

# FCC Issues Rebuke for Mae West Skit

## Network's Affiliated Stations Adjudged Liable for All Programs Broadcast; Program Standards Hinted

A STIFF rebuke to NBC for the "Mae West incident" of Dec. 12 was administered by the FCC Jan. 14 in a letter to its president, Lenox R. Lohr.

After describing the program as one far below "even the minimum standards which should control in the selection and production of broadcast programs," Chairman Frank R. McNinch said that no further action would be taken at this time. He added, however, that the 59 Red-Net stations which carried the program could not be excused on the ground that it was received over the network under contract.

He explained that the Commission would consider other complaints against these stations, if any, at the time of license renewal.

### A Serious Offense

Mr. McNinch made public the ruling at a press conference and extemporized on it. He said the Commission regarded the program as a "very serious offense against the proprieties and that it was decidedly low and substandard."

He elaborated on a statement in the formal letter that if the present system of licensing private agencies to broadcast is to ultimately win public favor, it must be won chiefly "through the excellence of the programs broadcast and their freedom from commercialization at the expense of propriety and quality."

Declaring the Commission is paying "active attention" to complaints against programs, the Chairman said he hoped the Commission ultimately would outline "standards of programs" that might follow general standards applicable to engineering which already have been established. He emphasized that under the law the responsibility is upon the station licensee rather than the network and that the station itself must "monitor" all programs, and "cut off those which are objectionable."

The clear indication that Chairman McNinch intends to address the NAB Convention primarily on the subject of programs, was given during the conference when he said that he proposed to discuss methods of improving programs with a "conference group" of broadcasters. He is scheduled to make one of the principal addresses at the convention in Washington Feb. 14-16.

Pointing out that the Commission under the law cannot censor programs but can take action only after the deed, the Chairman said that he personally did not advocate legislation which would give the Commission the power of censorship. He said that in the Mae West case, it is regarded only as "one incident" and that if nothing else is "chalked up against any licensed stations, there will be no further action."

Asked whether he expected radio to adhere to higher ethical standards than the movies, the Chairman did not answer the question

directly but said he regarded radio as the most important means of communication known and that he believed it must have "the highest standards, since it affects all classes, ages and creeds." He said he did not concur in the answer that the listener can "turn off the key and shut off the program", declaring this was an admission that some programs do not measure up to desired standards.

The responsibility of the station for programs keyed by networks constitutes "one of the inescapable hazards of the licensee." He said he felt this view would be upheld by the courts on the theory that public interest is the primary yardstick and that contractual relationships between chain and station are secondary. The Commission, he said, cannot be concerned "with the machinery," under the law.

Chairman McNinch's letter follows in text:

The Commission has carefully considered the transcript of the *Adam and Eve* feature by Don Ameche and Mae West and the dialogue between Mae West and Charlie McCarthy, sponsored by Chase and Sanborn and broadcast by the National Broadcasting Company over 59 stations on Sunday night, Dec. 12. It is our considered opinion that both of these features were far below even the minimum standards which should control in the selection and production of broadcast programs.

## Second Station in New Orleans Denied To WSMB; FCC States Monopoly Policy

ESTABLISHMENT of policy against the licensing of second stations in the same community to the licensee of an existing station, "unless it is clearly shown" that the public interest will be served thereby, was announced Jan. 14 by the FCC. The pronouncement came in the statement of facts and grounds for decision in denying the application of the licensee of WSMB, New Orleans, for a new local station in that community, and was announced by Chairman McNinch at a press conference.

First finding that need for an additional station was not shown to exist, the Commission added.

"The available frequencies in the broadcast band are limited, and the Commission is loath to grant facilities for an additional broadcast station to one who already holds a license for a station in the same community unless it is clearly shown that the public convenience, interest, or necessity would be served thereby. Other things being equal, it would appear that if there were a need for an additional local broadcast station in a community and if there were a frequency available for this service, the facilities should be granted to someone who does not already hold a broadcast license for an unlimited time station in that community."

The decision, Mr. McNinch asserted, "looks in the direction of fostering wholesome local compe-

We commend your company for having apologized over the radio and through the press for these features and again in your letter to the Commission. We are unable, however, to accept the view expressed in your letter that the broadcasting of these features was only "a human error in judgment". The care with which the public has a right to expect, and which is, we understand, the practice, in the writing and editing of the manuscripts and in the rehearsing of such features would seem to exclude the elements of accident and surprise.

The admittedly objectionable character of these features is, in our opinion, attributable to the lack of a proper conception of the high standards required for a broadcast program intended for reception in the homes, schools, automobiles, religious, social and economic institutions, as well as clubs, hotels, trains and other places, reaching in the aggregate a much larger number of people daily than any other means of communication and carrying its message to men, women and children of all ages. A clear recognition of the social, civic and moral responsibility for the effect upon listeners of all classes and ages requires such a high standard for programs as would insure against features that are suggestive, vulgar, immoral or of such other character as may be offensive to the great mass of right-thinking, clean minded American citizens.

While the right to reap a reward or

tition." He added, however, that second stations conceivably could be granted where a need is shown beyond doubt, and where no other qualified applicant appears, but that there would be an "additional burden" upon the existing licensee seeking the second station in the same community.

The action, he added, can be regarded as a step in the direction of development of policy against establishment of monopolies in radio in particular communities, through avoidance of a concentration of licenses in the same hands. He could not say that outstanding situations where more than one station is owned by the same licensee will be reviewed in the light of this precedent, he said, explaining there was no present intention of doing so and that it had not been discussed.

Significant was Mr. McNinch's statement that the fact that two stations might be owned by the same newspaper was not sufficient in itself to warrant any FCC action. If there were no other applicant in a community that showed a need for additional service, a newspaper owning an existing station might be granted a second outlet," he said. He made no further statement regarding newspapers other than to state that there is no immediate likelihood of a declaration of policy or recommendations for legislation on newspaper ownership.

profit in the proper use of the license granted by the Government is clearly recognized, this right and all other considerations are entirely subordinate to the interest of the listening public; and, if the present system of licensing private agencies to broadcast is to ultimately win the favor and approval of the American public, this favor will be won chiefly through the excellence of the programs broadcast and their freedom from commercialization at the expense of propriety and quality.

In our present system and the statute under which the Federal Communications Commission functions, the Commission has no power of censorship but this power and responsibility rests squarely and unavoidably upon the licensee. The right to continue operation under a license can be justified only so long as public convenience and necessity are served through programs broadcast to the listeners. Licenses are granted without any compensation by the licensee to the Government and solely for the purpose of serving the public interest and, hence, the broadcaster must accept, along with the privilege granted, a definite inescapable and high public trust in the use of the facilities licensed.

### Program Standards

It is believed that a true conception of this public trust would lift the general standards of programs to a higher level and would condemn as unworthy not only the features herein specifically referred to but other material which has been broadcast.

The Commission notes that, while the features above referred to were originated by your company, these features were broadcast over 59 stations over your network, and, while the primary responsibility for this program rests with your company, the stations that carried it cannot be excused for carrying this program on the ground that such program was received over the network under a contract for program service. Each licensee carries his own definite responsibility for the character of programs broadcast and he must be and will be held to account regardless of the origin of the program. All who are interested should, therefore, take notice that trespasses against the public interest will be charged against every station engaging in such trespass.

In view of your recognition of the objectionable character of the program in question and of your assurance that greater care and caution will be exercised in the future, the Commission has decided to take no further action at this time than the writing of this letter in condemnation of the program. However, upon application for renewal of the licenses of the stations carrying this broadcast, the Commission will take under consideration this incident along with all other evidence tending to show whether or not a particular licensee has conducted his station in the public interest.

### Mohawk Dissolved

MOHAWK VALLEY regional network, consisting of six New York and two Vermont stations, has been dissolved, according to Burt Squire, former manager of WINS, New York, who organized the regional group last November.