

APPENDIX

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON 25, D. C.

In the Matter of
EDITORIALIZING BY BROADCAST LICENSEES. } DOCKET No. 8516

REPORT OF THE COMMISSION

BY THE COMMISSION (CHAIRMAN COY AND COMMISSIONER WALKER NOT PARTICIPATING; ADDITIONAL VIEWS BY COMMISSIONER WEBSTER; SEPARATE OPINION BY COMMISSIONER JONES; COMMISSIONER HENNOCK DISSENTING) :

1. This report is issued by the Commission in connection with its hearings on the above entitled matter held at Washington, D. C., on March 1, 2, 3, 4, and 5, and April 19, 20, and 21, 1948. The hearing had been ordered on the Commission's own motion on September 5, 1947, because of our belief that further clarification of the Commissioner's position with respect to the obligations of broadcast licensees in the field of broadcasts of news, commentary and opinion was advisable. It was believed that in view of the apparent confusion concerning certain of the Commission's previous statements on these vital matters by broadcast licensees and members of the general public, as well as the professed disagreement on the part of some of these persons with earlier Commission pronouncements, a reexamination and restatement of its views by the Commission would be desirable. And in order to provide an opportunity to interested persons and organizations to acquaint the Commission with their views, prior to any Commission determination, as to the proper resolution of the difficult and complex problems involved in the presentation of radio news and comment in a democracy, it was designated for public hearing before the Commission *en banc* on the following issues:

1. To determine whether the expression of editorial opinions by broadcast station licensees on matters of public interest and controversy is consistent with their obligations to operate their stations in the public interest.

2. To determine the relationship between any such editorial expression and the affirmative obligation of the licensees to insure that a fair and equal presentation of all sides of controversial issues is made over their facilities.

2. At the hearings testimony was received from some 49 witnesses representing the broadcasting industry and various interested organizations and members of the public. In addition, written statements of their position on the matter were placed into the record by 21 persons and organizations who were unable to appear and testify in person. The various witnesses and statements brought forth for the Commission's consideration, arguments on every side of both of the questions involved in the

hearing. Because of the importance of the issues considered in the hearing, and because of the possible confusion which may have existed in the past concerning the policies applicable to the matters which were the subject of the hearing, we have deemed it advisable to set forth in detail and at some length our conclusions as to the basic considerations relevant to the expression of editorial opinion by broadcast licensees and the relationship of any such expression to the general obligations of broadcast licensees with respect to the presentation of programs involving controversial issues.

3. In approaching the issues upon which this proceeding has been held, we believe that the paramount and controlling consideration is the relationship between the American system of broadcasting carried on through a large number of private licensees upon whom devolves the responsibility for the selection and presentation of program material, and the congressional mandate that this licensee responsibility is to be exercised in the interests of, and as a trustee for the public at large which retains ultimate control over the channels of radio and television communications. One important aspect of this relationship, we believe, results from the fact that the needs and interests of the general public with respect to programs devoted to new commentary and opinion can only be satisfied by making available to them for their consideration and acceptance or rejection, of varying and conflicting views held by responsible elements of the community. And it is in the light of these basic concepts that the problems of insuring fairness in the presentation of news and opinion and the place in such a picture of any expression of the views of the station licensee as such must be considered.

4. It is apparent that our system of broadcasting, under which private persons and organizations are licensed to provide broadcasting service to the various communities and regions, imposes responsibility in the selection and presentation of radio program material upon such licensees. Congress has recognized that the requests for radio time may far exceed the amount of time reasonably available for distribution by broadcasters. It provided, therefore, in Section 3 (h) of the Communications Act that a person engaged in radio broadcasting shall not be deemed a common carrier. It is the licensee, therefore, who must determine what percentage of the limited broadcast day should appropriately be devoted to news and discussion or consideration of public issues, rather than to the other legitimate services of radio broadcasting, and who must select or be responsible for the selection of the particular news items to be reported or the particular local, State, national or international issues or questions of public interest to be considered, as well as the person or persons to comment or analyze the news or to discuss or debate the issues chosen as topics for radio consideration, "The life of each community involves a multitude of interests some dominant and all pervasive such as interest in public affairs, education and similar matters and some highly specialized and limited to few. The practical day-to-day problem with which every licensee is faced is one of

striking a balance between these various interests to reflect them in a program service which is useful to the community, and which will in some way fulfill the needs and interests of the many." *Capital Broadcasting Company*, 4 Pike & Fischer, R.R. 21; *The Northern Corporation (WMEX)*, 4 Pike & Fischer, R.R. 333, 338. And both the Commission and the courts have stressed that this responsibility devolves upon the individual licensees, and can neither be delegated by the licensee to any network or other person or group, or be unduly fettered by contractual arrangements restricting the licensee in his free exercise of his independent judgments. *National Broadcasting Company v. United States*, 319 U.S. 190 (upholding the Commission's chain broadcasting regulations, Section 3.101-3.108, 3.231-3.238, 3.631-3.638), *Churchill Tabernacle v. Federal Communications Commission*, 160 F. 2d. 244 (See, rules and regulations, Sections 3.109, 3.239, 3.639); *Allen T. Simmons v. Federal Communications Commission*, 169 F. 2d. 670, *certiorari denied* 335 U.S. 846.

5. But the inevitability that there must be some choosing between various claimants for access to a licensee's microphone, does not mean that the licensee is free to utilize his facilities as he sees fit or in his own particular interests as contrasted with the interests of the general public. 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. Section 301 of the Communications Act provides that it is the purpose of the act to maintain the control of the United States over all channels of interstate and foreign commerce. Section 326 of the act provides that this control of the United States shall not result in any impairment of the right of free speech by means of such radio communications. It would be inconsistent with these express provisions of the act to assert that, while it is the purpose of the act to maintain the control of the United States over radio channels, but free from any regulation or condition which interferes with the right of free speech, nevertheless persons who are granted limited rights to be licensees of radio stations, upon a finding under Sections 307 (a) and 309 of the act that the public interest, convenience, or necessity would be served thereby, may themselves make radio unavailable as a medium of free speech. The legislative history of the Communications Act and its predecessor, the Radio Act of 1927 shows, on the contrary, that Congress intended that radio stations should not be used for the private interest, whims, or caprices of the particular persons who have been granted licenses, but in manner which will serve the community generally and the various groups which make up the community.¹ And the courts have consistently upheld Commission

¹ Thus in the Congressional debates leading to the enactment of the Radio Act of 1927 Congressman (later Senator) White stated (67 Con. Rec. 5479, March 12, 1926):

"We have reached the definite conclusion that the right of all our people to enjoy this means of communication can be preserved only by the repudiation of the idea underlying the 1912

action giving recognition to and fulfilling that intent of Congress. *KFAB Broadcasting Association v. Federal Radio Commission*, 47 F. 2d 670; *Trinity Methodist Church, South v. Federal Radio Commission*, 62 F. 2d 850, *certiorari denied*, 288 U.S. 599.

6. 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 dissemination of news and ideas concerning the vital public issues of the day. Basically, it is in recognition of the great contribution which radio can make in the advancement of this purpose that portions of the radio spectrum are allocated to that form of radio communications known as radiobroadcasting. Unquestionably, then, the standard of public interest, convenience and necessity as applied to radiobroadcasting must be interpreted in the light of this basic purpose. The Commission has consequently recognized the necessity for licensees to devote a reasonable percentage of their broadcast time to the presentation of news and programs devoted to the consideration and discussion of public issues of interest in the community served by the particular station. And we have recognized, with respect to such programs, the paramount right of the public in a free society to be informed and to have presented to it for acceptance or rejection the different attitudes and viewpoints concerning these vital and often controversial issues which are held by the various groups which make up the community.² It is this right of the public to be informed, rather than any right on the part of the Government, any broadcast licensee or any individual member of the public to broadcast his own particular views on any matter, which is the foundation stone of the American system of broadcasting.

7. This 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 Co. (WHKC)* case, 10 FCC 675, 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 & Fischer, radio regulation 259, stated our conclusions that this duty extends to all subjects of substantial importance to the community coming within the scope of free

law that anyone who will, may transmit and by the assertion in its stead of the doctrine that the right of the public to service is superior to the right of any individual to use the ether * * * the recent radio conference met this issue squarely. It recognized that in the present state of scientific development there must be a limitation upon the number of broadcasting stations and it recommended that licenses should be issued only to those stations whose operation would render a benefit to the public, are necessary in the public interest or would contribute to the development of the art. This principle was approved by every witness before your committee. We have written it into the bill. *If enacted into law, the broadcasting privilege will not be a right of selfishness. It will rest upon an assurance of public interest to be served.*" (Italics added.)

And this view that the interest of the listening public rather than the private interests of particular licensees was reemphasized as recently as June 9, 1948, in a unanimous report of the Senate Committee on Interstate and Foreign Commerce on S. 1333 (80th Cong.) which would have amended the present Communications Act in certain respects. See S. Rept. No. 1567, 80th Cong. 2nd Sess., pp. 14-15.

² Cf., *Thornhill v. Alabama*, 310 U.S. 88, 95, 102; *Associated Press v. United States*, 326 U.S. 1, 20.

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. Cf., *National Broadcasting Company v. United States*, 319 U.S. 190; *Allen T. Simmons*, 3 Pike & Fischer, R.R. 1029, *affirmed*; *Simmons v. Federal Communications Commission*, 169 F. 2d 670, *certiorari denied*, 335 U.S. 846; *Bay State Beacon*, 3 Pike & Fischer, R.R. 1455, *affirmed*; *Bay State Beacon v. Federal Communications Commission*, U.S. App. D.C., decided December 20, 1948; *Petition of Sam Morris*, 3 Pike & Fischer, R.R. 154; *Thomas N. Beach*, 3 Pike & Fischer R.R. 1784. And the Commission has made clear that in such presentation of news and comment the public interest requires that the licensee must operate on a basis of overall fairness, making his facilities available for the expression of the contrasting views of all responsible elements in the community on the various issues which arise. *Mayflower Broadcasting Co.*, 8 F. C. C. 333; *United Broadcasting Co. (WHKC)* 10 F. C. C. 515; Cf. *WBNX Broadcasting Co., Inc.*, 4 Pike & Fischer, R.R. 244 (memorandum opinion). Only where the licensee's discretion in the choice of the particular programs to be broadcast over his facilities is exercised so as to afford a reasonable opportunity for the presentation of all responsible positions on matters of sufficient importance to be afforded radio time can radio be maintained as a medium of freedom of speech for the people as a whole. These concepts, of course, do restrict the licensee's freedom to utilize his station in whatever manner he chooses but they do so in order to make possible the maintenance of radio as a medium of freedom of speech for the general public.

8. It has been suggested in the course of the hearings that licensees have an affirmative obligation to insure fair presentation of all sides of any controversial issue before any time may be allocated to the discussion or consideration of the matter. On the other hand, arguments have been advanced in support of the proposition that the licensee's sole obligation to the public is to refrain from suppressing or excluding any responsible point of view from access to the radio. We are of the opinion, however, that any rigid requirement that licensees adhere to either of these extreme prescriptions for proper station programming techniques would seriously limit the ability of licensees to serve the public interest. Forums and roundtable discussions, while often excellent techniques of presenting a fair cross section of differing viewpoints on a given issue, are not the only appropriate devices for radio discussion, and in some circumstances may not be particularly appropriate or advantageous. Moreover, in many instances the primary "controversy" will be whether or not the particular problem should be discussed at all; in such circumstances, where the licensee has determined that the subject is of sufficient import to receive broadcast attention, it would obviously not be in the public interest for spokesmen for one of the opposing points of view to be able to exercise a veto power over the entire presenta-

tion by refusing to broadcast its position. Fairness in such circumstances might require no more than that the licensee make a reasonable effort to secure responsible representation of the particular position and, if it fails in this effort, to continue to make available its facilities to the spokesmen for such position in the event that, after the original programs are broadcast, they then decide to avail themselves of a right to reply to present their contrary opinion. It should be remembered, moreover, that discussion of public issues will not necessarily be confined to questions which are obviously controversial in nature, and, in many cases, programs initiated with no thought on the part of the licensee of their possibly controversial nature will subsequently arouse controversy and opposition of a substantial nature which will merit presentation of opposing views. In such cases, however, fairness can be preserved without undue difficulty since the facilities of the station can be made available to the spokesmen for the groups wishing to state views in opposition to those expressed in the original presentation when such opposition becomes manifest.

9. We do not believe, however, that the licensee's obligations to serve the public interest can be met merely through the adoption of a general policy of not refusing to broadcast opposing views where a demand is made of the station for broadcast time. If, as we believe to be the case, the public interest is best served in a democracy through the ability of the people to hear expositions of the various positions taken by responsible groups and individuals on particular topics and to choose between them, it is evident that broadcast licensees have an affirmative duty generally to encourage and implement the broadcast of all sides of controversial public issues over their facilities, over and beyond their obligation to make available on demand opportunities for the expression of opposing views. It is clear that any approximation of fairness in the presentation of any controversy will be difficult if not impossible of achievement unless the licensee plays a conscious and positive role in bringing about balanced presentation of the opposing viewpoints.

10. It should be recognized that there can be no one all embracing formula which licensees can hope to apply to insure the fair and balanced presentation of all public issues. Different issues will inevitably require different techniques of presentation and production. The licensee will in each instance be called upon to exercise his best judgment and good sense in determining what subjects should be considered, the particular format of the programs to be devoted to each subject, the different shades of opinion to be presented, and the spokesmen for each point of view. In determining whether to honor specific requests for time, the station will inevitably be confronted with such questions as whether the subject is worth considering, whether the viewpoint of the requesting party has already received a sufficient amount of broadcast time, or whether there may not be other available groups or individuals who might be more appropriate spokesmen for the particular point of view than the person making the re-

quest. The latter's personal involvement in the controversy may also be a factor which must be considered, for elementary considerations of fairness may dictate that time be allocated to a person or group which has been specifically attacked over the station, where otherwise no such obligation would exist. Undoubtedly, over a period of time some licensees may make honest errors of judgment. But there can be no doubt that any licensee honestly desiring to live up to its obligation to serve the public interest and making a reasonable effort to do so, will be able to achieve a fair and satisfactory resolution of these problems in the light of the specific facts.

11. It is against this background that we must approach the question of "editorialization"—the use of radio facilities by the licensees thereof for the expression of the opinions and ideas of the licensee on the various controversial and significant issues of interest to the members of the general public afforded radio (or television) service by the particular station. In considering this problem it must be kept in mind that such editorial expression may take many forms ranging from the overt statement of position by the licensee in person or by his acknowledged spokesmen to the selection and presentation of news editors and commentators sharing the licensee's general opinions or the making available of the licensee's facilities, either free of charge or for a fee to persons or organizations reflecting the licensee's viewpoint either generally or with respect to specific issues. It should also be clearly indicated that the question of the relationship of broadcast editorialization, as defined above, to operation in the public interest, is not identical with the broader problem of assuring "fairness" in the presentation of news, comment or opinion, but is rather one specific facet of this larger problem.

12. It is clear that the licensee's authority to determine the specific programs to be broadcast over his station gives him an opportunity, not available to other persons, to insure that his personal viewpoint on any particular issue is presented in his station's broadcasts, whether or not these views are expressly identified with the licensee. And, in the absence of governmental restraint, he would, if he so choose, be able to utilize his position as a broadcast licensee to weight the scales in line with his personal views, or even directly or indirectly to propagandize in behalf of his particular philosophy or views on the various public issues to the exclusion of any contrary opinions. Such action can be effective and persuasive whether or not it is accompanied by any editorialization in the narrow sense of overt statement of particular opinions and views identified as those of licensee.

13. The narrower question of whether any overt editorialization or advocacy by broadcast licensees, identified as such is consonant with the operation of their stations in the public interest, resolves itself, primarily into the issue of whether such identification of comment or opinion broadcast over a radio or television station with the licensee, as such, would inevitably or even probably result in such overemphasis on the side of any particular controversy which the licensee chooses to espouse as to make

impossible any reasonably balanced presentation of all sides of such issues or to render ineffective the available safeguards of that overall fairness which is the essential element of operation in the public interest. We do not believe that any such consequence is either inevitable or probable, and we have therefore come to the conclusion that overt licensee editorialization, within reasonable limits and subject to the general requirements of fairness detailed above, is not contrary to the public interest.

14. The Commission has given careful consideration to contentions of those witnesses at the hearing who stated their belief that any overt editorialization or advocacy by broadcast licensee is *per se* contrary to the public interest. The main arguments advanced by these witnesses were that overt editorialization by broadcast licensees would not be consistent with the attainment of balanced presentations since there was a danger that the institutional good will and the production resources at the disposal of broadcast licensees would inevitably influence public opinion in favor of the positions advocated in the name of the licensee and that, having taken an open stand on behalf of one position in a given controversy, a licensee is not likely to give a fair break to the opposition. We believe, however, that these fears are largely misdirected, and that they stem from a confusion of the question of overt advocacy in the name of the licensee, with the broader issue of insuring that the station's broadcasts devoted to the consideration of public issues will provide the listening public with a fair and balanced presentation of differing viewpoints on such issues, without regard to the particular views which may be held or expressed by the licensee. Considered, as we believe they must be, as just one of several types of presentation of public issues, to be afforded their appropriate and nonexclusive place in the station's total schedule of programs devoted to balanced discussion and consideration of public issues, we do not believe that programs in which the licensee's personal opinions are expressed are intrinsically more or less subject to abuse than any other program devoted to public issues. If it be true that station good will and licensee prestige, where it exists, may give added weight to opinion expressed by the licensee, it does not follow that such opinion should be excluded from the air any more than it should in the case of any individual or institution which over a period of time has built up a reservoir of good will or prestige in the community. In any competition for public acceptance of ideas, the skills and resources of the proponents, and opponents will always have some measure of effect in producing the results sought. But it would not be suggested that they should be denied expression of their opinions over the air by reason of their particular assets. What is against the public interest is for the licensee "to stack the cards" by a deliberate selection of spokesmen for opposing points of view to favor one viewpoint at the expense of the other, whether or not the views of those spokesmen are identified as the views of the licensee or of others. Assurance of fairness must in the final analysis be achieved, not by the exclusion of particular views because of the source of the views,

or the forcefulness with which the view is expressed, but by making the microphone available, for the presentation of contrary views without deliberate restrictions designed to impede equally forceful presentation.

15. Similarly, while licensees will in most instances have at their disposal production resources making possible graphic and persuasive techniques for forceful presentation of ideas, their utilization for the promulgation of the licensee's personal viewpoints will not necessarily or automatically lead to unfairness or lack of balance. While uncontrolled utilization of such resources for the partisan ends of the licensee might conceivably lead to serious abuses, such abuses could as well exist where the station's resources are used for the sole use of his personal spokesmen. The prejudicial or unfair use of broadcast production resources would, in either case, be contrary to the public interest.

16. The Commission is not persuaded that a station's willingness to stand up and be counted on these particular issues upon which the licensee has a definite position may not be actually helpful in providing and maintaining a climate of fairness and equal opportunity for the expression of contrary views. Certainly the public has less to fear from the open partisan than from the covert propagandist. On many issues, of sufficient importance to be allocated broadcast time, the station licensee may have no fixed opinion or viewpoint which he wishes to state or advocate. But where the licensee, himself, believes strongly that one side of a controversial issue is correct and should prevail, prohibition of his expression of such position will not of itself insure fair presentation of that issue over his station's facilities, nor would open advocacy necessarily prevent an overall fair presentation of the subject. It is not a sufficient answer to state that a licensee *should* occupy the position of an impartial umpire, where the licensee is *in fact* partial. In the absence of a duty to present all sides of controversial issues, overt editorialization by station licensees could conceivably result in serious abuse. But where, as we believe to be the case under the Communications Act, such a responsibility for a fair and balanced presentation of controversial public issues exists, we cannot see how the open espousal of one point of view by the licensee should necessarily prevent him from affording a fair opportunity for the presentation of contrary positions or make more difficult the enforcement of the statutory standard of fairness upon any licensee.

17. It must be recognized, however, that the licensee's opportunity to express his own views as part of a general presentation of varying opinions on particular controversial issues, does not justify or empower any licensee to exercise his authority over the selection of program material to distort or suppress the basic factual information upon which any truly fair and free discussion of public issues must necessarily depend. The basis for any fair consideration of public issues, and particularly those of a controversial nature, is the presentation of news and information concerning the basic facts of the controversy in as complete and impartial a manner as possible. A licensee would be abusing his

position as public trustee of these important means of mass communication were he to withhold from expression over his facilities relevant news or facts concerning a controversy or to slant or distort the presentation of such news. No discussion of the issues involved in any controversy can be fair or in the public interest where such discussion must take place in a climate of false or misleading information concerning the basic facts of the controversy.

18. During the course of the hearing, fears have been expressed that any effort on the part of the Commission to enforce a reasonable standard of fairness and impartiality would inevitably require the Commission to take a stand on the merits of the particular issues considered in the programs broadcast by the several licensees, as well as exposing the licensees to the risk of loss of license because of "honest mistakes" which they may make in the exercise of their judgment with respect to the broadcasts of programs of a controversial nature. We believe that these fears are wholly without justification, and are based on either an assumption of abuse of power by the Commission or a lack of proper understanding of the role of the Commission, under the Communications Act, in considering the program service of broadcast licensees in passing upon applications for renewal of license. While this Commission and its predecessor, the Federal Radio Commission, have, from the beginning of effective radio regulation in 1927, properly considered that a licensee's overall program service is one of the primary indicia of his ability to serve the public interest, actual consideration of such service has always been limited to a determination as to whether the licensee's programing, taken as a whole, demonstrates that the licensee is aware of his listening public and is willing and able to make an honest and reasonable effort to live up to such obligations. The action of the station in carrying or refusing to carry any particular program is of relevance only as the station's actions with respect to such programs fits into its overall pattern of broadcast service, and must be considered in the light of its other program activities. This does not mean, of course, that stations may, with impunity, engage in a partisan editorial campaign on a particular issue or series of issues provided only that the remainder of its program schedule conform to the statutory norm of fairness; a licensee may not utilize the portion of its broadcast service which conforms to the statutory requirements as a cover or shield for other programing which fails to meet the minimum standards of operation in the public interest. But it is clear that the standard of public interest is not so rigid that an honest mistake or error in judgment on the part of a licensee will be or should be condemned where his overall record demonstrates a reasonable effort to provide a balanced presentation of comment and opinion on such issues. The question is necessarily one of the reasonableness of the station's actions, not whether any absolute standard of fairness has been achieved. It does not require any appraisal of the merits of the particular issue to determine whether reasonable efforts have been made to present

both sides of the question. Thus, in appraising the record of a station in presenting programs concerning a controversial bill pending before the Congress of the United States, if the record disclosed that the licensee had permitted only advocates of the bill's enactment to utilize its facilities to the exclusion of its opponents, it is clear that no independent appraisal of the bill's merits by the Commission would be required to reach a determination that the licensee has misconstrued its duties and obligations as a person licensed to serve the public interest. The Commission has observed, in considering this general problem that "the duty to operate in the public interest is no esoteric mystery, but is essentially a duty to operate a radio station with good judgment and good faith guided by a reasonable regard for the interests of the community to be served." *Northern Corporation (WMEX)*, 4 Pike & Fischer, R.R. 333, 339. Of course, some cases will be clearer than others, and the Commission in the exercise of its functions may be called upon to weigh conflicting evidence to determine whether the licensee has or has not made reasonable efforts to present a fair and well-rounded presentation of particular public issues. But the standard of reasonableness and the reasonable approximation of a statutory norm is not an arbitrary standard incapable of administrative or judicial determination, but, on the contrary, one of the basic standards of conduct in numerous fields of Anglo-American law. Like all other flexible standards of conduct, it is subject to abuse and arbitrary interpretation and application by the duly authorized reviewing authorities. But the possibility that a legitimate standard of legal conduct might be abused or arbitrarily applied by capricious governmental authority is not and cannot be a reason for abandoning the standard itself. And broadcast licensees are protected against any conceivable abuse of power by the Commission in the exercising of its licensing authority by the procedural safeguards of the Communications Act and the Administrative Procedure Act, and by the right of appeal to the courts from final action claimed to be arbitrary or capricious.

19. There remains for consideration the allegation made by a few of the witnesses in the hearing that any action by the Commission in this field enforcing a basic standard of fairness upon broadcast licensees necessarily constitutes an "abridgment of the right of free speech" in violation of the first amendment of the United States Constitution. We can see no sound basis for any such conclusion. The freedom of speech protected against governmental 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. We believe, on the contrary, that a requirement that broadcast licensees utilize their franchises in a manner in which the listening public may be assured of hearing varying opinions on the paramount issues facing the American people is within both the spirit and letter of the first amendment. As the Supreme Court of the United States has pointed out in the *Associated Press* monopoly case: