, highlighted the complexity of the hassle in question. The article was entitled, "Controversy On News Conferences On ETV Gets Bit More Complicated." The article said:

Fuel was added Tuesday to the controversy surrounding the televised press conferences by Democratic Gov. Kenneth M. Curtis over the Educational Television Network (ETV) when Rep. John Lund, R.-Augusta, filed a bill which would broaden the ETV law by writing into it an 'equal time' clause.

Lund said his bill will 'permit greater discussion of public issues than is now permitted under the law.' The need for broader legislation has been pointed up,

⁷²"Governor Still Plans ETV Usage," Bangor Daily News, January 4-5, 1969, p. 5.

he said, because of the current flap over the governor's contemplated Jan. 21 press conference at the ETV studios at the University of Maine at Orono.

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The Governor has taken the stand that his appearances on ETV as the state's chief executive are non-political until he announces he is a candidate for office. He says the programs are educational and their direction is determined by newsmen's questions.

And he says he will go ahead with the Jan. 21 press conference. Lund and other Republicans here are predicting that that conference will not be held.

University officials, who are seeking more than \$1 million from the Legislature for operation of the network in the next biennium, are caught in the middle and have sought a legal opinion on the matter from a Bangor law firm.

But they have thrown the ball back to the governor, saying it will be up to him to make public the decision as to the legality of the televised conferences.⁷³

The climax to the complicated situation in Maine came when Governor Curtis cancelled the January 21st press conference that he had been planning on educational television. The Waterville Morning Sentinel gave this account of the reasoning of the Governor:

Gov. Curtis Wednesday called off his scheduled January 21 news conference on Maine's Educational Television Network because of 'doubt cast on the propriety' of such appearances and 'threats' to cut the ETV budget. Curtis said the threats had come from an unnamed legislator. The lawmaker allegedly told the University of Maine, which operates the network, that its appropriation could be reduced if the news conferences were permitted to continue.

The University asked Curtis to cancel the conference Wednesday.

⁷³"Controversy On News Conferences On ETV Gets Bit More Complicated," Bangor Daily News, January 8, 1969, p. 4.

The governor said he intended to meet with newsmen Jan. 21, but was shifting the locale to Augusta.

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'It is not my wish,' said Curtis, 'to be a party in any way to threats upon the budget request of the University of Maine or any of its facilities.'⁷⁴

At about the time that this televised press conference controversy was taking place, a new chancellor of the University of Maine was beginning his new duties. Dr. Donald R. McNeil was confronted with this matter almost immediately and promised a thorough review of the matters in question.

Unlike the incident of conflict occurring in Maine, a potential conflict was avoided in Florida by a change in the then existing Florida statute that created the state's Educational Television Commission.

The State of Florida--Department of Education

The original wording of a Florida Statute creating an educational television commission prohibited reference to political concerns on the state's educational television stations. This statute was changed, however, to allow for limited political activity on an experimental basis.

In the words of J. Warren Binns, Jr., Director of Educational Television and Radio for the Florida system's Department of Education, ". . . We have every reason to

⁷⁴"Curtis Calls Off News Conference on ETV: Cites Budget Threats," Waterville Morning Sentinel, Waterville, Maine, January 9, 1969, p. 1.

believe that this will be further liberalized in our approaching legislative session. Possibly it will be removed altogether."⁷⁵

Portions of the original statute are printed below, with the new statute language underlined:

An act relating to educational television: providing for continued educational television service; prescribing duties of the state board, the state superintendent, and the board of regents related to educational television; repealing Chapter 246, Florida Statutes; amending sections 229.521 and 240.042, Florida Statutes; providing an appropriation; prohibiting use for political purposes of facilities, plant or personnel of any educational television system receiving state funds; providing exceptions; providing an effective date.⁷⁶

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Section 5. None of the facilities, plant or personnel of any educational television system which is supported in whole or in part by state funds shall be used directly or indirectly for the promotion, advertisement or advancement of any political candidate for any municipal, county or state office; or for the purpose of advocating or opposing any specific program, existing or proposed, of governmental action which shall include, but shall not be limited to, constitutional amendments, tax referendums, or bond issues. Provided, however, that in the general elections of 1968 and 1970, candidates for offices appearing on a statewide ballot may be provided equal time in the general election on an experimental basis and for purposes of evaluating whether such provision of television time free to such candidates can materially reduce the excessive cost of campaigns. Provision of such equal time shall be in accordance with reasonable rules and regulations prescribed by the state board of education or the board of regents, whichever has authority in the premises.⁷⁷

⁷⁵Personal letter from Mr. J. Warren Binns, Jr., Director of Educational Television and Radio, State of Florida, Department of Education, November 5, 1968.

⁷⁶State of Florida ETV Act, Chapter 67-569, p. 1.

⁷⁷Ibid., p. 4.

Prior to the new Florida statute language, the only difference in that state's Section 5 and Section 5 of the Maine Enabling Act was that Maine prohibited the use of educational television for the advancement of any political candidate for federal office, as well as for the advancement of those seeking municipal, county, or state offices. Otherwise, the two sections were identical before Florida added to its Section 5.

The change in the law in Florida has allowed the State of Florida, Department of Education, to allow competing political candidates to appear at the same time on educational television, for purposes of voicing their views on political matters. In the view of the Director of the Florida system, ". . . these broadcasts have been received with evident enthusiasm."⁷⁸

The true value of this form of political broadcasting on educational television was expressed by Binns when he went on to say to this researcher:

Although the legislated purpose of this programming was to reduce campaign costs, my personal opinion is that its value is more significant in providing exposure for a candidate with a limited budget. Rather than saving money in campaigning, we can effectively give statewide exposure to all candidates whether their budgets are large or small.

Even with the Florida system, which apparently got underway without too many difficulties, there is a potential area

⁷⁸Binns, op. cit.

⁷⁹Ibid.

of conflict, especially as it relates to freedom of speech.

Binns has noted it when he commented:

Our ETV Advisory Board specified that only races in which both candidates agreed to appear could be aired. This was obviously to insure that criticism of partisanship could not be levied. Since we are under the state Department of Education with an elected superintendent of schools, the danger of criticism is apparent.⁸⁰

A third illustration pertains to Station WNDT in New York City. This third case involves that educational television station and the intrusion of a group of "Hippies" into that station while a particular program was being broadcast.

"Hippie" Incident at WNDT, New York

Under Section 326 of the Communications Act of 1934, neither a commercial nor educational television station, or radio station, may broadcast "indecent languages." On June 25, 1968, an incident took place in New York that brought an educational television station and its programming policies to the attention of the American public. It involved this matter of "indecent language" on educational television.

The program that was being aired on Station WNDT was entitled "Newsfront." While it got underway on the evening of June 25th without incident, shortly thereafter the intrusion took place. Newsweek of July 8, 1968 presented this account of the incident:

⁸⁰Ibid.

. . . On-camera were three bearded members of the underground press--Allan Katzman, an editor of the hippie weekly The East Village Other; Jeffrey Shero, editor of competing weekly Rat, and Marvin Fishman, a founder of a New Left documentary unit called Newsreel. They were there to tell viewers what was going on underground.

. . . As the panelists started to answer, viewers could hear a commotion off-camera. It grew louder and louder. There came muffled cries. 'You can't come in . . . the air is free . . . let us in.' Suddenly panelist Shero shouted triumphantly 'That's the real underground press knocking the door down!' added Fishman 'Hey, come in!'

In came about twenty hippie-clad young people, who had bowled over a guard and a station staffer during the melee in the outer corridor. They promptly made like underground newsmen--snapping still pictures of the TV cameras, waving tape machine ablaze with crowd noises, pressing whirring movie cameras into the faces of the panel and yelling, 'The establishment press lies.' To Fishman, the scene was all a piece of beautiful truth. 'If you want to know about the underground media,' he told stunned moderator Roberts, 'you will hear about it from the media itself.'

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After fifteen minutes of such undergrounding, the invaders got wind that the police were on their way and split. . . .

Seven of the intruders were collared leaving the building. And the station, a liberal-oriented educational TV outlet, was so outraged at the intrusion it pressed stiff charges of rioting and breaking and entering to commit a felony, which carry maximum penalties adding up to eleven years in jail. . . .

The underground establishment, however, saw the act as a successful coup. 'It was one consciousness confronting another consciousness,' said Katzman. 'From a revolutionary point of view it was an excellent message.' Others thought not. 'TV can profit from being shaken up,' said Roberts. 'But when it's done this way, the point is obscured.'⁸¹

⁸¹ "Notes From Underground," Newsweek, July 8, 1968, p.

In personal correspondence with this researcher, Mr. William J. Lamb, Senior Vice President of WNDT, described what happened after the incident: "Seven persons were arraigned by the authorities in Criminal Court on charges of burglary and riot."⁸² The arraignment was June 26, 1968, yet equally as quick was the Federal Communications Commission inquiry into the incident at WNDT. On June 28, 1968 William B. Ray, Chief of the Complaints and Compliance Division of the Federal Communications Commission, wrote the following letter to WNDT:

Gentlemen:

This will confirm the oral request made by Mr. Arthur Ginsburg of the Commission's staff to your Washington counsel for a statement by the licensee on the reported invasion of your studios and takeover of your programming on June 25 by a group of persons not authorized to operate the station.

You are requested to furnish a report on the matter within ten days of the date of this letter. Please include in your report statements as to whether the invading group was broadcast by WNDT orally or visually and, if so, for what length of time; whether obscene, profane or indecent language was broadcast by members of the group; what efforts were made by the licensee's employees to retain or regain control of programming after the invasion, and the reasons why licensee did not discontinue broadcasting if it no longer was in control of its programming.

Sincerely yours,

William B. Ray, Chief
Complaints and Compliance
Division
Broadcast Bureau⁸³

⁸²Personal letter from Mr. William J. Lamb, Senior Vice President, Channel 13, WNDT, Educational Broadcasting Corporation, New York, October 2, 1968.

⁸³Letter to Station WNDT from William B. Ray, Federal Communications Commission, June 28, 1968.

On August 21, 1968, the Federal Communications Commission again established correspondence with WNDT over the incident. In a letter to the station, Ben F. Waple, Secretary of the Federal Communications Commission, by direction of the Commission itself, wrote this:

Gentlemen:

This is with reference to the program Newsfront broadcast on Station WNDT on the night of June 25, 1968.

Commission investigation revealed, among other things, that during that portion of the program in which 'underground' media were being discussed by participants in a panel, approximately twenty persons forced their way past guards and into the WNDT studios where they could be seen and heard on the air.

In response to the Commission's inquiry you state that a telephone call was made to police as soon as the group began breaking into the studio; that the licensee never lost control of its programming, and that it was the judgment of your employees, made in the heat of the moment, that it would be better to continue the program with the trespassers present and participating in the discussion rather than to have the screen go blank or to attempt to substitute other programming. You state that this decision was based upon (1) the belief that the police soon would arrive; (2) the fact that the intruders were causing no further trouble, and (3) the fact that some of the panelists knew some of the trespassers and requested that they be allowed to participate in the discussion.

Without attempting to determine whether in this instance the licensee lost control of its programming, the Commission believes it advisable to call your attention and that of other licensees to the fact that broadcasters are responsible for maintaining control of their programming at all times, and that if loss of such control occurs or appears to be imminent, the licensee should immediately substitute other programming over which it has control or discontinue all programming until control can be regained.

Commissioner Wadsworth absent.

BY DIRECTION OF THE COMMISSION

Ben F. Waple
Secretary⁸⁴

The WNDT matter illustrates yet another type of incident related to freedom of speech at the local, noncommercial, educational television station.

A final local station study related to freedom of speech is one that involves Station KRMA in Denver, Colorado. So concerned with the aspect of freedom was the KRMA case that the American Civil Liberties Union of Colorado became involved. The entire case revolved around a KRMA produced educational television program entitled, "Who Speaks for the Consumer?"

KRMA, Denver, Colorado and the Educational
Television Program, "Who Speaks for the
Consumer?"

In order to gain basic, first-hand information about this particular case, this researcher met personally with some of the participants. What is presented was gained from materials given to this researcher by the individuals with whom meetings were held.

The television program, "Who Speaks for the Consumer?" was a program composed of films taken from interviews that were held in Washington, D. C. Among the Washington participants were Mrs. Betty Furness and Mr. Ralph Nader. Colorado

⁸⁴Photostat of letter to Station WNDT, New York, from Ben F. Waple, Secretary, Federal Communications Commission, Washington, D. C., August 21, 1968.

participants included Senator William Garnsey, a Representative Monfort, and a Mr. Daniel Bell of the Better Business Bureau. The program was made up of narrative commentary by Mr. Joe Finan, and ended with a videotape skit on consumer practices. The subjects under discussion on the program were fraud and truth in lending. Both subjects were centers of discussion at the time, for legislation was pending on them.

Producer of the television program was a Mrs. Cynthia Kahn of KRMA. She has provided the following account of what took place, as related to her produced program:

1. On December 19, 1967 at 9 P.M., KRMA aired WHO SPEAKS FOR THE CONSUMER, which, although tightly scripted, was produced live. We taped the final product, but on the decision of the director and myself, we had it wiped because of technical difficulties in the last 10 minutes of the hour show. A week later we re-taped the show, using exactly the same script and correcting the technical problems.
2. On December 20, 1967, State Senator William Garnsey (R. Greeley) complained to James Voorhees, President of the Denver School Board, that he had been misrepresented on the show and that his interview had been edited to say things he had not said. Mr. Voorhees passed the complaint on to the Superintendent of Schools, Dr. Robert Gilberts, who asked for an explanation from Russell Casement, director of Opportunity School and director of KRMA, as well as from Jack Schlaefle, program manager of KRMA.
3. On December 22, 1967, Dr. Gilberts received a complete script of the show, a transcript of Senator Garnsey's interview, plus additional information.
4. In the middle of January, Jack Schlaefle and Russell Casement decided to re-run the show on Sunday, January 28th; and press releases were prepared.
5. About January 18th, Dr. Gilberts requested Jack Schlaefle to take the show off the air until Senator Garnsey had been contacted.

6. On February 8th at 5 P.M., a viewing of the consumer show was scheduled for Senator Garnsey with Mr. Voorhees, Dr. Gilberts, and Mr. Casement present. Senator Garnsey showed up with the following legislators:

Speaker of the House--John Vanderhoof
 (R.-Glenwood Springs)
 House Majority Leader--John Mackie
 (R.-Longmont)
 Senator Ed Scott--(R.-Englewood)
 Rep. Ted Shubert--(R.-Calhan)
 Rep. Harold Koster--(R.-Salida)
 Rep. Palmer Burch--(R.-Denver)

As producer of the show I requested to be present at the meeting, but as reported to me by Mr. Voorhees, the legislators threatened to walk out if I had been allowed to participate in the viewing and subsequent discussion.

Therefore, I can defend myself only against those charges that were reported back to me. The most important charge seems to be that what the legislators saw February 8th was a dramatically different program from what was aired December 19th. Yet, when offered an opportunity to view the original tape (no one in the room knew at the time that this tape had been wiped), they refused.

The second charge directly attacks what the legislators consider to be a second show. In general terms, they seem to feel that the entire tenor of the show makes Republican legislators look bad. One person charged that two unidentified speakers, particularly a furniture store owner who was filmed in silhouette, were 'plants'. These charges are untrue. Finally, House Majority Leader John Mackie claimed that the person who called to appear on the show said that: 'If he did not appear, he would have to suffer the consequences,' and that he, John Mackie resented the threat. . . .

7. On February 9, I was informed that the consumer show would not be re-run and that in the future an 'advisory board' would be set up to 'review' controversial programs before they are aired.⁸⁵

⁸⁵Facts Concerning Priority on Consumer Affairs, Mimeographed sheets prepared by Mrs. Cynthia Kahn, former producer, KRMA, Denver, Colorado.

Printed materials from the American Civil Liberties Union provide an overview of that organization's concern with the "questionable" television program. The materials indicate that the organization was concerned with "the real and serious objections"⁸⁶ that had been raised about the program. It considered each "objection" individually and gave this account:

(a) The Re-Take Was Different from the Original

. . . The Freedom of Expression Committee was privileged to view the video-tape and had in its hands copies of the original script. Each viewer agreed that the variations were minor and immaterial, and that the tape was faithful in all important respects to the script. Since the script contained both the video instructions and the audio instructions, and since they both matched the existing tape, the Committee cannot accept the judgment of the officers of the station and of Mr. Henry, their lawyer, that this version is not faithful to the original. . . .

(b) Quality of the Tape

Deficiencies in technical quality of the tape--Mr. Casement has characterized it as 'a real can of worms'--have also been offered as grounds of refusal to re-air. It is true that video shots are shown where the speaker speaks but no sound comes forth, and that at one point there is a flicker of the film and nothing intelligible comes out. These faults cannot be ignored. Still, they seem not to have been, at one time, of very great concern to the station officials. . . .

Conflicting views of the skit at the end of the show have been expressed. Mr. Henry thought it 'stupid'; Mr. Voorhees thought it 'good'.

⁸⁶American Civil Liberties Union of Colorado, Report of the Committee on Freedom of Expression on KRMA-TV's Program "Who Speaks for the Consumer?" (Denver, Colorado: American Civil Liberties Union of Colorado, 1968), p. 4.

(c) Was It a 'Fair and Objective' Presentation?

This is the most difficult question to answer. In fact, it cannot be answered definitively. Mr. Case-ment says that the show is not fair and objective; others have agreed with him. Mr. Benton says that the tape 'presents a topic of public significance' which 'ought to be better understood by the public'; the film does have a bias, he adds, but that does not invalidate it. Other opinions range from those of Senator Garnsey and Representative Mackie, who assert that the tape misrepresents, to those of persons who declare the tape to be not only informative but accurate.

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(d) The Fairness Doctrine

The Fairness Doctrine of the FCC does not require either that every statement in a program be 'true' or that a program be sterile and completely without bias. All that is required is that there be some balance--and even that need not be present in every program. 'Honest errors' are tolerated; controversial issues are not barred; and remedies can be applied by balancing points of view on subsequent programs. . . .

(e) The Issue of Libel

The criticism of possible libel and slander may be laid to rest. Even Senator Garnsey describes his treatment as being only 'almost' slanderous.

(f) Other Objections

In the opinion of the Committee, there are no other objections to the re-running of the film that are worthy of serious consideration. . . .

(g) Effect of the Present Case on KRMA's Future

The long-run future of Educational TV is bound to be successful, for it alone possesses the potential to satisfy deep-seated needs of the community which cannot be satisfied by commercial TV. The immediate future of KRMA, however, is not bright. Evidence mounts that newly instituted policies at the station have already lowered the morale of producer-directors and have stifled free expression on publicity oriented shows. . . .

(h) Conclusions

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As for the charge of censorship, this is a difficult thing to prove. However, since the stated reasons for cancelling the film are not, in the opinion of the Committee valid, the Committee can only conclude that the sequence of events leading to the cancellation suggests censorship. . . .⁸⁷

Between February 13th and April 12th, there was a series of articles appearing in various Denver newspapers that brought the KRMA case to the attention of the public. An overview of some of those articles reveals what the press was saying about this freedom issue.

Denver Post staff writer Leonard Larsen wrote an article in February headlined, "Republicans Complain: KRMA Kills Opposed Show." In that article Mr. Larsen said, in part:

Republican legislators who protested the airing of a 'consumer protection' program on the Denver educational TV channel have blocked a repeat showing of the program, Denver school officials confirmed Tuesday.

But while the president of the Denver School Board, James Voorhees, Jr. said the decision was made on questions of 'accuracy' and 'good taste,' the director of the education channel, KRMA-TV, Russell Casement, said the decision against the rerun was because of technical errors.

As a result of the decision against a repeat showing of the program--in which several GOP lawmakers were portrayed as sternly against consumer protection legislation--the producer of the disputed program has resigned.

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Mrs. Kahn, whose husband, Ed, is a former president of the Denver Young Democrats, resigned effective Tuesday.

⁸⁷Ibid., pp. 4-6.

In her resignation statement, she charged that the decision not to repeat the program 'fails to carry out an obligation to those persons who participated in the program and, more importantly, to the public.'

Casement answered that decisions to run or rerun a show are in the hands of the licensee--in this case, his hands as the administrator for the school board--and not in the hands of producers, like Mrs. Kahn.

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'Technically, I thought it wasn't up to our standards,' Voorhees said of the consumer program. 'Also I thought it lacked good taste.'⁸⁸

The Rocky Mountain News was another newspaper that printed stories about the KRMA case. In a February 16th article there was a story of new developments in the case. State Rep. Tom Farley (D.-Pueblo) had asked the Federal Communications Commission to investigate the possibility that KRMA had yielded to political pressures in choosing not to re-broadcast the consumer program.⁸⁹

Also on February 16th an article appeared in The Denver Post about the KRMA incident. Entitled, "Channel 6 May Be Hurt," it was written by Robert Tweedell, who offered these comments:

Casement said the decision not to rebroadcast the program was based on the fact that station policy had been violated when the original tape was 'wiped' which left him no means of proving that the second tape was substantially the same as the original.

He denied that any permanent advisory board was to be established, but said it had always been his policy

⁸⁸Leonard Larsen, "Republicans Complain: KRMA Kills Opposed Show," The Denver Post, February 13, 1968, p. 2.

⁸⁹"Channel 6 TV Show Probe Asked," The Rocky Mountain News, February 16, 1968, p. 8.

to seek advice from knowledgeable sources about controversial programs.

Several Channel 6 staff members, principally producers and directors, interpreted Casement's stand another way. They saw in it a weakening of the station's independence, and of its freedom to air programs which might step on someone's toes.

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What the issue boils down to is whether the legislators who complained about the program, whatever their motivation, have created a situation that will impair the ability of Channel 6 to function effectively in informing the public about controversial matters.

In the long run, if the Channel 6 production staff feels and thinks that it has been fettered, the loss to viewers could be as great as any imposed by overt censorship.⁹⁰

The Federal Communications Commission studied the particulars of the KRMA case and in a letter dated April 23, 1968, presented its views to Mr. Edwin S. Kahn, husband of the woman who produced, "Who Speaks for the Consumer?" In that letter the Commission pointed out the role of the licensee and that of the Commission:

. . . The licensee's programming decisions must be based upon honest and prudent judgments as to how he can best serve the programming needs and interests of the listening public and must not reflect 'pressure' from private interests. This obligation applies to educational as well as commercial broadcast licensees. However, the selection and presentation of program material are responsibilities of the station licensee and the Commission cannot direct a station to carry or to refrain from carrying a particular program.

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After carefully reviewing the material before us concerning the cancellation of the re-showing of the program

⁹⁰Robert Tweedell, "Channel 6 May Be Hurt," The Denver Post, February 16, 1968, p. 20.

'Who Speaks for the Consumer?' we have no reason to doubt that Mr. Casement's decision was motivated by anything other than a desire to act as a responsible licensee, particularly with regard to his obligation under the Commission's fairness doctrine. This doctrine requires that when a viewpoint on a controversial issue of public importance is broadcast, reasonable opportunity be afforded for the presentation of opposing views.

In view of the foregoing, we have concluded that no further inquiry or investigation into this matter is warranted.⁹¹

The letter to Mr. Edwin S. Kahn was written by Mr. Robert J. Rawson, Chief, Renewal and Transfer Division, Broadcast Bureau of the Federal Communications Commission, and was dated April 23, 1968.

As this chapter has illustrated, there has been increased political interest in educational television as this communications form has developed over the years. Most recently, the Congress has considered the appropriation of funds to support the work of the Corporation for Public Broadcasting. This has involved political activity on the national scene.

On the regional and local scenes recent political interest in educational television has been demonstrated in other ways, as the cases presented in this chapter have illustrated. Political pressures were applied in Maine to cause both the Governor and the licensee of the State of Maine Educational Television Network to be more concerned about political matters being broadcast on press conferences.

⁹¹Letter from Robert J. Rawson, Chief, Renewal and Transfer Division, Federal Communications Commission, Broadcast Bureau to Edwin S. Kahn of Denver, Colorado, April 23, 1968.

The KRMA, Denver case illustrated yet another form of political activity related to local educational television programming. Politicians in Colorado were interested in statements made and manner of presentation on a consumer program.

The Florida case illustrated that political interest in educational television at the regional level can also bring about positive programming results. This was seen when a state law in Florida was changed to enable educational television to broadcast competing state political candidates.

The WNDT "Hippie" incident in New York, while completely unlike the incidents in Maine, Florida, or Colorado serves to illustrate another aspect of freedom of speech in educational television. It brings to the attention of broadcasters and viewers alike the fact that freedom of speech on educational television does not mean that anyone can use educational television for the expression of ideas and information. Freedom of speech requires responsibility. That point has endured from the earliest days of our country.

The dreams for freedom held by Freida Hennock during the time of the Sixth Report and Order have materialized in the case of some educational station operations of the late 1960's. For yet other local operations, however, the degrees and kinds of freedom may be limited, due to any number of reasons. In Chapter V a presentation is made of the results of a nationwide polling of station managers of local

educational television stations. These managers were asked to provide their own first-hand reactions to the matter of degrees and kinds of freedom present in their own local situations.

CHAPTER V

RESULTS OF NATIONAL SURVEY ON "FREEDOM OF SPEECH AND THE AMERICAN EDUCATIONAL TELEVISION STATION"

Rationale for National Survey of Station Managers on Freedom of Speech

Study in the area of freedom of speech and educational television has led this researcher to believe that what has been said concerning the subject has usually come from a few national leaders in broadcasting. Seldom, if ever, have comments been published that have come from managers of local stations. Only occasionally does a local freedom issue or concern in educational television come to the attention of the public through the words or writings of local station personnel. Cases such as the "Hippie" intrusion in New York, or the KRMA case in Denver have been rather few in number. When they have arisen, however, they have caused the local educational television manager to take a position.

Like the local commercial television station, the local educational television station has the responsibility of serving the "public interest, convenience, and necessity." It is the local station manager who must answer to the

Federal Communications Commission at license renewal time and show that his station has, indeed, served the local needs of the community through the communication of ideas and information. It is he who must answer to the public when they present letters of concern or complaints that might arise relative to controversial programming. It is he who must secure financing from various outside sources for the production of programming. Since these managers hold decision making positions, it is fitting/appropriate that they be polled concerning their reactions to a number of matters related to freedom of speech at their respective stations. Other station or non-station personnel might have been questioned, but they would not have been the people concerned with the key decisions of a station on a day-by-day basis.

As for the questionnaire, certain items were selected for managerial comment because of their current importance in broadcasting. Others were chosen because they encouraged the local station manager to reflect and react in an open-ended fashion. The object here was to ascertain managerial outlook and philosophy on the concept of freedom of speech. Special attention was paid to the responses in terms of types of educational television stations and geographical locations from which the responses came.

Procedures Used in Gaining Respondent Replies

This researcher wished to gain survey responses only from station managers of stations that were affiliated with

National Educational Television. Such stations were of most interest because of the researcher's past professional experiences and also because such stations offered a variety of types of educational television programs.

With the guidelines just enumerated this researcher secured the most immediate mailing list of station managers whose stations were affiliated with National Educational Television as of September 1968. Analysis of that listing revealed that there were in the United States and its territories, as of September 1968, a total of 104 separate managers of such affiliated stations.¹

Materials for mailing were prepared and included the following:

1. A questionnaire on "Freedom of Speech and the Educational Television Station."
2. A cover letter to all 104 station managers in which the project was explained and a request made for the individual manager to participate in the survey.
3. A stamped, self addressed "willingness to participate" postcard.
4. Stamped, self-addressed envelopes for the return of completed questionnaires.
5. Follow-up materials which included postcard reminders.²

¹NET Affiliated Stations, Station Management (New York: National Educational Television, September 1968), pp. 1-9.

²See Appendices A, B, C, and D.

Pre-test Procedures and Results

Pre-test procedures were conducted in September of 1968, 10% of the 104 managers being selected for testing purposes. All ten were asked to return their materials two weeks from the date of mailing. While some did this, others did not, but the end result was a 100% return from those involved in the pre-testing procedures.

There was general acceptability of the questionnaire and other procedures. One manager especially liked the approach of seeking permission from the respondent first, before involving him in the survey. In the words of this one pre-test respondent:

I like your pre-questionnaire postcard approach. Every week brings two or three such from aspiring Ph.D.'s, without the courtesy of asking--sometimes without even a self-addressed envelope. . . .³

As a result of the favorable response and return from the pre-test participants, no revision was made in the design of the questionnaire or other materials. It was felt by this researcher, in analyzing the returned materials, that he was gaining the type of information that he was seeking.

Mail-out of Initial Cover Letter to the 104 Managers and the Results

Initial letters of contact with all 104 managers were mailed on October 1, 1968, after fall program scheduling had

³Reply in pre-testing procedures from the General Manager of an eastern educational television station.

been completed and after the usual early fall activity at the stations had subsided.

Each cover letter was done in such a manner that it looked like a personally typewritten letter. The darkness of the typing for the inside address of each letter was carefully matched with the darkness of the reproduced letter itself.

Accompanying the cover letter to each of the 104 managers was a stamped, self-addressed postcard, to be returned to this researcher. The cover letter itself asked permission to involve the station manager in the mail survey, while the postcard was to be returned if the manager was willing. The postcard also asked for the manager to write his name and address. In this way, this researcher was able to keep up-to-date on the names of the managers at each station. In some cases, the returned postcards reflected recent personnel changes at the stations, not indicated on the master mailing list furnished by National Educational Television.

Out of 104 station managers of National Educational Television affiliated stations in the United States, American Samoa, Puerto Rico, and the Virgin Islands, 60, or 57.69% of them returned the postcards signed. These 60 comprised the group that was used for purposes of the mail survey itself.

Return of the Mail Survey Questionnaire

Of the 60 who expressed their willingness to participate in the study, 54 actually followed through with a completed questionnaire. These 54 comprised 51.92% of all the station managers of stations affiliated with National Educational Television as of September 1968. The return of 54 questionnaires also meant that this researcher heard from 90.0% of all the managers who had originally said that they would be happy to take part in the study.

One consideration should be stressed at this point. While the responses of the 54 managers should not be taken as the last word of all station managers in the country, they can be taken as somewhat of an overview or sample of opinion on a variety of issues related to freedom in educational television. Whereas no measure of freedom at the local station level had been done prior to this survey, the results should be thought of as a beginning. Hopefully, from such a modest beginning might come new directions for future research. A sufficient number of managers did react, however, that a variety of views on freedom were presented in writing. The managerial responses thus helped to stimulate this researcher to make certain evaluative comments in Chapter VI and certain recommendations for future research in Chapter VII.

Follow-up Procedure and Results

The follow-up card was mailed to all who had originally agreed to take part in the study. It was so worded that it

could be employed to do two things:

1. Thank those who had already participated and sent in their completed questionnaire.
2. Serve as a reminder to those who had not sent in their completed survey questionnaire please to do so.

The follow-up postcards were mailed on October 29, 1968, so as to arrive at the stations on Thursday, October 31st, the day when the completed questionnaire was actually due back to the researcher. It was hoped, too, that in the case of those who had not returned their materials, a reminder received on a Thursday might mean that the respondent would use the week-end or the beginning of the next week to complete and return the materials desired.

At the time that the follow-up procedures were initiated, this researcher had received completed questionnaires from 32 of the station managers. What took place after October 29th is indicated below:

<u>Date</u>	<u>Cumulative Number of Questionnaires Received</u>
10/29/68	32
10/30/68	33
10/31/68	34
11/1/68	37
11/4/68	43
11/5/68	44
11/7/68	45
11/12/68	47
11/14/68	50
11/18/68	52
12/13/68	53
1/3/69	54

Relationship of the Survey Sample to
the Universe As A Whole

This researcher was interested in how managers of non-commercial, educational television stations reacted to questionnaire items in terms of two things:

1. The type of station that each manager represented. The types used for identification purposes in this survey were Public-Private, State Authority, College or University Owned, Community, and Other.
2. The geographical location from which each station manager reply came. The regions used in the survey were:

East - Pennsylvania, New York, Delaware, District of Columbia, New Jersey, Connecticut, Rhode Island, Maine, New Hampshire, Vermont, and Massachusetts

South - Arkansas, Tennessee, Kentucky, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, West Virginia, Virginia, Puerto Rico, Virgin Islands

Midwest - Indiana, Ohio, Illinois, Iowa, Nebraska, Kansas, Wisconsin, Minnesota, North Dakota, South Dakota, Michigan, Missouri

Mountain-Desert - Nevada, Utah, Arizona, New Mexico, Texas, Wyoming, Colorado, Oklahoma

Far West - California, Washington, Oregon, Idaho, Montana, Hawaii, American Samoa

The relationship of the survey sample to the universe as a whole is as follows:

By Type of Noncommercial Educational
Television Station

ALL ETV Stations

6.69% were Public-Private Owned Stations

16.34% were State Authority Stations

Survey ETV Stations

12.96% were Public-Private Owned Stations

12.96% were State Authority Stations

By Type of Noncommercial Educational
Television Station (cont'd)

<u>All ETV Stations</u>	<u>Survey ETV Stations</u>
39.42% were College or University Owned Stations	38.89% were College or University Owned Stations
33.66% were Community Owned Stations	31.48% were Community Owned Stations
3.85% were Other Type Stations	3.70 were Other Type Stations

By Geographical Location of Educational
Television Station

<u>All ETV Stations</u>	<u>Survey ETV Stations</u>
21.15% were located in the East	31.48% were located in the East
24.04% were located in the South	12.96% were located in the South
27.88% were located in the Midwest	29.63% were located in the Midwest
11.53% were located in the Mountain-Desert region	5.6% were located in the Mountain-Desert region
16.35% were located in the Far West	20.37% were located in the Far West

Thirty-nine station managers, or 72.22% of those reporting on the survey, indicated that they had authority over but one educational television station. Six managers, or 11.11% of those reporting operated two stations each, while three, or 5.56% said that they managed 3 stations. Two or 3.70% of the reporting managers had authority over five stations. A single manager, or 1.85% said he managed six stations, while another single manager reported that he managed seven stations. Finally, each of two managers, or 3.70% of the total sample group, indicated that he had authority over

8 noncommercial, educational television stations.

The reporting managers in the survey spoke for 99 of National Educational Television's affiliated local stations in the United States, Puerto Rico, American Samoa, and the Virgin Islands, as of September 1968.

What each manager had to say in terms of the variables presented on the questionnaire is presented next. The reader is alerted to the fact that in the presentation of results, certain percentage figures of and by themselves are for such a small sample that they may be distorted. In such cases, the reader should view the "total" column.

Two figures are presented under each heading. The first figure represents the actual number of responders who replied in a given manner. The second figure is a percentage figure of the entire group category.

The Results of the National Survey on "Freedom
of Speech and the American Educational
Television Station"

QUESTIONNAIRE ITEM 1

Rationale: Freedom of speech and the press are safeguarded in the First Amendment to the United States Constitution. Educational broadcasters have a responsibility to pursue truth in what they program. The design of the first question was such that individual managers had to relate the freedom of their own station programs to present ideas to the First Amendment itself. It was hoped the results would reveal any tendency toward a lessening of freedom at the local level.

The Question: In view of the First Amendment to the Constitution and the educator's responsibility to pursue truth, do you consider that the freedom of your station's programs to present ideas, information and opinions is adequate or inadequate?

Total Responders

Adequate	47(87.04)
Inadequate	6(11.11)
Less Than Books and Same As Magazines	1(1.85)

By Type of Licensee

	<u>Public- Private</u>	<u>State</u>	<u>College- University</u>	<u>Communi- ty</u>	<u>Other</u>	<u>Total</u>
Adequate	6(85.7)	5(71.4)	19(90.5)	16(94.1)	1(50.0)	47(87.0)
Inadequate	1(14.3)	2(28.6)	2(9.5)	1(5.9)	0(0.0)	6(11.1)
Less Than Books and Same As Magazines	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(50.0)	1(1.9)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Adequate	13(76.5)	6(85.7)	15(93.8)	2(66.7)	11(100.0)	47(87.0)
Inadequate	3(17.6)	1(14.3)	1(6.3)	1(33.3)	0(0.0)	6(11.1)
Less Than Books and Same As Magazines	1(5.9)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(1.9)

Analysis of Response: Of the 54 managers who took part in the mail survey the majority, or 87.04% of the entire group, indicated that they considered the freedom of their station's

programs to present ideas, information and opinions to be "adequate". There were only 6 managers who replied by giving an "inadequate" answer. Of those 6 managers 3 were from the East.

QUESTIONNAIRE ITEM 2

Rationale: This researcher was interested in learning how managers of educational television stations viewed their broadcast freedom in comparison with the freedom accorded the print media. The matter of broadcast freedom in programming has been a much discussed issue. Nowhere, however, was this researcher able to find information indicating the views of managers of educational television stations, hence, the reason for this survey item.

The Question: How would you compare this freedom with that accorded the print media?

Total Responders

Equal To	24(44.44)
Less Than	22(40.74)
No Answer	3(5.56)
Greater Than	5(9.26)

By Type of Licensee

	<u>Public- Private</u>	<u>State</u>	<u>College- University</u>	<u>Commun- ity</u>	<u>Other</u>	<u>Total</u>
Equal To	1(14.3)	3(42.9)	10(47.6)	9(52.9)	1(50.0)	24(44.4)
Less Than	4(57.1)	3(42.9)	10(47.6)	5(29.4)	0(0.0)	22(40.7)
No Answer	1(14.3)	1(14.3)	1(4.8)	0(0.0)	0(0.0)	3(5.6)
Greater Than	1(14.3)	0(0.0)	0(0.0)	3(17.6)	1(50.0)	5(9.3)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Equal To	4(23.5)	4(57.1)	7(43.8)	1(33.3)	8(72.7)	24(44.4)
Less Than	9(52.9)	2(28.6)	7(43.8)	2(66.7)	2(18.2)	22(40.7)
No Answer	0(0.0)	1(14.3)	1(6.3)	0(0.0)	1(9.1)	3(5.6)
Greater Than	4(23.5)	0(0.0)	1(6.3)	0(0.0)	0(0.0)	5(9.3)

Analysis of Response: There was an almost equal division between the number of managers who felt their freedom to be "equal to" that accorded the print media and those who indicated it was "less than" that accorded the print.

As for responses classified by type of licensee, the same number of managers of state owned and operated stations said "equal to" and "less than" the freedom accorded the print. The same was true of managers of college-university owned stations. Ten managers said their freedom was "equal to" that of print, and 10 said "less than" that of print.

More than half of the reporting managers from the South (57.1%) said their freedom was "equal to" that accorded the print media, and almost 50% of the reporting managers from the Midwest (43.8%) reacted in a similar fashion. By geographical location, the highest percentage of managers indicating freedom "equal to" that accorded the print was 72.7%, and this percentage represented the replies from 8 managers from the Far West.

More than half of the reporting managers from the East (52.9%) indicated their freedom was "less than" that

accorded the print media. Almost 50.0% of the managers from the Midwest (43.8) reacted in the same manner.

Responses indicated no unanimity among the replies of managers.

QUESTIONNAIRE ITEM 3

Rationale: If managers of television stations take bold programming positions on socially significant topics, they must be prepared to answer to critics of such programming. This researcher was interested in learning whether managers desired more freedom if it involved greater responsibility on their parts. The hope was that the results would indicate a clear distinction between those desiring more freedom to program and those who desired no additional freedom.

The Question: Would you desire more freedom if it entailed greater responsibility on your part to make decisions and accept their consequences--yes or no?

Total Responders

Yes	31(57.41)
No	16(29.63)
No Answer	7(12.96)

By Type of Licensee

	<u>Public- Private</u>	<u>State</u>	<u>College University</u>	<u>Commun- ity</u>	<u>Other</u>	<u>Total</u>
Yes	4(57.1)	5(71.4)	12(57.1)	8(47.1)	2(100.0)	31(57.4)
No	3(42.9)	2(28.6)	6(28.6)	5(29.4)	0(0.0)	16(29.6)
No Answer	0(0.0)	0(0.0)	3(14.3)	4(23.5)	0(0.0)	7(13.0)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Yes	9(52.9)	4(57.1)	11(68.8)	1(33.3)	6(54.5)	31(57.4)
No	5(29.4)	2(28.6)	4(25.0)	1(33.3)	4(36.4)	16(29.6)
No Answer	3(17.4)	1(14.3)	1(6.3)	1(33.3)	1(9.1)	7(13.0)

Analysis of Response: Slightly more than 50.0% of the 54 reporting managers (31), expressed a desire for greater freedom to program, while 16 desired no additional freedom.

Four out of 7 managers representing public-private stations indicated that they desired greater freedom. Five out of 7 managers representing state owned stations likewise said they desired greater freedom. Twelve of 21 reporting managers of college-university owned stations expressed a similar wish, as did 8 out of 17 managers of community owned stations. There were 2 managers representing "other" type stations and each indicated a desire for additional freedom in programming.

By geographical region, Midwestern managers seemed more anxious for additional programming freedom with responsibility than managers from any other regions. Eleven of the managers reporting from the Midwest (68.8%) indicated a desire for greater freedom.

The breakdown of those wishing no more freedom was limited and scattered.

QUESTIONNAIRE ITEM 4a

Rationale: This researcher made a list of possible restrictions to freedom of programming at the local level.

He presented this list to the managers and asked for their reactions in terms of the degree to which each factor operated at the local level to keep certain programming off the airwaves.

The first such item was federal government restrictions. Motivating the placement of the item in the survey was the fact the federal government has recently shown increased interest in broadcasting by conducting certain Congressional hearings. It was the hope of this researcher that the managerial replies would indicate how much federal involvement in broadcasting limited what the local station did in programming.

The Item: Please check the degree to which the following factors operate at your station to keep off the air material which you think should be aired. List any other restrictive factors you consider significant.

a. Federal Government Laws, Regulations, and Guidelines

	<u>Total Responders</u>
Little	30(55.56)
Moderate	12(22.22)
Great	9(16.67)
No Answer	2(3.70)
None	1(1.85)

By Type of Licensee

	<u>Public-Private</u>	<u>State</u>	<u>College-University</u>	<u>Community</u>	<u>Other</u>	<u>Total</u>
Little	4(57.1)	5(71.4)	12(57.1)	8(47.1)	1(50.0)	30(55.6)
Moderate	3(42.9)	2(28.6)	1(4.8)	6(35.3)	0(0.0)	12(22.2)
Great	0(0.0)	0(0.0)	6(28.6)	2(11.8)	1(50.0)	9(16.7)
No Answer	0(0.0)	0(0.0)	2(9.5)	0(0.0)	0(0.0)	2(3.7)
None	0(0.0)	0(0.0)	0(0.0)	1(5.9)	0(0.0)	1(1.9)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/Desert</u>	<u>Far West</u>	<u>Total</u>
Little	9(52.9)	6(85.7)	8(50.0)	2(66.7)	5(45.5)	30(55.6)
Moderate	4(23.5)	0(0.0)	4(25.0)	0(0.0)	4(36.4)	12(22.2)
Great	4(23.5)	0(0.0)	3(18.8)	1(33.3)	1(9.1)	9(16.7)
No Answer	0(0.0)	1(14.3)	0(0.0)	0(0.0)	1(9.1)	2(3.7)
None	0(0.0)	0(0.0)	1(6.3)	0(0.0)	0(0.0)	1(1.9)

Analysis of Response: In responding to the degree to which federal laws, regulations and guidelines kept programming off the airwaves, slightly more than 50.0% (55.56%) of all managers gave "little" for an answer.

More so among the college-university owned stations than among other type stations federal government laws were found to be "great" as limiting factors in programming. Of the 21 managers in this college-university classification, 6 (28.6%) gave this response.

The majority of managerial replies were in the "little", "moderate" or "great" categories. The fact that 21 managers

(38.89%) found federal laws to be either a "moderate" or "great" influence in keeping programming from the airwaves indicates that a sizable number of managers do see certain federal government elements that tend to hinder what they broadcast on their individual stations.

QUESTIONNAIRE ITEM 4b

Rationale: Certain states have noncommercial television stations that operate under codes or regulations established by state legislatures or governing bodies. How much do state government regulations limit stations in terms of what they are able to program? This was the question that prompted the item about state government restrictions.

The Item:

b. State Government Restrictions (i.e.,
Enabling Acts Established by State
Legislatures)

	<u>Total Responders</u>
Little	37(68.52)
Moderate	6(11.11)
Great	5(9.26)
No Answer	2(3.70)
None	4(7.41)

	<u>By Type of Licensee</u>					
	<u>Public- Private</u>	<u>State</u>	<u>College- University</u>	<u>Communi- ty</u>	<u>Other</u>	<u>Total</u>
Little	7(100.0)	3(42.9)	13(61.9)	13(76.5)	1(50.0)	37(68.5)
Moderate	0(0.0)	1(14.3)	3(14.3)	2(11.8)	0(0.0)	6(11.1)

By Type of Licensee (cont'd)

	<u>Public- Private</u>	<u>State</u>	<u>College- University</u>	<u>Commun- ity</u>	<u>Other</u>	<u>Total</u>
Great	0(0.0)	3(42.9)	2(9.5)	0(0.0)	0(0.0)	5(9.3)
No Answer	0(0.0)	0(0.0)	2(9.5)	0(0.0)	0(0.0)	2(3.7)
None	0(0.0)	0(0.0)	1(4.8)	2(11.8)	1(50.0)	4(7.4)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Little	12(70.6)	3(42.9)	11(68.8)	3(100.0)	8(72.7)	37(68.5)
Moderate	2(11.8)	2(28.6)	1(6.3)	0(0.0)	1(9.1)	6(11.1)
Great	1(5.9)	1(14.3)	3(18.8)	0(0.0)	0(0.0)	5(9.3)
No Answer	0(0.0)	1(14.3)	0(0.0)	0(0.0)	1(9.1)	2(3.7)
None	2(11.8)	0(0.0)	1(6.3)	0(0.0)	1(9.1)	4(7.4)

Analysis of Response: The majority of those reporting (37 out of 54 managers) indicated that the degree to which state government restrictions operated to keep matter off the airwaves was "little". Thirteen managers of college-university owned stations (61.9%), and 13 of the managers of the community owned stations said "little" to restrictions by state governing bodies. All of the reporting managers representing public-private stations (7 in number) indicated "little" to state restrictions.

By geographical location, 12 of the managers from the East (70.6%), 11 from the Midwest (68.8%), and 8 from the Far West (72.7%) all gave "little" for responses to the item.

QUESTIONNAIRE ITEM 4c

Rationale: Certain broadcast stations have their own codes for broadcast programming. The attempt with the question about local station codes was to ascertain how much managers felt such codes might restrict the kind and type of programming viewed on their stations.

The Item:

c. Codes formulated by your own organization

	<u>Total Responders</u>
Little	27(50.0)
Moderate	13(24.07)
Great	7(12.96)
No Answer	3(5.56)
None	4(7.41)

	<u>By Type of Licensee</u>					
	<u>Public-Private</u>	<u>State</u>	<u>College-University</u>	<u>Community</u>	<u>Other</u>	<u>Total</u>
Little	4(57.1-)	3(42.9)	9(42.9)	11(64.7)	0(0.0)	27(50.0)
Moderate	2(28.6)	2(28.6)	7(33.3)	1(5.9)	1(50.0)	13(24.1)
Great	1(14.3)	1(14.3)	2(9.5)	3(17.6)	0(0.0)	7(13.0)
No Answer	0(0.0)	1(14.3)	2(9.5)	0(0.0)	0(0.0)	3(5.6)
None	0(0.0)	0(0.0)	1(4.8)	2(11.8)	1(50.0)	4(7.4)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Little	9(52.9)	2(28.6)	7(43.8)	1(33.3)	8(72.7)	27(50.0)
Moderate	3(17.6)	3(42.9)	4(25.0)	2(66.7)	1(9.1)	13(24.1)
Great	2(11.8)	1(14.3)	4(25.0)	0(0.0)	0(0.0)	7(13.0)
No Answer	0(0.0)	1(14.3)	1(6.3)	0(0.0)	1(9.1)	3(5.6)
None	3(17.6)	0(0.0)	0(0.0)	0(0.0)	1(9.1)	4(7.4)

Analysis of Response: While 27 managers (50.0%) gave a "little" response to the question, 20 additional managers indicated either "moderate", or "great" to the question.

The group that gave more "little" replies than anyone else was the group of managers representing community owned and operated stations. Eleven managers in that group (64.7%), gave that particular reply. Nine (42.9%) of all reporting managers in the college-university category gave a similar answer.

Slightly more than 50.0% (52.9%) of the managers reporting from the East gave a "little" response to the item about codes formulated by one's own organization. One-fourth of the managers from the Midwest indicated codes formulated by their organization were "great" as limiting factors in programming.

QUESTIONNAIRE ITEM 4d

Rationale: Much of noncommercial television has received financial stability from any number of financial sources.

A question about underwriting was included in the mail survey for purposes of determining whether individual managers felt they were limited by underwriting controls, in terms of what they programmed.

The Item:

d. Restrictions attributable to underwriters of specific programs

	<u>Total Responders</u>
Little	38(70.37)
Moderate	4(7.41)
Great	1(1.85)
No Answer	6(11.11)
None	5(9.26)

	<u>By Type of Licensee</u>					
	<u>Public-Private</u>	<u>State</u>	<u>College-University</u>	<u>Community</u>	<u>Other</u>	<u>Total</u>
Little	4(57.1)	6(85.7)	13(61.9)	14(82.4)	1(50.0)	38(70.4)
Moderate	2(28.6)	0(0.0)	1(4.8)	1(5.9)	0(0.0)	4(7.4)
Great	0(0.0)	0(0.0)	1(4.8)	0(0.0)	0(0.0)	1(1.9)
No Answer	0(0.0)	1(14.3)	4(19.0)	1(5.9)	0(0.0)	6(11.1)
None	1(14.3)	0(0.0)	2(9.5)	1(5.9)	1(50.0)	6(9.3)

	<u>By Geographical Location</u>					
	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/Desert</u>	<u>Far West</u>	<u>Total</u>
Little	12(70.6)	6(85.7)	11(68.8)	1(33.3)	8(72.7)	38(70.4)
Moderate	1(5.9)	0(0.0)	1(6.3)	1(33.3)	1(9.1)	4(7.4)

By Geographical Location (cont'd)

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Great	1(5.9)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(1.9)
No Answer	2(11.8)	0(0.0)	3(18.8)	1(33.3)	0(0.0)	6(11.1)
None	1(5.9)	1(14.3)	1(6.3)	0(0.0)	2(18.2)	6(9.3)

Analysis of Response: The majority of reporting managers, 38 in number, indicated "little" to underwriting pressure on specific programs. Four managers (7.41%), indicated that underwriting pressures were "moderate". Only one reporting manager (1.85%), indicated that underwriting restrictions were "great".

Among the community owned and operated station managers 14 (82.4%) indicated "little" in the way of underwriting pressure at their stations. Thirteen of the reporting managers representing college-university owned stations (61.9%) gave a similar reply.

As for a classification of responses by geographical location, the largest number of managers giving a "little" reply to the item was 12. These 12 were located in the East, and comprised 70.6% of all the eastern manager replies. Eleven managers from the Midwest gave similar responses (68.8% of all Midwest managerial replies).

QUESTIONNAIRE ITEM 4e

Rationale: Is the local station manager cautious of programming that might offend those who support his station? This

question prompted this researcher to include item 4e on the survey. It was hoped that the managerial replies would indicate that managers programmed in the best interests of the public and without a concern for specific station supporters.

The Item:

- e. Possible offense to a population that has influence over the general welfare of your station(s) (i.e., parents, school boards, regular viewers).

	<u>Total Responders</u>
Little	29(52.70)
Moderate	18(33.33)
Great	2(3.70)
No Answer	2(3.70)
None	3(5.56)

	<u>By Type of Licensee</u>					
	<u>Public-Private</u>	<u>State</u>	<u>College-University</u>	<u>Community</u>	<u>Other</u>	<u>Total</u>
Little	2(28.6)	2(28.6)	13(61.9)	11(64.7)	1(50.0)	29(53.7)
Moderate	5(71.4)	4(57.1)	6(28.6)	3(17.6)	0(0.0)	18(33.3)
Great	0(0.0)	1(14.3)	0(0.0)	1(5.9)	0(0.0)	2(3.7)
No Answer	0(0.0)	0(0.0)	2(9.5)	0(0.0)	0(0.0)	2(3.7)
None	0(0.0)	0(0.0)	0(0.0)	2(11.8)	1(50.0)	3(5.6)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Little	11(64.7)	3(42.9)	8(50.0)	2(66.7)	5(45.5)	29(53.7)
Moderate	3(17.6)	2(28.6)	8(50.0)	1(33.3)	4(36.4)	18(33.3)
Great	1(5.9)	1(14.3)	0(0.0)	0(0.0)	0(0.0)	2(3.7)
No Answer	0(0.0)	1(14.3)	0(0.0)	0(0.0)	1(9.1)	2(3.7)
None	2(11.8)	0(0.0)	0(0.0)	0(0.0)	1(9.1)	3(5.6)

Analysis of Response: Better than half of the reporting managers (53.70%) gave a "little" reply to the item. Eighteen managers (33.33%) indicated "moderate". Together, these two groups comprised 87.03% of all the reporting managers.

In terms of types of stations, the managers of college-university and community owned and operated stations gave more replies in the "little" category than did any of the managers of other type stations.

QUESTIONNAIRE ITEM 4f

Rationale: Numerous educational television stations are licensed to a particular educational institution. At some of these institutions alumni and trustees have a great deal of influence in terms of decisions governing the development of the particular institution. This researcher was hopeful of gaining managerial reaction to programming that might offend such individuals or groups.

The Item:

- f. Possible offense to individuals or groups that influence the institution to which your station(s) owes allegiance (i.e., alumni, board of trustees).

Total Responders

Little	31(57.41)
Moderate	12(22.22)
Great	5(9.26)
No Answer	3(5.56)
None	3(5.56)

By Type of Licensee

	<u>Public-Private</u>	<u>State</u>	<u>College-University</u>	<u>Community</u>	<u>Other</u>	<u>Total</u>
Little	4(57.1)	3(42.9)	11(52.4)	13(76.5)	0(0.0)	31(57.4)
Moderate	2(28.6)	2(28.6)	7(33.3)	0(0.0)	1(50.0)	12(22.2)
Great	1(14.3)	1(14.3)	1(4.8)	2(11.8)	0(0.0)	5(9.3)
No Answer	0(0.0)	1(14.3)	2(9.5)	0(0.0)	0(0.0)	3(5.6)
None	0(0.0)	0(0.0)	0(0.0)	2(11.8)	1(50.0)	3(5.6)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/Desert</u>	<u>Far West</u>	<u>Total</u>
Little	10(58.8)	3(42.9)	8(50.0)	3(100.0)	7(63.6)	31(57.4)
Moderate	3(17.6)	3(42.9)	5(31.3)	0(0.0)	1(9.1)	12(22.2)
Great	2(11.8)	0(0.0)	2(12.5)	0(0.0)	1(9.1)	5(9.3)
No Answer	0(0.0)	1(14.3)	1(6.3)	0(0.0)	1(9.1)	3(5.6)
None	2(11.8)	0(0.0)	0(0.0)	0(0.0)	1(9.1)	3(5.6)

Analysis of Response: More than half of all respondents (57.41%) indicated "little" to the item. Twelve managers (22.22%) gave a "moderate" reply.

By type of licensee, the largest number of managers giving a "little" response was 13. These 13 managers represented

community owned and operated stations (76.5% of them). Eleven college-university respondents (52.4%) gave a similar reaction.

Ten eastern managers (58.8%) indicated "little" to the item, as did 8 managers (50.0%) representing stations from the Midwest.

QUESTIONNAIRE ITEM 4g

Rationale: Is the support of the majority of the community sufficiently important to the local manager that he would keep certain programming off the airwaves, for fear of offending that majority? The desire to seek a partial answer to this prompted this next survey item. It was hoped that the information obtained would reveal that station managers were not so concerned about the majority that they would keep certain programs off the airwaves.

The Item:

f. Desire to maintain the support of the majority of the community.

	<u>Total Responders</u>
Little	32(59.26)
Moderate	13(24.07)
Great	3(5.56)
No Answer	3(5.56)
None	3(5.56)

By Type of Licensee

	<u>Public-Private</u>	<u>State</u>	<u>College-University</u>	<u>Community</u>	<u>Other</u>	<u>Total</u>
Little	3(42.9)	4(57.1)	14(66.7)	10(58.8)	1(50.0)	32(59.3)
Moderate	3(42.9)	3(42.9)	5(23.8)	2(11.8)	0(0.0)	13(24.1)
Great	1(14.3)	0(0.0)	0(0.0)	2(11.8)	0(0.0)	3(5.6)
No Answer	0(0.0)	0(0.0)	2(9.5)	1(5.9)	0(0.0)	3(5.6)
None	0(0.0)	0(0.0)	0(0.0)	2(11.8)	1(50.0)	3(5.6)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/Desert</u>	<u>Far West</u>	<u>Total</u>
Little	11(64.7)	4(57.1)	12(75.0)	2(66.7)	3(27.3)	32(59.3)
Moderate	1(5.9)	2(28.6)	3(18.8)	1(33.3)	6(54.5)	13(24.1)
Great	2(11.8)	0(0.0)	1(6.3)	0(0.0)	0(0.0)	3(5.6)
No Answer	1(5.9)	1(14.3)	0(0.0)	0(0.0)	1(9.1)	3(5.6)
None	2(11.8)	0(0.0)	0(0.0)	0(0.0)	1(9.1)	3(5.6)

Analysis of Response: An analysis of responses indicates that managers were not so anxious to please the majority that they would keep certain type programming from the public. Of those giving a "little" response to the matter of offending the majority, 14 managers (66.7%) represented college-university stations and 10 managers (58.8%) represented community owned and operated stations.

QUESTIONNAIRE ITEM 4h

Rationale: Having worked as a program administrator in educational television, this researcher often had personal

convictions about educational television programming. He always made an attempt not to allow personal convictions to dictate whether a program was broadcast or not. What of managers around the United States? To what extent did their own personal convictions influence what was broadcast? It was hoped that the following question would reveal a partial answer.

The Item:

h. Personal convictions of station administrators.

Total Responders

Little	34(62.96)
Moderate	6(11.11)
Great	8(14.81)
No Answer	3(5.56)
None	3(5.56)

By Type of Licensee

	<u>Public- Private</u>	<u>State</u>	<u>College- University</u>	<u>Communi- ty</u>	<u>Other</u>	<u>Total</u>
Little	3(42.9)	5(71.4)	13(61.9)	12(70.6)	1(50.0)	34(63.0)
Moderate	3(42.9)	0(0.0)	2(9.5)	1(5.9)	0(0.0)	6(11.1)
Great	1(14.3)	2(28.6)	4(19.0)	1(5.9)	0(0.0)	8(14.8)
No Answer	0(0.0)	0(0.0)	2(9.5)	1(5.9)	0(0.0)	3(5.6)
None	0(0.0)	0(0.0)	0(0.0)	2(11.8)	1(50.0)	3(5.6)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Little	14(82.4)	2(28.6)	10(62.5)	1(33.3)	7(63.6)	34(63.0)
Moderate	0(0.0)	1(14.3)	3(18.8)	1(33.3)	1(9.1)	6(11.1)
Great	1(5.9)	3(42.9)	2(12.5)	1(33.3)	1(9.1)	8(14.8)
No Answer	1(5.9)	1(14.3)	0(0.0)	0(0.0)	1(9.1)	3(5.6)
None	1(5.9)	0(0.0)	1(6.3)	0(0.0)	1(9.1)	3(5.6)

Analysis of Response: Of the reporting managers, 62.9% indicated "little" involvement of personal convictions in the decision to broadcast or not to broadcast certain programs. Eight managers (14.81%) said that personal convictions did, indeed, play a "great" role in the determination of what was broadcast. Of the 8 managers, 3 were from the South, while 2 were from the Midwest and one each from the East, Mountain/Desert area and the Far West.

QUESTIONNAIRE ITEM 4i

Rationale: A station manager has the welfare of his own staff members to consider. It was felt by this researcher that some local managers might be sufficiently concerned about their own staff that they would hesitate to allow programming to be broadcast that might endanger sources of funding and thereby the individuals working at their station. The question item was designed in the hope of gaining a positive managerial reaction.

The Item:

i. Job security concerns of staff members or spokesmen.

Total Responders

Little	47(87.04)
Moderate	1(1.85)
Great	0(0.0)
No Answer	3(5.56)
None	3(5.56)

By Type of Licensee

	<u>Public- Private</u>	<u>State</u>	<u>College- University</u>	<u>Communi- ty</u>	<u>Other</u>	<u>Total</u>
Little	7(100.0)	7(100.0)	18(85.7)	14(82.4)	1(50.0)	47(87.0)
Moderate	0(0.0)	0(0.0)	1(4.8)	0(0.0)	0(0.0)	1(1.9)
Great	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
No Answer	0(0.0)	0(0.0)	2(9.5)	1(5.9)	0(0.0)	3(5.6)
None	0(0.0)	0(0.0)	0(0.0)	2(11.8)	1(50.0)	3(5.6)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Little	15(88.2)	6(85.7)	15(93.8)	3(100.0)	8(72.7)	47(87.0)
Moderate	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(9.1)	1(1.9)
Great	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
No Answer	1(5.9)	1(14.3)	0(0.0)	0(0.0)	1(9.1)	3(5.6)
None	1(5.9)	0(0.0)	1(6.3)	0(0.0)	1(9.1)	3(5.6)

Analysis of Response: Most reporting managers, 47, gave a "little" response to the item. Only one manager indicated it to be a "moderate" point of consideration in what was broadcast.

The meaning of the responses given to this item would be that the majority of the reporting managers did not withhold programming for fear of jeopardizing the job security of staff members.

QUESTIONNAIRE ITEM 4j

Rationale: This researcher was interested in learning about the presentation of two-sided questions on educational television. One particular aspect of such programming that was of special interest was the matter of the availability of spokesmen to present both sides of issues.

Two sides are needed to present issues fairly. Was a lack of spokesmen a real issue at the local level? The next survey item sought to gain a partial answer.

The Item:

j. Spokesmen not available for all sides of the question.

	<u>Total Responders</u>
Little	22(40.74)
Moderate	21(38.89)
Great	7(12.96)
No Answer	3(5.56)
None	1(1.85)

By Type of Licensee

	<u>Public-Private</u>	<u>State</u>	<u>College-University</u>	<u>Community</u>	<u>Other</u>	<u>Total</u>
Little	3(42.9)	4(57.1)	8(38.1)	6(35.3)	1(50.0)	22(40.7)
Moderate	3(42.9)	0(0.0)	9(42.9)	8(47.1)	1(50.0)	21(38.9)
Great	0(0.0)	3(42.9)	2(9.5)	2(11.8)	0(0.0)	7(13.0)
No Answer	1(14.3)	0(0.0)	2(9.5)	0(0.0)	0(0.0)	3(5.6)
None	0(0.0)	0(0.0)	0(0.0)	1(5.9)	0(0.0)	1(1.9)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/Desert</u>	<u>Far West</u>	<u>Total</u>
Little	8(47.1)	2(28.6)	6(37.5)	1(33.3)	5(45.5)	22(40.7)
Moderate	7(41.2)	2(28.6)	6(37.5)	2(66.7)	4(36.4)	21(38.9)
Great	2(11.8)	1(14.3)	3(18.8)	0(0.0)	1(9.1)	7(13.0)
No Answer	0(0.0)	2(28.6)	0(0.0)	0(0.0)	1(9.1)	3(5.6)
None	0(0.0)	0(0.0)	1(6.3)	0(0.0)	0(0.0)	1(1.9)

Analysis of Response: While 22 managers (40.74%) indicated "little" problem in gaining spokesmen, an almost equal number of managers, 21, comprising 38.89% of the entire group of managers, indicated lack of spokesmen as a "moderate" problem. Seven managers (12.96%) indicated the inability to secure spokesmen was "great" at their stations.

The meaning of the responses is that the spokesmen question is a very real one in educational television.

QUESTIONNAIRE ITEM 4k

Rationale: In order to present various sides to controversial

issues, broadcast time must be available. All educational television stations have their own local programming commitments, whether to schools or other special audiences. This researcher wished to determine whether stations were so committed to ongoing programs that adequate air time might be a problem in the broadcasting of controversial matters. It was hoped he would gain an overview from the question directed to managers.

The Item:

- k. Insufficient air time to present the material with desired thoroughness.

	<u>Total Responders</u>
Little	31(57.41)
Moderate	14(25.93)
Great	5(9.26)
No Answer	3(5.56)
None	1(1.85)

	<u>By Type of Licensee</u>					
	<u>Public-Private</u>	<u>State</u>	<u>College-University</u>	<u>Community</u>	<u>Other</u>	<u>Total</u>
Little	3(42.9)	4(57.1)	13(61.9)	11(64.7)	0(0.0)	31(57.4)
Moderate	1(14.3)	2(28.6)	4(19.0)	6(35.3)	1(50.0)	14(25.9)
Great	2(28.6)	1(14.3)	2(9.5)	0(0.0)	0(0.0)	5(9.3)
No Answer	1(14.3)	0(0.0)	2(9.5)	0(0.0)	0(0.0)	3(5.6)
None	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(50.0)	1(1.9)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Little	10(58.8)	4(57.1)	9(56.3)	3(100.0)	5(45.5)	31(57.4)
Moderate	5(29.4)	1(14.3)	4(25.0)	0(0.0)	4(36.4)	14(25.9)
Great	1(5.9)	0(0.0)	3(18.8)	0(0.0)	1(9.1)	5(9.3)
No Answer	0(0.0)	2(28.6)	0(0.0)	0(0.0)	1(9.1)	3(5.6)
None	1(5.9)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(1.9)

Analysis of Response: More than half of the reporting managers (57.41%) gave the opinion that lack of air time was of "little" consequence in the broadcasting of controversial subjects. More than one-fourth of all reporting managers (14) indicated that lack of sufficient air time was of "moderate" concern to them, while 5 managers (9.26%) said that lack of adequate air time was a "great" factor in keeping certain programming from the airwaves.

The matter of insufficient air time, while not an acute problem for many managers, presented itself as a factor at some stations.

QUESTIONNAIRE ITEM 4b

Rationale: Children comprise another part of the educational television audience. They have their own educational television programs to view, such as Friendly Giant and What's New? As children are a part of the overall audience for educational television, should they be protected from material suitable only for adults? This question was directed to the

managers with the hope that a partial answer might be obtained.

The Item:

ℓ. Children should be protected from material suitable only for adults.

Total Responders

Little	33(61.11)
Moderate	11(20.37)
Great	4(7.41)
No Answer	6(11.11)
None	0(0.0)

By Type of Licensee

	<u>Public- Private</u>	<u>State</u>	<u>College- University</u>	<u>Communi- ty</u>	<u>Other</u>	<u>Total</u>
Little	4(57.1)	5(71.4)	11(52.4)	12(70.6)	1(50.0)	33(61.1)
Moderate	2(28.6)	2(28.6)	6(28.6)	1(5.9)	0(0.0)	11(20.4)
Great	1(14.3)	0(0.0)	1(4.8)	1(5.9)	1(50.0)	4(7.4)
No Answer	0(0.0)	0(0.0)	3(14.3)	3(17.6)	0(0.0)	6(11.1)
None	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Little	11(64.7)	4(57.1)	10(62.5)	1(33.3)	7(63.6)	33(61.1)
Moderate	2(11.8)	2(28.6)	3(18.8)	1(33.3)	3(27.3)	11(20.4)
Great	1(5.9)	0(0.0)	2(12.5)	1(33.3)	0(0.0)	4(7.4)
No Answer	3(17.6)	1(14.3)	1(6.3)	0(0.0)	1(9.1)	6(11.1)
None	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)

Analysis of Response: More than half (61.11%) of all reporting managers indicated that children being protected from material suitable only for adults was of "little" matter in terms of what they programmed overall. Slightly more than 20.0% of the reporting managers (20.37%) said it was a "moderate" factor at their station.

The meaning of the responses would seem to be that the managers surveyed do not feel that adult programming should be kept off the airwaves for fear of children watching.

QUESTIONNAIRE ITEM 4m

Rationale: This researcher was interested in learning from managers their reactions to educational television programs possibly being withheld from public showing for fear of misunderstanding by audience members. Prompting the inquiry was the knowledge that audiences for educational television do differ throughout the United States.

The Item:

- m. Program material may be misunderstood by audience members not sufficiently educated to regard it in the manner intended.

	<u>Total Responders</u>
Little	41(75.93)
Moderate	8(14.81)
Great	0(0.0)
No Answer	4(7.41)
None	1(1.85)

By Type of Licensee

	<u>Public Private</u>	<u>State</u>	<u>College- University</u>	<u>Commun- ity</u>	<u>Other</u>	<u>Total</u>
Little	5(71.4)	5(71.4)	16(76.2)	13(76.5)	2(100.0)	41(75.9)
Moderate	2(28.6)	2(28.6)	3(14.3)	1(5.9)	0(0.0)	8(14.8)
Great	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
No Answer	0(0.0)	0(0.0)	2(9.5)	2(11.8)	0(0.0)	4(7.4)
None	0(0.0)	0(0.0)	0(0.0)	1(5.9)	0(0.0)	1(1.9)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Little	15(88.2)	4(57.1)	13(81.5)	3(100.0)	6(54.5)	41(75.9)
Moderate	1(5.9)	2(28.6)	2(12.5)	0(0.0)	3(27.3)	8(14.8)
Great	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
No Answer	1(5.9)	1(14.3)	1(6.3)	0(0.0)	1(9.1)	4(7.4)
None	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(9.1)	1(1.9)

Analysis of Response: Managerial response showed clearly that the majority were of the opinion that withholding programs on the basis of possible misunderstanding by audiences was not a major factor in programming decisions.

Only 8 managers felt that this was even a "moderate" factor in programming at their respective stations.

QUESTIONNAIRE ITEM 4n

Rationale: In writing items for the mail survey, this researcher did not attempt to list all possible restrictions to programming at the local level. Rather, he sought to

provide opportunity for each manager to indicate whether "other" restrictive factors operated at the local station. This next survey item was included for purposes of learning how much "other" factors operated at each station.

The Item:

n. Other restrictive factors.

	<u>Total Responders</u>
Little	13(24.07)
Moderate	0(0.0)
Great	6(11.11)
No Answer	35(64.81)
None	0(0.0)

	<u>By Type of Licensee</u>					
	<u>Public Private</u>	<u>State</u>	<u>College- University</u>	<u>Commun- ity</u>	<u>Other</u>	<u>Total</u>
Little	3(42.9)	0(0.0)	4(19.0)	5(29.4)	1(50.0)	13(24.1)
Moderate	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Great	1(14.3)	1(14.2)	4(19.0)	0(0.0)	0(0.0)	6(11.1)
No Answer	3(42.9)	6(85.7)	13(61.9)	12(70.6)	1(50.0)	35(64.8)
None	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)

	<u>By Geographical Location</u>					
	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Little	4(23.5)	2(28.6)	4(25.0)	1(33.3)	2(18.2)	13(24.1)
Moderate	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Great	1(5.9)	1(14.3)	2(12.5)	0(0.0)	2(18.2)	6(11.1)

By Geographical Location (cont'd)

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
No Answer	12(70.6)	4(57.1)	10(62.5)	2(66.7)	7(63.6)	35(64.8)
None	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)

Analysis of Response: Of interest is the fact that a large number of managers chose not to respond to this item. In fact, 35 managers (64.81%) did not respond. The largest total figure of managerial replies was 13. These 13 managers (24.07%) indicated their reaction to the survey item by checking "little".

QUESTIONNAIRE ITEM 5

Rationale: This researcher was interested in gaining information that would reveal what principles managers used in avoiding certain kinds of programs. Were there station policies or other local restrictions? Item 5 was an attempt to gain specifics.

The Question: What principles guide your avoidance of certain kinds of program content? (Content analysis of responses and coding by category.)

	<u>Total Responders</u>
Just Judgment	16(29.63)
Station Policies	16(29.63)
Codes	3(5.56)
No Answer	13(24.07)

Total Responders (cont'd)

State Restrictions	2(3.70)
Avoid Producing "Light" Programs	3(5.56)
Structure of the Station Itself	1(1.85)

By Type of Licensee

	<u>Public- Private</u>	<u>State</u>	<u>College- University</u>	<u>Communi- ty</u>	<u>Other</u>	<u>Total</u>
Just Judgment	3(42.9)	1(14.3)	8(38.1)	4(23.5)	0(0.0)	16(29.6)
Station Policies	1(14.3)	2(28.6)	8(38.1)	5(29.4)	0(0.0)	16(29.6)
Codes	1(14.3)	0(0.0)	0(0.0)	2(11.8)	0(0.0)	3(5.6)
No Answer	2(28.6)	2(28.6)	3(14.3)	4(23.5)	2(100.0)	13(24.1)
State Restrictions	0(0.0)	2(28.6)	0(0.0)	0(0.0)	0(0.0)	2(3.7)
Avoid Producing "Light" Programs	0(0.0)	0(0.0)	1(4.8)	2(11.8)	0(0.0)	3(5.6)
Structure of the Station Itself	0(0.0)	0(0.0)	1(4.8)	0(0.0)	0(0.0)	1(1.9)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Just Judgment	5(29.4)	2(28.6)	6(37.5)	0(0.0)	3(27.3)	16(29.6)
Station Policies	4(23.5)	2(28.6)	5(31.3)	1(33.3)	4(36.4)	16(29.6)
Codes	1(5.9)	0(0.0)	2(12.5)	0(0.0)	0(0.0)	3(5.6)
No Answer	6(35.3)	2(28.6)	3(18.8)	1(33.3)	1(9.1)	13(24.1)

By Geographical Location (cont'd)

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
State Re- strictions	0(0.0)	1(14.3)	0(0.0)	0(0.0)	1(9.1)	2(3.7)
Avoid Pro- ducing "Light" Programs	1(5.9)	0(0.0)	0(0.0)	0(0.0)	2(18.2)	3(5.6)
Structure of the Station Itself	0(0.0)	0(0.0)	0(0.0)	1(33.3)	0(0.0)	1(1.9)

Analysis of Response: Of the 54 managers who completed the survey, an equal number, 16, said either "just judgment" or "station policies". That so many listed only "just judgment", rather than specific guidelines, came as somewhat of a surprise.

State restrictions were less of a restricting factor than the researcher might have expected. Only two managers indicated that such type restrictions caused them to avoid certain kinds of programming.

QUESTIONNAIRE ITEM 6

Rationale: At the time the mail survey was conducted certain periodical articles were being published that described the Public Broadcast Act of 1967 and the provision that educational television stations be denied the right to editorialize. In asking managers to react to such a ban it was hoped that their replies would be sufficiently positive that an overview could be obtained.

The Question: What are your reactions to the prohibition of editorializing by the Public Broadcast Act of 1967?

(Content analysis of responses and coding by category.)

	<u>Total Responders</u>
Extremely Favorable	3(5.56)
Favorable	15(27.78)
Neutral--No Opinion	3(5.56)
Against	18(33.33)
Extremely Against	8(14.81)
No Answer	5(9.26)
Community Stations Should Not Editorialize	1(1.85)
Against It and Want It Changed Drastically	1(1.85)

	<u>By Type of Licensee</u>					
	<u>Public-Private</u>	<u>State</u>	<u>College-University</u>	<u>Community</u>	<u>Other</u>	<u>Total</u>
Extremely Favorable	0(0.0)	0(0.0)	2(9.5)	1(5.9)	0(0.0)	3(5.6)
Favorable	1(14.3)	3(42.9)	4(19.0)	6(35.3)	1(50.0)	15(27.8)
Neutral--No Opinion	0(0.0)	1(14.3)	2(9.5)	0(0.0)	0(0.0)	3(5.6)
Against	3(42.9)	3(42.9)	7(33.3)	5(29.4)	0(0.0)	18(33.3)
Extremely Against	2(28.6)	0(0.0)	5(23.8)	0(0.0)	1(50.0)	8(14.8)
No Answer	1(14.3)	0(0.0)	1(4.8)	3(17.6)	0(0.0)	5(9.3)
Community Stations Should Not Editorialize	0(0.0)	0(0.0)	0(0.0)	1(5.9)	0(0.0)	1(1.9)

By Type of Licensee (cont'd)

	<u>Public- Private</u>	<u>State</u>	<u>College- University</u>	<u>Commun- ity</u>	<u>Other</u>	<u>Total</u>
Against It and Want It Changed Drastically	0(0.0)	0(0.0)	0(0.0)	1(5.9)	0(0.0)	1(1.9)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Extremely Favorable	1(5.9)	2(28.6)	0(0.0)	0(0.0)	0(0.0)	3(5.6)
Favorable	6(35.3)	2(28.6)	5(31.3)	0(0.0)	2(18.2)	15(27.8)
Neutral- No Opinion	0(0.0)	1(14.3)	0(0.0)	1(33.3)	1(9.1)	3(5.6)
Against	5(29.4)	1(14.3)	6(37.5)	1(33.3)	5(45.5)	18(33.3)
Extremely Against	1(5.9)	1(14.3)	5(31.3)	0(0.0)	1(9.1)	8(14.8)
No Answer	3(17.6)	0(0.0)	0(0.0)	1(33.3)	1(9.1)	5(9.3)
Community Stations Should Not Editorialize	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(9.1)	1(1.9)
Against It and Want It Changed Drastically	1(5.9)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(1.9)

Analysis of Response: There was a strong difference of opinion among managers as to the editorializing ban. Three managers found it to be "extremely favorable" and 15 more said it was "favorable". An almost equal number of managers, 26, were either "against" or "extremely against" the prohibition.

Of those "favorable" to the ban, 6 were from community owned and operated stations, 4 from college-university owned stations, and 3 from state owned stations. Of those "against" the ban, 7 were from college-university stations, and 5 from community owned stations.

Managers of the college-university owned stations represented the largest number "extremely against" the ban. Five managers in this classification responded in this manner.

There is no unanimity among managers as to the editorializing ban.

QUESTIONNAIRE ITEM 7

Rationale: The Public Broadcast Act prohibits editorializing on educational television but what other restrictions might prevent a station from such programming? Seeking an answer to this question prompted the next survey item. It was the hope of the researcher that the managers might enumerate various restrictions for review.

The Question: Apart from this Act, what other regulations or policies would prevent you from editorializing? (Content analysis of responses and coding by category.)

	<u>Total Responders</u>
Structure of the Station and Its Policies	1(1.85)
Government Restrictions	4(7.41)
Staff Limitations	2(3.70)

Total Responders (cont'd)

None Exist	13(24.07)
Common Sense	7(12.96)
Finding Competent Spokesmen	27(50.00)

By Type of Licensee

	<u>Public- Private</u>	<u>State</u>	<u>College- University</u>	<u>Commun- ity</u>	<u>Other</u>	<u>Total</u>
Structure of the Sta- tion and Its Policies	0(0.0)	0(0.0)	1(4.8)	0(0.0)	0(0.0)	1(1.9)
Government Restrictions	0(0.0)	1(14.3)	1(4.8)	2(11.8)	0(0.0)	4(7.4)
Staff Limi- tations	0(0.0)	0(0.0)	1(4.8)	1(5.9)	0(0.0)	2(3.7)
None Exist	3(42.9)	1(14.3)	4(19.0)	4(23.5)	1(50.0)	13(24.1)
Common Sense	1(14.3)	0(0.0)	4(19.0)	2(11.8)	0(0.0)	7(13.0)
Finding Competent Spokesmen	3(42.9)	5(71.4)	10(47.6)	8(47.1)	1(50.0)	27(50.0)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Structure of the Sta- tion and Its Policies	0(0.0)	0(0.0)	1(6.3)	0(0.0)	0(0.0)	1(1.9)
Government Restrictions	0(0.0)	2(28.6)	1(6.3)	0(0.0)	1(9.1)	4(7.4)
Staff Limi- tations	1(5.9)	0(0.0)	1(6.3)	0(0.0)	0(0.0)	2(3.7)
None Exist	3(17.6)	1(14.3)	6(37.5)	0(0.0)	3(27.3)	13(24.1)

By Geographical Location (cont'd)

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Common Sense	2(11.8)	1(14.3)	1(6.3)	2(66.7)	1(9.1)	7(13.0)
Finding Competent Spokesmen	11(64.7)	3(42.9)	6(37.5)	1(33.3)	6(54.5)	27(50.0)

Analysis of Response: While there is no way to determine how much local managers had sought out spokesmen, "finding competent spokesmen" was noted by exactly 50.0% of the managers as being a restriction.

Almost one-fourth of all the reporting managers (24.07%) indicated that apart from the Public Broadcast Act, no restrictions existed at their stations to prevent them from editorializing.

The managerial responses indicate that a number of educational television stations have no restrictions that would prevent editorializing. Finding competent spokesmen is one important factor in preventing other stations from editorializing.

QUESTIONNAIRE ITEM 8

Rationale: This researcher was interested in learning the types of political broadcasting allowed at local stations. Prompting the inclusion of the item in the survey was the researcher's own work in the State of Maine Educational Television Network, where an Enabling Act prevented the use of educational television by state or local political candidates.

The Question: To what extent do you permit political broadcasting, as provided for in Section 315 of the Communications Act? (Content analysis of responses and coding by category.)

	<u>Total Responders</u>
Not At All	4(7.41)
National Candidates	2(3.70)
State Candidates	2(3.70)
Local Candidates	0(0.00)
National-State Candidates	4(7.41)
State-Local Candidates	10(18.52)
National, State, Local Candidates	32(59.26)

	<u>By Type of Licensee</u>					
	<u>Public- Private</u>	<u>State</u>	<u>College- University</u>	<u>Commun- ity</u>	<u>Other</u>	<u>Total</u>
Not At All	0(0.0)	2(28.6)	2(9.5)	0(0.0)	0(0.0)	4(7.4)
National Candidates	0(0.0)	2(28.6)	0(0.0)	0(0.0)	0(0.0)	2(3.7)
State Can- didates	0(0.0)	0(0.0)	1(4.8)	0(0.0)	1(50.0)	2(3.7)
Local Can- didates	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
National & State Cand.	0(0.0)	1(14.3)	1(4.8)	1(5.9)	1(50.0)	4(7.4)
State- Local Cand.	1(14.3)	0(0.0)	5(23.8)	4(23.5)	0(0.0)	10(18.5)
National, State, Local Candidates	6(85.7)	2(28.6)	12(57.1)	12(70.6)	0(0.0)	32(59.3)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Not At All	1(5.9)	2(28.6)	1(6.3)	0(0.0)	0(0.0)	4(7.4)
National Candidates	0(0.0)	2(28.6)	0(0.0)	0(0.0)	0(0.0)	2(3.7)
State Candidates	1(5.9)	0(0.0)	1(6.3)	0(0.0)	0(0.0)	2(3.7)
Local Candidates	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
National & State Candidates	1(5.9)	1(14.3)	2(12.5)	0(0.0)	0(0.0)	4(7.4)
State-Local Candidates	4(23.5)	1(14.3)	3(18.8)	1(33.3)	1(0.1)	10(18.5)
National, State, Local Candidates	10(58.8)	1(14.3)	9(56.3)	2(66.7)	10(90.0)	32(59.3)

Analysis of Response: More than half of the 54 managers (32) indicated that they permitted national, state, and local political candidates on their stations, while an additional 10 managers indicated that they allowed state and local candidates on their educational stations.

Analysis of responses reveals that the majority of reporting stations do allow for the expression of ideas by political candidates, whether they be local, state, or national figures. Only 7.41% of all reporting managers indicated that they did not allow any form of political broadcasting on their stations.

QUESTIONNAIRE ITEM 9

Rationale: Under the provisions of Canon 35, television cameras are not allowed in the courtroom. This researcher wished to determine whether managers were of the opinion that educational television stations should have access to courtrooms for the telecasting of trials. It was hoped that clear "yes" and "no" answers might reveal a possible trend.

The Question: With reference to Canon 35, should ETV stations have access to courtrooms for the telecasting of court trials? (Content analysis of responses and coding by category.)

	<u>Total Responders</u>
Yes	26(48.15)
No	17(31.48)
No Answer	8(14.81)
It Doesn't Really Matter	1(1.85)
No Opinion	1(1.85)
Sometimes	1(1.85)

	<u>By Type of Licensee</u>					
	<u>Public-Private</u>	<u>State</u>	<u>College-University</u>	<u>Community</u>	<u>Other</u>	<u>Total</u>
Yes	2(28.8)	3(42.9)	10(47.6)	10(58.8)	1(50.0)	26(48.1)
No	3(42.9)	4(57.1)	6(28.6)	3(17.6)	1(50.0)	17(31.5)
No Answer	1(14.3)	0(0.0)	4(19.0)	3(17.6)	0(0.0)	8(14.8)
It Doesn't Really Matter	1(14.3)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(1.9)
No Opinion	0(0.0)	0(0.0)	0(0.0)	1(5.9)	0(0.0)	1(1.9)
Sometimes	0(0.0)	0(0.0)	1(4.8)	0(0.0)	0(0.0)	1(1.9)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Yes	9(52.9)	3(42.9)	8(50.0)	1(33.3)	5(45.5)	26(48.1)
No	4(23.5)	4(57.1)	4(25.0)	1(33.3)	4(36.4)	17(31.5)
No Answer	2(11.8)	0(0.0)	3(18.8)	1(33.3)	2(18.2)	8(14.8)
It Doesn't Really Matter	0(0.0)	0(0.0)	1(6.3)	0(0.0)	0(0.0)	1(1.9)
No Opinion	1(5.9)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(1.9)
Sometimes	1(5.9)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(1.9)

Analysis of Response: Almost half of the reporting managers, 26, were of the opinion that access should be allowed for purposes of televising, while 17 additional managers said that such access should not be allowed.

Of special interest is the fact that as many as 8 managers gave no answer to the question.

Of the largest number of managerial replies in the various categories, 10 managers of college-university owned stations and 10 managers of community owned stations indicated that educational television stations should have access to courtrooms. Of those saying "no", 6 managers represented college-university owned stations.

More managers from the East and Midwest than from any other geographical regions gave "yes" replies to the question.

QUESTIONNAIRE ITEM 10

Rationale: There was a question in this researcher's mind

as to whether any educational television stations had ever televised proceedings from a courtroom, perhaps with special court permission. The responses to the item provided a definite answer.

The Question: Has your station ever broadcast direct proceedings from a courtroom?

Total Responders

Yes	0(0.0)
No	53(98.15)
No Answer	1(1.85)

By Type of Licensee

	<u>Public- Private</u>	<u>State</u>	<u>College- University</u>	<u>Communi- ty</u>	<u>Other</u>	<u>Total</u>
Yes	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
No	7(100.0)	7(100.0)	21(100.0)	16(94.1)	2(100.0)	53(98.1)
No Answer	0(0.0)	0(0.0)	0(0.0)	1(5.9)	0(0.0)	1(1.9)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Yes	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
No	17(100.0)	7(100.0)	15(93.8)	3(100.0)	11(100.0)	53(98.1)
No Answer	0(0.0)	0(0.0)	1(6.3)	0(0.0)	0(0.0)	1(1.9)

Analysis of Response: Of 54 managers replying to the survey items, 53 indicated their stations had never broadcast direct proceedings from a courtroom. One manager gave "no answer".

Reactions to the question indicate that courtroom television would be a new programming area for educational television broadcasters if and when cameras are ever allowed to televise trials.

QUESTIONNAIRE ITEM 11

Rationale: A speculative question was next presented to managers for their comment. This researcher formed the question thinking of the time when perhaps educational television cameras might be allowed into the courtroom. It was hoped that a variety of types of trials would be listed by managers.

The Question: If permitted, what kinds of courtroom proceedings would you televise, if any? (Classification and coding or responses.)

	<u>Total Responders</u>
Civil Cases	3(5.56)
Constitutional Questions and Cases of an Educational Nature	2(3.70)
No Answer	11(20.37)
None	21(38.89)
Grand Jury Inquiry Cases	2(3.70)
General Interest Cases Only	14(25.93)
Don't Know	1(1.85)

By Type of Licensee

	<u>Public-Private</u>	<u>State</u>	<u>College-University</u>	<u>Community</u>	<u>Other</u>	<u>Total</u>
Civil Cases	0(0.0)	1(14.3)	0(0.0)	1(5.9)	1(50.0)	3(5.6)
Constitutional Questions and Cases of an Educational Nature	0(0.0)	0(0.0)	1(4.8)	1(5.9)	0(0.0)	2(3.7)
No Answer	1(14.3)	0(0.0)	7(33.3)	3(17.6)	0(0.0)	11(20.4)
None	4(57.1)	4(57.1)	7(33.3)	5(29.4)	1(50.0)	21(38.9)
Grand Jury Inquiry Cases	1(14.3)	0(0.0)	1(4.8)	0(0.0)	0(0.0)	2(3.7)
General Interest Cases Only	1(14.3)	2(28.6)	5(23.8)	6(35.3)	0(0.0)	14(25.9)
Don't Know	0(0.0)	0(0.0)	0(0.0)	1(5.9)	0(0.0)	1(1.9)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/Desert</u>	<u>Far West</u>	<u>Total</u>
Civil Cases	2(11.8)	1(14.3)	0(0.0)	0(0.0)	0(0.0)	3(5.6)
Constitutional Questions and Cases of an Educational Nature	1(5.9)	0(0.0)	1(6.3)	0(0.0)	0(0.0)	2(3.7)
No Answer	1(5.9)	2(28.6)	3(18.8)	1(33.3)	4(36.4)	11(20.4)
None	7(41.2)	4(57.1)	5(31.3)	0(0.0)	5(45.5)	21(38.9)
Grand Jury Inquiry Cases	0(0.0)	0(0.0)	1(6.3)	1(33.3)	0(0.0)	2(3.7)

By Geographical Location (cont'd)

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
General Interest Cases Only	5(29.4)	0(0.0)	6(37.5)	1(33.3)	2(18.2)	14(25.9)
Don't Know	1(5.9)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(1.9)

Analysis of Response: A large number of managers, 21, indicated that they would do no televising from courtrooms, even if allowed. The questionnaire item did not probe reasons.

As for types of cases noted by managers, 25.93% of all reporting managers indicated that they would be most interested in the possibility of televising "general interest cases only." This figure included the replies of 6 managers from community owned and operated stations and 5 managers from college-university owned stations.

Station representatives from the Midwest and East were most interested in "general interest cases only."

Of note is the fact that only 21 of 54 reporting managers listed specific type courtroom proceedings they would televise, if allowed to do so.

QUESTIONNAIRE ITEM 12

Rationale: The Fairness Doctrine imposes certain obligations upon broadcasters to operate "in the public interest, convenience and necessity." This researcher was interested in learning how educational television managers implemented the provisions of the doctrine if and when they became involved in the programming of controversial issues.

This researcher hoped to gain a listing of ways in which the local station management sought to maintain fairness in programming.

The Question: In your programming, in what ways do you implement the Fairness Doctrine? (Classification and coding of responses.)

	<u>Total Responders</u>
Literal Interpretation	43(79.62)
No Answer	1(1.85)
Station Policy Dictates	5(9.26)
State Boards & Other Governing Boards	2(3.70)
Not At All	3(5.56)

	<u>By Type of Licensee</u>					
	<u>Public-Private</u>	<u>State</u>	<u>College-University</u>	<u>Community</u>	<u>Other</u>	<u>Total</u>
Literal Interpretation	4(57.1)	6(85.7)	17(80.95)	14(82.4)	2(100.0)	43(79.6)
No Answer	0(0.0)	0(0.0)	0(0.0)	1(5.9)	0(0.0)	1(1.9)
Station Policy Dictates	2(28.6)	1(14.3)	1(4.8)	1(5.9)	0(0.0)	5(9.3)
State Boards & Other Governing Boards	1(14.3)	0(0.0)	1(4.8)	0(0.0)	0(0.0)	2(3.7)
Not At All	0(0.0)	0(0.0)	2(9.5)	1(5.9)	0(0.0)	3(5.6)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Literal Interpretation	14(82.35)	6(85.71)	12(75.0)	2(66.7)	9(81.8)	43(79.63)
No Answer	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(9.1)	1(1.9)
Station Policy Dictates	0(0.0)	1(14.3)	2(12.5)	1(33.3)	1(9.1)	5(9.3)
State Boards & Other Governing Boards	0(0.0)	0(0.0)	2(12.5)	0(0.0)	0(0.0)	2(3.7)
Not At All	3(17.6)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	3(5.6)

Analysis of Response: While 43 of the reporting managers (79.62%) indicated that they followed the provisions of the doctrine literally, another 5 managers (9.26%) said that they followed their own station policies in order to maintain fairness in programming. Two managers relied upon state boards and what they said.

Of interest is the fact that three managers indicated that they did not implement the provisions of the Fairness Doctrine at all. There was no explanation.

The managerial replies to this question indicated that 92.58% of the reporting managers sought to maintain fairness in their local programming, either by literal interpretation of the Fairness Doctrine or by following some type of local guideline.

QUESTIONNAIRE ITEM 13

Rationale: Television production makes any performers aware of certain content and production demands. This researcher has worked with some teachers who have been of the opinion that when they appeared on educational television they surrendered some of their academic freedom in order to abide by the critical demands of television. This was the motivation for the next question, which asked managers whether teachers appearing on their stations enjoyed less academic freedom than in the classroom.

This researcher hoped that answers to the question would reveal little or no lessening of academic freedom for the teacher appearing on educational television. In spite of this hope, there was also an awareness of the fact that probably some managers would indicate that there was less academic freedom for certain teachers appearing on educational television.

The Question: If teachers broadcast over your station, do they enjoy less academic freedom on the air than in the classroom? (Classification and coding of responses.)

	<u>Total Responders</u>
Yes	11(20.37)
No	37(68.52)
Don't Know	1(1.85)
No Answer	4(7.41)
No Opinion	1(1.85)

By Type of Licensee

	<u>Public-Private</u>	<u>State</u>	<u>College-University</u>	<u>Community</u>	<u>Other</u>	<u>Total</u>
Yes	5(71.4)	1(14.3)	4(19.0)	1(5.9)	0(0.0)	11(20.4)
No	2(28.6)	6(85.7)	13(61.9)	15(88.2)	1(50.0)	37(68.5)
Don't Know	0(0.0)	0(0.0)	1(4.8)	0(0.0)	0(0.0)	1(1.9)
No Answer	0(0.0)	0(0.0)	3(14.3)	0(0.0)	1(50.0)	4(7.4)
No Opinion	0(0.0)	0(0.0)	0(0.0)	1(5.9)	0(0.0)	1(1.9)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/Desert</u>	<u>Far West</u>	<u>Total</u>
Yes	1(5.9)	1(14.3)	5(31.3)	1(33.3)	3(27.3)	11(20.4)
No	13(76.5)	5(71.4)	10(62.5)	2(66.7)	7(63.6)	37(68.5)
Don't Know	0(0.0)	1(14.3)	0(0.0)	0(0.0)	0(0.0)	1(1.9)
No Answer	2(11.8)	0(0.0)	1(6.3)	0(0.0)	1(9.1)	4(7.4)
No Opinion	1(5.9)	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(1.9)

Analysis of Response: More than 20% of the reporting managers (20.37%) indicated that teachers appearing on television enjoyed less academic freedom than they did in the classroom. Of those giving this response, 5 of the 7 managers representing public-private stations reacted in this manner. By contrast, 13 managers of college-university owned stations (61.9%) and 15 managers of community owned stations (88.2%) indicated there was no lessening of academic freedom for teachers appearing on their stations.

The responses given by all managers indicated to this researcher that there is some loss of academic freedom for certain teachers at some educational television stations.

QUESTIONNAIRE ITEM 14

Rationale: How interested is local educational television management in gaining viewer reactions to programming? What does the local station management do to encourage the exchange of ideas and information between viewer and station? These were the motivating questions that prompted this researcher to ask managers about channels of communication that they left open for interchange with viewers.

This researcher hoped that the information gathered from the question would enable him to discover the various types of communication channels that were employed by educational television stations.

The Question: What channels of communication do you leave open for interchange of ideas between viewer and ETV station? (Classification and coding of responses.)

	<u>Total Responders</u>
Cards and Letters	6(11.11)
Combination-Letters and Phone Calls	14(25.93)
Personal Discussion	1(1.85)
No Answer	2(3.70)
Mail, Phone Calls, Personal	18(33.33)
Conference with Board Members	2(3.70)
Any and All	11(20.37)

By Type of Licensee

	<u>Public- Private</u>	<u>State</u>	<u>College- University</u>	<u>Communi- ty</u>	<u>Other</u>	<u>Total</u>
Cards and Letters	0(0.0)	2(28.6)	3(14.3)	1(5.9)	0(0.0)	6(11.1)
Letters and Phone Calls	0(0.0)	1(14.3)	2(9.5)	9(52.9)	2(100.0)	14(25.9)
Personal Discussion	0(0.0)	0(0.0)	1(4.8)	0(0.0)	0(0.0)	1(1.9)
No Answer	1(14.3)	0(0.0)	0(0.0)	1(5.9)	0(0.0)	2(3.7)
Letters, Phone Calls, Personal	4(57.1)	1(14.3)	11(52.4)	2(11.8)	0(0.0)	18(33.3)
Conference with Board Members	0(0.0)	1(14.3)	1(4.8)	0(0.0)	0(0.0)	2(3.7)
Any and All	2(28.6)	2(28.6)	3(14.3)	4(23.5)	0(0.0)	11(20.4)

By Geographical Location

	<u>East</u>	<u>South</u>	<u>Midwest</u>	<u>Mountain/ Desert</u>	<u>Far West</u>	<u>Total</u>
Cards and Letters	0(0.0)	1(14.3)	2(12.5)	0(0.0)	3(27.3)	6(11.1)
Letters and Phone Calls	10(58.8)	1(14.3)	2(12.5)	0(0.0)	1(9.1)	14(25.9)
Personal Discussion	0(0.0)	0(0.0)	1(6.3)	0(0.0)	0(0.0)	1(1.9)
No Answer	1(5.9)	0(0.0)	0(0.0)	0(0.0)	1(9.1)	2(3.7)
Letters, Phone Calls, Personal	2(11.8)	3(42.9)	6(37.5)	3(100.0)	4(36.4)	18(33.3)
Conference with Board Members	0(0.0)	0(0.0)	2(12.5)	0(0.0)	0(0.0)	2(3.7)
Any and All	4(23.5)	2(28.6)	3(18.8)	0(0.0)	2(18.2)	11(20.4)

Analysis of Response: The information gathered indicated a variety of methods used to keep in contact with viewers. The most common ways were letters and phone calls; mail, phone calls, and personal contact; and any and all ways.

More than half of the managers of college-university owned stations (11) indicated that letters, phone calls and personal contact were the methods they used, whereas more than half of the managers of community owned stations (9) indicated letters and phone calls were the methods they used.

The information gathered indicated that most managers were involved in some form of communication with viewers. These managers employed a variety of methods of doing this, the most popular being mail, phone calls, and various forms of personal contact.

QUESTIONNAIRE ITEM 15

Rationale: This researcher did not enumerate for managerial comment all possible barriers to freedom. First, it would have been impossible to make such an all inclusive listing. Secondly, this researcher wished to encourage each manager to write freely about possible barriers to freedom and to express views on ways to overcome such barriers.

The Question: Using the front and/or back of this sheet state what you think to be the principal barriers to free speech in educational television and what positive action you believe could be taken to remove these barriers in the future.

Public-Private School Owned and Operated
ETV Station Comments

(South)

"Differing viewpoints as to what is in the public interest or welfare constitutes one deterrent and that will vary with the individuals who make the decisions. Stations operated by tax supported institutions would be affected at times. The only way to remove that barrier would be to have all ETV stations community-owned and operated and financed without tax support. Licensee responsibility also acts as a curb on absolute freedom of speech. I would not, however, destroy that safeguard."

(Midwest)

"Repeal Sec. 315, strike editorializing clause in P.B. Act of 1967--budget for news and public affairs personnel and production on the local level. Also to be assured that local control boards give a free hand to ETV."

(Midwest)

"The principal barrier to free speech in a school-operated station is the weakness of school administrators. School administrators are notorious for blowing with the wind and bending to every pressure exerted upon them. The ideal solution would be for the teaching and school administrative profession to reach a position of power and respectability to the point where members of the profession could say (and get away with it), 'we are the trained professionals in education, so leave us alone to carry out our educational tasks and responsibilities.' However, this will take a change in national attitude, and will not occur for generations. Thus, the most expedient solution would be to provide federal, state, community and business support for these stations (at least in an amount to cover the general adult programming which is most open to restrictions). Outside financial support would tend to remove the close-at-hand pressure which is brought to bear on local school districts."

(Far West)

"In our situation free speech is limited to our own guidelines which are governed by self-discipline."

State Owned and Operated ETV Station Comments

(East)

"FCC regulatory authority--do not feel that much authority can any longer be justified--Would like free broadcast media with same freedom enjoyed by press."

(South)

"The question is biased--can you safely imply that there are barriers to freedom of speech now in existence--if you accept any responsibility for the tremendous potential of TV as a communications device?"

(South)

"The main barrier to free speech on broadcast frequencies seems to be the FCC. Other agencies stay within the FCC rules, and often even narrow down the action within these rules. If the FCC could be convinced that broadcasters are at least as responsible as they are, we would be well on the way to a new freedom."

(Midwest)

"I'm not too worried about this so-called barrier to free speech."

(Far West)

"I think much of it is due to administrative timidity/ and/or inability to articulate to owners and public the real meaning and purpose of ETV. Overcome this and ETV will bloom."

College or University Owned and Operated ETV Station Comments

(East)

"Complete repeal of Section 315, Canon 35, Fairness Doctrine and most of all repeal of Paragraph 5 of our Enabling Act."

(East)

"No particular barriers of which we are aware, other than those of libel, decency, etc., which are proper."

(East)

"The principal barrier to free speech in television is a lack of commitment on the part of station management and governing boards who are not willing to endanger in any way the modest funds they now operate on by possible alienation of any segment of their audience."

(East)

"The principal barrier is a lack of exercise of the freedom on behalf of the general public. I think broadcasters as a group limit their thinking to the rather narrow interpretation of their freedoms, rather than the broader issue of maintaining the facilities for the exercise of the freedoms of those whom they serve."

Thank you for the opportunity of participating in your study."

(South)

"There is only a minor problem of free speech in ETV--

(1) No global laws can regulate this great big animal--

(2) ?"

(South)

"Probably local legislation preventing political programming plus the fear of some of irritating legislators with controversial topics or personalities. Need a sales job on legislature and administrators."

(Midwest)

"In general:

1. Worry over sources of support, esp. in non-community stations. Answer is to broaden bases of support.
2. Arbitrary rules on such items as political broadcasting, etc. Answer is to eliminate these rules.
3. Lack of top producing talent to give skilled voice to points of view. Answer is to recruit from other disciplines (we just hired a minister).
4. Cowardice by station people, who often can do what they wish if they do it skillfully and honestly, but fail. Answer is that we will set an example."

(Midwest)

"Adequate budget for professional staff to cover the community."

(Midwest)

"We feel we have no barriers to free speech at our station that wisdom and good taste do not impose. Some state-owned and university owned stations are forbidden by state law or policy to broadcast political candidates. Such restriction is abhorrent."

(Midwest)

"The principal barriers will be those local and state restraints which are imposed by threat of retribution rather than by threat of law. The way to overcome these barriers requires:

- (1) education of the sources of trouble into their obligations to the idea of free speech in a free society.
- (2) diversification of sources of fund support so that no single individual or interest group can put you out of business.
- (3) development of a loyal constituency in the community which will fly to your defense when you are threatened and which will insist that your freedom be respected because it is their freedom to hear which is at stake.
- (4) a modicum of intestinal fortitude on the part of station administration, who must steel themselves against surrendering principle before the principles have ever been seriously threatened from outside."

(Mountain-Desert)

"This question is loaded. The assumption is made that because there may be some barriers they should be removed. The whole concept of free speech in broadcasting imposes some responsibility that is not necessary in social conversation. To me FREE SPEECH in broadcasting does not mean the freedom to say whatever you wish. Therefore I see no barriers at present that inhibit the station's programming since my view of freedom of speech in broadcasting must include responsibility in what is said."

(Mountain-Desert)

"Eliminate the prohibition of editorializing, otherwise we have plenty of free speech."

(Mountain-Desert)

"I see or know of none"

(Far West)

"The barriers to free speech in ETV are subtle--rather a highly developed sense of prudence, based on financial and institutional considerations. The key solution is rigidly independent funding. I once had a commercial broadcaster argue with considerable persuasion that he is more independent than I, because his financial base is from a great many diverse accounts, while I depend on a few crucial sources.

In spite of that, I think it can be shown that ETV has exhibited more operational freedom than has commercial TV. The point, however, has some validity.

My general feeling is that the presently operating barriers to free speech in ETV are, in most areas, not very serious. I believe, however, that ETV is vulnerable to pressure if the existing potential pressure were seriously applied. This vulnerability is largely financial in origin, although other organizational considerations could arise in institutional stations."

(Far West)

"1. Staff of stations

2. Personal feelings of the Program Producer, Director, or Editor.

3. Ignorance

4. Old rules and regulations which don't apply to modern broadcasting

5. Fear, including security of job, etc.

I hope you can enlighten all of us by the results of this survey."

(Far West)

"I suspect the greatest barrier to free speech is a lack of clear understanding of what ETV can and should do. Many stations have Instruction as their primary purpose--the boards of directors, the organization, the administration are all structured around and oriented to that goal. Freedom of speech does not even become an issue. Lack of understanding of what Public Television can do in a free society, and timid leadership in administrations I think is rampant."

Community Owned and Operated ETV
Station Comments

(East)

"Principal barrier is loss of possible funds by offending state authorities and local. If people criticize programming, they write to the Senator and then it gets brought up in legislature, and the whole matter of program \$ implies program control comes up.

We must become free of these restrictions, but we are so highly dependent on this type of revenue support that often managers are confronted with the dilemma of independence = a TV station without funds.

I assume this is a particular problem with small market ETV stations that receive state funds, but to some extent I believe we all share this problem.

(East)

"I believe the freedom exists, but few have the courage to fully implement it. No change in laws will make an individual place a higher value on his principles than his income."

(East)

"In many instances fear of reactions from those who control the purse strings is the principal barrier."

(East)

"I believe the problem is most acute in ETV stations licensed to state or local government agencies, or to school systems or colleges, where 'points of view' or 'image' is to be protected.

Requirement of freedom in issue of license is best answer."

(East)

"Principal barriers are FCC rules and P. Broadcast Act editorializing ban. Should all be removed."

(East)

"In general, the barriers to 'free speech' on educational TV are those dictated by the social mores and political realities characterizing our American society today, and I doubt if much can be done to change this situation. Certainly it is incumbent on those responsible for ETV stations to resist dictation with all their might, and to encourage all possible insulation between policy and program decisions on the one hand and political or economic influence on the other. Certainly the public airing of pertinent controversy should be encouraged, but this does not necessarily involve editorializing. As in any enterprise, certain compromises are going to have to be made if any TV station--educational or otherwise--is to remain on the air."

(East)

"Until the fairness issue has been settled, I feel that any comments might be premature. However, we don't feel overly restricted by this issue since our ability or lack thereof to provide programming of significance to the community is still restricted far more by lack of funding than by the issues raised in this questionnaire."

(East)

"Nothing that money, strong management, and talented, responsible producers and staff wouldn't cure."

(Midwest)

"Small-minded, frightened people who do not understand what vigor and strength freedom of speech and dissent bring to our society."

(Midwest)

"We haven't found barriers."

(Midwest)

"The tendency of N.E.T. and P.B.L. to present only one side of a complicated picture and to vilify in print those who disagree with that one side."

(Midwest)

"The only barrier is in the mind of man. Legislation can stop some of it but never all of it."

(Mountain-Desert)

"Don't know of any. Believe the problem to be more one of responsible attempts at balance on part of N.E.T."

(Far West)

"With a community owned and supported ETV station there is always the danger of a majority of your financial supporters--businessmen donating to our annual fund raising auction and annual members of the station withdrawing their support because of dissatisfaction with a program or series if programmed. I feel an adequate plan to finance the Public Broadcasting Corporation would certainly relieve much of the financial pressure felt by nearly all the community owned and supported ETV stations."

(Far West)

"The principal barriers are our own timidity, the shadow of the irate viewer, the parochialism of some trustees and managers who don't seem to know the world is in a process of significant change, and national program services that feel compelled to be responsive in some measure to affiliated station managements that reflect (in many cases) parochialism, hypersensitivity, lack of conviction, etc.--a measure, in many, of the institutions to whom these stations are licensed."

Other Type of ETV Ownership and Operation Comments

(East)

"I find very few barriers."

Analysis of Response: There was no common element among the responses given by managers of public-private stations. Those replying listed various barriers ranging from Sec. 315 and the editorializing ban of the Public Broadcast Act to the weakness of school administrators.

There was no unanimity to the responses of managers of state owned and operated stations. Among the replies given, two indicated that FCC regulatory authority was a restriction to freedom while one additional reply indicated that administrative timidity limited what was programmed on one station.

As with the responses from managers of other type stations, those from managers of college-university owned stations revealed no common agreement. More than one manager reported no particular barriers to freedom of speech on educational television, while several indicated weak administrative policies limited what was programmed.

The replies of managers of community owned stations disclosed no common view.

There was but one response from a manager of a station in the "other" category. This manager indicated that he found few barriers to freedom of speech at his station.

As there is a variety of types of educational television stations in the United States so, too, is there a variety of managerial opinions relative to barriers to freedom and ways such barriers might be removed.

The survey results that have been presented show the type of diversified comments about freedom of speech and educational television that came from local station managers. While such comments must not be taken as necessarily representing those of all local managers of stations affiliated with National Educational Television, they can be taken as an indication of attitude prevalent at a time when educational television is seeking to gain new stature in the United States.

The managerial comments in Chapter V have also enabled this researcher to better evaluate the entire area of freedom of speech in educational television. Such reactions will be found in Chapter VI which is entitled, "Critical Evaluation of Freedom of Speech in Educational Television." The comments made by the responders on the survey have also enabled this researcher to make certain positive recommendations for future research. These will be found in Chapter VII which is entitled, "Recommendations."

CHAPTER VI

CRITICAL EVALUATION OF THE DEGREES OF FREEDOM OF SPEECH IN AMERICAN EDUCATIONAL TELEVISION

A Brief Overview

The material presented in this chapter comes as the result of readings, analyses of speeches, a national survey, and after consideration of other research.

It is the view of this researcher that the American educational television manager from 1953 to the late 1960's has been so concerned with the existence and mere survival of his station, amidst formidable financial concerns, that he has not been overly involved in, nor particularly concerned about, the issues of freedom in broadcasting.

Historically, there has been a valiant fight for the establishment of freedom of the press in this country. That fight has been waged by members of the print media and members of commercial broadcasting operations. Earlier chapters have illustrated this point. Such a valiant fight, however, has been missing in educational television, with but a few exceptions.

Many of the station managers who reported on the national survey indicated that they had not been willing to take more vigorous and courageous programming positions in the past because of their fear of agitating those who financed their very minimal operations. Curiously enough, when Commissioner Freida Hennock of the Federal Communications Commission spoke of her dreams for educational television, she was thinking of its becoming something other than what commercial television was or was capable of being. She viewed educational television as a medium that would take vigorous and courageous positions on any number of issues. Through the 1960's, however, educational television, at least at the local level, has not fulfilled those hopes.

Some of the types of stations polled in the national survey, most notably the private and community owned and operated stations, gave the impression that they were in positions where they could take positive stands and arouse audiences. These stations indicated that they, more than the state owned or college-university owned stations, could operate without fear of legislative harassment. Yet, even among some of these stations, there appeared to be a degree of timidity to program in any and all areas.

Financial Problems As A Limiting Factor to Freedom of Speech

If financial limitations were to be considered as a main barrier to freedom at the local and even the national

levels to the late 1960's, there was at least some hope in 1967 that that barrier might be eliminated. The Public Broadcast Act of 1967 and the continued interest of the Ford Foundation in educational television offered that promise.

With financial concerns having been so great for so long for educational television operators and programmers, it is little wonder that educational television itself has produced few men like John Peter Zenger, a man who championed freedom of the press, or Frank Stanton, one who has championed freedom of speech for the commercial broadcaster. Up to the late 1960's there have been few individuals in educational television who have been willing to stand up and take positive positions on freedom issues and to defend such positions against all critics. Those stands which have been taken over the past few years have come from officers in National Educational Television or the National Association of Educational Broadcasters. Many stations which have been in precarious financial positions in past years, have often found it easier to please governing boards and legislatures by programming unobtrusive materials. To displease such bodies often has meant the threat of reduction of financial appropriations. This was illustrated in one of the cases presented in Chapter V.

The 1960's--A Period of Change
for Educational Television
in the United States

Educational television in the late 1960's is in the midst of an interim period. From 1953 until approximately 1967, policies in educational television seem to have been structured more to meet immediate than long-range needs. By 1967, the Public Broadcast Act had come into existence, offering promise for the future. Then in 1968, the Corporation for Public Broadcasting became a reality, but without the assurance of permanent funding from the Congress. Further uncertainty for educational television came in 1969 with the resignation of National Educational Television president, John F. White.

While there may have been more thinking about the future of educational television after 1967, there was also an awareness on the part of some educational television broadcasters that the removal of financial barriers through substantial foundations and governmental support meant the possibility of greater outside involvement in the destiny of educational television.

Those who invest in something usually want something in return. Both the Federal Government and the Ford Foundation, two of the largest current donors to educational television, seem to seek to establish their own long-range goals for educational television. This point was made in a Broadcasting article of March 17, 1969. The comments made in that article

were, in part:

The Ford Foundation and the Corporation for Public Broadcasting are presently working together to try to establish some long-range goals for educational television so future grants will be utilized more effectively.¹

All this occurs at a time when most educational television managers are still not anxious to take positive positions in issues involving program freedom. They reach out for and seek finances. The local and national positions seem to be, "Let's wait and see, but let's certainly show our interest in developments."

Another possible reason why managers of educational television station may have remained so quiet on freedom issues could be that they have been watching the developments of such matters as potential revisions of the Fairness Doctrine and Section 315. In July of 1967 the Seventh Circuit Court of Appeals case was initiated by the Radio-Television News Directors Association, along with CBS, NBC, and eight other broadcast groups. It was commercial broadcasting that assumed the leadership in this particular case. A Broadcasting article about the case has noted:

. . . It involves commission rules prescribing procedures broadcasters are to follow in offering reply time after carrying a personal attack during a discussion of a controversial issue of public importance, or after they have editorialized in behalf or in opposition to a political candidate.²

¹"ETV Reaches Decision Time," Broadcasting, March 17, 1969, p. 66.

²"Justice Backs Fairness," Broadcasting, March 3, 1969, p. 55.

As has been noted in earlier chapters, the Seventh Circuit Court of Appeals ruled that Commission rules implementing aspects of the Fairness Doctrine violated the First Amendment to the United States Constitution. The Department of Justice in late February of 1969 told the Supreme Court, which now is handling the Fairness Doctrine case, that the Doctrine constituted a constitutional means of preserving broadcasting as a medium open to full debate on all issues.³

Meanwhile, governing boards of stations, and state legislatures have directed educational television operations to program to the widest possible segments of the community. In most instances, the local stations and their program managers are doing this, but are avoiding strong position programming.

Other Limiting Factors to Freedom of Speech

Analysis of the survey data suggests yet another reason why educational television may not have ventured very far into the matter of controversial issues. Many station managers seem to feel that they lack competent spokesmen and trained, professional staffs who are capable of dealing with controversial programming. As was noted in Chapter V, exactly half of the responding managers in the present survey said that finding competent spokesmen would be a problem for

³Ibid.

them in the future, and might, indeed, cause them to avoid these programs.

On the matter of editorializing on educational television, a disconcerting note was sounded by many of the managers who responded to the survey questions. One-third of all the managers indicated that they were either "extremely favorable" or "favorable" to the prohibition of editorializing by the Public Broadcast Act of 1967. For some types of stations, wherever situated geographically, such as those which are owned and operated by land grant institutions, editorializing might be exceedingly difficult to justify. For other types of stations, however, such as those that are privately owned and operated or community owned and operated, it would be a denial of freedom if they were forbidden the opportunity to editorialize if they so desired. It was surprising to find so many managers who would accept a denial of the right to editorialize when extended to those stations which might be in a position and have the desire to do so.

Throughout the research conducted for this study, the speeches, the writings, and the managerial comments were very clear and precise on points. Many comments, however, caused this researcher to wonder what managers might not be saying. Money often influences decisions on program material and the manner in which that material is presented, yet 70.37% of all managerial responders in the survey indicated that there was "little" restriction attributable to underwriting of their programs.

The managerial comments in the survey often showed limited agreement on particular points. In regard to Canon 35 of the American Bar Association, for instance, almost half of the reporting managers (48.15%) said that educational television stations should have access to the courtroom for the telecasting of court trials. Another 31.48% of those reporting, however, said that local educational television stations should not be allowed to televise court trials. Eleven more replying managers displayed a sense of indecisiveness with a "no answer", "It really doesn't matter", "no opinion", or "sometimes" responses.

This lack of a unified position again was evident in the responses to the question asking station managers what kinds of court trials they would have their stations televise, if given the opportunity. Twenty-one responders (38.89%) said that they would not televise courtroom trials. Eleven others gave no answer at all to the question, while 21 more gave specific types of cases which they would televise. One manager said he didn't know.

In further substantiation of the conclusion that a sizable segment of educational television managers is not overly concerned about any limited amount of freedom of speech, results of another part of the national survey are repeated. In being asked to compare educational television freedom to that enjoyed by members of the print media, 24 of the responding station managers (44.44%) indicated that

their freedom was equal to that of print. Almost an equal number, 22, or 40.74% of the respondents indicated that they considered their freedom to be less than that of print. These two reactions are interesting, especially in relation to the comment of CBS News official Richard Salant, who has said to this researcher, ". . . everybody by the knee-jerk broadcaster advocate concedes that our freedoms must be somewhat less than print's."⁴

The comments made by the managers in the survey have proved valuable for research purposes for they have revealed opinions which exist during an interim period of growth for educational television. The speeches and comments which were studied revealed educational broadcasters to be individuals who have not wished to jeopardize the status of their stations or operations during a trying period for all of them. In the judgment of this researcher (himself a former administrator in educational television), this managerial unwillingness to jeopardize the status of their stations may help to explain why there have been so many educational television programs dealing with such non-controversial subjects as cooking, guitar playing, gardening, antiques, plays, or symphonies.

The speeches that have been analyzed and the comments that have been written all have come from well-intentioned

⁴Salant, op. cit.

individuals. The materials studied have revealed that there may be some shortsightedness on the part of some managers, however.

If more federal funds are made available for use by both national educational television and local station operations, will each then produce more socially significant programs than they have in the past? If more meaningful programs are broadcast and then attacked by members of the public, as well as by the legislatures in various states and by governing boards, how active will network or station personnel be in defending what they consider to be right?

What a perfect vehicle educational television might be to inform the public concerning the jurisprudence system of our land, if only it would be willing, when it gets more adequate staff, to press for revisions in Canon 35. The fact that educational television might be the natural vehicle for televising court trials for educational purposes could be a strong point for possible revision of Canon 35. In none of the data gathered for this study did this investigator discover any particularly strong indications that either national or local leaders in educational television would be willing to take crusading positions in this regard.

By contrast with the educational broadcasters, some of the commercial broadcasters in this country have been vitally concerned about matters related to freedom of speech and non-interference from governmental or outside agencies.

These commercial broadcasters are concerned about gaining freedom equal to that enjoyed by the print media. Educational broadcasters have, by contrast, had differing opinions about the very basic elements of degrees and kinds of freedom which they should have.

In the judgment of this researcher, in all too many instances there has been too much vagueness or superficiality by local educational broadcasters on socially significant issues. On the national level, National Educational Television has taken courageous positions in the presentation of such programs, but this has not been local educational television effort. From National Educational Television, for instance, the American public has seen programs on such significant issues as Cuba, consumer problems, exploitation of American farm workers, and the United States military complex.

Now in the late 1960's, greater funding potential than ever before exists for educational television. It exists at both the national and local levels. Again, it may be asked, will such funding automatically mean that the programs that will be produced locally will be that much better, or will there be spending just for spending's sake?

This researcher recalls from his own personal experiences as Director of Programming for the three-station State of Maine Educational Television Network the feeling of complete satisfaction by his staff when good, meaningful programs were

produced with very limited budgets. There was almost a spirit of competition among producers to see who could do the most with the least. Fifty dollars for a given program might have been considered a luxury. Then, certain governmental monies became available in the Maine network for the production of certain in-school and adult programs. The money made extra filming possible, or more elaborate sets. What did it do to create a greater impact on audiences? Was the money used to do research, to hire personnel who could take more courageous positions in social issues of concern to many? In some cases this was not always done.

Money by itself does not assure excellence in programming. Where wise planning has taken place, however, grant money has enabled some local stations to produce truly unusual and socially important programs. In 1968 the Ford Foundation granted \$5 million to educational television for the production and broadcast of programs on topics important to the community. Some of the programs took courage to present. By way of illustration, WYES-TV in New Orleans was able to broadcast 156 hours on issues related to the Negro community. Station KCET-TV, Los Angeles used its Ford Foundation money to broadcast 70 half-hours on life in Spanish-speaking sections of the city.⁵ These are illustrations of what can be done by some stations.

⁵"ETV's Get \$5 Million in Programming Grants," op. cit.

Educational Television and the Future

Educational television, whether national or local, moves into the decade of the 1970's with a past that has included struggle, a search for identity, and a desire to do good among people. In fifteen years there have been few financial failures among educational television operations. This speaks well of the industry. Stations have continued their work; and national network has expanded its services, with each adding to staffs and facilities in commendable ways.

Taxpayers whose money is spent on educational television in the future may well expect more than has been offered in the past. Individual stations will need to be able to please even more people in the years ahead, and not just the patrons of the arts who have underwritten so many of the programs of yesteryear. This offers a programming challenge to educational broadcasters.

The degrees and kinds of freedom that national and local educational television might enjoy in the years ahead will depend on the kind of people who will assume positions of responsibility in the field. If those who manage, who direct and make decisions about educational television are not professionally trained people, fully competent to meet public interests, if they are not willing to fight for principles, increased freedom may not be theirs. If, on the other hand, more meaningful, hard-hitting programming is devised in the years ahead, and if the leadership of the future supports

this, educational television could become something even more than it has been in the years since 1953.

In our American colleges and universities today young people are proving themselves to be the most articulate, intelligent, and questioning of any generation of students. Such young people, especially those who are gaining academic backgrounds in the fields of communications, are constantly reassessing the ways and policies of the past. Some of these students of communications will be entering the field of educational television, both at the national and local levels. Their aggressiveness and their interest in the future might well be a partial answer to the need for a more vigorous stand on the part of educational television. It does not seem impossible that change could ensue.

Conclusions

The information gathered for this research has caused this investigator to realize that there are differing degrees and kinds of freedom of speech at all educational television stations.

In the past, each station manager has had to work merely to keep his station operating. In so doing, he may well have been drawn away from freedom issues as they might have involved him and his station operations. While there have been few men in educational television willing to take positions on freedom issues, that does not mean that there will

not be more in the future. If considerable Congressional funding for the Corporation for Public Broadcasting is made available, and if long-range goals for educational television are achieved by government and foundations, there may be more of an opportunity and desire for local station involvement in freedom issues.

This investigator believes that there are certain areas of research that need to be undertaken, as one considers the future years for educational television. Some of these areas have been revealed specifically as the result of the national survey material. Additional areas have come as the result of other research work done for purposes of this project. A final area of research is the result of mere speculation on the part of the investigator himself. All of these suggestions for future research are presented in Chapter VII.

CHAPTER VII

RECOMMENDATIONS FOR FUTURE RESEARCH

Certain research recommendations can be made as the result of the work done for purposes of this study. The first type of recommendation is based upon the results of the national survey of station managers of educational television stations. Another type of recommendation comes from the researcher himself, the result of serious study in the area of freedom of speech for the educational television broadcaster. A final type of recommendation is speculative in nature. Unsupported by research and merely assertions, this type of recommendation is presented as the result of certain strong feelings this investigator has.

Research Recommendations Based Upon the Results of the National Survey of Station Managers of Educational Television Stations

It is important to remember that the research recommendations in this category come as the result of the information received from only 51.92% of all station managers whose stations were affiliated with National Educational Television as of September 1968. While it would have been more meaningful had a larger number of managers consented to reply to the questions on the survey, it is possible, however, to make

recommendations based upon the comments of those who did respond. In most cases, respondents were very clear and pointed in their reactions to specific questions.

One of the first survey questions that demanded managerial reaction was, "In view of the First Amendment to the Constitution and the educator's responsibility to pursue truth do you consider the freedom of your station's programs to present ideas, information and opinions adequate or inadequate?" As was noted in earlier chapters, 87.04% of all respondents said "adequate", while 11.11% of the reporting managers said "inadequate".

In-depth research might be conducted for purposes of learning why so many said "adequate" when in reporting on principal barriers to free speech in educational television, many managers listed specific barriers. These barriers ranged from involvement by the Federal Communications Commission to fear of agitating those who were underwriters of station programs. There would appear to be a need for research to determine whether station managers actually do enjoy as much programming freedom as they say they do.

The results reported on this first question were especially interesting when compared with the results from the question asking managers if they desired more freedom with responsibility. As noted above, the first survey question revealed that 47 managers (87.04%) felt that they considered the freedom of their station's programs to present ideas and information to be "adequate".

However, asked to compare their freedom with that accorded the print media, 24 respondents, or 44.44% of the entire reporting group indicated that their programming freedom was "equal to" that accorded the print media, while an almost equal number of respondents, 22, or 40.74% of the sample said that their programming freedom was "less than" that accorded the print media. This interesting reaction leads this researcher to suggest that there be future research to determine why there was this almost equal division in managerial reporting.

On the matter of federal restrictions in educational television, over 38% of the respondents indicated that the restrictions attributable to federal government laws, regulations, and guidelines were "moderate" to "great" in keeping off the air material which they felt should be aired. In-depth interviewing of educational television managers might very well tell more about those governmental restrictions. Research should allow for a given list of governmental restrictions to be presented to each manager for his personal reaction. Then there could be a comparison of managerial reactions, both in terms of the type of station each administered and the geographical location from which each station manager was reporting. Some of the potential governmental restrictions were listed on the questionnaire that was mailed to respondents. Other governmental restrictions, such as licensing procedures and the monitoring of stations, were

not presented to managers for their reactions. Through the in-depth interviewing technique it would be possible to determine what other factors station managers found particularly limiting to what was programmed.

Another research area that became apparent as the result of an analysis of the mail questionnaire material was the effect of underwriting on specific programming. There is an obvious discrepancy between what some managers and educational television leaders say and what some others say. In some of the more open-ended comments, certain respondents indicated that underwriting controls were present at the local station. By contrast, 70.37% of all respondents answered "little" to the question related to restrictions attributable to underwriters of specific programs.

The research related to possible underwriting control or pressures should be in-depth in nature and conducted on a personal basis. It should be designed so as to gain the innermost thoughts of managers. It should be research that encourages managers to report all they know about underwriting pressures. This is suggested for it is entirely possible that managers in the survey were somewhat hesitant to report true sentiment to an unknown person. In person-to-person interviewing it would be possible to gain more information after rapport had been established between the interviewer and the interviewee.

Another survey finding that might lend itself to further research is the fact that 50.0% of the reporting managers

felt that there was a lack of spokesmen available for the presentation of all sides of controversial issues on television. The survey replies did not indicate why this lack existed. Future research could be directed to gaining an answer. Could it be that managers of stations are not active in seeking out spokesmen for both sides of controversial issues, or are spokesmen for various viewpoints truly in limited number?

It is not possible to locate opinion leaders or spokesmen for various sides unless one knows something about their characteristics. Everett M. Rogers provides some basic information about opinion leaders in his book entitled, Diffusion of Innovation. Defining "opinion leaders" as ". . . individuals who are influential in approving or disapproving new ideas,"¹ he goes on to say:

. . . Opinion leaders conform more closely to social system norms than the average number. There is little overlapping among the different types of opinion leaders. For example, an individual who is an opinion leader for innovations is not likely to also be influential in political affairs. Opinion leaders use more impersonal, technically accurate, and cosmopolite sources of information than their followers. Opinion leaders are more cosmopolite, have more social participation, higher social status, and are more innovative than their followers.²

Knowing about opinion leaders the manager could then move into the community in his search for individuals to

¹Everett M. Rogers, Diffusion of Innovations (New York: The Free Press, 1966), pp. 208-209.

²Ibid., pp. 252-253.

represent various sides in controversial programs. This researcher would suggest that a personal interview type study be conducted of a cross section of people in a given community. Such people might be asked to express their viewpoints on any number of socially significant issues. Then they should be asked for their degree of involvement in such issues within the community itself. In possession of such accumulated data, the station manager would then have a prepared list of people, some of whom might serve as spokesmen or opinion leaders for educational television programs produced locally.

On yet another part of the national survey, managers were asked to react to other possible restrictive factors that limited what programming they did and how they did it. Almost one-fourth of the managers answered "little" to the item, but 35 of them (64.81%) provided no answer at all. This is a large segment of the total sample and might indicate the need for future research. Personal, in-depth interviewing could probe why such a large number responded in this way.

Another research area that has resulted from the national survey pertains to the matter of the managerial programming decision-making process. The need for such research was made known when an analysis was made of the reactions to the question dealing with principles that guided a station's avoidance of certain kinds of programming content. On the survey, 16

managers (29.63%) said "personal judgment", while an equal number listed specific station policies that prevented their programming certain subjects. Thirteen additional managers (24.07%) of those reporting gave a "no answer" reply. This division of reaction points out the need to investigate more thoroughly the area of decision making at the local station level. Such information could be obtained through in-depth, properly financed and staffed personal interviewing.

Recommended research comes as the result of yet another managerial response on the national survey. When confronted with a question about the Public Broadcast Act of 1967 and its restrictions on editorializing, 18 managers, comprising over 32.0% of the reporting sample, were either "favorable" or "extremely favorable" to the restriction. However, a larger number, 26, or more than 47.0%, expressed their disapproval by being either "against" or "extremely against" the prohibition. There is a need to determine why so many of the managers were so favorable to the restriction. Determining the "why" would tell whether managers had criteria for not wishing to editorialize.

With respect to Canon 35, 26 managers in the sample (48.15%) indicated that educational television should have access to courtrooms for the telecasting of court trials. Seventeen respondents (31.48%), however, felt that such stations as educational stations should not have such access.

and not merely station personnel. It is the community that is or is not being served, and people in the community should be able to react to a particular station. To make an in-depth survey of people served by a particular educational television station might provide more accurate information than could be obtained from station managers. For instance, it might be very valuable to question community people who have significant and liberal causes to advance. A researcher might ask these people if they had tried to secure an airing on local educational television and, if so, with what results.

Some of the handwritten managerial replies to the survey appeared to have been hastily written. It is suspected that some managers were so busy that they had neither the energy nor thought to complete the survey thoughtfully. Surveying other individuals both in the station and in the community might well achieve more meaningful results.

Conclusions

Several possible areas of research have been presented in this chapter. All are feasible and offer the possibility for greater understanding of educational television.

What has been presented in the way of research suggestions is merely a beginning. If more can be learned through future study and if the results of such study are communicated to decision-makers in educational television for action, the significance of exploration and inquiry will become apparent.

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APPENDICES

APPENDIX A

Television-Radio Department
322 Union Building
Michigan State University
East Lansing, Michigan 48823
October 1, 1968

Mr. John J. Jones
General Manager
Station WWW-TV
1234 Main Street
Anywhere, Michigan 48829

Dear Mr. Jones:

As an educational television broadcaster who has taken time out for doctoral study, I know that ETV station managers may resent the appearance of unannounced questionnaires. Since the questions which I would like to send you need willing and thoughtful answers, I seek your permission before sending them to you.

My dissertation, "Freedom of Speech and the American Educational Television Station," would benefit greatly from your opinions and those of other managers on such subjects as: factors which may limit what your station programs; broadcasting under the First Amendment; how your freedom compares with that of the print media; Section 315; Canon 35; editorializing; the Fairness Doctrine; and programming of controversial issues.

Open-ended responses will be encouraged. Assuming that you have ready convictions and data, your responses might require but 30 minutes of your time. In my study these would be categorized only by station type and geographic location, not by respondent's name and call letters. The questions would reach you in October, presumably after vacations and fall program schedules have been completed at your station.

If you are willing to make a needed contribution to an important subject, I shall be most grateful to have your assent on the enclosed stamped post card.

Sincerely,

Robert K. MacLauchlin

Presently: Teaching Assistant
Television-Radio Dept.
Michigan State University

Formerly: Director of Programming
State of Maine ETV Network

APPENDIX B

(Message on back of stamped, self-addressed post card)

I would be pleased to participate in the national ETV survey of station managers, on the matter of "Freedom of Speech and the Educational Television Station."

My mailing address is as follows:

Sincerely,

APPENDIX C

SURVEY ON "FREEDOM OF SPEECH AND THE EDUCATIONAL TELEVISION STATION"

Conducted by:

Robert K. MacLauchlin

INSTRUCTIONS:

1. Besides filling in all blanks that follow, please explain and comment to the degree you feel necessary. Use additional sheets if you so desire.
2. Kindly return completed survey in the enclosed, stamped envelope no later than October 31, 1968. Thank you.

Type of ETV station(s) reporting: (CHECK APPROPRIATE BOX OR BOXES)

- ☐ Public-Private School Owned and Operated ETV Station
- ☐ State Owned and Operated ETV Station
- ☐ College or University Owned and Operated ETV Station
- ☐ Community Owned and Operated ETV Station
- ☐ Other Type of ETV Ownership and Operation (PLEASE SPECIFY)

SPECIFY HERE:

Geographical location of your ETV station(s):

Number of ETV stations represented by your response to this survey:

☐ Number of ETV Stations

1. In view of the First Amendment to the Constitution and the educator's responsibility to pursue truth, do you consider that the freedom of your station's programs to present ideas, information, and opinions is:

 Adequate?

 Inadequate?

2. How would you compare this freedom with that accorded the print media?

3. Would you desire more freedom if it entailed greater responsibility on your part to make decisions and accept their consequences?

 Yes

No

4. Please check the degree to which the following factors operate at your station to keep off the air material which you think should be aired. List any other restrictive factors you consider significant.

a. Federal government laws, regulations, and guidelines

	LITTLE	MODERATE	GREAT
1. How much time do you spend thinking about your work?			
2. How often do you think about your work when you are at home or on vacation?			
3. How often do you think about your work when you are sleeping?			
4. How often do you think about your work when you are eating?			
5. How often do you think about your work when you are driving?			
6. How often do you think about your work when you are exercising?			
7. How often do you think about your work when you are talking to friends or family?			
8. How often do you think about your work when you are watching TV or movies?			
9. How often do you think about your work when you are reading or listening to music?			
10. How often do you think about your work when you are doing household chores?			
11. How often do you think about your work when you are traveling?			
12. How often do you think about your work when you are alone?			
13. How often do you think about your work when you are stressed?			
14. How often do you think about your work when you are tired?			
15. How often do you think about your work when you are happy?			
16. How often do you think about your work when you are sad?			
17. How often do you think about your work when you are angry?			
18. How often do you think about your work when you are nervous?			
19. How often do you think about your work when you are confident?			
20. How often do you think about your work when you are motivated?			

COMMENT OR EXPLANATION

LITTLE
MODERATE
GREAT

COMMENT OR EXPLANATION

- b. State government restrictions (i.e. enabling acts established by state legislatures)
- c. Codes formulated by your own organization
- d. Restrictions attributable to underwriters of specific programs
- e. Possible offense to a population that has influence over the general welfare of your station(s) (i.e. parents; school boards; regular viewers)
- f. Possible offense to individuals or groups that influence the institution to which your station(s) owes allegiance (i.e. alumni; Board of Trustees)
- g. Desire to maintain the support of the majority of the community
- h. Personal convictions of station administrators
- i. Job-security concerns of staff members or spokesmen
- j. Spokesmen not available for all sides of the question
- k. Insufficient air time to present the material with desired thoroughness
- l. Children should be protected from material suitable only for adults

**LITTLE
MODERATE
GREAT!**

- COMMENT OR EXPLANATION

6. What are your reactions to the prohibition of editorializing by the Public Broadcast Act of 1967?

7. Apart from this Act, what other regulations or policies would prevent you from editorializing?

COMMENT OR EXPLANATION

8. To what extent do you permit political broadcasting, as provided for in Sec. 315 of the Communications Act?

- ☐ not at all
☐ national candidates
☐ state candidates
☐ local candidates
☐ other (PLEASE SPECIFY)

SPECIFY HERE:

9. With reference to Canon 35, should ETV stations have access to courtrooms for the telecasting of court trials?

- ☐ Yes
☐ No

10. Has your station ever broadcast direct proceedings from a courtroom?

- ☐ Yes
☐ No

- | | <u>COMMENT OR EXPLANATION</u> |
|--|-------------------------------|
| 11. If permitted, what <u>kinds</u> of courtroom proceedings would you televise, if any? | |
| 12. In your programming, in what ways do you implement the Fairness Doctrine? | |
| 13. If teachers broadcast over your station, do they enjoy less academic freedom on the air than in the classroom? | |
| ___ Yes | |
| ___ No | |
| 14. What channels of communication do you leave open for interchange of ideas between viewer and ETV station? | |
| 15. Using the front and/or back of this sheet state what you think to be the principal barriers to free speech in educational television and what positive action you believe should be taken to remove these barriers in the future | |

APPENDIX D

(Follow-up message on back of stamped,
self-addressed post card)

Several weeks ago you were asked if you would be willing to participate in an important national study on "Freedom of Speech and the Educational Television Station."

Response to date has been gratifying. I thank those of you who have reacted. If you have not filled out the survey questions and wish to do so now, or have not as yet returned your completed questionnaire, please contact:

Mr. Robert K. MacLauchlin
Television-Radio Department
322 Union Building
Michigan State University
East Lansing, Michigan 48823

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