

To: Clay T. Whitehead; Susan Burgess
From: Wendell Bartnick
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Re: Effects of Federal Radio Commission Creation

Question

Did the creation of the Federal Radio Commission (“FRC”) result in dramatic changes to the spectrum assignments that existed before its creation?

Answer

Not really, when the FRC was created, “it immediately grandfathered rights for major broadcasters, while eliminating marginal competitors and all new entry. . . . The FRC restored order out of chaos by ordering stations to ‘return to their [original Commerce Department] assignments.’”¹ The FRC decided not to widen the existing broadcasting band.² The FRC also adopted the same standards, (e.g. priority-in-use rights), for determining which entities got which frequencies and power levels as the DOC used before the FRC was created.³ Initially, the FRC simply moved stations from congested to less congested areas rather than reduce the number of stations.⁴ However, later the FRC thinned out spectrum use by failing to renew 83 broadcast licenses in July 1927 and gave reduced power and time assignments to nonprofit organizations.⁵ Basically the 1927 Radio Act cemented what was occurring before the legislation by creating the mechanisms to assure commercial broadcasters dominance of broadcasting.⁶

¹ Thomas W. Hazlett, *The Rationality of U.S. Regulation of the Broadcast System*, 33 J.L. & ECON. 133, 154 (1990).

² *Id.* at 155.

³ *Id.* at 166.

⁴ Fritz Messere, *The Davis Amendment and the Federal Radio Act of 1927: Evaluating External Pressures in Policymaking* 5, <http://www.oswego.edu/~messere/DavisAmend.pdf>.

⁵ Hazlett, *supra* note 1, at 167.

⁶ *Id.* at 173.