

December 8, 1980

Dissenting Statement  
of  
Commissioner Anne P. Jones  
in which Commissioner James H. Quello joins

In re: Petition for Reconsideration filed by Walton Broadcasting, Inc. in the Tucson, Arizona, KIKX Renewal Proceeding (Docket No. 20287)

In this case the Commission has, in my judgment, overreacted to a brief, ill-conceived promotion conducted by this licensee some seven years ago. The promotion surely deserves condemnation, but I cannot agree that it justifies nonrenewal of this license.

From the record it appears that a disc jockey at KIKX decided in early 1974 to be absent from the station for several days while moving his family to Tucson. The station's management decided to use this opportunity to conduct a promotion wherein the disc jockey would "disappear" and a contest would be developed around his disappearance and return. The promotion was approved in general by the station's general manager and developed in detail by its program director. Since the owner did not ordinarily get involved in contests or promotions involving less than \$500, he was not notified of this promotion in advance.

The promotion began on Saturday, January 19, 1974, when KIKX carried newscasts that the disc jockey had been "kidnapped." The general manager, Forsythe, was not at the station that day. The public responded with calls to the station and to the police, who told the station to "knock it off." Forsythe, was contacted by the station's engineer, but was not informed of the police calls. He authorized continuation of the promotion, but instructed the program manager not to use the word "kidnapped" and not to include announcements in the station's newscasts.

Forsythe learned the details of the promotion on Monday, January 21, and called the owner, Walton, advising him generally that there had been a problem at the station that had involved the police. He did not provide any details about the problem, and assured Walton that everything was under control. Relying on Forsythe, as a long-time, trusted employee, Walton, who was attending meetings out of town at the time, said he would discuss the matter with Forsythe later in the week, after returning from his meetings.

On Tuesday, January 22, Forsythe learned that the Commission was going to investigate the promotion. He reached Walton late that evening. Early Wednesday morning, Walton consulted counsel, and called off the promotion at 8:00 a.m. Walton and Forsythe broadcast apologies, and Walton later tightened his control on promotions.

In a case such as this the operative question is whether the facts show that the licensee cannot be trusted in the future to operate in the public interest. In my view the facts here make no such showing. At most, they indicate that over a period of about four days Walton's supervision and control of KIKX was inadequate to prevent an ill-conceived promotion which caused some concern to the public and the police. The licensee has now tightened his control to guard against any such deviation from operation in the public interest in the future.

I do not condone either this promotion or the slippage of supervision and control which allowed it to occur. I cannot, however, agree that this brief, apparently aberrant operation of KIKX justifies nonrenewal of its license.

I therefore respectfully dissent.