

geographical areas, as for example, the courts of appeal, which would investigate and pass upon fairness complaints.

The final decision would be made by the Commission, but this proposal would have the advantage, it seems to us, of stimulating local interest, of giving people in the community the possibility of registering their own views, and making it possible for the FCC not to become unduly involved in the day to day operation of stations in terms of finding out whether a Fairness Doctrine complaint is justified or not.

As you said, Mr. Chairman, the rest of what I have to say as to why the Civil Liberties Union feels that the Fairness Doctrine is a vital cog if we are to preserve free speech on the air is set forth in my prepared statement. Thank you very much.

(The statement referred to follows:)

STATEMENT OF MRS. HARRIET PILPEL, CHAIRMAN OF COMMITTEE ON  
COMMUNICATION MEDIA, AMERICAN CIVIL LIBERTIES UNION

Ever since the American Civil Liberties Union was founded in 1920, it has been committed to the defense, support and expansion of the First Amendment's guarantee of free speech. Because this guarantee is made meaningful only when citizenry enjoys access to the full range of information and opinion so essential to the democratic process, the ACLU is vitally concerned with the realization of diversity of expression.

Inherent in the Union's concern with diversity is its conviction that controversy on public issues must be presented with the greatest possible diversity of viewpoint especially where decisions will be made that directly and intensely affect people's lives. All sides of the issues should be represented so that in taking positions the public is aware of whatever choices or alternatives are involved.

One significant route to broadcasting diversity which the Union has endorsed repeatedly is the fairness doctrine, which we believe has the potentiality to expand the scope of controversy on the air, thus expanding the marketplace of ideas to which the public is exposed. Our interpretation of the doctrine is that if broadcasters are to operate their publicly-granted licenses in the "public interest, convenience and necessity" they must present various sides of important public issues. The doctrine expresses the broadcaster's responsibility as a public licensee to acquaint his audience with a variety of points of view, and when individuals and organizations are under specific attack to grant them a right to be heard.

The fairness doctrine reflects three distinct sources: the First Amendment, which has meaning only if all kinds of ideas can freely circulate; the American tradition of fair play, which calls upon us all to be receptive to all sides of the story; and the public nature of the airwaves, which obligates the licensee to perform in the best interests of listeners and viewers.

The ACLU's vigorous support for the fairness doctrine is in no way inconsistent with its constant awareness of the danger of censorship which may inhere in government regulation including the fairness doctrine, which touches so closely on programming. Moreover, while aimed at encouraging controversy on the air, the doctrine must be carefully applied lest the licensee avoid controversy in programming rather than risk involvement with a government agency over interpretation of what is controversy. For example, an interviewer might avoid asking his guest certain provocative questions for fear that the responses would be interpreted by the FCC as an attack on an absent individual, to whom the station would then have to give reply time. However, on balance the Union believes that the fairness doctrine is a stimulator and not an inhibitor of diversity. Each FCC step toward actually increasing diversity—without interfering with program content—deserves the backing of civil libertarians eager to have informed discussion from diverse sources as a background against which public issues are considered and resolved by the American people.

The FCC standards comprising the fairness doctrine are threefold:

1. Where a licensee permits the use of his facilities for a personal attack upon an individual or organization, the licensee is required to give the person or group attacked time from an adequate response. This policy, set forth in 1964, was further clarified by the Commission in the summer of 1967. Licensees are required