University of Nebraska at Omaha
DigitalCommons@UNO

Student Work

5-1-1988

Radio Deregulation and the Public Interest in the Omaha Market

Robert D. Hancock
University of Nebraska at Omaha

Follow this and additional works at: https://digitalcommons.unomaha.edu/studentwork
Please take our feedback survey at: https://unomaha.az1.qualtrics.com/jfe/form/SV_8cchtFmpDyGfBLE

Recommended Citation

Hancock, Robert D., "Radio Deregulation and the Public Interest in the Omaha Market" (1988). *Student Work*. 2263.
https://digitalcommons.unomaha.edu/studentwork/2263

This Thesis is brought to you for free and open access by DigitalCommons@UNO. It has been accepted for inclusion in Student Work by an authorized administrator of DigitalCommons@UNO. For more information, please contact unodigitalcommons@unomaha.edu.

Radio Deregulation and the Public Interest in the Omaha Market

A Thesis

Presented to the

Department of Communication

and the

Faculty of the Graduate College

In Partial Fulfillment

of the Requirements for

the Degree

Master of Arts

University of Nebraska at Omaha

by

Robert D. Hancock

May 1988

UMI Number: EP73806

All rights reserved

INFORMATION TO ALL USERS
The quality of this reproduction is dependent upon the quality of the copy submitted.

In the unlikely event that the author did not send a complete manuscript
and there are missing pages, these will be noted. Also, if material had to be removed,
a note will indicate the deletion.



UMI EP73806
Published by ProQuest LLC (2015). Copyright in the Dissertation held by the Author.
Microform Edition © ProQuest LLC.
All rights reserved. This work is protected against
unauthorized copying under Title 17, United States Code



ProQuest LLC.
789 East Eisenhower Parkway
P.O. Box 1346
Ann Arbor, MI 48106 - 1346

THESIS ACCEPTANCE

Acceptance for the faculty of the Graduate College, University of Nebraska, in partial fulfillment of the requirements for the degree Master of Arts, University of Nebraska at Omaha.

Committee

Name	Department
[illegible]	Communication
Hugh B. Cowdis	Communication
Douglas J. Peterson	Dramatic Arts

[illegible]
Chairman

6-30-88
Date

DEDICATION

To Bill: whose understanding, compassion and kindness defines grace.

ACKNOWLEDGEMENT

I would like to thank Dr. Warren Francke whose gentle prodding, swift kicks and mediation skills made this thesis possible.

TABLE OF CONTENTS

INTRODUCTION 1

The Background of the Deregulation of Radio . . 4

The Law and the Public Interest 7

Review of Documents: F.C.C. Administrative Actions 13

Deregulation: Process and Guidelines 17

Legal Challenges to Deregulation 23

PROBLEM OF RESEARCH 41

FINDINGS 45

KFAB/KGOR 46

KEZO/KEDS 49

KLNG/KQKQ 51

KESY/AM/FM 53

WOW/AM/FM 55

KEFM 56

KOIL 57

KCRO 59

KBWH 60

SUMMARY OF FINDINGS 63

Implications 68

BIBLIOGRAPHY 75

APPENDIX INDEX

LITE 96 KEFM Leader Contact Form . . . . . A

KOIL Community Affairs Programming . . . . . B

KFAB/KGOR Ascertainment Community Leader Interview . C

KGOR Issues/Program List Requirement for the Third Quarter of 1985, July 1st thru Sept. 30th . . . . D

KFAB Illustrative Program List 3rd Quarter 1985 . . E

KEDS-KEZO Ascertainment Policy . . . . . F

KLNG-AM and KQKQ-FM Community Issues and Problems Ascertainment October 1, 1985 . . . . . G

KESY/AM-FM Problems/Programs List . . . . . H

KCRO Issues and Programs Quarter 3 1985 I

KOIL Community Affairs Programming . . . . . J

INTRODUCTION

The deregulation of the radio industry started, not in 1980 with the Reagan administration, but in 1972 when the Federal Communications Commission began an in-house study to examine all technical broadcast regulations.[1] With this study the F.C.C. started to review the scope of all its regulations related to radio. This review led to formalized rulemaking which began on September 27, 1979, when the Commission issued a "Notice of Inquiry and Proposed Rulemaking: In the Matter of Deregulation of Radio."[2] The rulemaking process culminated on February 24, 1981, with a "Report and Order (Proceeding Terminated): In the Matter of Deregulation of Radio."[3] The "Report and Order" deregulated radio in the areas of nonentertainment programming, ascertainment of issues of concern to the community of license, amount (total time) of commercials per hour and

---

[1] Deregulation is treated as a process and therefore not capitalized throughout the paper.

[2] Notice of Inquiry and Proposed Rule Making: In the Matter of Deregulation of Radio, 73 FCCR2d 457-615 (September 27, 1979).

[3] Report and Order (Proceeding Terminated): In the Matter of Deregulation of Radio, 84 FCCR2d 968-1130 (February 244, 1981).

program logs. The "Report and Order" ended the rulemaking process but marked the beginning of legal challenges to deregulation as contrary to the public interest, convenience, or necessity. It also presented an opportunity to study deregulation because the F.C.C. did not test its theories before implementing the guidelines. Therefore the question existed, would deregulation adhere to the F.C.C. statutory guidelines to regulate in the public interest, convenience or necessity or was deregulation just government-bashing that would allow speculators to make money at the expense of the general public? Whatever the case, the abrupt break from fifty years of precedents deserved to be studied in a non-combative environment. An environment unlike that found in the legal challenges to deregulation which usually tried to overturn the deregulation guidelines rather than test the merit of the guidelines.

These legal challenges have continued through 1987. They have addressed the question of whether the deregulation of the radio industry is contrary to the mandate of the F.C.C. to regulate in the public interest, convenience or necessity as required by the Communications Act of 1934. The F.C.C., under deregulation, puts a greater reliance upon the public to help it make the public interest determination than in the past. The public file of each radio licensee is expected to provide public intervenors with the

necessary data to file petitions to deny license renewals. Absent a petition to deny, the F.C.C. will assume compliance with the public interest requirements of the Communications Act of 1934. These legal challenges have continued through 1987. Will the deregulation of the radio industry lead to broadcasting in the public interest, convenience, or necessity as required by the Communications Act of 1934? It is the purpose of this paper to test the compliance of the 14 privately-owned radio stations in the Omaha/Council Bluffs standard metropolitan statistical area with the public file requirements of deregulation. The public file is supposed to provide information to judge if the licensee broadcasts in the public interest.

It is necessary to put deregulation in context with past methods of regulation before stating whether licensees comply with deregulation. Therefore, theories related to the validity of deregulation will be presented. Then the paper will discuss the legal case history that defined the term public interest as used in the Communications Act of 1934. The paper will also compare and contrast this with the Commission's interpretation of the public interest standard through 1976. This background will indicate that deregulation is a break from the past and contrary to the F.C.C. mandate to regulate in the public interest. The methodology used to test compliance of licensees will then be presented followed by the findings of research. Then the

conclusions and implications of the findings will be discussed. Is the F.C.C. reliance on the good-faith compliance to deregulation guidelines misplaced? If it is, further studies are needed to fine tune deregulation guidelines to ensure that deregulation serves the public interest. It is hoped that this paper will provide a start to develop new criteria by which mass communication regulations are evaluated.

The Background of the Deregulation of Radio

Deregulation proved controversial from the start. James R. Fogarty, then F.C.C. commissioner, stated in his partial dissent to the 1979 "Notice of Inquiry and Proposed Rulemaking,"

> the theory and argument advanced in the "Notice" are to a large extent imponderables in the paper context of an administrative rulemaking proceeding and that their merit as a public interest substitute for existing regulations is necessarily dependent on their application in the real world of the broadcast marketplace. For this reason I would be prepared to test the "Notice" assumptions and predictions in a marketplace experiment with deregulation. What I am not prepared to do at this time is simply to declare a deregulation victory in the name of neoclassical economic theory and walk away from the radio marketplace before the battle begins. A more reliable and secure basis for deregulation is required.(4)

---

[4] Notice of Inquiry and Proposed Rule Making: In the Matter of Deregulation of Radio (Fogarty dissent), 73 FCCR2d 437, 612-613 (September 27, 1979).

First Amendment scholar Thomas Emerson rejected regulation of broadcasting through the marketplace when he stated:

> Once it is assumed that a scarcity of broadcasting facilities exist, the next question becomes, what follows from that? The question can be answered on two levels. In purely common-sense terms it would seem to follow that if the government must choose among some applicants for the same facilities it should choose on some sensible basis. The only sensible basis is the one that best promotes the system of freedom of expression. Since laissez-faire economics do not select the users and the government is forced to do so, it would be intolerable and actually inconsistent for the government to choose in another way.(5)

Emerson's negative view of the marketplace as a means to regulate broadcasting contrasts with that of Mark Fowler, F.C.C. chairman during the first seven years of the Reagan administration. Fowler wrote:

> The Communications Act provides the Commission with direction to translate consumer wants into programming decisions of broadcasters by marketplace principles. The need for a fresh approach concludes that broadcasters best serve the public interest by responding to marketplace forces rather than government directives. It restores the broadcasting business to the unregulated status of American enterprise generally.(6)

Deregulation of the broadcast industry, through the use of the marketplace, has been adopted as desired policy by the F.C.C. Deregulation, which began in a limited context

---

5 Thomas Emerson, The System of Freedom of Expression, (New York: Random House, 1970), p. 663.

6 Mark S. Fowler and Daniel L. Brenner, "A Marketplace Approach to Broadcast Deregulation," 60, 2 Texas Law Review 256 (1981).

before Mark Fowler was appointed, is a nearly complete break from past F.C.C. regulations.

When created in 1934, the F.C.C. was entrusted with the regulation of interstate commerce in communication by wire and radios among its many duties. It was to make communication by wire and radio available, so far as possible, a rapid, efficient, nationwide wire and communication service.[7]

Title III of the Communications Act related specifically to radio and required the F.C.C. to act in the public convenience, interest, and necessity in the regulation of the radio industry.[8] The F.C.C. has adopted different regulations over the last fifty years in its attempt to achieve broadcasting in the public interest in a changing environment. These regulations have often been met with legal challenges. Once again legal challenges have been brought against the latest attempt by the F.C.C. to regulate in the public interest. Is deregulation in the public interest? Despite claims that public interest is a vague term and impossible to define with any accuracy, a body of law developed that defined public interest in the

---

[7] The Communications Act of 1934, Title I, sec. 1 (1934).

[8] The Communications Act of 1934, Title III, sec. 303 (1934). The Radio Act of 1927, sec. 4 (1927).

context used in the Communications Act.[9] These legal definitions, heavy with First Amendment implications, have guided the F.C.C. in rulemaking.

The Law and the Public Interest

The Supreme Court first dealt with the term public interest in a communication law context in Federal Radio Commission v Nelson Bros. Bond and Mortgage Co.. The Court reviewed a decision of the Court of Appeals 61 APP.C.C. 315, 11 F2d 854 (1933), which granted a broadcast license while terminating several others that would consequently be in conflict. The Supreme Court stated that the Federal Radio Commission, the predecessor of the F.C.C., was required to act as the public convenience, interest or necessity requires.[10] "This criterion is not to be interpreted as setting up a standard so indefinite as to confer unlimited power."[11] The Court also found no proprietary interest in a radio license. It could be revoked if held contrary to the public interest.[12]

This decision followed a lower court ruling that

---

[9] The Communications Act of 1934, Statutes at Large 47 sec. 151 et seq (1934).

[10] Federal Radio Commission v Nelson Bros Bond and Mortgage Co., 289 U.S. 266, 285 (1933).

[11] Ibid.

[12] Ibid.

indicated that the personal interest of the radio licensee was not the same as the public interest and if a radio station broadcast contrary to the public interest a license could be revoked.[13] In this case, a Dr. Brinkley broadcast a show found contrary to the public health and safety and, therefore, not in the public interest. With this case the precedent was established that programming was a criterion taken into account in license renewals. License renewals specifically, therefore, dealt with the issue of the public interest.[14]

The Supreme Court refined and elaborated upon its definition of the public interest in F.C.C. v Pottsville Broadcasting Co., 309 U.S. 134, 84 L.ed. 645, 60 S.Ct. 437 (1940). In Pottsville the Court stated and enforced the sphere of authority which Congress gave the Commission through its legislation to regulate radio.[15] Justice Frankfurter, writing for the Court, stated:

> In granting or withholding permits for the construction of stations and in granting, modifying, or revoking licenses for the operations of stations, public convenience, interest, or necessity is the touchstone for the exercise of the Commission's authority. While this criterion is as concrete as the complicated factors for

---

[13] KFKD Broadcasting Association Inc. v. F.R.C. 47 F2d 670 (D.C. Circuit Court of Appeals) 1931.

[14] Ibid., p. 667.

[15] Federal Communications Comm. v. Pottsville Broadcasting Co., 309 U.S. 134, 141 (1940).

> judgements in such a field of delegated authority permit, it serves as a supple instrument for the exercise of discretion by the expert body which Congress has charged to carry out legislative policy. Underlying the whole law is recognition of the rapidly fluctuating factors characteristic of the evolution of broadcasting and of the corresponding requirement that the administrative process possess sufficient flexibility to adjust to these factors... . The Communications Act is not designed primarily as a new code for the adjustment of conflicting rights through adjudication. Rather, it expresses a desire on the part of Congress to maintain through appropriate control a grip on the dynamic aspects of radio transmission.(16)

Frankfurter defined public interest and showed its relationship to the First Amendment in National Broadcasting Co. v United States, 319 U.S. 190, 87 L.ed. 1344, 63 S.Ct. 997, (1943). N.B.C. dealt with the possible antitrust implications of chain-broadcasting and its effect on broadcasting in the public interest.[17] The Court stated:

> The public interest to be served under the Communications Act is thus the interest of the listening public in the larger and more effective use of radio. . . The Commission's licensing function cannot be discharged, therefore, merely by finding that there are no technological objections to the granting of a license... . Since the very inception of the Federal regulation of radio comparative consideration as to the services to be rendered have governed the application of public interest, convenience, or necessity.(18)

The Court indicated in N.B.C. that the F.C.C. is required to make an affirmative judgement that the public

---

16 Ibid., 137, 138.

17 National Broadcasting Co. v. United States, 319 U.S. 190, 194 (1943).

18 Ibid., p. 216.

interest will be served by the grant of a broadcast license,[19] and it reiterated this point as recently as 1981.

The Supreme Court also addressed the issue of public interest in F.C.C. v Radio Corporation of America, 346 U.S. 86, 97 L.ed. 1470, 73 S.Ct. 998 (1953) when it stated:

> Congress did not purport to transfer its legislative power to the unbounded discretion of the regulating agency. In choosing among applicants, the Commission was to be guided by the public interest, convenience, or necessity, a criterion we held not to be too indefinite for enforcement. . . . Congress has charged the courts with the responsibility of saying whether the Commission has fairly exercised its discretion within the vaguish penumbral bounds expressed by the standard of public interest. It is our responsibility to say whether the Commission has been guided by proper consideration in bringing the deposit of its experience, the disciplined feel of the expert to bear on applications for licenses in the public interest.(20)

Frankfurter, writing for the Court in R.C.A., dealt with the question of judicial standards of review of administrative actions and stated that when the F.C.C. bases a decision on a claimed statutory principle and not within matters of its areas of competence it is for the courts to decide what the governing principle should be. Not only should regulations not be arbitrary or capricious, they should not violate the limited power or discretion that Congress has invested in

---

[19] FCC v WNCN Listener's Guild, 450 US 582, 67 L Ed. 521 101 Sct 1266 (1981).

[20] Federal Communications Commission v R.C.A. Communications Inc., 346 U.S. 86, 90 (1953).

the agency that issued the regulation.[21] The standard of judicial review was an issue in all challenges to deregulation.

Red Lion Broadcasting v F.C.C., 395 U.S. 367, 89 S.Ct. 1794, 23 L.ed. 371, (1969), put the term public interest in a First Amendment context. The case, which held the equal times provision of the Communications Act and the Fairness Doctrine constitutional, drew upon the work of teacher and First Amendment scholar Alexander Meiklejohn. Justice Byron White, writing for the Court, stated:

> This is not to say that the First Amendment is irrelevant to public broadcasting. . . . It is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market whether it be by the Government itself or a private licensee. It is the right of the public to receive suitable access to social, political, esthetic, moral, and other ideas and experiences which is crucial here. That right may not constitutionally be abridged either by Congress or by the F.C.C.(22)

Meiklejohn in his book Political Freedom, which partially dealt with the relationship of the First Amendment to the workings of a democracy, stated in support of the marketplace of ideas:

> Our duty as free men, to reflect upon judicial pronouncements, is quite as imperative as our duty to submit to their temporary legal authority. Not even our wisest interpreters, those whom we trust most, can give

---

[21] Ibid., p. 91.

[22] Red Lion Broadcasting v. Federal Communications Commission, 395 U.S. 367, 389, 390 (1969).

> final dogmas about self-government. They and we together must still be thinking about what freedom is and how it works. . . . The First Amendment is not primarily a device for the winning of new truth though that is very important. It is a device for the sharing of whatever truth has been won. Its purpose is to give to every member of the body politic the fullest possible participation in the understanding of the problem with which the citizen of a self-governing body must deal.(23)

White, in drawing on Meiklejohn's theory of the First Amendment, made clear the strong relationship between the First Amendment and broadcasting in the public interest. Deregulation, which is claimed to be a final dogma by the F.C.C. due to the self-correcting nature of the marketplace, should be challenged, according to Meiklejohn.

White stated in Red Lion that it is a First Amendment right of the listener to receive broadcasting in the public interest. Given this First Amendment right, will deregulation result in broadcasting in the public interest? It is a question Meiklejohn and by inference White would suggest is our duty to reflect upon.

The F.C.C. indicated, until deregulation, that the free market with its emphasis on laissez-faire economics would not provide broadcasting in the public interest. In 1928, one year after the establishment of the Federal Radio Commission, the F.R.C. stated it was entitled to consider the program service of applicants and to favor those who

---

23 Alexander Meiklejohn, Political Freedom, (New York: Harper and Brothers Publishers 1951), pp. 33, 74.

provide the best service.[24] This recognized that the basis for licensing was public service and that public service would be provided through programming.

Through 1969 the Supreme Court ruled that the public interest involved programming and that programming would be a factor in comparative license renewals. Most importantly it stated that the F.C.C. must make a positive determination that the public interest would be served. The F.C.C., therefore, must not be a passive agency. The public interest standard was intertwined with programming under the Federal Radio Act and remained so under the Federal Communications Act of 1934.

Review of Documents: F.C.C. Administrative Actions

In 1946 the F.C.C. issued its "Report on Public Responsibility of Broadcast Licensees," better known as The Blue Book. It stated that "the public interest clearly required that an adequate amount of time be devoted to the discussion of public issues."[25]

In 1949 the F.C.C. position paper, "Report on Editorializing by Broadcast Licensees," permitted broadcasters to editorialize and thus set aside 22 years of

---

[24] 73 FCC2d. 457, 464, 465, (1979).

[25] 84 FCC2d. 968, 1040, (1981).

precedent.[26] The report addressed the role of mass communication in a democracy. It stated in part:

> 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 issues of the day. Basically it is the recognition of the great contribution which radio can make in the advancement of this purpose that a portion of the radio spectrum is allocated to that form of radio known as broadcasting. Unquestionably then, the standard of public interest, convenience, and necessity as applied to radio broadcasting must be interpreted in light of this basic purpose.(27)

This statement recognized that programming dealing with issues of public importance is a vital component of the public interest standard and implied that programming would be a factor in comparative hearings for a license.

In 1960 the F.C.C. similarly concluded:

> While the First Amendment forbids governmental interference asserted in the aid of free speech as well as that repressive of it, broadcasters, because of the peculiar relationship between broadcasting and the First Amendment had the obligation to offer programming relevant to the tastes, needs, and desires of the public they are licensed to serve.(28)

In the same policy statement the F.C.C. noted the obligation of licensees to present reasonable opportunities for the discussion of conflicting points-of-view on controversial

---

[26] 84 FCC2d. 968, 980, (1981).

[27] 84 FCC2d. 968, 981, (1981).

[28] 84 FCC2d. 968, 981, (1981).

issues of public interest.[29]

In 1960 the Commission issued a statement that helped clarify how programming met the public interest standard when it stated the licensees must ascertain the needs and interests of their service area. The F.C.C. in this experimental policy statement, also listed 14 kinds of programs that could be broadcast to meet public interest obligations.[30]

The F.C.C. grappled with how to attain broadcasting in the public interest as recently as 1976. In 1976 the F.C.C. stated:

> There is no single answer for all stations. The time required to deal with community problems can vary from community to community and from time to time within a community. Initially, this is a matter that must fall within the discretion of the applicant . . . he may choose to meet as many problems as he believes he can. He may be selective, giving more extensive treatment to those problems which if not met are likely to become critical. Or he may recognize that another station in the community traditionally presents extensive broadcast matter to meet a particular problem. . . . When the amount of broadcast matter proposed to meet community problems appears patently insufficient to meet significantly the community problems disclosed by the

---

[29] 84 FCC2d. 968, 981, (1981).

[30] 84 FCC2d. 968, 994, 995, (1981). The fourteen types included: 1. opportunity for self-expression, 2. development and use of local talent, 3. programs for children, 4. religious programs, 5. educational programs, 6. public affairs programming, 7. editorialization by licensees, 8. political broadcast, 9. agricultural broadcast, 10. service to minority groups, 11. entertainment programs, 12. news programs, 13. weather and market programs, 14. sports programs.

> applicant's consultation he will be asked for an explanation by letter of inquiry from the Commission.(31)

In cases through 1969 the Supreme Court defined broadcasting in the public interest as broadcasting designed to present issues of public importance to the listener. In Red Lion the Court stated that the listener has a First Amendment right to receive such broadcasting. Through 1976, the F.C.C. moved to adapt these legal viewpoints in their rulemaking. Thus, contrary to some opinions, public interest is not a vague and virtually undefinable term, nor is it whatever the F.C.C. wants it to be.[32] Public interest has been defined since before the inception of the F.C.C. and the key components have remained.[33] How to achieve programming which serves the public interest in a dynamic and ever-changing industry remains the question. This, as the Court has stated, mandates an active agency.[34]

---

31 73 FCC2d. 457, 473, 474, (1979).

32 Fowler, "Marketplace Approach to Deregulation," p. 207. R.H. Coase, "The Federal Communications Commission," 2 The Journal of Law and Economics 8 (1959).

33 Public interest is the interest of the listening public in the larger and more effective use of radio. The larger and more effective use of radio includes suitable access to social, political, esthetic, moral and other experiences and ideas. The public interest includes the ability to receive programming that will allow more informed decisions to be made.

34 Federal Communications Commission v. Pottsville Broadcasting Co., 309 U.S. 134, 137, 138 (1940).

Deregulation: Process and Guidelines

The American Civil Liberties Union challenged the "Notice of Inquiry and Notice of Proposed Rulemaking" on November 4, 1979, when it joined with other parties and filed a "Notice for Recision and Other Relief." It requested the F.C.C. to rescind the "Notice" of proposed rulemaking or grant other procedural relief.[35] In response, the F.C.C. made available data which had been unavailable when the "Notice" was released, material used in preparing the "Notice", and a description of the methodology used in preparing the tables found in the "Notice."[36] The rest of the A.C.L.U. request was denied. Why did the F.C.C. deny the A.C.L.U. request?[37] Was the F.C.C. just going through the motions in their rulemaking process, just adhering to the basic requirements of the Administrative Procedures Act?[38] Or was an unbiased F.C.C. requesting comments to help it regulate in the public interest? Had the F.C.C. adopted deregulation guidelines before the rulemaking process was complete? Justice Thurgood Marshall raised this

---

[35] 84 FCC2d. 968, 970 (1981).

[36] Ibid.

[37] The F.C.C. did not have to state the reason the A.C.L.U. request was not completely met. Since deregulation guidelines were adopted virtually as written before public input perhaps the F.C.C. did not want input.

[38] U.S.C. §553, 556, 557.

question in a slightly different context in WNCN Listener's Guild v F.C.C., 450 U.S. 582, 67 L.ed.2d 521, 101 S.Ct. 1266(1981).[39]

After formal and informal reply requirements were received, the F.C.C. conducted panel discussions throughout the United States on deregulation. The panels consisted of cross-sections of experts working in or involved with the broadcasting industry. Four months after the panel discussions in February, 1981, the final deregulation rules were released; they dealt with nonentertainment programming, ascertainment of community issues, commercial guidelines, and program logs.[40]

The F.C.C. eliminated all previous nonentertainment regulations and retained only a generalized obligation for commercial stations to offer programming responsive to public issues. The new programming requirement could address issues of concern to the licensee's listenership as opposed to the community as a whole, which was formerly required. Previous regulations had called for AM stations

---

[39] WNCN Listener's Guild v. Federal Communications Commission, (Marshall dissent), 450 U.S. 582 (1981).

[40] 84 FCC2d. 968, (1981). The philosophical and economic rationale for deregulation is exhaustively discussed at 73 F.C.C.2d 457 (1979). This work is illuminating as the commissioners expressed a skepticism about deregulation not found in the guidelines as adopted. This report along with all documents dealing with deregulation must be viewed very critically. Many documents are paraphrased and not cited.

to offer eight percent nonentertainment programming and FM stations six percent. This did not mean that radio stations could not offer less, but if they did their renewal applications would meet with strict scrutiny.[41] The F.C.C. stated:

> Our review convinces us that the history of governmental involvement in nonentertainment programming has been driven by one overriding concern, that the citizens of the United States be well informed on issues affecting themselves and their communities. It is with such information that the citizens can make the intelligent decisions for the proper functioning of a democracy. Accordingly we believe the only nonstatutory programing obligation for a radio broadcaster should be to discuss issues of concern to its community of license. This obligation can be fulfilled without resort to guidelines of limited value and we believe of no substantial utility.(42)

The F.C.C. stated that the free-market would ensure that issues of concern to communities would be presented. This conclusion was severely questioned in the comments section to deregulation, but the F.C.C. decided to test the free-market theory.[43]

Deregulation also changed ascertainment procedures. Previous ascertainment regulations required licensees to follow detailed procedures to determine or ascertain the issues that affected their community of license. These procedures were listed in the Ascertainment Primer and the

---

[41] 84 FCC2d. 968, 975 (1981).

[42] 84 FCC2d. 1042, 1044 (1981).

[43] 84 FCC2d. 1042, 1044 (1981.

Renewal Primer.[44] Ideally, through ascertainment, programming would be developed that addressed the issues of each community. Deregulation eliminated specified ascertainment procedures and left it to each licensee to develop their own procedures.[45]

The changes in rules for nonentertainment programming and ascertainment reveal the far-reaching implications of deregulation. No longer must a licensee address issues that affect its community of license. Instead, the licensee may address issues that affect its listenership or targeted audience. Does this mean that a licensee need not broadcast in the public interest if other stations in the market are? May one station present all entertainment programming if the market as a whole presents issues of public concern? The change from a community standard of interest to an audience standard was in response, the F.C.C. claimed, to the fact that today's radio stations aim for a specialized audience; this indicates that for maximum profitability nonentertainment programming should be directed at this specialized audience.[46]

Critics claimed the F.C.C. was entrusted with

---

[44] 84 FCC2d. 995, (1981).
Ascertainment Primer, 27 FCCR2d 650 (1971).
Renewal Primer, 57 FCCR2d. 418 (1975).

[45] 84 FCC2d. 993, (1981).

[46] 84 FCC2d. 982, 983, (1981).

regulating in the public interest. To allow licensees to broadcast nonentertainment programs of interest to a targeted audience and not the community of license was a break from the past. Many critics claimed this was contrary to the intent of the Communications Act.[47]

Deregulation also affected the amount of commercial air time. Before deregulation, eighteen minutes of commercials per hour could be aired with certain exceptions.[48] Stated broadly, the public interest concerns of the F.C.C. had been to keep the commercial aspects of radio from interfering with their public use.[49] Deregulation eliminated all time limits on commercials.[50] Reliance was placed upon the marketplace to regulate commercial time. The F.C.C. stated in support:

> The economic data contained in the "Notice" and in the "Comments" show that most licensees not only meet the present guidelines but also that their pattern of advertising amounts is generally so far below the guidelines as to demonstrate it is competition and other forces operating in the marketplace, not regulation, that most effectively restricts the advertising loads of radio licensees.(51)

---

47 84 FCC2d. 1040-1072, (1981).

48 84 FCC2d. 999, 1000, (1981).

49 84 FCC2d. 1002, (1981).

50 84 FCC2d. 1000, (1981).

51 84 FCCR2d. 1003, (1981).

The data referred to by the F.C.C. indicated that most licensees presented fewer than eighteen minutes of commercials per hour, but no study was presented that indicated competition caused this.[52] The F.C.C.'s statement must be viewed as conclusory.

Former F.C.C. Commissioner John R. Fogarty expressed discomfort with the conclusory nature of the F.C.C.'s argument that the marketplace, not regulation, could best provide broadcasting in the public interest. Fogarty stated:

> It is unclear to me whether it is the position of the "Notice" that an unregulated marketplace will continue to meet these public interest goals and policies or that these goals and policies are now to be considered irrelevant or superseded by the somewhat illusive concept of "consumer welfare." At several points the "Notice" appears to concede that because of the absence of a pricing mechanism linking consumer demand with programming supply, there may be significant distortions in the radio marketplace that would preclude the continued availability of diverse informational programming. Yet the "Notice" relies confidently on general economic theory in repeatedly concluding that any such distortion would be minimal and that the marketplace is far more competent than the Commission to make consumer welfare judgements in this area. In this regard, the "Notice" seems to say that because the benefits of existing regulations are hard to identify and quantify empirically, the burden should be on regulation to justify itself, even when it is conceded that the benefits of future deregulation are equally elusive. Here there is a prevailing and troubling circularity in much, if not all, of the proffered economic justification for complete deregulation: i.e., the marketplace will best serve the public interest because the public is best served by the marketplace; or whatever is produced by the marketplace is by definition in the public interest.(53)

---

[52] 84 FCC2d. 1091-1111, (1981).

[53] 73 FCC2d. 457, 610, 611, (1979).

Fogarty's comment recognized that deregulation put the F.C.C. in uncharted territory. Hopefully, the deregulation journey would successfully navigate the unknown and reach the public interest mandate.

The elimination of program logs is the only area of deregulation not yet approved by the Courts. Program logs were previously required to provide a comprehensive record of the type and timing of every program broadcast. Program logs provided information to help determine whether a licensee broadcast in the public interest. Without this data it would be difficult for either the F.C.C. or a private party to prove broadcasting contrary to the public interest. Despite many adverse comments during the rulemaking process, the F.C.C. eliminated the logging requirement.[54]

With the administrative order of February 24, 1981, the F.C.C. deregulated the radio industry and put its faith in the free market's ability to provide broadcasting in the public interest. Continued legal challenges indicated this faith was not universal.

Legal Challenges to Deregulation

In 1976 the Commission began a three-year experiment to determine if the ascertainment procedures were unduly burdensome and not in the public interest for radio and

---

[54] 84 FCC2d. 968, 1008, 1009, (1981).

television licensees serving communities with under 10,000 people. At the end of the three-year experiment, the Commission concluded, given the lack of significant formal protest, ascertainment served no purpose for licensees serving communities with under 10,000 people.[55] This finding was not based on a test or evaluation of data. The Commission stated that such a costly evaluation process was not warranted when weighed against the potential benefits.[56] The F.C.C. stated a hypothesis, did not test it, then concluded it was correct. The National Black Media Coalition challenged this finding.[57]

The Circuit Court found that since the elimination of ascertainment procedures for all radio stations was neither "arbitrary or capricious" the only remaining issue was whether the Commission could reasonably conclude that formal ascertainment procedures were not a prerequisite to achieving the goal of responsive programming in a small town.[58]

The court recognized the shifting standard of review the F.C.C. used. It also pointed out that the F.C.C.

---

55 National Black Media Coalition v F.C.C. 706 F2d 1224, 1226 (D.C. Circuit Court of Appeals, 1983).

56 Ibid.

57 Ibid.

58 Ibid., 1227.

recognized its approach to the decision created understandable confusion for the public regarding the validity of the study's results. However, the court stated it was correct for the F.C.C. to enter the test without designing a "highly structured analytical tool," despite references to conducting an experiment.[59]

The petitioners claimed the Commission made the small market ascertainment exemption permanent without conducting its promised studies and instead relied on the dubious assumption that a significant absence of formal protest against the licensees meant the goals of formal ascertainment were still being achieved. This, the petitioners claimed, amounted to "arbitrary and capricious" rulemaking.[60]

The Court rejected this argument and stated:

> In such circumstances complete factual support in the record for the Commission's judgement or prediction is not possible or required. Here the Commission has supplied a reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored.(61)

This was a lax standard of review compared to the "hard look" used by J. Skelley Wright in Office of Communication of United Church of Christ v. F.C.C., 707 F.2d 1413 (D.C.

---

[59] Ibid., 1228.

[60] Ibid.

[61] Ibid.

Circuit Court of Appeals, 1983)[62]. The court stated the Commission need not conduct an experiment to determine if ascertainment guidelines were necessary in small towns because the Commission fully complied with the rulemaking requirement of "notice and comment."

Wright stated in United Church that the Court,

> is asked to decide whether the Federal Communications Commission may, consistent with its statutory obligations, undertake a sweeping deregulation of the commercial radio industry. The repudiation in this one rulemaking proceeding ("Report and Order, Deregulation of Radio," 84 F.C.C.2d 968, 1981) of so many long-standing policies and rules necessitates close judicial scrutiny to ensure that the Commission has been faithful to the pertinent sections of both the Communications Act and the Judicial Procedures Act.(63)

At hand, according to Wright, was a two-part standard of review. First the Court had to decide whether the Commission had acted within its delegated authority under the Communications Act. If the answer was yes, the Court would question whether rules and procedures were the product of rational decision-making.

Wright reiterated the "arbitrary and capricious" standard by which a court reviews an administrative agency's

---

[62] Wright used this standard because deregulation did away with long standing precedents and thus constituted "danger signals" the Commission might have acted inconsistently with its mandate. See "Greater Boston Television Corp. v. F.C.C., 444 Fd841, 850, 853 (DC Circuit 1970).

[63] Office of Communications of United Church of Christ v. F.C.C. 707 F2d 1413 (D.C. Circuit Court of Appeals, 1983).

rulemaking process.

> The Court's review is not merely a summary endorsement, however, but should be searching and careful. While the level of review is not to be perfunctory it is relatively narrow and designed only to insure that the agency's decision is not contrary to law, has support in the record, and is based on consideration of relevant factors. At the same time, however, our review of the Commission's factual and particularly its policy determination will perforce be a narrow one, limited to insuring that the Commission has adequately explained the facts and policy concerns it relied on and to satisfy ourselves that these facts have some basis in the record.(64)

Since the F.C.C. had drastically departed from prior policies and standards, Wright stated, this constituted a danger signal and, therefore, the "hard look" doctrine was appropriate.[65]

Nevertheless, Wright stated that the Commission had not effectively foresworn all regulation in favor of total reliance on marketplace forces in the area of nonentertainment programming. This was too sweeping a characterization of the FCC's actions. Wright, however, approved deregulation guidelines in this area.[66] The F.C.C. did end governmental regulation concerning nonentertainment public interest programming and approved self-regulation by the licensee. No longer was a licensee required to broadcast a certain kind of program or a certain amount of programming

---

64 Ibid., 1424.

65 Ibid., 1425.

66 Ibid., 1426.

to adhere to the public interest standard. All that was required was a list of five to ten issues the licensee was going to address in the upcoming year, the method by which the issues were ascertained, and the type of programs that would address the issues.[67] The F.C.C. had effectively ended regulation in this area and depended upon the good-faith adherence of licensees. Wright found deregulation permissible in this area since the Commission affirmed the public interest obligation to provide issue-responsive programming. Wright ignored the statement by the Commission that characterized the programming obligation as non-statutory. If it were, issue-responsive programming could be ignored by the licensee and also not be an issue during the renewal process.

Wright also slipped from his "hard look" review in his determination that a switch from programming in the public interest to issue-responsive programming was acceptable. Petitioners claimed the new issue-responsive programming regulation was arbitrary, capricious and without adequate justification within the meaning of the Administrative Procedures Act. Wright stated that this claim had some merit, as neither the "Report and Order" nor the "Reconsideration Order" provided a thorough explanation of this major policy shift. Wright continued:

---

[67] Ibid.

> Indeed the Commission studiously avoids any direct comparative analysis of the costs and benefits attendant to casting the public interest obligations in terms of issues and not program categories. This failure to provide a careful explanation of its reasoning process is troubling and might ordinarily necessitate a remand. However, since the policy change is not as drastic as petitioners portray and the Commission has in fact recognized and provided some explanation of its policy choice, we cannot set aside the decision. Then as now the Commission simply imposed a general obligation to provide responsive nonentertainment programming, the manner by which the programming is fulfilled, ie., the selection of the actual programs, has always been left to the editorial discretion of the licensees. In short, while the Commission has clearly reoriented its public interest inquiry away from categories, the extent and foreseeable consequences of that policy shift should not be overestimated.(68)

Wright obviously felt some discomfort about the conclusory nature of the new emphasis on issue-oriented programs, but not enough to invalidate the regulations as "arbitrary or capricious."

Hindsight reveals Wright misinterpreted the depth of the actions the F.C.C. took by his tendency to interpret deregulation as not a break from the past, but rather as an experiment[69]. Petitioners interpreted the elimination of programming guidelines to mean the Commission will no longer look at the quantity of public interest broadcasting in

---

[68] Ibid., 1430, 1431.

[69] No experiment has taken place as to the validity of the deregulation premise in seven years as deregulation stated the market was self-correcting. This passive interpretation is a break from the past.

judging the performances of renewal applicants.[70] The Commission stated that it:

> Has not in the past and will not in the future, focus on the total number of minutes or percentage of broadcast time devoted to issue-oriented programming and that the total number of minutes related to such programming is largely irrelevant.(71)

Wright did not "believe" this statement, as it was contrary to past Commission actions, and he suggested the statement only indicates a desire to downplay the significance of an absolute amount of nonentertainment programming.[72]

Wright also found ascertainment guidelines acceptable. Formal ascertainment procedures were initially implemented in 1960 as a logical result of the requirement to broadcast in the public interest. The F.C.C. continued to clarify and refine the ascertainment requirement until 1971 when it issued a detailed ascertainment primer. The F.C.C. stated in ending ascertainment requirements:

> We see no continuing reason to burden applicants, licensees or the Commission with detailed inquiries into which or how many community leaders were contacted by whom, etc. The methodological approach only obscures the issue or responsiveness and exhausts otherwise valuable resources in meaningless minutiae . . . (73)

---

70 Ibid., 1432.

71 Ibid., 1433.

72 Ibid.

73 Ibid., 1436.

Wright concluded the decision to drop ascertainment procedures was supported by the record and within the discretion of the agency.

No petitioner addressed commercial time deregulation. The Court, therefore, was not obligated to address this issue. Wright, though, addressed the issue as presented by an amicus curiae. Deregulation guidelines eliminated the eighteen minute per hour limitation. The F.C.C. stated that the marketplace would insure that licensees do not over-commercialize and that it would never consider formal challenges in this area of deregulation. In stating they would never consider formal challenges in this area, the F.C.C. seemed to say the market is self-correcting. In other words, a licensee could be guilty of over-commercialization at any given time, but this would end through market pressure.[74] Wright found this contrary to past court decisions and past F.C.C. policy statements and suggested the Commission may find market forces alone will not sufficiently limit commercialization. Consequently, Wright "hoped" the F.C.C. would be true to its word and revisit this area in a future rulemaking proceeding.[75]

The only area of deregulation Wright found "arbitrary and capricious" was the decision to eliminate

---

[74] Ibid., 1437, 1438.

[75] Ibid., 1438.

program logs.[76] Wright noted that nothing in the Communications Act compels the Commission to require program logs.[77] However, the Commission required program logs of one type or another for fifty years before their elimination in deregulation. The F.C.C. based its elimination upon a straightforward cost-benefit analysis and the marginal utility of the logs given the decision to eliminate the nonentertainment programming and commercialization guidelines.[78] Wright stated that the Commission failed to examine, in an orderly fashion, the informational needs created by its revised scheme and the possible ways these needs may be met. Wright said the fundamental question should have been whether "a revised comprehensive logging requirement--one designed, for example, to log information about issues and not categories-- might not produce benefits that would outweigh the record-keeping costs."[79] Wright remanded the logging requirement for further consideration in line with deregulation.

---

[76] Ibid, 1440.

[77] Ibid., 1439.

[78] 1440 (see Dismantling America: The Rush to Deregulate, Susan J. Tolchin, Houghton Mifflin Co., 1983. The book provides an interesting discussion of cost-benefit analysis as implemented by administrative agencies during the Reagan administration.)

[79] United Church, 1440.

Office of Communication of United Church of Christ v. F.C.C., 359 F2d 994 (D.C. Circuit Court of Appeals, 1966), made clear the crucial right of citizens to participate in the review of a station's public interest performance when the court stated:

> The theory that the Commission can always effectively represent the listener's interest . . . is no longer a valid assumption which stands up under the realities of actual experience. . . . In order to safeguard the public interest in broadcasting, therefore, we hold that some audience participation must be allowed in license renewal proceedings.(80)

Wright stated given this precedent the public has an unassailable right to participate in the disposition of valuable public licenses allocated free of charge to public trustees. Wright would not allow this right to be undermined indirectly by the Commission's inadequately explained refusal to require licensees to make available to the pubic information on the licensee's issue-responsive programming. Emphasizing the need for some form of program logs, Wright stated:

> We also find the Commission's decision to be seriously disturbing in light of its concurrent proceeding to adopt a simplified renewal procedure. This proposed renewal scheme would place near-total reliance on petitions to deny as the means to identify licensees that are not fulfilling their public interest obligations. That the Commission would simultaneously seek to deprive interested parties and itself of the

---

80 Office of Communication of United Church of Christ v F.C.C. 359 F2d 994, 1003-1005 (D.C. Circuit Court of Appeals, 1966).

> vital information needed to establish a prima facie case in such petitions seems almost beyond belief.(81)

Wright stated that perhaps it was even more critical to have logs so that the F.C.C. could monitor deregulation. Then the effect of what are basically policy judgements based on predictions of the effect of future licensee and market behavior could be gauged.[82] The Commission did promise to monitor deregulation if the consequences were not as predicted, but this was an empty assertion since deregulation had destroyed the data base needed to make this determination.

Wright posed a set of questions to the F.C.C. when the Court remanded the issue of logging requirements. Wright's questions focused on the information needed by the F.C.C. to monitor deregulation. Ideally, Wright stated, new reporting requirements should allow the F.C.C. to monitor the effects of deregulation. Wright, though, would not speak for the court when this issue was addressed later in the year in Black Citizens for a Fair Media v F.C.C., 719 F2d 407 (D.C. Circuit Court of Appeals, 1983).[83] Although this case supposedly dealt with the validity of the new postcard renewal plan proposed by the F.C.C., in actuality

---

81 United Church (1983), 1441.

82 Ibid.

83 Black Citizens for a Fair Media v. F.C.C. 719 F2d 407 (D.C. Circuit Court of Appeals, 1983).

it dealt with the validity of deregulation.[84]

Justice Bork, writing for the Court, characterized the case as a challenge to the efforts of the F.C.C. to reduce the regulatory burden on television and radio licensees. Petitioners claimed that the simplified postcard renewal plan was contrary to the substantive requirements of the Communications Act and not in compliance with the reasoned decision-making requirements of the Administrative Procedures Act. The revamped license renewal plan ended a procedure that called for detailed information on the types and amount of programming each licensee provided. In concluding this lengthy procedure was unneeded, the F.C.C. stated:

> Experience has shown that most licensees match or exceed our operating guidelines. We have found the best vehicle for bringing violations to our attention has been public participation in our processes, through petitions to deny, informal objections, and complaints.(85)

From this determination, the F.C.C. adopted a simplified renewal procedure consisting of a postcard with five questions. A petition for reconsideration of the postcard plan was denied.[86] In response a number of suits were filed claiming the postcard renewal procedure would violate the

---

84 Ibid., 413.

85 Ibid., 410.

86 Ibid., 410.

public interest, convenience, or necessity.

Bork, in his opinion for the Court, quickly disassociated the current deregulation proceeding from past law and past policy statements when he cited F.C.C. v Pottsville 309 US 134, 84 LEd 456(1940), "The public interest standard is a supple instrument for the exercise of discretion by the expert body which Congress has charged to carry out its legislative policy."[87] For this reason, the court stated the petitioner's reliance on past F.C.C. statements of its mandate was misplaced.

The court stated that the Commission does not question that "a broadcaster seeking renewal must run on his record, and the focus of that record is whether his programming has served the public interest." All that the court claimed was in dispute was "whether the F.C.C. is required to include programming related questions in its renewal application." The court concluded no and stated, "Section 308 (b) leaves it within the discretion of the Commission to decide facts relating to such factors it wishes to have in such applications."[88] The court also rejected the petitioner's claim that the new application procedures eliminated so much information that meaningful enforcement of the public interest standard was impossible.

---

87 Ibid., 411.

88 Ibid., 411, 412.

The court found that the new guidelines with its several sources of information did enable the F.C.C. to make the public interest interpretation. These sources of information included: information concerning a licensee's equal opportunity program, a description of a licensee's other media interests, a certification of compliance with the alien ownership requirements of the Communication Act, disclosure about a licensee's character and a certification that the licensee has placed all required documents into the public file.[89]

Bork also emphasized that the public can complain about a failure to broadcast in the public interest as the Commission has "found the best vehicle for bringing violations to its attention has been public participation in its formal processes through petitions to deny, informal objections and complaints." Bork then stated, quoting from an F.C.C. brief, that 3,000 program-related complaints were filed from October 1980 through October 1981. Bork also pointed out that the audit the F.C.C. planned to conduct would help ensure licensees would adhere to the public interest requirements of the Communications Act. This seemed to ignore the fact the F.C.C. exempted all commercial radio stations from the audit and would audit only five

---

[89] Ibid., 414.

percent of the remaining non-commercial stations each year.[90]

Judge Skelley Wright, in dissent, picked apart the majority opinion. Wright stated:

> The mandate of the statutory language of the Communications Act, understood in light of the premises and purposes of the regulatory scheme that Congress established in the Act, requires the Commission to investigate the programming of each applicant for renewal of a broadcast license... . Only by making such an individual inquiry into the programming of each renewal applicant can the Commission abide by the statutory mandate that it shall determine, in the case of each application filed with it...whether the public interest...will be served by renewal. The Commission's recent decision to forsake programming inquiries amounts to an abdication of its statutory responsibilities and this court should invalidate the Commission's plea.(91)

Wright concluded that the F.C.C. had shirked its statutory responsibilities. He added:

> Without a doubt the postcard renewal plan makes life easier for both the regulators and the regulated. But the statute imposes this burden (to determine the composition of the traffic on the air) and the Commission is not free to shirk it. To do so is to place administrative convenience ahead of the protection of the public interest Congress intended with this regulatory scheme. The Commission's decision to favor administrative convenience is troubling. The decision indicates that the Commission has, like the broadcaster before it, see United Church I supra F.2d at 1003--lost sight of the fact that a broadcast license is a public trust. The public, as owner of the airwaves, deserve more protection than the Commission's postcard renewal plan provides. The Communications Act mandates this protection in the form of an examination of each renewal applicant. This court errs in sanctioning the

---

[90] Ibid., 416.

[91] Ibid., 419.

Commission's effort to shirk these statutory responsibilities.(92)

Deregulation still has not been approved in total by the courts. The courts have held that the F.C.C. has not adequately addressed the logging requirement under deregulation. On remand, the F.C.C. did not alter its position that an issues/programs list was an acceptable alternative to logging. A proposed plan that would allow for the impact of the public on license renewal questions was not adopted. The only change offered by the F.C.C. upon remand was that the yearly issues/programs list was changed to a quarterly list and instead of requiring from five to ten issues, the upper limit was removed.[93] The changes were found inadequate in Office of Communication of United Church of Christ v F.C.C., 779 F2d. 702 (D.C. Circuit Court of Appeals, 1986).[94]

J. Skelley Wright, for the court, stated that an issues/programs list does not help and in fact hinders the stated goal of relying on public participation in the regulatory process.[95] The agency's public file requirement

---

92 Ibid., 435.

93 Office of Communication of United Church of Christ v. F.C.C. 779 F2d 702 (D.C. Circuit Court of Appeals, 1986).

94 Ibid., Decision vacated and remanded.

95 Office of Communication of United Church of Christ v. F.C.C. 779 F2d 702, 704 (D.C. Circuit Court of Appeals, 1986).

must be sufficient to make a primae facie case to deny a license renewal under 47 U.S.C. §309 (d)(1). A primae facie case would show the "overall" programming effort failed to include adequate treatment of issues of public concern chosen by the licensee itself.[96] The court did not criticize the cost-benefit analysis of this point, but did take the F.C.C. to task for failure to consider the "significant treatment" log suggested by the American Broadcasting Corporation.

The significant treatment log would list programs that had provided significant treatment of issues chosen by the licensee. Petitioners to deny a license renewal would have a list of programs submitted by the licensee as significant, rather than an illustrative list that could be claimed as unrepresentative by the licensee. The court remanded the logging requirement to the FCC to provide an explanation of why the significant treatment option was rejected. The court would not allow the F.C.C. to adopt a logging requirement that was in conflict with its stated goal of public participation.[98]

On May 1, 1986, the F.C.C. voted to adopt the

---

[96] Ibid., 710.

[97] Ibid., 712.

[98] Ibid., 714.

significant treatment option.[99] This was a private vote without any public input. This regulation has not yet been codified or tested in the courts.

PROBLEMS OF THE RESEARCH

This thesis will examine Omaha licensee compliance in 1985 to the public file requirements of deregulation.[100] Compliance will be defined as the presence in the public file of the required quarterly issues/programs lists along with the methodology used to determine which issues affected the community of license.[101] These components of the public file are relied upon, under deregulation, to provide evidence that a licensee broadcasts in the public interest.

It proved difficult to devise the research methodology before conducting the study as there was no

---

99 Theodore M. Hagelin and Kurt A. Wimmer, "Broadcast Deregulation and the Administrative Responsibility to Monitor Change: An Empirical Study of the Elimination of Logging Requirements," 38 Federal Communications Law Journal 200(1986).

100 The stations in the Omaha market in 1985 were A. KBWH, B. KCRO, C. KEDS, D. KEFM, E. KESY-AM, F. KESY-FM, G. KEZO, H. KFAB, I. KGOR, J. KLNG, K. KOIL, L. KQKQ, M. WOW-AM, N. WOW-FM.

101 Second Report and Order BC Docket 79-219 (FCC 84-67, adopted March 1, 1984. See also National Association of Broadcasters Legal Guide to F.C.C. Broadcast Regulations 2nd Edition, Washington, D.C., 1984, p. V.6. This book provides an indepth discussion of deregulation guidelines and the best way to adhere to them. When deregulation ended formal ascertainment requirements, a licensee could use any method to ascertain issues. Often a licensee did not specify the method used to ascertain issues but a method could be deduced from documents in the public file.

indication what would be found in the public file. Would the licensees in good faith comply with the public file requirements, provide more information than required, or have nothing in their files? Problems with quantitative research in this area are shown in Theodore Hagelin's and Kurt Wimmer's article, "Broadcast Deregulation and the Administrative Responsibility to Monitor Change: An Empirical Study of the Elimination of Logging Requirements."[102] The authors state that their article presents an, "empirical effort to determine the consequences of a major deregulatory change, the elimination of logging requirements for radio licensees, and suggests correction in the Commission's rules regarding program records in the light of these findings."[103]

The authors then indicate that record keeping was not consistent during all the years of the study and that during two years data was missing so they interpolated the data to fill in the missing years. Realizing the difficulty in attributing to deregulation guidelines alone the consequences of deregulation, the authors then interviewed people to help test their hypothesis that deregulation is

---

102 Hegelin and Wimmer "An Empirical Study" 38FCLJ 200 (1976).

103 Ibid., 205, 206.

104 Ibid., p. 255.

is not in the public interest. This was a blend of qualitative research with quantitative.

This study encountered similar problems, inconsistent and missing data. In 1985 each station was required to file quarterly issues/programs lists. Some licensees did and some did not. Every station complied in a different manner. Often at a station the issues/program forms were filled out by different people each quarter. This meant that each person interpreted the data differently. There was no conformity between stations and often not within a station. This was shown most clearly at one station where the purpose of the ascertainment interviews was defined differently in two different memos.[105]

Interviews were not feasible to attempt to decipher the public file. One licensee had six people involved in the process. Often the employee who filled out the public file was no longer with the station. At one station the person in charge of the file was an intern, no longer employed in radio. At another station the person who wrote the file left for another job out of state. In addition, those interviewed were not candid or responsive.

When it proved impossible to standardize the collection of data from each licensee under a strict quantitative formula the decision was made to adopt broad

---

[105] KEZO/KEDS, memos untitled, in appendix.

guidelines. If data was available one-quarter of the year would be examined from each licensee's public file. If not available the entire year would be examined to indicate why or why not a licensee complied to the public file requirements. In addition any memos that helped to explain the licensee's "attitude" toward the public file would be examined. This qualitative, often anecdotal, method of research seemed the best way to include all relevant information that would foster an understanding of licensee compliance with deregulation. That was the goal of the study, a better understanding, not prediction and control.

This evolving or naturalistic research might seem a justification for doing what one wants to do but was appropriate in this study. The authors of Naturalistic Inquiry, a book which critiques research methodology and promotes "naturalistic research," state,

> In a naturalistic study the researcher elects to allow the research design to emerge (flow, cascade, unfold) rather than to construct it preordinately (a priori) because it is inconceivable that enough could be known ahead of time about the many multiple realities to devise the design adequately; because what emerges as a function of the interaction between inquirer and phenomenon is largely unpredictable in advance; because the inquirer cannot know sufficiently well the patterns of mutual shaping that are likely to exist; and because the various value systems involved (including the inquirer's own) interact in unpredictable ways to influence the outcome.(106)

---

106 Yvonna S. Lincoln and Egon G. Guba, Naturalistic Inquiry, (Beverly Hills, California: Sage Publication, 1986) 416 pp.

From data provided by each licensee, aggregate totals of compliance for the market are provided. The appendix also provides examples of the forms used by the licensees. It is impossible to prove the Omaha market is representative of other markets, but this paper does not exist in a vacuum. The implications of the paper for policy makers in mass communications will be presented. It is hoped that new questions if not answers will be presented.

FINDINGS

There were fourteen publicly owned stations in the Omaha market during 1985.[107] The stations were described briefly in the Arbitron ratings book which provided some insight into the listeners each licensee attracted. The licensees will be grouped according to the level of compliance to the public file components tested. Three levels of compliance will be used with level one being total compliance and level three non-compliance. Level two consists of those licensees whose compliance can be deduced through documents in the public file although the required documents are not present or labeled. Level one includes KFAB, KGOR, KEZO, KEDS, KLNG and KQKQ, those stations that provided an issues/programs list and the method by which the issues were determined. Level two consists of those

---

[107] Arbitron Ratings Guide, Silver Springs, Md., Third Quarter 1985. A. KBWH, B. KCRO, C. KEDS, D. KEFM, E. KESY-AM, F. KESY-FM, G. KEZO, H. KFAB, I. KGOR, J. KLNG, K. KOIL, L. KQKQ, M. WOW-AM, N. WOS-FM.

licensees that provided the required information but did not label it. This meant compliance had to be deduced. This level included WOW-AM, WOW-FM, KESY-AM, KESY-FM, KOIL and KEFM. Those stations that made no documented effort to comply with the public file requirements include KBWH and KCRO.

KFAB/KGOR

The Arbitron ratings leader for 1985 in the Omaha market was KFAB. It is becoming unusual for an AM station to lead the ratings, but 50,000 watt KFAB has dominated the Omaha market for a number of years. KFAB is a news-oriented station that plays "adult contemporary" music. Its sister station KGOR shares the same management and office and broadcasts mainly "pop" music.

KFAB/KGOR conducted between 20 and 35 interviews each quarter during 1985 to ascertain the issues that affect its listenership. The ascertainment forms which were organized by quarter, contained the following categories:[108]

1. person interviewed
2. address
3. organization represented
4. position in the organization
5. place of interview
6. time
7. date
8. method of contact
9. sex
10. race
11. problems
12. needs and interests identified by interviewee
13. interviewer
14. reviewed by
15. reviewer's position with licensee
16. date of review

---

[108] KFAB/KGOR, Community Leader Interview, Ascertainment 1985. (Copy in Appendix)

Each quarter KFAB/KGOR summarized the ascertainment interviews conducted.[109]

Also included in the public file was a list of programs KFAB/KGOR broadcast to address the issues ascertained from interviews.[110] The programs included:

1. Board of Inquiry
2. Minority Americans
3. The Law and You
4. Consumer Assignment
5. The KFAB Comment Line
6. Talknet
7. Your Health and Today in Medicine
8. Job watch
9. The University Speaks
10. Public Service Announcement
11. Special Programs dealing with agriculture

The problems determined through ascertainment are listed and general programs and specific programs are listed that address these problems. Specific programs are summarized at length.

From ascertainment interviews conducted in the third quarter of 1985, KFAB/KGOR determined that "problems associated with government," including high taxes, cutting of funds for government programs, the Federal deficit, Federal spending, help for the poor, poor city services and road improvement were a main concern of its listeners KFAB/KGOR listed 12 specific programs that addressed

---

[109] KFAB/KGOR, Issues/Programs List Requirement Information for the 3rd Quarter of 1985, July 1st thru Sept. 30th. (Copy in Appendix)

[110] KFAB, Public Affairs Programming Utilized to Address Problems Revealed by Ascertainment in 1985. (The list for KGOR was the same with programs not aired on KGOR blackened out.

"problems associated with government" during the third quarter of 1985.[111]

On August 25, 1985, the show "Board of Inquiry" addressed problems in government and KFAB/KGOR summarized the program as follows:

> Guest was Moon Landrieu, former mayor of New Orleans, and Secretary of the U.S. Department of Housing and Development in the Carter Administration. He's chairman of the Mainstreet Coalition, a group of city business and other civic leaders concerned about the effects the President's proposed tax plan will have on cities. Dick Schoettger, Executive Director of the Convention and Visitors Bureau of Omaha was also a guest. They discussed among other things what the elimination of allowable deductions and entertainment [sic] and a cap on business meals would have on cities like Omaha. They say it would cause a loss of jobs and financial difficulties to restaurants and so forth.(112)

This summary is typical of the program section of the programs/issues list. In addition KFAB/KGOR provided a summary of the total number of public service announcements it broadcast that addressed each issue. During the third quarter of 1985 KFAB/KGOR broadcast 27 public service announcements that addressed "problems with government."[113]

KFAB/KGOR followed public file regulations in 1985. In addition the methodology the stations used to determine the issues is clearly presented. While KFAB/KGOR's issues

---

111 KFAB, Programming for Third Quarter of 1985 July thru September. (copy in Appendix)

112 Ibid.

113 Ibid.

programs list does not provide a total picture of the licensee's response to its public interest obligation, the representative picture is one of compliance.

KEZO/KEDS

Licensees KEDS and KEZO, both owned by Albimar Communications, share common management. KEDS is an oldies station that plays songs of the fifties, sixties and early seventies,[114] while KEZO is an album-oriented rock station. KEDS/KEZO still adheres to a formal ascertainment policy. A memo in the public file states:

> It is the policy of KEDS-AM and KEZO-FM to combine the ascertainments gathered from community leaders over a two-year period to obtain our annual list of problems addressed through our public affairs programming. An absolute minimum of 30 ascertainments are compiled by station management each year, giving us a minimum of 60 reports over the running two-year period. This will help us attain the goal of serving the needs of the community with a better blend of problems and needs in the metro area, and a more accurate picture of what is going on in the city. The problems are addressed on the public affairs program "Community Reports" which is comprised of two fifteen minute segments to make a half-hour presentation on Sunday mornings. All ascertainments for KEDS and KEZO are left in our Public File as required by the Federal Communications Commission.(115)

The ascertainment form referred to in the memo consisted of eleven categories followed by four

---

114 In 1987, KEDS was changed to KEZO-AM with simulcasting on both KEZO AM and FM.

115 Keds/KEZO Ascertainment Policy, October 7, 1985 Mike Nelson, Public Affairs Director. (copy in Appendix)

questions.[116] The categories included:

1. surveyor/title
2. station
3. market
4. date
5. location
6. leader's name
7. leader's occupation
8. address
9. time
10. organization
11. telephone

The questions asked on the form included:

1. What do you believe to be some of the significant problems of the community?

2. What do you believe to be some of the significant needs of the community?

3. What do you believe to be some of the significant needs of the community? (2 & 3 are duplicated on form)

4. Do you have any comments on our station's programming?

KEDS/KEZO developed an issues/programming list from its ascertainment forms. The issues/programs list is the same for both stations, although the audiences targeted by KEDS and KEZO are different. This would seem to indicate that KEDS/KEZO uses public affairs programming to address the problems of the community and not a targeted audience. An alternative answer, supported by a memo in the public file, is that KEDS/KEZO audience turns to another station when public affairs programs are broadcast. Therefore, why develop separate programs that will only drive listeners away?[117]

---

[116] Albimar Communications, Community Leader Survey.

[117] Albimar Communications, Untitled, Unsigned memos.

KEDS/KEZO's issues/programs list "has been determined by ongoing ascertainment conducted during the last reporting period. Programs were produced to address these issues, with particular emphasis on how they affect Omaha and the surrounding area."[118] This statement seemingly contradicts the earlier statement that ascertainments are conducted over a two-year period to develop issues and the related programs.

If it is somewhat inconsistent in its methodology and terminology, KEDS/KEZO complied with the public file requirements of deregulation. Ascertainments are conducted according to a stated method but then applied in a somewhat inconsistent manner. A half-hour program, "Community Reports," on Sunday mornings is not a large commitment to public affairs broadcasting, but the F.C.C. requires nothing more. Its issues/programs list and methodology are adequate and adhere to deregulation requirements.

KLNG/KQKQ

Two other stations in the Omaha market, KLNG and KQKQ, share the same management (KLNG is now KKAR, an all new station). Both stations play teen oriented pop music. KLNG/KQKQ was in the process of moving from Council Bluffs, Iowa, to Omaha, Nebraska, when the file was examined. This explains why the public file was not located at its business office, Omaha, but at its studio in Council Bluffs. The

---

[118] Albimar Communications, 1985 Issues-Programming History

broadcasting studio at KLNG/KQKQ only contained the broadcasting equipment and personnel, but no business was conducted there.

KLNG/KQKQ's public file included the years 1978 and 1979 when program logs were required by the F.C.C. It appeared that through an examination of the program logs it would be possible to trace all their programming for these two years. This cannot be said for 1985, given the public file requirements.

KQKQ/KLNG states, in its issues/problems list, "The following significant problems and issues were ascertained through managerial consultation, audience input, and interviews with community leaders and were treated by licensee."[119] The issues are treated on its "Sunday Morning Forum" that runs from 7:30 to 8:00 a.m. The public file and the issues/programs list provide no examples of public affairs broadcasting at any other time on either station.[120] During the second quarter of 1985, KLNG/KQKQ determined that these issues significantly affected the community: economy/business, health/welfare, employment, drug abuse and crimes/safety.[121] These are not

---

[119] KLNG-AM and KQKQ-FM, Community Issues and Problems Ascertainment, October 1, 1985. (in Appendix)

[120] KLNG-AM, Illustrative Programming 4/1/85 to 6/30/85.

[121] KLNG-AM and KQKQ-FM, Community Issues and Problems Ascertainment, October 1, 1985.

issues but broad generic categories. With these generic categories it is easy to claim, as the licensee does, that a spot on barbecue safety addresses a concern of the community.[122]

Did KLNG/KQKQ meet its public file requirements under deregulation? Their programs/issues list and methodology meet the regulation standards.

KESY/AM/FM

KESY-AM/FM is a low-powered (1,000 AM and 32,000 FM) licensee that plays "the music of your life." This type of music is usually big band, Broadway tunes and standards (Porter, Gershwin, Berlin). KESY was the only licensee examined that was not a member of the Nebraska Association of Broadcasters. The public file indicated that the station had changed hands three times in the last five years (1980 - 1985) in deals involving stock, bonds and money. The two licenses, apparently, were last sold for $650,000 in 1984.[123]

Perhaps the choppy, incomplete nature of the public file is explained by the changes in ownership. The public file did provide a list of problems and programs that addressed the problems by quarter. These lists indicate that the station did not broadcast any locally-produced

---

[122] KLNG-AM, Illustrative Programming July 1, 1985 to September 30, 1985.

[123] KESY/AM-FM, untitled memo in the licensee's public file.

public interest programs in 1985, but rather broadcast syndicated programs by Forbes Magazine and the Gladney Corporation. The Forbes spots were 60 seconds and the Gladney programs three minutes in length.[124] (The list states that the programs were broadcast, not how often or when.)

In the third quarter of 1985, KESY listed five problems that affected its area of license: "agricultural crisis, U.S. economy, nuclear weapon proliferation, social security and Medicare, and abuse of the elderly."[125] It lists eight programs that addressed the U.S. economy, all from Forbes, and one program that addressed the elderly and one that addressed Social Security, both from Gladney.[126] Apparently no programs were broadcast that addressed either the agricultural crisis or nuclear weapon proliferation.

KESY-AM/FM apparently has little interest in public affairs programming, given its issues/programs list. It does provide issues/programs lists by quarter, but how the issues were determined is unspecified.

---

[124] KESY/AM-FM, Problems/Programs List, July 1, 1985 through 30, 1985 (in Appendix)

[125] Ibid.

[126] Ibid.

WOW/AM/FM

WOW-AM/FM has a unique method of determining the problems, needs and concerns of the community. It uses a two-hour call-in show, "The Cracker Barrel," to determine the issues that affect its listenership. WOW-AM/FM apparently tapes "The Cracker Barrel" and records the sex of the caller and the issue discussed. Both of these categories are vaguely recorded. Sexual categories included "man, woman, S. Omaha, Helen and ?." Topics discussed included "Nicaragua, funny comment, with poem, humor, hates Reagan/likes WOW radio, with poem and once again ?."[127] Nothing in the public file suggested if the calls are screened, if topics are suggested or if the show is structured. How valid is a call-in show to determine the problems, interests and needs of a community? The public file indicated no affirmative effort to determine these problems, needs or concerns. The public must come to the station.

The WOW public file also provided a list of public service announcements broadcast each month. The list included the categories, subject, start date, end date and length. All the PSA's are either fifteen or thirty seconds in length and were broadcast from nine to twenty-one days. It appears that all PSA's are furnished by organizations and

---

[127] WOW/AM-FM,Cracker Barrel Summaries for the third quarter of 1985.

not produced by the licensee.[128]

WOW complies with the basic public file requirements of deregulation. The "Cracker Barrel" is the public affairs program broadcast and the categories discussed are the issues that affect its listeners. Uncritical acceptance of calls and public service announcements do not put the interests of either the community or its audience in context. Phone calls are from vocal listeners who are not necessarily representative of their audience or community. The difference may be enormous.

KEFM

KEFM, "Lite 96," plays "soft rock" music, according to its public relations brochures. This is basically popular music aimed at the 21 to 35 year old. KEFM's sole public affairs program in 1985 was broadcast from 6:45 to 7:00 a.m. and 10:45 to 11:00 p.m. on Sundays.

The public file provided a description of each program broadcast in 1985 in depth (example in appendix).[129] This material seemed to exist in a vacuum. The file gave no indication why the program addressed an issue of concern to its listeners or community of license or how KEFM developed an issues list that affected its listeners or community of license. An interview with the public affairs director

---

[128] WOW/AM-FM Public Service Announcement Summaries for 1985.

[129] KEFM, Leader Contact Form, 1985.

provided no help. It appears that KEFM maintained contact with both public and private corporations and developed programs from these contacts. Did KEFM determine that these organizations accurately reflected issues of concern to its listeners or did KEFM allow these corporations to address issues that KEFM independently determined concerned their listeners? The methodology used to determine the issues is not provided in the public files. Is "Lite 96" in compliance with public file requirements? Apparently so, if one assumes the contacts represented in the public file were the method by which issues of concern to its listeners were provided.

KOIL

KOIL-AM stated in a memo, placed in their public file, that only one public affair program aired the first six months of 1986 because of a lack of broadcast facilities. KOIL-AM moved their offices from a site in downtown Omaha to a suburban location in the city during this period.[130] The lack of public affairs broadcasts in 1986 was a carryover from 1985.

KOIL-AM provided quarterly lists of public affairs programming for 1985. The lists do not indicate if they are illustrative or comprehensive.[131] One noticeable

---

[130] KOIL, Untitled memo in public file, 1986.

[131] KOIL, Public Affairs Programming, Third Quarter, 1985.

characteristic of the lists is that they are repetitive. KOIL-AM lists interviews with Lynn Elgert, Ida Laquerta, Dr. Dean Doyle, Nancy Peterson, Don McNamara and Werner Scott as subjects of public affairs programming in the first as well as the third quarters of 1985. The forms describing the shows are different in each quarter, making a comparison difficult.[132] Were these people the subjects of different interviews in each quarter? If so, what made them worthy of such attention?

KOIL-AM provided a separate sheet in its public file entitled "KOIL Affairs Programming". The sheets summarized the public affairs programming actually broadcast. It is apparently comprehensive. The sheet included the sections: program title, air date, moderator, guest title, topic of discussion, and a detailed list of topics to classify the program aired.[133] KOIL-AM has not provided a list of issues and the methodology used to determine what affected its listeners or community of license. It has provided uncoordinated summaries and lists of public affairs programs. KOIL-AM has not complied with the public file requirements of deregulation but an effort to comply can be inferred through their untitled documents.

---

[132] KOIL, Issues/Programs List, January 2, 1985 from Terry Mason.

[133] KOIL, KOIL Community Affairs Programming, 1985.

KCRO

KCRO is a "Christian" radio station licensed to broadcast during the daylight hours. KCRO broadcasts religious music and both local and syndicated religious sermons. These programs range from Pat Boone's syndicated show to Sunday services taped at Omaha churches.

The public file for 1985 provided one sheet of paper related to issues and program, an index.[134] It represents one month of public affairs programs and lists the guest and issues discussed on the program. The source of the program, the length, and when the program was broadcast are not provided. It is possible that the programs were furnished by the Christian-oriented "700 Club" because the licensee broadcast programs by this organization in 1984. Methodology on how the programs were selected and how the programs addressed issues of concern to its listeners is not provided.

The list of programs apparently broadcast in 1985 included: "NEA - Propaganda Front of the Radical Left," Phyllis Schlafley on the Genocide Treaty," Americans Against Abortion," Marxism/Leninism in America," and "AIDS and Homosexuality."[135] Whether these types of programs were broadcast in 1985 is not provided.

---

134 KCRO, Untitled sheet of paper, (in Appendix).

135 Ibid.

The F.C.C. intended the station to provide the public with enough information to determine if a licensee broadcast in the public interest. KCRO has not complied with the basic public file requirements of deregulation for 1985. It does not have a quarterly list of issues that affected its listening audience, how the issues were established or a list of representative programs that addressed the issues. One typed sheet of paper, uncentered, represents their public affairs programming for an entire year.

KBWH

KBWH-FM, a licensee that plays urban or black contemporary music, had its "public file" enclosed in a looseleaf notebook. A large section of the notebook contained news clippings of the events leading to the transfer of the station from Blair, Nebraska, to Omaha. The news clippings emphasize the contrast of rural programming before the license was transferred to the black inner-city orientation afterward.

The issues/programs list provided scant information on how KBWH responded to the concern of its listeners or community during the term of its ownership. Nothing is provided for 1985. KBWH had a sheet in the public file entitled, "Illustrative Programs Broadcast in Response to Community Problems, Needs and Interests." The sheet included the categories, "title of program , source of material, type of program, description of program, date of

broadcast, time of broadcast, duration of broadcast, broadcaster and supervisor." Nothing in the file indicated how programs were developed in response to community concerns or how the problems, needs and concerns of the community were determined.[136]

KBWH provided forms that listed five programs covering a four-year period that were broadcast in "response to community problems, needs and interests." The forms which were intended to describe the programs were incompletely answered. The programs listed included a syndicated tribute to Dr. Martin Luther King, Jr., and "F.M. Magazine", a fifteen-minute program "concerning community values and legislature." These programs were broadcast in January and February 1986, not 1985, but perhaps are representative of the licensee's commitment to public affairs broadcasting.[137] Other programs broadcasted included, "Senior Citizen of the Month," "Express Yourself," and "Athlete of the Month." None of these programs were listed as being broadcast in 1985. "Senior Citizen of the Month" was a thirty-second long program broadcast three times daily. The time or dates of its broadcast were not provided. "Express Yourself" was described as a talk show that provided information on news, theater, city government

---

[136] KBWH, Memo in looseleaf, public file, filled out incompletely for various programs.

[137] KBWH, Looseleaf public files.

and private issues. The "public file" indicated "Express Yourself" was broadcast in 1983 from 5:30 to 6:30 a.m. The date the program aired and the duration of the program were not provided.[138] The final program listed as a response to community problems, issues, and interests was "Athlete of the Week", a five-minute program broadcast in conjunction with the Community Bank. The information sheet did not state when the program aired.[139] Was it broadcast throughout 1985 or just once in 1984 as the information sheet stated?

Although the public file did not comply with the statutory requirements for 1985 since an issues/program list was absent, this was of secondary importance to the lack of cooperation by station employees. When asked if it would be "okay" to look at the public files, a secretary stated this would be impossible. The secretary then paged an announcer who also stated that the public file could not be released without the approval of the station manager who was not present. The public file is required to be available upon request. The station did release their looseleaf notebook.

KBWH-FM did not provide a list of community issues or programs that addressed the issues for 1985. The methodology used to determine the issues was also

---

138 Ibid.

139 Ibid.

nonexistent. If the programs/issues list is designed to show compliance with the public interest requirements, KBWH-FM is not in compliance.

SUMMARY OF FINDINGS

Licensee compliance to public file requirements was mixed. Some licensees such as KFAB/KGOR met the standards, while KBWH and KCRO neglected the standards. Most comply in a seemingly haphazard manner. It appeared likely that the manner of compliance reflected the type of programming by the licensee. An issues/programs list would have little priority at an all-entertainment station and great priority at an all-news station. Most licensees seemed "shocked" that someone would want to study the public file. The station manager at KEDS/KEZO mentioned that no one had looked at the public file in over a year. He implied that he could not think why one would look at it now.

Licensees' responses to a request to look at the public file ranged from helpful interest at KFAB/KGOR to outright hostility. Most licensees insisted that the public file be reviewed in the presence of an employee. Only one licensee furnished a desk to write at. It is difficult to take notes as one sinks into the cushions of an overstuffed chair or while standing using a file cabinet as a brace. Many licensees copied material free of charge although a charge of ten cents per page was not uncommon. One station asked 25 cents a page to copy material. While not a large

fee, 25 cents seems like a definite attempt to discourage investigation of the public file. With the cramped, awkward, uncomfortable research conditions at each licensee's facility, it would be best to photocopy the public file and study it in a more appropriate setting. This would be extremely costly if one studied a broadcasting market for a year.



It was anticipated that the public files would provide little information on whether a licensee broadcast in the public interest, and this expectation proved true. Several licensees provided strong documentation on how they determined the issues or problems that affected their community of license but most provided a list so general that anything could be included. For example, "economic problems" could include international, national, state, or local problems, or buying a bicycle. "Government problems" is so broad a category that it could include anything from fixing potholes to Reagan's "window of vulnerability." It appeared that some licensees do nothing to ascertain the problems of their listeners and consequently do not develop any programs related to truly local issues. These licensees, instead, buy nationally syndicated programs and claim these programs address the problems of their listeners or community. This type of process seems truly inverted. In addition, the licensees that develop their own public affairs programming quite

often broadcast the shows during the hours the fewest people listen, early Sunday morning or late Sunday night.

Many of these licensees that produce local programs depend almost exclusively on institutional spokesmen for public affairs programs. For example, KEFM listed Robert Spire, Nebraska Attorney General; Charles Cauns, Red Cross, and Edward Trandahl of the Union Pacific. KFAB/KGOR gave air time to Rodney Wead, Wesley House; Bob O'Brien, Omaha Civil Defense Director, and Daryl and Phil Grey of the Social Security Office. KOIL presented Lynn Elgert, a stock market expert, and Warner Scott, an analyst with Texas Instruments.[140] While it is not denied that these people might have worthwhile stories, a question is raised by the nearly exclusive use of establishment speakers. Are these people on the air because of the value of their views or because the institutions they represent provide high visibility with established ties to the media? Whatever the reason for their absence, minority groups or dissident members of organizations have little access to the media according to the public file evidence. Is this because they do not actively seek access or because licensees perceive their messages as unacceptable to their audiences or sponsors? To what extent should the coverage of a nuclear waste disposal site be balanced between the established

---

[140] See Appendix.

company that will build the site and the ad hoc citizens' groups questioning the need? How should coverage of arts programs, funded in part by corporate funds, be balanced with artists and art groups that do not receive or seek corporate funds? It would seem that public affairs programs that address the problems of the community should do more than present a cheerleader for a fixed point of view. There seemingly should be some attempt to put the issue or topic in some context; how did the problem arise, how is it being solved, what setbacks have there been? Nothing in the public file indicated that such a process took place. Without such a process that would greatly change the substance of public affairs broadcasting, the media leaves itself open to claims that it simply provides a service for people with similar values and biases to discuss minor differences of opinion. This is a long way from informing citizens of issues and problems that affect their community.

Some stations do nothing to address the problems and issues of the community, but do the stations as a whole?[141] This simply cannot be determined from the programs/issues lists in the public files. There is no uniformity in the issues/programs lists of the licensees. While licensees obviously target audiences with their programming, their

---

[141] Lack of standardized forms makes any market summary meaningless.

public files do not provide any indication of what audiences are targeted. Ratings are at best a rough indication of what audience is reached. Only KFAB has the ratings that indicate an appeal to all age groups. Its sister station, KGOR, appeals mainly to teenagers and young adults with its "pop" music format. Since 1985 numerous stations have changed formats. Is this a response to the public interest? Is it a search for more profits? Is it the result of speculation in radio licenses? All or none of the above? Any conclusion is tenuous.

T.M. Hagelin and K.A. Wimmer state that deregulation is an experiment and the assumptions of market behavior may not conform with reality. The cost of standardized recordkeeping to test the reality must be considered in an era of unprecedented change. They state:

> closing the gate on information makes it impossible to determine the present consequences of deregulation or to assess the past half-century of regulation.(142)

Without standardized forms, standardized procedures, and standardized definitions, it is possible to get only a rough idea of whether public affairs programming addresses the problems of the community. Standardized requirements would arguably provide a better, if not entirely accurate picture.

It is possible to trace compliance to public file requirements. However, the public file does not provide information to judge if the licensee broadcasts in the

---

142 Hagelin and Wimmer, 208.

public interest. Is it important then to have a public file?

A public file serves the public interest only if it encourages programming that informs the listeners of issues and problems that affect their community. Public interest programming would help the citizen make an informed choice in matters related to government. With a multitude of sources or programs related to government, so the theory states, the "marketplace of ideas" will allow conflicting viewpoints to be presented and discussed so the "truth" can be victorious. Is the "marketplace of ideas", an irrelevant concept in an era when the electronic media are rapidly changing? The findings of the study revealed little about licensee efforts to broadcast in the public interest and less about the market the licensees were in. It is also not known if the findings would be applicable to other markets at different times. Should the method of analyzing communication regulations be changed?

Implications

Two writers, taking different approaches, suggest that mass communication regulations should be analyzed differently so that the public interest is better served.[143] Both writers, though, state that the number of viewpoints

---

143 Stanley Ingber, "The Marketplace of Ideas: A Legitimizing Myth", 1984 Duke Law Journal 15 (1984). Ben H. Bagdikian, The Media Monopoly 2nd Edition, (Beacon Press Boston) 1987.

being presented is diminishing and consequently media's role as a "marketplace of ideas" is not fulfilled.

In "The Marketplace of Ideas: A Legitimizing Myth," Stanley Ingber questions the validity of the "marketplace of ideas" and consequently the role of government to insure the citizen has adequate access to social, political, esthetic, moral and other ideas. Currently the concept of the marketplace of ideas is under attack by many communications theorists. Many scholars, Ingber states, question whether truth is a discoverable, objective concept or a subjective concept based on a person's biases, prejudices, and past experiences.[144] Secondly, Ingber questions how rational the "average" person is. If truth is a discoverable, objective concept can the "average" person discern truth through the packaging that surrounds it?[145]

The marketplace of ideas, states Ingber, is not an "effete truth-seeking process" but rather a process that attempts to persuade one group to accept the viewpoints of another. In Ingber's view, the marketplace of ideas is a process heavily skewed to favor the status quo. Government regulations designed to end this dominance by the status quo have accomplished the opposite, Ingber states. Government involvement in the name of freedom of expression does,

---

[144] Ibid., p. 15.

[145] Ibid.

however, serve the purpose of legitimizing governmental decisions by giving the appearance of democratic involvement, Ingber adds.[146]

The status quo bias, Ingber states, was enhanced by Holmes "clear and present danger" test. This test indicated that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth. Government cannot attempt to be restrictive in the dissemination of ideas and can only become involved if free speech leads to actions government has a right to prevent. As Ingber correctly states:

> An interpretation of the First Amendment that permits the state to cut off expression as soon as it comes close to being effective essentially limits the amendment's protection to encompass only abstract or innocuous communication.(147)

Ingber denies that pluralism found in the marketplace of ideas would be useful for the creation of an informed citizenry. Ingber denies the validity of pluralism, stating:

> Despite the idealism of pluralists and others, free speech is not useful for the discovery of truth or the creation of an informed citizenry. An individual's experience bestows knowledge as much as do the lessons learned from speech. Individual choice and societal change, therefore, depend less upon free expression than upon the development of new ideas, needs, demands and expressions forcing individuals to change their experience. To focus on diversity of expression rather than diversity of experience is to focus on the dependent rather than independent variable. Yet the dominance of the market model and conventional theories

---

146 Ingber, 12, 13.

147 Ingber, 18.

> of the First Amendment demonstrate our nation's emphasis on free expression. This focus is obviously less threatening to established norms because of its status quo bias. In short, in the United States today free speech is a device by which established interests may both refine their minor differences and promote their commonly held assumptions of truth. It is not a device to change society.(148)

Ingber's point is persuasive if somewhat overstated. Speech alone will not change society but it can help put new experiences into context for the listener. It will be one step in the process by which society changes for the better. Freedom of speech is important only if an individual has access to new experiences which will allow him to analyze data differently. Ingber then states that to foster freedom of speech the government must foster an environment where new ideas, perceptions and values can develop through a diversity of social experiences and opportunities. Although Ingber argues that the Supreme Court should focus on developing a freedom of conduct, he cautions that it should be done cautiously as the same factors that have created an impotent marketplace of ideas may also create an impotent market of different lifestyles.[149]

A longtime critic of media regulation and the media, Ben Bagdikian, also doubts the ability of the media to inform the public but focuses on a different reason for

---

[148] Ingber, 75-76.

[149] Ingber, p. 96.

this than Ingber. Bagdikian believes the concentration of ownership of media outlets by a few corporations is responsible for the lack of divergent views being offered by the media.[150] In his recent book, Bagdikian notes that the size of media corporations has grown significantly in the last ten years while the number of corporations has gotten smaller. Therefore fewer corporations are controlling more outlets. Bagdikian states fifty corporations control most of the output of the mass media. According to Bagdikian, they constitute a new "Private Ministry of Information and Culture."[151] He indicates this trend is likely to continue and accelerate.[152]

Critics of Bagdikian and his view that concentration of ownership limit the number of views presented state that media outlets maintain autonomy in a corporate network. Bagdikian counters by showing that it is true that stories are seldom dictated but there are other ways to ensure conformity, such as through staffing, format guidelines and the emphasis on the bottom-line. An emphasis on return to the stockholder has often meant a use of syndicated material

---

150 Bagdikian, (XI).

151 Ibid.

152 Ibid.

and less coverage of local affairs.[153] Hardly a means by which citizens are informed of matters related to government. Bagdikian, though, believes that the time may have returned to look at regulation again as a means to provide the different voices a citizen needs to be informed. Bagdikian does not state what form this regulation would take but that it would be a break from the past.

Freedom of speech is essential to inform the public of the issues that effect it but unless the citizen has the opportunity to experience new ideas and lifestyles it is likely the citizen will hear only of the dominant culture, dominant but not necessarily representative. Therefore, government must continually adapt to the everchanging media to prevent monopolization of ownership and ideas while looking outside the mass media to the public forum as a means to foster divergent ideas. The law is one means by which our first amendment freedoms may be protected, however, it is only one means. As Justice Learned Hand stated:

> I often wonder whether we do not rest our hope too much upon constitutions, upon laws and upon courts. These are false hopes, believe me, these are false hopes. Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can even do much to help it. While it lies there it needs no constitution, no law, no court to help save it.(154)

---

153 Bagdikian, XII.

154 Ingber, 91.

Any attempt to regulate the broadcast industry so that the public interest is served is necessarily an experiment. The industry is constantly changing. Regulations that are effective today will quite possibly be ineffective tomorrow as new technology is developed. Just because regulations become ineffective does not mean they are useless. They just must be adopted to current conditions. Bagdikian makes this point in The Media Monopoly.

Just as important to communication of ideas is the public forum, plays, speeches, rallies, debates. All effort must be made to keep these avenues of expression open. They provide access to the public for people who do not have the finances to use the mass media. Hopefully, access to different ideas will continue to be available to all those who seek them.

BIBLIOGRAPHY

BOOKS

Bagdikian, Ben. The Media Monopoly, Boston, Beacon Press, 1987.

Emerson, Thomas. The System of Freedom of Expression, New York, Random House, 1970.

Lincoln, Yvonna S. and Guba, Egon G. Naturalistic Inquiry, Beverly Hills, California, Sage Publications, 1986.

McLuhan, Marshall and Fiore, Quentin. The Medium is the Message, New York, Bantam Books, 1967.

Meikeljohn, Alexander. Political Freedom, New York, Harper and Brothers Publishers, 1951.

Tolchin, Susan J. and Tolchin, Martin. Dismantling America: The Rush to Deregulate America, Boston, Houghton Mifflin, 1983.

LEGAL PROCEEDINGS

Black Citizens for a Fair Media v F.C.C., 719 F2d 407 (D.C. Circuit Court of Appeals) 1983.

Federal Radio Commission v Nelson Bros Bond and Mortgage Co., 289 U.S. 266 (1933).

Federal Communications Commission v Pottsville Broadcasting Co., 309 U.S. 134 (1940).

Federal Communications Commission v R.C.A. Communications Inc., 346 U.S. 89 (1953)

Heffron v International Society for Krishna Consciousness, 456 U.S. 640 (1980).

KFKD Broadcasting Association v F.R.C., 47 F2d 670 (D.C. Circuit Court of Appeals) 1931.

National Black Media Coalition v Federal Communication Commission 706 F2d 1224 (D.C. Circuit Court of Appeals) 1983.

National Broadcasting Co. v United States, 319 U.S. 190 (1943).

Office of Communication of United Church of Christ v F.C.C., 707 F2d 1413 (D.C. Circuit Court of Appeals) 1966.

Office of Communications of United Church of Christ v F.C.C., 707 F2d 1413 (D.C. Circuit Court of Appeals) 1983.

Office of Communication of United Church of Christ v F.C.C. 779 F2d 702 (D.C. Circuit Court of Appeals) 1986.

Red Lion Broadcasting v Federal Communications Commission, 395 U.S. 367 (1969).

WNCN Listener's Guild v Federal Communications Commission, 450 U.S. 582 (1981).

MAGAZINE ARTICLES

Bonder, Todd. "A 'Better' Marketplace Approach to Broadcast Regulation," Federal Communications Law Journal 36(1984) 1, 16-39.

Brotman, Stuart N. "Judge David Bazelon: Making the First Amendment Work" Federal Communications Law Journal 39 (1981) 54-72.

Coase, R.H., "The Federal Communications Commission," The Journal of Law and Economics 2 (1959) 8-87.

Fowler, Mark S. and Brenner, Daniel L. "A Marketplace Approach to Broadcast Deregulation," Texas Law Review 60 (1981) 2-60.

Hagelin, Theodore M. and Wimmer, Kurt A. "Broadcast Deregulation and the Administrative Responsibility to Monitor Change: An Empirical Study of the Elimination of Logging Requirements," Federal Communications Law Journal 38(1986) 200-284.

Ingber, Stanley, "The Marketplace of Ideas: A Legitimizing Myth," Duke Law Journal (1984) 15-67.

Reich, Charles A., "The New Property," Yale Law Review 73 (April 1964) 5.

ADMINISTRATIVE LAW

"Notice of Inquiry and Propose Rulemaking: In the Matter of Deregulation of Radio," 73 FCC2d 457-615 (September 27, 1979).

"Report and Order (Proceeding Terminated): In the Matter of Deregulation of Radio," 84 FCC2d 968-1130 (February 24, 1981).

The Administrative Procedures Act, United States Code, Title 5.

The Communication Act of 1934, 47 U.S.C. 301 et seq.

LITE 96

A

QUARTERLY ISSUES/PROBLEMS LIST

THERE FOLLOWS A LISTING OF SOME OF THE SIGNIFICANT ISSUES RESPONDED TO BY STATION KEFM/LITE-96, OMAHA, NEBRASKA, ALONG WITH TYPICAL AND ILLUSTRATIVE PROGRAMMING FOR THE PERIOD (DATE) June 9,1985. THE LISTING IS BY NO MEANS EXHAUSTIVE. THE ORDER IN WHICH THE ISSUES APPEAR DOES NOT REFLECT ANY PRIORITY OF SIGNIFICANCE:

1. DESCRIPTION OF ISSUE:

ADMISSION OF MORE MINORITIES INTO THE LEGAL PROFESSION

2. RESPONSIVE PROGRAM(S):

TITLE: KEFM/LITE-96 METRO-PULSE

DATE(S): JUNE 9, 1985

PROGRAM LENGTH: 14:48

TYPE/DESCRIPTION: P.S.A. ____ CALL IN ____ INTERVIEW X

PROBLEMS DISCUSSED: NEBRASKA ATTORNEY GENERAL ROBERT SPIRE DISCUSSED THE PROBLEMS MINORITIES ARE HAVING BEING RECOGNIZED AND ADMITTED INTO STATE AND NATIONAL BAR ASSOCIATIONS.

INTERVIEWER: Bill Healy POSITION: PUBLIC AFFAIRS DIRECTOR

DATE: JUNE 10, 1985

LITE 96

A.

LEADER CONTACT FORM

DATE: APRIL 22, 1985

NAME OF PERSON CONTACTED: NEBRASKA ATTORNEY GENERAL ROBERT SPIRE

ORGANIZATION(S) OR GROUP(S) REPRESENTED BY CONTACT PERSON:

NEBRASKA ATTORNEY GENERALS OFFICE (JUSTICE DEPARTMENT)

DATE, TIME AND PLACE OF CONTACT: APRIL 22, 1985

METHOD OF CONTACT: TELEPHONE

PROBLEMS, NEEDS AND INTERESTS IDENTIFIED BY PERSON CONTACTED:

ADDRESSTO THE PUBLIC THE NEED FOR THE LEGAL PROFESSION TO ATTRACT AND ADMIT MINORITIES INTO THE BARS

RESPONSIVE PROGRAM: KEFM/LITE-96 METRO-PULSE

AIR DATE(S): JUNE 9, 1985

AIR TIME(S): 6:45 - 7:00 AM / 10:45 - 11:00 PM

PUBLIC AFFAIRS NUMBER: 197. PROGRAM NUMBER: 40. LENGTH: 14:48

PROBLEMS DISCUSSED: ATTORNEY SPIRES SPOKE OF HIS DISAPPOINTMENT WITH THE LEGAL PROFESSIONS (QUOTE) WOEFULLY LAX POSITION IN TRYING TO ATTRACT AND AID MINORITIES (e.g. Hispanics, Blacks, etc.) IN SECURING POSITIONS IN LAW FIRMS AND ADMISSION INTO STATE AND NATIONAL BARS.

INTERVIEWER: Bud Stokes POSITION: PUBLIC AFFAIRS DIRECTOR

DATE: JUNE 10, 1985

KEFM 105 SOUTH 70TH STREET OMAHA, NEBRASKA 68132 (402) 558-9696

B

KOIL COMMUNITY AFFIARS PROGRAMMING

PROGRAM TITLE: INSIDE OMAHA MODERATOR: JEFF CRABAUGH

AIR DATE : JUNE 16TH, 1985

GUEST/TITLE : DR. DEAN DOYLE, BERX BEATRICE DENTIST

TOPIC OF DISCUSSION:----------

DENTAL IMPLANTS....THE LATEST IN THE DENTAL T FIELD.....REPLACING REAL TEETH WITH PERMINANTM ARTIFICIAL TEETH

TAXES/GOVERNMENT	___	HUMAN RELATIONS	___	CITY SERVICES	___
SCHOOLS/CIVIL	___	LAW ENFORCEMENT	___	HEALTH	X
CONSUMER INFO	X C	COMMUNITY AWARENESS	___	ENVIRONMENT	___

(1)

C

KFAB/KGOR ASCERTAINMENT COMMUNITY LEADER INTERVIEW Category public safet

Name of Interviewee: BOB O'BRIEN

Address: 11917 Leavenworth Road, Omaha, Ne 68154

Organization represented and position: Omaha Public Safety Department
Civil Defense director

Place of Interview KFAB Time 2:30 pDate 7-23-85

Method of contact: Group ____ Individual ____ Telephone X Face to Face ____

Interviewee is: Female____ Male XX

White ____ Black ____ Indian XX Hispanic ____ Oriental ____

Problems, needs and interest identified by Interviewee:

The greatest problem affecting our community is the state of the national economy. i.e. the national budget deficit, and government spending of "money we don't have, for things we don't need." NObody on the state or federal level wants to face the problem, but it has reached the local person.

Interviewed by Heather E. Heag

Reviewed by Lyell A. Pienser Position with licensee V.P. & G.M.

Date of review: 8-9-85

Kodk B

D

Oct 1, 1985

Issues/ Program List Requirement Information for the Third Quarter of 1985, July 1st thru Sept 30th..

The ascertainment procedure involved 23 people. Of that number, 9 were women, 3 were black, and one was Indian.

16 were from the Omaha Council Bluffs metro area..
1 was from Brownville, Nebr..
1 was from Martell, Nebr..
1 was from Hebron.. "
2 were from Lincoln, "
1 was from Onawa, Iowa
1 was from Sidney, "..

Categories included... Agriculture, 3.. Professional, 2.. Business, 2.. Neighborhood and civic, 2... Education, 1.. Consumer, 1.. Labor, 1.. Elderly, 3.. Women, 1.. Religion, 2.. Environment, 1.. Public health, welfare and safety, 2.. and Recreation, 1.. also, Gov't., 1.

E

AUGUST 25, 1985 BOARD OF INQUIRY Guest was Moon Landrieu, former mayor of New Orleans, and Secretary of the US Department of Housing and Urban Development in the Carter Administration. He's Chairman of the Mainstreets Coalition , a group of city, business and other civic leaders concerned about the effects the Presidents proposed tax plan will have on cities. Dick Schoettger, executive Director of the Convention and Visitors Bureau of Omaha was also a guest. They discussed among other things what the elimination of allowable deductions and entertainment, and a cap on business meals, would have on cities like Omaha. They say it would cause a loss of jobs and financial difficulties to restaurants, hotels, and so forth

SEPTEMBER 1, 1985 BOARD OF INQUIRY Guest, Omaha Mayor Mike Boyle, discussing 1986 city budget, the status of the city Planning Department, Neighborhood rehabilitation, police overtime pay, and downtown redevelopment, and growth within the city. Road construction was also discussed.

SEPTEMBER 9, 1985 BOARD OF INQUIRY Guest was Dr. Norbert Schuerman, Superintendent of the Omaha Public School System. Taxation a big problem nowadays, and that was one of the things discussed on the program.

SEPTEMBER 9, 1985 MINORITY AMERICANS Guest was Buddy Hogan, who is president of the Omaha Chapter of the NAACP. They talked about Apartheid in South Africa, they discussed what they think the role of the US should be in dealing with apartheid in the south african nation.

AUGUST 18, 1985 CONSUMER ASSIGNMENT. Guest Gordon Johncock, two time Indy 500 winner was here in Nebraska promoting seat belt usage..this is the seat belt law that was passed by the state, because the fed gov't is threatening to impose air bags if enough states don't pass the legislation. He urged Nebraskans to buckle up when the law goes into effect Sept. 6.

SEPTEMBER 1, 1985 LAW AND YOU Omaha Attorney Greg Garland, talked about the seat belt law and how the law affects individuals when it goes into effect, how not wearing them would affect you in a lawsuit that might be filed. Involves Federal intervention.

F

October 7, 1985

KEDS/KEZO Ascertainment Policy

It is the policy of KEDS-AM & KEZO-FM to combine the ascertainments gathered from community leaders over a two year period, to obtain our annual list of problems needing to be addressed through our public affairs programming.

An absolute minimum of 30 ascertainments are compiled by station management each year, giving us a minimum of 60 reports to be included over the running two year period. This will help us attain the goal of serving the needs of this community with a better blend of problems and needs in the metro area, and a more accurate picture of what is going on in the city.

The problems are addressed on the public affairs program, Community Report, which is comprised of two, 15-minute segments to make a half-hour presentation on Sunday mornings.

All ascertainments for KEDS & KEZO are kept in our Public File as required by the Federal Communications Commission.

Mike Nelson
News/Public Affairs Director

PUBLIC FILE
G

Community Issues And Problems Ascertainment

KLNG-AM and KQKQ- FM

Council Bluffs, Iowa

October 1, 1985

The following significant community issues and problems were ascertained through managerial consultation, audience input, and interviews with community leaders during the period from July 1, 1985 to September 30, 1985, and were treated by licensee;

Economy/Business

Health/Welfare

Employment

Drug Abuse

Crime/Safety

H

PROBLEMS/PROGRAMS LIST

July 1, 1985 through September 30, 1985

Problems:

1. Agricultural Crisis
2. U.S. Economy
3. Nuclear Weapons Proliferation
4. Social Security and Medicare
5. Abuse of the Elderly

Programs:

1. Problem: U.S. Economy

Program Title:	Forbes Magazine Report #1336 (Distributed by Radio Works, Inc.)
Type:	News
Source:	Recorded
Time Broadcast:	8:55AM, 7/29/85
Duration:	60 seconds

2. Problem: U.S. Economy

Program Title:	Forbes Magazine Report #1341 (Distributed by Radio Works)
Type:	News
Source:	Recorded
Time Broadcast:	8:55AM, 8/5/85
Duration	60 seconds

3. Problem: U.S. Economy

Program Title:	Forbes Magazine Report #1342 (Distributed by Radio Works)
Type:	News
Source:	Recorded
Time Broadcast:	8:55AM, 8/6/85
Duration:	60 seconds

PROBLEMS/PROGRAMS LIST

July 1, 1985 through September 30, 1985

Programs:

4. Problem: U.S. Economy

Program Title:	Forbes Magazine Report #1344 (Distributed by Radio Works)
Type:	News
Source:	Recorded
Time Broadcast:	8:55AM, 8/8/85
Duration:	60 seconds

5. Problem: U.S. Economy

Program Title:	Forbes Magazine Report #1351 (Distributed by Radio Works)
Type:	News
Source:	Recorded
Time Broadcast:	8:55AM, 8/19/85
Duration:	60 seconds

6. Problem: U.S. Economy

Program Title:	Forbes Magazine Report #1352 (Distributed by Radio Works)
Type:	News
Source:	Recorded
Time Broadcast:	8:55AM, 8/20/85
Duration:	60 seconds

7. Problem: Social Security & Medicare

Program Title:	The Best Years #766 (Produced by Gladney Communications, Ltd.)
Type:	Public Affairs
Source:	Recorded
Time Broadcast:	6:26PM, 9/14/85
Duration:	3 minutes

H

PROBLEMS/PROGRAMS LIST

July 1, 1985 through September 30, 1985

Programs:

8. Problem: U.S. Economy

Program Title:	Forbes Magazine Report #1372 (Distributed by Radio Works)
Type:	News
Source:	Recorded
Time Broadcast:	8:55AM, 9/17/85
Duration:	60 seconds

9. Problem: Abuse of the Elderly

Program Title:	The Best Years #1031 (Distributed by Gladney Communications)
Type:	Public Affairs
Source:	Recorded
Time Broadcast:	6:25PM, 9/23/85
Duration:	3 minutes

10. Problem: U.S. Economy

Program Title:	Forbes Magazine Report #1381 (Distributed by Radio works)
Type:	News
Source:	Recorded
Time Broadcast:	8:55AM, 9/23/85
Duration:	60 seconds

I

October 24, 1985 Guest: Dr. Charles Kuntzelman. Subject: Diet & Exercise.
October 25, 1985 Guest: Sally Reed. Subject: NEA--Propaganda Front of the Radical Left.
October 28, 1985 Guest: Phyllis Schlafly. Subject: Genocide Treaty.
October 29, 1985 Guest: Charlotte Iserbyt. Subject: Evangelical Explosion.
October 31, 1985 Guest: Mel & Norma Gabler. Subject: Public School Textbooks.

October 1, 1985 Guest: Maury Davis, Dennis Brewer. Subject: Occult and Drugs.
October 2, 1985 Guest: Anna Kendall. Subject: Eagle Forum Washington Report.
October 3, 1985 Guest: Ann Frazier. Subject: Public School Curriculum in NC. (Repeat program from 6-12-85)
October 4, 1985 Guest: Hostess, Anna Kendall, Guest, Lee Ezell. Subject: Cinderella Syndrome Book-.
October 7, 1985 Guest: Dr. Sandra Fraser. Subject: Agor-aphobia--fear of crowds.
October 8, 1985 Guest: Bill Price. Subject: Hospital Abortion Protest.
October 9, 1985 Guest: Attorney Arnold Phillips. Subject: Missouri Homeschooling Case.
October 10, 1985 Guest: Open Line. Subject: Dr. Eric Broden--humanism.
October 11, 1985 Guest: Hostess, Anna Kendall, Guest: Pam Highfill. Subject: Christian Counseling.
October 14, 1985 Guest: Jerry Johnston. Subject: Issues Facing Students.
October 15, 1985 Guest: Hostess, Anna Kendall, Guest, Melody Green. Subject: Americans Against Abortion.
October 16, 1985 Guest: Jay Strack. Subject: Youth & Drugs.
October 17, 1985 Guest: Luther D. Sunderland. Subject: Darwins's Enigma--fossils and other problems-Book-.
October 18, 1985 Guest: Open Line, Guest, Anna Kendall. Subject: Bombing in Lebannon of Christian Radio Station.
October 21, 1985 Guest: Dr. David Nobel. Subject: AIDS & Homosexuality.
October 22, 1985 Guest: Malcolm Laurence. Subject: Marxism / Lennism in Academia.
October 23, 1985 Guest: Open Line. Subject: Multi-topic, Witchcraft, Genocide Treaty, Homosexuality.

KCRO Issues + Prograd Quarter 3 198

J

KOIL COMMUNITY AFFIARS PROGRAMMING

PROGRAM TITLE: ~~XXXXXXX~~ INSIDE ~~OMAHA~~ MODERATOR: JEFF CLABAUGH

AIR DATE : JUNE 2, 1985

GUEST/TITLE : DR. WARNER SCOTT, TEXAS INSTRUMENTS INVENTOR

TOPIC OF DISCUSSION:

SIGNATURE VARIFICATION...THE LATEST IN RETAIL PROTETTCTION AGAINST CREDIT CARD ~~RIP~~ OFFS

TAXES/GOVERNMENT	___	HUMAN RELATIONS	___	CITY SERVICES	___
SCHOOLS/CIVIL	___	LAW ENFORCEMENT	x	HEALTH	___
CONSUMER INFO	x	COMMUNITY AWARENESS	___	ENVIRONMENT	___