

In fact, educational broadcasters alone face this prohibition. Operators of commercial stations are free to editorialize on any and all subjects. Indeed, the Commission nearly two decades ago established the clear principle that a broadcast station could editorialize, provided that—

The opportunity of licensees to present such views as they may have on matters of controversy may not be utilized to achieve a partisan or one-sided presentation of issues.

In its programming policy statement in 1960, the Commission listed editorials as one of the 14 "major elements usually necessary to meet the public interest, needs, and desires of the community in which the station is located as developed by the industry and recognized by the Commission."

The NAEB believes it is unwise to ban educational stations from the privilege of editorializing. This form of statutory discrimination between educational and commercial stations as to permissible program format is, in the NAEB's opinion, a disservice to the educational broadcast industry.

Moreover, in an even more fundamental sense, section 399 of the Communications Act raises a serious question of unconstitutionality, and should in our opinion be deleted from the act.

With respect to the third area of concern—political broadcasting—both the Public Broadcasting Act of 1967 and the Internal Revenue Code specifically provide that educational broadcast stations may not "support candidates." Educational stations must also, of course, adhere to the equal time provisions of section 315 of the Communications Act when political candidates utilize their facilities.

However, the Internal Revenue Code has been interpreted to permit a wide latitude in nonpartisan political broadcasts without endangering tax-exempt status. As the IRS stated in a 1962 ruling:

It would appear that the noncommercial educational station could not, without jeopardizing its tax-exempt status, take sides in a political campaign, or "editorialize". But it would also appear that if the noncommercial educational station presents political broadcasts in a truly nonpartisan manner, acting "entirely in the public interest" and without itself "participating or intervening in a political campaign on behalf of a candidate for public office," it would not run afoul of the cited tax provisions.

The NAEB believes that the political broadcast ban in section 315 should be clarified to accord with the standard of nonpartisan political broadcasting recognized by the IRS and the Federal Communications Commission. We hope that these hearings themselves will serve as a useful forum to accomplish that worthwhile objective, permitting educational stations a meaningful role in the political education of the American electorate.

The NAEB believes that provision for local political debates on a strictly nonpartisan basis is an important service which educational stations should be free to render. Compounding the problem, however, is the fact that in certain areas, local rules, ordinances, or State laws actually prevent or hamper candidate appearances on educational stations.

The NAEB believes that such provisions are deleterious to the fulfillment of prime public interest responsibilities of educational stations. We believe, therefore, that the members of this distinguished