

MAJOR ISSUES BEFORE THE FCC

1. Loud Commercials (BC Docket No. 79-168)

What should the FCC do about objectionably loud commercials?

This problem has been with us for some time and it is deceptively complex. "Loudness" is essentially a subjective term. I would guess that most people mean that a commercial is "loud" or intrusive when compared with the program material which precedes it. In other words, the commercial seems to jump out at you because the average level of the preceding program material is lower than the average level of the commercial. In the vast majority of instances, the broadcaster is not deliberately attempting to increase the loudness of the commercial. On the other hand, the producers of the commercials often maintain a high average level of sound within the commercial in order to make it stand out and thus gain more audience attention. Since virtually all broadcasting stations utilize electronic devices to limit the peak level of the programming transmitted, it is the average level of the sound which becomes important when comparing the loudness of the commercials with the rest of the programming material.

How can loudness be controlled?

Because the problem is associated with "average" sound levels, loudness is very difficult to control. Limiting the peak sound levels is of very little use. Up until very recently it has been virtually impossible in the normal broadcasting station context to measure the average sound level. Recently, however, some progress has been made in such measurement and, conceivably, it will be possible to devise some means of automatically adjusting these average levels so that the sharp changes in sound levels generally perceived as loudness can be controlled.

2. Reduction in AM Channel Spacing (BC Docket 79-164)

Should the FCC reduce the AM Channel spacing from 10 kHz to 9 kHz to make room for additional AM stations?

I'm certainly not prepared to answer that question definitively at this time because I believe we must have the answers to several complex questions before we make a decision. For example, we must have some idea of the costs of making such a change. In the United States, many of our radio stations utilize directional antenna systems and these are very delicately tuned and that tuning is dependent upon the frequency and the bandwidth assigned. Should directional stations be required to change frequency to accommodate a change from 10 to 9 kHz, there may be significant costs involved. Also, we don't know how many new assignments would be possible under such a scheme. We don't know how many dislocations of present service would be required in terms of frequency changes. We don't know

whether there will be problems with some of the less expensive receivers which might not be able to separate stations adequately if they are closer together. We must have agreement with other countries in the Western Hemisphere before we can reduce channel width and, so far, our neighbors have not expressed great enthusiasm for the idea.

### 3. Creation of New Personal Radio Service (PR Docket 79-140)

Should the FCC allocate additional frequencies to a new personal radio service in the 900 MHz band?

I think this question will require a great deal of study. The present CB service is somewhat chaotic and we simply don't have the resources to significantly increase enforcement to the point where it can be transformed into a more useful, disciplined service. I'm not sure, at this point, that we need to assign more scarce spectrum to this kind of service. The present service provides entertainment to large numbers of people and I believe that it's worthwhile. Some useful services--such as traffic and other emergency-type communications--have often proven very valuable. I would have to be convinced that there is a real need for additional spectrum at 900 MHz before I would support expanding the Private Radio Service into that area. Equipment for use at that band would be expected to be significantly more expensive than present CB equipment. We would expect to be faced with ever-increasing demand at 900 MHz for business, public service, public utility and other services so that we can't treat that spectrum as surplus. The question, ultimately, is does CB have a high enough priority--when compared with some of the other services--to displace those other services in competition for spectrum. Perhaps it does. But, before voting to increase spectrum for CB I would want a lot more information than I now have.

What communications requirements might a new service satisfy?

It's possible that a service more along the lines originally contemplated for CB might be made to work at 900 MHz. That is, if the service could be structured more for small business and personal--as opposed to hobby--use, I might be persuaded that it would be worthwhile.

### 4. Elimination of CATV Distant Signal and Syndicated Exclusivity Rules

Should the FCC delete its rules which now limit the number of "distant signals" (TV programs from another city) that cable TV systems can carry?

This is another very complex problem. The reason for the distant signal rules in the first place was to limit the number of signals "competing" for attention with local television signals. The reason for the Commission's concern was that if local broadcast audiences were sufficiently fragmented there might not be enough local support to sustain some local stations and some communities might lose some service. By and large, I believe that some of these concerns have not been borne out in practice and perhaps we were somewhat overconservative in our original assessment. However, with the advent of the so-called "superstations" we may well be faced with



much more difficult problems than originally contemplated. Before satellites came along, the cost of transmitting signals over long distances for use by cable systems effectively limited the importation of such signals. With the advent of satellite transmission at relatively low cost, however, this self-limiting factor was virtually eliminated. The ~~satellite~~ superstation concept runs precisely counter to the concept of local service which has been a cornerstone of our system of broadcasting in this country. Satellite distribution tends to make a very few stations into ~~national~~ national stations which are incapable of providing local service; that is, local news, weather, public affairs, community service programming. To the extent that these "national" stations erode the community support for local stations, they erode the local stations' capacity to provide local service. This effect is very subtle because immediate impact is very difficult to document.

Should the FCC delete its rules which now keep a cable system from showing a syndicated program if a local TV station has the rights to that show, and asks the cable system to "black out" the show?

This issue is one of the more troubling ones in this entire area of broadcasting and cable. First, you must remember that the local broadcaster has negotiated for and paid for a syndicated program and part of what he paid for is the exclusive right to show the program in his market for a certain period of time. When a cable system or systems pick up a distant signal and show the same syndicated program in that market for no cost other than the satellite transmission costs, the cable operator is undercutting that exclusivity which is a significant part of the value of the program to the broadcaster. I see something basically unfair in that arrangement. Beyond that, the broadcasters' incentive to buy syndicated programming is diminished without exclusivity and thus he is willing to buy only at a significantly reduced price. The producer and syndicator are thus in a position of receiving less for their product and their incentive to produce the programs is reduced to some degree. Ultimately, the folks who produce and distribute the programming are less inclined to take the risks involved and, at least conceivably, the public will receive less.

5. Excessive Earnings by AT&T (CC Docket 79- )

What should the FCC do about excessive revenues collected by AT&T above its authorized profit levels?

I believe the first thing the Commission should do is to determine whether the revenues were "excessive." You should remember that the Commission prescribes rates of return prospectively; that is, at some point, the Commission attempts to look ahead into the future and predict what economic conditions will be and prescribe rates which we believe will be equitable both to the public and to the carrier. If we prescribe rates which are too low, the carrier can run into serious trouble trying to raise the funds required to provide good service. If we prescribe rates which are too high, the public suffers through telephone bills which are too high. The problem arises because we don't really know what economic conditions are going to be present even a few months after our prescription. Periods of high inflation, for example, bring in revenues greater than would be



*Casualty hearing on ATT rates is being ordered by Commission (Sept 18th)*

expected without inflation. But high inflation also increases costs to the carrier...including the cost of borrowing money. The Commission has to balance these factors and many more before determining where the rate of return should be. And, it must be remembered that we are talking about fractions of percentage points because the telephone industry is so large that those fractions amount to millions of dollars, *Rate of return low compared with all other industries (ATT 9 1/2-10, most others 12-20%)*  
Should a direct refund or some other equitable remedy be ordered?

If it is shown that the revenues collected by AT&T were indeed excessive, I would favor some kind of refund to the consumer. I'm not sure what kind of refund would be appropriate but I think we'd have to be careful to provide refunds in such a manner that the refund mechanism didn't cost more than the refunds were worth.

6. ~~Should~~ Radio Deregulation ( BC Docket 79-219)

Should the FCC repeal some of its rules governing radio such as commercial time limitations, news and public affairs programming, ascertainment, and program log-keeping?

My short answer is YES! Dealing with each of the categories mentioned: commercial time limitations are, generally speaking, being imposed by the marketplace not the FCC at the present time. Competitive pressures and audience tolerance levels will, over time, limit the number of and kinds of commercials being broadcast. News and public affairs programming is likewise generally controlled by the marketplace. When the FCC first considered an experiment in the largest markets to deregulate, it was widely assumed that stations in the large markets were so numerous that *THERE WOULD BE* sufficient news and public affairs programming from some of the stations so that the public could find that kind of programming if it wanted it. The Commission discovered, however, that, generally speaking, stations in the smaller markets were providing far more news and informational programming than were the larger stations and, because of the times in which such programming was scheduled, it was clear that they were responding to the demands of their audiences. In short, so long as the public demands informational programming, it will receive it. Ascertainment--as currently required by the FCC--is largely a mechanistic exercise which provides very little useful guidance to the broadcaster or ~~rather~~ very little in the way of better service to the community. On the other hand, the ascertainment process requires a great deal of time and effort from the broadcaster which might better be used in directly providing service to the community. The broadcaster will continue to ascertain the needs and wants of the community because it is only in service to the community that he will succeed and prosper as a businessman or businesswoman. The program log requirement will remain with or without an FCC rule. The program log is first a roadmap which tells station personnel what is supposed to be on the air at any given time. Further it tells sales personnel what times are available for sale. Beyond that, it provides a means of billing the client--the advertiser--and of ~~verifying~~ confirming that the commercial ran when it was scheduled. The Commission proposal would merely give the broadcaster the option of deciding what form his program log would take, permitting the tailoring of the log to fit different kinds of operations and billing systems.



7. Electronic Computer-Originated Mail (ECOM) (CC Docket 79-6)

Who should have jurisdiction over mail sent electronically?

The Commission has already stated that it believes it should have and does have such jurisdiction. I agree with that judgment. Aside from the legal reasons for FCC jurisdiction, I believe that there are some practical ones. The Postal Service will be competing with private services offering many of the same features and the private services do fall under our jurisdiction at the present time. To use a somewhat imperfect analogy, leaving the Postal Service unregulated or regulated by another agency would work about as well as doing the same thing for AT&T.

If the ~~Postal Service~~ Postal Service offers electronic mail as a service to postal consumers, should it have to get FCC authorization in advance?

Yes. If the Commission has no control over entry, it cannot effectively regulate.

8. Clear Channel Radio

Should the FCC limit the range of the 25 clear channel stations to make room for an estimated 125 additional AM Stations?

First, it should be ~~emphasized~~ emphasized that the number of additional stations is an estimate and the limitation on the clear channel stations might well provide significantly fewer additional stations than estimated. Secondly, I think we need to have more information about unserved or underserved areas of the country and the extent to which they are benefitting from clear channel service at the present time.

We also need to know where these additional stations are going to be located. A new station in the middle of the Utah salt flats might not provide much service. I hope that our Notice brings us this kind of information.

9. Reimbursement (Gen. Docket 78-215)

Should persons who provide information and research needed by the Commission be reimbursed for their expenses when such information is useful to the Commission for the proper conduct of its regulatory responsibilities?

That is kind of a ~~loaded~~ loaded question particularly when it is considered in the context of a regulatory agency such as the FCC. Where the Commission perceives a need for information and research not otherwise available it can and does expend the necessary funds to acquire such information. I have trouble with the concept as it applies to perceptions of Commission needs which come from outside the agency. I am concerned that such funds will be claimed by groups and individuals

who claim to be acting for the public--and in some cases may believe they are acting for the public at large--but who are merely advocates for their own personal points of view. I believe that such groups and individuals have the right to advocate their views but I don't believe that the rest of us have the obligation to pay for the exercise of that right. Beyond that, the problems of implementing a reimbursement program while avoiding abuse seems to be a very difficult task. To qualify, is the information provided to be essential to the Commission's deliberations? Marginally useful? Barely useful? Was the task of gathering the information or performing the research done in an efficient, least-cost fashion? Is the information verifiable and/or reliable? What is the quality of the information/research? What safeguards are necessary to ensure that funds paid out are reimbursement and not profit?

10 Children's TV (Docket 19142)

How effective was the FCC's 1974 policy statement on children's television and advertising practices?

I suppose it's difficult to assign credit to the FCC's policy statement, but it is certainly apparent that, since 1974, much has been done in the area of children's television. All three of the commercial networks, public broadcasting and a very large number of local stations have been expending considerable effort to improve programming for children. At the least, I think we can say that our policy ~~statement~~ statement had a "consciousness raising" effect.

Should the FCC consider revisions to its policy statement or regulations in the area of children's TV?

To the extent that serious deficiencies continue to exist, I think that we should although I don't think the government should assume creative responsibilities in broadcasting to children. This is a very emotional area and judgments about quality are highly subjective. I certainly don't know what's best for children to watch and I couldn't begin to break down by age group what is best for each group all of the time. Now, while I'm confessing my ignorance, I know that there are many self-<sup>appointed</sup> ~~conferred~~ experts who claim to know precisely what is best for children. I think we'd better be sure they know what they're talking about before we go charging around to reform the world in their image. If some of the things I've been hearing about the influence of violence in children's entertainment are true, all of us who are making judgments--including the experts--have been warped by Mother Goose, the Brothers ~~Grims~~ Grimm, the Bible, Mark Twain and Shakespeare.