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75TH CONGRESS }
3d Session }

SENATE

{ REPORT
No. 1652

AMENDING THE COMMUNICATIONS ACT OF 1934

APRIL 20 (calendar day, APRIL 26), 1938.—Ordered to be printed

MR. WHEELER, from the Committee on Interstate Commerce,
submitted the following

REPORT

[To accompany H. R. 7711]

The Committee on Interstate Commerce, to whom was referred the bill H. R. 7711, having considered the same, report thereon and recommend that the same be enacted without amendment.

The bill is designed to overcome a regulation issued by the Federal Communications Commission, which was issued early in 1935. This regulation prohibited the publication of reports by radio companies of ship positions in publications of general circulation. The Committee on Interstate Commerce, having considered fully the matter and objectives of the bill, are in full sympathy therewith.

That portion of the House of Representatives Report No. 1258 which explains the measure (H. R. 7711) is herewith attached.

[H. Rept. No. 1258, 75th Cong., 1st sess.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 7711) to amend the act approved June 19, 1934, entitled the "Communications Act of 1934," having considered the same, report thereon with a recommendation that it pass.

There is attached herewith a letter from the Federal Communications Commission containing their report on a similar bill, H. R. 1592.

For a number of years radio companies through their shore stations furnished to newspapers reports of the location and positions of ships at sea. This was done either at a nominal charge or without charge.

The Federal Communications Commission, on or about February 1935, under the Communications Act of 1934, issued regulations the practical effect of which was to deny to radio companies the right to furnish free of charge or at a nominal charge reports of positions of ships at sea to newspapers of general circulation.

Every day of the year there are some 400 ships on the water sailing to or from the port of New York City alone, not to mention other American ports. It is a matter of general interest to shippers and consignees of ship cargoes, as well as relatives and friends of passengers and crew, to know daily position at sea of these various ships.

Certain newspapers in most of the American ports undertook to supply that information, but after the issuance of the regulations of February 1935 denying them the right to obtain the radio information free of charge or at nominal charge, were obliged to omit publishing positions of ships at sea either altogether or to greatly curtail the information. This was for the reason, as testified before our committee, that the number of readers interested in this information was not sufficient to warrant papers publishing it if they had to pay regular charges for the information from shore stations of radio companies; in other words, the information was published by the newspapers largely in the public interest and, as we are informed, without any substantial pecuniary advantage to the newspapers, if in fact the information was not actually carried at a loss.

It is a general and a sound rule to limit the furnishing of free service by public-utility companies; nevertheless, certain exceptions to this general rule have always been recognized as in the public interest. For example, with reference to radio broadcasting companies at the present time, the Federal Communications Commission is authorized to permit them to furnish free of charge radio service in cases of ships in distress at sea, radio messages to and from persons sick on board ship, meteorological reports to the United States Government, and positions of ships at sea during naval maneuvers.

All of the above are now recognized as exceptions in the public interest to the general rule of free service. The question is whether we should add to these exceptions the publication of positions of ships at sea to newspapers of general circulation, as formerly was the practice prior to the regulations of February 1935.

The committee, without a dissenting vote, is of the opinion that in the public interest this further exception should be permitted.

It is to be noted that the bill does not require any radio company to furnish this information to newspapers either without charge or at a nominal charge. It simply permits them to do so if they choose. The committee therefore recommends that the bill do pass.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D. C., March 24, 1937.

HON. CLARENCE F. LEA,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This is in response to your communication dated February 6, 1937, in which the Commission was asked to report with respect to the proposed bill H. R. 1592.

It appears that the purpose of this bill is to amend the Communications Act of 1934 so as to permit carriers subject to the act to furnish reports of positions of ships at sea to newspapers of general circulation, either at a nominal charge or without charge. This service was furnished free of charge until the Commission issued regulations carrying into effect sections 201 and 210 of the Communications Act of 1934 (rules governing the issuance of telegraph franks adopted February 13, 1935).

Shortly after the issuance of those regulations the Commission received a number of communications from newspapers, steamship companies, handlers of freight, cargo owners, brokers, officers, seamen, and relatives of passengers and members of crews, complaining of the abandonment of this free service and requesting that a service be rendered free or at least with only a nominal charge.

None of the complainants have indicated that their interest in the service is such as would lead them to pay its cost; nor has any plan been received by the Commission by which the various persons interested might pool the expense. The communications carriers have not filed any special charges for ship-position reports. While in the early days of such reports it is possible that radio companies may have had the reports in their possession as a matter of routine, it is believed that this is not the case today with respect to many ships.

We understand that the consolidated ship-position report was furnished heretofore free only at the offices of the telegraph companies and if the report was sent to newspapers by wire it was paid for at land-line rates. We would further call the committee's attention to the fact that the position reports heretofore issued free were purely informal and the telegraph companies assumed no obligation for the accuracy of the information.

The Commission has no information which would cause it to believe that the enactment of H. R. 1592 would be desirable.

If the committee approves the purposes of H. R. 1592, in our opinion it would be better to accomplish that purpose through language similar to that of H. R. 3884, as found on page 2, lines 1 to 5 and 10 to 15. The principal differences between H. R. 1592 and the cited provisions of H. R. 3884 are as follows:

1. H. R. 3884 is in the form of amendment to section 210 of the Communications Act of 1934, while H. R. 1592 would amend section 201 (b) of that act. The former is preferable.

2. H. R. 3884, at page 2, lines 10 to 15, makes the proposed free service subject to rules, regulations, and limitations which the Commission finds desirable in the public interest, while H. R. 1592 does not give the Commission the power to regulate the proposed service. If any additional free service is to be authorized, the Commission is strongly of the opinion that it should be subject to regulation.

3. H. R. 3884, at page 2, lines 3 to 5, makes the furnishing of ship position reports subject to the secrecy provisions of section 605 of the Communications Act, while H. R. 1592 contains no similar provision. In that connection, we invite your attention particularly to the words, "reports of positions of ships." A common carrier subject to the act may obtain information as to the position of ships by various means. This information may be obtained through the medium of PTR or TR radio reports, from messages addressed to CQ (intended to be read or used by anyone who can receive them). It may be obtained from addressed messages and intercepted traffic in which there may be included the position of ships. The pending bill would permit the carrier to furnish the information obtained through these or other means, including addressed messages or intercepted traffic. Your attention is called to the fact that the furnishing of information obtained from addressed messages or intercepted traffic would be inconsistent with the secrecy provisions of the Communications Act (sec. 605), and perhaps also the International Telecommunications Convention, Madrid, 1932, and the General Radio Regulations annexed thereto.

Respectfully,

ANNING S. PRALL, *Chairman.*

