

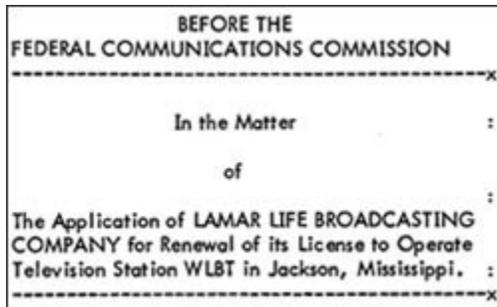
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## Changing Channels

### The Civil Rights Case That Transformed Television

By Kay Mills

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**This court-filed petition, received by the Federal Communications Commission on April 15, 1964, started a fifteen-and-a-half-year legal process that greatly influenced hiring and programming in the broadcast industry. (Records of the Federal Communications Commission, RG 173) [[full image](#)]**

White Mississippians strongly resisted desegregation of their schools after the historic *Brown v. Board of Education* ruling by the U.S. Supreme Court in 1954 that separate schools for white and black children were "inherently unequal."

At the same time, the principal local television station in the state's capital city of Jackson also strongly resisted efforts to win air time for black citizens to respond to programs they felt presented only the white point of view on desegregation. Medgar Evers, executive secretary for the National Association for the Advancement of Colored People in Mississippi, started raising the issue of one-sided programs during the 1957 Little Rock school crisis and was repeatedly turned down by WLBT, an NBC affiliate.

A battle that would end decades later was under way.

WLBT, which had gone on the air in 1953, employed no black people, either on camera or behind the scenes, although its audience was more than 40 percent black. The station also did not cover the black community in the same depth as it covered news about the white community, and it broadcast the Sunday services of only a local white church and none from black churches. Its station manager editorialized on the air against the admission of James Meredith to the University of Mississippi in 1962, arguing that states, not the federal government, should determine who could attend their schools and colleges.

All this changed as the result of the efforts of a small band of black and white citizens who challenged WLBT's license forty years ago this year in what became a landmark communications law case. That legal battle is described in the author's book, *Changing Channels: The Civil Rights Case That Transformed Television*, published this year by the University Press of Mississippi.

The broadcast company that held the license triumphed twice at the Federal Communications Commission in its effort to hold on to its license. However, twice a federal appeals court panel, headed by Warren Burger before he moved on to become chief justice of the United States, overruled the FCC. Not only did the broadcaster lose the license, but ultimately a majority black-owned group took over.

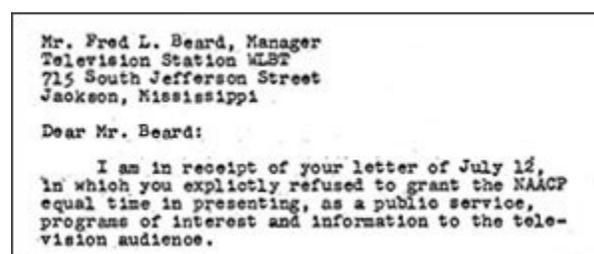
The case established the precedent that the public could participate in FCC matters—a right that, surprisingly, it had not held before the 1966 decision. This precedent led to the formation of public interest communications law firms that represented citizens' groups around the country in challenging other stations and negotiating non-discriminatory employment practices. The challenge also put broadcasters in the South, and indeed around the nation, on notice that they needed to hire more minorities and provide fairer coverage of the entire community, not just the white community.

Today, deregulation at the FCC has reduced the opportunities for the public to participate. Federal courts have set aside even the commission's modest equal employment rules. But that does not mean the case should be forgotten—it showed what could happen when people saw something that they thought was wrong, had the conviction to attack that wrong, and found the ability to stay the course, no matter how wearying and expensive it proved to be.

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### **Medgar Evers Tries to Secure Equal Time for Other Views**

When Medgar Evers tried to win air time on WLBT in the 1950s and early 1960s, he had on his side the Fairness Doctrine. This FCC policy directed broadcasters to present programs on controversial public issues and enable those who disagreed to present their opinions on the air. Evers sent his complaints to the FCC, which took little action. On May 20, 1963, Evers finally did appear on WLBT and responded eloquently to a broadcast by Jackson's mayor, Allen Thompson, who had refused to meet leaders of the black community or to respond favorably to their rising demands for fair treatment in employment as well as equal access to restrooms, restaurants, theaters, parks, schools, and libraries for blacks and whites.



Mr. Fred L. Beard, Manager  
Television Station WLBT  
715 South Jefferson Street  
Jackson, Mississippi

Dear Mr. Beard:

I am in receipt of your letter of July 12, in which you explicitly refused to grant the NAACP equal time in presenting, as a public service, programs of interest and information to the television audience.

**Evers's letter to station manager Fred L. Beard, dated July 16, 1962, states that Beard's**

**rejections of requests for air time "will be appealed to the highest authority." (Records of the Federal Communications Commission, RG 173) [full image]**

A black person in Mississippi "knows about the new free nations in Africa and knows that a Congo native can be a locomotive engineer," Evers told the TV audience, "but in Jackson he cannot drive a garbage truck." In Jackson, he added, "there is not a single black police officer, school crossing guard, fireman, clerk, stenographer, or supervisor employed in any city department or in the mayor's office in other than menial capacities except those who worked at segregated facilities." Whether Jackson and the state chose to change or not, he said, "the years of change are upon us. In the racial picture things will never be as they once were. History has reached a turning point, here and over the world."

Only a few weeks later, Evers was shot and killed from ambush.

Even as Evers was trying to win air time on WLBT, the FCC was also receiving complaints about the station's editorials against the admission of James Meredith to the University of Mississippi as its first black student in 1962. The station's general manager argued on the air that states had the right to administer their educational systems as they chose without federal interference, meaning that they should remain segregated. Washington seemed "more concerned about placing a student in the University of Mississippi, for political purposes, than they are about removing thousands of Communist troops from Cuba," station manager Fred Beard told WLBT viewers.



**An editorial by WLBT station manager Fred Beard deriding the 1962 admission of James Meredith to the University of Mississippi prompted complaints to the FCC. (Records of the Federal Communications Commission, RG 173) [full image]**

The FCC sent two investigators, William Ray and John O'Malley, to Mississippi. Years later, O'Malley recalled in an interview that Beard was "a sincere believer in segregation. Blacks belonged with themselves and whites belonged with themselves. He was a believer in states' rights, that this was not a federal matter. And he had been getting away with it for so many years."

In 1964, a few months before hundreds of students from the north went to Mississippi to help register black voters and teach in Freedom Schools, the Rev. Everett Parker, also a northerner, and the Office of Communication of the United Church of Christ (UCC), which he headed, launched what would be a sixteen-year legal battle. Parker trained a group of Jackson whites who were willing to get involved—a decision not lightly made in those years—to monitor the programming on WLBT. Then Parker, joined by two Mississippi black leaders, Aaron Henry and the Rev. R.L.T. Smith, filed a challenge against the WLBT license, then up for renewal. Henry was a longtime NAACP leader and later a member of the state House of Representatives. Smith had run for Congress in 1962 and was unsuccessful in buying

air time during his campaign until he enlisted the aid of national leaders, including former First Lady Eleanor Roosevelt.

Their ten-page petition to deny the WLBT license generated twenty-five boxes of FCC files, now in the custody of the National Archives. That may be a small amount compared with the seemingly endless records some researchers encounter, but it was invaluable documentation for every step along the way in the case.

It is hard to believe today, but until the courts decided this case, the only people who could participate in FCC matters were those with an economic stake in the issue or people who could claim electrical interference from broadcasters' signals. So when the commission heard this challenge, its members said that the UCC Office of Communication and its allies had no standing in the case and voted 4-2 to renew the license. It did acknowledge that the station, owned then by Lamar Life Broadcasting, was less than zealous in its adherence to the Fairness Doctrine.

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### **The FCC's First Ruling Reversed in U.S. Court**

The FCC's decision read as though the commission was going to support the challenge—until the conclusion, which denied it. It was written so that the majority could not be criticized for overlooking the conditions that the challengers had raised yet still dismiss them. The man who wrote the opinion, Henry Geller, who had been general counsel of the FCC during this case, said later that he had disagreed with the commission. He thought WLBT's record was bad enough to warrant a closer look.

"We went in there and argued very strongly that you must designate this for a hearing," Geller said. "The statute says [there should be a hearing if there are] 'substantial material issues of fact.' You have very serious issues of fact here. You have issues of fact about the Fairness Doctrine because they put on all these editorials saying, 'Never, never,' calling it states' rights, that they don't deal with integration. . . . You had issues of misrepresentation. They say they don't cover the issue because it's inflammatory and they cover the issue like mad in editorials, calling it states' rights."

Having lost his argument before the commission that it should require a hearing, Geller said in an interview that he had written in the opinion that Mississippi needed this broadcaster because "the situation was so dicey with integration being so important, the South being a raging inferno with this chasm, that if we could get immediate compliance, it was worth it in the public interest. It was really totally wrong." The FCC felt, or so Geller thought, that having an established station reporting the news - if it would do so with more balance - was better than adding to the crises in Mississippi by denying the license renewal.

The UCC's Office of Communication appealed to the United States Court of Appeals, District of Columbia circuit, saying that its charges merited a public hearing. The appeals court panel that heard the case agreed. Writing for the court, Judge Warren Burger said that there was no reason to believe

that Congress had "any thought that electrical interference and economic injury were to be the exclusive grounds for standing or that it intended to limit participation of the listening public to writing letters" to the FCC. Unless broadcast consumers could be heard, the court said, there might be no one to bring a station's deficiencies to the FCC's attention. "In order to safeguard the public interest in broadcasting . . . we hold that some 'audience participation' must be allowed in license renewal proceedings." This decision opened the doors to the public interest movement that saw groups challenging licenses, negotiating concessions from broadcasters trying to sell stations, and seeking everything from an end to cigarette advertising to improvements in children's television programming.

Burger ordered a hearing, which was held in Jackson in May 1967. By this time, WLBT had changed its lawyers, hiring the influential Washington firm of Arnold & Porter (Paul Porter being a former FCC chairman and a longtime friend of President Lyndon Johnson). It had also fired the station manager who seemed to be the lightning rod in the case and started hiring black announcers and broadcasting black church services. But it would eventually prove too little, too late, as the case continued through the FCC and the courts.

The challengers' testimony at the Jackson hearing depicted a station that rarely covered news about black citizens and often violated the Fairness Doctrine. Several black viewers testified about their complaints to the station but were grilled by the FCC and station attorneys because they could not remember when they had called or to whom they had spoken. Fred Beard, the former station manager, testified at length, acknowledging that he had not aired an interview with civil rights attorney Thurgood Marshall but said he did so because he did not want to have to give response time to the White Citizens Council.

The most dramatic testimony came toward the close of the hearings, when civil rights activist Charles Evers testified about the way WLBT had handled his late brother Medgar's appearance on the station in May 1963. If a person requests time, the station should not allow its employees to say that there was a black person asking for rebuttal time to "make out our mayor is a liar," as Charles Evers implied WLBT had done. "These types of things we just cannot have. This is personal but I hope that our stations will never do this anymore because I personally feel this is part of the hate that was built up through this particular station at this time that may possibly have contributed to the death of my brother."

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### [Changing Channels, Part 2](#)

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**Kay Mills**, a former editorial writer for the *Los Angeles Times*, has written four books in addition to the current *Changing Channels: The Civil Rights Case That Transformed Television*, published by the University Press of Mississippi. Her subjects have included the history and influence of women in the newspaper business, women's history in the United States, Mississippi civil rights leader Fannie Lou Hamer, and the Head Start preschool program for low-income children. She has twice been a juror for

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