The Murder of Medgar Evers

The FCC later cited eight Mississippi stations for violating the Fairness Doctrine in their coverage of the Oxford events. The agency declined, however, to order strong sanctions against any of them. The following year it notified all broadcasters that the Fairness Doctrine applied to any coverage of integration, and it directed stations to present the viewpoints of African-Americans on the issue.

Medgar Evers promptly put the agency's new directive to the test by petitioning for local Jackson stations to provide him with equal time to counter segregationist views expressed by Mayor Allen Thompson on their airwaves. WLBT agreed to his request, and on May 20th, 1963, Evers made a stirring seventeen-minute appeal for an end to segregation. In that appeal he especially noted the role the news media were playing in advancing civil rights—whether consciously or not:

Tonight the Negro plantation worker in the Delta knows from his radio and television what happened in the world. He knows what black people are doing and he knows what white people are doing. He can see on the 6 o'clock news screen the 3 o'clock bite by a police dog. He knows that Willie Mays, a Birmingham Negro, is the highest paid baseball player in the nation. He knows the Leontyne Price, a native of Laurel, Mississippi, is a star of the Metropolitan Opera in New York. He knows about the new free nations in Africa and knows that a Congo native can be a locomotive engineer but in Jackson he cannot even drive a garbage truck.
He sees a city where Negro residents are refused admittance to the City auditorium and the Coliseum; his children refused a ticket to a good movie in a downtown theater; his wife and children refused service at a lunch counter in a downtown store where they trade ...  

The speech stunned white citizens in the state. Many called the station to protest. It also made Evers a target. "Before this moment, Medgar Evers had just been a name in the newspapers," notes journalist Mary Anne Vollers. "Very few white people could even recognize him. The televised reply put Medgar too out front." Less than a month later, on June 12th, 1963, Evers was assassinated in the driveway of his home.  

The Ole Miss riot and the assassination of Evers further convinced the United Church of Christ and Rev. Everett Parker that it was time to make an example of Mississippi broadcasters by challenging their licenses before the FCC. In March 1964, Parker recruited twenty-eight volunteers, all of them white, to secretly monitor and log a week's worth of programming by WJTV and WLBT in Jackson. Parker chose the two stations because their continued abuse of the local black community was so flagrant. Blacks comprised 45 percent of the population of the signal area of the two stations, yet no blacks were employed at the stations except as janitors. The monitors found that, while two-thirds of all program time on WLBT consisted of entertainment, no blacks appeared on the air except on a few network-originated shows, and even the Sunday programs devoted to religious services featured no black churches.  

Parker felt he now had enough ammunition to challenge the license renewals of the stations for failing to serve the public interest and abide by the Fairness Doctrine. But most legal experts he consulted saw no chance of success. Never before had the FCC considered a license challenge unless it had come from a businesses with a "substantial" interest in the agency's decision, and that had always been interpreted to mean an economic interest by a party seeking to obtain the license for itself or to prevent electromagnetic interference. Since Parker was not applying for the license, he would never be granted the standing to challenge its current holder, the experts told him. But Parker was convinced he could catch the station owners in direct lies to the FCC about the content of their programming. He was sure he could set new precedents in communications law when it came to defining the "public interest."  

Before he could petition the agency, Parker needed to recruit some local citizens of Jackson as complainants. Medgar's brother Charles refused. He recommended instead that Parker approach Aaron Henry, the president of the state's NAACP and a leader of the historic challenge to Mississippi's delegation to the 1964 Democratic Party convention. Henry agreed, and so did Robert L.T. Smith, the man who only two years before had battled Fred
Beard and WLBT over that station's refusal to run his campaign commercials in his race for Congress.

When the petition arrived in Washington, FCC staffers were unsure at first how to handle it. The Commission decided to send the chief of its office of complaints and compliance, Bill Ray, down to Mississippi to investigate the claim. Ray's report, never released publicly, "confirmed all the allegations and then some," according to historian Robert Horowitz. Yet, even if agency staff recommended revocation of the licenses, the full FCC ruled on May 20th, 1965, by four votes to two, to dismiss the United Church of Christ petition. In doing so, the commissioners did not rule on the merits of the charges, rather they denied the procedural "standing" of the petitioners. But, in a clear sign that WLBT had violated public interest requirements, they also announced a form of probation for WLBT—a one-year renewal.65

Parker and the petitioners promptly appealed the agency's decision to the federal courts. The following year a three-judge panel of the District of Columbia Court of Appeals stunned the broadcasting world with its unanimous decision against the FCC. In its historic ruling, the Court said:

The Communications Act of 1934 did not create new private rights. The purpose of the Act was to protect the public interest in communications ... Congress gave the right to appeal to persons "aggrieved or whose interest are adversely affected" by Commission action ... But these private litigants have standing only as representatives of the public interest. [emphasis in original].66

The opinion was even more remarkable because its author was a conservative Republican, Warren Burger, who would later be named chief justice of the Supreme Court. "Legitimate listener representatives," Burger wrote, could serve as instruments to protect the public interest. More importantly, he expressed clear displeasure with how little attention had been paid until then to the public interest. "After nearly five decades of operation," Burger went on to say, "the broadcast industry does not seem to have grasped the simple fact that a broadcast license is a public trust subject to termination for breach of duty."67

The Court ordered the FCC to hold a public hearing on WLBT's application for a license renewal before reaching a final decision. The agency reluctantly conducted that hearing, but it continued to ignore the overwhelming documentation of racial bias that Parker and his allies had presented against WLBT, and in 1968 it voted once again to grant the station a three-year license. Parker responded with a second appeal to the federal courts, and the following year the same three-judge appeals panel once again ruled against the agency. This time, however, the Court concluded that the FCC's "administrative conduct in this record is beyond repair." It ordered a
new comparative licensing hearing, one where other applicants, including WLBT, could compete for the license on an equal basis. It was the first time a federal court had revoked a station’s license for failing to meet the public interest. During the comparative hearing process that followed, a consortium of groups that included African-Americans obtained the new license and Aaron Henry, one of the original petitioners, emerged as chairman of the new station.  

The WLBT case thus became a pivotal victory for civil rights and public accountability in the US media, as historic for the broadcasting industry as Brown v. Board of Education was for public education, for it established the right of citizens to sue before the FCC over a station’s failure to fulfill the public-interest requirements of its license, and it had even broader ramifications for the power of citizen challenges to administrative law decisions in all federal agencies. By combining two social movements that until then had operated separately—the movement of African-Americans for racial equality and the movement of progressive white Americans to make our media system more accountable to ordinary citizens—the struggle in Mississippi over revoking WLBT’s license marked a new era in mass communications and public policy.