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on Television's Social
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Performance

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THE IMPACT OF REGULATION ON TELEVISION'S SOCIAL RESPONSIBILITY AND PERFORMANCE

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Unlike most nations, the United States has chosen to place the operation of radio, television, telephones and the burgeoning new electronic technologies in private hands, eschewing government ownership. For radio and television, it was thought that private enterprise, with many entrepreneurs providing the services, would result in a more creative, aggressive and diverse broadcasting system than would a single governmental source. But from the earliest Radio Act in 1912 to the present, public policy has been that the airwaves belong to the citizens of the United States, and should be used for free flow of information and opinion, betterment of cultural values, education, and the fostering of democratic practices, as well as for entertainment of a mass audience. Therefore, government regulation, by means of licensing of television and radio stations and periodic review of their performance, has been a parallel bulwark to private ownership of the broadcasting outlets.

The Federal Communications Act and Its Enforcement

The Federal Communications Act has governed broadcasting, telephones, and newer electronic technologies as they came along, with relatively few changes since it was enacted by Congress in 1934. Indeed, the Act has proven to be so flexible that, while there have been many amendments, only three significant additions have been made to it, the Communications Satellite Act of 1962, establishment of the Public Broadcasting Service in 1967, and the Cable Communications Policy Act of 1984.

Broadcast licenses and all other assignments of spectrum space have heretofore been granted to the users free-of-charge, but subject to oversight by the Federal Communications Commission (FCC). Currently, the FCC is proposing to auction a large segment of spectrum in the 2,000 MHz zone for a period of years to companies who would provide personal communication technologies.

Congress created the Federal Communications Commission, a specialized, independent agency, with broad powers to administer the Communications Act. The Commission has control of all non-governmental uses of the electronic spectrum--by telephone companies, interstate telecommunications services generally, and other technologies and companies, as well as by broadcasting. The FCC is headed by five commissioners who

are nominated by the President and approved by the Senate for five year terms. No more than three commissioners may belong to the same party, which assures a certain bi-partisanship. They set regulatory policy, within the terms of the Communications Act, and issue rules to be followed by the regulated industries. Their judgments (arrived at by majority vote) are final, subject only to review by a Federal court upon appeal by an aggrieved party.

Broadcaster Trusteeship, Localism, and the Public Interest

Most of the broadcast provisions of the Communications Act were formulated at the behest of broadcasters anxious to bring order out of a chaos of competition for spectrum space and interference with each others signals. Then, as now, the spectrum was seen by many as a limited resource. Some legal framework was needed to systematize frequency assignment and usage. The resulting Federal Communications Act of 1934 provided for broadcasters to use their assigned channels for limited periods, but not to own them or to have any right in them, beyond the terms of the license.¹⁴

The Communications Act balances the privilege of private station control with the requirement that the licensee shall operate "in the public interest, convenience or necessity."¹⁵ This concept of the "public interest" as a balancing force to de facto commercial control of broadcasting is uniquely American. Definition of the public interest concept has evolved over the years, shaped by the FCC, the Congress, the courts, and efforts of the public. Legally, the courts look upon the broadcaster as both station owner and trustee of a public resource.¹⁶ This trusteeship implies that:

A fundamental purpose of broadcasting is to nurture informed public opinion by providing news and opinion about events and issues.

Broadcasting is primarily a local function. Licensees, as public trustees, must determine the needs of their communities of license, and program to serve those needs.

The FCC has interpreted the obligations of stations to meet the public interest standard largely in terms of program categories that have been developed by the broadcasting industry and recognized by the Commission. Included are:

(1) opportunity for local self-expression, i. e. access to the air, discussed below;

¹⁴Federal Communications Act of 1934, As Amended, Title III, Part I, Section 301.

¹⁵Ibid.

¹⁶"...a broadcast license is a public trust subject to termination for breach of duty." Office of Communication of the United Church of Christ, et. al. v. Federal Communications Commission, U.S. Court of Appeals, D.C. Circuit, No. 19,409, March 25, 1966.

- (2) the development and use of local talent;
- (3) programs for children;
- (4) religious programs;
- (5) educational programs;
- (6) public affairs programs;
- (7) editorialization by licensees;
- (8) political broadcasts;
- (9) agricultural programs;
- (10) news programs;
- (11) sports programs;
- (12) weather and market reports;
- (13) service to minority groups; and
- (14) entertainment programs.¹⁷

In judging service in the public interest, the FCC is also expected to look for presentation of diverse viewpoints on controversial issues. Accuracy in advertising is monitored by the Federal Trade Commission.

The First Amendment and Freedom of Speech

Diversity of sources combined with freedom of speech are keystones of American democracy and have been the basis of communication policy since the founding of the nation. The Supreme Court has characterized the basic aim of the First Amendment to the U.S. Constitution¹⁸ as "the dissemination of information from diverse and antagonistic sources."¹⁹ The Communications Act guarantees freedom of speech to broadcasters and to all other users of the electronic spectrum.²⁰ This guarantee cuts two ways. The licensee of a television or radio station is solely responsible for what goes over the air. The

¹⁷Report and Statement of Policy Re: Commission En Banc Programming Inquiry, 25 Federal Register 7291, 7295, August 3, 1960.

¹⁸Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

¹⁹Associated Press v. U.S., 326 U.S. 1,20 (1944).

²⁰Communications Act of 1934 As Amended, Section 326: Nothing in this Act shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication. [Amendment, 1948] No person within the jurisdiction of the United States shall utter any obscene, indecent, or profane language by means of radio communication.

Government may not exercise prior restraint over anything the licensee sees fit to broadcast. But listeners and viewers, too, have First Amendment rights, both to access to the airwaves and to receive views and opinions that will help them make ballot judgments. In fact, these rights of citizens outweigh those of broadcasters. In a landmark decision upholding the FCC's Fairness Doctrine against a legal challenge by broadcasters, the Supreme Court ruled unanimously: "The fairness rules enhance rather than abridge the freedom of speech and press, protected by the First Amendment...it is the right of the viewers and listeners, not the right of the broadcasters, which is paramount."²¹

In 1949, the FCC codified the policy of fairness in a rule that became known as the Fairness Doctrine. A licensee may not use its facilities solely for the presentation of its own point of view or of the views of those who buy time. Further, it is required to devote a reasonable amount of air time to controversial issues of public importance and to see that all significant viewpoints are presented.

The Commission emphasized the "right of the public to be informed, rather than any right on the part of the Government, any broadcast licensee or any individual member of the public to broadcast his own particular views on any subject...."²²

Although the FCC has never been zealous in enforcing the Fairness Doctrine, its existence has helped citizens to negotiate their views onto radio and TV. It has been especially useful to minorities for getting their views aired, because only a handful of radio and television stations are owned by minorities or women. But the Doctrine has been bitterly attacked by broadcasters for, allegedly, abridging their freedom of speech. In 1987, under the Reagan Presidency, they prevailed. The FCC revoked its 1949 rule. The Fairness Doctrine is now in limbo, awaiting a Congressional vote to revive it.

Cable-TV and the First Amendment

Cable-TV is not subject to Fairness Doctrine-like obligations or to any national or local governmental restriction on its programs, except that obscenity and hard core pornography do not have Constitutional protection. A landmark 1985 Federal Circuit Court decision gave cable operators the status of publishers, putting them on a par with newspapers, magazines and books. (Print media, being unlicensed, have First Amendment protection from governmental restriction on editorial content.) Therefore, cable, like print, is free to program whatever it pleases, without recourse by government or its subscribers.

²¹Red Lion Broadcasting Co., et.al. v. FCC, (1969).

²²Federal Communications Commission, "Editorializing by Broadcast Licensees", 13 FCC 1246, 1249 (1949).

The Public Interest and Access to the Media FCC Policies and How They Are Enforced

During its early years, the FCC wrestled with the problem of how to make stations behave responsibly in dealing with news and public affairs and providing programming for special interest groups, such as children. In 1946, the Commission assayed its first effort at setting program standards in a blue covered book, entitled "Public Service Responsibilities of Broadcast Licensees." Designed to apprise licensees of the factors the FCC staff would take into account at license renewal time, it took a firm stand on providing listeners with instruction, information, and diversity of views on matters of public policy:

"Probably no other type of problem in the entire broadcasting industry is as important or requires of the broadcaster a greater sense of objectivity, responsibility and fair play....Accordingly, the carrying of such programs in reasonable sufficiency and during good listening hours is a factor to be considered in any finding of public interest."²³

The "Blue Book" provoked indignation and bitter criticism from the broadcasting industry, and was soon put quietly to rest. but the Commission persisted with issuance of the Fairness Doctrine three years later. This action virtually ended long term policy making by the FCC for the programming conduct of commercial television.²⁴ Through the years, there have been numerous efforts to have the FCC set license renewal standards. Broadcasters have sought performance criteria that would guarantee license renewal; public groups program standards that would lessen the incidence of violence and sexual violence, check over commercialization, protect children from commercial pressures, and would require programming that would serve wider audiences than the 18 to 49 year old population segment favored by advertisers. However, succeeding Commissions have preferred not to bind themselves or licensees strictly; largely in the conviction that any regulation of programming would violate broadcasters First Amendment rights of free expression.

Oversight of Programming: From time to time, the FCC has addressed programming practices to try improve service to the public. In 1970, it enacted a Prime Time Access Rule to enhance local television programming. ABC, CBS, and NBC were forbidden to provide network programs to local stations from 7:00 to 8:00 p.m. in each of the four U.S. time zones; so the stations could produce shows aimed at community interests and

²³Federal Communications Commission, "Public Service Responsibilities of Broadcast Licenses," 1946, pp. 21-22.

²⁴Statement by Charles D. Ferris, Chairman of the Federal Communications Commission, in a Washington, DC speech, May 1, 1978.

problems, showcasing local artistic talent. This was a well meaning regulation that went seriously awry. The vast majority of stations have filled this prime time hour with game and quiz shows and other syndicated fare that is readily saleable to advertisers and have ignored their communities of license as sources of programming. The Commission has made no effort to enforce the original purpose of the rule.

Later, under intense pressure from Congress, educators, religious groups, and parents, to do something about excessive violence and exploitative sex on television, the FCC chairman made a private arrangement with the heads of the three networks to provide for more acceptable program fare. The prime time hour 8:00 to 9:00 p. m. was designated the Family Hour, a time when only shows fit for family viewing would be provided by the networks. The agreement was immediately challenged in Federal court by Hollywood producers and others concerned with free speech. It was struck down by the court as a violation of the First Amendment, and because the FCC had not arrived at it by holding open hearings.

The Special Status of Children: Both government and broadcasters have conceded that children are entitled to special consideration and that stations are obligated to serve their needs. Children are peculiarly vulnerable to commercial exploitation, because they are not always able to distinguish between program content and the sales pitches for products, are inordinately influenced by the characters and action in television programs. Three surgeon generals have presented Congress with impressive evidence that violence depicted on television has highly negative effects on children.

Children's programs are mostly animated cartoons, aired on Saturday mornings. As television progressed, stations found that if they increased the use of cartoons saturated with violence, they were rewarded with larger audiences and greater profits, in part because they attracted boys, the audience advertisers want.

In 1970, Action for Children's Television (ACT), a respected parents' organization, presented the FCC with documentation of exploitation and abuse of children by broadcasters and advertisers. ACT petitioned for a rule that would eliminate violence, reduce advertising per hour in children's shows, and prohibit advertising practices that take advantage of children's gullibility. The FCC responded, not with a rule, which would have been binding on stations, but with a policy statement that did not deal with the question of violence; left commercial time at up to 12 minutes per hour; and mildly pointed out that the "public service obligation includes a responsibility to provide diversified programming designed to meet the varied needs and interest of the child audience....In this regard, educational or informational programming...is of particular importance....we wish to emphasize that we do expect stations to make a meaningful effort in this area."²⁵

²⁵Federal Communications Commission, "Children's Television Programs, Report and Policy Statement," Docket No. 19142; FCC 74-11774, October 24, 1974.

Dissatisfied, ACT challenged the FCC in court. The Circuit Court held that the FCC had power to adopt guidelines for children's programming and there was no rational reason not to have done so, and ordered them to comply. The FCC obeyed with a sweeping new policy. It decreed that commercial broadcasters are still expected to serve the needs of children, but that they, alone, have the discretion to decide what the needs of children are, and what kinds of programs they should have. Further, any programs that children watch may be deemed to serve their needs, and no children's shows need be aired if children are being served by competitive media--cable-TV, PBS, even home video.²⁶

Commissioner Henry Rivera, the lone dissenter, termed the rule "a policy internment....The majority has dishonored our most treasured national asset--children." It took an act of Congress, the 1990 Children's Television Act, to rectify this FCC policy. Even so, syndicated children's programming has not changed for the better. NBC has dropped children's programs, and ABC and CBS have fewer than four percent each of child viewers.²⁷ The task of educating and informing children through television is largely performed by the PBS (see below). For entertainment, most elementary school children watch the Disney Channel or Nickelodeon, a cable channel that is supported by advertising, but produces widely acclaimed programs that deal responsibly with children's needs and interests.

The Public and Station Misconduct: From the FCC's inception, efforts by members of the public to get the Commission to act against stations that were violating the Communications Act by neglect of community needs, unsatisfactory programming, exploitative or untruthful advertising, shoddy news reporting, etc. were generally futile. The FCC has significant power over stations, if it chooses to exercise it.²⁸ The Commission can levy fines of \$1,000 to \$10,000 per day; grant probationary license renewals; or--the ultimate penalty--revoke a license for cause. However, the FCC has always had a close and cordial relationship with broadcasters, and has felt responsible for keeping the industry stable and economically healthy. The Commission has had less zeal for its parallel responsibility to be watchdog over the public welfare.

The FCC had a rule (as did other federal regulatory agencies) that, legally, only the

²⁶Federal Communications Commission, Report and Order, "In the matter of Children's Television Programming and Advertising Matter," Docket No. 19142, December 12, 1983.

²⁷New York Times, March 21, 1994, page 1.

²⁸The FCC does not license or control the television networks, but it has considerable power to influence network behavior through oversight of the network owned and operated stations. Legally, the stations are owned by the network's corporate owner, i. e. CBS, Inc. owns both broadcasting stations and a network that provides programs to its own and other, affiliated, stations. In any year, the owned and operated stations are more profitable than is the network.

industries it regulated, could participate in its decisions making. Under this rule, only persons or entities with an economic interest--licensees and applicants for licenses--or persons charged with electrical interference with radio signals had standing before the Commission.²⁹ Thus, members of the public, while they might complain informally about a station's performance, had no legal means of seeking redress.

This FCC policy became acutely discriminatory against Blacks as they struggled in the civil rights movement, beginning in the late 1950s. Throughout the South, stations routinely denied them access to the air to present their views on such issues as school desegregation or the pending Federal Civil Rights Laws. Black civil rights activities were covered, even by the national networks, only when there was a lunch counter sit in or a march into hostile territory, promising to result in violence.

To counter this hostility and neglect, in March, 1963, the New York based Office of Communication of the United Church of Christ (UCC), monitored a week of programs of WLBT-TV, Jackson, Mississippi, the most powerful TV station in the mid-South. The monitors documented egregious discriminatory practices against Blacks, lesser, but troubling discrimination against Catholics and Jews, and other serious violations of FCC rules.

The UCC petitioned the FCC to hold a hearing before renewing the station's license. When this was refused by the FCC, on the ground the church body had no standing, the UCC appealed to the Federal Circuit Court. They were rewarded by a sweeping landmark decision that granted standing to the public to participate in FCC actions and decisions.³⁰

Later, when an FCC hearing proved to be unsatisfactory, the court revoked the license of WLBT, again setting a precedent. The WLBT court victory sparked a citizen advocacy movement that is still actively pursuing citizen rights in communication before Congress, the FCC, and the courts. In the decade following the WLBT decision, minority groups--mostly Blacks and Hispanics--in scores of communities used their new-found right to standing to petition the FCC to deny license renewal to television stations that ignored them. Typically, such challenges resulted in increased programming for minorities and the airing of their views.

Under President Ronald Reagan, the FCC made it plain that it would not welcome

²⁹Standing is a legal status that courts grant to (or withhold from) persons who seek to enter suits. In dealing with the FCC, only persons or entities with standing can file petitions with the agency, enter comments in rulemaking, present evidence in pending cases, and appeal decisions of the Commission to a Federal Court.

³⁰Office of Communication of the United Church of Christ et. al. v. Federal Communications Commission, U.S. Court of Appeals, D.C. Circuit, No. 19,409, March 25, 1966.

license challenges. Its chairman announced a policy of "unregulation" under which the agency would, selectively, no longer enforce its rules; nor would it continue to monitor station performance and evaluate it at license renewal time. In addition, the Commission revoked a rule that required the buyer of a television station to operate it for three years before it could be resold.

The results of these rule changes were predictably tragic for the interests of the public. Television stations were bought and immediately sold and re-sold at progressively inflated prices, until they were burdened with debt they could not carry and be profitable.³¹ Staffs were cut drastically, especially public service managers and news personnel. Informational documentaries disappeared from commercial television, along with much local public service programming.

Access to Cable-TV

Cable-TV is not subject to the public service standards that govern broadcasting. Cable systems are not required to produce programs that will deal with local issues or serve the local interests of their subscribers. However, cable systems are, more and more, using one or more channels which they control to produce programs of local interest, including use of local talent. Typically, they sell advertising time on these channels to local businesses. Local advertising is also seen frequently on national channels, such as CNN.

The Cable Communications Policy Act of 1984 requires that cable companies provide "leased access channels" on which entrepreneurs can present programming. Cable operators keep these channels to a minimum, because they may compete for advertising with operator-owned commercial channels and with nationally distributed program channels.

Local access channels have been common from the earliest days of cable, and now exist in most communities that have cable. Cable operators--and some local governments--dislike access channels, because they do not control them. They have lobbied hard in Congress to get rid of them, to no avail, because they are too popular with the public. There are three access categories: public, education, and government, commonly called the P.E.G. channels. In larger towns and cities there may be multiple channels, especially those reserved for the public.

Public access channels are open to all comers on a first come, first served basis. The cable operator has no control over content or usage of any of the PEG channels. Neither operator nor government may censor the content of public access channels. This prohibition often leads to spirited local conflict when public access programs are controversial, raunchy,

³¹Broadcasting & Cable, a leading trade magazine, regularly publishes information on the selling and buying of broadcasting stations. During the decade of the 1980s, it graphically documented the inflation in value of television station licenses.

or are deemed to be "politically incorrect." Educational channels are usually controlled by local school boards, but may be open to all of the community's educational institutions. Government channels have been most useful in exposing meetings of city councils and agencies to full public view.

The access channels are usually financed, wholly or in part, by the cable operator, as part of the franchise agreement. Where the size of the system warrants it, there is a director and a professional staff. There are more than 1,000 community access centers throughout the country where local residents can learn how to use television. The audiences for access channel programs are small by mass media standards, but in the aggregate they are a substantial segment of the population.

Originally, the local community negotiated for access channels before issuing a franchise to a cable operator. Before Congress passed the 1984 Cable Act, public groups lobbied to have access channels mandated in every cable franchise. Instead, at the behest of the industry and local politicians who fear access, Congress voted that access channels can be provided only if the local government asks for them when it issues a franchise.

Employment as a Public Interest Factor

From its inception, television has been controlled by white males. Business decisions are made in New York, programs are produced in Hollywood. This necessitates a good deal of back and forth travel for television executives. One network president sagely observed to Les Brown of the New York Times, "The public is what we fly over." In the business of television, Brown comments, "the networks have hardly any personal contact with the people who make up their audiences. [They] do keep a close watch on their viewers, but from a distance--the distance of audience ratings and millions of dollars' worth of other statistical research."³² This remoteness from real people, with program decisions being made for millions of people about whose longings and life styles TV executives have not had the faintest idea, have distressed and angered large segments of the public. Minorities, especially Blacks, clamored for years for better attention from the media. Women have objected to being stereotyped and denigrated in programs and commercials. Both wanted change, but they had few jobs in the industry and no decision making power.

In response to the civil rights movement and with hope that minorities and women might find significant positions in broadcasting, the United Church of Christ, after winning standing, successfully petitioned the FCC to issue Equal Employment Opportunity (EEO) Rules. They required broadcasters to hire and train minorities and women and promote them into upper level jobs, to report employment figures to the FCC annually, and to have these reports made public.

³²Les Brown, Keeping Your Eye on Television, New York, 1979, Pilgrim Press.

When the initial statistics were compiled in 1970, pessimistic expectations proved to be true. *Variety*, the entertainment trade weekly spread the gist of the findings across its front page in a terse, three word headline: **TV: WHITE, MALE**. Many women and a few minorities were in clerical and other lower level jobs; none where the business and creative decisions were made.

The FCC as yet had no mechanism to enforce its new rules and bring about change. Organizations of women and minorities, churches, and other civic groups filled the gap. They urged station owners to improve their hiring and promotion practices. Many did voluntarily, others under pressure from the FCC. By the end of the decade, television was in the forefront of American business in fulfilling EEO responsibilities. Overall employment of women in upper level jobs³³ had risen to 23.3 percent, that of minorities to 12.1 percent. Black males were 4.0 percent of the upper level work force, Black females, 2.3 percent; Hispanic males, 2.9 percent, Hispanic females, 0.9 percent.³⁴

The influence of even this small inflow is readily apparent. Women and people-of-color now regularly appear as news program anchors, talk show hosts, and stars on entertainment shows. They are less often stereotyped. They are featured and treated with dignity in commercials. Blacks, in particular, have had positive exposure in such popular program series as "Sanford and Sons," "The Jeffersons," and "The Cosby Show."

Even though major corporate owners of TV stations continued their EEO efforts, EEO momentum was slowed after 1980 when the Reagan FCC made it plain it would no longer enforce the Commission's EEO rules. By 1989, when the Bush FCC again began to enforce EEO rules, employment of women in upper level jobs had risen only to 23.9 percent, and that of minorities to 14.5 percent. (Blacks, alone, make up 12 percent of the U.S. population.) Black male employment was 4.6 percent, Black female, 2.6 percent; Hispanic male, 3.7 percent, Hispanic female, 1.2 percent.³⁵

The new Clinton FCC has published new guidelines for enforcement of the EEO rules and assessing forfeitures against stations and cable systems that violate them. A vigorous enforcement program is already underway.

Cable-TV has always been subject to the general EEO requirements of Title 7 of the Civil Rights Laws, but was not subject to the stringent oversight of the FCC. However, in 1984 the cable industry voluntarily agreed to accept FCC EEO policies and oversight. Congress then embodied the EEO control provision in the 1984 Cable Act.

³³Officials and managers, professionals, technicians and sales workers.

³⁴Federal Communications Commission, "Equal Employment Opportunity Trend Report," November 30, 1984.

³⁵*Ibid.*, January 13, 1989.

Public Broadcasting

Public television was created by the Public Broadcasting Act of 1967 to be what commercial television had failed to become, a system free of marketplace pressures that would be devoted to excellence, providing quality programming for all ages and classes, reporting and interpreting news and affairs, and fostering artistic creativity from throughout the country. The title "public" was meant to be synonymous with "people." The system was to be partly financed by Congressional appropriations, but there was to be no political control.

To this end, Congress created the private, non-profit Corporation for Public Broadcasting (CPB) to disperse Federal funds. CPB, in turn, established the Public Broadcasting Service (PBS), to manage program distribution and interconnect the public stations. These stations are independent entities. Some are licensed to states or local governments; others to educational institutions; the remainder--mostly in the larger cities--to civic organizations whose governing boards are prosperous community leaders. PBS is not a network. There is no contractual relationship between stations and the CPB or the PBS bureaucracy, or among themselves. There is no obligation to carry a stated program at a stated time. Both stations and independent producers receive program funds from the CPB. Stations originate programs, help finance others, agree to carry shows offered through PBS, all on a voluntary basis.

The best efforts of public television are of remarkably high quality. PBS supplies the premier educational programming for children, especially pre-schoolers. In "Sesame Street," "Barney and Friends," and "Shining Time Station," it has the top rated shows for children two to five years old. For adults, the PBS menu of cultural programs--and even pure entertainment, such as "Mystery"--is unmatched by commercial television and cable.

But public television has glaring weaknesses. The Federal government has never funded public broadcasting adequately, nor is it about to do so. On the national level programs and series require corporate or foundation funding; so much of the most important programming (the McNeal-Lehrer News Hour, for example) is dependent upon corporate "underwriting." (Some programs have "enhanced underwriting," meaning they carry actual commercials for the sponsoring corporation.) If the business and self-image needs of these companies are not served by a particular program--such as a controversial documentary--there is little chance that program will get on the air. Well over fifty percent of each station's funding must be raised from viewers. The result is twice yearly, obnoxious on-the-air appeals for funds. Of necessity, the stations court the audience that is most likely to contribute: affluent middle class people who enjoy the arts (PBS is the only outlet for classical dance and opera.), science, gourmet cooking, and erudite debate on policy issues. To program for racial or cultural minorities, or even to serve local needs is to threaten money raising. Only about 10 percent of an average PBS station's programs are produced locally.

An even more serious problem is station coverage. In 1952, the FCC reserved 242 channels for non-commercial educational television, more than the number of any commercial network's outlets. But more than two-thirds of the PBS stations are in the UHF band, where operational costs are higher and tuning-in is more difficult for set users than is the VHF band. Even though PBS stations are now invariably carried on local cable systems, 40 percent of television households do not subscribe to cable; so PBS is difficult to receive, or is unavailable, for a large portion of the population. For this reason, plus a well documented preference of viewers for the fare of commercial television, PBS audiences are small in terms of mass audience appeal. Even the most popular adult programs on PBS do not approach the double digit ratings of an average prime time commercial network show.

Conclusion

In spite of the anomalies in the system it has spawned and the ever present confusion and conflicts, for sixty years the Federal Communications Act has undergirded a stable, creative, and highly profitable communication industry with the most freedom of any to speak as it pleases. The flexible provisions of the Act also give the public a stake in the operation of the system and the power and legal scope to protect its vital interests, if it chooses to do so. In the realm of service to the public, neither the Act itself nor its enforcer, the FCC, comes down hard enough to make station public trusteeship a vital force. Those who ignore the responsibility to broadcast in the public interest are seldom punished, unless public groups make a mighty effort to bring it about. On the whole people respect and enjoy the television service they are receiving from both over-the-air broadcasting and cable. In spite of vigorous opposition to particular programs--such as those that feature excessive sex and violence--by prestigious educational, civic and religious groups, the majority of viewers seem to be satisfied with current program fare. Their views, their tastes, and their desires are heavily influenced by television. They know it, and they seem to like it that way.