

# CBS NEWS

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Richard S. Salant, President

*WWS*

Dear Congressman Thompson:

December 9, 1976

I have your letter of November 15, addressed to Arthur R. Taylor, former President of CBS, and I am undertaking to reply since the questions relating to the arrangements and future conduct of Presidential campaign debates fall within my area of responsibility.

I should note at the outset that I have tried to come to no final conclusions. As I am sure you are aware, there is a continuing discussion about the "debates"--not only about important details and arrangements, but even whether they were valuable at all. We here have been considering, and continue to consider, these questions, which as you recognize are important to the whole process of democracy.

Further, a number of responsible outside organizations have held, or are planning in the relatively near future to hold, seminars and meetings to consider these issues. On November 29 and 30, the Markle Foundation, assisted by Professor Sidney Kraus, the head of the Department of Communications at Cleveland State University, held such a seminar. (Professor Kraus is editing a book of articles concerning the "debates.") The Markle meeting was attended by representatives of the League of Women Voters, the Presidential campaign staffs and others, including CBS, to review issues relating to the "debates." The proceedings of that meeting are being transcribed and a transcript, I am told, will be completed in about three weeks. Further, in February a discussion meeting is scheduled at the University of California. And some time in February or March, the issues will also be considered at a two-day meeting under the auspices of the National News Council which hopes to reach conclusions and recommendations for the future.

We are anxious to consider the viewpoints and recommendations of these various meetings and organizations before coming to any final conclusions. I would respectfully suggest that your subcommittee might want to stay in touch with the organizers of these meetings so as to benefit from these discussions and resultant conclusions.

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Nevertheless, we at CBS can hardly avoid, and have not avoided, reaching some tentative conclusions, although in the light of the current discussions we reserve the right to modify those conclusions. Permit me to summarize our current thinking:

1) Whatever their flaws and disappointments, we believe that the "debates" were, on balance, clearly in the public interest and constituted an important contribution to public interest in, and understanding of, the Presidential election campaign. While we have some serious issues vis-a-vis the League of Women Voters to which I will advert shortly, we believe that the leadership and impetus which the League of Women Voters provided so as to bring these "debates" about comprised an important contribution to the public interest and the democratic process and that a major debt of gratitude is owed to the League. We believe that such broadcasts in some form or other should become a major part of future Presidential campaigning.

2) We believe, however, that the question of the "debates"--and the details of the format and the arrangements--can be, and have been, overemphasized, however important they are, and should be put in context. For the fact is that the particular arrangements and format which were developed by the League of Women Voters should be considered only in the broader context of other formats and arrangements for informing the American voter about the character of the Presidential candidates and where they stand that can and should be made available in the future. The particular details, arrangements and formats for the 1976 "debates" have assumed inordinate importance because for all practical purposes, these were the only methods of presenting the candidates first hand and in depth. While the format which emerged--not really "debates" but reporters' panel interviews of the two candidates together--may have been and indeed were unsatisfactory in some respects, these shortfalls become much less important if that particular format were only one of a number of other formats which, given a change in Section 315 (see below), would become possible.

We believe that no single format can do all the things that are expected and that each has disadvantages and advantages. Only in combination can the objectives of full public information and an informed electorate be more nearly achieved. Thus, although we believe that the kind of joint

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interview represented by the recent "debates" should be continued, they should only be part of a larger package of broadcasts which would include: (1) direct presentations by the major Presidential candidates--that is, for example, half hours back to back at the beginning and again at the end of the election campaign, for each major Presidential candidate directly to summarize his positions, without intervention of editing or interviewers; (2) true debates of the kind known as "Oregon debates" in which there is no intervening panel and only a moderator, with the candidates presenting their positions and then responding to each other directly; (3) in depth hour-long one-on-one interviews; and (4) documentaries examining the background, history, character and the issue-positions of the candidates.

But as long as Section 315 is on the books, each of these valuable formats raises legal questions of varying seriousness and complexity. Clearly, the direct presentation format (1 above) is unfeasible. So, in all probability, is the hour-long one-on-one interview, as well as the documentary unless the appearances of the candidates are only "incidental." And the debate format is exempt from Section 315 only if it is under outside non-broadcaster auspices. Section 315 stands in the way in these respects since, as you know, there is a multiplicity of individuals who claim to be Presidential candidates, and of political parties which claim to have such candidates (Thomas E. Harris, Vice Chairman of the Federal Elections Committee, stated that there were more than 90 Presidential candidates and more than 20 such parties). Since Section 315 allows the broadcaster no discretion in selecting among those who claim to be candidates, each of these other formats becomes entirely unfeasible. Indeed, even the League of Women Voters "debates" were precluded by Section 315 until 1975, when the Federal Communications Commission reversed its earlier decisions which held that debates, even if entirely under outside non-broadcasting auspices, were not exempt from Section 315. It is to be noted that while this new interpretation, upheld in a two-to-one decision in the Court of Appeals in Washington, D. C., paved the way for the 1976 "debates," the FCC decision nevertheless was interpreted to preclude any participation by any broadcaster (or their news organizations) in the arrangements for the "debates." Even though the League of Women Voters' Advisory Committee, while considering the arrangements, informally sought suggestions and

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advice from the network news organizations, the Law Department of CBS advised that any response by CBS News to these invitations might be held to take the "debates" out of the exemption from Section 315; hence we could not respond to the League representatives.

In any event, over many years, including 1975 and 1976, CBS has formally made commitments to the Congress that if Section 315 were repealed, it would make available, without charge, eight hours during the period between Labor Day and Election Day for a series of broadcasts which would include an appropriate mix of the several types described in earlier paragraphs.

How crippling Section 315 is, and how it militates against sensible journalistic broadcasts which would contribute to greater public understanding of, and information about, Presidential candidates is illustrated by the special CBS News campaign series broadcast on the CBS Television Network every Friday between Labor Day and Election Day at 7:30 PM, ET. This special series was designed to provide information to the public about the major candidates, where they stood on the issues and the developments in the Presidential campaign. But since it was a special series, coming within the general category of documentaries, and was not a regularly scheduled series of hard news broadcasts, it fell within the ambit of Section 315 and hence the "appearances" by the Presidential and Vice Presidential candidates on the series were permissible only if the "appearances" were "incidental." Thus we could not do, except in a fleeting way, what radio and television does best: present the candidates first hand so the public can see and hear for themselves. We had, in effect, to cover a wedding without the bride and groom.

3) Turning to the specifics of the 1976 "debates," CBS News, as it stated publicly and to the League of Women Voters, was deeply troubled, from the journalistic point of view, by two aspects of the arrangements. The first was the agreement by the League of Women Voters with the candidates to permit the candidates and their representatives to play a role in the selection of the panelists. There is, to be sure, uncertainty about the details of, and extent to which, such candidate participation was permitted. The League

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insists that it went no further than to permit each candidate to submit a list of suggested panelists and that the League then added to and subtracted from these lists and made the final decision, giving the candidates no "veto power." But there is evidence that the process went beyond this and that as the lists were developed in their later stages, they were circulated to the candidates, whose representative commented favorably or adversely, and that these comments were given weight by the League of Women Voters. We have been told that there were cases in which when the modified lists were circulated, the representatives of one candidate or the other objected to names on the list, and those journalists to whom objections were made were dropped from the list.

This aspect becomes important because in reality, these were not true debates at all but, as noted, were interviews of the candidates jointly by journalists. And it is a fundamental principle of responsible journalistic ethics that the designation of journalists who are to interview the subjects must be the sole responsibility of the news organization involved; the subjects cannot choose, or participate in the choice of, the interviewers. This principle has been a long-standing one at CBS News: Our CBS News Standards provide that "The subject of an interview shall have no voice in the selection of the interviewer, nor, in other news coverage, should the subject of the coverage have any voice in the selection of the correspondent assigned to cover him/her or the story."

Second, although the League of Women Voters chose to invite audiences to attend the "debates," the League and the candidates agreed that the networks covering the event must fix their cameras on the candidates and in no circumstances, during the "debates," could they show the audience or its reactions.

We objected to this restriction because, again, we strongly believe that an important matter of journalistic principle is involved--the principle that those who are the subject, or are sponsors, of a news event cannot be given the right to control what may and may not be covered by the journalistic organization's cameras and microphones. For better or for worse, these judgments must, consistent with the principle of independent journalism, remain in the hands of the journalists who are covering the event. Audience reaction, in many circumstances, is an integral part of the event; we must remain free to cover all aspects of the event.

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In connection with these two important issues, I issued a detailed statement setting out the reasons for our position. I am attaching a copy of that statement.

Finally I would reemphasize that despite the several points I have made, the "debates" were indeed valuable, the panelists were excellent, and the League of Women Voters' contribution to an informed public was great. Indeed, I would note that if, as CBS recommends, Section 315 is repealed, this would not preclude our broadcasting debates, joint panel interviews or other news events which are arranged for, or under the auspices of, responsible non-broadcast organizations such as the League of Women Voters. We have no desire to replace the League of Women Voters in this area. We only wish for the opportunity to supplement it.

I would be happy to try to respond to any further questions or requests which you may have.

Yours sincerely,

*Richard S. Salant/pm*

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