The original documents are located in Box 7, folder "Broadcast License Renewal Act, 1974" of the Stanley Scott Papers at the Gerald R. Ford Presidential Library.

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CHARLES A. McNELIS
OF COUNSEL

CABLE ADDRESS
"WASHLAW"

January 9, 1974

Mr. E. Del Smith
905 16th Street, N. W.
Washington, D. C. 20006

Dear Del:

The new Justice Department attitude opposing the cross-ownership of newspapers and television stations located in the same city, as reflected in the enclosed Washington Post and New York Times articles, should certainly be helpful to our cause.

Sincerely,

Vincent B. Welch

Enclosures (2)

cc (w. encl.): Hon. Stanley S. Scott

The Washington Post

e Washington Post Co. THURSDAY, JANUARY 3, 1974 Phone 223-600

U.S. Opposes 3 Publishers' TV Licenses

By Susanna McBee
Washington Post Staff Writer

The Justice Department formally asked the Federal Communications Commission yesterday not to renew the broadcast licenses of radio and tele-

BROADCAST, From A1

the courts "emphasize that competitive considerations are important in applying the statutory standard of 'public interest, convenience and necessity' to broadcast licensing questions."

It also said that "antitrust considerations are relevant to all regulatory decision-making unless expressly declared inapplicable by the Congress."

In the Des Moines area, which has a population of 313,-533, members of the Cowles

THE NEW YORK TIMES
Thursday, January 3, 1974

U.S. Fights TV Licenses For 3 News Publishers

WASHINGTON, Jan. 2 (AP) — The Justice Department moved today to force newspaper publishers in St. Louis and Des Moines to give up their interests in local broadcast stations.

In petitions filed with the Federal Communications Commission, the department opposed renewal of broadcast licenses held by the publishers on the ground that it "would perpetuate the high degree of

The breaking up of media monopolies had been under discussion at the F.C.C. for years, but it was believed to have evaporated as a commission topic when Nicholas Johnson and H. Rex Lee, the two stanchest opponents of cross-ownership on the commission, both resigned last month.

Concern over newspaper ownership of television and radio stations in the same community weighed heavily in the controversial F.C.C. decision two years ago to award the license

In the St. Louis case, the petition noted that in a metropolitan area with a population of 2.4 million there were two daily newspapers of general circulation, The Post-Dispatch, published by Pulitzer, and The Globe-Democrat, published by Newhouse.

In addition, Pulitzer holds the license to operate the area's second largest—in terms of audience—television station and its third largest radio station. Newhouse holds the license for the third largest television station.

The Justice Department estimated that the two publishers receive approximately 80 per cent of the advertising revenue

OFIELD DUKES & ASSOCIATES, INC.
PUBLIC RELATIONS

June 10, 1974

SUBJECT: Second Report on Broadcast Mobilization Project

FROM: Ofield Dukes

I. Significant Recent Developments

On Friday, June 7, I called the Senate Commerce Committee and spoke with Mr. Nicholas Zapple, professional staff member, regarding arrangements for Rev. Jesse Jackson of PUSH to testify on June 18, since he would not be in the country for the rest of that week. Mr. Zapple indicated that so many people had requested an opportunity to testify on the Broadcast License Renewal Bill that there would have to be additional hearings. As you know, this was our initial goal.

II. Strategy Meeting - Friday, June 7

There was a general consensus that the meeting was very productive. Very important and active participants in the meeting were two legislative representatives from the AFL-CIO -- Ken Young and Bob McGlotten. Young stated that the AFL-CIO will be testifying against the bill.

Another key participant in the meeting was Rev. Jesse Jackson, who rushed from New York City after being interviewed on the "Today Show". Jesse will also testify (we will be picking up the tab for his travel expenses) and gave us information for a public statement and news release for us to issue this week in his name blasting the bill.

Joe Rauh, Jr., legal counsel for the Leadership Conference on Civil Rights, presided at the meeting. A report on the meeting is attached.

The main strategy emerging from the meeting was:

1. Keeping pressure on Senator Pastore through development of

opposition to the bill among Catholic-Italians in Rhode Island and telegrams and letters from throughout the country.

2. Lobbying individual members of the Senate Commerce Subcommittee on Communications. (There was a discussion on each Subcommittee member and assignments were given for personal contacts with specific members of the Subcommittee.)

3. Contacting other major organizations and leadership persons to get them involved

4. Continuing to urge key persons to write to Senator Pastore about testifying.

III. Media Campaign

This week we will send out a statement and news release from Jesse Jackson outlining his opposition to the bill.

We are sending background information to: Ms. Ethel Payne, Defender Publications; Paul Delaney, New York Times, and Austin Scott of the Washington Post.

We are thinking of having a joint press briefing on the "new Black-labor-white" coalition formed to oppose the bill. The timing for this press briefing would be the day before the hearings begin - Monday, June 17.

IV. New Contacts and Other Developments

At the request of Attorney Henry Marsh, Vice Mayor of Richmond and chairman of the National Black Conference of Local Elected Officials, we are preparing a statement for a meeting of the NBC/LEO Executive Committee which meets on June 20 at the League of Cities conference in San Diego. The strategy is to have NBC/LEO, the Black mayors in particular, issue a public statement opposing the bill. Marsh will be testifying.

Another Black mayor who has agreed to testify and do some political spade work in Michigan is Robert Blackwell, the Republican mayor of Highland Park.

Also lined up to testify is Aaron Henry, who will use his influence to get others to do the same. (We will be taking care of Aaron's travel expenses.)

A draft of a letter has been prepared for mailing to Black leadership persons throughout the country. The same letter can also be sent to liberal white leaders. (See attached.) This letter will be sent over the signatures of: Joe Rauh, Dr. Carlton Goodlett, M. Carl Holman and Jesse Jackson.

V. Staff

Dave Honig, our prolific writer-researcher from Rochester, New York, and "activist" in the broadcast area, joined the staff on Thursday and is busy working on several major projects, including preparing testimony for several persons for the hearings.

OD/mg
encls.

June 5, 1974

Mr. Aaron Henry
213 Fourth Street
Clarksdale, Mississippi 38614

Dear Aaron,

Per our conversation, enclosed is background information on the Broadcast License Renewal Act. As I indicated, the hearings are scheduled for June 18, 19 and 20, before the Senate Commerce Committee headed by Senator John Pastore. We can pick up the tab for your travel and hotel accommodations.

Also enclosed is a list of the Committee members. It would be good if some letters could be sent to the committee members as well as to Senators Humphrey, Brooke and Kennedy, emphasizing the critical concerns of the Black community and its opposition to various provisions of this bill.

Thank you very much. I will be speaking with you during the week.

Sincerely,

Ofield Dukes

encls.

will testify

Ofield Dukes & Associates, Inc.

PUBLIC RELATIONS

June 7, 1974

Mr. Jesse Jackson
President,
Operation PUSH
930 East 50th Street
Chicago, Illinois

Dear Jesse,

I have spoken with Nicholas Zapple of the Senate Commerce Committee about scheduling your testimony for Tuesday, June 18. He said this would be impossible because officials of the FCC and the Justice Department will testify the first day. However, he indicated that there have been so many requests from people wishing to testify that there will be additional hearings -- I will find out when these hearings will be and let you know. Our arrangements then will be based on your availability for the second round of hearings.

I will be sending to you a copy of the news release that we are issuing on your behalf and a copy of the draft of your suggested testimony.

Also, I'll keep you posted on lobbying activities and specific efforts of other organizations.

If you have any questions, please feel free to call collect at any time.

Sincerely,

Ofield Dukes

OFIELD DUKES & ASSOCIATES, INC.

PUBLIC RELATIONS

June 7, 1974

Honorable Robert Blackwell
Mayor
Highland Park, Michigan

Dear Bob,

Per our discussion, enclosed is background information on the Broadcast License Renewal Bill. I am also following through on what we discussed ab out speaking with Eddie Williams.

If you have not done so already, your telegram requesting permission to testify against the bill should be addressed to: Senator John O. Pastore, Chairman, Senate Commerce Committee, United States Senate, Washington, D. C. 20510. A suggested draft of the telegram is enclosed.

As I also indicated, we have a team of "experts" on the bill who can develop a draft of your testimony.

If you have any further questions, please call.

Sincerely,

Ofield Dukes

encls.

SUITE 716 · NATIONAL PRESS BUILDING · WASHINGTON, D.C. 20004 · (202) 638-2299

suggested
TELEGRAM

Hon. John O. Pastore
Chairman, Communications Sub-Committee
Senate Commerce Committee
Suite 5202 - The Capitol
Washington, D. C. 20510

I am vitally interested in improving the opportunities of Blacks to participate more equally in the area of mass communications. Therefore, I would like to testify in opposition to the Broadcast License Renewal Act pending before your Subcommittee. I look forward to your early response.

OFIELD DUKES & ASSOCIATES, INC.

PUBLIC RELATIONS

PRSA

June 4, 1974

Honorable Henry L. Marsh, III
Vice Mayor
214 East Clay Street
Richmond, Virginia 23219

Dear Mr. Marsh:

Per our conversation, enclosed is background information on the Broadcast License Renewal Act.

As you suggested, I am also sending you a suggested text for a telegram to Senator Pastore.

I hope it will be possible for you to attend Friday's meeting. If not, I hope a representative of the Joint Center for Political Studies will be able to attend.

With very best wishes.

Sincerely,

Ofield Dukes

THE BROADCAST LICENSE RENEWAL BILL: CONGRESS' GIFT TO THE MEDIA MAGNATES

What it does...

1) Gives broadcasters 5 years between license renewals instead of current three years. This makes broadcasters accountable less often.
2) Monopoly control of media facilities in a community, and lack of participation of ownership in station management, cannot be factors in whether F. C. C. renews a license. F. C. C. could adopt rules preventing crossownership but is unlikely to adopt rules with any teeth in them. It was F. C. C.'s co-optation on this issue which led to existing monopoly control of industry.
3) No extensions of time to negotiate petitions to deny will be permitted, thus making it more difficult for citizens and broadcasters to reach agreements.
4) Appeals of F. C. C. decisions may be taken to local circuit courts rather than D. C. Circuit, which tends to override the F. C. C. Only the wealthy broadcasters could afford to fight communications cases in the local circuits.

What it doesn't do...

1) The bill removes incentives for broadcasters to produce minority and public service programming, or to increase minority employment.
2) The bill does nothing to speed up F. C. C. decisions or make the F. C. C. more accessible to the public.
3) The bill does not require any direct citizen input into the decision-making processes of the local stations. While it includes a provision for good-faith negotiations, these are entirely voluntary. Broadcasters are not required to agree to anything.

This bill is the most dangerous piece of broadcasting legislation, and one of the most anti-human rights bills, ever to be passed by a house of Congress. The Senate is likely to add the death blow: a "two-step" renewal process which would force a competing applicant to prove that the incumbent broadcaster doesn't deserve renewal before the competing proposal to run the station instead is heard. This would put an end to competing applications entirely (why file when you can't possibly win?) and give broadcasters practically permanent licenses to do whatever they want to do with the airwaves.

What you can do: Write to Senator John Pastore, Chairman of the Communications Subcommittee of the Senate Commerce Committee, asking permission to testify against the bill. If you can't testify, ask that your letter of opposition be entered into the hearing record. (Hearings are June 18-20, so do not delay.) Send a copy of your letter to the Leadership Conference on Civil Rights, 2027 Massachusetts Avenue N.W., Washington, D. C. 20036, which is helping to coordinate opposition to the bill. Also, write to your Senators, particularly those on the Commerce Committee*, asking them to oppose any so-called license renewal bill. LCCR will see that your letters receive wide dissemination. For further information (details of bill, background on committee members, assistance in getting to Washington to testify), contact Yvonne Price at the Leadership Conference on Civil Rights, at 202-667-1780. Protect citizen rights in communications: make your voice heard now!!

---

*Commerce Committee members are: Hartke, Hart, Cannon, Long, Moss, Hollings, Pearson, Griffin, Baker, Cook, Stevens, Beall, Tunney, Stevenson, Cotton, Magnuson (Chm.) & Pastore.

SUMMARY OF LEADERSHIP CONFERENCE ON CIVIL RIGHTS MEETING TO PLAN STRATEGY ON BROADCAST LICENSE RENEWAL ACT OF 1974

2027 Mass. Ave. N.W.
10 AM, 6/7/74

Present:

Ralph Jennings, United Church of Christ
Ofield Dukes, Ofield Dukes & Assoc.
Gloria Shepperson, Communications Workers of America
David Honig, National Black Media Coalition
Cosme Barcelo, Raza Association of Spanish Surnamed Americans
Ila Gillaspie, National Citizens Committee for Broadcasting
Albert Kramer, National citizens Committee for Broadcasting
Bob Greenbaum
Bob McGlotten, AFL-CIO
Ken Young, AFL-CIO
James McCuller, National Black Media Coalition
Amelia Parker, National Business League
Maudine Cooper, National Urban League
Sylvester Bass, National Business League
Joe Rauh, ADA; LCCR
M. Carl Holman, National Urban Coalition
Arlie Schardt, ACLU
Lynn Pearle, ADA
David Brody, Anti-Defamation Committee
Marvin Caplan, LCCR
Augustus Adair, Congressional Black Caucus
Yvonne Price, LCCR
David M. Anderson, N.C.C.
Lawrence A. Still, Howard University
Phil Watson, Coalition for Human Needs and Budget Priorities
James D. Williams, National Urban League
Kathy Bonk, N.O.W.
Tony Brown, Black Journal
Benjamin Cooke, Howard University
Dr. Maurice Dawkins, O.I.C.
Marion P. Hayes, Cablecommunications Resource Center
Jesse Jackson, Operation PUSH
Frank Cowan, D.N.C.

The meeting was called by the Leadership Conference on Civil Rights to explain the provisions of the Broadcast License Renewal Bill of 1974 and to plan a strategy to prevent its passage. Attorney Albert Kramer, who is President of the National Citizens Committee for Broadcasting and has long been active in citizen efforts to improve the performance of broadcasters, explained the history and purpose of the legislation, as well as its provisions and implications for minorities and poor people.

The bill which passed the House (H.R. 12993) would, in the words of Joseph Rauh, Jr., counsel for LCCR and co-convenor of the meeting, "freeze the feet of the industry to the floor for 1000 years and prevent any new minority ownership of radio and television."

Kramer explained that the bill's provisions for a 5-year renewal period, severe restrictions on petitions to deny and competing applications (which are the only forms of license challenges now written into law) and restrictions on court challenges of F.C.C. decisions will put an end to much of the activity of both citizen groups (public intervenors) and of competing applicants for licenses (who want to take over the stations and provide better service than the incumbent broadcasters).

Tony Brown, producer of public T.V.'s Black Journal, and co-convenor M. Carl Holman, Executive Director of the National Urban Coalition, defined the bill as a "vested-interest issue, which was, however, written by the NAB in reaction to Black groups." Holman noted that Black broadcasters are split on the bill, with some in favor of certain provisions, and James McCuller, Chairman of the National Black Media Coalition asked that the Black broadcasters be urged to oppose the bill, but that the group not allow the possible support for the bill by some of them cause the group to waver in its advocacy of the interests of 30 million Black communications consumers.

Joseph Rauh asked for an indication of support for an intensive effort to oppose the bill in the Senate Communications Subcommittee. Those present were unanimous in opposing the bill and many stated that they would, either personally or through their organizations, ask to testify against it, contact key Senators on the Communications Subcommittee, or submit testimony for the hearing record.

Senators on the Communications Subcommittee are:

John O. Pastore (D-R.I.), Chairman
Vance Hartke (D-Ind.)
Philip A. Hart (D-Mich.)
Howard W. Cannon (D-Nev.)
Russell B. Long (D-La.)
Frank E. Moss (D-Utah)
Ernest F. Hollings (D-S.C.)
Daniel K. Inouye (D-Haw.)

James B. Pearson (R-Kan.)
Robert P. Griffin (R-Mich.)
Howard H. Baker, Jr. (R-Tenn.)
Marlow W. Cook (R-Ky.)
Ted Stevens (R-Alas.)
J. Glenn Beall, Jr. (R-Md.)

Other Senators on the parent Commerce Committee are:

Warren G. Magnuson (D-Wash.), Chairman
John Tunney (D-Calif.)
Adlai E. Stevenson III (D-Ill.)
Norris Cotton (R-N.H.)

For further information about the meeting and on steps to be taken by the groups to oppose the bill, contact Ms. Yvonne Price at LCCR, at (202) 667-1780.

June 10, 1974

CONFIDENTIAL

Circulate only among: Ofield Dukes, Albert Kramer, Joe Rauh, Yvonne Price, Jim McCuller, David Honig

Commitments made by leaders at LCCR License Renewal Bill meeting, Friday, June 7, 1974

Joseph Rauh: Will contact Senator Hart
Carl Holman: Will seek support from Rhode Island
Gloria Shepperson (CWA): Will seek endorsement from state organizations
Jesse Jackson: Will speak with Senators Hollings and Stevenson, issue statement and ask to testify
Dr. Maurice Dawkins (OIC): Clergy support group will be alerted
Frank Cowan (DNC): Will send letters to DNC's Black Political Caucus
James McCuller (NBMC): Hopes to have 20 local affiliates present testimony; has asked to testify himself
Sylvester Bass, Amelia Parker (NBL): Has done a public statement; Berkeley Burrell is doing a column for Black newspapers. The National Committee for Policy Review has been alerted.
Kathy Bonk (NOW): Will contact affiliates, seeking letters to Senators, groups asking to testify, possibly petitions from members and statements submitted for the record
Cosme Barcelo (RASSA): Will contact National Latino Media Coalition and urge them to testify.
Ken Young (AFL-CIO): Will testify.
Phil Watson: Will urge Common Cause to testify.

Notes on strategy and resources: Ofield Dukes indicated that funds for transportation, particularly of national figures, would be available, along with support in the preparation of testimony. Those present at the meeting will receive background information on the Subcommittee members. Key Black and liberal leaders not present, including Black mayors, will receive a letter urging them to participate through testimony or other means. Albert Kramer indicated that he will attempt to sound out the Senators and ascertain their positions.

The strategy is to attempt to obtain an extension or postponement of the hearings until the impeachment trial. Alternatively, we will attempt to have amendments introduced which will weaken the bill to the point where a House-Senate conference could not agree on it. The point of amending the bill is not to get a weak bill passed; the intention is to have no bill at all passed. Testifying groups should understand that the difference in public positions (amend the bill versus kill the bill) reflects no difference at all in objectives.

DRAFT OF LETTER TO BLACK LEADERSHIP, MAYORS

June 10, 1974

Dear ___________________,

The Broadcast License Renewal Act of 1974, one of the most extreme and dangerous pieces of anti-human rights legislation in recent memory, passed the House of Representatives last month. It is about to be considered by the Communications Subcommittee of the Senate Commerce Committee. I am writing to request your assistance in vigorously opposing this measure, which, if it becomes law, will give incumbent radio and television station owners a permanent stranglehold on ownership of the nation's airwaves, and will drastically diminish the ability of local citizen groups to hold media owners accountable for their programming and employment policies.

Low-income residents of our urban ghettos spend an average of 26 hours per week watching television. It is their major source of information about local and world events. As you are undoubtedly all too well aware, the sensitivity and commitment of the media to the needs and concerns of the poor and minority groups is much less than it should be. Television and radio - which are the greatest mechanisms ever devised by man for bringing our citizens together with each other, their elected representatives and the institutions which govern their daily lives, have been used extensively as tools of division, exploitation, hatred and ignorance.

It doesn't have to be this way. Two procedures etched into communications law which provide effective tools for media reform. When radio and television station licenses come due for renewal every three years at the F.C.C., local citizens may petition to deny the renewal application, seeking improved program service and minority employment. Or, as occasionally happens, a new company may be formed to apply for the license. It can win the license if it demonstrates to the F.C.C. (in a hearing to which it is entitled by law) that it can provide better service to the community than the incumbent can.

Both of these forms of legal challenges would be dealt death blows by the proposed legislation. The bill would extend the license term from 3 to 5 years and restrict the effectiveness of the petition to deny as a negotiating tool for citizen groups. It would also deny a hearing on a competing application unless the incumbent is first proven unworthy of the license - a task which the F.C.C.'s record of rubber-stamping license renewals indicates to be impossible. Competing applications would simply not be filed anymore. The existing media owners would be given effective title to the airwaves forever. And minority ownership of radio and television would stay right where it is: 33 radio stations and zero television stations.

The Leadership Conference on Civil Rights recently brought together the leaders of 21 national groups with concerns about communications reform. These leaders were unanimous in their opposition to the bill, and would like to see as many spokespersons for the nation's poor and minority groups as possible to join them in testifying against the bill.

Would you join with us in our opposition to this legislation? Please write to Senator John Pastore, Chairman of the Senate Communications Subcommittee of the Senate Commerce Committee, asking permission to testify on the bill. If you are unable to be in Washington June 18-20 to participate in the hearings, you may write to Senator Pastore with brief comments to be included in the record.

Should you require assistance in preparing testimony or in getting to Washington to testify, please contact Ms. Yvonne Price at the Leadership Conference.

The enclosed materials, including a summary of our strategy meeting of national leadership, a summary of the bill, and analyses of what it will do and why the industry is supporting it, should answer most of the questions you may have.

I hope we can depend on your support. We must not allow the many positive improvements in broadcast service and employment practices in the past few years to come to a halt because of this most ill-advised piece of legislation.

Sincerely yours,

Enclosures

ANALYSIS OF BROADCASTERS' ARGUMENTS FOR THE LICENSE RENEWAL BILL

Broadcaster Argument 1: The bill would remove serious burdens on the industry and the F.C.C. The change from 3 to 5 year license terms would mean a reduction in the paperwork required of all parties to the regulatory process, including citizen groups. Great savings in F.C.C. staff time would result, and more careful scrutiny could be given to each application. Finally, broadcasters would have a longer period in which to plan their programming, staffing, and purchasing of equipment.

ANALYSIS: This is the only argument for the bill which at least holds water. It is true that less paperwork would be required - but only at the expense of the interest of the public in better program service. If the issue were one of paperwork, that problem should have been addressed directly, by reducing the number of forms to be filled out or the number of copies to be filed. Instead, of all the mountains of paperwork required to run a broadcasting station, the item selected for sacrificing happens to be the frequency of license renewal applications. The paperwork of profit-making remains intact while the paperwork of public service goes by the wayside. It is the height of cynicism toward the audience to suggest that planning better public-service programming, in keeping with community needs, must be sacrificed because of a mythical paper shortage. Citizen groups, of course, could care less about saving paper: their only "burden," which they bear gladly, is that of insuring the continuing accountability of the broadcasters to the audience.

No F.C.C. staff-time savings of any consequence would result from the bill, since only about 20 employees work full-time on renewals out of a staff of 1800.

The purpose of the renewal process is to insure periodic planning of a station's program service in keeping with changing community needs. Making the license term 5 years will not make the world start moving only 3/5 as fast as it does now. Community needs are, if anything, changing more swiftly now than ever before, which should suggest a need for a shorter, not a longer, renewal period.

Broadcaster Argument 2: Greater security for license renewals is needed to maintain the financial stability of the industry. When the incumbent is unsure of whether he can reasonably expect to be renewed, it is difficult for him to attract investments in his enterprises, and the cost of entry into broadcasting increases as the price of borrowing money to invest in broadcasting increases.

ANALYSIS: Broadcasters have trotted out this "stability" argument for years without a single statistic to demonstrate that the supposedly low probability of license renewal in any way depresses the broadcasting investment market at all, much less to the point where industry stability is threatened. In fact, reports of record upturns in industry investments followed the 1971 appeals court decision in the Citizens Communications Center case, which opened the way for new competing applicants. Indeed, since only one renewal challenge in the past five years in fact resulted in a loss of license, the probability of avoiding renewal due to challenges has been 99.998% - hardly suggesting that the industry is about to collapse.

The group whose stability is really being threatened is public interest challengers, who must seek financial backing in the same way an incumbent must, but with the handicap of having to win a hearing against one who already has a broadcast record. In fact, if the bill is enacted, public interest challengers will suffer the ultimate in institutional instability: they will all go out of business, including those with challenges pending for up to 10 years. A bill called the "No More Challenges Act" which simply banned challenges outright, would have precisely the same effect as this bill - and be considerably more honest about its intentions.

Broadcaster Argument 3: Encouragement of license renewal challengers, as in the case of Richard Nixon and the competing applications filed by his cronies in Florida against two superior Washington Post-owned stations, represents a serious threat of government censorship and of the imposition of a governmental definition of truth upon broadcasters. Furthermore, attempts to regulate station ownership on a case-by-case basis, as the Justice Department has encouraged in petitions to deny renewals of multiple-media owners across the country, can be used as an instrument of press intimidation. Former F.C.C. Commissioner Nicholas Johnson himself has pointed to political intrigue in decisions at the Justice Department on the challenging of certain renewals on antitrust grounds. Finally by requiring incumbent broadcasters to meet a "superior" programming standard when faced by a competing applicant, the courts (in Citizens Communications Center v. F.C.C.) literally invited the F.C.C. to impose bureaucratic judgements of what programming is meritorious and what is not - which is the essence of censorship.

ANALYSIS: The Nixon-Post situation needs to be addressed directly. The issue is not whether the right to oppose a renewal application is evil. The issue is whether political intrigue, and use of the processes of a regulatory agency to achieve political ends, is evil. We must condemn the Post challenges to the extent that they represent such intrigue. But in a democracy, evil purposes will occasionally find their way into even the finest constitutional safeguards. Misuse of free speech, in one man's mind, through (for example) pornography, should be condemned as a misuse, but we must not abolish either free speech or the right to misuse it. Thus, while we may find the Post challenges repugnant, we must defend the right of the challengers, for whatever reasons, to seek to effect changes in local broadcasting service through the time-tested process of competing applications. Congress should stop political intrigue, not economic competition. The license renewal bill will not solve the problem of political intrigue, but will merely force it to find another avenue of expression. The renewal bill would, however, kill the chances for media improvement at the hands of the many while only closing one door to abuse by the few.

Possible misuse of the petition to deny process by the Justice Department is no reason to foreclose effective use of the process by citizen groups. The Congress should not let a dishonest administration scare it into destroying a legitimate process - the challenging of monopoly control in local media whenever it occurs - simply because Congress can't trust the administration. Again, the process is the wrong villain.

Decisions on whether programming is "superior" or not are in no way either the essence of, or in any way related to censorship. Censorship is the ordering of an instrument of communications to refuse to print or air certain information. But nobody has a right to the use of the scarce spectrum resource: if one man, whether incumbent or challenger, is denied use of the resource, the other would effectively have been "censored," if the broadcasters' definition of the word can be believed. The content of programming is in no way considered when competing applications are heard by the F.C.C.: what is considered is whether the overall program service - its news, public affairs, and airtime devoted to other things than entertainment and sports, is likely to exceed the performance of the incumbent. Without this competitive spur, the incumbent may himself "censor" out discussion of controversial issues, minority programming, and public service programming on his station. This kind of censorship, which takes place every day, is what must be feared by those who seek the broadest possible access to the airwaves by divergent points of view.

Broadcaster Argument 4: Citizen groups seeking employment for minorities and women, and special-interest programming, are using the license renewal process to extort these changes from the licensee. They would substitute their judgement for that of the licensee on who to hire and what programs to air, when they know next to nothing about how to manage a broadcasting station, how to staff it and produce its programming. They usually represent a very small minority of the service area, and they frequently abuse the process by filing petitions to deny beyond the deadlines set by the Commission. They often appear out of nowhere at license renewal time, with a name like "Concerned Citizens" which nobody ever heard of before, and go out of business as soon as the desired changes are extorted from the licensees, who often will give in rather than bear the burden of a long and expensive legal battle. The renewal bill would set strict time-limits for petitions to deny, thereby foreclosing last-minute objections which should have been better planned in advance, and rather than take away the right of the local groups to file petitions to deny, it would encourage ongoing negotiations with broadcasters during the license renewal term by requiring the F.C.C. to adopt procedures for such negotiations.

ANALYSIS: Citizen groups are not extortionists, or even modern-day Robin Hoods, for they must undergo the same legal expenses and long wait for F.C.C. action as the broadcasters do when they file a petition to deny. Since most of these groups are non-profit and non-funded, they cannot afford to file a petition to deny for any but the best of reasons. They know that the broadcasters are much better able to afford the expense of defending their lack of minority and women employees and public-service programming at the F.C.C. than citizens are in challenging these abuses. The use of legal redress to seek specific ends is no more extortion now than it was when the NAACP and SCLC used such means to seek redress of civil rights grievances. And obviously, one does not have to be capable of managing a TV station or running its cameras to be able to determine, from reading F.C.C. forms, that the station has displayed a pattern of discrimination in its hiring practices, or that the only public-service programming appears at 8:00 Sunday morning.

Broadcaster complaints about the representativeness of citizen groups are, if nothing else, ironic, for broadcasters are totally unrepresentative of anybody but perhaps a small group of successful businessmen. In many cities, every major human rights or minority organization in the city is a member of the broadcasting coalition, and almost without exception, these groups have stayed alive well beyond the time when petitions to deny were filed - and often without ever filing them. The vitality of the local groups is proven by their ability to sustain long-term coalitions as the National Black Media Coalition and National Latino Media Coalition, which could hardly exist with the support of a few fly-by-night operations.

Extensions of time for filing petitions to deny are usually requested by the best, not the worst-prepared groups. Groups which seek to finalize negotiations short of filing a petition to deny, but which do not want to give up their right to do so just because of a time constraint, would, if the bill is enacted, be forced to stop talking and start throwing paper at the F.C.C. - even if the broadcasters agreed with the citizens that an extension of time was warranted for the purpose of negotiations. This kind of inflexibility at the F.C.C. clearly works against the interest of local solutions to local disputes among broadcasters and citizens. It is also unnecessary - the savings of a few days for the filing of a petition to deny pales when compared to the 2-3 years it generally takes the F.C.C. to dispose of a petition to deny.

Finally, the so-called ongoing negotiations provision in the bill is, when read closely, an utter sham, for it would not require the broadcaster to agree to anything at any time with any group, and it would preclude application of the body of labor law to disputes involving broadcasters. All it would do is give citizen groups the "right" to sit down to discuss the situation with the broadcaster without serious hope of reaching any agreement - something few broadcasters in their right minds now refuse to do when confronted with a citizen group.

Broadcaster Argument 5: Competing applicants only promise - and they could promise the Commission anything. It is easy to construct promises of superior broadcast service, but it is much harder to implement them and actually provide the service over a long period of time. Experienced owners are more likely to have the know-how to provide better service, regardless of what the challenger says he will do.

ANALYSIS: Every broadcaster on the air today had to make promises at least once: when they took to the airwaves as new licensees. However, the promise-versus-performance criterion for all license renewals forced them to construct promises which they stood an excellent chance of keeping. Exactly the same standard holds for competing applicants, who if anything must be more sensitive to the fact that they will certainly be held closely accountable to their programming proposals should they win the license. In any event, if the issue really were whether challengers can keep their promises, that issue deserves to be addressed directly, for example through requiring strict F.C.C. oversight of their operations on promise-versus-performance grounds. Nobody can change the fact that potential challengers will be making promises - but no legislation ought to preclude the acceptance of promises which, on their face, are clearly far superior to the record of mediocre performance by so many of the nation's broadcast licensees.

Broadcaster Argument 6: The license renewal bill will protect Black and other minority broadcasters just as it will protect other licensees. In fact, by increasing the financial stability of the industry, it will become easier for minorities to find banks willing to loan them the funds with which to construct new stations - and dozens of major cities have one or more vacant UHF frequencies begging for someone to construct a station.

ANALYSIS: The nation's 33 Black radio station owners (of 9000+ radio and TV stations) are already providing excellent service, and do not need protection against renewal challengers, or want it. What is needed is more Black ownership of viable broadcast facilities, and this bill will shut off a major avenue for Blacks to achieve such ownership. UHF stations are the crumbs of the frequency spectrum breadbox. They are going begging because the market will not bear additional stations in many cities without the addition of a fourth network, which the F.C.C. has consistently worked to prevent. VHF television stations, particularly those with network affiliations, would be foreclosed forever to Black ownership if the bill passes.

It is, of course, true that minorities often have difficulty obtaining financing for new stations. However, this is not because of any instability in the industry - white investors have no difficulty financing broadcast deals. The lack of venture capital for prospective Black broadcasters stems from a problem with which we are all familiar, which is entirely divorced from the issue of stability in the money market.

PRESS RELEASE

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FOR IMMEDIATE RELEASE

June 4, 1974

NATIONAL BLACK MEDIA COALITION ANNOUNCES OPPOSITION TO BROADCAST LICENSE RENEWAL BILL

National Black Media Coalition Chairman James McCuller today announced the Coalition's specific opposition to the Broadcast License Renewal Act of 1974.

The bill, which has passed the House of Representatives and is now being considered by the Senate Communications Subcommittee, would extend radio and television license terms from 3 to 5 years, and would require the F.C.C. to find an incumbent broadcaster totally unresponsive to local needs before a hearing could be held on a competing application.

Chances for passage of the bill were improved since it was revealed that President Nixon urged his financial backers in Florida to file competing applications against television stations in Jacksonville and Miami which are owned by the Washington Post, a frequent Nixon critic. However, McCuller said, these challenges are not representative of most license renewal battles, which are fought by, for the most part, Black and other minority groups in an effort to win equal employment opportunities and minority programming, or to improve the quality of broadcasting service in the community when an incumbent becomes unresponsive to community needs. McCuller added that "such gross abuses of the license renewal process never took place before Richard Nixon became President. The renewal process must not be scuttled, and with it the only chance minorities have to improve radio and television service at local stations through legal means, simply because we have a President who does not respect the law."

McCuller also commended the Washington Post for continuing to practice positive and aggressive journalism in the face of the license renewal challenges.

The renewal bill includes provisions for an extension of the license term from 3 years to 5, and for precluding license challengers from winning hearings on competing applications even when their proposals are far superior to the incumbent's,unless the incumbent is grossly negligent or has broken the law. McCuller commented, in a prepared statement: "The White Broadcasting Establishment has already stolen all the TV network affiliates and AM clear-channel stations. Now they want to keep them forever." McCuller then urged all Black communicators to write to Senator John Pastore, Chairman of the Senate Communications Subcommittee, asking permission to testify on the bill. Those unable to testify in person may submit statements in writing for the official record. Hearings are June 18-20.

For further information, contact James McCuller at 716-325-5116.

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Memo to: Ofield Dukes
From: David Honig DH

Status of Testimony Requests from Local Groups

As of 9 AM today, these local NBMC affiliate leaders have indicated that they have, or will, write in to testify:

Jim Alexander (New Haven)
Rosa Blue (Geneva, N.Y.)
Leanne Keys (Phila. Pa.)
Jim McCuller (Chm.; Rochester, NY)
David Honig (Rochester, NY)
Harold Lee (Chicago)
Marcus Wilcher (San Francisco)
Kazu Obayashi (New York - Asian Americans for Fair Media)
Alvin Chambliss (New Orleans)
Aleane Carter (Omaha)
Sharon Brooks (Washington, D.C.)

Of these, testimony must be prepared for Blue, McCuller, Lee, Carter, Obayashi and Brooks.

Funds have been requested as follows:

Obayashi: \$40 (train)
Blue: \$50 (car)
Lee: \$105 (plane)
Carter: \$180 (plane)
TOTAL: \$375 to date. \$0 has been committed.

Other assistance promised:

-Leanne Keys will work Thursday and part of Friday writing testimony
-Kujaatele Kweli (NBMC Secretary; NUL staff) will draft testimony for at least one group, and will call League affiliates with a background of media work in these cities in states with Senators on the Commerce Committee:

--Providence, RI (Pastore): Erroll Hunt
--South Bend, Ind. (Hartke): Lee C. McKnight
--Gary, Inc. (Hartke): Roy L. Harris
--Seattle (Magnuson): Jerome Page
--Memphis (Baker): Herman Ewing
--Louisville (Cook): Arthur Walters
--Lexington (Cook): Porter G. Peeples
--Baltimore (Beall): Travis W. Vauls

While NUL policy may prevent them from testifying, Kweli will urge them to telephone their Senators personally to state their opposition to the bill. He will try to waive NUL policy in case of Providence league.
-Alvin Chambliss will seek other Southern groups to testify

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-Rosie Laster (Boulder, Colo.) will seek Colorado group(s) to testify
-Barbara Brown (Youngstown) will seek Youngstown leader(s) to testify
-Sacheen Littlefeather (Native Americans for Fair Media) will write and ask to testify in the event hearings last until August (she can't testify until then) and will try to submit statement for the record.

DH