

WHAT'S WRONG WITH THE FCC?

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A CURRENT FAD among a segment of that populous group of writers who pose as Washington gurus is telling the public in portentous tones that our communications system is a mess, that the FCC is dead, and that if they don't like the Saturday night movie it's all the fault of those incompetents in Washington.

A recent article states baldly that our twentieth century telecommunications system "is in a mess" and that its progress is "bogged down in a regulatory swampland." Except for a few colorful quotations—most of them anonymous—that express personal impatience and annoyance with unspecified official actions, no supporting details are given for these broad conclusions. Another critic says that the FCC "has made a virtue and a credo out of abdication of its responsibilities . . . it is blind, deaf, and unimaginative." Without specifying his complaints, he suggests that the FCC is responsible for the failure of television to achieve its "true meaning."

The logic of these supercritics is interesting. It goes something like this. If the FCC botches a job—as it is alleged to be doing in its handling of CATV matters—then that shows how incompetent government bureaucracy is at regulating. On the other hand, if business botches a job in the unregulated sector—as the networks are accused of doing in providing shows to please the supercritics—then that shows how incompetent government bureaucracy is at regulating. The secret of this reasoning is to make up your own rules of logic so that you automatically come out with the desired conclusion without analysis; or so that you automatically win

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the bout without ever entering the ring. This mod mode of arguing makes the Marquis of Queensberry look like a dunce from Hicksville. As the French would say, "Formidable!" Or as Charlie Brown would put it, "The Bobbsey Twins don't have a chance against Supermouth."

Broad and Vague

MOST of the complaints are so broad, vague, and unsubstantiated by supporting details that they do no more than express the mood of their authors. However, specific and concrete responses can be given. To begin with, those grievances which originate primarily in unhappiness with the quality of programming, particularly TV programming, are largely irrelevant. The FCC not only is not responsible for broadcast programming, but is expressly prohibited by the Communications Act from exercising any power of censorship over broadcast programming or promulgating or fixing any regulation or condition which interferes with free speech in broadcasting. Even the most ardent advocates of expansion of FCC power do not contend that it is the function of the Commission to supervise program quality or insure that programming meets some particular standard of culture or quality.

By far the greater part of the Commission's job has to do with a vast number of problems relating to broadcasting and other radio communications that do not involve any aspects of programming. Thus the Commission must establish the frequencies on which FM, AM, VHF, and UHF stations can operate, must choose between competing applicants for these frequencies, must provide for the location of antennas where they will not interfere with the paths of airplanes, must determine the power and propagation characteristics of broadcasting transmission, and must determine the times during which various stations can be permitted to operate.

The Commission has a vast number of regulations relating to operation of broadcasting stations and their logs, provides for controls in order to insure that broadcasting stations operate within their specified technical limits, supervises

numerous economic and legal aspects of the relationship between networks and broadcasting stations, limits the number of broadcasting licenses which can be held by a single enterprise or subject to common control, provides for use of broadcasting facilities in times of national crisis and other periods of danger to the community, enforces the statute which provides that political candidates must be given equal time on broadcasting facilities, and defines and applies the "fairness doctrine" which requires that fair opportunities be given for the presentation of opposing views on controversial public issues.

The FCC supported the proposal for the establishment of a Corporation for Public Broadcasting, and is presently involved in considering proposals for the establishment of domestic satellites to transmit programs across the country more cheaply and efficiently than by wires. It is also engaged in investigating the rates charged by the telephone companies for network and other broadcasting transmissions by wire.

In other fields the Commission is presently conducting an extensive inquiry into the use of computers in connection with communication and their interconnection and interrelation by wire networks, is investigating the adequacy of the telegraph message service and the means of keeping it economically viable, is engaged in the most extensive investigation of telephone rates and ratemaking in history, is considering various proposals relating to the establishment of satellite communications, the rates for satellite communication, the ownership arrangements for satellite ground stations, and other problems related to the development and utilization of communications satellites both internationally and domestically.

The Commission is engaged in seeking means for providing greater facilities for so-called land mobile radio, which includes such services as police departments, fire departments, taxicabs, and various business services with mobile communications needs. The Commission is, and has been for some time, engaged in research in the propagation characteristics of various types of electromagnetic radiation. The Commis-

sion has established the Citizens Band radio, a service which has become so popular that the licensees are fast approaching the one million mark. This has created unusual and unanticipated problems which are also the subject of Commission consideration and investigation.

The Commission conducts literally tens of thousands of investigations of radio interference each year and reports the facts to the appropriate parties or authorities regarding each of these. The Commission handles nearly a million applications and issues nearly a million licenses per year and, in addition, handles millions of pieces of correspondence and other documents related to its activities. Few agencies have ever existed anywhere, either private or public, that have handled as much important business with such limited resources of staff and money.

But it is not simply that the Commission is handling an immense load of work. It is today directing attention and efforts toward the very matters which the impatient writers of the popular press regard as most important. It has not produced, and does not promise to produce, any instant or perfect solutions. However, it has been considering and is considering the problems of most significance and interest to its critics.

No Mess Here

FURTHERMORE, it is utter and demonstrable nonsense to refer to the communications of this country as a "mess." This country has, by all odds, the greatest, most efficient, most prolific, most economical, and all-around best communications systems of any country in the history of the world. We have more telephones than all the rest of the world. We have about one-fourth of all the TV stations and about one-third of all the radio stations in the world. Ninety-five percent of our households receive TV service, and the American public owns more radio sets than there are men, women, and children. We have communications facilities for all kinds of land mobile uses—although not nearly as much or as many as our economy and industry require. Of course,

the communications system is not perfect—if anyone can say what that elusive concept means. However, it is a system that not only is serving this vast nation exceedingly well but that is constantly growing and improving.

Of course the FCC can't take credit for producing the communications system. However, it can be said that the FCC has not inhibited the growth and development of a vast and effective communications system. This does not mean that the FCC itself is perfect or beyond criticism. Quite the contrary, I think it has a number of faults and should be criticized, and I have not hesitated to criticize the Commission when it seems warranted.

Criticisms

FOR EXAMPLE, I thought that the procedure followed by the Commission in the AT&T rate case was inadequate and I pointed out the inadequacies specifically and in detail in a series of lengthy opinions which are a matter of public record. I have also thought that the substantive theory of ratemaking followed by the Commission is in need of reconsideration and I have proposed new, and arguably better, theories both in opinions and articles which are matters of public record.

The course taken by the Commission in its regulation of CATVs has seemed to me to be erroneous in a number of respects. These views have been specified in a series of published opinions and I have given testimony to the House Commerce Committee on this subject.

New Procedures

IN NUMEROUS MATTERS the Commission has been responsive to such specific suggestions or criticism. For example, the Commission is now holding periodic meetings to consider its workload (which it did not do at the time I became a member of the Commission) and is examining long-term statistics to observe its own efficiency and control its backlog. The Commission has adopted automatic data processing for handling some of its licensing work and is doing ad-

vanced work in the adaptation of automatic data processing to the indexing of opinions and cases. The Commission is now publishing and printing reports of all significant decisions and orders. The Commission is holding executive sessions for the discussion of policy and similar matters. The Commission has reserved Channel 37 in the spectrum for radio astronomy and scientific use.

The Commission is expanding and specifying the authority of its hearing examiners and is discouraging interlocutory appeals in order to improve the efficiency of the hearing process. The Commission has recently undertaken to try new procedures in tariff rate cases. The Commission has simplified and improved the program reporting forms for broadcasting stations, both radio and television. These, and a host of other measures, have all been undertaken within the last couple of years as positive progressive steps by the Commission to continue to adapt its procedures to the problems of contemporary communications.

It must be conceded that even now the Commission is far from solving—or even knowing—all of its problems, and undeniably it makes occasional errors. There are times when my colleagues fail to perceive the wisdom of my arguments and perversely insist on doing things their own way instead of my way. These are all duly recorded in the minutes and are infrequent.

Some such lapses are certainly inevitable in any agency composed of human beings. But despite these few lapses in Commission operation, the telephones continue to ring (too often); the radios blare forth everything from Bach to the Beatles; TV bares everything from Vietnam to Carnaby Street; planes, ships, taxis, policemen, firemen, and others communicate by radio; and the greatest communications system the world has ever known operates with incredible complexity and efficiency.

Why, then, do some writers issue such hypercritical hyperboles about communications and the FCC? Probably because the broadstroke, unfounded, sensational charge is easier, more fun, and more attention-getting than the specific, in-

formed, and significant criticism. So the instant experts who write of the FCC this week, of atom-smashers next week, and of Polynesian politics the week after really can't afford the time, effort, or thought required to be specific and accurate in a complex and technical field.

Specifics, Please

THAT THE FCC deserves and needs criticism—as do all human institutions—goes without saying and needs no emphasis. What does require emphasis and reiteration is that the FCC deserves and needs specific criticism, directed to faults and shortcomings that can, in the course of human events, be corrected or improved. The kind of ill-informed, slapdash, broadbrush attack of the "FCC is dead—communications is a mess" variety is not fair, responsible, or accurate. Above all, such attacks are simply not true.

The FCC is a functioning, struggling, imperfect organization, overworked and understaffed, not as effective as it should be, much more effective than it might be, more vital and effective now than it has been in years, and slowly coping with a multitude of complex problems. The FCC is not, and should not be, primarily responsible for the operation and efficiency of the communications system. However, if it is to be judged by that, the conclusion is inescapable that the FCC is doing very well indeed, for the American communications system is the best the world has ever known.

One of the main things that is wrong with the FCC is that it is being attacked by the wrong people for the wrong reasons and on the wrong grounds, and is thus being goaded to turn its attention away from its proper and pressing problems. It is not so important that criticism be "constructive" as that it be intelligent and well informed. By this standard there is much less wrong with the FCC than with some of its critics.

Probably the most appropriate conclusion is a paraphrase of Mark Twain. We must always remember that the members of the staff of the FCC are human beings—and that is the worst thing you can say about anybody.