

casters to ascertain issues of critical importance facing the local community and to present views and analysis from various sources.

To further underscore NAB's misinterpretation of the public service obligation, Mr. Fritts submitted excerpts from 22,000 "thank you letters" received by its member stations. The following are typical reasons given for such letters:

"Fishing News" announcements

Donation of yellow ribbons

Catfish Rodeo

Spaghetti dinner

Plain and Fancy Ball

"Big Bubba" programming - Ottumwa Octoberfets programming

Kiss-a-Pig programming

Cookie sale

Shrimp boil

Broadcasting in the Public Interest - America Thanks Broadcasters, NAB, May 15, 1991

OC/UCC maintains that such so-called public interest activities bear no relationship to the responsibility of broadcasters to address issues of critical importance facing the local community in return for the privilege of using the public's airwaves. The Commission's involvement in the area in public interest programming,

has always been driven by a concern that issues of importance to the community will be discovered and addressed in programming so that the informed public opinion, necessary in a functioning democracy, will be possible.

Commercial TV Stations para. 31

Issue-responsive programming has been defined for television using the same criteria adopted for radio.³⁰ Any of the categories contained in the 1960 Programming Statement are considered by the Commission as issue-responsive programming.³¹ Entertainment programming has been specifically ruled out as issue-responsive programming.³²

It is apparent that the definition of issue-responsive programming has become very nebulous in the minds of broadcasters. What was at one time a codified set of rules (ie. the 1960 Programming Statement) has now been misinterpreted to include community fund-drives and promotional activities. Indeed, some stations include parades and fashion shows on their issues-programs lists.³³ Criteria buried in the footnotes of FCC proceedings - as in the case of TV deregulation - are seldom implemented by licensees on day-to-day basis.

As a direct result of inability of the industry to properly interpret its public service mission, public interest programming

³⁰ Commercial TV Stations at 1092, note 54.

³¹ id.; also see 1960 Programming Statement, 44 FCC 2303, 2315 (1960).

³² note 30, supra.

³³ The NBC Philadelphia affiliate, KWY, for example, placed coverage of the Mummies Parade and a sports roundup of the Super Bowl on its issues-programs lists. WCAU, a CBS owned and operated station in the same market, interviewed a Latino aerobics video producer and two fashion models as Hispanic Public Affairs Programming. Reply to Opposition to Petition to Deny, In Re License Renewal Applications of Commercial Television Stations Serving Philadelphia, PA., File No. BRCT-890332KG et al. filed October 23, 1989 at 21 and 32.

has declined since deregulation. The results of a recent study conducted by OC/UCC³⁴ fly in the face of the belief that viewers have more media choices. In fact, Americans have access to less news and public affairs during prime viewing hours than they did in 1974.

Based upon a survey of 82 randomly sampled television markets for the years 1974, 1979, 1984 and 1989 the study found that:

- 1). The amount of locally produced public affairs has declined to approximately 5 minutes per day during the 6:00 am to midnight day-part. The amount of local public affairs in 1989 was 14 minutes less per day than in 1979. This decline greatly exceeded the 2 percent decrease in local programming predicted by the FCC in TV deregulation;³⁵
- 2) Locally produced public affairs has been supplanted by an increasing amount of nationally syndicated programming such as "Oprah Winfrey", "A Current Affair", and "Geraldo". This trend is most pronounced in large markets (eg. the top 10 ADI markets) where nationally syndicated programming increased 3 percentage points from 1984, and local public affairs dropped half of one percentage point from its 1.38 percentage level in 1984;
- 3). National news declined 7 percentaged points during the prime time day-part and increased approximately 2 percentage points during the 6:00 am to midnight day-part;
- 4). Local news during prime time has declined almost 3 percentage points to a level less than the average amount of local news in 1974. Local news during the 6:00 am to midnight day-part has increased, but remained below its level in 1974.

The study underscored the fact that marketplace incentives are insufficient to influence TV stations to adequately serve the

³⁴ OC/UCC Informational Programming Study, note 12, supra. Study is included in appendix to these Comments.

³⁵ Commercial TV Stations at 1085, note 28.

informational needs of their local community. Programming decisions are primarily driven by ratings and short-term bottom line considerations. These factors do not advance the Commission's concern for community ascertainment and an informed public opinion.

In the absence of quantitative programming guidelines, formal community ascertainment requirements, and anti-trafficking rules broadcasters have abused the privilege of using the public's air waves. As evidenced from statements made before Congress, broadcasters do not even know what their public service mission is, much less take their public trustee obligation seriously.

OC/UCC urges the Commission to take the opportunity of this proceeding on the video marketplace to clearly define an objective set of public interest programming standards. The standards should include:

- 1) Minimal standards for locally produced non-entertainment programming. The standards should set forth both quantitative and qualitative requirements that licensees and citizens can easily interpret for the purpose of evaluating programming performance;

- 2) A standardized format for issues-programs lists;³⁶

³⁶ Citizens in Philadelphia recently expended over \$20,000 to evaluate the programming performance of the six commercial television stations licensed to that community. A large proportion of the expense was due to missing information and lack of standardization in the issues-programs lists. As stated in the petition-to-deny,

It is clear from the above analysis of each station's Issues/Programs Lists that reporting formats as well as the descriptive data on particular programs vary from station to station, making the examination and analysis of the number and the amount of reported issue-responsive programs

- 3) A clear definition of the term "issue-responsive programming";
- 4) A requirement that stations provide a narrative statement on each issue selected to be addressed by means of issue-responsive programming, as well as an explanation of the procedure used to identify issues of critical social importance facing the local community;³⁷
- 5) a set of penalties ranging from financial forfeitures to license revocation for licensees that violate any of the standards listed above.

In the course of deregulation the Commission said that it would rely upon petitions-to-deny and the issues-programs lists to monitor licensee performance and to evaluate the effects of

laborious and time-consuming even for a trained researcher.

Reporting on editorials and editorial replies was inconsistent or nonexistent. No information on content, length of air time, or air date was provided for public service announcements. The lists also presented problems of missing or inconsistent information and inadequate program descriptions, leaving the researcher with no choice but to extrapolate or estimate based on the available data.

In order for members of the general public to exercise their right to participate fully in the broadcast license renewal process, the establishment and enforcement of standardized and uniform reporting requirements that meet specific requirements for accuracy, detail, specificity, clarity and public access is essential. The reestablishment of public access to program logs, if standardized and uniform, could be useful in enabling citizens to have their voices heard in the marketplace.

Petition to Deny, In Re License Renewal Applications of Commercial Television Stations Serving Philadelphia, PA., File No. BRCT-890332KG et al. filed July 3, 1989, Study page 14.

³⁷ Stations typically provide a generic list of issues facing the community (eg. Business/Economy, Government, Minority-/Ethnic, Education, Women, Youth & Elderly). Such generalized descriptions do not comply with the letter and spirit of the Section 73.3527 of the Commission's rules which was intended to enable the Commission to evaluate a licensee's responsiveness to issues of local public concern and allow citizens to effectively participate in the license renewal process.

deregulation.³⁸ Despite ample evidence brought to the Commission's attention that the programming performance of television licensees has declined³⁹ and that the issues-programs lists are not serving their purpose,⁴⁰ no steps have been taken to inquire about the public interest effects of deregulation. Furthermore, the Commission reneged upon its promise to systematically inspect station public files.⁴¹ If citizens are to be able to effectively exercise their "unassailable right" to participate in the license renewal process, the Commission must examine more than just how its deregulatory policies have affected the financial status of the industry.

B. COMPLIANCE WITH A CLEARLY DEFINED SET OF PUBLIC INTEREST STANDARDS SHOULD BE A PREREQUISITE FOR "MUST CARRY" AND "RETRANSMISSION" PROTECTION.

In a related proceeding concerning effective competition and

³⁸ Commercial TV Stations at 1077.

³⁹ See Petition to Deny by OC/UCC et al. In re the Matter of License Renewal Applications of Commercial Television Stations Serving Philadelphia, PA. File Nos. BRCT-890331KG et al. filed July 3, 1989; Petition to Deny by Philadelphia Lesbian and Gay Task Force et al. In re Matter of License Renewal Applications of Commercial Radio Licensees Serving Philadelphia, PA. filed July 1, 1991.

⁴⁰ See Petition for Reconsideration by OC/UCC et al. In the Matter of Application of AETC for License Renewal, File Nos. BRET-870130KL et al., filed May 4, 1991.

⁴¹ In its post-card renewal proceeding the Commission represented that it would systematically inspect the public file of its licensees to enforce compliance with the issues-programs lists requirement. Post-Card Renewal 49 RR2d 740, 749-753 (1981). See also Black Citizens for a Fair Media v. FCC, 719 F.2d 407, 416 (DC Cir., 1983); Commercial TV Stations at 1112.

cable TV rate regulation,⁴² the television industry belabored how the imbalance between cable TV's growth in advertising and the economic decline of broadcasters is due to the absence of "must carry rules". Urging the Commission to correct this broadcast-cable imbalance the industry said,

[The Commission] can and should guarantee that the system of free over-the-air broadcasting is not damaged willy-nilly by cable operators who systematically deny carriage or fair carriage conditions to local broadcasters."

Comments of the National Association of Broadcasters, MM Docket Nos. 90-4, 84-1296 at 3.

The Commission itself has said that the imbalance between cable and broadcaster was "critically exacerbated by the loss of must carry rights by local broadcasters in 1985." 1990 Cable Report, 5 FCC Rcd. 4962, 5039 (1990).

Underlying the public interest justification for must carry rules is the presumption that over-the-air broadcasters serve society by providing adequate amounts of programming in response to the local needs and problems of their community.⁴³ This presumption is unfounded. As discussed earlier, the amount of informational programming over the last six years has declined

⁴². In re Matter of Reexamination of the Effective Competition Standard for the Regulation of Cable Television, Report and Order and Second Further Notice, MM Docket Nos. 90-4, 84-1296 (released July 12, 1991).

⁴³. To the extent that noncarriage of local broadcast signals critically and substantially affects the ability of local stations to present news, public affairs and other programming that serves local needs and interests, the system of widely-available over-the-air broadcasting that Congress encouraged in enacting Title III of the Communications Act could be undermined.

id. para. 108.

and most stations interpret their public service mission in a manner that is inconsistent with FCC policy.

In order to afford broadcasters the special protection they want, television licensees must first fulfill their public service mandate. The present programming performance of industry does not entitle them to that protection.

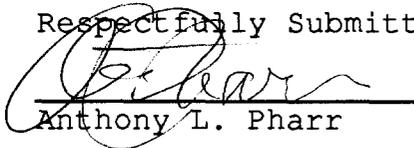
Assuming, however, that the Commission were to adopt and enforce the kinds of public interest protections outlined above, Section V A, supra, "must carry" and possibly "retransmission" rules would be in order. One policy option would be to allow only those licensees that elect to comply with the Commission's public interests standards to be entitled government protection.

It is first necessary, however, for the Commission to expand the scope of this proceeding in order to examine the effects of deregulation on news and informational programming and to adopt safeguards that will protect the public's interest in programming that is demonstrably responsive to local needs and concerns.

VI. CONCLUSION

The Commission should disregard OPP's recommendation to eliminate the group ownership rule. Such policy does not advance the public's interest in community responsive programming, nor does it offer any possibility of alleviated the financial problems of the video marketplace.

Respectfully Submitted,



Anthony L. Pharr

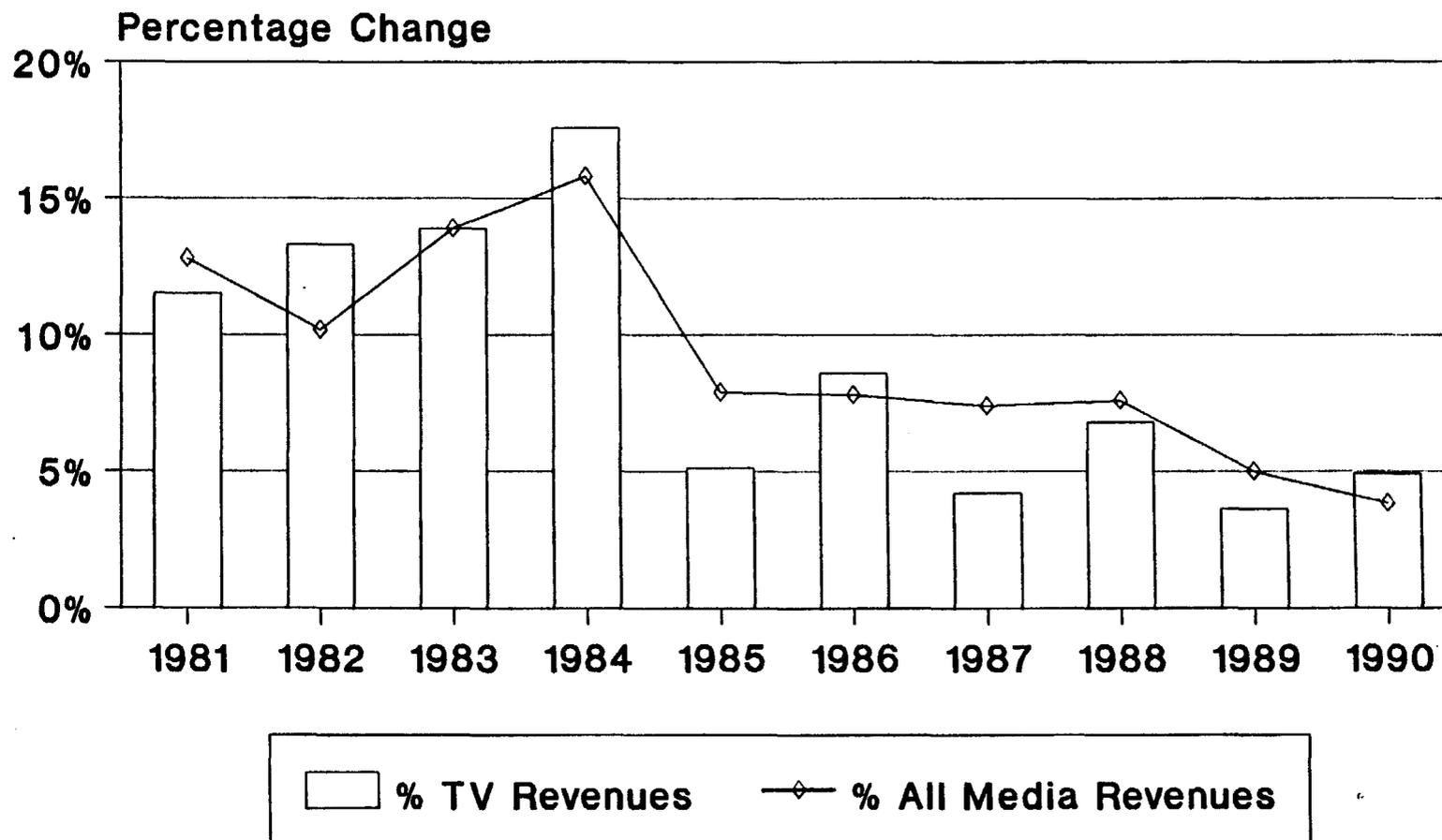
Counsel for the
Office of Communication
of the United Church of Christ
2000 M Street, N.W. suite 400
Washington, D.C. 20036
(202) 331-4265

November 21, 1991

EXHIBITS

EXHIBIT I.

PERCENT CHANGE IN ADVERTISING REVENUES: THE TELEVISION INDUSTRY COMPARED TO ALL MEDIA, 1981 to 1990

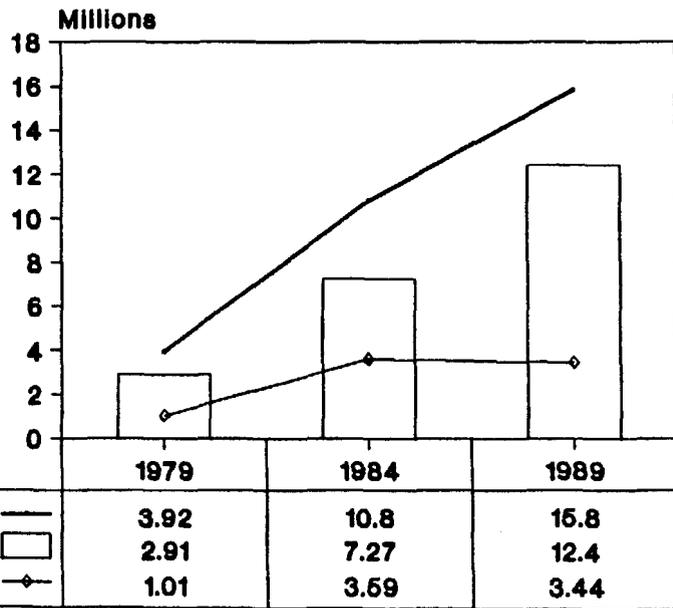
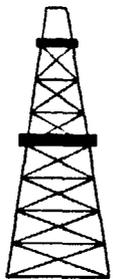


Data: "Trends in Advertising Volume,"
Television Bureau of Advertising, 5/91

EXHIBIT II.

A

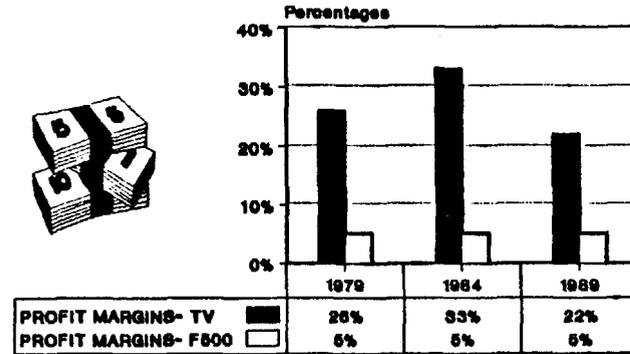
**ALL AFFILIATE STATIONS:
REVENUES, PROFITS AND EXPENSE**



Data: NAB Television Financial Reports

B

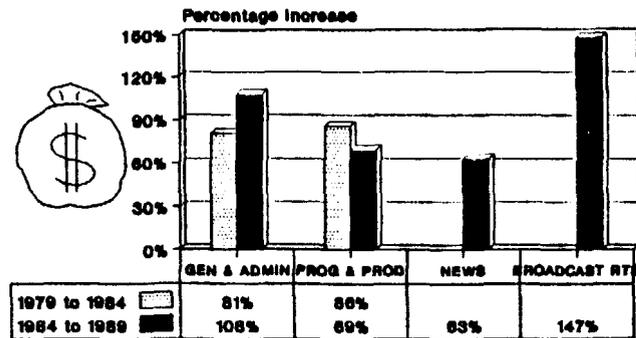
**ALL AFFILIATE STATIONS:
TV PROFIT MARGINS vs.
FORTUNE 500 PROFIT MARGIN**



Data: NAB Television Financial Report;
Statistical Abstract of the U.S.

C

**ALL AFFILIATED STATIONS:
INCREASE IN SELECTED EXPENSES
1979 to '84 and 1984 to '89**

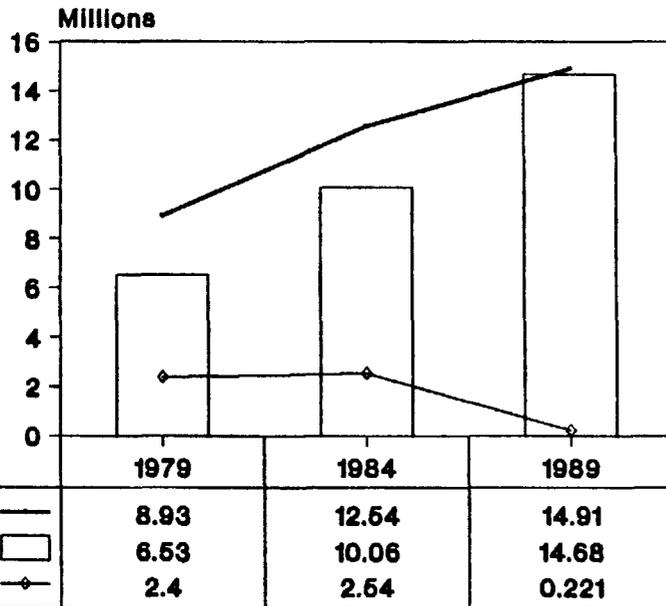
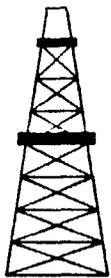


Data: NAB Television Financial Reports.
Broadcast Rights are a subclassification
of Program and Production.

EXHIBIT III.

A.

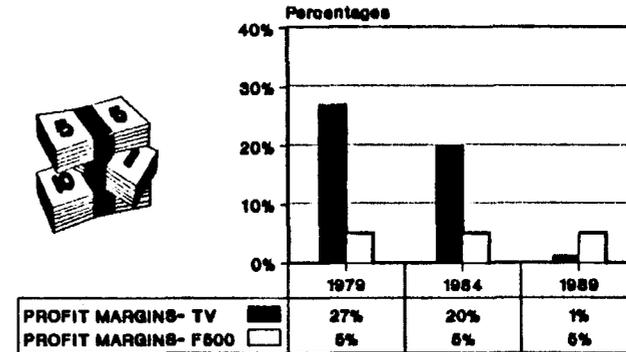
ALL INDEPENDENT STATIONS REVENUES, PROFITS AND EXPENSE



Data: NAB Television Financial Reports

B

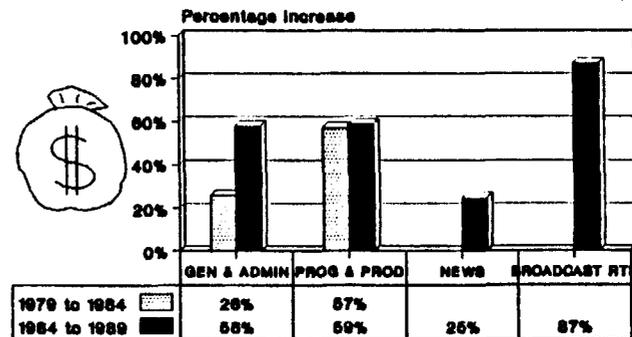
ALL INDEPENDENT STATION TV PROFIT MARGINS vs. FORTUNE 500 PROFIT MARGIN



Data: NAB Television Financial Report;
Statistical Abstract of the U.S.

C

ALL INDEPENDENT STATIONS: INCREASE IN SELECTED EXPENSES 1979 to '84 and 1984 to '89

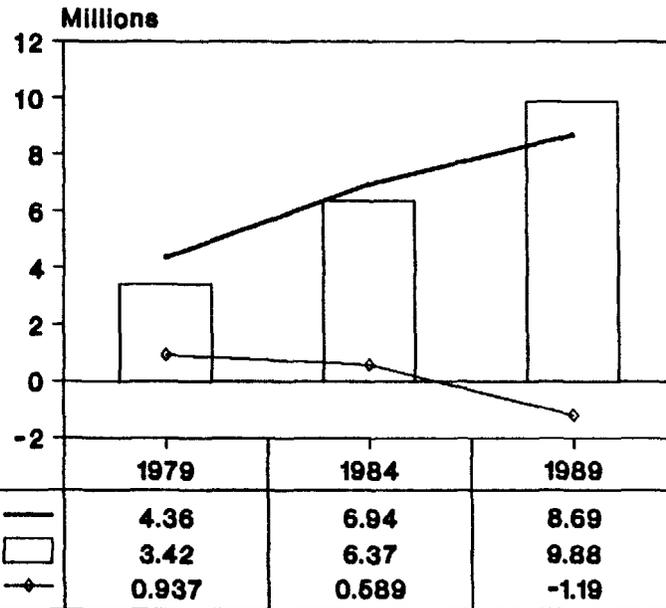
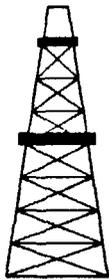


Data: NAB Television Financial Reports.
Broadcast Rights are a subclassification
of Program and Production.

EXHIBIT IV.

A

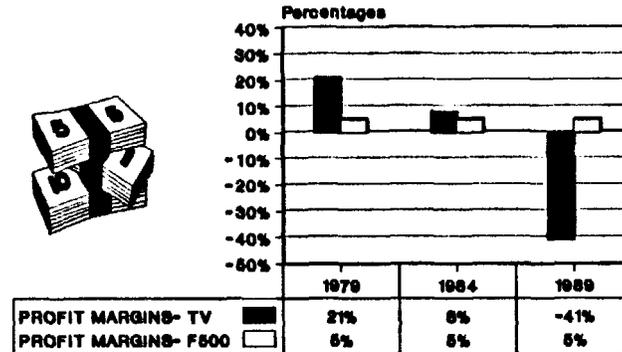
**ALL UHF INDEPENDENTS:
REVENUES, PROFITS AND EXPENSE**



Data: NAB Television Financial Reports

B

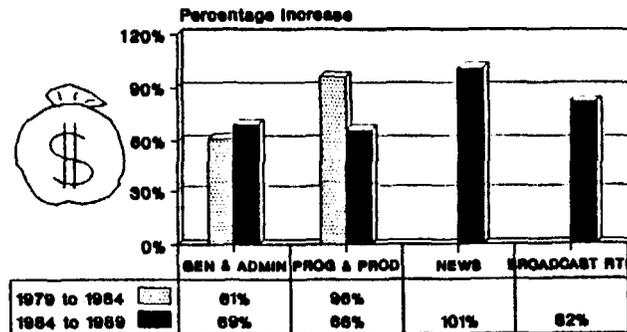
**ALL UHF INDEPENDENTS:
TV PROFIT MARGINS vs.
FORTUNE 500 PROFIT MARGIN**



Data: NAB Television Financial Report;
Statistical Abstract of the U.S.

C

**ALL UHF INDEPENDENTS:
INCREASE IN SELECTED EXPENSES
1979 to '84 and 1984 to '89**

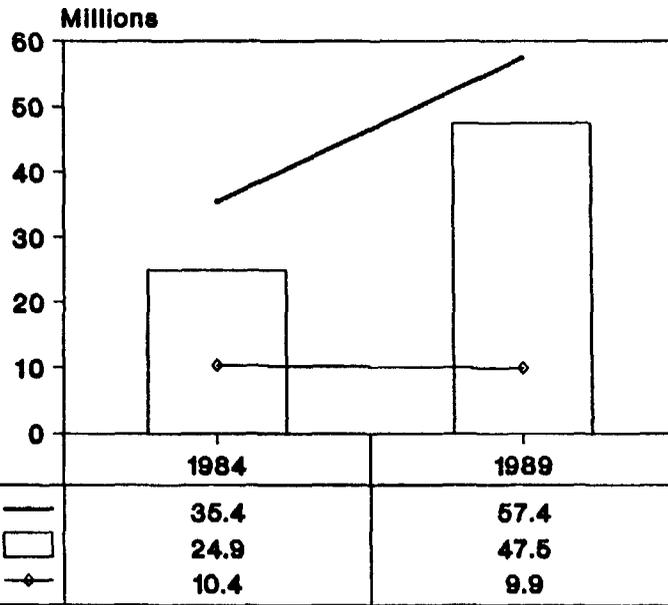
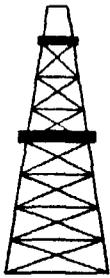


Data: NAB Television Financial Reports.
Broadcast Rights are a subclassification
of Program and Production.

EXHIBIT V.

A

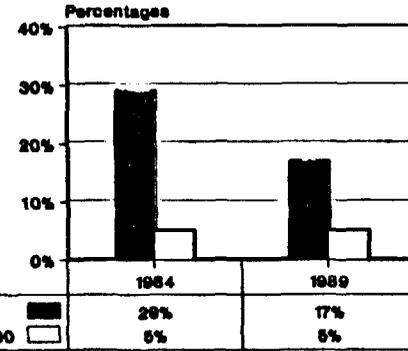
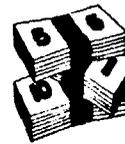
**ALL VHF INDEPENDENTS:
REVENUES, PROFITS AND EXPENSE**



Data: NAB Television Financial Reports

B

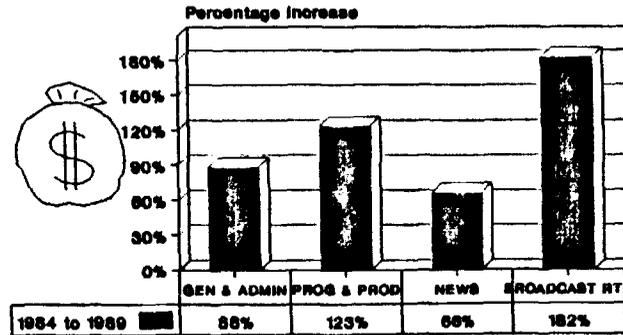
**ALL VHF INDEPENDENTS:
TV PROFIT MARGINS vs.
FORTUNE 500 PROFIT MARGIN**



Data: NAB Television Financial Report
Statistical Abstract of the U.S.

C

**ALL VHF INDEPENDENTS:
INCREASE IN SELECTED EXPENSES
1984 - 1989**

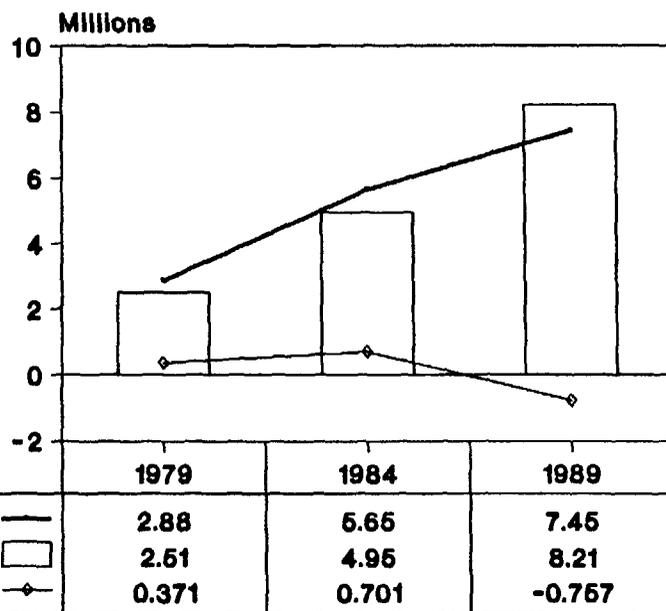
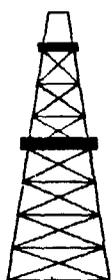


Data: NAB Television Financial Reports.
Broadcast Rights are a subclassification
of Production and Programming.

EXHIBIT VI.

A

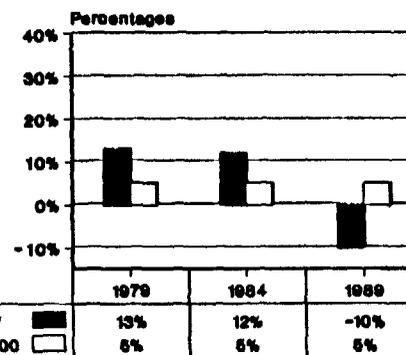
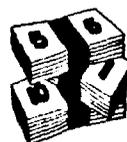
ALL UHF STATIONS: REVENUES, PROFITS AND EXPENSE



Data: NAB Television Financial Reports

B

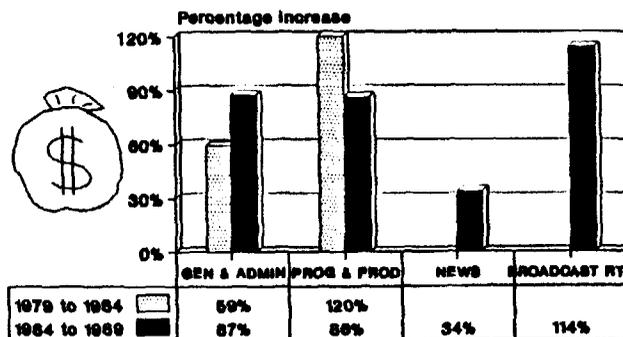
ALL UHF STATIONS: TV PROFIT MARGINS vs. FORTUNE 500 PROFIT MARGIN



Data: NAB Television Financial Report;
Statistical Abstract of the U.S.

C

ALL UHF STATIONS: INCREASE IN SELECTED EXPENSES 1979 to '84 and 1984 to '89

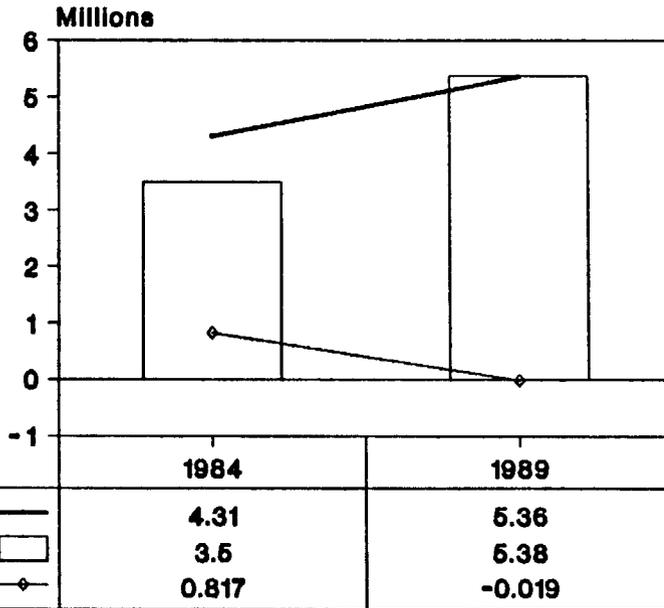
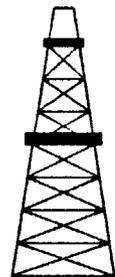


Data: NAB Television Financial Reports.
Broadcast Rights are a subclassification
of Program and Production.

EXHIBIT VII.

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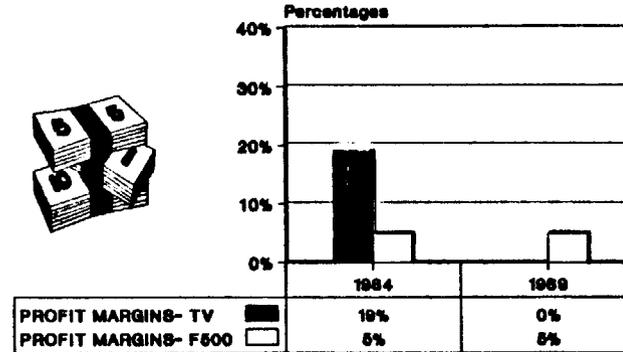
**ALL UHF AFFILIATES:
REVENUES, PROFITS AND EXPENSE**



Data: NAB Television Financial Reports

B

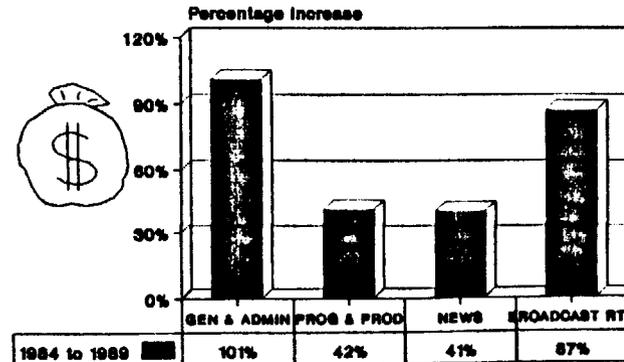
**UHF AFFILIATE STATIONS:
TV PROFIT MARGINS vs.
FORTUNE 500 PROFIT MARGIN**



Data: NAB Television Financial Reports;
Statistical Abstract of the U.S.

C

**ALL UHF AFFILIATES:
INCREASE IN SELECTED EXPENSES
1984 - 1989**



Data: NAB Television Financial Reports

EXHIBIT VIII

ALL-DAY Viewing Shares, Cable And Non-Cable Households

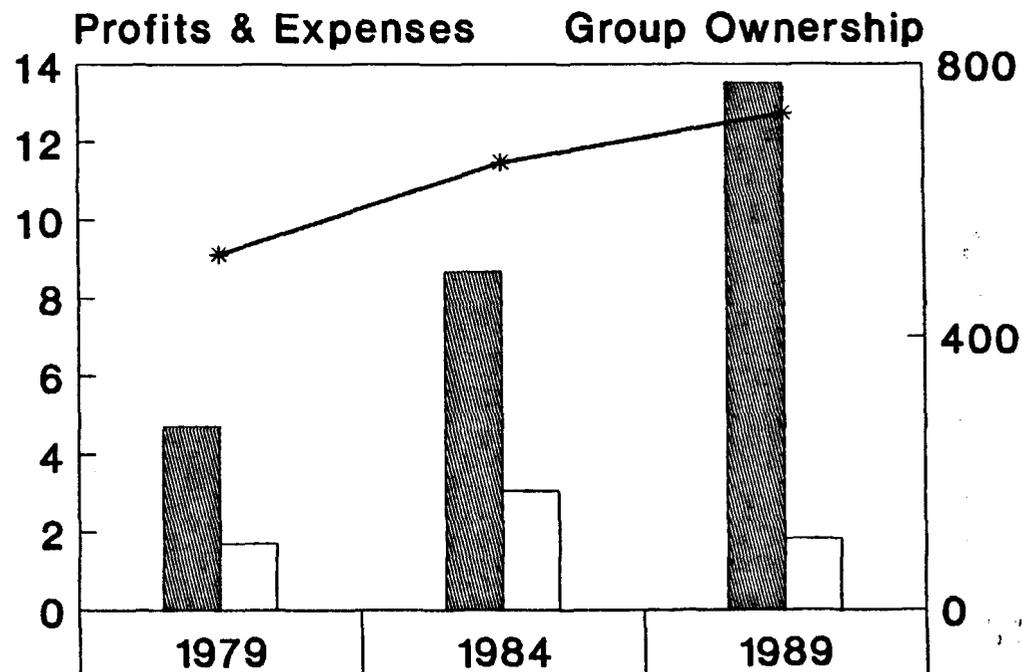
	ALL Households		Cable Households		Pay Cable Households		Non-Cable Households	
	1984/85	1989/90	1984/85	1989/90	1984/85	1989/90	1984/85	1989/90
Network Affiliates	66	55	56	46	51	43	78	70
Independents	21	20	21	16	20	16	22	24
Local	12	14	8	10	8	10	18	22
Distant	3	2	4	2	3	2		1
Superstations	6	4	9	4	9	4	4	1
Public	3	3	3	3	3	2	4	5
Cable	14	27	26	42	33	48	--	--
Basic	8	21	15	32	15	30	--	--
Pay	6	6	11	10	18	18	--	--
Total	101	100	100	100	100	100	100	99

SOURCE: Cabletelevision Advertising Bureau, Cable TV Facts, 1991 ed., P.6; 1986 ed., P.6; both cite the Nielsen Monthly Cable Status Report.

*** Distant signals and superstations are received by satellite in some non-cable households.

EXHIBIT IX.

GROWTH OF GROUP OWNERSHIP COMPARED TO TV PROFITS AND EXPENSE 1979 - 1984 - 1989



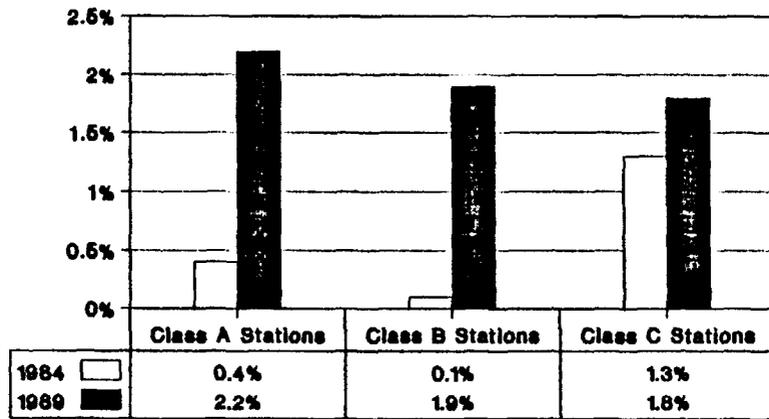
EXPENSES (millions)		4.721	8.665	13.525
PROFITS (millions)		1.706	3.064	1.833
GROUP OWNERSHIP		520	655	728

Data: NAB Financial Reports; FCC Annual Reports; Broadcast Yearbook. Profit and expense figures are industry averages.

EXHIBIT X.

A

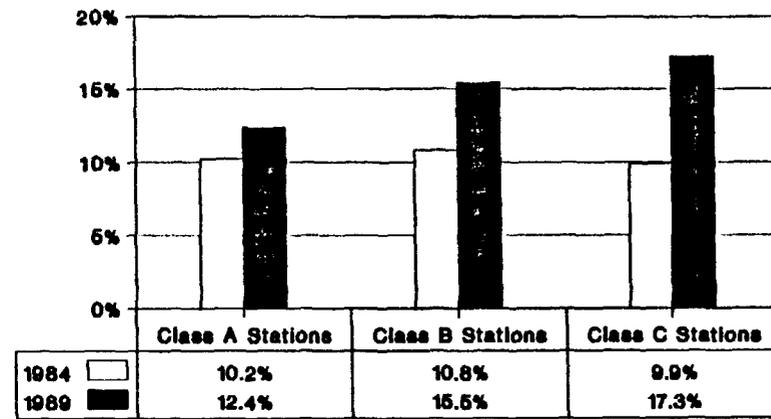
**COMPARISON OF
LOCAL PUBLIC AFFAIRS BY
OWNERSHIP CHARACTERISTICS**



A = individually owned in '84 and '89.
 B = ownership smaller in '89 than in '84
 C = ownership larger in '89 than in '84.

B

**COMPARISON OF
NATIONAL PUBLIC AFFAIRS BY
OWNERSHIP CHARACTERISTICS**

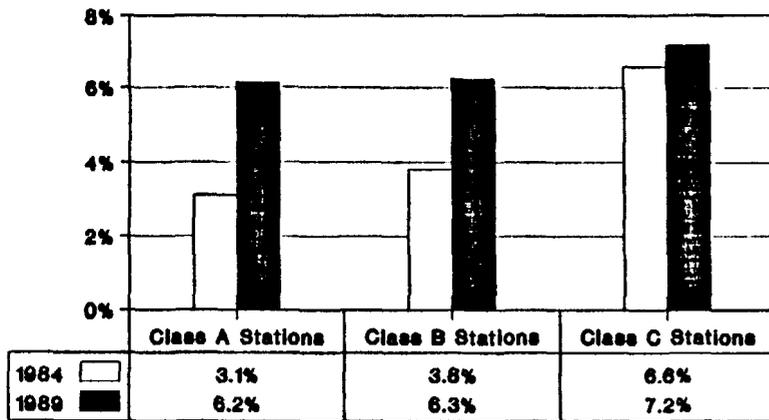


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 B = ownership smaller in '89 than in '84
 C = ownership larger in '89 than in '84.

EXHIBIT XI.

A

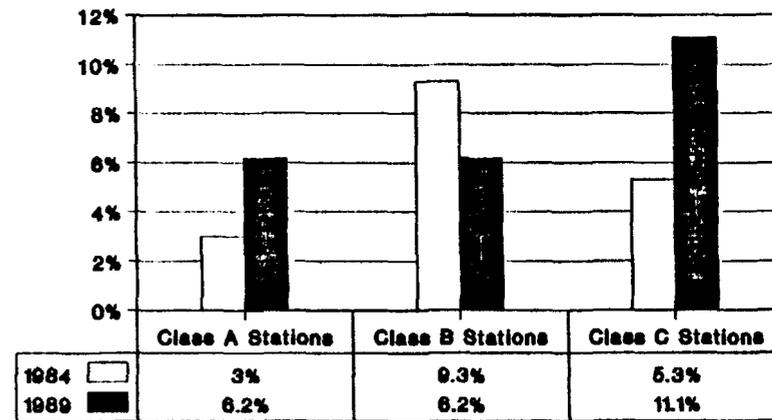
COMPARISON OF
LOCAL NEWS BY
OWNERSHIP CHARACTERISTICS



A = individually owned in '84 and '89.
 B = ownership smaller in '89 than in '84
 C = ownership larger in '89 than in '84.

B

COMPARISON OF
NATIONAL NEWS BY
OWNERSHIP CHARACTERISTICS



A = individually owned in '84 and '89.
 B = ownership smaller in '89 than in '84
 C = ownership larger in '89 than in '84.

EXHIBIT XII.

GROUP OWNERS WITH 20 OR MORE NEWSPAPERS/MAGAZINES

NAME	# AM	# FM	# TV	# NEWS/ MAG.	CABLE TV	SYNDICATE
Capital Cities/ ABC Inc.	5	4	7	226		
Cogeco Inc.	3	4	4	35		
Cox Enterprises	6	7	6	25		
Crain Broadcasting	0	1	0	22		
Donrey Media Group	0	0	1	131		
Freedom Newspaper	0	0	5	32		
Gannett Co.	7	9	9	70		
Harte-Hanks Communication	0	0	1	27		
The Hearst Corp.	4	2	6	48	yes	
Landmark Communication	1	1	1	77+	yes	
Lee Enterprises Inc.	0	0	7	22		
Morris Newspaper Corp.	0	0	4	25		
Multimedia Inc	1	2	4	21	yes	yes
The New York Times	1	1	5	43		
Park Communications	10	9	6	115	yes	yes
Price Communications Corp.	3	3	3	24		
Scripps Howard	2	3	9	27		
Stauffer Communications	3	2	8	31		
Times Mirror Co. Corp.	0	0	4	21		
<hr/>						
TOTALS	46	48	96	1022		

APPENDIX

**THE PUBLIC COST OF TV DEREGULATION:
A STUDY OF THE DECLINE OF
INFORMATIONAL PROGRAMMING ON COMMERCIAL TV**

prepared by the
Office of Communication of the United Church of Christ

in support of testimony before the
Subcommittee on Telecommunications and Finance,
U.S. House of Representatives,
May 15, 1991

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June 17, 1991

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