

# The Debate Over Public Policy and the Emergence of Commercial Broadcasting in the United States, 1927-1935

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The prevailing view regarding the emergence of the network-dominated, advertising-supported, loosely regulated broadcasting system in the United States between 1920 and 1935 is largely deterministic. The congratulatory perspective argues that commercial broadcasting was the sole conceivable choice to a democratic society [1, 7, 10]. The ascendant critical perspective is no less deterministic; however, it regards the commercial broadcasting set-up as the inexorable result of a corporate capitalist political economy and culture [6, 11, 15, 40]. In neither perspective does the public have much influence over the policy formation that led to the passage of the Radio Act of 1927 and then the Communications Act of 1934, which remains the reigning statute for communications regulation. In the congratulatory view the very notion of public participation is uninteresting, as the U.S. automatically adopted the best possible system. In the critical view, the public was apathetic and/or ignorant, although critical scholars acknowledge that the public's satisfaction with commercial entertainment programming undermined any possibility that it might have coalesced into any meaningful opposition to the emerging order in the 1920s or 1930s.

This paper argues that both of the above perspectives are inaccurate.<sup>1</sup> This paper will review the broadcast reform movement of the early 1930s which argued that a network-dominated, advertising-supported broadcasting set-up was inimical to the communication requirements of a democratic society. This movement struggled against great odds to have legislation passed which would have assisted in the creation of a significant non-profit and non-commercial broadcasting sector. Although quickly forgotten once the movement disintegrated in the middle 1930s, the reformers left an important legacy. While the economic, cultural and regulatory roots of commercial broadcasting may be traced to the early 1920s and points earlier, the economic, political, and ideological consolidation of the commercial

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<sup>1</sup>This paper is a partial abstract of a book-length manuscript. Notes will be indicative, not exhaustive, and will only refer to accessible secondary sources. For thorough treatments with citations to primary sources see [16-25].

broadcasting set-up would not be completed until various points in the 1930s. And, as will be seen, the path to consolidation for the commercial broadcasters was fraught with opposition, conflict, and for a brief glimmer of historical time, the slight possibility of radically transcending the *status quo*. Perhaps more important, this episode points to a creative tradition with regard to broadcast and media policy mostly overlooked in the scholarship heretofore, and a tradition that society may draw from as it grapples with communication policy issues in the future.

U.S. broadcasting in the middle 1920s was far different from the system that would be entrenched only a few years later. Several hundred non-profit broadcasters had commenced operations in the first half of the decade, the majority of which were affiliated with colleges and universities, and well over 200 of these, or approximately two-fifths of all stations, remained on the air in 1925. As for the ostensibly for-profit broadcasters, they were hardly professional broadcasters in the modern sense of the term. The majority were owned and operated by newspapers, department stores, power companies, and other private concerns, and their *raison d'être* was to generate favorable publicity for the owner's primary enterprise, not to generate profits in their own right. Almost all of the scholarship has emphasized the establishment of the American Telephone & Telegraph Company's WEAf in 1922, with its formal commitment to time sales as the basis of support, as the first step in the inexorable march to network-dominated, advertising-supported broadcasting. This was certainly not how the matter was regarded at the time. Industry representatives like David Sarnoff and government officials like Secretary of Commerce Herbert Hoover both disparaged advertising by radio and suggested that the medium could best be operated on a non-commercial, even non-profit, basis [17].

The two major networks, the National Broadcasting Company (NBC) and the Columbia Broadcasting System (CBS), were established in 1926 and 1927 respectively and they did not have much of an impact until after the passage of the Radio Act of 1927. Throughout the late 1920s, NBC presented itself as a public service corporation rather than a traditional for-profit corporation, which would only sell that advertising that was necessary to subsidize high quality, non-commercial fare [2]. Indeed, as late as 1927 the American Newspaper Publishers Association [37, p. 285] assured its membership that "fortunately, direct advertising by radio is well-nigh an impossibility."

The Radio Act of 1927 was emergency legislation, hurriedly passed in February after a Federal judge had ruled the Department of Commerce's licensing of stations unconstitutional in 1926. With any effort at regulation discontinued, the ether had become a mass of chaos; 200 new broadcasters immediately commenced operations, the total wattage increased by nearly 75 percent, and few stations respected the frequencies occupied by other broadcasters. The committee deliberations and floor debate concerning the Radio Act of 1927 were what one might expect for emergency legislation; there was almost no discussion of the meaning of the legislation for the type of broadcast system to be created [3].

The Radio Act of 1927 established the FRC on a one-year basis to allocate broadcast licenses and to bring order to the airwaves by reducing the total number of stations. The only directive that the law gave the FRC as it made its determinations as to which applicants would get preference for the scarce channels was that the FRC should favor those station applicants that best served the "public interest, convenience or necessity." During the FRC's first year budgetary problems and the death of two members prevented it from taking any significant actions to reduce the number of stations. Congress renewed the FRC in 1928 for a year and then in 1929 indefinitely. When Congress conducted committee hearings on whether to extend the FRC in early 1928 and again in early 1929, the FRC members were questioned about the unchecked and stunningly rapid emergence of network broadcasting over the previous two years as well as the noticeable decrease in the number of non-profit broadcasters. "The great feeling about radio in this country," commented Senator C. C. Dill [43, p. 24], Democrat of Washington and one of the authors of the Radio Act of 1927, "is that it will be monopolized by the few wealthy interests." In this spirit, in 1928 Congress passed the Davis Amendment which required the FRC to make a general reallocation of the entire spectrum in order to provide more stations to the under-represented southern and western regions of the nation.

It was the resulting reallocation, which was mandated by the FRC in late 1928 in the form of General Order 40, and a number of follow-up directives, that established the framework for modern U.S. broadcasting. The FRC worked very closely with engineers and executives from NBC and CBS as it determined its plan; the public, non-profit broadcasters and even Congress were mostly oblivious to these unpublicized sessions [14, 17]. In August 1928 the FRC announced its reallocation plan. Forty of the 90 available channels were set aside to be 50,000 watt clear channels which would have only one occupant nationally. The other 50 channels would house the remaining 600 or so broadcasters. The FRC would have the various applicants for a particular frequency share its usage and allocate the majority of the hours to the station it deemed most worthy. In the long run, the station accorded the fewest hours on a shared channel often found it very difficult to stay on the air. Without the FRC having to actually turn down the license renewal applications of very many broadcasters, there were 100 fewer stations on the air by the autumn of 1929 [36, 65].

The networks were the big winners. Whereas in 1927 NBC had 28 affiliates and CBS had 16 for a combined 6.4 percent of the broadcast stations, within four years they combined to account for 30 percent of the stations. And this, alone, vastly understates their new role as all but three of the 40 clear channel stations were owned by or affiliated with one of the two networks. Indeed, when the number of hours broadcast and the level of power are factored into the equation, NBC and CBS accounted for nearly 70 percent of American broadcasting by 1931 [27; 38; 41]. Commercial advertising, which barely existed on a national level prior to 1928, grew by leaps and bounds to an annual total of 72 million dollars by 1934. The growth of the networks and the emergence of commercial advertising, though distinct, were mutually reinforcing. One study has found that 80 percent of

radio advertising revenues in 1929 went to 20 percent of the stations, all network owned or affiliated [11, p. 52]. One commentator [45] noted in 1930 that, "Nothing in American history has paralleled this mushroom growth." This point has become a staple insight among broadcast historians [3, 39].

The other side of the coin, however, was reflected in the equally dramatic decline in non-profit and non-commercial broadcasting. Non-profit broadcasters found themselves in a "vicious cycle" where the FRC, noting the non-profit broadcasters' lack of financial and technological prowess, lowered their hours and power to the advantage of well-capitalized private broadcasters, and thus made it that much more difficult for the non-profit broadcasters to generate the funds to become successful. The number of stations affiliated with colleges and universities declined from 95 in 1927 to less than half that figure by 1930, while the total number of non-profit broadcasters declined from some 200 in 1927 to less than a third that total in 1934. Moreover, almost all of these stations operated with low power on shared frequencies. By 1934 non-profit broadcasting accounted for only 2 percent of total U.S. broadcast time. For most Americans, it effectively did not exist.

The FRC defended the reallocation in its *Third Annual Report*. It equated capitalist broadcasters with "general public service" broadcasters since, in their quest for profit, they would be motivated to provide whatever programming the market desired. In contrast, those stations that did not operate for profit and that did not derive their revenues from the sale of advertising were termed by the FRC as "propaganda" stations since, according to the FRC, these stations were more interested in spreading their particular viewpoint than in satisfying audience needs. Hence the FRC argued that it had to favor the capitalist broadcasters since there were not enough stations to satisfy all the "propaganda" groups. These groups would have to learn to work through the auspices of the commercial broadcasters [8].

It was in the aftermath of General Order 40, as the contours of modern U.S. broadcasting fell into place with astonishing speed, that there developed, for the first time, a coherent and unrepentant opposition to the emerging capitalist domination of the airwaves. The primary elements of this movement for broadcast reform came from the ranks of the displaced and harassed non-profit broadcasters, particularly those affiliated with colleges and universities. To many educators [35, p. 16], their stations were being left "unprotected" by the FRC as they were "attacked constantly by commercial broadcasters." Nine major national educational organizations formed the National Committee on Education by Radio in 1930 to advance the cause of broadcast reform and non-profit radio broadcasting among educators and on Capitol Hill. The NCER's director, Joy Elmer Morgan, was a Midwest populist who had cut his teeth in the public utilities movement of the progressive era. He regarded concentrated corporate control of radio as a direct threat to the survival of democracy in the U.S.

Nor was the NCER alone in its campaign to recast U.S. broadcasting. Several other non-profit broadcasters that found little support from the FRC as commercial broadcasters attempted to usurp shared channels became active in the fight for broadcast reform. The two most active of these were the

Chicago Federation of Labor (CFL) which maintained the only labor station in the nation, WCFL of Chicago [21], and the Paulist Fathers religious order of New York, which operated WLWL, the only Catholic station in the northeast United States. Both of these stations began in the mid 1920s with tremendous aspirations for public service; by the end of the decade, following General Order 40, they were both struggling for survival as the FRC assigned most of the hours they had previously been occupying to affiliates of NBC and CBS respectively. In the early 1930s both WCFL and WLWL, after continued frustration before the FRC, would lead efforts to enact reform legislation [9, 24]. The director of WCFL, Edward Nockels, would also represent the American Federation of Labor on broadcast legislation on Capitol Hill in the early 1930s. After General Order 40, Nockels [31, p. 13] stated that "all of the 90 channels for radio broadcasting" had been "given to capital and its friends and not even one channel to the millions that toil." Nockels [32, p. 414] argued that the "whoever controls radio broadcasting in the future will eventually control the nation."

In addition to displaced non-profit broadcasters, some elements of the newspaper industry agitated for restrictions on the commercialization of the ether, particularly since this was regarded as a prime reason for the economic woes of the print media in the depths of the Great Depression. The most active daily newspaper publisher in the fight to reform broadcasting was H. O. Davis [5, p. 44], owner of California's *Ventura Free Press*, who published two books critical of the *status quo*, promoted reform ideas before the ANPA, and even hired a full-time Washington D.C. lobbyist to work on behalf of broadcast reform throughout the early 1930s. Davis's efforts notwithstanding, an alarmed commercial broadcasting industry was able to defuse any threat to their control that might be brought by the newspaper industry in short order; indeed, by 1932 or 1933 Davis had been effectively marginalized and the major newspapers had become allies of the commercial broadcasters in their efforts to thwart the opposition movement. This was a fundamental blow for the broadcast reform movement, as it needed extensive and sympathetic treatment from the press in order to generate public recognition of and support for the reform cause. Such coverage was not forthcoming.

The opposition to the status quo was also joined by many civic groups that had no particular material stake in the outcome of the fight. The most important of these was the American Civil Liberties Union (ACLU) which by 1933 regarded the commercial set-up as the enemy of free speech and lobbied for structural reform for most of the decade [20, 23]. The response of the ACLU to the emergence of the *status quo* mirrored the broader response of the U.S. intelligentsia to network, commercial broadcasting, which was almost entirely negative[16]. The NCER's Morgan [28, p. 82] was not far from the truth when he stated in 1933 that it was impossible to find *any* intellectual in favor of the status quo, unless that intellectual was receiving money or airtime from a commercial broadcaster.

Among the various elements of the broadcast reform movement there were three themes that underscored virtually criticism of the *status quo*. First, the reformers argued that the airwaves should be regarded as a public resource and broadcasting as a public utility. By this reasoning, reformers

argued that turning broadcasting over to a relative handful of private broadcasters so that they could satisfy selfish goals was a scandalous misuse of a public resource. Moreover, the policy by which the FRC had established the existing system had been entirely outside of public view; even Congress seemed largely oblivious to what had taken place. Hence the public had yet to exercise its right and duty to determine broadcast policy. Second, the reformers argued that a network-dominated, for-profit, advertising-supported broadcast system would invariably shade its programming to defend the *status quo* and that it would never give fair play to unpopular or radical opinions. It would be difficult to overemphasize how much of the reform movement's critique revolved around this argument. Third, the reformers criticized the nature of broadcast advertising and the limitations of advertising-subsidized programming, particularly in regard to the lack of cultural, educational, and public affairs programming which the system seemed capable of profitably generating. Some of this criticism had a distinctly elitist tone, which undermined the ability of the reformers to generate popular support for reform. Moreover, the broadcast reform movement was insistent in its belief that increased regulation of the existing system could not produce the desired social results; only a structural change in ownership and support could produce results appreciably different from the commercial system.

Armed with this critique and perspective, the broadcast reform movement advocated three major plans to recreate U.S. broadcasting. One plan was to have the government set aside a fixed percentage of the channels, generally either 15 or 25 percent, for the exclusive use of non-profit broadcasters. The second plan was to have Congress authorize an extensive and independent study of broadcasting with the aim of providing for an entirely new broadcast system. To the reformers, it was axiomatic that any independent study of broadcasting would resolve to alter the status quo. The third plan, only formally offered in 1935 once the system was beyond challenge, was to have the government establish a series of non-profit and non-commercial stations on a local, regional, and national basis that would be subsidized through taxes and operated by a congressionally approved board of directors of prominent citizens. The government stations would supplement, not replace, the existing commercial networks.

One basic and overriding problem plagued the broadcast reform movement throughout its existence: how to subsidize high-quality, non-profit broadcasting. Having the government play a role, as was done in most other nations, was a touchy subject in U.S. politics. Some elements of the broadcast reform movement, like the ACLU, were more than a little skeptical toward granting the government a larger role in communications. Even those elements of the reform movement, like the NCER, that did not share the ACLU's innate skepticism toward the state, only began lobbying for a state-subsidized system years after most of their leaders, including Morgan, had gone on record in favor of a government network as the only viable alternative to the *status quo*. There was a general belief among the reformers in the early 1930s that the public would not accept government-controlled broadcasting. The only real alternative to having the government play a larger role was having advertising subsidize non-profit broadcasting. This idea was

anathema to the NCER, the ACLU, and much of the broadcast reform movement, which regarded advertising as every bit as bad as network domination.

Yet, even if minuscule and unsympathetic press coverage, elitism, and the inability to agree upon a satisfactory alternative model had not hampered the reform movement, the extraordinary power of the radio lobby -- NBC, CBS, and the National Association of Broadcasters (NAB) -- may well have decimated the reform cause in any case. In addition to the usual political clout that accompanies wealth, the radio lobby had even greater leverage over publicity-conscious politicians due to its control of the airwaves. This point was not lost on either the commercial broadcasters or the reform movement. In addition, the commercial broadcasters spared no expense in the early 1930s in a public relations campaign to establish the status quo as the only innately "American" and only truly "democratic" method for organizing broadcasting services [29, 30].

The campaign to restructure U.S. broadcasting experienced two distinct phases. The first stage, from 1930 until President Herbert Hoover left office in the spring of 1933, was clearly the high water mark for popular and congressional discontent with U.S. broadcasting, far surpassing anything that would develop in subsequent years. WCFL's Nockels [33, p. 2] estimated that 70 percent of the Senate and 80 percent of the House supported legislation that would have set aside channels for non-profit broadcasters, whereas the NAB warned its membership that the broadcast reformers had received pledges of support from fully 90 percent of the members of Congress. Nevertheless, reform legislation failed to get through Congress during this period for two reasons. First, this was the trough of the Great Depression and the preponderance of Congressional activity was dedicated to legislation regarding economic recovery. Second, while there was considerable support for reform among the rank and file members of Congress, the relevant committee leaders were nearly unanimous in their support for the *status quo*. "If it were not for a little group of reactionary leaders in both branches of Congress," an incensed Nockels [33, p. 2] observed in 1931, reform "legislation would have been passed by this time." And, indeed, when the Senate eventually passed a rider to a bill in 1931 that would have established a national, non-profit labor network, the congressional leaders were able to have the bill tabled at the end of the session.

The second stage, which lasted from March 1933 until the Communications Act of 1934 was signed into law in June, was the decisive period. By 1933 the broadcasting industry had largely stabilized after the shakeup following General Order 40. The commercial broadcasters determined that the time was ripe to have permanent legislation regarding broadcasting passed which would eliminate the annual forum on Capitol Hill for "attacks by unfriendly groups" and "speed up the movement toward a more thoroughly stabilized broadcasting industry [42, p. 5]."

The broadcast reform movement was initially encouraged by the change in administrations and hoped that President Roosevelt would assist their cause. Indeed, there was considerable reason for optimism as many key members of the New Deal were outspoken critics of commercial broadcasting

and advocates of sweeping reform. Moreover, one of Roosevelt's closest political and personal friends, Ambassador to Mexico Josephus Daniels, was an unabashed proponent of completely nationalized broadcasting [17, 22]. Nonetheless, Roosevelt elected not to take a public position on the broadcast debate while his aides worked behind the scenes to assist the commercial broadcasters with their legislative agenda. Clearly Roosevelt was in no mood to take on an uphill fight against a powerful and entrenched communications industry, particularly when he enjoyed less than perfect relations with the nation's largely Republican newspaper industry. As even Daniels advised him, he had more important battles to fight. In early 1934 Roosevelt formally endorsed legislation in which all communications regulation would be housed under one administrative agency, to the approval of the commercial broadcasters. Legislation to that effect, which would reinstate the Radio Act of 1927 and replace the FRC with a new Federal Communications Commission (FCC) was introduced in both the House and Senate.

The strategy of the industry and the bill's sponsors was to rush the proposed legislation through committee hearings and have it brought to the floors of the House and Senate for a vote as quickly as possible. The Senate sponsors hoped to stem any potential opposition to the proposed legislation by having the bill authorize the new FCC to make a thorough study of communications and report back with any suggestions for reform legislation the following year. The bill's sponsors did not even intend to permit broadcasting to be discussed during the upcoming committee hearings on the legislation, since the unresolved broadcasting issues would now be taken up by the new FCC.

While some elements of the broadcast reform movement had become demoralized and had given up any hope for immediate action by Congress, the Paulist Fathers' John B. Harney submitted an amendment to the Dill communications bill during the committee hearings which would have required the new FCC to set aside 25 percent of the channels for the use of non-profit broadcasters. While the committee voted against the Harney proposal, Senators Robert Wagner, Democrat of New York, and Henry Hatfield, Republican of West Virginia, agreed to introduce the amendment on the floor of the Senate. Father Harney and the Paulists engaged in a whirlwind campaign to generate support for the measure, particularly from Catholic organizations and parishes around the nation. Within a few weeks the Paulists had over 60,000 signatures on petitions supporting the measure and had the active support of Edward Nockels and a portion of the labor movement [26]. They also found a surprisingly receptive audience in Congress.

The radio lobby attacked the Wagner-Hatfield amendment in late April and early May as if, as an NAB representative later explained, its passage "obviously would have destroyed the whole structure of broadcasting in America [4, p. 618]." The amendment was defeated on the Senate floor on May 15 by a vote of 42-23 and the Senate then approved Dill's communication bill by a voice vote. In the House a similar bill passed without any discussion of reform. The bills then went to conference where the differences were ironed out. After the conference made its revisions, Senator Dill would telephone the NAB's chief lobbyist and inform him, "We have been very



generous to you fellows." Bellows would later comment: "When we read it, we found that every major point we had asked for was there [4, p. 618]." President Roosevelt signed the Communications Act of 1934 into law on June 18.

With the passage of the Communications Act of 1934 Congress effectively removed itself from substantive broadcast policy issues for the balance of the century. The FCC made it clear that it would regard the *status quo* as the officially authorized broadcasting system henceforth until notified otherwise by congressional statute. Congress showed no interest in reopening the political can of worms represented by broadcast regulation after the passage of the Communications Act of 1934 and the broadcast reform movement quickly unraveled.

In the second half of the decade, with the thorough economic and political consolidation of the industry, the commercial broadcasters strove for ideological closure. In this campaign they triumphantly located commercial broadcasting next to the newspaper industry as an icon of American freedom and culture and removed it from critical contemplation. The broadcast reform movement was correspondingly written out of the dominant perspective on the development of U.S. broadcasting, and the conflict of the early 1930s was erased from the historical memory. "Our American system of broadcasting," president David Sarnoff [cited in 12, p. 21] informed a nationwide audience over NBC in 1938,

is what it is because it operates in the American democracy. It is a free system because this is a free country. It is privately owned because private ownership is one of our national doctrines. It is privately supported, through commercial sponsorship of a portion of its program hours, and at no cost to the listener, because ours is a free economic system. No special laws had to be passed to bring these things about. They were already implicit in the American system, ready and waiting for broadcasting when it came.

The implications of this logic were not always left unspoken. "He who attacks the fundamentals of the American system" of broadcasting, CBS president Paley [34, p. 6] informed an audience in 1937, "attacks democracy itself."

By the end of the decade, and thereafter, the notion that the American people had a right to determine whatever broadcast system they deemed superior for society was effectively dead; the issue had become off-limits as a legitimate political issue. By 1945 Paul Lazarsfeld [13, p. 89] would conclude his study of broadcasting by observing that the American people seemed to approve of the private and commercial basis of the industry. "People have little information on the subject," he noted, "they have obviously given it little thought."

The purpose of this paper has been to document that there has been a debate over the private, for-profit and commercial basis of the U.S. broadcasting system in the twentieth century. The evidence indicates that the U.S. system did not emerge as the result of a consensus but, rather, as a result of conflict in which there were clear winners and losers. Because much of U.S. broadcasting history has underemphasized this opposition, it has had the

earmarks of a "history written by its victors." Even the otherwise outstanding critical scholarship, what with its emphasis on the period preceding 1927, seemingly has accepted the notion that the American people went along willy-nilly with the establishment of the *status quo*. At the same time, however, the efforts of the reformers to open up debate over media policy was crushed by the steamroller might of the broadcasters and their allies in Washington, D.C. Finally, to the extent that the reformers' concerns about oligopolistic and commercial control of the media ring true today, this episode points to a previously unrecognized radical and democratic strain of U.S. media criticism which may assist the citizenry in policy formation in the years to come.

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