On the other hand, we believe that the broadcasting industry is fulfilling its responsibilities in informing the public on important social and policy issues and we have reliable evidence to prove it. In a recent survey of the U.S. public, the well-known Roper Organization found that 81% said they get most of their news from television. Even before the Gulf War started that percentage was at its all time high of 69%. Furthermore, 58% of the public said that television was the most believable source of news, nearly triple the level of its nearest competitor, newspapers.

Still more evidence, already submitted to the Subcommittee, shows broadcasters fulfilling their responsibilities through their public service activities. In a survey of radio and television stations, reported in "In the Public Interest: A Survey of Broadcasters' Public service Activities," NAB provided evidence on the level of activity in this area. For example, over 90% of radio and television stations reported that they aired public service announcements before election day to encourage people to vote. Counting all their PSAs, the average radio station donated $128,319 worth of free air time in 1990, and the average television station donated $262,501 worth. Interestingly, the UCC study does *not* include any acknowledgement of this time provided by broadcasters in the two later years of the study. Yet, it was counted for the first two years, prior to deregulation.

In conclusion, we are proud of the broadcasting's industry commitment to serving the American public. We take seriously any criticism of that service and carefully examine any "proof" that shows otherwise. Such is the case with the UCC study. Upon examination of this evidence, NAB sees serious methodological and reporting flaws that make this study unreliable.

Sincerely,

Appendix B

TESTIMONY OF

MR. EDWARD O. FRITTS
PRESIDENT & CEO
NATIONAL ASSOCIATION OF BROADCASTERS
WASHINGTON, DC

BEFORE

THE SENATE COMMUNICATIONS SUBCOMMITTEE

ON

BROADCASTERS' PUBLIC INTEREST OBLIGATIONS

JUNE 20, 1991

Thank you, Mr. Chairman. The National Association of Broadcasters (NAB) appreciates the opportunity to appear here today to discuss the public interest standard of the 1934 Communications Act.

Let us begin by stating unequivocally that broadcasters' record of achievement in the area of serving the public interest is outstanding. We know of few other industries that have done more to help people in their local communities as have America's broadcasters. Since the passage of the Communications Act of 1934, broadcasters have been licensed by the Federal Communications Commission (FCC) to serve the "public interest, convenience or necessity."[1] This requirement, while consciously left broad by Congress, has been the cornerstone of American broadcasting for nearly 60 years, has guided both the FCC and the Congress in their actions affecting our industry, and has well served the citizens of the United States.

From the beginning, it was recognized that broadcasting should always be locally-oriented. Since stations are licensed to serve their local and different communities, broadcasters have been vested with editorial discretion to determine for themselves what is the best way to accomplish that task. The FCC has recognized that Abilene, Texas and New York, New York are unique places with unique problems. The Commission has traditionally allowed broadcasters in those areas to shape their public service work based on their own understanding of the local audience. It is a system which has flourished and which still today provides the greatest opportunity to maximize the positive benefit which broadcasters give to the people in their service area.

In enforcing the public interest obligations of broadcasters, the FCC has generally been sensitive to the First Amendment rights of licensees. In acknowledging the broad editorial discretion granted to broadcasters to meet the needs and interests of local communities, the FCC has avoided many of the content-specific judgments which could give rise to First Amendment conflicts.

In its current form, operating in the public interest is the yardstick by which the FCC looks at the fitness of a prospective broadcast licensee. It also is the test which is applied at license renewal time to evaluate the work undertaken by the licensee during his or her tenure. Broadcasters understand that when they are reviewed by the FCC, they need to answer the question: "How have I served the public interest?"

But in fact, Mr. Chairman, it is a question which every broadcaster we know of is proud to answer. Broadcasters have not feared the public service obligations which they carry as licensees; indeed, they have responded robustly to this charge. As a result, the American public has reaped enormous benefits from what most of us agree is the greatest system of free broadcasting anywhere in the world.

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[1]Public Law 73-416, Section 303.

"Serving the public interest" is good communications policy. But broadcasters know that it is also good business. In a competitive industry like ours, where TV and radio stations battle each other for audience share and attention, as well as competitors such as cable, VCRs, motion pictures, newspapers and other media, providing public service to local communities is a necessity if a station is ultimately to survive. Broadcasters have become interwoven into the fabric of American life and serve their communities in numerous ways, both in their jobs and as good local citizens. But it is in their capacities as licensees that we will discuss this issue today.

Broadcasters and Public Service -- A Record of Distinction

Mr. Chairman, today there are over 10,600 commercial and non-commercial radio stations in the United States and nearly 1,500 commercial and non-commercial television stations.[2] But in assessing our industry's achievement in the public service arena, we want to focus on some of the basic ways broadcasters serve the public interest, convenience and necessity.

Local News

Perhaps no service which broadcasters provide is more important than local news reporting. For television in particular, news is often the biggest portion of the locally-produced programming which stations provide.

American democracy is built on the free flow of information among people and between government and the people. Broadcast news is an important part of that information flow, and has become increasingly relied upon by more and more people over the past several decades.

Last month, results from a Roper Poll conducted for NAB and the Network Television Association (NTA) were released. Those results dramatically indicate the strength of television coverage which broadcasters strive to provide each and every day.

For example, the survey showed more people rely on television for information about candidates than they do newspapers. This is particularly true for U.S. House races, where the edge for TV over print was 47 percent to 34 percent. In addition, 81 percent of those surveyed relied primarily on television coverage of the Persian Gulf war, the highest rate ever during the 32-year history of this survey. And, as for quality of reporting, 58 percent felt television news coverage was the most credible source of news, compared to only 20 percent for newspapers.[3]

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[2]NAB statistics as of April 27, 1991.

[3]"America's Watching: Public Attitudes Toward Television," Roper Poll, May 1, 1991.

The American reliance on broadcast news during the recent Persian Gulf war was truly staggering. We doubt if there are very many Americans who did not spend much of their time in January and February sitting by their radios and televisions, listening and watching events unfold half a world away. To our credit, America's broadcasters responded in an outstanding manner.

Each of the major television and radio networks expended a great deal of money and moved vast numbers of personnel to the Gulf to provide live coverage from the scene. Dozens of local stations sent reporters to the Middle East to cover local angles of this massive story. When the war first began, it was difficult to find a broadcast station that was not providing round-the-clock, continuous coverage of the war, or at least devoting significant amounts of time and news coverage to it.

The cost of this coverage was staggering. The three major broadcast TV networks estimated their costs at well over $1.5 million each per week, at a time when the general recession in the economy had already battered the advertising market and reduced revenues. In addition, revenue was lost when networks and stations provided round-the-clock coverage and carried no advertising. Local stations also spent large amounts of money to provide the coverage which the public expects and to assist families of servicemen and women here in the States. This focus on expense is not a complaint, but rather an indication of the dedication with which broadcasters report the news.

How do the American people respond to this massive effort? In a recent poll by Times Mirror, 89 percent of those surveyed look upon their local TV news "very favorably" or "mostly favorably." That percentage is higher than for all other media except network TV news.[4]

Radio news has maintained its importance today as well. In 1989, NAB commissioned The Research Group to conduct a national survey of radio listeners. The top three reasons given by listeners for choosing AM radio were all news-related: frequent weather reports and forecasts, frequent news updates, and a local news emphasis. All three of these reasons were given by 50 percent or more of radio listeners surveyed. An earlier study conducted by Statistical Research, Inc. for NBC showed 85 percent of those surveyed felt "local news reports" were an important factor in selecting a radio station.[5] And, as evidenced by the 1989 disasters in South Carolina (Hurricane Hugo) and California (Loma Prieta earthquake), radio can be a lifesaver in reaching and informing people during times of emergency as well.

In our most current data on radio news programming, an NAB Radio Programming Study shows that AM stations carry eight minutes of news and information per average

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[4]"The People, the Press and the War in the Gulf: Part II," Times Mirror Center for The People and The Press, March 25, 1991 at 22.

[5]Radio News Study, Statistical Research, Inc. for NBC, Inc., 1983 at 13.

broadcast hour, plus two minutes of public affairs. For FM stations, news and information makes up four minutes and public affairs one minute of the average broadcast hour.[6]

TV and radio news have been serving Americans for generations. Covering everything from elections to disasters to education, broadcast news has helped Americans understand the world around them. Nationally, it was there in Vietnam along the front lines. It followed American astronauts to the Moon and back. It witnessed the assassination of President Kennedy, the horrors of Tiananmen Square, and the rise and fall of the Berlin Wall. Locally, broadcast news reporters have uncovered major scandals, documented the spread of AIDS, shed new light on problems facing our local schools, and brought home to American families the tragedy of drug and alcohol abuse.

In spite of higher costs and reduced revenues, stations are maintaining their outstanding record of providing news and information to a hungry public. To maintain their commitment to news, stations have hired additional news employees. A recent survey by Dr. Vernon Stone of the University of Missouri found that the number of newsroom employees increased by nearly 20 percent at independent TV stations during 1990. Network TV affiliates held steady in total employment last year, while radio stations added 1,700 full-time employees during that same year.[7]

News is often the major factor which shapes the way people feel about a broadcast station. Given that basic truth, news will continue to be the number-one local programming service provided by most TV and many radio stations from coast to coast.

Public Affairs

Another facet of broadcasters' public service is the area known as public affairs. Weekly or daily interview programs on many stations provide major forums for discussions of local and national issues, by allowing greater time and examination of specific community issues than a news show or segment permits.

In our public affairs research, we found that stations particularly were responsive to election-related topics. NAB recently commissioned a study of public service by Market Research Institute, Inc. This survey, entitled "In the Public Interest: A Survey of Broadcasters' Public Service Activities,"[8] determined that for the 1990 elections, nearly half of the radio

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[6]Abel, John D., Ducey, Richard V. and Fratrik, Mark R., RadiOutlook: Forces Shaping the Radio Industry, April, 1988 at 90.

[7]Stone, Dr. Vernon A., "Staff Gains Offset Cutbacks," RTNDA Communicator, March 1991 at 24.

[8]Included in attachment titled "Broadcasting in the Public Interest: What the Research Shows."

stations and over half of the television stations we surveyed offered to sponsor candidate forums, including debates among candidates. Of those offers to sponsor debates or forums, over 80 percent were accepted. In addition, 16 percent of radio and 22 percent of TV stations told us they aired debates or forums sponsored by other community groups. And beyond that coverage, fully half of all radio and over half of all TV stations aired local public affairs programs dealing with the 1990 elections issues and/or races. In addition, over 90 percent of the radio and TV stations surveyed said they aired public service announcements before election day urging people to vote.

While there are countless issues of local concern which broadcasters address every day, we specifically identified five major areas of interest and asked stations to report on their activities. Those five areas of interest included the issues of:

AIDS
Drunk Driving/Alcohol Abuse
Drug Use/Abuse
Hunger/Poverty/Homelessness
Local Fund Drives

Our results showed that in the month previous to the survey (which was taken in January and February of 1991), nearly half of the radio stations surveyed had done public affairs programs on the issue of alcohol abuse. Nearly 70 percent had done programs to assist local communities in raising funds for local activities and causes. Over 40 percent had looked at the drug issue, while nearly 30 percent had focused some public affairs programming on homeless/hunger issues. For television, the figures were nearly identical -- 74.9 percent did programs for local fund drives, 43.9 percent aired programs about drug use and abuse, 40 percent had looked at alcohol abuse, and 37.3 percent had focused on homeless and hunger concerns.

In short, American broadcasters are responding to the issues which face our nation and are providing valuable public service in providing information and discussion about those issues through public affairs programming.

Public Service Campaigns

Any discussion of broadcasters' service to the public must include the outstanding work we do on public service campaigns.

All of us have seen and heard the powerful messages these public service announcements (PSAs)[9] can convey. The "fried egg" campaign used to describe the dangers

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[9]Public service announcements are usually 30-second non-commercial messages which are sponsored and produced by public and community interest groups. Stations often help to

of drug abuse hits that message hard for both young and old alike. PSAs warning people about AIDS, drinking and driving, failing to use seat belts in automobiles, and the dangers of smoking are common to anyone who uses radio and TV on a regular basis.

One common misconception about PSAs has also been debunked by our research. In the past, some individuals have accused broadcasters of running PSAs only during the "dark of night," when audiences are low. Based on our survey of both radio and TV stations, we found that over 30 percent of PSAs air between 6 am and noon, 22-29 percent between noon and 6 pm, and another 20-23 percent between 6 pm and midnight. Only 21 percent of TV PSAs air overnight and only 13 percent of radio PSAs are aired during early morning hours. This survey makes it clear that broadcasters provide PSA coverage in all dayparts in order to reach all audiences.

But what we find even more exciting is that stations are not content simply to run PSAs and believe that those spots alone will solve problems. Radio and TV broadcasters make such campaigns an important part of their community outreach activities or news segments, which helps broaden the impact such projects have on local communities. Stations take the lead in tailoring a campaign to their local communities by expanding the activities to include such things as out-of-station events, use of local personalities and involvement with other organizations in the community.

The list of such projects is endless, and many are detailed in the attached report entitled "Broadcasting in the Public Interest: America Thanks Broadcasters." In preparation for these hearings, NAB sent its members a brief letter, asking them to send us copies of letters which they had in their public file. We asked that the letter be chosen to show the diversity of activities which stations undertake at the local level. This report includes details from the more than 22,000 letters which NAB compiled from stations' public files. This is a representative sample of letters in stations' public files -- gratefully acknowledging some of the activities which broadcasters are doing in communities from coast to coast.

One example many of you may have seen was done by WRC-TV here in Washington, DC. In June of 1986, the station joined forces with the March of Dimes and Blue Cross/Blue Shield to create "Beautiful Babies -- Right From The Start." Not only did the station do PSAs, it also produced a booklet with important prenatal information for pregnant women. The station also did two hour-long documentaries looking at the issue of how important early prenatal care is to the health of all babies. After the first 18 months of the program, an evaluation indicated that prenatal clinic visits by pregnant women were up anywhere from 11 to 22 percent throughout the area. This kind of effort (which continues nearly five years later) is not unusual among broadcasters.

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produce these messages and air them free of charge to better serve the interests of their local communities.

Other stations have conducted major efforts on issues like education, drug abuse, and underage drinking. Stations have joined with groups like Mothers Against Drunk Driving (MADD) to sponsor "Operation Prom/Graduation," where alcohol-free proms and parties for teens are hosted by station personalities. Other stations send local personalities into the schools to discuss drug abuse and to urge students not to become involved in drugs. Special efforts also focus on senior citizens' concerns, and foreign language stations seek to provide much of the same information in Spanish and other languages to reach as broad an audience as possible.

During the Persian Gulf conflict, hundreds of stations here at home were doing their part to help in the war effort. Here are just a few examples:

- WKLX-FM in Rochester, NY set up an office to help loved ones keep up with the war, including a children's area with toys. News information and electronic mail to the Gulf were made available, and the office acted as a clearinghouse for requests from needy families.[10]

- WXTV-TV, Sacramento, CA, WJLA-TV, Washington, DC and KUSA-TV, Denver, CO all set up Persian Gulf Crisis support lines for counseling and general information.[11]

- WGMS-FM in Washington, DC sent its morning personality to the Gulf to host two live concerts by three members of the National Symphony Orchestra during the Christmas season.[12]

- WMYI-FM in Greenville, SC sponsored a two-hour "Spirit of America" concert to honor the troops, with all profits going to the American Red Cross "Operation Homefront," which provides food and assistance to needy military families.[13]

In addition, many stations set up special hot-line numbers to help families keep track of relatives who were stationed overseas. Those services also reached out to provide comfort and support to those who were concerned for loved ones serving in the military. Special efforts were made to reach school-age children for whom the conflict was their first experience in a wartime situation.

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[10]"WKLX Lets Military Families Use Station Equipment," Inside Radio, February 15, 1991 at 8.

[11]"TV's 'Home Front" Coverage Continues," TV Today, February 18, 1991 at 4.

[12]"Stations Send Troops Home for Holidays," Broadcasting, December 10, 1990 at 98.

[13]"Patriotic Missiles," Radio and Records, May 3, 1991 at 53.

The New Hampshire Association of Broadcasters went even further, sponsoring a telethon involving every TV station in that state plus more than 30 radio stations. The event raised $425,000 to be used for scholarships for troops and their families, economic aid and statewide welcome-home celebrations. Meanwhile, the New Mexico Broadcasters Association held a major rally last month to welcome home the troops from their state and thank them for their efforts on behalf of peace and freedom.

No one made broadcasters do any of these things, yet both radio and TV stations alike responded to the public need for information and sought to fight off the sense of isolation when a family member went overseas. If there is anything good that comes from war, maybe it is the strengthening of a sense of community. Broadcasters have worked in that direction.

Local Community Activities

In looking at the local activities which stations undertake, we were amazed to see how much local fund-raising is done with the help of local broadcasters.

Stations help raise millions of dollars each year for local charities. All of us are familiar with telethons, such as those for muscular dystrophy and Easter Seals. But broadcasters have also helped match organ donors with needy patients, supported numerous school and community group activities, and helped publicize countless local community events which raise money for local groups and activities. A glance at two of our attachments, entitled "Broadcasting in the Public Interest: Community Appreciation" and "Broadcasting in the Public Interest: America Thanks Broadcasters," shows hundreds of examples of fund-raising which stations do as a regular part of their local community service.

From organized local events calendars to disc jockey chatter, from health information to sponsorship of charity fund-raising events, radio and TV stations have made the difference in the lives of nearly every American. Support for food banks, homeless relief, disaster assistance and more also have been coordinated and contributed to by active local broadcasters.

Emergency Broadcasting

In 1989, two major disasters occurred within a matter of months. First, Hurricane Hugo roared ashore along the South Carolina coast, causing billions of dollars in damage and threatening the lives of hundreds of thousands of local residents. Later, the Loma Prieta earthquake in northern California struck, causing dozens of deaths and rendering the entire San Francisco area without many basic public services.

Once again, as in previous disasters, local broadcasters dropped everything to provide round-the-clock news coverage of the crisis. They helped local authorities provide the public with important information and helped displaced people find assistance. They helped raise

funds to aid those affected by the disasters. And in the case of the hurricane, broadcasters were credited with warning people about the impending storm and saving untold lives.

But broadcasters have always been in the forefront of helping the public cope with weather and other natural disasters. The Emergency Broadcast System, which was first established by the FCC in December, 1963, to replace the former CONELRAD system, provides the President with an immediate link to the American people during times of war or other national crisis. Virtually all stations participate in the EBS system --- stations that can be activated to assist local communities during either national or regional disasters or other emergencies.

From its beginnings as a national war alert system, EBS now is used on a day-to-day basis for such emergencies as tornadoes, floods, hurricanes, blizzards, earthquakes, power failures, industrial or nuclear accidents, hazardous or toxic spills, and civil disorders. In fact, the FCC recently reported that EBS was activated a record 1,410 times during 1990 -- bringing the total number of EBS activations since 1976 to nearly 12,000.[14]

It will never be known how many lives the EBS system has saved during natural and manmade disasters. But just ask the mayor of Charleston, South Carolina why only one person in his city died during Hurricane Hugo in 1989. He will tell you it was the swift warnings which broadcasters provided to the residents of Charleston and surrounding areas. Once the storm passed, all the stations in Charleston that could stayed on the air continuously, often without commercial interruption, to provide relief information and complete news and weather coverage. The Charleston example is just one case study of broadcasters voluntarily joining the government to help alert the public to danger and disaster.

As for the Loma Prieta earthquake, research by Stanford University reveals the critical role played by radio and television in informing and reassuring the worried residents whose lives were stricken and disrupted.[15] Nearly 85 percent of the public said they listened to at least three hours of radio by the end of the first night. Over 69 percent said they watched at least two hours of television during that time.

Foreign Language Programming

As America continues to attract many races, creeds and nationalities, broadcasters continue to respond to the needs of local communities for programming in a number of languages.

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[14]FCC press release, March 5, 1991.

[15]Lewenstein, Marion and Newhagen, John E., "Perception of Fear and Media Use During the Emergency Period Following the 1989 Loma Prieta Earthquake in the San Francisco Bay Area," Stanford University, 1990.

Whether it is Native Americans in the Southwest, Asian Americans in California, Czech descendants in Cleveland, or Portuguese descendants in southeast Massachusetts, broadcasters provide specific programming to meet the special needs of ethnic and social groups.

By far, the largest foreign language programming is Spanish language. According to Broadcasting Yearbook,[16] over 370 radio stations provided several hours a week of Spanish language programs. Two hundred and sixty-one radio stations provide a Spanish format to listeners from coast to coast.[17]

For television, 97 U.S. commercial stations provide programs each week in a number of foreign languages, including a number of stations which provide over 100 hours per week of such programming.[18]

These programs -- many of which are locally produced -- provide important outlets for new Americans unfamiliar with English, and help maintain a cultural link for others with ethnic backgrounds. Here again, there is no mandate that broadcasters provide foreign language programs -- we do it because it serves the audience whom we are licensed to serve.

Closed Captioning

Another facet of television broadcasting in the public interest helps those 11 to 13 million Americans with hearing difficulties --- closed captioning.

A joint effort between the U.S. Department of HEW, the Corporation for Public Broadcasting, PBS and ABC, helped create the National Captioning Institute in 1980, following the FCC's adoption of technical rules to allow captioning. In its early days, only a few network shows were captioned. But by 1990, NCI was captioning over 400 hours per week on all major networks, as well as cable and syndicated programs.[19] In addition, numerous local stations are now arranging for closed-captioning of their news as the technology has emerged. While only 12 stations had local captioning capability in 1988, fully 113 stations now provide closed captioning of their local newscasts to aid hearing-impaired viewers.[20]

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[16]Broadcasting Yearbook, 1990 at F-109.

[17]Id at F-95.

[18]TV and Cable Factbook No. 59 at A-1366.

[19]The Hollywood Reporter 1990 National Captioning Institute Salute at S-4.

[20]May, 1991 figures from National Captioning Institute, Falls Church, VA.

Thanks to new improvements in newsroom technology, closed captioning is growing rapidly around the nation, as broadcasters find more ways to serve those in their listening and viewing audience.

Children's Programming

Even before Congress passed the Children's Television Act last year, meeting the needs of the child audience with special programs is another way in which broadcasters have demonstrated their service to the public.

Numerous stations produce locally-originated programs and public service campaigns designed to teach children as well as to entertain them. In San Francisco, KRON-TV airs a show called "Home Turf" aimed at kids ages 11-17. The program features stories that show young people contributing their talents to society, in order to help promote self-esteem and pride among the city's diverse communities. Meanwhile, WTVM-TV in Columbus, Georgia airs a weekly show called "Head to Head: High School Challenge." This program pits 26 area high schools in a quiz show format in order to encourage academic achievement. And in Boston, WCVB-TV offers "A Likely Story," which incorporates animation with original stories written and illustrated by Boston area children.

Stations also take direct aim at the drug issue. WLS-TV in Chicago has produced a series of programs over the past several years looking at the dangers of drugs. The station has also focused on young children aged 4-8 with a program designed to teach them how to deal with strangers, called "Be A Safe Kid." The station also has done a series of 20 shows over the past three years dealing with the subject of education, aimed at encouraging parents and students to learn and to stay in school.

In Indianapolis, WRTV-TV produces a weekly show called "At the Zoo." Filmed each week at the Indianapolis Zoo, the program is aimed at children aged 2-16 and teaches them about animals and preserving wildlife. Not coincidentally, the program is the highest-rated Saturday morning program on the station's schedule.

Public service is not overlooked in children's programming, either. WHDH-TV in Boston, working with Amnesty International, did a program called "The Ready to Go! Kids Campaign for Human Rights," which helped put pressure on the Yugoslavian government to release an 18-year-old girl who was wrongly imprisoned.

Mr. Chairman, these are just some of the dozens and dozens of examples of specialized children's programming which stations are proud to produce and to air. Children's programming remains an important area of broadcasters' public service obligations.

Home Shopping Stations and Must Carry

Today's hearing also is intended to address an amendment proposed by Senator John Breaux (D-LA), which deals with home shopping format broadcast stations. The effect of this amendment would be to deny home shopping format television stations the must carry protections incorporated in S. 12, the Cable Consumer Protection Act of 1991. NAB strongly opposes this amendment.

First, it would establish a content-based test for must carry protections, which would jeopardize the entire must carry scheme in the courts.[21]

In previous must carry decisions, the courts have held that these regulations impact upon the First Amendment rights of cable operators. Therefore, must carry regulations must balance the strong public interest in maintaining local television service with maintaining reasonable programming discretion for cable operators. In addition, must carry regulations must be as content-neutral as possible, to meet this balancing test.

The Breaux amendment, by denying must carry to stations "predominantly utilized for the transmission of sales presentations or program-length commercials," would condition the availability of a government-created benefit on content considerations. Because it will subject the entire must carry package to serious First Amendment challenges, it should be rejected.

The second major flaw of the Breaux amendment is that it imposes the wrong cure for the purported disease. The underlying concern of the amendment's proponents appears to be that the public interest is not served by home shopping format stations through their overall programming. Regardless of one's opinion of the value of home shopping format programming, however, the fact remains that these stations meet all of the public interest obligations currently set forth in the Communications Act and FCC regulations. As such, they should be entitled to exercise the same rights, including must carry protections, as other full power commercial television stations.

NAB believes that those with concerns about these underlying FCC policies that permit home shopping formats, then, should not target the corollary issue of what stations are eligible for must carry protection. Instead, they should focus on the general commercialization policies promulgated by the FCC and upheld by the courts, or even on the individual license renewal proceedings that each of these stations must undergo to retain their licenses.

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[21]An amendment added to the provisions of S. 12 by Senator Wendell Ford (D-KY) suffers from the same flaw. The Ford amendment would grant must carry protection to Low Power Television Stations that broadcast a "significant" amount of locally originated and produced programming. NAB strongly opposes this provision as well, and urges that it be stricken from S. 12.

S. 217, The Fairness in Broadcasting Act of 1991

S. 217, The Fairness in Broadcasting Act of 1991, also is a subject of today's hearing. This legislation would reinstate the so-called fairness doctrine, elements of which were repealed by the FCC in 1987. NAB opposes this bill. In practical terms, the fairness doctrine is unnecessary. It almost certainly is unconstitutional, as well.

Few people would disagree with the goal of the fairness doctrine -- to ensure that broadcasters address the most controversial issues of public importance to their communities, and in the course of doing so, provide a reasonable opportunity for the presentation of contrasting views on those issues. Whether this should be a matter of sound journalistic practice or be imposed on broadcasters through regulation or legislation, however, is itself a highly controversial issue.

Furthermore, the broadcasting industry and the public we serve have had nearly 4 years of experience operating without the principal elements of the fairness doctrine. If the fairness doctrine is so vital to the functioning of our democracy, where are the journalistic disasters that have befallen our nation in its absence? Instead, broadcasters are demonstrating on a daily basis that we, like our colleagues in the print media, exercise responsible editorial discretion in the dissemination of news and public interest programs. The federal government does not need to insert itself into broadcast newsrooms across this nation.

The fairness doctrine is an anachronism. It harkens back to a broadcasting era that is gone forever. In addition, it represents unnecessary and intrusive government regulation. Current law and regulation, plus the discipline of the marketplace, are more than sufficient to ensure that broadcasters fulfill our obligations to serve the public interest. NAB urges the Committee to reject S. 217.

Broadcasters' Competition, Regulation and The Future

This hearing addresses how broadcasters meet their public interest responsibilities, through regulations that are unique to our industry. A quick look at broadcasting's competitors, however, reveals the absence of any corresponding legal and regulatory obligation to the public. Cable, our number-one competitor, does provide specialized networks to serve certain niches of interest, but cable operators have no FCC public interest standard to meet, as do broadcasters. Newspapers and magazines, which have full First Amendment protections, similarly have no requirement to "serve" the public. And such media as satellite programming, home videos and wireless cable have a total absence of any regulatory scheme in which their service of the public interest is required or judged.

Yet, most of these same media compete with radio and television for advertising dollars, the sole source of revenue with which broadcasters support their service. They continue to erode the traditional audience for over-the-air programming, particularly

television. As they do, revenues for broadcasters grow less slowly or can even decline, thus forcing stations to bite the bullet if they want to maintain public service to their communities.

Yes, serving the public is part of our FCC mandate. But this service will not survive if stations do not remain profitable. With the growing pressure on over-the-air media from unregulated competitors, stations are finding it more and more difficult to generate the revenue to fund their public interest activities.

This is also why we oppose the concept of a "spectrum user fee," which arose during budget negotiations last Congress. Such a tax would simply have dried up the resources which stations must have to provide the quality service which the public and the FCC expect us to provide. Stations want to continue our proud tradition of public service, but they cannot do it if their economic viability is undermined by unfair competition or by targeted fees and taxes imposed on our industry.

Mr. Chairman, we are justifiably proud of the tradition of public service which broadcasters have provided for over 60 years. The data we have attached to this testimony is but a small demonstration of that service. We have informed and educated and helped millions of Americans in every city, town and hamlet across this nation. We willingly accept our obligations as licensees and will continue to provide this public service which our audiences have come to expect and to depend upon.

But in so doing, we must also raise the red flag to you and to your colleagues in Congress. If serving the public interest is to be preserved, broadcasters must have a framework which allows us to operate profitably in order to have the ability to provide these services. That framework must be built on a fair marketplace for our video and audio services, as well as regulations which make sense in the 1990's and beyond.

Our system of broadcasting is based on localism -- the tie that binds broadcaster and audience. But if national programming services or other competitors rob local broadcasters of the ability to provide local public service, that local connection will eventually be severed. The wonders of new technology -- such as HDTV and DAB -- hold out great promise to America. Yet, if such technologies are not made available to local radio and TV stations, then they will not be available to the public. If that happens, our future ability to provide local public service faces a serious threat.

Our business has changed since the 1934 Communications Act. No longer are there a few large radio stations serving America -- there are over 10,000 stations, almost as many as the dial can handle. Television now reaches virtually every nook and cranny of the nation, with viewers usually having numerous choices. Cable penetration is at 56 percent and rising, with 90.7 percent of American TV households passed by cable.[22] The average home in America

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[22]Kagan Media Index, April 22, 1991 at 5-6.

has two television sets[23] and 5.6 radios.[24] The regulations which arose 50 or 60 years ago in broadcasting's infancy -- regulations which may have made sense in those early days -- may no longer make sense in 1991. Ironically, some regulations may actually endanger the future ability of broadcasters to provide public service by putting us at a competitive disadvantage with other media.

We hope that the Committee will keep an open mind on these issues as the FCC initiates its review of broadcast regulation. We also hope that the subcommittee will work with us to help fight unfair fees and taxes, restrictions on advertising which would reduce revenue, or other schemes which diminish our ability to operate in the public interest as FCC licensees are obliged to do.

Mr. Chairman, we hope our presentation here today has enlightened you and the members of the subcommittee regarding the many ways broadcasters meet our public service obligations. We thank you for holding these hearings today and for allowing us to present just a small part of the public service story which broadcasters are writing every day across the nation. We look forward to answering your questions on this important topic.

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[23]A.C. Nielsen data, 1990.

[24]Special Arbitron National Study for RAB, Radio Facts for Advertisers, 1990 at 3.