

**Westinghouse Broadcasting Company, Inc. and American Federation of Television and Radio Artists, Washington-Baltimore Local, AFL-CIO, Petitioner. Case 5-RC-7730**

February 8, 1972

### DECISION AND ORDER

BY CHAIRMAN MILLER AND MEMBERS FANNING AND JENKINS

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, by American Federation of Television and Radio Artists, Washington-Baltimore Local, AFL-CIO, on July 9, 1971, a hearing was held on August 25, and October 28 and 29, 1971, before Frank S. Astroth, Hearing Officer of the National Labor Relations Board. On October 29, 1971, the Regional Director for Region 5 issued an order transferring the case to the Board. Thereafter, briefs were filed by the Employer and the Petitioner.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The labor organization involved claims to represent certain employees of the Employer.

3. No question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act, for the following reasons:

The Employer is an Indiana corporation with its principal office in New York City. The Employer operates television station WJZ-TV in Baltimore, Maryland. WJZ-TV is affiliated with the American Broadcasting Company, and provides a complete line-up of television programs, including those of local, ABC network, and Westinghouse "Group" presentations.

The Petitioner seeks to represent a unit of all news producers at the Employer's WJZ-TV Baltimore, Maryland, station. The Employer contends that the requested unit is inappropriate for collective-bargaining purposes because the news producers are supervisors within the meaning of Section 2(11) of the Act and, therefore, that the petition should be dismissed. We agree.

The general manager of Station WJZ-TV is responsible for all operations of the station. The program manager, who reports to the general manager, is totally

responsible for all programming on the station, including all local and network presentations. There are encompassed within the program department four separate departments, namely, the news department, with which we are here concerned, the traffic and operations department, the film department, and the studio production department.

The function of the news department is to "search out the news, gather it, analyze it, and report it responsibly." The news department is under the supervision and control of the news director, and numbers about 25 employees. They include an assignment editor/assistant news director, 4 news producers (at issue here), 10 newscasters/reporters (talent), who gather and report the news over the air, 7 news cameramen, 2 film processors, and 1 film editor. The cameramen, film processors, and film editor are represented by the International Alliance of Theatrical and Stage Employees, and the newscasters/reporters are represented by the Petitioner. There is no history of collective bargaining for the news producers involved herein.

The news department produces three news programs per day, Monday through Friday, at 1 p.m., 5:30 p.m., and 11 p.m. On Saturdays and Sundays, two news programs are produced each day, one being telecast at 6:30 p.m. and the other at 11 p.m. There is at least one news producer assigned to each show.

The news producer is, as the name implies, the producer of the news program, and has overall responsibility for bringing the whole package together. He is responsible for the content of the program, the structuring of the program, the timing in the program, and the placement of commercials within the program. In developing the format of the show, the news producer will decide what stories will be used; review the scripts prepared by the news reporters and the cameramen; decide the time for each news segment; assign news reporters the writing of necessary story lead-ins; directly oversee the work of the film processors and film editor; and, finally, assume complete responsibility for the show's continuity, accuracy, and conformance to company policy and Federal Communications Commission rules. It is significant that, while the news producers are responsible to the news director and his assistant, it is the news producers and not the director or his assistant, who are responsible for the immediate, day-to-day supervision of the cameramen, news reporters, film processors, and the film editor.

Additionally, the news producers, in the absence of the news director and the assignment editor, can assign reporters and cameramen to stories, and reassign them as needed. Although they do not have authority to call employees to work outside their normal shift, they do have the authority to assign overtime work to employees, such as the cameramen, news reporters, and film processors, after their shift. Moreover, on week-

ends the news producers are in complete charge of the news operation. The news producers have authority to purchase stories from "stringers" (free agents who offer news films for sale) and to buy other stories from off-duty employee cameramen, although this practice has been curtailed somewhat in recent months due to budgetary limitations.

The news producers meet with the news director, the program manager, and other high echelon officials, in monthly meetings to discuss and formulate company policy decisions. Discussions are held as to the development of prime time programs to go on the air in the fall, efforts to improve the position of the newscast, budgetary problems, the assignments of news stories, and the quality of the talent. The news producers are considered by the Employer as part of the management and supervisory structure. They are paid from the supervisory payroll, i.e., bimonthly rather than weekly; and, moreover, they are eligible for participation in the Westinghouse management disability plan, a right ac-

corded only to supervisory and management employees.

In the light of the foregoing, and the record as a whole, we find that the news producers responsibly direct the work of other employees, including the news reporters, cameramen, film processors, and film editor, and that they possess other indicia of supervisory authority, as noted above, including assignment of overtime to and immediate responsibility for the work of these employees. We therefore conclude that they are supervisors within the meaning of Section 2(11) of the Act. Accordingly, we shall dismiss the petition.<sup>1</sup>

#### ORDER

It is hereby ordered that the petition filed herein be, and it hereby is, dismissed.

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<sup>1</sup> See *Westinghouse Broadcasting Company, Inc.*, 188 NLRB No 24