

Radio's New Deal: The NRA and U.S. Broadcasting, 1933–1935

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This article describes the process of establishing the National Recovery Administration (NRA) codes in U.S. broadcasting beginning in January 1933. The National Association of Broadcasters (NAB) fortified its dominant position in shaping federal broadcast oversight during the first New Deal period (1933–1935). As it championed economic recovery efforts, the NAB largely favored President Roosevelt, a long-time supporter of radio broadcasting. Radio industry control through 1935 continued to tilt toward national broadcasters over lower-power station owners as it became clear that the medium could serve as the most efficient means for a U.S. political, economic, and/or defense mobilization.

This article describes the political process of implementing the National Recovery Administration (NRA) codes in U.S. broadcasting (1933–1935) until NRA legislation was overturned by the U.S. Supreme Court. Through this so-called first New Deal period, the National Association of Broadcasters (NAB) managed to retain its dominant position in shaping political policy in broadcasting affairs. National broadcasters and networks (as opposed to more smaller, localized ones) were largely championed in the provisions of the Radio Act of 1927 (Douglas, 1987; McChesney, 1993a, 1993b). The NAB, with most of its power stemming from national networks and radio manufacturers, continued to benefit from this legislation when the Communications Act of 1934 was passed during Roosevelt's first term.

With a largely cooperative, political lobbying policy favoring President Roosevelt, national corporate radio interests—National Broadcasting Company (NBC), Columbia Broadcasting System (CBS), Radio Corporation of America (RCA), and Westinghouse, General Electric (GE)—sought to advance for-profit broadcasting and to marginalize those who argued to reserve all or a portion of the medium for educational and/or nonprofit use. The radio industry, mostly dominated by these national chain broadcasters and radio manufacturers, was also largely successful in steering the agenda for the development of NRA broadcasting codes that regulated minimum and maximum wages and work hours, prices, and business competition. This was accomplished despite formidable challenges from organized labor groups such as the International Brotherhood of Electrical Workers (IBEW), American Radio Telegra-

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phists Association (ARTA), and other nonprofit interests that demanded a more localized, national radio broadcasting policy.

There have been few, if any, studies of the U.S. broadcast industry's response to New Deal recovery efforts. Seminal broadcast histories have not focused on this chapter in broadcast history (Barnouw, 1966, 1968; Sterling & Kitross, 1990). Given that these histories cover several decades of industry development, it might be understandable as to why this area has received less attention than others. At the same time, the notion that nonprofit broadcasting interests (or public concerns about the commercial orientation of U.S. broadcasting) were insignificant has become the dominant view for many scholars. The industry continued to voluntarily comply with the NRA rules and regulations through the rest of the decade after the NRA was ruled unconstitutional by the U.S. Supreme Court in 1935. In 1939, the radio industry adopted the NAB Code of Ethics as a form of self-regulation to protect itself from political opponents who argued for more nonprofit use of U.S. broadcasting channels.

In reality, there was much argument and conflict over retaining the status quo in broadcasting during recovery efforts. Organized labor, church groups, educational institutions, and other nonprofit interests were largely ignored, however, in broadcast reform during this period. The broadcasting industry, through the NAB, dominated the legislative and political agenda to ensure that there would be little change to national chain broadcaster's control of the industry (McChesney 1993b; Godfried, 1997).

In the last two decades, there have been numerous advances to deregulate U.S. broadcasting that largely emerge from the notion that American "freedom" and "democracy" is enriched by minimal governmental regulation, and which is financially advantageous for broadcasters. This has led to a growing consolidation of media properties into fewer corporate hands. Some scholars believe this development most narrows the possibility of wider political, economic, and/or social justice for citizens (Bagdikian, 1992; Mazzocco, 1994; McChesney, 1997; Schiller, 1996; Zinn, 1995).

The 1933–1935 period in U.S. broadcasting history is critical because it was the time when the Communications Act of 1934, which stood largely intact for the next 50 years, was being finalized in Congress. At a time when New Deal regulation through the NRA could have fundamentally altered the broadcast industry, it did not, because of the formidable political force that the NAB was able to marshal. Although some may question the value of examining that which has already been settled, there nevertheless remain other scholars who see the promise of a more democratic media system—one not based solely on corporate, for-profit control. However, one cannot challenge the present or future unless one understands the past. What occurred during the 1933–1935 period during the New Deal in broadcasting is relevant today because it shows how important political lobbying has been in shaping American broadcasting, and indeed our democratic government in the modern era. Yet, most of this history has been told from the perspective of broadcasters, not those who opposed widespread for-profit control of the U.S. broadcasting system. This archival record presents a detailed account from primary source material of one of the most im-

portant economic reform eras in U.S. history. It builds on the work of Robert McChesney and Nathan Godfried, who have written noteworthy histories that challenge the dominant view of the era (Godfried, 1997; McChesney 1993b).

In following this line of argument, the following key turning points between 1933 and 1935 in the process of applying New Deal legislation to the U.S. broadcasting industry will be examined: (a) The NAB organizes to guide the NRA code-making process in January 1933, (b) the Radio Broadcasting Code Authority (RBCA) formally organizes in September, (c) RBCA is given temporary status in December by NRA when it is revealed that it does not represent a majority of U.S. radio stations, (d) "Code of Fair Competition for Radio Broadcasting" is announced in February 1934, (e) NAB persuades NRA to make no changes in broadcasting during its unprecedented radio hearings in June, and (f) NRA is ruled unconstitutional by the Supreme Court in 1935, although the NAB continues to comply with the NRA codes.

In developing this historical narrative, I will utilize primary source material from the NBC papers collection housed at the State Historical Society in Madison, Wisconsin. The cited material consists of memos from NBC executives who played a leading role in shaping NAB policy at the time. I also cite U.S. government publications from the Labor Department published during the New Deal era. The text will also rely upon source material from leading trade publications of the day, such as *Broadcasting* and *Variety*. It must be noted here that Martin Codel, the original publisher and cofounder of *Broadcasting*, played a pivotal role in the deliberations of the RBCA. Codel should be considered a primary source for much of what was reported about the NRA codes in the trade journal at the time, along with *Broadcasting* cofounder and editor, Sol Taishoff. Both of these journalists adopted a largely pro-NAB position that championed first amendment issues for broadcasters when they launched *Broadcasting* in 1931.

Very much like today, important policy battles are more likely to be fought out of the public eye, among insiders. Indeed, the battle for control over the NRA codes in broadcasting reveals something much deeper—how little the average citizen (or non-commercial interests) participated in the struggle to decide how the airwaves should serve and reflect the political and cultural interests represented in the United States. That battle was ultimately won by the largest and most powerful corporations. The victory continues to be seen in recent deregulatory moves won by the U.S. broadcast interests, such as the 1996 Telecommunications Act, which virtually assured that a handful of corporations would continue to dominate U.S. broadcast policy-making. This act may be a reason why some of the major broadcast unions, such as the Directors Guild of America and the Communications Workers of America, have stepped up their political contributions and developed new political lobbying operations following the 1996 legislation.

Unmitigated corporate control of the airwaves, as well as the policy-making process that has led us to an ever-diminishing number of owners in 2004, was not always the case. We can see this by looking more closely at the broadcast economic history of 1933–1935.

NAB Organizes NRA Compliance, January 1933

In January 1933, the U.S. broadcasting industry braced for substantial regulatory changes, almost as soon as the Roosevelt administration took office. As early as February 15, trade industry publications were reporting that the White House was about to make sweeping personnel changes at the Federal Radio Commission (FRC) as part of its New Deal. Although some speculated that the President might disband the FRC entirely, the opposite was closer to the truth. Roosevelt wanted to safeguard the status quo of U.S. broadcasting, although he planned significant changes for other industries. Roosevelt appreciated the manner in which U.S. broadcasters favorably covered his 1932 presidential candidacy, as opposed to many large city newspapers that supported former President Herbert Hoover (Craig, 1933; Taishoff, 1933b).

Indeed, broadcasting escaped much of the NRA scrutiny, unlike steel, coal, and other key U.S. manufacturing industries. The White House argued for long-needed legislation to force management, labor, and government groups to work together to solve the crisis through the National Industrial Recovery Act (NIRA). Based in part on the successful government-industrial mobilization during World War I, the NIRA promised to create a series of codes through which minimum and maximum wages and work hours, prices, and business competition would be regulated to an unprecedented degree. The Act created a new federal agency, the National Recovery Administration, which was intended to oversee the development of these codes in concert with representatives from key U.S. industries.

In practice, however, labor representatives participated in less than 10% of the codes developed for industry. Consumer representation was almost nonexistent (Walton & Rockoff, 1990; Zinn, 1995). Management groups dominated the development of industry codes, often to the exclusion of organized labor groups (whether independent or part of the American Federation of Labor [AFL] and/or the Congress of Industrial Organizations [CIO]). This domination is especially evident in the inclusion of Section 7(a) within the NIRA legislative language. This portion of the law made it lawful for employers to establish company-dominated unions in which management-labor cooperation would be the goal. Instead, labor co-optation became the rule (U.S. Bureau of Labor Statistics, 1938).

Within 5 years of the NIRA's passage, the U.S. Labor Bureau found that the vast majority of company unions were set up to protect management's interests from challenges by independent labor organizations. In U.S. broadcasting, government-sanctioned radio monopolies largely dominated radio station program development and national advertising revenue gathering. Not surprisingly, the initial NRA code-making process hardly represented the full range of radio stations (small and medium market) at the time. The radio networks, consisting of the most powerful broadcasting stations in the United States, with the most recognized stars and programs, played a major role in setting the agenda within the NAB. Because of the network's tremendous economic clout and identification with the audience, national broadcasting industry interests usually won out over the concerns of local or small-town broadcasters at the NAB.

This policy continued in the wake of Roosevelt's election in 1932, and public discussion ensued about widespread economic regulation that was almost certain to affect the American business community. In anticipation of the New Deal, NAB's Board of Directors developed a set of "'war plans' to protect advertisers, agencies, broadcasters, alike from attacks by unfriendly groups and to speed up the movement toward a more stabilized broadcasting industry" (Taishoff, 1933d, p. 8). The most prominent enemies of the broadcast industry at the time were those in labor, education, and political circles who had protested the almost complete commercial reorientation of the industry dating back to the years after 1920, when commercial radio began to gather a public following (Godfried, 1997; McChesney, 1999).

A key part of the NAB legislative strategy was aimed at the industry's opponents who wanted more government control of radio and other mass media channels. These alternative voices argued for more a more equitable distribution of the spectrum for non-profit broadcasters. The Payne Fund, the National Committee on Education by Radio, the Ventura *Free Press* radio campaign, WCFL (Chicago Federation of Labor), the Paulist Fathers' WLWL, the Pacific-Western Broadcasting Federation, the ACLU Radio Committee, the American Radio Audience League, and numerous college broadcasting interests are the principal voices who argued for broadcast reform during this period (McChesney, 1993b). In response, the NAB hired James W. Baldwin, a former secretary at the Hoover FRC, who in 1932 opposed broadcasters for their pro-Roosevelt stance (as contrasted with major newspapers at the time that were largely pro-Hoover). Baldwin's hire signaled a renewed NAB effort to shape national communications policy and debate during Roosevelt's New Deal, as the trade organization had done so successfully during the Harding, Coolidge, and Hoover administrations.

By June 1933, as Congress was negotiating New Deal reform and recovery legislation, the NAB's plan to control any industrial reform efforts seemed to have won a preliminary, if not a substantial, victory. Roosevelt's plans for the NRA called for granting major trade organizations, like the NAB, the privilege of overseeing recovery and reform compliance under any new legislative advances. With a self-regulation plan in place, trade groups like the NAB could reasonably expect the government to step in, but only if they proved that they could not police the industries that gave them life ("Radio Plunges," 1933).

The NAB held a closed-door meeting on June 8, 1933, to decide how best to implement reform and recovery measures (open only to trade organization representatives). The NAB convened a special council of radio leaders to decide on a "code of fair competition." They would adapt this code from the NAB code of ethics and standards of commercial practices already in place. Most of this meeting revolved around the issue of stopping radio stations from violating established price control policies for broadcast airtime; however, there was widespread interest in establishing wage limits for broadcast workers. These wage limits would cap maximum hours of work by broadcast workers in order to forestall further government intervention in broadcast industry affairs ("How Industrial," 1933).

As Congress adjourned in June 1933 without acting on any reform or recovery legislation, NAB managing director Philip G. Loucks and NAB president Alfred McCosker again pledged their support to the Roosevelt administration. They promised to establish a special industry-wide committee to work out the details of industry compliance with any proposed labor measures. White House officials made it clear that radio broadcasting would play a central role in selling the NRA to the American people, despite formidable conservative opposition to the New Deal from major daily newspapers. Soon after, the NRA appointed McCosker to head an NAB advisory committee on radio broadcasting, consisting of the following Washington insiders: Frank M. ("Scoop") Russell, NBC's chief Washington lobbyist; Harry C. Butcher, general manager of CBS's Washington radio station WJSV; Philip G. Loucks, NAB managing director; and Martin Codel, publisher of *Broadcasting* ("Administration's Relief Plan," 1933; McChesney, 1993b).

On July 24, 1933, the NAB gave the NRA unrestricted access to its member stations' airwaves to promote NRA recovery operations. McCosker issued a press release that reinforced the NAB's pledge to cooperate with Roosevelt's New Deal and the NRA, saying that "the President's re-employment agreement has the complete endorsement of the National Association of Broadcasters" ("Radio Plunges," 1933, p. 5). Major national advertising organizations, coordinated through the Advertising Federation of America, also pledged their complete support to the Roosevelt White House and the NRA ("Radio Plunges," 1933).

McCosker appointed himself as chair of the NAB code compliance committee the following day. This group also included G. A. Richards, owner of radio stations WJR (Detroit) and WGAR (Cleveland), as well as Russell, Butcher, and Loucks. The committee drafted a questionnaire for all member stations requesting information on hours of labor, wages, and employment statistics. They used this information to develop the NAB code of competition for broadcasters. It is important to note here that many in broadcasting felt that the industry should not be subject to the far-reaching powers of the NRA because broadcasting was already regulated by the FRC. However, nothing in the FRC rules or regulations dealt with the aspect of fair competition in advertising, wage minimums, or any other related economic aspects of radio station operation ("Radio Plunges," 1933).

Meanwhile, NBC followed its corporate policy of "discouraging private interests from discussing any phase of the NIRA" within any of its on-air broadcasts (Russell, 1933). Executives implemented this programming decision to protect NBC from any political "embarrassment" or regulatory retaliation that might have resulted from anti-New Deal programming. NBC barred the following topics of discussion: specific details of the NIRA, mentions of industry codes, methods of formulating codes, and labor problems. Based on internal NBC documents, the company also intended to highlight the NRA's benefits to manufacturers, dealers, and consumers as part of its wider cooperative effort to sell the New Deal accords and to support the Roosevelt administration.

NAB Organizes RBCA, September 1933

By the beginning of September, the NAB reported that it had organized an almost 100% compliance with the NRA's proposed codes. NAB president Alfred McCosker called together the broadcast code committee, made up of the owners and top managers of the most powerful and influential radio stations in the industry at the time. Nearly everyone had some affiliation with NBC and CBS, or represented key radio stations that could reach large geographic distances or numbers of listeners:

- Leo J. Fitzpatrick, NAB vice-president/WJR (CBS affiliate, Detroit)
- John Shepard III, NAB vice-president/president Yankee Network (New England)
- Arthur B. Church, NAB treasurer/KMBC (CBS affiliate, Kansas City)
- William S. Hedges, KDKA (NBC Blue affiliate, Pittsburgh)
- H. C. Carpenter, WPTF (NBC affiliate, Raleigh)
- J. Thomas Lyons, WCAO (CBS affiliate, Baltimore)
- I. Z. Buckwalter, WGAL (NBC affiliate, Lancaster, PA)
- James C. Hanrahan, KSO (proxy for G. Cowles, Jr.) (NBC Blue affiliate, Des Moines)
- Mr. Guider, KHJ (proxy for Leo B. Tyson) (Independent, Los Angeles)
- Ralph Colin, CBS (proxy for Henry A. Bellows)
- F. M. Russell, NBC (proxy for George F. McClelland)
- Louis F. Caldwell WGN (proxy for Quin A. Ryan) (Independent, Chicago)
- G. A. Richards, Member NRA Code Committee/WJR (CBS affiliate, Detroit)
- Philip G. Loucks, NAB

The NAB committee agreed that broadcasters should place all "routine" employees on a 40-hour week. "Routine" in this case was used to define managerial or executive positions; the term also included announcers and producers with no responsibility for electronic equipment. There was another key exception: All employees who earned more than \$35 week, or who worked in stations which employed 10 or fewer persons (and who did not receive more than \$25 per week), were excluded from any maximum hour limitations. This narrow range of employees meant that very few, if any, nonmanagerial broadcasting employees would be covered by the industry-derived 40-hour per week limitation (Taishoff, 1933c).

The proposed codes also specified an accounting procedure that allowed the NAB, upon a two-thirds vote of its membership, to force any broadcaster suspected of violating the codes to submit a report of its actions. (All false reports would be deemed code violations.) The NAB reserved its right, as the only national lobbying group for the broadcasting industry, to investigate any NRA claims of violations. For all intents and purposes, the NAB was able to maintain stability by offering very little to the NRA regulators.

At the same time, the NAB moved to increase its total membership beyond 253 stations, in anticipation of the upcoming NRA code hearings. The trade organization es-

tablished a low-power classification of stations with a lower dues structure to blunt possible critics who might argue that the NAB was not truly representative of all U.S. stations. As a trade organization with limited representation among the full range of U.S. radio station owners (large, medium, and small market stations), under a literal interpretation of NIRA language, the NAB should not have been able to develop NRA codes for the entire broadcast industry because it did not represent the majority of U.S. radio stations ("Full Text," 1933).

To assist in the public relations campaign to protect the NAB's position, the organization hired Dr. Herman S. Hettinger to serve as its temporary consultant and research specialist. A professor of economics at the University of Pennsylvania's Wharton School of Finance, Hettinger issued a report on economic conditions within the radio industry, based on an earlier NAB survey of stations conducted prior to the 1932 elections. Hettinger found that the employment figures and salary trends in U.S. broadcasting had been on an upward spiral since 1929, coinciding with a tremendous growth in radio advertising revenues. Hettinger reported that the estimated 1933 annual income of persons working in broadcasting, at \$1,753, was well above the 1930 annual wage scale for manufacturing employees (\$1,340) and retail employees (\$1,315) (Hettinger, 1933).

Nevertheless, the NRA codes contained a healthy quantity of language concerning the rights of employees to organize—whether in company or independent unions. To mitigate potential criticism from organized labor groups, the NRA named Edward N. Nockels of the Chicago Federation of Labor (CFL) as its labor advisor. Nockels had long opposed the NAB in the CFL's campaign to maintain a privately owned, commercial U.S. broadcasting system (Godfried, 1997). Nockels, well known at the NAB and in labor circles for his opposition to a commercial broadcast monopoly, was general manager of the CFL's Chicago radio station, WCFL. A few years earlier, Nockels had been a Washington lobbyist for the AFL.

Opposition to Nockel's presence on the RBCA helped to close ranks among large and small broadcasters. Although NAB membership grew in 1933, there were continuing anecdotal reports about network domination of the NAB leadership (over smaller market radio station owners) and its steerage of NRA policy control during the code drafting process. NAB officials continued to discount such rumors, promising that the NAB would soon enjoy a total membership of some 70% of U.S. radio stations (out of the 604 total stations then operating). However, not all of those stations were NAB members (Hill, 1951; Taishoff, 1933a).

Proposal of RBCA Codes

Just before Labor Day 1933, the NAB submitted its suggested broadcast codes to the NRA code authority for review and approval. In comparison to the motion picture industry NRA codes, the broadcast codes did not offer sweeping reforms. The broadcast codes were almost entirely beneficial to industry practice and power relations at the time. For example, the proposed code language indicated those 253 stations, or

more than 81% of all U.S. radio stations that were NAB members (some 310 stations), were already operating within NRA guidelines. The code authority, acting mainly as an extension of the NAB, put forward an industry code that required few changes from individual broadcasters ("NAB Submits," 1933).

There was genuine concern among the top NAB leadership as to how organized labor would react to its proposals. Specific language was written into the codes to preempt a challenge from Edward P. Nockels and other independent union groups. The most pressing issue at the time was the 40-hour week for technical employees. Many owners and managers said they could not agree to one, arguing that a shorter work-week would cripple the industry economically ("Code of Fair Competition," 1933).

However, a confidential NBC memo written by O. B. Hanson, the network's technical operations manager, said otherwise. Hanson projected that moving from a 48-hour to a 40-hour week would create 62 new jobs for technicians at the NBC-owned radio stations nationally. The top NBC engineer reported that the annual cost of these new positions would probably not amount to more than about \$120,000 in payroll costs, based on average wages. Such an added payroll expense did not seem to pose quite the dire economic threat that the NAB predicted, given the fact that U.S. radio broadcasting was expected to exceed \$100 million in annual revenues (Hanson, 1933; "A \$100,000,000 Year," 1934; "Radio Code About Set," 1933).

The proposed NAB codes submitted to the NRA created the illusion that the radio industry supported independent union drives. By this point, the threat of AFL involvement (or that of another independent, collective bargaining presence) seemed remote despite the NRA legislation passed earlier that year. Radio technicians initially did not appear to protest the suggested codes in any way, even though the NAB proposed the codes to make the largest group of its workers (the radio technicians) exempt from any major reductions in working hours or salary increases. The networks would later establish company unions that specifically barred membership in independent unions (Elwood, 1933; Loucks, 1933).

NAB and NRA Battle for RBCA Permanent Status, December 1933

The NRA still considered the NAB's proposals for the radio codes temporary because of genuine concerns about whether the NAB represented the interests of all radio station owners. It certainly did not include all stations as dues-paying members, for example. A quorum of stations would prove vital, however, especially given organized labor's argument that the NAB's influence had to be restrained because the lobby organization did not represent all economic interests in the industry. Deputy NRA administrator Rosenblatt was also concerned about the value of the NAB proposals, because the association did not include all 604 U.S. radio stations as members.

As the NAB would later do with great success, when it favored the interests of large or "chain" broadcasters, the trade group championed the rights of small and local broad-

casters in its barrage of public relations appeals. McCosker pleaded with the NRA to allow the financial reality of small stations to guide national code-making policy with regard to wages, work schedules, and other business affairs. He said that such smaller stations were the backbone of localized community broadcasting (albeit with smaller revenue possibilities). Although this was essentially true, McCosker did not mention that very few of these small community stations, if any, had ever had any meaningful influence or power in shaping NAB policy. The most powerful stations and nationwide networks continued to dominate the latter ("NAB Code Faces," 1933).

The temporary RBCA began formal operations on December 11th, with a group of 10 men overseeing implementation of the plan nationally. The NRA considered the code as an industry organization but not as a trade association—a key distinction in that the NAB did not represent every U.S. radio station (or even a clear majority, for that matter). At this time, NAB membership totaled 315 stations, slightly more than 50% in operation at the time; most of these stations were network owned or affiliated. Had the NAB been a trade association made up of every radio station, the RBCA would have been permanent, with a great deal more power to institute code changes in the workplace ("Code Authority Is Organized," 1933).

Because the temporary code authority was to remain separate from the NAB until the naming of a permanent body, NAB president McCosker declined to accept the chairmanship. McCosker wanted the NAB to have immediate, permanent status over the NRA codes for the radio industry, even though the NAB did not represent a majority of the nation's stations at the time. In an apparent act of protest, he did not appear at the first meeting on December 11th ("G.O.P. Charges," 1933).

After the first round of NRA broadcast hearings, broadcasters appeared to have adjusted wage scales for broadcast technicians upward voluntarily to meet the continuing pressure of outside IBEW unionization threats and to quell potential dissension within their own company-controlled technician unions, as well as to counter White House pressure on the broadcast industry to set a good example in its labor relations. It was precisely such outside pressure that seemed to improve the salaries and working conditions of most broadcast employees and to aid recovery efforts ("Radio Code Authority," 1933).

Final Code of Fair Competition for U.S. Broadcasting, February 1934

On February 5, 1934, the NRA released its awaited "Code of Fair Competition for the Radio Broadcasting," which covered not only labor issues, but also provided guidelines to reduce cutthroat competition among radio station owners. In addition, the NRA gave broad powers to the RBCA to crack down on code violators; it also granted the RBCA permanent status. The NAB convinced the NRA that its membership roster of stations, which comprised less than half of the 604 U.S. stations then operating, was responsible for generating 85% of total U.S. radio revenues (Taishoff, 1934).

On June 19, 1934, CBS announced that it had formed a company union for its technical employees, the Association of Columbia Broadcasting Technicians (ACBT). CBS modeled its company union on the NBC company union—the Association of Technical Employees (ATE). CBS offered its technical employees a slightly lower \$40 weekly minimum salary through 1938 (about \$2.50 less per week than the ATE salary for the same 48-hour week). This figure varied depending on the seniority of employees, but it could extend up to \$75 per week.

Those in the IBEW, the AFL, and other groups attempting to organize the radio industry viewed these high wages, far above code minimums, as an attempt to forestall any meaningful opposition in the upcoming NRA radio hearings. At the same time, industries opposed to the NRA codes were testing the wider legal constitutionality of the NIRA in the courts. Equally apparent at the time, political pressure by Democrats pressed demands for wider broadcast reform. Radio had become a critical element in political mobilization for the Roosevelt White House in the 1934 Congressional elections ("Radio Seen," 1934).

Two weeks later, the RBCA asked Gen. Hugh Johnson that the NRA delay action on changing the broadcasting code provisions for at least one year. In a minor concession to union forces, the RBCA admitted that "facts about [radio technician] employment do not look so good" ("Ask NRA Hands Off Code for Year," 1934). The RBCA based its decision on the following:

1. Employment of technicians had increased 11.9%.
2. Hours of labor had been cut by 9.8%.
3. Payrolls bounded 21.1%.
4. True effects of code had been sufficiently documented.
5. Support for commercial programs, the only basis of revenue, continued to fluctuate materially.
6. Employment was at record peak.
7. Suggested changes would oppress and eliminate small stations and promote monopolies.

Consequently, the RBCA's request for a delay was aimed at avoiding another round of potentially costly (to broadcast owners and operators as well as to the public) code hearings.

NRA Radio Hearings, June 1934

On June 20 and 21, 1934, the NRA held 2 days of widely anticipated hearings on radio salaries and working conditions in the U.S. broadcast industry ("Labor Demands," 1934). Instead of denying pleas from workers and outside unions to improve wages and working conditions, the NRA listened to organized labor demands in order to bring peace to U.S. broadcasting. Unions seeking to represent radio technicians and performers called for the RBCA to shorten work hours and raise salaries immedi-

ately. James Baldwin called on other code authority members to accept no changes in the code at the time. He argued that broadcasters' gross revenues should not be used to measure profits, due to the high costs broadcasters must face before reaching a profit ("James Baldwin Raps," 1934).

The IBEW, by then the most powerful independent union of broadcast technicians, raised the bar and insisted on a 35-hour workweek. Indeed, the continued use of network company unions to frustrate IBEW organization of the U.S. broadcast industry significantly threatened to undermine the NAB's position. The IBEW charged that management was using the NBC and CBS company unions (the ATE and the ACBT) to block AFL organizers from gaining a foothold with the union technicians. Loyal network technicians, on the other hand, reportedly claimed that the IBEW was not qualified to represent them.

The hearings were highly charged and frequently contentious. Edward Nockels demanded that broadcasters observe the labor provisions of both the NRA codes and the spirit of the NIRA. The fact that 1934 had been a boom year for NBC and CBS bolstered the arguments of those supporting labor at the conference. They suggested that broadcasters were in the best position ever to assume a higher payroll burden.

In response, the IBEW also filed a lengthy brief with the RBCA. It stated that the radio industry was enjoying a boom and demanding that code-regulated wages be raised; all technicians' hours should be cut to no more than 35 hours per week. The IBEW also cited the routine breaking of Section 7(a) of the NIRA by radio station owners. It said that radio broadcasters were using "considerable trickery" to maintain lawful company unions in order to dissuade outside unions from entering the workplace. Thomas McLean cited Chicago, New York, and Cleveland as sites where company unions had been set up, and company technicians were threatened with dismissal if they joined the IBEW or the AFL ("Code Hearing Fireworks," 1934).

The hearings also featured the first public and sworn testimony from representatives of CBS's and NBC's company unions. ATE representative Phillip I. Merryman described the NBC organization as "a non-company dominated union" ("Code Hearing Fireworks," 1934, p. 43). Merryman was quizzed for some 3 hours about the history of the ATE by Mr. Farnsworth. Internal NBC documents later revealed Phillip Merryman's professional ties to O. B. Hanson, NBC's chief of technical operations and supervisor of technicians. Hanson also participated in discussions with executives at CBS that further suggest a formalized, if not high-level, management framework designed to frustrate and co-opt independent unionization of technical staffs with the ATE and the ACBT (Hanson, 1934a, 1934b).

NRA Ruled Unconstitutional; NAB Continues NRA Codes, May 1935

On May 27, 1935, the U.S. Supreme Court ruled in a unanimous decree that the code-making provisions of the NIRA were unconstitutional. According to the court, the federal government had no authority to regulate hours and wages in any business

that did not involve interstate commerce. This court decision, though rendered in a case involving the transport and sale of live poultry across interstate lines, at once served to nullify all NIRA-inspired collective bargaining pacts enacted since 1933.

Despite the Supreme Court's rejection of the NRA codes in May, chain broadcasters remained supportive of the NRA codes and decided to continue abiding by them, regardless of the high court's decision. By June 15th, *Broadcasting* magazine reported that "voluntary adherence to all provisions of the broadcasting industry code seemed to be the rule, rather than the exception" ("Stations Adhering Voluntarily to Code," 1935, p. 18). David Sarnoff, RCA's chairperson, announced that all of his subsidiaries, including those in radio manufacturing and broadcasting, would continue the same wage and hour provisions as stipulated under the codes. CBS made a similar statement.

Privately, however, some NBC officials were already crafting a plan to repudiate wage and hour provisions of the NRA codes. Executive vice-president R. C. Patterson, Jr., personally recommended to other NBC executives that company officials stress the network's "voluntary cooperation" in any public mention of the defunct NRA codes. This public relations policy, Patterson said, would allow the company to back away from the NRA codes in the future without too much negative publicity (Patterson, 1935).

At the same time, however, those in organized labor knew that Roosevelt, despite his public rhetoric and support for labor, generally seemed to court the support of employer groups. Because of this political reality, company unions stood to gain the most from the court's decision. Management-dominated company unions, which grew to fruition under NIRA Section 7(a), received de facto approval to continue by the decision. The court reaffirmed the right of employees to organize without employer interference and required management to bargain collectively with worker representatives—regardless of whether these representatives might be acting under the control of management through a company union front.

The U.S. broadcast industry would not be seriously threatened again with government regulation with regard to economic and labor reform issues until the Wagner Act was passed by Congress and upheld by the U.S. Supreme Court in 1937. However, with the continued prospect of war abroad and the need for a rapid means to mobilize the citizenry, the Roosevelt White House continued to protect broadcaster interests as the Republican presidential administrations had done since the beginning of political broadcasting in 1920. Although independent labor groups would gain a foothold in broadcasting by 1940, the NAB Code of Ethics largely continued to undercut public demand for increased regulation in U.S. broadcasting for the next 50 years. It was not until broadcast deregulation began in earnest during the Reagan and Bush administrations (1981–1992) that the need for broadcast self-regulation began to diminish.

More research on this critical era in U.S. economic history seems warranted. There are few archival accounts of how the U.S. broadcasting industry responded to New Deal economic regulation, particularly in the so-called second New Deal period after 1935. Indeed, there are several more areas that are ripe for further investigation in this

regard: the industry's response to the Wagner Act in 1935 that outlawed company unions in U.S. broadcasting and other industries; the AFL battle with the Congress of Industrial Unions in U.S. broadcasting from 1935–1938; the implementation of Fair Labor Standards Act legislation in 1938; and various independent unionization efforts in U.S. broadcasting from 1933 through the present era. As one of the few U.S. industries to actually increase profits during the most severe years of the Depression, economic regulation did not negatively affect broadcaster's profits and/or influence over popular culture and the U.S. political landscape.

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