

3. *Spokesmen for political candidates who make attacks and the right of the offended candidate to rebut.*—It seems clear that if a partisan position is expressed in a political campaign, fairness dictates that the other side be heard. This is particularly important since the electorate needs all the information possible in order to use the vote most intelligently. The fact that little complaint has been heard on this part of the fairness doctrine indicates the merit and need for this section.

4. *A similar opportunity for presentation of contrasting views.*—The Union regards this part of the fairness doctrine, known as the "affirmative obligation" section, as a vital measure for the encouragement of diversity on the air. The current debate over the doctrine has not focussed on this area, perhaps again because its value is self-evident. If fairness has any meaning it is that one-sided presentations of any issue must be balanced by the expression of other and different views. This section does not deal with the perplexities of the personal attack-rebuttal principle. It means simply that if a station decides, on its own, to air a controversial social issue, the citizens living in the area reached by the station are entitled to hear different approaches to the same issue. An informed citizenry is a prerequisite to meaningful exercise of the right of free speech, and to have an informed citizenry, not just a single position on a current issue but a variety of positions should be aired. Only then can the members of the audience draw their own conclusions.

At the present time, this section of the fairness doctrine is the one most subject to ambiguities of interpretation. It is felt by some that the "affirmative obligation" provision is an intrusion by the FCC into the area of program content. Others feel that a simple requirement to make opportunities available in no way tells broadcasters how they must fulfill the obligation vis-a-vis content. The ACLU shares this latter point of view.

The Union has called on the FCC to clarify the meaning of the "affirmative obligation" section because we regard vigorous action by the Commission as the *sine qua non* for the success of the fairness doctrine. In a letter to the FCC on November 10, 1966 asking that the original grant of a renewal license for station KTYM (Inglewood, California) be reviewed, we said:

However, we feel that the Commission's decision in granting the renewal application did not take into account the full thrust and scope of the Fairness Doctrine, which provides both that attacks on individuals and groups will be answered and that the licensee has an affirmative obligation to air contrasting viewpoints when he allows his facilities to be used for the presentation of a controversial issue.

Court decisions upholding the Commission's regulatory authority as well as many rulings by the Commission, make it clear that the Fairness Doctrine was promulgated to insure that a station licensee supply the listening public with a balance of viewpoints relating to controversial issues. The undisputed facts in the instant case make clear that Station KTYM broadcast programs which were anti-Semitic and otherwise offensive to certain minority groups. Nowhere is there any evidence that this Station licensee has fulfilled its obligations under the Fairness Doctrine, in seeking out and broadcasting other viewpoints on this subject.

Surely the Fairness Doctrine is, and always has been, broader in its scope and application than the application by the Commission in the instant case would indicate. It does require and should require more than (a) the transmission of a transcript of an intended broadcast to a named person attacked in that broadcast and an offer of time for that person to reply, and (b) an offer of time to a group whose views may be opposed to those broadcast. Rather, in a case such as this, where the attacks were flagrant and continuing, in our opinion, the Fairness Doctrine requires that the station licensee more than merely offering time, must take affirmative steps to carry opposing viewpoints, in order that the public may be served a balanced diet and thereby may be better able to evaluate the issues broadcast. The principle of diversity is served not only by aggrieved individuals and organizations being given time to rebut attacks but in exposing the community at large to a variety of views on a particular issue.

The Commission's June 17 decision apparently makes some reference to this function of the Fairness Doctrine when, in the fifth paragraph of letter, it asserts: "Your obligation to afford a reasonable opportunity for the discussion of viewpoints that conflict with those of Mr. Cotten is a continuing one. The statements which you have filed with the Commission indicate that you understand