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## WEBS FACE DISK DIVORCEMENT

### Payola—Royola—Clarkola

Washington, May 3.

The word payola has been around almost half a century and is generally credited to VARIETY for its coinage.

With Congress investigating payola, the word has come to have new and different meanings. Members of the Oren Harris payola probing subcommittee, in fact, have asked almost every witness what he defines the word to mean, to eliminate misunderstandings when there are payola disclaimers.

Plugola is believed to have been first used by Rep. Harris (D-Ark.) himself to refer to the practice of broadcasting a plug for anything commercial without identifying it as advertising for which there was compensation.

With Dick Clark before the Subcommittee, Rep. Steven DeRouman (R-N.Y.) used the word "royola" in a reference to Clark's outside royalty interests in disks he favored on his television shows.

Lawrence Laurent, tv columnist for the Washington Post, referred to Clark's related music businesses as "Clarkola."

And there was still one more observation that Clark was a skillful practitioner of "there's more than one way to skin a catola."

### PROBERS HINT PAYOLA SEQUEL

By LES CARPENTER

Washington, May, 3.

Legislation to require all networks to dispose of disk interests seems certain to go before Congress as an outgrowth of the Oren Harris & Co. probe of Dick Clark.

Subcommittee member John E. Moss (D-Calif.) told ABC-Paramount prez Leonard H. Goldenson today (Tues.) that if ABC Required Dick Clark to divest himself of his outside disk interests, it is "consistent" that the web should also have to get rid of ABC-Paramount Records.

"If you outlaw record company interests by a disk jockey," Moss hammered, "you must, if you are consistent and fair, outlaw the same in the case of a broadcaster. I see no inconsistency."

Goldenson didn't see it that way, noting that deejays appear before the public themselves and have the ability to determine which disks are plugged. Goldenson stressed that ABC-Par subsidiaries have considerable independence in management. Broadcasting and disks aren't interrelated within the company, he emphasized.

The attack on the broadcasters was carried forward by Rep. William L. Springer (D. Ill.) who stated that if the Harris subcommittee continues into 1961, he would insist on "a thorough investigation of tv programming." He stated that while it has imposed

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### Dick Clark Hauled 500G in 2 Years; Is You Is Or Is You Ain't Payola?

Washington, May 3.

Dick Clark emerged from a two-day bout Monday (2) in the Oren Harris arena with some bruises, but the immediate diagnosis was that he suffered no serious or lasting injury.

The House payola probers, through hundreds of questions of Clark and other related witnesses in the current round of hearings, apparently proved clearly that Clark favored music in which he had a financial interest on his weekday and Saturday night ABC-TV programs.

They also established that he

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# Dick Clark Hauled 500G in 2 Years

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hauled in more than \$500,000 from his music publishing, talent, record manufacturing, pressing and distributing business interests during the 27 months he ran them. He had to sell out last November or get off ABC-TV. He sold.

Subcommittee members had hinted in advance of the hearings that they intended also to investigate whether divestiture of all these outside business connections was absolute. But they apparently couldn't find sufficient evidence to back up such an accusation and never made any effort to explore it publicly.

The subject didn't even come up until the very end of the hearings, when Clark swore under oath that he had sold out completely, with no ingenious devices which would leave him, his family or his "close friends" still with a hand in them. On Monday, Clark was accused by Rep. John E. Moss (D. Calif.) of violating the Federal Communications Act for accepting (through a wholly owned corporation) \$7,150 from American Airlines for an announcement at the end of the show that the airline had flown talent to the program. Clark admitted

that the airline actually hadn't carried the talent at all times during the periods such announcements were made.

"This was a false credit," Moss said. "It was nothing but a subterfuge to get an ad on the (Saturday night) program."

### ABC Okayed Deal

Clark said he had ABC's permission for the deal with American and that it was a "common practice" within the industry.

"I don't care who did it or what you call it—'Clarkola,' or what—it's against the law," Moss exclaimed.

Moss was referring to Section 317 requiring disclosures of programs, since it is common on TV programs, the incident seemed a search for something to throw at Clark.

A subcommittee investigator, James Kelly, who took Clark's place on the stand briefly Monday, testified that when he questioned Clark in advance of the hearings Clark admitted he paid payola to others (through two companies, Jamie Records and Chips Distributing Co.), although he strongly denied (as Clark did under oath repeatedly before the Harris subcommittee) that he had taken payola himself.

Kelly quoted Clark as saying he didn't accept payola because he considered the acceptance of it to be "reprehensible," but that he condoned disbursing it to others, because "that's what's done in the industry." Kelly also said Clark said he hadn't questioned Tony Mammarella, former "American Handstand" producer who was Clark's associate in numerous outside businesses, about Mammarella's acceptance of payments from various disk firms in which they had no interest.

"I didn't want to know," Kelly quoted Clark as saying, "in case I was asked about it later."

### 162 Copyrights

Rep. Moss brought out that Clark held 162 copyrights through various firms and paid for only about 17 of them. Moss hammered at Clark for an explanation of why others would turn over 145 copyrights to him without any compensation. He rejected Clark's answer that it was "common in the industry," and roared: "You sought to exploit your position as a network personality. By almost any reasonable test, records you had an interest in were played more than the ones you didn't."

Clark continually differentiated between himself and other disk jockeys on the payroll of disk firms by stressing that he had ownership in all the music firms from which he earned money.

"A record," said Moss "can't be sold if it isn't hard. Like any other merchandising, you must have display. Why the magic of proprietorship made it any different in this kind of payola is beyond me."

Clark insisted that there has to be an "agreement" between deejay and company that certain money will be paid if he spins a disk or puts the cameras on a performer for payola to be involved.

### Freed's Opinion

Subcommittee counsel Robert Lishman said Alan Freed, fired WABC deejay, was told about Clark's definition of payola. Freed commented, Clark was defining "bribery," not payola, in his opinion.

Freed had also told the subcommittee that Mortimer Weibach, ABC-TV-Radio general counsel, had instructed him "to lay very heavily on ABC-Paramount Records and play Paramount Theatres with your stage shows" when Freed was engaged by the ABC o&o N. Y. station. Freed further testified that ABC had a "double standard" in permitting Clark to write his own affidavit, while forcing all other deejays employed by the company at o&o's to sign a more stringent ABC-drafted affidavit.

Under Moss' questions, Clark said he never asked anyone giving him copyright why they were doing it.

"It didn't occur to you," Moss asked, "they were coming to you because you could do something very beneficial for them?"

"I have already admitted that," Clark answered. "Didn't he thought occur to you," Moss asked,

"as they approached that this was payola coming to offer you its benefits?" Clark said he never took payola.

Rep. Walter Rogers (D., Tex.) wanted to know if any other music companies ever tried to hire Clark. RCA Victor wanted to employ him, Clark said, for about \$50,000 a year to lend his name ("Dick Clark Presents") to albums, using old single disks of their artists, as well as expect from him tips on regional bestsellers and certain master records. He said there was no other firm offer like that.

Chairman Harris (D., Ark.) reminded Clark that he was saturating part of the music and broadcasting business, at least, at the time ABC-TV ordered him to sell. Harris recalled the U. S. Supreme Court had required motion picture firms to divorce their control over all elements of the film business.

Harris indicated that Justice Dept. antitrust lawyers might be after him if ABC hadn't got there first.

In somewhat of a closing sermon, Harris also reminded Clark of his responsibilities to his many youthful followers and advised him to use his influence within the broadcasting industry to get every segment of it to clean house of reprehensible conduct.

### Round One

Round one of Dick Clark's testimony before the Harris committee Friday (29) broke into two phases: (1) Clark's presentation of his own side of the story in a 34-page statement depicting his multiple business activities in the best possible light; and (2) efforts of subcommittee members and their counsel, Robert W. Lishman, to establish that Clark had used his TV popularity to amass a huge fortune in sideline music and show biz enterprises.

And it could be said that plenty of licks were delivered by both sides.

During the four hours Clark sat on the witness stand, the subcommittee brought out that over a 27-month period while Clark was on TV, he earned \$167,750 in salary and other income from his outside activities and stood to gain, when his stock divestiture is complete, about a \$140,000 profit on total investments of \$53,773 in such companies. The latter figure is based on the book value of the companies, and Clark could, of course, receive more or less than that value. Clark had at one time 33 corporations, mostly in the music publishing and disk manufacturing, distributing and pressing areas. As for labels, he owned 25% of Jamie, 50% of Swan and 100% of Hunt (Globe Record Corp.).

Lishman brought out, too, that Clark played disks in which he had a financial interest more than twice as often on his TV shows than he did records where there was no extra loot. Clark said he didn't do this "intentionally."

Delving into some of the individual companies, Lishman asked if Clark's disk pressing firm, Mallard, had no record pressing equipment whatsoever, but sublet its work to another Philadelphia pressing firm, Stanton Music, which had a difficult time keeping up with all the orders. "We had machinery there—on loan or something," Clark said of Mallard. Clark invested \$7,500 in the pressing firm and sold his interest last December for \$30,534.

### Drew Money Two Ways

Lishman noted that Clark drew money two ways from Duane Eddy, who records for Jamie (a former Clark company) and who was managed by SRO Artists (another ex-Clark firm). Then, said Lishman, the count shows Clark played 11 Eddy titles 240 times (average: 21.8 times each) over a 27-month span, while spinning 19 Elvis Presley titles 173 times (average: 9.1 times each). Over the same period, Clark played Perry Como four times, Frankie Laine once, Bing Crosby once ("White Christmas") and Frank Sinatra never.

"You were too busy," exclaimed Lishman, "pushing the records your companies had an interest in, you disregarded popular tastes."

"That," retorted Clark, "is a very inflammatory and unjust conclusion."

Some Congressman observed no one had "ever heard of Duane Eddy until you started plugging him."

Clark replied that he took pride in his introduction of new talent to the American scene, including many in which he had no financial

interest at all, like Bobby Darin and Coonits Francis.

"And," added Clark, "take Fabian and Frankie Avalon. I have used them over and over, and people have said, 'Gee, Dick Clark must really be making money out of them.' He added he wasn't.

"I don't think they sing very well either," injected Rep. Steven Deroullan (R-N. Y.).

Clark was an effective witness for himself Friday, remaining cool and collected throughout. For a man making his first appearance before a Congressional investigating group, where anyone is at a disadvantage, he handled himself expertly. He identified loaded questions as such and broke dual questioning into parts to avoid traps. He was clever and intelligent in turning negative questions into affirmative answers, refusing to acknowledge critical language or to cower under attack. It must have taken considerable tongue biting, but he remained courteous throughout.

### Everybody Doing It

He repeatedly emphasized that he had done nothing many others prominent in the music business haven't done. And no one ever suggested there was anything illegal or corruptive about it until the Harris subcommittee moved on the national scene with headlines flying, he stressed.

"I repeat under oath," he said over and over, "that I have never accepted payola."

This set off a number of questions about what he considers that word "payola" to mean. It means, Clark responded, an "agreement to play a record or have an artist perform on a radio or TV show in return for a payment in cash or any other consideration—and I've never done that."

Rep. Deroullan roared that maybe Clark hasn't taken payola, "but you've certainly had plenty of royalties." The new word referred to Clark's diversified royalty interest in music firms which benefited from the sale of certain disks.

Dep. John E. Moss (D.-Calif.) observed the Subcommittee has had an almost impossible job in finding disk jockeys who had an agreement to spin disks for money.

"Some kind of telepathic communication seems to take place, though," said Moss. "There is some type of intellectual osmosis between the disk jockey and the record manufacturer or distributor so that money is passed and records get played. This record industry has more brotherly love than any other. People just can't resist giving away their wealth."

Moss took Clark to task, too, for playing "16 Candles" 27 times after Clark was assigned the copyright in November, '58. "You acquired an interest, and then you really laid it on. It was good promotion, good programming, good programming! The coincidences are so interesting," said Moss.

### Enter Bernard Lowe

Clark claimed Bernard Lowe, Philadelphia crier and publisher, assigned him a royalty in "Butterfly," although he had refused it and paid him \$7,000. Lishman refreshed Clark's memory by producing a letter Clark had written prior to the payment which referred to "our agreement" that he was to get part of the hit.

Clark admitted he had knowledge that Chips Distributing Corp., in which he had a one-third interest, paid out \$20,000 in payola and didn't do anything about it. He said Harry Chipets (who testified before the Harris Subcommittee Thursday (28) in secret session, along with Bernard Lowe) ran the Chips firm and he didn't interfere with Chipets's manner of doing business.

Clark conceded he would have been unable to sign the same three-question affidavit that all other ABC performers were required to sign the same month that he prepared a specially written affidavit for the network. Lishman brought out that Clark would have had to answer two of the three questions the wrong way.

Rep. Deroullan called the Clark affidavit a "Christian Dior affidavit tailor made to fit Clark's personal needs."

### Now Alan Freed

Lishman said Alan Freed, former WABC DJ, in N. Y., had told ABC when he was handed the routine affidavit: "If Dick Clark can sign this, I will, too." But the web didn't view it that way and dismissed Freed. Lishman said Freed's show had a \$200,000 gross

for ABC, compared to \$12,000,000 for Clark's shows. Rep. John B. Bennett (R-Mich.) said he considered the Freed and Clark cases to be "essentially the same." But Clark didn't, taking Bennett's statement that Freed had been on the payroll of disk firms in which he had no investment. Clark said he had his own money invested in companies from which he received compensation.

Clark said he had never made any "kickbacks" to ABC. Bennett said Freed had to do so "when he went on a theatrical program," Bennett didn't elaborate.

Clark's affidavit handed ABC last November was made public and it contained this final paragraph: "Early yesterday morning one of my programming associates revealed to me certain information which he had concealed from me. I had no previous knowledge or suspicion of these facts. His resignation has been accepted."

Clark conceded the reference was to Tony Mammarella, his former partner, and that ABC had insisted on the paragraph being in the affidavit, although he had insisted on not using Mammarella's name. Details of what the paragraph means were not given at the Friday meeting.

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