

these provisions are not intended to preclude balanced, fair, and objective presentations of controversial issues by noncommercial educational broadcast stations.

In a comparable development, the conference report clarified the purposes and activities of the Corporation for Public Broadcasting to emphasize that the corporation is authorized to "facilitate the full development of educational broadcasting in which programs of high quality, obtained from diverse sources, will be made available to noncommercial educational television or radio broadcast stations, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature."

As the House managers' statement declared, the conference added language to this provision to make it clear that "each program in a series, when considered as a whole, must" meet such a test. Thus, the standards of objectivity and balance apply both to the programming made available by the Corporation for Public Broadcasting and to the presentation of controversial issues by noncommercial educational broadcast stations.

The clarifications in the legislative history are helpful but there still remains substantial confusion among educational broadcasters concerning the scope of the editorializing ban. Therefore, these hearings will prove useful to the industry if they merely reemphasize in abundantly clear language that the prohibition in section 399 does not embrace controversial-issue programming in general. On the contrary, educational stations should be encouraged to the utmost to persevere in this programming field.

The ban on editorializing in section 399 of the act may not be of practical consequence to many educational broadcasters who would either choose voluntarily not to follow such a program format, or avoid editorializing because of the "no substantial lobbying" provisions of statutes dealing with their tax-exempt status. But in the opinion of the NAEB, this statutory ban on editorializing by educational broadcasters raises serious public interest questions, as well as a basic issue of free speech under the first amendment of the Constitution.

Editorializing may take many forms, dependent on the judgment, the skill, the initiative, and the research ability of the local broadcasters, as well as the nature of the subject under discussion. What one educational broadcaster may not want to do in the area of station opinion, another broadcaster may find essential to proper educational broadcast responsibility.

I know of no educational broadcaster who would have any doubts of the necessity for fairness and objectivity in such editorial broadcasts. In fact, the standard of fairness should perhaps be even higher in these situations, where the station itself is using its own facilities to state a personal point of view.

Section 399 removes all areas of judgment, however, and imposes a flat prohibition. Moreover, in view of the fact that the legislative enactment is an amendment to the Communications Act itself, rather than a provision of the Public Broadcasting Act alone, and contains no self-limiting language, this provision apparently applies to all educational broadcast stations and not simply to those receiving funds from the Public Broadcasting Act.